

**IN THE HIGH COURT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
COURT OF FIRST INSTANCE**

MISCELLANEOUS PROCEEDINGS NO. 1068 OF 2020

IN THE MATTER of an application on behalf of the
Secretary for Justice against Yiu Ka Yu (姚家瑜) for an
Order of Committal

and
IN THE MATTER of civil proceedings in
HCA 1957/2019

BETWEEN

SECRETARY FOR JUSTICE

Plaintiff

and

YIU KA YU (姚家瑜)

Defendant

Before: Hon Coleman J in Court

Date of Hearing: 29 December 2020

Date of Decision: 29 December 2020

DECISION

A **A. Introduction**

B 1. These committal proceedings relate to a civil contempt of
C court, for which the Defendant has admitted liability. Therefore, this is
D the mitigation and sentencing hearing.

E 2. The contempt arose on 11 November 2019, when the
F Defendant posted on a Telegram chat group (“TG Post”) the personal data
G of a particular police constable (“PW1”) and that of his wife. That
H conduct was in clear contravention of the injunction order made on
I 25 October 2019, as amended and re-amended on 28 and 31 October
J 2019, subsequently continued (though slightly varied) by me on
K 8 November 2019 (together “Doxxing Injunction”). The Doxxing
L Injunction was made in HCA 1957/2019 (“underlying action”).

M 3. The act constituting the contempt on 11 November 2019 was
N just two or three days after the continuation of the Doxxing Injunction
O Order on 8 November 2019, and the significant and widespread publicity
P that followed it.

Q 4. The TG Post included a purported “warning” to readers not
R to re-post the data mentioned in the TG Post, and a reported “request” to
S readers not to forward it to third parties, and to have some mercy on the
T victim (ie. PW1). At the same time, the TG Post highlighted PW1’s
U residential address as being “important”. It is clear that the purported
V warning and request were the very opposite of what was intended (as the
Defendant now accepts). In so far as anyone might think that stating
matters in that way would shield them from legal responsibility for their
wrongful acts, that is fundamentally misconceived.

A 5. The committal proceedings have been brought by the
B Secretary for Justice (“SJ”) by way of originating summons dated
C 7 August 2020, with prior leave granted by me on 31 July 2020. In
D support of the application, reliance is placed on the affirmation of PW1,
E as well as the affirmations/affidavits of other officers (PW2, PW3 and
PW4) involved in investigating the TG Post.

F 6. The Defendant has herself filed an affirmation dated
G 30 November 2020, to which she has also exhibited her handwritten
H apology letter to the Court, and various mitigation letters from other
I persons. Earlier, on 28 August 2020, the Defendant (then acting in
J person) had filed her acknowledgement of service of the originating
K summons, in which she stated she did not intend to contest the
L proceedings.

M 7. At this hearing, the Secretary for Justice was represented by
N Counsel, Mr Martin Ho, and the Defendant was represented by Counsel,
O Mr Richard Yip.

P ***B. Agreed Facts***

Q 8. On 7 December 2020, the parties (through their solicitors)
R jointly signed and filed a Statement of Admitted Facts. That document
S helpfully encapsulates the relevant background material, and in particular
T the material facts relied upon by the SJ in these committal proceedings
U that are not disputed by the Defendant. Some of its content can usefully
V be taken into this Decision. I accept those facts as stated and agreed
between the parties.

A 9. I attach as Annex 1 to this Decision the history of the making
B of the Doxxing Injunction in the underlying action. The acts comprising
C the contempt in this case took place after the matters detailed in §§1-10 of
D Annex 1.

E 10. On the morning of 11 November 2019, PW1 used his
F firearm during a public order event in Sai Wan Ho to fire three rounds,
G one of which hit and injured a 21-year old male.

H 11. Since then, PW1 and his family have been subjected to
I widespread doxxing on social media platforms, such as Facebook,
J LIHKG (連登) and Telegram.

K 12. Upon investigation, Police identified a Telegram chat group
L named “SUCK 公海” (English translation: “high seas”) (web link:
M <https://t.me/stuckwithyouopen>) (“TG Chat Group”). Created in
N September 2019, the TG Chat Group is a public chat group which can be
O joined by any Telegram user. Anyone who has joined the TG Chat
P Group can read the messages in it, post messages, and share/forward
Q messages. Members have been posting miscellaneous messages relating
R to protests against the introduction of the Fugitive Offenders and Mutual
S Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019,
T including relevant court news, public order events (such as road/traffic
U blockage), as well as derogatory messages against the Police. As at
V 7 April 2020, there were 48,449 members who joined the TG Chat Group.
As at the date of the TG Post, it may have been over 51,000.

13. Police investigation revealed that shortly after the firing
incident in Sai Wan Ho in the morning of 11 November 2019, members

A of the TG Chat Group had been actively posting messages about the
B incident.

C 14. Furthermore, personal data of PW1 (including his name,
D residential address and photo) and those of his family (namely, his wife
E and his daughters) had since been widely disseminated in the TG Chat
F Group.

G 15. Among the messages, following a chain of posts and
H discussions on the Sai Wan Ho incident, at 10:56am, a member of the TG
I Chat Group named “生要見人死要見屍” (English translation: “Wanted,
J dead or alive”) (“TG Account”) published the residential address of “*the*
K *Police Officer who just fired live ammunition*” and the mobile phone
number of “*his wife*” (“PW1’s Personal Data”) in a post (being the TG
Post):

L “我警告你地，唔好再 post 以下既資料，係剛剛開真槍個位
正義警察叔叔既，同埋佢屋企人既。

M 最緊要

N [地址]

O 佢老婆電話: [手提電話號碼] 呢個都唔可以再傳啦，拜託
高抬貴手”

P (English translation:

Q “I warn you. Never post the following data ever again. It’s
about that righteous uncle policeman who has just fired live
R rounds, and his family.

R Most importantly

S [PW1’s address]

T and his wife’s phone number [PW1’s wife’s mobile phone
number]. Please don’t forward these data again. Please
U have some mercy.”)

A 16. Reading the TG Post in context (and with particular
B reference to the various posts immediately before the TG Post), the
C personal data divulged in the TG Post belonged to PW1 and his wife (and
D was believed by those making and reading the post to so belong). PW1
E has subsequently confirmed that the personal data in the TG Post were
correct information of himself and his wife.

F 17. Further, while the poster apparently asked others *not* to post
G or pass on the personal data of PW1 and his wife, the fact that the poster
H gave the detailed residential address and specific mobile phone number in
I a public chat group showed that she was facilitating others to disseminate
J the personal data, or that she was inciting others to intimidate, molest,
K harass and/or pester PW1 and his wife. There were other similar posts
in the TG Chat Group in the morning on 11 November 2019 and in other
online platforms in October and November 2019 with a similar tone.

L 18. Immediately after the TG Post, many other users copied or
M forwarded the same in the TG Chat Group.

N 19. The TG Post later came to the attention of the Police and an
O investigation was carried out.

P 20. The TG Account was linked to a local mobile phone number
Q which had been used by the Defendant in a report of a “Dispute” case as
R an informant in June 2015. The Defendant had been residing at a flat in
an Estate in Chai Wan, Hong Kong with her mother since 2011.

S 21. On 26 November 2019, at about 7:10am, PW2 together with
T PW3 and other police officers arrived at the Defendant’s residence.
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A PW2 knocked on the door. A female (later known to be the Defendant)
B answered. PW2 identified himself and showed his warrant card and a
C search warrant to the Defendant. He explained the content of the search
D warrant to the Defendant and informed the Defendant that he was
E investigating into a case of “Disclosing Personal Data Obtained without
F Consent from Data Users” under section 64 of the Personal Data (Privacy)
Ordinance Cap 486 (“PDPO”). The Defendant then let PW2 and his
team in for investigation.

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H 22. At about 7:15am, PW2 arrested and cautioned the Defendant
I for the offence of “Disclosing Personal Data Obtained without Consent
J from Data Users” under section 64(2) of the PDPO. Under caution, the
K Defendant admitted that she had used her mobile phone to post the TG
Post, but she did not know that that was against the law. This was
recorded in PW2’s notebook and was signed by the Defendant.

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M 23. At about 7:26am, PW3 searched the Defendant’s residence
N and found, among other things, an Apple iPhone 11 and an Apple
O iPhone 6S Plus. The Defendant voluntarily unlocked the two iPhones
P for PW3’s investigation. The Defendant further showed PW3 her
Telegram account linked to the Telegram app on her iPhone 6S Plus, as
well as the TG Post posted from it.

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R 24. In a subsequent video-recorded interview conducted at the
S Chai Wan Police Station from 10:55am to 11:12am on 26 November
2019, the Defendant stated under caution, amongst other things, the
following:

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- (1) the relevant mobile phone number was subscribed by her mother with SUN Mobile about 3 years before but used by the Defendant herself;
- (2) the Defendant registered the TG Account with the mobile phone number;
- (3) although the mobile phone service was terminated about 2 years before, the Defendant continued to link her TG Account to the mobile phone number;
- (4) the Defendant obtained the personal data of PW1 and his wife from a Telegram chat group (the name of which she could not recall);
- (5) someone asked for help to disseminate the personal data and the Defendant, without further thought, used the Telegram app on her iPhone 6S Plus to reproduce it in the TG Chat Group; and
- (6) the Defendant did not know the residential address or the mobile phone number mentioned in the TG Post or PW1.

25. PW1 had not given consent to any form of disclosure of his personal data.

26. Therefore, the Defendant accepts that:

- (1) by way of the TG Post, the Defendant used, published, communicated and/or disclosed in the TG Chat Group the personal data of and concerning PW1 and his wife, including PW1's residential address and his wife's mobile phone number, without their consent;
- (2) the Defendant, by using, publishing, communicating and/or disclosing the personal data of PW1 and his wife in her TG

Post in the TG Chat Group and by making such information public, must have intended and/or been aware that her act(s) mentioned in sub-paragraph (1) above was/were likely to intimidate, molest, harass or pester PW1 and his wife;

(3) the Defendant, by using, publishing, communicating and/or disclosing the personal data of PW1 and his wife in her TG Post in the TG Chat Group and by making such information public, intimidated, molested, harassed and/or pestered PW1 and his wife;

(4) the Defendant, by using, publishing, communicating and/or disclosing the personal data of PW1 and his wife in her TG Post in the TG Chat Group, assisted, caused, counselled, procured, instigated, incited, aided, abetted and/or authorized others to commit or participate in any of the acts mentioned in sub-paragraphs (1), (2) and (3) above;

(5) the Defendant knew of the terms of the Doxxing Injunction Orders when she committed the acts mentioned in sub-paragraphs (1), (2), (3) and (4) above; and

(6) the acts of the Defendant identified above constitute a breach of the Doxxing Injunction Orders and she takes full responsibility for them.

C. Effect of the Doxxing

27. In his affirmation, and by reference to a statement made on 4 December 2019, PW1 has described how he and his family have been subject to abuse after he was doxxed.

A 28. In summary only – which summary should not be taken as in
B any way making light of his and his family’s suffering – PW1 identifies
C that:

- D (1) he has feared for the safety of himself and his family to the
E extent that he and his family have moved away from the
F address which had been made public;
G (2) there were continuous harassing calls made to PW1 and his
H family, as a result of which PW1 has stopped using his
I mobile phone number;
J (3) PW1 was also subject to fraudulent loan applications which
K were made using his personal data;
L (4) the doxxing incident has had a negative impact on the
M family’s emotional well-being.

D. Defendant’s Evidence

N 29. In her affirmation, the Defendant identifies that:

- O (1) she is 23 years old;
P (2) she was born and raised in Hong Kong and educated to
Q Form 3;
R (3) at the time of the incident, she was working as a sales person,
S but she has now returned to study Form 6 and to prepare for
T the DSE examination scheduled in April 2021;
U (4) she lives with her mother in a public housing estate in Chai
V Wan;
W (5) her parents divorced when she was 14 because of domestic
X violence;

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(6) she has an older brother who followed her father, though they seldom meet;

(7) she was raised solely by her mother, who works as a cleaner, earning about HK\$10,000 per month and who sometimes takes on several part-time jobs to make ends meet;

(8) life has been tough but they live happily;

(9) to lighten the financial burden of her mother, she started working as a full-time waitress after finishing Form 3;

(10) she currently works as a part-time salesperson, working once a week and earning HK\$1,000 per month, and she has no other income;

(11) with a low salary, she has not accumulated much in the way of savings;

(12) she has no criminal record.

30. As to the circumstances of the breach of the Doxxing Injunction, the Defendant explains that she acted when she was upset and emotional about the shooting incident, and shared the post when she was “blinded by hatred”. Even though she had heard about the Doxxing Injunction, she forgot about it when she made the TG Post. She also did not realise the consequences of breaching the injunction.

31. The Defendant says that since her arrest she has refrained from sharing posts that contain sensitive personal information of others. She has become more cautious with the post she shares and the comments she leaves on the internet.

32. Later, she discovered she had also been subjected to doxxing and her personal information was put online. So she now feels how

A frustrating and stressful it was for PW1 and his family. She detests what
B she has done, and promises never to do the same again.

C 33. Just when she was putting herself “back together” to “turn a
D new leaf”, she was suddenly informed of the contempt proceedings.
E Since then she has been under tremendous stress, and even developed
F eczema. She worries constantly about the impact of the case on her
G future. It has been her dream to become a registered nurse, and she
H plans to study related courses after the DSE. But she is worried about
the uncertainty cast by the case.

I 34. The Defendant expresses that she is genuinely sorry for her
J act, and has hand written a letter to convey her sincere apology to the
K Court. In that letter, she re-states some of the matters dealt with in her
L affirmation. She emphasises her deep regret for what she has done and,
M following self-retrospection, the lesson she has learned. When
N encountering frustration, she understands she should talk to teachers and
O professionals to express her emotions and opinion in an appropriate way,
P and not to act recklessly any more. She is seeing a social worker. In
conclusion, she seeks a chance to repent, to be able to continue to take
care of her mother and finish school, and to contribute to society
afterwards as a nurse.

Q 35. She also exhibits mitigation letters from her current
R employer, the leader of her theology group, the doctor who has treated
S her eczema, and her English teacher at her evening college. These
T letters from different responsible individuals with recent interaction with
the Defendant provide strong mitigation:

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- (1) Her employer describes the Defendant as polite, honest, responsible, patient, on time, well-prepared, open-minded in terms of accepting people’s opinions, trustworthy and reliable.
- (2) Her church group leader describes the Defendant as polite and dependable, shy and honest. He emphasises that she did not have the fortune to grow up in an ordinary family, instead witnessing violence and the divorce of her parents, and spending some time in small group homes. He notes her disrupted schooling meant she was not able to make friends in the real world, so that her friends are mostly virtual friends on the web. He is impressed by her attitude to learn, and she is determined to complete her secondary curriculum. He thinks her remorse is genuine.
- (3) The Defendant’s doctor describes her as an innocent and naive girl, and that the stress of the arrest and these proceedings has caused a flare-up of her skin condition. He regards her as having started on the wrong track due to lack of guidance, but now having made the decision to assist the community by pursuing a nursing career.
- (4) Her English teacher describes the Defendant as a “wonderful student who always pays attention in class and studies hard”. Aware of the difficulties with her background, the teacher thinks the Defendant comes as a reformed person who is pleasant and ambitious to overcome the challenges ahead, and thinks she has shown true remorse.

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E. Applicable Principles on Sentencing

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36. In my previous decisions of *Secretary for Justice v Chan Oi Yau Riyo* [2020] 3 HKLRD 494 and *Secretary for Justice v Cheng Lai*

King [2020] HKCFI 2687, I set out the appropriate principles. The gist of those principles can be repeated here.

37. As a superior court of record, the Court of First Instance is invested with the inherent power to punish for contempt in maintaining its authority and preventing its process from being obstructed and abused. The common law powers to fine or imprison, to give an immediate sentence or to postpone it, remain intact. The power of the Court to hand down a suspended sentence is specifically codified in Order 52 rule 7(1). The power to order payment of a fine, or giving security for good behaviour, is preserved by Order 52 rule 9.

38. The general principles on sentencing in cases of civil contempt are as follows:

- (1) In civil contempt, the prime consideration in sentencing is to demonstrate to litigants that orders of the court are to be obeyed. Contempt of civil court orders is a serious matter.
- (2) However, a delicate balance has to be maintained in the imposition of the penalty for civil contempt between the strong public interest in ensuring that orders of the Hong Kong Courts will not be flouted and the evaluation of the individual circumstances of each case.
- (3) Subject to mitigating factors, if any, the starting and primary penalty for contempt of court in breaching an order in the nature of an injunction is imprisonment. The normal penalty for breaches of injunction orders is imprisonment measured in months.

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(4) In a case where there has been a failure to comply with an order of the court and where there is no evidence to suggest that compliance was in any way difficult or impossible, a sentence of imprisonment would not be inappropriate. This would be particularly so in a case where the sentence was designed to enforce compliance. A sentence of imprisonment for a wilful failure to observe a court order can often be appropriate.

(5) The court is empowered with quite a few sentencing options under its inherent powers and the common law.

(6) Imprisonment should be regarded as a sanction of last resort in civil contempt, and any custodial term should be as short as possible and consistent with the circumstances of the case.

(7) The court has an absolute discretion to suspend the sentence of imprisonment for such period and on such terms as it deems fit.

(8) Where the conclusion is reached that the contempt was not deliberate or not contumelious, it would be only in very rare circumstances that a sentence of imprisonment would be appropriate.

39. Encompassed within the above principles are the factors that the Court should take into account when sentencing for civil contempt the degree of culpability (including considering whether the contempt was contumacious or unintentional), the reasons and motives and state of mind of the contemnor as well as whether the contempt has been purged.

A 40. The purpose of the law of contempt is not to protect the
B dignity of judges, but to prevent interference with the due administration
C of justice. The first principle is that court orders are made to be obeyed.
D They are not guidelines, to be ignored or paid lip service to at the behest
E of the parties affected. They are the building blocks by which the
F administration of justice is made workable. Litigants who wilfully
G breach orders do so at the risk of losing their liberty for being in contempt
H of court.

I 41. Indeed, it is fundamental to the rule of law that orders of the
J court are obeyed. Injunctions generally are granted, and the particular
K injunction in this case was granted, by the court only after careful
L consideration of the evidence and the applicable law and arguments
M advanced. If anyone suggests that the court has made an error in
N granting the injunction, there is the possibility of an appeal, or of a
O variation application.

P 42. In the *Chan Oi Yau Riyo* case, I also accepted as being
Q particularly relevant to cases like this one that there is a difference
R between today and the pre-internet and social media era. That
S difference is the very easy practical way any individual can breach an
T order of the court and widely disseminate information. The facility to
U broadcast and publish material widely makes these breaches worse rather
V than less serious.

43. Again, there can be a reminder that rights and freedoms do
not exist in a vacuum. They come with responsibilities.

F. Suggested Orders

44. For the SJ, Mr Ho submits that the Court should adopt the general position of the normal penalty imposed for breaches of injunction orders, namely a period of imprisonment measured in months. Mr Ho submits that it is appropriate to proceed on the basis of such a starting point, not only as a matter of principle, but also to take into account the following factors:

- (1) An objective reading of the TG Post shows that its maker was intent on instigating others to disseminate widely PW1's Personal Data, despite the purported warnings not to re-post that data. The Court should correct any misguided belief that any contemnor can hide behind ironic language as to their motives when committing unlawful acts such as doxxing.
- (2) The Defendant claims that she shared the offending TG Post when blinded by hatred, without further thought, and when she "forgot" about the Doxxing Injunction at that moment. But, as the Court has previously recognised (see the *Chan Oi Yau Riyo* case at §75), that is precisely part of the problem: it is easy to post something on social media or the internet with just a few clicks or keystrokes, but the effects can be, and sometimes likely will be, far wider and last for far longer.
- (3) The fact that, in this internet-age, information can be disseminated very quickly and widely online makes the Defendant's breach (by the utilisation of social media) worse rather than less serious. On the facts of this case, immediately after the Defendant made the TG Post, many other users copied or forwarded the same in the same

Telegram chat group. The ‘ripple effect’ of one single post cannot be ignored.

- (4) The impact of doxxing on victims (here PW1 and his family) is severe and long-lasting. The Court should send a clear message to the public that such conduct is not to be tolerated in a civilised society. The sentence imposed should have a deterrent effect on would-be defendants or contemnors.

45. I accept those submissions.

46. Mr Ho also fairly accepts that certain mitigating factors may be advanced on behalf of the Defendant, including that (1) the Defendant’s breach appears to be one-off in nature; (2) the TG Post mainly consisted of re-posting of information found online, and the Defendant did not herself initiate the propagation of material; (3) she indicated her intention to admit liability at an early stage when she filed her acknowledgement of service; and (4) the Defendant’s breach was committed prior to the decision in the *Chan Oi Yau Riyo* case.

47. Mr Yip for the Defendant suggests the circumstances of this case are less serious than previous cases, and the Court could consider a bind over as a starting point for sentence. However, if the Court is to find that imprisonment is the appropriate starting point, Mr Yip submits that the sentence should be suspended, as that would sufficiently reflect the seriousness of the Defendant’s breach proportionately.

48. In particular, Mr Yip relies on the following points:

- (1) The Defendant came from a broken family and she is of young age.

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- (2) She is genuinely remorseful for her conduct.
- (3) She is taking action to turn a new page in her life by studying for DSE, hoping to get into a nursing school, so that she could make a useful contribution to society.
- (4) She made an early admission of liability and cooperated with the Police.
- (5) Her acts were done on impulse, without the Doxxing Injunction in mind.
- (6) It was a one-off incident.
- (7) The TG Post did not contain captions inciting violence or any messages added by the Defendant herself.
- (8) The Defendant is not a public figure, and has little influence on other users of the group.
- (9) She is of good character.
- (10) She has already suffered serious consequences for her behaviour.
- (11) The case is one where the facts occurred prior to the *Chan Oi Yau Riyo* Decision.

49. Mr Yip also submits, and I accept, that the genuine remorse and repentance makes it unlikely that the Defendant would act in contempt of Court again, or commit any acts of doxxing, especially when she had herself also been subject to doxxing after this incident.

50. Indeed, I fully recognise that the deeply ugly behaviour of doxxing has not been limited to doxxing police officers, or doxxing activities by only one “side” of the recent social unrest against the other “side”. Any doxxing activity by any person or group against any other

A person or group is equally unacceptable, and equally seriously endangers society as a whole.

51. In terms of general deterrence, Mr Yip submits that the acknowledgement by the Defendant of her liability and her willingness to accept the sanction of the Court goes far to encourage observance towards the Court's orders.

52. I take all those matters into account.

G. Sentence

53. However, even though the breach is less serious than in some other cases, I do not agree that the appropriate starting point is consideration of a bind-over. Rather, the appropriate starting point is one of a custodial sentence.

54. But, in light of the Defendant's prior clear record, and the other strong mitigating factors I have outlined above, I think the contempt in this case would properly be reflected in a suspended custodial sentence.

55. I accept that an important lesson has been learned, that what the Defendant did was out of character, and that she is determined to be more careful and less impulsive in future. I hope the Defendant will now gain strength from the assistance which she is seeking and obtaining from various quarters, and that she will combine it with her own stated determination to become a responsible contributor to society. Her ambition to be a nurse is laudable, and I hope she achieves it.

A 56. In the circumstances, I pass a custodial sentence of 21 days,
B but suspended for 12 months.

C **H. Costs**

D 57. As Mr Ho submits, the usual order in a successful committal
E procedure is for costs to follow the event and so to be payable by the
F person found guilty of contempt, and such costs are usually ordered to be
G paid on an indemnity basis. He refers to the fact that the Defendant was
H granted Legal Aid as from 5 October 2020, and seeks a summary
I assessment by reference to a statement of costs totalling HK\$129,699 for
the period up to that date and HK\$103,633 for the period after.

J 58. Mr Yip points out that the Defendant is of very limited
K financial means, and asks me to make an order that the Defendant pay
L only a nominal contribution towards the costs for the period before the
M grant of Legal Aid, albeit that he accepts that costs thereafter can be paid
N on an indemnity basis, to be summarily assessed (as they might be met by
Legal Aid). In part, Mr Yip relies upon the fact that I made a similar
costs contribution order in the *Chan Oi Yau Riyo* case.

O 59. In that case, I said that approaching costs by requiring
P payment of a contribution only, rather than on a full indemnity basis, may
Q in appropriate circumstances also reflect the appropriate degree of
R proportionality when the penalty and costs can be regarded as composite
elements of the proceedings' impact on a defendant.

S 60. Mr Ho says that as a matter of principle the usual costs order
T should be made, and the question of execution of the costs order is a
U different matter. But the practical effect of section 16C(1)(b)(ii) of the
V

A Legal Aid Ordinance Cap 91 is, he says, that for the period after the grant
B of Legal Aid in this case, neither the Director of Legal Aid nor the
C Defendant would be liable for the costs. I also note that it might be said
D that a costs order relating to the period after the grant of Legal Aid would,
E if enforceable, simply be moving public funds from one public body to
another.

F 61. Taking into account all the circumstances, I order the
G Defendant to make a contribution to the SJ's costs in the sum of
H HK\$1,000 for the period up to 4 October 2020.

I
J
K (Russell Coleman)
Judge of the Court of First Instance
L High Court

M Mr Martin Ho, instructed by Department of Justice, for the plaintiff

N Mr Richard Yip, instructed by Ho Tse Wai & Partners, for the defendant
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ANNEX 1

The Doxxing Injunction

1. On 25 October 2019, the SJ and the Commissioner of Police (suing on his own behalf and on behalf of all other Police Officers and Auxiliary Officers) as plaintiffs commenced the underlying action HCA 1957/2019 and made an *ex parte* application for an injunction against the defendants, being named as persons unlawfully and wilfully conducting themselves in any of the acts prohibited under paragraphs 1(a), (b) or (c) of the Indorsement of Claim.

2. The acts prohibited under paragraphs 1(a), (b) or (c) of the Indorsement of Claim are:

- (a) using, publishing, communicating or disclosing to any other person the personal data of and concerning any Police Officer(s) and/or their spouses and/or their respective family members (namely parents, children or siblings), including but not limited to their name, job title, residential address, office address, school address, email address, date of birth, telephone number, Hong Kong Identity Card number or identification number of any other official identity documents, Facebook Account ID, Instagram Account ID, car plate number, and any photograph of the Police Officer(s) and/or their spouses and/or their respective family members (namely parents, children and siblings) (“Personal Data”), without the consent of the Police Officer(s) and/or their family member(s) (as the case may be) concerned;
- (b) intimidating, molesting, harassing, threatening, pestering or interfering with any Police Officer(s) and/or their spouses and/or their respective family members (namely parents, children or siblings); and/or
- (c) assisting, causing, counselling, procuring, instigating, inciting, aiding, abetting or authorizing others to commit any of the aforesaid acts or participate in any of the aforesaid acts.

3. On the same day, Chow J granted an injunction order (“Interim Injunction Order”) effective until the return date on 8 November 2019. The granting of the Interim Injunction Order was widely reported in the mass media including, *inter alia*, English and Chinese newspapers with wide circulation in Hong Kong, major radio and television service providers such as Radio Television Hong Kong and various sources on the internet (“Local Media”).

4. On 28 October 2019, Chow J made an order to amend the Interim Injunction Order (“Amended Interim Injunction Order”). The material terms of the Amended Interim Injunction Order are as follows:

The Defendants and each of them, whether acting by themselves, their servants or agents, or otherwise howsoever, be restrained from doing any of the following acts:

- (a) using, publishing, communicating or disclosing to any other person the Personal Data, intended or likely to intimidate, molest, harass, threaten, pester or interfere with any Police Officer(s) and/or their spouses and/or their respective family members (namely parents, children or siblings), without the consent of the Police Officer(s) and/or their family member(s) (as the case may be) concerned;
- (b) intimidating, molesting, harassing, threatening, pestering or interfering with any Police Officer(s) and/or their spouses and/or their respective family members (namely parents, children or siblings); and
- (c) assisting, causing, counselling, procuring, instigating, inciting, aiding, abetting or authorizing others to commit any of the aforesaid acts or participate in any of the aforesaid acts.

5. The granting of the Amended Interim Injunction Order – to remain in force up to and including 8 November 2019 – was widely reported by the Local Media.

6. On 29 October 2019, the Plaintiffs made an *inter partes* application against the Defendants for continuation of the Amended Interim Injunction Order. The hearing of the *inter partes* application was fixed for 8 November 2019.

7. On 31 October 2019, Chow J further made a technical amendment to the Amended Interim Injunction Order by amending the date of the Order (“Re-Amended Interim Injunction Order”).

8. On 5 November 2019, the Hong Kong Journalist Association (“HKJA”) applied for the Re-Amended Interim Injunction Order to be varied by including the following terms:

- (1) Paragraph 1 of the Re-Amended Interim Injunction Order does not prohibit any lawful act(s) which are done solely for the purpose of a “news activity” as defined in section 61 of the Personal Data (Privacy) Ordinance (Cap. 486) (“PDPO”); and
- (2) Paragraph 1(a) of the Re-Amended Interim Injunction Order does not prohibit the disclosure of Personal Data to a data user whose business, or part of whose business, consists of a “news activity” where the requirements of section 61(2)(b) of the PDPO are satisfied.

9. At the hearing of the *inter partes* application and the HKJA’s Summons on 8 November 2019, I granted the *inter partes* application by ordering the Re-Amended Interim Injunction Order to be continued, except with the removal of the reference to “interfere” in paragraphs 1(a) and (b) of the Re-Amended Interim Injunction Order. As regards the HKJA’s Summons, I granted an order in terms as set out in paragraph (1) but refused to include the terms as set out in paragraph (2) (“Return Date Order”). I gave a fully-reasoned Ruling, since reported at [2019] 5 HKLRD 500.

10. The handing down of the Ruling and the sealing of the Return Date Order were widely reported by the Local Media.

11. On 29 November 2019, the Plaintiffs made an application to amend the Return Date Order. On 11 December 2019, I granted the application by amending the Return Date Order to include Special Constable(s), their spouses and their respective family members (namely parents, children or siblings) (“Amended Return Date Order”).

12. The granting of the Amended Return Date Order was widely reported by the Local Media.