

**For information
on 25 November 2002**

**Legislative Council Panel on
Administration of Justice and Legal Services**

**Policy Portfolios and Objectives of
the Department of Justice**

The Secretary for Justice is very pleased to attend before the Honourable Members of the LegCo Panel on Administration of Justice and Legal Services to present the Policy portfolios and objectives of the Department of Justice for the first time in the current session of Legislative Council.

Our Mission

2. The mission of the Department of Justice is to uphold the rule of law, provide efficient and effective legal services to the Hong Kong Special Administrative Region Government, and to maintain and improve the present legal system. This is to be achieved through:

- Formulating and promoting legal policy enshrining the rule of law, developing the legal system, constitutional law, human rights and legislative procedures and advising the Chief Executive in the exercise of his powers on pardon, petitions and complaints;
- Drafting legislation that will comply with the requirements of clarity, enforceability and precision, in conformity with the Basic

Law and its human rights provisions, and in accordance with legal policy;

- Making prosecutorial decisions, conducting prosecutions and giving advice to law enforcement agencies in accordance with the fundamental principles of criminal justice in a process that is fair, transparent, objective and accountable;
- Providing sound legal advice and efficient legal services to the Government on civil law matters, undertaking civil litigation, insider dealing and market misconduct inquiries, drafting licences, franchises and contracts and on commercial matters;
- Working to maintain high standards of public administration in accordance with the rule of law and presenting the Government's case to the Judiciary, in judicial reviews and other administrative proceedings;
- Providing expertise on international law issues, negotiating international agreements, giving advice to Bureaux and Departments on international legal issues and handling requests for international legal co-operation and mutual legal assistance;
- Promoting awareness of the legal system and understanding of the rule of law locally and overseas, and developing efficient and effective bilingual legal services;
- Contributing towards the reform and improvement of legal education, administration of justice and legal services and facilitating the development of the legal profession and exchanges between local and the Mainland and foreign lawyers.

3. In the day-to-day operation of this Department, we adhere to these principles and objectives, applying our professional expertise and constantly reviewing our performance.

Policy portfolios

4. The Department of Justice comprises six divisions, five of which are professional divisions each headed by a Law Officer to whom the Secretary of Justice delegates certain of her powers and responsibilities. They are :

- (a) *The Legal Policy Division*, headed by the Solicitor General, gives legal policy advice in respect of matters currently being considered by the Government. It also advises on issues affecting the administration of justice, human rights, the legal system, the Basic Law, constitutional law and the law in the Mainland. It plays an active role in promoting understanding of the Hong Kong's rule of law and the Basic Law locally, overseas and in the Mainland as well as participating in the promotion of legal education and legal services in Hong Kong, and liaison with the legal profession. It also provides secretariat support and research expertise to the Law Reform Commission.
- (b) *The Prosecutions Division*, headed by the Director of Public Prosecutions, conducts criminal prosecutions in accordance with Article 63 of the Basic Law and the established Prosecutions Policy. It advises the Police and other Government

departments responsible for the prosecution of offences and in respect of criminal law. Within the Prosecutions Division are the Trial Preparation Sections, the Police Advice (Magistrate's Court) and Court Prosecutors Section, which also advise on vice and obscene articles; the Management and Training Section; the Court Specialists Sections including Triad and Organised Crimes and Customs and Excise; the Basic Law, Bill of Rights, Complaints Against Police and Gambling Section; the Appeals and Narcotics Policy Co-ordination Section; the Research, General Advice and Immigration Section; the Advocacy and Labour Section; the Commercial Crime Sections, which advise on asset recovery and inland revenue, computer crime and copyright, general fraud and public and private sector corruption.

- (c) *The Civil Law Division*, headed by the Law Officer (Civil Law), provides legal advice on civil law to all Government Bureaux and Departments and represents the Government both as solicitors and barristers in all civil litigation, including arbitrations. Specialist units advise on building and planning law, on the drafting of Government contract documents and on matters relating to the civil service, and legislative proposals of Bureaux and Departments including the preparation of drafting instructions for new legislation or amendment to existing legislation.
- (d) *The Law Drafting Division*, headed by the Law Draftsman, is

responsible for the drafting of all Government legislation of the HKSAR, providing comprehensive legal advice on the planning of legislative proposals, vetting all subsidiary legislation produced by statutory bodies and assisting in steering Government legislation through the Executive and Legislative Councils.

- (e) *The International Law Division* is headed by the Law Officer (International Law). It provides advice on public international law to the Government and negotiates, or provides legal advisers on negotiations, for bilateral agreements. The Mutual Legal Assistance Unit under this Division handles and co-ordinates requests to and from the HKSAR concerning surrender of fugitive offenders, mutual legal assistance and transfer of sentenced persons, etc.

In addition, there is the Administration and Development Division which is headed by the Director of Administration and Development, who is also the controlling officer of the Department. The Director is responsible for reporting to the Legislative Council on the finances of the Department of Justice and oversees the Public Relations and Information Unit of the Department. As a whole, the Division deals with the many and varied matters involved in running a major government department, including administrative, financial, accounting and management services; office automation, training; library; general translation services; recruitment; personnel; and office accommodation, etc.

Policy Objectives 2002-2003

5. The major policy objectives of the Department of Justice for July 2002 to June 2003 are formulated in accordance with the mission set forth in paragraph 2 above. The main objectives are:

Legal education, profession and services

- Implementation of the Legal Education Review: conversion of 3 to 4 years LLB course, and major changes to vocational legal training, and replacing the Advisory Committee on Legal Education by a new pro-active statutory body;
- Commissioning a socio-legal research into the unmet need for legal services;
- Continuing dialogue with the Law Society and the Bar Association on higher right of audience; looking into the suitability of introducing conditional fees;
- Promoting Hong Kong as a legal services centre; facilitating law firms setting up offices in the Mainland and promoting closer co-operation and exchanges between Hong Kong and Mainland law firms; facilitating exchanges between Hong Kong and Mainland lawyers through mock-trials and Common Law Training Programme for Mainland officials;
- Maintaining links with lawyers of other jurisdictions, particularly common law jurisdictions, and facilitating exchanges to improve the professional standards of Hong Kong lawyers;
- Participating in conferences, seminars, forums, school visits,

media interview, etc. to disseminate legal knowledge to members of the public;

Fulfilling reporting obligations under UN Conventions

- Assisting Policy Bureaux in the preparation and presentation at hearings of UN Committees, of reports by the HKSAR pursuant to the 6 human rights conventions applicable to Hong Kong: ICCPR, ICESCR, CEDAW, CRC, CAT and CRD;

Criminal justice

- Reviewing and publishing the Statement of Prosecution Policy and Practice to reflect changes in the law and to meet the public's expectations on transparency and accountability (completed in November, 2002), publishing a Yearly Review and Criminal Appeals Bulletin in order to promote awareness of the latest developments in the criminal law;
- Conducting criminal prosecutions; the estimated number of new prosecutions in 2003 is 211,730, and estimated number of serious crimes to be tried in the Court of First Instance in 2003 is 372;
- Developing expertise in specialised areas such as computer crimes, organized and serious crimes, transnational crimes, etc.
- Promoting uniformity and continuity in sentencing and assisting the lower courts through the appeals and review mechanisms to establish or vary sentencing tariffs or guidelines;
- Taking part proactively in the activities of the International Association of Prosecutors to contribute to the development of

prosecution thinking at the international level, and to promote the image of the prosecuting authority of Hong Kong;

- Promoting better understanding and co-operation between the Hong Kong Police Force and other law enforcement agencies to encourage shared values for an effective and just criminal justice system in Hong Kong.

Services to the Government

- Participating in judicial review proceedings on behalf of the Government and ensuring through such process high standards of public administration in accordance with the rule of law;
- Assisting Policy Bureaux in promoting business ethics and enhancing the efficiency of the regulatory system in financial and trade activities, and securities and corporate governance through insider dealings and market misconduct proceedings;
- Advising Government Bureaux and Departments in administrative and policy matters to ensure full compliance with the Basic Law, human rights law, legal policy and in brief the rule of law;
- Attending before various Panels to brief Members and to seek their views on legal issues and legal policy issues; working to improve the relationship between the Executive and Legislature through the establishment and improvement of legislative procedures;

Legislative Work

- Carrying out drafting instructions from Bureaux and

Departments as may be included in the Legislative Programme of the Government (see List of Bills submitted by the Director of Administration to the House Committee of the Legislative Council on the 8 October, 2002);

- Undertaking a computer enhancement project to improve the usability of the Laws of Hong Kong (known as BLIS) and in particular to enable the public to print and download the entire enactments from BLIS using common internet browsers.

International and Transnational Co-operation

- Negotiating a Convention on jurisdiction over civil and commercial proceedings and the enforcement of foreign judgments, a new Hague Convention on legal interests in securities held through intermediaries and the establishment of a new International Convention on Maintenance Obligations;
- Participating in a review of the 3 existing Hague Conventions on civil procedure (evidence, service and legalization) and further discussion on the Hague Convention on the Civil Aspects of Child Abduction;
- Participating in CEPA talks with New Zealand, following up on “Doha round” of WTO negotiations; advising on the WTO’s Government Procurement Agreement and taking part in activities of International Maritime Organization in particular its Legal Committee;
- Continuing to advise on bilateral negotiations on ASAs, IPPAs, and DTAs, and to conduct negotiations on legal co-operation

including mutual legal assistance between Hong Kong and Macau .

Whilst the policy objectives and work of this Department are closely connected with those of other Bureaux and Departments, yet the Department is fully committed to its vital responsibility to preserve and nurture the rule of law as a cornerstone of our society. The Policy Objectives were formulated with the concerted efforts of the five Law Divisions and the Administration and Development Division of the Department and are fully supported by the Law Officers and the Director of Administration and Development.