

DRAFT

**For discussion
on 9 December 1998**

EC(98-99)

**ITEM FOR ESTABLISHMENT SUBCOMMITTEE
OF FINANCE COMMITTEE**

**HEAD 92 - DEPARTMENT OF JUSTICE
Subhead 001 Salaries**

Members are invited to recommend to Finance Committee the creation of the following new rank in the Court Prosecutor Grade -

Chief Court Prosecutor
(MPS 40-44) (\$62,780 - \$73,815)

PROBLEM

The present support provided to the Senior Assistant Director of Public Prosecutions (Police Advice (Magistrates' Court) & Court Prosecutors) (SADPP) [ranked at Deputy Principal Government Counsel (DL2)] in respect of the management of the Court Prosecutor (CP) grade in the Department of Justice is inadequate.

PROPOSAL

2. The Secretary for Justice (SJ) proposes to create a new rank of Chief Court Prosecutor (CCP) with a pay scale of MPS 40-44.

JUSTIFICATION

Existing organization

3. At present, the CP grade comprises three ranks, namely, Senior Court Prosecutor I (SCP I) (MPS 34-39), Senior Court Prosecutor II (SCP II) (MPS 28-33) and CP (MPS 15-27). The management of the CP grade is part of the responsibility of the SADPP who is the head of Section 3 of the Prosecutions

Division. The SADPP is assisted by one SCP I, designated departmentally as Senior Court Prosecutor I (Administration) [SCP I (Adm)], in dealing with the more routine CP grade management matters including recruitment, staff planning, training and development and other day-to-day administrative matters pertaining to the grade.

Expansion of the CP grade

4. To address the staff retention problem of the CP grade and to reduce the briefing out of prosecution work to private counsel at higher costs, the Director of Audit recommended in his Report No. 21 to revise upwards the manning scale of the front-line officers in the CP grade. Consequently, we created in 1995-96 23 net additional posts in the CP grade, including six SCP Is, 12 SCP IIs and five CPs. The current establishment of the grade compared to that in 1995 is as follows -

Rank	Establishment as at 31.3.1995	Establishment as at 31.10.1998	% increase
SCP I	3	9	200
SCP II	16	28	75
CP	85	90	6
Total	<u>104</u>	<u>127</u>	<u>22</u>

5. The two-fold increase in the number of SCP Is from three to nine has rendered it inappropriate for the SADPP to involve SCP I (Adm) in grade management matters concerning colleagues of the same rank. As a result, the SADPP has to directly supervise and give guidance to all the nine SCP Is working in the headquarters and the magistracies to ensure the proper conduct of prosecution work in magistracies. The grade management responsibilities of the SADPP have increased to such an extent that they have had an effect on his other professional duties. It is therefore necessary to have a full-time manager at a rank senior to SCP I to assist the SADPP in the overall supervision and management of the CP grade.

Growing responsibilities of the SADPP

6. With the growing caseload and pressure of work in the past years, the Prosecutions Division has rescheduled areas of responsibilities among sections and re-deployed staff to supervise new areas of work which deserve priority treatment. Since September 1996, the SADPP has taken on the responsibility for giving advice to the police in respect of all magistracies' court cases and lay court

prosecutors. With the publication of the Victim's Charter in January 1997, prosecuting officers have to comply with a set of duties and obligations. Owing to the lack of a CP grade manager supervising all the SCP Is, the duty of ensuring general compliance with these provisions by CPs falls on the SADPP though the work could be carried out by an officer below his level.

7. As the SADPP continues to be responsible for all administrative and management matters of the CP grade and for overseeing the operation of ten magistracies, involving 127 court prosecutors and 88 clerical officers, it is increasingly difficult for him to devote sufficient time to the many subjects under his control. SJ therefore considers it necessary to release the SADPP from duties which do not require his level of professional knowledge so that he can spend more time on the supervision of Government Counsel grade officers, determination of legal proceedings, advisory work and court appearances.

Need for a new rank of CCP

8. Having regard to the above, SJ considers that there is a functional need for a new rank of CCP (MPS 40-44) to provide the necessary legal and administrative support to the SADPP in the management of the CP grade. The incumbent will release the SADPP of those grade management responsibilities which do not require professional input at his level. The proposal will also rectify the present anomaly where SCP I (Adm) is involved in the management of other SCP Is.

9. Apart from assisting the SADPP in managing the CP grade, the proposed CCP will also relieve the SADPP of the following duties which we consider to be more appropriately carried out by a CCP -

- (a) regular court inspections of the ten magistracies so as to monitor the work of the SCP Is and to provide them with on-site guidance and advice;
- (b) sorting of prosecution cases according to their level of complexity and the importance of the legal issues involved and assigning appropriate cases for prosecution by CP grade officers in lieu of Government Counsel and counsel on special fiat;
- (c) re-deployment of CP grade officers in various magistracies in response to workload fluctuations, so as to optimise the use of manpower resources and reduce the need to brief out cases to counsel on special fiat;

- (d) holding regular meetings with SCP Is to share experience in administrative and operational matters of common interest and monitoring their performance;
- (e) acting as the management's representative in consultative meetings with the CP Association; and
- (f) assisting in the formulation of practice and procedures in enforcing the provisions of the Victim's Charter.

10. Upon the creation of the CCP post, the existing SCP I (Adm) post will be deleted. In addition, one SCP II and one Personal Secretary II (PS II) posts will be created to provide the necessary administrative and secretarial support to the CCP. The duty list of the proposed CCP is at Enclosure 1 and the existing and proposed organization chart showing the CP grade officers in the Prosecutions Division is at Enclosure 2.

Encl 1

Encl 2

Other alternatives considered

11. SJ has considered the following alternatives to the creation of the CCP but found them not viable -

(a) Creation of an additional post at SCP I level to assist the SADPP

The additional SCP I would only assist in administrative duties but not the supervisory duties. It would be inappropriate for an SCP I to assist in the management of colleagues of the same rank and the SADPP would still be required to supervise the nine SCP Is himself.

(b) Deployment of a general grade officer to assist the SADPP

A general grade officer who is not familiar with the semi-professional nature of CP work and the operational needs of the CP grade could only assist in recruitment and career planning. It would not be suitable for him/her to undertake duties in relation to management, training and operational deployment of CP grade. He/she would also not be in a position to discuss the day-to-day operational problems with SCP Is, nor to deal with queries and complaints against CP grade officers.

FINANCIAL IMPLICATIONS

12. The additional notional annual salary cost of the proposed creation of one CCP, one SCP II and one PS II posts, offset by the deletion of the SCP I (Adm) post, at MID-POINT is -

	\$	No. of Posts
New permanent post	1,510,500	3
Less Permanent post deleted	<u>660,000</u>	<u>1</u>
Additional cost	<u>850,500</u>	<u>2</u>

13. The additional full annual average staff costs of the proposed creation and deletion of posts, including salaries and staff on-cost, is \$1,173,362.

14. We have included the necessary provision in the 1998-99 Estimates and the 1999-2000 draft Estimates to meet the cost of this proposal.

BACKGROUND INFORMATION

15. CPs are deployed in the Prosecutions Division of the Department of Justice to undertake prosecution of criminal cases in magistracies. The CP grade is a matriculation grade. When the grade was first created in 1976, it was a one-rank grade. Upon the recommendation of the Standing Commission on Civil Service Salaries and Conditions of Service, Members approved in 1983 the creation of a new rank of Senior Court Prosecutor (SCP) to provide supervision to CPs and to undertake the prosecution of more complicated cases not handled by Government Counsel. Following the 1989 Review on the Court Prosecutor Grade Restructuring, Members approved in 1991 the creation of a new higher rank of SCP I to further improve the structure of the grade. The former rank of SCP was subsequently retitled as SCP II. The new rank structure and pay scales of the CP grade have remained unchanged since then.

16. In the Audit Report published in 1993, the Director of Audit observed that the high staff wastage rate of the CP grade in 1992-93 and 1993-94 had resulted in the briefing out of a substantial amount of prosecution work to private counsel at much higher costs. The Report recommended a restructuring of the grade with an upward revision in the manning scale of the front-line officers in the grade. A working group subsequently set up in the then Legal Department recommended, amongst other things, the creation of a new CCP rank.

CIVIL SERVICE BUREAU COMMENTS

17. (To be advised by CSB)

**ADVICE OF THE STANDING COMMISSION ON CIVIL SERVICE
SALARIES AND CONDITIONS OF SERVICE**

18. (To be advised by CSB)

Department of Justice
November 1998

**Main Duties and Responsibilities
of the Proposed Post of Chief Court Prosecutor**

To be responsible to the Senior Assistant Director of Public Prosecutions (Police Advice (Magistrates' Court) & Court Prosecutors) (SADPP) for the following duties -

1. Undertaking human resource functions including recruitment, training, posting, staff planning, career development and discipline matters of Court Prosecutors and Senior Court Prosecutors I and II;
2. Recommending to SADPP whether a Government Counsel or a Senior Government Counsel or Court Prosecutor should be assigned to prosecute the more complicated magistracy cases and where appropriate liaising with the Senior Law Clerk I of the Prosecutions Division in arranging counsel-on-fiat as substitution for Court Prosecutors;
3. Chairing regular meetings with Senior Court Prosecutors I and II and supervising them in the carrying out of their duties, arranging leave relief for the Court Prosecutor Grade and conducting reviews on the allocation of work by paying regular visits to the magistracies;
4. Acting as management's representative and adviser in consultative meetings with the Association of the Court Prosecutors and communicating management's policies and views to the Association and issuing divisional guidelines, circular and directives to all Court Prosecutor Grade officers and ensuring that all amendments to the Laws of Hong Kong and important judgements of the Courts relevant to the cases dealt with in the Magistrates' Courts are properly disseminated to all Court Prosecutors;
5. Overseeing administrative matters such as acquisition of office furniture and equipment, planning of office accommodation; and
6. Assisting in the formulation of practice and procedures in enforcing the provisions of the Victim's Charter.

**Existing and Proposed Organization Chart
of the Court Prosecutor Grade Officers in the Prosecutions Division
(Court Prosecutor and Clerical Grades)**

