

**Supreme Prosecutors Office**

**High Military Prosecutors Office, Ministry of National Defense**

**Taipei District Prosecutors Office**

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In the murder case of the young girl Hsieh at the Air Force Command Headquarters (“AFCH”), and the case of Airman Jiang Guo-Qing being allegedly subjected to improper interrogations, investigations have been concluded on May 24, 2011. Below is an explanation of the relevant investigations and conclusions:

## **1. Background of the Cases**

On September 12, 1996, the murder of the young girl Hsieh occurred at the AFCH; the Airman Jiang Guo-Qing was found guilty by affirmed judgment of the martial law authority at the time, and duly executed. The Control Yuan believes that the investigative process in that case may have involved violations or negligence, and had initiated an impeachment case against the Ministry of National Defense in May 2010 for the expedited adjudication and conclusion of the court martial that resulted in injustice and suppression. The Supreme Prosecutors Office had immediately formed a “Martial Law and Judiciary Joint Taskforce” to investigate the case: the Hsieh murder case was assigned to the Taichung District Prosecutors Office, the suspected improper interrogation of Jiang Guo-Qing by personnel already retired from service was assigned to the Taipei District Prosecutors Office, and improper interrogation of Jiang Guo-Qing by Lieutenant Colonel He Zu-Yao still on active duty was assigned to the Military High Prosecutors Office. The Special Investigation Division of the Supreme Prosecutors Office is responsible for directing the joint investigations.

## **2. Process of Investigations**

- (1) The first taskforce meeting in these cases took place on June 11, 2010, and a total of 15 taskforce meetings were held up to the 15th meeting on May 20, 2011 (including 9 joint

meetings of martial law and judiciary personnel). The Prosecutor General, Huang Shi-Ming had personally called meetings between the chief prosecutors of the Military High Prosecutors Office, Taipei District Prosecutors Office, Taichung District Prosecutors Office and the relevant taskforce personnel to jointly establish investigation strategies, and to conduct in-depth examinations of evidence ascertained by the respective units. In addition to adopting a strict and cautious approach in verifying the voluntariness and authenticity of the suspect Hsu Rong-Zhou, the taskforce has also submitted the relevant evidence for assessment by the relevant professional institutions to ensure that the investigation is scientifically-grounded, to discover the real truth and facts, so as not to wrongfully accuse the innocent or set free the guilty.

- (2) The Taichung District Prosecutors Office took a fresh record of the defendant Hsu's palm print for assessment by various assessment units, and also summoned several witnesses for questioning. It was ascertained that the defendant Hsu was heavily involved in the case, and the case was transferred to the Taipei District Prosecutors Office for further investigations on January 28, 2011, so as to conform to requirements of jurisdiction.
- (3) The Military High Prosecutors Office attaches high importance to this case, and has been very proactive in the investigations. It has summoned for questioning many members of the Air Force Counter-Intelligence Team that was responsible for investigating the murder case at the time, and has conducted as many as 61 questioning sessions as well as two on-site inspections. The non-indictment decision carefully cites the detailed evidence and reasons for their findings of facts incriminating the defendant He Zu-Yao, which are quite rigorous.

### **3. Findings of Fact and Investigation Results**

- (1) Regarding the Hsieh murder case:
  - a. Investigations show that the defendant Hsu Rong-Zhou had clearly confessed to the circumstances of the crime on several occasions, and the relevant details were mostly

consistent with the inspection of evidence on site and the autopsy results of injuries on the victim's body at the time. According to assessments conducted by the Investigation Bureau and the Criminal Investigation Bureau in respect of the palm print left on the horizontal wooden bars on the window of the toilet, where the offender abandoned the victim's body, the palm print was consistent with the right palm print of the defendant Hsu Rong-Zhou. Assessments by experts and scholars find that the defendant Hsu is slightly mentally retarded, but this does not affect his mid- and long-term memories. Further, the defendant had previously committed sexual assaults on a 5-year-old girl in Taichung City on May 4, 1997, and two 5-year-old twins in Taiping District, Taichung City (formerly Taiping City, Taichung County) on April 2, 2003; his guilt of these offenses had been affirmed by judgments of the Court, and the modus operandi in these cases were similar to circumstances in this case. Therefore, it is beyond reasonable doubt that the true offender in this case was the defendant Hsu Rong-Zhou (the list of exhibits set out 67 items of evidence and detailed reasons; please refer to Indictments Zhen-Zi Nos. 3122 and 4831 of 2011 by the Taipei District Prosecutors Office).

- b. The defendant Hsu Rong-Zhou's acts constituted murder under Article 271, Paragraph 1 of the Criminal Code. Assessment results find that the defendant is a typical fixated pedophile, with a fixed modus operandus and path, which requires correction under a longer term sentence to prevent re-offense. Based on increase of the possible sentence under the first part of Article 43, Paragraph 1 of the old Children Welfare Act, the prosecution sought the maximum sentence of 20 years term imprisonment as punishment and deterrence.

(2) Regarding improper interrogations of Jiang Guo-Qing:

- a. It is found that many of the files, exhibits and information from the investigation process at the time are already lost and incomplete. The responsible prosecutors conducted analysis and investigation of the limited files and evidence available, issued more than

100 large-scale summons for questioning, and compared the testimonies of more than 70 witnesses with those of the defendants, the descriptions contained in Jiang Guo-Qing's letters to his family of his having been tortured for a confession during the court martial period, and transcripts from audio recordings of his conferences with his family during the period of his detention. After close to one year of investigations, it is ascertained that Jiang Guo-Qing had indeed been subject to improper interrogations, including such illegal means as coercion, intimidation, and torture in a manner constituting abuse of their official powers, by several officers of the AFCH Counter-Intelligence Team at the time. Therefore, his confession was clearly involuntary.

- b. The prosecutors have also carefully compared the contents of the confession given by Jiang Guo-Qing after the case with the results of inspections of evidence on-site at the time, and have found numerous inconsistencies. After re-examining the items of evidence held for the file, none of these were found to be adequate basis for unfavorable findings against the defendant. Therefore, the contents of his confession also lacked authenticity.
- c. Following detailed investigations by the responsible martial law and judicial prosecutors, their findings are as follows:
  - (a) Illegal evidence collection by defendants Ke Zhong-Qing, Deng Zhen-Huan, Li Zhi-Ren and He Zu-Yao constituted the offense of coercion under Article 304, Paragraph 1 of the Criminal Code, and the offense of intimidation in threat of personal safety under Article 305 of the Criminal Code; their sentences shall also be increased pursuant to Article 134 of the Criminal Code. They were also guilty of the offense of torture in abuse of official powers, under Article 73 of the Armed Forces Criminal Code at the time. The defendants Ke Zhong-Qing, Deng Zhen-Huan, Li Zhi-Ren, He Zu-Yao and Li Shu-Qiang, in compelling Jiang Guo-Qing to watch a video tape of dissections, were guilty of the offense of

coercion under Article 304, Paragraph 1 of the Criminal Code, and the sentence should be increased pursuant to Article 134 of the Criminal Code. However, as the defendant Li Zhi-Ren had died on December 4, 2007, and the statutory limitation periods for the aforementioned offenses by the other defendants have already passed, the prosecutors have issued the non-indictment decision.

- (b) According to the impeachment by the Control Yuan, said Yuan considers that the defendants Chen Zhao-Min, Ke Zhong-Qing, Deng Zhen-Huan, Li Zhi-Ren and He Zu-Yao's punishment of confinement against Jiang Guo-Qing, as well as Li Shu-Qiang and their joint conduct in forcing Jiang Guo-Qing to watch a dissection video, constituted the offense of private confinement under Article 302, Paragraph 1 of the Criminal Code, and the offense of disclosure of non-national defense secrets under Article 132 of the Criminal Code. However, the prosecutors find that such conduct does constitute the offense of coercion under Article 304, Paragraph 1 of the Criminal Code, but not the offense of disclosure of non-national defense secrets under Article 132 of the Criminal Code. Further, the time of occurrence of these facts has already passed the statutory limitation period, so that prosecution is statutorily barred.
- (c) The Control Yuan impeachment also believes that the defendants Ke Zhong-Qing, Deng Zhen-Huan, Chen Zhao-Min, Cao Jia-Sheng, Zhao Tai-Sheng and Huang Rei-Peng were guilty of jointly committing the offense of officials responsible for prosecution and punishment using intimidation to obtain confession in abuse of their powers under Article 125, Paragraph 1, Subparagraph 2 of the Criminal Code, as well as officials responsible for prosecution and punishment causing death in the course of prosecution and punishment due to abuse of their powers under Article 125, Paragraph 2 of the Criminal Code. In this regard, as the defendants Ke Zhon-Qing and Deng Zhen-Huan did not possess the duties or powers of a military prosecutor or military judge at the time, and were no officials responsible for

prosecution or punishment, they did not qualify as doers of acts under Article 125 of the Criminal Code. Further, with regards to their conduct of improper interrogations, there is no active evidence to prove that the defendants Chen Zhao-Min, Cao Jia-Sheng, Zhao Tai-Sheng or Huang Rei-Peng had premeditated such conduct or had jointly engaged in the act; therefore the evidence is insufficient in this regard.

**4. Defendant Chen Zhao-Min has clearly handled the matter inappropriately:**

The defendant Chen Zhao-Min was the chief of the martial law authority. In eagerness to solve the murder case, he had violated procedure in assigning officials of the Counter-Intelligence Team – who had no judicial police authority – to direct the investigations, resulting in the instant case of injustice. While his conduct did not constitute any crimes, it was nonetheless inappropriate.

**5. Progress in Redress to Jiang Guo-Qing:**

(1) Regarding the extraordinary appeal:

The Prosecutor-General of the Supreme Military Prosecutors Office, Ministry of National Defense has initiated an extraordinary appeal with the Supreme Court on May 20, 2010. The case is currently being adjudicated by the Supreme Court.

(2) Regarding the Retrial:

The Northern District Military Prosecutors Office of the Ministry of National Defense has applied to the Northern District Military Court of the Ministry of National Defense for a retrial of the case on February 24, 2011. The case is currently being adjudicated by said Military Court.