

GILES SURMAN  
Barrister-at-Law

Tel: (852) 2521 2616  
Fax: (852) 2845 0260  
DX-9091-IC

12 sept '06  
9/12/2006

Chambers of Gary Plowman SC  
14/F Floor Tower One  
Lippo Centre, Admiralty  
Hong Kong S.A.R

BY HAND

John Reading S.C.  
Deputy Director of Public Prosecutions  
Dept of Justice  
Prosecutions Division

Dear *John*,

**Re : Disclosure in Criminal Proceedings – Child Pornography**

I write in my capacity as Chairman of the HK Bar Association's Special Committee on Criminal Law and Procedure (SCCL) in respect of the above noted matter.

I am in receipt of your letter dated 9<sup>th</sup> March 2006 entitled 'Provision of copies of exhibits to the defence in cases involving pornography'.

As you will be fully aware, the Prevention of Child Pornography Ordinance (Cap 579) has been the subject of a series of prosecutions last year and earlier this year as a result of international co-operation between the HKSAR and the US. The first more serious Child Pornography Prosecution reached the District Court in the first half of this year – earlier cases having been disposed of in the Magistrates Court. It was in the District Court that the 'policy' of the DPP with respect to the provision of copies of exhibits in such cases came to light.

This matter has been considered by the SCCL and there are two matters which concern the Bar in respect of this policy. First, we are concerned that the Department of Justice appear to hold the view that unilateral policy decisions of this type can be made without reference to

the profession and in apparent contradiction to the current status of the law on disclosure in criminal proceedings; second we are concerned that it seems members of the profession cannot be trusted with sensitive material and that an undertaking of the nature proposed is required as opposed to specific action being taken by the appropriate authorities if confidential and sensitive material is "leaked" as appears to have been suggested.

We look forward to hearing from you in respect of the concerns expressed.

Yours Sincerely

A handwritten signature in black ink, reading "Giles Surman". The signature is written in a cursive style with a large initial 'G' and a long, sweeping underline.

Giles Surman  
Chairman SCCL.

cc

Members - SCCL

Philip Dykes - Bar Chairman