



THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

An Address by the Director of Public Prosecutions, Mr Christopher Pryde, at the ODPP National Prosecution Course Graduation Ceremony– 15 May 2015 at the Fiji Police Training Academy, Suva

The Honourable Chief Justice, Mr Justice Anthony Gates;

Acting Commissioner of Police,

Director Training, Senior Superintendent of Police, Seru Savou;

Commandant of the Academy, SP Manik Chand;

Head of School: Investigations and Intelligence, ASP Surend Sami

Divisional Prosecuting Officers;

The Course Facilitator, Ms Puamau and the ODPP Faculty;

Fellow Prosecutors

1. First, let me congratulate each of you for successfully completing the inaugural 2015 ODPP National Prosecution Course. It was a very intensive course and you were no doubt challenged to perform in areas unfamiliar to you. So I congratulate you for your stamina, for your aptitude, for your commitment, and for your ultimate success in completing the course. All of you have passed and passed well and some of you will be honoured with achievement awards later on in the afternoon in recognition of this. I would also take this opportunity to

thank the course conveners for the hard work they put into developing this course and especially to our Principal Legal Officer Seini Puamau to whom much of the credit is due and to the various volunteers including those from the Office of the Director of Public Prosecutions who donated their time to assist in giving lectures or participating in moot courts.

2. We had decided earlier this year that there was a need to upgrade the traditional and somewhat ad hoc approach to prosecutions training in Fiji and part of this upgrade was to introduce a 6-week comprehensive and national training course for pre-approved candidates. So you all have the honour of being able to say that you were the first graduates of our annual national prosecution course.
3. This afternoon we are pleased to be welcoming 24 graduates of the course, 15 of whom are police prosecutors, 2 of whom are employed at the Fiji Revenue and Customs Authority, 2 of you are lay prosecutors employed at the Fiji National Provident Fund, 2 are Senior Health Inspectors employed at the Ministry of Health and 1 of you is a labour officer employed at the Ministry of Employment.
4. Each of you had to be nominated by your respective offices to attend and you had to satisfy minimum qualification requirements in order to be accepted into the course. The feedback that I have received is very positive and it is obvious that each of you have worked hard throughout the six weeks and will return to your duties all the better for it.
5. Of course prosecution training and the need to continually hone our practice skills is on-going and this is but the beginning of many courses

and workshops you will be expected to participate in throughout your career. Participation in this course and in the monthly Saturday training workshops conducted around the country and other specialist courses run for prosecutors throughout the year represents an on-going pledge to ourselves and to the public of Fiji that we are serious about our commitment to high standards in prosecutions.

6. You will also be presented with copies of the Office of the Director of Public Prosecutions Handbook which I hope you find of some use. In addition, the Office of the Director of Public Prosecutions will shortly be launching “Guidelines for Police Prosecutors in Fiji (2015)”. This is a handbook that represents current guidelines issued by the Director of Public Prosecutions to be read in conjunction with the Police Prosecution Division’s Standard Operating Procedures for those of you who are police prosecutors. You will all receive a copy of this Handbook. It is important that you familiarise yourselves thoroughly with these documents which together are intended to cover most aspects of prosecutions in Fiji. For those prosecutors who are not police prosecutors, I would also commend you to familiarise yourselves with both Guidelines.

7. There are a couple of matters in the Guidelines that I wish to draw to your attention. First is the distinction between your role as police officers or civil servants within your different ministries on the one hand and prosecutors on the other. In Fiji, as you know, in terms of police prosecutions, the investigation of a criminal matter is separate from the prosecution of that matter in the courts. As police officers and civil servants, administratively, you come under the direction, control, and authority of the Commissioner of Police and his officers or your respective permanent secretaries or agency heads. You need to follow administrative directions or orders issued by the Commissioner or

through his officers or through your permanent secretaries or agency heads.

8. However, in terms of prosecutions, you come under the direction and control of the Director of Public Prosecutions and his officers. This is because the Constitution states that it is the Director of Public Prosecutions that controls criminal proceedings in Fiji other than proceedings brought by FICAC.
9. Section 117 (9) of the Constitution states that the DPP's powers may be exercised personally "or through other persons acting on the Director's instructions." It also states (s.117 (11)) that the DPP may appoint any legal practitioner to be a public prosecutor for the purposes of any criminal proceeding. This means that the DPP is the ultimate controller of criminal proceedings in Fiji.
10. As police prosecutors, therefore, and appointed as such by the DPP, your authority to act comes from this Constitutional power given to the DPP. As prosecutors in other agencies you will have been appointed by your respective heads, however the conduct of the prosecution is nevertheless overseen by the DPP and you remain subject to direction by the DPP or his officers.
11. Therefore, it is important to remember that if a direction is given by the DPP or one of his officers, for example, to withdraw a matter from prosecution you need only ensure that it is a direction from the DPP. Conversely, in the case of police prosecutors, you have no authority to withdraw any matter from the court without the DPP's explicit written instructions. Failure to follow this rule may mean that your

appointment as a Police Prosecutor is revoked and you will have to answer to the Police Commissioner as to why you are being paid a salary as a Police Prosecutor but are unable to prosecute any matters in court.

12. If you are in doubt, always seek advice and ensure that you record that advice even if it is just a simple notation on the file. This is to protect you in the event a decision is challenged later. Ultimately, all decisions related to prosecutions are made by the DPP so if the DPP has directed you to take a particular course of action, then it is the DPP that will take responsibility for that decision and not you. If however you take the decision against the direction or instructions of the DPP or without referring the matter for decision to the DPP or through his officers, then you will take the responsibility and the consequences for that decision alone. So, be safe, and if in doubt, seek advice. The DPP officers are also always ready to assist so please feel free to approach them if you are unsure of something or are having difficulties. On rare occasions, a DPP officer may need to intervene in a case you are prosecuting. If this happens you must follow their directions. Remember, we are all working for the same cause and we all have an interest in seeing that prosecutions before the courts of Fiji are properly conducted.

13. Another important output of this course has been the opportunity for us to find out from you how you deal with issues that occur in the courts from time to time. We have discussed many of your concerns and offered some methods on how to deal with Magistrates on tricky issues. This course has been an excellent opportunity to raise matters of concern with us. For example, one issue that was raised was the position of the lawyer in court who claims to be acting under a “watching brief” on behalf of the victim. Please remember that the

State represents the interests of the victim and therefore any attempt by lawyers to enter an appearance on behalf of a victim in court must always be opposed. Similarly, any attempt by a lawyer to interfere in the prosecution of a matter by advising victims to only communicate with you through “their lawyer” is an even more serious matter of concern and examples of this occurring must be referred immediately to the DPP since this would likely amount to an attempt to interfere in the course of justice.

14. It is important therefore that you feel you may communicate any problems you have directly to me or any of the ODPP officers. Do not suffer in silence. Officers of the ODPP are there to advise and that advice is free so please take advantage of it. In some cases such as the Ministry of Health or FRCA we have established dedicated desk officers in the ODPP for you.

15. Finally, the work you do is important. It is also, at times, incredibly stressful, particularly for Police Prosecutors who are at the coal face of the criminal justice system and need to deal with a large number of files in quick succession. It is not an easy job and it is not one for the faint-hearted. But it can be very rewarding. Those rewards come when we train, when we practise, when we refine our technique. The job can often seem overwhelming. Remember to stay calm and not panic. The most seemingly intractable problem can be resolved with a little patience and clear-thinking. When you think the file load is getting on top of you try to remember the wise advice of the King to the White Rabbit in Alice in Wonderland. “Begin at the beginning and go on till you come to the end: then stop.”

16. Once again, I congratulate all of you for successfully completing the course and I wish you all the very best for your continued career in prosecutions.

Thank you.

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