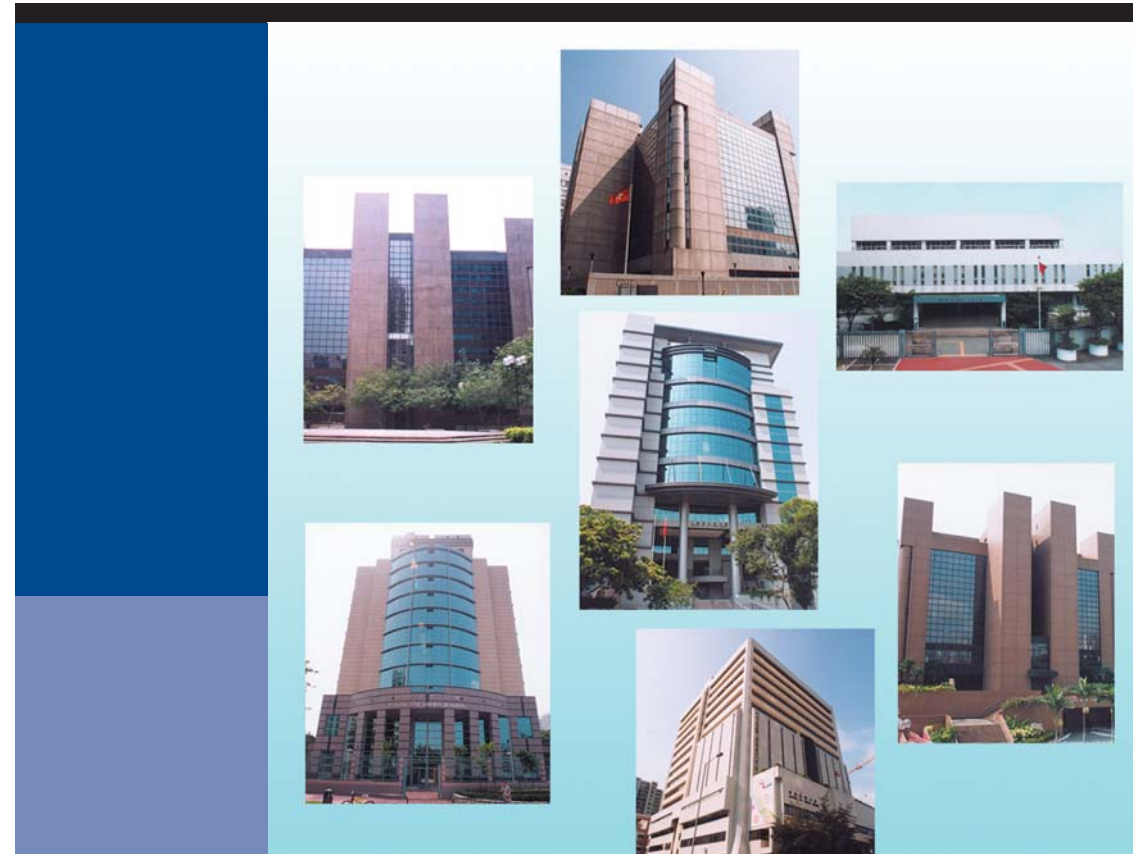


# 裁判法院

## MAGISTRATES' COURTS



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statement of law or court practice.

# 裁判法院

## 裁判法院負責審理什麼控罪？

在裁判法院進行聆訊的控罪範圍廣泛，包括簡易程序罪行和可公訴罪行，較嚴重的可公訴罪行會移交區域法院或高等法院原訟法庭審理。所有刑事案件的程序都是在裁判法院開始的，其中大部分在裁判法院完成處理。

裁判法院的最高刑罰一般為監禁2年和罰款10萬元。但是，當法庭同時處理兩項或以上的可公訴罪行時，裁判官可判處最高3年的刑期。就某些條例而言，單一罪行可判處監禁3年和罰款500萬元。

裁判法院裏的少年法庭負責審理被告人為兒童和16歲以下的少年人的案件，但不包括殺人罪。此外，少年法庭也可為兒童或少年人發出照顧保護令。

有關違例小販、交通違例事項和拋棄垃圾等輕微罪行，均由特委裁判官在裁判法院審理。特委裁判官不能判處監禁刑罰，而罰款的上限為5萬元。

## 法律程序如何進行？

所有刑事案件的法律程序都是在裁判法院展開的。如果被告認罪，法庭通常會在同一天判刑。但如果裁判官想參閱有關報告，以考慮被告是否適合接受感化或社會服務令，進入勞教中心、更生中心、教導所、戒毒所，或接受入院令，便會把案件押後以取得有關報告參考。

如果被告不認罪，法庭便會編排審訊日期。

被告可親自進行訴訟，延聘律師代表自己，或申請當值律師服務。如果被告選擇親自進行訴訟，他／她必須在各方面小心做好準備，包括傳召證人等。案件書記會應要求就傳召證人的程序給予指導。

在下列情況下，在裁判法院開展的可公訴罪行會移交較高級別的法院審理：

- 律政司司長申請把案件移交區域法院審理。
- 律政司司長申請把案件交付高等法院原訟法庭審理。若被告要求進行初級偵訊，裁判官會應被告要求而進行有關程序。若裁判官認為有足夠證據把被告交予陪審團進行審訊，便會把被告交付原訟法庭審理。若被告沒有要求進行初級偵訊，裁判官便會立即把被告交付原訟法庭審理。若被告認罪，裁判官則會把被告交付原訟法庭判刑。

- 裁判官根據《複雜商業罪行條例》把有關案件移交高等法院原訟法庭審理。

裁判法院審理案件時，可用中文或英文進行。

需要特別照顧的證人包括兒童、弱智人士和在恐懼中的證人可通過電視直播聯繫系統作證。

## 什麼是當值律師服務？

當值律師服務提供律師代表被告，服務範圍幾乎涵蓋所有在裁判法院和少年法庭會遇到的控罪。當值律師服務由香港律師會和香港大律師公會聯合主理。

任何需要當值律師服務的被告，應前往有關裁判法院的法庭聯絡處。不過當值律師服務的職員也會主動直接接觸被關押的被告。

申請當值律師服務的人士必須通過案情審批和入息審查。申請人需先繳付420元<sup>1</sup>的定額手續費，案件才會獲得受理。不論案件延續多久，申請人毋需繳付其他費用。但是，如果被告經濟狀況有困難，定額手續費可獲豁免。

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<sup>1</sup>定額手續費款額是由「當值律師服務」釐訂，或會不時調整。

## 可通過哪些途徑提出覆核和上訴？

如果被告對裁判官的裁定感到不滿，可在裁定作出後14天內向裁判官申請覆核其裁定。如果有關覆核被駁回，被告可向高等法院原訟法庭提出上訴。上訴通知書應在裁判官駁回覆核後14天內提交。

被告也可直接向原訟法庭提出上訴而毋需先尋求覆核。上訴通知書須在裁判官作出裁定後14天內向書記長提交。

## 服務承諾

- 案件由被告在庭上回答是否認罪後60天內便會獲得處理。若案件涉及被關押的被告，裁判官會加快有關法律程序，通常由被告在庭上回答是否認罪後45天內便會處理有關案件。
- 對於市民的來信，司法機構會盡可能即時回覆。無論如何，我們會在接獲來信後10天內先予簡覆，並在30天內給予詳盡答覆。
- 我們歡迎市民提出任何建議和意見，讓我們可提供更完善的服務。市民可致函香港金鐘道38號高等法院司法機構政務長收。

## 如何聯絡我們？

### 九龍城裁判法院

地址：九龍亞皆老街147M號

電話：2767 3200

傳真：2351 4708

### 屯門裁判法院

地址：屯門屯喜路一號

電話：2452 8136

傳真：2459 1292

### 沙田裁判法院

地址：沙田宜正里一號

電話：2695 1383

傳真：2602 2872

### 東區裁判法院

地址：香港西灣河太安街29號東區法院大樓四樓至七樓

電話：2886 6755

傳真：2886 5034

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<sup>2</sup>按照繁體中文筆劃次序

## 粉嶺裁判法院

地址：粉嶺璧峰路一號

電話：2682 7722

傳真：2675 5245

## 荃灣裁判法院

地址：荃灣大河道70號

電話：2412 5918

傳真：2413 8737

## 觀塘裁判法院

地址：九龍鯉魚門道10號

電話：2772 9235

傳真：2347 4595

## 不提供法律意見

司法機構必須保持公正中立，因此本機構職員不會提供任何法律意見，或就個別案件的進行或勝訴機會作出評論。然而，司法機構職員非常樂意解答有關法院程序的查詢。如需要法律意見，請聯絡閣下的律師或尋求適當的法律諮詢服務。

## 辦公時間

### 法庭登記處及會計部

星期一至星期五 上午九時至下午一時

下午二時至下午五時

星期六 上午九時至中午十二時

- 當發出八號風球或黑色暴雨警告信號時，裁判法院法庭將會休庭，登記處及會計部將停止辦公。
- 若有關訊號或警告於上午六時前取消，法庭將如常恢復聆訊，登記處及會計部亦會照常辦公。
- 若有關訊號或警告於上午六時至十一時取消，法庭、登記處及會計部將於是日下午二時三十分恢復聆訊及辦公。
- 若有關訊號於上午十一時以後才取消，法庭、登記處及會計部是日將全日休庭及停止辦公。
- 若你有參與的聆訊因颱風或暴雨警告而受到影響，請留意電台及電視台有關法庭、登記處及會計部重新開放的報導，或致電裁判法院登記處查詢。

司法機構

二〇〇八年九月

(第九版)

## THE MAGISTRATES' COURTS

### What charges do the Magistrates' Courts hear?

Magistrates' Courts hear a wide range of offences, both summary and indictable. The more serious indictable offences are referred to either the District Court or the Court of First Instance. All matters appear initially in the Magistrates' Courts. Most are disposed of at that level.

The normal maximum sentence is 2 years' imprisonment and a fine of \$100,000. However the court may impose sentences of up to 3 years' imprisonment where there are two or more indictable offences being dealt with at the same time. Indeed under some Ordinances a single offence may carry 3 years' imprisonment and a fine of \$5 million.

The Juvenile Court in the Magistrates' Courts hears charges against children and young persons under the age of 16, except where the charge is one of homicide. It may also make care or protection orders in respect of children or young people.

Minor offences such as hawking, traffic contraventions and littering are heard in the Magistrates' Courts by Special Magistrates. Special Magistrates cannot impose a prison sentence and the maximum fine is \$50,000.

### How are proceedings conducted?

All criminal proceedings commence in the Magistrates' Courts. If the defendant pleads guilty, he / she will normally be sentenced on the same day. However if the court wishes to consider reports as to suitability for Probation, Community Service, Detention Centre, Rehabilitation Centre, Training Centre or Drugs Addiction Treatment Centre or a Hospital Order, then the case will be adjourned.

If the accused pleads "not guilty", a date will be fixed for trial.

An accused may act in person, instruct a lawyer to represent him or her, or apply to the Duty Lawyer Service. If he or she chooses to act in person, it is important to prepare the case carefully in all particulars, including the summoning of witnesses. On request, the Case Clerk will advise on the procedures for summoning witnesses.

Indictable offences commenced in the Magistrates' Courts will be transferred to the higher level courts where:

- The Secretary for Justice applies to have a case transferred to the District Court.
- The Secretary for Justice applies to have a case committed to the Court of First Instance of the High Court. When the accused requests it, the Magistrate will conduct a preliminary inquiry. If the Magistrate

considers that there is sufficient evidence to put the accused on trial before a jury, the accused will be committed to the Court of First Instance for trial. If the accused does not request a preliminary inquiry, he will be committed to the Court of First Instance for trial immediately or for sentence if he pleads “guilty”.

- A case is transferred to the Court of First Instance by a Magistrate under the Complex Commercial Crimes Ordinance.

Trials in the Magistrates’ Courts may be conducted in either Chinese or English.

Witnesses at risk, including children, people with mental handicap and witnesses in fear may give evidence via a video link television system.

### **What is the Duty Lawyer Service?**

The Duty Lawyer Service provides legal representation to those charged with nearly all offences in the Magistrates’ Courts, including the Juvenile Courts. It is jointly run by the Law Society of Hong Kong and the Hong Kong Bar Association.

Any accused who needs the service should go to the Court Liaison Office of the Magistrates’ Courts concerned. However, the service will contact directly those accused in custody.

Applicants for the service must pass the merit and means tests. A handling charge of \$420<sup>3</sup> must be paid before the service takes up a case. No further payments are required. However, this fee can be waived if the defendant has poor means.

### **What opportunities are there for review and appeal?**

If an accused is not satisfied with the determination of a Magistrate, he may apply to the Magistrate within 14 days after the determination to review the decision. If the Magistrate dismisses the review, the accused may appeal to the Court of First Instance. The notice of appeal should be lodged within 14 days after the dismissal of the review by the Magistrate.

The accused may also appeal to the Court of First Instance without first seeking a review. The notice of appeal must be lodged with the First Clerk within 14 days after determination.

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<sup>3</sup> handling charge is set by the Duty Lawyer Service and is subject to change.

## Performance Pledge

- Cases will be dealt with within 60 days after the accused is asked how he or she pleads. For cases involving an accused in custody, the Magistrate will expedite the proceedings, normally dealing with the case within 45 days after taking the plea.
- Wherever possible, the Judiciary will reply at once to correspondence from members of the public. In any case, we will give an interim reply within 10 days and a full response within 30 days of receiving a letter.
- We welcome all comments and suggestions for improving our services. Please send them to the Judiciary Administrator at the High Court, 38 Queensway, Hong Kong.

## How to contact us<sup>4</sup>?

### Eastern Magistrates' Courts

Address: 4/F – 7/F, Eastern Law Courts Building,  
29, Tai On Street, Sai Wan Ho, Hong Kong

Telephone: 2886 6755

Facsimile: 2886 5034

### Fanling Magistrates' Courts

Address: 1 Pik Fung Road, Fanling

Telephone: 2682 7722

Facsimile: 2675 5245

### Kowloon City Magistrates' Courts

Address: 147M, Argyle Street, Kowloon

Telephone: 2767 3200

Facsimile: 2351 4708

### Kwun Tong Magistrates' Courts

Address: 10 Lei Yue Mun Road, Kowloon

Telephone: 2772 9235

Facsimile: 2347 4595

### Shatin Magistrates' Courts

Address: 1 Yi Ching Lane, Shatin

Telephone: 2695 1383

Facsimile: 2602 2872

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<sup>4</sup> in alphabetical order

### **Tsuen Wan Magistrates' Courts**

Address: 70 Tai Ho Road, Tsuen Wan

Telephone: 2412 5918

Facsimile: 2413 8737

### **Tuen Mun Magistrates' Courts**

Address: 1 Tuen Hi Road, Tuen Mun

Telephone: 2452 8136

Facsimile: 2459 1292

### **No Legal Advice**

In order to maintain the impartial role of the Judiciary, our staff will not provide any legal advice or offer any comment on the conduct or merits of specific court cases and proceedings. However, they are happy to assist you with enquiries on court procedures. If you are in need of legal advice, please approach your solicitors or seek suitable legal advisory service.

### **Business Hours**

#### **Registries and Accounts Offices**

Monday to Friday 9:00 a.m. to 1:00 p.m.

2:00 p.m. to 5:00 p.m.

Saturday 9:00 a.m. to 12:00 noon

- The Magistrates' Courts are adjourned and the Registries / Accounts Offices are closed when tropical cyclone signal No. 8 or a black rainstorm warning signal is issued.
- The Courts will resume hearing and the Registries / Accounts Offices will open as usual, if such signal or warning is cancelled before 6:00 a.m.
- The Courts will resume hearing and the Registries / Accounts Offices will open at 2:30 p.m. only if such signal or warning is cancelled between 6:00 a.m. and 11:00 a.m.
- The Courts will remain adjourned and the Registries / Accounts Offices will remain closed for the whole day if such signal or warning is cancelled after 11:00 a.m.
- If a case in which you are involved is affected by a tropical cyclone or rainstorm warning, you should listen to announcements on the radio and television about resumption of hearings and opening of the Registries / Accounts Offices. You may also call the Magistrates' Courts Registries to make enquiries.

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