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15 June 2018

Mr Lamuel WOO
Clerk to Panel on
Administration of Justice and Legal Services
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Mr Woo,

Panel on Administration of Justice and Legal Services

**Joint Letter from Hon Dennis KWOK and Hon Alvin YEUNG on
photo-taking during court proceedings and
issues relating to attempted interference to fair trial**

Thank you for your letter of 31 May 2018, enclosing a letter from Hon Dennis Kwok and Hon Alvin Yeung on their suggestion of discussing the issue of photo-taking during court proceedings at the Panel on Administration of Justice and Legal Services (“AJLS Panel”). On the instructions of the Chief Justice, I am writing to set out the position of the Judiciary below.

2. First, the Judiciary considers that the due administration of justice is of paramount importance for all court proceedings, particularly jury proceedings. An important safeguard is the prohibition of photography inside court premises without permission. In particular, jurors, witnesses and parties etc. must be free from all actual or perceived interference, pressure or distraction during court proceedings.

3. In ensuring due administration of justice, on top of the general prohibition of photo-taking in court premises, presiding Judges and Judicial Officers (“JJOs”) have powers to exercise judicial discretion to impose any restrictions on the use of mobile phones and/or other devices with photo-taking capability for any court proceedings if the proper administration of justice so requires. Moreover, in handling actual cases involving photo-taking in court proceedings, the JJOs exercise their judicial discretion having regard to the law and taking into account all circumstances of the relevant cases.

4. It should be noted that court users not observing the above prohibition may be :

- (a) held in contempt of court punishable by a fine or imprisonment; or
- (b) prosecuted under section 7 of the Summary Offences Ordinance (Cap. 228).

5. The Judiciary is very concerned with the recent incidents of photo-taking in courtrooms when proceedings were held and takes the matter seriously. To assist individual JJOs in better exercising their judicial powers to regulate court proceedings for the due administration of justice, the Chief Justice has decided to issue a new Practice Direction to regulate the use of mobile phones and other devices with photo-taking or video recording capability for jury proceedings. The Practice Direction will be issued shortly.

6. In short, the handling of photo-taking inside courtrooms involves the court exercising its judicial powers and discretion to protect the integrity of the proceedings concerned. A JJO is the master of his/her own court. It is for the court to decide how best to regulate its own proceedings for the due administration of justice. What is involved goes beyond general court administration or court security.

7. Besides, there are on-going court cases involving photo-taking at courtrooms. For completed cases, there may be further court proceedings such as appeals.

8. Given that the handling of the photo-taking prohibition in court involves the exercise of judicial discretion and that there are on-going or potential court cases as mentioned above, in the interest of maintaining judicial independence, the Judiciary does **not** consider it appropriate to be involved in any discussion of this subject at the AJLS Panel.

9. To complete the picture, it is recognized that the JJOs do need administrative support when exercising their judicial functions relating to the photo-taking prohibition for the purpose of due administration of justice. In this regard, the Judiciary has recently introduced a few enhancement support measures. They are re-capped as follows :

- (a) making public announcements in courtrooms before commencement of court proceedings to remind court users of the photo-taking prohibition;
- (b) putting up more notices and signage on the prohibition of photo-taking in more prominent areas in courtrooms and at court lobbies;
- (c) reminding court users of the prohibition of photo-taking more extensively by Judiciary staff verbally or through written notices as appropriate; and
- (d) strengthening security personnel manpower during court proceedings for monitoring the situation as necessary.

Yours sincerely,



(Ms Wendy Cheung)
for Judiciary Administrator

c.c. Dr Hon Priscilla LEUNG Mei-fun, SBS, JP (Chairman)