

Speech by DPP at opening ceremony of Prosecution Week 2016
(English only)

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Following is the speech by the Director of Public Prosecutions, Mr Keith Yeung, SC, at the opening ceremony of Prosecution Week 2016 today (June 17):

Secretary for Justice, Chairlady of the Bar Association Ms Winnie Tam, SC, Immediate Past President of the Law Society Mr Stephen Hung, distinguished guests, ladies and gentlemen:

May I extend our warmest welcome to all of you to this official opening of Prosecution Week 2016 organised by the Prosecutions Division of the Department of Justice.

The Prosecutions Division is holding this annual event for the fifth time. This year, our theme is: "Justice · Independence · Impartiality", "公義·獨立·持平".

You would probably notice that the three words in English and the three terms in Chinese are separated by single dots. That was intentional - we hope to convey the message that those three core values are of equal importance, and that together they form a shatterproof bedrock on which the rule of law stands.

There is no need for me to cite any authority in support of what I have just said. But if authority is necessary, I cite what the Chief Justice said just last weekend during the Ceremony for the Admission of the New Senior Counsel:

"The institution of Senior Counsel, originating as it does in Hong Kong from the English tradition of Queen's Counsel, is an established feature of the Common Law. For me, it is representative of those features of the Common Law that stand out: independence, impartiality, a pursuit of justice and above all, the promotion of the rule of law."

When I was there listening to that part of the Chief Justice's address, I thought he was opening the Prosecution Week for us in advance.

Allow me to go into each of those values a little more.

Justice. We public prosecutors are ministers of justice. Laymen may ask: Why is that so? Shouldn't judges rather than prosecutors take the role of administering justice? Some may even think: The work of prosecutors is to prosecute people, and so by nature they will have a pre-disposition against suspects!

Let me take this opportunity to explain why we are ministers of justice. The community has a legitimate interest in seeing that offenders are brought to the court and are properly dealt with in judicial proceedings. On behalf of the community, prosecutors take on the important responsibility in ensuring that justice is dispensed with in equal measure and in an even-handed manner at all times. We prosecute not in the name of the Secretary for Justice or the Department of Justice or the Government, but in the name of the Hong Kong Special Administrative Region, in the name of the whole community. We play this important role as ministers of justice of the community with due care. We discharge our duties with professionalism, skill and integrity, and operate within the framework of defined and transparent prosecution policy guidelines as set out in our Prosecution Code. The decision whether or not to prosecute an individual or entity is always a crucial one, and it will only be taken after a prosecutor has fully evaluated the evidence and circumstances, and answered two questions in particular. First, is the evidence sufficient to justify instituting or continuing proceedings? Second, if it is, does the public interest require a prosecution to be pursued? The prosecutor must at all times act in the public interest and be guided and directed by public interest considerations in the measured and just application

of the law.

Independence. The exercise of prosecutorial discretion is essentially a judgment call - a judgment regarding the weight of the evidence, a judgment as to where public interest lies. The only basis for exercising that judgment is the law, the evidence, and the Prosecution Code. Nothing else will be put onto the scale. Article 63 of the Basic Law clearly stipulates, "The Department of Justice of the Hong Kong Special Administrative Region shall control criminal prosecutions, free from any interference". We do not allow the process to be influenced by any other elements, be that investigative authorities or other parts of the Government, the political sector, the media or even certain sector(s) of the community. We act in the interest of the community as a whole, and in doing so, every effort is made to safeguard the independence of the prosecution as entrenched in the Basic Law.

Impartiality. Impartiality is not just a natural corollary of we being ministers of justice and independent, but is a separate core value we uphold. We favour no one. We fear no one. At times, there are allegations that certain prosecutorial decisions were politically motivated. Such allegations were utterly misplaced and baseless. I take the opportunity here to say this emphatically - we public prosecutors have the mission to perform our duties without fear, favour or prejudice. The possible effect of the decision on the personal or professional circumstances of those who have the conduct of the case; the possible political effect on the Government, any political party, any group or individual; or possible media or public reaction to the decision does not play any part in our prosecutorial decision. They are simply not considerations that come into the equation at all, not even remotely so. We would put all these irrelevant considerations aside and would only be guided by the law, the evidence and the public interest. Needless to say, we all will continue to do so.

Taking into account the enormous efforts that we have made in observing the three "big" principles explained above with the aim of upholding the rule of law, I, as a prosecutor and the leader of the prosecutions team, am particularly saddened to know that when my fellow colleagues attend court, especially in certain politically sensitive cases, they on growing occasions have been subject to groundless, malicious and unfair personal verbal abuse from certain members of the public. We respect differences in opinion. We welcome constructive suggestions or even criticisms. The rule of law, judicial and prosecutorial independence and fundamental rights such as freedom of expression are core values which Hong Kong as a whole has always strived to safeguard. However, it must not be forgotten that any act of lashing out in court proceedings, committed with no other intention except to bring the judiciary or prosecution into disrepute, simply cannot be a proper exercise of one's freedom of expression. To my fellow colleagues I say this - continue to adhere to these three principles of justice, independence and impartiality, and we can continue to discharge our duties with pride and with our heads up. To those who have misunderstood or been misinformed about the roles of we prosecutors - I devote this Prosecution Week to you.

Yes, I devote this Prosecution Week to those who may have doubts about us. I equally dedicate this Prosecution Week to everyone who wants to know more about prosecutions in Hong Kong. For we believe that communication is key to the better understanding among all stakeholders in the criminal justice process. By engaging the community through channels like the present, we take an important step forward towards building of trust and understanding which are essential to the effective functioning of the prosecution service.

I am happy to report to you that what we have been doing in the past few years is bearing fruit. To make my point, I am eager to share with you the winning entry (Chinese) of the

junior school group of our slogan competition this year: "獨立持平 拒絕偏倚 你我齊心 維護公義".

I am sure that like me, you will be impressed by the ability of our young winners to appreciate the importance of these crucial values, as well as the importance of forming a united front together to defend them. It brightens up my day to see that the younger generation, which in a decade or two will be taking charge of society, have fully taken on board the key to a fair and just society.

Towards the goal of introducing to the community the prosecution process, apart from the slogan competition mentioned above, we have also continued to arrange for our participating schools court visits, mock court exercises and talks in this year's Prosecution Week. Organisers last year told me that the participants' favourite event is the wig-and-gown mock court sessions - the scene of excited students in oversize wigs is no doubt a happy distraction from our daily hectic lives.

I would also like to mention that alongside the Prosecution Week, our Division is also running the "Meet the Community" Programme, under which our colleagues reach out to more schools and organisations throughout the year to give talks on various topics related to their work. It serves a similar purpose, like the Prosecution Week, in enhancing the public's understanding of the criminal justice system and their role in the system as well as the importance of the rule of law. Up to end May this year, a total of 92 talks were held and well-received. This and the Prosecution Week will remain our regular events.

Before I invite our honourable guests to speak to us, may I thank you all again for attending today's opening ceremony. Special thanks go to the Secretary for Justice, Chairlady of the Bar Association and the Immediate Past President of the Law Society for their unfailing support for

the Prosecution Week. I am confident that with your presence and active participation, the 2016 run of the Prosecution Week will be another delightful success.

With these remarks, I invite our Secretary for Justice, Mr Rimsky Yuen, SC to deliver an opening address for Prosecution Week 2016.

Ends/Friday, June 17, 2016