

**Speech by the Hon Rimsky Yuen SC
Secretary for Justice
at the Opening Ceremony of the Prosecution Week 2016
on 17 June 2016 (Friday)**

Chairman of the Bar [Ms. Winnie Tam, SC], Immediate Past President of the Law Society [Mr. Stephen Hung], Fellow Colleagues and also colleagues from other government departments and law enforcement agencies, Distinguished Guests, Ladies and Gentlemen,

1. First of all, thank you for joining us this afternoon so that we can together witness the official opening of this year's Prosecution Week. On behalf of the Department of Justice, may I extend to all of you our warmest welcome.
2. "Prosecution Week" was first held in 2012, with the view to promoting public understanding of how our criminal justice system works, including areas such as the role of public prosecutors as well as the fundamental principles pursuant to which our prosecutors operate. Thanks to the efforts and hard work of the colleagues of the Prosecutions Division, "Prosecution Week" has since become an annual event (and indeed one of the important annual events) of the Department of Justice. This year marks the 5th anniversary of the "Prosecution Week", and is also the first time the official opening of the "Prosecution Week" is held at this newly renovated complex known as the "Justice Place".
3. "Justice" is the notion that we all cherish, and that we all have the right and duty to defend. For good reasons, the theme chosen for this year's "Prosecution Week" is "*Justice • Independence • Impartiality*". I thank the Director of Public Prosecutions ("DPP"), Mr. Keith Yeung SC and our other colleagues in the Prosecutions Division for coming up with this

theme which is most appropriate for achieving the purpose of organizing the “Prosecution Week”.

4. The importance of the rule of law cannot be disputed. What is more important is what should be done to uphold the rule of law. In this regard, one of the aspects which commands importance and deserve attention is naturally the proper administration of criminal justice. The criminal justice system affects all of us in the society. Without an appropriate criminal justice regime and an effective operation thereof, law and order could not be maintained, those who deserve to be protected would be deprived of the necessary protection, and those who deserve to be punished would walk free.
5. Quality and professional prosecution, in turn, is pivotal in achieving the proper administration of criminal justice. The three notions highlighted in this year’s theme, “*Justice*”, “*Independence*” and “*Impartiality*”, are, among others, the essential notions of a fair, robust and professional prosecution regime.
6. Indeed, the fundamental concepts which are crucial in ensuring the proper administration of criminal justice are deeply entrenched in the legal system of Hong Kong. Not only does the Basic Law of the Hong Kong SAR continue the common law tradition and thereby preserve the relevant common law safeguards, it contains express stipulations which provide the constitutional guarantee for the proper administration of criminal justice.
7. The most often cited provision in the Basic Law in the context of criminal prosecution, I believe, must be Article 63. Indeed, as often cited as it is important, Article 63 provides the constitutional guarantee that the Department of Justice “shall control criminal prosecution, free from any interference”. This provision in the Basic Law is the guiding spirit of all criminal prosecution, and is proved to be of particular importance when

controversial cases arise. The more controversial a case may be, the more important it is to remain independent and to be seen to be independent. This is the reason why from time to time, not only do my colleagues exercise their independent power of analysis, we engage outside independent counsel for advice so that there cannot be any doubt about our steadfast adherence to Article 63 of the Basic Law.

8. Apart from Article 63, other provisions which are relevant include Article 28 which specifically provides that no Hong Kong resident shall be subjected to arbitrary or unlawful arrest, detention or imprisonment. Article 35, on the other hand, states that Hong Kong residents shall have the right to confidential legal advice, access to the courts, choice of lawyers for timely protection of their lawful rights and interests or for representation in the courts, and to judicial remedies.
9. There is of course also Article 39 of the Basic Law, which stipulates that the provisions of the International Covenant on Civil and Political Rights (“ICCPR”) as applied to Hong Kong shall remain in force and shall be implemented through the laws of the Hong Kong SAR. As you would appreciate, ICCPR provides the basis for provisions contained in the Hong Kong Bill of Rights, which are set out in the Hong Kong Bill of Rights Ordinance (Cap. 383).
10. Various provisions contained in the Bill of Rights are also relevant to the proper administration of criminal justice. Examples include Article 5(1) of the Bill of Rights which provides that “Everyone has the right to liberty and security of person. No one shall be subject to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by the law.”
11. Article 10 of the Bill of Rights stipulated that “All persons shall be equal before the courts and tribunals. In the

determination of any criminal charge against him, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.”

12. Article 11(1) of the Bill of Rights codified the common law presumption of innocence and states that “Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.”
13. The provisions that I just mentioned are examples of some of the concepts which are fundamental to our criminal justice system. These provisions, together with other concepts and safeguards, remain deeply-rooted in Hong Kong’s legal system, and are instrumental in ensuring the proper administration of criminal justice. The Department of Justice will remain vigilant in ensuring that these core concepts are adhered to, so as to ensure that the criminal justice system in Hong Kong would continue to work well under the “One Country, Two Systems” principle.
14. In his opening address made just now, the DPP mentioned about the unfortunate incidents where public prosecutors were subject to wholly unjustified abuses. On my part, I entirely agree to the observations made by the DPP. May I also add that a respect for the rule of law includes a respect for the system, which means that we should respect the different roles played by the different stakeholders. The public prosecutors have their duty to discharge, and so do the judges. Even if one does not agree to the stance of the prosecutors or the rulings or decisions made by judges, one should express their views in the proper manner instead of resorting to abuses or even personal attacks. Such wholly unjustified conduct, which unfortunately have surfaced recently, is the very antithesis of the rule of law and should never be endorsed, let alone encouraged.
15. Before I conclude, I would like to take this opportunity to express our special thanks to the Bar Association, the Law

Society, and our colleagues from the other government departments and bureaux as well as the various law enforcement agencies, for their support both to the works of the Department of Justice generally and also specifically for their support to the “Prosecution Week” programme over the years.

16. Last but certainly not least, I very much want to express my utmost gratitude to the DPP and all the other colleagues in the Prosecutions Division for their contribution, not only with regard to organizing the “Prosecution Week” programme, but also in respect of the works they have done in the discharge of their duties as public prosecutors over all these years. Their unfailing dedication amidst an upsurge in workload whether as a result of an increase in the number of cases that have to be handled, or the complexity of the issues that required to be dealt with is particularly commendable.
17. On this note, may I now formally declare the commencement of the “Prosecution Week 2016”.

Thank You.