

**Index Page**

**Replies to initial written questions raised by Finance Committee Members in examining the Estimates of Expenditure 2014-15**

**Director of Bureau : Secretary for Justice**

**Session No. : 2**

**File Name : SJ-1-e1.doc**

<b>Reply Serial No.</b>	<b>Question Serial No.</b>	<b>Name of Member</b>	<b>Head</b>	<b>Programme</b>
<a href="#">SJ001</a>	0269	CHAN Wai-yip, Albert	92	(3) Legal Policy
<a href="#">SJ002</a>	0270	CHAN Wai-yip, Albert	92	(1) Prosecutions
<a href="#">SJ003</a>	0271	CHAN Wai-yip, Albert	92	(1) Prosecutions
<a href="#">SJ004</a>	0272	CHAN Wai-yip, Albert	92	(3) Legal Policy
<a href="#">SJ005</a>	0293	SHEK Lai-him, Abraham	92	(2) Civil
<a href="#">SJ006</a>	0302	NG Leung-sing	92	(2) Civil
<a href="#">SJ007</a>	0303	NG Leung-sing	92	(3) Legal Policy
<a href="#">SJ008</a>	0582	LIAO Cheung-kong, Martin	92	(2) Civil
<a href="#">SJ009</a>	0583	LIAO Cheung-kong, Martin	92	(4) Law Drafting
<a href="#">SJ010</a>	1632	HO Sau-lan, Cyd	92	(3) Legal Policy (5) International Law
<a href="#">SJ011</a>	1633	HO Sau-lan, Cyd	92	(3) Legal Policy
<a href="#">SJ012</a>	1635	HO Sau-lan, Cyd	92	(1) Prosecutions (2) Civil
<a href="#">SJ013</a>	1640	HO Sau-lan, Cyd	92	(1) Prosecutions
<a href="#">SJ014</a>	1871	MO, Claudia	92	(3) Legal Policy
<a href="#">SJ015</a>	1978	TAM Yiu-chung	92	(2) Civil
<a href="#">SJ016</a>	1979	TAM Yiu-chung	92	(3) Legal Policy
<a href="#">SJ017</a>	1980	TAM Yiu-chung	92	(3) Legal Policy
<a href="#">SJ018</a>	1981	TAM Yiu-chung	92	(3) Legal Policy
<a href="#">SJ019</a>	2025	IP LAU Suk-ye, Regina	92	(1) Prosecutions
<a href="#">SJ020</a>	2122	KWOK Ka-ki	92	
<a href="#">SJ021</a>	2229	KWOK Dennis	92	(1) Prosecutions
<a href="#">SJ022</a>	2505	KWOK Dennis	92	(2) Civil
<a href="#">SJ023</a>	2639	HO Chun-yan, Albert	92	(1) Prosecutions
<a href="#">SJ024</a>	2640	HO Chun-yan, Albert	92	(2) Civil
<a href="#">SJ025</a>	2923	WONG Yuk-man	92	(3) Legal Policy
<a href="#">SJ026</a>	2924	WONG Yuk-man	92	(3) Legal Policy
<a href="#">SJ027</a>	2925	WONG Yuk-man	92	(3) Legal Policy
<a href="#">SJ028</a>	2926	WONG Yuk-man	92	(4) Law Drafting
<a href="#">SJ029</a>	4237	KWOK Dennis	92	(3) Legal Policy
<a href="#">SJ030</a>	4238	KWOK Dennis	92	
<a href="#">SJ031</a>	4239	KWOK Dennis	92	(1) Prosecutions
<a href="#">SJ032</a>	4240	KWOK Dennis	92	(4) Law Drafting
<a href="#">SJ033</a>	4245	KWOK Dennis	92	(1) Prosecutions
<a href="#">SJ034</a>	4248	KWOK Dennis	92	(1) Prosecutions (2) Civil (3) Legal Policy (4) Law Drafting (5) International Law
<a href="#">SJ035</a>	4249	KWOK Dennis	92	(2) Civil
<a href="#">SJ036</a>	4660	HO Sau-lan, Cyd	92	(4) Law Drafting
<a href="#">SJ037</a>	5239	WONG Yuk-man	92	

<b>Reply Serial No.</b>	<b>Question Serial No.</b>	<b>Name of Member</b>	<b>Head</b>	<b>Programme</b>
<a href="#">SJ038</a>	5354	CHAN Wai-yip, Albert	92	
<a href="#">SJ039</a>	2283	FAN Kwok-wai, Gary	92	
<a href="#">SJ040</a>	2352	LAM Kin-fung, Jeffrey	92	(3) Legal Policy
<a href="#">SJ041</a>	2393	LEUNG Mei-fun, Priscilla	92	(3) Legal Policy
<a href="#">SJ042</a>	2405	IP LAU Suk-ye, Regina	92	(3) Legal Policy
<a href="#">SJ043</a>	2649	SHEK Lai-him, Abraham	92	(3) Legal Policy
<a href="#">SJ044</a>	6016	LEUNG Kwok-hung	92	(1) Prosecutions
<a href="#">SJ045</a>	6026	LEUNG Kwok-hung	92	(1) Prosecutions
<a href="#">SJ046</a>	6198	MOK, Charles Peter	92	
<a href="#">SJ047</a>	6227	MOK, Charles Peter	92	
<a href="#">SJ048</a>	6252	MOK, Charles Peter	92	
<a href="#">SJ049</a>	6545	MOK, Charles Peter	92	
<a href="#">SJ050</a>	6559	MOK, Charles Peter	92	
<a href="#">SJ051</a>	6581	CHEUNG Kwok-che	92	(1) Prosecutions
<a href="#">SJ052</a>	3275	LEUNG Mei-fun, Priscilla	92	(3) Legal Policy

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**(Question Serial No. 0269)**

Head: (92) Department of Justice  
Subhead (No. & title): (-) Not Specified  
Programme: ( 3 ) Legal Policy  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Page 181 (if applicable)

Question (Member Question No. 26):

In respect of Programme (3) Legal Policy, would the Administration inform this Committee of the estimated operational expenses for 2014-15, and the establishment and estimated annual emoluments involved?

Asked by: Hon. CHAN Wai-yip, Albert

Reply:

The estimated establishment in respect of Programme (3) Legal Policy as at 31 March 2015 is 100.

Grades	Establishment
Government Counsel	45
Para-legal	8
Executive, Clerical and Secretarial	47
Total	100

The estimated expenditure of the Programme for 2014-15 is \$114.5 million, out of which the estimated personal emoluments involved are about \$79.8 million.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**(Question Serial No. 0270 )**

Head: (92) Department of Justice

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

Programme: ( 1 ) Prosecutions

Controlling Officer: Director of Administration and Development (Arthur HO)

Director of Bureau: Secretary for Justice

This question originates from: Estimates on Expenditure Volume 1 Page 177 (if applicable)

Question (Member Question No. 27):

In respect of Programme (1) Prosecutions, would the Administration inform this Committee of the operational expenses for 2014-15, and the establishment and estimated annual emoluments involved?

Asked by: Hon. CHAN Wai-yip, Albert

Reply:

The estimated establishment in respect of Programme (1) Prosecutions as at 31 March 2015 is 586.

Grades	Establishment
Government Counsel	135
Para-legal	136
Executive, Clerical and Secretarial	315
Total	586

The estimated expenditure of the Programme for 2014-15 is \$577.6 million, out of which the estimated personal emoluments involved are about \$310.2 million.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**(Question Serial No. 0271)**

Head: (92) Department of Justice

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

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development (Arthur HO)

Director of Bureau: Secretary for Justice

This question originates from: Estimates on Expenditure Volume 1 Page 185 (if applicable)

Question (Member Question No. 28):

The Administration states that the provision for 2014-15 is \$58.2 million (11.2%) higher than the revised estimate for 2013-14 and is partly due to the creation of five posts to meet operational needs. Would the Administration inform this Committee of the post titles, functions and estimated annual emoluments of these five posts?

Asked by: Hon. CHAN Wai-yip, Albert

Reply:

The details of the five posts to be created for Programme (1) Prosecutions in 2014-15 are set out below –

Post rank	Main functions	NAMS*
One Chief Executive Officer post (time-limited for four years)	Strengthening executive/clerical support to cope with increasing volume and complexity of work	\$1,153,800
One Executive Officer I post (time-limited for four years)		\$621,900
One Clerical Officer post		\$356,640
One Assistant Clerical Officer post		\$222,420
One Clerical Assistant post		\$173,520

\*NAMS means notional annual mid-point salary

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**(Question Serial No. 0272)**

Head: (92) Department of Justice

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

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development (Arthur HO)

Director of Bureau: Secretary for Justice

This question originates from: Estimates on Expenditure Volume 1 Page 185 (if applicable)

Question (Member Question No. 29):

The Administration states that the provision for 2014-15 is \$21.2 million (22.7%) higher than the revised estimate for 2013-14 and is partly due to the creation of five posts to meet operational needs. Would the Administration inform this Committee of :

- (1) the post titles, functions and estimated annual emoluments of these 5 posts; and
- (2) the main operational needs to be met by these posts?

Asked by: Hon. CHAN Wai-yip, Albert

Reply:

The details of the five posts to be created in the Legal Policy Division in 2014-15 are set out below-

Post Rank	Main functions and operational needs	NAMS*
Two Senior Government Counsel posts	<ul style="list-style-type: none"> <li>- One post for handling work relating to promotion of Hong Kong as a leading international arbitration centre in Asia Pacific as well as providing support to the work of the Advisory Committee on Promotion of Arbitration to be chaired by the Secretary for Justice</li> <li>- One post to cope with election-related advice concerning the Village Representative Elections 2015, District Councils Election 2015, Legislative Council Election 2016 and the Chief Executive Election 2017; and advice on constitutional reforms relating to the election of the Chief Executive in 2017 by universal suffrage and constitutional reforms relating to the Legislative Council election in 2016</li> </ul>	\$1,153,800 x 2 = \$2,307,600
One Senior Government Counsel post (time-limited for 2 years)	<ul style="list-style-type: none"> <li>- Providing legal support to the Inter-departmental Working Group on Gender Recognition chaired by the Secretary for Justice, which is conducting a detailed study to follow up on the observations made by the Court of Final Appeal in the case of <i>W v Registrar of Marriages, FACV 4/2012</i></li> </ul>	\$1,153,800
One Government Counsel post (time-limited for 2 years)		\$845,880
One Assistant Clerical Officer post	<ul style="list-style-type: none"> <li>- Strengthening clerical support to cope with increasing volume and complexity of work</li> </ul>	\$222,420

\*NAMS means notional annual mid-point salary

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**(Question Serial No. 0293)**

Head: (92) Department of Justice  
Subhead (No. & title): (-) Not Specified  
Programme: (2) Civil  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Budget Speech Paragraph 97 Page 30 (if applicable)

Question (Member Question No. 33):

The Financial Secretary mentioned that "the Government has all along been actively promoting Hong Kong's legal and arbitration services and making its best efforts to advocate and develop mediation services". Will the Administration inform this Committee about the fund and manpower deployed to the Steering Committee on Mediation for the realization of the aforementioned policy initiative? What is the scale, the timeframe, the latest progress in enhancing and promoting Hong Kong as an international legal and dispute resolution services centre in Asia Pacific region in light of the severe competition brought by Singapore and Mainland China?

Asked by: Hon. SHEK Lai-him, Abraham

Reply:

The Department of Justice (DoJ) is committed to strengthening Hong Kong's status as an international legal and dispute resolution services centre in the Asia Pacific region.

As regards legal services and legal infrastructure, Hong Kong lawyers have been providing high-quality legal services in various areas such as business law. We currently have 1,238 practising barristers, 7,847 practising solicitors and 816 local law firms, plus 71 foreign law firms and 1,350 registered foreign lawyers. They provide a broad range of legal services to the community and clients from all over the world.

To promote Hong Kong as a regional centre for legal services, DoJ has been working closely with the legal professional bodies to improve the regulatory framework within which lawyers can provide their services in Hong Kong. One of the significant measures taken in recent years is the enactment of the Legal Practitioners (Amendment) Ordinance 2012, which will allow law firms in Hong Kong to operate in the form of a limited liability partnership (LLP). Under this business model, a partner in an LLP may in effect practise with limited liability if he is not at fault. At the same time, partners in an LLP may practise under the relatively flexible management structure of a partnership. It is expected that this measure would help attract more foreign law firms to establish their presence in Hong Kong as well as allow more flexibility to local law firms.

Regarding the enhancement and promotion of Hong Kong as an international legal and dispute resolution services centre in the Asia Pacific region, DoJ will strive to enhance the legal and institutional infrastructure, so as to encourage international and Mainland businessmen to choose Hong Kong as the preferred venue for dispute resolution (whether by way of arbitration, mediation or otherwise).

In this regard, the recently revamped Arbitration Ordinance (Cap. 609), which came into effect in June 2011, is based on the Model Law on International Commercial Arbitration adopted by the United Nations Commission on International Trade Law (UNCITRAL Model Law). The Ordinance reinforces the advantages of arbitration, including respect for the parties' autonomy, fair and speedy method of dispute

resolution and protection of confidentiality in arbitration proceedings and related court hearings. At the same time, Hong Kong lawyers are well placed to assist Mainland enterprises which seek to “go out” and invest outside the Mainland.

DoJ has also been working closely with legal professional bodies and the arbitration sector to enhance our promotional efforts around the world. Following the success of the first and second Hong Kong Legal Services Forums held in Shanghai in 2010 and Guangzhou in 2012, as well as the seminar held in Xiamen in 2013, DoJ will be organising a third Legal Services Forum in Qingdao in September 2014 to further promote Hong Kong’s position as a regional centre for international legal services and dispute resolution.

The incumbent Secretary for Justice (SJ) and his predecessor have since 2009 visited prominent commercial centres in overseas countries (including London, Toronto, Kuala Lumpur, Seoul, Paris, Singapore and The Hague) to promote the competitive edges of Hong Kong in the provision of legal and arbitration services. In 2014, the focus is on promoting Hong Kong’s arbitration services in emerging markets in the Asia Pacific region, in particular Southeast Asia. Our attention is turned to these countries as there will be new and increasing demands for dispute resolution services as emerging economies open up to the rest of the world. In February 2014, SJ led a delegation of representatives from our legal and arbitration sectors on a roadshow to Vietnam and Cambodia. Promotional visits to other emerging economies later in the year are being planned.

To step up the joint efforts between DoJ and the legal/arbitration sector to foster the development and growth of arbitration in Hong Kong, an Advisory Committee on Promotion of Arbitration to be chaired by SJ will soon be established. The Advisory Committee will consider, advise on and co-ordinate on-going and new initiatives for the promotion of Hong Kong arbitration services in the Asia Pacific region and serve as a forum for the discussion of issues raised by the legal/arbitration sector on Hong Kong’s positioning as a leading arbitration centre in the region.

DoJ will also continue to facilitate the establishment and growth of world class arbitration institutions in Hong Kong. A very recent development is the plan of the China Maritime Arbitration Commission (CMAC), a leading maritime arbitration institution in the Mainland, to set up a branch office in Hong Kong. We are discussing with CMAC with a view to facilitating CMAC’s early implementation of this plan.

Another international arbitration institution which we are seeking its enhanced presence in Hong Kong is the Permanent Court of Arbitration (“PCA”), a leading international institution with its headquarters in the Hague with a long history and good reputation in the field of international investment arbitration. At our request, the Central People’s Government (“CPG”) and the PCA have commenced negotiation of a host country agreement on the conduct of dispute settlement proceedings in Hong Kong, which will help attract more investment arbitrations to be conducted in Hong Kong.

As for mediation, the Steering Committee on Mediation (“Steering Committee”) chaired by the SJ continues with the efforts to foster the development and promotion of mediation in Hong Kong. Its members from different sectors and professions help to coordinate efforts and resources in facilitating the work to promote and develop the wider use of mediation in Hong Kong. There are three subcommittees set up under the Steering Committee which deal with : (a) monitoring of the operation of the Mediation Ordinance (Cap. 620) that was enacted in June 2012 and came into operation in January 2013; (b) overseeing matters concerning the standard of accreditation and training of mediators in Hong Kong; and (c) formulation and implementation of initiatives to increase public awareness and the promotion of the more extensive use of mediation by members of public to resolve disputes in Hong Kong.

A “Mediate First” Pledge Reception was held on 18 July 2013 to encourage the community to consider the use of mediation as a means of dispute resolution before resorting to litigation. To date, about 160 companies and organisations have signed the pledge.

A “Mediation Week” was held commencing from 20 March 2014 with a 2-day mediation conference with international as well as local speakers. Other activities during the Mediation Week include seminars, workshops and mock mediation. A new Announcement in Public Interest (in both Chinese and English), with both video and audio clips, will be broadcast in March 2014 to enhance the the public’s awareness and understanding of mediation as a means of dispute resolution.



The Department will also continue with its efforts to promote the wider use of mediation within the Government. From March 2013 to January 2014, the Department has organized mediation training including mediation advocacy skills training workshops and mediation experience sharing sessions for Government Counsel and general mediation seminars for para-legals. In early 2014, the Department has nominated 11 Government Counsel and one Law Clerk to attend mediators' skills training courses. In conjunction with the Civil Service Bureau, a number of mediation seminars were conducted for civil servants (directorates officers and middle rank officers) in 2013 and early 2014. A tailor-made training seminar on mediation was organised for the Government Logistics Department in late 2013.

The Steering Committee on Mediation and its three subcommittees are supported by a Mediation Team within the Department which comprises one Deputy Principal Government Counsel, one Senior Government Counsel, one Personal Secretary I and one Law Clerk at an annual staff cost of \$3,590,000 in 2014-15. The other administrative expenditure including various promotional activities (including those set out in the above paragraphs) will be absorbed within the existing resources of the Department.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**(Question Serial No. 0302)**

Head: (92) Department of Justice  
Subhead (No. & title): (-) Not Specified  
Programme: (2) Civil  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Pages 179-180 (if applicable)

Question (Member Question No. 8):

The estimated financial provision for Civil for 2014-15 shows an increase of 48.2% or \$306.3 million. What are the justifications for such an increase? What are the changes in the estimated expenditure on “claims made under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment” for the coming year?

Asked by: Hon. NG Leung-sing

Reply:

The estimated financial provision for Programme (2) Civil of the Department of Justice (DoJ) for 2014-15 is \$306.3 million (48.2%) higher than the revised estimate for 2013-14. This is mainly due to the filling of vacancies, creation of 21 posts to meet operational needs, and anticipated increase in briefing out expenses and court costs.

The work of the Civil Division (“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, 21 new posts (including 9 time-limited posts) will be created under this programme in 2014-15 –

- 1 Government Counsel (GC), 1 Administrative Officer, 1 Clerical Officer, 2 Law Clerks (LC), 6 Assistant Clerical Officers (ACO) and 2 Clerical Assistants (CA)
- 2 Senior Government Counsel (SGC) and 1 GC (time-limited posts for three years)
- 3 SGC, 1 GC and 1 ACO (time-limited for two years)
- 1 LC (time-limited for one year)
- offset by deletion of 1 SGC post due to the lapse of the post for the Companies Ordinance Rewrite exercise (Phase I).

The expenditure for court costs and briefing-out expenses in the CD in 2014-15 represent an increase of about \$165.833 million (147.5%) and \$106.889 million (45.7%) respectively over the 2013-14 revised estimates.

The expenditure for 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 and briefing-out expenses is mainly due to the payment in respect of some mega cases which will be rolled over from 2013-14 to 2014-15 having regard to the development of the cases concerned and also the amount likely to

be required for new cases. The general increase in counsel fees and the increase in complexity and number of cases over the years also contribute to the expected increase in expenditure. As the estimates were 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 2014-15 would ultimately depend on the actual development and outcome of the cases concerned (which are not entirely within the control of the Administration or DoJ).

The Division has a team of about 28 staff (comprising counsel and supporting staff) who are tasked to deal with “claims made under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)”. To cope with the additional workload arising from the implementation of a unified screening mechanism commenced on 3 March 2014 and to deal with non-refoulement claims on all applicable grounds (including torture grounds) under the mechanism, two SGC posts (time-limited for two years) will be created in the team in 2014-15. In this regard, the annual staff cost for the team will be \$29.2 million in 2014-15. The other related expenditures involved in handling matters relating to CAT claims are part of the Department’s general departmental expenses and separate breakdown of the estimated expenditure is not available.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**SJ007**

**(Question Serial No. 0303)**

Head: (92) Department of Justice  
Subhead (No. & title): (-) Not Specified  
Programme: (3) Legal Policy  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Page 181 (if applicable)

Question (Member Question No. 9):

The estimated financial provision for Programme (3) Legal Policy for 2014-15 shows an increase of 22.7% or \$21.2 million. What are the justifications for such an increase?

Asked by: Hon. NG Leung-sing

Reply:

The additional provision of \$21.2 million for 2014-15 is mainly due to the filling of vacancies, creation of five new posts to meet operational needs as well as anticipated increase in general departmental expenses.

Details of the following five new posts to be created in 2014-15 are –

Post Rank	Main functions and operational needs	NAMS*
Two Senior Government Counsel posts	<ul style="list-style-type: none"> <li>- One post for handling work relating to promotion of Hong Kong as a leading international arbitration centre in Asia Pacific as well as providing support to the work of the Advisory Committee on Promotion of Arbitration to be chaired by the Secretary for Justice</li> <li>- One post to cope with election-related advice concerning the Village Representative Elections 2015, District Councils Election 2015, Legislative Council Election 2016 and the Chief Executive Election 2017; and advice on constitutional reforms relating to the election of the Chief Executive in 2017 by universal suffrage and constitutional reforms relating to the Legislative Council election in 2016</li> </ul>	\$1,153,800 x 2 = \$2,307,600
One Senior Government Counsel post (time-limited for 2 years)	<ul style="list-style-type: none"> <li>- Providing legal support to the Inter-departmental Working Group on Gender Recognition chaired by the Secretary for Justice, which is conducting a detailed study to follow up on the observations made by the Court of Final Appeal in the case of <i>W v Registrar of Marriages, FACV 4/2012</i></li> </ul>	\$1,153,800
One Government Counsel post (time-limited for 2 years)		\$845,880
One Assistant Clerical Officer post	<ul style="list-style-type: none"> <li>- Strengthening clerical support to cope with increasing volume and complexity of work</li> </ul>	\$222,420

\*NAMS means notional annual mid-point salary

The anticipated increase in general expenses is to cover the following items:

- (a) provision of financial support to law-related organisations for their office accommodation in Hong Kong in order to facilitate them to set up or develop services in Hong Kong;
- (b) provision of operational support in connection with proceedings and meetings of the Permanent Court of Arbitration to be held in Hong Kong;
- (c) promoting Hong Kong's arbitration services more vigorously in emerging markets in the Asia Pacific region, in particular Southeast Asia; and
- (d) promotion of Hong Kong as an international legal and dispute resolution services centre in the Mainland including organising the "Hong Kong Legal Services Forum" in September 2014 with the support of the two legal professional bodies as well as arbitration bodies.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**SJ008**

**(Question Serial No. 0582)**

Head: (92) Department of Justice  
Subhead (No. & title): (-) Not Specified  
Programme: (2) Civil  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Page 185 (if applicable)

Question (Member Question No. 9):

The provision for 2014-15 is \$306.3 million (48.2%) higher than the revised estimate for 2013-14. Please provide detailed reasons for the huge increase in briefing out expenses and court costs. What is the percentage of the briefing out expenses that makes up the revised estimate, and what is the annual expenditure involved?

Asked by: Hon. LIAO Cheung-kong, Martin

Reply:

The estimated financial provision for Programme (2) Civil of the Department of Justice (DoJ) for 2014-15 is \$306.3 million (48.2%) higher than the revised estimate for 2013-14. This is mainly due to the filling of vacancies, creation of 21 posts to meet operational needs, and anticipated increase in briefing out expenses and court costs.

The expenditure for court costs and briefing-out expenses in respect of this Programme in 2014-15 are estimated to be \$278.3 million (representing an increase of about 147.5% over that in the 2013-14 revised estimates) and \$340.9 million (representing an increase of 45.7% over that in the 2013-14 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 and briefing out expenses is mainly due to the payment in respect of some mega cases which will be rolled over from 2013-14 to 2014-15 having regard to the development of the cases concerned and also the amount likely to be required for new cases. The general increase in counsel fees and the increase in complexity and number of cases over the years also contribute to the expected increase in expenditure for court costs and briefing out expenses.

As the estimates were 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 2014-15 would ultimately depend on the actual development and outcome of the cases concerned (which are not entirely within the control of the Administration or DoJ).

The 2013-14 revised estimate for briefing out expenses is \$234.0 million, which makes up 36.8% of the 2013-14 revised estimate for Programme (2) Civil.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

<b>SJ009</b>
--------------

**(Question Serial No. 0583)**

Head: (92) Department of Justice

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

Programme: (4) Law Drafting

Controlling Officer: Director of Administration and Development (Arthur HO)

Director of Bureau: Secretary for Justice

This question originates from: Estimates on Expenditure Volume 1 Page 185 (if applicable)

Question (Member Question No. 10):

Due to the creation of 3 posts to meet operational needs, the provision for 2014-15 is \$11.9 million (12.9%) higher than the revised estimate for 2013-14. What are these posts specifically? What is the annual expenditure of them?

Asked by: Hon. LIAO Cheung-kong, Martin

Reply:

The increase in the provision for 2014-15 for Programme (4) Law Drafting is mainly due to the filling of vacancies and creation of the three posts. The details of the three posts to be created in 2014-15 are set out below –

Post Rank	Main functions and operational needs	NAMS*
Two Law Clerk posts	<ul style="list-style-type: none"> <li>● One post for maintaining a steady, timely and high quality updating service of Hong Kong Laws</li> <li>● One post for coping with the increasing workload in legislative drafting</li> </ul>	\$339,780 x 2 = \$679,560
One Assistant Clerical Officer post	<ul style="list-style-type: none"> <li>● Strengthening clerical support to cope with increasing volume and complexity of work</li> </ul>	\$222,420
	Total	\$901,980

\*NAMS means notional annual mid-point salary

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**(Question Serial No. 1632)**

Head: (92) Department of Justice

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

Programme: (3) Legal Policy, (5) International Law

Controlling Officer: Director of Administration and Development (Arthur HO)

Director of Bureau: Secretary for Justice

This question originates from: Estimates on Expenditure Volume 1 Page 177 (if applicable)

Question (Member Question No. 1):

Please advise whether the Department of Justice has provided any legal advice to the Government on how to implement the concluding observations on Hong Kong made by the committees on the 7 United Nations human rights conventions currently applicable to Hong Kong over the past 3 years (up to 2013). If yes, what were the nature, specific areas and conclusions of the advice, and the manpower and expenditure involved? If not, has the Administration earmarked any resources for this purpose in the financial year 2014-15?

Asked by: Hon. Ho Sau-lan, Cyd

Reply:

The Department of Justice (DoJ) provides legal advice to the Government on matters relating to compliance with obligations applicable to the Hong Kong Special Administrative Region under the seven human rights treaties having due regard to the Concluding Observations of the relevant United Nations treaty-monitoring bodies. However, the Department does not keep any statistical breakdown of the number of such advice given or the nature, specific areas and conclusions of the advice. The staff cost and other related expenses for providing such legal advice were absorbed within the existing resources of the Department and the expenditure in this particular regard cannot be quantified. DoJ will continue to provide such legal advice in 2014-15.



**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**(Question Serial No. 1633)**

Head: (92) Department of Justice  
Subhead (No. & title): (-) Not Specified  
Programme: (3) Legal Policy  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Page 177 (if applicable)

Question (Member Question No. 2):

a) Regarding the many disputes over the anti-discrimination legislation in society in recent years, please advise whether the Department of Justice has provided any legal advice to the Government on the following 4 pieces of anti-discrimination legislation over the past 3 years (up to 2013). If yes, what were the nature, specific areas and conclusions of the advice, and the manpower and expenditure involved? If not, what were the reasons, and does the Administration anticipate any need for providing related advice in 2014-15?

- i) Sex Discrimination Ordinance
- ii) Disability Discrimination Ordinance
- iii) Family Status Discrimination Ordinance
- iv) Race Discrimination Ordinance

b) Please advise whether the Department of Justice has provided any legal advice to the Government on the need for enacting legislation to prohibit discrimination on the ground of sexual orientation in the past 3 years (up to 2013). If yes, what were the nature, specific areas and conclusions of the advice, and the manpower and expenditure involved? If not, what were the reasons, and does the Administration anticipate any need for providing related advice in 2014-15?

Asked by: Hon. Ho Sau-lan, Cyd

Reply:

a) The Department of Justice (DoJ) provides legal advice to the Government on matters relating to compliance with the requirements of the four pieces of anti-discrimination legislation in question. However, the Department does not keep any statistical breakdown of the number of such advice given or the nature, specific areas and conclusions of the advice. The staff cost and other related expenses for providing such legal advice were absorbed within the existing resources of the Department and the expenditure in this particular regard cannot be quantified. DoJ will continue to provide such legal advice in 2014-15.

b) DoJ provides legal advice to the Government on matters relating to the protection of human rights and compliance with the provisions of the Hong Kong Bill of Rights Ordinance, including Article 22 of the Hong Kong Bill of Rights which guarantees equality before the law and equal protection against discrimination. However, the Department does not keep any statistical breakdown of the number of advice given in different subjects or the nature, specific areas and conclusions of the advice. The staff cost and other related expenses for providing such legal advice were absorbed within the existing resources of the Department and the expenditure in this particular regard cannot be quantified. DoJ will continue to provide such legal advice in 2014-15.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**SJ012**

**(Question Serial No. 1635)**

Head: (92) Department of Justice

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

Programme: (1) Prosecutions, (2) Civil

Controlling Officer: Director of Administration and Development (Arthur HO)

Director of Bureau: Secretary for Justice

This question originates from: Estimates on Expenditure Volume 1 Page 177 (if applicable)

Question (Member Question No. 4):

According to Section 27 of the Legal Practitioners Ordinance (Cap 159), the Secretary for Justice may apply to the High Court to admit a person, who has acquired the qualification to practise as a barrister outside Hong Kong, to be a barrister of the High Court in Hong Kong and represent the Hong Kong Government in Hong Kong courts. Please provide data of overseas barristers briefed by the Government by *the nature of cases and the level of courts* over the past 5 years (up to 2013) as per *the following two tables*.

(a)

	Total number of cases with the Hong Kong Government as a party	Total number of cases with briefed overseas barristers	Total number of cases with objections by the Hong Kong Bar Association	Expenditure involved in briefing out to overseas barristers	Total number of successful cases / success rate of cases with briefed overseas barristers
Criminal cases (excluding cases raising constitutional law and human rights issues)					
Civil cases (excluding cases raising constitutional law and human rights issues)					
Cases raising constitutional law and human rights issues (cases of whether criminal or civil nature)					

(b)

	Total number of cases with the Hong Kong Government as a party	Total number of cases with briefed overseas barristers	Total number of cases with objections by the Hong Kong Bar Association	Expenditure involved in briefing out to overseas barristers	Total number of successful cases / success rate of cases with briefed overseas barristers
Magistrates' Courts					
District Courts					
Court of First Instance of the High Court					
Court of Appeal of the High Court					
The Court of Final Appeal					

Asked by: Hon. HO Sau-lan, Cyd

Reply:

The information as required is set out in the two tables under (a) and (b) below.

It should be pointed out that the Department of Justice has been acting most cautiously to ensure that cases are briefed out to overseas counsel only where circumstances so warrant, having regard to, for example, complexity regarding points of law, significant constitutional, policy or financial implications or public interest, sensitivity of the issues involved, the legal representation of the opposite party etc.

Under section 27 of the Legal Practitioners Ordinance (Cap. 159), the admission of overseas counsel as a barrister of the High Court of Hong Kong requires an order by the Court, and basis for engaging overseas QC needs to be justified in accordance with the prevailing jurisprudence.

While it is the duty of the Department to ensure that the Government (for civil cases) / the prosecutions (for criminal cases) is appropriately represented in court having regard to the nature and complexity of the cases concerned, the outcome of each case is a matter for the court to decide.

(a)

	Total number of cases with the Hong Kong Government as a party <sup>Note 1</sup>	Total number of cases with briefed overseas barristers <sup>Note 2</sup>	Total number of cases with objections by the Hong Kong Bar Association	Expenditure involved in briefing out to overseas barristers <sup>Note 3</sup>	Total number of successful cases / success rate of cases with briefed overseas barristers <sup>Note 3</sup>
Criminal cases (excluding cases raising constitutional law and human rights issues) <sup>Note 4</sup>	N/A	2009: 3	2009: 0	2009: \$415,360	2009: Successful – 1 case Unsuccessful – 2 cases
		2010: 4	2010: 1	2010: \$8,078,620	2010: Successful – 1 case Unsuccessful – 3 cases
		2011: 4	2011: 0	2011: \$692,120	2011: Successful – 1 case Unsuccessful – 3 cases
		2012: 4	2012: 1	2012: \$10,153,436	2012: Successful – 3 cases Unsuccessful – 1 case
		2013: 8	2013: 1	2013: \$13,292,952	2013: Successful – 2 cases Unsuccessful – 2 cases Withdrawn – 2 cases Judgment reserved – 1 case Under legal proceedings – 1 case

	Total number of cases with the Hong Kong Government as a party <sup>Note 1</sup>	Total number of cases with briefed overseas barristers <sup>Note 2</sup>	Total number of cases with objections by the Hong Kong Bar Association	Expenditure involved in briefing out to overseas barristers <sup>Note 3</sup>	Total number of successful cases / success rate of cases with briefed overseas barristers <sup>Note 3</sup>
Civil cases (excluding cases raising constitutional law and human rights issues) <sup>Note 4</sup>	-	2009: 1	2009: 0	2009: \$4,431,503	2009: Successful – 1 case
		2010: 2	2010: 0	2010: \$3,028,037	2010: Successful – 1 case Unsuccessful – 1 case
		2011: 1	2011: 0	2011: \$782,565	2011: Unsuccessful – 1 case
		2012: 5	2012: 0	2012: \$7,191,839	2012: Successful – 2 cases Unsuccessful – 3 cases
		2013: 2	2013: 0	2013: \$2,041,508	2013: Successful – 1 case Judgment reserved – 1 case
Cases raising constitutional law and human rights issues (cases of whether criminal or civil nature) <sup>Note 5</sup>	-	2009: 7	2009: 0	2009: \$3,331,502	2009: Successful - 3 cases Unsuccessful – 2 cases SJ as Intervener – 2 cases
		2010: 2	2010: 0	2010: \$1,846,541	2010: Successful – 1 case Unsuccessful – 1 case
		2011: 10	2011: 0	2011: \$10,508,990	2011: Successful – 7 cases Unsuccessful - 1 case SJ as Intervener – 2 cases
		2012: 14	2012: 0	2012: \$10,818,408	2012: Successful – 6 cases Unsuccessful – 5 cases Judgment reserved – 1 case Hearing scheduled after mid-March 2014 – 2 cases
		2013: 6	2013: 1	2013: \$5,847,970	2013 : Successful – 5 cases Unsuccessful – 1 case

### Notes

1. The total number of civil and criminal cases with the Hong Kong Government as a party for each year from 2009 to 2013 (including proceedings in various tribunals and boards for civil cases) are as follows:-

	2009	2010	2011	2012	2013
Criminal Cases	204,496	184,581	175,230	174,770	174,579
Civil Cases	2,727	3,457	3,613	3,031	2,744

However, the Department does not keep any statistical breakdown of the number of such cases which raised constitutional law issues and/or human rights issues. Hence, the information required under this column is not available.

2. The total number of cases with briefed overseas counsel in a stated year is the total number of cases with overseas admission applications made in that stated year.
3. The expenditure denoted for a stated year is the total expenditure incurred in respect of the engagement of the overseas counsel whose overseas admission application(s) was/were made in that stated year. Similarly, the outcome of a case denoted for a stated year (whether successful or unsuccessful or other outcomes) is the outcome of that case with overseas admission made in that stated year.
4. The figures in this box cover cases with neither constitutional law issues nor human rights issues.
5. The figures in this box cover cases with constitutional law issues and/or human rights issues. A case raising both constitutional law issues and human rights issues is counted as one case.

(b)

	Total number of cases with the Hong Kong Government as a party	Total number of cases with briefed overseas barristers Note 2 above	Total number of cases with objections by the Hong Kong Bar Association	Expenditure involved in briefing out to overseas barristers Note 3 above	Total number of successful cases / success rate of cases with briefed overseas barristers Note 3 above
Magistrates' Courts	2009: 200,798	2009: 0	2009: 0	2009: \$0	2009: N.A.
	2010: 180,717	2010: 0	2010: 0	2010: \$0	2010: N.A.
	2011: 171,510	2011: 0	2011: 0	2011: \$0	2011: N.A.
	2012: 171,276	2012: 2	2012: 1	2012: \$8,428,976	2012: Successful – 2 cases
	2013: 171,164	2013: 0	2013: 0	2013: \$0	2013: N.A.
District Courts	2009: 2,465	2009: 0	2009: 0	2009: \$0	2009: N.A.
	2010: 2,822	2010: 0	2010: 0	2010: \$0	2010: N.A.
	2011: 3,110	2011: 0	2011: 0	2011: \$0	2011: N.A.
	2012: 2,318	2012: 0	2012: 0	2012: \$0	2012: N.A.
	2013: 2,253	2013: 0	2013: 0	2013: \$0	2013: N.A.
Court of First Instance of the High Court	2009: 1,536	2009: 0	2009: 0	2009: \$0	2009: N.A.
	2010: 1,702	2010: 3	2010: 1	2010: \$7,752,825	2010: Successful – 2 cases Unsuccessful – 1 case
	2011: 1,630	2011: 4	2011: 0	2011: \$5,067,252	2011: Successful – 3 cases Unsuccessful – 1 case
	2012: 1,608	2012: 3	2012: 0	2012: \$4,292,453	2012: Successful – 2 cases Judgment reserved – 1 case
	2013: 1,556	2013: 2	2013: 2	2013: \$8,358,247	2013: Successful – 1 case Under legal proceedings – 1 case
Court of Appeal of the High Court	2009: 504	2009: 5	2009: 0	2009: \$3,693,572	2009: Successful - 1 case Unsuccessful – 2 cases SJ as Intervener – 2 cases
	2010: 552	2010: 2	2010: 0	2010: \$2,928,873	2010: Successful – 1 case Unsuccessful – 1 case
	2011: 515	2011: 7	2011: 0	2011: \$4,889,907	2011: Successful - 4 cases Unsuccessful – 3 cases
	2012: 644	2012: 6	2012: 0	2012: \$2,725,025	2012: Successful – 2 cases Unsuccessful – 2 cases Hearing scheduled after mid-March 2014 – 2 cases
	2013: 616	2013: 8	2013: 0	2013: \$7,088,384	2013: Successful – 2 cases Unsuccessful – 2 cases Judgment reserved -2 cases Withdrawn – 2 cases

	Total number of cases with the Hong Kong Government as a party	Total number of cases with briefed overseas barristers Note 2 above	Total number of cases with objections by the Hong Kong Bar Association	Expenditure involved in briefing out to overseas barristers Note 3 above	Total number of successful cases / success rate of cases with briefed overseas barristers Note 3 above
The Court of Final Appeal	2009:116	2009:6	2009:0	2009: \$4,484,793	2009: Successful – 4 cases Unsuccessful – 2 cases
	2010: 122	2010: 3	2010: 0	2010: \$2,271,500	2010: Unsuccessful – 3 cases
	2011: 99	2011: 4	2011: 0	2011: \$2,026,505	2011: Successful – 1 case Unsuccessful – 1 case SJ as Intervener – 2 cases
	2012: 110	2012: 12	2012: 0	2012: \$12,717,228	2012: Successful – 5 cases Unsuccessful – 7 cases
	2013: 105	2013: 6	2013: 0	2013: \$5,735,799	2013: Successful – 5 cases Unsuccessful – 1 case

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**SJ013**

**(Question Serial No. 1640)**

Head: (92) Department of Justice  
Subhead (No. & title): (-) Not Specified  
Programme: (1) Prosecutions  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Page 177 (if applicable)

Question (Member Question No. 17):

1. Regarding the legal advice given to law enforcement agencies and other government departments by the Prosecutions Division of the Department of Justice over the past 5 years (up to 2013), please advise on the manpower and expenditure involved, the scope and contents of the advice, and the estimated expenditure for the work in 2014-15.
2. Has the Department of Justice put in place any internal mechanism for following up cases in which law enforcement agencies and other government departments act contrary to the advice given to them (including but not limited to the voluntary disclosure of relevant facts to the courts in the legal proceedings concerned)?

Asked by: Hon. HO Sau-lan, Cyd

Reply:

1. Requests for legal advice from law enforcement agencies (LEAs) and other government departments in respect of criminal matters are handled by officers in different sections of the Prosecutions Division (PD) of the Department of Justice (DoJ), who are responsible for different areas of work having regard to the level of court involved and the status or complexity of the cases. We do not maintain separate statistics on the counsel's work in respect of the provision of legal advice in different areas. As for the staff cost of support staff and other related expenses, they are absorbed within the existing resources of the DoJ. Hence, the expenditure for giving legal advice to LEA and other government departments cannot be quantified.
2. While PD provides legal advice to LEAs and other departments in respect of criminal matters, the prosecutorial power rests with DoJ as provided for under Article 63 of the Basic Law. In this connection, PD liaises closely with LEAs as well as other relevant departments at both policy and operational levels to ensure smooth and proper handling of all cases. Meetings between prosecutors and officers of the relevant LEA are also conducted on a need basis to review particular cases after their conclusion to see what lessons can be learned and how improvements may be made for the future.

To enable officers of LEAs and other relevant departments to better understand and appreciate the law and procedures in relation to the handling of criminal cases, induction and update lectures and seminars are given by experienced prosecutors to them from time to time. Where necessary, we discuss and formulate guidelines on prosecutorial matters with the LEAs. We also issue guidelines on specific legal issues as and when necessary.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**(Question Serial No. 1871)**

Head: (92) Department of Justice  
Subhead (No. & title): (-) Not Specified  
Programme: (3) Legal Policy  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Page 181 (if applicable)

Question (Member Question No. 9):

In May and June 2013, the Law Reform Commission established two sub-committees to consider the issues of access to information and archives law respectively. What is the latest progress of the work of these two sub-committees? When will the findings be expected to be released to the public? 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)'s Sub-committee on Archives Law (chaired by the Hon Andrew Liao, SC) and Sub-committee on Access to Information (chaired by Mr Russell Coleman, SC) were both formed in May 2013 to review the current local situations and conduct comprehensive comparative studies of the relevant regimes and laws in overseas jurisdictions, with a view to making recommendations on possible options for reform where necessary.

These two Sub-committees have since been meeting basically on a monthly basis, having so far reviewed the current regimes, and embarked on a comparative study of the situation in other jurisdictions. After detailed deliberation of the relevant issues, the Sub-committees will come up with recommendations for consultation purposes. The Sub-committees will take into account responses received in the consultation exercise before finalizing proposals for reform, if any. Upon the consideration of the draft reports submitted by the Sub-committees, the LRC will publish its final reports. Given the complexity of the issues involved, the two Sub-committees currently have not laid down an expected completion date for the projects. However, the LRC will oversee the progress of these two projects.

As it has been the case since its establishment, the LRC Secretariat, which is manned and financed by the Department of Justice (DoJ), has been providing all necessary support, legal research or otherwise, to the work of the independent LRC, including its sub-committees.

Upon the publication of an LRC report with recommendations for reform, the DoJ will, in collaboration with the LRC Secretariat, provide assistance to the relevant bureau in their consideration and implementation of the recommendations. Depending on the nature and urgency of the reform, as well as the volume of work warranted, the responsible policy bureau will decide if additional resources, including staff, are called for. At this early stage of the work of the two Sub-committees, DoJ has not earmarked additional manpower or other resources for the purpose of advising the relevant bureaux or departments within the Government on any LRC recommendations with respect to the subject matters.



**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**SJ015**

**(Question Serial No. 1978)**

Head: (92) Department of Justice

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

Programme: (2) Civil

Controlling Officer: Director of Administration and Development (Arthur HO)

Director of Bureau: Secretary for Justice

This question originates from: Estimates on Expenditure Volume 1 Page 179 (if applicable)

Question (Member Question No. 10):

The Department of Justice's total estimated provision for Civil for 2014-15 is \$306.3 million (48.2%) higher than that for 2013-14, which is mainly due to the filling of vacancies, creation of 21 posts, and anticipated increase in court costs and briefing out expenses. In this regard, what are the Administration's estimated expenditures for court costs and briefing out expenses for 2014-15? What are the respective rates of increase over 2013-14 for these two items? What are the reasons for their increases in expenditure? What is the expenditure incurred for implementing the new statutory enforcement scheme introduced by the Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012?

Asked by: Hon. TAM Yiu-chung

Reply:

The expenditure for court costs and briefing out expenses in respect of Programme (2) Civil in 2014-15 is estimated to be \$278.3 million (representing an increase of about 147.5% over that in the 2013-14 revised estimates) and \$340.9 million (representing an increase of 45.7% over that in the 2013-14 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 and briefing out expenses is mainly due to the payment in respect of some mega cases which will be rolled over from 2013-14 to 2014-15 having regard to the development of the cases concerned and also the amount likely to be required for new cases. The general increase in counsel fees and the increase in complexity and number of cases over the years also contribute to the expected increase in expenditure for court costs and briefing out expenses.

As the estimates were 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 2014-15 would ultimately depend on the actual development and outcome of the cases concerned (which are not entirely within the control of the Administration or the Department of Justice).

For implementing the new statutory enforcement scheme introduced by the Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012, the Department has created 1 Senior Government Counsel (SGC) post in the Civil Division and 2 SGC posts in the Prosecutions Division, all on a time-limited basis for three years from 1 April 2013 to provide the required legal support to cope with the workload. The annual staff cost of these posts is \$3,461,000 in 2014-15. On top of these additional staff, some other officers in the Civil Division and other divisions will also be involved in handling matters relating to the subject but the staff cost, plus other related expenses for such work, are absorbed within the existing resources of the Department and the expenditure in this particular regard cannot be quantified.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**(Question Serial No. 1979)**

Head: (92) Department of Justice  
Subhead (No. & title): (-) Not Specified  
Programme: (3) Legal Policy  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Page 182 (if applicable)

Question (Member Question No. 11):

What are the details of the work of providing legal advice in respect of promoting constitutional reforms and development, and on election matters by the Legal Policy Division of the Department of Justice in 2014-15? What is the expenditure involved?

Asked by: Hon. TAM Yiu-chung

Reply:

In relation to constitutional development in regard to the selection of the Chief Executive by universal suffrage in 2017 and the election of the Legislative Council in 2016 in accordance with the provisions of the Basic Law, the Legal Policy Division (LPD) of the Department of Justice (DoJ) will continue to provide legal assistance and support as required to assist the Secretary for Justice and other members of the Task Force on Constitutional Development in their functions.

In relation to public elections in Hong Kong, LPD will continue to work closely with and provide advice and support to the electoral administration authorities. In this regard, we anticipate that at least four by-elections (two for District Councils and two for Village Representatives) and one ordinary election (in respect of Village Representatives) will be held in 2014-15. LPD will also continue to advise Government bureaux/departments in the context of legal proceedings or legislative exercises relating to elections and electoral laws.

The staff cost and other related expenses for providing legal advice and support as mentioned above are absorbed within the existing resources of DoJ and the expenditure in this particular regard cannot be separately quantified.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**(Question Serial No. 1980)**

Head: (92) Department of Justice  
Subhead (No. & title): (-) Not Specified  
Programme: (3) Legal Policy  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Page 182 (if applicable)

Question (Member Question No. 12):

What are the details of the work of promoting arbitration services in Hong Kong by the Legal Policy Division of the Department of Justice in 2014-15? What is the expenditure involved? How does it compare with the expenditure in 2013-14?

Asked by: Hon. TAM Yiu-chung

Reply:

An important policy objective of the Department (DoJ) is to enhance Hong Kong's position as a leading centre for dispute resolution services, including arbitration services, in the Asia Pacific region. In this connection, we are taking forward various initiatives both within and outside Hong Kong.

The Department regularly reviews Hong Kong's arbitration regime in consultation with the legal/arbitration sector and will consider necessary improvement to the Arbitration Ordinance as and when appropriate. We will continue our efforts to facilitate the establishment and growth of world class arbitration institutions in Hong Kong. A very recent development is the plan of the China Maritime Arbitration Commission ("CMAC") to set up a branch office in Hong Kong. Moreover, at our request, the Central People's Government has commenced negotiation with the Permanent Court of Arbitration, a leading international institution with a long history and good reputation in the field of international investment arbitration, of a host country agreement on the conduct of dispute settlement proceedings in Hong Kong, which will help attract more investment arbitrations to be conducted in Hong Kong. We will also continue to upgrade the legal and institutional infrastructures to make Hong Kong a preferred venue for international arbitration.

In 2014, we will pursue a number of new initiatives:

- (a) *Conduct a consultancy study on the development of arbitration in Hong Kong and the challenges and opportunities that Hong Kong faces as a regional centre for international arbitration in the Asia Pacific region.*

We expect that the findings and recommendations from the study will greatly assist long-term policy planning and strategic development in this area.

- (b) *Enhance the promotion of dispute resolution services of Hong Kong in the Mainland and emerging economies in the Asia Pacific region.*

DoJ will organize a Legal Services Forum in Qingdao in September 2014 to promote legal and dispute resolution services of Hong Kong. Promotional visits to emerging economies in the Asia Pacific region later in the year are also being planned.

- (c) *Establish an advisory committee to advise on and co-ordinate the development and promotion of Hong Kong as an international arbitration centre in the Asia Pacific region.*

To step up the joint efforts between DoJ and the legal/arbitration sector to foster the development and growth of arbitration in Hong Kong, an Advisory Committee on Promotion of Arbitration to be chaired by the Secretary for Justice will soon be established. The Advisory Committee will consider, advise on and co-ordinate on-going and new initiatives for the promotion of Hong Kong arbitration services in the Asia Pacific region and serve as a forum for the discussion of issues raised by the legal/arbitration sector on Hong Kong's positioning as a leading arbitration centre in the region.

For the year 2014-15, there will be an increase in provision for general expenses to provide financial support to reputable arbitration institutions for their office accommodation and/or operations in Hong Kong, as well as for DoJ's promotional activities in the Asia Pacific region and the Mainland as mentioned under item (b) above. Moreover, one additional Senior Government Counsel post will be created in 2014-15 for handling the work relating to promotion of Hong Kong as a leading international arbitration centre in Asia Pacific as well as providing support to the work of the Advisory Committee on Promotion of Arbitration. The cost for other staff and other related expenses for providing support to promote arbitration are absorbed within the existing resources of the Department and the expenditure in this particular regard cannot be quantified.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**(Question Serial No. 1981)**

Head: (92) Department of Justice  
Subhead (No. & title): (-) Not Specified  
Programme: (3) Legal Policy  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Page 182 (if applicable)

Question (Member Question No. 13):

What are the details of the work by the Legal Policy Division of the Department of Justice in 2014-15 in exploring further opportunities for the legal profession to provide services in the Mainland? What is the expenditure involved? How does it compare with the expenditure in 2013-14?

Asked by: Hon. TAM Yiu-chung

Reply:

The Department of Justice (DoJ) will continue to work closely with the relevant Mainland authorities and stakeholders (including the Law Society of Hong Kong, the Hong Kong Bar Association and other related bodies) in promoting Hong Kong's legal and dispute resolution services in the Mainland. The measures are summarized in the following paragraphs.

Pursuant to the Framework Agreement on Hong Kong/Guangdong Co-operation, the DoJ has put forward proposals to the Mainland authorities for "early and pilot implementation" measures on legal services in the Guangdong Province with focus on the new co-operation zones of Qianhai, Nansha and Hengqin. These proposals include developing the mode of association of Hong Kong and Mainland law firms in the form of partnership in the Mainland; allowing Mainland enterprises to choose Hong Kong law as the governing law of their contract; and allowing Mainland enterprises to choose to conduct arbitration in the branch office of Hong Kong arbitration institutions set up in the Mainland or to conduct arbitration in Hong Kong. The DoJ will continue to liaise with its Mainland counterparts to facilitate their consideration of our proposals. Both sides have also identified co-operation initiatives placed under the Work Plan 2014.

As regards the Mainland and Hong Kong Closer Economic Partnership Arrangement (CEPA), under Supplement X to CEPA signed on 29 August 2013, a new measure has been introduced to allow Hong Kong law firms and Guangdong law firms to enter into agreement under which Guangdong law firms may second Mainland lawyers to work as consultants on Mainland law in representative offices set up by Hong Kong law firms in Guangdong Province.

Further, DoJ will closely monitor the development of the Shanghai Free Trade Zone and the proposal of establishing a free trade zone in Guangdong (and such other areas, as the case may be) and seek the views of the Hong Kong legal and arbitration professions on possible business opportunities as and when appropriate.

Following the success of the first and the second Hong Kong Legal Services Forums held in Shanghai in July 2010 and in Guangzhou in September 2012, the DoJ will be organising the third Legal Services Forum in Qingdao in September 2014 to promote to Mainland enterprises and service users Hong Kong's legal and arbitration services as well as its strengths in dispute resolution in the Asia Pacific region. The third forum will provide a platform for strengthening co-operation and networking between legal and arbitration professionals of both jurisdictions and promote Hong Kong as a regional centre for international legal and

dispute resolution services.

The staff cost and other related expenses for taking forward these activities and events will be absorbed within the existing resources of the Department and the expenditure in this particular regard cannot be quantified.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**SJ019**

**(Question Serial No. 2025)**

Head: (92) Department of Justice  
Subhead (No. & title): (-) Not Specified  
Programme: (1) Prosecutions  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Page 177 (if applicable)

Question (Member Question No. 46):

Please advise this Committee of:

- (1) the expenditures for briefing out criminal cases to members of the bar and solicitors in private practice in 2012-13 and in 2013-14, as well as the estimated expenditure for such to be incurred in 2014-15;
- (2) the causes of changes in the above expenditures each year; and
- (3) the savings, if any, as a result of briefing out criminal cases to members of the bar and solicitors in private practice by the Department of Justice in the above three financial years respectively.

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

Reply:

The revised estimate for briefing out expenditure for the Prosecutions Division (PD) for 2013-14 (\$102 million) is about 19% higher than the actual expenditure for 2012-13 (\$85.5 million), while the estimate for 2014-15 (\$124 million) is about 21% higher than the revised estimate for 2013-14.

The annual expenditure for briefing out varies from year to year, depending on the number of cases involved, their complexity and progress of the cases. The increase in briefing out expenses in recent years is mainly due to the actual payment / amount likely to be required in respect of some existing or new mega cases. The general increase in counsel fees and the increase in complexity and number of cases over the years also contribute to the expected increase in expenditure. As the estimates were 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 would ultimately depend on the actual development and outcome of the cases concerned (which are not entirely within the control of the Administration or the Department of Justice).

PD briefs out cases to members of the legal profession in private practice on a need basis, mainly having regard to the need for expert assistance and/or availability of suitable in-house prosecutors to appear in court for the cases concerned, etc. In some cases, briefing out to outside lawyers may relieve our in-house prosecutors for taking up other prosecutorial work or advisory duties. However, this cannot be quantified as we have not maintained statistics of such cases given that a large number of briefing out cases at different level of courts are involved.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**SJ020**

**(Question Serial No. 2122)**

Head: (92) Department of Justice  
Subhead (No. & title): 000 Operational expenses  
Programme: (-) Not Specified  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Page 188 (if applicable)

Question (Member Question No. 9):

1. Please list the estimates for the salaries, regular allowances and work-related allowances for the Secretary for Justice in 2013-14, as well as those for the Secretary for Justice in 2014-15.
2. Please advise how the non-accountable entertainment allowance for the Secretary for Justice is calculated.

Asked by: Hon. KWOK Ka-ki

Reply:

1. The estimates for the salaries and non-accountable entertainment allowance of the Secretary for Justice in 2013-14 and 2014-15 are set out below.

	Salary (\$ million)	Non-accountable entertainment allowance (\$ million)
2013-14 (Revised Estimate)	3.50	0.20
2014-15 (Draft Estimate)	3.50	0.21

2. The rate of the non-accountable entertainment allowance payable is adjusted annually in accordance with the movement of the average monthly Composite Consumer Price Index (CCPI) for a 12-month period ending December as compared with that for the preceding 12-month period. For 2014-15, the allowance payable to the Secretary for Justice will be increased by 4.3% with effect from 1 April 2014 based on the CCPI movement.



**CONTROLLING OFFICER'S REPLY**

**SJ021**

**(Question Serial No. 2229)**

Head: (92) Department of Justice  
Subhead (No. & title): (-) Not Specified  
Programme: (1) Prosecutions  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Page 178 (if applicable)

Question (Member Question No. 89):

The percentage of defendants convicted after trial in the District Court jumped from 60.2% in 2012 to 79.8% in 2013. In this connection, will the Administration inform this Committee:

- (i) of the percentage of defendants without legal representation who were convicted after trial in the District Court over the past three years;
- (ii) of the percentage of defendants with legal representation who were convicted after trial in the District Court over the past three years;
- (iii) of the percentage of defendants without legal representation who were convicted after trial in the Court of First Instance over the past three years; and
- (iv) of the percentage of defendants with legal representation who were convicted after trial in the Court of First Instance over the past three years?

Asked by: Hon. KWOK, Dennis

Reply:

We only maintain record as to whether defendants in criminal proceedings have been legally represented at any stage of the proceedings. The information does not cover the status of legal representation of the defendants at each step of the proceedings (including trial). The position of the matter at the District Court and Court of First Instance for the past 3 years is shown in the table below –

	2011	2012	2013
District Court	Two acquitted defendants (in the same case) and one defendant convicted after trial were not legally represented at any stage of the proceedings (amounting to 1.6% of all acquitted defendants and 0.4% of all defendants convicted after trial at the District Court level for the year). All other defendants acquitted or convicted were legally represented	All defendants who were acquitted or convicted after trial were legally represented at some stage of the legal proceedings.	One defendant convicted after trial was not legally represented at any stage of the proceedings (amounting to 0.4% of all defendants convicted after trial at the District Court level for the year). All other defendants acquitted or convicted were legally represented at some stage of the legal proceedings.

	at some stage of the legal proceedings.		
Court of First Instance	All defendants who were acquitted or convicted after trial were legally represented at some stage of the legal proceedings of their cases.		

It should be pointed out that as set out in the table below, the overall conviction rates at the District Court and Court of First Instance in recent years, including those convicted after trial and those convicted on the defendants' own plea, have remained quite steady.

	2008	2009	2010	2011	2012	2013
<b>District Court</b>						
- defendants convicted after trial (%)	73.3	69.2	75.3	68.6	60.2	79.8
- defendants convicted after trial and defendants convicted on their own pleas (%)	92.6	92.3	93.7	92.8	91.4	95.3
<b>Court of First Instance</b>						
- defendants convicted after trial (%)	79.3	65.3	71.7	72.0	69.6	67.3
- defendants convicted after trial and defendants convicted on their own pleas (%)	94.8	91.7	93.8	93.3	91.6	94.0

As the prosecution authority, our objective is to see that appropriate cases are presented fairly to the court. Prosecutions are, in accordance with the guidelines set out in the Prosecution Code, 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 adopts the criminal standard of proof of "beyond reasonable doubt" according to law.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

SJ022
-------

**(Question Serial No. 2505)**

Head: (92) Department of Justice

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

Programme: (2) Civil

Controlling Officer: Director of Administration and Development (Arthur HO)

Director of Bureau: Secretary for Justice

This question originates from: Estimates on Expenditure Volume 1 Page 180 (if applicable)

Question (Member Question No. 3):

The 2011 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 be 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. Further, a new unified screening mechanism (USM) commenced operation on March 3 to determine claims for non-refoulement protection against expulsion, return or extradition from Hong Kong to another country on applicable grounds including risks of (i) torture under Part VIIC of the Immigration Ordinance, Cap. 115; (ii) torture or cruel, inhuman or degrading treatment or punishment under Article 3 of Section 8 of the Hong Kong Bill of Rights Ordinance, Cap. 383; and (iii) persecution with reference to the non-refoulement principle under Article 33 of the 1951 Convention relating to the Status of Refugees (the Refugee Convention). In this connection, will the Administration inform this Committee whether and how this will impact on the financial provision to the unit within Civil Division responsible for advising on non-refoulement claims; if yes, of the details; if not, the reasons for that?

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 legal advice and undertaking proceedings relating to CAT claims and incidental matters. The Division has a team of about 28 staff (comprising counsel and supporting staff) who are tasked to deal with advisory and litigious matters relating to CAT claims. In the light of the CFA judgments in the cases of *Ubamaka* (FACV 15/2011) and *C & Ors* (FACV 18-20/2011), the Administration has implemented a unified screening mechanism (USM) to deal with non-refoulement claims on all applicable grounds (including torture grounds) which commenced operation on 3 March 2014. To cope with the additional workload arising from the USM, two Senior Government Counsel posts (time-limited for two years) will be created in the team in 2014-15 to provide related legal services to the Government. In this regard, the annual staff cost for the team will be \$29.2 million in 2014-15. The other related expenditures involved in handling matters relating to CAT claims are part of the Department's general departmental expenses and separate breakdown of the estimated expenditure is not available.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**SJ023**

**(Question Serial No. 2639)**

Head: (92) Department of Justice  
Subhead (No. & title): (-) Not Specified  
Programme: (1) Prosecutions  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Page 177 (if applicable)

Question (Member Question No. 64):

Please provide the following information in respect of prosecutions work:

- (a) The establishment, actual manpower and expenditure of the Prosecutions Division in 2013-14.
- (b) The number of cases conducted by Government Counsel and by counsel instructed to prosecute in different levels of court in 2013-14.

Asked by: Hon. HO Chun-yan, Albert

Reply:

(a) The establishment and strength of the Prosecutions Division as at 1 March 2014 are as follows -

Grades	Establishment	Strength
Government Counsel	135	129
Para-legal	135	116
Executive, Clerical and Secretarial	213	203
Total	483	448

The estimated expenditure of the Prosecutions Division for 2013-14 is \$472.1 million

(b) The number of cases conducted by Government Counsel and by Counsel instructed to prosecute in different levels of court in 2013-14\* is set out below:

No. of cases conducted		2013-2014*	
		Government Counsel	Counsel instructed to prosecute
Appeal Court	Court of Final Appeal	80	14
	Court of Appeal	522	16
	Magistracy Appeal	639	0

Court of First Instance	415	155
District Court	599	527
Magistracy	359	445
Death Inquest	49	1
Total	2,663	1,158

\*latest figure up to January 2014

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**SJ024**

**(Question Serial No. 2640)**

Head: (92) Department of Justice  
Subhead (No. & title): (-) Not Specified  
Programme: (2) Civil  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Page 179 (if applicable)

Question (Member Question No. 65):

What were the measures and expenditure for promoting the development of mediation in Hong Kong by the Administration in 2013-14? Has there been any review of their effectiveness? What is the estimated expenditure for 2014-15 in this respect?

Asked by: Hon. HO Chun-yan, Albert

Reply:

The Steering Committee on Mediation (“Steering Committee”) chaired by the Secretary for Justice and its three Sub-committees (namely, the Regulatory Framework Sub-committee, the Accreditation Sub-committee, and the Public Education and Publicity Sub-committee), supported by the Mediation Team of the Civil Division of the Department of Justice, have undertaken various measures for promoting the development of mediation in Hong Kong in 2013-14.

The work in progress of the Regulatory Framework Sub-committee includes:

- (a) drafting guidelines on the exemption for disclosure of mediation communications for research, evaluation or educational purposes under section 8(2)(e) of the Mediation Ordinance, Cap. 620;
- (b) studying the need for the enactment of apology legislation for the purpose of enhancing settlement; and
- (c) considering a data collection system to monitor the operation of the Mediation Ordinance.

The Accreditation Sub-committee is assisting the Steering Committee in monitoring matters concerning the accreditation and training standards of mediators in Hong Kong, including the operation of the Hong Kong Mediation Accreditation Association Limited (“HKMAAL”).

Major publicity activities undertaken by the Public Education and Publicity Sub-committee in 2013-14 include:

- (a) a “Mediate First” Pledge Reception on 18 July 2013 to encourage the community to consider the use of mediation as a means of dispute resolution before resorting to litigation. To date, about 160 companies and organisations have signed the pledge;
- (b) production of a new Announcement in Public Interest (in both Chinese and English), with both video and audio clips, which will be broadcast in March 2014 to enhance the public’s awareness and understanding of mediation as a means of dispute resolution; and

- (c) a “Mediation Week” in March 2014 with a 2-day Mediation Conference with international as well as local speakers covering both international and local mediation developments. Other activities during the Mediation Week include various targeted talks, seminars and activities for specific sectors to enhance the understanding of mediation and to promote the more extensive use of mediation by members of the public and stakeholders of different sectors.

Initiatives to promote the wider use of mediation within the Government have also been implemented in 2013-14. From March 2013 to January 2014, the Department has organized mediation training including mediation advocacy skills training workshops and mediation experience sharing sessions for Government Counsel and general mediation seminars for para-legals. In early 2014, the Department has nominated 11 Government Counsel and one Law Clerk to attend mediators’ skills training courses. In conjunction with the Civil Service Bureau, a number of mediation seminars were conducted for civil servants (directorates officers and middle rank officers) in 2013 and early 2014. A tailor-made training seminar on mediation was organised for the Government Logistics Department in late 2013.

The above measures have helped the mediation sector to develop its services. It is also noted that there is a growing general awareness of the use of mediation to resolve disputes in Hong Kong. Further measures for promoting the development of mediation in Hong Kong will be considered by the Steering Committee in the light of the feedback received.

The Steering Committee on Mediation and its three subcommittees are supported by a Mediation Team within the Department which comprises one Deputy Principal Government Counsel, one Senior Government Counsel, one Personal Secretary I and one Law Clerk at an annual staff cost of \$3,590,000 in 2014-15. The other administrative expenditure including various promotional activities (including those set out in the above paragraphs) will be absorbed within the existing resources of the Department.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**SJ025**

**(Question Serial No. 2923)**

Head: (92) Department of Justice  
Subhead (No. & title): (000) Operational expenses  
Programme: (3) Legal Policy  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Page 182 (if applicable)

Question (Member Question No. 97):

The Department of Justice (DoJ) conducted seven Basic Law seminars in 2013, which was four more than 2012. What were the topics of the seven seminars?

DoJ expects that it will also hold seven seminars in 2014. What are the topics to be covered?

Asked by: Hon. WONG Yuk-man

Reply:

The topics of the seven Basic Law seminars in 2013 conducted by the Department of Justice generally covered a variety of issues relevant to the Basic Law. They included general introduction of the content of the Basic Law, relationship between the Central Authorities and the Hong Kong Special Administrative Region (HKSAR), political structure of the HKSAR as provided for under the Basic Law, human rights protection under the Basic Law and relevant court cases on the Basic Law. We expect that the topics to be covered by the Basic Law seminars to be held in 2014 will cover similar topics as those covered in the seminars held in 2013.



**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

<b>SJ026</b>
--------------

**(Question Serial No. 2924)**

Head: (92) Department of Justice

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

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development (Arthur HO)

Director of Bureau: Secretary for Justice

This question originates from: Estimates on Expenditure Volume 1 Page 182 (if applicable)

Question (Member Question No. 98):

Concerning the Department of Justice's intended promotion of Hong Kong as a regional centre for legal services and dispute resolution, please advise the specific indicator(s) used to measure the performance and the related statistics last year. How many organisations or individuals from the Mainland China and Southeast Asia used the legal and dispute resolution services in Hong Kong last year? What are the specific work plans of the Department of Justice in this area for the coming year?

Asked by: Hon. WONG Yuk-man

Reply:

The Department of Justice (DoJ) is committed to promoting the development of Hong Kong as an international legal and dispute resolution services centre in the Asia Pacific region.

In this connection, Hong Kong lawyers have been providing high-quality legal services in various areas such as commercial law and dispute resolution, and the legal service sector in Hong Kong has been growing gradually. This is illustrated by the growth in the number of lawyers and law firms over the last year as shown in the table below.

	January 2013	January 2014
No. of solicitors with practising certificate	7,478	7,847
No. of registered foreign lawyers	1,360	1,350
No. of Hong Kong law firms	806	816
No. of registered foreign law firms	70	71
No. of barristers	1,174	1,238

There are also encouraging signs of growth in Hong Kong's dispute resolution services over the years. In addition to the home-grown Hong Kong International Arbitration Centre (established since 1985) and the Asia Office of the International Court of Arbitration of the International Chamber of Commerce (ICCICA) (established in Hong Kong since 2008), the China International Economic and Trade Commission has also set up its Hong Kong branch in 2012. The Permanent Court of Arbitration (PCA), a leading international institution with its headquarters in the Hague with a long history and good reputation in the field of international investment arbitration, conducted its first arbitration hearing in Hong Kong in 2013. At our request, the Central People's Government ("CPG") and the PCA have commenced negotiation of a host country agreement on the conduct of dispute settlement proceedings in Hong Kong, which will help attract more investment arbitrations to be conducted in Hong Kong. Another very recent development is the plan of the China Maritime Arbitration Commission (CMAC), a leading maritime arbitration institution in the Mainland, to set up a branch office in Hong Kong. We are discussing with CMAC with a view to facilitating CMAC's early implementation of this plan.

DoJ has also been working closely with legal professional bodies and the arbitration sector to enhance our promotional efforts around the world. The first and second Hong Kong Legal Services Forums were successfully held in Shanghai in 2010 and Guangzhou in 2012 respectively. We also showcased in April 2013 the strength of our legal and arbitration services in a seminar in Xiamen as part of the programme for the “2013 Fujian Xiamen Hong Kong Week” jointly organized by the Governments of Hong Kong, Fujian Province and Xiamen Municipality.

The incumbent Secretary for Justice (SJ) and his predecessor have since 2009 visited prominent commercial centres in overseas countries to promote the competitive edges of Hong Kong in the provision of legal and arbitration services. In 2014, the focus is on promoting Hong Kong’s arbitration services in emerging markets in the Asia Pacific region, in particular Southeast Asia. In February 2014, SJ led a delegation of representatives from our legal and arbitration sectors on a roadshow to Vietnam and Cambodia.

As for mediation, the Steering Committee on Mediation (“Steering Committee”) chaired by the SJ continues with the efforts to foster the development and promotion of mediation in Hong Kong. Its members from different sectors and professions help to coordinate efforts and resources in facilitating the work to promote and develop the wider use of mediation in Hong Kong. There are three subcommittees set up under the Steering Committee which deal with : (a) monitoring of the operation of the Mediation Ordinance (Cap. 620) that was enacted in June 2012 and came into operation in January 2013; (b) overseeing matters concerning the standard of accreditation and training of mediators in Hong Kong; and (c) formulation and implementation of initiatives to increase public awareness and the promotion of the more extensive use of mediation by members of public to resolve disputes in Hong Kong.

A “Mediate First” Pledge Reception was held on 18 July 2013 to encourage the community to consider the use of mediation as a means of dispute resolution before resorting to litigation. To date, about 160 companies and organisations have signed the pledge.

A “Mediation Week” was held commencing from 20 March 2014 with a 2-day mediation conference with international as well as local speakers. Other activities during the Mediation Week include seminars, workshops and mock mediation. A new Announcement in Public Interest (in both Chinese and English), with both video and audio clips, will be broadcast to enhance the public’s awareness and understanding of mediation as a means of dispute resolution.

Initiatives to promote the wider use of mediation within the Government have also been implemented in 2013-14. From March 2013 to January 2014, the Department has organized mediation training including mediation advocacy skills training workshops and mediation experience sharing sessions for Government Counsel and general mediation seminars for para-legals. In early 2014, the Department has nominated 11 Government Counsel and one Law Clerk to attend mediators’ skills training courses. In conjunction with the Civil Service Bureau, a number of mediation seminars were conducted for civil servants (directorates officers and middle rank officers) in 2013 and early 2014. A tailor-made training seminar on mediation was organised for the Government Logistics Department in late 2013.

DoJ will continue to promote Hong Kong as a leading centre for legal and dispute resolution services in the Asia Pacific region. In 2014, we will pursue a number of new initiatives:

*(a) Conduct a consultancy study on the development of arbitration in Hong Kong and the challenges and opportunities that Hong Kong faces as a regional centre for international arbitration in the Asia Pacific region.*

We expect that the findings and recommendations from the study will greatly assist in long-term policy planning and strategic development in this area.

*(b) Enhance the promotion of legal and dispute resolution services of Hong Kong in the Mainland and emerging economies in the Asia Pacific region.*

DoJ will organize a Legal Services Forum in Qingdao in September 2014 to promote the legal and dispute resolution services of Hong Kong. Promotional visits to emerging economies in the Asia Pacific region later in the year are also being planned.

- (c) *Establish an advisory committee to advise on and co-ordinate the development and promotion of Hong Kong as an international arbitration centre in the Asia Pacific region.*

To step up the joint efforts between DoJ and the legal/arbitration sector to foster the development and growth of arbitration in Hong Kong, an Advisory Committee on Promotion of Arbitration to be chaired by SJ will soon be established. The Advisory Committee will consider, advise on and co-ordinate ongoing and new initiatives for the promotion of Hong Kong's arbitration services in the Asia Pacific region and serve as a forum for the discussion of issues raised by the legal/arbitration sector on Hong Kong's positioning as a leading arbitration centre in the region.

- (d) *Promoting the development of mediation services*

In 2014, the Steering Committee on Mediation ("Steering Committee") chaired by the Secretary for Justice and its three Sub-committees, namely, the Regulatory Framework Sub-committee, the Accreditation Sub-committee, and the Public Education and Publicity Sub-committee, supported by the Mediation Team of the Civil Division of the Department, will continue to pursue various measures and initiatives for promoting the development of mediation in Hong Kong. These include:-

- i. drafting of the guidelines on the exemption for disclosure of mediation communications for research, evaluation or educational purposes under section 8(2)(e) of the Mediation Ordinance, Cap. 620;
- ii. studying the need for the enactment of apology legislation for the purpose of enhancing settlement;
- iii. considering a data collection system to monitor the operation of the Mediation Ordinance;
- iv. monitoring matters concerning the accreditation and training standards of mediators in Hong Kong including the operation of the Hong Kong Mediation Accreditation Association Limited.

Further measures for promoting the development of mediation in Hong Kong will be considered by the Steering Committee in the light of the feedback received from publicity activities undertaken.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**SJ027**

**(Question Serial No. 2925)**

Head: (92) Department of Justice  
Subhead (No. & title): (000) Operational expenses  
Programme: (3) Legal Policy  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Page 182 (if applicable)

Question (Member Question No. 99):

What areas will be covered by the eight ongoing Law Reform Commission projects provided for this year in the Estimates? Which of these projects are expected to be completed this year? Among last year's outstanding projects, are all of them expected to be completed this year?

Asked by: Hon. WONG Yuk-man

Reply:

The eight ongoing Law Reform Commission (LRC) projects, all of which were also ongoing in 2013, are as follows:

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

Reports on projects (i) Charities and (ii) Excepted offences under Schedule 3 of the Criminal Procedure Ordinance were published in December 2013 and February 2014 respectively. In other words, the LRC has completed these two projects. The LRC Secretariat is now providing assistance in the implementation of these reports.

It is anticipated that projects (iii) Adverse possession and (iv) Causing or allowing the death of a child may be completed by the end of this year.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**SJ028**

**(Question Serial No. 2926)**

Head: (92) Department of Justice  
Subhead (No. & title): (000) Operational expenses  
Programme: (4 ) Law Drafting  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Page 183 (if applicable)

Question (Member Question No. 100):

How many pieces of legislation in the Bilingual Laws Information System database are planned to be updated in 2014-15? 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 2014-15 will depend on the progress of legislative work and the timing for enacted legislation to come into operation. In this regard, there are 3 categories as follows –

- (a) legislation enacted before 2014-15, which already has a known fixed commencement date (whether under its own term or by appointment) falling within this financial year;
- (b) other legislation enacted before 2014-15, the commencement date of which may be so appointed as to fall within this financial year or the commencement date of which may fall within this financial year by the operation of section 20(2)(a) of the Interpretation and General Clauses Ordinance (Cap. 1) (which provides that an Ordinance commences at the beginning of the day on which it is published, if no provision is made for it to commence on another day);
- (c) legislation to be enacted and brought into operation in 2014-15.

As at 11 March 2014, for (a), there are 19 items in our record (about 2 440 gazette pages) with a commencement date falling within 2014-15.

The commencement dates of items under (b) and (c) are not known yet. 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 2014-15 and the policy intent in relation to their commencement.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**(Question Serial No. 4237)**

Head: (92) Department of Justice  
Subhead (No. & title): (-) Not Specified  
Programme: (3) Legal Policy  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Page 189 (if applicable)

Question (Member Question No. 7):

The Secretary for Justice's Office and the Legal Policy Division has listed as one of the matters requiring special attention in 2014-15 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 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; and
- (iii) whether the Administration has plans to increase its expenditure out of the General non-recurrent subhead item 519, in which \$4,335,000 was previously committed for the "Development of Mainland related legal services in Hong Kong", from which only \$220,000 was spent in 2013-14, representing just a fraction of the original estimate of \$370,000; if yes, of the details; if not, of the reasons for that?

Asked by: Hon. KWOK, Dennis

Reply:

- (i) The Department of Justice (DoJ)'s work on issues regarding Qianhai 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. DoJ therefore does not have separate breakdown of figures on the resources and manpower engaged for such work.
- (ii) Depending on the future development of the issues that need to be handled and 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 of developing Mainland-related legal services in Hong Kong and to promote Hong Kong as a regional legal services and dispute resolution centre. The revised estimated expenditure for 2013-14 was mainly used to meet expenses including:
  - receiving a delegation of Mainland officials for a two-week visit in 2013. A programme of visits to government departments, public organisations and legal professional bodies was arranged so that the officials could have a better understanding of the role and functions of those that they visited. The visit

was conducted pursuant to the co-operation agreements between DoJ and certain Justice Departments and Bureaux in the Mainland; and

- organizing a seminar in Xiamen as part of the Xiamen Hong Kong Week to promote Hong Kong's legal and dispute resolution services in the Mainland in April 2013 and for duty visits to the Mainland.

The estimated expenditure for 2014-15 is expected to be \$370,000. In the coming year, the allocation under this item will be used to provide the necessary funding for the relevant exchange programmes, attending CEPA related meetings, visits to relevant Mainland authorities on proposals to explore further opportunities for the Hong Kong legal and dispute resolution professionals to provide services in the Mainland, and visits to the Mainland for promoting Hong Kong legal and dispute resolution services.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**(Question Serial No. 4238)**

Head: (92) Department of Justice  
Subhead (No. & title): (700) General non-recurrent  
Programme: (-) Not Specified  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Page 189 (if applicable)

Question (Member Question No. 7):

In last year's budget, the General non-recurrent subhead item 514, there was an approved commitment of \$6,300,000 for "Promotion of rule of law and Hong Kong's legal system", with the accumulated expenditure to 31 March 2012 being \$5,987,000, leaving \$313,000 in the balance. The revised estimated expenditure for 2012-13 was also unavailable. In this year's budget, however, subhead item 514 has an approved commitment of \$8,600,000, representing a \$2,300,000 increase from last year's budget, and the revised estimated expenditure for 2013-14 was also exactly \$2,300,000, once again leaving \$313,000 in the balance. In this connection, will the Administration inform this Committee :

- (i) of the details of the additional commitment of \$2,300,000 for subhead item 514;
- (ii) of the details of how the expenditure for 2013-14 of \$2,300,000 was spent promoting the rule of law and Hong Kong's legal system; and
- (iii) 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) and (ii) In 2013-14, a supplementary provision of \$2.3 million was approved for item 514 "Promotion of rule of law and Hong Kong's legal system" for the financial year for (a) the arrangement of promotional events including talks/seminars by the Secretary for Justice (SJ) and counsel of the Legal Policy Division of the Department of Justice (DoJ) in South East Asia in 2013-14; and (b) organizing a one-day conference on criminal justice reform by the Prosecutions Division of DoJ.

Details of the two expenditure items in 2013-14 are set out below :

- (a) Promotional events were organized in February 2014, including a seminar each in Ho Chi Minh City of Vietnam and Phnom Penh of Cambodia with speeches on Hong Kong's legal system and dispute resolution services delivered by SJ and representatives of legal/arbitration professional bodies to promote Hong Kong's legal services and its status as a centre for international legal and dispute resolution services in the Asia Pacific Region. The Hong Kong legal/arbitration professional bodies which took part in the events included the Hong Kong Bar Association, the Law Society of Hong Kong, Hong Kong International Arbitration Centre, International Court of Arbitration of the International Chamber of Commerce (Asia Office), China International Economic and Trade Arbitration Commission (Hong Kong Arbitration Center) and Hong Kong Institute of Arbitrators.
- (b) A conference entitled "The Debates: Criminal Justice Reform" was jointly organized with the Hong Kong Bar Association and the Law Society of Hong Kong in November 2013.



The event attracted the participation of over 200 members from different sectors of the legal community, debating in a free and informal environment on motions of relevance to the possible future developments of our criminal justice system (relating to the offence of money laundering, disclosure for the defence, legal professional privilege, as well as sentencing guideline and tariffs).

(iii) Following the success of the seminars in Vietnam and Cambodia, promotional visits to other emerging economies in the Asia Pacific region later in the year (to be funded by this item) are being planned. For the conference on criminal justice, riding on the success of similar conferences held, the conference on criminal law will become an annual feature event of DoJ, and the necessary funding will be covered under the general departmental expenses. Based on our latest funding requirement, we currently do not envisage a need to further increase the commitments for this item.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**SJ031**

**(Question Serial No. 4239)**

Head: (92) Department of Justice  
Subhead (No. & title): (-) Not Specified  
Programme: (1) Prosecutions  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Page 178 (if applicable)

Question (Member Question No. 2):

Over the past few years, the court days undertaken by Court Prosecutors (CPs) in Magistrates' Court have been decreasing, while the court days undertaken by a fiat counsel instructed to prosecute in Magistrates' Court in place of CPs have been increasing. In this connection, will the Administration inform this Committee:

- (i) of the number of cases in Magistrates' Court in which a fiat counsel was instructed to prosecute in place of CPs for 2013;
- (ii) of the number of fiat counsels who were instructed to prosecute for 2013; and
- (iii) whether the Administration has plans to make further adjustments to the number of fiat counsels instructed to prosecute in place of CPs 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 2013 is set out below –

Year	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
2013	5 014	1 624

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 available 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 2014 will be roughly the same as the 2013 level, we will make adjustments to the number of cases to be briefed out based on actual operational need and the staff situation.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**SJ032**

**(Question Serial No. 4240)**

Head: (92) Department of Justice  
Subhead (No. & title): (-) Not Specified  
Programme: (4) Law Drafting  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Page 183 (if applicable)

Question (Member Question No. 11):

As indicated in the Indicators section for the Law Drafting Division, the number of pages of Committee Stage Amendments (CSAs) in 2012 and 2013 are much higher than the estimate for that in 2014, representing a drop of more than 50% in 2014. In this connection, will the Administration inform this Committee

(i) of the total number of CSAs proposed and passed in 2013 and of a breakdown of the same according to whether they are moved by the Government or by a Member of the Council by filling in the corresponding figures in the table below; and

Actual number of CSAs in 2013	Proposed	Passed
Proposed by the Government		
Proposed by a LegCo Member		
TOTAL		

(ii) of the reasons for such a low estimate for the number of pages of CSAs in 2014?

Asked by: Hon. KWOK, Dennis

Reply:

(i) The relevant figures are set out in the table below:

Actual number of CSAs in 2013	Proposed	Passed
Proposed by the Government	97	97
Proposed by a LegCo Member	716	2
TOTAL	813	99

(ii) Judging from the progress of bills committees, we estimate that a relatively smaller number of bills will reach the Resumption of Second Reading and Committee Stage Amendments stage in 2014. Therefore, the number of pages of CSAs is estimated to be smaller than that in 2012 and 2013.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

SJ033
-------

**(Question Serial No. 4245)**

Head: (92) Department of Justice

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

Programme: ( 1 ) Prosecutions

Controlling Officer: Director of Administration and Development (Arthur HO)

Director of Bureau: Secretary for Justice

This question originates from: Estimates on Expenditure Volume 1 Page 178 (if applicable)

Question (Member Question No. 32):

The actual number of court days undertaken by Court Prosecutors (CPs) in Magistrates' Court has been decreasing over the past few years, but the estimated number of court days undertaken by Court Prosecutors in Magistrates' Court in 2014 continues to remain high, at 9 580, especially when compared to the estimated number of court days undertaken by Counsel instructed to prosecute in Magistrates' Court in place of CPs, at 5 010. In this connection, will the Administration inform this Committee:

(i) of the current number of CPs and a breakdown of their ranks and qualifications by filling in the corresponding figures in the following table; and

<b>Rank</b>	<b>Number of officers who have obtained legal qualification</b>	<b>Number of officers who are pursuing studies for qualifications in law</b>	<b>Number of officers who have yet to obtain legal qualifications</b>
Chief Court Prosecutor			
Senior Court Prosecutor I			
Senior Court Prosecutor II			
Court Prosecutor			
<b>Total</b>			

(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:

(i) The relevant information is set out below:

<b>Rank</b>	<b>Number of officers who have obtained legal qualification*</b>	<b>Number of officers who are pursuing studies for qualifications in law</b>	<b>Number of officers who have yet to obtain legal qualifications</b>
Chief Court Prosecutor	1 (including 1 officer who is fully legally qualified)	-	1
Senior Court Prosecutor I	4 (including 1 officer who is fully legally qualified)	-	3

<b>Rank</b>	<b>Number of officers who have obtained legal qualification*</b>	<b>Number of officers who are pursuing studies for qualifications in law</b>	<b>Number of officers who have yet to obtain legal qualifications</b>
Senior Court Prosecutor II	18 (including 2 officers who are fully legally qualified)	1	10
Court Prosecutor	19 (including 2 officers pursuing Postgraduate Certificate in Laws (PCLL) and 2 officers serving under the Legal Trainee Scheme either as a trainee solicitor or pupil)	2	24
<b>Total</b>	42	3	38

\* including those admitted as barrister/solicitor, obtained PCLL, or had Bachelor of Laws/Common Professional Examination/Juris Doctor qualification

(ii) 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 2014, out of 83 CPs, four were fully legally qualified while 38 have already obtained legal qualifications in one form or another, and three 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. The Secretary for Justice and the Director of Public Prosecutions have 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.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

<b>SJ034</b>
--------------

**(Question Serial No. 4248)**Head: (92) Department of JusticeSubhead (No. & title): (-) Not SpecifiedProgramme: (1) Prosecutions, (2) Civil, (3) Legal Policy, (4) Law Drafting, (5) International LawControlling Officer: Director of Administration and Development (Arthur HO)Director of Bureau: Secretary for JusticeThis question originates from: Estimates on Expenditure Volume 1 Page 185 (if applicable)Question (Member Question No. 86):

The provision for 2014-15 for the Department of Justice is an extraordinary 29.3% higher than the revised estimate for 2013-14. It is said that this is mainly due to the filling of vacancies, creation of posts to meet operational needs and anticipated increase in various expenses. In this connection, will the Administration inform this Committee the job descriptions of each of the post to be created to meet operational needs for each of the five programmes in the following table:

Rank	Responsible to	Notional annual salary cost	Full annual staff cost (including salary and staff on-cost)	Main duties and responsibilities

Asked by: Hon. KWOK, DennisReply:

The details of the posts to be created to meet operational needs for each of the five programmes are set out below –

Rank	Responsible to	Notional annual salary cost* (\$)	Full annual staff cost (including salary and staff on-cost)** (\$)	Main duties and responsibilities
<b><u>Programme (1) Prosecutions</u></b>				
One Chief Executive Officer (CEO) (time-limited for four years)	Principal Executive Officer (PEO)	1,153,800	1,722,564	Strengthening executive / clerical support to cope with increasing volume and complexity of work
One Executive Officer I (EO I) (time-limited for four years)	Senior Executive Officer	621,900	830,172	

Rank	Responsible to	Notional annual salary cost* (\$)	Full annual staff cost (including salary and staff on-cost)** (\$)	Main duties and responsibilities
One Clerical Officer (CO)	EO I	356,640	520,140	
One Assistant Clerical Officer (ACO)	Law Clerk (LC)	222,420	326,964	
One Clerical Assistant (CA)	ACO	173,520	283,200	
<b><u>Programme (2) Civil</u></b>				
One Senior Government Counsel (SGC) (time-limited for three years)	Deputy Principal Government Counsel (DPGC)	1,153,800	1,728,408	Providing legal support for the work resulting from the vessels collision near Lamma Island
One Government Counsel (GC) (time-limited for three years)		845,880	1,003,788	
One SGC (time-limited for three years)	DPGC	1,153,800	1,728,408	Providing dedicated services and advice to the Commerce and Economic Development Bureau in handling renewal of the Free Domestic TV Licence
One GC	Assistant Principal Government Counsel (APGC)	845,880	1,003,788	Strengthening the legal professional and clerical support and the monitoring and supervision to para-legal staff to cope with the large number of cases of the Miscellaneous Claims and Costs Team
One CO	Senior Law Clerk I (SLC I)	356,640	520,140	
One LC (time-limited for one year)	GC	339,780	494,640	Strengthening the para-legal support to the Mediation Team
Two LC	SLC I	339,780 x 2 = 679,560	494,640 x 2 = 989,280	Strengthening the para-legal and clerical support to the legal professionals
Six ACO	EO I / LC / CO	222,420 x 6 = 1,334,520	326,964 x 6 = 1,961,784	
One CA	ACO	173,520	283,200	

Rank	Responsible to	Notional annual salary cost* (\$)	Full annual staff cost (including salary and staff on-cost)** (\$)	Main duties and responsibilities
Two SGC (time-limited for two years)	DPGC	1,153,800 x 2 = 2,307,600	1,728,408 x 2 = 3,456,816	Coping with the additional workload arising from the implementation of a unified screening mechanism commenced on 3 March 2014 and dealing with non-ouffement claims on all applicable grounds (including torture grounds) under the mechanism.
One SGC (time-limited for two years)	APGC	1,153,800	1,728,408	Providing legal support to conduct a review relating to the electricity market structure in Hong Kong and the current Scheme of Control Agreements made with power companies
One GC (time-limited for two years)		845,880	1,003,788	
One ACO (time-limited for two years)		222,420	326,964	
One Administrative Officer	Administrative Officer Staff Grade C	772,920	714,348	Strengthening the administrative / clerical support to cope with increasing volume and complexity of work
One CA	ACO	173,520	283,200	
<b><u>Programme (3) Legal Policy</u></b>				
One SGC	DPGC	1,153,800	1,728,408	Coping with election-related advice concerning the Village Representative Elections 2015, District Councils Election 2015, Legislative Council Election 2016 and the Chief Executive Election 2017; and advice on constitutional reforms relating to the election of the Chief Executive in 2017 by universal suffrage and constitutional reforms relating to the Legislative Council election in 2016
One SGC	APGC	1,153,800	1,728,408	Handling work relating to promotion of Hong Kong as a leading international arbitration centre in Asia Pacific as well as providing support to the work of the Advisory Committee on Promotion of Arbitration to be chaired by the Secretary



Rank	Responsible to	Notional annual salary cost* (\$)	Full annual staff cost (including salary and staff on-cost)** (\$)	Main duties and responsibilities
				for Justice
One SGC (time-limited for two years)	DPGC	1,153,800	1,728,408	Providing legal support to the Inter-departmental Working Group on Gender Recognition chaired by the Secretary for Justice, which is conducting a detailed study to follow up on the observations made by the Court of Final Appeal in the case of <i>W v Registrar of Marriages (FACV 4/2012)</i>
One GC (time-limited for two years)		845,880	1,003,788	
One ACO	CO	222,420	326,964	Strengthening clerical support to cope with increasing volume and complexity of work
<b><u>Programme (4) Law Drafting</u></b>				
One LC	Senior Law Clerk II (SLC II)	339,780	494,640	Maintaining a steady, timely and high quality updating service of Hong Kong Laws
One LC	SLC II	339,780	494,640	Coping with the increasing workload in legislative drafting
One ACO	CO	222,420	326,964	Strengthening clerical support to cope with increasing volume and complexity of work
<b><u>Programme (5) International Law</u></b>				
One GC	DPGC	845,880	1,003,788	Coping with additional workload in the Treaties & Law Unit

\* The notional annual mid-point salary (NAMS) is adopted.

\*\* In line with the norm adopted in papers presented to the Establishment Sub-committee, the full annual average staff cost is presented.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**SJ035**

**(Question Serial No. 4249)**

Head: (92) Department of Justice  
Subhead (No. & title): (-) Not Specified  
Programme: (2) Civil  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Pages 179, 185 (if applicable)

Question (Member Question No. 88):

The financial provision for the Civil Division of the Department of Justice (DoJ) for 2014-15 is \$941.6 million, representing a 48.2% increase from the revised estimate for 2013-14 of \$635.3 million. The increase is said to be mainly due to the filling of vacancies, creation of 21 posts to meet operational needs, and anticipated increase in briefing out expenses and court costs. In this connection, will the Administration inform this Committee of the detailed reasoning for the large increase in financial provision for the Civil Division, particularly the anticipated increase in briefing out expenses and court costs, despite the fact that all of the estimates for 2014 in the Indicators section remain virtually unchanged from the 2013 actuals?

Asked by: Hon. KWOK, Dennis

Reply:

The estimated financial provision for Programme (2) Civil of the Department of Justice for 2014-15 is \$306.3 million (48.2%) higher than the revised estimate for 2013-14. This is mainly due to the filling of vacancies, creation of 21 posts to meet operational needs, and anticipated increase in briefing out expenses and court costs.

The work of the Civil Division ("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, 21 new posts (including 9 time-limited posts) will be created under this programme in 2014-15 –

- 1 Government Counsel (GC), 1 Administrative Officer, 1 Clerical Officer, 2 Law Clerks (LC), 6 Assistant Clerical Officers (ACO) and 2 Clerical Assistants (CA)
- 2 Senior Government Counsel (SGC) and 1 GC (time-limited posts for three years)
- 3 SGC, 1 GC and 1 ACO (time-limited for two years)
- 1 LC (time-limited for one year)
- offset by deletion of 1 SGC post due to the lapse of the post for the Companies Ordinance Rewrite exercise (Phase I).

The expenditure for court costs and briefing-out expenses in respect of this Programme in 2014-15 are estimated to be \$278.3 million (representing an increase of about 147.5% over that in the 2013-14 revised estimates) and \$340.9 million (representing an increase of 45.7% over that in the 2013-14 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 and briefing-out expenses is mainly due to the payment in respect of some mega cases which will be rolled over from 2013-14 to 2014-15 having regard to the development of the cases concerned and also the amount likely to be required for new cases. The general increase in counsel fees and the increase in complexity and number of cases over the years also contribute to the expected increase in expenditure for court costs and briefing-out expenses.

As the estimates were 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 2014-15 would ultimately depend on the actual development and outcome of the cases concerned (which are not entirely within the control of the Administration or the Department of Justice).

The estimated Indicators in respect of 2014 are compiled mainly with reference to the workload of the previous year. Such estimates will be subject to adjustments depending on the ultimate demand for legal support. In recent years, there has been an increase in the workload for CD. At the same time, the diversity and complexity of the work has been growing. An increase in financial provision is, therefore, necessary. As for court costs and briefing out, the financial provision is worked out on the basis of the amount likely to be required for the projected new cases as well as payment expected to be made in on-going cases which straddle into the next financial year. The 2014 estimate takes into account likely payment to be made in 2014-15 in respect of a number of mega cases which involve significant amounts, hence the large increase in the financial provision.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**SJ036**

**(Question Serial No. 4660)**

Head: (92) Department of Justice  
Subhead (No. & title): (-) Not Specified  
Programme: (4) Law Drafting  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Page 182 (if applicable)

Question (Member Question No. 5):

According to the Official Languages Ordinance (Cap 5), all ordinances and most subsidiary legislation shall be enacted and published in both official languages, i.e. Chinese and English. However, Chinese expressions uncommon to the locals have appeared in previous drafted legislation for many times, while incorrect characters and wrongly written ones have also appeared in even the gazetted blue bills for more than once.

In this connection, please advise,

- (1) whether the Department of Justice (DoJ) has any internal experts versed in both the Chinese language and law to participate in the process of drafting legislation in Chinese to produce precisely worded legislative provisions. If yes, what are the qualifications, establishment, areas of responsibilities and salary cost of the staff concerned? If not, what are the reasons, and has the DoJ allocated any resources in 2014-15 for selecting and recruiting such experts in the future?
- (2) whether the Government has any internal advisory or consultative committees established specifically to give advice on the drafting of legislation in Chinese. If yes, what are the compositions, responsibilities and expenditure involved of the committees? If not, what are the reasons, and has the Government allocated any resources in 2014-15 for setting up such advisory or consultative committees?

Asked by: Hon. HO Sau-lan, Cyd

Reply:

- (1) All bilingual legislation proposed by the Administration are drafted by the counsel of the Law Drafting Division (LDD). A Law Translation Officer (LTO) provides professional language support to the counsel. Only candidates with sound legal knowledge, strong drafting aptitude and a good command of both official languages will be appointed as a Government Counsel (GC) to the Division, while an LTO is selected on the basis of the officer's language skills and experience in translation. The notional annual mid-point salary (NAMS) of counsel ranges from \$845,880 (GC rank) to \$2,495,400 (Law Officer rank), depending on the rank, while the NAMS of LTO is \$845,880. On average, our drafting counsel have 12 years of experience in bilingual legislative drafting, with 14 officers having over 15 years of experience. An elaborate vetting system is put in place for draft legislation to ensure linguistic and legal accuracy. We put great emphasis in the continued professional training and development of our counsel and LTO.

The present establishment and the qualification requirements allow us to recruit people with appropriate expertise to join the law drafting team as a GC (for qualified lawyers) or an LTO (for non-lawyers). Continuous efforts are also made to enhance their drafting capability. Initiatives include seminars, workshops and internal guidelines. The Division currently has no plan to recruit other experts in 2014-15 to assist in the Chinese drafting process.

- (2) An in-house “Drafting Techniques and Legislative Style Committee” is established in LDD, comprising mainly bilingual counsel, to review a range of drafting techniques and legislative style in general with a view to improving the readability of Hong Kong legislation in both the English and Chinese texts. Under this Committee, a Chinese Drafting Sub-committee was established in 2012 to specifically make recommendations on Chinese drafting practices, including enhancement of comprehensibility. The recommendations and decisions of the Subcommittee are published internally for information and implementation.

The staff cost and other related expenses in respect of the operation of the above committee and sub-committees were absorbed within the existing resources of the Department and the expenditure in this particular regard cannot be quantified.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**(Question Serial No. 5239)**

Head: (92) Department of Justice  
Subhead (No. & title): (-) Not Specified  
Programme: (-) Not Specified  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Page 188 (if applicable)

Question (Member Question No. 15):

What are the estimates for duty visits and exchanges to Mainland China by the Department of Justice for 2014-2015? Please advise this Committee of the themes of the duty visits and exchanges to Mainland China planned for 2014-2015. How will the Administration avoid non-official activities during duty visits? How will the Administration prevent the applications for changing visit locations from becoming a mere formality?

Asked by: Hon. WONG Yuk-man

Reply:

The Department of Justice (DoJ) will conduct duty visits and exchanges to the Mainland for 2014-2015 based on operational needs. Such visits and exchanges may include meetings with relevant Mainland authorities and visits to the Mainland for promoting the legal and dispute resolution services of Hong Kong.

DoJ has not yet drawn up the details of the visits in 2014-15. The expenditure related to the visits to be conducted will be absorbed within the existing resources of DoJ and they cannot be quantified for the time being.

Official duty visits to be paid out of public funds are governed by relevant government regulations and guidelines to ensure effective monitoring and proper use of public money. Such controls include the requirement of obtaining prior approval for official duty visits which must be justified by operational grounds. Elements not related to official businesses should be avoided in the visits. Officers who wish to apply for approval for duty visit should ensure that the application contains all the relevant information of the proposed visit. If there are subsequent changes to the official duty visit, the officers must inform the approving authority immediately, and the approving authority shall then assess whether it is necessary to reconsider the application.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**SJ038**

**(Question Serial No. 5354)**

Head: (92) Department of Justice  
Subhead (No. & title): (000) Operational expenses  
Programme: (-) Not Specified  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Page 188 (if applicable)

Question (Member Question No. 111):

Please provide information regarding the government fleet under your Department:

	Number	Operating expenses for 2013	Estimated operating expenses for 2014-15
VIP Car			
Large Saloon Car (Grade A)			
Large Saloon Car (Grade B)			

Asked by: Hon. CHAN Wai-yip, Albert

Reply:

Relevant information in respect of the specified types of government vehicles under the Department of Justice is shown in the table below. The operating expenses cover fuel costs, toll, parking fees and maintenance charges.

	Number	Operating expenses for 2013	Estimated operating expenses for 2014-15
VIP Car	-	-	-
Large Saloon Car (Grade A)	1	\$73,139	\$76,835
Large Saloon Car (Grade B)	5	\$339,047	\$342,870

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**(Question Serial No. 2283)**

Head: (92) Department of Justice

Subhead (No. & title): (700) General non-recurrent

Programme: (-) Not Specified

Controlling Officer: Director of Administration and Development (Arthur HO)

Director of Bureau: Secretary for Justice

This question originates from: Estimates on Expenditure Volume 1 Page 189 (if applicable)

Question (Member Question No. 21):

The expenditure of Item 826 "Promotion of Hong Kong as an international centre for legal and dispute resolution services" in 2013-14 was \$6.85 million. What were the projects involved? What was the expenditure of each project? Please use the table below in your reply.

Project	Expenditure involved

Moreover, for 2014-15, what are the projects involved? What is the expenditure of each project? Please use the table below in your reply.

Project	Expenditure involved

Asked by: Hon. FAN Kwok-wai, Gary

Reply:

The estimated expenditure of \$6.85 million for Item 826 "Promotion of Hong Kong as an international centre for legal and dispute resolution services" in 2013-14 is provided for the following projects-

Project	Expenditure Involved \$ Million
(1) Conducting a consultancy study on the development of arbitration in Hong Kong and the challenges and opportunities that Hong Kong faces as a regional centre for international arbitration in the Asia Pacific region.	2.5
(2) Updating promotional materials on arbitration and mediation.	0.05
(3) Sponsoring promotional activities of the Hong Kong International Arbitration Centre (both local and overseas) including the production of a promotional video on arbitration in Hong Kong and funding Hong Kong's participation in the 2014 International Council of Commercial Arbitration Congress.	1.56
(4) Enhancement of training of counsel in respect of mediation.	0.24
(5) One-off sponsorship to the Asia Pacific Regional Office of the Hague Conference on Private International Law in Hong Kong for the organisation of various activities for enhancing international and regional legal cooperation as well as harmonization of private international law through the Hague Conventions, which also helps to enhance Hong Kong's status as an international legal service centre.	2.5



In 2014-15, the estimated expenditure for Item 826 is provided for the following project-

Project	Expenditure Involved \$ Million
Funding for completing the consultancy study on arbitration under item (1) above and for appropriate follow up actions on the findings of the study.	2.5

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**(Question Serial No. 2352)**

Head: (92) Department of Justice  
Subhead (No. & title): (-) Not Specified  
Programme: ( 3 ) Legal Policy  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Page 181 (if applicable)

Question (Member Question No. 34):

The work of the Secretary for Justice's Office and the Legal Policy Division includes providing advice on and promoting knowledge of the Basic Law. Regarding the constitutional reform consultation launched in December 2013, would the Administration inform this Committee of the plan of the Secretary for Justice's Office for promoting the Basic Law in the new financial year? What is the specific amount of provision involved? What are the objectives intended to be achieved?

Asked by: Hon. LAM Kin-fung, Jeffrey

Reply:

The Department of Justice ("DoJ") provides advice to Government bureaux and departments on legal issues regarding the Basic Law. DoJ promotes general knowledge and understanding of the Basic Law, including but not limited to, the provisions relating to constitutional reform. The promotional work is carried out through various means including taking part in the publication of the Basic Law Bulletin jointly with the Constitutional and Mainland Affairs Bureau and Civil Service Bureau, as well as making the documents 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. Moreover, DoJ counsel participate in relevant educational activities organized for schools. To foster general understanding and awareness of the Basic Law by civil servants, DoJ counsel also conduct Basic Law seminars for civil servants. The DoJ is also represented in the Basic Law Promotion Steering Committee chaired by the CS. The above work will continue in 2014-15.

The staff cost and other related expenses for the promotion of the Basic Law as mentioned above are absorbed within the existing resources of the Department and the expenditure in this particular regard cannot be quantified.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**(Question Serial No. 2393)**

Head: (92) Department of Justice  
Subhead (No. & title): (-) Not Specified  
Programme: ( 3 ) Legal Policy  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Budget Speech Paragraph 97 Page 30 (if applicable)

Question (Member Question No. 37):

It is mentioned in paragraph 97 of the Budget Speech that “in recent years, arbitration and mediation have become the mainstream modes of resolving international commercial disputes”, and that the Administration will “actively promote Hong Kong’s legal and arbitration services, and make its best efforts to advocate and develop mediation services”. In this connection, would the Administration inform this Committee of :

1. the resources allocated to advocate and develop Hong Kong’s mediation and arbitration services over the past 3 years, and the detailed breakdown of the expenditure of the measures taken;
2. the resources planned to be allocated to advocate and develop Hong Kong’s mediation and arbitration services in the next 3 years, and the specific measures to be taken?

Asked by: Hon. LEUNG Mei-fun, Priscilla

Reply:

1. Resources allocated to advocate and develop Hong Kong’s mediation and arbitration services over the past three years

As far as arbitration services are concerned, the Department of Justice (DoJ) regularly reviews Hong Kong’s arbitration regime in consultation with the arbitration sector and will consider necessary improvement to the Arbitration Ordinance as and when appropriate. In July 2013, the Arbitration (Amendment) Ordinance 2013 was passed (i) to introduce new provisions into the Arbitration Ordinance (Cap. 609) to implement the Arrangement Concerning Reciprocal Recognition and Enforcement of Arbitral Awards Between the HKSAR and the Macao SAR (“the Arrangement”) to facilitate summary enforcement of Macao arbitral awards by Hong Kong courts under the Arrangement; and (ii) to further enhance the arbitral regime of the HKSAR in the light of international good practices.

Following the first and second Hong Kong Legal Services Forums successfully held in Shanghai in 2010 and Guangzhou in 2012, we showcased in April 2013 the strength of our legal and arbitration services in a seminar in Xiamen as part of the programme for the “2013 Fujian Xiamen Hong Kong Week” jointly organized by the Governments of Hong Kong, Fujian Province and Xiamen Municipality.

The incumbent Secretary for Justice (SJ) and his predecessor have since 2009 visited prominent commercial centres in overseas countries (including London, Toronto, Kuala Lumpur, Seoul, Paris, Singapore and The Hague) to promote the competitive edges of Hong Kong in the provision of legal and arbitration services. In 2014, the focus is on promoting Hong Kong’s arbitration services in emerging markets in the Asia Pacific region, in particular Southeast Asia. In February 2014, SJ led a delegation of representatives from our legal and arbitration sectors on a roadshow to Vietnam and Cambodia.

We have also continued our efforts in facilitating the establishment and growth of world class arbitration institutions in Hong Kong. In addition to the Hong Kong International Arbitration Centre (established since 1985) and the Asia Office of the International Court of Arbitration of the International Chamber of Commerce (established since 2008), the China International Economic and Trade Commission has also set up its Hong Kong branch in 2012. A very recent development is the plan of the China Maritime Arbitration Commission (“CMAC”) to set up a branch office in Hong Kong. Being a key maritime arbitration institution in the Mainland, CMAC’s presence in Hong Kong would further enhance Hong Kong’s role in the resolution of maritime disputes, and thereby reinforce our position as a leading international arbitration centre in the Asia Pacific.

Another international arbitration institution which we are seeking its enhanced presence in Hong Kong is the Permanent Court of Arbitration (“PCA”), a leading international institution with its headquarters in the Hague with a long history and good reputation in the field of international investment arbitration. At our request, the Central People’s Government (“CPG”) and the PCA have commenced negotiation of a host country agreement on the conduct of dispute settlement proceedings in Hong Kong, which will help attract more investment arbitrations to be conducted in Hong Kong.

As regards mediation services, the Mediation Task Force was set up in December 2010 and chaired by the then SJ to implement the key recommendations of the Working Group on Mediation. The Task Force had facilitated the (i) enactment of the Mediation Ordinance, Cap. 620, in June 2012, to provide a legal framework for the conduct of mediation without hampering the flexibility of the mediation process; (ii) formation of the Hong Kong Mediation Accreditation Association Limited (“HKMAAL”) in August 2012, a non-statutory industry-led company limited by guarantee with the Hong Kong Bar Association, the Hong Kong Law Society, the Hong Kong International Arbitration Centre, and the Hong Kong Mediation Centre as founding members, to discharge accreditation and disciplinary functions; and (iii) major publicity activities including the production and broadcast of the first Announcement in the Public Interest (“API”) with the theme “Mediate First to Resolve your Disputes” in December 2011 and the 2-day “Mediate First” Conference in May 2012 with overseas and local expert speakers to raise public awareness on mediation.

The Steering Committee on Mediation (“Steering Committee”) established in November 2012 and chaired by the SJ has continued to promote and develop the more extensive use of mediation to resolve disputes. Work in progress includes :

- (a) drafting guidelines on the exemption for disclosure of mediation communication for research, evaluation or educational purposes under section 8(2)(e) of the Mediation Ordinance;
- (b) studying the need for the enactment of apology legislation for the purpose of enhancing settlement; and
- (c) considering a data collection mechanism to monitor the operation of the Mediation Ordinance.

The Steering Committee is also monitoring matters concerning the accreditation and regulation of mediators in Hong Kong including the organization and operation of the HKMAAL. For publicity, major activities undertaken include :

- (a) a “Mediate First” Pledge Reception in July 2013 to encourage the community to consider the use of mediation before resorting to litigation;
- (b) production of a new API (in both Chinese and English) to promote the wider use of mediation, with both video and audio clips, which will be broadcast, to enhance the public’s awareness and understanding of mediation as a means of dispute resolution; and
- (c) a “Mediation Week” in March 2014 with a Mediation Conference with international as well as local speakers covering both international and local mediation developments. Other activities during the mediation week include various targeted talks, seminars and activities for specific sectors.

Initiatives to promote mediation within the Government have also been implemented in 2013-14 by the holding of a series of mediation seminars, workshops and experience sessions for directorate and middle ranking civil servants in conjunction with the Civil Service Bureau.

In 2013, one Deputy Principal Government Counsel (DPGC), one Senior Government Counsel (SGC) and one Personal Secretary I (PSI) posts were created (for two years) to support the work on the promotion and development of mediation. The annual staff cost is \$3,165,000. The other staff costs and other administrative expenditure for taking forward the efforts as set out above in respect of mediation as well as arbitration have been absorbed within the existing resources of the Department and the expenditure in this particular regard cannot be quantified.

2. Efforts to advocate and develop Hong Kong's mediation and arbitration services in the coming three years

In 2014, we will take forward a number of new initiatives in respect of the development of arbitration services:

- (a) *Conduct a consultancy study on the development of arbitration in Hong Kong and the challenges and opportunities that Hong Kong faces as a regional centre for international arbitration in the Asia Pacific region.*

We expect that the findings and recommendations from the study will greatly assist long-term policy planning and strategic development in this area.

- (b) *Enhance the promotion of dispute resolution services of Hong Kong in the Mainland and emerging economies in the Asia Pacific region.*

DoJ will organize a Legal Services Forum in Qingdao in September 2014 to promote legal and dispute resolution services of Hong Kong. Promotional visits to emerging economies in the Asia Pacific region later in the year are also being planned.

- (c) *Establish an advisory committee to advise on and co-ordinate the development and promotion of Hong Kong as an international arbitration centre in the Asia Pacific region.*

To step up the joint efforts between DoJ and the legal/arbitration sector to foster the development and growth of arbitration in Hong Kong, an Advisory Committee on Promotion of Arbitration to be chaired by the Secretary for Justice will soon be established. The Advisory Committee will consider, advise on and co-ordinate on-going and new initiatives for the promotion of Hong Kong arbitration services in the Asia Pacific region and serve as a forum for the discussion of issues raised by the legal/arbitration sector on Hong Kong's positioning as a leading arbitration centre in the region.

One additional SGC post will be created in 2014-15 for handling the work relating to promotion of Hong Kong as a leading international arbitration centre in Asia Pacific as well as providing support to the work of the Advisory Committee on Promotion of Arbitration. The cost for other staff and other related expenses for providing support to promote arbitration will continue to be absorbed within the existing resources of the DoJ.

As for mediation services, apart from the ongoing work set out under section 1 above, further measures for promoting the development of mediation will be considered by the Steering Committee in the light of the feedback received. The work will be handled by the team of staff mentioned in section 1 above and one additional Law Clerk post will be created for one year in 2014-15 to strengthen the para-legal support. The cost for other staff and related expenses will continue to be absorbed within the existing resources of the DoJ.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**(Question Serial No. 2405)**

Head: (92) Department of Justice

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

Programme: ( 3 ) Legal Policy

Controlling Officer: Director of Administration and Development (Arthur HO)

Director of Bureau: Secretary for Justice

This question originates from: Budget Speech Paragraph 97 Page 30 (if applicable)

Question (Member Question No. 33):

Regarding the development of arbitration and mediation services, would the Administration advise the following:

- (1) the actual increase in the number of cases handled in Hong Kong since the Administration initiated efforts to develop mediation and arbitration services;
- (2) the specific measures the Administration will take to encourage more talents in the sectors to provide arbitration and mediation services?

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

Reply:

- (1) Mediation is private and consensual and mediation communication is protected by confidentiality. There is no legal obligation for a party to report a mediation case with any authority. Therefore, there is no overall official figure for the total number of mediation cases handled in Hong Kong. However, under Practice Direction 31, a party to a litigation is obliged to consider mediation and provide information to the Judiciary pursuant to the said Practice Direction. According to the statistics released by the Judiciary as set out in the table below, there were 680 mediation cases in 2011, 924 mediation cases in 2012 and 1078 mediation cases in 2013 in relation to the civil cases commenced in the Court of First Instance and the District Court. The figures only represent the number of mediation cases captured through the Judiciary's system.

Court level	Year		
	2011	2012	2013
Court of First Instance of the High Court	421	575	637
District Court	259	349	441

One of the Terms of Reference of the Steering Committee on Mediation chaired by the Secretary for Justice is to monitor the implementation of the Mediation Ordinance and advise on issues arising therefrom. The Regulatory Framework sub-committee under the Steering Committee on Mediation is currently considering the question of how to collect mediation data so as to monitor the operation of the Mediation Ordinance. The statistics, if available, may lead to further empirical studies.

As for arbitration cases, a complete set of statistics regarding the number of cases conducted in Hong Kong is also not available since arbitration is also protected by confidentiality. Whilst some parties to disputes have requested an arbitral institution (such as the Hong Kong International Arbitration Centre ("HKIAC")) to administer their proceedings, some parties have opted for the proceedings to be conducted on an *ad hoc* basis without the assistance of an arbitral institution. This notwithstanding,

case statistics for HKIAC as released in its website are set out below for reference.

	<b>2010</b>	<b>2011</b>	<b>2012</b>
● arbitration matters	291 (60% international + 40% domestic; 16 cases fully administered by the HKIAC in accordance with its rules)	275 (65% international + 35% domestic; 41 cases fully administered by the HKIAC in accordance with its rules)	293 (68% international + 32% domestic; 68 cases fully administered by the HKIAC in accordance with its rules)
● website domain name disputes resolution (e.g. generic top level domain names (gTLDs) such as .com, .net and .org and country code top level domains (ccTLDs) such as .hk and .cn.	107	127	116

Looking ahead, we shall conduct a consultancy study on the development of arbitration in Hong Kong and the challenges and opportunities that Hong Kong faces as a regional centre for international arbitration in the Asia Pacific region. The study may produce statistical information on the use of arbitration in Hong Kong which will assist long-term policy planning and strategic development in this area.

- (2) Quality assurance of mediators is an important key to maintain and enhance public confidence in the use of mediation as a means of dispute resolution. The Department of Justice (DoJ) has worked together with the Judiciary and other major stakeholders including the Bar Association, the Law Society of Hong Kong, the Hong Kong International Arbitration Centre and the Hong Kong Mediation Centre to facilitate the establishment of the Hong Kong Mediation Accreditation Association Limited (“HKMAAL”) in 2012. The HKMAAL sets accreditation and training standards for mediators as well as discharges disciplinary functions. Besides, many service providers like the Law Society and the Hong Kong Mediation Centre provide training courses for people who would like to become mediators. These efforts will continue.

As for arbitration, DoJ has been working closely with the legal profession, the arbitration sector (including arbitration institutions) as well as other related institutions in Hong Kong over the years to promote the use of arbitration in resolving commercial disputes.

Education/training programmes on arbitration law and practice offered by universities and arbitral bodies in Hong Kong include courses run by the Hong Kong Institute of Arbitrators and the Chartered Institute of Arbitrators (East Asia Branch); degree programmes offered by the School of Law of City University of Hong Kong, the Faculty of Law and the School of Professional and Continuing Education of The University of Hong Kong, The Chinese University of Hong Kong and The Hong Kong Polytechnic University.

Looking ahead, in our coming consultancy study on arbitration mentioned above, it will include recommendations on measures to further develop and sustain world-class training and professional development of arbitrators and arbitration practitioners. It is hoped that our continuing effort to promote the use of arbitration will enhance the awareness of potential users of arbitration services and lead to an increase in demand for arbitration to resolve disputes. The availability of more opportunities to handle arbitration will encourage more professionals to participate in the arbitral process and act as arbitrators.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**(Question Serial No. 2649)**

Head: (92) Department of Justice

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

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development (Arthur HO)

Director of Bureau: Secretary for Justice

This question originates from: Estimates on Expenditure Volume 1 Page 181 (if applicable)

Question (Member Question No. 73):

In the reply made by the Secretary for Education in the Legislative Council on 23 October 2013, the Administration had mentioned that the Standing Committee on Legal Education and Training (SCLET) would conduct a large scale review of the present system of legal education and training in Hong Kong with a view to enhancing the system to meet the challenges of legal practice and the needs of Hong Kong. The Secretary for Education had mentioned that the question of a common qualifying examination for entry into the legal profession was likely to be one of the issues to be studied by SCLET. Nevertheless, in SCLET's letter to the Panel on Administration of Justice and Legal Services (dated 5 December 2013), SCLET hadn't received or discussed any proposal by the Law Society to introduce a qualifying examination for solicitors and hence didn't receive any views on this issue. Will the Administration inform this Council its policy initiative for legal education and legal services industry in Hong Kong? When will the SCLET release its latest report? And what is Government's view towards the introduction of a common qualifying examination? Will it deploy resources and manpower to conduct research and consultation on this issue? If yes, of the details; if no, of the reasons. Meanwhile, the Secretary had also mentioned that the number of places of Postgraduate Certificate in Laws (PCLL) programs will be reviewed by University Grant Committee every 3 years. How will the Administration ensure that Hong Kong will not lose its competitive edge in the development of legal services industry in the absent of the expansion of PCLL programs and the lack of a common qualifying examination to increase the number of legal practitioners in Hong Kong and, ultimately to develop Hong Kong as the regional hub of legal services in Asia Pacific region?

Asked by: Hon. SHEK Lai-him, Abraham

Reply:

As provided for under section 74A of the Legal Practitioners Ordinance (Cap. 159), the Standing Committee on Legal Education and Training (SCLET) is the statutory body with the functions to, *inter alia*, keep under review, evaluate, assess and make recommendations on the system and provision of legal education and training in Hong Kong. SCLET has recently resolved to conduct a comprehensive study on legal education and training in Hong Kong. SCLET is actively considering the issues and related logistics of the proposed study, including the possible sources of funding and the engagement of consultants, as well as the timetable for the study. In this regard, subject to finalization of the details of SCLET's proposed study, it is the Department of Justice (DoJ)'s tentative plan to make available \$1.5 million from its allocation for the financial year of 2014-15 for sponsoring SCLET's proposed study, and to assist in the proposed study. The Administration will also encourage other stakeholders to assist.

As regards the Law Society's proposal to introduce a qualifying examination for solicitors, given the complexity of the issues and the diversity of views expressed by stakeholders on the matter at the AJLS Panel meeting on 16 December 2013, the matter would require careful consideration by SCLET and the Administration. The question of a common entrance examination for entry into the solicitor branch of the legal profession and its interface with the current PCLL programmes will likely be issues to be covered in SCLET's proposed study.



It has been the Government's on-going policy to enhance the competitiveness of Hong Kong as a centre for international legal and dispute resolution services in the Asia Pacific Region. To achieve this, DoJ will take a number of initiatives which include the following :

- To conduct a study on the development of arbitration in Hong Kong and the challenges and opportunities that Hong Kong faces as a regional centre for international arbitration in the Asia Pacific region.
- To enhance the promotion of legal and dispute resolution services of Hong Kong in emerging economies in the Asia Pacific region.
- To establish an advisory committee to advise on and co-ordinate the development and promotion of Hong Kong as an international arbitration centre in the Asia Pacific.
- To enhance our legal co-operation in civil and commercial matters with the Mainland.
- To work with Mainland Authorities and the legal profession and arbitration institutions in Hong Kong to facilitate Hong Kong professionals to provide legal and dispute resolution services in the Mainland, particularly Qianhai and Nansha.
- To further foster the development of mediation services in Hong Kong with the efforts of the Steering Committee on Mediation chaired by the Secretary for Justice.
- To create a favourable environment and infrastructure to facilitate legal and dispute resolution institutions to develop services and set up permanent presence in Hong Kong.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**SJ044**

**(Question Serial No. 6016)**

Head: (92) Department of Justice  
Subhead (No. & title): (-) Not Specified  
Programme: (1) Prosecutions  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Page 178 (if applicable)

Question (Member Question No. 459):

Would the Administration inform this Committee of the following:

- (1) the respective estimated expenditures on the salary and non-accountable entertainment allowance of the Secretary for Justice this year, and of the estimated expenditure on the salary of the Director of Public Prosecutions this year;
- (2) the Department of Justice's (DoJ) explanation for the under 50% conviction rates of defendants convicted after trial in the Magistrates' Court in 2012 and 2013, accounting for only 47.6% and 47% respectively, and if there was an abuse of prosecution?
- (3) the amount of court costs the DoJ had to pay in criminal cases as a result of adverse rulings in the Magistrates' Court, District Court and Court of First Instance over the past 5 years by filling in the following table:

	Magistrates' Court	District Court	Court of First Instance
2009			
2010			
2011			
2012			
2013			

- (4) whether provisions will be earmarked by the DoJ for payment of court costs incurred as a result of adverse rulings? If yes, what is the estimated expenditure for this year?

Asked by: Hon. LEUNG Kwok-hung

Reply:

(1) The estimate for the salary and non-accountable entertainment allowance of the Secretary for Justice in 2014-15 is \$3.5 million and \$0.21 million respectively. The estimated expenditure on the salary of the Director of Public Prosecutions in 2014-15 is \$2.5 million.

(2) As the prosecution authority, our objective is to see that appropriate cases are presented fairly to the court. Prosecutions are, in accordance with the guidelines set out in the Prosecution Code, 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 adopts the criminal standard of "beyond reasonable doubt" according to the law.

As noted from the conviction rates at the magistracy level in the past six 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.

Conviction Rate at the Magistrates' Court	2008	2009	2010	2011	2012	2013
- defendants convicted after trial (%)	53.9	53.4	51.6	51.5	47.6	47.0
- defendants convicted after trial and defendants convicted on their own pleas (%)	73.2	74.7	73.8	74.4	73.3	72.3

(3) The amount of court costs the Department of Justice (DoJ) had to pay in criminal cases as a result of adverse rulings in the Magistrates' Court, District Court and Court of First Instance over the past 5 years is as follows –

	Magistrates' Court \$	District Court \$	Court of First Instance \$
2009	19,210,323	4,920,105	11,869,920
2010	17,993,822	17,070,254	14,461,479
2011	15,352,047	12,866,606	20,319,049
2012	24,521,472	17,586,766	21,614,911
2013	20,494,824	4,459,722	18,350,144

(4) The estimated expenditure of DoJ for court costs in respect of criminal cases in 2014-15 is \$101.5 million. The expenditure on court costs varies from year to year, depending on the number of cases involved, their complexity and development of the cases. As the estimate was 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 for 2014-15 would ultimately depend on the actual development and outcome of the cases concerned (which are not entirely within the control of the Administration or DoJ).

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

<b>SJ045</b>
--------------

**(Question Serial No.6026)**

Head: (92) Department of Justice

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

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development (Arthur HO)

Director of Bureau: Secretary for Justice

This question originates from: Estimates on Expenditure Volume 1 Page 178 (if applicable)

Question (Member Question No. 704):

According to Page 178, Volume 1 of the Estimates :

7 The conviction rates for 2012 and 2013 are:

	2012 (Actual)	2013 (Actual)
Magistrates' Court		
- defendants convicted after trial (%) .....	47.6	47.0
- defendants convicted after trial and defendants convicted on their own pleas (%).....	73.3	72.3
District Court		
- defendants convicted after trial (%) .....	60.2	79.8
- defendants convicted after trial and defendants convicted on their own pleas (%).....	91.4	95.3
Court of First Instance		
- defendants convicted after trial (%) .....	69.6	67.3
- defendants convicted after trial and defendants convicted on their own pleas (%).....	91.6	94.0

Please list the conviction rates of defendants convicted of offences committed during political gatherings, processions and demonstrations after trial in all courts for 2012 and 2013 as per the format on Page 178, Volume 1 of the Estimates.

Asked by: Hon. LEUNG Kwok-hung

Reply:

Based on information available, in 2012 and 2013, the number of persons prosecuted and convicted of offences committed during and related to public meetings and processions after trial is as follows (figures as at 8 March 2014) -

	2012	2013
Number of persons prosecuted	35	38
Number of persons convicted	15	12

Further breakdown of the conviction figures in respect of the offences concerned by the various levels of courts are not available, and hence we cannot provide the respective conviction rates.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**SJ046**

**(Question Serial No. 6198)**

Head: (92) Department of Justice  
Subhead (No. & title): (000) Operational expenses  
Programme: (-) Not Specified  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Page 177 (if applicable)

Question (Member Question No. 149):

Regarding the expenses on official entertainment of bureaux and departments, would the Administration inform this Committee of:

- (1) the number of exceptions where the costs per head of lunch and dinner attended by public officers for official entertainment purpose exceeded the ceilings, the number of exceptions approved by directorate grade officers and the amounts in excess of the ceilings with justifications in the past 3 years, as per the respective bureau/department/public organisation;
- (2) the number of occasions of public officers breaching the guidelines in relation to giving of gifts or souvenirs in official activities, the number of exceptions approved by directorate grade officers with justifications in the past 3 years, as per the respective bureau/department/public organisation?

Asked by: Hon. MOK, Charles Peter

Reply:

The Civil Service Regulations (CSRs) set out the principles, rules and approval procedures relating to official entertainment. Heads of Departments have the delegated authority to authorise all expenditure from the departmental entertainment vote. In addition, according to the Government's internal guidelines, the expenditure limits on entertaining guests should not exceed \$450 per person for lunch or \$600 per person for dinner. Government officers are required to exercise prudent judgement and economy when entertaining guest(s) for official purposes in order to avoid any public perception of extravagance. Where there are sufficient justifications for exceeding the expenditure limits, the departments are required to consider those applications according to the established mechanism and to document properly the detailed justifications for granting such approval.

In line with the Government's green policy, public officers should as far as possible refrain from bestowing gifts/souvenirs to others during the conduct of official activities. According to the existing guidelines, where bestowal of gifts/souvenirs is necessary or unavoidable due to operational, protocol or other reasons, the gift/souvenir items should not be lavish or extravagant and the number should be kept to a minimum. Also, the exchange of gifts/souvenirs should only be made from organisation to organisation.

In the past three years, no officer in this department was subject to disciplinary action for alleged contravention of the CSRs or other government requirements in relation to claiming reimbursement of entertainment expenses or offering gifts/souvenirs.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**SJ047**

**(Question Serial No. 6227)**

Head: (92) Department of Justice  
Subhead (No. & title): (000) Operational Expenses  
Programme: (-) Not Specified  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Page 177 (if applicable)

Question (Member Question No. 191):

The Government has announced that it would make all government information released for public consumption machine-readable in digital formats.

(1) Please provide in the table below details of the government information being released by your Bureau/Department for public consumption.

Bureau/ Department	Information items that can be released for public consumption	Description of the information	Period of the information	Is the information released in digital formats currently and date of release	If not, will it be converted into digital formats	Digital format already/planned to be used (please choose)			
						Machine-readable, non-proprietary formats (e.g. CSV)	Machine-readable, proprietary formats (e.g. MS Excel, Word)	Non-Machine-readable formats (e.g. JPG, PDF, PNG)	Open-standard formats (e.g. XML)

(2) Would the Administration indicate the manpower and expenditure involved for releasing government information for public consumption in 2014-15? Will more resources and manpower be provided to your Bureau/Department for handling this task so that the plan can be more effectively implemented?

Asked by: Hon. MOK, Charles Peter

Reply:

The government information released by the Department of Justice (DoJ) for public consumption is as follows :

Bureau/ Department	Information items that can be released for public consumption	Description of the information	Period of the information	Is the information released in digital formats currently and date of release	If not, will it be converted into digital formats	Digital format already/planned to be used (please choose)			
						Machine-readable, non-proprietary formats (e.g. CSV)	Machine-readable, proprietary formats (e.g. MS Excel, Word)	Non-Machine-readable formats (e.g. JPG, PDF, PNG)	Open-standard formats (e.g. XML)
<i>DoJ</i>	DoJ and related websites (www.doj.gov.hk)	Various information including the policies,	Since 1999	Yes; since 1999	N.A.	N.A.	N.A.	JPG, PDF	HTML 4.01

		organizational structure, latest news and related documents of DoJ.							
<i>DoJ</i>	Bilingual Laws Information System (www.legislation.gov.hk)	Consolidated Hong Kong legislation and editorial records , as well as other information about the legislation of Hong Kong	Since June 1997	Yes; since June 1997	N.A.	N.A.	N.A.	PDF	HTML 4.01

DoJ will continuously provide government information in digital formats for public consumption. The staff cost and other related expenses for the work involved are absorbed within the existing resources of the Department and the expenditure in this particular regard cannot be quantified. With regard to the laws of Hong Kong, one new Law Clerk post will be created in 2014-15 in the Laws Compilation and Publication Unit of the Law Drafting Division for maintaining a high quality updating service of consolidated Hong Kong Laws, and the updating of the information in the Bilingual Laws Information System will be an integrated part of the duties of the officer concerned.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**SJ048**

**(Question Serial No. 6252)**

Head: (92) Department of Justice  
Subhead (No. & title): (000) Operational expenses  
Programme: (-) Not Specified  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Page 177 (if applicable)

Question (Member Question No. 204):

Regarding the Department's expenditure on the procurement of computer software and hardware, could the Administration inform this Committee of the following:

- (1) Does the Administration have any standard internal procurement guidelines on the criteria for purchase or upgrading of computer software and hardware? If yes, what are the details? Is the Department required to upgrade its computer software and hardware in a timely manner under the guidelines?
- (2) Given that the computer software and hardware supplier Microsoft will terminate its support service for the operating platform of its Windows XP, please provide the respective numbers of mainframe computers in the Department which are using (i) the operating platform of Microsoft Windows XP; (ii) other operating platforms released by Microsoft before 2001; and (iii) other operating platforms (please specify the version), as well as the respective percentages of these three types of operating systems in the Department's total number of mainframe computers. Does the Department have any plan to upgrade the above operating platform versions which are now obsolete?
- (3) What are the expenditure on and criteria for the procurement of tablet computers by the Department? What are the model numbers and the uses of the tablet computers? Is there any confidential information saved on the tablet computers? If yes, what are the details? Is there any information security software installed in the tablet computers used by the Department? What is the expenditure involved?

Asked by: Hon. MOK, Charles Peter

Reply:

(1) According to prevailing Government guidelines, bureaux/departments (B/D) have to formulate annually a Departmental Information Technology (IT) Projects Portfolio and plan the related IT projects for the next three years to ensure that the business and operational needs of the B/D can be met effectively. In planning IT upgrading projects, B/D have to review and assess potential risks in different aspects and adopt mitigation measures. The potential risks in the technology aspect that have to be considered include product compatibility, maintenance and support service, future replacement product and market supply, etc. In carrying out the purchase or upgrade of computer hardware and software, B/D should follow the Government's procurement guidelines and carry out the procurement in the most cost effective way through an open and fair market competition. B/D should handle the upgrading of the computer hardware and software having regard to the importance and relative priority of the IT projects concerned. The Department of Justice (DoJ) follows these guidelines and arrangements.



(2) A breakdown of the number of computers in the DoJ as at 13 March 2014, by the specified types of operating platforms used, is set out below -

	(i) using operating platform of Microsoft Window XP <sup>Note</sup>	(ii) using operating platforms released by Microsoft before 2001	(iii) using other operating platforms
Number of computers using respective operating platform	52	0	1 408 (Microsoft Windows 7)
Percentage over the Department's total number of computers (1460)	3.6%	0	96.4%

Note : We have embarked on an exercise to upgrade all computers using Microsoft Windows XP and the exercise will be completed before the end of the support date of Microsoft Windows XP.

(3) The total expenditure of the Department on the procurement of tablet computers up to 2013-14 is \$66,200. A total of ten iPads (including one iPad, five iPad 2, four iPad Air) and one Samsung Galaxy Note 10.1, have been procured in compliance with the Government's procurement guidelines.

The tablet computers are mainly used for internal support, such as preparation of electronic version of documents for submission to courts, powerpoint presentation and website testing. Under normal circumstances, the tablet computers will not store any confidential information. When there is a need to store confidential information on the tablet computers under special circumstances, the Department will strictly comply with the Government Security Regulations, including using encryption technology on the transmission and storage of the confidential information, and storing of the encryption key separately from the tablet computers. We have also implemented mobile device management solution on the tablet computers, including password lock and data wiping after defined number of incorrect login attempts. There is no separate expenditure for installing the information security software as it is included in the procurement and maintenance costs of these tablet computers.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**SJ049**

**(Question Serial No. 6545)**

Head: (92) Department of Justice  
Subhead (No. & title): (000) Operational expenses  
Programme: (-) Not Specified  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Page 177 (if applicable)

Question (Member Question No. 138):

In connection with the provision of public information and gathering of public opinions by means of the Internet, please advise on the following:

(a) the information regarding the social media platforms set up and operated by your bureau/departments/public bodies or their agents (such as out-sourced contractors or consultants) for the past year in tabulated form (see Annex 1).

Commence- ment of operation (Month/ Year)	Status (keep updating /ceased updating) (as at 31 January 2014)	Government agencies (including policy bureaux/ departments /public bodies/ government consultations)	Name	Social media (Facebook /Flickr/ Google+ /LinkedIn /Sina Weibo/ Twitter/ YouTube)	Purpose of establi- shment and no. of updates (as at 31 January 2014)	No. of “Likes”/ No. of subscribers / Average monthly visits (as at 31 January 2014)	Whether summary of comments is compiled and followed up on a regular basis (Yes/ No)	Rank and No. of officers responsible for the operation (as at 31 January 2014)	Financial resources involved in the establi- shment and daily operation (as at 31 January 2014)
			(1)...	(1)...					
			(2)...	(2)...					
			(3)...	(3)...					

(b) whether the “Guidelines on the Use of Social Media” available on Government intranets give instructions to your department on the ceilings on expenditures for using social media or web-based platforms, such as registration fees, advertising expenditures and value-added services. If yes, what are the details? If not, will the guidelines be revised to set out the reasonable levels of expenditures derived from the use of social media?

(c) In recent years, governments around the world have introduced systems through which citizens may hand in their online proposals. They have also undertaken that they will give a formal online response if citizens indicating their support of the proposals reach a certain number. Has the Administration examined ways to improve the existing channels for collecting public opinions on the Internet and evaluate the feasibility of the system of collecting online proposals mentioned above? If yes, what are the details? If not, what are the reasons?

Asked by: Hon. MOK, Charles Peter

Reply:

The Department of Justice (DoJ) has not set up any social media platform, and hence the “Guidelines on the Use of Social Media” are currently not applicable to the Department. At this stage, DoJ does not have any specific plan to set up a system of collecting online proposals, but will keep in view developments and public reaction and consider the need at an appropriate time.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**SJ050**

**(Question Serial No. 6559)**

Head: (92) Department of Justice  
Subhead (No. & title): (000) Operational expenses  
Programme: (-) Not Specified  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Page 177 (if applicable)

Question (Member Question No. 178):

In respect of the public relations expenses of various government departments in the past year, please inform this Committee of:

- (1) The expenditure of your department on advertisement on mainstream or online media as well as the relevant details in table form (please see Annex 1):

Published / Broadcasted Period (Month / Year)	Status (one-off / ongoing / done) (as at 31 January 2014)	Government or Public Organisation (including policy bureau / department / public organisation / government advisory body)	Name of Advertisement	Name of Publisher or Broadcasting Media (newspaper / radio station / TV station / advertising panel / car wrap advertising / website, etc)	Purpose and Frequency of the Advertisement (as at 31 January 2014)	Rank and No. of Responsible Person(s) (as at 31 January 2014)	Financial resources for the expenses involved (as at 31 January 2014)
			(1)...	(1)...			
			(2)...	(2)...			
			(3)...	(3)...			

- (2) The expenditure of your department for sponsoring media to provide programmes or materials, as well as the relevant details (please see Annex 2):

Programme / Materials Published / Broadcasted Period (Month / Year)	Status (one-off / ongoing / done) (as at 31 January 2014)	Sponsoring Government or Public Organisation (including policy bureau / department / public organisation / government advisory body)	Name of Programme / Materials	Name of Publisher or Broadcasting Media (newspaper / radio station / TV station / website, etc)	Purpose and Frequency of the Sponsorship (as at 31 January 2014)	Rank and No. of Responsible Person(s) (as at 31 January 2014)	Expenses (as at 31 January 2014)
			(1)...	(1)...			

			(2)...	(2)...			
			(3)...	(3)...			

(3) The expenditure of your department on and details of the advertorial of your department (please see Annex 3):

Programme / Materials Published / Broadcasted Period (Month/Year)	Status (one-off/ ongoing / done) (as at 31 January 2014)	Government Organisation (including policy bureau / department / public organisation / government advisory body)	Name of Programme / Materials	Name of Publisher or Broadcasting Media (newspaper / radio station / TV station / website, etc)	Purpose and Frequency of the Programme / Materials (as at 31 January 2014)	Rank and No. of Responsible Person(s) (as at 31 January 2014)	Non-government organisation / Personnel Responsible for Writing Advertisement Script (if any)	Expenses (as at 31 January 2014)
			(1)...	(1)...				
			(2)...	(2)...				
			(3)...	(3)...				

Asked by: Hon. MOK, Charles Peter

Reply:

In respect of the public relations expenses of the Department of Justice in 2013, the Department had not incurred any expenses on (1) advertisement on mainstream or online media, (2) sponsoring media to provide programmes or material or (3) advertorial.

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**SJ051**

**(Question Serial No. 6581)**

Head: (92) Department of Justice  
Subhead (No. & title): (-) Not Specified  
Programme: (1) Prosecutions  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice

This question originates from:

Question (Member Question No. 632):

With regard to the handling of domestic violence cases, please advise this Committee of the following:

1. What were the numbers of domestic violence cases between 2008 and 2012? Please provide the following information:

	2008	2009	2010	2011	2012	2013
Prosecution not instituted						
Bound over						
Prosecution instituted						

2. Please list the 5 main reasons for "prosecution not instituted".

3. 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	2013
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
Number of legal advice given	36	93	149	90	84	96

In handling these cases, prosecutors are required at all times to apply The Prosecution Code which contains a section on “Domestic Violence Cases”, and more specifically to the published guidelines regarding the 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).

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

**SJ052**

**(Question Serial No. 3275)**

Head: (92) Department of Justice  
Subhead (No. & title): (-) Not Specified  
Programme: (3) Legal Policy  
Controlling Officer: Director of Administration and Development (Arthur HO)  
Director of Bureau: Secretary for Justice  
This question originates from: Estimates on Expenditure Volume 1 Page 182 (if applicable)

Question (Member Question No. ):

In recent years, the issues of same sex marriage and transsexual person have led to vigorous debates in the community. Following the decision of the Court of Final Appeal in *W v Registrar of Marriages*, the Administration has set up an inter-departmental working group chaired by the Secretary for Justice to study issues relating to gender recognition, with a view to making recommendations to the Administration on appropriate legislation and incidental administrative measures. In this regard, would the Administration inform this Committee of:

How much resources has the Administration allocated to the inter-departmental working group? Please provide a breakdown of the expenditure by items such as research and secretary.

Asked by: Hon. LEUNG Mei-fun, Priscilla

Reply:

One additional Senior Government Counsel post and one Government Counsel post will be created in 2014-15 for 2 years for providing legal support to the Inter-departmental Working Group on Gender Recognition chaired by the Secretary for Justice, which is conducting a detailed study of the legal issues concerning the rights of transsexual persons in Hong Kong to follow up on the observations made by the Court of Final Appeal in the case of *W v Registrar of Marriages (FACV 4/2012)*. The annual staff cost of these posts is \$1,999,680 in 2014-15. The staff cost of other officers currently providing support to the working group and other related expenses involved are absorbed within the existing resources of the Department of Justice and the expenditure in this particular regard cannot be quantified.