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Replies to supplementary questions raised by Finance Committee Members in examining the Estimates of Expenditure 2015-16

Director of Bureau : Secretary for Justice

Session No. : 2

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CONTROLLING OFFICER'S REPLY**S-SJ01****(Question Serial No. S0008)**

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development (Cheuk Wing Hing)

Director of Bureau: Secretary for Justice

Question:

To follow up on the reply serial no. SJ020 on the Budget and the oral reply given by the Secretary for Justice at the special meeting of the Finance Committee on 27 March, it is noted that the meetings of the Department with the relevant Mainland authorities can be categorised into courtesy exchanges and technical exchanges. Please provide a breakdown of the exchanges set out in SJ020 by these categories, and the number of such exchanges which involved sensitive information. Did the sensitive information relate to changes in existing policies/measures/laws in Hong Kong? If yes, have the changes been implemented and what are they? If the changes involved have yet to be implemented, will the Department provide the public with details of discussions with the Mainland authorities before introducing the modifications? Has the Department ever modified policies/measures/legislation in Hong Kong after having exchanges with the Mainland authorities on non-sensitive information? If yes, please set out the modifications.

Asked by: Hon HO Sau-lan, Cyd (Member Question No.)

Reply:

More detailed breakdowns, insofar as may be appropriate, on the nature and purposes of the visits to/ exchanges with the Mainland authorities conducted by officers from the Legal Policy Division as covered in the reply serial numbered SJ020 are provided below. Visits containing elements of courtesy exchange are denoted by asterisk.

Date of visits	Places of visits	Nature and Purposes of visits
2010-11 (13 times)	Beijing, Changsa, Guangzhou, Shenzhen, Shanghai, Changzhou, Wuxi, Suzhou, Hangzhou	<ol style="list-style-type: none"> 1. Organising the biennial Hong Kong Legal Services Forum with various local legal professional and arbitration bodies*; 2. Promotional trips to promote Hong Kong's legal system/ the Rule of Law/ legal and dispute resolution services of Hong Kong*; 3. Attending meetings and activities related to CEPA*;

Date of visits	Places of visits	Nature and Purposes of visits
		<ol style="list-style-type: none"> 4. Attending meetings related to Qianhai (Shenzhen)*; 5. Accompanying SJ on his duty visits*; 6. Joining delegations of various Government bureaux and departments to advise on incidental legal issues as required from time to time.
2011-12 (10 times)	Beijing, Chongqing, Guangzhou, Qingdao, Shenzhen	<ol style="list-style-type: none"> 1. Promotional trips to promote Hong Kong's legal system/ the Rule of Law/ legal and dispute resolution services of Hong Kong*; 2. Attending meetings and activities related to CEPA*; 3. Attending meetings related to Qianhai (Shenzhen)*; 4. Accompanying SJ on his duty visits*; 5. Joining delegations of various Government bureaux and departments to advise on incidental legal issues as required from time to time.
2012-13 (13 times)	Beijing, Guangzhou, Foshan, Dongguang, Jiangmen, Zhongshan, Shenzhen, Fuzhou	<ol style="list-style-type: none"> 1. Organising the biennial Hong Kong Legal Services Forum with various local legal professional and arbitration bodies*; 2. Promotional trips to promote Hong Kong's legal system/ the Rule of Law/ legal and dispute resolution services of Hong Kong*; 3. Attending meetings and activities related to CEPA*; 4. Accompanying SJ on his duty visits*; 5. Joining delegations of various Government bureaux and departments to advise on incidental legal issues as required from time to time. 6. Attending various seminars*
2013-14 (5 times)	Beijing, Harbin, Xiamen, Fuzhou	<ol style="list-style-type: none"> 1. Promotional trips to promote Hong Kong's legal system/ the Rule of Law/ legal and dispute resolution services of Hong Kong*; 2. Accompanying SJ on his duty visits*; 3. Attending various seminars*

Date of visits	Places of visits	Nature and Purposes of visits
2014-15 (15 times)	Beijing, Chongqing, Chengdu, Guangzhou, Jinan, Weifang, Qingdao, Shenzhen, Shanghai	<ol style="list-style-type: none"> 1. Organising the biennial Hong Kong Legal Services Forum with various local legal professional and arbitration bodies*; 2. Promotional trips to promote Hong Kong's legal system/ the Rule of Law/ legal and dispute resolution services of Hong Kong*; 3. Attending meetings and activities related to CEPA*; 4. Accompanying SJ on his duty visits*; 5. Joining delegations of various Government bureaux and departments to advise on incidental legal issues as required from time to time. 6. Attending various seminars*

By their nature, visits made for the purpose of the biennial Hong Kong Legal Services Forum, promotional trips and attendance at seminars would not involve sensitive information. For the other types of visits, the substance of the exchanges (and hence whether sensitive information was involved) would differ, depending on the issues discussed.

Generally speaking, in respect of issues discussed under the purview of DoJ, we would report to the Administration of Justice and Legal Services Panel of the Legislative Council any new initiatives / measures arising from such visits to the Mainland, either in the context of the annual report on the department's Policy Initiatives presented to the Panel, or as separate submission(s) to it.

Insofar as advices given to Government bureaux and departments on legal issues as required from time to time, their nature and contents are covered by legal professional privileges and/or (in appropriate cases) public interest immunity.

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CONTROLLING OFFICER'S REPLY

S-SJ02

(Question Serial No. S0018)

Head: (92) Department of Justice

Subhead (No. & title): (000) Operational expenses

Programme: (2) Civil

Controlling Officer: Director of Administration and Development (Cheuk Wing Hing)

Director of Bureau: Secretary for Justice

Question:

Pursuant to reply no. SJ028, would the Department of Justice (DoJ) answer the following questions:

(1) Further to the information provided by the DoJ in its reply, please provide the nature of those civil litigation cases (e.g. personal injury, mental impairment, false imprisonment, etc.), and their breakdowns by year and by the outcome of proceedings.

(2) Regarding those civil litigation cases, were there any complaints lodged to the Complaints Against Police Office (CAPO) or criminal prosecutions brought against the police officers involved for their acts in the cases? If yes, what are the breakdowns of those cases by year? Please provide the summary, the outcome of the complaints to the CAPO and the outcome of the criminal prosecutions concerning those cases.

Asked by: Hon LEUNG Kenneth (Member Question No.)

Reply:

The information sought is provided as follows :

- (1) According to our records, the nature of civil claims for damages brought against police officers during the years in question included traffic accidents, personal injuries, wrongful detention and miscellaneous claims (such as claims for loss of or damage to properties). The breakdowns by year and by the outcome of proceedings are provided in Annex.
- (2) For the civil litigation cases in question, we do not keep records on those cases by reference to whether there are any complaints lodged to the CAPO, any criminal prosecutions brought against the police officers and the outcome of any such complaints or criminal prosecutions.

- End -

Breakdown on Civil Claims for Damages Against Police officers for the financial years
from 2010/2011 to 2014/2015 (as at 28.2.15)

2010/2011

Subject Nature	Win	Lose	Settled	Pending	Total
Traffic Accidents Claims	3	0	45	2	50
Personal Injuries Claims	0	0	6	1	7
Wrongful Detention Claims	1	0	3	4	8
Miscellaneous Claims	12	2	9	4	27
Total	16	2	63	11	92

2011/2012

Subject Nature	Win	Lose	Settled	Pending	Total
Traffic Accidents Claims	1	0	35	4	40
Personal Injuries Claims	2	0	6	1	9
Wrongful Detention Claims	0	0	0	0	0
Miscellaneous Claims	20	0	7	6	33
Total	23	0	48	11	82

2012/2013

Subject Nature	Win	Lose	Settled	Pending	Total
Traffic Accidents Claims	0	0	25	4	29
Personal Injuries Claims	1	0	3	2	6
Wrongful Detention Claims	1	0	1	2	4
Miscellaneous Claims	20	1	6	5	32
Total	22	1	35	13	71

2013/2014

Subject Nature	Win	Lose	Settled	Pending	Total
Traffic Accidents Claims	2	1	29	12	44

Personal Injuries Claims	2	0	5	3	10
Wrongful Detention Claims	0	0	0	1	1
Miscellaneous Claims	12	0	3	9	24
Total	16	1	37	25	79

2014/2015 (as at 28.2.2015)

Subject Nature	Win	Lose	Settled	Pending	Total
Traffic Accidents Claims	1	0	8	30	39
Personal Injuries Claims	0	1	1	22	24
Wrongful Detention Claims	0	0	0	0	0
Miscellaneous Claims	15	1	10	19	45
Total	16	2	19	71	108

CONTROLLING OFFICER'S REPLY

S-SJ03

(Question Serial No. S0019)

Head: (92) Department of Justice

Subhead (No. & title): (000) Operational expenses

Programme: (2) Civil

Controlling Officer: Director of Administration and Development (Cheuk Wing Hing)

Director of Bureau: Secretary for Justice

Question:

Pursuant to reply no. SJ028, would the Department of Justice (DoJ) answer the following question:

Over half of the cases where the DoJ represented the Commissioner of Police or police officers in civil claims for damages against them were settled each year in the past 5 years. What are the principles and considerations guiding the DoJ in its decisions of settling cases? Among the cases settled each year, how many were made with an “undertaking of confidentiality” as a condition as imposed by the DoJ?

Asked by: Hon LEUNG Kenneth (Member Question No.)

Reply:

In general, whether or not a claim for damages against the Government should be settled out of court depends on the merits of each case, having regard to the available evidence, legal arguments, costs implications and any other relevant considerations. Of the cases settled in each of the years in question, we have not kept statistics on the number of cases that were settled with an “undertaking of confidentiality” imposed by DoJ as a condition.

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CONTROLLING OFFICER'S REPLY

S-SJ04

(Question Serial No. S0014)

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (-) Not Specified

Controlling Officer: Director of Administration and Development (Cheuk Wing Hing)

Director of Bureau: Secretary for Justice

Question:

Please provide details of the cases involving charge(s) of “obtaining access to a computer with criminal or dishonest intent”, contrary to section 161 of the Crimes Ordinance (Cap. 200, Laws of Hong Kong) in the past 3 years, including the case numbers, other charge(s) in the same case, sentencing outcome and appeal outcome.

Asked by: Hon MOK Charles Peter (Member Question No.)

Reply:

The Prosecutions Division’s current record keeping system (and the fiat counsel briefing out system) is such that no comprehensive data is kept to fully provide the information sought. In particular, for cases handled by in-house counsel or by counsel on fiat in lieu at all levels of first instance court (including cases involving charge(s) contrary to section 161 of Cap. 200), some data is kept but it does not sufficiently cover the information required to fully address the question. There were also cases handled by Court Prosecutors (or fiat counsel in place of them), being cases relatively less serious in nature and tried in Magistrates’ Courts, that are not captured by our information system. Accordingly, any “general picture” presented by the information we keep may be incomplete or inaccurate. Further, case files were returned to the relevant law enforcement agencies upon completion of the relevant proceedings. For cases that are captured by our information system, working files are kept but considerable time would be required to locate each of them to retrieve the charge sheets/ brief facts of the cases and to ascertain whether the requested information might be available (but even if it is, and as has been explained above, the information contained may be incomplete).

For the above reasons, we are only able to provide, on information presently available to this Department, the statistics below regarding the cases involving a charge(s) of “obtaining access to a computer with criminal or dishonest intent”, contrary to section 161 of the Crimes Ordinance (Cap. 200) :

Year	Number of prosecution cases	Number of convicted cases
2011	34	32
2012	39	32
2013	55	50
2014 (January – September)	57	52

Note: The above figures are compiled from cases concluded (instead of merely prosecuted) in the year.

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CONTROLLING OFFICER'S REPLY

S-SJ05

(Question Serial No. S0015)

Head: (92) Department of Justice
Subhead (No. & title): (-) Not Specified
Programme: (-) Not Specified
Controlling Officer: Director of Administration and Development (Cheuk Wing Hing)
Director of Bureau: Secretary for Justice

Question:

Regarding the cases mentioned in the first part of the Question (S0014) in which trials have been concluded, please provide the contents of the charge sheets and the brief facts of them with the personal data deleted or redacted.

Asked by: Hon MOK Charles Peter (Member Question No.)

Reply:

As explained in our reply to question S0014, we only maintain limited information on cases that were handled by counsel (in-house or on fiat in lieu), including cases involving charge(s) contrary to section 161 of the Crimes Ordinance (Cap. 200). Moreover, considerable time would be required to locate the working files to retrieve the charge sheets / brief facts of such cases insofar as they are captured by our information system. Therefore, depending on what actually happened in court (which may not be readily ascertainable from information in the files), notwithstanding that the contents or some specific information contained in these documents might already have been revealed in open court in some cases, we are not able to provide the contents of the relevant charge sheets / brief facts of the cases as sought in this question. Such contents in any event cannot reflect the true and full picture of cases involving s.161 of Cap.200.

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