

27 MARCH 2013

**ATTORNEY-GENERAL'S KEYNOTE SPEECH  
AT THE LAUNCH OF  
THE CODE OF PRACTICE FOR THE CONDUCT OF CRIMINAL PROCEEDINGS  
BY THE PROSECUTION AND THE DEFENCE**

The Honourable the Chief Justice Sundaresh Menon, President of the Law Society Mr Lok Vi Ming SC, Ladies and Gentlemen, a very good afternoon.

1 Since the Inaugural Tripartite Lunch in August 2010 hosted by the Law Society, we have completed two cycles of lunches hosted in turns by the three institutions in the administration of criminal justice in Singapore: the Judiciary, the Prosecution and the Criminal Bar. It is with immense pleasure that we mark the start of the third cycle of tripartite lunches with the launch of the Code of Practice for the Conduct of Criminal Proceedings by the Prosecution and the Defence.

2 We have come some distance to arrive at today's launch. First mooted by Chief Justice Menon when he took office as the Attorney-General in late 2010, my Chambers and the Criminal Bar have made significant collaborative efforts in drafting a joint code of practice for the conduct of criminal cases. The Code of Practice was conceived as an encapsulation of the best practices designed to assist the court in ensuring a speedy and efficient trial process, and in arriving at a just decision.

3 The entire gestation process of the Code of Practice was carried out in the best traditions of the Bar. I speak from personal experience as I had participated in three very constructive meetings with the representatives from the Criminal Bar on the drafting of the Code. The discussions were always conducted in the spirit of mutual respect and co-operation. Of course, it was not unexpected for the Bar to advocate for more concessions from the Prosecution but when it became apparent that they were not feasible, good sense prevailed. It is ground-breaking that this Code of Practice was arrived at through the joint efforts of the Prosecution and the Criminal Bar, working hand in hand.

4 A brief survey of the Codes of Practice pertaining to criminal proceedings in some other common law jurisdictions reveals that they typically offer guidelines for the conduct of prosecutorial work, but not the conduct of the defence in criminal cases. This is so in territories such as Ireland, the Commonwealth of Australia, Alberta, Canada, Hong Kong, and Scotland.

5 It is also noteworthy that in other common law jurisdictions, the Codes of Conduct for prosecutors were issued pursuant to statutory duties placed on the prosecution agencies. Thus, in Northern Ireland, the Code for Prosecutors was issued pursuant to the duty placed on the Public Prosecution Service by Section 37 of the Justice (Northern Ireland) Act 2002; in New South Wales, the Prosecution Guidelines of the Office of the Director of Public Prosecutors were issued pursuant to Section 13 of the Director of Public Prosecutions Act 1986; and in England and Wales, the Code for Crown Prosecutors was issued by the Director of Public Prosecutions under Section 10 of the Prosecution of Offences Act 1985.

6 By way of contrast, in Singapore, there is strictly no statutory duty on the Public Prosecutor to issue any Code of Conduct for his deputies carrying out criminal prosecutions under his control and direction. Inspired in part by the Standards for Criminal Justice Prosecution Function and Defense Function of the American Bar Association, we who practise Criminal Law in Singapore, be it as prosecutor or defence counsel, can safely say that our Code of Practice was arrived at voluntarily, without threat, inducement or promise.

7 The Code of Practice aims to provide guidelines to encourage best practices in relation to the conduct of both prosecutors and defence counsel in a wide range of areas. These best practices are characterised by: good faith efforts in making representations to the Public Prosecutor and in conducting plea negotiations; considering in good faith any representations made to the Public Prosecutor by or on behalf of the accused person; narrowing the issues in dispute and resolving disputes in an effective and timely manner; maintaining the rule of law and assisting in the administration of criminal justice.

8 The Code of Practice sets out the general duties of the Prosecution and the Defence, as well as best practices in both pre-trial and court proceedings. They cover the whole gamut of the criminal justice process, from disclosure, plea bargaining, service of documents and inspection of exhibits, interviews of witnesses and communications with accused persons, to cross-examination of witnesses, making arguments and submissions to the court, address on sentence, and appeals.

9 Much as it is important to note what the Code of Practice does, equally of note is what the Code of Practice does not do. First, it does not purport to lay down any rule of law. Second, it does not supplant the rules of professional conduct that may be applied to prosecutors or defence counsel. Third, it neither creates any right, entitlement, or legitimate expectation, nor provides for any disciplinary action or any other action or consequences. Notwithstanding these limitations, the Code of Practice signals a very powerful message of a joint commitment and pledge by the twin engines of the criminal justice system to raise the Bar in ensuring that criminal proceedings are conducted at the highest level of professionalism. I am convinced that the Code will enhance and promote dignity in the conduct of criminal cases, raise standards of ethics and advocacy, engender even greater public confidence in the administration of criminal justice and will in turn attract our younger and more enthusiastic colleagues of the Bar to practise or at least participate in some aspects of the criminal justice system.

10 I would like to extend my appreciation to the representatives of the Criminal Bar and my officers in drafting this milestone Code of Practice. Without a doubt, this is a huge step in the right direction. However, our journey to enhance the criminal justice system is an on-going process. We must continue to work together to ensure that the ends of criminal justice are served. Given the positive experience in the drafting of this Code, I am optimistic that the collaborative efforts from both sides to improve standards are here to stay.

11 I believe this is the 3<sup>rd</sup> occasion that my learned friend has made the provocative threat to snatch the AG's Cup from the rightful defending champions. I had ignored the last 2 threats because they were uttered after my address. I had no right of reply then. On this occasion, I feel compelled to respond. May I remind the President that pride comes before a fall and that one should remember never to count the chickens before they hatch. All I need to say is that my team is ready for your challenge. One thing for sure, wherever and whenever the AGC team plays, we will never walk alone. In the words of the late Freddie Mercury, "We Are the Champions".

12 Thank you.

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