

CE concludes visit to France (with photos/videos)

The Chief Executive, Mrs Carrie Lam, concluded her one-week visit to France this afternoon (June 22, Paris time).

In the morning, Mrs Lam met with the President of Ile de France region, Ms Valérie Pécresse. Ile de France is one of the 18 regions of France including the city of Paris. It has a population of more than 12 million which is 18 per cent of the national population. Noting that Hong Kong is keen to collaborate with different parts of France and that the Ile de France region is very influential in the country, she said that Paris and Hong Kong, both of which are international metropolitans, have a lot of room for co-operation in areas including investment, innovation and technology, culture and youth exchanges. She particularly introduced the development of the Guangdong-Hong Kong-Macao Bay Area to Ms Pécresse, encouraging the Ile de France region to explore the huge market of the Bay Area through Hong Kong.

After the meeting, Mrs Lam visited the headquarters of Schneider Electric, a French multinational corporation specialising in digital transformation of energy management and automation. It has set up headquarters in Hong Kong in recent years. Mrs Lam toured the innovation hub of the company to understand the latest technology on energy saving and management, and smart solutions for various industries, cities and homes.

Mrs Lam said the visit to France is very successful. By meeting with senior officials of France and participating in a range of events, members from different sectors of France have known more about the situation of Hong Kong and are more interested in strengthening co-operation with Hong Kong in various aspects, including the signing of two memorandums of understanding on co-operation in tourism and scientific research she witnessed during the trip. Mrs Lam welcomed the signing of two memorandums of understanding between the Airport Authority Hong Kong (AAHK) and Groupe ADP yesterday on strengthening co-operation between the Hong Kong International Airport and Paris Charles de Gaulle Airport in airport management, aviation development and air cargo development. She said the collaboration is set to boost Hong Kong's role as an aviation hub in the region and is yet another testimony that there is limitless potential for co-operation between Hong Kong and France in various aspects. The Chief Executive Officer of AAHK, Mr Fred Lam, who signed the memorandums of understanding on behalf of AAHK also attended the business luncheon organised by the Hong Kong Trade Development Council in Paris yesterday.

Mrs Lam left Paris in the afternoon for Zurich and will travel to Lindau tomorrow (June 23, Paris time) to attend the Lindau Nobel Laureate Meeting Opening Ceremony the next day. During her stay in Zurich, she will attend a dinner to be hosted by the Consul-General of the People's Republic of China in Zurich, Dr Zhao Qinghua.



[Speech by Secretary for Justice at opening ceremony of Prosecution Week 2018 \(English only\)](#)

Following is the speech by the Secretary for Justice, Ms Teresa Cheng, SC, at the opening ceremony of Prosecution Week 2018 today (June 22):

Chairman of the Bar, Vice President of the Law Society, colleagues from various government departments, distinguished guests, ladies and gentlemen:

On behalf of the Department of Justice, it gives me great pleasure to welcome you all today at Justice Place for the opening of the Prosecution Week 2018. This is the 7th Prosecution Week since its inception in 2012. The purpose of this annual event is to illustrate to the public what criminal prosecution is about, and its importance in Hong Kong as an essential part of the rule of law, the very bedrock of the success of our society. We believe

that by a better public awareness of our society's laws and our criminal justice system, the citizens of Hong Kong, especially our younger generations, would have a better understanding of and respect for the law and the legal consequences of conduct prohibited by law.

In Hong Kong, criminal prosecutions are handled by the prosecutors in the Prosecutions Division of the Department of Justice, headed by our Director of Public Prosecutions (DPP). Although the Secretary for Justice is responsible for the ultimate prosecutorial decisions, the DPP and the prosecutors are generally responsible for making such decisions on a day-to-day basis. Their work requires a high degree of professionalism, independence, and transparency.

These qualities echo the very theme of this year's Prosecution Week: "The Lawâ€§Transparencyâ€§Public Interest". Though the meaning of the theme might be obvious on its face, I wish to elaborate some salient points about criminal prosecutions that must not be overlooked.

First and foremost, one must be reminded of the source of the prosecutorial power and duty. It is Article 63 of the Basic Law. It provides that the Department of Justice of the Hong Kong Special Administrative Region shall control criminal prosecutions, free from any interference.

I must stress the part, "free from any interference", which is the basis of the constitutional protection of the independence of the prosecutorial power, free from interference from any individuals, institutions, or authorities from the Government outside the Department of Justice.

Therefore, irrespective of the social status, political inclination or indeed any other attributes of a suspect, prosecutors are required by law and the Basic Law in particular, to disregard all irrelevant considerations and purported interference, if any, and to make a fair and impartial prosecutorial decision without fear or favour. Simply put, no one is above the law.

Having set out the source of duty and power, it is important to summarise certain factors to be taken into account when making a decision on whether or not to prosecute. Prosecutors must first look at the law to ascertain what are the legal requirements for the relevant act and/or intent that would have to be met for the particular incident or action to amount to a criminal offence.

Then it is the sufficiency of the evidence. Whether the evidence would be adequate to meet the legal requirements in terms of establishing the fact, or for an inference of certain fact to be drawn in relation to the particular element of the offence.

The analyses of the law and evidence will then have to be conducted for a legal opinion to be formed as to whether or not there is a reasonable prospect of conviction. This opinion is based on the evidence and the fact to be drawn from it, based on the expert opinion of the prosecutors in analysing

it and with reasons in coming to a decision that a reasonable prospect of conviction is met or not met as the case may be. Looking at the evidence, there are two angles: admissibility of evidence and the other, the weight of the evidence.

When looking at the law, we know that it is never a straightforward black and white. So how the case law have elaborated on the elements of the offence will have to be taken into account. Needless to say, the possibility of a defence that may lead to acquittal will also have to be taken into account.

These factors or these principles are set out in the Prosecution Code that the DPP has just mentioned. It must be stressed that the test used by the Prosecutors cannot be equated with the one used by the Courts to convict, namely that of beyond reasonable doubt in the Court. Being satisfied of a reasonable prospect of conviction does not necessarily follow with a conviction by the Court. It is not the aim of the Prosecution to secure convictions at all costs, nor is the conviction rate a performance indicator for the prosecutor.

Even if there is sufficient evidence to prosecute or where there is a reasonable prospect of conviction that is very marginal, prosecutors may also have to take into account the public interest in deciding whether or to institute or to continue with a prosecution.

The concept of public interest is multi-faceted. There is no single definition to cover all situations, and each case must be viewed on its own facts. As stated in the Prosecution Code, there is a wide range of factors for the prosecutors to take into account when considering public interest in any given case. The DPP has already illustrated to you certain factors to be taken into account but one must bear in mind that the list is not exhausted. There is case law that elaborates on the meaning of public interest which may have to be looked at in appropriate cases.

At this point, I wish to turn to the topic of "Transparency". Transparency is very important in many aspects for the Prosecution. Most importantly, it is to ensure members of the public and parties to a particular case that they are well informed within the permitted scope of the law. Transparency is one of the effective checks on the Prosecution in adhering to the legal principles under the law.

First, the Prosecutions Division lays out the relevant principles in the Prosecution Code, which is the fundamental guideline to be followed when deciding whether or not to make a prosecutorial decision. The Victim's Charter, which underscores the rights of a victim in a case, and in particular, their right to information also provides information on how these are to be looked at.

These publications aim to inform members of the public how prosecutorial decisions are generally made in accordance with laws and as stated in the Prosecution Code itself, "on behalf of the community, Prosecutors take on a

heavy responsibility to ensure that justice is dispensed with equal measure and in an even handed manner at all times."

Secondly, in respect of a particular criminal case, it is inappropriate for the Prosecutions Division to disclose to the public the case materials, the reasons behind the prosecutorial decision, or to comment on any aspect of the case, as it would be unfair and prejudicing to the parties to the case. This is an important aspect that we must all respect this very approach of allowing the judicial system to deal with any conviction, acquittal or sentencing of the relevant person involved. This is our rule of law. In the event that a prosecution is not initiated or discontinued, it is generally not preferable to explain the reasons behind unless in exceptional circumstances.

On the other hand, the Prosecution is permitted, and in fact duty-bound, to be as transparent as possible to the defence. This is called the duty of disclosure, and the Prosecution has a proactive duty to inform the defence of all relevant information or material that is in the knowledge of, or possession, or control of the Prosecution, subject to the various legal privileges and immunities situation. With this duty of disclosure, a suspect can properly assess the Prosecution's case and to prepare his or her defence. It is also an essential element relating to the presumption of innocence, the right against self-incrimination, and the right to fair trial, which are all cornerstones of our criminal justice system and our rule of law.

Thirdly, the public can know more about the work of the Prosecutions Division in the context of transparency through community engagement, such as the Prosecution Week that we are about to launch this year. This is "Meet the Community" Programme that the Prosecutions Division has been working on. They have taken a huge initiative and effort in promoting the rule of law by bringing the public closer to see how the criminal justice system operates. For instance, students from a number of local schools will participate in various lively and informative activities, such as talks at school, guided court visits, law quiz on general criminal law, etc.

In view of the recent rise in cases involving violence in public processions and the like, some of which turned into riots, it is right that this Department should be doing more to better inform the public about the nature of the criminal law and the legal system and, indeed, the legal consequences if the law is breached.

Starting from next Monday, the activities in the Prosecution Week will begin. Just as I have total confidence in the DPP and his colleagues in their daily prosecutorial work, I have the same confidence that they will bring the best experience possible to the students in learning about our criminal justice system.

At this stage, I must express my deepest gratitude to the DPP and the Organising Committee, and indeed, the number of staff that have put a lot of efforts in making this a reality.

In addition, I would like to thank the Bar Association and the Law Society, and our colleagues in other government departments and various law enforcement agencies for coming today as well as the continuously supporting and assisting in the running of the Prosecution Week. The society has a high expectation on us in maintaining an effective and fair criminal justice system, and it takes all stakeholders to join hands in meeting that expectation.

Last but not least, I wish to congratulate the winners of the Law Games this year. You have demonstrated a wealth of knowledge in criminal law at such a young age. I hope this is just the beginning for all of you to explore and perhaps later on to join Hong Kong's legal and judicial system with a view to becoming the leaders of Hong Kong in the future.

On this note, I formally declare the Prosecution Week 2018 open.

Thank you very much.

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.