

**For information  
on 28.10.2002**

**LegCo Panel on Administration of Justice and Legal Services**

**Recruitment of Court Prosecutors**

**Background**

The Court Prosecutor grade was introduced in 1976 as a pilot scheme, to take over prosecution work in the Magistrates' Courts from Police Inspectors. The scheme proved to be successful and, in 1979, it was decided to implement the scheme on a permanent basis. By 1994, Court Prosecutors had replaced Police Inspectors in all Magistrates' Courts.

**The Director of Audit's Report No. 21 of 1993**

2. In the audit review of the Court Prosecutor Grade, the Director of Audit, in his report for the year ending 31 March 1993, expressed concern over the substantial amount of prosecution work briefed out to private counsel at substantially higher cost than if the work was carried out by the Department's own Court Prosecutor grade staff. He commented that the main reason was because of the shortfall in the functional strength of Court Prosecutors brought about by high staff wastage. He recommended that the long term solution to this problem was to improve the career prospects of the grade, that consideration be given to reviewing the manning scale of front-line Court Prosecutors and that the grade be further restructured to provide better career prospects for the staff. The Report was considered by the Public Accounts Committee in November 1993. Subsequently, a working group was set up in this Department and it recommended an increase of staff for the Court Prosecutor grade.

3. As a result, additional posts at various levels were created. At present, there are 112 Court Prosecutor grade posts with a strength of 111.

### **Entry Qualification to the Court Prosecutor Rank**

4. The entry qualification to the Court Prosecutor rank is matriculation and the starting point salary is \$14,300 per month, i.e. Point 9 of the Master Pay Scale which is not linked to the annual pay trend adjustment in the first year of entry.

### **Recruitment of Court Prosecutors**

5. The first batch of Court Prosecutors was recruited in 1976. The seventeenth batch was recruited in 1997. The recent recruitment exercise, the first since 1997, was conducted to meet operational needs. A total of 2,341 persons applied for appointment. After the preliminary interview, 77 candidates were invited to attend the final interview. The recruitment board sat for eight days in December 2001, and eight candidates were chosen. They began their training in the Department of Justice on 2 April 2002.

### **Training of Court Prosecutors**

6. New Court Prosecutors undergo nine months of full-time, comprehensive training before they conduct prosecutions in Magistrates' Courts. The wide range of topics includes advocacy techniques, rules of evidence, court procedure, expert evidence, prosecutorial ethics and substantive criminal law. Candidates must pass a written as well as a practical examination. Those who fail in these examinations may have their service terminated.

7. Qualified Court Prosecutors receive continuing legal education throughout their careers. On Saturday mornings they attend in-house seminars on such subjects as fraud, copyright, forfeiture and expert evidence. They also attend refresher courses on trial advocacy and recent developments in the criminal law.

### **Qualifications of Court Prosecutors**

8. The qualifications of the Court Prosecutor grade are high, and getting higher. Out of a total of 111 Court Prosecutors-

- (a) 88, or 79%, are degree holders, of whom 28 hold LLB;
- (b) 8 are admitted as barristers;
- (c) 5 hold PCLL;
- (d) 3 are studying for PCLL on 'no pay' leave; and
- (e) 16 are studying for LLB in their spare time.

9. Of the eight candidates who began training as Court Prosecutors on 2 April 2002, three have law degrees and the remainder hold degrees in other disciplines.

### **Advancement of Court Prosecutors**

10. Since the inception of the Court Prosecutor grade, the following number of Court Prosecutors have been appointed as Magistrates in the Judiciary or Government Counsel in this Department-

- (a) 14 Court Prosecutors have been recruited as Magistrates [8 as Permanent Magistrates and 6 as Special Magistrates]; and
- (b) 18 Court Prosecutors have been appointed as Government Counsel.

### **Cases Prosecuted by Court Prosecutors**

11. In 2001, a total of 210,422 cases, involving 14,537 court days, were prosecuted by 85 Court Prosecutor grade officers on court duties, making an average of 2,476 cases, or 171 court days, per Court Prosecutor. Based on 2001, the figure for 2002 is estimated to be 14,550 court days.

12. Whereas in 1977 the Court Prosecutor grade only prosecuted police cases, they now, in 2002, prosecute cases investigated by various bodies, including-

- Hong Kong Police Force;
- Customs and Excise Department;
- Independent Commission Against Corruption;
- Leisure and Cultural Services Department;
- Department of Health;
- Education Department; and
- Mandatory Provident Fund Schemes Authority.

### **Cost-Effectiveness of the Court Prosecutor System**

13. The Court Prosecutor grade provides a high quality prosecution service at the summary level. Not only is that service professional and efficient, it is also cost-effective.

14. Based on the figures in 2001 in paragraph 11 above, the average cost, including the accommodation cost, of a Court Prosecutor grade officer conducting prosecutions was \$3,045 per court day, i.e. \$2,955 staff cost plus \$90 accommodation cost. The staff cost of \$2,955 per court day is calculated on the basis of the Full Annual Staff Cost at Mid-point which takes into account the fringe benefits (such as pensions, housing, leave and medical benefits) on a full cost basis of 85 Court Prosecutor grade officers on court duties.

15. These calculations did not include the 19 Court Prosecutor grade officers who provided the essential administrative and supervisory duties for the grade and for the approximately 210,000 cases they prosecuted. That is so because even if more prosecution work is briefed out, there is still a need for senior officers in the Court Prosecutor grade to manage case files in relation to both charges and summonses, to handle requests from counsel, including requests to plea bargain, and to accept binding-over arrangements, to provide instructions to counsel, to liaise with police and law enforcement personnel, to advise departmental prosecutors, to advise on cases, and to manage the day-to-day deployment of manpower in the magistracies.

16. The average cost per court day of prosecutions conducted by a Court Prosecutor grade officer compares favourably with the fees for counsel prosecuting on general fiat which are \$5,670 per court day. If all the 14,537 court days conducted by Court Prosecutors in 2001 were briefed out to private counsel, it would cost about \$82 million, which is 86% (or \$38 million) more than the \$44 million cost of the Court Prosecutors [ $(\$5,670 - \$3,045) \times 14,537 = \$38,159,625$ ].

17. The Department has a policy of briefing out some of its summary level prosecutions to junior barristers and solicitors, thus providing them with exposure to prosecution work at an early stage in their careers. The primary obligation, however, is to provide the community with the best possible prosecution service at the basic level. The Court Prosecutor system delivers exactly that. That it comes at a reasonable cost is a bonus.

18. Although junior barristers and solicitors are willing to prosecute in the Magistrates' Courts, few are prepared to do this at the initial monthly salary of \$14,300. One barrister, qualified abroad, applied in response to the recent recruitment exercise. Three solicitors responded, and one of those withdrew prior to interview.

### **Future Recruitment of Court Prosecutors**

19. The system of Court Prosecutors has proved itself to be of great worth to the community since its inception. In 1998, the Crown Prosecution Service of England and Wales introduced a not dissimilar system. Court Prosecutors are a corps of dedicated quasi-legal professionals, and we are committed to maintaining the Court Prosecutor grade to conduct prosecutions in the Magistrates' Courts. In the 25 years since they were introduced, the Court Prosecutors have contributed significantly to an effective and professional system of justice at the summary level. The eighteenth batch of Court Prosecutors will complete their training in December, and there are at present no plans for future recruitment. The operational needs of the Court Prosecutor grade will be kept under regular review.