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17 December 2015

Clerk to LegCo Panel on  
Administration of Justice and Legal Services  
(Attn: Miss Mary So)  
Legislative Council Complex  
1 Legislative Council Road  
Central  
Hong Kong

Dear Miss So,

**Panel on Administration of  
Justice and Legal Services (“AJLS Panel”)  
Follow-up to the meeting on 15 October 2015**

Thank you for your letter dated 20 October 2015, requesting the Judiciary to provide the AJLS Panel with information regarding the time taken for delivery of judgments, the establishment and strength, and the cases filed and handled in relation to the Court of Final Appeal (“CFA”), the Court of Appeal (“CA”) and the Court of First Instance (“CFI”) of the High Court, and the District Court (“DC”) in the past three years of 2012, 2013 and 2014. The Judiciary would like to provide the requested information as follows.

**The CFA**

**(A) Caseload**

2. The caseload positions of the CFA in the past three years were as follows:

Caseload	2012	2013	2014
<b><i>Number of Cases filed</i></b>			
(a) Applications for leave to appeal <sup>1</sup>			
(i) Criminal	67	63	76
(ii) Civil	46	50	65
Sub-total	113	113	141
(b) Substantive appeals			
(i) Criminal	14	8	11
(ii) Civil	27	23	12
Sub-total	41	31	23
<b>Total</b>	<b>154</b>	<b>144</b>	<b>164</b>
<b><i>Number of Substantive Appeals Heard<sup>1</sup></i></b>			
(a) Criminal Appeals	13	13	9
(b) Civil Appeals	15	32	23
<b>Total</b>	<b>28</b>	<b>45</b>	<b>32</b>

<sup>1</sup> The Judiciary does not keep statistics on the number of hearings conducted for applications for leave to appeal to the CFA. From experience, about half of these applications for leave to appeal filed were disposed of on paper.

3. It is noted that the overall caseload of the CFA increased in the past three years from 2012 to 2014, both in terms of the number of cases filed and the number of hearings conducted. It is worth noting that for the substantive appeals, while the number of cases filed in 2013 and 2014 are less than that in 2012, the number of substantive hearings conducted in 2013 and 2014 are more than that in 2012 by 61% and 14% respectively. This is because substantive appeals filed in a year may not be heard in that particular year due to a wide range of factors such as the time required by the parties to prepare for the cases, counsel's diaries and court diary, etc.

4. It should also be noted that the caseload and the number of hearings alone do not reflect the workload of the court fully, as Judges of the CFA spend much time in dealing with paper applications and much time is required for the preparation of more complex cases.

(B) Judicial Manpower

5. The establishment and strength positions of the CFA as at 31 December of 2012, 2013 and 2014 were as follows:

Judicial Manpower	As at 31.12.2012	As at 31.12.2013	As at 31.12.2014
(a) Establishment <sup>2</sup>	4	4	4
(b) Strength	4	4	4

<sup>2</sup> Excluding one post of Non-Permanent Judge.

The CFA has the full strength of the Chief Justice (“CJ”) and three Permanent Judges (“PJs”) throughout the past three years.

6. In accordance with the Court of Final Appeal Ordinance, the CFA consists of the CJ and the PJs. Non-permanent judges may be invited to sit.

7. There are two lists of non-permanent judges –

- (a) The list of non-permanent Hong Kong judges (“HKNPJs”); and
- (b) The list of judges from other common law jurisdictions (“CLNPJs”).

At present, there are a total of 14 NPJs, including 4 HKNPJs and 10 CLNPJs.

8. In hearing and determining substantive appeals, the CFA is constituted by five judges as follows :

- (a) The CJ or a PJ designated to sit in his place;
- (b) Three PJs; and
- (c) One HKNPJ or one CLNPJ (selected by the CJ and invited by the Court).

Where the CJ is not available to sit, he designates a PJ to preside. Where a sufficient number of PJs are not available, the CJ nominates a HKNPJ to sit in place of a PJ.

(C) Delivery of Judgments

9. The Judiciary does not keep statistics on the time taken from conclusion of hearing to the delivery of judgment in the CFA. From operational experience gained in the past 18 years, judgments are usually handed down within a month or so after the conclusion of the hearings in the CFA.

The CA

(A) The Caseload

10. The caseload positions were as follows:

Caseload	2012	2013	2014
<i>Number of appeals filed</i>			
(a) Criminal appeals <sup>3</sup>	526	453	452
(b) Civil appeals	283	281	262
<b>Total</b>	<b>809</b>	<b>734</b>	<b>714</b>
<i>Number of hearings conducted</i>			
(a) Criminal appeals <sup>3</sup>	286	369	316
(b) Civil appeals	180	182	191
<b>Total</b>	<b>466</b>	<b>551</b>	<b>507</b>

<sup>3</sup> Including review of sentences

11. In reading the statistics at the above table, it is relevant to note the following:

- (a) All criminal appeal cases require leave to appeal at the outset except the very rare cases on the sole argument on law points. In this connection, most of the criminal appeal cases filed are applications for leave to appeal cum substantive appeal. When the leave to appeal was granted at the hearing (which usually comprised of two to three judges), the CA would, for most of the cases, treat the hearings as hearings for the substantive appeals and decide the appeal accordingly without a separate hearing. Occasionally where the hearings

comprised a single judge, the CA will order that a separate hearing be conducted for the substantive appeal after the leave is granted, but the Judiciary does not keep separate statistics on the number of such hearings. From operational experience in the past few years, it is estimated that such cases may only constitute to less than 10% of the criminal appeal hearings conducted;

- (b) The statistics on the number of civil appeals filed do not include the number of applications for leave to appeal filed. The granting of leave to appeal in civil cases could be obtained at the CFI, and if application for leave is refused by that court, application for leave could be made to the CA. Under the current High Court Case Management System, these applications to the CA are not classified as a separate category but are grouped under a bigger category which include other types of cases. Hence, the Judiciary could not provide the precise figures on application for leave to appeal to the CA in civil cases. From operational experience in the past few years, it is estimated that there may be about 150 such applications for leave to appeal in civil matters filed to the CA in a year and about 70% of them were disposed of on paper; and
- (c) Not all appeals filed would proceed to a hearing:
  - (i) For criminal appeals, an applicant may file a notice of abandonment to abandon his/her appeal due to various reasons e.g. loss of time may be ordered for any unmeritorious appeals; and
  - (ii) For civil appeals, no hearing would be conducted in a number of scenarios e.g. withdrawal of appeal by the appellant, parties agreeing to have an appeal dismissed, etc.

12. Taking all available information together, overall speaking, the numbers of appeals filed to the CA for both criminal and civil cases were on the decrease during the past three years, but the numbers of hearings conducted by the CA in 2013 and 2014 were higher than that in 2012. It should be noted that appeals filed in a year may not be heard

in that particular year. It is also noted that there has been an increase in the number of re-fixed hearings due to adjournment of or part-heard proceedings. In addition, Judges in the CA need to spend substantial amount of time to deal with paper applications on top of conducting hearings. Hence, the workload of the CA has been on the increasing trend during the past few years.

(B) Judicial Manpower

13. The establishment and strength positions of the CA as at 31 December of 2012, 2013 and 2014 were as follows:

Judicial Manpower	as at 31.12.2012	as at 31.12.2013	as at 31.12.2014
(a) Establishment	11	11	11
(b) Strength	11	11	11

The CA has the full strength of the Chief Judge of the High Court and 10 Justices of Appeal (“JAs”) throughout the past three years.

14. For cases heard (including applications for leave to appeal) in the CA, at least two JAs are required. For hearing substantive appeals, three JAs are required. To ensure the smooth operation of the CA, Judges of the CFI are deployed to sit as additional judges of the CA as appropriate to meet the operational needs of the CA in accordance with the statutory provision under the High Court Ordinance, Cap. 4. Such deployments also provide opportunities for the CFI Judges to gain relevant judicial experience in the appellate court. Throughout the past few years, a substantial number of CFI Judges were deployed from time to time to sit as additional judges of the CA in view of the growing caseload of the CA.

(C) Delivery of Judgments

15. The Judiciary does not keep statistics on the time taken from conclusion of hearing to the delivery of judgment for criminal appeal cases. From operational experience, we understand that for most of the cases, judgments are normally delivered within a short period of time after conclusion of the hearings having regard to the nature of such appeals.

16. As for the civil appeal cases, the average time taken by the court from conclusion of hearing to the delivery of judgment for cases which hearings were concluded in the past three years, with position as at 30.11.2015 are as follows:

The CA	For cases with hearings concluded in		
	2012	2013	2014
Civil appeals	31 days	38 days	28 days

17. It should be noted that with the deployment of some Judges of the CFI to sit as additional judges of the CA to address the increase in workload in the CA in the past few years, the average time taken in the delivery of judgments were kept between 28 to 38 days over the past three years.

### **The CFI**

#### **(A) The Caseload**

18. The caseload positions were as follows:

Caseload	2012	2013	2014
<b><i>Number of cases filed</i></b>			
(a) Criminal cases	486	571	545
(b) Civil cases	17,107	18,494	19,265
(c) Appeals from Magistrates Courts	862	809	771
(d) Tribunal and miscellaneous appeals <sup>4</sup>	105	79	102
<b>Total</b>	<b>18,560</b>	<b>19,953</b>	<b>20,683</b>
<b><i>Number of substantive hearings conducted</i></b>			
(a) Criminal cases	183	173	191
(b) Civil cases <sup>5</sup>	270	276	317
(c) Appeals from Magistrates Courts	487	628	633
(d) Tribunal and miscellaneous appeals <sup>4</sup>	8	14	8
<b>Total</b>	<b>948</b>	<b>1,091</b>	<b>1,149</b>

- <sup>4</sup> Including appeals from Labour Tribunal, Small Claims Tribunal, Minor Employment Claims Adjudication Board and Miscellaneous Appeals  
<sup>5</sup> Excluding hearings of interlocutory applications

19. In reading the statistics at the above table, it is relevant to note the following:

- (a) Criminal cases filed included committal for sentence and committal for trial, but only the latter would require substantive hearings. Further, substantive hearing would not be conducted if the defendant pleaded guilty or the prosecution offered no evidence before trial.
- (b) From operational experience, most of the civil cases filed would not proceed to substantive hearing due to various reasons e.g. plaintiff withdraw/discontinue his/her claim, cases disposed of by summary judgment, default judgment, or settled by Order 22 Sanctioned Payment, filing of consent summons/orders, or mediation.
- (c) For appeals from Magistrates' Courts, an applicant may file notice of abandonment to abandon his/her appeals.
- (d) Applications for leave to appeal are required for tribunal and miscellaneous appeals. The number of tribunal and miscellaneous appeals filed included applications for leave to appeal, and only cases with leave granted would proceed to substantive hearing.

20. Taking all available information together, the overall caseload of the CFI increased in the past three years from 2012 to 2014, both in terms of the number of cases filed and the number of hearings conducted. Both the number of criminal and civil cases filed and the number of hearings conducted for criminal and civil cases increased by about 13% over the period. As for the appeals from Magistrates' Courts and tribunal and miscellaneous appeals, the number of substantive hearings conducted increased by about 30% from 2012 to 2014. On top of these, CFI Judges need to spend a substantial amount of time in dealing with paper applications and conducting interlocutory hearings. All these resulted in a significant increase in the workload of the CFI.



## (B) Judicial Manpower

21. The establishment and manpower positions of the CFI as at 31 December of 2012, 2013 and 2014 were as follows:

Judicial Manpower	As at 31.12.2012	As at 31.12.2013	As at 31.12.2014
(a) Establishment	32	33	33
(b) Manpower			
(i) Strength of Judges	25	26	24
(ii) Deputies <sup>6</sup>	7	7	13
<b>Total</b>	<b>32</b>	<b>33</b>	<b>37</b>

<sup>6</sup> Including internal Deputy CFI Judges appointed from lower levels of court and Deputy CFI Judges appointed from outside the Judiciary.

22. While the total judicial manpower of the CFI remained at 32, 33 and 37 at the end of 2012, 2013 and 2014 respectively, the manpower situation varied between months within a year. The total judicial manpower of the CFI, based on the monthly situation, ranged from 32 to 40 in 2012, from 33 to 41 in 2013 and from 37 to 43 in 2014. The average monthly manpower positions were 35 in 2012, 39 in 2013 and 41 in 2014.

## (C) Delivery of Judgments

23. For criminal trials heard in the CFI, no judgment would be made as the verdicts are given by the jury. In respect of the appeals from the Magistrates' Courts, the Judiciary does not keep statistics on the time taken from conclusion of hearing to the delivery of judgment. From the operational experience, the judgments are normally given expeditiously having regard to the nature of such appeals.

24. As for the civil cases heard by the CFI, the average time taken from conclusion of hearing to the delivery of judgment for cases which hearings were concluded in the past three years, with position as at 30.11.2015 are as follows:

The CFI	For cases with hearings concluded in		
	2012	2013	2014
(a) Civil trials/substantive hearings	91 days	108 days	104 days
(b) Tribunal and miscellaneous appeals	10 days	29 days	37 days

25. It is noted that the average time taken for delivery of judgments regarding civil trials/substantive hearings at the CFI ranged from 91 to 108 days in the past three years. The time taken for delivery of judgment regarding tribunal and miscellaneous appeals increased from 10 to 37 days, but the average time taken was still about a month or so.

## The DC

### (A) The Caseload

26. The caseload positions were as follows:

The DC	2012	2013	2014
<i>Number of cases filed</i>			
(a) Criminal cases	1,207	1,190	1,079
(b) Civil cases	20,847	20,636	20,639
<b>Total</b>	<b>22,054</b>	<b>21,826</b>	<b>21,718</b>
<i>Number of substantive hearings conducted</i>			
(a) Criminal cases	784	753	724
(b) Civil cases <sup>7</sup>	240	301	218
<b>Total</b>	<b>1,024</b>	<b>1,054</b>	<b>942</b>

<sup>7</sup> Excluding hearings of interlocutory applications

27. In reading the statistics at the above table, it is relevant to note that:

- (a) For criminal cases filed, only those with defendants pleaded not guilty would proceed to substantive hearings.
- (b) Similar to the CFI, most of the civil cases filed at the DC would not proceed to substantive hearing.

28. The caseload for the DC remained relatively stable, with a slight decreasing trend, in the past three years, both in terms of cases filed and the number of substantive hearings conducted. There were slight decreases of 2% in the number of cases filed and 8% in the number of hearings conducted over the period.

29. But the caseload and hearing figures alone do not reflect the full workload of the DC. District Judges need to spend substantial amount of time in dealing with paper applications and conducting interlocutory hearings.

(B) Judicial Manpower

30. The establishment and manpower of the DC remained at similar levels in the past three years, the positions of which as at 31 December of 2012, 2013 and 2014 were as follows:

The DC	as at 31.12.2012	as at 31.12.2013	as at 31.12.2014
(a) Establishment	28	28	28
(b) Manpower			
(i) Strength of Judges <sup>8</sup>	21	23	20
(ii) Deputies <sup>9</sup>	4	3	6
<b>Total</b>	<b>25</b>	<b>26</b>	<b>26</b>

<sup>8</sup> Excluding District Judges sitting as Registrar of the CFA, Deputy CFI Judges or cross-posted to the High Court Masters' Office.

<sup>9</sup> Including Deputy District Judges appointed from lower level of court and from outside the Judiciary.

31. While the total judicial manpower of the DC remained at 25, 26 and 26 at the end of 2012, 2013 and 2014 respectively, the manpower situation varied between months within a year. The total judicial manpower of the DC, based on the monthly situation, ranged from 24 to 27 in 2012, from 25 to 27 in 2013 and from 25 to 27 in 2014. The average monthly manpower positions are 26 in 2012, 26 in 2013 and 26 in 2014.

(C) Delivery of Judgments

32. The Judiciary does not keep statistics on the time taken from conclusion of hearing to the delivery of reasons for verdict and/or sentence in criminal cases at the DC. Pursuant to the relevant statutory provisions, they must be reduced into writing and signed by the judge within 21 days pursuant to section 80 of the District Court Ordinance, Cap. 336.

33. As for the civil cases, the average time taken from conclusion of hearing to the delivery of judgment for cases which hearings were concluded in the past three years, with position as at 30.11.2015 are as follows:

The DC	For cases with hearings concluded in		
	2012	2013	2014
Civil trials/substantive hearings	52 days	55 days	70 days

34. It is noted that the average time of delivery of judgments for civil cases ranged between 52 to 55 days in 2012 and 2013, but increased to 70 days in 2014. This may be due to the increase in the number of civil cases requiring longer judgment writing time because of increasing case complexity.

Yours sincerely,



( Wilson Chiu )

for Judiciary Administrator