

刑事檢控專員辦公室

Office of the Director of Public Prosecutions



刑事檢控專員辦公室在 2010 年設立，由人事主管領導，負責監督本科的管理、制定政策及培訓事宜。高級助理刑事檢控專員協助人事主管處理刑事檢控專員辦公室的日常運作。在 2012 年 3 月，陳淑文女士接替李運騰先生，擔任刑事檢控專員辦公室高級助理刑事檢控專員。

刑事檢控專員辦公室的職責範圍反映其工作多元化。在高級助理刑事檢控專員的督導下，刑事檢控專員辦公室各檢控官（又稱“經理”）分別負責五個主要範疇的工作，包括傳媒關係、管理、培訓、政策研究和投訴及意見。

刑事檢控專員辦公室亦負責執行刑事檢控專員不時指派的特定計劃及職務。在 2012 年，刑事檢控專員辦公室積極協助籌辦檢控週及 2012 年刑事法律研討會。

刑事檢控專員辦公室高級助理刑事檢控專員亦負責督導本科法律支援團隊，當中包括六名法律翻譯主任及 27 名律政書記。他們提供法律支援服務，協助檢控人員履行專業職務。

The Office of the Director of Public Prosecutions (ODPP), set up in 2010 and led by the Chief of Staff, is responsible for overseeing the management, policy development and training matters of the Division. The Chief of Staff is assisted by a Senior Assistant Director of Public Prosecutions (SADPP) in the day-to-day operation of the ODPP. In March 2012, Ms Alice Chan succeeded Mr Alex Lee in the post of SADPP of the ODPP.

The portfolios of the ODPP reflect the diversity of its work. Public prosecutors, who work under the supervision of the SADPP of the ODPP and also referred to as “Managers” are designated to handle the five major sectors of work in the ODPP, namely, media relations, management, training, policy research and complaints and feedback.

The ODPP is also responsible for conducting specific projects and duties assigned by the DPP from time to time. In 2012, the ODPP actively assisted in the organization of the Prosecution Week and the Criminal Law Conference 2012.

The SADPP of the ODPP also supervised the Division’s legal support team, comprising six Law Translation Officers and 27 Law Clerks, which provided prosecutors with legal support services essential to the professional discharge of their duties.

傳媒關係

傳媒關係組致力及時和有效地回應傳媒的查詢，確保與傳媒維持負責任及互動的關係。傳媒關係組的經理為吳卓樺女士，她又是刑事檢控專員的行政助理。2012年，本組接獲約50宗傳媒查詢，大部分查詢是關乎對具體案件所作的檢控決定和控方的立場，以及控方有否考慮採取任何跟進行動。一如既往，這些查詢約九成獲即日回覆，其餘的查詢大部分在翌日獲得回覆。在適當情況下，傳媒關係組會就公眾關注的案件迅速擬備回應口徑和發出新聞公報。

除了積極回應傳媒外，本科亦主動接觸公眾。刑事檢控科認同公眾期望並有權對檢控人員的工作有更多認識，因此一直採取透明公開的政策。年內，本科舉辦檢控週，作為加強公開刑事檢控工作的重點活動之一，而檢控週的各項活動均廣受歡迎。

接受傳媒訪問是與公眾溝通的另一途徑，讓我們就本科年內曾研究的社會迫切關注的事宜向公眾傳達訊息。舉例來說，刑事檢控專員在2012年11月接受《南華早報》訪問，就電腦網絡罪行及偷拍女士裙底照片這兩個社會日益關注的問題作出回應。此外，透過《南華早報》2012年12月的人物專訪，刑事檢控專員讓公眾認識他及向市民傳達一個訊息，就是他決心加強市民對刑事司法體系運作的認識。他深信，若公眾多認識刑事司法體系的運作，便會更加了解和支支持刑事司法體系。

政務及管理

刑事檢控專員辦公室轄下的管理組負責與本科的整體管理事務、檔案室、審訊案件編配、案件外判、訟費及督導律政書記有關的工作。

管理組經理梁燊頤女士是刑事檢控專員辦公室的副主管，負責履行多項職務。檔案室平均每天從執法機關及其他政府部門接獲五十多個檔案，大部分檔案會送交分科一（法律指引）尋求法律指引。檔案經分類後會分派予適當的組別採取

Media Relations

With the aim of maintaining a responsible and dynamic relationship with the media, the Media Relations Unit is committed to responding to press enquiries promptly and effectively. Miss Claudia Ng, who is the administrative assistant to the DPP, is the Manager of the Unit. In 2012, around 50 media enquiries were received. Most of them concerned prosecutorial decisions made and the position of the prosecution in specific cases and whether any follow up actions were contemplated by the prosecution. As in the previous year, about 90% of the enquiries were responded to on the same day; the rest were mostly responded to on the next day. If it was considered appropriate, press releases and lines-to-take were prepared and issued efficiently for cases which generated public concern.

Apart from being responsive to the media, initiatives have been made to reach out to the public. The Prosecutions Division champions a policy of openness and transparency, as it recognises that the public expects and is entitled to know more about the work of prosecutors. One of the highlighted events organized by the Division to promote greater openness was Prosecution Week, in which the activities held were very positively received.

Press interviews are another channel to communicate with the public and convey pressing societal concerns that the Division considered during the year. For example, in a *South China Morning Post* interview in November 2012, the DPP addressed two growing social concerns, namely, cybercrime and the snapping of images up women's skirts. In a *South China Morning Post* profile in December 2012, besides allowing the public to get to know what kind of person the DPP was, the DPP sent a message to the public that he was determined to make them more aware of how the criminal justice system works. He believed that when the public are more informed about it, they will become more understanding and supportive of the system.

Administration and Management

The Management Unit of the ODPP took care of matters relating to the overall management of the Division, the registries,

allocation of trials, briefing out, costs and supervision of the Law Clerks.

Ms Rosaline Leung, who was the Manager of the Management Unit and also the Deputy Section Head of the ODPP, had various duties. Every day, the registries received on average over 50 files from law enforcement agencies and other government departments. The majority of files was sent to Sub-division I (Advisory) for seeking legal advices. On categorization, the files were assigned to the appropriate Section for further actions. Overseeing the Division's operation was part of the Manager's duty.

Some requests for legal advice were however processed through the quick advisory system FAST. Each day, at least one directorate officer and four counsel were on FAST duty. The Manager had to ensure the smooth running of FAST. Every Monday morning, the roster for the following week was sent via e-mail to all colleagues in the Division.

The Manager kept track of the diary of all counsel in the Division. The Management Unit assigned counsel to appear for criminal hearings at all levels of courts, including the High Court, the District Court and the Magistrates' Courts. These hearings were mainly trials, appeals, and death inquests. The Manager is also responsible for the allocation of High Court bail applications to counsel.

The Management Unit strived to achieve a fair distribution of work among colleagues after taking into account their respective work engagements, ability, experience and expertise. When no suitable in-house counsel was available, the Unit would brief out court cases to counsel-on-fiat with suitable experience to prosecute.

The DPP and his four Deputies closely monitored the allocation of court cases, particularly the sensitive cases. Weekly meetings were held to discuss sensitive court cases in the coming week. The Management Unit made its best endeavours to ensure cases had been allocated to the most suitable counsel.

The Unit also handled claims of costs by acquitted defendants and successful appellants. Counsel within the ODPP attended taxation hearings at the Court of First Instance and the District Court. In

進一步行動。監督本科的運作是本組經理的一部分職務。

同時，部分尋求法律指引的個案是以 FAST 這個特快法律指引制度處理。每日至少有一名首長級人員及四名律師當值，處理與 FAST 有關的職務。本組經理須確保 FAST 運作暢順，每逢周一早上把下周的輪值表以電郵通知本科全體同事。

本組經理會留意科內所有律師的工作日誌，以編派律師出席高等法院、區域法院、裁判法院等各級法院的刑事聆訊。這些聆訊主要是案件審訊、上訴及死因研訊。本組經理亦負責編配律師處理高等法院的保釋申請。

管理組致力按同事現行的工作量、能力、經驗和專長，公平分配工作。若科內沒有合適的律師，本組會把案件外判予具備適當經驗的外判律師進行檢控。

刑事檢控專員及四位副專員會密切監察案件（尤其是敏感案件）的編配情況，並為此每周舉行會議，討論未來一周的敏感案件。管理組盡力確保把案件編配予最合適的律師處理。

此外，本組負責處理獲裁定無罪的被告和上訴得直的上訴人所提出的訟費申索。刑事檢控專員辦公室的律師負責出席原訟法庭和區域法院的訟費評定聆訊。在 2012 年處理了 408 宗訟費個案。

政策研究

政策經理鄭詠榆女士負責就擬訂的新法例和現行法例的修訂，從控方的角度向政府各決策局和部門提供指引。2012 年，我們就以下法例提供意見：《2012 年司法法例（雜項修訂）條例草案》、《產品環保責任（塑膠購物袋）（修訂）條例草案》及《私營骨灰龕條例草案》。在草擬法例的不同階段：由構思立法建議至編訂草擬指示和草擬的條文，以至在憲報刊登條例草案、立法會三讀程序和委員會審議階段，我們都會適時提供意見。涉及的事項通常包括擬訂的罪行和證據條文的舉證責任及舉證標準、條文合憲性、法律效力和執法問題。

我們經常應決策局的要求，而往往是在非常緊急的情況下，就立法會（委員

2012, the ODPP dealt with 408 cases on costs.

Policy Research

Ms Bianca Cheng, the Policy Manager, advised government bureaux and departments of the prosecution's perspective on proposed new legislation and amendments to existing legislation. In 2012, advice was given on the Judicial Legislation (Miscellaneous Amendments) Bill 2012, Production Eco-responsibility (Plastic Shopping bags) (Amendment) Bill, and the Private Columbaria Bill. Timely input was made during the various stages of the bills: from the conception of the legislative proposals to the compilation of drafting instructions and drafted provisions, and from the gazetting of the bills to the Legislative Council reading and committee stages. Typical issues raised included the burden and standard of proof, constitutionality, legal effect and enforcement problems of proposed offences and evidential provisions.

Frequently, and often very urgently, bureaux sought our input on draft replies to queries raised at Legislative Council (committee/panel) meetings on current or proposed legislation or enforcement policy or practice.

Advice was also given to various government departments on (i) new or revised enforcement policies/practice/guidelines formulated to tackle rising offences or mutated modes of committing offences, (ii) the criminality of unusual phenomena or new mischief noted by the enforcement agencies or complained of by the public, and (iii) general evidentiary issues.

Ms Cheng also sought and coordinated views within the Prosecutions Division and responded on various Law Reform Commission reports or papers where the proposals might have an impact on the criminal justice system. In 2012, the Reports on Double Jeopardy, Stalking and Sexual Offences have been examined.

Training

As Training Manager, Ms Memi Ng took charge of the provision of legal training for the Prosecutions Division and other government departments that carried out

prosecutorial work. While the Criminal Advocacy Course catered for new recruits and legal trainees, the Continuing Legal Education Programme was open to counsel at all levels.

In February and August 2012, two rounds of Criminal Advocacy Course were launched. To supplement classroom lectures, visits to a police station and a government laboratory were arranged to provide a better understanding on investigative procedures for our budding prosecutors.

Under the Continuing Legal Education Programme, ten seminars and one-day clinical sessions were conducted by Professor Simon Young, Associate Professor of the Faculty of Law, University of Hong Kong. As in the previous year, some of these seminars were video-linked with our Singapore counterpart which enabled simultaneous interaction between the prosecutors of these two jurisdictions during the seminars.

To continue cross-fertilization within the legal profession, the Joint Training Programme for young lawyers organized by the Prosecutions Division, the Hong Kong Bar Association and the Law Society of Hong Kong was repeated in February and July 2012. Approximately 190 young lawyers attended the one-day training course, of whom 150 were subsequently offered a two-week placement at the Magistrates' Courts with a fixed remuneration.

To encourage the use of plain English in the drafting of court documents and legal submissions, Dr Simon Alderson was engaged to provide lectures on Plain English for Lawyers which were well attended by both junior and senior colleagues.

In December 2012, the 14-day Departmental Prosecutors Training Course was attended by 40 participants from 20 government departments. The course comprised seven days of lectures on various legal topics, six days of mock court exercises and one day of court visits. This marked the last event in the training calendar of 2012.

Throughout the year, lectures and workshops were conducted by counsel and court prosecutors of the Prosecutions

會 / 事務委員會) 會議期間對現行或擬訂的法例、執法政策或常規提出的查詢，為當局擬備的答覆提供意見。

本科向不同政府部門提供意見的事項還包括：(i) 針對罪行數目不斷上升或犯罪模式轉變而擬訂新的或修訂執法政策、常規或指引；(ii) 執法機關留意到或公眾投訴指出的不尋常現象或新漏洞的刑責；以及 (iii) 一般的提證事宜。

法律改革委員會的報告書或文件所提出的建議如可能對刑事司法體系造成影響，鄭女士亦會在刑事檢控科內部尋求指引並加以協調。在 2012 年，我們審視了有關一罪兩審、纏擾行為及性罪行的報告書。

培訓

培訓經理吳美華女士負責為刑事檢控科及其他執行檢控工作的政府部門提供法律培訓。刑事訟辯課程特別為新入職人員及見習律政人員而設，持續法律進修課程則讓各級律師修讀。

兩個刑事訟辯課程分別在 2012 年 2 月及 8 月展開。為了與課室授課相輔相成，我們安排新加入本科的檢控人員參觀警署及政府化驗所，以加深他們對調查程序的了解。

香港大學法律學院副教授楊艾文教授，為持續法律進修課程主持十次講座及為期一天的討論班。一如往年，部分講座通過視像聯繫，讓香港與新加坡兩個司法管轄區的檢控人員在講座進行期間即時交流討論。

為了與法律界人士加深相互交流，刑事檢控科與香港大律師公會和香港律師會在 2012 年 2 月及 7 月再度為年輕律師舉辦聯合培訓計劃。這項為期一天的培訓課程約有 190 名年輕律師參加，當中 150 人及後獲安排到裁判法院工作兩星期，並獲發放定額酬金。

為鼓勵律師使用淺白英語草擬法庭文件及法律陳詞，本科委聘 Simon Alderson 博士主持淺白英語講座，出席的同事無論資歷深淺，均人數眾多。

2012 年 12 月，40 名來自 20 個政府部門的檢控人員參加為期 14 天的檢控人員培訓課程，內容包括七天法律專題講座、六天模擬法庭練習，以及一天法庭參觀活動。這是 2012 年培訓計劃的最後一項活動。

年內，刑事檢控科的律師和法庭檢控主任為執法機關及個別政府部門主持多個講座和工作坊，以配合他們特定的法律培訓需要。

投訴及意見

我們身為檢控人員，必須致力為香港市民秉行公義，在過程中我們必需與社會保持接觸。接觸的形式很多，例如回答傳媒查詢、答覆立法會問題、與非政府機構往來，以及與罪行受害者、其家人和朋友直接溝通。我們的服務對象有時會讚賞我們的工作表現，有時會就他們對刑事司法體系的體驗，提出有用的意見，但有時也會就我們某方面的服務作出批評或投訴。投訴有些是有理據的，有些是無理的；但無論我們認為投訴是否有理，我們都必定會以獨立無私、公正專業的程序進行調查。我們的目標是在合理情況下盡可能確保投訴人感到我們已適當地調查其投訴（不論調查結果如何）。

市民對我們作為檢控人員的專業誠信和公平公正的態度有信心，誠然是一件好事。畢竟我們不單服務市民，我們還有賴市民合作和協助，才能履行職責，秉行公義。為此，刑事檢控專員辦公室轄下投訴及意見組調查所有投訴及處理所有的意見。

自投訴及意見組在 2010 年 12 月成立以來，本組經理陳文慧女士一直處理所有投訴及意見和關乎刑事檢控科的評價及查詢這項重要工作。2012 年，投訴組處理了 588 宗投訴及意見，其中 423 宗以書面回覆投訴人，其餘則以口頭回覆。

陳女士負責的另一項工作，與她身為投訴組經理的職責有密切關連，就是因應警務人員行為不當的指控，向投訴警察課提供意見。

Division to law enforcement agencies and individual government departments to cater for their specific legal training needs.

Complaints and Feedback

As prosecutors, we strive to deliver justice to the public of Hong Kong, and a necessary part of that process is to engage with the community. This engagement can take many forms, such as responding to media enquires, answering questions from the Legislative Council, dealing with non-governmental organizations and becoming directly involved with victims of crime and their families and friends. There are times when the people we serve compliment us on our performance and times when they provide useful feedback on their experience of the criminal justice system. But there are also times when they criticize or complain about some aspect of our service. Sometimes complaints are justified and sometimes not; but whether we believe a complaint is justified or not, we must investigate it through a process that is independent and impartial, fair and professional. Our goal is to ensure that, so far as reasonably possible, the complainant feels that his or her complaint has been properly investigated, whatever the outcome.

It is in our interests as prosecutors that the public have confidence in our professional integrity and sense of fairness. After all we do not just serve the public; we depend on their cooperation and assistance to perform our duty to deliver justice. To this end, the Complaints and Feedback Unit of the ODPP was responsible for handling and investigating all complaints and feedback.

Since the establishment of the Unit in December 2010, Ms Vivien Chan, the Manager of the Unit, has been tasked with the important job of dealing with complaints and feedback as well as comments and queries concerning the Prosecutions Division. In 2012, the Complaint Registry handled 588 of these cases, in which written replies were given to the complainants in 423 cases and oral replies were provided for the rest.

Closely connected with her duty as the Complaint Manager, Ms Chan also advised the Complaints against Police Office (CAPO) on alleged cases of police misconduct.