

分科一（裁判法院）

Sub-division I (Magistrates' Courts)

分科一（裁判法院）負責監督在香港七個裁判法院循簡易程序檢控刑事案件的工作績效，以及就有關反走私、保護版權及商標、保障政府收入、保障消費者權益、不良營商手法和打擊洗黑錢罪行的各類條例向香港海關提供法律指引。

Sub-division I (Magistrates' Courts) has the responsibility of overseeing the effective and efficient prosecution of criminal cases at the summary level in the seven Magistrates' Courts in Hong Kong, and also advising the Customs and Excise Department on a wide spectrum of ordinances covering offences relating to anti-smuggling, copyright and trademark protection, revenue protection, consumer rights protection, unfair trade practices and anti-money laundering.



2022 年年初，傳播力極強的 Omicron 變異病毒株導致本港經歷了動盪的疫情期。2019 冠狀病毒病第五波疫情來勢既急且猛。鑑於當時的公共衛生情況和相關事態發展，除處理緊急和必要的法庭聆訊及事宜外，原訂於 2022 年 3 月 7 日至 2022 年 4 月 11 日在裁判法院進行的所有聆訊一律押後。為協助控制和預防 2019 冠狀病毒病在本港持續蔓延，大量違反《預防及控制疾病條例》（香港法例第 599 章）罪行的案件在裁判法院進行檢控。

儘管困難重重，一如往年，本港大部分刑事檢控都是在裁判法院審理。這些案件主要由警方負責調查，所涉罪行影響社會日常生活，包括“傳統”罪行例如詐騙、盜竊、行騙、危險藥物及毒藥相關罪行、搶劫、賣淫、涉及兒童色情物品的罪行、非法賭博、收受賭注、家庭暴力、襲擊、刑事毀壞、三合會相關罪行、刑事恐嚇、公共秩序事件引起的罪行、交通罪行等，罪行種類之多實未能盡錄。

2022 年，裁判法院共處理 134,756 宗由不同執法機構調查的刑事案件，部分需要法律指引的案件，主要由本分科 36 名高級檢控官及檢控官處理。本分科提供的法律指引的數量繼在 2018 年及 2019 年分別由 3,880 項及 5,709 項急升之後，2022 年的數字持續高達 6,145 項，與之前兩年一樣高企。我們的檢控人員繼續以專業和不偏不倚的態度履行職責，在每項指引中根據所得的證據作出考慮和決定。

除提供法律指引外，本分科的律師亦負責在法庭檢控部分性質較為敏感及複雜的審訊和上訴案件。涉及被告就裁判官的決定、裁決、命令或判刑提出的裁判法院上訴有 640 宗，其中 118 宗獲原訟法庭判決上訴得直，360 宗被駁回，162 宗由被告撤回。身為秉行公義者，我們的檢控人員深明在處理上訴時協助法庭達致公平公正的裁決，是其職責所在。

2022 年，我們有 80 名法庭檢控主任在裁判法院工作。法庭檢控主任同為刑事檢控科的成員，聯同外判私人執業大律師和律師共處理了 134,756 宗案件中大部分案件的檢控工作。

In early 2022, Hong Kong went through a turbulent epidemic phase posed by the highly transmissible Omicron variant strain. The fifth wave of the COVID-19 epidemic was rapid and fierce. In light of the then public health situation and related developments, save for handling urgent and essential court hearings and matters, all hearings of the Magistrates' Courts originally scheduled between 7 March 2022 and 11 April 2022 were generally adjourned. To assist in the control and prevention of the continued spread of COVID-19 in Hong Kong, a massive number of offences contrary to the Prevention and Control of Disease Ordinance, Cap. 599, Laws of Hong Kong, were prosecuted at the Magistrates' Courts.

Despite the difficulties, as in previous years, the lion's share of criminal prosecutions in Hong Kong was conducted in the Magistrates' Courts. They were cases mainly investigated by the Police involving crimes which affected the everyday life of the society. Such cases include other "traditional" offences such as fraud, theft, deception, dangerous drugs and poison related offences, robbery, vice, child pornography, illegal gambling, bookmaking, domestic violence, assaults, criminal damage, triad related offences, criminal intimidation, offences arising from public order events and traffic offences. The list is by no means exhaustive.

In total, 134,756 criminal cases investigated by different Law enforcement agencies had been dealt with in the Magistrates' Courts in 2022. Some of these cases required legal advice which were mainly handled by our 36 Senior Public Prosecutors and Public Prosecutors of this Sub-division. The total number of advice given in 2022 remained at a high level of 6,145 as similar to the preceding two years following a sharp rise from 3,880 and 5,709 in 2018 and 2019 respectively. Our prosecutors continue to discharge their duty in a professional and impartial manner when considering and deciding on the evidence available in each advice.

Apart from providing legal advice, counsel of this Sub-division also prosecuted some of the more sensitive and complex trials and appeals in court. There were 640 magistracy appeals brought by defendants against magistrates' decisions, verdicts, orders or sentences. Of this number, 118 were allowed by the Court of First Instance, 360 dismissed and 162 withdrawn by the defendants. In conducting these appeals, our prosecutors being ministers of justice are fully aware of our duty to assist the Court in achieving just and fair results.

In 2022, there were 80 Court Prosecutors working in the Magistrates' Courts. Our Court Prosecutors who are also members of the Prosecutions Division, together with barristers and solicitors

為持續應付本分科職系的人手壓力，八名新入職的法庭檢控主任在完成為期九個月的培訓課程和考試及格後，於 2022 年第三季獲調派至不同裁判法院工作。培訓課程主要包括講座、模擬審訊、參觀政府部門和在有督導或沒有督導的情況下，派駐法院實習，旨在使新入職人員具備必要的法律知識和訟辯技巧，以處理裁判法院種類繁多的案件。

法庭檢控主任亦有致力繼續提升法律專業資格，其中一名法庭檢控主任在 2022 年獲得法學碩士學位。一名高級二等法庭檢控主任獲選出任檢控官及派駐中環律政中心履職，讓職系成員有機會擴闊其技巧和經驗。

基於司法管轄權和法定限制，裁判法院審理的案件就單一罪行判處的刑期不大可能超過兩年，而就多項罪行判處的刑期則不大可能超過三年。儘管這些案件的性質或非最嚴重，但往往引起傳媒極大興趣和公眾高度關注。值得注意的是，“窺淫、非法拍攝或觀察私密部位及相關發布影像”罪行已納入《刑事罪行條例》(第 200 章)第 XIIIAA 部，並於 2021 年 10 月 8 日生效。政府通過實施有關條文，向社會傳達明確信息，即這種公然侵犯他人隱私的行為必須受到阻嚇，受害人必須得到保護，而且干犯這些罪行會有嚴重後果。

截至 2022 年 9 月，即有關條文生效近一年後，與各類“窺淫”罪行有關的案件共有 602 宗，其中 413 宗涉及“非法拍攝或觀察私密部位”，較 2021 年有關法例訂立前類似性質的案件數目增加了近 14%。儘管警方對這些案件進行的調查的數目大幅增加，但本分科的律師與執法機關攜手合作，並根據一致的檢控方法果斷和迅速地提供法律意見。

同上，《2021 年個人資料(私隱)(修訂)條例》已於 2021 年 10 月 8 日生效，以打擊侵犯個人資料私隱的“起底”行為。本分科和個人資料私隱專員公署繼續在實施新法例條文方面保持緊密合作，以阻嚇在未獲同意下披露個人資料。在香港特別行政區訴葉駿軒(西九龍裁判法院刑事案件 2022 年第 1638 號)一案中，被告因金錢糾紛，在未獲兩名受害人的同意下，在一個社交媒體平台的兩個不同聊天羣

in private practice prosecuting on fiat, prosecuted the bulk of the 134,756 cases.

In a continuing effort to deal with the strain on the manpower of the Grade, a batch of eight newly recruited Court Prosecutors, on completion of a nine-month training programme and passing the examinations, have already been deployed to work in different Magistrates' Courts in the third quarter of 2022. The training programme which comprised of mainly lectures, mock trials, visits to government departments and court attachments with or without supervision, aimed at equipping the new recruits with the necessary legal knowledge and advocacy skill to handle the wide range of cases in the Magistrates' Courts.

Court Prosecutors continue to advance their legal qualifications, and one of them successfully obtained a Master in Law (LLM) degree in 2022. As a platform for opportunity to broadening the skill and experience of the Grade member, a Senior Court Prosecutor II has been selected to act as Public Prosecutor and stationed at Justice Place in Central.

As a matter of jurisdictional and statutory restrictions, cases tried at the Magistrates' Courts are those where the sentence of imprisonment is unlikely to exceed two years for conviction of a single offence or three years for conviction of multiple offences. Although these cases may not be the most serious ones, they often attract significant media interests and public attention. It is noteworthy that the offences of “voyeurism, unlawful recording or observation of intimate parts and related image publication” were incorporated into Part XIIIAA of the Crimes Ordinance, Cap. 200, which came into effect on 8 October 2021. By implementing the provisions, the Government conveys a clear message to the community that such blatant intrusion of another's privacy must be deterred and the victims must be protected, and that there are grave consequences for committing the offences.

As of September 2022, nearly a year after the provisions came into effect, there was a total of 602 cases relating to the various types of offences of “voyeurism”. Among them, 413 were cases involving “unlawful recording or observing intimate parts” which is nearly 14% higher than the number of cases of similar nature in 2021 before the enactment of the relevant legislation. Despite the substantial increase in the number of police investigation on these cases, counsel of this Sub-division worked hand in hand with the Law enforcement agencies, and provided decisive and speedy legal advice under a consistent approach on prosecution.

Likewise, the Personal Data (Privacy) (Amendment) Ordinance 2021 came into effect on 8 October 2021 to combat “doxxing” acts that are intrusive to personal data privacy. This Sub-division and

組發布受害人的姓名、住址及僱主名稱，其中一名受害人的手提電話號碼亦在其中一個羣組上發布。本分科向個人資料私隱專員公署提供法律指引後，被告遭到檢控。經審訊後，被告就一個聊天羣組被裁定一項“未獲同意下披露個人資料”罪罪名成立，以及就另一個聊天羣組被裁定一項“未獲同意下披露個人資料，導致資料當事人或其家人蒙受指明傷害”罪罪名成立。這是自“起底”條文訂立以來，首宗有被告經審訊後被定罪的案件。由於裁判官的裁決現正根據《裁判官條例》(第 227 章)第 104 條予以覆核，被告尚未判刑。

本分科亦負責檢控一宗傳媒廣泛報道、涉及香港保護兒童會童樂居(童樂居)的虐待兒童的案件。在香港特別行政區 訴 李慧雯(九龍城裁判法院刑事案件 2022 年第 1883 號)一案中，被告是受僱於童樂居的幼兒工作人員，涉及多次襲擊年齡介乎一至三歲的幼童，例如拍打幼童的頭部和把幼童推倒在地。被告被控九項“對所看管兒童虐待”罪。她否認控罪，經審訊後被裁定所有罪名成立，判處監禁 15 個月。

關於疏忽照顧、虐待和殘酷對待動物的議題在 2022 年繼續廣受公眾關注。為切合社會的轉變和期望，我們嚴肅處理這類案件，並就多宗涉及殘酷對待動物的案件提出檢控。例如，在香港特別行政區 訴 唐綽謙及其他人(西九龍裁判法院刑事案件 2022 年第 923 號)一案中，一名被告自稱懂得進行以兔子或其他小動物的生命作祭獻的巫術儀式。他利用這些動物為三名同為被告的顧客進行獻祭儀式，宣稱可改善他們的人際關係。四名被告被控九項“殘酷對待動物”罪。最終，自稱懂巫術的被告被判入更生中心，而另外三名被告各判處 120 小時社會服務令。

隨着“一國兩制”在香港全面貫徹落實，我們致力確保維護國家尊嚴至關重要。在香港特別行政區 訴 梁恩寧(觀塘裁判法院刑事案件 2022 年第 1220 號)一案中，某商場電視直播 2020 年東京奧運會香港劍擊代表張家朗先生奪得金牌的頒獎典禮，被告在國歌奏起期間上下揮動英殖時期的香港旗幟。根據本分科給予的法律意見，被告因侮辱國歌而被檢控，判處監禁三個月。

the Office of Privacy Commissioner for Personal Data continued to maintain close co-operation in the implementation of the new legislative provisions in order to deter disclosure of personal data without consent. In *HKSAR v Ip Chun-hin* WKCC 1638/2022, owing to a monetary dispute, the defendant, without obtaining consent from the two victims, posted the names, residential address and name of employers of the victims on two different chat groups of a social media platform. The mobile phone number of one of the victims was also posted on one of the groups. This Sub-division provided legal advice to the Office of the Privacy Commissioner for Personal Data resulting in prosecution being instituted against the defendant. After trial, the defendant was convicted of one count of “disclosing personal data without consent” in respect of one group chat, and one count of “disclosing personal data without consent, causing specified harm to the data subject or the family members of the data subject” in respect of the other group chat. This is the very first case in which a defendant was convicted after trial since the enactment of the doxxing provisions. As the verdict of the magistrate is currently under review pursuant to s.104 of the Magistrates Ordinance (Cap. 227), the defendant has not been sentenced yet.

This Sub-division also handled the prosecution of a child abuse case in “Children’s Residential Home of the Hong Kong Society for the Protection of Children” (“the Children’s Residential Home”) which was widely reported by the mass media. In *HKSAR v Lee Wai-man* KCCC 1883/2022, the defendant who was a childcare employee of the Children’s Residential Home was involved in multiple assaults on children aged between one to three, such as slapping the children on their heads and pushing the children onto the ground. The defendant was charged for nine counts of “ill-treatment on children by those who were in charge”. She pleaded not guilty to the charges. After trial, she was convicted of all the charges, and was sentenced to 15 months’ imprisonment.

The subject of animal neglect, abuse and cruelty continued to attract huge public concerns in 2022. In line with the changes and expectations of our society, we took a serious view on such cases and instituted prosecution on a number of cases involving cruelty to animals. For example, in *HKSAR v Tong Cheuk-him & Others* WKCC 923/2022, one of the defendants claimed to know witchcraft rituals that involved sacrificing the lives of rabbits or other small animals. He made use of these animals for dedication rituals for the three customers who were also defendants, claiming to improve their interpersonal relationships. The four defendants were charged with nine counts of “cruelty to animals”. In the end, the defendant who claimed to know witchcraft was sentenced to the rehabilitation centre while the other three defendants were each sentenced to 120 hours of community service order.



然而，並非所有案件都會進行全面檢控。在公義需要時，會循特別程序處理檢控，即在被告接受簽保以保證保持行為良好或保證在一段時間內（通常由法庭決定）遵守法紀的前提下，控方便不提證據起訴。此程序往往適用於涉及輕微罪行和被告過往沒有刑事記錄的案件，旨在達致防止犯罪和讓罪犯改過自新的目標。律師在考慮應否採用此程序以取代全面檢控時，會按照《檢控守則》訂明的指引顧及所有相關事宜，包括罪行的嚴重性、罪犯對有關罪行的態度、定罪可能帶來的刑罰、受害者的意見及公眾利益。2022年，本分科藉此程序處理的案件共 2,722 宗，而 2021 年則有 2,760 宗。

本分科的律師亦負責處理由控方就裁判法院案件提出的覆核及上訴。他們就是否根據《裁判官條例》（第 227 章）第 104 條對裁判官的決定、裁決、命令或判刑提出覆核，以及是否根據同一條例第 105 條以案件呈述方式提出上訴，提供法律指引。只有經慎重考慮後，並且繫記只有在必要及合乎公義和公眾利益的情況下，或涉及重要法律觀點而須由上級法院釐清時，他們才會決定提出覆核或向原訟法庭提出上訴。本分科的檢控人員在 2022 年以案件呈述方式提出九宗上訴，其中一宗獲判得直，八宗仍在進行中。覆核申請有 14 宗，其中十宗獲判得

With the full implementation of “One Country Two Systems” in Hong Kong, it is of utmost importance that we ensure efforts in protecting the dignity of our country. In *HKSAR v Leung Yan-ling Paula* KTCC 1220/2022, the defendant waved a British colonial Hong Kong flag up and down in a shopping mall while the National Anthem was being played from a live television broadcast of the medal presentation ceremony of Hong Kong fencing representative, Mr Cheung Ka-long who had won a gold medal in the Tokyo 2020 Olympic Games. On legal advice by our Sub-division, prosecution against the defendant was instituted for insulting the National Anthem and he was sentenced to three months’ imprisonment.

Not all cases are prosecuted to the full length. Where justice demands, a prosecution is disposed of by way of a special procedure in which the Prosecution offer no evidence upon the defendant accepting to be bound over to be of good behaviour or to keep the peace for a period of time usually decided by the court. Such a procedure is often appropriate for cases involving minor offences and defendants with no prior criminal record. It aims to serve the ends of preventive justice and rehabilitation of the offender. In considering whether such a procedure should be adopted in lieu of a full prosecution, counsel would take into account all the relevant matters including the seriousness of the offence(s), the attitude of the offender towards the offence, the likely penalty upon a conviction, the views of the victim and the public interests in accordance with the guidance set out in the Prosecution Code. In 2022, a total of 2,722 cases in this Sub-division were disposed of by way of this procedure, comparing to 2,760 cases in 2021.

Counsel of this Sub-division are also responsible for reviews and appeals lodged by the Prosecution arising from cases in the Magistrates’ Courts. They advise on whether or not to seek a review under s.104 of the Magistrates Ordinance Cap. 227 against a magistrate’s decision, verdict, order or sentence, and whether or not to lodge an appeal by way of case stated under s.105 of the same ordinance. The decision to review or appeal to the Court of First Instance will only be made after careful consideration, bearing in mind that it should only be made where it is necessary and justice and the public interests so demand, or where an important point of law is involved that requires clarification by the higher court. In 2022, our prosecutors initiated nine appeals by way of case stated of which one was allowed and eight are still in progress. There were also 14 applications to review of which 10 were allowed and four were dismissed. Some of our successful s.104 reviews include:

直，四宗被駁回。根據第 104 條提出的一些成功覆核案件包括：

在香港特別行政區 訴 林嘉樂 (屯門裁判法院刑事案件 2021 年第 2128 號) 一案中，被告是一名社工，竄改 22 張醫生證明書，從而獲取相當於港幣 252,199.57 元的 173 天有薪假期。她又使用偽造的“義工證書”欺騙她的僱主，藉擔任“親職輔導員”約六個月以賺取每月港幣 46,655 元的額外薪酬。被告承認 23 項《刑事罪行條例》(第 200 章)第 73 條下的“使用虛假文書”控罪，被裁定罪名成立，判處監禁共六個月，緩刑三年。經覆核刑罰後，裁判官判處即時監禁八個月取代緩刑。

在香港特別行政區 訴 袁壽祿 (粉嶺裁判法院刑事案件 2021 年第 1469 號) 一案中，被告的公共小型巴士在一個下雨的晚上撞倒一名騎單車人士，導致該人因身體多處創傷而死。調查發現死者的單車當時在該公共小型巴士前約十輛私家車的距離行駛，司機應可察覺。被告承認“危險駕駛引致他人死亡”罪，被裁定罪名成立，法庭原判處被告監禁三個月，取消駕駛資格五年，並命令被告須於取消駕駛資格的最後三個月內修習駕駛改進課程。經覆核後，裁判官將監禁刑期增加至四個月。

在香港特別行政區 訴 陳錦鴻 (沙田裁判法院刑事案件 2022 年第 913 號) 一案中，被告與女友在餐廳晚飯時發生爭執。餐廳內一組顧客怪責被告及其女友造成滋擾，遂與被告發生爭吵和肢體衝突。被告其後前往寓所攜菜刀返回餐廳，當發現餐廳已關門後，被告把菜刀棄置於草叢。被告承認《公安條例》(第 245 章)第 33 條下的“管有攻擊性武器並有所意圖”罪，原被判處 120 小時社會服務令。經覆核後，裁判官改判監禁六個月。

在香港特別行政區 訴 戚福晉 (西九龍裁判法院刑事案件 2021 年第 2148 號) 一案中，被告在港鐵車廂中未經同意而捏一名 21 歲女學生的左邊臀部。他經審訊後被裁定“猥褻侵犯”罪罪名成立，被判處附有特別條件的感化令，為期 24 個月。控方提出覆核刑罰的申請，裁判官其後撤銷該感化令，並判處被告監禁七天。

In *HKSAR v Lam Ka-lok* TMCC 2128/2021, the defendant, a social worker, had falsified 22 pieces of medical certificates for 173 days' paid leave amounting to HK\$252,199.57. She further used a forged "Certificate of Volunteer" to deceive her employer so that she could earn extra remuneration in the sum of HK\$46,655 per month by working as a "Co-parenting Counsellor" for about six months. She was convicted, on her own pleas, of 23 counts of "using a false instrument" under s.73 of the Crimes Ordinance Cap. 200 and sentenced to a total of six months' imprisonment suspended for three years. On review of sentence, the magistrate imposed an immediate custodial term of eight months' imprisonment in lieu of the suspended sentence.

In *HKSAR v Yuen Sau-luk* FLCC 1469/2021, the defendant's public light bus knocked down a cyclist on a rainy night, as a result of which the cyclist died of multiple traumatic injuries. Investigation revealed that the deceased's bicycle could have been observed when it was travelling ahead of the public light bus about 10 private-car length away. The defendant who was convicted, on his own plea, of "dangerous driving causing death" was originally sentenced to three months' imprisonment, disqualified from driving for five years, and ordered to attend a driving improvement course within the last three months of disqualification. Upon review, the magistrate increased the prison term to four months' imprisonment.

In *HKSAR v Chan Kam-hung* STCC 913/2022, the defendant had a dispute with his girlfriend while having dinner at a restaurant. A group of customers at the restaurant blamed the defendant and his girlfriend for causing nuisance, which resulted in arguments and physical confrontation with the defendant. The defendant then went to his own apartment, grabbed a cleaver and returned to the restaurant with it. Upon discovering that the restaurant had closed, he threw the cleaver into the bush. The defendant who pleaded guilty to "possession of an offensive weapon with intent" under s.33 of the Public Order Ordinance Cap. 245 was initially ordered to perform 120 hours' community service. After review, the magistrate sentenced him to six months' imprisonment instead.

In *HKSAR v Chik Fuk-chun* WKCC 2148/2021, the defendant squeezed a 21-year-old female student's left buttock without her consent on a MTR train. He was convicted, after trial, of "indecent assault" and sentenced to 24 months' probation order with special conditions attached. On an application to review the sentence, the magistrate discharged the probation order and sentenced the defendant to seven days' imprisonment.

下文載述香港海關其他值得探討的案件：

香港特別行政區 訴 劉得龍及另一人 (區院刑事案件 2020 年第 924 號) 一案涉及《商品說明條例》(第 362 章) 所禁止的具威嚇性的營業行為。第一和第二被告是一間健身中心的銷售員，共同被控一項“串謀就消費者作出具威嚇性的營業行為”罪及兩項“詐騙”罪。受害人最初被一名銷售員假借問卷調查在街上被兜搭。在其後兩個多月期間，第一和第二被告促使受害人報名及付款參加該健身中心的會員計劃和 400 節私人教練健身課，以及購買數件被指稱為為受害人度身訂造的健身器材。為隱瞞上述交易，第一和第二被告指示受害人以現金或百老匯禮物卡付款。受害人先受全額退款所引誘，其後則被威脅他須負上法律責任和遭受監禁。第一和第二被告得知受害人耗盡積蓄後，更着受害人向不同財務機構借貸多筆大額款項。及至受害人父親偶然發現還款通知書，這宗詐騙案始被揭發。受害人在整段期間飽受精神壓力。第一和第二被告覷準受害人因患有自閉症和亞氏保加症而易受哄騙，騙取合共超過港幣 80 萬元。第一被告在認罪後被定罪，判處監禁共 21 個月零 27 天；至於第二被告則因出現新證據對其有否參與犯案存疑而獲不提證供起訴撤銷控罪。

在香港特別行政區 訴 伍嘉俊 (第一被告) 及伍國和 (第二被告) (粉嶺裁判法院刑事案件 2021 年第 1480 號) 一案中，一家二手車行接收了案中受爭議的日產 Elgrand 2.5 Highway Star 汽車 (該車輛)，而第一和第二被告分別是該車行的銷售員和經理。2019 年 11 月 24 日，受害人向第一被告查詢，後者遂發送一幅照片，顯示該車輛的里程錶讀數為 62,599 公里。受害人其後經第一被告購買該車輛，及後發現該車輛在 2017 年 1 月所記錄的里數已達 87,564 公里，而第二被告曾干擾里程錶。第一和第二被告被控“供應已應用虛假商品說明的貨品”罪，第二被告則被加控“將虛假商品說明應用於貨品”罪。經審訊後，第一被告獲裁定無罪；第二被告則被裁定兩項罪名成立，判處監禁三個月零兩星期。

In addition, below are examples of other interesting cases of the Customs and Excise Department:

HKSAR v Lau Tak-lung and another DCCC 924/2020 is a case concerning aggressive commercial practices under the Trade Description Ordinance Cap. 362. D1 and D2 were salesmen of a fitness center, and were jointly charged with one count of “conspiracy to engage in relation to a consumer in a commercial practice that is aggressive” and two counts of “fraud”. The victim was first picked up on the street by a salesman under the façade of a survey. Afterwards, throughout a period of over two months, D1 and D2 caused the victim to enroll in and pay for a membership plan and 400 personal training sessions at the fitness center, as well as several fitness equipment allegedly tailor-made for him. To conceal the transactions, D1 and D2 instructed the victim to make payment either by cash or by Broadway gift cards. The victim was first subject to inducement of full refunds, then subsequently threats of legal liability and imprisonment. Upon realizing the victim had no more savings, D1 and D2 even instructed the victim to obtain substantial loans from various financial institutions. It was only upon the chance discovery of loan repayment notices by the victim’s father that the fraud was discovered. Throughout the entire period, the victim suffered from tremendous mental stress. D1 and D2 preyed on the victim’s vulnerability as a patient of autism and Asperger’s Syndrome, and deceptively obtained over HK\$800,000 in total. D1 was convicted upon his own plea and was sentenced to a total term of imprisonment of 21 months and 27 days while the Prosecution offered no evidence against D2 in respect of the Charges when new evidence casting doubts on his involvement was uncovered.

In *HKSAR v Ng Ka-chun (D1) and Ng Kwok-wo (D2)* FLCC 1480/2021, D1 was a salesperson while D2 was a shop manager of a second hand car trading business receiving the Nissan Elgrand 2.5 Highway Star (“the Vehicle”) in issue. On 24 November 2019, the victim made queries with D1 who sent a photo indicating that the odometer reading of the Vehicle was 62,599 km. The victim purchased the Vehicle subsequently through D1. Later, it was discovered that the recorded mileage of the Vehicle in January 2017 was already 87,564 km and the odometer had been tampered with by D2. D1 and D2 were charged with “supplying goods to which a false trade description is applied” and D2 was further charged with “applying a false trade description to goods”. After trial, D1 was acquitted. D2 was convicted of both charges and was sentenced to imprisonment of three months and two weeks.