

Letterhead of OFFICE OF AUDREY EU, LEGISLATIVE COUNCIL MEMBER

BY HAND

7th March 2001

Mrs. Percy Ma
Clerk to Panel on Administration of
Justice and Legal Services
3/F, Citibank Tower
3 Garden Road
Hong Kong

Dear Mrs. Ma,

**LegCo Panel on Administration of Justice and Legal Services
Meeting on 16th January 2001**

I refer to the letter from Mr. Cross, the Director of Public Prosecution dated 22nd February 2001.

(a) TMC 3619/2000

This case was brought to my attention by Timon Shum, the duty lawyer who represented Miss So. Mr. Shum informed me that having considered the circumstances of the case, he had on 7th December 2000 requested Ms. Brenda Chan, the prosecutor at the Tuen Mun Magistracy responsible for prosecuting the case to offer no evidence against Miss So on condition she would be bound over. After taking instructions, Ms. Chan's reply was that Mr. Shum's suggestion was not acceptable. In the end, Miss So pleaded not guilty and was convicted. After he learnt of the Godfrey Nguyen case, he felt that there was disparity in the treatment of the two cases and he decided to bring the case to my attention.

(b) SPC 8320/2000

(c) NKC 8234/2000

After the publication of the Godfrey Nguyen case, the duty lawyer would write to the Department of Justice requesting similar treatment for defendants in cases similar to Godfrey Nguyen.

I was first informed of case (a) by Mr. Shum on Sunday, 14th January 2001, and by the duty lawyer office of cases (b) and (c) on 16th January 2001. I had to seek permission for these cases to be raised at the panel meeting and permission was given to me on 16th January 2001. There was no way I could give Mr. Cross advance notice. Even if I had, the fact remains that there is now a dispute as to whether representation had been made on behalf of Miss So. The lack of clear guidelines as to the circumstances when the

DOJ will agree to offer no evidence means that representation in each case will have to be made to the DOJ in writing and not just to the prosecution in the magistracy. This can hardly be in the best interest of administration of justice.

Yours sincerely,

Audrey Eu

cc. Timon Shum
Grace Wong