



# 分科三（上級法院）

Sub-division III (Higher Courts)

刑事檢控科的分科三負責上級法院（即原訟法庭和區域法院）審理的檢控。分科三的檢控官負責監督各個階段的檢控工作，從提供法律指引開始到跟進審訊，以至處理其後向上訴法庭及終審法院提出的上訴。

分科三設有六個組別：分科三第 1A、1B、1C 及 1D 組是原訟法庭的法律指引及訟辯組，而分科三第 2A 及 2B 組是區域法院法律指引及訟辯組。六個組別的檢控官主要負責就原訟法庭或區域法院審理的刑事罪行向執法機關提供法律指引，並須根據《檢控守則》所載的指引決定是否提出檢控。基本原則是，除非有充分的可接納證據令案件有合理機會達致定罪，而提出檢控乃符合公眾利益，否則不應展開檢控。

除了提供法律指引的職務，分科三的檢控官還會參與多項法庭工作，包括出席答辯及判刑聆訊、審訊、上訴案件及保釋申請。

分科三在 2024 年的工作範疇及一些值得注意的案件，現重點載述如下。

## 原訟法庭：分科三 第 1A、1B、1C 及 1D 組

分科三第 1A、1B、1C 及 1D 組的檢控官負責處理原訟法庭審理的嚴重刑事案件（例如謀殺、誤殺、強姦、販毒、綁架及持械搶劫）。檢控官根據《檢控守則》評估是否有足夠證據提出檢控和控罪是否合適，並會在提供法律指引後繼續與執法機關一同密切跟進後續的案件調查及籌備工作，然後交付原訟法庭作審訊或判刑。該等組別的檢控官亦會出席提訊日聆訊，協助案件適時交付原訟法庭。

就交付原訟法庭審訊的案件，檢控官會擬備及存檔公訴書，以及遞交“標明頁碼的交付文件冊”。他們會與相關案件的控方律師緊密聯絡，確保能有效而適當地在審訊中把證據呈現在法官和陪審團席前。就交付原訟法庭判刑的案件，檢控官會擬備

Sub-division III of the Prosecutions Division takes charge of prosecutions to be dealt with in the Higher Courts, namely, the Court of First Instance (“CFI”) and the District Court (“DC”). Public Prosecutors in the Sub-division oversee the conduct of such prosecutions from the advisory stage to trial, and subsequently to the appellate stage where appeals are lodged from such cases to the Court of Appeal (“CA”) and the Court of Final Appeal (“CFA”).

There are six sections under Sub-division III: sections III(1)(A), (B), (C) and (D) are the Court of First Instance Advisory & Advocacy sections, whereas sections III(2)(A) and (B) are the District Court Advisory and Advocacy sections. Public Prosecutors in these sections are primarily responsible for advising law enforcement agencies on criminal offences to be tried in the CFI or the DC. They must act in accordance with the guidelines set out in the Prosecution Code in making a decision to prosecute or not to prosecute. The fundamental principle is that unless there is sufficient admissible evidence so that the case has a reasonable prospect of conviction, and that it is in the public interest to prosecute, no prosecution should be commenced.

Apart from advisory duties, Public Prosecutors in Sub-division III also engage in various Court work including plea and sentence hearings, trials, appeals and bail applications.

The areas of work of Sub-division III in 2024 are set out below where some notable cases are highlighted.

## Court of First Instance: Sections III(1)(A), (B), (C) & (D)

Public Prosecutors in sections III(1)(A), (B), (C) and (D) handle serious criminal matters which are dealt with in the CFI, such as murder, manslaughter, rape, drug trafficking, kidnapping and armed robbery. In accordance with the Prosecution Code, they assess the sufficiency of evidence and the appropriate charges to be laid. After the giving of legal advice, Public Prosecutors continue to work closely with law enforcement agencies to follow up on further enquiries and preparation of the cases for committal to the CFI for trial or sentence. Public Prosecutors in the sections also attend return day hearings to facilitate the committal of cases to the CFI in a timely manner.

For cases committed to the CFI for trial, Public Prosecutors would deal with the preparation and filing of the indictment and lodging of the paginated committal bundle. They would liaise closely with prosecuting counsel of the case to ensure the effective and proper presentation of evidence before the judge



標明頁碼的“聽取對控罪的回答及判刑文件冊”，以及在原訟法庭出席判刑聆訊。他們亦會協助判刑法官去因應案件的所有情況判處公正公平的刑罰。

2024 年，交付原訟法庭的案件有 450 宗，其中 120 宗是交付審訊，而 330 宗是在被告認罪後交付判刑。此外，有 2 份公訴書是按上訴法院的重審令提交法庭存檔。

原訟法庭審理的重要案件包括：

- (1) 在香港特別行政區 訴 張煒倫 [2024] HKCFI 2540 案中，一名與被告人從不相識的 74 歲老翁於案發當日凌晨時分獨自一人在深水埗通州街散步時，突然遭被告用刀刺入胸口。受害人胸口傷勢嚴重，猶幸經緊急手術搶救成功。被告在警誡下表示他為了入獄，在街上隨意找個目標刺傷。被告承認“企圖謀殺”罪，被判監十年十個月。
- (2) 在香港特別行政區 訴 K.K.W. [2024] HKCFI 2978 案中，被告被控“強姦”罪、“亂倫”罪、“企圖強姦”罪、“猥褻侵犯”罪及“與年齡在 16 歲以下的兒童作出嚴重猥褻行為”罪。他曾多次非禮和強姦在案發時年齡僅介乎 9 至 12 歲的親生女兒。經審訊後，陪審團裁定被告所有罪名成立。法官考慮到被告毫無悔意，以及需表明公眾對被告所犯嚴重罪行的憎惡，判處被告監禁合共 17 年。
- (3) 香港特別行政區 訴 黃振強及另四人 [2024] HKCFI 3416 案是香港首宗援引《聯合國（反恐怖主義措施）條例》（第 575 章）所訂罪行作檢控的案件，關乎一項殺害警員的計劃。案中的串謀者策劃於 2019 年 12 月 8 日公眾遊行期間，趁着把警員誘至軒尼詩道之際，引爆設置在該處的兩枚炸彈，並打算在爆炸後用槍射殺警員。該計劃因部分核心成員於 2019 年 12 月 8 日凌晨時分被捕而告終。各被告被控干犯不同罪行，包

and the jury at trial. For cases committed to the CFI for sentence, Public Prosecutors would prepare the paginated plea and sentence bundle and attend the sentencing hearing in the CFI. They would assist the sentencing judges in imposing sentences which are just and fair in all the circumstances of the case.

In 2024, 450 cases were committed to the CFI, of which 120 cases were committed for trial and 330 cases were committed for sentence upon pleas of guilty by the defendants. In addition, 2 indictments were filed pursuant to orders for retrial made by the appellate courts.

Significant cases heard in the CFI include:

- (1) *HKSAR v Cheung Wai-lun* [2024] HKCFI 2540, a 74-year-old man walking alone at Tung Chau Street, Sham Shui Po in the early hours of the day was suddenly stabbed in the chest by the defendant who was unknown to the victim prior to the incident. The victim suffered a severe wound to his chest but was fortunately rescued in a successful emergency operation. When cautioned, the defendant stated that he had randomly looked for a target to stab on the street in order to get imprisoned. The defendant pleaded guilty to “attempted murder” and was sentenced to 10 years and 10 months’ imprisonment.
- (2) *HKSAR v K.K.W.* [2024] HKCFI 2978, the defendant was charged with offences of “rape”, “incest”, “attempted rape”, “indecent assault” and “committing acts of gross indecency with a child under 16”. He had repeatedly molested and raped his own daughter who was only aged between 9 and 12 at the time of the offences. He was convicted of all counts by the jury after trial. Considering that the defendant had demonstrated no remorse and the need to mark the public abhorrence of his serious crimes, the judge imposed a total sentence of 17 years’ imprisonment on the defendant.
- (3) *HKSAR v Wong Chun-keung and 4 others* [2024] HKCFI 3416, the first case in Hong Kong in which offences under the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) were invoked for prosecution. The case related to a plot to kill police officers in which the conspirators planned to set up and ignite two bombs on Hennessy Road when police officers were drawn to the scene during a public procession on 8 December 2019. After the explosion, guns would be used to shoot and kill police officers. The plot was brought to a halt following the arrest of some of its key members in the early hours of 8 December 2019. The defendants were respectively charged with different offences, including

括“串謀犯對訂明標的之爆炸”罪、“串謀提供或籌集財產以作出恐怖主義行為”罪、“串謀謀殺”罪，以及“意圖危害生命而管有槍械及彈藥”罪。共有九名被告被定罪和判處監禁，最高刑期為 23 年 10 個月。

- (4) 在香港特別行政區訴文達仁 [2025] HKCFI 564 案中，被告從來不是一名註冊中醫或表列中醫，但仍數度為案中死者進行針灸治療，而被告最後一次為死者施針時，死者曾投訴無法呼吸，送院後當晚證實死亡。被告承認控罪，被裁定“誤殺”罪及“未經註冊作中醫執業”罪罪成，判監合共六年。

## 區域法院：分科三 第 2A 及 2B 組

分科三第 2A 及 2B 組的檢控官主要負責就區域法院處理的案件向執法機關提供法律指引。兩個組別就多種刑事罪行提供指引，包括欺詐和洗黑錢等商業罪行，以至販毒、意圖傷人和性罪行等嚴重罪行。兩個組別亦會處理嚴重交通意外所引致的罪行，因這類罪行的刑罰或會超出裁判法院的判刑上限。

除肩負提供法律指引的職責外，分科三第 2A 及 2B 組的檢控官還會為區域法院審理的案件準備案件審前工作。他們與執法機關及參與審訊的檢控官保持緊密聯繫，確保案件在審訊前得到妥善及充分的準備。兩個組別的檢控官也定期在答辯日出庭，協助區域法院訂定審訊、審前覆核及答辯和判刑聆訊的日期。檢控官會出席答辯和判刑聆訊，協助法官在判刑時準確掌握案情，從而向被告判處公平恰當的刑罰。他們亦會在區域法院出席審訊，並處理其後向上訴法庭及終審法院提出的上訴。

2024 年對兩個組別而言繼續是充滿挑戰的一年。兩個組別共接獲 2,238 宗需索取法律指引的案件。除了尚待進一步調查而未結案

“conspiracy to commit bombing of prescribed objects”, “conspiracy to provide or collect property to commit terrorist acts”, “conspiracy to murder” and “possession of arms and ammunition with intent to endanger life”. A total of nine defendants were convicted and sentenced up to 23 years and 10 months’ imprisonment.

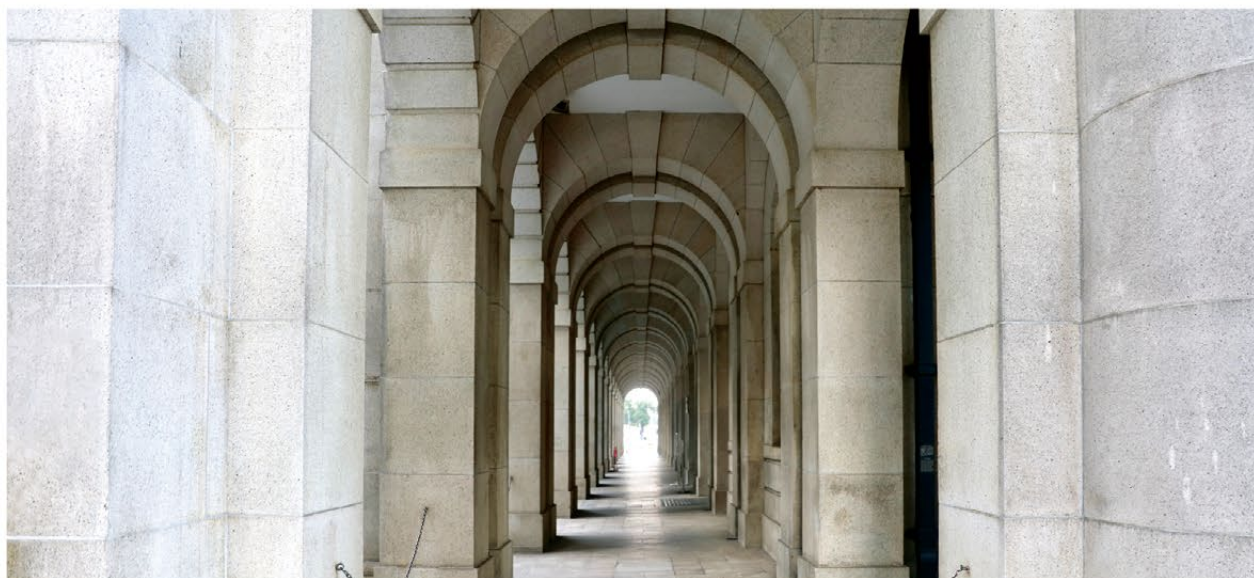
- (4) *HKSAR v Man Tat-yan* [2025] HKCFI 564, the defendant, who was never a registered Chinese medicine practitioner or a listed Chinese medicine practitioner, performed acupuncture treatment on the deceased on multiple occasions. On the last occasion when the defendant performed such treatment on the deceased, the deceased complained that she could not breathe and was sent to the hospital where she was certified dead on the same night. The defendant was convicted of “manslaughter” and “practicing Chinese medicine without registration” upon his guilty plea and was sentenced to a total term of six years’ imprisonment.

## District Court: Sections III(2)(A) & (B)

Public Prosecutors in sections III(2)(A) and (B) are primarily responsible for providing legal advice to law enforcement agencies on cases to be dealt with in the DC. The sections advise on a variety of criminal offences ranging from commercial crimes such as fraud and money laundering to hard crimes such as drug trafficking, wounding with intent and sexual offences. The sections also deal with offences arising from serious traffic accidents which may attract sentences beyond the sentencing limits of the magistracy.

Apart from their advisory duties, Public Prosecutors in sections III(2)(A) and (B) conduct trial preparation for cases to be tried in the DC. They maintain close liaison with law enforcement agencies as well as trial prosecutors to make sure that cases are properly and sufficiently prepared for trial. Public Prosecutors in the two sections also regularly appear in the DC on plea days to assist the Court in the fixing of trial dates, pre-trial reviews and plea and sentence hearings. Public Prosecutors attend plea and sentence hearings to assist sentencing judges in grasping the facts of the case accurately and sentencing the defendants fairly and properly. They also prosecute trials in the DC and conduct subsequent appeals before the CA and the CFA.

The year of 2024 has continued to be a challenging year for the sections. The sections received a total of 2,238 cases for legal



的案件、建議在其他級別法院審理的案件及建議不予進行法律程序的案件外，2024 年共有 1,624 宗案件轉交區域法院處理。

以下是兩個組別的檢控官在 2024 年處理的一些重要和值得注意的案件：

(1) 在香港特別行政區 訴 趙詠茜及另二十人 [2024] HKDC 107、[2024] HKDC 1101、[2024] HKDC 1606、[2023] HKDC 1811 及 [2024] HKDC 1645-1652 案中，21 名被告被控共 160 項“看管兒童的人虐待或忽略兒童”罪。被告均在童樂居（香港保護兒童會轄下一間營運中心）任職幼兒工作員或幼兒工作助理。2021 年 12 月 17 日，香港保護兒童會接獲一名鄰近居民的電郵，指從睡房俯視童樂居的戶外操場，發現有童樂居職員在其戶外康樂設施襲擊兒童。經警方調查並翻查所得的閉路電視片段後，發現共有 407 宗虐兒事件，而大部分事件涉及上述 21 名被告。在 21 名被告中，19 名在認罪或經審訊後被裁定罪成。趙詠茜承認合共 54 項控罪，被裁定罪成和判處監禁五年四個月。

(2) 在香港特別行政區 訴 Shabbir Asim [2024] HKDC 2004 案中，被告被控一項“向年齡在 16 歲以下的兒童作出猥褻

advise. Apart from cases which were yet to be finalised pending further investigation, cases advised to be heard at other levels of court and cases advised not to be proceeded with, a total of 1,624 cases were transferred to the DC in the year of 2024.

The following are examples of some significant and notable cases handled by Public Prosecutors of these sections in 2024:

(1) *HKSAR v Chiu Wing-sin and 20 others* [2024] HKDC 107, [2024] HKDC 1101, [2024] HKDC 1606, [2023] HKDC 1811 and [2024] HKDC 1645-1652, 21 defendants were charged with a total of 160 counts of “ill-treatment or neglect of child by persons in charge of that child”. The defendants were either childcare workers or assistants at Children’s Residential Home (“CRH”), one of the operating centres under the Hong Kong Society for the Protection of Children (“HKSPC”). On 17 December 2021, the HKSPC received an email from a nearby resident whose bedroom overlooked the playground of CRH, alleging that some staff members of CRH were assaulting the children at its outdoor recreational facility. Upon investigation by the Police who reviewed the available CCTV footage, a total of 407 child abuse incidents were revealed and the said 21 defendants were respectively involved in the majority of those cases. Out of the 21 defendants, 19 were convicted either after trial or on their own pleas. Chiu Wing-sin, who was convicted of a total of 54 charges on her own pleas, was sentenced to five years and four months’ imprisonment.

(2) *HKSAR v Shabbir Asim* [2024] HKDC 2004, the defendant was charged with one count of “indecent conduct towards a child under 16”, two counts of “indecent assault” and one



行為”罪、兩項“猥褻侵犯”罪，以及一項“作出一項傾向並意圖妨礙司法公正的作為”罪。被告在 2017 年至 2021 年期間，多次非禮朋友當時年僅 7 至 11 歲的女兒。被告更威脅事主，如她向他人披露事件，便會殺死她的母親。被告經審訊後被裁定所有罪名成立，判監合共五年六個月。

- (3) 香港特別行政區 訴 張栢浩 [2024] HKDC 1069 案的被告為一名巴士迷，他在凌晨時分闖入九龍巴士公司兩個站長室，偷去多份巴士路線圖和巴士時間表。被告認罪後，被裁定兩項“入屋犯法”罪罪成，判監合共六個月。

- (4) 在香港特別行政區 訴 高衛健 [2024] HKDC 932 案中，被告被控一項“以欺騙手段取得財產”罪和四項“欺詐”罪。他用不同的偽名透過社交平台或親身接觸多名受害人，聲稱可協助受害人還清欠債，並慫恿他們購買金飾、開設銀行戶口及 / 或以他們的名義借貸。多名受害人把貴重財物、銀行卡和支票簿交予被告，但他沒有履行承諾為該些受害人還款。被告承認全部控罪，被裁定罪成和判處監禁合共一年七個月。

- (5) 在香港特別行政區 訴 C.Y.S. 及 W.Y.C. [2024] HKDC 1544 案中，事發時兩名被告育有兩名分別為兩歲和六歲的男童。他們於 2021 年 11 月 4 日深夜至翌日清晨期間，嘗試在兩名兒子睡覺時，在他們的寢室內燒炭自殺。兩人最後終止試圖自殺，而兩名男童沒有受傷或患病。事件是稍後在警員到達涉事單位查問並嗅到單位傳出燒炭氣味而被揭發的。兩名被告經審訊後被裁定“對所看管兒童虐待或忽略”罪罪成，判監九個月。

- (6) 在香港特別行政區 訴 郭展昇及另七人 [2024] HKDC 1520 及 [2024] HKDC 1762 案中，事發時為在職警務人員的八名被告被控“妨礙司法公正”罪、“藉公職作出不當行為”罪、“對他人

count of “doing an act tending and intended to pervert the course of public justice”. He had molested his friend’s daughter on numerous occasions between 2017 and 2021 when she was only aged between 7 and 11. The defendant further threatened to kill the complainant’s mother if the complainant disclosed the incidents to others. The defendant was convicted of all charges after trial and was sentenced to a total of five years and six months’ imprisonment.

- (3) *HKSAR v Cheung Pak-ho* [2024] HKDC 1069, the defendant was a bus enthusiast and trespassed into two Kowloon Motor Bus regulator offices in the small hours for stealing bus route maps and bus schedules. He was convicted of two counts of “burglary” upon his guilty pleas and was sentenced to a total of six months’ imprisonment.

- (4) *HKSAR v Ko Wai-kin* [2024] HKDC 932, the defendant was charged with one count of “obtaining property by deception” and four counts of “fraud”. He had approached the victims via social media platforms or in person using false names, claiming that he could help the victims clear their outstanding debts and urging the victims to buy gold accessories, open bank accounts and/or obtain loans in their names. The valuables, bank cards and cheque books were given to the defendant but he did not repay the victims as promised. He was convicted of all charges upon his own plea and was sentenced to a total term of one year and seven months’ imprisonment.

- (5) *HKSAR v C.Y.S. and W.Y.C.* [2024] HKDC 1544, the two defendants were the parents of two boys aged two and six respectively at the time of the incident. Between the late night of 4 November 2021 and the morning of the next day, they tried to commit suicide by burning charcoal in their bedroom where their sons were sleeping. They eventually desisted from the attempt and no injury or illness was sustained by the two boys. The incident was unveiled when the Police later attended the flat for enquiry and noticed the smell of burnt charcoal inside the flat. The defendants were both convicted after trial of “ill-treatment or neglect of children by persons in charge of those children” and were sentenced to nine months’ imprisonment.

- (6) *HKSAR v Kwok Chin-sing and 7 others* [2024] HKDC 1520 and [2024] HKDC 1762, the eight defendants were serving police officers at the time of the incident and were charged with offences of “perverting the course of public justice”, “misconduct in public office”, “inflicting grievous bodily

身體加以嚴重傷害”罪及“刑事損壞”罪。該案涉及眾被告分別於兩天在深水埗通州街公園虐待兩名露宿者。2020年2月4日，其中兩名被告意圖遮蓋閉路電視，以防止眾被告在案發現場的行為被攝錄。另外三名被告其後在其警員記事冊及／或證人供詞作出虛假記錄，指一名露宿者管有危險藥物，但有關記錄與設於案發現場附近的閉路電視所攝錄的片段不符。兩名被告後來成功遮蓋閉路電視，阻止案發現場情況被攝錄。案中其中六名被告經審訊後被裁定有關控罪罪成和判處監禁，最高刑期為三年五個月。

harm” and “criminal damage”. The case concerned the maltreatment of two street sleepers by the defendants at Tung Chau Street Park in Sham Shui Po on two days. On 4 February 2020, two of the defendants attempted to cover up a CCTV camera to prevent it from capturing the defendants’ actions at the scene. Three other defendants then falsely made a record in their police notebooks and/or witness statements that a street sleeper was in possession of dangerous drugs, contrary to what was captured by the CCTV camera installed nearby. Two defendants later successfully covered up the CCTV camera to prevent it from capturing what was to happen at the scene. Six of the defendants were convicted after trial of their respective charges and were sentenced to imprisonment of up to three years and five months.

## 上訴法庭和終審法院審理的上訴案件

## Appeals before the CA and the CFA

除上述六個組別的職務外，本分科的檢控官也負責處理所有由區域法院和原訟法庭的檢控所衍生並提交上訴法庭及終審法院審理的上訴案件（由其他分科處理涉及商業罪行和科技罪行的案件除外）。上訴法庭審理的事宜包括被告就下級法院的定罪及／或所判處的刑罰提出的上訴及上訴許可申請。2024年，由被定罪的被告提出的上訴申請有282宗，其中116宗被駁回，32宗獲判得直，134宗由被告放棄上訴。

Apart from the responsibilities of the six sections mentioned above, Public Prosecutors in the Sub-division are also responsible for overseeing all appeal cases heard in the CA and the CFA arising from prosecutions in the DC and the CFI, other than cases involving commercial crimes and technology crimes which are handled by other Sub-divisions. Matters heard in the CA included appeals and applications for leave to appeal lodged by defendants against their convictions and/or sentences from the lower courts. In 2024, 282 appeal applications were brought by the convicted defendants, of which 116 were dismissed, 32 were allowed and 134 were abandoned.

就區域法院裁定被告無罪的案件而言，檢控官會適時考慮控方應否根據《區域法院條例》（第336章）第84條，以案件呈述方式提出上訴。只有經過慎重考慮案件的所有情況後，以及在無罪裁定涉及錯誤的法律觀點或裁定屬有悖常情（即合理的事實裁斷者按照案情不會作出如此裁決）的情況下，才會決定以案件呈述方式提出上訴。

In cases where the defendant is acquitted in the DC, Public Prosecutors would promptly consider whether or not an appeal should be lodged by the Prosecution by way of case stated under section 84 of the District Court Ordinance (Cap. 336). Decisions to appeal by way of case stated are taken only after careful consideration of all the circumstances of the case, and only where an acquittal involves an erroneous point of law, or is one that is perverse in the sense that no reasonable tribunal of fact would have reached the same conclusion, will an appeal by way of case stated be pursued.

此外，六個組別的檢控官也會考慮原訟法庭或區域法院所判處的刑罰是否合適，以及應否根據《刑事訴訟程序條例》（第221章）第81A條向上訴法庭提出覆核刑罰申請。如同以案件呈述方式提出上訴的決定，只有經過慎重考慮案件的所有情況後，在

Besides, Public Prosecutors in the six sections also consider the appropriateness of sentences passed in the CFI or the DC and whether or not an application for review of sentence should be made to the CA under section 81A of the Criminal Procedure Ordinance (Cap. 221). Similar to decisions to appeal by way of case stated, decisions to lodge applications for review of



認為刑罰有原則上錯誤及 / 或明顯不足或過重的情況下，才會決定申請覆核刑罰。

2024 年，律政司司長共提出四宗覆核刑罰申請。該四宗申請均屬區域法院案件，其中兩宗在年內由上訴法庭審理，均獲判得直。

有些案件涉及具有重大而廣泛的重要性的法律論點，或曾有實質及嚴重的不公平情況，因而需由終審法院考慮下級法院的裁決。2024 年，在區域法院及原訟法庭被定罪的被告向終審法院提出的上訴許可申請有 71 宗，其中七宗獲批上訴許可。在 2024 年裁決的上訴案件中，有六宗獲終審法院判處得直，另有兩宗被駁回。

以下是一些值得注意的案件：

- (1) 在律政司司長 訴 陳皓傑 [2024] 6 HKC 641 案中，答辯人就兩宗涉及欺詐保釋金的電話詐騙案承認一項“串謀詐騙”罪及一項“洗黑錢”罪，案中騙徒向年長的受害人訛稱他們的兒子被捕並需要保釋金。判刑法官判處答辯人監禁合共兩年兩個月。律政司司長以法庭判刑明

sentence are only taken after careful consideration of all the circumstances of the case. Such applications will only be made where it is considered that a sentence is wrong in principle and/or manifestly inadequate or excessive.

In 2024, a total of four applications for review of sentence were lodged by the Secretary for Justice. All four applications were arising from the DC. Two of those applications were heard by the CA within that year and both were allowed.

There are cases involving points of law of great and general importance, or where substantial and grave injustice has been done, which require consideration by the CFA of the decisions of the lower courts. In 2024, 71 applications for leave to appeal were brought by convicted defendants in the DC and the CFI to the CFA, in which leave to appeal was granted in seven cases. For appeals decided in 2024, six appeals were allowed by the CFA and two appeals were dismissed.

Below are some notable cases:

- (1) *Secretary for Justice v Chan Ho-kit* [2024] 6 HKC 641, the respondent pleaded guilty to one count of “conspiracy to defraud” and one count of “money laundering” for two telephone deception offences involving bail money scams in which the fraudsters falsely represented to the elderly victims that their sons were arrested and needed money for bail. He was sentenced to a total term of two years



顯不足及原則上錯誤為由，申請覆核刑罰。鑑於這類電話詐騙顯然旨在利用受害人急於幫助親人的心理，令受害人深感恐慌，上訴法庭批准律政司司長的申請，並裁定“串謀詐騙”罪的適當量刑起點為監禁四年。另外，鑑於答辯人顯然對所涉的電話詐騙並非只有粗略的理解，上訴法庭也裁定“洗黑錢”罪的適當量刑起點為監禁三年。因此，上訴法庭改判答辯人監禁四年。

- (2) 在香港特別行政區 訴 詹心榮 (2024) 27 HKCFAR 332 案中，上訴人被裁定兩項“謀殺”罪及兩項“意圖造成身體嚴重傷害而射擊”罪罪成。案中被告安排家人共進午膳以討論已故外婆的遺產分配事宜，之後邀請多名家人前往鄰近公園，繼而用手槍擊斃其中兩人和射傷另外兩人。在審訊期間，她就兩項“謀殺”罪提出因神志失常而減責的免責辯護。陪審團裁定她的所有罪名成立，上訴法庭也駁回她就定罪提出的上訴許可申請。她獲批許可就以下法律問題向終審法院提出上訴：《殺人罪行條例》(第339章)第3(2)條對上訴人施加法律責任，要求她根據相對可能性的衡量準則證明自己當時受減責神志失常影響，是否不合理地減損上訴人的無罪推定權利？終審法院一致駁回上訴人的上訴，並裁定該條例第3(2)條沒有觸及或減損無罪推定原則，因為上訴人引用該項免責辯護時並非假定無罪的人。

- (3) 在香港特別行政區 訴 李名豪 [2024] 1 HKLRD 1186 案中，上訴法庭就販毒罪行的量刑原則進行全面檢討。繼在香港特別行政區 訴 Herry Jane Yusuph [2021] 1 HKLRD 290 案中訂立經修訂的量刑方式(該方式明顯更着重評估犯案者的角色及罪責)後，法庭進一步檢討在香港特別行政區 訴 Abdallah [2009] 2 HKLRD 437 及香港特別行政區 訴 鍾炳焜 [2014] 6 HKC 106 案中所闡述的量刑方式是否仍然有效。上訴法庭指出六個與 Abdallah 一案所述的量刑方式相關

and two months' imprisonment by the sentencing judge. The Secretary for Justice made an application for review of sentence on the basis that the sentence imposed was manifestly inadequate and wrong in principle. The CA allowed the Secretary's application and held that a starting point of four years' imprisonment would be appropriate for the charge of "conspiracy to defraud" given that such telephone deception was clearly aimed at exploiting the victims' urge to help their relatives and putting them in great fear. The Court also held that a starting point of three years' imprisonment was appropriate for the "money laundering" charge given that the respondent clearly had more than a sketchy understanding of the telephone deception involved. Accordingly, the Court substituted a sentence of four years' imprisonment.

- (2) *HKSAR v Tsim Sum-kit, Ada* (2024) 27 HKCFAR 332, the appellant was convicted of two counts of "murder" and two counts of "shooting with intent to do grievous bodily harm". After a family lunch arranged to discuss the division of her late grandmother's estate, the defendant invited various family members to a nearby park. She then killed two of them and wounded two others with a pistol. At trial, she raised the defence of diminished responsibility to the "murder" counts. She was convicted by the jury on all counts and her application for leave to appeal against conviction was dismissed by the CA. She was granted leave to appeal to the CFA on the legal question of whether section 3(2) of the Homicide Ordinance (Cap. 339) unjustifiably derogated from the appellant's right of presumption of innocence by placing a legal burden on the appellant to establish, on a balance of probabilities, that she was suffering from diminished responsibility. The CFA unanimously dismissed the appellant's appeal and concluded that section 3(2) of the Ordinance did not engage or derogate from the presumption of innocence as the appellant was not someone presumed innocent at the point when she invoked the defence.
- (3) *HKSAR v Lee Ming-ho* [2024] 1 HKLRD 1186, the CA conducted a comprehensive review of the sentencing principles for drug trafficking offences. Following the introduction of the revised sentencing approach in *HKSAR v Herry Jane Yusuph* [2021] 1 HKLRD 290 which places significantly more emphasis on an assessment of the offender's role and culpability, the Court further reviewed whether the sentencing approach enunciated in *HKSAR v Abdallah* [2009] 2 HKLRD 437 and

的主要問題，並提出經修訂的量刑方式。這項判決補充了上訴法庭在 *Herry Jane Yusuph* 案中的判詞，並應與該判詞一併閱讀。雖然量刑方式有變，但法庭明確表示不預期這項判決會導致刑罰上訴湧現。

- (4) 在香港特別行政區 訴 張祺忠 [2025] 1 HKLRD 481 案中，上訴人是本港一所大學的工程學院副教授。他用一段電線纏繞其妻子的頸部，把她勒斃。上訴人在審訊時承認殺害死者，但依據他被激怒及因神志失常而減責作為局部免責辯護，並傳召兩名精神科醫生及一名心理學家以支持該等辯護。控方沒有援引專家證據來反駁該等局部免責辯護，但依據上訴人在殺人之前、期間和之後的行為，證明該案既非關乎被激怒，亦非關乎因神志失常而減責。上訴法庭審視了因神志失常而減責這項免責辯護的元素、即使辯方援引的精神科專家證據沒有被反駁，仍可妥為撤回謀殺控罪而不讓陪審團考慮的情況的罕見性、法官就“大為減輕”向陪審團作出的指示、以及關於“大為減輕”這個爭議點的心理學家證據的可呈堂性。法庭裁定，法官指示陪審團在考慮因神志失常而減責時無須理會心理學家證據，構成重大的不當之處，使有關上訴人的審訊變得不公平，因而下令重審。

*HKSAR v Chung Ping-kun* [2014] 6 HKC 106 remained valid. The CA identified six essential problems associated with the approach promulgated in *Abdallah* and proposed a revised sentencing approach. This judgment complements what the CA has said in *Herry Jane Yusuph*, and should be read in conjunction with it. Notwithstanding the change in sentencing approach, the Court expressly stated that it does not expect a floodgate of sentence appeals as a result of this judgment.

- (4) *HKSAR v Cheung Kie-chung* [2025] 1 HKLRD 481, the appellant was an Associate Professor in the Faculty of Engineering at a local university. He killed his wife by encircling her neck with a length of electric wire. At trial, the appellant admitted killing the deceased but relied on the partial defences of provocation and diminished responsibility, calling two psychiatrists and a psychologist in support of those defences. The Prosecution did not adduce expert evidence to rebut those partial defences but relied on the appellant's conduct before, during and after the killing to prove that it was neither a case of provocation nor diminished responsibility. The CA addressed the elements of the defence of diminished responsibility, the rarity of cases where the charge of murder may properly be withdrawn from the jury even when the psychiatric evidence adduced by the Defence is uncontradicted, the direction to the jury on "substantial impairment" and the admissibility of psychological evidence on the issue of "substantial impairment". The Court held that the judge's direction to the jury to ignore the psychological evidence when considering diminished responsibility constituted a material irregularity and rendered the appellant's trial unfair. A retrial was ordered.