



Prosecution on Fiat Training Programme Programme Details

Seminar 1: Monday 3 January 2022

5:30 – 7:00pm

Speakers: Polly Wan (DoJ), Memi Ng (Bar)

Considerations prior to start of trial

1. Liaison:
 - a. Advising counsel/SPP OCM/SCP 1/ DoJ (especially if clarification is needed on venue, charge(s), arguments etc.).
 - b. Defence counsel/solicitors.
 - c. (on any s.65B statements, s.65C admitted facts, legal arguments; alternative procedure/voir dire if there were admission(s) from D, and if additional PWs are required; and issues/areas of dispute).
 - d. Police (OC case and/or exhibits officer) (e.g disclosure of previous convictions/disciplinary records and unused materials) [No direct contact with PWs, except experts].
 - e. Record keeping.
 - f. Navigating the “Minutes” to the Prosecution File.
2. Prosecution Code: Key chapters.
 - a. Prosecutorial duties.
 - b. Disclosure.
3. Victim’s Charter
4. Starting point:
 - a. Assist the Court.
 - b. Lay out facts.
 - c. Not about securing convictions at all cost.
5. Preparatory matters:
 - a. Check ordinance and related provisions - e.g. s.38(1)(b) of the Immigration Ordinance, Cap.115:
 - Offence provision: s.38(1)(b).
 - Definitions: s.2 (e.g. “land”).
 - Time bar: s.46(2) [continuing offence].
 - SJ consent required: no.
 - Statutory defence: no.
 - Proof aid(s): s.62(1) presumption, and see s.64.
 - b. Analyse elements of the charge. Check if there is sufficient evidence to support/prove each of the elements. If not or in doubt, instruction has to be taken to amend/withdraw charge(s), and/or lay alternative(s) and consider if additional evidence is required.
 - c. Check minutes. Especially for last minute instructions and confirmation on whether all outstanding actions have been completed.



- d. Venue. Necessity for special measures with application made already? Where necessary, has the consent to prosecute been prepared and submitted?
 - e. Burden and Standard of Proof, e.g. statutory defence like s.17I(1A) or (2) of Cap.115.
 - f. Disclosure.
Practical:
 - i. Keep correspondence.
 - ii. Compliance.
6. Amendment of Charge:
- a. Charges/ indictment rules.
 - i. What to look out for?
 - ii. Split or consolidate?
 - iii. Practical:
 - 1. What and how to amend? Who to speak to (Advising counsel/SPP OCM/ SCP 1)?
 - 2. Copies.
 - 3. Languages (Eng/ Chi).
 - b. Time limit for prosecution.
7. Handling plea bargain:
- a. How?
 - b. Liaison with Advising counsel/SPP OCM/SCP 1/ DoJ.
8. How to handle offers to cooperate with law enforcement? Taking of NPS etc. Who to speak to in the event that such offers are made (Advising counsel/SPP OCM/ SCP 1)?

At the conclusion of Seminar 1, the course materials will be distributed to the participants.

Written assignment (1)

The participants will be required to write a short Advice on charges for trainers to review.



Prosecution on Fiat Training Programme Programme Details

Seminar 2: Friday 7 January 2022, 5:30 – 7:00pm

Speakers: Polly Wan (DoJ), Felix Tam (Bar)

Pre-trial Preparations – Part 1

1. Know:
 - a. the Court.
 - b. the clerk.
2. Any issues from pre-trial preparations?
3. Preparation for PTR
 - a. Know history of past hearings.
 - Past directions/ court orders (source: Minutes to the Prosecution File).
 - b. Bail - Object or not?
 - c. Applications:
 - i. Whose application?
Typical: Adjournments for a) Legal advice, and b) Plea bargain.
 - ii. Costs implication.
4. D/ Witnesses:
 - i. Availability.
 - ii. Language.
 - iii. Any special needs/requests, e.g. need to apply anonymity order, special passage way or screen; PW is pregnant, old/sick (like wheelchair-bound), blind, deaf, mute etc. (apart from Vulnerable Witnesses or Witness in Fear)?
5. Trial length & practical arrangements:
 - a. Language / Sign Language.
 - i. Interpreter(s) / Special Interpreter(s).
 - ii. Written Translations.
 - b. Voir Dire / Alternative Procedure.
 - c. Video evidence.
 - i. Prepare summaries with camera no./ time.
 - ii. Prepare (an album of) screen captures with camera no./time and/or descriptions.
 - iii. Whether it is necessary to apply for the Digital Exhibit and Evidence System (DEEH)?
 - d. Expert (confirm if any special equipment/device is required to assist in presenting evidence).
 - e. Time estimate (and the basis for the estimate).

6. Documents preparation:
 - a. PW list - order of PWs.
Exhibit list - order of exhibits.
 - b. S.65B:
 1. When to use?
 2. How to handle?
 3. See if the PW is still required to be called to clarify matters and/or be cross-examined.
 - c. S.65C:
 1. Drafting style.
 2. How?
 3. Discussion on Draft Admitted Facts submitted by the participants.
 - d. Unused Material list.
 - e. Correspondence file.
7. Internal assessment of merits/weaknesses.
8. Consider source of evidence:
 - a. Purpose of each piece of evidence.
 - b. Source:
 - i. PWs – oral.
 - ii. Exhibits:
 1. Documentary (including sketches and maps).
 2. Photographs.
 3. Video.
 4. Electronic.
 5. Real.
 - iii. Confessions:
 1. Oral.
 2. Written Post-records/Records of Interview.
 3. Video Recorded Interviews (VRIs).
 4. Transcripts (whether with translation/certified translation).

Written Assignment (2)

Participants will be required to prepare draft Admitted Facts for trainers to review.

Seminar 3: Monday 10 January 2022 5:30 – 6:30pm

Introduction to Performance Skills



Prosecution on Fiat Training Programme Programme Details

Seminar 4: Wednesday 12 January 2022 5:30 – 7:00pm

Speakers: Edward Wong (Judiciary), Polly Wan (DoJ), Marco Li (Bar)

Pre-trial Preparations – Part 2

1. Exhibits:
 - a. Types:
 - i. Documentary (including sketches and maps).
 - ii. Photographs.
 - iii. Video.
 - iv. Electronic (consider its nature and the best way to present it, e.g. printouts, screen captures, or a summary with explanations etc.).
 - v. Real.
 - b. Practical issues:
 - i. Production (check the state/condition of exhibits first and consider if there is any difficulty in production; or it is preferable only to submit photos taken closer in time to the offence).
 - ii. Key evidential points to cover.
 - iii. Admissibility.
 - iv. Chain.
2. Anticipation of challenges/ weaknesses:
 - a. Analysis of elements: *Hin Lin Yee* and *Kulemesin*.
 - b. Identification.
 - c. Chain of evidence.
 - d. Variation of charges:
 - i. Principal/ accessory liability.
 - ii. Conspiracy.
 - iii. Joint Enterprise.
 - iv. Alternative charges.
3. Witnesses in trial:
 - a. Complainant.
 - b. Civilian.
 - c. Law enforcement officers.
 - d. How many do you need?
4. Vulnerable witnesses:
 - a. PD 9.5 – Vulnerable witnesses.
 - b. PD 9.10 – Use of screens in sexual offences.
 - c. Practice.
5. Expert witness.

6. Reminders/ examples – general evidence handling (what questions to ask):
- a. What a witness saw?
 - b. What a witness felt (e.g. by touch, on whether warm, hot, hard, soft, shape etc. if could not see)?
 - c. What a witness did?
 - d. What a witness heard?
 - e. When a witness authored a document?
 - f. Contradicting a witness.
-



Prosecution on Fiat Training Programme Programme Details

Seminar 5: Friday 14 January 2022 5:30 – 7:00pm

Speakers: Andrew Mok (Judiciary), Polly Wan (DoJ), Emily Yu (Bar)

Practical issues and challenges by the defence

1. Stay of proceedings:
 - a. PD 9.7
2. Voir dire/ alternative procedure:
 - a. Written Grounds of Objections (see if any clarification is required from the Defence).
3. Constitutional challenges (must take instructions from the DoJ).
4. Non-disclosure:
 - a. Remedy.
5. Amendment of charges.
6. Criminal Records/ Disciplinary records:
 - a. Disclosure.
7. Evidential law concerns?
 - a. Admissibility of exhibits.
 - b. Hearsay?
 - c. Similar fact?
 - d. Previous inconsistent statements?
8. Half time submissions/ Case to answer:
 - a. Costs.
9. Right to speeches.
 - a. Represented or unrepresented.
10. Prosecutor's duties in Sentencing - check:
 - a. Maximum sentence?
 - b. Whether it is an excepted offence (see s.109B and Schedule 3 of the Criminal Procedure Ordinance, Cap.221)?
 - c. Whether with reference to the nature of the offence (e.g. s.54A of the Dangerous Drugs Ordinance, Cap. 134) and/or age of D (see s.109A of Cap. 221 and s.11 of the Juvenile Offenders Ordinance, Cap 226), reports are required to be called before sentencing?
 - d. General sentencing range?
 - e. Tariffs (with cases prepared)?
 - f. Check principles (with cases prepared)?



- g. Criminal record (check if updated, especially when D has “outstanding” matters revealed in his criminal record).
 - h. Aggravation/ mitigation.
 - i. Newton hearings?
 - j. Compensation order? (Clarify with OC Case the exact amount being sought and see if PW has proof for such a claim).
11. Disposal of Exhibits:
- a. Check if an application has to be made under which Ordinance (e.g. dangerous drugs seized for offences under Cap.134 are to be confiscated under s.55 of Cap.134).
 - b. Same proceedings.
 - c. Separate proceedings.
 - d. Related statutes.
12. Costs:
- a. Prosecution costs.
 - b. Defence costs.
13. Bail pending appeal.

Post-trial tasks/duties

- 1. Post-trial advice:
 - Follow up action (e.g. recommendation for s.104 review, or case stated under s.105 of the Magistrates Ordinance, Cap.227).
 - 2. Documentation:
 - Minutes.
 - Case Reports.
 - CAPO files.
-



Prosecution on Fiat Training Programme Programme Details

Seminar 6: Monday 17 January 2022 5:30 – 7:00pm

Speakers: David Leung SC, Giles Surman, Jonathan Ah-weng, S.W. Lee

Advocacy Refresher – Part 1

I. Examination-in-Chief (General)

1. Basic Techniques.
2. Live Demonstration of Asking non-leading questions to elicit evidence from a victim in a simple case (e.g. Facts in paras. 4-7 of 香港特別行政區訴紀鎮基 HCMA 160/2022).
3. Simple Exercises for Participants to conduct Examination-in-Chief.
4. Feedback with further Demonstrations.
5. Live Demonstration of Production of Exhibits:
 - Property seized from a Defendant, e.g. dangerous drugs.
 - Sketch.
 - Photograph.
 - Video.
6. Live Demonstration of Examination-in-Chief in Voir Dire.
7. Short exercise for Participants.

II. Refreshing Memory

8. Basic Techniques.
9. Live Demonstration with examples.
10. Short exercise for Participants.

Briefing on the mock trials

Participants will be paired up as a team to draft and file a joint set of Admitted Facts to be submitted 3 days before the mock trial.



Prosecution on Fiat Training Programme Programme Details

Seminar 7: Tuesday 18 January 2022 5:30 – 7:00pm

Speakers: David Leung SC, Giles Surman, Jonathan Ah-weng, S.W. Lee

Advocacy Refresher – Part 2

III. Handling Hostile Witness

1. Basic Techniques.
2. Live Demonstration with examples.
3. Short exercise for Participants.

IV. Cross-Examination

4. Basic Techniques.
5. Live Demonstration with examples.
6. Short exercise for Participants.

V. Re-examination

7. Basic Techniques.
8. Live Demonstration with examples.
9. Short exercise for Participants.

Prosecution on Fiat Training Programme Programme Details

Seminar 8: Wednesday 19 January 2022 5:30 – 7:00pm

Speakers: David Leung SC, Jonathan Ah-weng, S.W. Lee

R v Turnbull – 101

Question and Answer Session



Prosecution on Fiat Training Programme Programme Details

Mock Trials: Saturday 22/29 January 2022 9:30am – 5:30pm

Participants will be paired up as a team to conduct a full trial as fiat counsel in their elected stream of either English or Chinese (Punti) trial on one of the two Saturdays.

3 days before the mock trial, participants have to submit a set of draft Admitted Facts.

Participants will conduct a full trial uninterrupted, presided over by Magistrates and members of the Bar who have sat as Deputy Magistrates, with Defence counsel and witnesses.

| | |
|--------------|---------------------------------------|
| Magistrates: | Principal Magistrate Ada Yim |
| | Acting Principal Magistrate Jason Wan |
| | Magistrate Ka-kie Leung |
| | Magistrate Norton Pang |
| | Magistrate May Chung |
| | Magistrate Andrew Mok |
| | Magistrate Frances Leung |
| | Magistrate Arthur Lam |
| | Magistrate Minnie Wat |
| | Magistrate Jeffrey Sze |
| | Deputy Magistrate Linda Chan |
| | Deputy Magistrate Shirley Hung |

| | | |
|-----------------------------|------------------|------------------|
| Members of the Bar - | | |
| Trainers & Defence Counsel: | Graham Harris SC | David Leung SC |
| | Martin Hui SC | Steven Kwan |
| | Marco Li | David Boyton |
| | Memi Ng | Lawrence Hui |
| | Edward Ng | Jonathan Ah-weng |
| | S.W. Lee | Tony Ko |
| | Franco Kuan | Benson Tsoi |
| | Emily Yu | Breanne Kwok |
| | Lawrence Pang | Felix Tam |

| | | |
|---------------|-----------------|----------|
| Former SCP I: | Samuel Au Yeung | Lily Lai |
|---------------|-----------------|----------|