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DEPARTMENT OF JUSTICE
Secretary for Justice's Office

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28 January 2019

Mr Lemuel Woo
Clerk to Panel on Administration of
Justice and Legal Services
Legislative Council
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

By E-mail
(yfwoo@legco.gov.hk)

Dear Mr Woo,

**Panel on Administration of Justice and Legal Services
Meeting on 28 January 2019**

**Re: Issues relating to the Department of Justice's handling of
criminal cases and seeking outside independent legal advice**

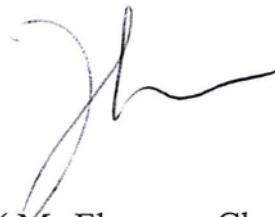
I refer to your letter dated 24 January 2019 enclosing the joint letter of 18 January 2019 from Hon Dennis KWOK and Hon Alvin YEUNG which requested the Department of Justice to provide figures and specific information in relation to the handling of criminal cases. Our reply is set out as follows.

Please refer to the Annex for the response to the first two enquiries, namely (1) the exact number of legal advice provided by the Prosecutions Division in 2016, 2017 and 2018 and (2) the number of cases prosecuted after legal advices were sought in each level of court in 2016, 2017 and 2018.

As to the second enquiry, the Prosecutions Division only initiates appeal, but not prosecution at the Court of Appeal and the Court of Final Appeal. We have nevertheless provided the number of appeals lodged by the Prosecutions Division. Please also note that we do not keep any record of the number of cases prosecuted at the magistrates' courts after legal advices were sought. There are numerous cases prosecuted in the magistrates' courts each year. Various government departments have been authorised to initiate prosecution at the magistrates' courts, and they may or may not seek legal advice from the Department of Justice before doing so.

For the third enquiry, the requested information is relevant to the specifics of a case and/or subject to legal professional privilege and it would not be appropriate to disclose such information.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'F. Chan', with a long horizontal flourish extending to the right.

(Ms Florence Chan)
Administrative Assistant
to Secretary for Justice

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Item (1): Number of legal advice provided by the Prosecutions Division

Year	Number of legal advice (as recorded in the Controlling Officer's Reports) (Note 1)
2018	13,105 (Note 2)
2017	13,790
2016	13,462

Note 1: The above figures are not limited to legal advice on whether or not to prosecute. They include other types of advices on criminal matters, such as disclosure of unused materials, legal advice on investigation, policy advice, etc. More than one advice may be given in respect of one case. Further, an advice to prosecute given in a particular year may not necessarily result in the related prosecution being instituted in the same year.

Note 2: The actual figure of 2018 has yet to be published in the Controlling Officer's Report

Item (2): Number of cases prosecuted/appeals lodged after legal advices were sought in each level of court

	2016	2017	2018
Number of cases prepared for the Court of First Instance	497	457	413
Number of cases prepared for the District Court	1,208	1,157	1,183
Court of Appeal			
By Prosecutions Division to review sentences (Note 1)	5	5	6
By Prosecutions Division by way of case stated (Note 1)	1	0	1
Court of Final Appeal (CFA)			
Certificate to appeal to CFA (from Prosecutions)			

Allowed (Note 2)	1	0	1
Dismissed (Note 2)	1	0	1
Withdrawn (Note 2)	0	0	0
Pending (Note 1)	0	1	0
Application for leave to appeal to CFA (from Prosecutions)			
Allowed (Note 2)	2	1	2
Dismissed (Note 2)	0	0	0
Withdrawn (Note 2)	0	0	0
Pending (Note 1)	1	1	0
Appeal to CFA (from Prosecutions)			
Allowed (Note 2)	4	0	1
Dismissed (Note 2)	2	1	0
Withdrawn (Note 2)	0	0	0
Pending (Note 1)	0	0	1

Note 1: Applications initiated in the year concerned (as at the end of that year)

Note 2: Judgments given in the year concerned