

**Speech by the Chairman of the Hong Kong Bar Association on
"Responsibilities of Prosecutors"
at the Opening Ceremony of Prosecution Week 2018**

Secretary for Justice, Director of Public Prosecutions, Deputy President of the Law Society, Distinguished Guests.

I am pleased to be invited to attend at this ceremony for Prosecution Week 2018.

I must first acknowledge the importance of the prosecutorial arm of the SJ's Department - for without it there would be no work for more than one half of my members.

It is a sad fact of life that as long as people are disposed to lie, cheat and resort to personal violence, society will need prosecutors to bring cases against them and counsel to defend them in open courts before impartial judges. This is the eternal triangle of the criminal justice system.

As prosecutors perform an important social function carried out in the public eye they need personal qualities that ensure that the public has confidence in them.

What should be the qualities of a prosecutor? To a certain extent a prosecutor's freedom of action is constrained by institutional requirements that are set by the prosecuting authority.

In this case these are laid down in the guidelines issued by the Secretary for Justice which deal with the handling of cases, from charges in the magistrates' court to appeals in the CA and CFA.

But guidelines are only that. They are not tramlines that carry a prosecution to a pre-determined destination, no matter what.

I take basic fairness in a prosecutor for granted. No person is fit to prosecute on behalf of the state unless they are seen to be fair.

The best prosecutors I know in my times in the criminal courts in England & Wales and HK are imaginative, hard-working, modest and, where the circumstances warrant, compassionate.

They will not bring to bear all the considerable resources of the state to secure a conviction that he or she can call on as a prosecutor just because they can.

This is because a prosecutor's duty is to seek justice, and not merely convict. It is a difficult duty, one to be carried out carefully and cautiously so that a prosecution does not become a persecution and public confidence is lost in the system.

The words of a nineteenth century American judge hold true today as they did then

“ The prosecuting officer represents the public interest, which can never be promoted by the conviction of the innocent. His object like that of the court, should be simply justice; and he has no right to sacrifice this to any pride of professional success. And however strong may be his belief of the prisoner's guilt, he must remember that, though unfair means may happen to result in doing justice to the prisoner in the particular case, yet, justice so attained, is unjust and dangerous to the whole community”

I must acknowledge that one of the best and fairest of prosecutors has just died.

Kevin Egan, once a member of the prosecution arm of the Attorney General's Chambers, was a formidable prosecutor but one that was always mindful that his primary duty was to achieve justice and not secure just another conviction.

He will be missed by all advocates who could appreciate his skills and humanity.

Secretary for Justice, I will end by commending his memory and his example to the prosecutors in your department.

Philip Dykes SC
Chairman
Hong Kong Bar Association

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