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10 May 2017

Mr. Rimsky Yuen S.C
Secretary for Justice
Department of Justice
5/F Main Wing,
Justice Place
18 Lower Albert Road
Central
Hong Kong

BY POST

Dear Sir,

Prosecution Works in the Magistracy: Direction For the Future

The Law Society notes the Panel of the Administration of Justice and Legal Services of the Legislative Council is going to consider the “Handling of prosecution works before the Magistrates' Courts” at its meeting of 22 May 2017. We write to provide views on this matter.

1. The future of the Court Prosecutors (CPs) Grade should carefully be reviewed. The following should be deliberated thoroughly, i.e.
 - (a) the impact of the sentencing regime prescribed under the Court of Appeal judgment in *HKSAR v Ngo Van Nam & Anor* CACC 418/2014 & 327/2015 on the defence work;
 - (b) the re-assignment of prosecution duties at the magistrates' courts. We ask that the more difficult and complex cases be handled by the legally qualified people (outside fiat counsel and solicitor-advocates), while the more routine and straightforward matters be taken up by CPs. On the other hand, CPs should continue to assist with the administrative work at the magistrates' courts;

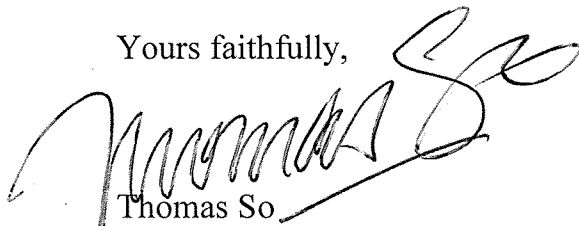


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- (c) resources be deployed to cope with the above re-assignment of duties.
We agree that Senior Government Counsel be assigned to the magistrates' courts to assist with the workload of the magistrates.
2. In the course of the above review, we have no objection for the Government to resume the recruitment of CPs, on the premises that (a) the recruitment is only a temporary measure, pending the review of the CPs Grade and (b) is without prejudice to the overall objective that prosecution at magistrates' courts should be handled by legally-qualified persons.
 3. We ask that we and other stakeholders be continually engaged in the review of the CPs Grade, including the review of (a) the responses to the above recruitment, and (b) any issues or difficulties arising from the retention of the CPs.
 4. On the recruitment of CPs, we ask that holders of LLB/JD should be preferred for the CPs Grade, as they have the basic understanding of the legal proceedings in Hong Kong.
 5. The abovementioned LLB/JD qualifications should be obtained from local (Hong Kong) universities, failing which LLB/JD qualifications from a relevant foreign university might be considered, but the LLB/JD holder must be a Hong Kong resident. CP Grade should not include foreign lawyers.

Thank you for your attention.

Yours faithfully,



Thomas So
President

c.c. Chairman, Panel on Administration of Justice and Legal Services,
Legislative Council.