

Index Page

Replies to initial written questions raised by Finance Committee Members in examining the Estimates of Expenditure 2019-20

Director of Bureau : Secretary for Justice

Session No. : 2

File Name : SJ-1-e1.doc

Reply Serial No.	Question Serial No.	Name of Member	Head	Programme
SJ001	1207	AU Nok-hin	92	(3) Legal Policy
SJ002	1208	AU Nok-hin	92	(5) International Law
SJ003	3142	CHAN Chi-chuen	92	(3) Legal Policy
SJ004	3148	CHAN Chi-chuen	92	
SJ005	4734	CHAN Chi-chuen	92	(3) Legal Policy
SJ006	5201	CHAN Chi-chuen	92	
SJ007	5202	CHAN Chi-chuen	92	(1) Prosecutions
SJ008	5203	CHAN Chi-chuen	92	(2) Civil
SJ009	5204	CHAN Chi-chuen	92	(1) Prosecutions
SJ010	5564	CHAN Chi-chuen	92	
SJ011	5573	CHAN Chi-chuen	92	(1) Prosecutions
SJ012	2930	CHAN Tanya	92	
SJ013	2952	CHAN Tanya	92	(2) Civil
SJ014	4331	CHAN Tanya	92	(2) Civil
SJ015	5485	CHAN Tanya	92	(1) Prosecutions
SJ016	5486	CHAN Tanya	92	(1) Prosecutions
SJ017	6031	CHAN Tanya	92	
SJ018	6731	CHEUNG Chiu-hung, Fernando	92	
SJ019	6732	CHEUNG Chiu-hung, Fernando	92	
SJ020	6733	CHEUNG Chiu-hung, Fernando	92	
SJ021	6735	CHEUNG Chiu-hung, Fernando	92	
SJ022	6736	CHEUNG Chiu-hung, Fernando	92	
SJ023	6737	CHEUNG Chiu-hung, Fernando	92	
SJ024	6738	CHEUNG Chiu-hung, Fernando	92	
SJ025	6739	CHEUNG Chiu-hung, Fernando	92	
SJ026	7232	CHEUNG Chiu-hung, Fernando	92	
SJ027	0752	CHOW Ho-ding, Holden	92	(1) Prosecutions
SJ028	0753	CHOW Ho-ding, Holden	92	(3) Legal Policy
SJ029	0754	CHOW Ho-ding, Holden	92	

Reply Serial No.	Question Serial No.	Name of Member	Head	Programme
SJ030	5860	KWOK Ka-ki	92	(3) Legal Policy
SJ031	7211	KWOK Ka-ki	92	
SJ032	0919	KWOK Wing-hang, Dennis	92	
SJ033	2474	KWOK Wing-hang, Dennis	92	
SJ034	2482	KWOK Wing-hang, Dennis	92	
SJ035	2483	KWOK Wing-hang, Dennis	92	(1) Prosecutions
SJ036	2484	KWOK Wing-hang, Dennis	92	(1) Prosecutions
SJ037	2485	KWOK Wing-hang, Dennis	92	(2) Civil
SJ038	2489	KWOK Wing-hang, Dennis	92	(1) Prosecutions (3) Legal Policy (5) International Law
SJ039	2490	KWOK Wing-hang, Dennis	92	(5) International Law
SJ040	2491	KWOK Wing-hang, Dennis	92	(5) International Law
SJ041	2492	KWOK Wing-hang, Dennis	92	(1) Prosecutions
SJ042	2493	KWOK Wing-hang, Dennis	92	(1) Prosecutions
SJ043	4812	KWOK Wing-hang, Dennis	92	(2) Civil
SJ044	4813	KWOK Wing-hang, Dennis	92	(2) Civil
SJ045	1416	LAM Kin-fung, Jeffrey	92	
SJ046	4410	LAU Ip-keung, Kenneth	92	
SJ047	4415	LAU Ip-keung, Kenneth	92	(1) Prosecutions
SJ048	4416	LAU Ip-keung, Kenneth	92	(3) Legal Policy
SJ049	1893	LEUNG Kenneth	92	(2) Civil
SJ050	1894	LEUNG Kenneth	92	(2) Civil
SJ051	1895	LEUNG Kenneth	92	(2) Civil
SJ052	1896	LEUNG Kenneth	92	(2) Civil
SJ053	1583	LEUNG Mei-fun, Priscilla	92	(1) Prosecutions
SJ054	1584	LEUNG Mei-fun, Priscilla	92	(1) Prosecutions
SJ055	1585	LEUNG Mei-fun, Priscilla	92	(3) Legal Policy
SJ056	1586	LEUNG Mei-fun, Priscilla	92	(3) Legal Policy
SJ057	1587	LEUNG Mei-fun, Priscilla	92	(3) Legal Policy (4) Law Drafting (5) International Law
SJ058	3472	LEUNG Mei-fun, Priscilla	92	(3) Legal Policy (4) Law Drafting
SJ059	1993	LIAO Cheung-kong, Martin	92	(2) Civil
SJ060	1994	LIAO Cheung-kong, Martin	92	(4) Law Drafting
SJ061	1995	LIAO Cheung-kong, Martin	92	
SJ062	1996	LIAO Cheung-kong, Martin	92	(5) International Law
SJ063	1077	LO Wai-ki	92	(3) Legal Policy
SJ064	1780	MOK Charles Peter	92	
SJ065	0282	NG Wing-ka, Jimmy	92	
SJ066	0360	NG Wing-ka, Jimmy	92	(3) Legal Policy
SJ067	0361	NG Wing-ka, Jimmy	92	(2) Civil
SJ068	0364	NG Wing-ka, Jimmy	92	(3) Legal Policy
SJ069	2228	QUAT Elizabeth	92	(1) Prosecutions
SJ070	1446	TO Kun-sun, James	92	(1) Prosecutions

Reply Serial No.	Question Serial No.	Name of Member	Head	Programme
SJ071	1449	TO Kun-sun, James	92	
SJ072	1451	TO Kun-sun, James	92	(4) Law Drafting
SJ073	1636	TSE Wai-chun, Paul	92	
SJ074	3956	WONG Pik-wan, Helena	92	(3) Legal Policy
SJ075	2070	YUNG Hoi-yan	92	(3) Legal Policy

CONTROLLING OFFICER'S REPLY

SJ001

(Question Serial No. 1207)

Head: (92) Department of Justice

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

Programme: (3) Legal Policy

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

Director of Bureau: Secretary for Justice

Question:

1. Regarding the number of items of legal advice given by the Administration on “constitutional development and election matters” in 2018-19 which was estimated to be 800 but actually 797 as shown by the indicators under the key performance measures, please inform this Committee of: i) the number of items of legal advice given in respect of the Hong Kong Island and Kowloon West Geographical Constituencies By-election in March 2018; ii) the number of items of legal advice given in respect of the Kowloon West Geographical Constituency By-election in November 2018; and iii) the government departments to which the legal advice were given for follow-ups.

2. Of the 797 items of legal advice given in total by the Department of Justice (DoJ) on “constitutional development and election matters” in 2018-19, were there any advice provided in respect of the eligibility of candidates or the validity of nominations?

3. DoJ has revised the relevant indicators starting this year to include legal policy work in the provision of legal advice. What are the reasons?

4. Regarding the increase in the estimated number of items of legal advice (including legal policy work) to be given by the Administration on “constitutional development and election matters” by 83 from last year to 880 in 2019-20, please give an account of the reasons and details of the increase.

5. Regarding the substantial increase in the number of items of legal advice given by the Administration on “Mainland law and related matters” from 561 in 2017-18 to 861 in 2018-19, please give an account of the reasons and details of the increase.

6. According to Programme (3) of Head 92, matters requiring special attention in 2019-20 include “develop working relationships with counterparts in the Mainland and other parts of the Cross Strait Four Regions”. Please set out i) a list of the counterparts with which DoJ plans to develop working relationships; and ii) particulars of the current progress concerning the matter.

Reply:

- (1), (2) & (4) Provision of legal advice on election matters is under the purview of the Constitutional Development and Elections Unit of the Legal Policy Division. Regarding the 2018 Legislative Council By-elections, the Department of Justice (DoJ) gave legal advice on various electoral issues to Returning Officers, but we do not keep any statistical breakdown of the legal advice given and are therefore unable to provide such information. Be that as it may, we did give Returning Officers legal advice on various electoral issues in respect of the public elections held in 2018, including issues concerning the eligibility of candidates or the validity of nominations as mentioned in the question. The number of items of legal advice given is in fact demand-driven. In view of the District Council Ordinary Election to be held in late 2019, it is estimated that the demand for legal advice in this respect may increase between the voter registration period and the polling day, hence the upward adjustment in the estimate for 2019-20 with reference to the figure in 2018.
- (3) & (5) The description of the previous indicator “items of legal advice given” was revised to “items of legal advice (including legal policy work) given” so as to better articulate the relevant work because legal policy work may go beyond the pure provision of legal advice. As a result of such revision, in coming to the figures for 2018 during the course of compiling the current financial year’s Controlling Officer’s Report, certain work not previously reflected in the statistics was now included when we prepared the actual figures for “Mainland law and related matters” so as to align with the methodology adopted for the other indicators”. Therefore, no direct comparison can be made between the number of items of legal advice under the indicator with that for 2017.
- (6) On this matter, the Mainland counterpart with which the DoJ plans to develop working relationship in 2019-20 is the Hong Kong and Macao Affairs Office of the Ministry of Justice, with a view to strengthening work exchanges between the two sides. This includes assisting the Hong Kong legal sector to enter the Mainland legal services market and promoting Hong Kong’s legal and dispute resolution services etc. Both sides have already designated contact persons under the exchange mechanism.

- End -

CONTROLLING OFFICER'S REPLY**SJ002****(Question Serial No. 1208)**Head: (92) Department of JusticeSubhead (No. & title): (000) Operational expensesProgramme: (5) International LawControlling Officer: Director of Administration and Development (Alan Siu)Director of Bureau: Secretary for JusticeQuestion:

1. Please inform this Committee in table form of the details of requests for surrender of fugitive offenders processed by the International Law Division in the past 5 years, including i) the numbers of requests made by the Hong Kong Government; ii) the numbers of fugitive offenders surrendered to Hong Kong; iii) the numbers of requests received by the Hong Kong Government; and iv) the numbers of fugitive offenders surrendered to places outside Hong Kong.

	2014-15	2015-16	2016-17	2017-18	2018-19
i) Number of requests made by the Hong Kong Government					
ii) Number of fugitive offenders surrendered to Hong Kong					
iii) Number of requests received by the Hong Kong Government					
iv) Number of fugitive offenders surrendered to places outside Hong Kong					

2. In the past 5 years, among the requests submitted or received for surrender of fugitive offenders processed by the Administration, what were the respective numbers of requests involving the 20 jurisdictions which have concluded agreements on surrender of fugitive offenders with the Hong Kong Government?

3. In the past 5 years, what were the respective numbers of requests submitted or received for surrender of fugitive offenders processed by the Administration in collaboration with other jurisdictions in the absence of a bilateral agreement on surrender of fugitive offenders?

4. Under Programme (5), the estimate for 2019-20 is \$91.7 million, which is \$17.3 million (23.3%) higher than the revised estimate for the past year. The Administration explained that it was “mainly due to the anticipated increase in briefing-out expenses”. Please provide details of the anticipated briefing-out expenses.

Asked by: Hon AU Nok-hin (LegCo internal reference no.: 33)

Reply:

1. Details of requests for surrender of fugitive offenders (SFO) processed by the International Law Division in the past 5 years are as follows:

Table 1 [i) Number of requests made by the Hong Kong Government; and iii) Number of requests received by the Hong Kong Government]

	2014	2015	2016	2017	2018	Total
i) Number of requests made by the Hong Kong Government	3	0	2	1	1	7
iii) Number of requests received by the Hong Kong Government	5	8	7	3	9	32

Table 2 [ii) Number of fugitive offenders surrendered to Hong Kong; and iv) Number of fugitive offenders surrendered to places outside Hong Kong]

	2014	2015	2016	2017	2018
ii) Number of fugitive offenders surrendered to Hong Kong	3	3	0	0	0
iv) Number of fugitive offenders surrendered to places outside Hong Kong	3	1	6	0	2

2.& 3. Replies to parts 2 and 3 of the question are tabulated below:

Table 3

<u>2014-18</u>	Number of requests made pursuant to a bilateral SFO agreement	Number of requests made pursuant to a multilateral convention	Number of requests made in the absence of a bilateral SFO agreement or multilateral convention	Total number
Number of requests made by the Hong Kong	6	1	0	7

Government				
Number of requests received by the Hong Kong Government	25	3	4	32

Provision for 2019-20 is \$17.3 million (23.3%) higher than the revised estimate for 2018-19. This is mainly due to the anticipated increase in briefing-out expenses, filling of vacancies and net creation of 4 posts to meet operational needs

The estimate for briefing-out expenses for 2019-20 is \$5 million, representing an increase of 233% (or \$3.5 million) compared to the revised estimate for 2018-19.

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. The actual expenditure to be incurred in 2019-20 will ultimately depend on subsequent development and outcomes 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 the Department of Justice). The anticipated overall increase in briefing-out expenses for 2019-20 is mainly due to provisions that need to be made for possible expenditure required for cases rolled over from 2018-19, as well as the amount likely to be required for new cases that may arise. Besides, the general increase in the fees for solicitors and counsel as well as the increasing complexity of the cases in recent years have also led to higher briefing-out expenses for individual cases.

- End -

CONTROLLING OFFICER'S REPLY

SJ003

(Question Serial No. 3142)

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 tabulate the topics deliberated and the names of participating government departments in each of the meetings. How many of such meetings were attended by the incumbent Secretary for Justice? Is she familiar with the relevant research topics?
- (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) According to the Administration, more than 17 500 submissions were received during the public consultation on gender recognition conducted earlier by the IWG. How many of them were from individuals and how many from organisations? How many were from professional bodies? 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? Please specify the number of overseas jurisdictions whose reports and data have been used as reference.
- (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?

Asked by: Hon CHAN Chi-chuen (LegCo internal reference no.: 20)

Reply:

(1)&(2) The existing 1 Senior Government Counsel post and 1 Government Counsel post for dealing with the work, which were created in 2014-15, have been 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 \$2.4 million in 2018-19 and around \$2.5 million in 2019-20. For other officers providing support to the IWG, as their work in this regard is undertaken among their other duties, the staff costs and other related expenses involved cannot be separately identified.

(3) - (8) The IWG has held 19 formal meetings to date. In addition, the IWG has held 9 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 the DoJ, the Constitutional and Mainland Affairs Bureau, the Security Bureau, and the Food and Health Bureau, as well as non-government members. The incumbent Secretary for Justice has presided over the 4 formal meetings convened since her assumption of office. To ensure that 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 covers 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, they include reviewing all the existing legislative provisions and administrative measures in Hong Kong which may be affected by legal gender recognition so that the Government can take forward any required legislative or procedural reform.

The IWG issued a consultation paper on 23 June 2017. The consultation period ended on 31 December 2017. A meticulous count has revealed that, during the consultation period, the IWG in fact received about 18 800 submissions, with views being expressed from a wide range of different perspectives. The IWG was briefed in late August 2018 by its Secretariat on a preliminary report in respect of those submissions. Currently, the IWG is carefully analysing the submissions received and deliberating over various options. Upon completing

the first part of the study on gender recognition, the IWG will report on the results of the public consultation (including the specific numbers and categories of individual and group submissions) and the proposed way forward.

- End -

CONTROLLING OFFICER'S REPLY

SJ004

(Question Serial No. 3148)

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 2019-20? What is the estimated annual expenditure on the emolument of the Director of Public Prosecutions in 2019-20?

Asked by: Hon CHAN Chi-chuen (LegCo internal reference no.: 26)

Reply:

The estimated expenditure on the emoluments of the Secretary for Justice in 2019-20 is \$4.23 million. The notional annual mid-point salary of the Director of Public Prosecutions post in 2019-20 is \$3.13 million.

- End -

CONTROLLING OFFICER'S REPLY

SJ005

(Question Serial No. 4734)

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:

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

- (1) the establishment and the estimated annual expenditure on emoluments of the Legal Policy Division (LPD) of the Department of Justice (DoJ) for 2019-20?
- (2) the establishment and the estimated annual expenditure on emoluments of the Constitutional Development and Elections Unit under the LPD of the DoJ for 2019-20?
- (3) the establishment and the estimated annual expenditure on emoluments of the Basic Law Unit and the Human Rights Unit under the LPD of the DoJ for 2019-20?

Asked by: Hon CHAN Chi-chuen (LegCo internal reference no.: 309)

Reply:

- (1) The establishment and estimated annual expenditure on emoluments of the Legal Policy Division (LPD) for 2019-20 are tabulated below:

	Establishment for 2019-20	Estimated annual expenditure on emoluments for 2019-20 (notional annual mid-point salary)
LPD	1 Law Officer, 3 Principal Government Counsel, 10 Deputy Principal Government Counsel ^{Note1} , 28 Senior Government Counsel, 19 Government Counsel, 6 Law Clerks, 1 Senior Law Translation Officer,	\$114,265,380

	3 Law Translation Officers, 1 Senior Executive Officer, 2 Executive Officers I, 1 Senior Personal Secretary, 13 Personal Secretaries I, 8 Personal Secretaries II, 1 Clerical Officer, 9 Assistant Clerical Officers and 3 Clerical Assistants	
--	--	--

Note 1 Including 4 Deputy Principal Government Counsel posts, which are planned to be created upon approval by the Finance Committee of the Legislative Council.

(2) & (3)

Furthermore, the respective establishment and estimated annual expenditure on emoluments of each of the 3 Units under the Constitutional Affairs Sub-Division of the LPD for 2019-20 are tabulated below:

	Establishment for 2019-20	Estimated annual expenditure on emoluments for 2019-20 (notional annual mid-point salary)
Constitutional Development and Elections Unit	1 Deputy Principal Government Counsel ^{Note 2} , 2 Senior Government Counsel, 1 Government Counsel and 1 Personal Secretary I	\$6,540,900
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	\$10,400,700
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	\$11,010,780

Note 2 This Deputy Principal Government Counsel post is planned to be created upon approval by the Finance Committee of the Legislative Council.

- End -

CONTROLLING OFFICER'S REPLY

SJ006

(Question Serial No. 5201)

Head: (92) Department of Justice

Subhead (No. & title): (234) Court costs

Programme: (-) Not Specified

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

Director of Bureau: Secretary for Justice

Question:

Regarding the provision of \$387.6 million for 2019-20 under this Subhead, which represents an increase of \$218.552 million (129.3%) over the revised estimate for 2018-19, would the Administration inform this Committee of the reasons for the surge by more than double in the above provision compared to that for last year? What are the respective provisions earmarked for the expenditure on costs in criminal and civil cases for 2019-20?

Asked by: Hon CHAN Chi-chuen (LegCo internal reference no.: 346)

Reply:

For civil cases, the estimate for court costs for 2019-20 is \$165 million, which is 51.5% (or \$175 million) lower and 66.2% (or \$65.6 million) higher than the original and revised estimates for 2018-19 respectively.

For criminal cases, the estimate for court costs for 2019-20 is \$223 million, which is 12.1% (or \$24 million) and 218.6% (or \$153 million) higher than the original and revised estimates for 2018-19 respectively.

The annual expenditure on court costs 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 2019-20 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 the Department of Justice). The anticipated overall increase in court costs payment for 2019-20 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 litigation cases), as well as possible expenditure required for a number of cases rolled over from 2018-19. Besides, the general increase in the fees for solicitors and counsel as well as the increasing complexity of the cases in recent years have also led to higher court costs payment for individual cases.

- End -

CONTROLLING OFFICER'S REPLY

SJ007

(Question Serial No. 5202)

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:

Regarding the provision for 2019-20 which is \$323.7 million (49.2%) higher than the revised estimate for 2018-19, the Administration has stated that the increase is mainly due to the anticipated increase in briefing-out expenses and court costs, filling of vacancies and net creation of 9 posts to meet operational needs. Would the Administration inform this Committee of the respective reasons for the increase in briefing-out expenses and court costs under the above Programme? What is the anticipated briefing-out expenses for 2019-20? What are the post titles and responsibilities of the net 9 posts to be created, as well as their estimated annual expenditure on emoluments for 2019-20?

Asked by: Hon CHAN Chi-chuen (LegCo internal reference no.: 347)

Reply:

For programme (1), the estimates for court costs and briefing out for 2019-20 are \$223 million and \$261 million respectively. The 2019-20 estimates for court costs and briefing out are 12.1% (or \$24 million) and 15.9% (or \$36 million) higher than the original provision for 2018-19 respectively. As compared to the 2018-19 revised estimates, the estimated expenditure represents an increase of 218.6% (or \$153 million) and 87.8% (or \$122 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 2019-20 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 2019-20 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 2018-19. 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 work of the posts to be created in 2019-20 under this Programme Area are set out below

—

Post(s)	Nature of Duties	NAMS*
Two Senior Government Counsel	Providing additional manpower to strengthen legal support for advisory work	\$1,445,940 x 2 = \$2,891,880
Two Government Counsel	Ditto	\$1,029,240 x 2 = \$2,058,480
Two Law Clerks	Strengthening paralegal support to counsel in handle advisory and advocacy work	\$419,160 x 2 = \$838,320
One Assistant Clerical Officer	Strengthening clerical support to counsel in handling advisory and advocacy work	\$274,380 x 1 = \$274,380
One Principal Government Counsel ^{Note 1 and 2}	Handling the work in relation to dispute resolution services	\$2,530,800 x 1 = \$2,530,800
One Personal Secretary I ^{Note 2}		\$439,980 x 1 = \$439,980

Note 1: One Principal Government Counsel post will be created after approval from the Finance Committee of Legislative Council.

Note 2: The post is to be created in the Secretary for Justice's Office.

*NAMS means notional annual mid-point salary

- End -

CONTROLLING OFFICER'S REPLY

SJ008

(Question Serial No. 5203)

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:

Under this Programme, the Administration has stated that the increase of \$168.1 million (22.5%) in the provision for 2019-20 compared to the revised estimate for 2018-19 is mainly due to the anticipated increase in briefing-out expenses and court costs, as well as filling of vacancies. Would the Administration inform this Committee of the reasons for the anticipated increase in briefing-out expenses for 2019-20 over the revised estimate for 2018-19? What is the estimated amount of anticipated briefing-out expenses for 2019-20?

Asked by: Hon CHAN Chi-chuen (LegCo internal reference no.: 348)

Reply:

For programme (2), the estimate for briefing-out expenses for 2019-20 is \$288 million, which is 16.6% (or \$41.1 million) and 27.3% (or \$61.83 million) higher than the original and revised estimates for 2018-19 respectively.

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 2019-20 will 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 the Department of Justice). The anticipated overall increase in briefing-out expenses for 2019-20 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 litigation cases), as well as possible expenditure required for a number of cases rolled over from 2018-19. Besides, the general increase in the fees for solicitors and counsel as well as the increasing complexity of the cases in recent years have also led to higher briefing-out expenses for individual cases.

- End -

CONTROLLING OFFICER'S REPLY

SJ009

(Question Serial No. 5204)

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:

Under Matters Requiring Special Attention in 2019-20 of this Programme, the Administration stated that it would enhance the standards of advocacy and preparation in criminal cases. Would the Administration inform this Committee of the measures in this regard for 2019-20? Would the Administration also inform this Committee of the establishment involved and the estimated annual expenditure on emoluments to be incurred in 2019-20?

Asked by: Hon CHAN Chi-chuen (LegCo internal reference no.: 349)

Reply:

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

- (a) the Prosecutions Division (PD) reviews from time to time the volume of work and its staff establishment, and applies for additional resources to meet the daily operational needs according to established mechanism, when appropriate. In 2019-20, PD will create 2 additional Senior Government Counsel and 2 additional Government Counsel posts;
- (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.

Advocacy and preparation in criminal cases are handled by existing staff among their other duties. The expenditure therefore cannot be separately identified.

- End -

CONTROLLING OFFICER'S REPLY

SJ010

(Question Serial No. 5564)

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:

Please tabulate the following information about the Secretary for Justice in the past year:

1. the details of her duty visits, receptions of visitors, as well as entertainment and gift expenses;
2. the total amount of outside donations received and the amount of the largest donation.

Asked by: Hon CHAN Chi-chuen (LegCo internal reference no.: 394)

Reply:

In 2018-19 (up to February 2019), the entertainment allowances expenses of local and duty visits for Secretary for Justice are about \$66,000 and \$6,700 respectively. 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 between organisations. We do not specifically maintain separate accounts for gift and souvenir expenses. In addition, the Secretary has not received any donations.

- End -

CONTROLLING OFFICER'S REPLY

SJ011

(Question Serial No. 5573)

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:

Would the Administration inform this Committee of:

- (1) the establishment and the estimated annual expenditure on emoluments of the Public Order Events & Cybercrime Section of Sub-division I (Advisory) of the Prosecutions Division of the Department of Justice for 2019-20; and
- (2) the number of advice on public order events given by the Section in each of the past 3 years?

Asked by: Hon CHAN Chi-chuen (LegCo internal reference no.: 404)

Reply:

- (1) The establishment and the estimated annual expenditure on emoluments of Section I(4) Public Order Events & Cybercrime of Sub-division I (Advisory) of the Prosecutions Division for 2019-20 are tabulated below:

	Establishment for 2019-20	Estimated annual expenditure on emoluments for 2019-20 (notional annual mid-point salary)
Public Order Events & Cybercrime Section	1 Assistant Principal Government Counsel, 2 Senior Government Counsel, 2 Government Counsel and 1 Personal Secretary II	\$7,061,340

(2) The numbers of advice given by the Section in the past 3 years are tabulated below:

Year	2016	2017	2018
Number of advice given	105	115	127

- End -

CONTROLLING OFFICER'S REPLY**SJ012****(Question Serial No. 2930)**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 advise this Committee on the following in relation to extradition agreements:

1) Please tabulate the numbers of (i) applications received and (ii) approvals granted by the Department of Justice (DoJ) annually in the past 5 years in relation to requests for surrender of fugitive offenders.

	2014 (i)(ii)	2015 (i)(ii)	2016 (i)(ii)	2017 (i)(ii)	2018 (i)(ii)
Australia					
Canada					
Czech Republic					
Finland					
Germany					
India					
Indonesia					
Ireland					
Korea					
Malaysia					
Netherlands					
New Zealand					
Philippines					
Portugal					
Singapore					
South Africa					
Sri Lanka					
United Kingdom					
United States of America					

2) Please tabulate by types of crimes involved the numbers of (i) applications received and (ii) approvals granted by DoJ annually in the past 5 years in relation to requests for surrender of fugitive offenders.

	Examples: murder or manslaughter	Examples: aiding, abetting, counselling or procuring suicide	Examples: maliciously wounding; aggravated assault; inflicting grievous bodily harm; assault occasioning bodily harm	Examples: offences against the laws relating to sexual assault	...
Australia					
Canada					
Czech Republic					
Finland					
Germany					
India					
Indonesia					
Ireland					
Korea					
Malaysia					
Netherlands					
New Zealand					
Philippines					
Portugal					
Singapore					
South Africa					
Sri Lanka					
United Kingdom					
United States of America					

Asked by: Hon CHAN Tanya (LegCo internal reference no.: 20)

Reply:

1. In the past 5 years, the annual numbers of (i) applications for surrender of fugitive offenders received by the Department of Justice and (ii) persons surrendered in relation to such applications as at 21 March 2019 are as follows:

	2014		2015		2016		2017		2018	
	i	ii	i	ii	i	ii	i	ii	i	ii
Canada					1	0				
Germany					1	0			1	0
India			1	0					2	0
Korea	1	0	2	2						
Netherlands					1	0				
Singapore			1	0	1	0			1	1
United Kingdom	1	1	2	1					2	1
United States of America			1	1	3	1	1	0	2	0
Egypt	1	0								
Romania	1	1								
Bahrain	1	0								
United Arab Emirates			1	0			1	0		
Turkey							1	0	1	0
Total	5	2	8	4	7	1	3	0	9	2

2. Since the surrender in respect of some of the applications for surrender of fugitive offenders received are not made or have not yet been made, such cases are pending in the requesting party or in Hong Kong and it is not appropriate to disclose information pertaining to such cases. As such, only the types of offences involved in cases where persons were surrendered by Hong Kong in the past 5 years are provided as follows:

Requesting Party	Offence
Korea	(1) Offences against the law relating to dangerous drugs including narcotics, psychotropic substances, precursors and essential chemicals used in the illegal manufacture of narcotics and psychotropic substances (2) Conspiracy to commit offences under item (1) (3) Obtaining property or pecuniary advantage by deception (4) Offences in respect of property involving fraud
Singapore	(1) Offences in respect of property or fiscal matters involving fraud (2) Offences involving the unlawful use of computers

	<ul style="list-style-type: none"> (3) Conspiracy to commit fraud or to defraud (4) Conspiracy to commit offences under items (1) and (2) (5) Aiding and abetting in the commission of offences under items (1) and (2) (6) Offences relating to the possession or laundering of proceeds obtained from the commission of offences under items (1), (2), (3), (4) and (5)
United Kingdom	<ul style="list-style-type: none"> (1) Offences involving the unlawful use of computers (2) Criminal damage or mischief including mischief in relation to computer data (3) Offences of a sexual nature including rape; sexual assault; indecent assault; unlawful sexual acts on children; statutory sexual offences (4) Gross indecency with a child (5) Offences relating to women and girls (6) Offences involving the exploitation of children (7) Offences against the law relating to dangerous drugs including narcotics, psychotropic substances, precursors and essential chemicals used in the illegal manufacture of narcotics and psychotropic substances; offences relating to the proceeds of drug trafficking (8) Offences relating to the possession or laundering of proceeds obtained from the commission of offences under item (1)
United States of America	<ul style="list-style-type: none"> (1) Conspiracy to commit offences against the law relating to dangerous drugs including narcotics, psychotropic substances, precursors and essential chemicals used in the illegal manufacture of narcotics and psychotropic substances (2) Murder or manslaughter, including criminal negligence causing death; culpable homicide; assault with intent to commit murder (3) Maliciously wounding; maiming; inflicting grievous or actual bodily harm; assault occasioning actual bodily harm; threats to kill; intentional or reckless endangering of life whether by means of a weapon, a dangerous substance or otherwise; offences relating to unlawful wounding or injuring (4) Burglary (including breaking and entering)
Romania	<ul style="list-style-type: none"> (1) Offences against the law relating to forgery or uttering what is forged

- | | |
|--|---|
| | <ul style="list-style-type: none">(2) Offences involving the unlawful use of computers(3) theft(4) Offence in respect of property involving fraud(5) Conspiracy to commit offences under items (1) to (3)(6) Conspiracy to commit fraud |
|--|---|

- End -

CONTROLLING OFFICER'S REPLY

SJ013

(Question Serial No. 2952)

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:

Under the Programme, the Civil Division will carry out a study in relation to the Shatin to Central Link (SCL) project and advise on its legal aspects in 2019-20. Please advise on the details of the content and scope of the study, as well as the estimated manpower and expenditure involved. Will the study also examine whether the MTRCL has discharged its duties and obligations in accordance with the Entrustment Agreement on the construction of the SCL between the Government and the MTR Corporation Limited (MTRCL) in light of the various problems of the project revealed in recent months, and the possibility of making any form of claims against the MTRCL?

Asked by: Hon CHAN Tanya (LegCo internal reference no.: 42)

Reply:

The Department of Justice (DoJ) advises Government bureaux and departments on different legal issues as required from time to time, including legal issues concerning the Shatin-Central Link project and the related Entrustment Agreements between the Government and Mass Transit Railway Corporation Limited. It is inappropriate for DoJ to disclose details of advice given to individual Government bureaux and departments seeking legal advice, as such legal advice is covered by legal professional privilege.

As regards the estimated manpower and expenditure involved, legal advice regarding the said project has been and will be, from time to time, tendered among other duties of the Department and the relevant manpower resources/work involved therefore cannot be separately identified. The actual expenditure to be incurred in 2019-20 for the Department in handling the said project will ultimately depend on its subsequent development.

- End -

CONTROLLING OFFICER'S REPLY

SJ014

(Question Serial No. 4331)

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:

1. Please tabulate the government expenditure incurred in the review of the qualifications of elected councillors (including Legislative and District Councillors) and the officers of the Department of Justice (DoJ) responsible for the review 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 DoJ officers responsible

2. Please tabulate the DoJ's estimated expenditure and number of officers involved in the review of the qualifications of elected councillors (including Legislative and District Councillors) in 2019-2020.

Year	Court case number	Legislative Councillor whose qualification was reviewed	Expenditure involved in engaging outside counsel team(s)	List of DoJ officers responsible
2019-2020				

3. Why did the DoJ engage outside counsel teams to handle the proceedings regarding the review of the qualifications of elected councillors (including Legislative and District Councillors)? What were the policy and legal basis for it? What were the specific criteria for the selection of outside counsel teams?

4. Please specify in detail the provisions of law under which the returning officers decided to review the qualifications of the candidates and chose to review the qualification of a particular candidate. Please specify in detail the provisions of law under which the returning officers decided to review a candidate's past words and deeds, including his or her

writing, utterances and photos on social media on the Internet, as well as his or her speeches and acts made outside Hong Kong. Did the Government seek legal advice before performing such “profiling” work? Did the Government engage various kinds of experts to help the returning officers assess a candidate’s inner thoughts or mental state with reference to his or her past words and deeds so as to decide whether that person did in fact uphold the Basic Law “in good faith”? Please advise how much public money and how many public officers were involved in such “profiling” work.

Asked by: Hon CHAN Tanya (LegCo internal reference no.: 75)

Reply:

(1)&(2) In the past 5 years, legal proceedings initiated by the Government on the review of elected councillors’ qualifications (including appellate proceedings arising therefrom brought by the councillors concerned) and the briefing-out expenses incurred in relation to the cases concerned are as follows-

Year	Court case number	Legislative Councillor whose qualification was reviewed	Briefing-out expenses
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	\$1,164,000
2017-18	CACV 200-203/2017	Leung Kwok Hung, Lau Siu Lai	Legal proceedings are still on-going, and briefing-out expenses are not yet finalised.

The officers of the Civil Division of the Department of Justice (DoJ) deal with all civil litigation and tribunal work involving the Government. The legal proceedings of the aforesaid cases are mainly handled by the Civil Division, which may seek inputs or advice from other divisions in the Department and/or instructed outside counsel/ solicitors in private practice. 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 legal proceedings may vary depending on, for example, the nature of the issues, the complexity, etc. Moreover, the officers handling the cases are

also responsible for other duties. 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 for briefing-out expenses for 2019-20 was worked out based on information available at the time of preparing the estimates, the actual expenditure will 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 the 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 legal 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 legal advice or services in respect of matters or proceedings involving members of the DoJ.

The selection of briefed out counsel/solicitors for a particular case will be made based on a number of criteria including whether the expertise and experience of the briefed out counsel/solicitors meet the requirements of the case. The level of fees charged by the briefed out counsel/solicitors is also one of the factors to be taken into account, since public money is involved.

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

- (4) The DoJ, in the course of providing legal advice as part of its services, does from time to time give the required legal advice to Returning Officers on different electoral

issues arising. 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. It is inappropriate for us to respond to questions over individual incidents engaging communications made during the course of the provision of legal advice, since such communications are covered by legal professional privilege.

- End -

CONTROLLING OFFICER'S REPLY

SJ015

(Question Serial No. 5485)

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 for each of the past 10 years:

- the number and the related expenses of cases in respect of which independent outside counsel's advice had been obtained before the Department of Justice made the prosecutorial decisions; and
- the number and the related expenses of cases in respect of which the prosecutorial decisions were entrusted to the Director of Public Prosecutions or Deputy Director of Public Prosecutions.

Asked by: Hon CHAN Tanya (LegCo internal reference no.: 230)

Reply:

Between 2009 and 2018, the number of cases in respect of which outside legal advice was obtained before making a prosecutorial decision, save for cases that involved member(s) of the Department of Justice (DoJ), is tabulated below:

Year	Numbers of Cases*
2018	0
2017	1
2016	0
2015	4
2014	5
2013	2
2012	4
2011	1
2010	2
2009	2

*Note: In the event that legal advice was obtained more than once for the same case, the case is reflected in the year when the first item of legal advice was obtained.

Legal expenses for obtaining outside legal advice are not covered by fee schedules approved by the Finance Committee. The DoJ regularly submits reports to the Committee setting out the expenses not covered by approved fee schedules. From 2008-09 to 2017-18, the total expenses incurred in criminal cases not covered by approved fee schedules are tabulated below:

Financial year	Total expenses (\$)*
2017-18	42,898,276
2016-17	31,083,341
2015-16	31,559,616
2014-15	68,136,516
2013-14	42,720,637
2012-13	30,196,903
2011-12	18,619,741
2010-11	30,739,177
2009-10	35,080,814
2008-09	30,043,386

*Note: The amount relates to cases not covered by approved fee schedules, including cases briefed out before and after a prosecutorial decision was made.

Not all cases are suitable for public disclosure at the time an authorization decision is made. In general, cases still under investigation should not be divulged. (If an offence under the Prevention of Bribery Ordinance is involved, a disclosure may even be unlawful.) Besides, if the parties involved are eventually not prosecuted upon the completion of an investigation, in view of the principle of protecting and respecting the privacy of complainants and the parties involved and other applicable confidentiality principles, the DoJ is also prohibited from disclosing the authorization.

- End -

CONTROLLING OFFICER'S REPLY

SJ016

(Question Serial No. 5486)

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:

Regarding the case relating to the Occupy Central with Love and Peace campaign (Case number: DCCC 480/17) that took place between 2013 and 2014, please advise as to the total expenses, together with details, incurred in handling the case since the Department of Justice made the prosecutorial decision up to 28 February 2019.

Asked by: Hon CHAN Tanya (LegCo internal reference no.: 231)

Reply:

As the legal proceedings of “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) are still on-going, the total expenditure figure for the proceedings is not yet finalized or available. The final amount of expenditure involved will be subject to development of the case and is not entirely within the control of the DoJ.

- End -

CONTROLLING OFFICER'S REPLY**SJ017****(Question Serial No. 6031)**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) Concerning the requests for information under the Code on Access to Information received by the Department of Justice for which only some of the required information was provided, please state in table form: (i) the content of the requests for which only some of the required information was provided; (ii) the reasons for providing some of the information only; and (iii) how the requests were eventually handled.

Year

(i) Content of the requests for which only some of the required information was provided	(ii) Reasons for providing some of the information only	(iii) How the requests were eventually handled

2) Concerning the requests for information under the Code on Access to Information received by the Department of Justice for which the required information was not provided, please state in table form: (i) the content of the requests refused; (ii) the reasons for refusal; and (iii) how the requests were eventually handled.

Year

(i) Content of the requests refused	(ii) Reasons for refusal	(iii) How the requests were eventually handled

Asked by: Hon CHAN Tanya (LegCo internal reference no.: 275)

Reply:

- 1) During the period from January to September 2018, among the access requests handled by the Department under the Code on Access to Information (the Code), there were five cases in which only some of the required information had been provided. The five requests are set out in the table below –

(i) Content of the requests for which only some of the required information was provided	(ii) Reasons for providing some of the information only	(iii) How the requests were eventually handled
Statistics about recruitment exercise of summer interns (non-law)	Public employment and public appointments (paragraph 2.11 of the Code)	Some of the required information had been provided
Information about the Court Prosecutor recruitment exercise	Research, statistics and analysis (paragraph 2.13(a) of the Code)	
Information on legal advice provided to government bureaux/departments; and whether the required information would be opened for public access as archival records which have been in existence for not less than 30 years according to the relevant Public Records (Access) Rules	Law enforcement, legal proceedings and public safety (paragraph 2.6(d) of the Code)	
Statistics on civil claim cases related to overstay in disciplined services quarters; and information regarding the calculation of rental payment and expenses for overstay in disciplined services quarters	The Department does not keep the required statistics but could provide some of the required information.	
Information about the Agreement between Hong Kong and the United States for the Surrender of Fugitive Offenders and the Fugitive Offenders Ordinance	External affairs, law enforcement, legal proceedings and public safety (paragraphs 2.4(b) and 2.6(a)&(c) of the Code)	

- 2) During the period from January to September 2018, among the access requests handled by the Department under the Code, there were three cases in which the required information had not been provided. The three requests are set out in the table below –

(i) Content of the requests refused	(ii) Reasons for refusal	(iii) How the requests were eventually handled
Information about the Secretary for Justice handling 6 arbitration cases during her office with permission	Third party information, privacy of the individual and legal restrictions (paragraphs 2.14(a), 2.15 and 2.18 of the Code)	The required information had not been provided
Legal advice and guidance sought for a criminal case and related matters	Law enforcement, legal proceedings and public safety (paragraph 2.6(d) of the Code)	
Information about requests for mutual legal assistance made to the HKSAR by the Republic of Singapore	External affairs, law enforcement, legal proceedings and public safety, and legal restrictions (paragraphs 2.4(b), 2.6(e) and 2.18(b) of the Code)	

- End -

CONTROLLING OFFICER'S REPLY

SJ018

(Question Serial No. 6731)

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:

With 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 were the reasons? Progress (% completed, commencement date, anticipated completion date); Have the details, objectives, amount involved or impact on the public, society, culture and ecology been released to the public? If yes, through what channel(s) and what were the manpower and expenditure involved? If not, what were 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 (LegCo internal reference no.: 7034)

Reply:

Information on cross-boundary co-operation between Hong Kong and the Mainland taken forward by the Department of Justice (DoJ) is 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 were the reasons?	Progress (% completed, commencement date, anticipated completion date)	Have the details, objectives, amount involved or impact on the public, society, culture or ecology etc. been released to the public? If yes, through what channel(s) and what were the manpower and expenditure involved? If not, what were 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
1. Enhance Legal Co-operation with the Guangdong Province	Pursuant to the Framework Agreement on Hong Kong/ Guangdong Co-operation (Framework Agreement), we have reinforced the existing communication mechanism in legal matters with Guangdong. This includes 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 by existing resources of the 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 reported to the Legislative Council Panel on Administration of Justice and Legal Services (AJLS Panel) on 22 October 2010. It was also mentioned in the DoJ’s Policy Initiatives provided to the AJLS Panel in the past years, including the 2018/19 Policy Initiatives of the DoJ. The staff costs and other related expenses were absorbed by existing 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 Framework Agreement, the programme does not involve a change of law or policy of the Government.
2. 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 Hong Kong Special Administrative Region (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 Law Society of Hong Kong and the Hong Kong Bar Association were also notified of the matter. The staff costs and other related expenses were mainly absorbed by existing 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.

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 were the reasons?	Progress (% completed, commencement date, anticipated completion date)	Have the details, objectives, amount involved or impact on the public, society, culture or ecology etc. been released to the public? If yes, through what channel(s) and what were the manpower and expenditure involved? If not, what were 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
3. 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 HKSAR was signed 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.	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 HKSAR was signed between the DoJ and the SPC on 20 June 2017. The text of the Arrangement is available on the DoJ's website.	On 8 February 2019, the DoJ launched a public consultation on the Bill for implementing the Arrangement. The consultation period ended on 8 March 2019. The DoJ also briefed the AJLS Panel on the features of the Bill and listened to the Panel's views on 25 February 2019.	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 key features to the AJLS Panel on 21 June 2017. The staff costs and other related expenses were absorbed by existing resources of the DoJ and the expenditure in this regard cannot be separately identified.	The Government consulted the public on the features of the Arrangement in June 2016, and on the Bill for implementing the Arrangement in February 2019.	The Arrangement has to be implemented in Hong Kong by legislation. The DoJ is currently considering the views received from the public consultation and refining the Bill with a view to its early introduction into the Legislative Council.
4. 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	Same as above	SPC	A summary record was signed between the DoJ and the SPC on 14 September 2017.	The 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 by existing 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.

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 were the reasons?	Progress (% completed, commencement date, anticipated completion date)	Have the details, objectives, amount involved or impact on the public, society, culture or ecology etc. been released to the public? If yes, through what channel(s) and what were the manpower and expenditure involved? If not, what were 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
	Research Center for Belt and Road Initiative, etc. Such co-operation is not related to the Framework Agreement.							
5. 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 further extension. The main purpose of the Co-operative Arrangement is 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.	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 to the AJLS Panel on 30 October 2017. Main details of co-operation under the Arrangement are also available on the DoJ's website.	The co-operation is ongoing. For example, a joint DoJ and Shenzhen Court of International Arbitration seminar on recent arbitration developments in the Mainland against the background of the Bay Area was held after the arrangement renewal ceremony on 12 October 2017 and officials of the Legislative Affairs Office of the Shenzhen Municipal People's Government joined the DoJ on a short-term attachment in September 2018.	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 by existing resources of the DoJ and the expenditure in this regard cannot be separately identified.	N/A	Same as above

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 were the reasons?	Progress (% completed, commencement date, anticipated completion date)	Have the details, objectives, amount involved or impact on the public, society, culture or ecology etc. been released to the public? If yes, through what channel(s) and what were the manpower and expenditure involved? If not, what were 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
6. Co-operation between Shanghai and Hong Kong	The Co-operation Arrangement on Legal Matters was signed between the DoJ and the Shanghai Justice Bureau on 24 August 2018 as an arrangement to promote co-operation and exchanges on legal matters, such as supporting and facilitating lawyers as well as the legal services (e.g. arbitration and mediation) sector in Shanghai and Hong Kong in expanding business co-operation. Such co-operation is not related to the Framework Agreement.	Same as above	Shanghai Justice Bureau	The Co-operation Arrangement on Legal Matters was signed between the DoJ and the Shanghai Justice Bureau on 24 August 2018. The text of the Arrangement is available on news.gov.hk .	The co-operation is ongoing.	The Government issued a relevant press release on 24 August 2018 when the signing ceremony was held. The staff costs and other related expenses were absorbed by existing 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 Co-operation Arrangement, the programme does not involve a change of law or policy of the Government.
7. Co-operation with the Ministry of Justice (MoJ)	The DoJ signed a record of meeting with the MoJ on further enhancement of co-operation in legal services between the two places on 7 January 2019, which covers consensus between the two sides on further liberalisation of the Mainland legal services market. Parts of the co-operation are related to the Framework Agreement.	Same as above	MoJ	The record of meeting was signed between the DoJ and the MoJ on 7 January 2019. Main details of the document are available on the DoJ's website.	The co-operation is ongoing. The DoJ understands that the MoJ will seek the support of the relevant authorities to implement the liberalisation measures in 2019.	After signing the record of meeting, the DoJ posted its main details on the DoJ's website, issued a relevant press release and informed the two legal professional bodies in writing. The staff costs and other related expenses were absorbed by existing 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 record of meeting, the programme does not involve a change of law or policy of the Government.

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 were the reasons?	Progress (% completed, commencement date, anticipated completion date)	Have the details, objectives, amount involved or impact on the public, society, culture or ecology etc. been released to the public? If yes, through what channel(s) and what were the manpower and expenditure involved? If not, what were 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
8. Legal Co-operation with the SPC	<p>The Arrangement on Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters by the Courts of the Mainland and of the HKSAR was signed between the DoJ and the SPC on 18 January 2019.</p> <p>The Arrangement seeks to establish a legal mechanism to provide greater clarity and certainty for recognition and enforcement of judgments in wider range of civil and commercial matters between Hong Kong and the Mainland.</p> <p>Such co-operation is not related to the Framework Agreement.</p>	Same as above	SPC	<p>The Arrangement on Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters by the Courts of the Mainland and of the HKSAR was signed between the DoJ and the SPC on 18 January 2019. The text of the Arrangement is available on the DoJ's website.</p>	<p>To implement the Arrangement, the DoJ will take forward the relevant legislative work in due course.</p>	<p>The Government issued a relevant press release on 18 January 2019 when the signing ceremony was held. The DoJ reported the signing of the Arrangement and its key features to the AJLS Panel on 18 January 2019. The staff costs and other related expenses were absorbed by existing resources of the DoJ and the expenditure in this regard cannot be separately identified.</p>	<p>The Government consulted the AJLS Panel on the proposed Arrangement in 2017. The Government also consulted the public on the proposed features of the Arrangement in July 2018, as well as further consulted the AJLS Panel in November 2018.</p>	<p>To implement the Arrangement, the DoJ will take forward the relevant legislative work in due course.</p>

- End -

CONTROLLING OFFICER'S REPLY**SJ019****(Question Serial No. 6732)**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 local officials met, (c) number and post titles of Hong Kong officials in entourage, (d) number of days of 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 (LegCo internal reference no.: 7035)Reply:

Relevant information on the duty visits of the Secretary for Justice in the past five years (2014-15 to 2018-19) 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>
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	About \$84,000	About \$311,000	About \$72,000	About \$467,000

			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)				
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 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)	About \$180,000	About \$430,000	About \$168,000	About \$778,000
2016-17 (14 times)	Australia (Sydney, Brisbane, Melbourne and Gold Coast), Thailand (Bangkok), Korea (Seoul), United Arab Emirates (Dubai), Beijing, Shanghai, Shenzhen,	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.	About \$90,000	About \$384,000	About \$110,000	About \$584,000

	Qianhai, Zhengzhou, Chongqing, Nanjing		4 th Hong Kong Legal Services Forum, 5 th Asia Pacific ADR 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				
2017-18 (10 times)	UK (London and Oxford), Austria (Vienna), Malaysia (Kuala Lumpur), Xian, Shenzhen, Guangzhou, Shanghai and Beijing	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 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	About \$138,000	About \$374,000	About \$111,000	About \$623,000

			of the exercise of sovereignty over Hong Kong)				
2018-19 (Up to February 2019) (14 times)	UK (London), USA (Washington DC, New York), Japan (Tokyo), South Korea (Incheon), Beijing, Guangzhou, Shenzhen, Zhuhai	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. Belt and Road Joint Conference, roundtable discussion at Asia House, Forum on the Belt and Road Legal Cooperation, Society of International Economic Law Biennial Conference, Fifth Hong Kong Legal Services Forum and its opening ceremony, Tsinghua World Forum on the Rule of Law, United Nations Commission on International Trade Law (UNCITRAL) Inter-sessional Regional Meeting on Investor-State Dispute Settlement (ISDS) Reform, opening of the Hong Kong-Zhuhai-Macao Bridge, thematic session "From Deal Making to Dispute Resolution: Legal Risk Management for Enterprises in Japan", 3rd Qianhai Legal Intelligence Forum, signing the "The Arrangement on Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters by the Courts of the Mainland and of the Hong Kong Special	About \$223,000	About \$890,000	About \$249,000	About \$1,362,000

			Administrative Region").				
--	--	--	--------------------------	--	--	--	--

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).

No expenses for official entertainment during duty visits were incurred from 2014-15 to 2017-18. The expenses for official entertainment during duty visits in 2018-19 were about \$6,700.

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 between organisations. We do not specifically maintain separate accounts for gift and souvenir expenses.

- End -

CONTROLLING OFFICER'S REPLY**SJ020****(Question Serial No. 6733)**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 decision over the past 5 years?
- (2) Regarding the cases in which an application for a review of decision was made, 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 decision, what were the respective numbers of cases with the sentences upheld, enhanced or reduced by the court?

Asked by: Hon CHEUNG Chiu-hung, Fernando (LegCo internal reference no.: 7036)Reply:

The Secretary for Justice may apply to the court in appropriate cases for review of sentence on the basis of an error of law or of principle or that the sentence is manifestly inadequate or excessive. The number of cases in which the Government applied for 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				
	2014	2015	2016	2017	2018
Upheld	-	-	-	-	-
Enhanced	5	2	5	4	2
Reduced	-	-	-	-	-
Others	-	-	-	1 (pending hearing)	4 (pending hearing)

Total number of applications for “review of sentence”	5	2	5	5	6
--	---	---	---	---	---

- End -

CONTROLLING OFFICER'S REPLY

SJ021

(Question Serial No. 6735)

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 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 (LegCo internal reference no.: 7038)

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				
	2014	2015	2016	2017	2018 (up to third quarter)
Not convicted	26	23	23	17	13
Convicted	17	10	6	12	11
Total	43	33	29	29	24

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				
	2014	2015	2016	2017	2018 (up to third quarter)
Not convicted	145	124	116	106	73
Convicted	328	275	272	271	196
Total	473	399	388	377	269

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

SJ022

(Question Serial No. 6736)

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:

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

Asked by: Hon CHEUNG Chiu-hung, Fernando (LegCo internal reference no.: 7039)

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 therefore do not have 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

SJ023

(Question Serial No. 6737)

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 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 (LegCo internal reference no.: 7040)

Reply:

(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				
	2014	2015	2016	2017	2018
Unsuccessful Prosecutions@	361	275	260	214	283
Total number of Convictions	163	192	186	162	138
Immediate imprisonment*	40	44	36	55	44
Probation Order	25	28	24	27	21
Community Service Order	10	17	18	11	17
Suspended Imprisonment	55	68	70	46	27
Bound-over/ Conditional Discharge	0	0	1	1	1
Others#	33	35	37	22	28
Total	524	467	446	376	421

@ 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 of persons convicted and year of arrest, are as follows –

Gender	Year of Arrest				
	2014	2015*	2016	2017	2018
Male	142 (87.1%)	180 (93.8%)	167 (89.8%)	151 (93.2%)	125 (90.6%)
Female	21 (12.9%)	12 (6.3%)	19 (10.2%)	11 (6.8%)	13 (9.4%)
Total	163 (100%)	192 (100%)	186 (100%)	162 (100%)	138 (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 a sentence of immediate imprisonment (but not including life imprisonment), with a breakdown by duration of imprisonment and year of arrest, are as follows –

Duration of Imprisonment	Year of Arrest				
	2014	2015	2016	2017	2018
6 months or less	37	41	30	51	42
Over 6 months to 1 year	1	2	2	1	2
Over 1 year	2	1	4	3	0
Total	40	44	36	55	44

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	2014	2015	2016	2017	2018
Wounding/serious assault	948	862	879	788	813
Criminal intimidation	419	358	340	364	344
Other criminal cases*	302	244	290	242	256
Total	1 669	1 464	1 509	1 394	1 413

*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 murder/manslaughter cases related to domestic violence (by gender and age range of victim) are as follows –

	2014	2015	2016	2017	2018
Murder/ manslaughter	5	4	6	8	7
Victim					
<i>Male</i>	<i>2</i>	<i>1</i>	<i>0</i>	<i>0</i>	<i>1</i>
<i>Female</i>	<i>3</i>	<i>3</i>	<i>6</i>	<i>8</i>	<i>6</i>
Youngest	33 years old	26 years old	16 years old	20 years old	40 years old
Oldest	76 years old	46 years old	52 years old	76 years old	64 years old

The Government does not maintain other breakdowns requested in the question.

- End -

CONTROLLING OFFICER'S REPLY

SJ024

(Question Serial No. 6738)

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 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 (LegCo internal reference no.: 7041)

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 and only if that is of direct relevance to the issues of the case and hence our prosecutorial decision.

Similarly, when handling civil cases involving the Government, the gender of individuals involved in a case is taken into account if and only if that is of direct relevance to the subject matter and how the case is to be handled.

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

- End -

CONTROLLING OFFICER'S REPLY

SJ025

(Question Serial No. 6739)

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:

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 (LegCo internal reference no.: 7042)

Reply:

The Police began to collect statistics on cases involving “mentally incapacitated persons” in November 2016 and handled a total of 99 and 127 cases of sexual offences involving victims who were “mentally incapacitated persons” in 2017 and 2018 respectively.

The Police do not maintain other breakdowns requested in the question.

- End -

CONTROLLING OFFICER'S REPLY**SJ026****(Question Serial No. 7232)**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 salary, allowances and other expenses for the holder of the following post in the past 3 years, the monthly pension entitlement on retirement and the total expenditure on the pension.

Secretary for Justice

Asked by: Hon CHEUNG Chiu-hung, Fernando (LegCo internal reference no.: 1460)Reply:

The monthly salaries and non-accountable entertainment allowance of Secretary for Justice in the past 3 years (2016-17 to 2018-19) are set out below -

	Cash Remuneration (per month)	Non-accountable entertainment allowance (per month)
April 2016 to March 2017	\$308,585	\$18,683
April 2017 to March 2018	\$308,585 \$345,600 (wef July 2017)	\$19,133
April 2018 to March 2019	\$345,600 \$352,150 (wef July 2018)	\$19,417

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**SJ027****(Question Serial No. 0752)**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 conviction rates of defendants in cases involving sexual offences after trial at different levels of courts in the past 3 years? Where do such conviction rates stand compared to the total number of cases tried at the respective levels of courts?

Asked by: Hon CHOW Ho-ding, Holden (LegCo internal reference no.: 12)Reply:

Information available is provided below -

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

	Year of case concluded		
	2016	2017	2018 (up to third quarter)
Number of persons prosecuted	29	29	24
Number of persons convicted	6	12	11

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		
	2016	2017	2018 (up to third quarter)
Number of persons prosecuted	388	377	269
Number of persons convicted	272	271	196

The conviction rates of criminal cases tried at different levels of court in the past 3 years are listed below for reference -

	Conviction rate after trial (based on the number of defendants)		
	2016	2017	2018
Magistrates' Courts	49.4%	55.3%	57.5%
District Court	72.8%	78.5%	59.2%
Court of First Instance	56.5%	70.8%	67.9%

	Conviction rate including guilty plea (based on the number of defendants)		
	2016	2017	2018
Magistrates' Courts	74.0%	70.4%	71.5%
District Court	94.6%	94.7%	89.8%
Court of First Instance	91.1%	94.0%	90.8%

- End -

CONTROLLING OFFICER'S REPLY**SJ028****(Question Serial No. 0753)**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:

1. What were the participation rates of the Basic Law seminars conducted in the past 3 years? (Please provide a breakdown by the professional qualification of the participants, e.g. barrister or solicitor, and their years of practice.)
2. What briefings were given in the Mainland and to Mainland delegations in Hong Kong in the past 3 years? (Please provide a breakdown by location, theme of the briefing, speaker and number of participants.)

Asked by: Hon CHOW Ho-ding, Holden (LegCo internal reference no.: 13)Reply:

1. Counsel of the Department of Justice (DoJ) conduct Basic Law seminars organised principally by other Government bureaux and departments to promote knowledge and understanding of the Basic Law among civil servants, teachers, etc. A total of 22 such seminars were conducted in the past 3 years from 2016 to 2018. Most participants were civil servants and we do not keep any record of their professional qualifications. The relevant details known to us are as follows -

2016

Number of seminars conducted	Number of participants	Background of participants	Topic of seminar
January: 1	30	Secondary and primary school teachers	The Basic Law Courses: Creatively Learn and Teach
April: 1	25-35 on each	Mainland officials	Chinese General Chamber of

Number of seminars conducted	Number of participants	Background of participants	Topic of seminar
November: 1	occasion		CommerceSeminar – Constitutional Affairs
April: 1 May: 2 June: 1 August: 1 October: 1 November: 1 December: 1	55-235 on each occasion	Civil servants	Briefing, seminar or thematic seminar on promotion of Basic Law

2017

Number of seminars conducted	Number of participants	Background of participants	Topic of seminar
April: 2 June: 1 October: 1	66-114 on each occasion	Civil servants	Briefing, seminar or thematic seminar on promotion of Basic Law

2018

Number of seminars conducted	Number of participants	Background of participants	Topic of seminar
March: 1 May: 2 August: 1 September: 1 October: 2	60-170 on each occasion	Civil servants	Briefing, seminar or thematic seminar on promotion of Basic Law

2. Briefings given by the DoJ to Mainland organisations or representatives were mainly conducted when they visited the DoJ 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 the past 3 years from 2016 to 2018 are set out in the table below:

2016

Number of briefings conducted	Number of participants	Background of participating organisations/participants	Topic of briefing	Speaker
January: 3 February: 1 March: 3 April: 1 November: 3 December: 2	1-8 on each occasion	Information Services Department (ISD)'s sponsored visitors and its other invitees to Hong Kong	The legal system of/dispute resolution services in Hong Kong, and other issues of common interests	Secretary for Justice (SJ)/DoJ officials
January: 2 March: 2 May: 1 June: 1 July: 3 September: 2 November: 2	2-20 on each occasion	Delegations of Mainland government organisations visiting Hong Kong	The legal system of/dispute resolution services in Hong Kong, and other issues of common interests	SJ/DoJ officials
July: 1 August: 1 September: 1 November: 1 December: 3	2-32 on each occasion	Delegations of Mainland legal and dispute resolution institutions visiting Hong Kong	The legal system of/dispute resolution services in Hong Kong	DoJ officials
June: 1 July: 1 August: 1 October: 2 November: 1	9-37 on each occasion	Participants of courses/training held in Hong Kong	The legal system of/dispute resolution services in Hong Kong	DoJ officials
July: 2	12-26 on each occasion	Law students and academics	The legal system of/dispute resolution services in Hong Kong	DoJ officials

2017

Number of briefings conducted	Number of participants	Background of participating organisations/participant	Topic of briefing	Speaker
January: 2 April: 1 May: 2 October: 1 November: 3 December: 1	2-26 on each occasion	ISD's sponsored visitors and its other invitees to Hong Kong	The legal system of/dispute resolution services in Hong Kong, and other issues of common interests	SJ/DoJ officials
January: 1 March: 1 June: 1 July: 2 September: 3 October: 1 November: 1	2-22 on each occasion	Delegations of Mainland government organisations visiting Hong Kong	The legal system of/dispute resolution services in Hong Kong, and other issues of common interests	SJ/DoJ officials
March: 1 May: 1 September: 1 October: 1	3-21 on each occasion	Delegations of Mainland legal and dispute resolution institutions visiting Hong Kong	The legal system of/dispute resolution services in Hong Kong	SJ/DoJ officials
June: 1 October: 2 November: 1	8-34 on each occasion	Participants of courses/training held in Hong Kong	The legal system of/dispute resolution services in Hong Kong	DoJ officials
July: 2 August: 1	1-20 on each occasion	Law students and academics	The legal system of/dispute resolution services in Hong Kong	SJ/DoJ officials

Number of briefings conducted	Number of participants	Background of participating organisations/participants	Topic of briefing	Speaker
February: 6 March: 1 May: 1 July: 1 October: 1 November: 2 December: 5	1-7 on each occasion	ISD's sponsored visitors and its other invitees to Hong Kong	The legal system of/dispute resolution services in Hong Kong, and other issues of common interests	SJ/DoJ officials
January: 3 March: 1 June: 2 July: 3 October: 2 December: 1	3-47 on each occasion	Delegations of Mainland government organisations visiting Hong Kong	The legal system of/dispute resolution services in Hong Kong, and other issues of common interests	DoJ officials
January: 1 November: 3 December: 2	6-20 on each occasion	Delegations of Mainland legal and dispute resolution institutions visiting Hong Kong	The legal system of/dispute resolution services in Hong Kong	DoJ officials
May: 1 September: 1	16-22 on each occasion	Participants of courses/training held in Hong Kong	The legal system of/dispute resolution services in Hong Kong	DoJ officials
July: 2 September: 1 December: 1	3-38 on each occasion	Law students and academics	The legal system of/dispute resolution services in Hong Kong	SJ/DoJ officials

- End -

CONTROLLING OFFICER'S REPLY

SJ029

(Question Serial No. 0754)

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:

1. What were the briefing out expenditures incurred in the past 3 years? (Please provide the relevant information by cases, levels of courts, the Special Administrative Region Government as the prosecution/plaintiff/appellant or defendant/respondent, the numbers of barristers/law firms/other professionals engaged, outcomes and the total expenditure for each case.)

Asked by: Hon CHOW Ho-ding, Holden (LegCo internal reference no.: 14)

Reply:

The total costs of briefing out and the number of briefed out cases in relation to criminal cases for the past three years are as follows :

Year	Number of briefed out cases ¹	Expenditure (\$)
2015-16	1 893	126,253,663
2016-17	1 784	126,492,465
2017-18	1 561	162,850,719

¹ For criminal cases, apart from prosecuting in place of Government Counsel at various courts, 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 are 5 617 days, 5 711 days and 5 327 days respectively.

The total costs of briefing out and the number of briefed out cases in relation to civil cases for the past three years are as follows :

Year	Number of briefed out cases	Expenditure (\$)
2015-16	563	105,790,709
2016-17	528	104,794,119
2017-18	477	87,127,907

The total costs of briefing out and the number of briefed out cases in relation to construction cases involving the Government for the past three years are as follows :

Year	Number of briefed out cases	Expenditure (\$)
2015-16	25	90,927,839
2016-17	15	60,430,729
2017-18	15	53,525,593

In respect of briefing out expenditure, we do not maintain detailed breakdown based on the level of court, the Government as plaintiff or defendant, the number of participating counsel/law firm/other professionals or rulings. As a matter of practice, the Department of Justice will submit an annual information paper entitled *Legal Expenses for Briefing Out Cases Not Covered by Approved Fee Schedules* to the Legislative Council on its briefing-out expenditure with details of cases involving briefing-out costs of \$1 million or more in each case for the preceding financial year.

We have submitted the reports for 2015-16, 2016-17 and 2017-18. As for the report for 2018-19, it will be submitted in end 2019/early 2020.

- End -

CONTROLLING OFFICER'S REPLY

SJ030

(Question Serial No. 5860)

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 progress of the introduction of gender recognition legislation, please advise as to:

1. the expected date of release of the results of the first stage consultation
2. the number and types of staff and the expenditure involved in the first stage consultation
3. the expected commencement date of the second stage consultation
4. the estimated number and types of staff and the expenditure involved in the second stage consultation
5. the timetable for the introduction of gender recognition legislation and the expected date of its introduction into the Legislative Council for first reading

Asked by: Hon KWOK Ka-ki (LegCo internal reference no.: 177)

Reply:

- (1) to (5) The Inter-departmental Working Group on Gender Recognition (IWG) was established in January 2014 to consider legislation and incidental administrative measures that may be required to protect the rights of transsexual persons in Hong Kong in all legal contexts, and to make such recommendations for reform as may be appropriate.

The first part of the study concerns 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, 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.

The IWG issued a consultation paper on 23 June 2017. The consultation period ended on 31 December 2017. A meticulous count has revealed that, during the consultation period, the IWG in fact received about 18 800 submissions, with views being expressed from a wide range of different perspectives. The IWG was briefed in late August 2018 by its Secretariat on a preliminary report in respect of those submissions. Currently, the IWG is carefully analysing the submissions received and deliberating over various options. Upon completing the first part of the study on gender recognition, the IWG will report to the Government on the results of the public consultation and the proposed way forward.

The second part of the study concerns post-recognition issues, which include reviewing all the existing legislative provisions and administrative measures in Hong Kong which may be affected by legal gender recognition so that the Government can take forward any required legislative or procedural reform. The second part of the study can commence only after the completion of the first part.

Regarding the number and types of staff and the expenditure involved, the existing 1 Senior Government Counsel post and 1 Government Counsel post for dealing with the work, which were created in 2014-15, have been 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 \$2.4 million in 2018-19 and around \$2.5 million in 2019-20. For other officers providing support to the IWG, as their work in this regard is undertaken among their other duties, the staff costs and other related expenses involved cannot be separately identified.

- End -

CONTROLLING OFFICER'S REPLY

SJ031

(Question Serial No. 7211)

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 (LegCo internal reference no.: 176)

Reply:

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**SJ032****(Question Serial No. 0919)**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 in the table below information on the duty visits made by the incumbent Secretary for Justice, Ms Teresa Cheng, SC:

Period of visit	Place of visit	Purpose of visit	Expenditure on visit

Asked by: Hon KWOK Wing-hang, Dennis (LegCo internal reference no.: 73)

Reply:

The information on the duty visits made by the incumbent Secretary for Justice, Ms Teresa Cheng, SC is as follow –

Period of visit	Place of visit	Purpose of visit	Expenditure on visit ^{Note}
2018-19 (Up to February 2019) (14 times)	UK (London), USA (Washington DC, New York), Japan (Tokyo), South Korea (Incheon), Beijing, Guangzhou, Shenzhen, Zhuhai	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. Belt and Road Joint Conference, roundtable discussion at	About \$1,362,000

		<p>Asia House, Forum on the Belt and Road Legal Cooperation, Society of International Economic Law Biennial Conference, Fifth Hong Kong Legal Services Forum and its opening ceremony, Tsinghua World Forum on the Rule of Law, United Nations Commission on International Trade Law (UNCITRAL) Inter-sessional Regional Meeting on Investor-State Dispute Settlement (ISDS) Reform, opening of the Hong Kong-Zhuhai-Macao Bridge, thematic session “From Deal Making to Dispute Resolution: Legal Risk Management for Enterprises in Japan”, 3rd Qianhai Legal Intelligence Forum, signing the “The Arrangement on Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters by the Courts of the Mainland and of the Hong Kong Special Administrative Region”).</p>	
--	--	---	--

Note Total expenditure includes charges for accommodation and passage, subsistence allowance for duty outside Hong Kong and sundry expenses (if applicable).

- End -

CONTROLLING OFFICER'S REPLY

SJ033

(Question Serial No. 2474)

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 advise on the annual emolument of the Secretary for Justice.

Asked by: Hon KWOK Wing-hang, Dennis (LegCo internal reference no.: 68)

Reply:

The estimated expenditure on the emoluments of the Secretary for Justice in 2019-20 is \$4.23 million.

- End -

CONTROLLING OFFICER'S REPLY

SJ034

(Question Serial No. 2482)

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:

Regarding the salaries, allowances, job-related allowances and related expenses to be incurred by the Secretary for Justice's Office in 2019-20, please tabulate the following information:

(1) the (i) salaries, (ii) allowances, (iii) job-related allowances, (iv) Mandatory Provident Fund (MPF) contribution and (v) Civil Service Provident Fund (CSPF) contribution of (a) the Secretary for Justice (SJ), (b) the Administrative Assistant (AA) to SJ, (c) the Commissioner of Dispute Avoidance and Resolution Office (C of DAR Office) and (d) the Press Secretary (PrS) in this financial year;

	(i) Salaries	(ii) Allowances	(iii) Job-related allowances	(iv) MPF contribution	(v) CSPF contribution
(a) SJ					
(b) AA to SJ					
(c) C of DAR Office					
(d) PrS					

(2) the estimated expenditures on allowances for (a) SJ, (b) AA to SJ, (c) C of DAR Office and (d) PrS in this financial year, including the following 5 categories of expenditures: (i) their medical and dental benefits, (ii) the medical and dental benefits of their spouses, (iii) their leave passage allowances, (iv) the leave passage allowances of their spouses and (v) cars and chauffeur services;

	(i) Medical and dental benefits	(ii) Medical and dental benefits of spouses	(iii) Leave passage allowances	(iv) Leave passage allowances of spouses	(v) Cars and chauffeur services
(a) SJ					
(b) AA to SJ					
(c) C of DAR Office					
(d) PrS					

(3) the estimated expenditures on job-related allowances for (a) SJ, (b) AA to SJ, (c) C of DAR Office and (d) PrS in this financial year, including the following 3 categories of expenditures: (i) official entertainment, (ii) passage for duty visits and (iii) security arrangements.

	(i) Official entertainment	(ii) Passage for duty visits	(iii) Security arrangements
(a) SJ			
(b) AA to SJ			
(c) C of DAR Office			
(d) PrS			

Asked by: Hon KWOK Wing-hang, Dennis (LegCo internal reference no.: 63)

Reply:

For 2019-20, the estimated expenditure on the salary, non-accountable entertainment allowance and MPF contribution of the Secretary for Justice is \$4.5 million, and the notional annual mid-point salary of the Administrative Assistant, Commissioner of Dispute Avoidance and Resolution Office and Press Secretary are \$2.18 million, \$2.53 million and \$1.45 million respectively.

For 2019-20, there is no separate provision for the allowances for the officers set out in part (2) of the question and their spouses (Medical and chauffeur services are directly provided by the Government or Hospital Authority to the political appointed officer).

For 2019-20, the estimated expenditure on official entertainment and duty visits for SJ's Office are \$0.45 million and \$1.47 million respectively. Generally we do not arrange security services for the officers mentioned in the question and therefore no separate provision has been made for that purpose.

- End -

CONTROLLING OFFICER'S REPLY**SJ035****(Question Serial No. 2483)**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 inform this Committee whether the Department of Justice has organised seminars or training for its officers on constitutional law issues, human right law issues, human trafficking issues and legal issues related to Mainland laws, and the details such as the speakers, dates and content of such seminars or training.

Asked by: Hon KWOK Wing-hang, Dennis (LegCo internal reference no.: 44)Reply:

Seminars and training courses conducted by the Department of Justice in 2018 on the issues concerned are as follows:

	Date	Speaker	Topic of seminar/training course
Organised by the Civil Division			
1	13 April 2018	Professor Christopher Forsyth	Recent Developments in Judicial Review
2	5 October 2018	Dr Jimmy Ma, SBS, JP	Rules and Practices of the Legislative Council
Organised by the Prosecutions Division			
1	22 August 2018	Ms Archana Kotecha, Head of Legal at Liberty Asia and Mr Kay Chan, Barrister-at-law	Modern Slavery and Human Trafficking - Evaluating the Future of Hong Kong's Anti-Trafficking Efforts
Organised/co-organised/joined by the Legal Policy Division			
1	4 May 2018	Senior Assistant Solicitor General (SASG)	Basic Law Briefing

	Date	Speaker	Topic of seminar/training course
2	28 May 2018	Deputy Solicitor General (DSG)	Seminar on the Basic Law: Political Structure of the Hong Kong Special Administrative Region and Matters relating to the Procedures of the Legislative Council
3	12 July 2018	Mr Shen Yibo, Director of the Policy and Regulations Division of the State Immigration Administration of China	Talk on the Mainland's Exit-and-Entry Control Regime and the Nationality Law
4	17 August 2018	SASG	Basic Law Briefing
5	12 September 2018	SASG	Recent Development of Basic Law and Human Rights Jurisprudence and Experience Sharing of Working in the Legal Policy Division
6	12 September 2018	Senior Government Counsel (SGC)	Basic Law Briefing
7	12 October 2018	SGC	Basic Law Briefing
8	31 October 2018	DSG	Seminar on the Basic Law: Political Structure of the Hong Kong Special Administrative Region and Matters relating to the Procedures of the Legislative Council
9	13 December 2018	Benchmark Chambers International, Shenzhen Dr Xiao Jingyi (Executive President) Ms Lee Zhuoying (President) Ms Han Ting (Head of Development)	Seminar on Foreign Law Ascertainment (co-organised with the Hong Kong Bar Association and the Law Society of Hong Kong)

- End -

CONTROLLING OFFICER'S REPLY

SJ036

(Question Serial No. 2484)

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 financial provision under the Programme of Prosecutions for this year is \$982 million, an increase of 49.2% over the revised provision for last year. What are the reasons for the increase in the estimated provision?

Asked by: Hon KWOK Wing-hang, Dennis (LegCo internal reference no.: 45)

Reply:

Provision for 2019–20 is \$323.7 million (49.2%) higher than the revised estimate for 2018–19. This is mainly due to the anticipated increase in court costs payment and briefing-out expenditure, filling of vacancies, and net creation of 9 posts to meet operational needs.

- End -

CONTROLLING OFFICER'S REPLY

SJ037

(Question Serial No. 2485)

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:

Regarding the Government's proposed revision of the Immigration Ordinance to expedite the processing of cases under the unified screening mechanism (USM), there are views that the revised USM may be subject to judicial review. Will the Government seek legal advice on the amendments from outside counsel and/or legal academics? If yes, how many counsel and/or legal academics will be involved? What is the expenditure to be incurred? If not, has the Department of Justice provided legal advice?

Asked by: Hon KWOK Wing-hang, Dennis (LegCo internal reference no.: 46)

Reply:

The Department of Justice advises Government bureaux and departments on different legal issues as required from time to time, which includes giving legal advice to the Security Bureau and Immigration Department upon instructions. It is inappropriate for us to respond to questions over individual instances engaging communications made during the course of the provision of legal advice because such communications are covered by legal professional privilege.

- End -

CONTROLLING OFFICER'S REPLY

SJ038

(Question Serial No. 2489)

Head: (92) Department of Justice

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

Programme: (1) Prosecutions
(3) Legal Policy
(5) International Law

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 an intended defendant is a victim of trafficking (para 18.2 of the Prosecution Code). In this regard, would the Government inform this Committee:

- (i) whether there were any such criminal cases (irrespective of whether a prosecution was made) in the past 3 years and the relevant details;
- (ii) whether the Department of Justice has a designated team of officers focusing on issues related to human trafficking and the relevant details (if any), such as its size establishment and scope of work;
- (iii) whether the Government has any plans to adopt international conventions related to human trafficking, such as the Protocol to Prevent, Suppress and Punish Trafficking in Persons (the "Palermo Protocol"); and
- (iv) whether the Government will consider criminalising acts of human trafficking (on top of section 129 of the Crimes Ordinance, which criminalises human trafficking for prostitution purposes) and the legislative timetable for such? If not, the reasons.

Asked by: Hon KWOK Wing-hang, Dennis (LegCo internal reference no.: 64)

Reply:

- (i) Human exploitation refers to a collection of cases, of which the offenders have been prosecuted with different offences, and we have not maintained the overall statistics on the different offences. That said, some enforcement

statistics in relation to sex trafficking offences are hereby appended for reference : from January to September 2018, seven persons were convicted of various offences relating to sex trafficking under the Crimes Ordinance (Cap. 200).

- (ii) In early 2013, the Prosecutions Division of the Department of Justice (DoJ) appointed a counsel at directorate rank as the Coordinator of Human Exploitation Cases. 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.

The designated desk is responsible for overseeing and coordinating cases involving TIP issues handled or submitted by various LEAs for legal advice. One of its most important roles is to ensure the TIP-related issues be considered holistically to avoid any inconsistency and incoherence in approach. Apart from the aforesaid, it is also responsible for conducting trials, and other criminal proceedings including stay application on cases concerning TIP. The coordination between the DoJ and various LEAs has obviously been enhanced since the setting up of the designated desk. Two Government Counsel Grade posts will be created in the Prosecutions Division of DoJ in 2019-20. Their main duties include the handling of related matters of this type of cases.

- (iii) and (iv) Most specific conduct within the meaning of “human trafficking” in the Palermo Protocol is caught by various existing common law and statutory offences, including : Part XII of the Crimes Ordinance (Cap. 200) (on “Sexual and Related Offences” and “Exploitation of other persons for sexual purposes”), the Crimes Ordinance (sections 118, 122-127, 130-137), Immigration Ordinance (Cap. 115), Protection of Children and Juvenile Ordinance (Cap. 213), Employment Ordinance (Cap. 57), Offences against the Persons Ordinance (Cap. 212) and Prevention of Child Pornography Ordinance (Cap. 579). The existing laws are extensive and detailed. They have been flexibly and effectively used over the years to combat various forms of human trafficking and exploitation such as physical abuse, false imprisonment, criminal intimidation, unlawful custody of personal valuables, child abduction, child pornography and exploitation of children, illegal employment, withholding of wages, rest days, statutory holidays, etc.

- End -

CONTROLLING OFFICER'S REPLY

SJ039

(Question Serial No. 2490)

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:

Regarding the homicide case in which a Hong Kong resident sneaked back to Hong Kong after committing the offence in Taiwan, did any officers of the Department of Justice contact any Taiwan officials between 1 January 2018 and 6 March 2019 to explore surrendering the suspect to Taiwan for trial or other arrangements for mutual legal assistance in criminal matters, including discussions on concluding an agreement on surrender of fugitive offenders between Hong Kong and Taiwan? If yes, what were the numbers of contacts and the ranks of the Taiwan officials contacted? If no, what were the reasons?

Asked by: Hon KWOK Wing-hang, Dennis (LegCo internal reference no.: 65)

Reply:

Following the homicide in Taiwan, 3 officers of the Hong Kong Police visited Taiwan on 21 March 2018 to approach the Criminal Investigation Bureau of Taiwan for details of the case. Afterwards, Taiwan requested for assistance in the case from Hong Kong. The SAR Government replied to the Taiwan authority in June 2018 and further contacted them in March this year to commence communication regarding the case. The SAR Government will communicate with the Taiwan authority in response to their request concerning the case on the principle of mutual respect.

- End -

CONTROLLING OFFICER'S REPLY

SJ040

(Question Serial No. 2491)

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:

One of the aims of the programme of International Law of the Department of Justice is to participate in the negotiation and also advise on international agreements, including those on surrender of fugitive offenders, mutual legal assistance and transfer of sentenced persons. In this connection, will the Government inform this Committee of:

- (i) the current progress and the timetable for the establishment of a bilateral extradition agreement with Macao; and
- (ii) what other countries and jurisdictions with which the Department of Justice is currently negotiating on similar international agreements on surrender of fugitive offenders, mutual legal assistance and/or transfer of sentenced persons?

Asked by: Hon KWOK Wing-hang, Dennis (LegCo internal reference no.: 66)

Reply:

The SAR Government has been actively expanding its network of mutual legal assistance in criminal matters since reunification. The work involved includes negotiating agreements on surrender of fugitive offenders, mutual legal assistance in criminal matters and transfer of sentenced persons with various other jurisdictions. Such negotiations involve different stages, including discussions on the text of the agreement, initialling of the text and completion by the negotiating partners of their respective necessary internal procedures to obtain approval to sign the agreement. Before an agreement is signed, the content of its negotiations, being communication between governments, should not be made public. For this reason, it is not desirable to disclose the content of any ongoing negotiations, including the identity of the negotiating partners. So far, Hong Kong has signed 20 agreements on surrender of fugitive offenders¹, 32 agreements on mutual legal assistance in criminal matters² and 16 agreements on transfer of sentenced persons³.

It is one of the policy objectives of the SAR Government to sign a long-term agreement with Macao on surrender of fugitive offenders. Given the differences in the legal systems

between Hong Kong and Macao, the two sides are still negotiating on the content which is mutually agreeable. The SAR Government has not set a timetable in this regard.

¹ Australia, Canada, the Czech Republic, France, Finland, Germany, India, Indonesia, Ireland, Malaysia, the Netherlands, New Zealand, the Philippines, Portugal, the Republic of Korea, Singapore, South Africa, Sri Lanka, the United Kingdom and the United States.

² Argentina, Australia, Belgium, Canada, the Czech Republic, Denmark, France, Finland, Germany, India, Indonesia, Ireland, Israel, Italy, Japan, Malaysia, Mongolia, the Netherlands, New Zealand, the Philippines, Poland, Portugal, the Republic of Korea, Singapore, Sri Lanka, South Africa, Spain, Sweden, Switzerland, the United Kingdom, the United States and Ukraine.

³ Australia, Belgium, the Czech Republic, France, India, Italy, the Republic of Korea, Mongolia, Nigeria, the Philippines, Portugal, Spain, Sri Lanka, Thailand, the United Kingdom and the United States.

- End -

CONTROLLING OFFICER'S REPLY

SJ041

(Question Serial No. 2492)

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 Department of Justice briefs out some cases to barristers and solicitors in private practice. Please inform this Committee of the costs incurred in the past 3 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 overseas counsel instructed, their names, the total costs paid to them and the number of cases which they were instructed for;
- (g) the top ten local counsel instructed, their names, 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, their names, 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, their names, 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 (LegCo internal reference no.: 67)

Reply:

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

Financial Year	Expenditure (\$)
2015-16	322,972,211
2016-17	291,717,313
2017-18	303,504,219

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

Financial Year	Expenditure (\$)
2015-16	126,253,663
2016-17	126,492,465
2017-18	162,850,719

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

Financial Year	Expenditure (\$)
2015-16	105,790,709
2016-17	104,794,119
2017-18	87,127,907

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

Financial Year	Expenditure (\$)
2015-16	90,927,839
2016-17	60,430,729
2017-18	53,525,593

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

Financial Year	Expenditure (\$)
2015-16	47,331,386
2016-17	46,798,639
2017-18	37,955,471

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. 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

SJ042

(Question Serial No. 2493)

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 (DoJ) by other government departments so that a timely and proper assessment of the issue, including the question of immunity, can be made by the DoJ. In this regard, would the Administration inform this Committee of the numbers of cases which were brought to the DoJ's attention, the way in which such cases were dealt with and the relevant details in the past 3 years?

Asked by: Hon KWOK Wing-hang, Dennis (LegCo internal reference no.: 86)

Reply:

The Hong Kong Special Administrative Region (HKSAR) Government attaches great importance to combatting trafficking in persons (TIP), and 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. Two Government Counsel Grade posts will be created in the Prosecutions Division of DoJ in 2019-20. Their main duties include the handling of related matters of this type of cases.

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 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 have been brought to 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

SJ043

(Question Serial No. 4812)

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:

Regarding the arrangement with the Mainland on reciprocal recognition and enforcement of judgments in civil and commercial matters, how many of the judgments in the past 5 years involved cases wherein one or both parties to the proceedings were Mainland residents or companies incorporated in the Mainland?

Asked by: Hon KWOK Wing-hang, Dennis (LegCo internal reference no.: 114)

Reply:

The Department of Justice does not maintain such statistics.

- End -

CONTROLLING OFFICER'S REPLY

SJ044

(Question Serial No. 4813)

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 past three years, how many advices had been taken, requested by RO/REO, actively put forth by DOJ

Asked by: Hon KWOK Wing-hang, Dennis (LegCo internal reference no.: 115)

Reply:

The provision of legal advice by the Department of Justice (DoJ) includes that on various electoral issues to Returning Officers and the Registration and Electoral Office as required from time to time. The DoJ does not maintain any statistical breakdown of each item of legal advice given by reference to the party seeking the advice. The number of items of legal advice provided is entirely demand-driven.

- End -

CONTROLLING OFFICER'S REPLY

SJ045

(Question Serial No. 1416)

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:

It is proposed in the Budget that \$150 million be provided to support the development and initial operation of a dispute resolution online platform by non-governmental organisations (NGOs). Would the Government inform this Committee of:

- (1) the detailed composition of the NGOs, numbers of staff to be employed, breakdowns of their expenditures as well as their objectives;
- (2) the details of the usage of the provision and whether that will be at the NGOs' discretion;
- (3) whether the Government will regularly require the NGOs to report on the detailed usage of the provision and its work progress, and whether it will monitor the NGOs' operation? If yes, what are the details? If no, what are the reasons?

Asked by: Hon LAM Kin-fung, Jeffrey (LegCo internal reference no.: 18)

Reply:

(1)

The non-governmental organization (NGO) concerned (eBRAM Centre) is a company limited by guarantee formed by seasoned professional arbitrators, mediators and legal practitioners from the Law Society of Hong Kong, the Hong Kong Bar Association and the Asian Academy of International Law, as well as experienced technology talent from the Logistics and Supply Chain MultiTech R&D Centre. It aims at elevating Hong Kong's arbitration and mediation services and building capacity to meet the rapid expanding demand for legal and dispute resolution services across borders by utilising innovative technology and artificial intelligence to promote Hong Kong as a LawTech centre and the hub of deal-making as well as dispute avoidance and resolution for global business, investment and trade, in collaboration with international organisations and participating economies.

The eBRAM Centre is preparing for the development of an Electronic Business Related Arbitration and Mediation (eBRAM) platform. According to the proposal put forward by the Centre, the cost estimate for the development of the platform and its first year of operation is \$68 million, covering around \$34.4 million of capital costs (including information technology (IT) equipment, Proof-of-Concept prototype enrichment, one-off purchase of hardware and software, etc.) and around \$33.7 million of operation costs (including staff salaries, marketing cost, IT cost and office operation cost). The manpower of the NGO is expected to increase gradually from the initial 14 staffers to 25. The target is for the platform to roll out its services in phases from late 2019 onwards.

(2) and (3)

The proposal was endorsed by the Panel on Administration of Justice and Legal Services on 25 March. Funding approval of \$150 million will be sought from the Finance Committee in due course to support the eBRAM Centre in developing the eBRAM platform and its initial operation. As in the case of other Government subvented organisations, the Government plans to sign a memorandum of understanding with the Centre on specific areas in relation to its operation (including possible appointment of members to the Board of Directors by the Government) and the utilisation of any funding provided, including a progress reporting mechanism. The objectives of the Centre will be clearly set out in its Memorandum and Articles of Association. As a non-profit-making entity, the Centre will not distribute its dividends.

- End -

CONTROLLING OFFICER'S REPLY

SJ046

(Question Serial No. 4410)

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 Budget provides \$150 million to support the development of a dispute resolution online platform by non-governmental organisations with a view to benefiting local micro, small and medium enterprises (MSMEs), as well as those in the Belt and Road economies, members of the APEC, ASEAN and beyond, and facilitating deal making as well as dispute avoidance and resolution.

1. Please provide a breakdown of the estimated expenditure and establishment involved regarding the \$150 million.
2. How many MSMEs in Hong Kong and along the Belt and Road are expected to be benefited from the online platform? How many dispute cases are expected to be resolved?

Asked by: Hon LAU Ip-keung, Kenneth (LegCo internal reference no.: 52)

Reply:

1. According to the proposal put forward by the non-governmental organisation (NGO) concerned, the cost estimate for the development of the platform and its first year of operation is \$68 million, covering around \$34.4 million of capital costs (including information technology (IT) equipment, Proof-of-Concept prototype enrichment, one-off purchase of hardware and software, etc.) and around \$33.7 million of operation costs (including staff salaries, marketing cost, IT cost and office operation cost). Based on the NGO's 10 year projection of income and expenditure, it will have a total deficit of around \$150 million in the first 6 years of operation. It is expected that it will start to break even from the seventh year onwards and will be able to become financially self-sustainable thereafter. The manpower of the NGO is expected to increase gradually from the initial 14 staffers to 25.

2. Upon completion, the platform is expected to benefit local micro, small and medium enterprises, as well as those in the Belt and Road economies, members of the APEC, ASEAN and beyond by providing them with an efficient, cost-effective and secure platform for resolving various types of disputes. It is anticipated that the platform will mainly

provide training in the initial stage of operation. Upon smooth running of the system, the number of arbitration and mediation cases handled is expected to increase proportionally, with a cumulative of over 1 000 cases handled in the first 4 years of operation.

- End -

CONTROLLING OFFICER'S REPLY

SJ047

(Question Serial No. 4415)

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:

Regarding the increase of \$323.7 million (49.2%) in the estimate under Programme (1), what are the respective amounts of court costs and briefing-out expenses? What are the functions and estimated expenditure in respect of the net 9 posts created? What were the reasons for the 26.1% decrease in the estimated expenditure over the actual expenditure for 2018-19?

Asked by: Hon LAU Ip-keung, Kenneth (LegCo internal reference no.: 502)

Reply:

For programme (1), the estimates for court costs and briefing out for 2019-20 are \$223 million and \$261 million respectively. The 2019-20 estimates for court costs and briefing out are 12.1% (or \$24 million) and 15.9% (or \$36 million) higher than the original provision for 2018-19 respectively. As compared to the 2018-19 revised estimates, the estimated expenditure represents an increase of 218.6% (or \$153 million) and 87.8% (or \$122 million) respectively.

The 2018-19 revised estimate is 26.1% (or about \$232 million) lower than the original provision. The revision is mainly due to lower-than-expected court costs and briefing-out expenses for 2018-19 financial year. The annual expenditure for court costs and briefing-out varies from year to year, depending on the number of cases involved, their complexity and development. It should be noted that as the estimate was worked out based on information available at the time of preparing the estimate, the actual expenditure incurred in 2018-19 would ultimately depend on the subsequent development and outcome of the cases concerned (which are not entirely within our control).

The work of the posts to be created in 2019-20 under this Programme Area are set out below

Post(s)	Nature of Duties	NAMS*
Two Senior Government Counsel	Providing additional manpower to strengthen legal support for advisory work	\$1,445,940 x 2 = \$2,891,880
Two Government Counsel	Ditto	\$1,029,240 x 2 = \$2,058,480
Two Law Clerks	Strengthening paralegal support to counsel in handling advisory and advocacy work	\$419,160 x 2 = \$838,320
One Assistant Clerical Officer	Strengthening clerical support to counsel in handling advisory and advocacy work	\$274,380 x 1 = \$274,380
One Principal Government Counsel <small>Note 1 and 2</small>	Handling the work in relation to dispute resolution services	\$2,530,800 x 1 = \$2,530,800
One Personal Secretary I <small>Note 2</small>		\$439,980 x 1 = \$439,980

Note 1: One Principal Government Counsel post will be created after approval from the Finance Committee of the Legislative Council.

Note 2: The post is to be created in the Secretary for Justice's Office.

*NAMS means notional annual mid-point salary

- End -

CONTROLLING OFFICER'S REPLY**SJ048****(Question Serial No. 4416)**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:

Regarding the work to “organise visits and training programmes in Hong Kong for Mainland officials”, please tabulate the i) post titles of the participants, ii) numbers of participants, iii) details, iv) effectiveness and v) expenditures of such visits/training programmes in the past 3 years.

Asked by: Hon LAU Ip-keung, Kenneth (LegCo internal reference no.: 503)Reply:

The information regarding the work to “organise visits and training programmes in Hong Kong for Mainland officials” in 2016, 2017 and 2018 is as follows:

Date	Visit/training programme	Post title(s) of participants	Number of participants	Details	Effectiveness	Expenditure
2016						
January to March 2016 (4 occasions in total)	The Information Services Department (ISD)'s Mainland Visitors Programme – visiting officials nominated by the Department of Justice (DoJ)	Deputy Division Director level to Minister level	2-6 on each occasion	To meet Hong Kong's senior government officials and visit government departments or organisations to learn about the latest developments in Hong Kong	Allowing visiting Mainland officials to experience Hong Kong first hand and to understand Hong Kong's latest situation	Covered by the ISD
April 2016	Mutual exchanges between government legal officials under the Co-operative Arrangement on Legal Matters	Government Legal Advisor	2	To complete a 2-week attachment to the DoJ	Enhancing Mainland legal officials' understanding of the legal system of Hong Kong	The costs of transport to and from Hong Kong and the accommodation costs incurred by the officials on exchange were covered

Date	Visit/training programme	Post title(s) of participants	Number of participants	Details	Effectiveness	Expenditure
	entered into with the People's Government of Shenzhen Municipality					by the respective units to which they belong while staff costs and other expenses involved were absorbed by existing resources of the DoJ
August 2016 to July 2017	2016-2017 Training Scheme in Common Law for Mainland Legal Officials	Deputy Division Director, Principal Staff Member, Senior Staff Member, Legal Aid Lawyer, Cadre, etc.	14	<ul style="list-style-type: none"> To attend a 1-year Master of Common Law programme (MCL programme) at the University of Hong Kong (HKU) or the Chinese University of Hong Kong (CUHK) To complete a 5-8 week attachment to government departments or organisations after completion of the academic programme 	Enhancing Mainland legal officials' understanding of the common law and the legal system of Hong Kong	Tuition fees and accommodation costs were about \$2.6 million. Other expenses involved were absorbed by existing resources of the DoJ
October to November 2016	Mutual exchange programmes for government legal officials under the Legal Services Co-operation Agreements entered into with Mainland justice bureaux and departments	Principal Staff Member to Division Director level	12	To attend briefings on the work of the DoJ and visit government departments and public organisations, etc.	Enhancing Mainland legal officials' understanding of the legal system of Hong Kong	The costs of transport to and from Hong Kong and the accommodation costs incurred by the officials on exchange were covered by their respective justice bureaux/ departments while other expenses involved were absorbed by existing resources of the DoJ

Date	Visit/training programme	Post title(s) of participants	Number of participants	Details	Effectiveness	Expenditure
2017						
January 2017	The ISD's Mainland Visitors Programme – visiting officials nominated by the DoJ	Deputy Division Director level to Deputy Bureau Director - General level	2	To meet senior government officials and visit relevant organisations to learn about the latest developments in Hong Kong	Allowing visiting Mainland officials to experience Hong Kong first hand and to understand Hong Kong's latest situation	Covered by the ISD
August 2017 to July 2018	2017-2018 Training Scheme in Common Law for Mainland Legal Officials	Deputy Division Director, Principal Staff Member, Deputy Section Chief, etc.	8	<ul style="list-style-type: none"> To attend a 1-year MCL programme at the HKU or the CUHK To complete a 6-week attachment to government departments or organisations after completion of the academic programme 	Enhancing Mainland legal officials' understanding of the common law and the legal system of Hong Kong	Tuition fees and accommodation costs were about \$1.7 million. Other expenses involved were absorbed by the existing resources of the DoJ.
2018						
March 2018	The ISD's Mainland Visitors Programme – visiting officials nominated by the DoJ	Division Director level to Bureau Director - General level	2	To meet senior government officials and visit relevant organisations to learn about the latest developments in Hong Kong	Allowing visiting Mainland officials to experience Hong Kong first hand and to understand Hong Kong's latest situation	Covered by the ISD
May to June 2018	Mutual exchange programmes for government legal officials under the Legal Services Co-operation Agreements entered into with Mainland justice bureaux and departments	Principal Staff Member to Division Director level	8	To attend briefings on the work of the DoJ and visit government departments and public organisations, etc.	Enhancing Mainland legal officials' understanding of the legal system of Hong Kong	The costs of transport to and from Hong Kong and the accommodation costs incurred by the officials on exchange were covered by their respective justice bureaux/ departments while other expenses involved were absorbed by

Date	Visit/training programme	Post title(s) of participants	Number of participants	Details	Effectiveness	Expenditure
						existing resources of the DoJ
August 2018 to July 2019	2018-2019 Training Scheme in Common Law for Mainland Legal Officials	Deputy Division Director, Principal Staff Member, Senior Staff Member, Consultant, etc.	16	<ul style="list-style-type: none"> To attend a 1-year MCL programme at the HKU, the CUHK or the City University of Hong Kong To complete a 6-week attachment to government departments or organisations after completion of the academic programme 	Enhancing Mainland Legal officials' understanding of the common law and the legal system of Hong Kong	Tuition fees and accommodation costs were about \$3.3 million. Other expenses involved were absorbed by existing resources of the DoJ.
September 2018	Mutual exchanges between government legal officials under the Co-operative Arrangement on Legal Matters entered into with the People's Government of Shenzhen Municipality	Government Legal Advisor	2	To complete a 2-week attachment to the DoJ	Enhancing Mainland legal officials' understanding of the legal system of Hong Kong	The costs of transport to and from Hong Kong and the accommodation costs incurred by the officials on exchange were covered by the respective units to which they belong while staff costs and other expenses involved were absorbed by existing resources of the DoJ

Note:

Apart from organising the above visits and training programmes, the DoJ has also given briefings to Mainland official delegations at the invitation of other departments or organisations, as noted in our reply to question Q0753.

- End -

CONTROLLING OFFICER'S REPLY

SJ049

(Question Serial No. 1893)

Head: (92) Department of Justice

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

Programme: (2) Civil

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

Director of Bureau: Secretary for Justice

Question:

Please provide in the table below the numbers 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 outcomes of the proceedings and the related expenses in the past 5 years. What claims would be classified as miscellaneous claims? Please provide specific examples.

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
2014						
2015						
2016						
2017						
2018						

Breakdowns by nature of claims

Year	Personal injuries claim	Traffic accident claim	Wrongful detention claim	Miscellaneous claim	Total no. of claims
2014					
2015					
2016					
2017					
2018					

Personal injuries claims

Year	Successful	Unsuccessful	Settled	Pending	Total	Related expenses	
						Court costs	Amount of damages
2014							
2015							
2016							
2017							
2018							

Traffic accident claims

Year	Successful	Unsuccessful	Settled	Pending	Total	Related expenses	
						Court costs	Amount of damages
2014							
2015							
2016							
2017							
2018							

Wrongful detention claims

Year	Successful	Unsuccessful	Settled	Pending	Total	Related expenses	
						Court costs	Amount of damages
2014							
2015							
2016							
2017							
2018							

Miscellaneous claims

Year	Successful	Unsuccessful	Settled	Pending	Total	Related expenses	
						Court costs	Amount of damages
2014							
2015							
2016							
2017							
2018							

Asked by: Hon LEUNG Kenneth (LegCo internal reference no.: 401)

Reply:

The information sought is provided as follows-

No. of claims and expenses with breakdown by outcome

Financial Year	Number of cases where the Department of Justice represented the Commissioner of Police or police officers in civil claims for damages against them ^{Note 1}	Outcome of proceedings ^{Note 2}			Related expenses ^{Note 3}	
		Successful	Unsuccessful	Settled	Court costs (\$'000)	Amount of damages (\$'000)
2014-15	115 [24]	30	3	58	1 609	5 457
2015-16	81 [18]	18	0	45	498	1 883
2016-17	212 [36]	14	0	162	293	2 499
2017-18	74 [53]	2	0	19	487	1 841
2018-19 (up to 28.2.2019)	61 [52]	3	0	6	40	221

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 2019.

Note 2: Position as at 28 February 2019. Proceedings with "Successful" outcome refer to those cases with outcome in favour of the Government.

Note 3: Position as at 28 February 2019. 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 claims

Financial Year	Personal Injuries Claims	Traffic Accident Claims	Wrongful Detention Claims	Miscellaneous Claims	Total No. of Claims
2014-15	24	40	4	47	115
2015-16	8	39	2	32	81
2016-17	10	55	5	142	212
2017-18	11	47	2	14	74
2018-19 (up to 28.2.2019)	11	39	3	8	61

Personal Injuries Claims

Financial Year	Successful	Unsuccessful	Settled	Pending	Total	Related expenses ^{Note 3}	
						Court costs (\$'000)	Amount of damages (\$'000)
2014-15	0	1	12	11	24	1 573	4 535
2015-16	1	0	4	3	8	497	1 086
2016-17	1	0	3	6	10	231	475

2017-18	0	0	2	9	11	487	1 177
2018-19 (up to 28.2.2019)	1	0	1	9	11	40	27

Traffic Accident Claims

Financial Year	Successful	Unsuccessful	Settled	Pending	Total	Related expenses ^{Note 3}	
						Court costs (\$'000)	Amount of damages (\$'000)
2014-15	1	0	33	6	40	11	797
2015-16	0	0	34	5	39	0	769
2016-17	4	0	35	16	55	62	907
2017-18	1	0	14	32	47	0	632
2018-19 (up to 28.2.2019)	0	0	5	34	39	0	194

Wrongful Detention Claims

Financial Year	Successful	Unsuccessful	Settled	Pending	Total	Related expenses ^{Note 3}	
						Court costs (\$'000)	Amount of damages (\$'000)
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	0	0	0	2	2	0	0
2018-19 (up to 28.2.2019)	1	0	0	2	3	0	0

Miscellaneous Claims

Financial Year	Successful	Unsuccessful	Settled	Pending	Total	Related expenses ^{Note 3}	
						Court costs (\$'000)	Amount of damages (\$'000)
2014-15	28	2	13	4	47	25	125
2015-16	17	0	7	8	32	1	28
2016-17	9	0	124	9	142	0	1 117
2017-18	1	0	3	10	14	0	32
2018-19 (up to 28.2.2019)	1	0	0	7	8	0	0

Miscellaneous Claims include all kinds of claims that fall outside the categories of personal injuries, traffic accident and wrongful detention claims, for example, claims for the repair/replacement costs of properties damaged during police's operation, etc.

- End -

CONTROLLING OFFICER'S REPLY

SJ050

(Question Serial No. 1894)

Head: (92) Department of Justice

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

Programme: (2) Civil

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

Director of Bureau: Secretary for Justice

Question:

(1) Please provide in the table below the numbers of cases where the Department of Justice (DoJ) represented the Director of Immigration (D of Imm) or immigration officers in civil claims for damages against them for their actions taken in the course of duties, the outcomes of the proceedings and the related expenses in the past 5 years. What claims would be classified as miscellaneous claims? Please provide specific examples.

Year	Number of cases where the DoJ represented the D of Imm or immigration officers in civil claims for damages against them	Outcome of proceedings			Related expenses	
		Successful	Unsuccessful	Settled	Court costs	Amount of damages
2014						
2015						
2016						
2017						
2018						

(2) Please provide a breakdown of the numbers of claims by nature (such as personal injuries claims, wrongful arrest or detention claims, traffic accidents claims, contractual claims, etc.) in the past 5 years by listing out the information concerned by year.

(3) Please provide in the table below the relevant information relating to the various types of claims:

Year	Successful	Unsuccessful	Settled	Pending	Total	Related expenses	
						Court	Amount of

						costs	damages
2014							
2015							
2016							
2017							
2018							

Asked by: Hon LEUNG Kenneth (LegCo internal reference no.: 402)

Reply:

The information sought is provided as follows-

No. of claims and expenses with breakdown by outcome

Financial Year	Number of cases where the Department of Justice represented the Director of Immigration or immigration officers in civil claims for damages against them <small>Note 1</small>	Outcome of proceedings <small>Note 2</small>			Related expenses <small>Note 3</small>	
		Successful	Unsuccessful	Settled	Court costs (\$'000)	Amount of damages (\$'000)
2014-15	124 [17]	0	2	105	5 734	6 015
2015-16	616 [263]	33	1	319	6 319	13 595
2016-17	69 [41]	2	1	25	385	1 809
2017-18	142 [91]	0	1	50	462	3 589
2018-19 (up to 28.2.2019)	85 [78]	0	0	7	0	342

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 2019.

Note 2: Position as at 28 February 2019. Proceedings with "Successful" outcome refer to those cases with outcome in favour of the Government.

Note 3: Position as at 28 February 2019. 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 claims

Financial Year	Personal Injuries Claims	Traffic Accident Claims	Wrongful Detention Claims	Miscellaneous Claims	Total No. of Claims
2014-15	0	0	124	0	124
2015-16	1	0	614	1	616
2016-17	1	0	67	1	69
2017-18	0	0	137	5	142
2018-19 (up to 28.2.2019)	2	1	80	2	85

Personal Injuries Claims

Financial Year	Successful	Unsuccessful	Settled	Pending Judgement	Total	Related expenses ^{Note 3}	
						Court costs (\$'000)	Amount of damages (\$'000)
2014-15	0	0	0	0	0	0	0
2015-16	1	0	0	0	1	0	0
2016-17	0	0	0	1	1	0	0
2017-18	0	0	0	0	0	0	0
2018-19 (up to 28.2.2019)	0	0	0	2	2	0	0

Traffic Accident Claims

Financial Year	Successful	Unsuccessful	Settled	Pending Judgement	Total	Related expenses ^{Note 3}	
						Court costs (\$'000)	Amount of damages (\$'000)
2014-15	0	0	0	0	0	0	0
2015-16	0	0	0	0	0	0	0
2016-17	0	0	0	0	0	0	0
2017-18	0	0	0	0	0	0	0
2018-19 (up to 28.2.2019)	0	0	1	0	1	0	18

Wrongful Detention Claims

Financial Year	Successful	Unsuccessful	Settled	Pending Judgement	Total	Related expenses ^{Note 3}	
						Court costs (\$'000)	Amount of damages (\$'000)
2014-15	0	2	105	17	124	5 734	6 015
2015-16	32	1	319	262	614	6 319	13 595
2016-17	1	1	25	40	67	385	1 809
2017-18	0	1	47	89	137	462	3 587
2018-19 (up to 28.2.2019)	0	0	6	74	80	0	324

Miscellaneous Claims

Financial Year	Successful	Unsuccessful	Settled	Pending Judgement	Total	Related expenses ^{Note 3}	
						Court costs (\$'000)	Amount of damages (\$'000)
2014-15	0	0	0	0	0	0	0
2015-16	0	0	0	1	1	0	0
2016-17	1	0	0	0	1	0	0
2017-18	0	0	3	2	5	0	2
2018-19 (up to 28.2.2019)	0	0	0	2	2	0	0

Miscellaneous Claims include all kinds of claims that fall outside the categories of personal injuries, traffic accident and wrongful detention claims, for example, claims for the repair/replacement costs of properties damaged during Immigration Department's operation, etc.

- End -

CONTROLLING OFFICER'S REPLY

SJ051

(Question Serial No. 1895)

Head: (92) Department of Justice

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

Programme: (2) Civil

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

Director of Bureau: Secretary for Justice

Question:

(1) Please provide in the table below the numbers of cases where the Department of Justice (DoJ) represented the Commissioner of Customs and Excise (C of C&E) or customs officers in civil claims for damages against them for their actions taken in the course of duties, the outcomes of the proceedings and the related expenses in the past 5 years. What claims would be classified as miscellaneous claims? Please provide specific examples.

Year	Number of cases where the DoJ represented the C of C & E or customs officers in civil claims for damages against them	Outcome of proceedings			Related expenses	
		Successful	Unsuccessful	Settled	Court costs	Amount of damages
2014						
2015						
2016						
2017						
2018						

(2) Please provide a breakdown of the numbers of claims by nature (such as personal injuries claims, wrongful arrest or detention claims, traffic accidents claims, contractual claims, etc.) in the past 5 years by listing out the information concerned by year.

(3) Please provide in the table below the relevant information relating to the various types of claims:

Year	Successful	Unsuccessful	Settled	Pending	Total	Related expenses	
						Court costs	Amount of damages
2014							
2015							
2016							
2017							
2018							

Asked by: Hon LEUNG Kenneth (LegCo internal reference no.: 403)

Reply:

The information sought is provided as follows-

No. of claims and expenses with breakdown by outcome

Financial Year	Number of cases where the Department of Justice represented the Commissioner of Customs & Excise or Customs & Excise Department officers in civil claims for damages against them ^{Note 1}	Outcome of proceedings ^{Note 2}			Related expenses ^{Note 3}	
		Successful	Unsuccessful	Settled	Court costs (\$'000)	Amount of damages (\$'000)
2014-15	4 [4]	0	0	0	0	0
2015-16	9 [5]	0	0	4	135	163
2016-17	8 [7]	0	0	1	0	34
2017-18	6 [5]	0	0	1	0	30
2018-19 (up to 28.2.2019)	6 [6]	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 2019.

Note 2: Position as at 28 February 2019. Proceedings with "Successful" outcome refer to those cases with outcome in favour of the Government.

Note 3: Position as at 28 February 2019. 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 claims

Financial Year	Personal Injuries Claims	Traffic Accident Claims	Wrongful Detention Claims	Miscellaneous Claims	Total No. of Claims
2014-15	1	1	0	2	4
2015-16	1	5	1	2	9
2016-17	1	3	1	3	8
2017-18	0	2	1	3	6
2018-19 (up to 28.2.2019)	1	4	0	1	6

Personal Injuries Claims

Financial Year	Successful	Unsuccessful	Settled	Pending Judgement	Total	Related expenses ^{Note 3}	
						Court costs (\$'000)	Amount of damages (\$'000)
2014-15	0	0	0	1	1	0	0
2015-16	0	0	1	0	1	135	110
2016-17	0	0	0	1	1	0	0
2017-18	0	0	0	0	0	0	0
2018-19 (up to 28.2.2019)	0	0	0	1	1	0	0

Traffic Accident Claims

Financial Year	Successful	Unsuccessful	Settled	Pending Judgement	Total	Related expenses ^{Note 3}	
						Court costs (\$'000)	Amount of damages (\$'000)
2014-15	0	0	0	1	1	0	0
2015-16	0	0	3	2	5	0	53
2016-17	0	0	1	2	3	0	34
2017-18	0	0	1	1	2	0	30
2018-19 (up to 28.2.2019)	0	0	0	4	4	0	0

Wrongful Detention Claims

Financial Year	Successful	Unsuccessful	Settled	Pending Judgement	Total	Related expenses ^{Note 3}	
						Court costs (\$'000)	Amount of damages (\$'000)
2014-15	0	0	0	0	0	0	0
2015-16	0	0	0	1	1	0	0
2016-17	0	0	0	1	1	0	0
2017-18	0	0	0	1	1	0	0
2018-19 (up to 28.2.2019)	0	0	0	0	0	0	0

Miscellaneous Claims

Financial Year	Successful	Unsuccessful	Settled	Pending Judgement	Total	Related expenses ^{Note 3}	
						Court costs (\$'000)	Amount of damages (\$'000)
2014-15	0	0	0	2	2	0	0
2015-16	0	0	0	2	2	0	0
2016-17	0	0	0	3	3	0	0
2017-18	0	0	0	3	3	0	0
2018-19 (up to 28.2.2019)	0	0	0	1	1	0	0

Miscellaneous Claims include all kinds of claims that fall outside the categories of personal injuries, traffic accident and wrongful detention claims, for example, claims for alleged wrongful possession and detention of properties/goods, etc.

- End -

CONTROLLING OFFICER'S REPLY

SJ052

(Question Serial No. 1896)

Head: (92) Department of Justice

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

Programme: (2) Civil

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

Director of Bureau: Secretary for Justice

Question:

(1) Please provide in the table below the numbers of cases where the Department of Justice (DoJ) represented the Commissioner of Correctional Services (C of CS) or correctional services officers in civil claims for damages against them for their actions taken in the course of duties, the outcomes of the proceedings and the related expenses in the past 5 years. What claims would be classified as miscellaneous claims? Please provide specific examples.

Year	Number of cases where the DoJ represented the C of CS or correctional services officers in civil claims for damages against them	Outcome of proceedings			Related expenses	
		Successful	Unsuccessful	Settled	Court costs	Amount of damages
2014						
2015						
2016						
2017						
2018						

(2) Please provide a breakdown of the numbers of claims by nature (such as personal injuries claims, wrongful arrest or detention claims, traffic accidents claims, contractual claims, etc.) in the past 5 years by listing out the information concerned by year.

(3) Please provide in the table below the relevant information relating to the various types of claims:

Year	Successful	Unsuccessful	Settled	Pending	Total	Related expenses	
						Court costs	Amount of damages
2014							
2015							
2016							
2017							
2018							

Asked by: Hon LEUNG Kenneth (LegCo internal reference no.: 404)

Reply:

The information sought is provided as follows-

No. of claims and expenses with breakdown by outcome

Financial Year	Number of cases where the Department of Justice represented the Commissioner of Correctional Services or Correctional Services Department officers in civil claims for damages against them ^{Note 1}	Outcome of proceedings ^{Note 2}			Related expenses ^{Note 3}	
		Successful	Unsuccessful	Settled	Court costs (\$'000)	Amount of damages (\$'000)
2014-15	6 [2]	0	0	4	240	277
2015-16	13 [6]	2	0	5	565	241
2016-17	5 [4]	0	1	0	250	200
2017-18	6 [6]	0	0	0	0	0
2018-19 (up to 28.2.2019)	7 [4]	2	0	1	0	16

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 2019.

Note 2: Position as at 28 February 2019. Proceedings with "Successful" outcome refer to those cases with outcome in favour of the Government.

Note 3: Position as at 28 February 2019. 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 claims

Financial Year	Personal Injuries Claims	Traffic Accident Claims	Wrongful Detention Claims	Miscellaneous Claims	Total No. of Claims
2014-15	2	3	1	0	6
2015-16	7	2	2	2	13
2016-17	5	0	0	0	5
2017-18	4	0	0	2	6
2018-19 (up to 28.2.2019)	2	1	2	2	7

Personal Injuries Claims

Financial Year	Successful	Unsuccessful	Settled	Pending	Total	Related expenses ^{Note 3}	
						Court costs (\$'000)	Amount of damages (\$'000)
2014-15	0	0	1	1	2	240	225
2015-16	1	0	4	2	7	565	235
2016-17	0	1	0	4	5	250	200
2017-18	0	0	0	4	4	0	0
2018-19 (up to 28.2.2019)	0	0	0	2	2	0	0

Traffic Accident Claims

Financial Year	Successful	Unsuccessful	Settled	Pending	Total	Related expenses ^{Note 3}	
						Court costs (\$'000)	Amount of damages (\$'000)
2014-15	0	0	3	0	3	0	52
2015-16	0	0	1	1	2	0	6
2016-17	0	0	0	0	0	0	0
2017-18	0	0	0	0	0	0	0
2018-19 (up to 28.2.2019)	0	0	1	0	1	0	16

Wrongful Detention Claims

Financial Year	Successful	Unsuccessful	Settled	Pending	Total	Related expenses ^{Note 3}	
						Court costs (\$'000)	Amount of damages (\$'000)
2014-15	0	0	0	1	1	0	0
2015-16	0	0	0	2	2	0	0
2016-17	0	0	0	0	0	0	0
2017-18	0	0	0	0	0	0	0
2018-19 (up to 28.2.2019)	0	0	0	2	2	0	0

Miscellaneous Claims

Financial Year	Successful	Unsuccessful	Settled	Pending	Total	Related expenses ^{Note 3}	
						Court costs (\$'000)	Amount of damages (\$'000)
2014-15	0	0	0	0	0	0	0
2015-16	1	0	0	1	2	0	0
2016-17	0	0	0	0	0	0	0
2017-18	0	0	0	2	2	0	0
2018-19 (up to 28.2.2019)	2	0	0	0	2	0	0

Miscellaneous Claims include all kinds of claims that fall outside the categories of personal injuries, traffic accident and wrongful detention claims, for example, claims for alleged medical negligence during detention, etc.

- End -

CONTROLLING OFFICER'S REPLY

SJ053

(Question Serial No. 1583)

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:

Article 63 of the Basic Law provides that “[t]he Department of Justice of the Hong Kong Special Administrative Region shall control criminal prosecutions”. There are different views in the community on whether the Department should seek legal advice from independent senior counsel when handling prosecution cases that are sensitive or involve senior officials. In this regard, would the Department inform this Committee of the following:

1. Will the Department stipulate in black and white the criteria for seeking independent legal advice?
2. What measures are in place to ensure the Department’s criminal prosecution work is free from any interference? Will additional resources be allocated? Please elaborate on that.

Asked by: Hon LEUNG Mei-fun, Priscilla (LegCo internal reference no.: 31)

Reply:

- (1) Generally speaking, there are two types of briefing out of criminal cases: namely, seeking outside legal advice before prosecutorial decision is made, and after prosecution is instituted. Regarding the former, the norm of the Department of Justice (DoJ) is for members of the DoJ to make prosecutorial decisions. When a case involves member(s) of the DoJ, it is appropriate to seek outside legal advice. In general, depending on the need of the case, the DoJ may resort to briefing out when:
 - (a) there is a need for expert assistance where the requisite skill is not available within 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 DoJ who is uniquely familiar with the details of the case concerned is in private practice at the time when legal services are required; and
 - (f) there is a need for independent legal advice or services for matters or proceedings involving members of the DoJ.

When discharging its constitutional duty under Article 63 of the Basic Law, the ultimate prosecutorial decision is to be taken by the DoJ even if legal advice is sought from outside counsel in private practice. It is not the norm for the DoJ to seek outside legal advice before prosecutorial decision is made. It has never been the DoJ's practice to brief out cases on the sole basis that they involved public officers or political figures or a "sensitive" nature. In considering whether to seek outside legal advice, the DoJ will make a professional judgment based on the need of a specific case and the circumstances explained above. According to paragraph 1.2 of the Prosecution Code, a prosecutor must not be influenced by the social status, political background of the persons involved, possible media or public reaction to the decision or other irrelevant factors.

- (2) Prosecutorial independence is guaranteed by Article 63 of the Basic Law. In *Re C (A Bankrupt)* [2006] 3 HKC 582, the Court of Appeal clearly pointed out that the Secretary for Justice shall be "free from interference" and "without political or other pressure" when carrying out his or her work under Article 63 of the Basic Law.

The Prosecution Code (the Code) is a set of statements and instructions to guide prosecutors on how to conduct prosecutions. Prosecutors must operate within the framework of defined and clear prosecution policy guidelines set out in the Code. Prosecutorial independence is the fundamental principle upheld in the Code, of which paragraph 1.1 stipulates that "a prosecutor is required to act in the general public interest, but independently as a 'minister of justice'. In making decisions and exercising discretion, a prosecutor must act fairly and dispassionately on the basis of the law, the facts provable by the admissible evidence, other relevant information known to the prosecution and any applicable policy or guidelines." Paragraph 1.2 of the Code also stipulates that a prosecutor must not be influenced by irrelevant factors.

The above legal requirements and the Code ensure that the DoJ handles prosecutions in a fair and just manner, free from any interference.

We seek to enhance the efficiency and standards of our in-house prosecutors in handling prosecutions through various means. We review from time to time the volume of work and our staff establishment, and apply for additional resources to meet the operational needs in accordance with the established mechanism, when appropriate. In 2019-20, the Prosecutions Division will create 2 additional Senior Government Counsel and 2 additional Government Counsel posts.

- End -

CONTROLLING OFFICER'S REPLY

SJ054

(Question Serial No. 1584)

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:

Regarding the obvious drops in the conviction rates of defendants in District Courts for 2017 and 2018 as revealed by the information, the conviction rate of defendants convicted after trial dropped from 78.5% in 2017 to 59.2% in 2018 while that of defendants convicted after trial and defendants convicted on their own pleas from 94.7% in 2017 to 89.8% in 2018. Would the Department of Justice (DoJ) inform this Committee whether there are succession problems in the Prosecutions Division of DoJ accounting for such conviction rates? If yes, how will DoJ allocate more resources to train up prosecutors? If not, please give a detailed account of the reasons.

Asked by: Hon LEUNG Mei-fun, Priscilla (LegCo internal reference no.: 32)

Reply:

As the prosecution authority, our objective is to see that appropriate cases are presented fairly to the court. Prosecutions are, in accordance with the guidelines set out in the Prosecution Code, pursued only if there is a reasonable prospect of conviction and that it is in the public interest to prosecute. Once it is decided that prosecution should be pursued, it is the duty of prosecutors to act in a fair and objective manner. The question of guilt or innocence is a matter for the court to decide, on the criminal law standard of proving “beyond reasonable doubt” (which is a threshold higher than the one for deciding whether to commence prosecution). Conviction rates in criminal cases are not affected by any other factors, including manpower or resources.

The success rate of prosecutions at the District Court level (including defendants convicted after trial and defendants convicted on their own pleas) are set out below :

Conviction Rate at District Court	2014	2015	2016	2017	2018
- defendants convicted after trial (%)	89.1%	70.2%	72.8%	78.5%	59.2%
- defendants convicted after trial and	97.6%	93.4%	94.6%	94.7%	89.8%

defendants convicted on their own pleas (%)					
---	--	--	--	--	--

There is no succession problem within the Prosecutions Division. There are established arrangements in place for filling relevant vacancies, so as to ensure smooth operation of the Division.

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

- (a) the Prosecutions Division (PD) reviews from time to time the volume of work and its staff establishment, and applies for additional resources to meet the daily operational needs according to established mechanism, when appropriate. In 2019-20, PD will create 2 additional Senior Government Counsel and 2 additional Government Counsel posts;
- (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

SJ055

(Question Serial No. 1585)

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 Policy Address indicated support for the development of a dispute resolution online platform by non-governmental organisations to enhance the development of LawTech in Hong Kong and consolidate Hong Kong's position as an international dispute resolution services centre. This Committee is pleased to see the application of technologies on the legal front. In this connection, would the Government inform this Committee of the following:

1. What specific measures are in place to support the development of the online legal platform?
2. In view of the rather serious nature of law, will additional resources be allocated for implementing regulatory measures on it?

Asked by: Hon LEUNG Mei-fun, Priscilla (LegCo internal reference no.: 33)

Reply:

As mentioned in the Policy Address and the Budget, the Government supports the development of a dispute resolution online platform by non-governmental organisations (NGOs) to enhance the development of LawTech in Hong Kong and consolidate Hong Kong's position as an international dispute resolution services centre.

The eBRAM Centre, a locally-incorporated NGO, is preparing for the development of an Electronic Business Related Arbitration and Mediation (eBRAM) platform. As far as we know from available information, the Centre, with its founding members from major legal professional bodies and the innovation and technology sector, is currently the only local NGO which is taking active steps to develop and promote online dispute resolution (ODR) services. The Centre is also the only local ODR services provider invited by the APEC workshop organisers to participate in their meetings and workshops. Having regard to its wide representation and recognition, as well as its expertise, competency, practical experience and enthusiasm in developing ODR services, we consider the Centre the most suitable local NGO to take forward the development and implementation of the eBRAM

platform. The vision and direction of the Centre are in line with our stated policy objective. We have consulted the Panel on Administration of Justice and Legal Services and will seek funding approval of \$150 million from the Finance Committee in due course to support the Centre in developing the eBRAM platform and its initial operation.

Membership of the Board of the eBRAM Centre will comprise representatives of relevant sectors, including those from the Law Society of Hong Kong, the Hong Kong Bar Association, the Asian Academy of International Law, academic institutions with legal and arbitration and mediation experience, trade associations, research institutions, public bodies, and persons with legal, accounting, financial/management background, etc. Government representatives can also serve on the Board of the Centre to give advice from their respective policy perspectives. As in the case of other Government subvented organisations, the Government will sign a memorandum of understanding with the Centre on specific areas in relation to the Centre's operation (including possible appointment of members to the Board of Directors by the Government) and the utilisation of any funding provided, including a progress reporting mechanism. The objectives of the Centre will be clearly set out in its Memorandum and Articles of Association. As a non-profit-making entity, the Centre will not distribute its dividends.

- End -

CONTROLLING OFFICER'S REPLY

SJ056

(Question Serial No. 1586)

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:

A cross-sector working group established by the Department of Justice commenced in February 2013 a study on the recommendations of a report which proposed that the class action regime should be implemented incrementally, starting with consumer cases, with funding made available through the Consumer Legal Action Fund managed by the Consumer Council for class action proceedings arising from consumer claims. In the light of the experience accrued, assessments can be made on whether and when the class action regime should be extended to other types of cases. However, the Administration has not published the results of the study so far. The suspected data leakage affecting up to 9.4 million Cathay Pacific passengers, legal disputes involving certain chain franchisees, disputes involving owners' corporations of large housing estates, etc. all represent the types of cases that can be included in the class action proposal. In this connection, would the Administration inform this Committee of the following:

1. Does the Government have a timetable for the introduction of a class action regime? If so, what is the timetable? If not, what are the reasons?
2. How many types of cases is the Administration currently studying for inclusion in the class action regime?
3. Has the Administration provided additional judicial resources to help safeguard the rights of the ordinary citizens affected? If so, what are the details? If not, what are the reasons?

Asked by: Hon LEUNG Mei-fun, Priscilla (LegCo internal reference no.: 34)

Reply:

- (1)& (2) The cross-sector Working Group established by the Department of Justice (DoJ) is still studying and considering the Law Reform Commission (LRC)'s report on class actions. As at 30 March 2019, the Working Group has held 25 meetings since its inception while a sub-committee set up under the working group has met 29 times. The study is progressing well, but the subject of class actions

involves wide-ranging, complex and interrelated issues covering not only technical issues in law but also policy considerations. In relation to these two aspects, there is still room for modifications regarding the details from the implementation angle, and time is required for more in-depth analysis. As regards the types of cases under study, the Working Group is mainly considering the LRC report's recommendation to introduce a class action regime starting with consumer claims. In the course of the study, the Working Group will continue to note and draw reference from the developments in those overseas jurisdictions which have introduced a class action regime as regards its implementation by the courts and the use of non-litigation means to resolve disputes. Upon completion of the study, the Working Group will put forward its recommendations for the Government to consider and map out the way forward. Although there is not yet a specific timetable for public consultation, the secretariat of the Working Group has started compiling a draft consultation document in parallel based on the research papers and deliberations of the Working Group.

(3) Currently, multiple government-funded channels and mechanisms in Hong Kong exist to provide the public with information or financial assistance in relation to civil litigation or dispute resolution. Examples include:

- (1) Legal aid schemes
- (2) Legal Advice Scheme for Unrepresented Litigants on Civil Procedures
- (3) Consumer Legal Action Fund
- (4) Financial Dispute Resolution Scheme managed by the Financial Dispute Resolution Centre
- (5) Legal assistance provided by the Equal Opportunities Commission
- (6) Legal assistance provided by the Office of the Privacy Commissioner for Personal Data
- (7) Free pilot Building Management Dispute Resolution Service launched by the Home Affairs Department.

The HKSAR Government will continue to provide necessary resources for the above channels and mechanisms so as to ensure their effective operation.

- End -

CONTROLLING OFFICER'S REPLY

SJ057

(Question Serial No. 1587)

Head: (92) Department of Justice

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

Programme: (3) Legal Policy
(4) Law Drafting
(5) International Law

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

Director of Bureau: Secretary for Justice

Question:

Regarding the Outline Development Plan for the Guangdong-Hong Kong-Macao Greater Bay Area promulgated last month to leverage on the complementary cooperation among the 9 cities and 2 special administrative regions for furthering the country's economic development and Hong Kong's leading position as an international financial centre in the Greater Bay Area, please advise this Committee on the following:

1. How many resources will the Government allocate for the Greater Bay Area development?
2. What Government's legal measures are in place to help Hong Kong people seeking development in the Greater Bay Area?
3. Will the Government promote Hong Kong as an arbitration centre in the Greater Bay Area?

Asked by: Hon LEUNG Mei-fun, Priscilla (LegCo internal reference no.: 35)

Reply:

(1) & (2)

To take forward the work on the development of the Guangdong-Hong Kong-Macao Greater Bay Area (Greater Bay Area) more effectively, the Chief Executive announced in the Policy Address delivered in October 2018 that a high-level Steering Committee for the Development of the Greater Bay Area (Steering Committee) would be established, with her as the chairperson and its membership comprising all Secretaries of Department and Directors of Bureau. The Steering Committee will be responsible for the overall co-ordination of matters relating to Hong Kong's participation in the development of the Greater Bay Area. The Constitutional and Mainland Affairs Bureau (CMAB) will also set up a Greater Bay Area Development Office (the Office) in 2019-20 and appoint a

Commissioner for the Development of the Greater Bay Area to implement the relevant work. CMAB will also take forward the development of the Greater Bay Area with the assistance of Mainland Offices of the Hong Kong Special Administrative Region (SAR) Government.

According to the information provided by CMAB, the estimated expenditure of the Office for 2019-20 is about \$38 million, of which about \$21 million is staff cost on civil service posts and about \$17 million is other operating expenses. The work priorities of the Office for 2019-20 include the following: to carry out promotion and publicity work and disseminate information to deepen the understanding of the public and industries on the development of the Greater Bay Area; to co-ordinate with relevant central ministries/departments, the Guangdong Provincial Government and the Macao SAR Government, as well as the relevant bureaux/departments of the Hong Kong SAR Government; to formulate annual work priorities to take forward the development of the Greater Bay Area; and to maintain close liaison with business associations, professional bodies and relevant stakeholders to gauge their views on the effective implementation of the Outline Development Plan for the Guangdong-Hong Kong-Macao Greater Bay Area, so that the measures introduced will suit the needs of society and the Hong Kong people. The Government will also endeavour to play the role of a “facilitator” and discuss with central ministries/departments, the Guangdong Provincial Government and the Macao SAR Government to help industries with the policy innovation and breakthrough required in the process of expanding opportunities.

(3)

In the past few years, the DoJ and the legal and dispute resolution (including arbitration and mediation) services sectors have visited the Greater Bay Area for exchanges from time to time to build a contact network and mutual trust with the local enterprises.

The DoJ hopes to further introduce Hong Kong’s “brand name” to the Mainland legal services market (including the Greater Bay Area) through various promotional activities in a bid to explore new opportunities for Hong Kong’s legal and dispute resolution (including arbitration) professions. For instance, we co-organised with the Hong Kong Trade Development Council and the legal and dispute resolution services sectors the second and fifth Hong Kong Legal Services Forums in Guangzhou in 2012 and 2018. To ride on the momentum of the national development of the Greater Bay Area, the fifth Forum featured the theme of “From Bay Area to International Arena” and introduced to enterprises the international legal and dispute resolution services Hong Kong could provide as a “deal maker” and “dispute resolver”. It attracted a record high attendance of 1 200 participants, testifying to the usefulness of the Forum in promoting Hong Kong’s international legal and dispute resolution (including arbitration) services to enterprises and other service users in the Mainland.

Apart from the various programmes and activities organised/co-organised by the DoJ, the Secretary for Justice (SJ), Law Officers and other senior DoJ officers have also been invited by organisations in the Greater Bay Area from time to time to attend and speak at the related activities, during which they introduced the attributes of Hong Kong’s arbitration regime and made use of the opportunities to promote Hong Kong’s status as an international legal and dispute resolution centre.

To better cope with the challenges and to harness the opportunities offered by the Belt and Road Initiative and the Greater Bay Area plan, the DoJ established the Inclusive Dispute Avoidance and Resolution Office on 2 January 2019, which works directly under SJ's steer. Under the coordination of the Office, the DoJ will continue to reinforce the promotion of Hong Kong's legal and dispute resolution services in the Mainland (including the Greater Bay Area) and the Belt and Road economies while keeping on working with the relevant legal and dispute resolution professional bodies in promoting the attributes of Hong Kong's legal and dispute resolution professions and the services they can provide through forums, seminars and other activities in various Mainland cities (including those in the Greater Bay Area) as well as other places in the Asia-Pacific region.

- End -

CONTROLLING OFFICER'S REPLY

SJ058

(Question Serial No. 3472)

Head: (92) Department of Justice

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

Programme: (3) Legal Policy
(4) Law Drafting

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

Director of Bureau: Secretary for Justice

Question:

In the recent incident where the contractor of the Hong Kong Link Road of the Hong Kong-Zhuhai-Macao Bridge failed to submit more than 10 000 Request for Inspection and Survey Checking Forms (RISC forms) on time during the construction period, the relevant RISC forms subsequently furnished by China State Construction Engineering (Hong Kong) Limited were taken as late submissions as revealed by their signature dates and the department concerned was not aware of any indication of document forgery. On the other hand, the works of the Hung Hom Station of the Shatin to Central Link are also plagued with problems. In this regard, the Department of Justice (DoJ) is invited to advise on the following:

1. What are the legislations and penalties in respect of mishandling RISC forms? If no legislation is applicable, will the DoJ consider enacting such legislation as soon as possible?
2. Regarding works where the Police has found no indication of document forgery but the incidents concerned are of significant public interest, will the DoJ study the feasibility of initiating class actions?

Asked by: Hon LEUNG Mei-fun, Priscilla (LegCo internal reference no.: 52)

Reply:

1. Given the potential criminal liability involved in individual cases, it is inappropriate for the Department of Justice (DoJ) to comment so as not to prejudice any criminal investigations that may be under way.
2. Regarding the feasibility study of allowing class actions institutionally, the Law Reform Commission (LRC) published a report on class actions in May 2012, recommending the introduction of a class action regime in the HKSAR. Thereafter, the DoJ established a cross-sector working group to study and consider the LRC's recommendation. The study by the working group has mainly focused on

considering the LRC report's recommendation to introduce a class action regime by starting with consumer cases. The policy and legal issues involved are complex and interrelated. As at 30 March 2019, the working group has held 25 meetings while a sub-committee set up under it has met 29 times. Upon completion of the study, the working group will put forward its recommendations for the Government to consider and map out the way forward.

- End -

CONTROLLING OFFICER'S REPLY

SJ059

(Question Serial No. 1993)

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:

As announced by the Chief Executive in the 2017 Policy Address, the Government has decided to take the lead in setting up a “special needs trust”, with the Director of Social Welfare as the trustee, to provide trust services for parents who have family members with special needs. The trust will manage the assets of those parents after their passing to meet the long term daily needs of their children. As the establishment of the government-led Special Needs Trust Scheme is a civil matter requiring special attention by the Department of Justice in 2019-20, please advise on the manpower involved and details of the relevant work.

Asked by: Hon LIAO Cheung-kong, Martin (LegCo internal reference no.: 26)

Reply:

The Civil Division of the Department of Justice advises the Social Welfare Department (SWD) on the setting up of the “special needs trust” steered by the Government (including the drafting of the relevant legal documents). After the launch of the “special needs trust” services, we will continue to advise SWD on legal issues arising from its implementation. The work 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.

- End -

CONTROLLING OFFICER'S REPLY

SJ060

(Question Serial No. 1994)

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:

As regards the Programme of Law Drafting, despite a net deletion of 7 posts in the Department of Justice, the revised estimate for 2019-20 sees an increase of \$16.7 million due to briefing-out and general departmental expenses. Please provide the details of briefing-out and departmental expenses, as well as the basis of the estimate.

Asked by: Hon LIAO Cheung-kong, Martin (LegCo internal reference no.: 27)

Reply:

In 2019-20, although there will be a net deletion of 7 posts, there will be an increase in the briefing out expenditure and general departmental expenses in the Law Drafting Division, as well as an increase in the personal emoluments and personnel related expenses for the creation of posts and filling of vacancies to meet operational needs. Therefore there is an increase in the overall estimates of \$16.7 million.

The annual expenditure on briefing-out and general departmental expenses varies from year to year, depending on many factors including the number of jobs involved, their complexity and development, as well as the number of staff and operational needs.

- End -

CONTROLLING OFFICER'S REPLY

SJ061

(Question Serial No. 1995)

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:

Under Operational expenses, the legal service charge for construction dispute resolution increases from the revised estimate of \$91 million for 2018-19 to the estimate of \$114 million for 2019-20, which is double the actual provision of \$53.526 million for 2017-18. This charge and the expenses for the hire of legal services and related professional fees are separate items under the Details of Expenditure. Please advise whether legal services for construction dispute resolution are briefed out. If not, what are the reasons for the increase in the estimate for 2019-20? How much manpower in the Department of Justice is involved?

Asked by: Hon LIAO Cheung-kong, Martin (LegCo internal reference no.: 28)

Reply:

Construction dispute resolution cases are handled by the Legal Advisory Division (Works) (LAD(W)) under the Development Bureau. LAD(W), with 17 Government Counsel grade officers, is responsible for handling various types of work, including advisory work on related matters and handling relatively small scale mediation and arbitration cases. For large-scale arbitration cases, as they are complex in nature and involve huge amounts in dispute, LAD(W) may consider briefing out the cases to outside counsel, solicitor firms) and relevant experts according to operational needs.

The estimate for briefing-out expenses for construction dispute resolution (including expert and arbitrator fees) for 2019-20 is \$114 million. The 2019-20 estimate is 25.3% (or \$23 million) higher than the revised estimate for 2018-19 and 112.9% (or \$60.47 million) higher than the actual expenditure of 2017-18. 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 2019-20 will 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 LAD(W)). The anticipated increase in briefing-out expenses for construction dispute

resolution for 2019-20 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 required for a number of cases rolled over from 2018-19. Besides, the general increase in the fees for solicitors, counsel and experts as well as the increasing complexity of the cases in recent years have also led to higher briefing-out expenses for individual cases.

- End -

CONTROLLING OFFICER'S REPLY

SJ062

(Question Serial No. 1996)

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:

The provision under the Programme of International Law for 2019-20 is \$17.3 million higher than the revised estimate for 2018-19 mainly due to the anticipated increase in briefing-out expenses and the net creation of 4 posts to meet operational needs. Please provide the details of these 4 posts and the briefing-out as anticipated, as well as the measures to be taken by the Department of Justice to enhance international legal services to cope with potential trade disputes between China and the United States.

Asked by: Hon LIAO Cheung-kong, Martin (LegCo internal reference no.: 29)

Reply:

The International Law Division will create 5 permanent posts in 2019-20, including 3 Senior Government Counsel (SGC), 1 Government Counsel and 1 Law Clerk, while deleting 1 time-limited SGC post which will lapse in June 2019. In other words, there will be a net creation of 4 posts. The estimate for briefing-out expenses for 2019-20 is \$5 million, which is 233% (\$3.5 million) higher than the revised estimate for 2018-19.

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. The actual expenditure to be incurred in 2019-20 will 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 the Department of Justice (DoJ)). The anticipated overall increase in briefing-out expenses for 2019-20 is mainly due to provisions that need to be made for possible expenditure required for cases rolled over from 2018-19, as well as the amount likely to be required for new cases that may arise. Besides, the general increase in the fees for solicitors and counsel as well as the increasing complexity of the cases in recent years have also led to higher briefing-out expenses for individual cases.

The Government of the Hong Kong Special Administrative Region will closely monitor the latest development of the trade disputes between China and the United States. To safeguard the interests of Hong Kong, the DoJ will keep in close touch with the relevant

departments to provide legal advice in relation to issues of the World Trade Organisation rules.

- End -

CONTROLLING OFFICER'S REPLY

SJ063

(Question Serial No. 1077)

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 Financial Secretary mentioned in paragraph 94 of this year's Budget Speech that \$150 million would be provided to support the development of a dispute resolution online platform by non-governmental organisations and its initial operation. The Department of Justice is responsible for promoting Hong Kong as a regional centre for international legal and dispute resolution services. In this connection, please advise:

1. What are the major efforts and achievements made in this regard by the current-term SAR Government since it took office?
2. As the Belt and Road Initiative focuses on the promotion of infrastructural facilities connectivity and industrial collaboration among the Belt and Road countries and regions, quite a number of disputes are expected to arise over business, trade and construction contracts. Has the Administration, together with the relevant sectors, specifically explored how to develop Hong Kong as an international arbitration centre for the Belt and Road Initiative so as to facilitate their participation in the Initiative? If yes, what are the details? If not, what are the reasons?

Asked by: Hon LO Wai-kwok (LegCo internal reference no.: 38)

Reply:

1. As mentioned in the Policy Address and the Budget, the Government supports the development of a dispute resolution online platform by non-governmental organisations (NGOs) to enhance the development of LawTech in Hong Kong and consolidate Hong Kong's position as an international dispute resolution services centre.

The eBRAM Centre, a locally-incorporated NGO, is preparing for the development of an Electronic Business Related Arbitration and Mediation (eBRAM) Platform. The Centre is a company limited by guarantee formed by seasoned professional arbitrators, mediators and legal practitioners (i.e. members of the Law Society of Hong Kong, the Hong Kong Bar Association and the Asian Academy of International Law) as well as

experienced technology talent (i.e. members of the Logistics and Supply Chain MultiTech R&D Centre). It aims at elevating Hong Kong's arbitration and mediation services and building capacity to meet the rapid expanding demand for legal and dispute resolution services across borders by utilising innovative technology and artificial intelligence to promote Hong Kong as a LawTech centre and the hub of deal-making as well as dispute avoidance and resolution for global business, investment and trade, in collaboration with international organisations and participating economies.

As far as we know from available information, the eBRAM Centre, with its founding members from major legal professional bodies and the innovation and technology sector, is currently the only local NGO which is taking active steps to develop and promote a full spectrum of online dispute resolution (ODR) services. The Centre is also the only local ODR services provider invited by the APEC workshop organisers to participate in their meetings and workshops. Having regard to its wide representation and recognition, as well as its expertise, competency, practical experience and strong commitment in developing ODR services, we consider the Centre the most suitable local NGO to take forward the development and implementation of the eBRAM platform. The vision and direction of the Centre are in line with our stated policy objective. Funding approval of \$150 million will be sought from the Legislative Council (LegCo) in due course to support the Centre in developing the eBRAM platform and its initial operation. The proposal was submitted to the LegCo Panel on Administration of Justice and Legal Services for discussion on 25 March 2019 and received unanimous support from the Panel. Subject to funding approval, it is anticipated that the eBRAM platform can launch various services in phases from late 2019 onwards.

2. The Department of Justice (DoJ) established in mid-2018 a Task Force on Belt and Road (B&R) Dispute Resolution (the Task Force) headed by the Secretary for Justice with DoJ representatives and experts from the Hong Kong legal and dispute resolution sectors as members. The DoJ has consulted the Task Force as and when necessary. The Task Force considers and advises the DoJ on the introduction of dispute resolution rules and/or how to establish "a B&R dispute resolution body" for the resolution of international disputes concerning B&R projects, and any matters incidental thereto, with a view to capitalising on the opportunities arising from the B&R Initiative and consolidating Hong Kong's status as a leading international legal and dispute resolution services centre.

- End -

CONTROLLING OFFICER'S REPLY

SJ064

(Question Serial No. 1780)

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:

It is proposed in the Budget Speech that \$150 million be provided to support the development and initial operation of a dispute resolution online platform. Would the Administration inform this Committee of:

- (1) the details of the non-government organisation (NGO) which is preparing for the development of the platform as mentioned in the Speech, the contract sum and the work schedule;
- (2) the criteria for selecting organisations to develop the platform;
- (3) the anticipated timeframe for the online platform to commence operation and the expected utilisation;
- (4) how the Administration will evaluate the effectiveness of the online platform?

Asked by: Hon MOK Charles Peter (LegCo internal reference no.: 40)

Reply:

As mentioned in the Policy Address and the Budget, the Government supports the development of a dispute resolution online platform by non-governmental organisations (NGOs) to enhance the development of LawTech in Hong Kong and consolidate Hong Kong's position as an international dispute resolution services centre.

The eBRAM Centre, a locally-incorporated NGO, is preparing for the development of an Electronic Business Related Arbitration and Mediation (eBRAM) platform. The Centre is a company limited by guarantee formed by seasoned professional arbitrators, mediators and legal practitioners from the Law Society of Hong Kong, the Hong Kong Bar Association and the Asian Academy of International Law, as well as experienced technology talent from the Logistics and Supply Chain MultiTech R&D Centre (LSCM). It aims at elevating Hong Kong's arbitration and mediation services and building capacity to meet the rapid expanding demand for legal and dispute resolution services across borders by utilising

innovative technology and artificial intelligence to promote Hong Kong as a LawTech centre and the hub of deal-making as well as dispute avoidance and resolution for global business, investment and trade, in collaboration with international organisations and participating economies.

As far as we know from available information, the eBRAM Centre, with its founding members from major legal professional bodies and the innovation and technology sector, is currently the only local NGO which is taking active steps to develop and promote online dispute resolution (ODR) services. The Centre is also the only local ODR services provider invited by the APEC workshop organisers to participate in their meetings and workshops. Having regard to its wide representation and recognition, as well as its expertise, competency, practical experience and enthusiasm in developing ODR services, we consider the Centre the most suitable local NGO to take forward the development and implementation of the eBRAM platform. The vision and direction of the Centre are in line with our stated policy objective. Funding approval of \$150 million will be sought from the Legislative Council (LegCo) in due course to support the Centre in developing the eBRAM platform and its initial operation.

The eBRAM Centre is working with the LSCM to develop the initial structure and technology to provide the arbitration, mediation, negotiation and deal-making services, with target roll-out of the services of the eBRAM platform in a progressive manner in late 2019. Once the platform is launched, the Centre will focus on ensuring the smooth running of the system and the recruitment of suitable arbitrators, mediators and other talents. Thereafter, the Centre will proceed to develop the provision of arbitration/mediation services for e-commerce business to business activities as well as the provision of training as a commercial service for the region. It is anticipated that the eBRAM platform will mainly provide training in the initial stage of operation. Upon smooth running of the system, the number of arbitration and mediation cases handled is expected to increase proportionally, with a cumulative of over 1 000 cases handled in the first 4 years of operation.

The Government will closely monitor the development of the eBRAM Centre and evaluate its effectiveness with reference to the Centre's phased targets, utilisation of various services provided, feedback and comments from various sectors, etc.

- End -

CONTROLLING OFFICER'S REPLY

SJ065

(Question Serial No. 0282)

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:

As mentioned in paragraph 94 of the Budget Speech, the Government will provide \$150 million to support the development of a dispute resolution online platform by non-governmental organisations to enhance the development of LawTech in Hong Kong and consolidate Hong Kong's position as an international dispute resolution services centre. Would the Department advise on the estimated expenditure for the development and initial operation of the platform? What is the estimated staff establishment involved in the coming 3 years? When is the development expected to be completed?

Asked by: Hon NG Wing-ka, Jimmy (LegCo internal reference no.: 15)

Reply:

According to the proposal put forward by the non-governmental organisation (NGO) concerned, the cost estimate for the development of the platform and its first year of operation is \$68 million, covering around \$34.4 million of capital costs (including IT equipment, Proof-of-Concept prototype enrichment, one-off purchase of hardware and software, etc.) and around \$33.7 million of operation costs (including staff salaries, marketing cost, IT cost and office operation cost). The manpower of the NGO is expected to increase gradually from the initial 14 staff to 25. It is anticipated that the platform will launch various services in phases from late 2019 onwards.

- End -

CONTROLLING OFFICER'S REPLY

SJ066

(Question Serial No. 0360)

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 indicated in the Policy Address, the Government will support the development of a dispute resolution online platform by non-governmental organisations to promote the development of LawTech in Hong Kong and consolidate the development of Hong Kong as an international arbitration centre. Regarding the provision of \$150 million for such organisations to develop the platform, please advise on the expenditure items for the development and operation of the platform, the manpower and expenses involved, as well as the estimated expenditure incurred in the promotion of the platform to places outside Hong Kong.

Asked by: Hon NG Wing-ka, Jimmy (LegCo internal reference no.: 53)

Reply:

According to the proposal put forward by the non-governmental organisation (NGO) concerned, the cost estimate for the development of the platform and its first year of operation is \$68 million, covering around \$34.4 million of capital costs (including IT equipment, Proof-of-Concept prototype enrichment, one-off purchase of hardware and software, etc.) and around \$33.7 million of operation costs (including marketing cost of about \$14 million, staff salaries of about \$10 million and other operation costs). The manpower of the NGO is expected to increase gradually from the initial 14 staff to 25. It is anticipated that the platform will launch various services in phases from late 2019 onwards.

- End -

CONTROLLING OFFICER'S REPLY

SJ067

(Question Serial No. 0361)

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:

Regarding “the feasibility study of establishing a Belt and Road Dispute Resolution Centre in Hong Kong” mentioned under Matters Requiring Special Attention of this Programme, please advise on the details, implementation timetable, estimated expenditure and manpower involved.

Asked by: Hon NG Wing-ka, Jimmy (LegCo internal reference no.: 55)

Reply:

The Department of Justice (DoJ) established a Task Force on Belt and Road (B&R) Dispute Resolution (the Task Force) in mid-2018 and has consulted it as and when necessary. The Task Force considers and advises the DoJ on the introduction of dispute resolution rules and/or how to establish “a B&R dispute resolution body” in Hong Kong for the resolution of international disputes concerning B&R projects, and any matters incidental thereto, with a view to capitalising on the opportunities arising from the B&R initiative and consolidating Hong Kong’s status as a leading international legal and dispute resolution services centre. The Task Force is headed by the Secretary for Justice with DoJ officials and experts from the Hong Kong legal and dispute resolution sectors as members.

Since its establishment in mid-2018, the Task Force has had 2 meetings and also discussions of relevant matters in writing. It has prepared a proposal on the establishment of “a B&R dispute resolution body”. The Hong Kong Special Administrative Region Government is studying the proposal.

The work of the Task Force is supported by the Arbitration Unit and the China Law Unit of the Legal Policy Division, as well as the Mediation Team of the Civil Division. The related expenses are absorbed by existing resources of the DoJ.

- End -

CONTROLLING OFFICER'S REPLY**SJ068****(Question Serial No. 0364)**

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 work to “promote the use of arbitration in Hong Kong and publicise Hong Kong’s arbitration regime; promote Hong Kong as a regional centre for international legal and dispute resolution services” mentioned under Matters Requiring Special Attention of this Programme, please advise on the estimated expenditure and manpower for these items this year and the variation in the estimated expenditure as compared with that of last year, and the measures in place this year to enhance the promotion and leverage of Hong Kong’s position as an international arbitration centre in the context of the Belt and Road Initiative and the estimated expenditure and manpower involved.

Asked by: Hon NG Wing-ka, Jimmy (LegCo internal reference no.: 54)

Reply:

Resources to “promote the use of arbitration in Hong Kong and publicise Hong Kong’s arbitration regime; promote Hong Kong as a regional centre for international legal and dispute resolution services”

The staff costs of the Inclusive Dispute Avoidance and Resolution Office, the Mediation Team, the Arbitration Unit and the International Organizations and Legal Cooperation Team for 2018-19 and 2019-20 are as follows:

	2018-19	2019-20
Inclusive Dispute Avoidance and Resolution Office	-	1 Principal Government Counsel ^{Note 1} , 1 Senior Government Counsel and 1 Law Clerk
	-	\$4,395,900
Mediation Team ^{Note 3}	1 Deputy Principal Government Counsel ^{Note 2} , 2 Senior Government Counsel,	1 Deputy Principal Government Counsel, 3 Senior Government Counsel,

	2018-19	2019-20
	2 Government Counsel, 1 Law Clerk, 1 Personal Secretary I and 1 Assistant Clerical Officer	3 Government Counsel, 2 Law Clerks, 1 Personal Secretary I and 1 Assistant Clerical Officer
	\$7,936,560	\$11,158,020
Arbitration Unit ^{Note 3}	1 Deputy Principal Government Counsel, 2 Senior Government Counsel, 2 Government Counsel, 1 Law Clerk, 1 Personal Secretary I and 1 Assistant Clerical Officer	1 Deputy Principal Government Counsel, 3 Senior Government Counsel, 3 Government Counsel, 2 Law Clerks, 1 Personal Secretary I, 1 Personal Secretary II and 1 Assistant Clerical Officer
	\$7,936,560	\$11,432,400
International Organizations and Legal Cooperation Team ^{Note 3}	1 Deputy Principal Government Counsel, 1 Senior Government Counsel, 2 Government Counsel and 1 Personal Secretary I	1 Deputy Principal Government Counsel, 1 Senior Government Counsel, 2 Government Counsel and 1 Personal Secretary I
	\$5,883,360	\$6,124,200

Note 1 The Principal Government Counsel post is planned to be created upon approval by the Finance Committee of the Legislative Council.

Note 2 The Deputy Principal Government Counsel of the Mediation Team also takes up the function as Commissioner of the Joint Dispute Resolution Strategy Office (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 3 In addition to their own duties, since the Mediation Team, the Arbitration Unit and the International Organizations and Legal Cooperation Team also provide support to the Inclusive Dispute Avoidance and Resolution Office, such staff costs cannot be separately identified.

Promotion of Hong Kong as an international legal and dispute resolution services centre

The work of the Department of Justice (DoJ) to promote Hong Kong as a regional centre for international legal and dispute resolution services has all along been 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 units of the DoJ. Support is also rendered by the JDRSO, which was set up internally within the DoJ in September 2016.

To better cope with the challenges and to harness the opportunities offered by the Belt and Road (B&R) Initiative and the Guangdong-Hong Kong-Macao Greater Bay Area plan, as well as to provide support to the Secretary for Justice in planning and taking forward various initiatives and programmes, the JDRSO was renamed as Inclusive Dispute

Avoidance and Resolution Office (IDAR Office) on 2 January 2019, with a Principal Government Counsel designated as its Commissioner, to be supported by the Mediation Team of the CD, the Arbitration Unit of the LPD, and also the International Organizations and Legal Cooperation Team of the International Law Division. The establishment of the IDAR Office will enhance the overall co-ordination and implementation of the various initiatives that the DoJ has been undertaking in the areas of dispute avoidance and resolution while ensuring that the promotion of Hong Kong's mediation and arbitration services will be conducted in a more efficient, effective and timely manner. The Commissioner of the IDAR Office will build closer ties with the relevant international, regional and local organisations and provide support for the steering committee(s) relating to dispute avoidance and resolution services.

Measures to promote Hong Kong as a regional centre for international legal and dispute resolution services in 2019-20

The DoJ has been working closely with the legal professional bodies and the dispute resolution sector on measures to promote Hong Kong as a regional centre for international legal and dispute resolution services. The promotional measures and activities in 2019-20 include:

- (a) Strengthening exchange and collaboration with other countries or regions on matters relating to international arbitration and mediation through the signing of memoranda of co-operation. The DoJ signed a memorandum of co-operation with the Ministry of Justice of Japan on 9 January 2019 and is now planning to enter into such memoranda with more countries or regions. The IDAR Office will also organise, support and encourage a number of key international events and capacity building activities in an effort to raise Hong Kong's international profile in deal making and dispute resolution.
- (b) Participating actively in the promotional activities on Hong Kong's dispute resolution services held on the Mainland and in the B&R jurisdictions, and encouraging their enterprises to use such professional services of Hong Kong in their business development pursuant to the B&R Initiative.
- (c) Consulting the Task Force on B&R Dispute Resolution established by the DoJ in 2018 as and when necessary and considering the introduction of dispute resolution rules and/or how to establish a "B&R dispute resolution body" for the resolution of international disputes concerning B&R projects and any matters incidental thereto, with a view to capitalising on the opportunities arising from the B&R Initiative and consolidating Hong Kong's status as a leading international legal and dispute resolution services centre.
- (d) Giving policy support and encouragement to the development of an e-arbitration and e-mediation platform so as to provide an efficient, cost-effective and secure platform for resolving various types of disputes, including commercial and investment disputes regarding the B&R Initiative and cross-border disputes, between parties in any part of the world. The dispute resolution methods will include negotiation, mediation and arbitration. The e-arbitration and e-mediation platform aims at lowering the costs to be borne by parties to a dispute and resolving problems arising from geographical distance between the disputing parties. The DoJ also encourages the development of

a smart contract platform for use by enterprises of the B&R countries to complete transactions.

- (e) As regards the promotion of Hong Kong as a regional centre for international legal and dispute resolution services, the DoJ will continue to support the implementation of the mediation mechanism for investment disputes established under the Investment Agreement under the Mainland and Hong Kong Closer Economic Partnership Arrangement, and provide legal advice on relevant matters. Under the mediation mechanism for investment disputes, Hong Kong and the Mainland will respectively designate their own mediation institutions and mediators to deal with investment disputes. The mutually agreed lists of mediation institutions and mediators of both sides were announced in December 2018. A set of mediation rules for adoption by designated mediation institutions and mediators of the respective sides were also announced and put in place. The DoJ has also drafted a set of mediation rules applicable to both sides. The operation of the mediation mechanism for investment disputes is conducive to promoting more extensive use of mediation to resolve cross-border disputes.
- (f) The DoJ will work towards developing Hong Kong into an international investment law and international investment dispute resolution skills training base so as to build up a team of mediators in Asia to handle international investment disputes. From 15 to 21 October 2018, the DoJ, together with the International Centre for Settlement of Investment Disputes (ICSID) and the Asian Academy of International Law, co-organised in Hong Kong the first Investment Law and Investor-State Mediator Training Course in Asia. World-renowned speakers on investment law and investment dispute resolution skills from the ICSID and the Centre for Effective Dispute Resolution were invited to speak at the course, which attracted some 50 participants including mediators and Asian government officials. The training course will continue to be organised in the second half of 2019.
- (g) As the prime platform and a key link for the B&R Initiative, Hong Kong is best placed to provide international legal services and promote capital movement and financing. In June 2018, the DoJ co-organised two breakout sessions with the Hong Kong Trade Development Council (TDC) during the Belt and Road Summit held at the Hong Kong Convention and Exhibition Centre (HKCEC). Eminent speakers from the international legal and dispute resolution sector spoke at the breakout sessions entitled “Hong Kong as the Deal Maker and Dispute Resolver”, which were attended by over 400 participants. The DoJ will jointly hold relevant breakout sessions with the TDC at Belt and Road Summit 2019 scheduled for September.
- (h) The Government is committed to further developing and promoting Hong Kong as an international intellectual property (IP) arbitration and mediation centre and a leading IP trading hub in the Asia-Pacific region. In December 2018, the DoJ co-organised a breakout session with the TDC at the Business of IP Asia Forum held at the HKCEC. Eminent speakers from the IP and dispute resolution industries spoke at the breakout session entitled “Framing Global IP Protection Strategy in Tech-Innovative Century”, which was attended by over 400 participants. The DoJ will actively participate in the Business of IP Asia Forum 2019 to be held in December.

- (i) In November 2018, the DoJ led a delegation of legal and dispute resolution professionals to visit Tokyo, Japan, and co-organised with the TDC during the “Think Global, Think Hong Kong” summit forum a thematic seminar entitled “From Deal Making to Dispute Resolution: Legal Risk Management for Enterprises in Japan”, which was attended by around 190 participants, to promote Hong Kong’s legal and dispute resolution services. The DoJ will continue to work with legal and dispute resolution professionals and the TDC to promote Hong Kong’s international legal and dispute resolution services overseas.
- (j) We are currently making plans for promotional events to be held in Hong Kong, on the Mainland or in other emerging economies in the Asia-Pacific region so as to further encourage enterprises on the Mainland and in the B&R countries 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 B&R Initiative.
- (k) 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 B&R countries.
- (l) Regarding the provision of legal and dispute resolution-related training/capacity building opportunities for professionals and government officials from the B&R countries, the DoJ has been jointly organising the biennial Asia Pacific Judicial Summit since 2015 with the United Nations Commission on International Trade Law (UNCITRAL) as well as other co-organisers and supporting organisations. The next summit is scheduled for November 2019. Furthermore, the DoJ will explore ways to work more closely with international and local bodies in promoting Hong Kong as a regional capacity building centre for international law and dispute resolution through co-organising other international conferences and training programmes.
- (m) The DoJ has invited Mainland authorities to work together to develop a platform for exchange between Mainland enterprises and Hong Kong’s legal sector in order to foster mutual and regular exchanges and cooperation. For example, Hong Kong’s legal sector may, through the exchange platform, organise law lectures, training seminars, practice sharing sessions, etc. in Mainland cities on a regular basis to advise Mainland enterprises on various topics, including arbitration.
- (n) 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.
- (o) Moreover, regarding the Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Ordinance 2017, the Secretary for Justice, as the authorised body, issued the Code of Practice for Third Party Funding of Arbitration on 7 December 2018, bringing the provisions on third party funding of arbitration into commencement on 1 February 2019. The commencement date of the provisions on third party funding of

mediation will be determined after further consultation with the Steering Committee on Mediation and other shareholders.

The overall expenditure on the above measures cannot be separately identified and all related expenses will continue to be absorbed by existing resources of the Department.

- End -

CONTROLLING OFFICER'S REPLY**SJ069****(Question Serial No. 2228)**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:

With regard to the conviction rates for 2017 and 2018, how many of the convictions involved non-refoulement claimants and what percentage of the overall conviction rates did such cases represent?

Asked by: Hon QUAT Elizabeth (LegCo internal reference no.: 157)Reply:

The conviction rates are defendant-based and relate to any substantive or alternative offence on which the defendant has been convicted. It does not take into account acquittals of other charges if any. Breakdown of the conviction rates by type of cases is not available.

The conviction rates for 2017 and 2018 at the three levels of court are :

	2017	2018
Magistrates' Courts		
-defendants convicted after trial (%)	55.3%	57.5%
-defendants convicted after trial and defendants convicted on their own pleas (%)	70.4%	71.5%
District Court		
-defendants convicted after trial (%)	78.5%	59.2%
-defendants convicted after trial and defendants convicted on their own pleas (%)	94.7%	89.8%
Court of First Instance		
-defendants convicted after trial (%)	70.8%	67.9%
-defendants convicted after trial and defendants convicted on their own pleas (%)	94.0%	90.8%

- End -

CONTROLLING OFFICER'S REPLY**SJ070****(Question Serial No. 1446)**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 prosecution 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 TO Kun-sun, James (LegCo internal reference no.: 23)Reply:

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

Grades	2016-17 (as at 1 March 2017)		2017-18 (as at 1 March 2018)		2018-19 (as at 1 March 2019)	
	Establishment	Strength	Establishment	Strength	Establishment	Strength
Government Counsel	136	124	143	135	150	141
Para-legal	133	103	136	98	139	109
Executive, Clerical and Secretarial	216	199	223	218	227	212
Total	485	426	502	451	516	462

The actual expenditure of the Prosecutions Division for 2016-17 and 2017-18 is \$634 million and \$675 million respectively. The estimated expenditure for 2018-19 is \$658 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		2016-17		2017-18		2018-19 (up to 31 January 2019)	
		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	108	25	172	21	162	8
	Court of Appeal	507	8	382	16	357	18
	Magistracy Appeal	642	0	621	2	532	4
Court of First Instance		374	248	375	186	292	145
District Court		670	569	587	686	601	498
Magistracy		203	934 ²	181	636 ¹	149	490 ¹
Death Inquest		22	0	29	14	25	8
Total		2 526	1 784	2 347	1 561	2 118	1 171

- 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 2016-17, 2017-18 and 2018-19 (up to 31 January 2019) are 5 711 days, 5 327 days and 3 898 days respectively.

CONTROLLING OFFICER'S REPLY

SJ071

(Question Serial No. 1449)

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 give a breakdown of the estimated expenditure on the emoluments of the Secretary for Justice in 2019-20.

Asked by: Hon TO Kun-sun, James (LegCo internal reference no.: 26)

Reply:

The estimated expenditure on the emoluments of the Secretary for Justice in 2019-20 is \$4.23 million.

- End -

CONTROLLING OFFICER'S REPLY

SJ072

(Question Serial No. 1451)

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:

An additional post of Deputy Law Draftsman III was created in the Law Drafting Division (LDD) in 2018-19 due to its heavy workload. Please inform this Committee of:

- a) the key initiatives of the LDD in the coming year and whether legislation to implement Article 23 of the Basic Law will be included;
- b) the respective emoluments of the Law Draftsman and the 3 Deputy Law Draftsmen.

Asked by: Hon TO Kun-sun, James (LegCo internal reference no.: 28)

Reply:

- a) The primary responsibility of the Law Drafting Division is to provide the professional drafting service required by the Government to implement its policy initiatives, including providing the drafting service for:
 - i) the bills on the Public Legislative Programme; and
 - ii) the draft legislation associated with other policy initiatives of the Government as and when the drafting service is required.

Whether and when to enact legislation is the prerogative of the relevant policy bureau or department. The Department of Justice is the legal advisor of the HKSAR Government and communications in this capacity with Government bureaux or departments are subject to legal professional privilege.

In the coming year, apart from the above drafting work, the Law Drafting Division will continue to develop and maintain the database of Hong Kong legislation (Hong Kong e-Legislation) which provides free access through the internet to up-to-date legislation.

The notional annual mid-point salary of the Law Draftsman post and the Deputy Law Draftsman post in 2019-20 are \$3.13 million and \$2.53 million respectively.

- End -

CONTROLLING OFFICER'S REPLY

SJ073

(Question Serial No. 1636)

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 issue of using the huge estate of the late Ms Nina Kung for charitable purposes has dragged on and so far remained undecided. In response to my questions put to the Legislative Council, the Secretary for Justice has repeatedly stated that the case is still being processed. Has the Secretary for Justice earmarked manpower and resources in the new financial year to expedite the formulation of a supervisory proposal so that Ms Kung's estate can benefit the community as she wished.

Also, can the supervisory proposal for the management of the estate be expected to be completed properly in this financial year?

Asked by: Hon TSE Wai-chun, Paul (LegCo internal reference no.: 38)

Reply:

The case regarding the Estate of the late Mrs Nina Wang involves charitable interests. The Department will continue to deploy suitable manpower and resources to process the related matters as expeditiously as possible. The case 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.

According to the case progress, we anticipate that it will take some time to complete the process of related matters.

- End -

CONTROLLING OFFICER'S REPLY

SJ074

(Question Serial No. 3956)

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 work to “provide support to the Inter-departmental Working Group on Gender Recognition, chaired by the Secretary for Justice, which is studying possible legislation on gender recognition in respect of transsexual persons in the light of observations made by the Court of Final Appeal in the *W* case (FACV 4/2012)” mentioned under paragraph 18 of the Programme, please inform this Committee of:

- a) the details, expenditure and completion time of the study;
- b) the time to bring forward legislation on gender recognition.

Asked by: Hon WONG Pik-wan, Helena (LegCo internal reference no.: 44)

Reply:

- a) - b) The Inter-departmental Working Group on Gender Recognition (IWG) was established in January 2014 to consider legislation and incidental administrative measures that may be required to protect the rights of transsexual persons in Hong Kong in all legal contexts, and to make such recommendations for reform as may be appropriate.

The scope of the IWG’s study covers 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.

The IWG issued a consultation paper on 23 June 2017. The consultation period ended on 31 December 2017. A meticulous count has revealed that, during the consultation period, the IWG in fact received about 18 800 submissions, with views being expressed from a wide range of different perspectives. The IWG was briefed in late August 2018 by its Secretariat on a preliminary report in respect of those submissions. Currently, the IWG is carefully analysing the submissions received and deliberating over various options. Upon completing the first part of the study on gender recognition, the IWG will report to the Government on the results of the public consultation and the proposed way forward.

Regarding the expenditure involved, the existing 1 Senior Government Counsel post and 1 Government Counsel post for dealing with the work, which were created in 2014-15, have been 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 \$2.4 million in 2018-19 and around \$2.5 million in 2019-20. For other officers providing support to the IWG, as their work in this regard is undertaken among their other duties, the staff costs and other related expenses involved cannot be separately identified.

- End -

CONTROLLING OFFICER'S REPLY**SJ075****(Question Serial No. 2070)**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:

Regarding the promotion of Hong Kong as a regional centre for international legal and dispute resolution services mentioned under Matters Requiring Special Attention in 2019-20, please inform this Committee of:

- (1) the manpower and expenditure to be allocated by the Department of Justice for the promotion of Hong Kong's mediation and arbitration services in 2019-20;
- (2) the activities and initiatives, together with the expenditures incurred, carried out in the past 2 years by the Joint Dispute Resolution Strategy Office, which is responsible for promoting Hong Kong's arbitration services;
- (3) the details and progress of the cross-boundary arbitration and mediation platform currently being prepared for development.

Asked by: Hon YUNG Hoi-yan (LegCo internal reference no.: 47)Reply:

- (1) The resources to be allocated by the Department of Justice (DoJ) for the promotion of Hong Kong's mediation and arbitration services in 2019-20:

The estimated staff cost of the Inclusive Dispute Avoidance and Resolution Office under the Secretary for Justice for 2019-20 is as follows:

Manpower	Expenditure
1 Principal Government Counsel ^{Note} , 1 Senior Government Counsel and 1 Law Clerk	\$4,395,900

^{Note} 1 Principal Government Counsel post will be created upon approval by the Finance Committee of the Legislative Council.

The estimated staff cost of the Mediation Team of the Civil Division (CD) for 2019-20 is as follows:

Manpower	Expenditure
1 Deputy Principal Government Counsel, 3 Senior Government Counsel, 3 Government Counsel, 2 Law Clerks, 1 Personal Secretary I and 1 Assistant Clerical Officer	\$11,158,020

The estimated staff cost of the Arbitration Unit of the Legal Policy Division (LPD) for 2019-20 is as follows:

Manpower	Expenditure
1 Deputy Principal Government Counsel, 3 Senior Government Counsel, 3 Government Counsel, 2 Law Clerks, 1 Personal Secretary I, 1 Personal Secretary II and 1 Assistant Clerical Officer	\$11,432,400

- (2) The Joint Dispute Resolution Strategy Office (JDRSO) was set up 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 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 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 of the LPD and the Mediation Team of the CD provide support for the JDRSO. Activities organised or promoted by the JDRSO in the past 2 years are listed below. The expenditure incurred is part of the Department’s general departmental expenses and a separate breakdown is not available. The Commissioner of the JDRSO often participates in forums and promotional activities relating to the Belt and Road Initiative. In addition, the JDRSO also holds talks, briefings and forums on mediation services and related ordinances for various sectors. From time to time, it meets and exchanges views with various bodies and organisations (including those in the Mainland) by holding talks for government departments, the Law Society of Hong Kong and the Hong Kong Trade Development Council, etc., and participating in the Qianhai Legal Intelligence Forum.

1. “Mediate First Pledge” Event
2. Hong Kong Arbitration Week 2017 and 2018
3. Congress hosted by the United Nations Commission on International Trade Law in Vienna

4. The Asia-Pacific Economic Cooperation Third Senior Officials' Meeting and Related Meetings held in Vietnam
5. "In Style – Hong Kong" Symposium held in Kuala Lumpur to promote Hong Kong's international legal and dispute resolution services
6. International Mediation Summit held in Hangzhou
7. China Overseas Investment Fair held in Beijing
8. Visit to the Internet Court in Hangzhou and exchanges with local officials and communities
9. Belt and Road Summit 2017 and 2018 held in Hong Kong
10. Mediation Week and Mediation Conference 2018
11. Commissioning of the West Kowloon Mediation Centre and introduction of the Pilot Mediation Scheme
12. Hong Kong Forum: 60th Anniversary of New York Convention
13. The first training course on international investment law and international investment mediation skills
14. International Council for Commercial Arbitration Congress held in Sydney
15. Opening ceremony of the Belt and Road International Court-Connected Mediation Centre cum the Second Commercial Mediation Forum involving Hong Kong, Macao and Taiwan held in Shenzhen
16. Seminar on "Strategies and Opportunities under the Belt and Road Initiative-Leveraging Hong Kong's Advantages, Meeting the Country's Needs" held in Beijing
17. Forum on the Belt and Road Legal Cooperation held in Beijing
18. Hong Kong Legal Services Forum 2018 "From Bay Area to International Arena" held in Guangzhou
19. International Mediation Summit held in Changsha
20. Annual working meeting held in Beijing between the Department of Treaty and Law of the Ministry of Foreign Affairs and the DoJ of the Hong Kong Special Administrative Region
21. The fourth training session of the China-AALCO (Asian-African Legal Consultative Organization) Exchange and Research Program on International Law held in Hong Kong

22. Business of IP Asia Forum held in Hong Kong

23. Thematic seminar “From Deal Making to Dispute Resolution: Legal Risk Management for Enterprises in Japan” held in Tokyo, Japan

- (3) As mentioned in the Policy Address and the Budget, the Government supports the development of a dispute resolution online platform by non-governmental organisations (NGOs) to enhance the development of LawTech in Hong Kong and consolidate Hong Kong’s position as an international dispute resolution services centre.

The eBRAM Centre, a locally-incorporated NGO, is preparing for the development of an Electronic Business Related Arbitration and Mediation (eBRAM) Platform. The Centre is a company limited by guarantee formed by seasoned professional arbitrators, mediators and legal practitioners (i.e. members of the Law Society of Hong Kong, the Hong Kong Bar Association and the Asian Academy of International Law) as well as experienced technology talent (i.e. members of the Logistics and Supply Chain MultiTech R&D Centre). It aims at elevating Hong Kong’s arbitration and mediation services and building capacity to meet the rapid expanding demand for legal and dispute resolution services across borders by utilising innovative technology and artificial intelligence to promote Hong Kong as a LawTech centre and the hub of deal-making as well as dispute avoidance and resolution for global business, investment and trade, in collaboration with international organisations and participating economies.

As far as we know from available information, the eBRAM Centre, with its founding members from major legal professional bodies and the innovation and technology sector, is currently the only local NGO which is taking active steps to develop and promote online dispute resolution (ODR) services. The Centre is also the only local ODR services provider invited by the APEC workshop organisers to participate in their meetings and workshops. Having regard to its wide representation and recognition, as well as its expertise, competency, practical experience and strong commitment in developing ODR services, we consider the Centre the most suitable local NGO to take forward the development and implementation of the eBRAM platform. The vision and direction of the Centre are in line with our stated policy objective. Funding approval of \$150 million will be sought from the Legislative Council (LegCo) in due course to support the Centre in developing the eBRAM platform and its initial operation. The proposal was submitted to the LegCo Panel on Administration of Justice and Legal Services for discussion on 25 March 2019. Subject to funding approval, it is anticipated that the eBRAM platform can launch various services in phases from late 2019 onwards.

- End -