

**Drug Dependent Persons Treatment and Rehabilitation
Centres (Licensing) Bill**

Protection of inmates' information kept by drug treatment centres

At the Bills Committee meeting on 18 December 2000, Members expressed concern regarding the protection of inmates' information at drug treatment centres and requested the Administration to provide details on how inmates' information could be protected under the proposed licensing scheme, particularly in respect of information obtained by the licensing authority for investigating offences against the Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Bill (the Bill) and during court proceedings.

Requirements to keep information

2. When the licensing scheme is implemented, in order to monitor drug treatment centres' compliance with the licensing requirements, the Director of Social Welfare (the Director) will require such centres to keep a simple register of inmates' information, such as inmates' names, identity card numbers and telephone numbers, addresses and contact details of at least one relative or one contact person of the inmates as well as information related to treatment of the inmates, e.g. date of admission. Many existing drug treatment centres are already keeping such information. The intention of formally requiring centres to keep such information is to enable the Director to know the operation of the centre. The information to be kept is not intended to be used against the inmates who are undergoing or have undergone treatment.

Protection provided in the Bill

3. In order to protect the inmates of a licensed drug treatment centre, clause 23 of the Bill provides that any statement or admission made by a person seeking for admission to a treatment centre or in the course of his undergoing treatment or rehabilitation at the centre shall be inadmissible as evidence in any proceedings against him under the Dangerous Drugs Ordinance (Cap. 134). Any information obtained in consequence of the exercise of the power under clause 18 to require production of or to

remove any book, document or other article is also inadmissible in such proceedings against a person who is undergoing or has undergone treatment or rehabilitation in a treatment centre.

Protection under the Personal Data (Privacy) Ordinance (Cap. 486)

4. According to principle 1 in Schedule 1 to the Personal Data (Privacy) Ordinance (Cap. 486), personal data shall not be collected unless the collection of data is necessary for or directly related to that purpose and the data should only be adequate but not excessive in relation to that purpose. The Director has to follow this principle strictly and in this connection, the inspection of documents of treatment centres, particularly those related to personal particulars of inmates, will only be conducted for checking centres' compliance with the Ordinance. In case a person considered that the information sought by the Director was in excess of the purpose of the Bill, he could always resort to Cap. 486 for remedy.

5. Under principle 3 of Cap. 486, personal data shall not be used for any purpose other than the purpose for which the data were to be used at the time of the collection of the data. It is therefore a contravention of Cap. 486 if inmates' information is used other than for the purpose for which it is held. This requirement applies to all persons, that is, other than the Director of Social Welfare and the public officer authorized by him, staff of drug treatment centres also have to follow the requirement to protect the information of inmates.

6. With the statutory safeguards mentioned from paragraphs 3 to 5, the Administration considers that the inmates concerned have already been afforded sufficient protection in respect of personal data supplied to a licensed drug treatment centre on admission and during treatment.

Protection during court proceedings

7. If the court proceedings are instituted against the centre, information of inmates which is irrelevant to the prosecution will be inadmissible and will not be adduced in open court.

8. Apart from the above, documents that have been produced as exhibits and admitted as evidence in court proceedings will form part of the court records. Access to such records of the courts is governed by section 79 of the Criminal Procedure Ordinance (Cap. 221) and section 35A of the Magistrates Ordinance (Cap. 227). According to section 79 of the Criminal Procedure Ordinance, records of proceedings shall be open for inspection by a judge; the Registrar of the court; the Secretary for Justice; a judge or deputy judge of the District Court; the registrar of the District Court; the prosecutor or the person convicted or any person named in, or immediately affected by, any order made by the trial judge or any other person authorized to act on behalf of any such person. Any other persons who wish to inspect such records have to apply to the Registrar of the court. In doing so, he has to satisfy the Registrar that there is good and sufficient reason for the inspection of such record. Section 35A provides for the same mechanism for records of magistrate proceedings. The court can give direction to the effect that the documents in question can only be inspected with the leave of the court. In such a case, the Registrar can keep the records in a steel cabinet under lock so that no other person can access the records.

Security Bureau
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