



## 分科一（裁判法院） Sub-division I (Magistrates' Courts)

分科一設有三個法律指引組，分別為裁判法院 (A)、裁判法院 (B) 和海關案件組。香港七所裁判法院審理多種多樣對市民日常生活影響重大的罪行，而本分科在監督該等刑事案件的檢控工作中，扮演關鍵的角色。

## 裁判法院 (A) 和裁判法院 (B)

兩個裁判法院組的律師不僅就定於裁判法院審訊的案件是否有足夠證據和控罪是否合適提供法律指引，也在整個調查過程中向各執法機關提供法律指引。兩組的律師負責就傳統罪行提出檢控，包括關乎不誠實行為、暴力、性的不當行為、賭場、賣淫場所和交通違例事項的罪行，亦負責就其他不同性質的罪行提出檢控，如侮辱國歌及殘酷對待動物等。他們還負責處理牽涉複雜法律問題的敏感案件及隨後的覆核和上訴，確保公義得以充分全面彰顯。

2024 年，裁判法院共審理 145,009 宗由各執法機關調查的刑事案件。當中相當數量的案件需要法律指引，而法律指引主要由本分科的高級檢控官和檢控官提供。本分科在 2024 年向執法機關提供法律指引的數量保持穩定，高達 4,828 項，接近去年的數字。本分科的律師竭誠盡責，仔細評估可供採納的證據，再根據《檢控守則》擬定合適的控罪，秉持最高的專業和公正水平。

就侮辱國歌的罪行提出檢控，有助加強維護社會價值的決心，團結大眾。在香港特別行政區訴陳柏叟 KCCC 2746/2023 案中，於 FIVB 世界女排聯賽香港 2023 其中一項賽事開始前，被告在主持人宣布播放中華人民共和國國歌時，做出倒豎拇指的手勢，兀然坐下，並以雙手掩耳，在國歌播放期間高唱另一首歌。國歌播放完畢後，被告重覆做出倒豎拇指的手勢，並發出“噓”聲。法院裁定被告“侮辱國歌”罪罪成，判監八星期。法院判刑時強調，有關法律旨在維護國歌的尊嚴，須予充分執行，以

Sub-division I consists of three advisory sections, namely Magistrates' Courts (A), Magistrates' Courts (B), and Customs and Excise Section. Sub-division I plays a pivotal role in overseeing the prosecution of criminal cases within Hong Kong's seven Magistrates' Courts, which address a wide spectrum of offences that significantly impact the daily lives of the community.

## Magistrates' Courts (A) and (B)

Counsel of the two Magistrates' Courts sections not only give legal advice regarding the sufficiency of evidence and the appropriateness of charges for cases set to be tried at the Magistrates' Courts but also provide legal guidance to various law enforcement agencies throughout the investigative process. Counsel of these two sections are tasked with prosecuting traditional crimes, including offences related to dishonesty, violence, sexual misconduct, gambling and vice establishments, and traffic contraventions, as well as various offences of a different nature, such as insulting of the National Anthem and animal cruelty. Their responsibilities also extend to handling sensitive cases that involve complex legal issues and handling subsequent reviews and appeals, ensuring that justice is served in a thorough and comprehensive manner.

In 2024, the Magistrates' Courts processed a total of 145,009 criminal cases investigated by various law enforcement agencies. A considerable portion of these cases required legal advice, primarily provided by the Senior Public Prosecutors and Public Prosecutors within this Sub-division. The volume of legal advice provided to law enforcement agencies in 2024 remained impressively steady at 4,828, matching the previous year's figures. Counsel in this Sub-division diligently fulfilled their responsibilities by thoroughly assessing the available evidence and advising on the appropriate charges in accordance with the Prosecution Code while upholding the highest standards of professionalism and impartiality.

By prosecuting offences against the National Anthem, a society reinforces its commitment to its values and promotes unity. In *HKSAR v Chan Pak-yui* KCCC 2746/2023, prior to the start of a match in the FIVB Volleyball Nations League Hong Kong 2023, the defendant made a thumbs-down gesture and abruptly sat down when the host announced that the National Anthem of the People's Republic of China would be played. He also covered his ears with both hands and loudly sang another song while the National Anthem continued. After the National Anthem concluded, the defendant repeated the thumbs-down gesture and made a 'boo' sound. The Court found the defendant guilty



保護國歌免受侮辱，使其達到原定目的。

嚴厲檢控暴力罪行對於締造一個安全穩定的社會至關重要。在香港特別行政區訴 *Khan Shahzad* ESCC 1738/2023 案中，一名 13 歲男童在宗教課上未能背誦《可蘭經》一節經文。盛怒下，任職老師的被告三次徒手打其背部。男童轉身面向被告時，被掌摑臉部，導致其眼鏡和穆斯林帽子飛脫。男童的左眼持續感到痛楚，因而求醫，被診斷為視網膜脫落，隨後接受眼科手術。法院在被告承認控罪後裁定他“襲擊他人致造成身體傷害”罪罪成。法院判刑時指出，事發時被告是該名男童的老師，而男童的家人相信教育中心及被告會提供適當的照料，把男童託付給他們。法院指出，雖然男童的傷勢已穩定下來，但他在事發一年後仍需接受手術，顯示有關襲擊對他造成長久深遠的影響。法院最終判處被告監禁 15 星期。

在香港特別行政區訴 曾維誠及另二人 KCCC 2666/2023 案中，於九龍城潑水節舉行期間，各被告襲擊三名正在執行人羣控制職務的輔警人員，向他們近距離射水和潑水。即使警務人員示意各被告停止，他們依然繼續，並以同一方式襲擊三名無綫新聞記者。各被告被控三項“襲擊警務人員”罪及兩項“普通襲擊”罪，他們否認全部控罪。法院指出，儘管事發時正值節慶，各被告無視警務人員和記者的反對，持續向他們潑水。法院提到，有關警務人員在公眾面前被淋濕，並無即時採取行動或離開崗位，但各被告仍繼續其行為，未有止息。法院最終裁定各被告罪成。各被告就每項“襲擊警務人員”罪被判處監禁 28 天，另就每項“普通襲擊”罪被判處監禁 14 天。法院下令全部刑期同期執行，即總刑期為 28 天。法院判刑時強調，警務人員必須受保護及尊重，若他們無法執行職務，最終只會令公眾利益受損。

兩個裁判法院組致力以一視同仁的方式處理所有案件，不會理會犯罪者的地位或背景。在香港特別行政區訴 許浩誠 FLCC

of a count of “insulting the National Anthem” and sentenced him to eight weeks’ imprisonment. In arriving at the sentence, the Court emphasised that the law aims to uphold the dignity of the National Anthem and must be fully enforced to protect it from insults in order to achieve its intended purpose.

Prosecuting violence offences rigorously is essential for fostering a safe and secure society. In *HKSAR v Khan Shahzad* ESCC 1738/2023, a 13-year-old boy failed to recite a verse from the Quran in a religious class. In a fit of rage, the defendant, who was the boy’s teacher, hit the boy’s back three times with bare hands. When the boy turned to face the defendant, he was slapped in the face, causing his glasses and Muslim cap to fall off. The boy experienced persistent pain in his left eye and sought medical treatment. He was diagnosed with retinal detachment and subsequently underwent eye surgery. The Court convicted the defendant of “assault occasioning actual bodily harm” upon his guilty plea. In determining the sentence, the Court noted that at the time of the incident, the defendant was serving as the boy’s teacher, and the boy’s family had entrusted their child to the education centre and the defendant, believing that they would provide proper care. The Court noted that while the boy’s injuries had stabilised, he still required surgery a year after the incident, indicating that the assault had a long-term and profound impact on him. Ultimately, the Court sentenced the defendant to 15 weeks’ imprisonment.

In *HKSAR v Tsang Wai-shing and 2 others* KCCC 2666/2023, during the celebration of the Songkran Festival in Kowloon City, the defendants assaulted three auxiliary police officers who were performing their crowd control duties by squirting and spraying water at them from close range, even after the police officers signalled them to stop. They also assaulted three reporters from TVB News in the same manner. The defendants were charged with three counts of “assaulting a police officer” and two counts of “common assault”, and they pleaded not guilty to all charges. The Court noted that, while the incident occurred during a festive celebration, the defendants ignored the objections of both the police officers and the reporters while spraying water at them. The Court remarked that the police officers were doused in front of the public without taking immediate action or leaving their posts, while the defendants continued their actions unabated. Ultimately, the Court found the defendants guilty of the offences. The defendants were sentenced to 28 days’ imprisonment for each count of “assaulting a police officer” and 14 days’ imprisonment for each count of “common assault”, respectively. The sentences were ordered to run concurrently, resulting in a total of 28 days’ imprisonment. In determining the sentences,



2188/2024 及 FLCC 2320/2024 案中，任職警員的被告被控在 2022 年及 2023 年調查兩宗入屋犯法案時，分別在案發現場偷走一部 iPad 及珠寶。被警隊停職期間，被告在某酒店取走一名遊客的背包，偷去包內的 iPad 及配件，其後把缺少了該等物品的背包帶往警署，報稱是拾獲的失物。被告被裁定三項“盜竊”罪罪成，判監合共 15 個月，並須根據補償令支付港幣 5,200 元。法院批評被告執勤時犯案，指所涉行為辜負公眾的信任並損害警隊的聲譽，這兩點屬量刑時的加刑因素。

在香港特別行政區訴張國振 FLCC 1573/2023 案中，任職消防員的被告在 2021 年至 2023 年執勤期間在消防局內偷拍女同事，被控七項“窺淫”罪及一項“非法拍攝私密部位”罪。被告趁一名女同事在浴室淋浴期間，將手機伸入浴室門下的空隙。調查期間，警方在被告住所檢獲被告的手機、平板電腦、手提電腦及 USB 存盤，發現除該名女同事的錄像外，還有另一名女同事的影片，包括她如廁時的影像。法院裁定被告八項控罪全部成立，並強調這些罪行性質嚴重，尤其因為被告長時間持續犯案，因此判監合共 22 星期。

在香港特別行政區訴劉冠希 ESCC 2041/2024 案中，一名 23 歲中學教學助理被控一項“違反保密”罪，違反《香港考

the Court emphasised that police officers must be protected and respected; if they are unable to perform their duties, it ultimately harms the public interest.

The two Magistrates' Courts sections are committed to treating all cases equally, regardless of the perpetrator's position or background. In *HKSAR v Hui Ho-shing* FLCC 2188/2024 & FLCC 2320/2024, the defendant, a police officer, was prosecuted for stealing an iPad and jewellery during the investigation of two burglary cases in 2022 and 2023 at the respective crime scenes. While under suspension from the police force, the defendant took a tourist's backpack from a hotel, stole the iPad and accessories that were inside the backpack, and later reported the backpack without the items inside to the police station as a found item. The defendant was found guilty of three counts of "theft" and was sentenced to 15 months' imprisonment in total, along with a compensation order of HK\$5,200. The Court criticised the defendant for committing crimes while on duty, stating that these actions violated the public's trust and tarnished the reputation of the Police Force, which were aggravating factors in sentencing.

In *HKSAR v Cheung Kwok-chun* FLCC 1573/2023, the defendant, a fireman, was charged with seven counts of "voyeurism" and one count of "unlawful recording of intimate parts" for secretly filming his female colleagues at the fire station during his duty from 2021 to 2023. The defendant held a mobile phone protruding through a gap under the bathroom door while one of his female colleagues was showering inside. During the investigation, the Police seized the defendant's mobile phone, tablet, laptop, and USB drive from his residence, uncovering not only footage of the mentioned female colleague but also recordings of another female colleague, including images of her using the restroom.

試及評核局條例》(第 261 章)第 15(1) 及 (3) 條。她在 2024 年香港中學文憑英國語文科考試舉行期間，擔任另一所中學的校外監考員，獲准保留多份考試材料。考試結束不久，她把部分考試材料發布於其提供線上學術諮詢及補習服務的小紅書帳號。香港考試及評核局向警方報案後，她刪除了涉事帖文。她被警方逮捕，並在警誡下承認急於開展線上補習業務。她認罪後被判監兩星期和罰款港幣 500 元。

兩個裁判法院組也處理涉及動物福利的案件。在香港特別行政區訴謝皓鈞 WKCC 5063/2023 案中，一名獸醫被控在寵物診所為動物注射犬心絲蟲疫苗時虐待動物。他持金屬摺梯猛力推撞一隻狗，並以梯腳戳牠的嘴巴，使其大量出血並失禁。他其後抓着狗帶把狗隻提起，導致牠昏迷 15 分鐘。診所的閉路電視錄影片段顯示，被告在盛怒下大聲叫喊，狗隻則顯得極度惶恐，沒有表現出任何攻擊迹象，且在受襲後倒下，兩至三分鐘沒有動作。被告辯稱他的行為是為了固定狗隻和縮短注射疫苗的時間，但遭法院駁回。審訊後，法院裁定被告的暴力行為既過分也不必要，對狗隻造成嚴重身心傷害。法院形容被告行為殘忍，裁定被告“殘酷對待動物”罪罪成，判監三個月。法院判刑時指被告的行為極不尊重生命，且背叛自身的專業責任。

這兩組也負責裁判法院案件的上訴及覆核，而終審法院在 2024 年釐清了關乎根據《裁判官條例》(第 227 章)第 113 條就裁判法院判決提出上訴的法律，意義重大。在此之前，一系列案例裁定就這類上訴而言，上訴法院只會在裁判官對事實的裁斷或對證人可信性的裁定明顯有錯的情況下，偏離該等裁斷或裁定。在香港特別行政區訴許麗琪 (2024) 27 HKCFAR 265 案中，終審法院解釋，這一系列案例不應予以遵循，因為這不符合以重審方式進行上訴的本質。第 113 條的上訴是以重審方式進行的上訴，審理上訴的法官有責任根據法庭席前的證據得出自己的結論，如其觀點與裁判官的觀點不同，這已構成足以支持上訴的錯誤。

The Court found the defendant guilty of all eight charges. It emphasised the seriousness of the offences, particularly given their prolonged duration, and sentenced the defendant to 22 weeks' imprisonment in total.

In *HKSAR v Lau Kwun-hei* ESCC 2041/2024, a 23-year-old teaching assistant in a secondary school was charged with one count of "breach of secrecy" under section 15(1) and (3) of the Hong Kong Examinations and Assessment Authority Ordinance (Cap. 261). She was an external invigilator of the 2024 Hong Kong Diploma of Secondary Education English Language Examination in another secondary school, and was permitted to keep copies of the examination materials. Shortly after the examination, she posted part of the examination materials on her RedNote (Xiaohongshu) account which offered online academic consultation and tuition services. The Hong Kong Examinations and Assessment Authority reported the case to the Police. She subsequently deleted the post. She was arrested by the Police and admitted under caution that she was eager to start an online tuition business. She pleaded guilty and was sentenced to two weeks' imprisonment and given a HK\$500 fine.

The two Magistrates' Courts sections also address cases related to animal welfare. In *HKSAR v Tse Ho-kwan* WKCC 5063/2023, a veterinarian was prosecuted for animal abuse at a pet clinic while administering a heartworm injection. He used a metal folding ladder to forcefully push a dog and jabbed its mouth with the ladder leg, resulting in severe bleeding and incontinence. He subsequently lifted the dog by its leash, causing it to lose consciousness for 15 minutes. CCTV footage from the clinic revealed that the defendant was shouting violently in a state of rage, while the dog appeared terrified and did not show any signs of aggression — the dog collapsed and remained still for two to three minutes post-attack. The Court dismissed the defendant's argument that his actions were meant to restrain the dog and hasten the injection. Following a trial, the Court determined that the defendant's violent behaviour was both excessive and unnecessary, and inflicted significant physical and psychological harm on the dog. The defendant's actions were labelled as cruel, and he was found guilty of "cruelty to an animal", leading to a sentence of three months' imprisonment. In reaching the sentence, the Court characterised the defendant's conduct as a grave disrespect for life and a betrayal of his professional duties.

The two sections are also responsible for appeals and reviews of Magistracy cases. 2024 is a year in which the Court of Final Appeal made a critical clarification of the law concerning magistracy appeals under section 113 of the Magistrates



## 海關案件組

海關案件組的律師負責處理由香港海關執法的案件，惟《危險藥物條例》(第 134 章)所規管的罪行除外。這些案件涉及多種由不同法例規管的罪行，當中包括與反走私、保護版權及商標、保障政府收入、保障消費者權益和不良營商手法有關的罪行。雖然這類案件大多由裁判法院審理，但性質較嚴重的會交予區域法院審理。下文載述一些被告在 2024 年被定罪和判刑，由該組處理並值得留意的案件。

在香港特別行政區訴呂鴻安及另一人 [2024] HKDC 1165 案中，香港海關截獲一個來自韓國的空郵包裹，申報載有書籍，卻檢獲未經申報的新台幣現鈔，總值約港幣 120 萬元。跟進調查發現，兩名非本地被告自 2022 年 12 月起曾多次把未經申報的現金輸入香港，以清洗犯罪得益，涉及的總額約達港幣 1,800 萬元。他們被裁定一項“串謀處理已知道或相信為代表從可公訴罪行的得益的財產”罪罪成，違反《有組織及嚴重罪行條例》(第 455 章)。第二被告另被裁定一項“安排輸入未經申報的貨幣及不記名可轉讓票據”罪罪成，違反《實體貨幣及不記名可轉讓票據跨境流動條例》(第 629 章)。他們分別被判監禁 28 個月及 30 個月。

在香港特別行政區訴洪恩典及另一人 [2024] HKDC 247 及 [2024] HKDC 329 案中，一批從馬來西亞運抵香港國際機場的空郵包裹被截獲，內有 240 公斤未經申報的穿山甲鱗片。跟進調查期間，海關人員在其他入境空郵包裹再檢獲約 200 公斤未經申報的穿山甲鱗片。檢獲的物品估計總值約港幣 170 萬元。第一被告因被檢獲的穿山甲鱗片被捕，經審訊後被裁定一項“串謀進口附錄 I 物種的標本”罪及一項“串謀管有或控制附錄 I 物種的標本”罪罪成，兩項罪行均違反《保護瀕危動植物物種條例》(第 586 章)及《刑事罪行條例》(第 200 章)。第一被告被判監禁 48 個月，而第二被告經審訊後被裁定罪名不成立。

Ordinance (Cap. 227). Previously, there was a line of authorities which held that on such an appeal, the appellate Court would only depart from a magistrate's finding of fact or determination of a witness's credibility if the finding or determination was plainly wrong. In *HKSAR v Hui Lai-ki* (2024) 27 HKCFAR 265, the Court of Final Appeal clarified that this line of authorities should not be followed, for it was inconsistent with the nature of an appeal by way of rehearing. Section 113 appeals are appeals by way of rehearing, and the appellate judge has a duty to come to his or her own conclusion based on the evidence before the Court: if a judge comes to a view different from that of the magistrate, that is a sufficient error to justify the appeal.

## Customs and Excise Section

Counsel of the Customs and Excise Section are responsible for handling cases concerning offences enforced by the Customs and Excise Department except those under the Dangerous Drugs Ordinance (Cap. 134). These cases encompass an extensive range of offences under various legislations, including offences pertaining to anti-smuggling, copyright and trademark protection, revenue protection, consumer rights protection, and unfair trade practices. While the majority of these cases are dealt with in the Magistrates' Courts, cases of more serious natures would be brought up to the District Court. Below are some noteworthy cases handled by the Section with the defendants convicted and sentenced in 2024.

In *HKSAR v Lu Hung-an and another* [2024] HKDC 1165, an air parcel from Korea declared as books was intercepted, and undeclared New Taiwan currency banknotes with a total value of around HK\$1.2 million were seized. Investigation revealed that two non-local defendants had repeatedly imported undeclared cash into Hong Kong to launder crime proceeds since December 2022, with the aggregate amount involved reaching about HK\$18 million. They were both convicted of one count of “conspiracy to deal with property known or believed to represent proceeds of an indictable offence”, in contravention of the Organized and Serious Crimes Ordinance (Cap. 455). The second defendant was additionally convicted of one count of “causing to be imported undeclared currency and bearer negotiable instruments”, contrary to the Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Cap. 629). They were sentenced to 28 months and 30 months of imprisonment respectively.

In *HKSAR v Hong Endian and another* [2024] HKDC 247 & [2024] HKDC 329, a batch of air parcels arriving from Malaysia to Hong



在香港特別行政區 訴 新匯藥業有限公司及另二人 FLCC 2107/2023 案中，海關人員從相關藥房檢獲一批新冠口服藥物，其成分經政府化驗所確認與包裝上的商品說明不符。藥物亦屬未經註冊藥劑製品，銷售與貯存受相關規例嚴格管制。涉案藥房及其銷售人員承認多項控罪，包括“供應及為銷售用途而管有附有虛假成分說明的新冠口服藥物”罪，違反《商品說明條例》（第 362 章），以及“銷售和管有未經註冊藥劑製品”罪，違反《藥劑業及毒藥規例》（第 138A 章）。涉案藥房及其銷售人員分別被判處罰款港幣 50,000 元及港幣 20,000 元。針對涉案藥房董事的控罪，最終以簽保守行為的方式處理。

在香港特別行政區 訴 梁儲衍 FLCC 1488/2022 及香港特別行政區 訴 優樂生活有限公司 FLS 11050/2022 案中，裝修公司及其董事向顧客作出虛假聲稱，表示將於指定日期展開裝修工程，惟最後並無向顧客提供任何服務，涉及的合約款項共約港幣 190,000 元。裝修公司及其董事各承認一項“應用虛假商品說明於裝修服務”罪，違反《商品說明條例》（第 362 章），並分別被判處罰款港幣 3,000 元及監禁八個月。案中董事的判刑是自《商品說明條例》於 2013 年 7 月修訂以來，法院對裝修服務不良營商手法判處的最高刑罰。

Kong International Airport were intercepted with about 240 kg of undeclared pangolin scales inside. In a follow-up investigation, Customs officers further seized about 200 kg of undeclared pangolin scales from other inbound air parcels. The total value of the seizures was estimated to be around HK\$1.7 million. The first defendant was arrested in connection with the seized pangolin scales and was convicted after trial of one count of “conspiracy to import specimens of Appendix I species” and one count of “conspiracy to possess or control of specimens of Appendix I species”, both in contravention of the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586) and the Crimes Ordinance (Cap. 200). He was sentenced to 48 months of imprisonment. The second defendant was acquitted after trial.

In *HKSAR v Sun Wui Medicine Company Limited and 2 others* FLCC 2107/2023, Customs officers seized from the concerned pharmacy a batch of COVID-19 oral drugs, the ingredients of which were confirmed by the Government Laboratory to not match the trade descriptions listed on their packaging. The drugs were also unregistered pharmaceutical products; their sale and storage were subject to strict control under the relevant regulations. The pharmacy and its salesperson pleaded guilty to various offences, including “supplying and possessing for sale COVID-19 oral drugs with false descriptions”, in contravention of the Trade Descriptions Ordinance (Cap. 362), and “selling and possessing unregistered pharmaceutical products”, in contravention of the Pharmacy and Poisons Regulations (Cap. 138A). The pharmacy and its salesperson were fined HK\$50,000 and HK\$20,000 respectively. The case against the director of the pharmacy was disposed of by way of a bind-over order.

In *HKSAR v Leung Chu-hin* FLCC 1488/2022 and *HKSAR v Yolo Living Limited* FLS 11050/2022, the renovation company and its director falsely claimed to a customer that renovation services would commence on a specified date; however, no services were provided to the customer in the end. The total contract amount involved was about HK\$190,000. The renovation company and its director each pleaded guilty to the offence of “applying a false trade description to renovation services”, in contravention of the Trade Descriptions Ordinance (Cap. 362), and were fined HK\$3,000 and sentenced to eight months of imprisonment respectively. The prison sentence the Court imposed on the director is the highest penalty for unfair trade practices related to renovation services since the Trade Descriptions Ordinance was amended in July 2013.