

Speech by DPP at opening ceremony of Prosecution Week 2018 (English only)

Following is the speech by the Director of Public Prosecutions, Mr David Leung, SC, at the opening ceremony of Prosecution Week 2018 today (June 22):

Secretary for Justice, Chairman of the Bar, Vice President of the Law Society, colleagues in the Department of Justice and from other government departments, distinguished guests, ladies and gentlemen:

First of all, on behalf of the Prosecutions Division (PD), I would like to thank you all for coming today to the Opening Ceremony of Prosecution Week 2018.

The PD of the Department of Justice has organised this annual event for the seventh consecutive year since 2012. Our aim is to promote the Rule of Law and to enhance public awareness of the Hong Kong criminal justice system. With a properly informed public in understanding how the criminal justice system operates, the stronger the public confidence in criminal justice system and the Rule of Law is in Hong Kong. Borrowing from the words of the Chief Justice in his address to the newly appointed Senior Counsel earlier this month, without the confidence of the community, "the system – however good it is and however lauded it is by others – will have failed".

To achieve this goal, the PD has always been carrying out its duties to the highest professional standard in accordance with the Law. In the Prosecution Code, it has stated in the very first paragraph the duties and standard of Public Prosecutors:

"A prosecutor 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 relevant information known to the prosecution and any applicable policy or guidelines."

This leads me to introduce to you the theme of this year's Prosecution Week: "The Law • Transparency • Public Interest". This theme succinctly sums up how a prosecutorial decision is made.

First, in determining whether a person has committed an offence, it is necessary to consider the law not only relating to the elements of an offence but also to the rules of evidence. If the evidence is sufficient to secure a reasonable prospect of conviction, we then proceed to consider other relevant considerations, as I mentioned earlier. If the evidence is insufficient, the file closes at this point.

Second, in the process of making such determination, transparency is the key in assuring parties to a case as well as the general public that the

determination of a prosecutorial decision is up to the highest professional standard. Although the reasons for decisions are generally not publicly available, the criteria contained in various guidelines and policies in making those decisions are. By following the Prosecution Code, and other policies, such as the Victim's Charter, the public can be assured that any criminal case landing on the desk of a prosecutor would receive the same standard of treatment, without prejudice or favour to the victim or suspect. It is the kind of transparency that would keep up the accountability of PD in handling all cases in a fair and dispassionate manner.

Transparency is important in gaining public confidence as justice needs to be seen to be done. However, just as the Prosecution Code has pointed out, "the benefit of justice being seen to be done must not be allowed to result in justice not being done." That is why reasons for prosecutorial decisions are generally not publicly available. Some of the good reasons include:

- 1) It may prejudice ongoing investigations or the integrity of law enforcement
- 2) It may adversely affect the interests of a victim of crime, a witness, a suspect or an accused
- 3) It may adversely affect the administration of justice (especially in the case of a decision not to prosecute where public discussion may amount to a public trial without the safeguards of the criminal justice process)

Third, in any prosecutorial decision that a Prosecutor makes, the consideration of public interest must be the final check to ensure justice and fairness be done. It means that sometimes even if there is sufficient evidence to prosecute, there might be other reasons not to prosecute that are premised on the grounds of public interest.

Generally speaking, the more serious a crime is, the less likelihood there will be that the public interest will allow of a disposal less than prosecution. It is a balancing exercise in determining where public interest and justice lie in a particular case, and there is no hard and fast rule for all. There is no exhaustive list for consideration, and each case depends on its own facts. But just as I said earlier, there is an open guideline in the Prosecution Code in determining where public interest lies in a particular case, and generally, some of the considerations include:

- 1) the nature, circumstances and seriousness of the offence;
- 2) the level of the suspect's culpability;
- 3) the attitude, age, physical or psychological condition of the suspect, a witness or a victim;
- 4) the likely final disposition of the case;
- 5) special circumstances that would affect the fairness of any proceedings; and lastly

6) the availability and efficacy of alternatives to prosecution.

For example, the use of bind-over procedure or superintendent's caution can be considered for young and teenage offenders in cases of minor or even trivial criminality.

It is important to stress that prosecutors do not consider and would not be influenced by irrelevant considerations, in whatever nature they are, or whoever they are coming from. In particular, political or individual interests are of no concern for any prosecutor. All prosecutorial decisions are made on the highest professional standard considering only the law, the evidence and the public interest. Nothing else.

Not only in decisions of prosecutions where prosecutors cannot and would not take into account irrelevant considerations, the same standard applies to decisions in whether to appeal a decision of a lower court on a point of law, or to apply for a review of a particular sentence if it is not authorised by law, wrong in principle, or manifestly excessive or inadequate. Overall, the primary duty of the prosecutors as appellate counsel is to assist the appeal court as required to achieve a just and proper disposal of the appeal (Note).

I hope what I have said just now about the public prosecution service in Hong Kong and how a prosecutorial decision is made would ease the minds of many who previously had concerns about the independence and integrity of the prosecution, especially in recent cases of substantial political and media attention.

Just as I said in the beginning, the purpose of Prosecution Week is a forum for enhancing public awareness in the criminal justice system. Just this morning, a quiz called the Law Games was held. In the week to come, my colleagues in the PD have arranged various educational activities for hundreds of local secondary school students, including court visits and mock trials.

Last year we introduced the Law Games, and it was very well received amongst the schools and students. The Law Games consisted of a number of scenario questions as well as general criminal law questions, and the questions were premised in the students' everyday life situations so that they could learn more about what is right and wrong in a very practical and useful manner that is familiar to them.

This year, we decided to host the competition again, and it was successfully completed this morning. Over 107 students from 17 secondary schools in Hong Kong took part in it. I am very glad to see many students demonstrate such a strong interest in the criminal law. In particular, I congratulate the winners of the Law Games this year, and you will be able to meet them soon when they come up to the stage to receive their prizes.

Last but not least, I must thank you all again for attending today's ceremony. Especially the Secretary for Justice, Chairman of the Bar and the Vice President of the Law Society, for their continuing support in the PD's Prosecution Week since its inception. I must also thank the Organising

Committee as well as the supporting staff for making this annual event so successful and educational for our students in Hong Kong.

Without further ado, may I invite the Secretary for Justice, Ms Teresa Cheng, SC, to the stage to say a few words.

Note: This sentence is quoted from the Preface of the Criminal Appeals Manual.

CP led delegation to meet with Mainland Public Security Authorities

The Commissioner of Police, Mr Lo Wai-chung, led a delegation, comprising officers from Operations Wing, Crime Wing, Police College and other units, to Qingdao, Shandong on June 20 to attend the first meeting between Mainland Public Security Authorities and Hong Kong Police Force since the 20th Anniversary of HK's Reunification with China. During the meeting, the delegation met with the Vice Minister of Ministry of Public Security (MPS), Mr Sun Lijun, as well as representatives from various counterparts of MPS.

This bilateral meeting is held annually and on this occasion both sides expressed their views on issues of mutual concern, including police liaison, boundary security, criminal investigation, cyber and technology crimes, cross-boundary crimes, training, anti-narcotics and counter-terrorism. Both parties also raised proposals on strengthening cooperation and set clear objectives for collaboration in the coming year.

Taking this opportunity, Mr Lo also paid a courtesy call on Mr Gong Zheng, the Governor of Shandong Province, to discuss topics of common interest.

The delegation returned to Hong Kong this evening (June 22).

CHP investigates two food poisoning clusters

The Centre for Health Protection (CHP) of the Department of Health is today (June 22) investigating two food poisoning clusters affecting four persons, and reminded the public to maintain personal, food and environmental

hygiene to prevent food-borne diseases.

The first cluster involved two females, aged 10 and 51, who developed diarrhoea and fever about 13 hours after consuming food bought from a food premises in Sha Tin on June 16.

The second cluster involved two males, aged 9 and 46, who developed abdominal pain, nausea, vomiting, diarrhoea and fever about nine to 20 hours after having dinner at the same food premises on the same day.

All affected persons have sought medical advice and one patient from each cluster required hospitalisation. The stool specimen collected from one patient tested positive for Salmonella upon laboratory testing. All patients are in a stable condition.

"We have alerted the Food and Environmental Hygiene Department to the incident and investigations are ongoing," a spokesman for the CHP said.

To prevent food-borne diseases, members of the public are reminded to maintain personal, food and environmental hygiene at all times. When dining out:

- Patronise only reliable and licensed restaurants;
- Avoid eating raw seafood;
- Be a discerning consumer in choosing cold dishes, including sashimi, sushi and raw oysters, at a buffet;
- Ensure food is thoroughly cooked before eating during a hot pot or barbecue meal;
- Handle raw and cooked foods carefully and separate them completely during the cooking process;
- Use two sets of chopsticks and eating utensils to handle raw and cooked food;
- Do not patronise illegal food hawkers;
- Drink boiled water;
- Do not try to use salt, vinegar, wine and wasabi to kill bacteria as they are not effective; and
- Always wash hands before eating and after going to the toilet.

[Hong Kong Housing Authority estimated public rental housing allocation for 2018-19](#)

The following is issued on behalf of the Hong Kong Housing Authority:

The Subsidised Housing Committee (SHC) of the Hong Kong Housing Authority (HA) today (June 22) approved the estimated public rental housing (PRH) allocation for 2018-19 (see Table) and was briefed on the actual allocation in 2017-18.

It was originally estimated that 25 400 flats could be allocated in 2017-18 but the actual allocation turned out to be 21 397 flats (i.e. the number of housing offers accepted and flats taken up by applicants in or before March 2018). The variance was mainly due to the differences between the actual and estimated completion dates of some new estates. Specifically, the completion date of one new estate was earlier than estimated; whilst those of another three were later than expected, resulting in the difference between actual allocation and the original estimation figures.

In 2018-19, it is estimated that a total of 34 800 PRH flats, comprising 23 100 new flats and 11 700 refurbished flats, will be available for allocation. If the around 5 500 new flats which have not been allocated or taken up in 2017-18 were added back to the allocation in that year, the estimated allocation of new flats in 2018-19 would be around 17 600 which is slightly higher than around 14 000 in 2017-18.

"Among the estimated number for allocation in 2018-19, 25 450 flats (about 73 per cent) will be allocated to PRH applicants. This estimation is not an upper limit. Faced with the persistent stringent supply of PRH, we will endeavour to provide more PRH flats for allocation to PRH applicants as far as possible," a spokesman for the HA said.

The annual allocation quota for non-elderly one-person applicants under the Quota and Points System (QPS) is set at 10 per cent of the total number of flats to be allocated to PRH applicants, subject to a cap of 2 200 flats. Accordingly, 2 200 flats are estimated to be allocated to QPS applicants in 2018-19.

"If the actual supply of PRH flats turns out to be less than estimated, we will keep the number of flats allocated to QPS applicants to not more than 10 per cent of the total number of flats to be allocated to PRH applicants," the spokesman said.

A total of 350 flats are estimated for rehousing residents affected by clearance projects planned by different departments and the Urban Renewal Authority's redevelopment projects.

To facilitate the clearance and redevelopment projects of Blocks 9, 10, 11 and 13 at Pak Tin Estate as well as Mei Tung House and Mei Po House at Mei Tung Estate announced in August 2017, a total of 800 flats will be reserved for the thinning-out transfer exercises.

"For planning purposes, 2 000 flats will be reserved for Compassionate Rehousing in 2018-19. This figure is not an upper limit, and, where resources permit, we will follow the established policy to handle all demands for rehousing as recommended by the Social Welfare Department," the spokesman

said.

Moreover, an estimated number of 4 800 flats will be set aside for various transfer purposes in 2018-19. Among them, 1 600 flats will be used for transfer of under-occupation households and the large flats thus recovered can be deployed for easing the pressing demand of applicants with four or more household members. Additionally, a total of 1 000 flats will be reserved for applicants under the Territory-wide Overcrowding Relief Transfer Exercise and the Living Space Improvement Transfer Scheme. The remaining 2 200 flats will be flexibly deployed for other transfer purposes, including the Harmonious Families Transfer Scheme, the conversion programme of Housing for Senior Citizens, and Special Transfer for individual tenants on medical and/or social grounds.

"The quota for civil servants will be 1 400 in 2018-19, in accordance with the HA's approved annual increase by 100 flats for four consecutive years from 2015-16 to 2018-19 in the Civil Service Public Housing Quota," the spokesman said.

"We will closely monitor any changes in the circumstances and will remain flexible in the allocation of PRH flats to ensure optimisation of resources," he added.

SHA visits Sham Shui Po District

The Secretary for Home Affairs, Mr Lau Kong-wah, visited Sham Shui Po District today (June 22) to officiate at the opening ceremony of a project completed under the district's Signature Project Scheme. He also inspected leisure works projects and called at an art design college and the Music Children Foundation in the district, and met with Sham Shui Po District Council (SSPDC) members.

Accompanied by the Chairman of the SSPDC, Mr Ambrose Cheung; the Vice Chairman of the SSPDC, Mr Chan Wai-ming; and the District Officer (Sham Shui Po), Mr Damian Lee, Mr Lau first inspected the sites of two proposed construction works, including the Lai Chi Kok Sports Centre, as well as a covering over the walkway near Lai Chi Kok Park. He then met with SSPDC members to exchange views on district issues.

Mr Lau then officiated at the opening ceremony of the Sham Shui Po District Council Yan Oi Tong Mei Foo Neighbourhood Activity Centre and toured its facilities, including a dance room, a multi-purpose activity room and a piano room. Speaking at the opening ceremony, Mr Lau said the centre is one of the projects under the Signature Project Scheme in Sham Shui Po district. As the partnering organisation of the project, Yan Oi Tong provides diversified leisure, culture and art activities to local residents.

Mr Lau also visited the Savannah College of Art and Design Hong Kong. He toured the facilities on the campus and met with students. The college was opened in September 2010 through the revitalisation and conversion of the former North Kowloon Magistracy. It is the only college in Hong Kong that focuses on teaching arts and design, and offers bachelors and masters programmes.

Before concluding the visit, Mr Lau visited the Music Children Foundation to watch a choir rehearsal and meet with volunteers and children. He also learnt about the support for grass-roots children provided by the Foundation. Founded in 2013, the Music Children Foundation aims to provide free music training for children from grass-roots families.