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Controlling Officer: Director of Administration and Development

Session No. : 16

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**Replies to initial written questions raised by Finance Committee Members in
examining the Estimates of Expenditure 2006-07**

**Controlling Officer: Director of Administration and Development
Session No. : 16**

Reply Serial No.	Question Serial No.	Name of Member	Head	Programme
<u>SJ001</u>	0656	LAU Wai-hing, Emily	92	(1) Prosecutions
<u>SJ002</u>	0667	LEUNG Kwok-hung	92	(2) Civil
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<u>SJ011</u>	0994	NG Margaret	92	(2) Civil
<u>SJ012</u>	0995	NG Margaret	92	(4) Law Drafting
<u>SJ013</u>	1788	LEUNG Yiu-chung	92	Administration

Examination of Estimates of Expenditure 2006-07
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ001

Question Serial No.

0656

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

Programme : (1) Prosecutions

Controlling Officer : Director of Administration and Development

Question :

The Administration will implement measures to promote co-operation amongst prosecutors at the global level in the combat of crime during 2006-07. Please provide the details of the work involved in the implementation of such measures and the estimated expenditure.

Asked by : Hon. LAU Wai-hing, Emily

Reply :

Global co-operation amongst prosecutors will be promoted by facilitating the implementation of letters of request issued by courts for the gathering of evidence; by sharing information and experiences with prosecutors in other jurisdictions; by assisting the training agendas of other prosecution services; by liaising with the Asia Crime Prevention Foundation in the formulation of regional anti-crime strategies; and by supporting the work of the International Association of Prosecutors. The estimated expenditure will be met by available resources in 2006-07.

Signature	_____
Name in block letters	Miss Annie Tam

Post Title	Director of Administration and
	Development

Date	10 March 2006

Examination of Estimates of Expenditure 2006-07
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ002

Question Serial No.

0667

Head :92 Department of Justice

Subhead (No. & title) : 000 Operational Expenses

Programme : (2) Civil

Controlling Officer : Director of Administration and Development

Question :

With regard to proceedings involving the Government under Matters Requiring Special Attention in 2006-07, please provide the numbers of cases involving the Government and the expenditure involved in the past 3 years, as well as the estimated expenditure for 2006-07.

Asked by : Hon. LEUNG Kwok-hung

Reply :

The numbers of civil proceedings (including non-construction arbitration and mediation) brought by and against the Government in the last 3 years (from 2003 to 2005) are as follows:

	2003	2004	2005
Civil litigation cases current on 31 December	13 587	14 942	16 188
New proceedings brought by the Government	1 297	1 313	1 258
New proceedings brought against the Government	2 049	1 962	1 345

Expenditure involved consists of (a) briefing out expenses; and (b) cost of the Civil Litigation Unit which roughly accounts for 42% of the provision made for the Civil Programme (excluding briefing out and court costs provisions). On this basis, the expenditure for the past 3 years and the estimated cost for 2006-07 are as follows:

	2003-04	2004-05	2005-06	2006-07
	\$'000	\$'000	(Note) \$'000	\$'000
Expenditure	168,529	152,272	138,352	142,545

Note: Includes actual expenditure for 11 months up to 28 February 2006 plus estimated expenditure for March 2006.

Signature	_____
Name in block letters	Miss Annie Tam

Post Title	Director of Administration and Development

Date	10 March 2006

Examination of Estimates of Expenditure 2006-07
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ003

Question Serial No.

0986

Head : 92 Department of Justice

Subhead (No. & title) : 000 Operational Expenses

Programme :

Controlling Officer : Director of Administration and Development

Question : Please provide details on the number of staff who have professional qualifications for legal practice under each programme in 2003-04, 2004-05 and 2005-06 for comparison.

Asked by : Hon. NG Margaret

Reply :

All Government Counsel (GC) grade officers possess professional qualifications for legal practice. Some officers in the Court Prosecutor (CP) grade and Law Clerk (LC) grade are also qualified to practise as lawyers. The numbers of staff who possess professional qualifications for legal practice under each of the 5 programmes in 2003-04, 2004-05 and 2005-06 are set out as follows:

Programme	As at 1.3.2004				As at 1.3.2005				As at 1.3.2006			
	GC	CP	LC	Total	GC	CP	LC	Total	GC	CP	LC	Total
(1) Prosecutions	111	3	1	115	108	3	1	112	104	4	1	109
(2) Civil	93	-	-	93	88	-	-	88	87	-	-	87
(3) Legal Policy	30	-	-	30	30	-	-	30	29	-	-	29
(4) Law Drafting	33	-	-	33	31	-	-	31	30	-	-	30
(5) International Law	19	-	-	19	19	-	-	19	19	-	-	19
Total	<u>286</u>	<u>3</u>	<u>1</u>	<u>290</u>	<u>276</u>	<u>3</u>	<u>1</u>	<u>280</u>	<u>269</u>	<u>4</u>	<u>1</u>	<u>274</u>

Signature _____
Name in block letters Miss Annie Tam
Director of Administration and
Development
Post Title _____
Date 10 March 2006

Examination of Estimates of Expenditure 2006-07
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ004

Question Serial No.

0987

Head : 92 Department of Justice

Subhead (No. & title) : 000 Operational Expenses

Programme : (1) Prosecutions

Controlling Officer : Director of Administration and Development

Question :

It is mentioned under Matters Requiring Special Attention in 2006-07 that measures will be implemented to "review the arrangements of the law enforcement agencies for disclosing to the defence relevant material in accordance with the law of disclosure". What is the progress of the review? What is the expenditure involved?

Asked by : Hon. NG Margaret

Reply :

The Department is finalising the draft guidelines on disclosure for the law enforcement agencies. The review is being undertaken by the Department through existing resources and no extra expenditure is involved.

Signature	_____
Name in block letters	Miss Annie Tam
Post Title	Director of Administration and Development
Date	10 March 2006

Examination of Estimates of Expenditure 2006-07
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ005

Question Serial No.

0988

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

Programme : (1) Prosecutions

Controlling Officer : Director of Administration and Development

Question :

The performance target of “advice for law enforcement agencies on whether charges should be laid given within 14 working days upon receipt of request, or for a complex case, interim reply within 14 working days” was not met in 2004 and 2005. What are the reasons? For cases in which a reply was not given within the targeted time, what was the average number of days delayed?

Asked by : Hon. NG Margaret

Reply :

The overall compliance rate in the past years has remained at over 95%. For the remaining small percentage of non-compliant cases, legal advice could not be given within 14 working days because these were complicated in nature and these were cases which we considered it appropriate to liaise directly with the law enforcement agencies rather than issuing interim replies. There were no delays in handling these cases.

Signature	_____
Name in block letters	Miss Annie Tam
	Director of Administration and
Post Title	Development
Date	10 March 2006

Examination of Estimates of Expenditure 2006-07
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ006

Question Serial No.

0989

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

Programme : (1) Prosecutions

Controlling Officer : Director of Administration and Development

Question :

Please provide details of the staffing and expenditure of the Court Prosecutor grade in 2005-06 as compared with 2004-05.

Asked by : Hon. NG Margaret

Reply :

The establishment and strength of the Court Prosecutor (CP) grade in 2004-05 and 2005-06 are provided below:

Rank	Establishment as at		Strength as at		Vacancies as at	
	1.3.05	1.3.06	1.3.05	1.3.06	1.3.05	1.3.06
Chief Court Prosecutor	2	2	2	2	0	0
Senior Court Prosecutor I	8	8	8	8	0	0
Senior Court Prosecutor II	28	28	28	28	0	0
Court Prosecutor	70	70	63	60	7	10
Total	108	108	101	98	7	10

The average cost, including the accommodation cost, of a CP conducting prosecutions is about \$2,511 per court day in 2005 as compared to \$2,622 in 2004. The cost of administration and supervisory work is not included because even if prosecution work is briefed out (and the fee for counsel prosecuting on general fiat is \$5,430 per day), there is still a need for senior officers in the CP grade to manage the cases in relation to both charges and summons, to provide instructions to counsel, to liaise with police and departmental prosecutors and to manage the day-to-day deployment of manpower at the Magistracies.

Signature	_____
Name in block letters	Miss Annie Tam
	Director of Administration and
Post Title	Development
Date	10 March 2006

Examination of Estimates of Expenditure 2006-07
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ007

Question Serial No.

0990

Head :92 Department of Justice

Subhead(No. & title) : 000 Operational Expenses

Programme : (1) Prosecutions

Controlling Officer : Director of Administration and Development

Question :

Although the number of court days undertaken by Counsel instructed to prosecute in Magistrates' Court in place of Court Prosecutors increased significantly in 2005 over 2004, the estimated number of court days for 2006 is only 1 day more than the actual figure for 2005. What are the reasons? Please provide details of the expenditure on prosecution work undertaken by Counsel instructed to prosecute.

Asked by : Hon. NG Margaret

Reply :

We do not envisage any increase in the total number of court days for prosecutions in the Magistrates' Courts in 2006. None of the existing Court Prosecutors will reach retirement age in the year. We therefore estimate that both the number of court days for prosecutions to be undertaken by Court Prosecutors in the Magistrates' Courts and the number of court days to be briefed out to Fiat Counsel instructed to prosecute in the Magistrates' courts in place of Court Prosecutors in 2006 would remain roughly the same as those in 2005.

In 2005, we briefed out 549 court days of prosecuting to Fiat Counsel replacing Court Prosecutors in Magistrates' Court. The fee for Fiat Counsel was \$5,430 per court day, and the total expenditure in 2005 was \$2.98 million (\$5,430 x 549 days).

Signature	_____
Name in block letters	Miss Annie Tam
Post Title	Director of Administration and Development
Date	10 March 2006

Examination of Estimates of Expenditure 2006-07
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ008

Question Serial No.

0991

Head : 92 Department of Justice

Subhead (No. & title) : 000 Operational Expenses

Programme :(1) Prosecutions

Controlling Officer : Director of Administration and Development

Question : As the conviction rates of Magistrates' Courts for 2004 and 2005 are over 70% only, is there a need for the Administration to review the criteria for making prosecution decisions?

Asked by : Hon. NG Margaret

Reply :

The Department adheres to its published guidelines in the Statement of Prosecution Policy and Practice, when making decisions to prosecute, namely, that no suspect should be prosecuted unless there is a reasonable prospect of conviction. It should be noted that whilst it is the duty of Counsel and Court Prosecutors to prosecute vigorously in courts, they must act in a fair and objective manner. It is wrong to strive to secure a conviction at all costs. Questions of admissibility of evidence and of guilt or innocence are ultimately matters for the courts to decide.

Signature	_____
Name in block letters	Miss Annie Tam
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Post Title	Development
Date	10 March 2006

Examination of Estimates of Expenditure 2006-07
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ009

Question Serial No.

0992

Head : 92 Department of Justice

Subhead (No. & title) : 000 Operational Expenses

Programme : (2) Civil

Controlling Officer : Director of Administration and Development

Question :

There is a note under the "key performance measures" that "if that is not possible due to complexity of cases, the client department will be advised of the estimated time within which the advice will be provided." Please provide the number and categories of such cases.

Asked by : Hon. NG Margaret

Reply :

In 2005, there were 1 193 cases where client departments were advised by the Civil Division that legal advice would be provided after 14 working days of receipt of instructions/request. Details of those cases are as follows:

Categories of work	No. of cases where legal advice was provided after 14 working days
Commercial matters	318
Planning, Environment, Lands & Housing matters	212
Other general advisory matters	663
	<u>1 193</u>

Those 1 193 cases represent 7.4% of 16 220 items of legal advice provided by the Civil Division in 2005.

Signature	_____
Name in block letters	Miss Annie Tam

Post Title	Director of Administration and Development

Date	10 March 2006

Examination of Estimates of Expenditure 2006-07
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ010

Question Serial No.

0993

Head : 92 Department of Justice

Subhead (No. & title) : 000 Operational Expenses

Programme : (2) Civil

Controlling Officer : Director of Administration and Development

Question :

In 2006-07, the estimated numbers of civil litigation cases current and new proceedings brought by the Government for 2006 are both greater than the figures for 2005. What are the reasons? What is the expenditure involved?

Asked by : Hon. NG Margaret

Reply :

The number of civil litigation cases (including non-construction arbitration and mediation) current as at 31 December increased from 13 587 in 2003 to 14 942 in 2004, and further rose to 16 188 in 2005. Having regard to the increasing trend in these past years, the number of civil litigation cases current on 31 December 2006 is estimated to increase to 17 740.

The number of new proceedings (including non-construction arbitration and mediation) brought by the Government was 1 258 in 2005. The number is estimated to increase to 1 412 cases in 2006. This is mainly due to an increase in charging order cases as is projected by the Inland Revenue Department and an increase in recovery of recognizance cases as projected by the Immigration Department.

The expenditure involved in handling civil litigation cases is absorbed by the provision made for the Civil Programme. The provision is estimated to be \$323.5 million in 2006-07, representing an increase of 1.4% over the revised estimate for 2005-06.

Signature	_____
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Date	10 March 2006

Examination of Estimates of Expenditure 2006-07
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ011

Question Serial No.

0994

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

Programme : (2) Civil

Controlling Officer : Director of Administration and Development

Question : During 2006-07, the Civil Division will provide legal advice on legislation on interception of communications and covert surveillance and matters related to its implementation. Has the Administration assessed if the workload will increase and what staffing arrangement will need to be made? What is the implication on the estimated provision?

Asked by : Hon. NG Margaret

Reply :

Legal advice on legislation on interception of communications and covert surveillance and matters relating to its implementation will be provided by various Divisions of the Department of Justice. The cost involved will be absorbed by the provision under Head 92.

Signature	_____
Name in block letters	Miss Annie Tam
Post Title	Director of Administration and Development
Date	10 March 2006

Examination of Estimates of Expenditure 2006-07
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ012

Question Serial No.

0995

Head : 92 Department of Justice

Subhead (No. & title) : 000 Operational Expenses

Programme : (4) Law Drafting

Controlling Officer : Director of Administration and Development

Question :

Has the Administration reviewed and amended the Land Titles Ordinance? If yes, has the Law Drafting Division reserved adequate manpower for the task? What is the estimated expenditure involved? If not, what are the reasons?

Asked by : Hon. NG Margaret

Reply :

As instructed by the Housing, Planning and Lands Bureau, a bill to amend the Land Titles Ordinance is being drafted and work will continue in 2006-07. The Law Drafting Division has reserved adequate manpower for this legislative exercise, and the expenditure involved will continue to be absorbed by the provision under the Law Drafting Programme.

Signature	_____
Name in block letters	Miss Annie Tam
Post Title	Director of Administration and Development
Date	10 March 2006

Examination of Estimates of Expenditure 2006-07
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ013

Question Serial No.

1788

Head : 92 Department of Justice

Subhead (No. & title): 000 Operational Expenses

Programme :

Controlling Officer : Director of Administration and Development

Question :

Please provide details on the proposed net deletion of 4 permanent posts in 2006-07 and the savings that can be achieved as a result.

Asked by : Hon. LEUNG Yiu-chung

Reply :

In the course of 2006-07, there will be a net creation of 3 non-directorate posts (1 Senior Government Counsel post, 1 Government Counsel post and 1 Personal Secretary II post) and deletion of 7 non-directorate posts (2 Law Translation Officer posts, 2 Law Clerk posts and 3 Court Prosecutor posts). This would result in a net deletion of 4 non-directorate posts and a saving of \$906,900.

Signature	_____
Name in block letters	Miss Annie Tam
Post Title	Director of Administration and Development
Date	10 March 2006