

Speech by DPP at opening ceremony of Prosecution Week 2017 (English only)

Following is the speech by the Director of Public Prosecutions, Mr Keith Yeung, SC, at the opening ceremony of Prosecution Week 2017 today (June 23):

Secretary for Justice, Chairman of the Bar Association, Vice-President of the Law Society, distinguished guests, ladies and gentlemen,

I welcome all of you to this official opening of Prosecution Week 2017 organised by the Prosecutions Division of the Department of Justice.

This is the sixth run of this annual event. This year, our theme is:

The Rule of Law

法治

Yes, the Rule of Law - clear and emphatic; no pre-fix or sub-fix; no dash or colon; no qualification or compromise. It is that same unequivocal approach the Prosecutions Division adopts when it comes to upholding the rule of law.

The Prosecutions Division has very important duties to discharge. The main, and the most important one, is to decide whether to prosecute. When discharging that and all other duties, we are, as provided in paragraph 3.1 of our Prosecution Code, "required to comply with and promote the rule of law." That means, importantly, that the prosecution is required to act in the general public interest, but independently as a "minister of justice". In making decisions and exercising discretion, a prosecutor must act fairly and dispassionately on the basis of the law, the facts

provable by the admissible evidence, other legally relevant information known to the prosecution, and any applicable prosecutorial policies or guidelines.

Those are the relevant considerations. Compliance with the rule of law also means that the prosecution, when making decisions, ought not be influenced by any irrelevant considerations. Such irrelevant considerations include:

- (a) Investigatory, political or media interest;
- (b) Personal feelings or beliefs of the prosecutor;
- (c) The possible political effect on the Government, any political party, or group or individual; and
- (d) Possible media or public reaction to the decision.

As you can see, our role is not easy. We have to be able to distinguish the relevant from the irrelevant, and then to consider carefully the former, but ignore the latter. And not only are we required to have the ability and integrity to do that, we also need to have a system to ensure the prosecution to do that. It is here where the important concept of prosecutorial independence comes in. As the Court of Appeal has pointed out in *Re C (A Bankrupt)* [2006] 4 HKC 582 at 590:

"The prosecutorial independence of the Secretary for Justice is a linchpin of the rule of law ... 'the decision whether any citizen should be prosecuted or whether any prosecution should be discontinued, should be a matter for the prosecuting authorities to decide on the merits of the case without political or other pressure.' [Sir Robert Finlay, 1903] ... these statements ... reflect accepted and applied fundamental principle in this jurisdiction, the continuation of which is preserved by the entire theme of the Basic Law as well as, specifically, by article 63."

Article 63 of the Basic law is definitely repeating, that:

"The Department of Justice of the Hong Kong Special Administrative Region shall control criminal prosecutions, free from any interference."

So, if any person or entity sees fit to approach us and try to tell us what to do, we have the constitutional power to say, firmly but courteously, "Thank you and no thank you. We will do what is deemed appropriate in compliance of the rule of law". Such is our privilege, but such is also the weight of our mandate.

So that we can implement this onerous but important mandate better, society's understanding is vital. This is exactly why it is important for us to continue to organise events like Prosecution Week. Communication is the key, and by definition, communication must not be one-sided. Engagement of and interaction with the community, which are exactly what our Prosecution Week events are aiming at, are no doubt the most, if not the only, effective means to foster mutual understanding and trust.

In order to make that communication more interactive and interesting this year, we have tried out a new format in the form of a law quiz. There are 12 participating schools. It is delightful to see the young participants musing so hard on the answers to some of the questions which even we ourselves find quite difficult. Frankly, I am very impressed by their performance, and I see in many of them potential stars in the legal profession in the not-too-distant future. You will have an opportunity to meet our bright winners in a moment when they happily come onto the stage to collect their prizes for the quiz.

Towards the end of enhancing the community's understanding of the prosecution process, like in the previous years, we have also arranged court visits, mock court exercises and talks for participating schools for this year's Prosecution Week. The Chairlady of the Organising

Committee, Ms Bianca Cheng, just told me that the top favourite event for our participating students remains the wig-and-gown mock court sessions. That is no surprise to me!

Alongside Prosecution Week, our Division is also running the "Meet the Community Programme" all year round so that colleagues can reach out to more schools and organisations. The visits have been well received. These two events would no doubt continue to be our key efforts in reaching out to the community for the promotion of the rule of law and our prosecution service.

Finally, thank you all again for attending today's opening ceremony. Special thanks go to the Secretary for Justice; the Chairman of the Bar Association, Mr Paul Lam, SC; and Vice-President of the Law Society, Mr Amirali Nasir, for their unfailing support for Prosecution Week. I am confident that with your presence and active participation, the 2017 run of Prosecution Week will be another delightful success.

With these remarks, may I invite our Secretary for Justice, Mr Rimsky Yuen, SC, to say a few words.

Ends/Friday, June 23, 2017