

立法會
Legislative Council

LC Paper No. CB(3) 876/14-15

Ref : CB(3)/P/2/OL

Tel : 3919 3300

Date : 28 August 2015

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

**Request for special leave of the Council
to give evidence of Council proceedings**

The Acting Assistant Director of Public Prosecutions of the Department of Justice (“DoJ”) has submitted a request vide his letters of 20 August 2015 and 6 July 2015 (**Appendices I and II**) for special leave of the Council under section 7 of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) (**Appendix III**) and Rule 90 of the Rules of Procedure (“RoP”) for a Member and 11 officers of the Council (“witnesses”) to give evidence in a court case.

2. The request was first made on 6 July 2015 before a decision is made by DoJ on whether to prosecute. This is different from all previous cases dealt with by the Council where the requests for special leave were made only after criminal proceedings had been instituted. The Clerk has therefore sought further information from DoJ pursuant to the direction of the President under Rule 90(1) of RoP.

3. Given that DoJ has advised in its letter of 20 August 2015 that criminal proceedings have now been instituted and that the evidence of the witnesses may involve events which happened during the proceedings of the Council, the special leave of the Council is required under section 7 of Cap. 382 and Rule 90 of RoP before such evidence can be given in court. As the Council is in recess, the President has given the special leave under section 7(2) of Cap. 382 and Rule 90(4) of RoP.

(Ms Dora WAI)
for Clerk to the Legislative Council

Encl.

律政司
刑事檢控科

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DEPARTMENT OF JUSTICE
Prosecutions Division

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本司檔號 Our Ref: C/RN 14032736 (RDS 5402/2014)
來函檔號 Your Ref: CB(3)/P/2/OL
電話號碼 Tel. No.: 2867 2297 Fax (傳真): 2536 8400

20th August 2015

Mr Kenneth CHEN
Clerk to the Legislative Council
The Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

By Fax (2877 9600) and By Post

Dear Mr CHEN,

**Application for Special Leave of the Legislative Council
for member and officers of and persons employed by the Council to give
evidence in respect of Council Proceedings in criminal proceedings of:**

**HKSAR v. WONG Yuk-man
in Case No. ESCC 2615/2015**

**(Incident: Hurling water glass in the Chamber of the
Legislative Council during the Question and Answer Session of the Chief
Executive held on 3rd July 2014
(Police Ref.: C/RN 14032736))**

I refer to the above application for Special Leave of the Legislative Council under section 7 of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) and rule 90 of the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region (Instrument No. A501). I also refer to our previous communications in respect thereof. This letter is to furnish further and up-to-date information relevant to the above application.

On 20th August 2015, criminal prosecution on one count of common assault committed during the above Incident was instituted in ESCC 2615/2015 against Hon WONG Yuk-man in the Eastern Magistrates' Courts when Hon WONG pleaded not guilty to the charge. The court set down a Pre-trial Review on 9th October 2015.

In view of the said development, I would request the LegCo to consider exercise the power under section 7 of Cap. 382 to grant Special Leave for the following member and officers of and persons employed by the LegCo to give evidence in ESCC 2615/2015 in respect of the above Incident (the following list is identical to the list in my letter dated 6th July 2015):-

	Name	Role	Remarks
1	Hon Mr WONG Ting-kwong 黃定光 (PW4)	Member of the LegCo	- witnessed the Incident in the Chamber (evidence concerning events both before and during the suspension)
2	Mr HO Tak-shing Edwin 何德成 (PW5)	Security Assistant (I) of the LegCo	- witnessed the Incident in the Chamber (evidence concerning events both before and during the suspension)
3	Mr KWAN Yiu-kee 關耀基 (PW6)	Senior Security Assistant of the LegCo	- witnessed the Incident in the Chamber (evidence concerning events both before and during the suspension)
4	Mr FUNG Kam-kuen 馮錦權 (PW7)	Security Assistant (I) of the LegCo	- witnessed the Incident in the Chamber (evidence concerning events both before and during the suspension)
5	Mr TSUI Man-biu 徐文彪 (PW8)	Security Assistant (II) of the LegCo	- witnessed the Incident in the Chamber (evidence concerning events both before and during the suspension)
6	Mr WONG Cheung 王祥 (PW9)	Security Assistant (II) of LegCo	- witnessed the Incident in the Chamber (evidence concerning events both before and during the suspension)
7	Mr CHAU Kai-ho 周繼豪 (PW12)	Security Assistant (II) of the LegCo	- witnessed the Incident in the Chamber (evidence concerning events both before and during the suspension)
8	Mr MAK Chun-nga 麥俊雅 (PW13)	Security Assistant (I) of the LegCo	- witnessed the Incident in the Chamber (evidence concerning events both before and during the suspension) - witnessed WONG Yuk-man spoke to the press outside the Chamber

9	Mr HUANG Kwong-yin 黃光賢 (PW22)	Senior Security Assistant of the LegCo	<ul style="list-style-type: none">- witnessed the Incident in the Chamber (<i>evidence concerning events both before and during the suspension</i>)- witnessed WONG Yuk-man spoke to the press outside the Chamber
10	Mr CHAN Chun-mo 陳震武 (PW24)	Security Assistant (II) of the LegCo	<ul style="list-style-type: none">- witnessed the Incident in the Chamber (<i>evidence concerning events both before and during the suspension</i>)- witnessed WONG Yuk-man spoke to the press outside the Chamber
11	Mr LAU Vai-kun 劉偉權 (PW14)	Security staff (I) of the LegCo	<ul style="list-style-type: none">- Providing CCTV footages of the Chamber the LegCo (<i>evidence concerning events both before and during the suspension</i>) to the police
12	Mr HO Chu-hei 何曙禧 (PW25)	Public Information Officer of the LegCo	<ul style="list-style-type: none">- Providing a video disc containing the LegCo Webcast footage of the meeting of the LegCo on 3.7.2014 to the police (<i>evidence concerning events before the suspension</i>)

For the reasons in support of the application, please refer to my letter dated 6th July 2015. Please let me know if there is any further relevant information which the LegCo may require.



(Ned LAI)

Assistant Director of Public Prosecutions (Ag)

c.c. DDPP I

DSIP Clement LI, OC DCS 1 CDIST (By Fax (3660-1296) only)

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本司檔號 Our Ref: C/RN 14032736 (RDS 5402/2014)

來函檔號 Your Ref:

電話號碼 Tel. No.: 2867-2297

Fax (傳真):

6th July 2015

Mr Kenneth CHEN
Clerk to the Legislative Council
The Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

By Fax (2845 2444) and By Post

Dear Mr CHEN,

**Application for Special Leave of the Legislative Council
for member and officers of and persons employed by the Council to give
evidence in respect of Council Proceedings concerning
Hon WONG Yuk-man hurling water glass
in the Chamber on 3rd July 2014 (the Incident)
Police Ref.: C/RN 14032736**

This is an application for special leave of the Legislative Council under section 7 of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) and rule 90 of the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region (Instrument No. A501) for the following member and officers of and persons employed by the LegCo, namely:-

	Name	Role	Remarks
1	Hon Mr WONG Ting-kwong 黃定光 (PW4)	Member of the LegCo	- witnessed the Incident in the Chamber (evidence concerning events both before and during the suspension)

2	Mr HO Tak-shing Edwin 何德成 (PW5)	Security Assistant (I) of the LegCo	- witnessed the Incident in the Chamber (evidence concerning events both before and during the suspension)
3	Mr KWAN Yiu-kee 關耀基 (PW6)	Senior Security Assistant of the LegCo	- witnessed the Incident in the Chamber (evidence concerning events both before and during the suspension)
4	Mr FUNG Kam-kuen 馮錦權 (PW7)	Security Assistant (I) of the LegCo	- witnessed the Incident in the Chamber (evidence concerning events both before and during the suspension)
5	Mr TSUI Man-biu 徐文彪 (PW8)	Security Assistant (II) of the LegCo	- witnessed the Incident in the Chamber (evidence concerning events both before and during the suspension)
6	Mr WONG Cheung 王祥 (PW9)	Security Assistant (II) of LegCo	- witnessed the Incident in the Chamber (evidence concerning events both before and during the suspension)
7	Mr CHAU Kai-ho 周繼豪 (PW12)	Security Assistant (II) of the LegCo	- witnessed the Incident in the Chamber (evidence concerning events both before and during the suspension)
8	Mr MAK Chun-nga 麥俊雅 (PW13)	Security Assistant (I) of the LegCo	- witnessed the Incident in the Chamber (evidence concerning events both before and during the suspension) - witnessed WONG Yuk-man spoke to the press outside the Chamber
9	Mr HUANG Kwong-yin 黃光賢 (PW22)	Senior Security Assistant of the LegCo	- witnessed the Incident in the Chamber (evidence concerning events both before and during the suspension) - witnessed WONG Yuk-man spoke to the press outside the Chamber
10	Mr CHAN Chun-mo 陳震武 (PW24)	Security Assistant (II) of the LegCo	- witnessed the Incident in the Chamber (evidence concerning events both before and during the suspension) - witnessed WONG Yuk-man spoke to the press outside the Chamber
11	Mr LAU Vai-kun 劉偉權 (PW14)	Security staff (I) of the LegCo	- Providing CCTV footages of the Chamber the LegCo (evidence concerning events both before and during the suspension) to the police

12	Mr HO Chu-hei 何曙禧 (PW25)	Public Information Officer of the LegCo	- Providing a video disc containing the LegCo Webcast footage of the meeting of the LegCo on 3.7.2014 to the police (<i>evidence concerning events before the suspension</i>)
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to give evidence in the criminal proceedings to be instituted against Hon WONG Yuk Man ('Hon WONG') in respect of certain alleged conduct on the part of Hon Wong during the Questions and Answers Session of the Chief Executive ('the Session') held before the Legislative Council on 3rd July 2014.

The reasons for the application are as follows. For the purpose of the intended criminal proceedings, it is intended that evidence will be called in an attempt to prove amongst other things the following matters. The Session was suspended shortly after its commencement. During the suspension, Hon WONG hurled various objects including a water glass towards the Chief Executive at the rostrum in the Chamber. The water glass so hurled then landed on the floor behind the Chief Executive and shattered. WONG was immediately removed and escorted by security officers of the Council out of the Chamber. The evidence of the above-named witnesses will be necessary in the criminal proceedings to be instituted against WONG and may involve events which had happened in the Chamber otherwise than during the suspension of the Session.

Pending the result of the application for special leave, the Department of Justice is contemplating to prosecute WONG for one count of Common Assault, contrary to common law and punishable under section 40 of the Offences Against the Person Ordinance (Cap. 212).

I have been given to understand that it is not necessary to attach copy of statement of any of the above witnesses with this application.



(Ned LAI)

Assistant Director of Public Prosecutions (Ag)

c.c. SJ

DPP

DDPP I

DSIP Clement LI, OC DCS 1 CDIST (By Fax (3660-1296) only)

第 382 章 立法會(權力及特權)條例

7. 未經許可不得就立法會或任何
委員會的會議程序作證

(1) 如未經立法會特別許可，任何議員或立法會人員，以及受僱在立法會或任何委員會會議席上錄取會議紀要或保存證據紀錄的人，不得就上述會議紀要或證據紀錄的內容、或就提交立法會或任何委員會的文件內容(視屬何情況而定)、或就立法會或任何委員會所進行的會議程序或訊問(視屬何情況而定)，在其他地方作證。

(2) 在立法會休會或押後會議期間，第(1)款所提述的特別許可，可由主席給予；如主席因不在香港或喪失履行職務能力以致不能行事者，則可按照議事規則給予。

(由 2000 年第 71 號第 3 條修訂)

CAP. 382 *Legislative Council (Powers and Privileges)*

7. **Evidence of proceedings in the Council or any
committee not to be given without leave**

(1) No member or officer of the Council, and no person employed to take minutes or keep any record of evidence before the Council or a committee, shall give evidence elsewhere in respect of the contents of such minutes or record of evidence, or of the contents of any document laid before the Council or committee, as the case may be, or in respect of any proceedings or examination held before the Council or committee, as the case may be, without the special leave of the Council.

(2) During a recess or adjournment of the Council, the special leave referred to in subsection (1) may be given by the President or, if the President is unable to act owing to his absence from Hong Kong or incapacity, in accordance with the Rules of Procedure. (*Amended 71 of 2000 s. 3*)