

CONTROLLING OFFICER'S REPLY

CSO027

(Question Serial No. 1978)

Head: (94) Legal Aid Department
Subhead (No. & title): (000) Operational expenses
Programme: (1) Processing of Legal Aid Applications
Controlling Officer: Director of Legal Aid (Thomas Edward KWONG)
Director of Bureau: Director of Administration

Question:

Among the people prosecuted for having participated in the riots since June 2019, some might have received financial aid for legal costs from a third party; and among them, some might be eligible for legal aid. When assessing applications, did the Legal Aid Department check whether the applicants had received any financial aid from a third party? Had any such case been found and therefore rejected? Among those prosecuted, how many had applied for and granted legal aid?

Asked by: Hon CHAN Hak-kan (LegCo internal reference no.: 102)

Reply:

Legal Aid Department (LAD) assesses all criminal legal aid applications in accordance with the Legal Aid in Criminal Cases Rules. Any person who can satisfy both the merits test and the means test will be granted legal aid.

In relation to means test, the Director must consider the financial resources of the applicant for all legal aid cases in accordance with the Legal Aid (Assessment of Resources and Contributions) Regulations. When applying for legal aid, applicants should inform LAD of any financial aid received from a third party, whether by way of income or capital, which will be taken into account when calculating the applicant's financial resources. The aided persons should also inform LAD of any changes to their financial resources, including the provision of financial aid from any third party, during the course of the legally aided proceedings. Should any applicant fail the means test (i.e. financial resources exceeding the prevailing limit of \$420,400), the Director will refuse granting legal aid or discharge legal aid. So far, LAD has not rejected an applicant's application on the ground that his or her level of financial resources has exceeded the statutory limit because of financial aid received from a third party.

An applicant has a duty to make full and frank disclosure of his/her income and capital. According to the Legal Aid Ordinance, any person seeking or receiving legal aid who

knowingly furnishes false statement or false representation shall be guilty of an offence and liable to a fine of \$10,000 and imprisonment for 6 months.

The number of criminal legal aid applications and certificates granted ^{Note 1} related to the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 are as follows:

Year	Applications received ^{Note 1}	Certificates granted ^{Note 2}
2019	70	48
2020	930	775
2021 (up to 28.2.2021)	59	80
Total	1 059	903

Note 1: Include appeal case(s).

Note 2: Legal aid certificates may not be granted in the same year when the respective applications were received.

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