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PRESS RELEASE

6 JANUARY 2012, 12 NN

**OPENING OF THE LEGAL YEAR 2012
SPEECH OF ATTORNEY-GENERAL
SUNDARESH MENON S.C.**

May it please Your Honours, Chief Justice, Judges of Appeal and Judges of the Supreme Court:

1 I would like to begin my address this morning with a few words to mark Justice Kan Ting Chiu's retirement from the Bench. Justice Kan was appointed to the High Court as a Judicial Commissioner in 1991 and then as a Judge in 1994. Throughout his stint on the Bench, he enjoyed a warm relationship with both the prosecution and the Bar, founded on a manifest and keen sense of fairness. He was plain-speaking and forthright and as an advocate, one had a good sense of just where one stood. I had the pleasure of appearing before him as counsel and the privilege of serving alongside him on the Bench and I know I speak for so many when I say that he will be missed from the Bench. Happily, we will still be able to call on him for help in one capacity or another.

2 When I addressed Your Honours last year, I canvassed various developments in the administration of criminal justice, in legal training, and in the liberalization of the legal services sector. Underpinning many of these initiatives is the importance of improving access to justice. Today, I propose to review the progress made since then and to outline some of my hopes for the coming year.

Initiatives of the Public Prosecutor

3 I begin with developments relating to my work as the Public Prosecutor.

4 The new Criminal Procedure Code came into force last January opening, a new era for our criminal justice system. The implementation of the Code, including the new practice of exchanging the evidence ahead of trial, has rolled out well. The prosecution and the criminal bar were in general familiar with the criminal disclosure procedures and the new Code as a whole - a testament to the tremendous training effort that had been made ahead of its coming into force. During the past year, dialogues were held among the judiciary, the prosecution, the criminal bar and our law enforcement partners in order to identify and address implementation and operational issues, and a number of refinements have been introduced as a result and we will continue to monitor this.

5 Last year, your Honour the Chief Justice invited me to look into the establishment of a framework to refine and then formalize the existing practice of the Bar and the Prosecution negotiating consensual outcomes in criminal proceedings. There are at least two key advantages in instituting a formal framework for this purpose. First, it enhances the transparency of the potential sentencing reductions afforded to an offender who elects to plead guilty early. Second, it encourages early case resolution and so minimizes the wastage of judicial time that is occasioned when cases “crack” on the first day of the trial. A study team was formed to look into this and a proposed framework was developed. We then held extensive consultations with the enforcement agencies and the Subordinate Courts and refined the framework based on the feedback we received. The revised framework is in the course of being tabled to representatives of the Law Society and the Association of Criminal Lawyers of Singapore. I am hopeful that once the consultation process is completed the framework can be finalized with a view to its being legislated and implemented

in the course of the coming year. I am confident that when instituted, this will greatly enhance the sound and effective management of criminal cases.

6 Separately, I have continued to seek regular feedback from senior criminal law practitioners and to promote dialogue and collaboration between my prosecutors and the defence Bar. Arising from this, a number of joint initiatives have been or will soon be launched.

7 First, a committee was constituted to examine whether adequate measures exist within the criminal justice system to identify and assist offenders with mental disabilities in the course of the investigation process and if necessary, to propose improvements. The Committee which was led by one of my officers included representatives from my Chambers, the Law Society, the Association of Criminal Lawyers of Singapore, the Ministry of Community Development, Youth and Sports, the Police and the National Council of Social Services. It recently submitted an interim report recommending a pilot project to study the viability of a simple screening test being administered by investigation officers to identify persons who might have such disabilities so that special attention can be given to securing their special needs during police interviews. The committee may also examine whether there is a need for a more developed legislative framework to address the needs of such persons whenever they encounter the criminal justice system during investigations, whether as victims, witnesses or accused persons.

8 Second, a team consisting of prosecutors and defence lawyers is completing work on the joint Code of Practice for criminal cases. This will set out best practices in relation to the conduct of both prosecutors and defence counsel in a wide range of areas including in plea negotiations, the service of documents and inspection of exhibits before trial, as well as dealings with victims and witnesses. While the Code is not designed to be legally binding, it will form a normative standard which all prosecutors and defence counsel will

be expected to aspire and adhere to. The Code will be finalized and launched in the first half of this year.

9 Third, the Inaugural Criminal Law Conference, an event jointly organized by my Chambers, the Law Society and the Association of Criminal Lawyers was held in October 2011. In my address to your Honours last year, I had said that the development of a vibrant criminal bar was crucial to continued public confidence in the administration of criminal justice. The organization of the Inaugural Criminal Law Conference was a significant step in this direction. It provided a useful platform for the main stakeholders to engage in a constructive discourse on the practice of criminal law in Singapore, and brought together distinguished judges, criminal law practitioners, academics, and policy-makers from several different jurisdictions.

10 I have since formed a number of working groups consisting of prosecutors, defence counsel and academics to further study and make recommendations on a number of specific issues that arose out of the Conference, including the adequacy of measures for the protection of legal professional privilege in documents obtained in the course of search and seizure by the enforcement agencies; reviewing the criteria for eligibility for community sentencing options; consideration of measures to enhance the reliability of statements recorded by law enforcement agencies from offenders in custody; and improving and enhancing the objectivity and utility of expert witnesses in criminal proceedings to better assist the courts. I believe these projects will benefit from the wide range of expertise represented by prosecutors, practitioners and academics and I await the outcome of their deliberations.

11 All in all, 2011 has been a significant year for criminal justice. We have rolled out reforms, taken steps to enhance transparency, and sought greater collaboration with the other stakeholders in the criminal justice system.

Access to Justice

12 Yet however much we may strive to enhance and improve the criminal justice system, its effectiveness as a core pillar of the rule of law in our country is dependent on there being true access to justice. With a relatively small legal profession and with the rising cost of legal services this remains a challenge.

13 I believe that this will prove to be an important area for the collaborative efforts of the key stakeholders. The Ministry of Law, the Law Society and my Chambers have been working together to enhance and institutionalize pro bono efforts towards the end of enhancing access to justice by building upon such programs as the Law Society's Criminal Legal Aid Scheme which continues to shine as a beacon of the selfless commitment and idealism that lawyers are capable of. Lawyers who volunteer their services through the Scheme do so for no other reason than the conviction that it is the right thing to do so as to ensure legal representation even for those who cannot afford it. And we have seen over the years that such lawyers can and do make a dramatic difference to those they represent. We must take firm steps to extend this spirit so that the pro bono culture is firmly entrenched throughout our profession.

14 In keeping with this ideal, one significant reform that will soon be introduced is directed towards cultivating in lawyers at the very outset of their careers a firm commitment to the ideal of service. I am pleased to note that in the coming year, the SILE under the chairmanship of Justice V K Rajah will require students to undergo a mandatory component of pro bono work in a selected group of settings. I am confident that through this experience, young lawyers will come to see their legal careers as part of a wider picture rooted in a culture of service to the community.

15 I am also pleased to report that acting on a suggestion that was first made to me by Justice Kan Ting Chiu, the Law Society has been in discussions with the Singapore Psychiatric Association to provide on a limited basis pro

bono expert assistance to needy accused persons. The Criminal Practice Committee of the Law Society led by Mr Wendell Wong has worked closely with Dr Lee Ee Lian, the President of the Singapore Psychiatric Association and her team to roll this out. I am informed that ten psychiatrists have so far agreed to participate in this initiative including two from the private sector. The intention is to boost this to around 25 doctors. The scheme will be administered by the Pro Bono Office of the Law Society.

16 Each of these measures is ultimately directed at securing two goals. The first is to ensure that those facing the most serious legal problems in our society and hence having the most dire need for legal services are not denied these just because they cannot afford the costs involved. The second is to ensure that the Judiciary as the apex organ in the administration of justice has the greatest possible assistance available to it so that it can have the highest confidence that it is doing justice in every case. Each of these goals is indispensable to our common mission to protect and uphold the rule of law in our country.

Future of the profession and of Singapore as a legal services hub

17 The vitality of the rule of law is also central to and underpins all our efforts to become one of the leading legal services hubs of the world. Singapore has a well-established legal system with a strong and admired judiciary, an able legal profession and a superb legal framework and as the centre of gravity in the provision of international legal services moves eastwards, it is vital that we capitalize on our strengths.

18 A number of efforts have been made to enlarge our legal services market. First, we now have two sources of local law graduates. The National University of Singapore has consistently produced impressive legal talent over the past five decades and the Singapore Management University is now adding to that pool with its first batch of law graduates entering the profession. Second,

much has transpired in the liberalization of our profession leading to increasing numbers of foreign lawyers and law firms moving to Singapore. To cater for the growing interest in the practice of Singapore law, the SILE will conduct the Foreign Practitioner Examinations (“FPE”) beginning in the first half of this year. Foreign-qualified lawyers who pass the FPE will be able to apply for a Foreign Practitioner Certificate from my Chambers to practise in specified areas of Singapore law. With these developments, there will be a wider choice of legal service providers available to the business community and I anticipate this will be vital in positioning Singapore as a key player in the provision of legal services in the region.

19 This enlargement of the pool of lawyers made up of lawyers and law firms of diverse backgrounds and nationalities coupled with the growing complexity of legal issues, will lead to new challenges. To stay relevant and competitive, it is essential that practitioners apply themselves diligently to constantly upgrading themselves so as to ensure that consumers have some measure of assurance of the quality of legal services they will receive in Singapore. It is thus timely that Mandatory Continuing Professional Development (“CPD”) will soon be introduced for the Legal Profession in Singapore. To avoid this being effected only in form and not in substance, practitioners must believe in the importance of continuing education to their effectiveness as lawyers. This in turn will be influenced by the ability of the service providers to ensure that the programs on offer are responsive to the needs of the profession. I believe the CPD program will emerge as an important avenue for lawyers to keep abreast of developments in the law and also to upgrade and develop their skills to the levels needed in this increasingly competitive environment.

20 Another issue that will face the legal profession is the emergence of new business structures. I have been asked by the Ministry of Law to chair a committee that will look into this and the related issues that stem from the growing internationalisation of our profession. As the line between domestic

and offshore practice begins to fade a little it will be important to address a number of matters including such things as how legal service providers in Singapore may be organized, how the ethical standards of all legal practitioners should be monitored and upheld in a fair and equitable manner, and how the interests of the consumers of such services may be safeguarded. The committee is being formed and I look forward to working together with members of the judiciary, the Ministry and practitioners to address these issues. We have much to ponder.

21 All this must be seen in the context of our continuing development as an international dispute resolution centre. In the area of international arbitration, we have emerged as the venue of choice in the region. At the Singapore Arbitration Dialogue held in November last year, the Singapore International Arbitration Centre informed participants that 40% of the cases it administered this year had no connection with Singapore at all and that parties from India, Hong Kong and Indonesia were involved in the majority of these cases. I believe these numbers will increase in keeping with the growth in the dynamic economies of this region. The Government and my Chambers will continue to support this growth as a vital part of our effort to establish Singapore as a key hub for international legal services.

Future of AGC

22 It is plainly an exciting time to be a Singapore lawyer. The range of available options for new entrants to the profession include not only private practice with indigenous or foreign law firms but also academia and the Legal Service. My Chambers is likely to account for most new entrants to the Service and I should say a few words about my vision for AGC. We will direct our efforts towards consolidating our position as **the** centre of excellence for legal work in all areas of public law. As the Public Prosecutor, my vision of the prosecution service is one which is rigorous in its legal analysis, progressive in practice, up-to-date with technology, sensitive to the interests of all including

both victims and the accused and respected for its fairness, integrity and steadfast commitment to the rule of law. We stand on the strong foundation of ethical and professional standards laid by my predecessors over many years.

23 To this end, we are embarking on some important initiatives. First and perhaps most importantly, my Chambers will invest significantly in training efforts. During the past year, we finalized a structured framework for advocacy training and development for our prosecutors. This consists of on-the-job learning that is reinforced with formal advocacy training. The on-the-job component entails DPPs conducting advocacy of increasing complexity over a time frame that is expected to last between 5 and 6 years. At each stage, we have prescribed milestones that we expect our DPPs to achieve and to prepare them to do so, we have crafted a training road map for the development of the requisite skills. Let me highlight two aspects of these efforts so far. First, in November last year, we had a number of eminent QCs from England conducting workshops and training sessions for my DPPs and officers from the Civil Division directed at raising our standard of advocacy. We plan to make this a regular feature of our training. Second, we have also made arrangements for officers to go on attachment stints with senior advocates and prosecuting agencies in various jurisdictions. A similar training road map is now being developed for officers from the Civil Division.

24 For those more inclined towards a career outside advocacy, as legal advisor to the Government, my Chambers is the largest legal practice in Singapore in particular areas of law including administrative and constitutional law, legislative drafting and international law. We work alongside a team of talented Legal Service Officers who are attached directly to a number of Ministries and Statutory Boards to meet the Government's requirements for legal support. In terms of selected highlights in the past year, a team of my officers worked intensively and very closely with the Returning Officer to help ensure the smooth conduct of both the General as well as the Presidential Elections. Their work covered a broad range from assisting with vetting the

contents of the handbooks for candidates, drafting the relevant legislation, advising on issues during the election period to working on post election issues including the drafting of legislation for and advising on the reconstitution of the Town Councils. In the area of international law, my officers played a key role in the relocation of the KTMB Railway Station from Tanjong Pagar to Woodlands, the return of the former railway land parcels to Singapore as well as the handover of the waterworks under the 1961 Water Agreement to Johor upon the expiry of that Agreement. These are illustrative of some of the demanding engagements Legal Service Officers are required to deal with. To meet these needs, we will continue to work hard to develop expertise in the relevant areas of the law so that we are positioned not only to tell policy-makers what the law is, but more importantly, to call their attention to potential pitfalls and generate suggestions to overcome any envisaged difficulties. We are also putting in place arrangements for Legal Service Officers to get some exposure to the commercial environment through intensive attachments with selected organizations. The Government is entitled to expect that it will get the best available legal assistance from the Legal Service and my officers and I are resolutely committed to ensuring this.

25 Finally, in relation to innovations in legal technology, the Legislation Editing and Authentic Publishing (LEAP) System was launched in the last quarter of 2011. My parliamentary draftsmen are now equipped with an electronic drafting tool to draft and publish legislation on the new Versioned Legislation Database. Typesetting errors will be minimised and the database will be updated quickly and accurately. The public will also benefit from free access to AGC's new Singapore Statutes Online website, and in addition, we will soon provide to the public free online access to current subsidiary legislation.

Conclusion

26 Your Honours, as we begin a new legal year, we have much to be grateful for and much to look forward to. On behalf of my colleagues in my Chambers and in the Legal Service, I take this opportunity to assure the Bench of our fullest support and cooperation in your task of administering justice and upholding the rule of law in Singapore.

27 To those who will shortly be appointed as Senior Counsel, I offer my sincere congratulations. You have worked hard to reach the highest ranks of the profession. You must lead by example with exemplary standards of ethical conduct. I wish you all the best in your endeavours and call on you to serve the profession well to the best of your abilities.

28 Your Honours, it only remains for me to extend to your Honour, the Chief Justice, all the judges and all members of the legal community our very best wishes for the year ahead.

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Media Contact:

Li Jin Haw (Ms)

Assistant Director, Corporate Communications Unit

Attorney-General's Chambers, Singapore

Email: li_jin_haw@agc.gov.sg

Tel: 6332 4693