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Replies to initial written questions raised by Finance Committee Members in examining the Estimates of Expenditure 2018-19

Director of Bureau : Secretary for Justice

Session No. : 2

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CONTROLLING OFFICER'S REPLY

SJ001

(Question Serial No. 1585)

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (2) Civil

Controlling Officer: Director of Administration and Development (Alan Siu)

Director of Bureau: Secretary for Justice

Question:

What are the estimated amounts of court costs and briefing-out expenses under this programme for 2018-19? What are the post titles of the 30 posts net created and their estimated annual expenditure on emoluments for 2018-19? Would the Government inform this Committee of the reasons for the significant increase in briefing-out and court costs for 2018-19, and whether it is related to the significant increase in the number of judicial review cases?

Asked by: Hon CHAN Chi-chuen (Member Question No. (LegCo use): 9)

Reply:

For programme (2), the estimates for court costs and briefing out for 2018-19 are \$339 million and \$247 million respectively. The 2018-19 estimates for court costs and briefing out are 156% (or \$206.8 million) higher and 2.5% (or \$6.44 million) lower than the original provision for 2017-18 respectively. As compared to the 2017-18 revised estimates, the estimated expenditure represents an increase of 229% (or \$236 million) and 74% (or \$105 million) respectively.

The annual expenditure on court costs and briefing out varies from year to year, depending on many factors including the number of cases involved, their complexity and development. While the estimate was worked out based on information available at the time of preparing the estimates, the actual expenditure to be incurred in 2018-19 would ultimately depend on subsequent development and outcome of the cases concerned and the amount of unanticipated expenditure (arising from cases which could not have been anticipated when the estimate was made and are not entirely within the control of DoJ). The anticipated overall increase in court costs payment and briefing out expenditure for 2018-19 is mainly due to provisions that need to be made for the amount likely to be required for new cases that will / may arise (including some mega cases), as well as expenditure from a number of cases rolled over from 2017-18. Besides, it is noted that a general increase in counsel fees as well as the complexity of the cases over the years also contribute to higher court costs payment and briefing out expenditure for individual cases.

The net creation of 30 posts in the Civil Division in 2018-19 involves the creation of 35 new posts offset by the deletion of five posts. Details are as follows –

Post	NAMS*
Creation of <u>35</u> posts:	
One Principal Government Counsel	\$2,431,800
Ten Senior Government Counsel	\$1,389,540 x 10 = \$13,895,400
Two Government Counsel	\$989,100 x 2 = \$1,978,200
Three Law Clerks	\$401,100 x 3 = \$1,203,300
One Personal Secretary I	\$421,020
One Personal Secretary II	\$262,560
Eight Assistant Clerical Officers	\$262,560 x 8 = \$2,100,480
Five Clerical Assistant	\$204,960 x 5 = \$1,024,800
One Senior Executive Officer	\$989,100
One Librarian	\$734,040
Two Workman II	\$162,960 x 2 = \$325,920
Offset by deletion of five time-limited posts which would lapse on 1.4.2018	

* NAMS means notional annual mid-point salary

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CONTROLLING OFFICER'S REPLY

SJ002

(Question Serial No. 1586)

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development (Alan Siu)

Director of Bureau: Secretary for Justice

Question:

What are the estimated amounts of court costs and briefing-out expenses under this programme for 2018-19? What are the post titles of the 26 posts net created and their estimated annual expenditure on emoluments for 2018-19? Would the Government inform this Committee of the reasons for the significant increase in briefing-out and court costs for 2018-19?

Asked by: Hon CHAN Chi-chuen (Member Question No. (LegCo use): 10)

Reply:

For programme (1), the estimates for court costs and briefing out for 2018-19 are \$199 million and \$225.18 million respectively. The 2018-19 estimates for court costs and briefing out are 1.1% (or \$2.14 million) higher and 6.6% (or \$16.04 million) lower than the original provision for 2017-18 respectively. As compared to the 2017-18 revised estimates, the estimated expenditure represents an increase of 149.2% (or \$119.14 million) and 31.5% (or \$53.98 million) respectively.

The annual expenditure on court costs and briefing out varies from year to year, depending on many factors including the number of cases involved, their complexity and development. While the estimate was worked out based on information available at the time of preparing the estimates, the actual expenditure to be incurred in 2018-19 would ultimately depend on subsequent development and outcome of the cases concerned and the amount of unanticipated expenditure (arising from cases which could not have been anticipated when the estimate was made and are not entirely within the control of DoJ). The anticipated overall increase in court costs and briefing out for 2018-19 is mainly due to provisions that need to be made for the amount likely to be required for new cases that will / may arise (including some mega cases), as well as possible expenditure from a number of cases rolled-over from 2017-18. Besides, it is noted that a general increase in counsel fees as well as the complexity of the cases over the years also contribute to higher court costs payment and briefing out expenditure for individual cases.

The details of the posts to be created in 2018-19 are set out below –

Post(s)	NAMS*
Seven Government Counsel	\$989,100 x 7 = \$6,923,700
One Senior Executive Officer	\$989,100
Three Law Clerks	\$401,100 x 3 = \$1,203,300
Seven Assistant Clerical Officer	\$262,560 x 7 = \$1,837,920
Four Clerical Assistant	\$204,960 x 4 = \$819,840
One Chief Executive Officer	\$1,389,540
One Executive Officer I	\$734,040
One Analyst / Programmer I	\$734,040
One Confidential Assistant	\$313,920

*NAMS means notional annual mid-point salary

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CONTROLLING OFFICER'S REPLY

SJ003

(Question Serial No. 1610)

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development (Alan Siu)

Director of Bureau: Secretary for Justice

Question:

To follow up on the Court of Final Appeal case of *W v Registrar of Marriages*, the Department of Justice (“DoJ”) set up a few years ago the Inter-departmental Working Group on Gender Recognition (“IWG”) to consider the legislation and incidental administrative measures required for protecting the rights of transsexual persons in Hong Kong in all legal contexts, and to make recommendations for reform as appropriate. In this connection, would the Government advise:

- (1) What were the manpower and expenditure for the IWG in the past year?
- (2) What are the estimated manpower and expenditure for the IWG in the coming year?
- (3) How many meetings have been conducted by the IWG to date? Please set out in a table the topics deliberated and the names of the government departments participated in each of the meetings.
- (4) How many experts or professionals were consulted and invited for assistance by the DoJ? What were their status and background? Were transgenders and bisexuals represented among them? If yes, who were invited? If not, what were the reasons?
- (5) How many submissions were received in response to the public consultation on gender recognition conducted earlier by the IWG? How many of them were from individuals and how many from organisations? When will the IWG publish the report on the consultation? Please advise the work progress in respect of the report.
- (6) What were the research projects conducted by the IWG?
- (7) What is the work progress of the IWG to date? What topics have been dealt with? And what is the work direction envisaged for the coming year?
- (8) When does the IWG expect to proceed to the next consultation on legislative work?

Reply:

- (1) and (2) The existing one Senior Government Counsel post and one Government Counsel post for dealing with the work, which were created since 2014-15, will be further extended for 2 years starting from 2018-19 to provide ongoing legal support to the IWG chaired by the Secretary for Justice. The estimated annual staff cost of the above posts is around \$2.3 million in 2017-18 and around \$2.4 million in 2018-19. For other officers providing support to the IWG, their work in this regard is undertaken among their other duties, and the staff costs, as well as other related expenses, cannot be separately identified.
- (3) – (8) The IWG has held sixteen formal meetings to-date with further formal meetings planned for 2018-19. In addition, the IWG has held nine informal meetings so far, to consult a range of individuals and organisations, including doctors, psychiatrists, academic experts and transgender people (including those who have undergone full sex reassignment surgery). Both the formal and informal meetings were attended by IWG members including representatives from DoJ, Constitutional and Mainland Affairs Bureau, Security Bureau, and Food and Health Bureau, as well as non-government members. To ensure the IWG can have a full and frank discussion on the subject, the content of the meetings is confidential and will generally not be disclosed to the public. This approach is no different from that adopted by similar committees or working groups.

The scope of the IWG's study includes both recognition and post-recognition issues. On recognition issues, the IWG has been reviewing various issues, including the condition known as gender identity disorder or gender dysphoria, whether there should be a gender recognition scheme, the various options for a gender recognition scheme, and the relevant qualification criteria and the application procedure. In this connection, the IWG has undertaken a comparative study of the legislation, schemes and case law on gender recognition in over 100 jurisdictions, as well as the standards of different international bodies.

As regards post-recognition issues, the IWG will focus on reviewing all the existing legislative provisions and administrative measures in Hong Kong which may be affected by legal gender recognition, so that any required legislative or procedural reform may be followed up by the Government.

The IWG issued a consultation paper on gender recognition on 23 June 2017. The consultation period ended on 31 December 2017. In order to inform the public about the consultation and to listen to their views, members and representatives of the IWG attended meetings with various groups and organisations during the consultation period, including hosting two public forums (on 4 September 2017 and 19 October 2017 respectively) and attending two meetings of the Administration of Justice and Legal Services Panel of the Legislative Council (on 18 July 2017 and 20 November 2017 respectively).

The IWG received more than 17,000 responses to the consultation from a wide range of different perspectives. The IWG is in the process of collating and analysing the responses received. Given the large number of responses, it is too early for the IWG to provide a detailed breakdown of the numbers of submissions received from individuals and organisations at this stage. That said, the IWG appreciates the importance of this matter and will seek to proceed as expeditiously as circumstances allow. The IWG will report on the results of the public consultation and the proposed way forward in due course.

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CONTROLLING OFFICER'S REPLY**SJ004****(Question Serial No. 3645)**Head: (92) Department of JusticeSubhead (No. & title): (-) Not SpecifiedProgramme: (3) Legal PolicyControlling Officer: Director of Administration and Development (Alan Siu)Director of Bureau: Secretary for JusticeQuestion:

Under this Programme, would the Administration inform this Committee of:

- (1) the establishment and estimated annual expenditure on emoluments of the Legal Policy Division (LPD) of the Department of Justice (DoJ) for 2018-19?
- (2) the establishment and estimated annual expenditure on emoluments of the Constitutional Development and Elections Unit under the LPD of the DoJ for 2018-19?
- (3) the establishment and estimated annual expenditure on emoluments of the Basic Law Unit and the Human Rights Unit under the LPD of the DoJ for 2018-19?

Asked by: Hon CHAN Chi-chuen (Member Question No. (LegCo use): 84)Reply:

- (1) The establishment and estimated annual expenditure on emoluments of the Legal Policy Division (LPD) for 2018-19 are set out in the table below:

	Establishment for 2018-19 ^{Note}	Estimated annual expenditure on emoluments for 2018-19 (NAMS*)
LPD	1 Law Officer, 3 Principal Government Counsel, 7 Deputy Principal Government Counsel, 1 Assistant Principal Government Counsel, 24 Senior Government Counsel, 17 Government Counsel, 5 Law Clerk, 1 Senior Law Translation Officer, 2 Law Translation Officer,	\$94,726,680

	1 Senior Executive Officer, 2 Executive Officer I, 1 Senior Personal Secretary, 10 Personal Secretary I, 7 Personal Secretary II, 1 Clerical Officer, 9 Assistant Clerical Officer and 3 Clerical Assistant	
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(2) & (3)

Furthermore, the respective establishment and estimated annual expenditure on emoluments of each of the three Units under the Constitutional Affairs Sub-Division of the LPD for 2018-19 are set out in the table below:

	Establishment for 2018-19 ^{Note}	Estimated annual expenditure on emoluments for 2018-19 (NAMS*)
Constitutional Development and Elections Unit	1 Deputy Principal Government Counsel, 2 Senior Government Counsel and 1 Personal Secretary I	\$5,294,700
Basic Law Unit	1 Deputy Principal Government Counsel, 4 Senior Government Counsel, 1 Government Counsel, 1 Law Clerk, 1 Personal Secretary I, 1 Personal Secretary II and 1 Assistant Clerical Officer	\$9,989,100
Human Rights Unit	1 Deputy Principal Government Counsel, 4 Senior Government Counsel, 2 Government Counsel, 1 Personal Secretary I, 1 Personal Secretary II and 1 Assistant Clerical Officer	\$10,577,100

Note: Excluding supernumerary posts

*NAMS means notional annual mid-point salary

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CONTROLLING OFFICER'S REPLY

SJ005

(Question Serial No. 3718)

Head: (92) Department of Justice

Subhead (No. & title): (000) Operational expenses

Programme: (-) Not Specified

Controlling Officer: Director of Administration and Development (Alan Siu)

Director of Bureau: Secretary for Justice

Question:

What is the estimated annual salary of the Secretary for Justice in 2018-19? What is the estimated annual expenditure on the emolument of the Director of Public Prosecutions in 2018-19?

Asked by: Hon CHAN Chi-chuen (Member Question No. (LegCo use): 215)

Reply:

The estimated expenditure on the emoluments of the Secretary for Justice in 2018-19 is \$4.15 million. The notional annual mid-point salary of the Director of Public Prosecutions post in 2018-19 is \$3.00 million.

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CONTROLLING OFFICER'S REPLY**SJ006****(Question Serial No. 3743)**Head: (92) Department of JusticeSubhead (No. & title): (001) SalariesProgramme: (2) CivilControlling Officer: Director of Administration and Development (Alan Siu)Director of Bureau: Secretary for JusticeQuestion:

Would the Government inform this Committee of the following:

1. In respect of Programme (2) Civil, the establishment and estimated annual expenditure on the emoluments involved, as well as the operational expenses for 2018-19? What is the annual expenditure involved on the emoluments of Government Counsel under this Programme for 2018-19? What are the estimated annual expenditure on the hire of legal services and related professional fees for 2018-19?
2. The Administration stated that provision for 2018-19 is \$393.6 million (62.0%) higher than the revised estimate for 2017-18. This is mainly due to the anticipated increase in briefing-out expenses and court costs, filling of vacancies, and net creation of 30 posts to meet operational needs. Would the Administration inform this Committee of the estimated amount of court costs and the estimated briefing-out expenses under this Programme for 2018-19?

Asked by: Hon CHAN Chi-chuen (Member Question No. (LegCo use): 241)Reply:

The estimated establishment in respect of Programme (2) Civil as at 31 March 2019 is 455, as set out below –

Grades	Establishment
Government Counsel	185
Para-legal	59
Executive, Clerical and Secretarial	211
Total	455

The estimated expenditure of the Programme (2) Civil for 2018-19 is \$1028.2 million, out of which, the estimated personal emoluments involved are about \$344 million (including \$250.7 million for Government Counsel), the estimated general departmental expenses are \$79.2 million while the estimated expenses for the hire of legal services and related

professional fees (i.e. briefing-out expenses) is \$247 million. The estimated amount of court costs under the Programme is \$339.1 million.

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CONTROLLING OFFICER'S REPLY**SJ007****(Question Serial No. 3744)**Head: (92) Department of JusticeSubhead (No. & title): (000) Operational expensesProgramme: (2) CivilControlling Officer: Director of Administration and Development (Alan Siu)Director of Bureau: Secretary for JusticeQuestion:

Please list in table form the government expenditure incurred in the review of the qualifications of LAW Kwun-chung Nathan, YIU Chung-yim, LEUNG Chung-hang Sixtus and YAU Wai-ching as Legislative Councillors, and the responsible officers of the Department of Justice in the past 5 years.

Asked by: Hon CHAN Chi-chuen (Member Question No. (LegCo use): 242)Reply:

The briefing out expenditure incurred in relation to the cases concerned in the past five years is as follows: -

Year	Court case number	Briefing out expenditure
2016-17	HCAL 185/2016, HCMP 2819/2016 (re. LEUNG Chung-hang, Sixtus and YAU Wai-ching)	\$3,032,114
2016-17	CACV 224-227/2016 (re. LEUNG Chung-hang, Sixtus and YAU Wai-ching)	\$1,560,276
2016-17	FAMV 7-10/2017 (re. LEUNG Chung-hang, Sixtus and YAU Wai-ching)	Briefing out expenditure is not yet finalized
2016-17	HCAL 223/2016 & HCMP 3379/2016 (re. LAW Kwun-chung, Nathan), HCAL 226/2016 & HCMP 3378/2016 (re. YIU Chung-yim), HCAL 224-225/2016 and HCMP 3381-3382/2016 (relating to other persons)	\$2,061,275

The cases of the review of Legislative Councillors' qualifications in respect of Nathan Law Kwun Chung and Yiu Chung Yim (HCAL 223 & 226/2016 and HCMP 3378 & 3379/2016) were directed by the Court to be heard together with other cases (HCAL 224-225/2016 and HCMP 3381-82/2016), which involved some common legal issues. The briefing out

expenditure so incurred was for briefing local Senior Counsel and junior counsel to handle all these cases together. Hence, we do not maintain a separate breakdown for the briefing out expenditure of each set of such proceedings.

The officers of the Civil Division of the department deal with all civil litigation and tribunal work involving the Government. The said proceedings are mainly handled by the Civil Division which may seek inputs or advice from other divisions in the Department and/or outside Counsel instructed. As such, while in general the legal proceedings come under the purview of the Civil Division, the officer or the team of officers involved in advising or handling the different aspects of the proceedings may vary depending on, for example, the nature of the issues, the complexity, etc. Hence, the expenditure and officers involved in this regard cannot be separately identified.

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CONTROLLING OFFICER'S REPLY**SJ008****(Question Serial No. 3747)**Head: (92) Department of JusticeSubhead (No. & title): (000) Operational expensesProgramme: (3) Legal PolicyControlling Officer: Director of Administration and Development (Alan Siu)Director of Bureau: Secretary for JusticeQuestion:

Regarding the work on “briefings given in the Mainland and to Mainland delegations in Hong Kong”, would the Government provide the following information:

1. On the briefings conducted in 2017:

	Date and time	Venue	Number of participants	Background of participating organisations/ participants	Expenditure of briefing	Topic of briefing	Effectiveness of briefing

2. On the briefings expected to be conducted in 2018:

	Expected date and time	Expected venue	Expected number of participants	Background of expected participating organisations/ participants	Expected expenditure of briefing	Expected topic of briefing	Expected effectiveness of briefing

Asked by: Hon CHAN Chi-chuen (Member Question No. (LegCo use): 245)Reply:

Briefings given by the Department of Justice (DoJ) to Mainland individuals and organisations were mainly conducted in Hong Kong and were usually arranged at the request of the inviting departments/organisations in Hong Kong or the visiting organisations. Details of the briefings conducted in 2017 are set out in the table below:

Date and time (2017)	Venue	Number of participants	Background of participating organisations/ participants	Expenditure of briefing	Topic of briefing	Effectiveness of briefing
January : 2 April: 1 May: 2 October: 1 November: 3 December: 1	JP	2-26 on each occasion	ISD's sponsored visitors and its other invitees to Hong Kong	Nil	The legal system of / dispute resolution services in Hong Kong	Facilitating exchange on the legal system and dispute resolution services of Hong Kong and the work of DoJ
January : 1 March: 1 June: 1 July: 2 September: 3 October: 1 November: 1	JP except one occasion (met at a local hotel)	2-22 on each occasion	Delegates of visits to Hong Kong by Mainland government organisations	Nil	The legal system of / dispute resolution services in Hong Kong, and other issues of common interests	Facilitating exchange and cooperation with the Mainland
March: 1 May: 1 September: 1 October: 1	JP	3-21 on each occasion	Delegation for visits to Hong Kong legal and dispute resolution institutions	Nil	The legal system of / dispute resolution services in Hong Kong	Facilitating exchange on the legal system and dispute resolution services of Hong Kong and the work of DoJ
June: 1 October: 2 November: 1	JP	8-34 on each occasion	Participants of courses / training held in Hong Kong	Nil	The legal system of / dispute resolution services in Hong Kong	Facilitating exchange on the legal system and dispute resolution services of Hong Kong and the work of DoJ
July: 2 August: 1	JP	6-20 on each occasion	Law students and academics	Nil	The legal system of / dispute resolution services in Hong Kong	Facilitating exchange on the legal system and dispute resolution services of Hong Kong and the work of DoJ

Since briefings given by the DoJ to Mainland individuals and organisations are usually arranged at the request of the inviting departments/organisations in Hong Kong or the visiting organisations, the demand cannot be estimated. Details of the briefings conducted so far in 2018 are set out in the table below:

Date and time (2018)	Venue	Number of participants	Background of participants	Expenditure involved	Topic of seminar	Effectiveness of seminar (e.g. facilitating exchanges, promoting Basic Law provisions etc.)
February: 2 March: 1	JP	2-5 on each occasion	ISD's sponsored visitors	Nil	The legal system of / dispute resolution services in Hong Kong	Facilitating exchange on the legal system and dispute resolution services of Hong Kong and the work of DoJ

Date and time (2018)	Venue	Number of participants	Background of participants	Expenditure involved	Topic of seminar	Effectiveness of seminar (e.g. facilitating exchanges, promoting Basic Law provisions etc.)
January: 3 March: 1	JP	5-47 on each occasion	Delegates of visits to Hong Kong by Mainland government organisations	Nil	The legal system of / dispute resolution services in Hong Kong, and other issues of common interests	Facilitating exchange and cooperation with the Mainland
January: 1	JP	8	Delegation for legal and dispute resolution institution		The legal system of / dispute resolution services in Hong Kong	Facilitating exchange on the legal system and dispute resolution services of Hong Kong and the work of DoJ

No special expenditure is incurred by the Department of Justice for the above briefings.

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CONTROLLING OFFICER'S REPLY**SJ009****(Question Serial No. 3749)**Head: (92) Department of JusticeSubhead (No. & title): (000) Operational expensesProgramme: (3) Legal PolicyControlling Officer: Director of Administration and Development (Alan Siu)Director of Bureau: Secretary for JusticeQuestion:

Regarding the work on "Basic Law seminars conducted", would the Government provide the following information:

1. On the seminars conducted in 2017:

	Date and time	Venue	Number of participants	Background of participants	Expenditure involved	Topic of seminar	Effectiveness of seminar

2. On the seminars expected to be conducted in 2018:

	Expected date and time	Expected venue	Expected number of participants	Expected background of participants	Expected expenditure involved	Expected topic of seminar	Expected effectiveness of seminar

Asked by: Hon CHAN Chi-chuen (Member Question No. (LegCo use): 247)Reply:

1. On the seminars conducted in 2017:

Counsel of the Department of Justice conduct Basic Law seminars organised principally by other Government bureaux and departments to promote knowledge and understanding of the Basic Law of civil servants. A total of 4 such seminars were conducted in 2017, with relevant details known to us as follows -

	Date and time	Venue	Number of participants	Background of participants	Expenditure involved*	Topic of seminar	Effectiveness of seminar
1	10.4.2017 a.m.	North Point Govt. Offices	88	Civil servants	0	Basic Law Briefing	Promotion of Basic Law

	Date and time	Venue	Number of participants	Background of participants	Expenditure involved*	Topic of seminar	Effectiveness of seminar
2	24.4.2017 p.m.	North Point Govt. Offices	114	Civil servants	0	Basic Law Seminar – The Interpretation of the Basic Law and the Protection of Rights under the Basic Law	Promotion of Basic Law
3	7.6.2017 p.m.	North Point Govt. Offices	72	Civil servants	0	Basic Law Seminar – The Interpretation of the Basic Law and the Protection of Rights under the Basic Law	Promotion of Basic Law
4	12.10.2017 p.m.	North Point Govt. Offices	66	Civil servants	0	Basic Law Briefing	Promotion of Basic Law

* As the seminars were organised principally by other Government bureaux and departments, no special expenditure is incurred by the Department of Justice.

2. On the seminars expected to be conducted in 2018:

We will continue to conduct such Basic Law seminars to be organised by other Government bureaux and departments in 2018 to help promote knowledge and understanding of the Basic Law, subject to demand from relevant Government bureaux and departments, and our own resources available. The details are not yet available at this stage.

- End -

CONTROLLING OFFICER'S REPLY**SJ010****(Question Serial No. 5636)**Head: (92) Department of JusticeSubhead (No. & title): (-) Not SpecifiedProgramme: (2) CivilControlling Officer: Director of Administration and Development (Alan Siu)Director of Bureau: Secretary for JusticeQuestion:

1. Please list in table form the government expenditure incurred in the review of the qualification of Legislative Councillors and the responsible officers of the Department of Justice (DoJ) in the past 5 years.

Year	Court case number	Legislative Councillor whose qualification was reviewed	Expenditure involved in engaging outside counsel team(s)	List of responsible DoJ officers

2. Please list in table form DoJ's estimated expenditure and the manpower involved in the review of the qualification of Legislative Councillors in 2018-2019.

Year	Court case number	Legislative Councillor whose qualification was reviewed	Expenditure involved in engaging outside counsel team(s)	List of responsible DoJ officers
2018-2019				

3. Why did the DoJ engage outside counsel teams to handle the proceedings for the review of the qualification of Legislative Councillors? What were the policy and legal basis for it? What criteria were used for selecting the outside counsel teams?

Asked by: Hon CHAN Tanya (Member Question No. (LegCo use): 167)Reply:

(1)-(2) In the past five years, legal proceedings initiated by the Government on the review of Legislative Councillors' qualifications (including appellate

proceedings arising therefrom brought by the Councillors concerned) and the briefing out expenditure incurred in relation to the cases concerned are as follows: -

Year	Court case number	Legislative Councillor whose qualification was reviewed	Briefing out expenditure
2016-17	HCAL 185/2016, HCMP 2819/2016	Sixtus Leung Chung Hang, Yau Wai Ching	\$3,032,114
2016-17	CACV 224-227/2016	Sixtus Leung Chung Hang, Yau Wai Ching	\$1,560,276
2016-17	HCAL 223-226/2016 HCMP 3378-79/2016, 3381-82/2016	Nathan Law Kwun Chung, Leung Kwok Hung, Lau Siu Lai, Yiu Chung Yim	\$2,061,275
2016-17	FAMV 7-10/2017	Sixtus Leung Chung Hang, Yau Wai Ching	Briefing out expenditure is not yet finalized
2017-18	CACV 200-203/2017	Leung Kwok Hung, Lau Siu Lai,	Legal proceedings are still on-going, briefing out expenditure is not yet finalized.

The officers of the Civil Division of the DoJ deal with all civil litigation and tribunal work involving the Government. The said proceedings are mainly handled by the Civil Division which may seek inputs or advice from other divisions in the Department and/or outside Counsel instructed. As such, while in general the legal proceedings come under the purview of the Civil Division, the officer or the team of officers involved in advising or handling the different aspects of the proceedings may vary depending on, for example, the nature of the issues, the complexity, etc. Hence, the expenditure and officers involved in this regard cannot be separately identified.

The annual expenditure on briefing out varies from year to year, depending on many factors including the number of cases involved, their complexity and development. While the estimate was worked out based on information available at the time of preparing the estimates, the actual expenditure to be incurred in 2018-19 would ultimately depend on subsequent development and outcome of the cases concerned, and the amount of unanticipated expenditure (arising from cases which could not have been anticipated when the estimate was made and are not entirely within the control of DoJ).

- (3) The DoJ is responsible for providing legal advice to Government bureaux and departments, and represents the Government in courts for judicial proceedings. Where necessary, the DoJ engages solicitors or barristers in private practice to provide

assistance in handling cases. Briefing out is mainly to meet operational needs. Generally speaking, the DoJ may resort to briefing out when –

- (i) there is a need for expert assistance where the requisite skill is not available in the DoJ;
- (ii) there is no suitable in-house counsel to appear in court for the Hong Kong Special Administrative Region;
- (iii) the size, complexity, quantum and length of a case so dictate;
- (iv) it is deemed appropriate to obtain independent outside counsel's advice or services so as to address possible perception of bias or issues of conflict of interest;
- (v) there is a need for continuity or economy, e.g. where a former member of the DoJ who is uniquely familiar with the subject matter is in private practice at the time when the legal services are required; and
- (vi) there is a need for independent advice or services in respect of matters or proceedings involving members of the DoJ.

The selection of briefed out counsel for a particular case will be made based on criteria including the briefed out counsel's expertise and experience as the case requires. The level of fees charged by the briefed out counsel is also one of the factors to be taken into account, since public money is involved.

The DoJ instructed outside counsel to advise and represent the Government in the legal proceedings in question having regard to the operational needs and relevant selection criteria.

- End -

CONTROLLING OFFICER'S REPLY**SJ011****(Question Serial No. 6202)**Head: (92) Department of JusticeSubhead (No. & title): (-) Not SpecifiedProgramme: (3) Legal PolicyControlling Officer: Director of Administration and Development (Alan Siu)Director of Bureau: Secretary for JusticeQuestion:

In regard to the growing cross-boundary 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 your bureau and the departments under your purview have been involved.

(a) For Hong Kong/Mainland cross-boundary projects or programmes, please provide information for the past 5 years as per the following table:

Project/ Programme	Details, objectives and whether it is related to the Framework Agreement on Hong Kong/ Guangdong Co-operation	Expenditure involved	Mainland official(s) and department(s)/ organisation(s) involved	Has any agreement been signed and whether it has been made public? If not, what are the reasons?	Progress (%) completed, commencement date, target completion date)	Have the details, objectives, amount involved or impact on the public, society, culture and ecology been released to the public? If so, through what channel(s) and what were the manpower and expenditure involved? If not, what are the reasons?	Has any public consultation on the cross-boundary project been conducted in Hong Kong?	Details of the legislative amendments or policy changes involved in the project/ programme

Asked by: Hon CHEUNG Chiu-hung, Fernando (Member Question No. (LegCo use): 4038)

Reply:

Hong Kong/Mainland cross-boundary projects or programmes in the past 5 years are as follows:

Project/ Programme	Details, objectives and whether it is related to the Framework Agreement on Hong Kong/ Guangdong Co-operation	Expenditure involved	Mainland official(s) and department(s)/ organisation(s) involved	Has any agreement been signed and whether it has been made public? If not, what are the reasons?	Progress (% completed, commencement date, target completion date)	Have the details, objectives, amount involved or impact on the public, society, culture and ecology been released to the public? If so, through what channel(s) and what were the manpower and expenditure involved? If not, what are the reasons?	Has any public consultation on the cross-boundary project been conducted in Hong Kong?	Details of the legislative amendments or policy changes involved in the project/ programme
Enhance Legal Co-operation with Guangdong	Pursuant to the Framework Agreement on Hong Kong/ Guangdong Co-operation (“the Framework Agreement”), we have reinforced the existing communication mechanism in legal matters with Guangdong. This has covered exchange of legal information as well as conducting meetings and/ or seminars to discuss specific legal issues.	The staff cost and other related expenses have been and will continue to be absorbed within the available resources of the Department of Justice (“DoJ”) and the expenditure for this specific programme cannot be separately identified.	The Legislative Affairs Office and the Justice Department of the Guangdong Province, depending on the subject matter concerned.	Please refer to “Co-operation between Shenzhen and Hong Kong” below for details.	The Framework Agreement is valid till 31 December 2020. The Hong Kong/ Guangdong co-operation programme is ongoing.	The Framework Agreement and related initiatives were presented to the Legislative Council Panel on Administration of Justice and Legal Services (AJLS Panel) in October 2010. It was also mentioned in the DoJ’s Policy Initiatives provided to the AJLS Panel in the past years, including the 2017/18 Policy Initiatives of the DoJ. The staff costs and other related expenses were absorbed within the	N/A	Apart from the cooperative initiatives contained in the Framework Agreement, the programme does not involve a change of law or policy of the Government.

						available resources of the DoJ and the expenditure in this regard cannot be separately identified.		
Legal Co-operation with the Supreme People's Court ("SPC")	The Arrangement on Mutual Taking of Evidence in Civil and Commercial Matters between the Courts of the Mainland and the HKSAR was signed between the DoJ and the SPC on 29 December 2016. The Arrangement aims at assisting litigants of both sides to obtain evidence in civil and commercial matters with enhanced efficiency and greater certainty.	Same as above	SPC	The Arrangement was signed on 29 December 2016 and took effect on 1 March 2017. The text of the Arrangement is available on the DoJ's website.	The DoJ will regularly monitor the implementation of the Arrangement.	The Government issued a relevant press release on 29 December 2016 when the signing ceremony was held. The DoJ reported the signing of the Arrangement to the AJLS Panel in December 2016. The Hong Kong Law Society and the Hong Kong Bar Association were also notified of the matter. The staff costs and other related expenses were mainly absorbed within the available resources of the DoJ and the expenditure in this regard cannot be separately identified.	N/A	The Arrangement is implemented in accordance with the existing Evidence Ordinance without involving any enactment or amendment of legislation.
Legal Co-operation with the SPC	The Arrangement on Reciprocal Recognition and Enforcement of Civil Judgments in Matrimonial and Family Cases by the Courts of the Mainland and of the Hong Kong Special Administrative Region was signed	Same as above	SPC	The Arrangement on Reciprocal Recognition and Enforcement of Civil Judgments in Matrimonial and Family Cases by the Courts of the Mainland and of the Hong Kong Special	To implement the Arrangement, the DoJ is currently preparing the relevant Bill.	The Government issued a relevant press release on 20 June 2017 when the signing ceremony was held. The DoJ reported the signing of the Arrangement and its main content to the AJLS Panel on 21 June 2017. The staff costs and other related expenses were	The public was consulted on the content of the Arrangement in June 2016.	To implement the Arrangement, the DoJ is currently preparing the relevant Bill.

	between the DoJ and the SPC on 20 June 2017. The Arrangement aims to ensure that parties of both sides can enforce relevant civil judgments in matrimonial and family cases through a clear and effective legal regime. Such co-operation is not related to the Framework Agreement on Hong Kong/ Guangdong Co-operation.			Administrative Region was signed between the DoJ and the SPC on 20 June 2017. The text of the Arrangement is available on the DoJ's website.		absorbed within the available resources of the DoJ and the expenditure in this regard cannot be separately identified.		
Legal Co-operation with the SPC	A summary record on strengthening of exchanges and co-operation was signed between the DoJ and the SPC on 14 September 2017, with a view to deepening mutual exchanges and co-operation, including strengthening the annual bilateral business meeting mechanism, refining the current legal assistance mechanism, establishing a co-operation mechanism with the SPC's Judicial Research Center for Belt and Road Initiative, etc. Such co-operation	Same as above	SPC	A summary record was signed between the DoJ and the SPC on 14 September 2017.	The mutual co-operation is ongoing.	The Government issued a relevant press release on 14 September 2017 when the signing ceremony was held. The staff costs and other related expenses were absorbed within the available resources of the DoJ and the expenditure in this regard cannot be separately identified.	N/A	Apart from the co-operative initiatives contained in the summary record, the programme does not involve a change of law or policy of the Government.

	is not related to the Framework Agreement on Hong Kong/Guangdong Co-operation.							
Co-operation between Shenzhen and Hong Kong	The Co-operative Arrangement on Legal Matters was renewed between the DoJ and the Shenzhen Municipal People's Government on 12 October 2017 for a period of 5 years subject to extension. The main purpose was to establish a mechanism to promote legal co-operation between the two governments. The Arrangement can be regarded as legal co-operation between Shenzhen and Hong Kong under the Framework Agreement on Hong Kong/Guangdong Co-operation.	Same as above	Shenzhen Municipal People's Government	The Co-operative Arrangement on Legal Matters was renewed between the DoJ and the Shenzhen Municipal Government on 12 October 2017. The DoJ reported on the signing of the Arrangement and its main purpose at the AJLS Panel of the Legislative Council on 30 October 2017. Main details of co-operation of the Arrangement are also available on the DoJ's website.	The co-operation is ongoing, e.g., the holding of a joint DoJ and Shenzhen Court of International Arbitration seminar on recent arbitration developments in the Mainland against the background of the Bay Area after the arrangement renewal ceremony on 12 October 2017.	The Government issued a relevant press release on 12 October 2017 when the arrangement renewal ceremony was held. The DoJ reported the signing of the Arrangement and its main purpose to the AJLS Panel at its meeting on 30 October 2017. The staff costs and other related expenses were absorbed within the available resources of the DoJ and the expenditure in this regard cannot be separately identified.	N/A	Same as above

- End -

CONTROLLING OFFICER'S REPLY**SJ012****(Question Serial No. 6203)**Head: (92) Department of JusticeSubhead (No. & title): (-) Not SpecifiedProgramme: (-) Not SpecifiedControlling Officer: Director of Administration and Development (Alan Siu)Director of Bureau: Secretary for JusticeQuestion:

Please provide the following details of each of the duty visits made by the Secretary for Justice in the past 5 years in chronological order: (a) purpose and destination, (b) post titles of the officials met, (c) number and post titles of Hong Kong officials in entourage, (d) number of days of the visit, and (e) total expenditure incurred, including expenses on (i) transportation (air tickets and local transportation), (ii) accommodation, (iii) meals, (iv) banquets or entertainment and (v) gifts.

Asked by: Hon CHEUNG Chiu-hung, Fernando (Member Question No. (LegCo use): 4039)Reply:

Relevant information on the overseas duty visits of the Secretary for Justice in the past five years (2013-14 to 2017-18) is as follows -

Date of visit <small>Note 1</small>	Place of visit	Size of entourage <small>Note 2</small>	Purpose of visit	Hotel accommodation expenses	Transportation expenses	Other expenses	Total Expenditure <small>Note 3</small>
2013-14 (10 times)	Singapore, Netherlands (Hague), UK (London), Korea (Seoul), Vietnam (Ho Chi Minh City), Cambodia (Phnom Penh), Beijing, Xiamen, Tianjin, Macau	2	To lead delegation to promote Hong Kong as a centre for international legal and dispute resolution services in the Asia Pacific region, strengthen mutual relationship, attend meetings and events with relevant officials and representatives from legal / dispute resolution / business sectors (e.g. 120th anniversary of the Hague Conference on Private International Law, Seminar on Hong Kong Legal and	About \$94,000	About \$592,000	About \$142,000	About \$828,000

			Arbitration Services, Asia Pacific Regional Arbitration Group Conference, Congress of the International Association of Lawyers, International Conference on International Arbitration)				
2014-15 (10 times)	UK (London), Sri Lanka (Colombo), India (New Delhi), Beijing, Qingdao, Macau	1 - 2	To lead delegation to promote Hong Kong as a centre for international legal and dispute resolution services in the Asia Pacific region, strengthen mutual relationship, attend meetings and events with relevant officials and representatives from legal / dispute resolution / business sectors (e.g. Hong Kong Legal Services Forum, London Law Expo 2014, Signing Ceremony of the Host Country Agreement and related Memorandum of Administrative Arrangements with the Permanent Court of Arbitration, Conference of Asian Attorneys General, Asia Pacific International Mediation Summit, seminar on regional judicial cooperation)	About \$84,000	About \$311,000	About \$72,000	About \$467,000
2015-16 (12 times)	USA (New York, Washington DC), Indonesia (Jakarta), Beijing, Shanghai, Shenzhen, Macau	0-3	To lead delegation to promote Hong Kong as a centre for international legal and dispute resolution services in the Asia Pacific region, strengthen mutual relationship, attend meetings and events with relevant officials and representatives from legal / dispute resolution / business sectors (e.g. Hague Conventions	About \$180,000	About \$430,000	About \$168,000	About \$778,000

			Conference, Launching ceremony of the Shanghai Office of the Hong Kong International Arbitration Centre, Seminars on legal and dispute resolution services, Opening and graduation ceremony of a Mainland summer internship programme for Hong Kong law students)				
2016-17 (14 times)	Australia (Sydney, Brisbane, Melbourne and Gold Coast) Thailand (Bangkok), Korea (Seoul), United Arab Emirates (Dubai), Beijing, Shanghai, Shenzhen, Shenzhen Qianhai, Zhengzhou, Chongqing, Nanjing	1-2	To lead delegation to promote Hong Kong as a centre for international legal and dispute resolution services in the Asia Pacific region, strengthen mutual relationship, attend meetings and events with relevant officials and representatives from legal / dispute resolution / business sectors (e.g. 4 th Hong Kong Legal Services Forum, 5 th Asia Pacific ADR Note 4 Conference, Chartered Institute of Arbitrators International Conference 2017, 2016 Annual Meeting of the Chinese Judicial Studies Association, Signing Ceremony of the Agreement on Mutual Taking of Evidence in Civil and Commercial Matters between the Courts of the Mainland and the Hong Kong Special Administrative Region with the Supreme People's Court, Opening Ceremony of the new office of the Shenzhen Court of International Arbitration	About \$90,000	About \$384,000	About \$110,000	About \$584,000
2017-18 (8 times)	UK (London and Oxford), Austria (Vienna),	2	To lead delegation to promote Hong Kong as a centre for international legal and dispute resolution services	About \$92,000	About \$344,000	About \$94,000	About \$530,000

	Malaysia (Kuala Lumpur), Xian, Shenzhen, Guangzhou, Shanghai and Beijing		in the Asia Pacific region, strengthen mutual relationship, attend meetings and events with relevant officials and representatives from legal / dispute resolution / business sectors (e.g Congress hosted by the United Nations Commission on International Trade Law, the 7 th Greater China Arbitration Forum, the 9 th Lujiazui Law Forum, Conference to review the development of mutual legal assistance on civil and commercial matters between the Mainland and the Hong Kong Special Administrative Region in the past 20 years, Law Conference to commemorate the 20th anniversary of China's resumption of the exercise of sovereignty over Hong Kong)				
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Remarks:

- Note 1 Except for visit to multiple cities, the duty visits were day trips or short trips of three days or less.
- Note 2 The entourage usually comprised Administrative Assistant and Press Secretary to the Secretary for Justice.
- Note 3 Total expenditure includes charges for accommodation and passage, subsistence allowance for duty outside Hong Kong and sundry expenses (if applicable).
- Note 4 “ADR” is the acronym for “Alternative Dispute Resolution”.

The expenses for overseas official entertainment were about \$20,000 in 2013-14. No expenses for overseas official entertainment were incurred from 2014-15 to 2017-18.

In line with Government’s green policy, public officers should as far as possible refrain from bestowing gifts/souvenirs to others during the conduct of official activities. According to the existing guidelines, where bestowal of gifts/souvenirs is necessary or unavoidable due to operational, protocol or other reasons, the gift/souvenir items should not be lavish or extravagant and the number should be kept to a minimum. Also, the exchange of gifts/souvenirs should only be made from organisation to organisation. We do not specifically maintain separate accounts for gift and souvenir expenses.

- End -

CONTROLLING OFFICER'S REPLY**SJ013****(Question Serial No. 6204)**Head: (92) Department of JusticeSubhead (No. & title): (-) Not SpecifiedProgramme: (-) Not SpecifiedControlling Officer: Director of Administration and Development (Alan Siu)Director of Bureau: Secretary for JusticeQuestion:

- (1) What were the numbers of cases in which the Administration applied for a review of decisions over the past 5 years?
- (2) Regarding the cases for which applications were made for a review of decisions, what were the reasons for the Administration's decision to seek a review for each of them?
- (3) As regards the cases in which the Administration applied for a review of decisions, what were the respective numbers of cases with the sentences upheld, enhanced or reduced by the court?

Asked by: Hon CHEUNG Chiu-hung, Fernando (Member Question No. (LegCo use): 4040)Reply:

The Secretary for Justice may apply to the court in appropriate cases for the review of a sentence on the basis that it has proceeded on an error of law or of principle or that it is manifestly inadequate or excessive. The number of cases in which the Government applied for a review of sentence under section 81A of the Criminal Procedure Ordinance, Cap. 221 over the past 5 years and their results (whether sentences were upheld, enhanced or reduced by the court) are set out below -

	Year				
	2013	2014	2015	2016	2017
Upheld	-	-	-	-	-
Enhanced	3	5	2	5	4
Reduced	-	-	-	-	-
Others	1 (sentence quashed; hence no further action)	-	-	-	1 (pending hearing)

Total number of “review of sentence” applications made	4	5	2	5	5
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- End -

CONTROLLING OFFICER'S REPLY

SJ014

(Question Serial No. 6206)

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development (Alan Siu)

Director of Bureau: Secretary for Justice

Question:

Please provide a detailed breakdown of the following information and the nationality and male to female ratio involved for the past 5 years:

- 1) Criminal proceedings related to sexual violence:
 - 1.1) The number of successful prosecutions with a breakdown by penalty (e.g. length of sentence, service orders and orders of binding over issued, etc.).
 - 1.2) The number of unsuccessful prosecutions and the reasons.
- 2) The number of criminal proceedings related to sexual violence where prosecutions were not pursued and the reasons.
- 3) The number of criminal proceedings related to sexual violence where the victims withdrew support for the prosecution.
- 4) The number of criminal proceedings related to sexual violence with the further charge of “attempting to pervert the course of public justice”.
- 5) The respective numbers of criminal proceedings related to sexual violence which involved assault, inflicting an injury or threatening to injure.
- 6) The number of criminal proceedings related to sexual violence which involved deaths with a breakdown by male to female ratio, age and nationality of the deceased.
- 7) The number of civil proceedings related to sexual harassment:
 - 7.1) The number of successful prosecutions and claims.
 - 7.2) The number of unsuccessful prosecutions and the reasons.

Asked by: Hon CHEUNG Chiu-hung, Fernando (Member Question No. (LegCo use): 4042)

Reply:

Information available is provided below -

(1)

The number of prosecutions and convictions under section 118 (Rape) of the Crimes Ordinance (Cap. 200) are listed as follows -

	Year of case concluded				
	2013	2014	2015	2016	2017 (up to third quarter)
Not convicted	44	26	23	23	9
Convicted	18	17	10	6	10
Total	62	43	33	29	19

The number of prosecutions and convictions under section 122 (Indecent assault) of the Crimes Ordinance (Cap. 200) are listed as follows -

	Year of case concluded				
	2013	2014	2015	2016	2017 (up to third quarter)
Not convicted	194	145	124	116	81
Convicted	376	328	275	272	207
Total	570	473	399	388	288

The Government does not maintain statistics on nationality, male to female ratio, penalty or reasons for unsuccessful prosecution.

(2) to (6) The Government does not maintain requested information on criminal proceedings related to sexual violence.

(7) As the Department of Justice is not generally involved in those civil litigation cases involving sexual harassment between members of the public, we are not able to provide the required statistics.

- End -

CONTROLLING OFFICER'S REPLY

SJ015

(Question Serial No. 6207)

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development (Alan Siu)

Director of Bureau: Secretary for Justice

Question:

- 1) Please list the number of applications for injunctions related to domestic violence and sexual violence in the last 5 years as well as the average time taken to handle these applications.
- 2) Please list the number of applications for custody orders in emergency cases related to domestic violence and sexual violence in the last 5 years as well as the average time taken to handle these applications.
- 3) Please list the number of applications for habeas corpus related to domestic violence and sexual violence in the last 5 years as well as the average time taken to handle these applications.

Asked by: Hon CHEUNG Chiu-hung, Fernando (Member Question No. (LegCo use): 4043)

Reply:

The Department of Justice is generally not involved in applications by the individuals concerned for injunctions involving domestic violence or sexual violence, or applications for custody orders in emergency cases involving domestic violence or sexual violence. Injunction applications are generally made by the parties concerned, while applications for custody orders may be made by the parties concerned or by the Social Welfare Department or the Police as the case may be. We are therefore not able to provide the relevant statistics. We also do not maintain statistics on applications for habeas corpus related to domestic violence or sexual violence.

- End -

CONTROLLING OFFICER'S REPLY

SJ016

(Question Serial No. 6208)

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development (Alan Siu)

Director of Bureau: Secretary for Justice

Question:

Please provide a detailed breakdown of the following information and the nationality and male to female ratio involved for the past 5 years:

- 1) Criminal proceedings related to domestic violence:
 - 1.1) The number of successful prosecutions with a breakdown by penalty (e.g. length of sentence, service orders and orders of binding over issued, etc.).
 - 1.2) The number of unsuccessful prosecutions and the reasons.
- 2) The number of criminal proceedings related to domestic violence where prosecutions were not pursued and the reasons.
- 3) The number of criminal proceedings related to domestic violence where the victims withdrew support for the prosecution.
- 4) The number of criminal proceedings related to domestic violence with the further charge of “attempting to pervert the course of public justice”.
- 5) The respective numbers of criminal proceedings related to domestic violence which involved assault, inflicting an injury or threatening to injure.
- 6) The number of criminal proceedings related to domestic violence which involved deaths with a breakdown by male to female ratio, age and nationality of the deceased.
- 7) The number of criminal proceedings related to domestic conflicts/disputes:
 - 7.1) The number of successful prosecutions with a breakdown by penalty (e.g. length of sentence, service orders and orders of binding over issued, etc.); the number of unsuccessful prosecutions and the reasons.

Asked by: Hon CHEUNG Chiu-hung, Fernando (Member Question No. (LegCo use): 4044)

Reply:

Information available is provided below –

(1), (2) & (7)

The number of domestic violence / domestic conflicts or disputes cases which were concluded, with a breakdown by prosecution result and year of arrest, are as follows –

Prosecution Result	Year of Arrest				
	2013	2014	2015	2016	2017
Unsuccessful Prosecutions@	392	361	275	260	214
Total number of Conviction	165	163	192	186	162
Immediate imprisonment*	36	40	44	36	55
Probation Order	11	25	28	24	27
Community Service Order	17	10	17	18	11
Suspended Imprisonment	64	55	68	70	46
Bound-over / Conditional Discharge	1	0	0	1	1
Others#	36	33	35	37	22
Total	557	524	467	446	376

@ Remarks - Including those prosecutions not further taken forward.

* Remarks - Not including life imprisonment.

Remarks - Including life imprisonment.

The number of domestic violence / domestic conflicts or disputes cases which were concluded, with the male to female ratio to persons convicted and year of arrest, are as follows –

Gender	Year of Arrest				
	2013	2014	2015*	2016	2017
Male	144 (87.3%)	142 (87.1%)	180 (93.8%)	167 (89.8%)	151 (93.2%)
Female	21 (12.7%)	21 (12.9%)	12 (6.3%)	19 (10.2%)	11 (6.8%)
Total	165 (100%)	163 (100%)	192 (100%)	186 (100%)	162 (100%)

*Remarks - Percentages do not add up to 100% due to rounding.

The number of convicted domestic violence / domestic conflicts or disputes cases which were concluded involving immediate imprisonment sentenced (but not including life imprisonment), with a breakdown by the duration of imprisonment and year of arrest, are as follows –

Duration of Imprisonment	Year of Arrest				
	2013	2014	2015	2016	2017
Six months or less	32	37	41	30	51
Over six months to one year	0	1	2	2	1
Over one year	4	2	1	4	3
Total	36	40	44	36	55

The Government does not maintain prosecution statistics on nationality and reasons for unsuccessful prosecution or prosecution not pursued.

(3) & (4) The Government does not maintain information on criminal proceedings related to domestic violence where the victims withdrew support for the prosecution or where the further charge of “attempting to pervert the course of public justice” was involved.

(5) The number of criminal cases reported to the Police related to domestic violence (involving wounding / serious assault, criminal intimidation and other criminal cases) are as follows –

Domestic Violence (Crime) cases	2013	2014	2015	2016	2017
Wounding / serious assault	1 101	948	862	879	788
Criminal intimidation	443	419	358	340	364
Other criminal cases*	326	302	244	290	242
Total	1 870	1 669	1 464	1 509	1 394

*Remarks - Other criminal cases include murder / manslaughter, rape, arson, indecent assault, fighting in public place, criminal damage and possession of offensive weapon, etc.

(6) The number of criminal cases reported to the Police related to domestic violence which involved murder / manslaughter are as follows –

	2013	2014	2015	2016	2017
Murder / manslaughter Total	8	5	4	6	8

The Government does not maintain statistics on male to female ratio, age and nationality of the deceased.

- End -

CONTROLLING OFFICER'S REPLY

SJ017

(Question Serial No. 6209)

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development (Alan Siu)

Director of Bureau: Secretary for Justice

Question:

Please provide a detailed breakdown of the following information and the nationality involved for the past 5 years:

- 1) Criminal proceedings related to transgender persons:
 - 1.1) The number of successful prosecutions with a breakdown by penalty (e.g. length of sentence, service orders and orders of binding over issued, etc.).
 - 1.2) The number of unsuccessful prosecutions and the reasons.
- 2) The number of criminal proceedings related to transgender persons where prosecutions were not pursued and the reasons.
- 3) The number of criminal proceedings related to transgender persons where the victims withdrew support for the prosecution.
- 4) The number of criminal proceedings related to transgender persons with the further charge of “attempting to pervert the course of public justice”.
- 5) The respective numbers of criminal proceedings related to transgender persons which involved assault, inflicting an injury or threatening to injure.
- 6) The number of criminal proceedings related to transgender persons which involved deaths with a breakdown by age and nationality of the deceased.
- 7) The number of civil proceedings related to transgender persons:
 - 7.1) The number of successful prosecutions and claims.
 - 7.2) The number of unsuccessful prosecutions and the reasons.

Asked by: Hon CHEUNG Chiu-hung, Fernando (Member Question No. (LegCo use): 4045)

Reply:

As the prosecution authority, our objective is to see that appropriate cases are presented fairly to the court. The gender of parties involved in a criminal case is taken into account in the handling of the case if but only if that is of direct relevance to the merit of the case and hence our prosecutorial decision.

Similarly, as the department responsible for representing the Government in courts in civil cases, the gender of individuals involved in a civil case is taken into account in the handling of the case if but only if that is of direct relevance to the subject matter and hence how the case is handled.

We do not keep statistics on cases related to transgender persons.

- End -

CONTROLLING OFFICER'S REPLY

SJ018

(Question Serial No. 6210)

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development (Alan Siu)

Director of Bureau: Secretary for Justice

Question:

Against how many cases involving sexual abuse of “mentally incapacitated” persons were formal prosecutions instituted in the past 5 years? What were the numbers of convictions?

Asked by: Hon CHEUNG Chiu-hung, Fernando (Member Question No. (LegCo use): 4046)

Reply:

The Police Force has maintained statistics on cases involving mentally incapacitated persons (MIPs) since November 2016. In 2017, the Force handled a total of 99 cases concerning sexual offences against MIPs.

The Force does not maintain other breakdowns mentioned in the question.

- End -

CONTROLLING OFFICER'S REPLY**SJ019****(Question Serial No. 6371)**Head: (92) Department of JusticeSubhead (No. & title): (-) Not SpecifiedProgramme: (-) Not SpecifiedControlling Officer: Director of Administration and Development (Alan Siu)Director of Bureau: Secretary for JusticeQuestion:

Please set out the monthly salaries, allowances and other expenses of the Secretary for Justice in the past 3 years, the monthly pension entitlement on retirement and the total expenditure on the pension.

Asked by: Hon CHEUNG Chiu-hung, Fernando (Member Question No. (LegCo use): 620)Reply:

The monthly salaries and non-accountable entertainment allowance of Secretary for Justice in the past 3 years (2015-16 to 2017-18) are set out below -

	Cash Remuneration (per month)	Non-accountable entertainment allowance (per month)
April 2015 to March 2016	\$308,585	\$18,142
April 2016 to March 2017	\$308,585	\$18,683
April 2017 to March 2018	\$308,585 \$345,600 (wef July 2017)	\$19,133

The terms of employment and conditions of service for Politically-Appointed Officers serving the fourth and fifth terms of Hong Kong Special Administrative Region Government, including the Secretary for Justice, do not attract any pension benefits. Apart from the mandatory provident fund contribution made by the Government, the Secretary for Justice and other Politically-Appointed Officers are not entitled to a monthly pension on retirement.

- End -

CONTROLLING OFFICER'S REPLY

SJ020

(Question Serial No. 2564)

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development (Alan Siu)

Director of Bureau: Secretary for Justice

Question:

1. What are the details of prosecutions against the offences of resisting or obstructing a public officer in the execution of his duty in the past 3 years? Please list the number of prosecution cases, the duties of the public officers obstructed, and the number of successful prosecutions with a breakdown by title of the relevant ordinances under which prosecutions were made, including the Summary Offences Ordinance, the Offences Against the Person Ordinance, the Police Force Ordinance, the Crimes Ordinance, the Public Health and Municipal Services Ordinance, the Births and Deaths Registration Ordinance and the Public Order Ordinance.

2. Among the abovementioned prosecution cases, what are the respective numbers of cases conducted by Government Counsel and by barristers or solicitors instructed to prosecute?

Asked by: Hon CHOW Ho-ding, Holden (Member Question No. (LegCo use): 1)

Reply:

Information available is provided below -

(1) We do not keep statistics on cases involving the offences of resisting or obstructing a public officer in the execution of duty. However, a number of provisions under the Summary Offences Ordinance, the Offences Against the Person Ordinance, the Police Force Ordinance, the Crimes Ordinance, the Public Health and Municipal Services Ordinance, the Births and Deaths Registration Ordinance and the Public Order Ordinance are relevant to the offences involving resisting or obstructing a public officer in the execution of his duty, including:

- section 23, Summary Offences Ordinance (Cap. 228) (resisting or obstructing a public officer or other person lawfully engaged in a public duty)
- section 36(b), Offences against the Person Ordinance (Cap. 212) (assault with intent to commit offence, or on police officer, etc.)

- section 63, Police Force Ordinance (Cap. 232) (person assaulting, etc. police officer in execution of duty, or misleading officer by false information)
- section 147F, Crimes Ordinance (Cap. 200) (obstructs, or fails to comply with any reasonable requirement of any police officer acting under a warrant issued)
- section 153O(1), Crimes Ordinance (Cap. 200) (obstructs any person in the exercise of any function under section 153B(3))
- section 139, Public Health and Municipal Services Ordinance (Cap. 132) (obstruction of officers in the exercise of their duty)
- section 21(3), Births and Deaths Registration Ordinance (Cap. 174) (obstructs or resists investigation of cause of death and of correctness of death certificate by any authorized officer)
- section 50A, Public Order Ordinance (Cap. 245) (obstructs exercising any powers or performing any duties conferred or imposed by that Ordinance)

Information available on the number of prosecutions and convictions in respect of the above offences is listed as follows:

		2015	2016	2017
Section 23, Summary Offences Ordinance (Cap. 228)	No. of Prosecutions	132	59	46
	No. of Convictions	75	46	35
Section 36(b), Offences Against the Person Ordinance (Cap. 212)	No. of Prosecutions	90	50	46
	No. of Convictions	50	32	32
Section 63, Police Force Ordinance (Cap. 232)	No. of Prosecutions	436	304	277
	No. of Convictions	321	244	230
Section 139, Public Health and Municipal Services Ordinance (Cap. 132)	No. of Prosecutions	5	5	4
	No. of Convictions	4	3	3
Section 147F, Crimes Ordinance (Cap. 200)	No case during the period concerned			
Section 153O(1), Crimes Ordinance (Cap. 200)				
Section 21(3), Births and Deaths Registration Ordinance (Cap. 174)				
Section 50A, Public Order Ordinance (Cap. 245)				

The Government does not maintain the requested information on the duties of the public officers obstructed.

- (2) In relation to the above cases, we do not maintain separate breakdown of those prosecuted by Government Counsel or briefed out to barristers or solicitors.

- End -

CONTROLLING OFFICER'S REPLY

SJ021

(Question Serial No. 2565)

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (2) Civil

Controlling Officer: Director of Administration and Development (Alan Siu)

Director of Bureau: Secretary for Justice

Question:

Provision for 2018-19 is \$393.6 million or 62% higher than the revised estimate for 2017-18, and is mainly to meet anticipated briefing-out expenses and court costs. In this connection, please set out the details, including the expected types and number of cases, and the number of briefed-out counsel and the levels of court to be dealing with such cases.

Asked by: Hon CHOW Ho-ding, Holden (Member Question No. (LegCo use): 2)

Reply:

Provision for 2018-19 is \$393.6 million (62.0%) higher than the revised estimate for 2017-18. This is mainly due to the anticipated increase in court costs payment and briefing-out expenditure, filling of vacancies, and net creation of 30 posts to meet operational needs.

The estimates for court costs payment and briefing out expenditure for 2018-19 are \$339 million and \$247 million respectively. The 2018-19 estimate for court costs payment and briefing out expenditure are 229% (\$236 million) and 74% (\$105 million) higher than the revised estimate for 2017-18 respectively. If compared to the original provision for 2017-18, the 2018-19 estimates for court costs payment and briefing out expenditure are 156% (or \$206.8 million) higher and 2.5% (or \$6.44 million) lower respectively.

The annual expenditure on court costs payment and briefing out expenditure varies from year to year, depending on many factors including the number of cases involved, their complexity and development. The actual expenditure to be incurred in 2018-19 would ultimately depend on subsequent development and outcome of the cases concerned and the amount of unanticipated expenditure (arising from cases which could not have been anticipated when the estimate was made and are not entirely within the control of DoJ). The anticipated overall increase in court costs payment and briefing out expenditure for 2018-19 is mainly due to provisions that need to be made for the amount likely to be required for new cases that will / may arise (including some mega cases), as well as expenditure from a number of cases rolled-over from 2017-18. Besides, it is noted that a general increase in counsel fees as well as the complexity of the cases over the years also contribute to higher court costs payment and briefing out expenditure for individual cases.

In respect of the anticipated cases involving court costs payment and briefing out expenditure in 2018-19, we do not maintain information on the detailed breakdown of individual cases. Moreover, while the estimate was worked out based on information available at the time of preparing the estimates, details of individual cases (such as the court costs payment and briefing out expenditure to be incurred and the number of briefed-out counsel involved) would ultimately be affected by various factors including the subsequent development and outcome of the cases concerned.

- End -

CONTROLLING OFFICER'S REPLY**SJ022****(Question Serial No. 2586)**Head: (92) Department of JusticeSubhead (No. & title): (-) Not SpecifiedProgramme: (2) CivilControlling Officer: Director of Administration and Development (Alan Siu)Director of Bureau: Secretary for JusticeQuestion:

In respect of this Programme, would the Government inform this Committee of:

1. the operational expenses and the establishment involved for 2017-18?

Asked by: Hon CHOW Ho-ding, Holden (Member Question No. (LegCo use): 12)Reply:

For 2017-18, the establishment in respect of Programme (2) Civil is 425, as set out below –

Grades	Establishment
Government Counsel	177
Para-legal	56
Executive, Clerical and Secretarial	192
Total	425

The revised estimate of the Programme for 2017-18 is \$634.6 million, out of which, the revised estimate of personal emoluments involved is about \$307.6 million, the revised estimate of general departmental expenses is \$66.43 million while the revised estimate of expenses for the hire of legal services and related professional fees (i.e. briefing-out expenses) is \$141.9 million. The revised estimate of court costs under the Programme is \$103.1 million.

- End -

CONTROLLING OFFICER'S REPLY

SJ023

(Question Serial No. 2099)

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (-) Not Specified

Controlling Officer: Director of Administration and Development (Alan Siu)

Director of Bureau: Secretary for Justice

Question:

i. Please advise as to the expenditures incurred and the items paid for by the Department of Justice in respect of the following cases:

- The disqualification of 4 Legislative Councillors
- The case involving 13 people who charged into the Legislative Council Complex in 2014 in an attempt to stop the Government from destroying North East New Territories and in opposition to Hong Kong-China integration
- The sentence review case in the Court of Final Appeal involving the trio of WONG Chi-fung, CHOW Yong-kang, Alex and LAW Kwun-chung for their participation in an unlawful assembly at the Civic Square in 2014
- The case against LEUNG Kwok-hung for snatching documents from the then Under Secretary for Development Eric MA Siu-cheung's desk during a Legislative Council meeting on the Wang Chau incident
- The criminal contempt of court case against WONG Ho-ming and WONG Chi-fung relating to the clearance of the Occupy Mong Kok site in 2014
- The case against 9 Occupy Movement participants (TAI Yiu-ting, CHAN Kin-man, CHU Yiu-ming and others) of conspiracy to commit public nuisance, incitement to commit public nuisance, and inciting others to incite more people to create a public nuisance.
- Cases relating to the Mong Kok Riot on Lunar New Year's Day in 2016

ii. In respect of the above cases, please set out the Government Counsel or the Counsel instructed who conducted the prosecution, and the reasons for such arrangements?

Asked by: Hon CHU Hoi-dick (Member Question No. (LegCo use): 30)

Reply:

i. The cases in item 1 (“The disqualification of 4 Legislative Councillors” (HCAL 223-226/2016 and HCMP 3378, 3379, 3381, 3382/2016)), and those in item 5 (“The criminal contempt of court case against WONG Ho-ming and WONG Chi-fung relating to the clearance of the Occupy Mong Kok site in 2014” (HCMP 795/2015 and CACV 14/2018 (WONG Chi-fung) and HCMP 798/2015 and CACV 259/2017 (WONG Ho-ming))) of the question were handled by the Civil Division.

In the financial year of 2016-17, the expenditure incurred in relation to briefing two local senior counsel and two local junior counsel to cases in item 1 was \$2,061,275.

As for cases in item 5, the total expenditure for the proceedings is not yet finalized or available as the legal proceedings are still on-going. The final amount will be subject to development of the cases concerned and is not entirely within the control of the Department of Justice (DoJ).

It is relevant to note that the Civil Division of the DoJ deals with all civil litigation and tribunal work involving the Government. The proceedings of the cases of the two items above are mainly handled by the Civil Division which may seek inputs or advice from other divisions in the DoJ and/or outside Counsel instructed. As such, while in general the legal proceedings come under the purview of the Civil Division, the officer or the team of officers involved in advising or handling the different aspects of the proceedings may vary depending on, for example, the nature and complexity of the issues, etc. Moreover, their work in this regard is undertaken among their other duties. Hence, the expenditure and manpower involved in this regard cannot be separately identified.

The other cases mentioned in the question (i.e. item 2 “The case involving 13 people who charged into the Legislative Council Complex in 2014 in an attempt to stop the Government from destroying North East New Territories and in opposition to Hong Kong-China integration” (FAMC 43-55/2017), item 3 “The sentence review case in the Court of Final Appeal involving the trio of WONG Chi-fung, CHOW Yong-kang, Alex and LAW Kwun-chung for their participation in an unlawful assembly at the Civic Square in 2014” (FACC 8-10/2017), item 4 “The case against LEUNG Kwok-hung for snatching documents from the then Under Secretary for Development Eric MA Siu-cheung’s desk during a Legislative Council meeting on the Wang Chau incident” (ESS 16969/2017), item 6 “The case against 9 Occupy Movement participants (TAI Yiu-ting, CHAN Kin-man, CHU Yiu-ming and others) of conspiracy to commit public nuisance, incitement to commit public nuisance, and inciting others to incite more people to create a public nuisance.” (DCCC 480/2017) and item 7 “Cases relating to the Mong Kok Riot on Lunar New Year’s Day in 2016” (mainly involving HCCC 408/2016 and HCCC 408A/2016)) are criminal cases handled by the Prosecutions Division.

Apart from the case in item 3, which has concluded, the legal proceedings of the cases in items 2, 4, 6 and 7 are still on-going. Therefore, the total expenditure for the proceedings is not yet finalized or available. The final amount of expenditure involved will be subject to development of the cases concerned and is not entirely within the control of the DoJ. As for the concluded case in item 3, it was handled by counsel of the Division among their other duties. The expenditure cannot be separately identified. The other expenditure involved is part of the Department’s general departmental expenses and a separate breakdown is not available.

ii. For the cases listed in the question, the DoJ has engaged solicitors or barristers in private practice to provide assistance in handling cases in items 1, 5 and 7. The DoJ is responsible for providing legal advice to Government bureaux and departments, and represents the Government in courts for judicial proceedings. Where necessary, the DoJ engages solicitors or barristers in private practice to provide assistance in handling cases. Briefing out is mainly to meet operational needs. Generally speaking, the DoJ may resort to briefing out when-

- (i) there is a need for expert assistance where the requisite skill is not available in the DoJ;
- (ii) there is no suitable in-house counsel to appear in court for the Hong Kong Special Administrative Region;
- (iii) the size, complexity, quantum and length of a case so dictate;
- (iv) it is deemed appropriate to obtain independent outside counsel's advice or services so as to address possible perception of bias or issues of conflict of interest;
- (v) there is a need for continuity or economy, e.g. where a former member of the DoJ who is uniquely familiar with the subject matter is in private practice at the time when the legal services are required; and
- (vi) there is a need for independent advice or services in respect of matters or proceedings involving members of the DoJ.

The selection of briefed out counsel for a particular case will be made based on criteria including the briefed out counsel's expertise and experience as the case requires. The level of fees charged by the briefed out counsel is also one of the factors to be taken into account, since public money is involved.

The DoJ instructed outside counsel to advise and represent the Government in the legal proceedings in question having regard to the relevant operational needs and selection criteria.

- End -

CONTROLLING OFFICER'S REPLY**SJ024****(Question Serial No. 1997)**Head: (92) Department of JusticeSubhead (No. & title): (-) Not SpecifiedProgramme: (1) ProsecutionsControlling Officer: Director of Administration and Development (Alan Siu)Director of Bureau: Secretary for JusticeQuestion:

Please provide the following information in respect of prosecutions work:

- a) the establishment, actual manpower and expenditure of the Prosecutions Division for the past 3 years; and
- b) the number of cases conducted by Government Counsel and by barristers or solicitors instructed to prosecute at different levels of courts for the past 3 years.

Asked by: Hon HUI Chi-fung (Member Question No. (LegCo use): 6)Reply:

- (a) The establishment and strength of the Prosecutions Division in the past three years are as follows -

Grades	2015-16 (as at 1 March 2016)		2016-17 (as at 1 March 2017)		2017-18 (as at 1 March 2018)	
	Establishment	Strength	Establishment	Strength	Establishment	Strength
Government Counsel	135	130	136	124	143	135
Para-legal	135	109	133	103	136	98
Executive, Clerical and Secretarial	216	210	216	199	223	218
Total	486	449	485	426	502	451

The actual expenditure of the Prosecutions Division for 2015-16 and 2016-17 is \$614 million and \$634 million respectively. The estimated expenditure for 2017-18 is \$666 million.

(b) The number of cases conducted by Government Counsel and by barristers and solicitors instructed to prosecute at different levels of court in the past three years -

No. of cases conducted		2015-16		2016-17		2017-18 (up to 31 January 2018)	
		Government Counsel	Barristers and solicitors instructed to prosecute	Government Counsel	Barristers and solicitors instructed to prosecute	Government Counsel	Barristers and solicitors instructed to prosecute
Appeal Court	Court of Final Appeal	55	7	108	25	102	21
	Court of Appeal	470	24	507	8	319	14
	Magistracy Appeal	728	8	642	0	537	2
Court of First Instance		373	270	374	248	313	166
District Court		534	627	670	569	465	604
Magistracy		256	956 ¹	203	934 ¹	144	528 ¹
Death Inquest		17	1	22	0	28	11
Total		2 433	1 893	2 526	1 784	1 908	1 346

- End -

¹ Apart from prosecuting in the Magistrates' Courts in place of Government Counsel, fiat counsel are also engaged to prosecute in the Magistrates' Courts in place of Court Prosecutors, attending to all cases before a particular magistrate on each day or half day. Such engagement is on court-day basis rather than case-base, and the number of courts days concerned in 2015-16, 2016-17 and 2017-18 (up to 31 January 2018) are 5 617 days, 5 711 days and 4 528 days respectively.

CONTROLLING OFFICER'S REPLY**SJ025****(Question Serial No. 2168)**Head: (92) Department of JusticeSubhead (No. & title): (001) SalariesProgramme: (-) Not SpecifiedControlling Officer: Director of Administration and Development (Alan Siu)Director of Bureau: Secretary for JusticeQuestion:

1. Please give a breakdown of the full expenditure on salary, regularly-paid allowances and job-related allowances for the Secretary for Justice in 2017-18 and the estimates for the same for 2018-19.
2. Please advise how the non-accountable entertainment allowance for the Secretary for Justice is calculated.

Asked by: Hon KWOK Ka-ki (Member Question No. (LegCo use): 7)Reply:

The estimates for the salaries and non-accountable entertainment allowance of the Secretary for Justice in 2017-18 and 2018-19 are set out below -

	Salary (\$ million)	Non-accountable entertainment allowance (\$ million)
2017-18 (Revised Estimates)	4.00	0.23
2018-19 (Draft Estimates)	4.15	0.23

The rate of the non-accountable entertainment allowance payable is adjusted annually in accordance with the movement of the average monthly Composite Consumer Price Index (CCPI) for a 12-month period ending December as compared with that for the preceding 12-month period. For 2018-19, the allowance payable to the Secretary for Justice will be increased by 1.5% with effect from 1 April 2018 based on the CCPI movement.

- End -

CONTROLLING OFFICER'S REPLY

SJ026

(Question Serial No. 6341)

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (-) Not Specified

Controlling Officer: Director of Administration and Development (Alan Siu)

Director of Bureau: Secretary for Justice

Question:

Please set out the number of visits to the Liaison Office made by vehicles of the Department of Justice in each of the past 5 years.

Asked by: Hon KWOK Ka-ki (Member Question No. (LegCo use): 16)

Reply:

The Secretary for Justice and staff of the Department of Justice ("DoJ") routinely use office vehicles to get to various destinations to attend official functions, etc. according to operational needs. A large number of trip records are involved. The DoJ has not compiled a breakdown of such trip records by destination.

- End -

CONTROLLING OFFICER'S REPLY

SJ027

(Question Serial No. 1212)

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (2) Civil

Controlling Officer: Director of Administration and Development (Alan Siu)

Director of Bureau: Secretary for Justice

Question:

In relation to the judicial review cases HCAL 223/2016, HCAL 224/2016, HCAL 225/2016 and HCAL 226/2016, and the summonses HCMP 3378/2016, HCMP 3379/2016, HCMP 3381/2016 and 3382/2016, please inform the Committee –

- (a) the costs involved in briefing out the cases to counsel in private practice and the costs involved in instructing each counsel;
- (b) the total expenses for pursuing the cases and the breakdown for each case; and
- (c) whether the Department of Justice will ask for recovery of costs against the respondents of these cases.

Asked by: Hon KWOK Wing-hang, Dennis (Member Question No. (LegCo use): 64)

Reply:

- (a) In 2016-17, the briefing out expenditure incurred in relation to briefing two local Senior Counsel and two local junior counsel for the cases HCAL 223-226/2016 and HCMP 3378, 3379, 3381, 3382/2016 was \$2,061,275.

The expenditure for briefing out varies from case to case, depending on various factors including complexity, number of parties involved, number of hearing days, the need for expert witnesses to testify, etc. For briefing out not covered by approved fee schedules, outside counsel are selected based on established selection criteria including the briefed out counsel's expertise and experience as the particular case requires. It is therefore neither appropriate nor does it serve any useful purpose to make a comparison amongst briefed out cases or counsel solely on the basis of their expenditure, fee or number of cases instructed. In any event, due to restriction on disclosure of information imposed by the Personal Data (Privacy) Ordinance (Cap. 486), DoJ is not at liberty to disclose the amounts of fees paid to individual counsel without their prescribed consent.

- (b) The briefing out expenditure incurred in relation to the said cases in 2016-17 was \$2,061,275. As some common legal issues were involved in the said cases and that they were directed by the Court to be heard together, the briefing out expenditure

incurred was for briefing local Senior Counsel and junior counsel to handle the said cases together. Hence, we do not have a separate breakdown for the briefing out expenditure of each set of such proceedings.

It is relevant to note that the Civil Division of the DoJ deals with all civil litigation and tribunal work involving the Government. The said proceedings are mainly handled by the Civil Division which may seek inputs or advice from other divisions in the Department and/or outside Counsel instructed. As such, while in general the legal proceedings come under the purview of the Civil Division, the officer or the team of officers involved in advising or handling the different aspects of the proceedings may vary depending on, for example, the nature of the issues, the complexity, etc. Hence, the expenditure and manpower involved in this regard cannot be separately identified.

- (c) We will handle the recovery of any court costs awarded in respect of the cases according to the relevant court procedures as appropriate.

- End -

CONTROLLING OFFICER'S REPLY**SJ028****(Question Serial No. 1213)**Head: (92) Department of JusticeSubhead (No. & title): (-) Not SpecifiedProgramme: (1) Prosecutions
(2) CivilControlling Officer: Director of Administration and Development (Alan Siu)Director of Bureau: Secretary for JusticeQuestion:

The Department of Justice briefs out some cases to members of the Bar and solicitors in private practice. Please inform the Committee costs incurred in the past three years in relation to –

- (a) the total costs of briefing out
- (b) the total costs of briefing out in relation to criminal cases;
- (c) the total costs of briefing out in relation to civil cases;
- (d) the total costs of briefing out in relation to construction cases;
- (e) the total costs of briefing out in relation to judicial review cases;
- (f) the top ten foreign counsel instructed, the total costs paid to them and the number of cases which they were instructed for;
- (g) the top ten local counsel instructed, the total costs paid to them and the number of cases which they were instructed for in relation to criminal cases;
- (h) the top ten local counsel instructed, the total costs paid to them and the number of cases which they were instructed for in relation to civil cases;
- (i) the top ten local counsel instructed, the total costs paid to them and the number of cases which they were instructed for in relation to construction cases; and
- (j) the top ten local counsel instructed, the total costs paid to them and the number of cases which they were instructed for in relation to judicial review cases.

Asked by: Hon KWOK Wing-hang, Dennis (Member Question No. (LegCo use): 45)Reply:

- (a) The total costs of briefing out for the past three years are as follows :

Year	Expenditure (\$)
2014-15	334,963,972
2015-16	322,972,211
2016-17	291,717,313

- (b) The total costs of briefing out in relation to criminal cases for the past three years are as follows:

Year	Expenditure (\$)
2014-15	156,103,762
2015-16	126,253,663
2016-17	126,492,465

- (c) The total costs of briefing out in relation to civil cases for the past three years are as follows :

Year	Expenditure (\$)
2014-15	75,568,585
2015-16	105,790,709
2016-17	104,794,119

- (d) The total costs of briefing out in relation to construction cases involving the Government for the past three years are as follows :

Year	Expenditure (\$)
2014-15	103,291,625
2015-16	90,927,839
2016-17	60,430,729

- (e) The total costs of briefing out in relation to judicial review cases for the past three years are as follows :

Year	Expenditure (\$)
2014-15	28,633,130
2015-16	47,331,386
2016-17	46,798,639

(f) to (j) The expenditure for briefing out varies from case to case, depending on various factors including complexity, number of parties involved, number of hearing days, the need for expert witnesses to testify, etc. For briefing out not covered by approved fee schedules, outside counsel are selected based on established selection criteria including the briefed out counsel's expertise and experience as the particular case requires. It is therefore neither appropriate nor does it serve any useful purpose to make a comparison amongst briefed out cases or counsel solely on the basis of their expenditure, fee or number of cases instructed. In any event, due to restriction on disclosure of information imposed by the Personal Data (Privacy) Ordinance (Cap. 486), DoJ is not at liberty to disclose the amounts of fees paid to individual counsel without their prescribed consent.

- End -

CONTROLLING OFFICER'S REPLY

SJ029

(Question Serial No. 1214)

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development (Alan Siu)

Director of Bureau: Secretary for Justice

Question:

The Department of Justice provided legal advice to the Returning Officers as to the eligibility of candidates intended to run for the 2016 Legislative Council General Election and the 2018 Legislative Council By-election. Please inform the Committee –

- (1) the costs incurred and manpower deployed on such; the number of occasions where the Returning Officer sought advice and the Department of Justice did give advice;
- (2) the legal basis for the Department of Justice to advise on potential candidates' eligibility to run for Legislative Council elections;
- (3) the details of such arrangements, such as whether advice sought were initiated by the Returning Officers, the way the advice were given and whether the Department of Justice was involved in formulating the decisions to invalidate eligibility; and
- (4) whether counsel or solicitors in private practice were engaged for such; if yes, the costs incurred.

Asked by: Hon KWOK Wing-hang, Dennis (Member Question No. (LegCo use): 60)

Reply:

The Department of Justice (DoJ) advises Government bureaux and departments on legal issues as required from time to time, which includes giving legal advice on electoral issues to Returning Officers. The DoJ does not keep any statistical breakdown of the advice given by reference to the party seeking the advice or the date on which the advice is given. The manpower resources/work involved cannot be separately identified either.

The DoJ has sought legal advice from outside specialists on issues raised in the question, incurring a total of around \$1.44 million in briefing out expenditure.

- End -

CONTROLLING OFFICER'S REPLY

SJ030

(Question Serial No. 1215)

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development (Alan Siu)

Director of Bureau: Secretary for Justice

Question:

The Department of Justice advises on the legal aspects of the Guangzhou-Shenzhen-Hong Kong Express Railway Link, particularly on the proposed co-location arrangements of customs, immigrations and quarantine at the West Kowloon station and the Co-operation Arrangement between the Mainland and the Hong Kong Special Administrative Region on the Establishment of the Port at the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link for Implementing Co-location Arrangement (the Co-operation Agreement). In this regard, please inform the Committee the role of the Department of Justice on such, particularly –

- (a) the occasions where officers in the Department of Justice met with mainland officers to discuss matters related to the Co-operation Agreement;
- (b) the dates of the meetings in (a);
- (c) the officers of the Department of Justice present at the meetings in (a) and their ranks;
- (d) the mainland officers present at the meetings in (a) and their ranks; other Hong Kong government officers present at the meetings in (a) and their ranks;
- (e) the agenda of the meetings in (a); and
- (f) whether the Government will consider publicizing the minutes of the meetings.

Asked by: Hon KWOK Wing-hang, Dennis (Member Question No. (LegCo use): 62)

Reply:

The Department of Justice advises Government bureaux and departments on legal issues as required from time to time, including those arising from projects under their purview. The co-location arrangement in respect of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (XRL) project (primarily under the purview of the Transport and Housing Bureau), including the Co-operation Agreement, is one such example. Such legal advice has been

and will be, from time to time, tendered among other advisory duties of the Department and the relevant manpower/rank of officers involved therefore cannot be separately identified.

Relevant Government bureaux and departments (including the Transport and Housing Bureau, the Security Bureau, the Constitutional and Mainland Affairs Bureau, and the Department of Justice) have been studying the implementation of co-location, and have held discussions with relevant Mainland authorities, with a view to implementing a co-location arrangement consistent with the Basic Law, the Co-operation Agreement, and the “One Country, Two Systems” policy at the commissioning of the XRL.

- End -

CONTROLLING OFFICER'S REPLY

SJ031

(Question Serial No. 2495)

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development (Alan Siu)

Director of Bureau: Secretary for Justice

Question:

In the 2018 Legislative Council By-election, the Returning Officer for Hong Kong Island Constituency decided that Miss Chow Ting was not validly nominated to stand for election. Please inform the Committee –

(1) whether the Department of Justice has given any legal advice in relation to Miss Chow Ting's eligibility for candidacy; if so, the details; and

(2) whether the Department of Justice has engaged counsel in private practice in giving legal advice; if so, the identity of the counsel and the costs involved.

Asked by: Hon KWOK Wing-hang, Dennis (Member Question No. (LegCo use): 61)

Reply:

The Department of Justice (DoJ) advises Government bureaux and departments on different legal issues as required from time to time, which includes giving legal advice on various electoral issues to Returning Officers. The concerned details are covered by legal professional privilege and it is not appropriate for us to reveal.

The DoJ had sought specialist legal opinion regarding the 2018 Legislative Council By-election from expert(s) outside the Department. In line with established selection criteria, we consider the suitability of such adviser(s) having regard to the expertise and experience required in the particular case. The total briefing out expenses involved were about \$230,000. Due to restriction on disclosure of information imposed by the Personal Data (Privacy) Ordinance (Cap. 486), DoJ is not at liberty to disclose the identity of individual counsel without their prescribed consent.

- End -

CONTROLLING OFFICER'S REPLY**SJ032****(Question Serial No. 2496)**

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development (Alan Siu)

Director of Bureau: Secretary for Justice

Question:

The work of the Secretary for Justice's Office and the Legal Policy Division includes providing advice and support to the government on various subject matters. It is noted that there was a sharp increase in the number of advice on Mainland law and related matters, from that of 358 in 2016 to 561 in 2017. Please explain to the Committee the sharp increase in detail, particularly as to the nature of the advice, the government departments being advised and the relevant subject matters.

Asked by: Hon KWOK Wing-hang, Dennis (Member Question No. (LegCo use): 63)

Reply:

The need to give advice to government departments is demand driven. Given the rather substantial number of advice given on Mainland law and related matters each year, the Department does not keep any statistical breakdown of the nature of the advice, the government departments being advised and the relevant subject matters.

That said, generally speaking, the increase in advice on Mainland law and related matters given in 2017 reflects an increase in on-going projects related to the Mainland carried out by the Government. These projects include matters relating to the Belt and Road Initiative such as the conclusion of the *Arrangement between the National Development and Reform Commission and the HKSARG for Advancing Hong Kong's Full Participation in and Contribution to the Belt and Road Initiative* and follow-up work, the Guangdong-Hong Kong-Macao Bay Area (Bay Area) development and the formulation of the development plan for a city cluster in the Bay Area, co-operation projects with the Mainland including those with the Guangdong Province, Shanghai and Shenzhen. In addition, from time to time there are numerous Mainland-related projects of a smaller scale undertaken by the Government.

On top of the above, the Department has also embarked on consultations with the Mainland on a number of legal cooperation arrangements, including a proposed framework arrangement on reciprocal recognition and enforcement of judgments (REJ) in civil and

commercial matters as well as the *Arrangement on REJ in Civil Matrimonial and Family Cases by the Courts of the Mainland and of the HKSAR* (signed in June 2017, to be implemented after the relevant legislation has been prepared and enacted). For the purpose of these projects, extensive research and communications with various parties were involved.

Apart from the above work, the Department also continues to undertake routine legal work such as providing advice on National Laws applicable to Hong Kong. One notable example is the Nationality Law of the People's Republic of China (Chinese Nationality Law) which is of relevance in some immigration cases.

The government bureaux and departments being advised are varied. For Mainland-related projects, advice is mainly provided to the Constitutional and Mainland Affairs Bureau. For consultations with the Mainland on REJ arrangements, whilst the Legal Policy Division of the Department takes the lead in these projects, various government bureaux and departments are also involved. Ad hoc requests for legal advice may come from various government bureaux and departments, for instance, Immigration Department with respect to issues on the Chinese Nationality Law.

- End -

CONTROLLING OFFICER'S REPLY

SJ033

(Question Serial No. 2497)

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development (Alan Siu)

Director of Bureau: Secretary for Justice

Question:

The Prosecution Code expressly states that a prosecutor should refer to international standards and practices concerning victims of trafficking in appropriate cases where there is a credible claim that a defendant or intended defendant is a victim of trafficking (para 18.2 of the Prosecution Code). In this regard, will the Administration inform the Committee:

- (1) the number of cases invoking the abovementioned provisions (irrespective of whether a prosecution was made) in the past three years and the relevant details;
- (2) the number of cases where a credible claim is established and the relevant details in the past three years;
- (3) whether the Department of Justice has a designated team of officers focusing on issues related to human trafficking and the its details (if any), such as its size establishment and scope of work; and
- (4) whether the officers of the Department of Justice receive training on human trafficking issues and the relevant details.

Asked by: Hon KWOK Wing-hang, Dennis (Member Question No. (LegCo use): 70)

Reply:

- (1) Human exploitation involves different types of cases, of which the offenders have been prosecuted with different offences, and we have not maintained comprehensive statistics on them. That said, some enforcement statistics in relation to sex trafficking offences are hereby appended for reference : during January to September 2017, there were 10 convictions on various offences relating to sex trafficking under the Crimes Ordinance (Cap. 200), including (a) trafficking in persons to or from Hong Kong (section 129); (b) control over persons for purpose of prostitution (section 130); (c) causing prostitution (section 131); and (d) living on earnings of prostitution of others (section 137).

- (2) The Government does not maintain requested information related to cases of established credible claim that a defendant or intended defendant is a victim of trafficking.
- (3) In early 2013, the Prosecutions Division of the Department of Justice appointed a counsel at directorate rank as the Policy Coordinator. The Coordinator will be notified of any cases submitted to the Division for legal advice which have human exploitation/trafficking connotations. The progress of such cases could be coordinated and monitored holistically with proper attention be paid to the issues of human trafficking/exploitation. In order to better oversee and coordinate cases involving trafficking in persons (TIP) issues handled or submitted by various law enforcement agencies for legal advice, in April 2017, the Prosecutions Division assigned a designated desk (comprising the abovementioned Coordinator and assisting Government Counsel (the number increased to 2 since November 2017)) to handle these cases.
- (4) In the past two years, we have made arrangements for various lectures / seminars to be given by anti-trafficking NGO based in Hong Kong. Besides, representatives from the Prosecutions Division of the Department of Justice had also attended anti-TIP workshops / seminars organised by other parties.

At the international front, the Director of Public Prosecutions (DPP) led a delegation of 2 public prosecutors, attended the 10th China – ASEAN Prosecutors General Conference on 9-10 November 2016 in Vientiane Capital, Lao PDR under the theme of “*Strengthening Cooperation to Effectively Combat Transnational Crime*”, focusing on drug and human trafficking. DPP and the other heads of delegation each delivered a keynote speech on the roles of prosecutorial organizations in combating human and drug trafficking. Prosecutorial authorities were able to communicate with one another, exchanged knowledge and shared best practices by obtaining information on updated trends that would enable them to provide an effective response. At the end of conference, a Joint Declaration was signed to declare, *inter alia*, that the Prosecutors-general remain committed to enhancing cooperation to bring transnational offenders to justice.

- End -

CONTROLLING OFFICER'S REPLY**SJ034****(Question Serial No. 2498)**Head: (92) Department of JusticeSubhead (No. & title): (-) Not Specified

Programme: (1) Prosecutions
 (2) Civil
 (3) Legal Policy

Controlling Officer: Director of Administration and Development (Alan Siu)Director of Bureau: Secretary for JusticeQuestion:

Please inform the Committee whether the Department of Justice has organized seminars or trainings for officers on constitutional law issues, human right law issues, human trafficking issues and legal issues related to mainland laws, and the details of such, including the speakers, dates and content of such seminars or trainings.

Asked by: Hon KWOK Wing-hang, Dennis (Member Question No. (LegCo use): 75)Reply:

Seminars or training courses organised or conducted by the Department of Justice in 2017 on the issues concerned are as follows:

	Date and time	Venue	Speaker(s)	Number of participants	Background of participants (e.g. officers of DoJ, civil servants of other departments)	Topic of seminar/training course
Organised by the Prosecutions Division						
1	25 August 2017 p.m.	47/F, High Block, Queensway Government Offices	Mr Simon N.M. Young, Professor and Associate Dean (Research), Faculty of Law, The University of Hong Kong	21	Officers of DoJ	Recent developments and updates in human rights and criminal process (including the role of the European Court of Human Rights and its important judgments)

	Date and time	Venue	Speaker(s)	Number of participants	Background of participants (e.g. officers of DoJ, civil servants of other departments)	Topic of seminar/training course
2	24 November 2017 p.m.	47/F, High Block, Queensway Government Offices	Ms Archana Kotecha, Head of Legal, Liberty Asia	38	Officers of DoJ	Multiple perspectives on combating human trafficking: the criminal justice perspective and the anti-money laundering approach
Organized by the Civil Division						
3	19 April 2017 p.m.	Multi-purpose Function Hall, Justice Place	Mr. Thomas Cheng, Member of the Competition Commission and Associate Professor, Faculty of Law, The University of Hong Kong	102	Officers of DoJ and civil servants of other departments	General overview of the Competition Ordinance (Cap. 619) and Points to Note in Policy Formulation
4	25 August 2017 p.m.	Multi-purpose Function Hall, Justice Place	Lord David Pannick, QC	129	Officers of DoJ and civil servants of other departments	Fundamental Rights under the Basic Law, Proportionality and the Margin of Discretion
5	11 September 2017 p.m.	Multi-purpose Function Hall, Justice Place	Mr. Michael Barnes, QC	112	Officers of DoJ and civil servants of other departments	The Law of Land Valuation
6	26 September 2017 p.m.	Multi-purpose Function Hall, Justice Place	Professor Anton Cooray	109	Officers of DoJ and civil servants of other departments	Environmental Impact Assessments in Hong Kong – Case Studies and Emerging Issues
7	18 October 2017 p.m.	Multi-purpose Function Hall, Justice Place	Mr. Richard Clayton, QC	81	Officers of DoJ and civil servants of other departments	Contemporary issues in Public Law: The Constitutional Rights of Prisoners and implications of the Carltona principle
8	10 November 2017 a.m.	Multi-purpose Function Hall, Justice Place	Mr. Michael Furness, QC	43	Officers of DoJ and civil servants of other departments	Company Directors and the proper use of their powers – the potential application of the UKSC decision in Eclairs Group Ltd [2015] UKSC 71 to Hong Kong
9	12 December 2017 p.m.	Multi-purpose Function Hall, Justice Place	Miss Monica Carss-Frisk, QC	81	Officers of DoJ and civil servants of other departments	Sexual Orientation Discrimination
Organised / conducted by the Legal Policy Division						
10	10 April 2017 a.m.	North Point Government Offices	Senior Government Counsel (SGC)	88	Civil servants	Basic Law Briefing

	Date and time	Venue	Speaker(s)	Number of participants	Background of participants (e.g. officers of DoJ, civil servants of other departments)	Topic of seminar/training course
11	24 April 2017 p.m.	North Point Government Offices	Senior Assistant Solicitor General (SASG)	114	Civil servants	Basic Law Seminar – The Interpretation of the Basic Law and the Protection of Rights under the Basic Law
12	7 June 2017 p.m.	North Point Government Offices	SASG	72	Civil servants	Basic Law Seminar – The Interpretation of the Basic Law and the Protection of Rights under the Basic Law
13	12 October 2017 p.m.	North Point Government Offices	SGC	66	Civil servants	Basic Law Briefing
14	21 March 2017 p.m.	Multi-purpose Function Hall, Justice Place	SASG	50	DoJ Government counsel	Human Rights Considerations in Law Drafting
15	10 April 2017 p.m.	Immigration Service Institute of Training and Development, 82 Castle Peak Road, Castle Peak Bay, Tuen Mun	SGC	92	Officers of Immigration Department	Hong Kong Bill of Rights Ordinance
16	20 April 2017 p.m.	Immigration Service Institute of Training and Development, 82 Castle Peak Road, Castle Peak Bay, Tuen Mun	SGC	74	Officers of Immigration Department	Hong Kong Bill of Rights Ordinance
17	15 May 2017 a.m.	Information System Branch Training Centre, Immigration Tower, Wanchai	SGC	59	Officers of Immigration Department	Screening of Non-refoulement Claims under the Unified Screening Mechanism
18	5 June 2017 p.m.	Immigration Service Institute of Training and Development, 82 Castle Peak Road, Castle Peak Bay, Tuen Mun	SGC	77	Officers of Immigration Department	Hong Kong Bill of Rights Ordinance

	Date and time	Venue	Speaker(s)	Number of participants	Background of participants (e.g. officers of DoJ, civil servants of other departments)	Topic of seminar/training course
19	4 December 2017 p.m.	Immigration Service Institute of Training and Development, 82 Castle Peak Road, Castle Peak Bay, Tuen Mun	SGC	87	Officers of Immigration Department	Hong Kong Bill of Rights Ordinance

- End -

CONTROLLING OFFICER'S REPLY**SJ035****(Question Serial No. 5939)**

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development (Alan Siu)

Director of Bureau: Secretary for Justice

Question:

During the prosecution process, trafficking in persons cases are brought to the attention of the Department of Justice by other governmental departments so that a timely and proper assessment of the issue, including the question of immunity, can be made by Department of Justice. In this regard, will the Administration inform the Committee the number of cases which has been brought to the Department of Justice's attention, how such cases have been dealt with and the relevant details in the past three years.

Asked by: Hon KWOK Wing-hang, Dennis (Member Question No. (LegCo use): 149)

Reply:

The Hong Kong Special Administrative Region (HKSAR) Government attaches great importance to combatting trafficking in persons (TIP). The HKSAR Government has put in place a package of effective legislative and administrative measures to combat TIP with continuous enhancements. As far as the Department of Justice (DoJ) is concerned, the Prosecutions Division appointed a counsel at directorate rank as the Policy Coordinator in 2013. In order to better oversee and coordinate cases involving TIP issues handled or submitted by various law enforcement agencies (LEAs) for legal advice, more recently in April 2017, PD assigned a designated desk, comprising the Coordinator and one Government Counsel (GC), to handle these cases for such a purpose. And since November 2017, an additional GC was added to the team to cope with the increasing workload.

Inter-departmental co-operation is crucial for combating human exploitation/TIP. Hence, there has been increasing cooperation between the Prosecutions Division (PD) of the DoJ and the LEAs. In this regard, LEAs will draw to the special attention of PD in the case files submitted where TIP elements are or may be involved. In appropriate cases, PD may also alert the LEAs of such issues detected upon perusal of the case files by the prosecutor.

As pointed out in paragraph 18.2 of the Prosecution Code, the prosecutor concerned will consider a credible claim that a defendant or intended defendant is a victim of trafficking. If such a claim is found, a prosecutor would appropriately deal with the case bearing in mind

that the person is a victim of trafficking. While the facts and circumstances (and hence the considerations) of each case would naturally differ, as a general guiding principle, our prosecutors are mandated to give due consideration to any TIP elements that may feature in any given case when deciding whether a prosecution should be instigated or continued. Such TIP elements, if substantiated, would obviously bear upon our decision, in particular, in respect of the public interest requirements as the second component of the prosecution test (paragraphs 5.8 to 5.9 of the Prosecution Code refer). In appropriate cases, the question of immunity from prosecution would be considered, having regard to the established legal principles and the guidance (under paragraphs 11.1 to 11.4 of the Prosecution Code). In making these prosecutorial decisions, the prosecutor will assess the merit of each claim with a high level of sensitivity, understanding and awareness of the TIP considerations.

We currently do not have comprehensive statistics on TIP cases which has been brought to the DoJ's attention, while there were four cases in the past three years where immunity had been granted to TIP victims / exploited foreign domestic helpers.

- End -

CONTROLLING OFFICER'S REPLY**SJ036****(Question Serial No. 3261)**Head: (92) Department of JusticeSubhead (No. & title): (-) Not SpecifiedProgramme: (1) ProsecutionsControlling Officer: Director of Administration and Development (Alan Siu)Director of Bureau: Secretary for JusticeQuestion:

The Government is invited to advise on the following:

- 1) The details of the establishment of Government Counsel and Court Prosecutors (including the ranks, numbers of officers and salary points) and the numbers of vacancies.
- 2) The details of the briefing out of prosecution cases to barristers and solicitors in private practice in the past 3 years by using the table below.

	Barristers		Solicitors	
	Numbers of cases briefed out (breakdowns by local and overseas barristers)	The average, lowest and highest costs involved in cases briefed out	Numbers of cases briefed out (breakdowns by local and overseas solicitors)	The average, lowest and highest costs involved in cases briefed out
Magistrates' Court				
District Court				
Court of First Instance of the High Court				
Court of Appeal of the High Court				
Court of Final Appeal				

- 3) The Government's considerations for briefing out criminal cases, the reasons for engaging overseas barristers and solicitors, and how it ensures and enhances the efficiency and professionalism of its in-house staff in handling prosecutions.

Asked by: Hon LAM Kin-fung, Jeffrey (Member Question No. (LegCo use): 47)

Reply:

(1) The ranking, establishment and strength, vacancy and salary band of Government Counsel grade officers in the Prosecutions Division (as at 1 March 2018)

Rank	Establishment	Strength	Vacancy	Salary Band*
Law Officer	1	0	1	DL6
Principal Government Counsel	4	4	0	DL3
Deputy Principal Government Counsel	15	14	1	DL2
Assistant Principal Government Counsel	7	7	0	DL1
Senior Government Counsel	68	52	16	MPS 45-49
Government Counsel	48	58	-10 ^{Note}	MPS 32-44
Total	143	135	8	-

* DL = Directorate Legal Pay Scale
MPS = Master Pay Scale

Note: The over-strength at the Government Counsel rank denotes Government Counsel rank officers on acting appointment as Senior Government Counsel.

The ranking, establishment and strength, vacancy and salary band of Court Prosecutor grade officers (as at 1 March 2018)

Rank	Establishment	Strength	Vacancy	Salary Band*
Chief Court Prosecutor	2	2	0	MPS 40-44
Senior Court Prosecutor I	8	6	2	MPS 34-39
Senior Court Prosecutor II	33	29	4	MPS 28-33
Court Prosecutor	57	28	29	MPS 13-27
Total	100	65	35	-

(2) The number of cases briefed out to Counsel instructed to prosecute at different levels of court in the past 3 years

No. of cases conducted		2015-16	2016-17	2017-18 (as at 31 January 2018)
Appeal Court	Court of Final Appeal	7 [including 3 overseas counsel]	25 [including 2 overseas counsel]	21 [including 1 overseas counsel]

	Court of Appeal	24	8	14 [including 2 overseas counsel]
	Magistracy Appeal	8	0	2
Court of First Instance		270 [including 1 overseas counsel]	248	166 [including 1 overseas counsel]
District Court		627	569	604
Magistracy (prosecution conducted by fiat counsel in place of Government Counsel)		956 [plus 5 617 court days undertaken by fiat counsel to prosecute in place of Court Prosecutors*]	934 [plus 5 711 court days undertaken by fiat counsel to prosecute in place of Court Prosecutors*]	528 [plus 4 528 court days undertaken by fiat counsel to prosecute in place of Court Prosecutors*]
Death Inquest		1	0	11
Bail Applications		0	1	0
Total [not covering court days at the Magistracy level undertaken by fiat counsel to prosecute in place of Court Prosecutors*]		1 893 [including 4 overseas counsel]	1 785 [including 2 overseas counsel]	1 346 [including 4 overseas counsel]

**Fiat counsel engaged to prosecute in the Magistrates' Courts in place of Court Prosecutors are required to attend to all cases before a particular magistrate on each day or half day, hence their engagement is on court-day basis rather than case-base.*

We do not maintain separate breakdown of cases briefed out to barristers and solicitors, or the average cost involved in cases briefed out. Moreover, the expenditure for briefing out varies from case to case, depending on various factors including complexity, number of defendants involved, number of trial days, the need for expert witnesses to testify, etc. It is therefore neither appropriate nor helpful to make a comparison amongst briefed out cases solely on the basis of their expenditure.

(3) In general, the DoJ may resort to briefing-out when –

- (a) there is a need for expert assistance where the requisite skill is not available in the DoJ;
- (b) there is no suitable in-house counsel to appear in court for the Hong Kong Special Administrative Region;
- (c) the size, complexity, quantum and length of a case so dictate;
- (d) it is deemed appropriate to obtain independent outside counsel's advice or services so as to address possible perception of bias or issues of conflict of interests;

- (e) there is a need for continuity and economy, e.g. where a former member of the Department who is uniquely familiar with the subject matter is in private practice at the time when legal services are required; and
- (f) there is a need for independent advice or services in respect of matters or proceedings involving members of the DoJ.

DoJ has always been acting cautiously to ensure that cases are briefed out to overseas counsel only where circumstances so warrant, having regard to, for example, complexity regarding points of law, significant constitutional, policy or financial implications or public interest, sensitivity of the issues involved, the legal representation of the opposite party, etc. Besides, admission of overseas barristers to conduct cases before the Hong Kong court is ultimately subject to the court's approval.

At the same time, we seek to enhance the efficiency and professionalism of our in-house prosecutors in handling prosecutions through various means, including the following –

- (a) the creation of seven additional Government Counsel posts in 2018-19 so as to provide extra manpower to allow counsel more opportunities to handle court work;
- (b) the continued provision of training programmes to our in-house prosecutors, including seminars on different topics under the Continuing Legal Education Programme, and talks/seminars delivered by experienced private practitioners and other professionals;
- (c) the provision of guidance to prosecutors from time to time through the issue and updating of circulars and reference materials;
- (d) maintaining coordinators or specific units for handling particular types of cases (including cases relating to public order events, human exploitation, money laundering, cybercrime, those involving vulnerable witnesses, as well as matters concerning court costs of criminal cases) so as to allow for better development of expertise within the Division in such areas of laws, and hence more effective and efficient handling of these cases; and
- (e) the continued operation of the quick advisory system known as “FAST” to promptly deal with relatively simple and straightforward cases. Legal advices processed through the system are normally provided on the same day. FAST has proven to be extremely effective in ensuring the overall efficiency of the advisory function of the Division whilst, at the same time, reducing the workload of counsel from advisory sections to free them up for more advocacy work. It also serves as another important training ground for our in-house prosecutors, as counsel from teams other than the few advisory sections would have the opportunities to regularly handle such FAST cases which help hone and consolidate their advisory skills and legal knowledge in respect of a broad spectrum of general criminal cases.

- End -

CONTROLLING OFFICER'S REPLY

SJ037

(Question Serial No. 0563)

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development (Alan Siu)

Director of Bureau: Secretary for Justice

Question:

The number of petitions from prisoners handled by the Department of Justice has increased by 114% from 96 in 2016 to 205 in 2017. Please inform this Committee of: (1) the number of petitions submitted by prisoners over the past 5 years, the offences involved, the justifications for remission, and the number of petitions accepted; and (2) the establishment and expenditure on staff responsible for handling these petitions.

Asked by: Hon LAU Ip-keung, Kenneth (Member Question No. (LegCo use): 49)

Reply:

- (1) The work related to “petitions (from prisoners) handled” (“petitions”) as referred to in the Controlling Officer’s Report includes the work generated from handling prisoners’ petitions for remission, as well as work generated from petitions for pardon, petitions to the Chief Executive to refer the whole case to the Court of Appeal under section 83P of the Criminal Procedure Ordinance (Cap. 221), and petitions to the Chief Executive to refer the whole case to a judge under section 113A of the Magistrates Ordinance (Cap. 227).

The handling of one petition very likely involves several occasions on which legal advice must be given. Hence, it can require more than one instance of handling and may also straddle years. For example, DoJ received a total of 21 petitions for remission of sentence in 2016, which required 22 instances of handling of the work involved during the year and 8 instances in 2017. In 2017, a total of 44 such petitions were received, which required 59 instances of handling of the work involved during the year. In the past 5 years, a total of 126 such petitions were received.

The offences in which the petitioners were involved include burglary, obtaining property by deception, evasion of liability by deception, non-consensual buggery, causing death by dangerous driving, causing grievous bodily harm with intent, conspiracy to steal, conspiracy to defraud, conspiracy to murder, doing an act for the purpose of trafficking in a substance believed to be a dangerous drug, using false instruments, dealing with property known or reasonably believed to represent proceeds

of an indictable offence, trafficking in a dangerous drug, fraud, failing to surrender to custody without reasonable cause, indecent assault, theft, assault with intent to commit buggery, robbery, breach of condition of stay, possessing false instruments, manslaughter, murder, arson, and assault occasioning actual bodily harm.

The justifications for remission include humanitarian grounds, provision of assistance to law enforcement authorities, wrong judgment, unfair agreement between the counsel and public prosecutor, compassionate grounds, innocence, significant difference in sentence for defendants in similar cases, and repentance for the misconduct committed.

Six of the petitions for remission of sentence received in the past five years were successful.

- (2) The Policy Affairs Unit 2 of the Legal Policy Division is responsible for handling petitions. The staff cost of the Unit for 2017-18 is set out in the table below-

	Notional annual mid-point salary value for 2017-18
1 Assistant Principal Government Counsel, 3 Senior Government Counsel, 2 Government Counsel, 1 Personal Secretary II and 1 Assistant Clerical Officer ^{Note}	\$8,276,400

Note: The Assistant Clerical Officer also provides support to the Arbitration Unit.

The overall expenditure involved in this specific area cannot be separately identified.

- End -

CONTROLLING OFFICER'S REPLY**SJ038****(Question Serial No. 0564)**Head: (92) Department of JusticeSubhead (No. & title): (234) Court costsProgramme: (-) Not SpecifiedControlling Officer: Director of Administration and Development (Alan Siu)Director of Bureau: Secretary for JusticeQuestion:

Regarding the court costs subhead, (1) please list the actual amounts of payment of costs awarded against the Government in criminal and civil cases, and the 10 major cases with the highest court costs in the past 5 years; (2) what are the reasons for the 194.2% increase in the estimate for 2018/19?

Asked by: Hon LAU Ip-keung, Kenneth (Member Question No. (LegCo use): 50)Reply:

- (1) Net court costs incurred by the Government in the past five years are as follows-

Year	Net Court Costs incurred		
	Civil Cases	Criminal Cases	Total
2012-13	32,985,000	154,217,000	187,202,000
2013-14	62,294,000	82,080,000	144,374,000
2014-15	60,223,000	130,322,000	190,545,000
2015-16	86,666,000	97,212,000	183,878,000
2016-17	5,481,000	96,820,000	102,301,000

As regards the 10 major cases with the highest court costs, it is not appropriate for us to divulge details regarding the court costs payments because they involve confidential information of the parties concerned in the proceedings.

- (2) The estimate for court costs for 2018-19 is \$538.1M, which is 194.2% or \$355.18M higher than the revised estimate of \$182.92M for 2017-18. The annual expenditure on court costs varies from year to year, depending on the number of cases involved, their complexity and development. While the estimate was

worked out on information available at the time of preparing the estimates, the actual expenditure to be incurred in 2018-19 would ultimately depend on subsequent development and outcome of the cases concerned (which are not entirely within the control of DoJ). The anticipated increase in court costs payment for 2018-19 is mainly due to provisions that need to be made for the amount likely to be required for new cases that will/may arise (including some mega cases), as well as expenditure from a number of cases rolled-over from 2017-18. Besides, it is noted that a general increase in counsel fees as well as the complexity of the cases over the years also contribute to higher court costs payment for individual cases.

- End -

CONTROLLING OFFICER'S REPLY**SJ039****(Question Serial No. 5347)**Head: (92) Department of JusticeSubhead (No. & title): (-) Not SpecifiedProgramme: (-) Not SpecifiedControlling Officer: Director of Administration and Development (Alan Siu)Director of Bureau: Secretary for JusticeQuestion:

In recent years, Government works and policies were subject to judicial reviews repeatedly. The Department of Justice had to provide legal advice to Government bureaux and departments and represent the Government in court proceedings in respect of these judicial reviews. Solicitors or barristers in private practice were also engaged to assist in handling the cases when necessary. In this connection, would the Government inform this Committee of:

1. the numbers and detailed statistical breakdown of the cases in respect of judicial reviews handled by the Department of Justice by financial years in the past 5 years?
2. the expenses incurred in engaging solicitors or barristers in private practice to assist in handling judicial reviews by financial years in the past 5 years, and the amount of court costs paid/received?

Asked by: Hon LAU Ip-keung, Kenneth (Member Question No. (LegCo use): 22)Reply:

1. The Department of Justice (DoJ) is responsible for providing legal advice to Government bureaux and departments, and represents the Government in courts for legal proceedings including judicial review (JR) proceedings. Where necessary, DoJ engages solicitors or barristers in private practice to provide assistance in handling cases. The number of JR cases handled by the DoJ in the past 5 financial years is as follows –

Financial year	Total number of JR cases
2012-13	193
2013-14	136
2014-15	186
2015-16	203
2016-17	178

We do not maintain detailed breakdown on the type of JR cases handled.

2. The relevant briefing out expenses and court costs incurred by DoJ in respect of the handling of JR cases in the past five financial years are as follows –

Financial year	Briefing out expenditure	Net court costs incurred Expenses (received)
2012-13	\$37,127,653	(\$4,837,586)
2013-14	\$33,563,618	(\$17,537,815)
2014-15	\$28,633,130	\$2,187,354
2015-16	\$47,331,386	\$8,437,605
2016-17	\$46,798,638	\$10,167,462

- End -

CONTROLLING OFFICER'S REPLY

SJ040

(Question Serial No. 1874)

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development (Alan Siu)

Director of Bureau: Secretary for Justice

Question:

What were the respective expenditures under this programme and their breakdowns pertaining to the illegal occupy movements occurred in several districts in 2014 and the Mong Kok riot in 2016?

Asked by: Hon LEE Wai-king, Starry (Member Question No. (LegCo use): 9)

Reply:

According to the Security Bureau, during the illegal "Occupy Movement" in 2014, 955 persons were arrested by the Police for various alleged offences, and another 48 persons were arrested after the illegal occupation incident. As at 6 March this year, a total of 225 persons have undergone or are undergoing judicial proceedings. Amongst them, 145 have to bear legal consequences, including 103 who were convicted and 42 who were bound over upon conclusion of court proceedings.

Regarding the incident involving violence in the early hours of 9 February 2017 in Mong Kok, as at 6 March this year, the Police have arrested in total 91 persons and prosecuted 59 of them, out of which 15 persons were convicted. Amongst them, 3 cases are preparing for appeal. Legal advice is pending for 6 other cases.

Cases relating to the "Occupy Movement" and the "Mong Kok riot" are handled by existing staff among their other duties. The expenditure therefore cannot be separately identified.

- End -

CONTROLLING OFFICER'S REPLY**SJ041****(Question Serial No. 2375)**Head: (92) Department of JusticeSubhead (No. & title): (000) Operational expensesProgramme: (2) CivilControlling Officer: Director of Administration and Development (Alan Siu)Director of Bureau: Secretary for JusticeQuestion:

Please provide in the table below the number of cases where the Department of Justice (“DoJ”) represented the Commissioner of Police (“CP”) or police officers in civil claims for damages against them for their actions taken in the course of duties, the outcome of the proceedings and the related expenses in the past 5 years. Please also provide in another table the reasons of claims in such proceedings in the past 5 years and their breakdowns by year.

Year	Number of cases where the DoJ represented the CP or police officers in civil claims for damages against them	Outcome of proceedings			Related expenses	
		Successful	Unsuccessful	Settled	Court costs	Amount of damages
2013-14						
2014-15						
2015-16						
2016-17						
2017-18						

Asked by: Hon LEUNG Kenneth (Member Question No. (LegCo use): 4.01)Reply:

The information sought is provided as follows –

No. of claims and expenses with breakdown by outcome

Year	Number of cases where the DoJ represented the	Outcome of proceedings ^{Note 2}			Related expenses	
		Successful	Unsuccessful	Settled	Court costs ^{Note 3}	Amount of

	CP or police officers in civil claims for damages against them <small>Note 1</small>				(\$'000)	damages <small>Note 3</small> (\$'000)
2013-14	79[15]	19	1	44	510	2,906
2014-15	115[24]	30	3	58	682	5,424
2015-16	81[18]	18	0	45	88	1,126
2016-17	212[39]	14	0	159	231	2,211
2017-18 (up to 28.2.2018)	64[52]	4	0	8	0	122

Note 1: The numbers of cases refer to new cases received in the relevant year. Figures in square brackets denote the number of cases that were not completed as at 28 February 2018.

Note 2: Position as at 28 February 2018. The proceedings with "Successful" outcome refer to those cases with outcome in favour of the Government.

Note 3: The amount of court costs and damages refer to expenses incurred for those cases received in the relevant year which have been completed.

Breakdown by nature of claim

Year	Miscellaneous Claims	Personal Injuries Claims	Traffic Accident Claims	Wrongful Detention Claims	Total No. of Claims
2013-14	24	10	44	1	79
2014-15	47	24	40	4	115
2015-16	32	8	39	2	81
2016-17	142	10	55	5	212
2017-18 (up to 28.2.2018)	13	9	42	0	64

- End -

CONTROLLING OFFICER'S REPLY**SJ042****(Question Serial No. 2376)**Head: (92) Department of JusticeSubhead (No. & title): (000) Operational ExpensesProgramme: (2) CivilControlling Officer: Director of Administration and Development (Alan Siu)Director of Bureau: Secretary for JusticeQuestion:

Please provide the numbers of cases involving civil claims for damages for personal injury and wrongful detention against the Commissioner of Police or police officers for their actions taken in the course of duties, the outcome of the proceedings and the related expenses in the past 5 years. Please provide the figures by year in the table below.

Claims for damages for personal injury

Year	Successful	Unsuccessful	Settled	Pending	Total	Related expenses	
						Court costs	Amount of damages
2013-14							
2014-15							
2015-16							
2016-17							
2017-18							

Claims for damages for wrongful detention

Year	Successful	Unsuccessful	Settled	Pending	Total	Related expenses	
						Court costs	Amount of damages
2013-14							
2014-15							
2015-16							
2016-17							
2017-18							

Asked by: Hon LEUNG Kenneth (Member Question No. (LegCo use): 4.02)

Reply:

The information sought is provided as follows –

Claims for damages for personal injury

Year	Successful Note 1, Note 2	Unsuccessful Note 1	Settled Note 1	Pending Note 1	Total Note 3	Related expenses	
						Court costs Note 4 (\$'000)	Amount of damages Note 4 (\$'000)
2013-14	2	0	6	2	10	510	1,637
2014-15	0	1	12	11	24	646	4,535
2015-16	1	0	4	3	8	88	386
2016-17	1	0	3	6	10	231	475
2017-18 (up to 28.2.2018)	0	0	0	9	9	0	0

Claims for damages for wrongful detention

Year	Successful Note 1, Note 2	Unsuccessful Note 1	Settled Note 1	Pending Note 1	Total Note 3	Related expenses	
						Court costs Note 4 (\$'000)	Amount of damages Note 4 (\$'000)
2013-14	0	0	0	1	1	0	0
2014-15	1	0	0	3	4	0	0
2015-16	0	0	0	2	2	0	0
2016-17	0	0	0	5	5	0	0
2017-18 (up to 28.2.2018)	0	0	0	0	0	0	0

Note 1: The figures represent the position as at 28 February 2018.

Note 2: The proceedings with “Successful” outcome refer to those cases with outcome in favour of the Government.

Note 3: The numbers of cases refer to new cases received in the relevant year.

Note 4: The amount of court costs and damages refers to expenses incurred for those cases received in the relevant year which have been completed.

- End -

CONTROLLING OFFICER'S REPLY**SJ043****(Question Serial No. 2377)**Head: (92) Department of JusticeSubhead (No. & title): (000) Operational expensesProgramme: (2) CivilControlling Officer: Director of Administration and Development (Alan Siu)Director of Bureau: Secretary for JusticeQuestion:

Please provide in the table below the number of cases where the Department of Justice (“DoJ”) represented the Commissioner of Correctional Services (“CCS”) or Correctional Services Department (“CSD”) officers in civil claims for damages against them for their actions taken in the course of duties, the outcome of the proceedings and the related expenses in the past 5 years. Please also provide in another table the reasons of claims in such proceedings in the past 5 years and their breakdowns by year.

Year	Number of cases where the DoJ represented the Commissioner of Police or police officers in civil claims for damages against them	Outcome of proceedings			Related expenses	
		Successful	Unsuccessful	Settled	Court costs	Amount of damages
2013-14						
2014-15						
2015-16						
2016-17						
2017-18						

Asked by: Hon LEUNG Kenneth (Member Question No. (LegCo use): 4.03)Reply:

The information sought is provided as follows –

No. of claims and expenses with breakdown by outcome

Year	Number of cases where the DoJ represented the CCS or CSD officers in civil claims for damages against them ^{Note 1}	Outcome of proceedings ^{Note 2}			Related expenses	
		Successful	Unsuccessful	Settled	Court costs ^{Note 3} (\$'000)	Amount of damages ^{Note 3} (\$'000)
2013-14	7 [3]	3	0	1	702	1,350
2014-15	6 [2]	0	0	4	240	277
2015-16	13 [9]	2	0	2	0	180
2016-17	5 [5]	0	0	0	0	0
2017-18 (up to 28.2.2018)	4 [4]	0	0	0	0	0

Note 1: The numbers of cases refer to new cases received in the relevant year. Figures in square brackets denote the number of cases that were not completed as at 28 February 2018.

Note 2: Position as at 28 February 2018. Proceedings with “Successful” outcome refer to those cases with outcome in favour of the Government.

Note 3: The amount of court costs and damages refer to expenses incurred for those cases received in the relevant year which have been completed.

Breakdown by nature of claim

Year	Miscellaneous Claims	Personal Injuries Claims	Traffic Accident Claims	Wrongful Detention Claims	Claims on Negligence	Total No. of Claims
2013-14	2	4	0	1	0	7
2014-15	0	2	3	1	0	6
2015-16	2	7	2	2	0	13
2016-17	0	5	0	0	0	5
2017-18 (up to 28.2.2018)	1	3	0	0	0	4

- End -

CONTROLLING OFFICER'S REPLY**SJ044****(Question Serial No. 2378)**Head: (92) Department of JusticeSubhead (No. & title): (000) Operational ExpensesProgramme: (2) CivilControlling Officer: Director of Administration and Development (Alan Siu)Director of Bureau: Secretary for JusticeQuestion:

Please provide the numbers of cases involving civil claims for damages for personal injury and negligence against the Commissioner of Correctional Services or Correctional Services Department officers for their actions taken in the course of duties, the outcome of the proceedings and the related expenses in the past 5 years. Please provide the figures by year in the table below.

Claims for damages for personal injury

Year	Successful	Unsuccessful	Settled	Pending	Total	Related expenses	
						Court costs	Amount of damages
2013-14							
2014-15							
2015-16							
2016-17							
2017-18							

Claims for damages for negligence

Year	Successful	Unsuccessful	Settled	Pending	Total	Related expenses	
						Court costs	Amount of damages
2013-14							
2014-15							
2015-16							
2016-17							
2017-18							

Asked by: Hon LEUNG Kenneth (Member Question No. (LegCo use): 4.04)

Reply:

The information sought is provided as follows-

Claims for damages for personal injury

Year	Successful Note 1, Note 2	Unsuccessful Note 1	Settled Note 1	Pending Note 1	Total Note 3	Related expenses	
						Court costs Note 4 (\$'000)	Amount of damages Note 4 (\$'000)
2013-14	1	0	1	2	4	702	1,350
2014-15	0	0	1	1	2	240	225
2015-16	1	0	2	4	7	0	180
2016-17	0	0	0	5	5	0	0
2017-18 (up to 28.2.2018)	0	0	0	3	3	0	0

Note 1: The figures represent the position as at 28 February 2018.

Note 2: The proceedings with "Successful" outcome refer to those cases with outcome in favour of the Government.

Note 3: The numbers of cases refer to new cases received in the relevant year.

Note 4: The amount of court costs and damages refers to expenses incurred for those cases received in the relevant year which have been completed.

Claims for damages for negligence

According to record, there was no case involving civil claims for damages for negligence against the Commissioner of Correctional Services or Correctional Services Department officers for their actions taken in the course of duties in the past five years.

- End -

CONTROLLING OFFICER'S REPLY**SJ045****(Question Serial No. 2379)**Head: (92) Department of JusticeSubhead (No. & title): (000) Operational expensesProgramme: (1) ProsecutionsControlling Officer: Director of Administration and Development (Alan Siu)Director of Bureau: Secretary for JusticeQuestion:

Please provide the respective numbers of persons who were prosecuted and convicted for illegal acts related to public order events in each of the past 5 years.

Asked by: Hon LEUNG Kenneth (Member Question No. (LegCo use): 4.05)Reply:

Information available is provided below :

	2013	2014	2015	2016	2017
Number of public order events	6 166	6 818	6 029	13 158	11 811
Number of persons prosecuted for alleged illegal acts related to public order events in the respective year	43	273	71	90	13

We do not maintain separate statistics in respect of the number of persons convicted for illegal acts related to public order events.

- End -

CONTROLLING OFFICER'S REPLY

SJ046

(Question Serial No. 1549)

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (1) Prosecutions
(2) Civil
(4) Law Drafting

Controlling Officer: Director of Administration and Development (Alan Siu)

Director of Bureau: Secretary for Justice

Question:

Following the introduction of the Unified Screening Mechanism of Non-refoulement Claims in 2014, the Immigration Department arranged a chartered flight for repatriating a large group of illegal immigrants for the first time on 28 December 2017. There are still a total of 6 323 applications pending screening. In this connection, would the Government inform this committee:

1. how many resources the Department of Justice ("DoJ") will allocate for handling matters relating to non-refoulement claimants?
2. the amount of time and dedicated manpower the DoJ requires for handling the existing several thousand cases?
3. regarding prosecution and draft legislation in relation to non-refoulement claimants, whether the DoJ or the Security Bureau will have specific resources available for dealing with districts where a greater number of non-refoulement claimants live, such as Sham Shui Po and Tsim Sha Tsui?

Asked by: Hon LEUNG Mei-fun, Priscilla (Member Question No. (LegCo use): 14)

Reply:

- 1) The work of the Civil Division of the Department involves providing legal services to the Government on civil matters, including giving legal advice and handling non-refoulement claims made under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and those made under the Unified Screening Mechanism. The Division has a dedicated team of counsel and supporting staff to deal with advisory and litigation matters relating to these claims and other immigration matters. The number of such staff and the annual staff cost for 2017-18 and 2018-19 are as follows –

Year	Number of Staff	Annual staff cost (\$ million)
2017-18	32	36
2018-19	34	37

- 2) As shown in the numbers above, Civil Division has a dedicated team of 32 officers (including 25 number of counsel and 7 supporting staff) to deal with advisory and litigation matters relating to non-refoulement claims and other immigration matters. In 2018-19, the team will be increased to 34 officers (including 25 number of counsel and 9 supporting staff). It is not possible to estimate with certainty the time required to handle the remaining cases as it would depend on many factors including development and complexity of individual cases referred to DoJ for handling. DoJ will continue to closely monitor the manpower situation in consultation with the Security Bureau and to deploy suitable manpower and resources to assist the Immigration Department in handling the outstanding cases as expeditiously as possible.
- 3) DoJ has not set aside specific resources for dealing with prosecution or drafting of legislation regarding non-refoulement claims and related matters as the work is carried out as part of the duties of the existing staff, and the related expenses are met within the existing resources of the Department.

- End -

CONTROLLING OFFICER'S REPLY**SJ047****(Question Serial No. 1557)**Head: (92) Department of JusticeSubhead (No. & title): (-) Not SpecifiedProgramme: (3) Legal PolicyControlling Officer: Director of Administration and Development (Alan Siu)Director of Bureau: Secretary for JusticeQuestion:

As Hong Kong is an arbitration centre for the Belt and Road countries, the Government mentioned the allocation of \$5,189,640 and \$5,582,700 for the staff costs of the Mediation Team and the Arbitration Unit respectively in 2017-18. In this connection, would the Government advise:

1. how many resources will be allocated for developing Hong Kong's mediation and arbitration services in the coming 3 years?
2. if resources will be made ready for training up mediation and arbitration talent?
3. how Hong Kong will be promoted as an arbitration centre for the Belt and Road countries and how many resources will be allocated in this regard?

Asked by: Hon LEUNG Mei-fun, Priscilla (Member Question No. (LegCo use): 57)Reply:**Promotion of Hong Kong's mediation and arbitration services and the resources involved**

To enhance the promotion and development of Hong Kong's status as an international arbitration centre, following the Legislative Council's approval in June 2016 of the creation of a DL2 (Deputy Principal Government Counsel) post in the Legal Policy Division ("LPD") of the Department of Justice ("DoJ"), a dedicated Arbitration Unit was set up in September 2016 to handle matters related to arbitration policy.

Efforts to promote and enhance the development of Hong Kong's mediation and arbitration services are equally important in terms of the overall development and strengthening of Hong Kong as a leading centre for international legal and dispute resolution services in the Asia-Pacific region. Such efforts are primarily undertaken by the Mediation Team of the Civil Division ("CD") and the aforementioned dedicated Arbitration Unit of the LPD, supplemented by resources deployed from time to time as necessary from other parts of the DoJ. Support is also rendered by the Joint Dispute Resolution Strategy Office ("JDRSO"), which was set up internally within the DoJ in September 2016 to coordinate the

department's promotional work for mediation and arbitration services and to further promote Hong Kong's international legal and dispute resolution services. The function as Commissioner of the JDRSO is taken up by the Senior Assistant Law Officer (Civil Law) (Mediation) of the CD of the DoJ on top of her other duties. Both the Arbitration Unit and the Mediation Team provide support for the JDRSO.

The staff costs of the Mediation Team and the Arbitration Unit for 2018-19 are set out in the table below-

		2018-19
Mediation Team	1 Deputy Principal Government Counsel ¹ , 2 Senior Government Counsel, 2 Government Counsel, 1 Law Clerk, 1 Personal Secretary I, and 1 Assistant Clerical Officer	\$7,936,560
Arbitration Unit	1 Deputy Principal Government Counsel, 2 Senior Government Counsel, 2 Government Counsel, 1 Law Clerk, 1 Personal Secretary I, and 1 Assistant Clerical Officer	\$7,936,560

¹ The Deputy Principal Government Counsel of the Mediation Team also takes up the function as Commissioner of the JDRSO on top of her other duties to act as the single point of contact on all matters related to the promotion of dispute resolution. The Office is set up using existing resources.

Note: The above staff costs are calculated based on notional annual mid-point salary value.

The overall expenditure involved in this specific area cannot be separately identified and all related expenses will continue to be absorbed from within the existing resources of the Department.

Major initiatives and activities to promote Hong Kong's mediation and arbitration services in 2018-19 are as follows:

- (a) Holding the biennial Mediation Week in May 2018, which will include a mediation conference, the Shanghai-Hong Kong Commercial Mediation Forum and other thematic events to further promote the use of mediation in various sectors such as medical, performing arts and education, ethnic minorities and new arrivals, as well as in employees' compensation claims, disputes in the workplace and cross-boundary disputes;
- (b) Setting up the West Kowloon Mediation Centre for the implementation of a pilot scheme under which mediation services will be provided to litigants in Small Claims Tribunal cases that are considered by the Adjudicators of the Small Claims Tribunal to be suitable for mediation;
- (c) Conducting a more in-depth study on the feasibility of using evaluative mediation in Hong Kong;

- (d) Preparing for the Mediate First Pledge to be held in 2019. Organisations will be encouraged to subscribe to the Pledge and commit to first considering the use of mediation to resolve disputes arising in the course of their operation before resorting to other dispute resolution processes or litigation;
- (e) Continuing to promote the Apology Ordinance (Cap 631);
- (f) Supporting and participating in the establishment of a mediation mechanism for investment disputes as stipulated in the Investment Agreement signed under the Closer Economic Partnership Arrangement between the Mainland and Hong Kong, and providing legal advice on relevant matters;
- (g) Co-organising with the Hong Kong Trade Development Council (“TDC”) a breakout session on dispute resolution at the Belt and Road Summit in June 2018;
- (h) Holding the ADR in Asia Conference from October to November 2018 which will become part of the agenda of the Hong Kong Arbitration Week 2018 to be held by the Hong Kong International Arbitration Centre (“HKIAC”);
- (i) Co-organising with the TDC a breakout session on dispute resolution at the Business of IP Asia Forum in December 2018;
- (j) Following up on the preparatory work (including the establishment of an advisory body and an authorised body responsible for the drafting and issue of a code of practice for third party funders) for the relevant regulatory framework to be set up under the Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Ordinance 2017 for the early implementation of the relevant legislative amendments; and
- (k) Continuing to take forward the “Legal Hub” project so as to provide certain space to law-related organisations (“LROs”), including mediation and arbitration institutions, in the West Wing (“WW”) of the former Central Government Offices (“CGO”) and the entire former French Mission Building (“FMB”). Our current target is to complete the works in respect of the former CGO WW and FMB around end of 2018 and in mid-2020 respectively, after which space in the Legal Hub could be made available to selected LROs.

Training for mediation and arbitration manpower

To train up mediation manpower, the DoJ will provide mediators with more participation and development opportunities by creating an environment conducive to the promotion of mediation services. For example, the West Kowloon Mediation Centre, which is in close proximity to the West Kowloon Law Courts Building, will be set up for resolving suitable small claims cases through a pilot mediation scheme, to develop a stronger mediation culture and to give mediators more room for development. Certain space in the aforementioned Legal Hub will also be provided to some mediation and arbitration training institutions to facilitate the development of their work in training mediation and arbitration manpower.

Furthermore, the Steering Committee on Mediation, chaired by the Secretary for Justice, and its Accreditation Sub-committee will also assist in monitoring matters concerning the accreditation and regulation of mediators in Hong Kong, including the organisation and operation of the Hong Kong Mediation Accreditation Association Limited (“HKMAAL”) set up in 2012. HKMAAL is currently the largest accreditation body for mediators in Hong Kong and performs accreditation and disciplinary functions.

The DoJ’s major work on arbitration is to enhance Hong Kong’s arbitration regime in a timely manner in response to the latest international developments and to actively assist the profession in promoting arbitration services in Hong Kong. At present, manpower training for the arbitration sector in Hong Kong is mainly taken up by the law faculties of universities, arbitration professional bodies and arbitration institutions.

There are no statutory requirements to be met for qualification as an arbitrator in Hong Kong. At present, those interested in becoming arbitrators will take up a course offered by the Chartered Institute of Arbitrators (CIArb)² or the Hong Kong Institute of Arbitrators (HKI Arb), or a recognised university course before becoming a member of the institute on passing the relevant assessment.

We are aware that the HKIAC has been running an internship programme since the early 2000s, which offers interns, *inter alia*, the opportunity to attend hearings at its hearing facilities and work on arbitration proceedings administered by the HKIAC. Similar internship programmes are run by the Hong Kong Arbitration Center of the China International Economic and Trade Arbitration Commission and the Secretariat of the International Court of Arbitration of the International Chamber of Commerce (Asia Office), which is also based in Hong Kong.

Moreover, since December 2015, the HKIAC has regularly run tribunal secretary training programmes in Hong Kong and elsewhere, including cities like Beijing, Singapore, London and New York. With the consent of the participants who have successfully completed the training programmes, the HKIAC will list them on its website together with their CVs for public consultation.

In addition to its Panel of Arbitrators, which contains the information of senior arbitrators, the HKIAC maintains a List of Arbitrators comprised of more junior arbitrators who are qualified for appointment as an arbitrator. To make the List, arbitrators must demonstrate substantial experience in arbitration (whether as arbitrators, counsel, expert witnesses, instructing solicitors or otherwise), with at least 5 years of full-time arbitration experience (or equivalent); and have participated in the issuance of 2 arbitral awards. The HKIAC assesses applications to the List every quarter and actively invites qualified junior arbitrators to apply.

Where necessary, we will work with the professional institutions based in Hong Kong to ensure that the training needs of aspiring arbitrators can be addressed by relevant and updated training courses and programmes to be organised.

² Headquartered in London, UK, the CIArb has branches around the world. As at March 2018, the CIArb (East Asia Branch) in Hong Kong is the institute with the largest membership worldwide.

Promotion of Hong Kong's mediation and arbitration services

On the promotion of Hong Kong's mediation and arbitration services (particularly in the context of the Belt and Road Initiative and the Guangdong-Hong Kong-Macao Bay Area ("Bay Area") development), major initiatives in 2018-19 are as follows -

- (a) We are currently making plans for and will organise promotional events to be held in Hong Kong, the Mainland or other emerging economies in the Asia-Pacific in 2018 and beyond, so as to further encourage enterprises in the Mainland and in jurisdictions along the Belt and Road to make better use of Hong Kong's professional services (in particular, its legal and dispute resolution services) in their business development pursuant to the Belt and Road Initiative.
- (b) The Arbitration Unit is responsible for, among other arbitration policy-related work, planning and organising regular promotional activities in the form of roadshows, conferences, seminars and forums to promote Hong Kong's legal and arbitration services in places to be identified among the some 60 overseas countries along the Belt and Road. Consideration will also be given to reinforcing Hong Kong's role in the provision of legal and dispute resolution-related training/capacity building opportunities for professionals and government officials from the Belt and Road countries.
- (c) We will continue to work together with relevant stakeholders to promote in the Mainland the attributes of Hong Kong's international legal and dispute resolution services and the role such services can play in the Belt and Road Initiative and the Bay Area development. Such promotional activities may take the form of visits, seminars and conferences as well as the major biennial Hong Kong Legal Services Forum held in the Mainland. We are also planning to participate together with the relevant professional sectors in the seminar on Hong Kong's legal and arbitration services to be organised by the HKSARG Guangxi Liaison Office which is tentatively scheduled for May 2018 in Nanning. This serves to introduce to lawyers and enterprises in Guangxi Zhuang Autonomous Region the legal and dispute resolution services Hong Kong can provide for enterprises seeking to "go global" under the Belt and Road Initiative. In support of the Bay Area development, the DoJ is also planning to co-organise with Hong Kong's legal and arbitration institutions the 5th Hong Kong Legal Services Forum, tentatively scheduled for September 2018 in Guangzhou.
- (d) The work of the JDRSO also includes promoting Hong Kong's professional services for use by enterprises in the Mainland and in jurisdictions along the Belt and Road in their business development pursuant to the Belt and Road Initiative. The Commissioner of the JDRSO often participates in forums and promotional activities relating to the Belt and Road Initiative, with the most recent one being a seminar on "Strategies and Opportunities under the Belt and Road Initiative-Leveraging Hong Kong's Advantages, Meeting the Country's Needs" held in Beijing in February 2018.

- End -

CONTROLLING OFFICER'S REPLY

SJ048

(Question Serial No. 6347)

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (4) Law Drafting

Controlling Officer: Director of Administration and Development (Alan Siu)

Director of Bureau: Secretary for Justice

Question:

The databases of several travel agencies in Hong Kong were earlier intruded by hackers for blackmails. The information contained in their databases includes the names, ID numbers, passport numbers, telephone numbers, credit card information or bank records of customers. Given the ransomware Wannacry once caused havoc on a global scale, it is fortunate that the intrusions have not done much damage. In this connection, would the Administration inform this Committee of the following:

1. Regarding the leakage of personal data, what resources are available for the Office of the Privacy Commissioner for Personal Data to protect the public affected?
2. Does the Department of Justice have any resources for a study of related Internet law? If yes, what are the details? If not, what are the reasons?

Asked by: Hon LEUNG Mei-fun, Priscilla (Member Question No. (LegCo use): 12)

Reply:

- (1) The privacy protection policy and the housekeeping support of the Office of the Privacy Commissioner for Personal Data come under the policy purview of the Constitutional and Mainland Affairs Bureau.

The Office of the Privacy Commissioner for Personal Data ("PCPD") is committed to securing the protection of privacy of individuals with respect to personal data.

Any intrusion by a hacker found to contravene the Personal Data (Privacy) Ordinance ("the Ordinance") will be investigated and dealt with promptly by the PCPD in an equitable and fair manner. If it is confirmed, after investigation, that the intrusion relates to the contravention of the Ordinance, the PCPD may serve an enforcement notice on the data user to restrain and prevent such contravention. Contravention of an enforcement notice is an offence and the PCPD will refer the case to the police for investigation. An offender is liable on conviction to a fine at level 5 and to

imprisonment for 2 years; and if the offence continues after the conviction, to a daily penalty of HK\$1,000.

For those affected by the incidents, they are entitled under section 66 of the Ordinance to compensation from the data users for damage, including injury to feelings. In this regard, the PCPD may provide them with legal assistance in their claims for compensation, including legal advice, mediation and legal representation in court.

In addition, the PCPD will continue to allocate resources to a range of educational and promotional activities to remind the public of the importance of “self-protection” and to look out for personal data security risks. It will also liaise closely with the industry, and engage major organisations as well as small and medium enterprises in fostering a culture of respect for the privacy of personal data.

- (2) The Department of Justice advises Government bureaux and departments on a wide spectrum of legal issues as required from time to time. The work will be handled by existing staff.

- End -

CONTROLLING OFFICER'S REPLY**SJ049****(Question Serial No. 2540)**Head: (92) Department of JusticeSubhead (No. & title): (000) Operational expensesProgramme: (1) ProsecutionsControlling Officer: Director of Administration and Development (Alan Siu)Director of Bureau: Secretary for JusticeQuestion:

High quality prosecution service is the key to sound rule of law in Hong Kong. From information available, the provision for 2018-19 is \$224.7 million or 33.8% higher than the revised estimate for 2017-18 to cater for the anticipated increase in briefing-out expenses and court costs, filling of vacancies, and net creation of 26 posts. What will be the specific distribution of work among these 26 posts responsible for criminal prosecution? How will the quality of prosecution work be ensured?

Asked by: Hon LIAO Cheung-kong, Martin (Member Question No. (LegCo use): 42)Reply:

The work of the posts to be created in 2018-19 under this Programme Area are set out below

Post(s)	Nature of Duties
Seven Government Counsel	Providing additional manpower to allow counsel more opportunities to handle court work and strengthening legal support for advisory work
One Senior Executive Officer	Strengthening executive support
Three Law Clerks	Strengthening paralegal support to counsel in handling advisory and advocacy work
Seven Assistant Clerical Officer	Strengthening clerical support – <ul style="list-style-type: none"> to counsel in handling advisory and advocacy work; to the Administration and Development Division in respect of building management and finance & accounting matters
Four Clerical Assistant	
One Chief Executive Officer	Strengthening executive support to cope with the building management matters of the Justice Place
One Executive Officer I	

One Analyst / Programmer I	Providing additional IT manpower for supporting IT projects
One Confidential Assistant	Strengthening manpower support for the Confidential Registry

We seek to enhance the efficiency and professionalism of our in-house prosecutors in handling prosecutions through various means, including the following –

- (a) the creation of seven additional Government Counsel posts in 2018-19 so as to provide extra manpower to allow counsel more opportunities to handle court work;
- (b) the continued provision of training programmes to our in-house prosecutors, including seminars on different topics under the Continuing Legal Education Programme, and talks/seminars delivered by experienced private practitioners and other professionals;
- (c) the provision of guidance to prosecutors from time to time through the issue and updating of circulars and reference materials;
- (d) continued development of expertise within PD for handling particular types of cases (including cases relating to public order events, human exploitation, money laundering, cybercrime, those involving vulnerable witnesses, as well as matters concerning criminal costs) by the appointment of co-ordinators or specialised units for such cases/matters, so that they can be handled more effectively and efficiently; and
- (e) the continued operation of the quick advisory system known as “FAST” to promptly deal with relatively simple and straightforward cases. Legal advices processed through the system are normally provided on the same day. FAST has proven to be extremely effective in ensuring the overall efficiency of the advisory function of the Division whilst, at the same time, reducing the workload of counsel from advisory sections to free them up for more advocacy work. It also serves as another important training ground for our in-house prosecutors, as counsel from teams other than the few advisory sections would have the opportunities to regularly handle such FAST cases which help hone and consolidate their advisory skills and legal knowledge in respect of a broad spectrum of general criminal cases.

- End -

CONTROLLING OFFICER'S REPLY

SJ050

(Question Serial No. 2541)

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development (Alan Siu)

Director of Bureau: Secretary for Justice

Question:

As pointed out in the Policy Address, one of the priorities in legal services is to step up efforts in proactively promoting Hong Kong as an international legal and dispute resolution services centre for the Belt and Road Initiative and the Bay Area, and to develop a talent pool. In this regard, what specific work will the Department of Justice undertake in 2018-19? Is there a specific timetable for the development of the talent pool?

Asked by: Hon LIAO Cheung-kong, Martin (Member Question No. (LegCo use): 43)

Reply:

In March 2016, the “Outline of the 13th Five-Year Plan for the National Economic and Social Development of the People’s Republic of China” was promulgated. Its dedicated “Hong Kong-Macao Chapter” expresses support for Hong Kong’s participation in the Belt and Road Initiative and pledges support for Hong Kong to develop into an international legal and dispute resolution services centre in the Asia-Pacific region.

On 1 July 2017, the National Development and Reform Commission, the People’s Government of Guangdong Province, the Hong Kong Special Administrative Region (“SAR”) Government and the Macao SAR Government signed the Framework Agreement on Deepening Guangdong-Hong Kong-Macao Cooperation in the Development of the Bay Area (“the Framework Agreement”). As far as Hong Kong is concerned, one of the goals of co-operation as stated in the general principles of the Framework Agreement is to promote the development of its professional services and establish a centre for international legal and dispute resolution services in the Asia-Pacific Region.

On the same day, President Xi Jinping said in his address delivered at the Meeting Celebrating the 20th Anniversary of Hong Kong’s Return to the Motherland and the Inaugural Ceremony of the Fifth-term Government of the Hong Kong SAR that the country will “support Hong Kong in leveraging its strengths and role in advancing the Belt and Road Initiative, the Guangdong-Hong Kong-Macao Bay Area (“Bay Area”) development, Renminbi internationalisation and other major development strategies”.

From the Mainland cities in the Bay Area “going global”, to the implementation of the Belt and Road Initiative, cross-boundary business activities are involved. As enterprises capitalise on the opportunities in the Bay Area and the Belt and Road Initiative, they will inevitably be subject to complicated international commercial rules as well as the legal risks of offshore financing and cross-boundary mergers and acquisitions. They also have to cope with such legal issues as how to effectively protect their overseas investment assets and to effectively resolve cross-boundary commercial and investment disputes.

International legal and dispute resolution services are an aspect of professional services where **Hong Kong has a competitive edge**. Hong Kong’s mature legal system and judicial independence provide a solid foundation for the development of its legal services in the Asia-Pacific region. The legal and dispute resolution services practitioners in Hong Kong are fully biliterate and trilingual with extensive experience in handling cross-border commercial activities and international outlook in different types of transactions. Moreover, Hong Kong lawyers are well positioned to use their bilingual abilities to handle capital raising projects, as well as drafting and negotiating contracts in Hong Kong. When Mainland enterprises “go global”, Hong Kong can provide them with diversified professional legal and related services to assist them in exploring overseas markets in an orderly and steady manner. Hong Kong’s legal system, which is familiar to the international business community and well recognised, can provide due legal protection and recognition to the transactions and investments of Mainland enterprises.

One of our key efforts in promoting legal services is to advance the use of Hong Kong’s legal services for the drafting of contracts and the conclusion of cross-border transactions arising from the Belt and Road Initiative and the Bay Area, as well as using Hong Kong law as the applicable law and Hong Kong as the place for dispute resolution. This will give further effect to the policy on concluding transactions and resolving disputes in Hong Kong.

As regards **capacity training**, one of the policy objectives of the SAR Government is to develop Hong Kong into a regional capacity building centre which offers appropriate education and training for practitioners in both Hong Kong and other places on specific areas and on international law. Hong Kong can provide a platform for practitioners from various places to receive training in the areas of international law and dispute resolution for capacity building, thus enhancing their quality of service. In this regard, we support or co-organise events related to international law and dispute resolution held by international organisations and relevant research institutions, including the capacity building projects conducted by the Asia-Pacific Economic Cooperation (“APEC”)¹, the Asian Academy of International Law (“AAIL”)², the Hague Conference on Private International Law (“HCCH”)³, and the United Nations Commission on International Trade Law (“UNCITRAL”)⁴. Some recent examples of collaborative efforts are the Second UNCITRAL Asia Pacific Judicial Summit in October 2017 in Hong Kong, and a global conference in celebration of the 125th Anniversary of the HCCH in April 2018 in Hong Kong. These events help enhance the participants’ awareness of international law and the means of dispute resolution, and raise Hong Kong’s image and influence as an international legal and dispute resolution services centre.

¹ The APEC is an informal forum set up in 1989 for high level government-to-government dialogue on trade and economic issues.

- ² The AAIL is an independent and non-profit making body set up in Hong Kong to further the studies and development of international law in Asia by, among others, conducting training courses, seminars on topical issues and joint studies on major international law issues.
- ³ The Hague Conference is a leading global intergovernmental organisation in the field of private international law. It develops and services multilateral legal instruments on private international law, commonly known as the Hague Conventions, which respond to global needs.
- ⁴ UNCITRAL is the core legal body of the United Nations system in the field of international trade law. Since its establishment in 1966, it has been committed to the modernisation and harmonisation of rules on international business.

As for **the promotion of Hong Kong as an international legal and dispute resolution services centre in the Asia-Pacific region**, we will continue to work together with relevant stakeholders to promote in the Mainland the strengths of Hong Kong's international legal and dispute resolution services and the role such services can play in the Belt and Road Initiative and the Bay Area development. Such promotional activities may take the form of visits, seminars and conferences as well as the major biennial Hong Kong Legal Services Forum held in the Mainland.

The work of the Department of Justice ("DoJ") to promote Hong Kong as a regional hub of international legal and dispute resolution services is primarily undertaken by the Mediation Team of the Civil Division ("CD") and the dedicated Arbitration Unit of the Legal Policy Division, supplemented by resources deployed from time to time as necessary from other parts of the DoJ. Support is also rendered by the Joint Dispute Resolution Strategy Office ("JDRSO"), which was set up internally within the DoJ in September 2016 to coordinate the department's promotional work for mediation and arbitration services and to further promote Hong Kong's international legal and dispute resolution services. The function as Commissioner of the JDRSO is taken up by the Senior Assistant Law Officer (Civil Law) (Mediation) of the CD of the DoJ on top of her other duties. Both the Arbitration Unit and the Mediation Team provide support for the JDRSO.

The DoJ has been working closely with the legal professional bodies and the dispute resolution sector to promote the use of arbitration in Hong Kong as well as Hong Kong's status as a regional hub of international legal and dispute resolution services to the local and international business communities in Hong Kong as well as in the Mainland and the rest of the world, particularly in emerging economies in the Asia-Pacific region.

Efforts to promote Hong Kong's international legal and dispute resolution services (particularly in the context of the Belt and Road Initiative and Bay Area development) in 2018-19 will concentrate on the following areas -

- (i) We are currently making plans for and will organise promotional events to be held in Hong Kong, the Mainland or the emerging economies in the Asia-Pacific in 2018 and beyond, so as to further encourage enterprises in the Mainland and in jurisdictions along the Belt and Road to make better use of Hong Kong's professional services (in particular, its legal and dispute resolution services) in their business development pursuant to the Belt and Road Initiative.
- (ii) Relevant departments of the SAR Government have made continuous efforts in planning and organising regular promotional activities in the form of roadshows, conferences, seminars and forums to promote Hong Kong's legal and arbitration

services in the Asia-Pacific region and countries along the Belt and Road. Regarding the provision of legal and dispute resolution-related training/capacity building opportunities for professionals and government officials from the Belt and Road countries, we will reinforce Hong Kong's role in the development of international law and domestic law.

- (iii) The work of the JDRSO includes promoting Hong Kong's professional services for use by enterprises in the Mainland and in jurisdictions along the Belt and Road in their business development pursuant to the Belt and Road Initiative. The Commissioner of the JDRSO often participates in forums and promotional activities relating to the Belt and Road Initiative, with the most recent one being a seminar on "Strategies and Opportunities under the Belt and Road Initiative – Leveraging Hong Kong's Advantages, Meeting the Country's Needs" held in Beijing in February 2018.
- (iv) The biennial Mediation Week undertaken by the Mediation Team of the CD will be held in May 2018. It will include a mediation conference on topics covering the Belt and Road Initiative and the Bay Area development strategy.
- (v) We will continue to work together with relevant stakeholders to promote in the Mainland the attributes of Hong Kong's international legal and dispute resolution services and the role such services can play in the Belt and Road Initiative and the Bay Area development. Such promotional activities may take the form of visits, seminars and conferences as well as the major biennial Hong Kong Legal Services Forum held in the Mainland. We are also planning to participate together with the relevant professional sectors in the seminar on Hong Kong's legal and arbitration services to be organised by the HKSARG Guangxi Liaison Office which is tentatively scheduled for May 2018 in Nanning. This serves to introduce to lawyers and enterprises in Guangxi Zhuang Autonomous Region the legal and dispute resolution services Hong Kong can provide for enterprises seeking to "go global" under the Belt and Road Initiative. In support of the Bay Area development, the DoJ is also planning to co-organise with Hong Kong's legal and arbitration institutions the 5th Hong Kong Legal Services Forum, tentatively scheduled for September 2018 in Guangzhou.
- (vi) We will continue to co-organise with international institutions a variety of capacity building projects, such as activities on international instruments newly drawn up by the UNCITRAL or those relating to private international law, international trade (including legal matters in relation to the World Trade Organization) and international investment law. For instance, the DoJ will work with the UNCITRAL in staging the Third UNCITRAL Asia Pacific Judicial Summit in Hong Kong in 2019.

In addition, the section on Legal Services (paragraph 115) in the 2017 Policy Address mentions **the development of a talent pool** as follows: "One of the DoJ's priorities is to step up efforts in proactively promoting Hong Kong as an international legal and dispute resolution services centre for the Belt and Road Initiative and the Bay Area, and encourage the legal sectors of Hong Kong and the Bay Area to enhance their level of co-operation. This includes exploring the setting up of a Bay Area legal co-operation platform for the legal sectors of the three places to effect mutual notification, exchange information, provide training and develop a talent pool."

The DoJ encourages the legal sector of Hong Kong and their counterparts in the Bay Area to deepen co-operation so that the legal sectors of the three places may better effect mutual notification, exchange information, provide training and develop a talent pool.

We understand that the Department of Justice of Guangdong, the Hong Kong Law Society and the Hong Kong Bar Association are promoting the establishment of a “Joint-conference Mechanism of the Lawyers Associations of the Guangdong-Hong Kong-Macao Bay Area” to enhance co-operation in various aspects through activities such as regular meetings, training and thematic talks, as well as to start developing a talent pool of lawyers in the three places. Meanwhile, the AAIL also contributes to the development of a talent pool by organising regular training in Hong Kong.

Furthermore, we will seek suitable opportunities for seconding young and promising Government Counsel of the DoJ to appropriate international organisations to broaden their international horizons and enhance their understanding of the legal practice of such organisations, so as to strengthen their training and help develop a relevant talent pool. For example, we have seconded a number of Government Counsel of the DoJ to serve as legal experts at the UNCITRAL’s Regional Office for Asia and the Pacific (“RCAP”) since 2016, providing assistance to the work of UNCITRAL’s RCAP (including holding capacity building activities in the region).

- End -

CONTROLLING OFFICER'S REPLY

SJ051

(Question Serial No. 2542)

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (5) International Law

Controlling Officer: Director of Administration and Development (Alan Siu)

Director of Bureau: Secretary for Justice

Question:

Matters requiring special attention in 2018-19 include those of negotiating international agreements or contributing as legal advisers in these negotiations. Will the Department of Justice deploy resources and manpower to address the trend of surging trade protectionism around the world? If yes, what are the specific measures to be taken? If not, what are the reasons?

Asked by: Hon LIAO Cheung-kong, Martin (Member Question No. (LegCo use): 44)

Reply:

The International Law Division (“ILD”) of the Department of Justice reviews from time to time its establishment and staffing resources in order to ensure that it can properly cope with the work for which it is responsible, including providing legal support for the negotiation and implementation of Free Trade Agreements between Hong Kong and its foreign trade partners. Recently, in light of the increasing complexity and scope of the work of the Treaties and Law Unit of ILD with a substantial rise in its workload over the years, the Treaties and Law Unit will create two additional permanent posts this year, one each at the Senior Government Counsel and the Government Counsel levels. Further, the Unit plans to create one permanent post of Deputy Principal Government Counsel (DPGC) (DL2), and consulted the LegCo Panel on Administration of Justice and Legal Services on the post-creation proposal on 22 January this year. We are grateful for the Members’ support to our proposal and will seek approval from the Establishment Sub-committee.

- End -

CONTROLLING OFFICER'S REPLY

SJ052

(Question Serial No. 2689)

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development (Alan Siu)

Director of Bureau: Secretary for Justice

Question:

The Law Reform Commission established 2 sub-committees to consider the issues of access to information and archives law. What is the latest progress of the work of these 2 sub-committees? When are the findings expected to be released to the public? Have manpower and resources been earmarked by the Department of Justice for preliminary work of the enactment of the archives law and the freedom of information law? If yes, what are the details? If not, what are the reasons?

Asked by: Hon MO Claudia (Member Question No. (LegCo use): 15)

Reply:

The Law Reform Commission (LRC)'s Sub-committee on Archives Law and Sub-committee on Access to Information were both formed in May 2013 to review the current local situation and conduct comprehensive comparative studies of the relevant regimes and laws in overseas jurisdictions, with a view to making recommendations on possible options for reform where necessary.

These two Sub-committees have since been meeting regularly. As at 29 March 2018, the Sub-committee on Archives Law has held a total of 43 meetings while the Sub-committee on Access to Information has held a total of 48 meetings. They have reviewed the current regimes and undertaken a comparative study of the relevant situation in other jurisdictions. The Sub-committees will conduct public consultation after detailed deliberation of the relevant issues. They will take into account the responses received in the consultation exercise before finalising proposals for reform, if any. Upon consideration of the draft reports submitted by the Sub-committees, the LRC will publish its final reports. Given the importance and complexity of the issues involved, as well as the level of local and comparative research and analysis required, it is currently difficult for the two Sub-committees to commit to an expected completion date for the projects.

Nonetheless, the Sub-committees are working diligently on the projects with the aim of publishing the relevant consultation papers as soon as possible in 2018.

As has been the case since its establishment, the LRC Secretariat, which is staffed and financed by the Department of Justice (DoJ), has been providing the necessary support, whether in terms of legal research or otherwise, to the work of the LRC (including its sub-committees) which is independent.

Upon the publication of an LRC report with recommendations for reform, the DoJ will, in collaboration with the LRC Secretariat, provide appropriate assistance to the relevant policy bureau(x) in the consideration and implementation of the recommendations. Depending on the nature and urgency of the reform, as well as the volume of work warranted, the relevant policy bureau(x) will decide if additional resources, including staff, are required. Given the current stage of the work of the two Sub-committees, the DoJ has not earmarked additional manpower or other resources for the purpose of advising the relevant policy bureau(x) on any LRC recommendations on the subject matters.

- End -

CONTROLLING OFFICER'S REPLY

SJ053

(Question Serial No. 5308)

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development (Alan Siu)

Director of Bureau: Secretary for Justice

Question:

Regarding the promotion of Hong Kong as a centre for international legal and dispute resolution services in the region, please advise:

- (1) What resources will the Department of Justice allocate to promote Hong Kong's mediation and arbitration services in 2018-19? Please set out in detail the initiatives and activities involved, as well as the manpower and expenditure involved in each activity.
- (2) Did the Administration evaluate the effectiveness of past promotional activities? If yes, what are the details?
- (3) What were the establishment and expenditure in the past 3 years of the Joint Dispute Resolution Strategy Office responsible for the promotion and coordination of Hong Kong's international legal and dispute resolution services in the region?

Asked by: Hon NG Wing-ka, Jimmy (Member Question No. (LegCo use): 45)

Reply:

Promotion of Hong Kong's mediation and arbitration services and the resources involved

To enhance the promotion and development of Hong Kong's status as an international arbitration centre, following the Legislative Council's approval in June 2016 of the creation of a DL2 (Deputy Principal Government Counsel) post in the Legal Policy Division ("LPD") of the Department of Justice ("DoJ"), a dedicated Arbitration Unit was set up in September 2016 to handle matters related to arbitration policy.

Efforts to promote and enhance the development of Hong Kong's mediation and arbitration services are equally important in terms of the overall development and strengthening of Hong Kong as a leading centre for international legal and dispute resolution services in the Asia-Pacific region. Such efforts are primarily undertaken by the Mediation Team of the Civil Division ("CD") and the aforementioned dedicated Arbitration Unit of the LPD,

supplemented by resources deployed from time to time as necessary from other parts of the DoJ. Support is also rendered by the Joint Dispute Resolution Strategy Office (“JDRSO”), which was set up internally within the DoJ in September 2016 to coordinate the department’s promotional work for mediation and arbitration services and to further promote Hong Kong’s international legal and dispute resolution services. The function as Commissioner of the JDRSO is taken up by the Senior Assistant Law Officer (Civil Law) (Mediation) of the CD of the DoJ on top of her other duties. Both the Arbitration Unit and the Mediation Team provide support for the JDRSO.

Major initiatives and activities to promote Hong Kong’s mediation and arbitration services in 2018-19 are as follows:

- (a) Holding the biennial Mediation Week in May 2018, which will include a mediation conference, the Shanghai-Hong Kong Commercial Mediation Forum and other thematic events to further promote the use of mediation in various sectors such as medical, performing arts and education, ethnic minorities and new arrivals, as well as in employees’ compensation claims, disputes in the workplace and cross-boundary disputes;
- (b) Setting up the West Kowloon Mediation Centre for the implementation of a pilot scheme under which mediation services will be provided to litigants in Small Claims Tribunal cases that are considered by the Adjudicators of the Small Claims Tribunal to be suitable for mediation;
- (c) Conducting a more in-depth study on the feasibility of using evaluative mediation in Hong Kong;
- (d) Preparing for the Mediate First Pledge to be held in 2019. Organisations will be encouraged to subscribe to the Pledge and commit to first considering the use of mediation to resolve disputes arising in the course of their operation before resorting to other dispute resolution processes or litigation;
- (e) Continuing to promote the Apology Ordinance (Cap 631);
- (f) Supporting and participating in the establishment of a mediation mechanism for investment disputes as stipulated in the Investment Agreement signed under the Closer Economic Partnership Arrangement between the Mainland and Hong Kong, and providing legal advice on relevant matters;
- (g) Co-organising with the Hong Kong Trade Development Council (“TDC”) a breakout session on dispute resolution at the Belt and Road Summit in June 2018;
- (h) Holding the ADR in Asia Conference from October to November 2018 which will become part of the agenda of the Hong Kong Arbitration Week 2018 to be held by the Hong Kong International Arbitration Centre;
- (i) Co-organising with the TDC a breakout session on dispute resolution at the Business of IP Asia Forum in December 2018;
- (j) Following up on the preparatory work (including the establishment of an advisory body

and an authorized body responsible for the drafting and issue of a code of practice for third party funders) for the relevant regulatory framework to be set up under the Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Ordinance 2017 for the early implementation of the relevant legislative amendments; and

- (k) Continuing to take forward the “Legal Hub” project so as to provide certain space to law-related organisations (“LROs”), including mediation and arbitration institutions, in the West Wing (“WW”) of the former Central Government Offices (“CGO”) and the entire former French Mission Building (“FMB”). Our current target is to complete the works in respect of the former CGO WW and FMB around end of 2018 and in mid-2020 respectively, after which space in the Legal Hub could be made available to selected LROs.

On the promotion of Hong Kong’s mediation and arbitration services (particularly in the context of the Belt and Road Initiative and the Guangdong-Hong Kong-Macao Bay Area (“Bay Area”) development), major initiatives in 2018-19 are as follows -

- (a) We are currently making plans for and will organise promotional events to be held in Hong Kong, the Mainland or other emerging economies in the Asia-Pacific in 2018 and beyond, so as to further encourage enterprises in the Mainland and in jurisdictions along the Belt and Road to make better use of Hong Kong’s professional services (in particular, its legal and dispute resolution services) in their business development pursuant to the Belt and Road Initiative.
- (b) The Arbitration Unit is responsible for, among other arbitration policy-related work, planning and organising regular promotional activities in the form of roadshows, conferences, seminars and forums to promote Hong Kong’s legal and arbitration services in places to be identified among the some 60 overseas countries along the Belt and Road. Consideration will also be given to reinforcing Hong Kong’s role in the provision of legal and dispute resolution-related training/capacity building opportunities for professionals and government officials from the Belt and Road countries.
- (c) We will continue to work together with relevant stakeholders to promote in the Mainland the attributes of Hong Kong’s international legal and dispute resolution services and the role such services can play in the Belt and Road Initiative and the Bay Area development. Such promotional activities may take the form of visits, seminars and conferences as well as the major biennial Hong Kong Legal Services Forum held in the Mainland. We are also planning to participate together with the relevant professional sectors in the seminar on Hong Kong’s legal and arbitration services to be organised by the HKSARG Guangxi Liaison Office which is tentatively scheduled for May 2018 in Nanning. This serves to introduce to lawyers and enterprises in Guangxi Zhuang Autonomous Region the legal and dispute resolution services Hong Kong can provide for enterprises seeking to “go global” under the Belt and Road Initiative. In support of the Bay Area development, the DoJ is also planning to co-organise with Hong Kong’s legal and arbitration institutions the 5th Hong Kong Legal Services Forum, tentatively scheduled for September 2018 in Guangzhou.
- (d) The work of the JDRSO also includes promoting Hong Kong’s professional services for use by enterprises in the Mainland and in jurisdictions along the Belt and Road in

their business development pursuant to the Belt and Road Initiative. The Commissioner of the JDRSO often participates in forums and promotional activities relating to the Belt and Road Initiative, with the most recent one being a seminar on “Strategies and Opportunities under the Belt and Road Initiative – Leveraging Hong Kong’s Advantages, Meeting the Country’s Needs” held in Beijing in February 2018.

Evaluation of effectiveness of the promotional activities

The events promoting the use of mediation and arbitration in Hong Kong as well as Hong Kong as a regional hub of international legal and dispute resolution services have been well received. We have been maintaining effective dialogues with the stakeholders to keep in view the effectiveness of the relevant activities and to take forward new measures to further promote the attributes of Hong Kong’s legal and dispute resolution services.

For example, in December 2017, the DoJ co-organised a breakout session with the TDC at the Business of IP Asia Forum held at the Hong Kong Convention and Exhibition Centre (HKCEC). Eminent speakers from the IP and dispute resolution industries spoke at the breakout session entitled “International IP Dispute Resolution - A New Chapter for Hong Kong”, which was attended by over 400 participants. In November 2017, the DoJ led a delegation of representatives from various legal and dispute resolution professional bodies in Hong Kong on a promotional trip to Kuala Lumpur, Malaysia. During the visit, the Secretary for Justice officiated at the “In Style • Hong Kong” Symposium organised by the TDC featuring a range of Hong Kong’s business and professional services. A thematic seminar on Hong Kong’s legal and dispute resolution services, which was attended by about 170 participants, was held during the Symposium.

Moreover, the Mediation Team of the CD organised the fourth Mediate First Pledge event at the HKCEC in June 2017. The event featured a seminar on mediation, mock mediation demonstration and a Mediation First Pledge reception. More than 500 people attended the event and over 100 new pledges were received. About 470 entities have now signed the Pledge. The DoJ noted from the feedback received from the event that 98% of the respondents stated that they would participate in similar future events. All respondents indicated that they were satisfied or very satisfied with the mock mediation demonstration. Over 90% of them were of the view that the event could enhance their understanding of the mediation process and the role of a mediator, while giving them a clearer picture of how mediation can be used to resolve disputes.

Resources involved in the promotion of Hong Kong as a leading centre for international legal and dispute resolution services in the region and the coordination of such services

As mentioned above, the function as Commissioner of the JDRSO is taken up by the Senior Assistant Law Officer (Civil Law) (Mediation) of the Civil Division of the DoJ on top of her other duties. Both the Arbitration Unit and the Mediation Team provide support for the JDRSO. Their staff costs from 2016-17 to 2018-19 are set out in the table below-

	2016-17	2017-18	2018-19
Mediation Team	1 Deputy Principal Government Counsel#, 1 Senior Government	1 Deputy Principal Government Counsel#, 1 Senior Government	1 Deputy Principal Government Counsel#, 2 Senior Government

	2016-17	2017-18	2018-19
	Counsel, 1 Law Clerk and 1 Personal Secretary I	Counsel, 1 Government Counsel, 1 Law Clerk and 1 Personal Secretary I	Counsel, 2 Government Counsel, 1 Law Clerk, 1 Personal Secretary I and 1 Assistant Clerical Officer
	\$4,218,780	\$5,189,640	\$7,936,560
Arbitration Unit	1 Deputy Principal Government Counsel, 2 Senior Government Counsel, 1 Law Clerk and 1 Personal Secretary I	1 Deputy Principal Government Counsel, 2 Senior Government Counsel, 1 Law Clerk and 1 Personal Secretary I	1 Deputy Principal Government Counsel, 2 Senior Government Counsel, 2 Government Counsel, 1 Law Clerk, 1 Personal Secretary I and 1 Assistant Clerical Officer
	\$5,354,520*	\$5,582,700	\$7,936,560

Note: The above staff costs are calculated based on notional annual mid-point salary value.

The Deputy Principal Government Counsel of the Meditation Team also takes up the function as Commissioner of the JDRSO on top of her other duties to act as the single point of contact on all matters related to the promotion of dispute resolution. The Office is set up using existing resources.

* The Deputy Principal Government Counsel post was created on 24 June 2016 while the Personal Secretary I post was created on 5 September 2016.

The overall expenditure involved in this specific area cannot be separately identified and all related expenses will continue to be absorbed from within the existing resources of the Department.

- End -

CONTROLLING OFFICER'S REPLY**SJ054****(Question Serial No. 4916)**Head: (92) Department of JusticeSubhead (No. & title): (-) Not SpecifiedProgramme: (1) ProsecutionsControlling Officer: Director of Administration and Development (Alan Siu)Director of Bureau: Secretary for JusticeQuestion:

1. What were the statistics for domestic violence cases between 2013 and 2017? Please provide the following information:

	2013	2014	2015	2016	2017
Prosecution not instituted					
Bound over					
Prosecution instituted					

2. Please list the 5 main reasons for “prosecution not instituted”.

3. How many domestic violence cases were there in which the bound-over offenders reoffended and what were the means of disposal?

	2013	2014	2015	2016	2017
No action taken					
Bound over duration extended					
Prosecution instituted					

4. Please list the 5 main reasons for “no action taken”.

Asked by: Hon SHIU Ka-chun (Member Question No. (LegCo use): 16)

Reply:

The information available is provided as follows –

Number of domestic violence cases between 2013 and 2017 are listed in the table below:

	Year of Arrest				
	2013	2014	2015	2016	2017
Bound over / conditional discharge	1	0	0	1	1
Prosecution instituted	557	524	467	446	376

The Government does not maintain information on domestic violence cases where prosecution was not instituted or domestic violence cases in which the bound over offenders reoffended.

In handling these cases, prosecutors are required at all time to apply The Prosecution Code which contains a section on “Domestic Violence Cases” (paragraphs 17.1 to 17.5), and more specifically the published guidelines regarding the policy for prosecuting cases involving domestic violence. Prosecutors will consider, among others –

- whether there is sufficient evidence to justify the institution of criminal proceedings on the basis that it affords a reasonable prospect of conviction; and
- whether the public interest requires a prosecution to be pursued. Generally speaking, the public interest will require that a prosecution be brought in a case of domestic violence if the victim is willing to give evidence.

Possible reasons (none of them necessarily overriding and the exact weight to be attached will depend on the facts of each case) for not instituting or continuing with a prosecution in cases involving domestic violence include, among others –

- the victim is the only witness who can testify to the commission of the offence but he/she is not willing to give evidence in court, and there is otherwise insufficient admissible evidence to prove the case in court to the required standard;
- the nature of the case is relatively minor, taking into account matters including the degree of violence used, the extent of the injury (if any) caused, etc.;
- the accused has no history of spousal or other forms of violence such that the risk to the victim’s safety can credibly be assessed as ‘low’;
- the victim freely withdraws support for prosecution and the overall circumstances do not justify compelling the victim to testify, or warrant not proceeding with the case; and
- the accused is motivated to change (as evidenced, for example, by participation in counselling sessions).

- End -

CONTROLLING OFFICER'S REPLY**SJ055****(Question Serial No. 4917)**Head: (92) Department of JusticeSubhead (No. & title): (-) Not SpecifiedProgramme: (1) ProsecutionsControlling Officer: Director of Administration and Development (Alan Siu)Director of Bureau: Secretary for JusticeQuestion:

How many injunctions relating to domestic violence cases were applied between 2013 and 2017? Legal aid was sought in how many of such applications? How many of them were granted legal aid?

	2013	2014	2015	2016	2017
No. of applications for injunctions relating to domestic violence cases					
No. of such applications for which legal aid was sought					
No. of such applications which were ultimately granted legal aid					

Asked by: Hon SHIU Ka-chun (Member Question No. (LegCo use): 17)Reply:

The Department of Justice is not generally involved in applications by the individuals concerned for injunctions involving domestic violence or in applications for legal aid for making such applications. We are therefore not able to provide the relevant statistics.

- End -

CONTROLLING OFFICER'S REPLY

SJ056

(Question Serial No. 2254)

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (-) Not Specified

Controlling Officer: Director of Administration and Development (Alan Siu)

Director of Bureau: Secretary for Justice

Question:

The legacy of the late Ms Nina KUNG was professionally valued to be in the region of \$250 billion to over \$300 billion. In response to my question raised at a Legislative Council meeting, the incumbent Secretary for Justice stated that a proposal on how to manage the huge legacy, intended by Ms KUNG for charitable purposes, would be submitted to the court as early as possible.

How much manpower and resources does the Department of Justice expect to put to handle the above work in the new financial year? What progress is anticipated for this year?

Asked by: Hon TSE Wai-chun, Paul (Member Question No. (LegCo use): 35)

Reply:

The case regarding the Estate of the late Mrs Nina Wang is handled by existing staff of the Department, among their other duties and the manpower/expenditure involved cannot be separately identified. Expenditure other than manpower forms part of the Department's general departmental expenses and a separate breakdown is also not available.

As the manpower and time required for the handling of the case will depend on the case progress, it is very difficult for us to make an accurate assessment at this stage. However, as charitable interests are involved, the Department will deploy suitable manpower and resources to ensure that the case progresses as expeditiously as possible.

- End -

CONTROLLING OFFICER'S REPLY

SJ057

(Question Serial No. 0933)

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development (Alan Siu)

Director of Bureau: Secretary for Justice

Question:

Regarding matters on the further liberalisation of the Mainland's legal services market and on co-operation arrangements with the Mainland and other parts of the Cross Strait Four Regions, would the Government advise:

1. What activities were organised by the Department of Justice (DoJ) in 2017-18 for promoting Hong Kong's international legal and dispute resolution services? Please set out the place, date, manpower involved, number of participants and expenditure of each activity.
2. What measures does the Government plan to take in 2018-19 to promote Hong Kong's international legal and dispute resolution services in the Mainland, particularly in the context of the Belt and Road Initiative and Guangdong-Hong Kong-Macao Bay Area strategic development? What are the projects and activities involved? What are the estimated expenditure and manpower required for such projects?

Asked by: Hon YUNG Hoi-yan (Member Question No. (LegCo use): 26)

Reply:

Promotion of Hong Kong's international legal and dispute resolution services

The work of the Department of Justice ("DoJ") to promote Hong Kong as a regional hub of international legal and dispute resolution services is primarily undertaken by the Mediation Team of the Civil Division ("CD") and the dedicated Arbitration Unit of the Legal Policy Division ("LPD"), supplemented by resources deployed from time to time as necessary from other parts of the DoJ. Support is also rendered by the Joint Dispute Resolution Strategy Office ("JDRSO"), which was set up internally within the DoJ in September 2016 to coordinate the department's promotional work for mediation and arbitration services and to further promote Hong Kong's international legal and dispute resolution services. The function as Commissioner of the JDRSO is taken up by the Senior Assistant Law Officer

(Civil Law) (Mediation) of the CD of the DoJ on top of her other duties. Both the Arbitration Unit and the Mediation Team provide support for the JDRSO.

The DoJ has been working closely with the legal professional bodies and the dispute resolution sector to **promote the use of arbitration in Hong Kong** as well as **Hong Kong's status as a regional hub of international legal and dispute resolution services** to the local and international business communities in Hong Kong as well as in the Mainland and the rest of the world, particularly in emerging economies in the Asia-Pacific region. In this connection, the promotional events held by the LPD in 2017-18 are set out below.

(i) ***Promotion of Hong Kong's international legal and dispute resolution services to the local and international business communities in Hong Kong***

- With increasing worldwide intellectual property ("IP") transactions, there is growing demand for dispute resolution services. The Government is committed to further developing and promoting Hong Kong as an international IP arbitration and mediation centre and a leading IP trading hub in the Asia-Pacific region. In December 2017, the DoJ co-organised a breakout session with the Hong Kong Trade Development Council ("TDC") at the Business of IP Asia Forum held at the Hong Kong Convention and Exhibition Centre ("HKCEC"). Eminent speakers from the IP and dispute resolution industry spoke at the breakout session entitled "International IP Dispute Resolution-A New Chapter for Hong Kong", which was attended by over 400 participants.

(ii) ***Promotion of Hong Kong's legal and dispute resolution services among emerging economies in the Asia-Pacific region***

- In November 2017, the DoJ led a delegation of representatives from various legal and dispute resolution professional bodies in Hong Kong on a promotional trip to Kuala Lumpur, Malaysia. During the visit, the Secretary for Justice officiated at the "In Style • Hong Kong" Symposium organised by the TDC featuring a range of Hong Kong's business and professional services. A thematic seminar on Hong Kong's legal and dispute resolution services, which was attended by about 170 participants, was held during the Symposium.

Apart from the various programmes and activities organised / co-organised by the DoJ, our counsel also participated in one form or another in various local, regional and international conferences and working groups organised other than by the DoJ at which the opportunity was taken to promote and enhance Hong Kong's status as an international legal and dispute resolution centre.

In 2017-18, the activities held by the Mediation Team of CD to promote Hong Kong's international legal and dispute resolution services are as follows-

- (i) The Mediate First Pledge ("MFP") event was held at the HKCEC on 13 June 2017, featuring a seminar on mediation, mock mediation demonstration and an MFP reception. More than 500 people attended the event and over 100 new pledges were received. About 470 entities have now signed the Pledge. In addition, the DoJ organised an MFP Logo & Star Logo design competition for secondary school students. The winning designs of the MFP Logo and Star Logo will be used in the MFP Star Logo Award Scheme designed to encourage pledgees to fulfill their MFPs.

- (ii) Briefings, talks and forums (7 in total) were held to promote mediation in various sectors.
- (iii) Briefings, talks and forums (11 in total) were held to promote the Apology Ordinance in various sectors. They included a talk at the Justice Place in November 2017 with about 100 participants and another talk at the Graduate Law Centre of the Chinese University of Hong Kong in March 2018 with about 60 participants.
- (iv) Briefings, talks and forums (3 in total) on the Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Ordinance 2017 were held for various sectors.

Projects and activities to promote Hong Kong's mediation and arbitration services in 2018-19

Efforts to promote Hong Kong's international legal and dispute resolution services (particularly in the context of the Belt and Road Initiative and the Guangdong-Hong Kong-Macao Bay Area ("Bay Area") development) will concentrate on the following areas -

- (i) We are currently making plans for and will organise promotional events to be held in Hong Kong, the Mainland or other emerging economies in the Asia-Pacific in 2018 and beyond, so as to further encourage enterprises in the Mainland and in jurisdictions along the Belt and Road to make better use of Hong Kong's professional services (in particular, its legal and dispute resolution services) in their business development pursuant to the Belt and Road Initiative.
- (ii) Set up in September 2016, the Arbitration Unit is responsible for, among other arbitration policy-related work, planning and organising regular promotional activities in the form of roadshows, conferences, seminars and forums to promote Hong Kong's legal and arbitration services in places to be identified among the some 60 overseas countries along the Belt and Road. Consideration will also be given to reinforcing Hong Kong's role in the provision of legal and dispute resolution-related training/capacity building opportunities for professionals and government officials from the Belt and Road countries.
- (iii) We will continue to work together with relevant stakeholders to promote in the Mainland the attributes of Hong Kong's international legal and dispute resolution services and the role such services can play in the Belt and Road Initiative and the Bay Area development. Such promotional activities may take the form of visits, seminars and conferences as well as the major biennial Hong Kong Legal Services Forum held in the Mainland. We are also planning to participate together with the relevant professional sectors in the seminar on Hong Kong's legal and arbitration services to be organised by the HKSARG Guangxi Liaison Office which is tentatively scheduled for May 2018 in Nanning. This serves to introduce to lawyers and enterprises in Guangxi Zhuang Autonomous Region the legal and dispute resolution services Hong Kong can provide for enterprises seeking to "go global" under the Belt and Road Initiative. In support of the Bay Area development, the DoJ is also planning to

co-organise with Hong Kong's legal and arbitration institutions the 5th Hong Kong Legal Services Forum, tentatively scheduled for September 2018 in Guangzhou.

- (iv) The work of the JDRSO includes promoting Hong Kong's professional services for use by enterprises in the Mainland and in jurisdictions along the Belt and Road in their business development pursuant to the Belt and Road Initiative. The Commissioner of the JDRSO often participates in forums and promotional activities relating to the Belt and Road Initiative, with the most recent one being a seminar on "Strategies and Opportunities under the Belt and Road Initiative – Leveraging Hong Kong's Advantages, Meeting the Country's Needs" held in Beijing in February 2018.

Resources involved in the promotion of mediation and arbitration services in Hong Kong

The staff costs of the Arbitration Unit and the Mediation Team for 2017-18 and 2018-19 are set out in the table below-

	2017-18	2018-19
Arbitration Unit	1 Deputy Principal Government Counsel, 2 Senior Government Counsel, 1 Law Clerk and 1 Personal Secretary I	1 Deputy Principal Government Counsel, 2 Senior Government Counsel, 2 Government Counsel, 1 Law Clerk, 1 Personal Secretary I and 1 Assistant Clerical Officer
	\$5,582,700	\$7,936,560
Mediation Team	1 Deputy Principal Government Counsel ¹ , 1 Senior Government Counsel, 1 Government Counsel, 1 Law Clerk and 1 Personal Secretary I	1 Deputy Principal Government Counsel ¹ , 2 Senior Government Counsel, 2 Government Counsel, 1 Law Clerk, 1 Personal Secretary I and 1 Assistant Clerical Officer
	\$5,189,640	\$7,936,560

1. The Deputy Principal Government Counsel of the Mediation Team also takes up the function as Commissioner of the JDRSO on top of her other duties to act as the single point of contact on all matters related to the promotion of dispute resolution. The Office is set up using existing resources.

Note: The above staff costs are calculated based on notional annual mid-point salary value.

The overall expenditure involved in this specific area cannot be separately identified and all related expenses will continue to be absorbed from within the existing resources of the Department.

- End -