

**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

SJ001

Head: 92 Department of Justice Subhead (No. & title):

Question Serial No.

0420

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development

Question:

Under this programme, the provision for 2011-12 is \$13.3 million (3.2%) higher than the revised estimate for 2010-11. This is mainly due to the filling of vacancies, creation of 8 posts and upgrading of 7 posts. Why is it necessary for the Administration to create 8 posts and upgrade 7 posts?

Asked by: Hon. WONG Yuk-man

Reply:

The upgrading and creation of additional posts in the Prosecutions Division is to meet the increase in diversity and complexity of prosecutorial work. The emergence of sophisticated and complex crimes, coupled with the more stringent rules and guidelines on various prosecution matters, require prosecutors to devote extra time and effort in providing legal support to law enforcement agencies, and in handling trials and appeals. The amount of court work also increased substantially in the past two years. The total number of court cases prosecuted at all levels of court increased from 4 981 in 2008 to 5 827 in 2010. To strengthen the in-house advocacy capacity and cope with the increasing caseload and complexity of work, 6 Government Counsel posts will be created under this programme in 2011-12, and 1 Chief Executive Officer and 1 Workman II posts will be created to strengthen executive and general support in the Department. Furthermore, with the approval of the Finance Committee in January 2011, a new Assistant Principal Government Counsel (APGC) rank at DL1 level has been created and 7 Senior Government Counsel (SGC) posts in the Prosecutions Division have been upgraded to APGC posts with effect from 1 March 2011 to strengthen the professional support at the directorate level and rationalise the higher level of responsibilities discharged by some of the SGC.

Signature _____

Name in block letters _____ Susie Ho

Post Title _____ Director of Administration and
Development

Date _____ 18 March 2011

**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

SJ003

Head: 92 Department of Justice Subhead (No. & title):

Question Serial No.

0422

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development

Question:

The provision for 2011-12 is \$6.4 million (9.5%) higher than the revised estimate for 2010-11. This includes the creation of 1 post and upgrading of 1 post. Why is it necessary for the Administration to create 1 post and upgrade 1 post?

Asked by: Hon. WONG Yuk-man

Reply:

The work of the Legal Policy Division involves providing legal advice in respect of the implementation of the Basic Law and the development of the new constitutional order, providing legal advice on human rights, and promoting the use of arbitration in Hong Kong, etc. In recent years, there has been an increase in the caseload, the diversity and, in particular, the complexity of work in the Division. Apart from the increase in the number of legal advice provided in relation to Basic Law and constitutional matters, the Division's work portfolio has been expanded since late 2008 to cover advisory work arising from three types of petitions and statutory appeals (viz. statutory appeals to the Chief Executive (CE)/CE in Council; petitions to the CE under Article 48(13) of the Basic Law; and statutory appeals/representations under section 20 of the Public Service (Administration) Order). Since late 2008, the Legal Policy Division has provided a total of 211 items of advice on such new types of petitions and appeals. These petitions and appeals may arise under different statutes and straddle a wide spectrum of different areas of law. In addition, the Division also advises on the processing of petitions made by torture claimants to the CE under the administrative screening scheme which was resumed in 2009.

To cope with the increasing demand for legal advice relating to the Basic Law and constitutional matters, 1 Government Counsel post will be created under this programme in 2011-12 to strengthen legal support.

Furthermore, with the approval of the Finance Committee in January 2011, 1 Senior Government Counsel post in the Legal Policy Division has been upgraded to the Assistant Principal Government Counsel (DL1) rank with effect from 1 March 2011 to ensure that there is appropriate directorate support in respect of matters pertaining to the petitions and appeals mentioned above.

Signature _____

Name in block letters _____ Susie Ho

Post Title _____ Director of Administration and
Development

Date _____ 18 March 2011

**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

SJ004

Head: 92 Department of Justice Subhead (No. & title):

Question Serial No.

0423

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development

Question:

Under Programme (1) Prosecutions, the number of items of legal advice provided by the Department of Justice has decreased from 16 520 in 2009 to 15 133 in 2010, representing a decrease of about 8.4%. What are the reasons for the decrease in the items of legal advice provided by the Department of Justice?

Asked by: Hon. WONG Yuk-man

Reply:

The Prosecutions Division in the Department of Justice advises and decides whether or not criminal proceedings should be undertaken and prosecutes cases in the courts. Apart from the number of cases conducted and number of legal advice given, the complexity of the subject matter and legal issues raised also have an important bearing on the workload of the Division. In addition, the Prosecutions Division is required to perform a myriad of tasks in order to meet the objectives of a modern prosecuting authority. The number of legal advices provided under Programme (1) Prosecutions is demand led and depends on the number of such requests from law enforcements agencies. There has been no consistent pattern on the trend over the past few years. The number of advices given in 2009 was particularly high when compared with those in recent years.

Signature _____

Name in block letters Susie Ho

Post Title Director of Administration and
Development

Date 18 March 2011

**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

SJ005

Head: 92 Department of Justice Subhead (No. & title):

Question Serial No.

0424

Programme: (2) Civil

Controlling Officer: Director of Administration and Development

Question:

Under Programme (2) Civil, the number of items of legal advice provided by the Department of Justice has decreased from 15 079 in 2009 to 14 482 in 2010, representing a decrease of about 4%. What are the reasons for the decrease in the items of legal advice provided by the Department of Justice?

Asked by: Hon. WONG Yuk-man

Reply:

The Civil Division provides legal advice to the Government on civil matters, undertakes civil litigation and dispute resolution and drafts contracts on commercial and other matters. Apart from the number of legal advice provided and the number of civil litigation proceeding cases handled, the complexity of the subject matter and legal issues raised also have an important bearing on the workload of the Division. The number of items of legal advice provided under Programme (2) Civil decreased from 15 079 in 2009 to 14 482 in 2010, representing a decrease of about 4%. The decrease is mainly due to a reduction in the number of requests for legal advice from Government bureaux and departments.

Signature _____

Name in block letters Susie Ho

Post Title Director of Administration and
Development

Date 18 March 2011

**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

SJ006

Head: 92 Department of Justice Subhead (No. & title):

Question Serial No.

0425

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development

Question:

Under Programme (3) Legal Policy, the number of items of legal advice given by the Department of Justice on general legal policy issues, human rights issues, Mainland law and related matters as well as Basic Law and constitutional matters has decreased from 3 305 in 2009 to 3 215 in 2010, representing a decrease of about 2.7%. What are the reasons for the decrease in the items of legal advice given by the Department of Justice?

Asked by: Hon. WONG Yuk-man

Reply:

Generally speaking, the provision of legal advice by the Legal Policy Division is demand-driven and fluctuations in the number of advice provided are normal. Apart from the number of legal advice provided, the complexity of the subject matter and legal issues raised also have an important bearing on the workload of the Division.

The relative decrease in the number of advice on human rights issue in 2010 was partly due to high figure of 1 355 in 2009 which is attributable to the two United Nations hearings held in 2009 in relation to the Universal Periodic Review conducted by the United Nations Human Rights Council and the International Convention on the Elimination of All Forms of Racial Discrimination. In this connection, legal advice was provided to the relevant policy bureaux. By contrast, no hearing was conducted in 2010. Furthermore, with the full implementation of the Race Discrimination Ordinance and related subsidiary legislation by July 2009 and the completion of the drafting of the Minimum Wage Bill, the number of request for and advice given on human rights matters in respect of these two subjects has correspondingly decreased in 2010.

The decrease in the number of advice on Mainland law in 2010 reflects the decrease in the number of requests by policy bureaux and government departments.

On the other hand, the number of advice given by the Legal Policy Division on Basic Law and constitutional matters has increased by 11.6% from 995 in 2009 to 1 110 in 2010.

Signature _____

Name in block letters _____ Susie Ho _____

Post Title _____ Director of Administration and
Development _____

Date _____ 18 March 2011 _____

**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

SJ007

Head: 92 Department of Justice Subhead (No. & title):

Question Serial No.

0426

Programme: (5) International Law

Controlling Officer: Director of Administration and Development

Question:

Under Programme (5) International Law, the number of items of legal advice provided by the Department of Justice has decreased from 9 263 in 2009 to 8 620 in 2010, representing a decrease of about 6.9%. What are the reasons for the decrease in the items of legal advice provided by the Department of Justice?

Asked by: Hon. WONG Yuk-man

Reply:

The International Law Division provides advice on international law issues to the Government and handles requests for international legal co-operation. Apart from the number of legal advice provided, the complexity of the subject matter and legal issues raised also have an important bearing on the workload of the Division.

The service of providing legal advice is request-driven. The number of items of legal advice provided is dependent on incoming requests initiated by government departments or bureaux and by other jurisdictions. It fluctuates from year to year.

Signature _____

Name in block letters Susie Ho

Post Title Director of Administration and
Development

Date 18 March 2011

Examination of Estimates of Expenditure 2011-12

Reply Serial No.

**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

SJ008

Head: 92 Department of Justice Subhead (No. & title):

Question Serial No.

0440

Programme: (4) Law Drafting

Controlling Officer: Director of Administration and Development

Question:

What are the expenditure incurred and the numbers of staff required by the Department of Justice in the past three years (i.e. 2008-09 to 2010-11) in connection with compiling the Loose-leaf Edition of the Laws of Hong Kong and operating the Bilingual Laws Information System (BLIS) respectively? What are the estimated expenditure and number of staff required for 2011-12? With such expenditure and staffing, will the Administration be able to incorporate all texts of Ordinances that were in force before 1997 as well as all records of their amendments into the BLIS within 3 years? If no, what are the additional expenditure and number of staff required for undertaking the work? Will inadequacy in provisions be inconsistent with the aim of "making the texts of legislation readily accessible" as stated under Programme (4) Law Drafting?

Asked by: Hon. HO Sau-lan, Cyd

Reply:

The Laws Compilation Unit (LCU) of the Law Drafting Division is responsible for the publication of the hard copy Loose-leaf Edition of the Laws of Hong Kong and the updating of the electronic version of the laws in the Bilingual Laws Information System (BLIS).

The number of staff of LCU and the expenditure incurred in 2008-09, 2009-10 and 2010-11 are listed below. Since 2009-10, the staff of LCU has been working as one team to share the workload in respect of publication of the Loose-leaf Edition and the updating of BLIS, the number of staff and costs in respect of each of the above tasks cannot be quantified in 2009-10 and 2010-11.

	2008-09		2009-10	2010-11
	Loose-Leaf Edition	BLIS		
Number of Staff	4	5	10	11
Expenditure (staff salary) (\$)	1,439,700	1,629,120	3,097,039	3,270,150
	Total = 3,068,820			

The estimated number of staff and the estimated expenditure to be incurred in 2011-12 would be 11 and \$3,301,980 respectively.

The publication of the Loose-leaf Edition and the establishment of BLIS are mainly to facilitate public access to updated and consolidated Hong Kong legislation. This is in line with our aim to

‘make the texts of legislation readily accessible’ as set out in Programme (4). Changes to the text of the BLIS database are usually made within two to three weeks of the commencement of new legislation and amendments to existing legislation. In addition to providing access to the current legislation of Hong Kong, the BLIS database also contains legislation in force in Hong Kong on or after 1 July 1997, and legislation in force immediately before that date (i.e. on 30 June 1997). Although historical versions running into earlier dates may be of certain reference value, in most cases, a user would like to know the current version of the Hong Kong legislation when accessing our BLIS system. A user who wishes to make reference to a historical version before 30 June 1997 may always check the printed version and retrieve the legislation as at a particular date. We do not have plans to back capture historical versions of legislation running into the earlier days in the BLIS version.

Signature _____

Name in block letters _____ Susie Ho _____

Post Title _____ Director of Administration and
Development _____

Date _____ 18 March 2011 _____

Examination of Estimates of Expenditure 2011-12

Reply Serial No.

**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

SJ010

Head: 92 Department of Justice Subhead (No. & title):

Question Serial No.

0442

Programme: (5) International Law

Controlling Officer: Director of Administration and Development

Question:

What are the expenditure incurred and the number of staff required by the Department of Justice in supporting policy bureaux and departments involved in bilateral and multilateral affairs between Hong Kong and foreign places from 2008-09 to 2010-11, and the estimated expenditure and number of staff required for 2011-12? (Please provide a breakdown by policy bureau and department)

Asked by: Hon. HO Sau-lan, Cyd

Reply:

The staff cost and other related expenses for supporting policy bureaux and departments involved in bilateral and multilateral affairs between Hong Kong and foreign places in the relevant years have been and will be absorbed by the Department of Justice as a whole. The estimated expenditure and number of staff required cannot be quantified in this regard.

Signature _____

Name in block letters Susie Ho

Post Title Director of Administration and
Development

Date 18 March 2011

**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

SJ011

Head: 92 Department of Justice Subhead (No. & title):

Question Serial No.

0443

Programme:

Controlling Officer: Director of Administration and Development

Question:

Regarding consultancy studies (if any) commissioned by the Department of Justice and its divisions for the purpose of formulating and assessing policies, please provide information in the following format.

- (a) Using the table below, please provide information on studies on public policy and strategic policy for which funds had been allocated between 2008-09 and 2010-11:

Name of consultant	Mode of award (open auction / tender / others (please specify))	Title, content and objectives of project	Consultancy fee (\$)	Start Date	Progress of study (under planning/ in progress/ completed)	Follow-ups taken by the Administration on the study reports and their progress (if any)	If completed, have they been made public? If yes, through what channels? If no, why?
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- (b) Are there any projects for which funds have been reserved for conducting consultancy studies in 2011-12? If yes, please provide the following information:

Name of consultant	Mode of award (open auction / tender / others (please specify))	Title, content and objectives of project	Consultancy fee (\$)	Start Date	Progress of study (under planning/ in progress/ completed)	For the projects that are expected to be completed in 2010-11, is there any plan to make them public? If yes, through what channels? If no, why?
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- (c) What are the criteria for considering the award of consultancy projects to the research institutions concerned?

Asked by: Hon. HO Sau-lan, Cyd

Reply:

Between 2008-09 and 2010-11, the Department of Justice had not conducted any study on public policy and strategic public policy. We have not designated funds for conducting consultancy projects in 2011-12.

Signature _____

Name in block letters _____ Susie Ho _____

Post Title _____ Director of Administration and
Development _____

Date _____ 18 March 2011 _____

**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

SJ012

Head: 92 Department of Justice Subhead (No. & title):

Question Serial No.

1646

Programme:

Controlling Officer: Director of Administration and Development

Question:

In 2011-12, the Department of Justice will increase 26 non-directorate posts. What are the justifications for such an increase? What is the actual expenditure involved? Please also provide a breakdown for the 26 posts including their ranks and salaries, and the distribution of these posts.

Asked by: Hon. SHEK Lai-him, Abraham

Reply:

To enable the Department to cope with the increasing demand for legal services and increasing complexity of the legal work involved, strengthen support to the legal professionals and strengthen executive and general administrative support, a total provision of \$11.3 million has been reserved in 2011-12 for the creation of 26 non-directorate posts in the Department. A breakdown of these posts is as follows -

Rank	No.	Notional annual mid-point salary	Programme
Senior Government Counsel	1	\$996,720	Civil
Government Counsel	8	\$730,680	Prosecutions (6) Civil (1) Legal Policy (1)
Law Clerk	3	\$291,060	Civil
Chief Executive Officer	1	\$996,720	Prosecutions
Executive Officer I	1	\$532,800	Civil
Assistant Clerical Officer	8	\$190,500	Civil
Clerical Assistant	2	\$148,560	Civil
Workman II	2	\$118,080	Prosecutions (1) Law Drafting (1)
Total :	26		

Signature _____

Name in block letters _____

Susie Ho

Post Title _____

Director of Administration and
Development

Date _____

18 March 2011

**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

SJ013

Head: 92 Department of Justice Subhead (No. & title):

Question Serial No.

2160

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development

Question:

As shown by the prosecution figures of 2009 and 2010, the number of cases conducted by Government Counsel and the number of court days undertaken by Government Counsel increased significantly in the past two years, and they are expected to continue to increase in 2011. What are the reasons and relevant details accounting for these increases? Given the financial resources allocated for 2011-12, how will the Department of Justice cope with the situation without compromising the quality of the administration of justice?

Asked by: Hon. TAM Yiu-chung

Reply:

The increase in the number of cases and court days undertaken by Government Counsel (GC) in the past two years is mainly due to an overall increase in the total number of cases and court days conducted in all levels of court. The total number of cases prosecuted in the past five years are shown below:

	2006	2007	2008	2009	2010
Number of cases	4 792	5 166	4 981	5 455	5 827

To cope with the increase in court work and to retain advocacy expertise in the Department, the Prosecutions Division upgraded some Senior Government Counsel (SGC) posts in the Advocacy Sub-division to Assistant Principal Government Counsel (APGC) posts in March 2011 and will create additional GC posts in 2011-12 to strengthen the Division's advocacy capacity. A FAST advisory system has been put in place since January 2010 to provide quick advices for simple and straight-forward cases so that counsel in the advisory sections can take on more court work. In addition, the Division will continue to engage lawyers in the private practice to do prosecution work.

Signature _____

Name in block letters _____ Susie Ho

Post Title _____ Director of Administration and Development

Date _____ 18 March 2011

**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

SJ014

Head: 92 Department of Justice Subhead (No. & title):

Question Serial No.

2161

Programme: (2) Civil

Controlling Officer: Director of Administration and Development

Question:

As shown by the civil litigation figures of 2009 and 2010, the numbers of new proceedings brought by the Government and new proceedings brought against the Government increased significantly in the past two years, and they are expected to continue to increase in 2011. What are the reasons and relevant details accounting for these increases? Given the financial resources allocated for 2011-12, how will the Department of Justice cope with the situation without compromising the quality of the administration of justice?

Asked by: Hon. TAM Yiu-chung

Reply:

The actual numbers of new proceedings brought by the Government and new proceedings brought against the Government provided in 2009, 2010 and the estimated number for 2011 are as follows:

	2009 (Actual)	2010 (Actual)	2011 (Estimate)
1. New proceedings (including non-construction arbitration and mediation) brought by the Government	1 526	2 068	2 365
2. New proceedings (including non-construction arbitration and mediation) brought against the Government	1 071	1 286	1 535

In relation to item 1 above, the increase in the actual number of new civil proceedings brought by the Government in 2010 in comparison with 2009 is mainly due to an increase in the number of cases involving charging order, recovery of student loans and claims by the government under S.25 (employee compensation case) and recovery of Employees Retraining Levy. As regards the estimated increase in 2011, this is mainly due to an estimated increase in recovery of student loans cases as advised by the Student Financial Assistance Agency.

In relation to item 2 above, the increase in the actual number of new civil proceedings brought against the Government in 2010 in comparison with 2009 is mainly due to an increase in the number of cases involving government rent appeal, rating appeals and cases involving Claims made under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). As regards the estimated increase in 2011, this is mainly due to the estimated increase in the number of CAT related cases.

To cope with the general increasing demand for legal services and increasing complexity of the legal work involved, financial resources have been earmarked for the creation of 16 posts in 2011-12 including 2 counsel grade posts and 14 staff of other grades to strengthen support to the legal professionals and also executive and general administrative support in the Civil Division, including the teams which handle civil litigation matters in the Civil Division.

Signature _____

Name in block letters _____ Susie Ho _____

Post Title _____ Director of Administration and Development _____

Date _____ 18 March 2011 _____

SJ015

**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Question Serial No.

2162

Head: 92 Department of Justice Subhead (No. & title):

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development

Question:

In 2011-12, what are the specific plans for promoting the use of arbitration and mediation in Hong Kong and taking forward the proposals for reform of arbitration law? What is the estimated expenditure? Will the Administration consider sponsoring relevant professional bodies to take forward the work in this area?

Asked by: Hon. TAM Yiu-chung

Reply:

Arbitration

An on-going policy objective of the Department of Justice (DoJ) is to develop Hong Kong into a regional centre for legal services and dispute resolution. As one of the measures to achieve this objective, the new Arbitration Ordinance was enacted on 10 November 2010 and will come into effect on 1 June 2011.

As part of the efforts to promote the new Arbitration Ordinance, DoJ has arranged briefings and will prepare leaflets to promote arbitration in general and the attractive features of the new Ordinance. The target audience of the briefings and leaflets are mainly professionals and businessmen who are potential users of arbitration services in Hong Kong. Counsel in Legal Policy Division have spoken in various seminars organized by professional bodies and arbitration institutions since December 2010. We also plan to organise/participate in visits/seminars/workshops in the Mainland and/or in the region so as to disseminate the message that the new Arbitration Ordinance will offer added advantages to the users of arbitration services in Hong Kong.

Mediation

With reference to furthering the development of mediation, the Mediation Task Force chaired by the Secretary for Justice has proceeded to consider the recommendations made by the Working Group on Mediation in February 2010, taking into account the public feedback received during the three months public consultation, and to implement those recommendations which have received general support.

To facilitate the more effective and wider use of mediation in both commercial disputes and those at the community level, measures to be implemented in 2011-12 include (i) working with stakeholders to keep in view the development of the system of accrediting mediators, (ii) working

out the details of the proposed mediation legislation to set out a framework for the conduct of mediation, (iii) monitoring the adoption and operation of the Hong Kong Mediation Code by mediators and (iv) taking forward the public education and publicity initiatives in order to foster the wider use of mediation.

We shall continue to work closely with the Hong Kong International Arbitration Centre, the International Court of Arbitration of the International Chamber of Commerce (Asia Office), and other arbitration and mediation related organisations in Hong Kong and overseas to promote the use of arbitration and mediation as an alternative means of dispute resolution.

The staff cost and other related expenses for promoting the use of arbitration and mediation will be absorbed by the Department and the estimated expenditure in this regard cannot be quantified. However it should be noted that in relation to furthering the development of mediation in Hong Kong, with the approval of the Finance Committee, a three-year non-civil service position of Deputy Principal Government Counsel was created in September 2010. The annual average staff cost is \$2,081,604.

Signature _____

Name in block letters _____ Susie Ho

Post Title _____ Director of Administration and
Development

Date _____ 18 March 2011

**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

SJ016

Head: 92 Department of Justice Subhead (No. & title):

Question Serial No.

2163

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development

Question:

In 2011-12, what is the specific plan for exploring with the Mainland authorities further opportunities for the legal profession to provide services in the Mainland? What is the estimated expenditure?

Asked by: Hon. TAM Yiu-chung

Reply:

The Department of Justice (DoJ) continues to work closely with the legal professional bodies, namely the Law Society of Hong Kong and the Hong Kong Bar Association in promoting Hong Kong's legal services in the Mainland. Other than exploring further liberalization measures under the Closer Economic Partnership Arrangement (CEPA), DoJ and the legal profession will also examine ways to further develop Hong Kong legal services in the Pearl River Delta. Under the Framework Agreement on Hong Kong/Guangdong Co-operation, DoJ will work with the Guangdong side to facilitate the exchange of legal information and to support the legal profession of both sides to further their professional co-operation. DoJ will also discuss with the Mainland authorities and the Hong Kong professional bodies on the possible ways/measures to optimize opportunities arising from the development of Qianhai which will focus on the development of modern services in the area.

The views sought from the legal profession on the implementation of various liberalization measures under CEPA and the proposals on further developing Hong Kong legal services in the Mainland will be discussed with the Mainland authorities. Any issues or problems encountered on the implementation of relevant measures will also be raised with the Mainland authorities with a view to identifying a way for early resolution.

We shall continue to collaborate with the legal professional bodies on enhancing cooperation with the Mainland side and join them in holding or attending various functions and events in promoting Hong Kong's legal and dispute resolution services in the Mainland as appropriate. DoJ will continue to explore other opportunities to further promote Hong Kong's legal and dispute resolution services in the Mainland.

The staff cost and other related expenses for taking part in such events will be absorbed by DoJ and the estimated expenditure for this specific activity cannot be quantified.

Signature _____

Name in block letters _____ Susie Ho _____

Post Title _____ Director of Administration and
Development _____

Date _____ 18 March 2011 _____

**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

SJ018

Head: 92 Department of Justice Subhead (No. & title):

Question Serial No.

2496

Programme:

Controlling Officer: Director of Administration and Development

Question:

What were the numbers of applications for injunction under the Domestic and Cohabitation Relationships Violence Ordinance in the past three years? What were the numbers of injunctions granted? Of these, how many cases were granted legal aid? How many applications were made by the parties themselves?

	2008	2009	2010
Number of applications for injunction			
Number of cases where injunction was granted			
Number of cases where the application for injunction was refused			
Number of cases where the application for injunction was abandoned in the process			
Number of cases where legal aid was granted			
Number of applications made by the parties themselves			

Asked by: Hon. CHEUNG Kwok-che

Reply:

As the Department is not involved in the application for the injunctions under the Domestic and Cohabitation Relationships Violence Ordinance, we do not have any information on the relevant figures requested for under this question.

Signature _____

Name in block letters _____ Susie Ho

Post Title _____ Director of Administration and Development

Date _____ 18 March 2011

**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

SJ019

Head: 92 Department of Justice Subhead (No. & title):

Question Serial No.

2497

Programme:

Controlling Officer: Director of Administration and Development

Question:

What were the numbers of reports of criminal cases involving domestic violence received in the past three years? How many persons were bound over? How many were prosecuted? How many were convicted?

	2008	2009	2010
Total number of reports of criminal cases involving domestic violence			
Number of prosecutions of criminal cases involving domestic violence			
Number of cases resulting in convictions			
Number of cases resulting in acquittals			
Number of cases resulting in orders of binding over			

Asked by: Hon. CHEUNG Kwok-che

Reply:

Criminal cases are first reported to law enforcement agencies (LEAs) for investigation. LEAs do not need to refer all criminal cases to the Department of Justice (DoJ) for legal advice. For cases tried in the Magistrates' Courts (where most of the cases involving domestic violence are heard), the Police have the delegated powers from the DoJ to lay charges. As to the prosecution of these cases, we do not keep separate statistics on cases involving domestic violence and therefore cannot provide the relevant figures requested under this question. We can only provide the number of legal advices given in relation to cases involving domestic violence, which we have kept since October 2008. The figures are provided below:

	2008 (Oct – Dec)	2009	2010
Number of legal advice given	36	93	149

Signature _____

Name in block letters Susie Ho

Post Title Director of Administration and
Development

Date 18 March 2011

**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

SJ020

Head: 92 Department of Justice Subhead (No. & title):

Question Serial No.

2667

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development

Question:

In 2010, the actual number of court days undertaken by Counsel instructed to prosecute in Magistrates' Court in place of Court Prosecutors (CPs) was 2 668, representing a decrease of 532 from the original estimate of 3 200. What are the reasons for the decrease? And the estimated number of court days for 2011 remains at 2 670, representing a decrease of 585 from the actual number of 3 255 in 2009. Is this because the Administration intends to let the Court Prosecutors undertake more prosecution work? Has the Administration considered briefing out more prosecution work to outside counsel so as to relieve the work pressure of Court Prosecutors?

Asked by: Hon. NG Margaret

Reply:

The number of court days undertaken by Counsel instructed to prosecute in the Magistrates' Courts in place of Court Prosecutors (fiat lawyers) in 2009 was high because of the substantial number of vacancies in the Court Prosecutor (CP) grade left unfilled during that year. The CPs recruited in 2009 had completed their training and were posted to the Magistracy in April 2010. This has helped to relieve the administrative work of the more experienced CPs who were then released to take on more court work. As a result, there was a slight reduction in the number of court days briefed out to fiat lawyers in 2010.

For 2011, we expect that the number of court days briefed out to fiat lawyers would remain at the 2010 level. We will continue to engage fiat lawyers to prosecute cases in the Magistracy on a need basis.

Signature _____

Name in block letters _____ Susie Ho

Post Title _____ Director of Administration and Development

Date _____ 18 March 2011

**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

SJ021

Head: 92 Department of Justice Subhead (No. & title):

Question Serial No.

2668

Programme: (2) Civil

Controlling Officer: Director of Administration and Development

Question:

The estimated number of new proceedings (including non-construction arbitration and mediation) brought against the Government will increase to 1 535 cases in 2011, as compared with the actual numbers of 889 cases, 1 071 cases and 1 286 cases in 2008, 2009 and 2010 respectively. What are the reasons?

Asked by: Hon. NG Margaret

Reply:

The increase in the actual number of new civil proceedings brought against the Government in 2009 in comparison with 2008 is mainly due to an increase in the number of cases involving rating appeals and building appeals. Regarding the increase in the actual number of new civil proceedings brought against the Government in 2010 in comparison with 2009, it is mainly due to an increase in the number of cases involving government rent appeal, rating appeals and cases involving Claims made under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). As regards the estimated increase in 2011, this is mainly due to the estimated increase in the number of CAT related cases.

Signature _____

Name in block letters Susie Ho

Post Title Director of Administration and
Development

Date 18 March 2011

**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

SJ022

Head: 92 Department of Justice Subhead (No. & title):

Question Serial No.

2669

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development

Question:

Please provide details on the duties, ranks and salaries of the 8 posts to be created and 7 posts to be upgraded under this programme in 2011-12.

Asked by: Hon. NG Margaret

Reply:

In 2011-12, the following 8 posts will be created under this programme -

- (a) 6 Government Counsel (GC) posts to strengthen the in-house advocacy capacity and cope with the increasing caseload and complexity of work. The notional annual mid-point salary of a GC is \$730,680; and
- (b) 1 Chief Executive Officer (CEO) and 1 Workman II (WM II) posts to strengthen executive and general support in the Department. The notional annual mid-point salary of a CEO is \$996,720 and that of a WM II is \$118,080.

In addition, with the approval of the Finance Committee in January 2011, a new Assistant Principal Government Counsel (APGC) rank at DL1 level has been created and 7 Senior Government Counsel (SGC) posts in the Prosecutions Division have been upgraded to APGC posts with effect from 1 March 2011 to strengthen the professional support at the directorate level and rationalise the higher level of responsibilities discharged by some of the SGC. The additional notional annual mid-point salary of upgrading an SGC post to APGC post is \$268,680.

Signature _____

Name in block letters Susie Ho

Post Title Director of Administration and
Development

Date 18 March 2011

Examination of Estimates of Expenditure 2011-12

Reply Serial No.

**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

SJ023

Head: 92 Department of Justice Subhead (No. & title):

Question Serial No.

2670

Programme: (2) Civil

Controlling Officer: Director of Administration and Development

Question:

Please provide details on the duties, ranks and salaries of the 16 posts to be created and 6 posts to be upgraded under this programme in 2011-12.

Asked by: Hon. NG Margaret

Reply:

In 2011-12, the following 16 posts will be created under this programme -

- (a) 1 Senior Government Counsel (SGC) to cope with the increasing demand for civil advice and increasing complexity of the legal work involved;
- (b) 1 Government Counsel (GC) to handle the increasing number of civil litigation cases; and
- (c) 3 Law Clerk (LC), 1 Executive Officer I (EO I), 8 Assistant Clerical Officer (ACO) and 2 Clerical Assistant (CA) to strengthen support to legal professionals and strengthen executive and general administrative support.

The notional annual mid-point salary of the respective posts above is as follows -

• SGC	\$996,720
• GC	\$730,680
• LC	\$291,060
• EO I	\$532,800
• ACO	\$190,500
• CA	\$148,560

In addition, with the approval of the Finance Committee in January 2011, a new Assistant Principal Government Counsel (APGC) rank at DL1 level has been created and 6 SGC posts in the Civil Division have been upgraded to APGC posts with effect from 1 March 2011 to strengthen the professional support at the directorate level and rationalise the higher level of responsibilities discharged by some of the SGC. The additional notional annual mid-point salary of upgrading an SGC post to APGC post is \$268,680.

Signature _____

Name in block letters _____ Susie Ho

Post Title _____ Director of Administration and
Development

Date _____ 18 March 2011

**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

SJ024

Head: 92 Department of Justice Subhead (No. & title):

Question Serial No.

2761

Programme:

Controlling Officer: Director of Administration and Development

Question:

In regard to the implementation of the Framework Agreement on Hong Kong/Guangdong Co-operation (the Framework Agreement) and growing co-operation between Hong Kong and the Mainland in recent years, please provide relevant information on Hong Kong/Mainland cross-boundary projects or programmes in which the Department of Justice is or has been involved.

a) For Hong Kong/Mainland cross-boundary projects or programmes from 2008-09 to 2010-11, please provide information in the following format:

Project/ programme title	Details, objective and whether it is related to the Framework Agreement	Expenditure involved	Name of Mainland department/ organizatio n involved	Progress (% completed, start date, anticipated completion date)	Have the details, objective, amount involved or impact on the public, society, culture and ecology been released to the public? If yes, through which channels and what were the manpower and expenditure involved? If no, what are the reasons?

b) For Hong Kong/Mainland cross-boundary projects or programmes in 2011-12, please provide information in the following format:

Project/ programme title	Details, objective and whether it is related to the Framework Agreement	Expenditure involved	Name of Mainland department/ organizatio n involved	Progress (% completed, start date, anticipated completion date)	Will the details, objective, amount involved or impact on the public, society, culture and ecology be released to the public? If yes, through which channels and what will be the manpower and expenditure involved? If no, what are the reasons?

c) Apart from the projects or programmes listed above, are there any other modes of cross-boundary co-operation? If yes, what are they? What were the manpower and expenditure involved in the past 3 years, and how much financial and manpower resources are earmarked in the 2011-12 Estimates?

Asked by: Hon. HO Sau-lan, Cyd

Reply:

a)

Programme title	Details, objective and whether it is related to the Framework Agreement	Expenditure involved	Name of Mainland department/ organization involved	Progress (% completed, start date, anticipated completion date)	Have the details, objective, amount involved or impact on the public, society, culture and ecology been released to the public? If yes, through which channels and what were the manpower and expenditure involved? If no, what are the reasons?
Enhance Legal Co-operation with Guangdong	Pursuant to the Framework Agreement on Hong Kong/ Guangdong Co-operation, we will reinforce the existing communication mechanism in legal matters with Guangdong. This will cover exchange of legal information as well as conducting meetings and / or seminars to discuss specific legal issues. We also support the co-operation between China appointed attesting officers in Hong Kong and Mainland notaries.	The staff cost and other related expenses will be absorbed by the Department and the expenditure for this specific programme cannot be quantified.	The Legislative Affairs Office and the Justice Department of the Guangdong Province depending on the subject matter concerned.	The programme commenced in 2010 and is expected to continue for some time.	This was included in the 2010-11 Policy Agenda. The initiative was also presented to the Legislative Council Panel on Administration of Justice and Legal Services in October 2010. The staff costs and other related expenses were absorbed by the Department and the expenditure in this regard cannot be quantified.

b)

Project/ programme title	Details, objective and whether it is related to the Framework Agreement	Expenditure involved	Name of Mainland department/ organizatio n involved	Progress (% completed, start date, anticipated completion date)	Will the details, objective, amount involved or impact on the public, society, culture and ecology be released to the public? If yes, through which channels and what will be the manpower and expenditure involved? If no, what are the reasons?
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As indicated above, we expect the relevant programme to continue in 2011-12.

- c) The Legal Policy Division promoted the following Hong Kong/Mainland cross-boundary projects or programmes which aim to enhance legal cooperation in the following areas:

The Department of Justice (DoJ) consistently takes measure to promote legal cooperation between Hong Kong and the Mainland. For example, since August 2008, we have monitored the implementation of the reciprocal arrangement signed with the Supreme People's Court to facilitate mutual reciprocal enforcement of judgments in certain civil or commercial matters given pursuant to choice of court agreements.

In addition, owing to the increasing number of cross-boundary marriages, the DoJ would study with the Mainland authorities the feasibility of entering into an arrangement for mutual recognition and enforcement of matrimonial orders. Other legal cooperation projects/programmes include facilitation of training and exchanges with Mainland legal and judicial organs.

The staff costs and other related expenses for such programmes have been and will be absorbed by the DoJ and the estimated expenditure for this specific activity cannot be quantified.

Signature _____

Name in block letters _____ Susie Ho

Post Title _____ Director of Administration and Development

Date _____ 18 March 2011

**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

SJ025

Head: 92 Department of Justice Subhead (No. & title):

Question Serial No.

3196

Programme:

Controlling Officer: Director of Administration and Development

Question:

Regarding the estimates of expenditure of the Information Technology Management Unit (ITMU) of the Department of Justice:

- a. What is the estimated expenditure for 2011-12? What is the percentage change compared with the actual expenditure for 2010-11? What account for this percentage change in expenditure?
- b. What specific initiatives are involved in the estimates of expenditure for 2011-12? Which of them are ongoing and new initiatives respectively? What are the staff number, cost and implementation timetable of each initiative? Among the staff involved, how many of them are civil servants, non-civil service contract staff and staff of outsourced services respectively?
- c. Whether funds have been reserved for promoting electronic civic participation and public sector information access? If yes, what are the specific details, including the titles and particulars of the initiatives, the manpower and cost involved, and the implementation timetable? If not, what are the reasons and will consideration be given to introducing the initiatives in the future?
- d. What are the permanent establishment and the number of existing staff and vacancies of the ITMU? Is manpower expected to increase in the coming year? If yes, how many additional posts will be created? What ranks will be involved? Will they be permanent posts? Will they be appointed on civil service terms? If there will be no increase in manpower, what are the reasons?
- e. Has there been any comprehensive review of the effectiveness of the ITMU? If yes, what are the results and the specific improvement measures involved? If not, what are the reasons and will a review be conducted in the future?

Asked by: Hon. TAM Wai-ho, Samson

Reply:

- a. The Department of Justice provides legal advice to government bureaux and departments, draft legislation, and prosecute trials and appeals. Our departmental IT programme seeks to facilitate and improve the operation of the Department. The estimated expenditure for ITMU in 2011-12 is \$10,507,000 which is 4% higher than the actual expenditure in 2010-11. The increase is mainly due to the additional requirement for computer equipment for new staff, increased provision for maintenance and repair of IT equipment and increased provision for IT professional service requirements.

- b. In 2011-12, the on-going support service is listed below:

Service	No. of staff required in 2011-12			Estimated expenditure in 2011-12 (\$M)
	Civil servant staff	Non-civil service contract staff	Staff of outsourced service provider	
Support of IT operation in the Department	17	1	16	10.507

In addition, new projects in 2011-12 funded under the Capital Works Reserve Fund (CWRP) Head 710 – Computerization are listed below:

New project	No. of staff required in 2011-12			Estimated expenditure in 2011-12 (\$M)	Implementation schedule
	Civil service staff	Non-civil service contract staff	Staff of outsourced service provider		
Implementation of a verified, authenticated and searchable electronic database of Hong Kong legislation	2	0	2	1.150 (funded under Subhead A008YN)	Phase 1 production: May 2014 Phase 2 production: November 2015
Redevelopment of the Mutual Legal Assistance Tracking System and the Law Drafting Management System	1	0	0	4.966 (funded under Subhead A007GX)	June 2012

- c. The above new project "Implementation of a verified, authenticated and searchable electronic database of Hong Kong legislation" (the Database) will support our efforts in promoting initiatives related to public sector information access. The Database will provide the public with a website facilitating free and convenient access to accurate and up-to-date Hong Kong legislation with legal status. Hong Kong legislation will then be available in formats facilitating public access and data download. The estimated expenditure funded by the CWRP Head 710 – Computerization Subhead A008YN is \$79,395,000, including the expenses for 3 staff of outsourced service provider. The project also involves 1 002 person-months of non-recurrent staff effort including legal, technical and clerical officers. The Department will absorb these staff requirements. After the procurement exercise targeting to complete by December 2011, we plan to implement the Database in two phases in which phase one and phase two are scheduled to complete in May 2014 and November 2015 respectively.

- d. The permanent establishment, existing strength and vacancies of the ITMU are as follows:

Grade	Establishment	Strength	Vacancy
Analyst/Programmer	6	6	0
Management Services Officer	6	6	0
Clerical and Secretarial	6	6	0
Total	18	18	0

There are another two staff temporarily redeployed to provide support for IT operation in the Department.

There is no plan to increase the staffing at the moment and we will keep the manpower of the Unit under constant review.

- e. To ensure the effectiveness of IT operation in the Department, we have set up the IT Management Liaison Committee (ITMLC) to review the annual IT Plan and work of the ITMU. The ITMU also reports regularly to the ITMLC on the progress of IT initiatives and draws to ITMLC's attention and deliberation of any relevant issues.

Signature _____

Name in block letters _____ Susie Ho

Post Title _____ Director of Administration and Development

Date _____ 18 March 2011

**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

SJ026

Head: 92 Department of Justice Subhead (No. & title):

Question Serial No.

1119

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development

Question:

Since the Law Reform Commission's (LRC) reports and legislative proposals published in the past, in particular those relating to the protection of children, consumer interests, as well as privacy, etc., were not given weight by various policy bureaux, the pace of law reform in Hong Kong has been slow. In the past three years, what were the resources and manpower put in by the Department of Justice, being the department providing support to the LRC, in its efforts to facilitate the LRC's reports to be given weight by the policy bureaux with a view to implementing the relevant legislative proposals? And in what ways did the Department help to achieve this?

Asked by: Hon. LAU Kong-wah

Reply:

The Administration has advised that, to improve the existing mechanism, for all Law Reform Commission (LRC) reports published in future, relevant bureaux would provide a detailed public response (setting out which recommendations they accept, reject or intend to implement in modified form) to the Secretary for Justice (as the Chairman of the LRC) as soon as practicable. In any event, an interim response setting out the timetable for completion of the detailed response and the steps taken will be provided within six months following the publication of the LRC report.

The Department of Justice (DoJ) provides secretariat and research support to the LRC and its sub-committees. The staff costs and other related expenses for LRC projects (including related research that is carried out in-house) and for facilitating the LRC's reports to be given weight by the policy bureaux are absorbed by DoJ and the estimated expenditure in this regard in the 2011-12 financial year cannot be quantified.

Signature _____

Name in block letters _____ Susie Ho

Post Title _____ Director of Administration and
Development

Date _____ 18 March 2011