特別職務組及分科五 (科技罪行)
Special Duties Team and Sub-division V (Technology Crime)

特別職務組

特別職務組最初於 2020 年 4 月成立，負責處理自 2019 年 6 月以來因前所未有的社會動亂而引起的大量公眾秩序相關案件。該組從提供法律指引階段開始處理所有重大的公眾秩序事件相關的案件，並在各級法院就該等案件出庭檢控，直至最終結案為止。該組在 2023 年處理的一些重要案件摘要載述於下文。

上訴案件

在 2023 年，特別職務組成功處理了控方提出的多宗上訴，其中有些涉及重要的法律議題。以下是其中一些案件：

向終審法院提出的上訴

(1) *香港特別行政區 訴 麥永華* (2023) 26 HKCFAR 282 案是就原訟法庭（作為上訴法院）推翻答辯人的“非法集結”定罪的決定提出的上訴。控方指法官裁定上訴得直是錯誤應用了終審法院在*香港特別行政區 訴 盧建民* (2021) 24 HKCFAR 302 案的判決，該判決在*香港特別行政區 訴 蔡健瑜* (2022) 25 HKCFAR 360 案中也曾被考慮。

終審法院一致裁定上訴得直，因此回復對答辯人作出的定罪裁決及刑罰。終審法院裁定上訴得直，並作出以下裁定：(i) 在對非法集結罪作出分析時，應先確辨出非法集結的存在，然後才處理被告有否參與該集結的問題；(ii) 在考慮該四名人士（包括答辯人）在梯級以鐳射筆和電筒作出照射的行為是否足以構成非法集結時，裁判官和法官錯誤地採取過於狹隘的處理方式；(iii) 正如法院於*蔡健瑜*案所解釋，成為該集結的一份子的意圖與參與該等集結人士個別行為的意圖，兩者之間是有差別的，而後者並非確立參與非法集結的必要元素；(iv) 正如裁判官所裁斷（而法官亦沒予以否定），答辯人的行為構成參與的行為，而其作出該等行為的意圖構成參與意圖。

Special Duties Team

The Special Duties (SD) Team was first set up in April 2020 to tackle the voluminous public order related cases that arose from the unprecedented social turmoil since June 2019. SD Team handled all of the significant public order event cases from the advisory stage and prosecuted them at different levels of Courts until their final disposal. A highlight of some notable cases handled by the SD Team in 2023 are set out below.

The Appeal cases

In 2023, SD Team has successfully taken out a considerable number of appeals by the Prosecution, some of which involved important legal issues. Some of these cases are set out below.

Appeal to the Court of Final Appeal

(1) The case of *HKSAR v Mak Wing-wa* (2023) 26 HKCFAR 282 is an appeal against the decision of the Court of First Instance (acting as an appellate Court) to quash the respondent's conviction of "unlawful assembly". The Prosecution contended that the judge, in allowing the appeal, had misapplied the Court of Final Appeal (CFA)'s judgment in *HKSAR v Lo Kin-man* (2021) 24 HKCFAR 302 as considered in *HKSAR v Choy Kin-yue* (2022) 25 HKCFAR 360.

The CFA allowed the appeal unanimously, hence restoring the conviction and sentence of the respondent. In allowing the appeal, the CFA made the following rulings: (i) the proper approach to analyze an offence of unlawful assembly was to first identify the unlawful assembly, before addressing whether the defendant did take part in the assembly; (ii) by asking whether the four persons (including the respondent) involved in the shining of the laser pointer and torchlight at the staircase were sufficient to constitute an unlawful assembly, the magistrate and the judge erred by adopting too narrow an approach; (iii) as explained in the *Choy Kin-yue* case, an intention to become part of the assembly was different from an intention to take part in the individual acts of those assembled, and that the latter was not necessary to establish taking part in an unlawful assembly; (iv) the respondent's conduct, as found by the magistrate and from which the judge did not differ, constituted acts of participation and the intention to commit such conduct constituted participatory intent.

以案件呈述方式上訴

(1) *香港特別行政區 訴 余德穎及另七人* [2023] HKCA 877 案是控方在第一至第八被告就2019年8月31日在灣仔發生的“暴動”被裁定罪名不成立後，以案件呈述方式提出的上訴。上訴法庭裁定針對第二至第五被告的上訴得直，撤銷他們的無罪裁決，下令把他們的案件發還區域法院由另一名法官重審。

上訴法庭裁定上訴得直，認為原審法官就第五被告無須答辯的裁定屬法律上犯錯且有悖常理，因為他錯誤地把考慮範圍局限於第五被告的行為是否屬於構成破壞社會安寧的行為，而沒有考慮她身處現場是否蓄意鼓勵他人參與暴動，從而與他人共同犯罪。原審法官在聆訊中段裁斷第五被告的言行並非“屬威嚇性、侮辱性或挑撥性的語言”，實屬言之過早，而且明顯有錯，因為這樣違反了在聆訊中段法官不應行使陪審團職能的原則。

此外，原審法官過分強調其他答辯人的實際和具體行為，而沒有充分考慮他們通過利便、協助或鼓勵其他暴動者的方式參與其中，並且在沒有證據的情況下作出各種有利於一眾答辯人的臆測，屬於明顯犯錯。

(2) *在香港特別行政區 訴 李煒健* [2023] HKCFI 1723 案中，答辯人被截查時被發現帶着一把士巴拿和一支行山杖。他在警誡下聲稱士巴拿和行山杖是作自衛之用。原審裁判官裁定答辯人“管有攻擊性武器”罪名不成立。控方以案件呈述方式提出上訴後，法院裁定上訴得直，因為原審裁判官就被告無意傷害他人的裁定有悖常理。案件發還原審裁判官重新考慮。

覆核刑罰

(1) *在律政司司長 訴 梁子揚及另四人* [2023] HKCA 1318 案中，一眾答辯人被控干犯“暴動”及其他罪行。他們承認在2019年11月18日參與逃離香港理工大學的暴

Appeal by way of case stated

(1) The case of *HKSAR v Yu Tak-wing and 7 others* [2023] HKCA 877 is a case-stated appeal against the acquittals of D1-D8 of “riot” that took place in Wanchai on 31 August 2019. The Court of Appeal allowed the appeal against D2-D5 and their acquittals were quashed and their case was ordered to be remitted to the District Court for re-trial before another judge.

In allowing the appeal, the Court of Appeal held that the trial judge's ruling of no case in respect of D5 was wrong in law and perverse as he wrongly limited his consideration to whether the acts of D5 were acts constituting a breach of the peace without considering whether, by her presence at the scene, she was intentionally encouraging others to take part in the riot, thereby jointly committing the offence with others. It was also premature and plainly wrong for the trial judge to determine at the half-time stage that D5's words and conduct did not “fall under intimidating, insulting or provocative language” as this was in breach of the principle that, during half-time, a judge should not perform the function of the jury.

Further, the trial judge plainly erred in placing too much emphasis on the actual and specific conduct of other respondents without giving sufficient consideration to their participation by way of facilitating, assisting or encouraging other rioters, and in the absence of evidence, making various speculations in favour of the respondents.

(2) In *HKSAR v Lee Wai-kin* [2023] HKCFI 1723, the respondent was intercepted and found with a spanner and a hiking stick. Under caution, he claimed that the spanner and hiking stick were for self-defence. The trial magistrate acquitted the respondent of the charge of “possession of offensive weapons”. Upon appeal by way of case stated, the Court allowed the Prosecution's appeal as the trial magistrate's ruling that the defendant had no intention to injure others was a perverse one. The case was remitted to the trial magistrate for reconsideration.

Review of sentence

(1) In *Secretary for Justice v Leung Tsz-yeung Brian and 4 others* [2023] HKCA 1318, the respondents were charged with “riot” and other offences. They were convicted after their own pleas of participating in a riotous escape from the Hong Kong Polytechnic University on 18 November 2019. During the riot, protestors damaged property inside the university, set up barricades and checkpoints restraining other people's

動，被裁定罪成。暴動期間，示威者破壞大學內的財產、設置路障和檢查站以限制他人進入大學、封鎖主要道路，並使用汽油彈和弓箭與警方對峙。一眾答辯人夥同其他人逃離大學，以汽油彈及雜物攻擊警方防線，其後逃至香港科學館被捕。原審法官以監禁兩年作“暴動”罪的量刑起點，考慮到一眾答辯人認罪和其個人背景，判處他們監禁 15 至 19 個月不等。

在律政司司長提出覆核刑罰申請後，上訴法庭裁定，法庭判刑時可以考慮大學暴動事件的整個案發背景。上訴法庭進一步裁定，鑑於本案性質嚴重，法庭的判刑原則上有錯並且明顯不足，恰當的量刑起點應不少於監禁三年。上訴法庭考慮到多項因素，包括各答辯人原本將刑滿出獄，因此行使酌情權不予改判。

(2) 在*律政司司長 訴 唐健幫及另二人* [2023] HKCA 896 案中，約 15 名示威者（包括一眾答辯人）在銅鑼灣聚集並襲擊一名路人約一分鐘，令該名路人大量出血。第一答辯人在原審法官裁定他須答辯後，承認“暴動”罪和“有意圖而傷人”罪，並被判罪成；第二及第三答辯人則在審訊前承認“非法集結”罪和“有意圖而傷人”罪，並被判罪成。各答辯人分別被判處監禁 34 個月、25 個月和 19 個月。

access to the university, blocked major roads and confronted the Police using petrol bombs and bows and arrows. The respondents, together with other people, escaped from the university, attacked the Police check line with petrol bombs and miscellaneous items, and subsequently fled into the Hong Kong Science Museum where they were arrested. The trial judge adopted a starting point of two years' imprisonment for the charge of "riot". Considering the respondents' guilty pleas and personal backgrounds, the trial judge sentenced them to imprisonment ranging from 15 months to 19 months.

Upon application for review of sentence, the Court of Appeal held that the Court is entitled to consider the entire context of the riot incident at the university in sentencing. The Court of Appeal further held that in view of the seriousness of the case, the sentences were wrong in principle and manifestly inadequate and that the appropriate starting point should be at least three years' imprisonment. Having considered various factors including that the respondents would complete their original sentence soon, the Court of Appeal exercised its discretion not to disturb the original sentence.

(2) In *Secretary for Justice v Tong Kin-pong and 2 others* [2023] HKCA 896, around 15 protesters (including the respondents) gathered and attacked a passerby in Causeway Bay for about one minute, causing extensive bleeding. The 1st respondent was convicted of "riot" and "wounding with intent" upon his own pleas after the trial judge ruled that there was a case to answer, and the 2nd and 3rd respondents were convicted of "taking part in an unlawful assembly" and "wounding with intent" upon their own pleas before trial. The respondents were sentenced to imprisonment for 34 months, 25 months and 19 months respectively.

Upon application for review of sentence, the Court of Appeal held that in view of the seriousness of the attack and the involvement of the acts of private settlement, the starting points for the offences of "riot" and "wounding with intent" should be increased. The Court also considered that the sentencing discounts given by the trial judge concerning the respondents' clear records and low risk of re-offending were wrong in principle. The review application was allowed and the final sentences substituted on review for the respondents were 61, 42 and 37 months' imprisonment respectively.

(3) In *Secretary for Justice v Cheung Tsz-lung* [2023] HKCA 614, the respondent together with a riotous mob attacked a taxi driver who sustained serious injuries. He pleaded guilty to a charge of "riot" and was sentenced to three years'

律政司司長提出覆核刑罰申請後，上訴法庭裁定鑑於涉案襲擊嚴重，而且涉及“私了”行為，因此應把“暴動”罪和“有意圖而傷人”罪的量刑起點上調。上訴法庭又認為，原審法官因各答辯人沒有定罪記錄和重犯機會低而扣減刑罰屬原則上有錯。上訴法庭批准該覆核申請，在覆核後最終改判各答辯人的刑期分別為監禁 61 個月、42 個月及 37 個月。

(3) 在*律政司司長 訴 張子龍* [2023] HKCA 614 案中，答辯人與一眾暴徒襲擊一名的士司機，司機傷勢嚴重。答辯人承認一項“暴動”罪，被判處監禁三年。律政司司長提出覆核刑罰申請後，上訴法庭認為判刑明顯不足、原則犯錯，又認為適當的量刑起點應為至少六年零六個月。由於答辯人認罪而獲三分之一扣減，另又因覆核申請再獲三個月扣減，故他最終被判處監禁四年零一個月。

上訴法庭審理的其他上訴

(1) 在*香港特別行政區 訴 方淦輝及另一人* [2023] HKCA 1303 案中，各申請人於 2019 年 11 月 18 日在油麻地參與暴動，經審訊後被裁定罪名成立。申請人就定罪申請上訴許可，理由是並無證據證明暴動期間他們在暴動區域內的行為或他們曾身在該處，而且案發現場有其他路人經過以及／或各申請人可能純粹是經過附近的路人。

上訴法庭考慮了相關證據、環境證據的疊加效應和力度，以及暴動和非法集結的流動性後，裁定各上訴理由毫無合理可爭辯之處，駁回就定罪提出的上訴許可申請。

(2) 在*香港特別行政區 訴 陳振銘* [2023] HKCA 1262 案中，申請人在名為“香港高登”的網上討論區發布一則帖文，文中列出製作硝酸甘油炸藥的方法，並指不排除可能會炸毀中國人民解放軍軍營。經審訊後他被裁定煽惑他人製造爆炸品罪罪名成立。申請人就定罪申請上訴許可，理由是原審法官錯誤地拒絕接納其證供並裁定他有所需的犯罪意圖。

imprisonment. Upon application for review of sentence, the Court of Appeal considered the sentence manifestly inadequate and wrong in principle. The Court considered the appropriate starting point should be at least six years and six months. Given the one-third discount for guilty plea and three-month discount for the review application, the respondent was eventually sentenced to four years and one month's imprisonment.

Other appeals at the Court of Appeal

(1) In *HKSAR v Fong Kam-fai and another* [2023] HKCA 1303, the applicants were convicted after trial for participating in a riot in Yau Ma Tei on 18 November 2019. The applicants applied for leave to appeal against conviction on the grounds that there was no evidence to prove their acts or attendance in the riot area during the riot, there were other passers-by at the scene and/or the applicants could be mere passers-by in the vicinity.

Taking into account the evidence, the cumulative effect and the strength of circumstantial evidence and the fluidity of riot and unlawful assembly, the Court of Appeal held that none of the grounds of appeal were reasonably arguable and dismissed the applications for leave to appeal against conviction.

(2) In *HKSAR v Chan Chun-ming* [2023] HKCA 1262, the applicant was convicted after trial of inciting others to commit the making of explosive substances by publishing a post on an online discussion forum named "HK Golden", listing out the formula for making nitroglycerin explosives and stating that he would not rule out the possibility to bomb the barracks of the People's Liberation Army. The applicant applied for leave to appeal against conviction on the ground that the trial judge erroneously refused to accept his evidence and found that he had the requisite *mens rea*.

In dismissing the leave application, the Court of Appeal held that the trial judge had properly taken into account all the circumstantial evidence, including the applicant's explanation in his cautioned interviews, the title and contents of the post, etc., and held that none of the grounds of appeal were reasonably arguable.

(3) In *HKSAR v Ching Wai-ming* [2023] HKCA 989, the applicant was convicted of "riot" in relation to the violent confrontation between two rival crowds in the Yuen Long MTR Station on 21 July 2019, during which a group dressed in white attacked others in the Yuen Long Station with rattan sticks and other

上訴法庭裁定原審法官已妥為考慮申請人在警誡會面中的解釋及帖文標題和內容等所有環境證據，並裁定上訴理由無一有合理可爭辯之處，駁回上訴許可申請。

(3) 在*香港特別行政區 訴 程偉明* [2023] HKCA 989 案中，兩批對立的羣眾於 2019 年 7 月 21 日在港鐵元朗站爆發暴力衝突，其間一羣身穿白衣的人士以籐條及其他武器襲擊站內其他人。申請人因涉案而被裁定“暴動”罪罪名成立，判監四年零三個月。申請人就定罪及判刑提出上訴，理由與辨認證供和證物的連鎖性等有關。上訴法庭經考慮後，認為上訴理由無理據支持，拒絕批出就定罪及判刑的上訴許可，維持原來的定罪及判刑。

(4) 在*香港特別行政區 訴 伍文浩* [2023] HKCA 433 案中，申請人是 Telegram 頻道“SUCK Channel”的擁有人兼管理員，而曾有大量煽惑訊息被發佈於該頻道中。申請人經審訊後被裁定串謀煽惑他人干犯七項不同的罪行，例如縱火、刑事損壞和暴動等罪成。申請人就定罪提出上訴，理由與原審法官沒有考慮案中某些因素有關。上訴法庭在考慮相關證據後，裁定上訴理由無一有合理可爭辯之處，並駁回就定罪提出的上訴許可申請。

(5) 在*香港特別行政區 訴 劉智峰* [2023] HKCA 1231 案中，申請人經審訊後被裁定於 2019 年 10 月 1 日在黃大仙參與暴動罪成。申請人就定罪申請上訴許可，理由包括他因為擔任急救員所以在案發現場出現，而且沒有積極鼓勵犯罪。上訴法庭駁回他的申請。他繼而向上訴法庭申請許可上訴至終審法院，要求釐清就以鼓勵其他參與者作出受禁行為的方式參與暴動而言，法律是否要求在場從犯或二級主犯須積極鼓勵犯罪。

上訴法庭駁回其申請，裁定法律上並無有關“積極鼓勵”的要求。“積極”只是一個詞語，對*香港特別行政區 訴 盧建民* (2021) 24 HKCFAR 302 案中就“鼓勵”所作的詮釋不增添任何意義。

weapons. The applicant was sentenced to four years and three months' imprisonment. The applicant appealed against both conviction and sentence, on the grounds in relation to the identification evidence and chain of exhibits, etc. Upon consideration, the Court of Appeal found no merit on the grounds of appeal. Leave to appeal against conviction and sentence was refused and the conviction and sentence were upheld.

(4) In *HKSAR v Ng Man-ho* [2023] HKCA 433, the applicant was the owner and administrator of a Telegram Channel named "SUCK Channel" in which a substantial number of inciting messages were published. He was convicted after trial of conspiracy to incite others to commit seven different offences, e.g., arson, criminal damage and riot, etc. The applicant appealed against conviction on the grounds in relation to the trial judge's failure to consider certain factors in the case. Taking into account the evidence, the Court of Appeal held that none of the grounds of appeal advanced were reasonably arguable and dismissed the application for leave to appeal against conviction.

(5) In *HKSAR v Lau Chi-fung* [2023] HKCA 1231, the applicant was convicted after trial of participating in a riot in Wong Tai Sin on 1 October 2019. His application for leave to appeal against conviction, on the grounds including that he attended the scene as a first aider and there was no active encouragement, was dismissed by the Court of Appeal. He further applied to the Court of Appeal for leave to appeal to the Court of Final Appeal for clarification on whether, for the purpose of taking part in a riot by way of encouraging the performance of the prohibited conduct by other participants, the law requires the accessory at the fact or the principal in the second degree to have active encouragement.

In dismissing the application, the Court of Appeal held that there was no requirement for "active encouragement". The word "active" was merely a term that added nothing to the interpretation of "encouragement" in the *HKSAR v Lo Kin-man* (2021) 24 HKCFAR 302 case.

Trials, plea and sentence

In 2023, Counsel of SD team have also prosecuted a large number of trials at all levels of Courts and attended the relevant plea and sentence hearings for public order related offences including riot, unlawful assembly and incitement behavior, etc. Among the cases handled by Counsel of SD team throughout the year, some of them attracted immense publicity. For example:

審訊、認罪和判刑

2023 年，特別職務組律師也在各級法院的大量審訊中出庭檢控，以及出席與公眾秩序相關罪行（包括暴動、非法集結和煽惑行為等）有關的認罪和判刑聆訊。年內，部分由特別職務組律師處理的案件獲廣泛報道。例如：

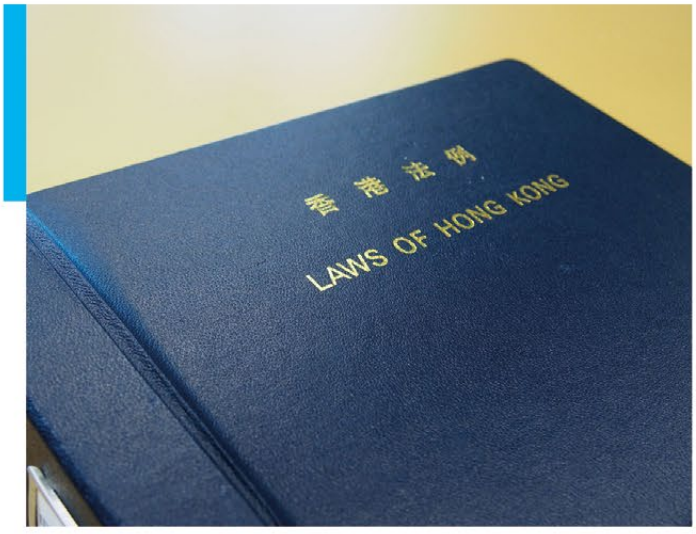
(1) 2019 年 11 月 18 日，示威者在油麻地近香港理工大學（理大）一帶組織大型暴動以“圍魏救趙”，即分散警力以救出非法佔領理大的示威者。逾千名示威者在場集結，並向警方投擲汽油彈和照射雷射筆，又以木板、鐵板和水馬與警方對峙，導致附近主要道路的交通嚴重受阻。共 213 名被告被控“暴動”罪和其他罪行，他們被分拆為 17 宗案件處理。截至 2023 年 12 月 31 日，170 名被告（分佈於 15 宗案件中）在認罪或經審訊後被裁定“暴動”罪罪成，各被判入教導所或判監最長 64 個月（[2023] HKDC 123、[2023] HKDC 184、[2022] HKDC 475、[2023] HKDC 46、[2023] HKDC 1485、[2022] HKDC 1207、[2023] HKDC 487、[2023] HKDC 367、[2023] HKDC 319、[2023] HKDC 658、[2023] HKDC 1266、[2023] HKDC 1035、[2023] HKDC 1005、[2023] HKDC 414、[2023] HKDC 916、[2023] HKDC 915、[2023] HKDC 914、[2023] HKDC 992、[2023] HKDC 1272、[2023] HKDC 1741、[2023] HKDC 410、[2023] HKDC 881 及 [2023] HKDC 1046）。其餘兩宗案件預定於 2024 年完成審訊。

(2) 在*香港特別行政區 訴 袁展翔* [2023] HKDC 1424 案中，2020 年 5 月 24 日銅鑼灣發生暴動，其間暴動者叫喊口號，高舉香港殖民時期旗幟和美國國旗，並向警方投擲玻璃樽、磚塊和雨傘。被告向正在後退的警方防線投擲磚塊，然後逃離現場。他承認“暴動”罪，被裁定罪名成立。法院認為該罪行情節嚴重，判處被告監禁三年。

(3) 在*香港特別行政區 訴 馮嘉文及另 11 人* [2023] HKDC 419 案中，2019 年 9 月 29 日

(1) On 18 November 2019, a mass riot took place in Yau Ma Tei near the Polytechnic University which was organized by protestors to “Besiege Wei to Rescue Zhao”（圍魏救趙）, i.e. to distract the Police so as to save those protestors unlawfully occupying the said university. More than a thousand protestors assembled, threw petrol bombs and shone laser pens towards the Police, confronted the Police using wooden boards, iron plates and water-filled barriers and caused serious disruption to the traffic on major roads nearby. A total of 213 defendants were charged with “riot” and other offences, who were split into 17 cases. As of 31 December 2023, 170 defendants (in 15 cases) were convicted of “riot” either on their own pleas or after trial. They were sentenced to training centre or to imprisonment ranging up to 64 months ([2023] HKDC 123, [2023] HKDC 184, [2022] HKDC 475, [2023] HKDC 46, [2023] HKDC 1485, [2022] HKDC 1207, [2023] HKDC 487, [2023] HKDC 367, [2023] HKDC 319, [2023] HKDC 658, [2023] HKDC 1266, [2023] HKDC 1035, [2023] HKDC 1005, [2023] HKDC 414, [2023] HKDC 916, [2023] HKDC 915, [2023] HKDC 914, [2023] HKDC 992, [2023] HKDC 1272, [2023] HKDC 1741, [2023] HKDC 410, [2023] HKDC 881 and [2023] HKDC 1046). The remaining two trials are scheduled to complete in 2024.

(2) In *HKSAR v Yuen Chin-cheung* [2023] HKDC 1424, a riot happened in Causeway Bay on 24 May 2020, in which rioters shouted slogans, raised Hong Kong flags of the colonial era and the US flags and threw glass bottles, bricks and umbrellas at the Police. The defendant threw a brick at the Police check line which was retreating and ran away from the scene. The defendant was convicted of “riot” upon his own plea. The Court considered that the circumstances of the offence were serious and sentenced the defendant to three years' imprisonment.



金鐘政府總部外一帶發生暴動，其間示威者以雨傘作掩護，向警方投擲硬物和汽油彈、在道路上縱火，並使用巨型橡筋作投射器向政府總部彈射硬物。在 12 名被控“暴動”罪的被告中，10 人認罪後被裁定罪名成立，兩人經審訊後被定罪，各被判監最長五年零三個月。

(4) 在*香港特別行政區 訴 葉倩敏* [2023] HKDC 768 案中，一名中國籍男子於 2021 年 7 月 1 日在崇光百貨外襲擊一名警員後自殺。案發翌日，被告在 Telegram、Facebook 和 Instagram 發布帖文，煽惑他人罔顧香港法紀，使用槍械和作出其他違法行為，包括導致警員身體受嚴重傷害。被告認罪後被裁定“煽惑他人有意圖而導致他人身體受嚴重傷害”罪成，被判監 10 個月。

(5) 在*香港特別行政區 訴 李茵茵* [2023] HKDC 1703 案中，一名路人及其友人在元朗被一羣為數約 30 人的示威者（包括被告）揮拳並以雨傘、棒狀物及硬物襲擊，因而身受重傷。被告有分參與擊打該名路人的背部，又用易拉架攻擊其頭部。在警員到訪被告的住所時，她把門鎖上並把參與暴動時所穿的一雙鞋子扔出窗外。

被告被控兩項“有意圖而傷人”罪、一項“暴動”罪及一項“妨礙司法公正”罪，經審訊後被裁定全部罪名成立，共被判監五年零六個月。

(6) 在*香港特別行政區 訴 黃家豪及另外 12 人* DCCC 606-610 & 1069/2020 & 259/2021 案及*香港特別行政區 訴 鄒家成* DCCC 1124/2022 案中，共 14 名被告就於或約於 2019 年 7 月 1 日立法會綜合大樓發生的衝擊事件被控多項罪名，包括“暴動”罪和“違反行政指令”罪。案發當日，示威者包圍立法會綜合大樓，其後將暴力升級，以鋼枝、鐵製手推車和槌子等打碎大樓的玻璃外牆。數百名示威者隨後強行闖進大樓，並衝入會議廳及大樓內其他地方。結果，立法會綜合大樓遭大肆破壞和嚴重損毀。在 14 名被告中，八人承認“暴動”罪，另外六名被告（其中兩人承認部分控罪）的審訊亦已結束。

(3) In *HKSAR v Fung Ka-man and 11 others* [2023] HKDC 419, a riot took place in the area outside the Central Government Offices in Admiralty on 29 September 2019, during which protestors covered themselves using umbrellas, threw hard objects and petrol bombs at the Police, set fires on the road and used giant rubber bands as launchers to launch hard objects at the Central Government Offices. Among the 12 defendants who were charged with "riot", 10 of them were convicted upon their own pleas and two of them were convicted after trial. The defendants were sentenced to imprisonment ranging up to five years and three months.

(4) In *HKSAR v Yip Sin-man* [2023] HKDC 768, a Chinese male attacked a police officer outside the SOGO Department Store on 1 July 2021 and committed suicide afterwards. On the following day, the defendant made posts on Telegram, Facebook and Instagram to incite others to, *inter alia*, use guns against the law and order of Hong Kong, including causing grievous bodily harm to Police officers. The defendant was convicted of "incitement to cause grievous bodily harm with intent" upon her own plea. She was sentenced to 10 months' imprisonment.

(5) In *HKSAR v Lee Yan-yan* [2023] HKDC 1703, a passerby and his friend were attacked by a group of around 30 protestors (including the defendant) in fists, umbrellas, and rod-shaped and hard objects in Yuen Long, therefore suffering serious injuries. The defendant has also hit the passerby's back and used a roll-up banner to attack his head. When Police officers visited the defendant's residence, she locked the door and threw a pair of shoes (which she wore during the riot) out of the window.

The defendant was charged with two counts of "wounding with intent", one count of "riot" and one count of "perverting the course of public justice". After the trial, the defendant was convicted of all the charges and was sentenced to a total of five years and six months' imprisonment.

(6) In *HKSAR v Wong Ka-ho and 12 others* DCCC 606-610 & 1069/2020 & 259/2021 and *HKSAR v Chow Ka-shing* DCCC 1124/2022, a total of 14 defendants have been charged with various offences including "riot" and "contravening administrative instruction" in relation to the storming of the Legislative Council Complex on about 1 July 2019. On the day, protesters surrounded the Legislative Council Complex, then escalated the violence by smashing the glass panels of the building with steel poles, metal trolleys and hammers, etc. Subsequently, hundreds of protestors forced their way into the building, and broke into the main chamber and

分科五（科技罪行）

近年，借助或依賴互聯網的精密電腦網絡罪案在本港急增，對個別人士造成巨大傷害和損失，也為整體社會的安全和保安帶來嚴峻挑戰。分科五（科技罪行）在 2023 年 7 月成立，以打擊複雜的高科技罪行，尤其是涉及發展瞬息萬變的加密貨幣、非同質化代幣、暗網和元宇宙等專門範疇的罪行。本分科亦負責處理導致或可能導致本司法管轄區受到嚴重傷害的集團式或大規模科技罪行。

三名首長級人員和九名高級檢控官及檢控官調派至本分科，負責提供法律指引、代表檢控方處理審訊和上訴聆訊，以及出席各類相關聆訊。本分科不但旨在透過提供法律指引和進行檢控工作以迅速有效地打擊高科技罪行，還致力檢討現行刑事法律的實質內容和域外效力是否足夠，並透過參與香港法律改革委員會的工作提出制定新法例的建議，把與電腦網絡相關的不當行為訂為刑事罪行，從而協助制定全面的法律框架，更有效打擊科技罪行。

本分科自成立以來，成員在多個研討會及會議中與電腦網絡和法證專家，以及警方網絡安全及科技罪案調查科緊密合作，務求緊貼上述專門範疇出現的空前變化，以及掌握犯罪活動的趨勢和模式。展望未來，本分科的目標是培訓警務人員中的專家證人和檢控人員，以更有效進行高科技罪行的調查和檢控工作。本分科會繼續推動各持份者之間的合作，盡一切可能打擊高科技罪行。

other parts of the building. As a result, the Legislative Council Complex was extensively vandalized and severely damaged. Among the 14 defendants, eight of them pleaded guilty to "riot". The trial of the six other defendants (two of whom made partial guilty pleas), has also concluded.

Sub-division V (Technology Crime)

In recent years, there has been a sharp increase in sophisticated internet-enabled or internet-dependent cybercrimes in Hong Kong, causing significant harm and loss to the individuals; and posing huge challenges to the safety and security of the society as a whole. In July 2023, Sub-division V (Technology Crime) was set up to combat complex high-tech crimes, particularly cases involving Cryptocurrencies, Non-Fungible Tokens, the dark web, the Metaverse and the like which are all specialized areas under rapid development and changes. This Sub-division also handles tech-crimes involving syndicates or of large-scale operations which cause or may cause serious harm to this jurisdiction.

Three directorate officers and nine Senior Public Prosecutors and Public Prosecutors have been deployed to the Sub-division, who are responsible for providing legal advice, prosecuting trials and appeals and attending different types of related hearings. This Sub-division aims not only to promptly and effectively combat high-tech crimes through the provision of legal advice and prosecution services, but also assist in establishing a comprehensive legal framework with a view to more effectively fighting technology crimes, by reviewing the adequacy of existing criminal law, in terms of both the substance and the extraterritorial effect, and by proposing for enactment of new laws to criminalize cyber-related misconduct through participation at the Law Reform Commission of Hong Kong.

Since the inception, members of this Sub-division have worked closely with cyber and forensic experts in seminars and conferences; and the Police's Cyber Security and Technology Crime Bureau to keep pace with the unprecedented changes in these specialized areas, as well as the trends and patterns of criminal activities. Moving on, this Sub-division aims to train up expert witnesses from the Police and prosecutors, so as to more effectively investigate and prosecute high-tech crimes. The Sub-division will continue to promote cooperation between stakeholders to combat high-tech crimes in all ways possible.