



PROSECUTIONS DIVISION
刑事檢控科

刑事檢控專員的序言 Director's Overview

本科每年在工作上都會遇到種種新挑戰，2021年也不例外。然而，常言道：“有危便有機”。年內，本科人員繼續盡心竭誠，秉持專業幹練的精神服務社會，確保時刻公平公正、不偏不倚地推展與本港刑事司法制度有關的重任。

Every year brings about new challenges to the work of the Division, and 2021 has been no exception. Yet, as the saying goes, challenge brings opportunity. Throughout the year of 2021, officers of the Division have continued to serve the community with skill, dedication, and professionalism, ensuring that the imperatives of our criminal justice system were furthered in a just and even-handed manner at all times.

本年度的工作回顧以“篤行法治 普惠全民”為主題，彰顯檢控人員肩負為社會及代社會行事的首要任務。檢控人員執行極其重要的公務，並且在執行各項檢控工作時必須以整體公眾利益為依歸。檢控人員需肩負社會責任，秉持公正。由決定是否提出檢控、進行檢控以至處理刑事上訴案件，檢控人員都必須以公正獨立的方式行事，並以公眾利益為首要考量。這種責任源於我們深知，確保檢控工作妥為執行、把罪有應得之人治罪，以及還無辜者清白，是與公眾切身利益攸關。最終，我們檢控人員矢志服務社會，普惠全民。

那麼，檢控人員按整體公眾利益行事的職責如何付諸實行？作出檢控決定的過程便是例子之一。過程當中必須考慮兩項獨立但又互相關連的因素：第一，案件必須具有充分及可接納的證據，顯示有合理機會達致定罪；第二，即使證據充分，控方僅會在符合公眾利益的情況下提出檢控。每宗案件有其獨特性，我們理當慎重考慮所有相關因素，決定公眾利益何在。這種按公眾利益行事的精神貫穿著檢控人員的日常工作。

檢控獨立是我們職責上以公眾為本的另一體現。檢控人員以香港特別行政區（即整體社會）的名義行事，以盡力維護《基本法》第六十三條確立的獨立檢控權為宗旨。該條清楚訂明“香港特別行政區律政司主管刑事檢察工作，不受任何干涉。這亦表示檢控決定是基於並且單單基於證據作出，當中完全不涉及個人意見或政治立場等因素。檢控人員往往得到調查人員和執法機關的協助，但我們只為公義服務。檢控人員在法庭上代表社會，而檢控獨立的原則正是讓我們無懼無畏地追求公義的後盾。

秉持公正和按公眾利益行事的責任涵蓋檢控人員在法庭內的工作。我們在庭上的主要關注是要確保法律程序公平。這裏所指的“公平”包

The theme of this year's review, "Rule of Law for the Good of All", reflects a public prosecutor's overriding duty to act for and on behalf of the community. Prosecutors perform a crucial public duty, and the conduct of all prosecutorial work is guided by what is in the general public interest. Our primary obligation is one of ensuring fairness to the community. From making decisions on whether to prosecute, conducting prosecutions, to handling criminal matters at the appellate level, our prosecutors must act fairly, independently, and place the public good at the forefront of consideration. Such a duty is rooted in our recognition that the public has a legitimate interest in seeing that prosecutions are properly conducted, that the guilty are convicted and the innocent are acquitted. At the end of the day, it is the community and the "good of all" to which we prosecutors are committed to serving.

How then, is a prosecutor's duty to act in the general public interest reflected in practice? One of many examples is the process of making a prosecutorial decision, which requires consideration of two separate but interrelated matters. Firstly, there must be sufficient and admissible evidence demonstrating a reasonable prospect of conviction. Secondly, even where the evidence is sufficient, the prosecution will only proceed where the public interest so requires. Each case is unique and deserves our careful consideration of all relevant factors to determine where the public interest lies. This commitment to do what the public interest requires forms part of the fabric of prosecutors' day-to-day work.

Another manifestation of our public-centered duty is the concept of prosecutorial independence. Prosecutors act in the name of the Hong Kong Special Administrative Region – the community as a whole. In doing so, every effort is made to safeguard prosecutorial independence as enshrined in Article 63 of the Basic Law, which clearly stipulates that "*The Department of Justice of the HKSAR shall control criminal prosecutions free from any interference*". This also means that prosecutorial decisions are made on evidence, and on evidence alone. Factors such as personal opinion or political stance have absolutely no part to play in the process. While prosecutors are often assisted by investigators and law enforcement agencies, we serve justice and justice alone. It is the community that a prosecutor represents, and it is the principle of prosecutorial independence which allows us to fearlessly pursue public justice.

括向辯方披露所有相關或可能相關的材料；客觀地提出證據和陳詞；申述控方立場時堅定不移，進行訟辯時有禮有節；以及在有需要時驗證或據理質疑辯方的立場。最重要而且必須強調的是，提出檢控的目的並不是要令被告入罪，而是要公平公正地提出證據，協助法庭或陪審團作出公正的判決。因此，檢控人員的工作非關“勝敗”，而在於履行公職時秉持誠信、尊嚴，並且發揮專長——這是本科及科內檢控人員奉行的信念，現在如是，將來亦然。

我們一直致力以最高標準處理刑事案件。本科在 2021 年年內為見習律政人員、新入職的檢控官、部門檢控人員和法庭檢控主任提供刑事訟辯培訓課程，讓他們掌握在庭上檢控的實用知識。本科亦舉辦了多個研討會，以確保科內檢控人員了解法律的最新發展。展望未來，我會繼續為檢控人員提供足夠機會磨練審訊和上訴層面的訟辯技巧。在適當情況下，年資較淺的檢控官會由經驗較豐富的同事帶領，確保得到充足的指引和監督。我的目標是通過這些持續的培訓和發展計劃，為社會提供最高標準和最優質的檢控服務。

近年，部門面臨一項無可避免的挑戰，就是本科處理的案件性質甚具爭議，導致檢控人員和檢控決定受到偏頗、毫無根據的批評。該等說法無視某些案件中支持檢控決定的實際情況，以及對法院的裁決或判刑理由視而不見。這些毫無基礎的批評有損公義的彰顯。

即使面對上述種種挑戰，我們仍克盡厥職為大眾利益服務，不單閉門於辦公室和法庭內，更會走進社區。2021 年 11 月，本科舉辦國際刑事法律研討會，邀請來自本港和多個海外司法管轄區的知名法官、法律執業者，以及學者聚首一堂，就多個刑事法律的重要議題交換意見。研討會吸引逾 900 人參加。此外，我們的檢控人員不時主持校園講座，講解本科的工作、刑事司法制度及選定的刑事法課題。我相信公眾

The duty to act fairly and in the public interest extends to govern prosecutors' work in the courtroom, where our primary concern is to ensure fairness of the proceedings. "Fairness" in this context includes, for example, the disclosure of all material which are or may potentially be relevant to the defence, the objective presentation of evidence and submissions, and the exercise of firm but courteous advocacy in advancing the prosecution's position and, where necessary, testing or challenging with grounds the position adopted by the defence. Above all, it must be emphasized that the purpose of bringing a prosecution is not to secure a conviction, but to present evidence in a fair and impartial manner to assist the court or jury in reaching a just result. For this reason, the work of prosecutors excludes notions of "winning" or "losing". It is a matter of public duty to be performed with integrity, dignity, and skill – values by which the work of the Division and our prosecutors abide and will always abide.

We continually strive to apply the highest of standards in our handling of criminal cases. Throughout 2021, the Division delivered training courses in criminal advocacy to legal trainees, newly recruited public prosecutors, departmental prosecutors, and court prosecutors, equipping them with the practical know-how of conducting prosecutions in court. Various seminars have also been arranged to ensure our prosecutors are kept abreast of latest developments in the law. Looking ahead, I will continue to ensure that our prosecutors are given ample opportunity to hone their advocacy skills at both the trial and appellate levels. Where appropriate, junior prosecutors will be led by more experienced colleagues to ensure adequate guidance and supervision. With these ongoing training and development initiatives, I make it our goal to bring to the community a prosecution service of the highest standard and caliber.

An inevitable challenge facing our Department in recent years has been the controversial nature of cases handled by our Division. This has led to biased and baseless criticisms levied against our prosecutors and prosecutorial decisions. These statements evince a disregard of the factual realities leading to prosecution of certain cases, and of the reasons given by the court in reaching a verdict or passing a sentence. Such unfounded criticisms are inimical to the due administration of criminal justice.

In the face of these challenges, we endeavored to discharge our duty to serve the public good not only behind the closed doors of the office and courtroom,



可通過社區外展活動，充分了解檢控人員的角色和刑事法的運作，從而增強對本科伸張刑事司法公義的信心和支持。

檢控人員是秉行公義者，肩負代表公眾並按公眾利益行事的崇高使命，職務艱巨但光榮。縱使本科在可見日子仍要面對繁重工作的挑戰，但我深信我們熱切追求公義的堅定信心會帶領我們順利克服逆境。最重要的是，我會確保本科繼續以正直、誠實和廉潔之心秉行公義。憑着各同事和公眾的鼎力支持，我們攜手竭盡全力，為這個我們視之為家的社會堅守法治。

but also within the community itself. In November 2021, the Division hosted the International Criminal Law Conference, in which distinguished judges, practitioners, and academics from Hong Kong and several overseas jurisdictions gathered to exchange views on a number of important criminal law issues, attracting over 900 participants. From time to time, our prosecutors deliver school talks about our work, the criminal justice system, and selected criminal law topics. I believe that through community outreach, the public will gain an informed understanding about the role of prosecutors and the operation of the criminal law. This will, in turn, nourish public confidence and support in our pursuit of criminal justice.

Prosecutors are ministers of justice charged with the noble calling to act for and in the interests of the public. The duty is onerous but honorable. While heavy caseload will remain a challenge for our Division in the foreseeable future, I firmly believe that our unwavering commitment to a fervent pursuit of justice will lead us to overcome adversity with flying colours. Most importantly, I will see to it that our Division continues to deliver justice with integrity, honesty, and probity. With strong support from my colleagues and the public, we will together make every effort to uphold the rule of law for the community which we all call home.