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Replies to initial written questions raised by Finance Committee Members in examining the Estimates of Expenditure 2013-14

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Replies to initial written questions raised by Finance Committee Members in examining the Estimates of Expenditure 2013-14

Director of Bureau : Secretary for Justice
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Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ001

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
0369

Head: 92 Department of Justice Subhead (No. & title): (-) Not Specified

Programme: (2) Civil

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

The estimated financial provision for civil matters of the Department of Justice for 2013-14 amounts to $610 million, representing a substantial increase of 17% over the revised estimated provision for 2012-13. What are the reasons for the substantial increase? What are the major areas of expenditure in respect of the additional provision?

Asked by: Hon. TAM Yiu-chung

Reply:

The estimated financial provision for Civil Division (CD) of the Department of Justice for 2013-14 is $88.5 million (17.0%) higher than the revised estimate for 2012–13. This is mainly due to the expected filling of vacancies, creation of ten posts to meet operational needs, and anticipated increase in court costs and general departmental expenses.

The work of the CD involves providing legal advice to the Government on civil matters, undertaking civil litigation and drafting contracts on commercial and other matters. In recent years, there has been an increase in the caseload and the diversity and complexity of work in the Division. To properly cope with the increasing caseload and complexity of work, the following ten new posts will be created under this programme in 2013-14 –

- 2 Government Counsel and 1 Law Clerk
- 1 Deputy Principal Government Counsel, 1 Senior Government Counsel (SGC) and 1 Personal Secretary I (time-limited posts for two years)
- 2 SGC (time-limited posts for three years)
- 1 Executive Officer I and 1 Clerical Officer

For court costs expenses in the CD, the estimated expenditure in 2013-14 represents an increase of about $60 million (100%) over the 2012-13 revised estimates. The increase is mainly due to the payment in respect of some cases which will be rolled over from 2012-13 to 2013-14 having regard to the development of the cases concerned as well as the amount likely to be required for new cases that may require payment of court costs.

The expenditure on court costs varies from year to year, depending on the number of cases which require payment of court costs, their complexity and development of the cases. The estimates are worked out on the basis of the information on the progress of the cases available at the time of preparing the estimates. The general increase in counsel fees as well as the increase in complexity and number of cases over the years also contribute to the expected increase in expenditure for court costs. That said, the actual expenditure in this regard for 2013-14 would ultimately depend on the actual development and outcome of the cases concerned (which are not entirely within the control of the Administration).

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ002

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
0370

Head: 92 Department of Justice Subhead (No. & title): (-) Not Specified

Programme: (2) Civil

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

As there are significant rising trends in the Administration's estimated numbers of new proceedings brought by and against the Government in 2013 as compared with that in 2012, what are the Administration's estimated expenditures for court costs and briefing-out expenses in 2013-14? What are the rates of increase over 2012-13 for these two items? What are the reasons for their increases in expenditure?

Asked by: Hon. TAM Yiu-chung

Reply:

The expenditure for court costs and briefing-out expenses in the Civil Division in 2013-14 are estimated to be $120 million (representing an increase of about 100% over that in the 2012-13 revised estimates) and $189 million (which is more or less the same as that in the 2012-13 revised estimates) respectively.

The expenditure on court costs and briefing-out varies from year to year, depending on the number of cases involved, their complexity and development of the cases. The expected increase in court costs is mainly due to the payment in respect of some cases which will be rolled over from 2012-13 to 2013-14 having regard to the development of the cases concerned and also the amount likely to be required for new cases that may require payment of court costs. The general increase in counsel fees as well as the increase in complexity and number of cases over the years also contribute to the expected increase in expenditure for court costs. The provision for briefing-out expenses to be incurred in 2013-14 is expected to be more or less the same as that of the 2012-13 revised estimates.

As the estimates are worked out on the basis of the information on the progress of the cases available at the time of preparing the estimates, the actual expenditure in this regard for 2013-14 would ultimately depend on the actual development and outcome of the cases concerned (which are not entirely within the control of the Administration).

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ003

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
0371

Head: 92 Department of Justice Subhead (No. & title): (-) Not Specified

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

In 2013-14, what are the specific plans for promoting the use of arbitration and mediation in Hong Kong and taking forward the proposals for reform of arbitration law? What is the estimated expenditure? Will the Administration consider sponsoring relevant professional bodies to take forward the work in this area?

Asked by: Hon. TAM Yiu-chung

Reply:

One of the on-going policy objectives of the Department of Justice (DoJ) is to develop Hong Kong into a regional centre for legal services and dispute resolution. This policy is also affirmed in the latest Policy Address. Efforts will be made both within and outside Hong Kong to implement this policy.

To help promote this, the Secretary for Justice and DoJ officials have participated in various seminars organized by professional bodies and arbitration institutions including Hong Kong International Arbitration Centre (HKIAC), the Law Society of Hong Kong and the Hong Kong Bar Association. They will continue to do so on suitable occasions so as to promote Hong Kong's legal and dispute resolution services.

In September 2012, the China International Economic and Trade Arbitration Commission (CIETAC) established its first branch outside the Mainland in Hong Kong. The CIETAC Hong Kong Arbitration Center commenced operation in December 2012. The presence of the CIETAC Hong Kong Arbitration Center will further enhance Hong Kong's position as a leading centre for international arbitration in Asia-Pacific.

In October 2012, the HKIAC formally opened its newly expanded premises which included substantial additional office space made available by the Government to enhance its hearing capacity. This will help attract more parties to choose Hong Kong as the venue for arbitration.

In 2013-14, DoJ will continue to work closely with the HKIAC, the International Court of Arbitration of the International Chamber of Commerce (ICC/ICA), the CIETAC Hong Kong Arbitration Center, and other relevant stakeholders in Hong Kong and overseas to promote the use of arbitration as an alternative means of dispute resolution.

Following the Government's recent decision to allocate part of the space in the West Wing of the former Central Government Offices to house law-related non-government institutions (including arbitration and mediation institutions), the DoJ will work out the arrangements for taking this forward. The aim is to attract reputable overseas arbitration and other law-related organizations to set up offices in Hong Kong to enhance Hong Kong's status in this regard.

DoJ will also explore other opportunities to further promote Hong Kong's legal and dispute resolution services in the Mainland. Following the success of the first and second Hong Kong Legal Services Forum held in 2010 and 2012, DoJ plans to organize the next Forum in 2014 in the Mainland to promote Hong Kong's position as a regional centre for legal services and dispute resolution. Further, DoJ and the Hong Kong Economic and Trade Office in Guangdong will jointly hold a seminar during the Fujian Xiamen Hong Kong Week 2013 in late April 2013.

On 7 January 2013, DoJ concluded with Macao an Arrangement Concerning Reciprocal Recognition and Enforcement of Arbitral Awards ("the Arrangement"). DoJ is also canvassing the possibility of concluding a similar arrangement with Taiwan.

To implement the Arrangement with Macao, a bill to amend the Arbitration Ordinance will be introduced into the Legislative Council in 2013. To further improve the arbitration regime in Hong Kong, other miscellaneous amendments as proposed by the arbitration sector will also be included in the bill.

The staff cost and other related expenses for promoting the use of arbitration will be absorbed from within the existing resources of the Department and the estimated expenditure in this regard cannot be quantified.

Mediation

In respect of mediation, the Secretary for Justice has established a new Steering Committee on Mediation (Steering Committee) in November 2012 to continue with the efforts to foster the development and promotion of mediation in Hong Kong. The Steering Committee is supported by three Sub-committees, namely the Regulatory Framework Sub-committee, the Accreditation Sub-committee and the Public Education and Publicity Sub-committee. The key emphasis of the work of the Steering Committee and the three Sub-committees is on the monitoring of the operation of the Mediation Ordinance (Cap. 620), monitoring the accreditation and training of mediators, and implementing ongoing and new publicity initiatives. DoJ will provide secretarial and research support to the Steering Committee and its three Sub-committees and be involved in the promotion and development of mediation in Hong Kong to resolve disputes as it has been so involved over the years. The Steering Committee with its members from different sectors and professions will help to coordinate efforts and resources in facilitating the work on promoting mediation.

The Department will also continue with its efforts to promote the wider use of mediation within the Government. Seminars and training courses will be organised as appropriate for Government bureaux/departments to encourage the more proactive use of mediation to resolve disputes.

The work mentioned above will be coordinated by a team comprising one Deputy Principal Government Counsel, one Senior Government Counsel and one Personal Secretary I at a cost of $3,165,000 in 2013-14. The other administrative expenditure will be absorbed within the existing resources of the Department.

In deliberating on plans to promote mediation, the Steering Committee will consider how the relevant professional bodies and stakeholders may be involved and provide their input in taking forward the work in this area.

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ004

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
0372

Head: 92 Department of Justice Subhead (No. & title): (-) Not Specified

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

In 2013-14, what are the specific plans for exploring with the Mainland authorities further opportunities for the legal profession to provide services in the Mainland? What is the estimated expenditure?

Asked by: Hon. TAM Yiu-chung

Reply:

The Department of Justice (DoJ) has been working closely with the Mainland authorities, the Law Society of Hong Kong, the Hong Kong Bar Association and other parties in promoting Hong Kong's legal services in the Mainland. Pursuant to the Framework Agreement on Hong Kong/Guangdong Co-operation, DoJ will continue to work with the Guangdong side to facilitate exchange of legal information and support the legal profession of both sides to deepen their professional co-operation. DoJ also maintains close contact with the Mainland authorities and the Hong Kong legal and arbitration professions to identify possible pilot measures to facilitate Hong Kong services suppliers to provide services in Guangdong, including the new development areas of Qianhai and Nansha (the specific measures of which are set out in the papers submitted by the DoJ for the meeting of the Panel on Administration of Justice and Legal Services on 26 March 2013).

The first and second Hong Kong Legal Services Forum, held respectively in Shanghai in July 2010 and in Guangzhou in September 2012, were both well attended and received. The two events were co-sponsored by the Law Society, the Bar Association, the Hong Kong International Arbitration Centre (HKIAC), the International Court of Arbitration of the International Chamber of Commerce (Asia Office) (ICC/ICA) and the Hong Kong Trade Development Council. Following the success of the Forum, DoJ plans to organize the third Forum in 2014 to promote Hong Kong's legal and arbitration services as well as its strengths in dispute resolution in Asia Pacific to enterprises and service users in other parts of the Mainland.

In addition, DoJ and the Hong Kong Economic and Trade Office in Guangdong will jointly hold a seminar to promote Hong Kong's legal and arbitration services in the Mainland during the Fujian Xiamen Hong Kong Week 2013 in late April 2013. The Bar Association, the Law Society, the HKIAC, the ICC/ICA and the China International Economic and Trade Arbitration Commission Hong Kong Arbitration Center will be participating organizations of the seminar. The Secretary for Justice and various experienced practitioners will speak in the seminar on how Hong Kong's legal

and arbitration sectors could help Mainland enterprises meet challenges in international trade and dispute resolution.

As regards the Mainland and Hong Kong Closer Economic Partnership Arrangement (CEPA), DoJ will continue to monitor the implementation of liberalization measures for the legal profession and seek the profession's views on ways to strengthen its presence in the Mainland legal services market. We will engage the Mainland authorities as and when appropriate to discuss the legal professions' liberalization proposals and opinions on implementation of various liberalization measures under CEPA and to identify necessary improvement measures.

Under Supplement IX to CEPA signed on 29 June 2012, a new measure has been introduced, namely "Hong Kong law firms (offices) that have set up representatives offices in the Mainland are allowed to operate in association with one to three Mainland law firms". The new measure has taken effect from 1 January 2013. The legal profession has a keen interest in exploring the feasibility of further improving the mode of association between the law firms of both sides. DoJ will closely monitor the development on legal cooperation with the Mainland, including the pilot implementation of the proposal to allow the association of law firms of both sides in the form of partnership in Qianhai and Nansha.

The staff cost and other related expenses for taking part in these activities and events will be absorbed from within the existing resources of DoJ and the estimated expenditure in this regard cannot be quantified.

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ005

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
0392

Head: 92 Department of Justice Subhead (No. & title): (-) Not Specified

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

1. While prosecutors have to act in a fair and objective manner when prosecuting in courts and it is wrong to strive to secure a conviction at all costs, with the conviction rates at the Magistrates' Court, the District Court, and the Court of First Instance continue to drop in 2011 and 2012, will the Department of Justice review if it is related to the standards of advocacy of Government Counsel and allocate more resources for training so as to enhance the advocacy capability of the Prosecutions Division?

2. Please describe the main post titles, duties and responsibilities of the 12 posts to be created with the increased provision for 2013-14.

Asked by: Hon. TAM Yiu-chung

Reply:

As the prosecution authority, our objective is to see that appropriate cases are presented to the court. Prosecutions are, in accordance with the guidelines set out in the Statement of Prosecution Policy and Practice, pursued only if there is a reasonable prospect of conviction and that it is in the public interest to prosecute. Once it is decided that prosecution should be pursued, then it is the duty of prosecutors to prosecute vigorously in courts but yet to act in a fair and objective manner. The question of guilt or innocence is a matter for the court to decide, which is satisfied on a higher standard of "beyond reasonable doubt". Hence conviction rates in criminal cases are not and should not be taken as performance indicators.

As noted from the conviction rates for the three court levels in the past five years as set out below, the success rate of prosecutions (including defendants convicted after trial and defendants convicted on their own pleas) has remained relatively steady. The conviction rates reveal that the high standard of performance of our prosecutors is being maintained.

	2008	**2009**	**2010**	**2011**	**2012**
Magistrates' Court					
- defendants convicted after trial (%)	**53.9**	**53.4**	**51.6**	**51.5**	**47.6**
- defendants convicted after trial and defendants convicted on their own pleas (%)	**73.2**	**74.7**	**73.8**	**74.4**	**73.3**
District Court					
- defendants convicted after trial (%)	**73.3**	**69.2**	**75.3**	**68.6**	**60.2**
- defendants convicted after trial and defendants convicted on their own pleas (%)	**92.6**	**92.3**	**93.7**	**92.8**	**91.4**

	2008	2009	2010	2011	2012
Court of First Instance					
- defendants convicted after trial (%)	**79.3**	**65.3**	**71.7**	**72.0**	**69.6**
- defendants convicted after trial and defendants convicted on their own pleas (%)	**94.8**	**91.7**	**93.8**	**93.3**	**91.6**

Notwithstanding the above, we have always placed emphasis on the training (including advocacy training) for our prosecutors. Continuous training is provided, including the arrangement of a year-long series of structured seminars on criminal law and practice as well as additional seminars on such topics of relevance to the work of our prosecutors. Moreover, we have updated the materials for the Criminal Advocacy Course and published an updated version of the Course Manual for the handy reference for all our prosecutors.

It should also be noted that a significant number of cases in the magistracies are prosecuted by private lawyers on fiat. To further enhance the quality of the prosecution service, apart from providing training to our in-house prosecutors, we also jointly organise a training programme with the Hong Kong Bar Association and Law Society of Hong Kong to better equip newly qualified lawyers for prosecutorial work at the magistracy level. These training courses enhance the professional standard of the junior members of the legal profession and the quality of the prosecution service overall.

Details of the 12 posts to be created in the Prosecutions Division in 2013-14 are listed below –

Rank	Main duties
Four Senior Government Counsel posts (time-limited)	- One post for handling requests for legal advice arising from the setting up of the Sales of First-hand Residential Properties Authority to implement the Residential Properties (First-hand Sales) Ordinance (for 3 years) - Two posts for strengthening legal professional support to cope with the anticipated workload arising from the implementation of the Trade Descriptions (Unfair Trade Practices)(Amendment) Ordinance (for 3 years) - One post for handling the substantial corruption case ESCC 2530/2012 (HKSAR v HUI Rafael Junior and four others) (for 4.5 years)
One Government Counsel post (time-limited)	- Handling the substantial corruption case ESCC 2530/2012 (HKSAR v HUI Rafael Junior and four others) (for 4.5 years)
One Senior Executive Officer post	- Strengthening executive/clerical support to cope with increasing volume and complexity of work
One Executive Officer I post	
One Confidential Assistant post	
Two Assistant Clerical Officer posts	
Two Clerical Assistant posts	

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ006

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
0518

Head: 92 Department of Justice Subhead (No. & title): 000 Operational expenses

Programme: (-) Not Specified

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

Regarding the departmental records management work over the past three years (2010-11, 2011-12, 2012-13):

1. Please provide information on the number and rank of officers designated to perform such work. If there is no officer designated for such work, please provide information on the number of officers and the hours of work involved in records management duties, and the other duties they have to undertake in addition to records management;

2. Please list in the table below information on programme and administrative records which have been closed pending transfer to the Government Records Service (GRS) for appraisal:

Category of records	Years covered by the records	Number and linear meters of records	Retention period approved by GRS	Are they confidential documents

3. Please list in the table below information on programme and administrative records which have been transferred to GRS for retention:

Category of records	Years covered by the records	Number and linear metres of records	Years that the records were transferred to GRS	Retention period approved by GRS	Are they confidential documents

4. Please list in the table below information on records which have been approved for destruction by GRS:

Category of records	Years covered by the records	Number and linear metres of records	Years that the records were transferred to GRS	Retention period approved by GRS	Are they confidential documents

Asked by: Hon. Ho Sau-lan, Cyd

Reply:

1. In view of the considerable volume of work involved in managing departmental records, staff of individual divisions would handle the work in respect of their respective records. These include staff of some departmental grades and also general grades such as Executive Officer and clerical grades staff and personal secretaries. Since this forms part of their work and no statistics have been kept on the amount of time they spent on the work, it is difficult to quantify the hours of work performed by these officers in such duties and provide a detailed breakdown.

2. The information on programme and administrative records which have been closed pending transfer to the Government Records Service (GRS) for appraisal over the past three years (2010-11, 2011-12, 2012-13) is set out below:

Category of records	Years covered by the records	Number and linear meters of records	Retention period approved by GRS	Are they confidential documents
Administrative records	1990 - 2013	901 nos. (45.15 lm)	2 – 7 years	133 (6.1 lm) out of 901 records (45.15 lm) are classified confidential
Programme records	1984 - 2013	25 840 nos. (1 481.1 lm)	3 – 30 years	1 245 (214.25 lm) out of 25 840 records (1 481.1 lm) are classified confidential

3. As regards the information on programme and administrative records which have been transferred to GRS for retention over the past three years (2010-11, 2011-12, 2012-13), we have sent about 43 administrative records (2.51 lm) and 7 855 programme records (about 242.33 lm) to GRS for appraisal during these three years. Subject to GRS' appraisal, we will transfer these records to GRS for retention. In the circumstance, we are not able to provide information as per the suggested table format.

4. The information on records which have been approved for destruction by GRS over the past three years (2010-11, 2011-12, 2012-13) is set out below :

Category of records	Years covered by the records	Number and linear metres of records	Years that the records were transferred to GRS	Retention period approved by GRS	Are they confidential documents
Administrative records	1950-2011	10 446 nos. (95.78 lm)	Not applicable	2 – 7 years	No
Programme records	1961-2004	1 564 nos. (78.16 lm)	Not applicable	7 years	No

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ007

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
0652

Head: 92 Department of Justice Subhead (No. & title): 000 Operational expenses

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

Would the Secretary inform us in the table below:

Year	Number of persons prosecuted	Number of persons involved in current proceedings and not yet convicted	Number of persons convicted
2004			
2005			
2006			
2007			
2008			
2009			
2010			
2011			
2012			
2013			

(1) the number of persons prosecuted, the number of persons involved in current proceedings and not yet convicted and the number of persons convicted for offences under the Public Order Ordinance since 2004;

(2) the number of persons prosecuted, the number of persons involved in current proceedings and not yet convicted and the number of persons convicted for the offences of "taking part in an unauthorized assembly" or "organizing or assisting in an unauthorized assembly" under section 17 of the Public Order Ordinance since 2004;

(3) the number of persons prosecuted, the number of persons involved in current proceedings and not yet convicted and the number of persons convicted for the offence of "unlawful assembly" under section 18 of the Public Order Ordinance since 2004;

(4) the number of persons prosecuted, the number of persons involved in current proceedings and not yet convicted and the number of persons convicted for offences under section 63 of the Police Force Ordinance since 2004;

(5) the number of persons involved in current proceedings and not yet convicted for offences under section 36(b) of the Offences Against the Person Ordinance since 2004;

(6) the expenditures incurred by the Department of Justice in each of the past 5 years (since 2009) in respect of the aforesaid prosecutions?

Asked by: Hon. LEUNG Kwok-hung

Reply:

Taking into account the availability of information kept by the Administration, we provide below the statistics regarding prosecutions and convictions in respect of the offences in question -

(1) The Public Order Ordinance (POO) in general

Year[1]	No. of persons prosecuted[1]	No. of persons with proceedings ongoing and not yet convicted	No. of persons convicted[3]
2004	1 213	Figures not available[2]	650
2005	1 283		637
2006	1 231		589
2007	1 386		688
2008	1 423		659
2009	1 106		504
2010	1 130		473
2011	1 090		432
2012 (up to September)	855		366

Footnotes :

1 The Administration only keeps figures when a case is concluded, and the respective year of the figures represents the year in which the trial was concluded. As some trials might take longer time, the year in which people concerned were prosecuted may be different from the year in which the trial was concluded.

2 The Administration only keeps figures when a case is concluded, hence, statistics on the number of persons with proceedings ongoing and not yet convicted are not available. The time that it takes for proceedings to complete is a matter for the court.

3 The number does not include cases where the prosecutions decided to allow the defendant to bind over and not securing a conviction. In such cases, the defendants still have to admit the facts of the case and of their wrongdoing in open court and give an undertaking to the court to be of good behavior or to keep the peace for a specific period.

(2) Section 17A of the POO (offences in relation to sections 6, 7, 8, 9, 11, 13, 13A, 14, 15 and 17 of the POO) (breakdown of cases involving offences under section 17 of the POO only is not available)

Year	No. of persons prosecuted[1]	No. of persons with proceedings ongoing and not yet convicted	No. of persons convicted[3]
2004	0	Figures not available[2]	0
2005	7		0
2006	3		2
2007	0		0
2008	0		0
2009	0		0
2010	0		0
2011	0		0
2012 (up to September)	13		8

See footnotes under the table of item (1)

(3) Section 18 of the POO (unlawful assembly)

Year	No. of persons prosecuted[1]	No. of persons with proceedings ongoing and not yet convicted	No. of persons convicted[3, *]
2004	52	Figures not available[2]	11
2005	65		13
2006	83		3
2007	55		20
2008	89		47
2009	45		19
2010	93		12
2011	30		18
2012 (up to September)	100		30

See footnotes under the table of item (1)

* The figures do not take into account defendants dealt with by other means, for example –

- the prosecutions allowing the defendant to bind over and not securing a conviction; and
- the prosecutions have resulted in the convictions in other serious offences instead (mainly in respect of triad-related cases).

(4) Section 63 of the Police Force Ordinance (assaulting / misleading police officers)

Year	No. of persons prosecuted[1]	No. of persons with proceedings ongoing and not yet convicted	No. of persons convicted[3]
2004	139	Figures not available[2]	123
2005	168		141
2006	181		159
2007	231		209
2008	160		137
2009	131		119
2010	192		172
2011	302		279
2012 (up to September)	254		211

See footnotes under the table of item (1)

(5) Section 36(b) of the Offences Against the Persons Ordinance (assaulting, resisting, or wilfully obstructing any police officer in the due execution of his duty)

Year	No. of persons prosecuted[1]	No. of persons with proceedings ongoing and not yet convicted	No. of persons convicted[3]
2004	342	Figures not available[2]	278
2005	367		293
2006	266		215
2007	271		233
2008	288		217
2009	246		205
2010	164		126
2011	35		33
2012 (up to September)	40		33

See footnotes under the table of item (1)

(6) We have not maintained information regarding the time spent by officers in dealing with each prosecution case and hence the expenditure on the above cases cannot be quantified.

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ008

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
1366

Head: 92 Department of Justice

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

Programme: (2) Civil

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

Regarding the Mediation Ordinance that came into effect on 1 January 2013, how will the Administration promote the development of mediation in Hong Kong and what specific measures will be taken? What is the estimated expenditure involved in 2013-14?

Asked by: Hon. HO Chun-yan, Albert

Reply:

The Secretary for Justice has established a new Steering Committee on Mediation (Steering Committee) in November 2012 to continue with the efforts to foster the development and promotion of mediation in Hong Kong. The Steering Committee is supported by three Sub-committees, namely the Regulatory Framework Sub-committee, the Accreditation Sub-committee and the Public Education and Publicity Sub-committee. The key emphasis of the work of the Steering Committee and the three Sub-committees is on the monitoring of the operation of the Mediation Ordinance (Cap. 620), monitoring the accreditation and training of mediators, and implementing ongoing and new publicity initiatives. The Department of Justice will provide secretarial and research support to the Steering Committee and its three Sub-committees and be involved in the promotion and development of mediation in Hong Kong to resolve disputes as it has been so involved over the years. The Steering Committee with its members from different sectors and professions will help to coordinate efforts and resources in facilitating the work on promoting mediation.

The Department will also continue with its efforts to promote the wider use of mediation within the Government. Seminars and training courses will be organised as appropriate for Government bureaux/departments to encourage the more proactive use of mediation to resolve disputes.

The work mentioned above will be coordinated by a team comprising one Deputy Principal Government Counsel, one Senior Government Counsel and one Personal Secretary I at a cost of $3,165,000 in 2013-14. The other administrative expenditure will be absorbed within the existing resources of the Department.

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ009

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
1367

Head: 92 Department of Justice Subhead (No. & title): (-) Not Specified

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

Please provide the following information in respect of prosecutions work:

(a) The establishment, actual manpower and expenditure of the Prosecutions Division in 2012-13.

(b) The number of cases conducted by Government Counsel and by Counsel instructed to prosecute in different levels of court in 2012-13.

Asked by: Hon. HO Chun-yan, Albert

Reply:

(a) The establishment and strength of the Prosecutions Division as at 1 March 2013 are as follows -

Grades	**Establishment**	**Strength**
Government Counsel	130	120
Para-Legal	135	119
Executive, Clerical and Secretarial	206	194
Total	471	433

The estimated expenditure of the Prosecutions Division for 2012-13 is $544.6 million.

(b) The number of cases conducted by Government Counsel and by Counsel instructed to prosecute in different levels of court in 2012-13* is set out below:

No. of cases conducted		**2012- 2013***	
		Government Counsel	**Counsel instructed to prosecute**
Appeal Court	Court of Final Appeal	79	10
	Court of Appeal	466	13
	Magistracy Appeal	658	2
Court of First Instance		400	163
District Court		841	349
Magistracy		417	260
Death Inquests		43	0
Total		2 904	797

*latest figure up to January 2013

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ010

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
1475

Head: 92 Department of Justice Subhead (No. & title): (-) Not Specified

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

Please advise this Committee of the expenditure for briefing out cases in the Magistrates' Courts to members of the bar and solicitors in private practice in 2011-12, the expenditure for briefing out cases in the Magistrates' Courts to members of the bar and solicitors in private practice in 2012-13, the reasons for the change in expenditure and the impact of the change in the number of briefing out cases on the overall expenditure in terms of cost effectiveness.

Asked by: Hon. IP LAU Suk-yee, Regina

Reply:

The expenditure for briefing out cases in the Magistrates' Courts to fiat counsel (including members of the bar and solicitors) in private practice in 2011-12 and 2012-13 (figure up to January 2013) are $23.85 million and $26.59 million respectively. The increase was mainly due to an increase in the daily rate for briefing out to fiat counsel (from HK $5,880 to HK $5,970 per day) and the increase in the number of court days briefed out to fiat counsel in view of the vacancy situation in the Court Prosecutor (CP) Grade during the period.

Notwithstanding the increase in the number of cases in the Magistrates' Courts briefed out to fiat counsel, the bulk of the cases in the Magistrates' Courts are handled by CPs, with CPs constantly undertaking 70-80% of the number of court days while the fiat counsel in place of CPs undertook about 20-30% over the years. Hence, the impact of the change in the number of briefing out cases on the overall expenditure in terms of cost effectiveness is not significant.

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ011

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
1756

Head: 92 Department of Justice Subhead (No. & title): (-) Not Specified

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

Regarding the two sub-committees under the Law Reform Committee for looking into archives law and access to information respectively, what are the details of their future work and expenditure for support services? Will manpower and resources be earmarked by the Department of Justice for preliminary work of the enactment of the archives law and the freedom of information law? If yes, what are the details? If not, what are the reasons?

Asked by: Hon. MO, Claudia

Reply:

The Law Reform Commission (LRC) will establish two sub-committees in the second quarter of 2013 to consider the issues of archives law and access to information respectively. The sub-committees will review the current regimes or laws, and will embark upon a comparative study of the situation in other jurisdictions, for the purposes of considering whether reforms are needed and if so, make such recommendations as appropriate.

In accordance with the usual practice, the Department of Justice (DoJ) will provide secretariat and research support to the two sub-committees of LRC. The staff cost and other related expenses for the two sub-committees will be absorbed from within the existing resources of DoJ and the estimated expenditure in this regard cannot be quantified.

After the two sub-committees have completed their studies, LRC will publish consultation papers to seek the public's views on the preliminary conclusions and recommendations of the two sub-committees. Following the consultation process, LRC will issue final reports. The DoJ will advise and provide assistance to the relevant Bureaux in their consideration of the recommendations in the LRC Reports. There is no current plan to earmark additional manpower and resources for these two LRC studies.

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ012

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
2266

Head: 92 Department of Justice Subhead (No. & title): 000 Operational expenses

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

The estimated expenditure for 2013-14 is 13.0% higher than the original estimate for 2012-13 due to the creation of 12 posts to meet operational needs. What are the reasons? What are the respective rank and salary of these posts?

Asked by: Hon. LIAO Cheung-kong, Martin

Reply:

The details of the 12 posts to be created in Prosecutions Division in 2013-14 are set out below:

Rank	Main duties	NAMS*
Four Senior Government Counsel posts (time-limited)	- One post for handling requests for legal advice arising from the setting up of the Sales of First-hand Residential Properties Authority to implement the Residential Properties (First-hand Sales) Ordinance (for 3 years) - Two posts for strengthening legal professional support to cope with the anticipated workload arising from the implementation of the Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance (for 3 years) - One post for handling the substantial corruption case ESCC 2530/2012 (HKSAR v HUI Rafael Junior and four others) (for 4.5 years)	$1,125,120 x 4 = $4,500,480
One Government Counsel post (time-limited)	- Handling the substantial corruption case ESCC 2530/2012 (HKSAR v HUI Rafael Junior and four others) (for 4.5 years)	$824,820

Rank	Main duties	NAMS*
One Senior Executive Officer post	- Strengthening executive/clerical support to cope with increasing volume and complexity of work	$824,820
One Executive Officer I post		$598,440
One Confidential Assistant post		$255,960
Two Assistant Clerical Officer posts		$214,020 x 2 = $428,040
Two Clerical Assistant posts		$166,920 x 2 = $333,840

*NAMS means notional annual mid-point salary

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ013

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
2267

Head: 92 Department of Justice Subhead (No. & title): 000 Operational expenses

Programme: (2) Civil

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

The provision for 2013-14 is 17.0% higher than the revised estimate for 2012-13, partly due to an anticipated increase in court costs. What are the reasons for the increase in court costs? What is the amount of the anticipated increase?

Asked by: Hon. LIAO Cheung-kong, Martin

Reply:

The estimated court costs for Civil Division (CD) of the Department of Justice for 2013-14 is $120 million. This represents an increase of about $60 million (100%) over the 2012-13 revised estimates. The increase is mainly due to the payment in respect of some cases which will be rolled over from 2012-13 to 2013-14 having regard to the development of the cases concerned as well as the amount likely to be required for new cases that may require payment of court costs.

The expenditure on court costs varies from year to year, depending on the number of cases which may require payment of court costs, their complexity and development of the cases. The estimates are worked out on the basis of the information on the progress of the cases available at the time of preparing the estimates. The general increase in counsel fees as well as the increase in complexity and number of cases over the years also contribute to the expected increase in expenditure for court costs. That said, the actual expenditure in this regard for 2013-14 would ultimately depend on the actual development and outcome of the cases concerned (which are not entirely within the control of the Administration).

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ014

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
2387

Head: 92 Department of Justice Subhead (No. & title): 000 Operational expenses

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

Please list by year the number of appeals lodged by the Department of Justice which involved the Public Order Ordinance or section 36(b) of the Offences Against the Person Ordinance in the past 3 years, i.e. 2010-11, 2011-12 and 2012-13.

Asked by: Hon. WONG Yuk-man

Reply:

The number of appeals lodged by the Department of Justice (DoJ) in the past 3 years which involved the Public Order Ordinance or section 36(b) of the Offences Against the Person Ordinance are provided below :

Appeal lodged by DoJ	Public Order Ordinance			Section 36(b) of the Offences Against the Person Ordinance		
	2010-11	2011-12	2012-13	2010-11	2011-12	2012-13
Application by Prosecutions Division to review sentence	0	0	0	1	0	0
Appeal by Prosecutions Division by way of case stated	0	0	2	0	0	0
Appeal by Prosecutions Division to the Court of Final Appeal	0	0	0	0	0	0

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ015

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
2388

Head: 92 Department of Justice

Subhead (No. & title): 000 Operational expenses

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

Please list by year the number and percentage of defendants convicted after trial in the Magistrates' Court, the District Court and the Court of First Instance, which involved the Public Order Ordinance or section 36(b) of the Offences Against the Person Ordinance, in the past 3 years, i.e. 2010-11, 2011-12 and 2012-13.

Asked by: Hon. WONG Yuk-man

Reply:

Based on information available, we are only able to provide the total number of defendants convicted (including those convicted after trial and those convicted on guilty plea), as well as the conviction rate including guilty plea. The said figures in respect of the Magistrates' Court, District Court and Court of First Instance are set out in the table below.

	2010-2011[1]		2011-12[1]		2012-13 (up to September 2012)[1]	
	Public Order Ordinance	Section 36 of the Offences Against the Person Ordinance	Public Order Ordinance	Section 36 of the Offences Against the Person Ordinance	Public Order Ordinance	Section 36 of the Offences Against the Person Ordinance
Magistrates' Court						
Number of persons prosecuted	1 197	105	1 077	28	534	19

	2010-2011[1]		2011-12[1]		2012-13 (up to September 2012)[1]	
	Public Order Ordinance	Section 36 of the Offences Against the Person Ordinance	Public Order Ordinance	Section 36 of the Offences Against the Person Ordinance	Public Order Ordinance	Section 36 of the Offences Against the Person Ordinance
Number of persons convicted (including those convicted after trial and those convicted on own plea)[2]	468	81	436	26	240	14
Conviction rate (including guilty plea)	39%	77%	40%	93%	45%	74%
District Court						
Number of persons prosecuted	12	7	13	11	6	8
Number of persons convicted (including those convicted after trial and those convicted on own plea)[2]	6	6	8	9	2	8
Conviction rate (including guilty plea)	50%	86%	62%	82%	33%	100%
Court of First Instance						
Number of persons prosecuted	2	0	1	0	0	1
Number of persons convicted (including those convicted after trial and those convicted on own plea)[2]	2	0	1	0	0	1
Conviction rate (including guilty plea)	100%	0	100%	0	0	100%

[1] The Administration only keeps figures when a case is concluded, and the respective year of the figures represents the year in which the trial was concluded. As some trials might take longer time, the year in which people concerned were prosecuted may be different from the year in which the trial was concluded.

[2] The number does not include cases where the prosecutions decided to allow the defendant to bind over and not securing a conviction. In such cases, the defendants still have to admit the facts of the case and of their wrongdoing in open court and give an undertaking to the court to be of good behavior or to keep the peace for a specific period.

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ016

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
2389

Head: 92 Department of Justice Subhead (No. & title): 000 Operational expenses

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

Please list by year the number of items of legal advice provided by the Department of Justice in relation to cases involving the Public Order Ordinance or section 36(b) of the Offences Against the Person Ordinance in the past three years, i.e. 2010-11, 2011-12 and 2012-13.

Asked by: Hon. WONG Yuk-man

Reply:

In the Department of Justice, requests for legal advice in relation to cases involving the Public Order Ordinance or section 36(b) of the Offences Against the Person Ordinance are handled by officers in different teams having regards to the level of court involved and the status or complexity of the case. As we do not maintain separate statistics on officers' work on cases involving the Public Order Ordinance or section 36(b) of the Offences Against the Person Ordinance, the number of items of legal advice provided in relation to the above Ordinances cannot be quantified.

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ017

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
2390

Head: 92 Department of Justice

Subhead (No. & title): 000 Operational expenses

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

Please list by year the number of items of legal advice provided by the Department of Justice in relation to matters involving the Public Order Ordinance or section 36(b) of the Offences Against the Person Ordinance in the past three years, i.e. 2010-11, 2011-12 and 2012-13.

Asked by: Hon. WONG Yuk-man

Reply:

The Department of Justice provides legal advice to all government bureaux and departments as and when requested, including the Public Order Ordinance and the Offences against the Person Ordinance. As a large number of advice are given on many different issues each year, the Department does not keep any statistical breakdown of the number of advice given by reference to each piece of legislation.

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ018

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
2391

Head: 92 Department of Justice Subhead (No. & title): 000 Operational expenses

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

What areas will be covered by the seven ongoing Law Reform Commission projects provided for this year? Which of these projects are expected to be completed this year (i.e. 2013-14)?

Asked by: Hon. WONG Yuk-man

Reply:

In the 2013-14 financial year, the Law Reform Commission (LRC) will have eight ongoing projects which cover the following areas:

(i) Charities
(ii) Causing or allowing the death of a child
(iii) Review of sexual offences
(iv) Adverse possession
(v) Excepted offences under Schedule 3 of the Criminal Procedure Ordinance
(vi) Archives law
(vii) Access to information
(viii) Third party funding for arbitration

It is anticipated that projects on (i) Charities; (iv) Adverse possession; and (v) Excepted offences under Schedule 3 of the Criminal Procedure Ordinance may be completed this year.

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ019

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
2392

Head: 92 Department of Justice Subhead (No. & title): 000 Operational expenses

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

Please list the bodies that participated in the Basic Law seminars organised by the Department of Justice in the past three years, i.e. 2010-11, 2011-12 and 2012-13.

Asked by: Hon. WONG Yuk-man

Reply:

The information is set out below:

Year	Participants who took part in the Basic Law seminars
2010-11	(a) Civil servants at Master Pay Scale point 33 or below; and (b) Civil servants at Master Pay Scale point 45 or above.
2011-12	(a) Civil servants at Master Pay Scale point 45 or above; (b) Government Counsel; (c) Senior Administrative Officers; and (d) Mainland officials participating in a study class organized by the Chinese General Chamber of Commerce.
2012-13	(a) Government Counsel; (b) Senior Administrative Officers; and (c) Mainland officials participating in a study class organized by the Chinese General Chamber of Commerce.

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ020

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
2393

Head: 92 Department of Justice Subhead (No. & title): 000 Operational expenses

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

What were the topics of the briefings that the Department of Justice conducted on many occasions targeted at Mainland audience? How many of them were on the Hong Kong Bill of Rights Ordinance, judicial review system, freedom of speech or freedom of the person?

Asked by: Hon. WONG Yuk-man

Reply:

The briefings that the Department of Justice gave to Mainland audience generally covered a variety of topics including introduction to the work of the Department, matters relating to the rule of law including the Hong Kong legal system, the Department's policy initiatives, cooperation of work in legal and arbitration services between the Department and Mainland's legal departments and organizations and promotion of Hong Kong as an international centre for legal services and dispute resolution.

Depending on the nature of the occasions, the topics of the Hong Kong Bill of Rights Ordinance, judicial review system, freedom of speech and freedom of the person might be mentioned in the briefings in the context of introducing the rule of law or the Hong Kong legal system and the work of the Department, but we do not maintain statistics on the number of briefings in respect of individual topics that were covered.

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ021

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
2394

Head: 92 Department of Justice Subhead (No. & title): 000 Operational expenses

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

What specific plan does the Department of Justice have for promoting Hong Kong as a regional centre for legal services and dispute resolution this year? How does the Department of Justice plan to attract organisations or individuals from the Mainland and South East Asia to use the legal and dispute resolution services in Hong Kong?

Asked by: Hon. WONG Yuk-man

Reply:

One of the on-going policy objectives of the Department of Justice (DoJ) is to develop Hong Kong into a regional centre for legal services and dispute resolution. This policy is also affirmed in the latest Policy Address. Efforts will be made both within and outside Hong Kong to implement this policy.

To help promote this, the Secretary for Justice and DoJ officials have participated in various seminars organized by professional bodies and arbitration institutions including Hong Kong International Arbitration Centre (HKIAC), the Law Society of Hong Kong and the Hong Kong Bar Association. They will continue to do so on suitable occasions so as to promote Hong Kong's legal and dispute resolution services.

In September 2012, the China International Economic and Trade Arbitration Commission (CIETAC) established its first branch outside the Mainland in Hong Kong. The CIETAC Hong Kong Arbitration Center commenced operation in December 2012. The presence of the CIETAC Hong Kong Arbitration Center will further enhance Hong Kong's position as a leading centre for international arbitration in Asia-Pacific.

In October 2012, the HKIAC formally opened its newly expanded premises which included substantial additional office space made available by the Government to enhance its hearing capacity. This will help attract more parties to choose Hong Kong as the venue for arbitration.

In 2013-14, DoJ will continue to work closely with the HKIAC, the International Court of Arbitration of the International Chamber of Commerce (ICC/ICA), the CIETAC Hong Kong Arbitration Center, and other relevant stakeholders in Hong Kong and overseas to promote the use of arbitration as an alternative means of dispute resolution.

Following the Government's recent decision to allocate part of the space in the West Wing of the former Central Government Offices to house law-related non-government institutions (including arbitration and mediation institutions), the DoJ will work out the arrangements for taking this forward. The aim is to attract reputable overseas arbitration and other law-related organizations to set up offices in Hong Kong to enhance Hong Kong's status in this regard.

DoJ will also explore other opportunities to further promote Hong Kong's legal and dispute resolution services in the Mainland. Following the success of the first and second Hong Kong Legal Services Forum held in 2010 and 2012, DoJ plans to organize the next Forum in 2014 in the Mainland to promote Hong Kong's position as a regional centre for legal services and dispute resolution. Further, DoJ and the Hong Kong Economic and Trade Office in Guangdong will jointly hold a seminar during the Fujian Xiamen Hong Kong Week 2013 in late April 2013.

On 7 January, 2013, DoJ concluded with Macao the Arrangement Concerning Reciprocal Recognition and Enforcement of Arbitral Awards ("the Arrangement"). DoJ is also canvassing the possibility of concluding a similar arrangement with Taiwan.

To implement the Arrangement with Macao, a bill to amend the Arbitration Ordinance will be introduced into the Legislative Council in 2013. To further improve the arbitration regime in Hong Kong, other miscellaneous amendments as proposed by the arbitration sector will also be included in the bill.

In addition, the Solicitor General of DoJ attended a road show (organized by the HKIAC) in India in February 2013 to promote the use of arbitration services of Hong Kong. Apart from India, DoJ is having on-going discussions with the relevant stakeholders on ways to promote Hong Kong's legal and dispute resolution services in other new or emerging markets such as Vietnam and Myanmar.

The above measures will help promote the use of the legal and dispute resolution services of Hong Kong by organisations and individuals in other jurisdictions, including the Mainland and countries in South East Asia.

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ022

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
2395

Head: 92 Department of Justice Subhead (No. & title): 000 Operational expenses

Programme: (4) Law Drafting

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

What are the criteria adopted by the Law Drafting Division of the Department of Justice for selection of law drafters or translators to prepare Chinese texts of laws? How does it ensure that the Chinese texts of laws are grammatical and convey meanings accurately?

Asked by: Hon. WONG Yuk-man

Reply:

Since the completion of the Law Translation Programme in 1997, legislation has been drafted in both Chinese and English. Both texts are equally authentic. Neither is a translation of the other. Both the Chinese and English texts are drafted and vetted by officers of the Government Counsel Grade in the Law Drafting Division.

Government Counsel are recruited to join the Department of Justice (DoJ) in a centralized recruitment exercise in which all Divisions of DoJ take part. Applicants to the entry rank of the Government Counsel grade are required to possess qualifications which meet the language proficiency requirement of the grade.

In addition, applicants for GC posts must perform satisfactorily in an additional written test before they will be posted to the Law Drafting Division. The purpose of the test is to assess a candidate's ability to draft legislation in both official languages to give effect to the policy embodied in Drafting Instructions issued by policy bureaux. A good command of both official languages is a necessary attribute.

Both English and Chinese drafts of legislation are subject to internal clearance in the Law Drafting Division. Chinese drafts of legislation prepared by counsel are vetted by one or more experienced directorate counsel to ensure that they accurately reflect the policy intention and comply with current language conventions. Before finalization, both English and Chinese drafts are circulated to the responsible bureaux and departments for vetting to ensure that the policy intention is accurately reflected in both texts. Counsel in the Law Drafting Division are also supported by a Law Translation Officer who mainly makes linguistic input.

Apart from publishing the guide book "Drafting Legislation in Hong Kong : A Guide to Styles & Practices" (the Chinese version of which contains a specific chapter on drafting legislation in Chinese), the Law Drafting Division continuously places emphasis on providing training to drafting counsel with a view to enhancing their drafting skills. One of the emphases in future drafting (whether Chinese or English) is the use of plain language so as to make legislation more readily comprehensible.

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ023

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
2396

Head: 92 Department of Justice

Subhead (No. & title): 000 Operational expenses

Programme: (4) Law Drafting

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

How many pieces of legislation in the Bilingual Laws Information System database are planned to be updated this year (i.e. 2013-14)? At present, how many pieces of legislation are being updated by the Department of Justice? When will the updating be expected to be completed?

Asked by: Hon. WONG Yuk-man

Reply:

The updating of the Bilingual Laws Information System ("BLIS") is an ongoing process. There is no completion date as long as BLIS is in operation. Our updating work is dictated by the commencement dates of legislation. The BLIS is updated within an average of three weeks after a new law or an amendment to existing laws has come into operation.

The volume of legislation to be updated in 2013-14 will depend on the progress of legislative work and the timing for enacted legislation to come into operation. In this regards, there are 3 categories as follows –

(a) legislation enacted before 2013-14, which has a fixed commencement date in this financial year;

(b) legislation enacted before 2013-14, the commencement date of which may be so appointed as to fall within this financial year;

(c) legislation to be enacted and brought into operation in 2013-14.

As at 13 March 2013, for (a), there are 17 items in our record (about 558 gazette pages) with a commencement date falling within 2013-14.

The commencement dates of items under (b) and (c) are subject to determination. For (b), it depends on the policy intent in relation to the commencement date of the enacted legislation. For (c), it depends on individual items' legislative progress in 2013-14 and the policy intent in relation to their commencement.

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ024

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
2601

Head: 92 Department of Justice Subhead (No. & title): (-) Not Specified

Programme: (2) Civil

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

As indicated in Programme (2) of the Department of Justice, the estimated provision of $610.2 million for Civil for 2013-14 is $88.5 million higher than the revised estimate of $521.7 million for 2012-13, representing an increase of 17.0%, which is mainly due to the filling of vacancies, creation of 10 posts to meet operational needs, as well as anticipated increase in briefing-out expenses and general departmental expenses. At the same time, the revised estimate for 2012-13 is $29.7 million lower than the original estimate for 2012-13, representing a decrease of 5.4%, suggesting that the provision for Civil may not need to increase any further. In this connection, will the Administration inform this Committee of the reasons for the increase in the provision for Civil for 2013-14, especially since the original estimate of $551.4 million for 2012-13 already represents an increase of 24.9% from the actual provision of $441.5 million for 2011-12?

Asked by: Hon. KWOK, Dennis

Reply:

The revised estimated financial provision for Civil Division (CD) of the Department of Justice for 2012-13 is $29.7 million lower than the original estimate for 2012-13. This is mainly due to the expected decrease in provision in court costs expenses as the payment in respect of some cases is expected to be rolled over from 2012-13 to 2013-14 having regard to the development of the cases concerned.

The estimated financial provision for CD for 2013-14 is $88.5 million (17.0%) higher than the revised estimate of $521.7 million for 2012–13. This is mainly due to the expected filling of vacancies, creation of ten posts to meet operational needs, and anticipated increase in court costs and general departmental expenses.

The work of the CD involves providing legal advice to the Government on civil matters, undertaking civil litigation and drafting contracts on commercial and other matters. In recent years, there has been an increase in the caseload and the diversity and the complexity of work in the Division. To properly cope with the increasing caseload and complexity of work, the following ten new posts will have to be created under this programme in 2013-14 –

- 2 Government Counsel and 1 Law Clerk
- 1 Deputy Principal Government Counsel, 1 Senior Government Counsel (SGC) and 1 Personal Secretary I (time-limited posts for two years)
- 2 SGC (time-limited posts for three years)
- 1 Executive Officer I and 1 Clerical Officer

For court costs expenses in the CD, the estimated expenditure in 2013-14 represents an increase of about $60 million (100%) over the 2012-13 revised estimates. The increase is mainly due to the payment in respect of some cases which will be rolled over from 2012-13 to 2013-14 having regard to the development of the cases concerned as well as the amount likely to be required for new cases that may require payment of court costs.

The expenditure on court costs varies from year to year, depending on the number of cases which require payment of court costs, their complexity and development of the cases. The estimates are worked out on the basis of the information on the progress of the cases available at the time of preparing the estimates. The general increase in counsel fees as well as the increase in complexity and number of cases over the years also contribute to the expected increase in expenditure for court costs. That said, the actual expenditure in this regard for 2013-14 would ultimately depend on the actual development and outcome of the cases concerned (which are not entirely within the control of the Administration).

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ025

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
2602

Head: 92 Department of Justice Subhead (No. & title): (-) Not Specified

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

Despite having a target key performance measure of 100% for providing advice for law enforcement agencies within 14 working days upon receipt of request, or for a complex case, interim reply within 14 working days, the actual key performance measure have been falling year by year, from 96.5% in 2009 to 93.1% in 2010, and 88.6% in 2011 and most recently 87.5% in 2012. As a delay in the provision of prosecution advice may have an effect on the administration of justice, will the Administration inform this Committee:

(a) of the reasons for consistently falling short of the target key performance of 100%;

(b) of the reasons for the downward trend in actual key performance measure over the last few years;

(c) whether the Administration has any concrete plans for measures to address this; if yes, of the details; if not, of the reasons for that?

Asked by: Hon. KWOK, Dennis

Reply:

In the past, there was a tendency to automatically issue an interim reply that the case was being examined. This approach should be reserved for complicated cases but had been used more generally. However in recent times there has been strict adherence to this requirement in that it has been reserved for complicated cases. The change in the figures regarding the target concerned is a reflection of the strict adherence of the requirement. It also reflects that counsel have an increasingly heavy workload.

One of the on-going initiatives of the Prosecutions Division is to seek continuous improvement to the quality and efficiency of legal advice. In this regard, the FAST advisory system, introduced in January 2010, has helped improve efficiency in advisory work. In 2012, 20.4% (as compared to 22% in 2011 and 24.5% in 2010) of the request for legal advice were processed through FAST where the advices were normally given on the same day. Amongst the replies given to law

enforcement agencies within 14 working days, 84.6% were final advices (as compared to 89% in 2011 and 88.2% in 2010). The remaining cases were mostly complicated cases or requests involving policy or drafting instructions on legislative matters which required more time to process.

We note that there are already some improvements to the figures regarding the target concerned in January and February 2013 which are 88.1% and 92% respectively (as compared to 87.5% in 2012). We will keep up with the monitoring measure and, when necessary, consider the need to recruit additional counsel to handle advisory works.

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ026

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
2603

Head: 92 Department of Justice Subhead (No. & title): (-) Not Specified

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

The court days undertaken by Court Prosecutors in Magistrates' Court have decreased from 11 900 days in 2011 to 10 766 days in 2012, whereas the court days undertaken by Counsel instructed to prosecute in Magistrates' Court in place of Court Prosecutors have increased from 3 014 days in 2011 to 4 580 days in 2012. In this connection, will the Administration inform this Committee:

(i) of the number of cases in Magistrates' Court in which a Counsel was instructed to prosecute in place of Court Prosecutors for the past three years (2010 to 2012);

(ii) of the number of Counsels who were instructed to prosecute for the past three years, and;

(iii) whether the Administration has plans to make further adjustments to the number of Counsels instructed to prosecute in place of Court Prosecutors and the number of court days they undertake; if yes, of the details; if not, of the reasons for that?

Asked by: Hon. KWOK, Dennis

Reply:

Given that fiat counsel instructed to prosecute in the Magistrates' Courts in place of Court Prosecutors (CPs) are assigned to take up all the fixtures in a court on a daily basis, we keep the number of court days (rather than the number of cases) briefed out to these fiat counsel. The number of court days attended by fiat counsel in place of CPs, as well as the number of fiat counsel so instructed, in the past three years (2010-2012) are set out below :

	Number of court days undertaken by fiat counsel in place of CPs	Number of fiat counsel who were instructed to prosecute in place of CPs
2010	2 668	1 490
2011	3 014	1 128
2012	4 580	1 219

The number of fiat counsel who may be instructed to prosecute in place of CPs will depend on the number of fiat counsel who are interested and found suitable to take up such assignments. As for the number of court days that we brief out to fiat counsel to prosecute in place of CPs, it will depend on the caseload as well as the staffing position of the CP teams. It should also be noted that counsel after a period of time are elevated to the lists of higher tiers of court work. While for planning purpose, we assume that the number of court days to be briefed out to fiat counsel in 2013 will be roughly the same as the 2012 level, we will make adjustments to the number of cases to be briefed out based on actual operational need and the staffing situation.

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ027

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
2604

Head: 92 Department of Justice Subhead (No. & title): (-) Not Specified

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

As indicated in Programme (1) of the Department of Justice, the estimated provision for Prosecutions for 2013-14 is $10.9 million higher than the revised estimate for 2012-13, representing an increase of 2.0%, which is mainly due to the filling of vacancies, creation of 12 posts to meet operational needs, as well as anticipated increase in briefing-out expenses and general departmental expenses. At the same time, it is stated in Programme (1) that the estimated number of cases conducted by Government Counsel and by Counsel instructed to prosecute for 2013 will essentially be the same as that for 2012. In this connection, will the Administration inform this Committee of the reasons for such an increase in the provision for prosecutions, including but not limited to more detailed reasons for the need to create 12 more posts, especially since the number of cases conducted is not expected to increase?

Asked by: Hon. KWOK, Dennis

Reply:

Generally, additional resources are provided to the Division to meet both the increase in workload over the years, complexity of cases as well as anticipated workload arising from new areas of works.

The details of the 12 posts to be created in Prosecutions Division in 2013-14 are set out below :

Rank	Main duties
Four Senior Government Counsel posts (time-limited)	- One post for handling requests for legal advice arising from the setting up of the Sales of First-hand Residential Properties Authority to implement the Residential Properties (First-hand Sales) Ordinance (for 3 years) - Two posts for strengthening legal professional support to cope with the anticipated workload arising from the implementation of the Trade Descriptions (Unfair Trade Practices)(Amendment) Ordinance (for 3 years) - One post for handling the substantial corruption case ESCC 2530/2012 (HKSAR v HUI Rafael Junior and four others) (for 4.5 years)

Rank	Main duties
One Government Counsel post (time-limited)	- Handling the substantial corruption case ESCC 2530/2012 (HKSAR v HUI Rafael Junior and four others) (for 4.5 years)
One Senior Executive Officer post	- Strengthening executive/ clerical support to cope with increasing volume and complexity of work
One Executive Officer I post	
One Confidential Assistant post	
Two Assistant Clerical Officer posts	
Two Clerical Assistant posts	

It should be pointed out that out of the 12 posts listed above, only five posts are Government Counsel (GC) grade posts, and out of which, two are to be created for handling a substantial corruption case. As for the remaining three new GC grade posts, two of them are for strengthening legal professional support for the implementation of the Trade Descriptions (Unfair Trade Practices)(Amendment) Ordinance and another one for the Residential Properties (First-hand Sales) Ordinance. The expected number of additional cases to be handled by them should not be significant when compared with the large number of cases handled by our existing GC team comprising 120 officers at different ranks. This explains the reason why the forecasted number of cases to be handled in 2013-14 is roughly the same as that in 2012-13 notwithstanding an increase in manpower.

As for briefing-out expense, both the number of cases and the complexity and duration of upcoming cases have been taken into account in working out the amount of allocation required.

The professional demands on the Prosecutions Division are increasing, and this is expected to continue. There is a need to increase the number of GC grade posts to meet the growing complexity of cases and demands on counsel and address new or demanding areas of concern, such as, cybercrime, human exploitation cases, asset recovery to name a few.

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ028

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
2605

Head: 92 Department of Justice Subhead (No. & title): (-) Not Specified

Programme: (2) Civil

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

As indicated in Programme (2) of the Department of Justice, the actual number of new proceedings (including non-construction arbitration and mediation) brought by the Government has decreased from 2 337 in 2011, to 1 754 in 2012, representing a decrease of 24.9% over the past year. In this connection, will the Administration inform this Committee:

(i) of a detailed breakdown of this drop in the number of new proceedings brought by the Government according to type of proceedings, and;

(ii) of the reasons for the sharp decrease, including but not limited to any changes in policy that may have an effect on the number of new proceedings brought by the Government?

Asked by: Hon. KWOK, Dennis

Reply:

The decrease in the actual number of new proceedings brought by the Government in 2012 in comparison with 2011 is mainly due to the decrease in the recovery of student loan cases and some other miscellaneous cases.

The work of the Civil Division of the Department of Justice involves providing legal services to the Government on civil matters, including giving advice and undertaking proceedings, and other matters. The Government would only commence legal proceedings when the circumstances warrant such action. The decrease in actual number of new proceedings brought by the Government in 2012 is not due to any change in policy. It only reflects the factual reduction of civil claims and proceedings brought by the Government.

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ029

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
2606

Head: 92 Department of Justice Subhead (No. & title): (-) Not Specified

Programme: (2) Civil

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

The recent Court of Final Appeal decision in *Ubamaka Edward Wilson v Secretary for Security and Director of Immigration* (FACV 15/2011) indicates a need for changes to made to the current system of assessing claims made under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) in order to comply also with the requirements imposed on the Government by the Hong Kong Bill of Rights Ordinance. In this connection, will the Administration inform this Committee:

(i) whether this necessitates an increase in the provision to the unit within Civil Division responsible for advising on the legal aspects of CAT claims; if yes, of the details; if not, why not;

(ii) of the number of legal advice provided regarding CAT claims for the past three years (from 2010-11 to 2012-13) and the estimated number of the same to be provided in 2013-14?

Asked by: Hon. KWOK, Dennis

Reply:

The work of the Civil Division of the Department of Justice involves providing legal services to the Government on civil matters, including giving advice and undertaking proceedings relating to CAT claims and incidental matters. The Division has a team of about 28 staff (of whom 23 are counsel) who are tasked to deal with matters relating to CAT claims. The impact of the *Ubamaka* decision is being considered by the Administration. The Administration will ensure that the relevant duties are carried out in accordance with the *Ubamaka* decision. Should there be any change in workload, we will keep the staffing situation under review.

The Civil Division does not maintain separate statistics on the number of legal advice given on CAT claims and is therefore unable to provide the requested information.

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ030

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
2608

Head: 92 Department of Justice Subhead (No. & title): (-) Not Specified

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

Items of legal advice given by the Legal Policy Division of the Department of Justice on human rights issues have dropped sharply, from 1,665 in 2011 to 1,185 in 2012. In this connection, will the Administration inform this Committee:

(i) of a breakdown of the actual number of legal advice on human rights issues given to various departments and bureaux for the past three years (from 2010 to 2012);

(ii) of what the Administration observes to be the reasons for the sharp drop, and;

(iii) whether the Administration has any plans to ensure that human rights are still being protected to the same degree despite the decrease in items of legal advice given; if yes, of the details; if not, of the reasons for that?

Asked by: Hon. KWOK, Dennis

Reply:

(i) The Legal Policy Division (LPD) of the Department of Justice (DoJ) provides human rights advice to all government bureaux and departments as and when requested. As a large number of advice are given each year and an item of advice may be provided to more than one bureau or department, LPD does not keep any statistical breakdown of the number of human rights advice given by reference to each government bureau or department.

(ii) Generally speaking, the provision of legal advice by LPD is demand-driven and fluctuations in the number of advice provided are normal. Apart from the number of legal advice provided, the complexity of the subject matter and legal issues raised also have an important bearing on the workload of the Division. The change in the number of advices given on human rights issues should not be used as a yardstick to measure the situation of human rights protection in Hong Kong.

The relative decrease in the number of advice on human rights issues in 2012 was partly due to the particularly high figure of 1,665 in 2011 (a surge of 65% from 2010) which is mainly attributable to an increase in the number of advice on human rights issues arising out of litigation involving the Government and an increase in the number of advice on legislative proposals such as the establishment of a statutory framework for the determination of torture claims, the regulation of the sale of first-hand residential properties and the proposed amendments to the Companies Ordinance,

the Legislative Council Ordinance and the Personal Data (Privacy) Ordinance. Moreover, since the establishment of the Constitutional Development and Elections Unit in the Division on 16 April 2012, human rights advice on constitutional development and election matters has been counted towards the legal advice given on constitutional development and election matters. There was less demand for human rights advice after the enactment of the Competition Bill 2010, the Companies Bill 2011, the Immigration (Amendment) Bill 2011, the Personal Data (Privacy) (Amendment) Bill 2011, the Legislative Council (Amendment) Bill 2012 and the Residential Properties (First-hand Sales) Bill 2012.

(iii) The periodic fluctuations in the number of legal advice given on human rights issues are normal and do not affect the Administration's commitment to protect human rights. It has all along been the Administration's policy to uphold the rule of law and to protect human rights in accordance with the Basic Law and other applicable legislation. DoJ will continue to provide specialized human rights advice on legal issues arising from various matters, including the Government's administrative and legislative proposals, litigation involving the Government, the implementation of human rights protection guaranteed by the Basic Law and the Hong Kong Bill of Rights Ordinance (Cap. 383), the four pieces of anti-discrimination legislation, namely, Sex Discrimination Ordinance (Cap. 480), Disability Discrimination Ordinance (Cap. 487), Family Status Discrimination Ordinance (Cap. 527) and Race Discrimination Ordinance (Cap. 602), preparation of United Nations (UN) human rights reports as well as hearings on such reports before the relevant UN human rights treaty monitoring bodies. The LPD has sent representatives to attend the UN hearing on Hong Kong's 3rd report in light of the International Covenant on Civil and Political Rights in March 2013. It will also send representatives to attend another two UN hearings in the 2013-14 financial year, i.e. the Human Rights Council Universal Periodic Review of China (including Hong Kong) in October 2013 and the hearing on Hong Kong's 2nd report under the Convention on the Rights of the Child in the latter part of the 2013-14 financial year, and will continue to provide advice on the implementation of the international human rights treaties in Hong Kong.

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ031

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
2609

Head: 92 Department of Justice Subhead (No. & title): (-) Not Specified

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

As indicated in a special note in the Indicators section of the Legal Policy Division, a new Constitutional Development and Elections Unit ("the Unit") was established on 16 April 2012. By the end of 2012, the Unit has given 726 items of legal advice. In this connection, will the Administration inform this Committee:

(i) of the exact scope of duties and responsibilities of the Unit, including how its work differs from the unit responsible for giving legal advice on Basic Law and constitutional matters;

(ii) of the breakdown of the items of legal advice given by the Unit according to topics by filling in the corresponding figures in the table below?

Subject Matter	2011 District Council Election	2012 Chief Executive Election	2012 Legislative Council Election	Others (Please specify)
Items of Legal Advice Given				

Asked by: Hon. KWOK, Dennis

Reply:

(i) The Constitutional Development and Elections Unit of the Legal Policy Division provides specialized advice and support on constitutional development and election matters. The Unit advises mainly the Electoral Affairs Commission, Constitutional and Mainland Affairs Bureau, Registration and Electoral Office and Home Affairs Department on the interpretation and application of the various pieces of electoral legislation. It also provides legal support on matters relating to the conduct of elections, election-related complaints, election-related litigation and amendments to electoral legislation. The Unit also provides legal advice to the Administration on legal issues in connection with constitutional development, and assists the Administration to explain the legal aspects of legislative proposals relating to constitutional development and election matters to the Legislative Council or any other committees, as required.

While the Constitutional Development and Elections Unit focuses its work on constitutional development and election matters, the Basic Law Unit of the Division provides advice to the Government on all other relevant aspects concerning the interpretation of the Basic Law that do not concern constitutional development and election matters or that do not have any human rights implications, both in the context of implementation of existing legislation and Government actions and in the context of formulation of new policies and legislation.

(ii) The Constitutional Development and Elections Unit does not keep statistical breakdowns on the number of advice given in respect of the 2011 District Council (DC) Election, the 2012 Chief Executive (CE) Election and the 2012 Legislative Council (LC) Election. On the other hand, further information on the advice given by the Unit in 2012 is set out below:

Subject Matter	Election work (Item (a))	Post election work (Item (b))	Others (Item (c))
Items of Legal Advice Given	357	192	177

Notes

(a) This item (a) pertains to advice given by the Unit in respect of an election before the election was held. The elections in question were those held since the establishment of the Unit on 16 April 2012 to the end of 2012, namely the 2012 LC Election, Village Representative (VR) by-elections held in April and December 2012 and a DC by-election (Shatin District Council, On Tai Constituency) held in September 2012.

(b) This item (b) pertains to advice given by the Unit in respect of an election after an election was held (e.g. post-election follow up matters, post-election litigation). The elections in question included the elections mentioned in item (a), the 2011 DC Election, the 2011 Election Committee Subsector Elections and the 2012 CE Election.

(c) This item (c) pertains to advice given by the Unit in other contexts, including advice on the interpretation and application of electoral laws, advice on the constitutionality of legislative provisions and legal advice relating to constitutional development and proposed amendments to electoral laws.

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ032

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
2610

Head: 92 Department of Justice Subhead (No. & title): (-) Not Specified

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

The Secretary for Justice's Office and the Legal Policy Division has listed as one of the matters requiring special attention in 2013-14 the exploration with the Mainland authorities for further opportunities for the legal profession to provide services in the Mainland. At the same time, the Central People's Government has been making plans for what is officially known as the Qianhai Shenzhen-Hong Kong Modern Service Industry Cooperation Zone to develop into a new financial and commercial hub with a unique legal regime, of which the legal profession in Hong Kong is going to play a key role in its development. In this connection, will the Administration inform this Committee:

(i) whether the Administration has set aside any resources and/or manpower specifically for issues regarding Qianhai; if yes, of the details; if not, of the reasons for that;

(ii) whether the Administration has plans to set aside even more resources and/or manpower specifically for issues regarding Qianhai; if yes, of the details; if not, of the reasons for that;

(iii) whether the Administration has plans to increase its expenditure out of the General non-recurrent subhead, in which $4,335,000 was committed for the "Development of Mainland-related legal services in Hong Kong", from which 2012-13's revised estimated expenditure is only $247,000, leaving a balance of $2,332,000; if yes, of the details; if not, of the reasons for that?

Asked by: Hon. KWOK, Dennis

Reply:

(i) The Department of Justice (DoJ) has not set aside resources and manpower specifically for issues regarding Qianhai as the work is carried out as part of the duties of the existing staff and the related expenses are absorbed from within the existing resources of the Department.

(ii) Depending on the future development of the issues that need to be handled and the operational needs, DoJ will consider whether additional resources and manpower should be earmarked for issues regarding Qianhai.

(iii) The General non-recurrent subhead item 519 for "Development of Mainland-related legal services in Hong Kong" was created in 2004-05 with the aims to develop Mainland-related services in Hong Kong and to promote Hong Kong as a regional legal services and dispute resolution centre. The revised estimated expenditure for 2012-13 is $247,000 which was mainly used to meet expenses including:

- sending six DoJ counsel for attachment in the Mainland pursuant to the cooperation agreements between DoJ and certain Justice Departments and Bureaux in the Mainland; and

- duty visit to the Mainland in attending discussions/meetings on the Closer Economic Partnership Arrangement and official visit to Shenzhen (Qianhai) in attending a seminar to better understand the development of arbitration services in Qianhai.

The estimated expenditure for 2013-14 is expected to increase to $370,000. In the coming year, the item will continue to provide the necessary funding for the relevant attachment programmes and official visits. In addition, the item will also be used to meet expenses for a seminar to be jointly organized by DoJ and the Hong Kong Economic and Trade Office in Guangdong to promote Hong Kong's legal and arbitration services in the Mainland, during the Fujian Xiamen Hong Kong Week 2013 in late April 2013. The Hong Kong Bar Association, the Law Society of Hong Kong, the Hong Kong International Arbitration Centre, the International Court of Arbitration of the International Chamber of Commerce (Asia Office) and the China International Economic and Trade Arbitration Commission Hong Kong Arbitration Center will be participating organizations of the seminar. The Secretary for Justice and experienced practitioners from these participating organizations will speak in the seminar on topical issues including risk management and dispute resolution in relation to the "going out" of mainland enterprises. The seminar will serve to demonstrate the services that the Hong Kong legal and dispute resolution professions can provide to Mainland enterprises. It will also provide a good platform for both the Mainland and Hong Kong legal and arbitration professions to build network and explore co-operation opportunities.

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ033

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
2612

Head: 92 Department of Justice Subhead (No. & title): 000 Operational expenses

Programme: (-) Not Specified

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

The contribution to the Mandatory Provident Fund (MPF) for personnels of the Department of Justice was originally estimated to be $775,000 for 2012-13 and the estimate has since been revised to be $1,775,000, representing an exactly $1 million increase from the original estimate. The original estimate was particularly surprising because the original estimate for 2012-13 of $775,000 represented a 42.7% cut from its preceding year's actual contribution of $1,354,000. In this connection, and given that the amount of contribution to the MPF is heavily dependent upon the salaries of personnels in the Department which have remained rather stable over the past few years and so should be relatively easy to estimate, will the Administration inform this Committee of the reasons for the severe under-estimation for the 2012-13 original estimate?

Asked by: Hon. KWOK, Dennis

Reply:

The original estimate for MPF contribution for 2012-13 is 42.7% lower than the actual expenditure for 2011-12. It is mainly because a number of officers who were under the MPF Scheme in 2011-12 would become eligible to join the Civil Service Provident Fund Scheme in 2012-13 as they would progress onto permanent terms of appointment upon completion of probation.

The revised estimate for 2012-13 is $1 million higher than the original estimate. It is mainly due to the increase of the maximum mandatory MPF contribution for each officer per month from $1,000 to $1,250 with effect from 1 June 2012 and the increase in contribution arising from the projected number of officers who would join the Department to fill the vacancies in 2012-13 and would be eligible to join the MPF Scheme.

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ034

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
2614

Head: 92 Department of Justice Subhead (No. & title): 700 General non-recurrent

Programme: (-) Not Specified

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

In the General non-recurrent subhead, there is an approved commitment of $6,300,000 for the "Promotion of rule of law and Hong Kong's legal system" item, and the accumulated expenditure to 31 March 2012 for the item is $5,987,000, leaving only $313,000 in the balance. The revised estimated expenditure for 2012-13 is also unavailable. In this connection, will the Administration inform this Committee:

(i) of the reasons that the revised estimated expenditure for 2012-13 is unavailable;

(ii) whether the Administration has any plans to increase the commitment given the importance of the item; if yes, of the details; if not, of the reasons for that?

Asked by: Hon. KWOK, Dennis

Reply:

(i) Item 514 "Promotion of rule of law and Hong Kong's legal system" is a non-recurrent account under Subhead 700 "General Non-recurrent Account". It was created in 1998-99 with an approved project commitment of $6,300,000, for the purposes of strengthening the understanding and appreciation of the rule of law and the legal system of the Hong Kong Special Administrative Region (HKSAR), as well as assuring the public and overseas audience of the HKSARG's determination to maintain the rule of law and the existing legal system. Item 514 has been used to provide funding for the replication of promotional video and legal docudrama VCDs, the production of a video on law making, the publication of the "Legal System in Hong Kong", as well as in recent years for Solicitor General's overseas speaking engagements in Washington DC, Philadelphia, New York and Geneva. As there were no spending proposals under the ambit of Item 514 in the 2012-13 financial year, funding has not been reserved in the revised estimates and the uncommitted balance of $313,000 will be carried forward for relevant use in the next financial year.

(ii) Apart from making use of the funding available under Item 514, as an ongoing effort, the Department of Justice (DoJ) has promoted the rule of law and Hong Kong's legal system through various means and this is by no means confined to the activities under the ambit of Item 514. For

example, the Secretary for Justice promotes the rule of law and Hong Kong's legal system in his public speaking engagements both in Hong Kong and overseas. DoJ counsel also attend conferences and promotional activities for enhancing understanding of the existing legal system under the 'One Country, Two Systems' framework and collaborate with the legal professional bodies to promote legal services and enhance the public's understanding of Hong Kong's legal system. To foster general understanding and awareness of the Basic Law, DoJ counsel participate in educational activities organized for schools. Publications such as Basic Law Bulletin have also been made accessible to the public from the DoJ's homepage. Hard copies of the Basic Law Bulletin are sent to Hong Kong's Economic and Trade Offices in different parts of the world through the Information Services Department. From time to time, DoJ counsel give briefings to influential overseas visitors about the rule of law and legal system in Hong Kong. DoJ will continue to further promote the rule of law and Hong Kong's legal system and make good use of the remaining balance in Item 514 to achieve such purposes.

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ035

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
3238

Head: 92 Department of Justice Subhead (No. & title): (-) Not Specified

Programme: (4) Law Drafting

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

As indicated in the "Indicators" section for the Law Drafting Division, the number of pages of Committee Stage Amendments (CSAs) in 2012 is extraordinarily high relative to that in 2011 and the estimate for that in 2013. In this connection, will the Administration inform this Committee of the total number of Committee Stage Amendments proposed and passed in 2012 and of a breakdown of the same according to whether they are moved by the Government or by a Member of this Council by filling in the corresponding figures in the table below?

Actual number of CSAs in 2012	Proposed	Passed
Proposed by the Government		
Proposed by a LegCo Member		
TOTAL		

Asked by: Hon. KWOK, Dennis

Reply:

The relevant figures are set out in the table below:

Actual number of CSAs in 2012	Proposed	Passed
Proposed by the Government	1 916	1 915
Proposed by a LegCo Member	1 359	2
TOTAL	3 275	1 917

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ036

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
3701

Head: 92 Department of Justice

Subhead (No. & title): 000 Operational expenses

Programme:

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

In regard to the growing co-operation between Hong Kong and the Mainland in recent years, please provide relevant information on Hong Kong/Mainland cross-boundary projects or programmes in which the Department of Justice has been involved.

(a) For Hong Kong/Mainland cross-boundary projects or programmes, please provide information over the past 2 years (for 2011-12 and 2012-13) as per following table:

Project / Programme	Details, objective and whether it is related to the expenditure involved in the Framework Agreement on Hong Kong /Guangdong Co-operation (the Framework Agreement)	Mainland department/ organisation involved	Progress (% completed, commencement date, target completion date)	Have the details, objectives, amount involved or impact on the public, society, culture and ecology been released to the public? If so, through which channels and what were the manpower and expenditure involved? If not, what are the reasons?	Details of the legislative amendments or policy changes involved in the project/programme

(b) For Hong Kong/Mainland cross-boundary projects or programmes of this year (2013-14), please provide information as per following table:

Project / Programme	Details, objective and whether it is related to the expenditure involved in the Framework Agreement	Mainland department/ organisation involved	Progress (% completed, commencement date, target completion date)	Will the details, objectives, amount involved or impact on the public, society, culture and ecology be released to the public? If so, through which channels and what will be the manpower and expenditure involved? If not, what are the reasons	Details of the legislative amendments or policy changes involved in the project/programme

(c) Apart from the projects or programmes listed above, are there any other modes of Hong Kong/Mainland cross-boundary cooperation? If so, in what modes are they taken forward? What were the manpower and expenditure involved over the past 3 years (from 2010-11 to 2012-13)? How much financial and manpower resources have been earmarked in this year's Estimates?

Asked by: Hon. HO Sau-lan, Cyd

Reply:

(a)

Project / Programme	Details, objective and whether it is related to the expenditure involved in the Framework Agreement on Hong Kong /Guangdong Co-operation (the Framework Agreement)	Mainland department/ organisation involved	Progress (% completed, commence-ment date, target completion date)	Have the details, objectives, amount involved or impact on the public, society, culture and ecology been released to the public? If so, through which channels and what were the manpower and expenditure involved? If not, what are the reasons?	Details of the legislative amendments or policy changes involved in the project/ programme

Enhance Legal Co-operation with Guangdong	Pursuant to the Framework Agreement on Hong Kong/ Guangdong Co-operation, we have reinforced the existing communication mechanism in legal matters with Guangdong and we will continue the work. This covers exchange of information on legal matters as well as conducting meetings and / or seminars to discuss specific legal issues. We also support the co-operation activities between China appointed attesting officers in Hong Kong and Mainland notaries. The staff cost and other related expenses have been and will continue to be absorbed from within the available resources of the Department of Justice (DoJ).	The Legislative Affairs Office and the Justice Department of the Guangdong Province, depending on the subject matter concerned.	The programme commenced in 2010 and is expected to continue for some time.	This was included in the 2010-11 Policy Agenda. The initiative was also presented to the Legislative Council Panel on Administration of Justice and Legal Services (AJLS) in October 2010. The staff costs and other related expenses were absorbed from within the available resources of DoJ and the expenditure in this regard cannot be quantified.	Apart from the co-operation mechanism established under the Framework Agreement, the Agreement does not involve any change in law or policy.

Co-operation between Shenzhen and Hong Kong	The Co-operative Arrangement on Legal Matters was signed between DoJ and the Shenzhen Municipal Government on 25 November 2011. The main purpose was to establish a mechanism to promote legal co-operation between the two governments. The staff cost and other related expenses to promote the cooperation have been and will continue to be absorbed from within the available resources of DoJ.	Shenzhen Municipal Government	The co-operation is expected to continue for some time.	The Co-operative Arrangement was signed at the HK/Shenzhen Co-operation meeting held on 25 November 2011. The matter was mentioned in the press release on the meeting issued by the Government. The LegCo AJLS Panel was also informed of the signing of the Arrangement and its main purpose in late November 2011. The staff costs and other related expenses were absorbed from within the available resources of DoJ and the expenditure in this regard cannot be quantified.	Apart from the co-operation mechanism established under the Co-operative Arrangement, the Arrangement does not involve any change in law or policy.

(b) As mentioned in (a) above, we expect the relevant programmes to continue in 2013-14.

(c) The Legal Policy Division of DoJ is also taking forward the following Hong Kong/Mainland cross-boundary projects or programmes which aim to enhance legal cooperation in the following areas:

DoJ consistently promotes legal cooperation between Hong Kong and the Mainland. For example, since August 2008, we have monitored the implementation of the reciprocal arrangement signed with the Supreme People's Court to facilitate mutual reciprocal enforcement of judgments in certain civil or commercial matters given pursuant to choice of court agreements.

After DoJ and the Shenzhen Municipal Government signed the "Co-operative Arrangement on Legal Matters" in November 2011, the two sides have been engaging in communication and exchange of information on legal issues relating to Hong Kong-Shenzhen cooperative projects,

including the development of the legal and arbitration services in Qianhai.

In August 2012, the Secretary for Justice visited Shenzhen and met with representatives of the Shenzhen Municipal Office of Legislative Affairs and other authorities. Both sides further discussed issues including the applicability of Hong Kong law and the establishment of branches by Hong Kong arbitration bodies in Qianhai.

Drawing on the proposals on expanding the provision of HK's legal and arbitration services in Qianhai, DoJ has put forward similar proposals for consideration by the Nansha authorities. These proposals include allowing law firms of both sides to improve the mode of association in the form of partnership, to encourage and support Mainland enterprises to choose Hong Kong law as the applicable law to resolve commercial disputes and to choose Hong Kong as the place of arbitration.

Other legal cooperation projects/programmes include facilitation of training and exchanges with Mainland legal and judicial organizations.

The staff costs and other related expenses for such programmes have been and will be absorbed from within the available resources of DoJ and the estimated expenditure in this regard cannot be quantified.

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ037

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
3911

Head: 92 Department of Justice Subhead (No. & title): (-) Not Specified

Programme: (2) Civil

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

Now that the Government has broadcast an Announcement in the Public Interest on television to promote mediation, what are the plans of the Department of Justice to promote the use of mediation among the public at the community level?

Asked by: Hon. WONG Yuk-man

Reply:

The Public Education and Publicity Sub-committee established under the Steering Committee on Mediation chaired by the Secretary for Justice is tasked to consider publicity initiatives for the promotion of mediation in Hong Kong. Initiatives being considered by the Sub-committee include those that will promote the use of mediation among the public at the community level. These include mediation seminars and conference at community level, posters and information materials on mediation and "road shows" to bring information on mediation to different districts.

The initiatives to be worked out will be subject to the consideration and endorsement of the Steering Committee. The Civil Division of the Department will provide support to the Steering Committee and its Sub-committee and will be involved in the promotion. The Steering Committee with its members from different sectors and professions will help the coordination of efforts in facilitating the promotion.

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ038

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
4084

Head: 92 Department of Justice

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

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

(a) What were the statistics for domestic violence cases between 2008 and 2012? Please provide the following information:

	2008	2009	2010	2011	2012
Prosecution not instituted					
Bound over					
Prosecution instituted					

(b) Please list the five main reasons for "prosecution not instituted".

(c) How many domestic violence cases there were in which the bound-over offenders reoffended and what were the means of disposal?

	2008	2009	2010	2011	2012
No action taken					
Bound over duration extended					
Prosecution instituted					

Asked by: Hon. CHEUNG Kwok-che

Reply:

There is no specific offence of domestic violence as such under the laws of Hong Kong. In the context of criminal law, domestic violence may broadly be described as any offence which arises out of violence, threatening behaviour or physical, sexual or emotional abuse, between adults who are or have been intimate partners, or else between family members. We do not maintain statistics on prosecution or bind over in relation to criminal cases involving domestic violence, or more specifically cases relating to offenders whose cases have been dealt with by way of bind over. Binding over of offenders generally takes place with first time offenders involving relatively minor

offending and where remorse has been displayed by the accused of their conduct. It involves the accused making full admission of the offence in open court and being put on a good behaviour bond, generally for a period of 12 months.

That said, to ensure that cases involving domestic violence are processed expeditiously, such cases are identified in the handling process for the provision of legal advice as soon as possible upon receipt of the case files from the police. The number of advices given in relation to such cases, which we have kept since October 2008, is as follows –

	2008 (Oct – Dec)	2009	2010	2011	2012	2013 (up to Feb 2013)
Number of legal advice given	36	93	149	90	84	13

In handling these cases, prosecutors are required at all times to apply The Statement of Prosecution Policy and Practice which contains a section on "The Conduct of Domestic Violence Cases", and more specifically to the published Policy for Prosecuting Cases involving Domestic Violence. Prosecutors will consider:

- whether there is sufficient evidence to justify the institution of proceedings on the basis that it affords a reasonable prospect of conviction; and
- whether the public interest requires a prosecution to be pursued. Generally speaking, the public interest will require that a prosecution be brought in a case of domestic violence if the victim is willing to give evidence.

Possible reasons (none of them necessarily overriding and the exact weight to be attached will depend on the facts of each case) for not instituting or continuing with a prosecution in cases involving domestic violence include:

- the victim is the only witness who can testify to the commission of the offence but he/she is not willing to give evidence in court, and there is otherwise insufficient admissible evidence to prove the case in court to the required standard;
- the nature of the case is relatively minor, taking into account matters including the degree of violence used, the extent of the injury, if any, caused, etc.;
- the accused has no history of spousal or other forms of violence such that the risk to the victim's safety can credibly be assessed as 'low';
- the victim freely withdraws support for prosecution and the overall circumstances do not justify compelling the victim to testify, or warrant not proceeding with the case; and
- the accused is motivated to change (as evidenced, for example, by participation in counselling sessions).

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ039

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
4629

Head: 92 Department of Justice Subhead (No. & title): (-) Not Specified

Programme: (4) Law Drafting

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

As indicated in the "Indicators" section of the Law Drafting Division, the pages of legislation compiled for publication in the loose-leaf edition is expected to increase from 4 730 in 2012 to 13 000 in 2013. In this connection, will the Administration inform this Committee of the reasons for such three-fold increase in this statistic, especially since the pages of bills/subsidiary legislation gazetted are expected to decrease in 2013?

Asked by: Hon. KWOK, Dennis

Reply:

Replacement pages for the Loose-leaf Edition of the Laws of Hong Kong are issued from time to time in batches to reflect the commencement of new legislation and amendments to existing legislation.

One issue of replacement pages was issued in 2012. According to our working plan, two issues will be issued in 2013. The Legislative Council enacted many ordinances towards the end of its 2008-2012 term. Many of these new ordinances will be incorporated into the two issues of replacement pages in 2013. There will, therefore, be more pages.

The number of pages of bills/ subsidiary legislation gazetted are expected to decrease in 2013 since, based on the presently available information concerning the items in progress, less lengthy bills/ subsidiary legislation are expected to be gazetted this year.

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ040

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
4635

Head: 92 Department of Justice Subhead (No. & title): 000 Operational expenses

Programme: (-) Not Specified

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

The contribution to the Civil Service Provident Fund (CSPF) for personnels of the Department of Justice was $9,158,000 for 2011-12. The original estimate of the same for 2012-13 was $19,465,000, representing a 112.5% increase from the preceding year's contribution. The estimate for 2012-13 was later revised to $14,799,000, representing a 24.0% decrease from the original estimate. The estimated provision for 2013-14 is $20,875,000. In this connection, will the Administration inform this Committee of the reasons for the large fluctuations for the estimate for the contribution to the CSPF for personnels of the Department of Justice?

Asked by: Hon. KWOK, Dennis

Reply:

The original estimate for CSPF contribution for 2012-13 is 112.5% higher than the actual expenditure for 2011-12. It is mainly because a number of officers who were under the Mandatory Provident Fund (MPF) Scheme in 2011-12 would become eligible to join the CSPF Scheme in 2012-13 as they would progress onto permanent terms of appointment upon completion of probation.

The revised estimate for 2012-13 is 24% lower than the original estimate for that year. This is mainly because a higher contribution rate was assumed for those officers who would become eligible for the CSPF Scheme in 2012-13 in preparing the original estimates in order to cater for possible staffing changes.

The estimate for 2013-14 is projected to rise to $20,875,000. This has taken into account the need for additional contribution required for officers who were under the MPF Scheme in 2012-13 and would become eligible to join the CSPF Scheme in 2013-14 when they complete their probation. It also reflects the need for a full year contribution in 2013-14 for those officers who became eligible for the CSPF Scheme in 2012-13 but the contribution for them commenced from some time during the year and, therefore, did not require a full year contribution in 2012-13.

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013

Examination of Estimates of Expenditure 2013-14

Reply Serial No.
SJ041

CONTROLLING OFFICER'S REPLY TO INITIAL WRITTEN QUESTION

Question Serial No.
4654

Head: 92 Department of Justice Subhead (No. & title): (-) Not Specified

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development

Director of Bureau: Secretary for Justice

Question:

The actual number of court days undertaken by Court Prosecutors (CPs) in Magistrates' Court in 2012 decreased from the 2011 figure of 11 900 days to 10 766, but the estimated number of court days undertaken by Court Prosecutors in Magistrates' Court in 2013 continues to remain high at 10 770, especially when compared to the estimated number of court days undertaken by Counsel instructed to prosecute in place of CPs (4 580). In this connection, will the Administration inform this Committee:

(i) of the current number of CPs and a breakdown of their ranks and qualifications;

(ii) of the minimum entry requirement for the CP rank, and whether the Administration will consider expanding the establishment of the Court Prosecutor grade and raising the entry requirement to a law degree; if yes, of the details; if not, of the reasons for that?

Asked by: Hon. KWOK, Dennis

Reply:

The current number of CPs and a breakdown of their ranks as at 1 March 2013 are as follows -

Rank	**Strength**
Chief Court Prosecutor	2
Senior Court Prosecutor I	7
Senior Court Prosecutor II	30
Court Prosecutor	47
Total	86

The prevailing minimum entry requirement for the CP rank is attaining Level 3 or equivalent or above in five subjects in the Hong Kong Diploma of Secondary Education Examination or matriculation, or equivalent. Legal qualification is not a prerequisite for appointment. However, some officers already held such qualification when they joined the Grade, while some others obtained the qualification (with the various forms of support provided by the management) after

joining the service. As at 1 March 2013, out of 86 CPs, 42 held legal qualifications in one form or another (i.e. 6 were admitted as barrister/solicitor; 6 had obtained the Postgraduate Certificate in Laws; 30 had Bachelor of Laws/Common Professional Examination/Juris Doctor qualification); 31 held degrees in other disciplines; and 2 were pursuing studies for qualifications in law.

The current approach whereby CPs are recruited from different disciplines of academic studies and are then provided with the necessary training and development opportunities after joining the Grade is a flexible way to open the Grade to a wider pool of talents and to maintain the competitive advantage of the Grade. As such, we do not see a practical need to change the recruitment qualifications of the Grade at this point in time. On the other hand, the management is looking into the long term development of the CP Grade and how the prosecution work in the magistracies can be better handled so as to achieve greater professionalism and efficiency in the magistracies and overall improve the quality of our prosecution service. Since taken up his post, the Secretary for Justice has paid visits to three Magistrates' Courts and met CPs to understand their working situation and to gather views from them on the future development of the CP Grade. Further consideration is also being planned so as to assist the Department to properly formulate the long term planning in this regard. Hence, we have no plan to expand the establishment of the Grade in the interim.

Notwithstanding the above, we will continue our efforts to encourage CPs to obtain legal qualifications and seek career advancement. We will also continue to instruct fiat counsel to conduct prosecution work where there is such a need.

Name in block letters: Arthur Ho

Post Title: Director of Administration and Development

Date: 10.4.2013