

**Legislative Council  
Panel on Administration of Justice and Legal Services  
("AJLS Panel")**

**Proposed Creation of New Rank and Posts in the Judiciary  
and Strengthening of the Directorate Structure of  
the Judiciary Administration**

**Response to Issues Raised by  
Members at the Meeting on 26 May 2008**

**Purpose**

This paper provides supplementary information and responses to the various issues raised by Members at the meeting on 26 May 2008.

**Issue (1): The Judiciary Administration to reconsider the wording of paragraphs 3 and 27 of its paper when preparing a paper for the Establishment Subcommittee ("ESC").**

2. Referring to paragraph 3 of the paper to the AJLS Panel, the Judiciary Administration would like to confirm that the proposed creation of new rank and Judges and Judicial officers ("JJO") posts in the Judiciary are made by the Judiciary Administrator ("JA") as the Controlling Officer for the Judiciary on the instruction of the Chief Justice. This point would be made clear in the paper to be submitted to the ESC.

3. Regarding paragraph 27 of the paper to the AJLS Panel, we would like to clarify that the Judiciary Administration provides essential administrative support to the Chief Justice, Court Leaders and all JJOs to ensure the smooth operation of the courts and tribunals in Hong Kong. The wordings would be refined in the paper to be submitted to the ESC.

**Issue (2): A member expressed concern that many court rooms were left idle after 3:30 pm. Judiciary Administration was requested to -**

- (a) consider introducing administrative measures to improve efficiency of listing so that court facilities and judges' time could be utilised in an optimum manner before proposing the creation of judicial posts;**
- (b) explain the listing arrangement and workload of a judge (such as time spent on preparing a hearing, conducting a hearing, preparing judgment, etc.)**

(i) Work Nature and Workload of Judges

4. In properly discharging their judicial duties, Judges must have time to prepare for the cases and to write judgments after the hearing. In other words, apart from sitting in court, Judges need to do a substantial amount of work outside the courtroom in order to discharge their judicial duties fairly, properly and efficiently.

5. Before a case proceeds to the stage of hearing, it is necessary for the Judge to deal with applications and correspondence on paper, and this is especially so in long and/or complicated cases. In preparing for the hearing, the Judge needs considerable time to read voluminous bundles of documents including written submissions by counsel. Indeed, in order to ensure that hearings do not overrun, that is that they are concluded within the time allotted, sufficient pre-hearing preparation by the Judge is essential for the fair, proper and efficient adjudication by the Judge. Further, the Judge needs to have time to prepare for the judgment after the hearing, so that it could be delivered or handed down within a reasonable period of time. At present, many judges are already working overtime on weekdays and have to work over weekends.

6. In addition, Judges are required to be on duty outside court hours and on rest days to deal with various judicial duties. It is not uncommon for the duty Judge to sit in the evening or over holidays to hear urgent cases, such as injunction applications. Judges are also required to serve as Admission Judge on Saturday mornings from time to time to admit barristers and solicitors.

7. In sum, the workload of the Judges in the High Court is very substantial and heavy both in and outside the courtroom.

(ii) Improvement to the Listing System to Ensure Optimal Utilization of Judicial Resources

8. At present, the Judiciary is operating an effective listing system in the High Court, and has been making continuous improvements as appropriate. The Chief Judge of the High Court, assisted by the Listing Judges and a team of listing officers in the Judiciary Administration, is responsible for ensuring that the available court time would be optimally utilized in listing cases before the Judges.

9. Two fundamental points are relevant to the operation of an effective listing system:

- (a) The fair administration of justice is of course a paramount concern in the listing of cases. This involves giving due consideration to the parties' need to prepare for their cases adequately and to be properly represented. These matters have to be balanced against the effective use of judicial time. In short, the listing of cases is not a simple or mechanical task. A lot of work and time, including judicial time, is spent on the listing of cases and issues arising from it; and
- (b) Listing of cases does not only involve the Judiciary. The legal practitioners have an important part to play, especially counsel from the Bar. The Department of Justice and the Legal Aid Department are also involved, especially in criminal cases. The efforts of all concerned are required in order to have an effective listing system.

10. The Chief Judge of the High Court and the Listing Judges set down general policies and guidelines for the listing officers in handling listing matters. These guidelines and policies include the following:

- (a) Cases should be listed for hearing when they are ready to proceed on trial. Directions from the Judge responsible for the case concerned should be sought on whether the case is ready to proceed to trial;
- (b) The Judges' diaries should be utilized as fully as practicable, but due regard should be made to allow Judges to have

reasonable time to prepare for the cases and write judgments, particularly for long and/or complicated cases;

- (c) Listing should have due regard to the areas of expertise and experience of the Judges; and
- (d) If a case is vacated due to adjournment or settlement, a short case from the running list should be listed before the Judge as far as practicable so as to ensure the optimal use of the judicial resources.

11. In practice, the listing officers would prepare all the groundwork for listing matters, and seek directions from the Listing Judges and the Chief Judge of the High Court accordingly. For criminal trials in the Court of the First Instance of the High Court, weekly listing hearings are normally held by the criminal listing judge to deal with criminal listing matters. For civil cases, listing judges, in conjunction with the listing officers, usually deal with matters of listing on paper and by correspondence instead of holding hearings. The Chief Judge of the High Court also holds regular meetings with the listing officers to receive reports on the listing position and resolve problems which have arisen.

(iii) Utilization of Courtrooms

12. Having regard to the matters set out above, the fact that not all court rooms are in operation at all court times on all court days is not an abnormal phenomenon. Given the nature of judicial work, it is not possible to list cases for Judges from 9:30 am to 4:30 pm on all court days.

13. In practice, while many courts are in operation for the whole day, some courts may not be in operation for the whole day, or for part of the morning and/or afternoon, on a particular day. When visitors notice that some courts are not in operation at about 3:30 pm on a particular court day, there may be many possible reasons for this. They include the following: the case which was listed for the whole day finished early or was settled; the case was adjourned before then for good reason; the Judge heard a half-day case in the morning and was writing the judgment and also preparing for the hearing on the following day; no case was listed for that court on that day because the Judge was given time to prepare or write judgment; the Judge was dealing with paper applications in his chambers; the Judge was on leave, etc.

**Issue (3): The Judiciary Administration was requested to provide information on the following -**

- (a) increase of caseload at various levels of courts in the past few years;**
- (b) number of cases heard by substantive judges and deputy judges respectively;**
- (c) the impact of deployment of deputy judges on court times;**
- (d) the net increase in staff cost (taking into account the proposed creation/upgrading/deletion of posts and the appointment of temporary judges and staff)**

14. The caseloads for the High Court, District Court (including the Family Court) and the Magistrates' Courts in the past three years from 2005 to 2007, together with waiting times and the manpower situation of judges, are set out at Annex 1.

15. While it is noted that the caseloads have been quite stable during the past few years, experience shows that cases are getting more complicated. It should also be noted that prior to the injection of temporary judicial resources into the High Court, District Court and the Magistrates' Courts starting from the latter part of 2005, the waiting times had once deteriorated to an unacceptable level. It was only due to the corresponding increase of judicial manpower through the deployment of deputy JJOs to cope with the workload that waiting times could be brought within the targets.

16. It is not possible to provide figures on the number of cases heard by substantive and deputy judges respectively. But judging from the high percentage of deputy JJOs at all levels of court, it is estimated that a substantial amount of cases are heard by deputy JJOs. As stated in the paper to the AJLS Panel, this is considered unsatisfactory by the Judiciary.

17. The existing proposals of creating 8 JJO posts do not seek to increase the number of judicial manpower deployed to the High Court

and District Court. What the proposals seek to do is to create the necessary permanent posts so that there would be less reliance on temporary judicial resources, the extent of which is regarded as unsatisfactory for the past few years.

18. The net increases in staff cost for the judicial posts (taking into account the proposed creation / upgrading / deletion of posts and the reduced level of appointment of temporary judges) are as follows:

	<u>Million</u>
Annual salaries cost of the staffing proposal for Judges and Judicial Officers (effects of deletion of post included)	\$15.4
Barring unforeseen circumstances, reduction in expenses in the appointment of deputy judges and judicial officers upon creation and filling of the proposed posts	\$13.8
Net increase in annual salaries cost	<u>\$1.6</u>
Net increase in full annual average staff cost, including salaries and staff-on-cost (which is not applicable in appointing deputy judges)	<u>\$13.7</u>

**Issue (3)(e): Existing and proposed organisation charts of Judiciary Administration showing the staff establishment of each division.**

19. The existing and proposed organization charts of the Judiciary Administration showing the staffing position of each division are at Annex 2 and Annex 3 respectively.

**Issue (4): In relation to paragraph 37, Judiciary Administration was requested to further justify the upgrading of the post of Assistant Judiciary Administrator (Corporate Services) (“AJA(CS)”) and explain the demarcation of duties between the Judiciary Administrator and AJA(CS).**

20. As head of the Judiciary Administration, the JA is ultimately responsible to the Chief Justice for all the responsibilities listed under her Deputy and Assistant Judiciary Administrators, including those under AJA(CS). There is a clear distinction in the levels of responsibilities between the JA and the AJA(CS) on the areas of responsibilities as listed under para. 37 of the paper:

- (a) The JA is the secretary to the Judicial Officers Recommendation Commission (“the Commission”). As secretary, the JA, under the direction of the Chief Justice, deals with all matters relating to the operation of the Commission. These include the following: preparing papers, servicing the meetings of the Commission, and dealing with the processing of the Commission's recommendations. In order to perform such high level tasks effectively, the JA requires competent support from AJA(CS) to assist her in drafting papers, servicing selection boards for the recruitment of JJOs and taking follow up actions upon the recommendations of the Commission;
- (b) The JA provides advice and makes recommendations to the Chief Justice on a wide range of human resources management matters concerning JJOs. The JA requires competent support from AJA(CS) to assist her in conducting research into comparable policies and practices in the civil service and precedent cases, in drafting submissions for the consideration of the Chief Justice, and in implementing the decisions made by the Chief Justice. The JA is a member of the Judicial Studies Board chaired by a Court of Appeal Judge, and the AJA(CS) is responsible for providing administrative support in implementing the training plans and programmes for JJOs;
- (c) The JA is responsible for devising a long-term accommodation strategy for the consideration of the Chief Justice. She chairs meetings on accommodation strategy

matters, and give the appropriate steer on agreed projects and programmes. The AJA(CS) will assist her in doing the background work, exploring available options, liaising with other Government departments concerned and follow through the implementation of projects;

- (d) Under the revised budgetary arrangement between the Judiciary and the Administration, the JA devises resources proposals for the consideration of the Chief Justice, and after the Chief Justice's decision, submits such proposals to the Administration. AJA(CS) provides the JA with the necessary information and analyses in reviewing and assessing the resource requirements in all areas of work of the Judiciary. He also assists in the drafting of submissions and in the overall monitoring of financial control and management.

21. It is also evident that the responsibilities as listed under para 37 of the paper show that AJA(CS) has been shouldering much heavier responsibilities in recent years, and is expected to take up more strategic challenges in the coming years. Further to the detailed justifications already provided in the paper, we would like to elaborate on one important aspect. As far as the long-term accommodation strategy for the Judiciary is concerned, it is expected that much extensive and challenging work would be required. Apart from the proposed relocation of the Court of Final Appeal to the existing LegCo Building, the Chief Justice has directed that the long-term accommodation needs for all other levels of court should be looked into, and suitable plans be devised. In particular, the existing accommodation for the Lands Tribunal, the Small Claims Tribunal and some Magistracy Buildings such as the Tsuen Wan Magistrates' Courts are considered inadequate and unsatisfactory. It is also noted that the Administration has indicated that it would study the relocation of the three Government Office Buildings in Wanchai, at which the District Court, Family Court and the Small Claims Tribunal are located. An officer at D2 level is required to take charge of these tasks competently.



**Caseloads, Average Waiting Times and Average Numbers of Judges and Judicial Officers Sitting at  
High Court, District Court including Family Court, and Magistrates' Courts**

	Caseload				Average Waiting Time					Average Number of Judges and Judicial Officers		
	2005	2006	2007		Target	2005 (Note 1)	2006 (Note 2)	2007		2005 (Note 3)	2006	2007
<b>Court of Appeal of the High Court</b>									<b>Court of Appeal of the High Court</b>			
criminal appeals	541	533	488	criminal-from setting down of a case to hearing	50	37	46	50	Substantive Judges	10	10	10
civil appeals	414	443	421	civil-from application to fix date to hearing	90	93	100	87	(Note 4)			
<b>Court of First Instance of the High Court</b>									<b>Court of First Instance of the High Court</b>			
criminal jurisdiction				Criminal Fixture List-					Substantive Judges	23	21	27
criminal cases	326	264	312	from filing of indictment to hearing	120	193	119	109	Deputy Judges	<u>11</u>	<u>14</u>	<u>10</u>
confidential miscellaneous proceedings	51	59	56	Criminal Running List-	90	69	66	57	<b>Total</b>	<b>34</b>	<b>35</b>	<b>37</b>
appeals from Magistrates' Courts	1,254	1,238	1,234	from setting down of a case to hearing	180	233	124	114				
civil jurisdiction	19,915	20,736	20,657	Civil Fixture List-	90	54	64	61				
				from application to fix date to hearing	90	71	87	91				
				Civil Running List-								
				from setting down of a case to hearing								
				Appeals from Magistrates' Courts-								
				from lodging of Notice of Appeal to hearing								
<b>District Court</b>									<b>District Court</b>			
criminal cases	1,349	1,199	1,240	criminal-from first appearance of defendants					Substantive Judges	16	11	15
civil cases	32,016	30,948	28,820	in District Court to hearing	100	112	117	98	Deputy Judges	<u>11</u>	<u>15</u>	<u>11</u>
				civil-from date of listing to hearing	120	120	125	58	<b>Total</b>	<b>27</b>	<b>26</b>	<b>26</b>
<b>Family Court</b>									<b>Family Court</b>			
	16,947	18,544	18,131	dissolution of marriage-from setting down of a case to hearing					Substantive Judges	3	2	3
				Special Procedure List	35	29	45	33	Deputy Judges	<u>3</u>	<u>5</u>	<u>4</u>
				Defended List (one day hearing)	110	120	115	119	<b>Total</b>	<b>6</b>	<b>7</b>	<b>7</b>
				financial applications-from filing of summons to hearing	110-140	124	101	83				
<b>Magistrates' Courts</b>									<b>Magistrates' Courts</b>			
	298,887	298,257	314,214	from plea to date of trial					Substantive Judicial Officers	48	44	37
				summons	50	94	95	95	Deputy Judicial Officers	<u>5</u>	<u>11</u>	<u>12</u>
				charge cases—					<b>Total</b>	<b>53</b>	<b>55</b>	<b>49</b>
				for defendants in custody	30-45	44	42	47				(Note 5)
				for defendants on bail	45-60	68	66	64				

(Note 1): The average waiting times in 2004 / 2005 were lengthened, especially in the High Court. Temporary judicial resources were deployed to various levels of court starting from the latter part of 2005.

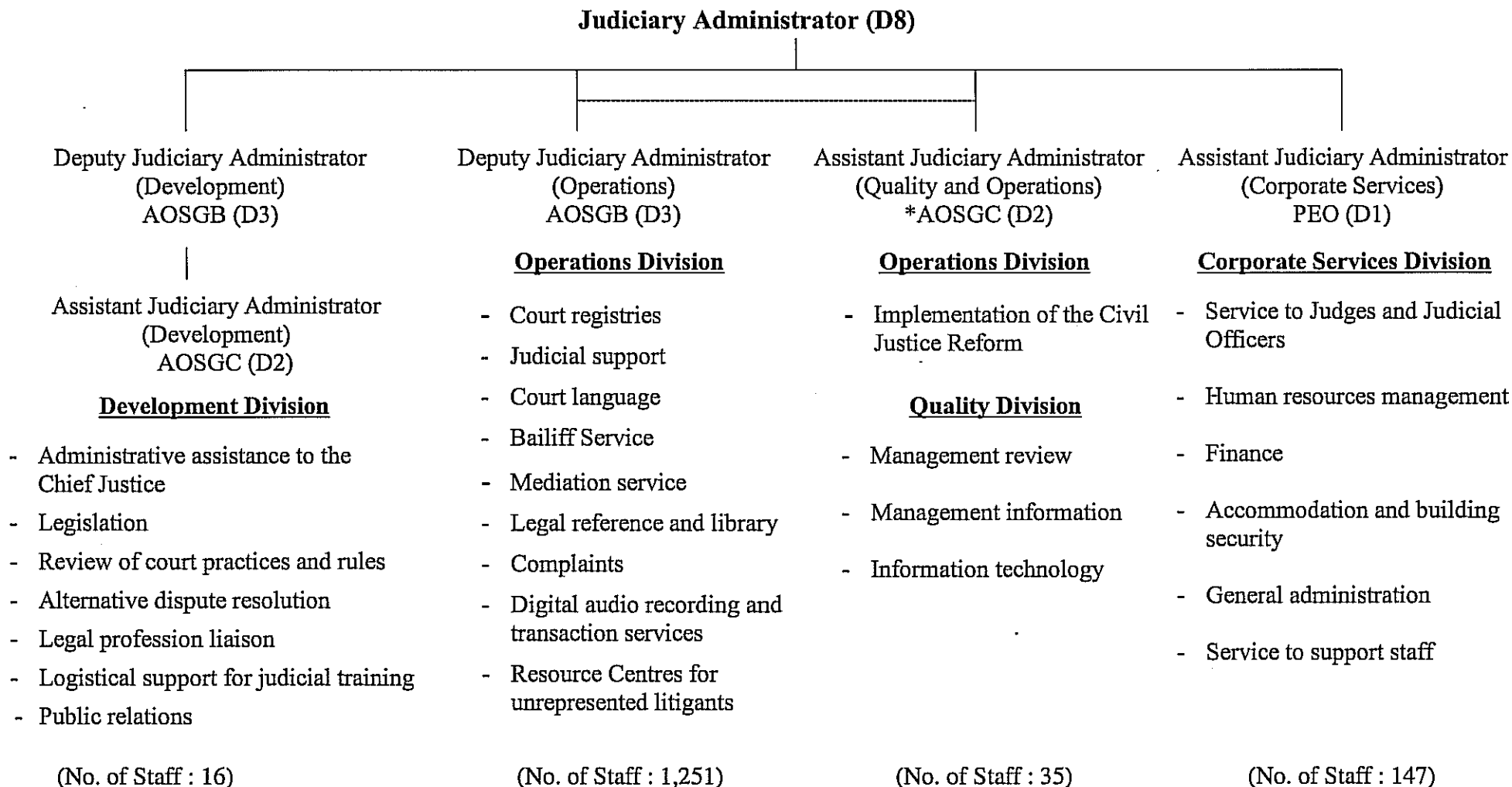
(Note 2): The effects of the deployment of temporary judicial resources starting from the latter part of 2005 were evident in the improvements in the average waiting times in 2006 / 2007.

(Note 3): These figures already reflected the additional deployment of deputy Judges and Judicial Officers starting from the latter part of 2005.

(Note 4): From 2004 to 2007, about 50% of the cases each year were heard by divisions containing one Judge of the Court of First Instance, and a further 8% heard by divisions containing two Judges of the Court of First Instance.

(Note 5): Additional deputies were deployed to the Magistrates' Courts from the latter part of 2007 and early 2008. As at May 2008, there are 56 Judicial Officers (including 43 substantive and 13 deputy Judicial Officers) sitting at the Magistrates' Courts.

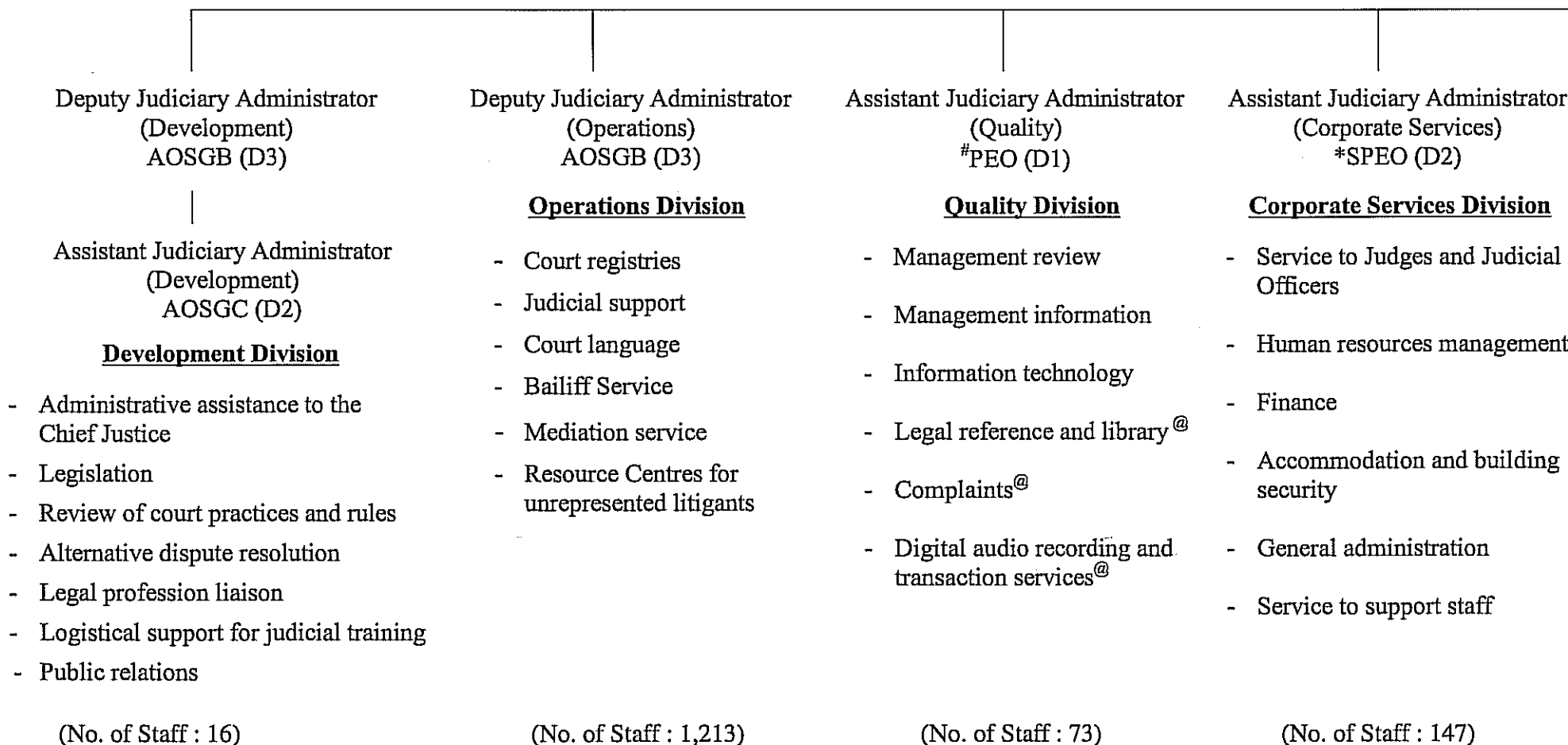
**Current Organization Chart of Judiciary Administration**



\* Supernumerary post.

**Proposed Organization Chart of Judiciary Administration**

**Judiciary Administrator (D8)**



\* Post to be upgraded from PEO to SPEO.

# New post to be created.

@ Proposed transfer of responsibilities from DJA(O) to AJA(Q).