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27 April 2011

Mr Raymond Lam
Clerk to Panel on Security
LegCo Council Building
8 Jackson Road
Central
Hong Kong

Dear Mr Lam,

Panel on Security

Thank you for your letter of 19 April 2011 addressed to the Director of Public Prosecutions in respect of which I have been directed to respond in writing.

Further to what was stated by our Mr Kevin Zervos, SC, then Senior Assistant Director of Public Prosecutions as to the basis for and propriety of the Department of Justice in referring the suspected offence(s) arising from the press coverage of the *habeas corpus* proceedings to the ICAC at the panel meeting of 29 November 2004, we are pleased to elaborate as follows.

As the panel may now have noted from the ensuing prosecution (DCCC No. 289/2005) which has since finally concluded, the suspected offences stemmed from a then on-going criminal investigation by the ICAC of corruption offence(s) which also involved a witness under protection.

There was no question of conflict of interest for the same law enforcement agency (in this case, the ICAC), which had legal authority to do so, to investigate also into conduct allegedly committed by person(s) other than from that agency which was suspected to be an attempt to undermine the continuing investigation of the predicate offence. In this case, in particular, there was also the obvious advantage for the ICAC to conduct the relevant investigation when a material witness was under a protection programme administered by it.

The panel may also wish to note that at the subsequent prosecution and the appeals therefrom, neither the accused nor the court at the various levels took issue with the fact that the investigation which resulted in the said prosecution was conducted by the ICAC which investigated the underlying corruption offence.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "Louisa Lai".

(Louisa Lai)

Deputy Director of Public Prosecutions