

**Bills Committee on
Juvenile Offenders (Amendment) Bill 2001**

**Support Services for Children below and above
the Minimum Age of Criminal Responsibility
who have committed crimes**

Purpose

This paper sets out the support services for children who are below and above the minimum age of criminal responsibility (the minimum age) and are found to have committed offences.

Background

2. At the last Bills Committee meeting held on 21 October 2002, Members would like to know the support services available for –

- (a) children who have offended but cannot be prosecuted because they have yet to reach the minimum age; and
- (b) children and young persons who have committed offences and have attained the minimum age.

Children below the Minimum Age

3. Children below the minimum age cannot be held liable for having committed criminal acts. The Police have no power to arrest them for such actions. When a police officer is informed that a young child is suspected of having committed an offence, the police officer will investigate the case, inform the parents of the child, and try to ascertain the age of the suspected child. The parents of the child will be requested to present documents which can prove the age of the child. Once it is

confirmed that the suspected child is below the minimum age, the child will be released unconditionally in the light of the non-rebuttable presumption that he/she is incapable of committing crime.

4. Whether the child will be referred to the appropriate agency for support services depends on the circumstances of the case and the consent of the parents. Irrespective of whether there is evidence to show that a child has committed an act which will constitute an offence if he/she is above the minimum age, if the child is found to be in need of care or protection and –

- (a) who has been or is being assaulted, ill-treated, neglected or sexually abused;
or
- (b) whose health, development or welfare has been or is being neglected or avoidably impaired; or
- (c) whose health, development or welfare appears likely to be neglected or avoidably impaired; or
- (d) who is beyond control, to the extent that harm may be caused to him or others,

the Police will apply to the juvenile court for a care or protection order for the child under the Protection of Children and Juveniles Ordinance (Cap 213) (the PCJO).

5. The range of orders a juvenile court can make in respect of a child in need of care or protection include –

- (a) appoint the DSW to be the legal guardian of the child;
- (b) commit the child to the care of any person whether a relative or not, who is willing to undertake the care of him, or of any institution which is so willing; or
- (c) order his parent or guardian to enter into recognizance to exercise proper care and guardianship; or
- (d) with or without making an order under paragraph (b) or (c), make an order

placing him for a specified period not exceeding three years under the supervision of a person appointed for the purpose by the court.

6. Where the child who comes to the attention of the Police is not in need of care or protection as defined under the PCJO or it cannot be established that the child has behaved unruly or disorderly and is thus in need of services or counselling, and where there is no prima facie evidence to show that the child has committed an offence despite the crime report received by the Police, the child will be released unconditionally. On the other hand, even though a child is not found to be in need of care or protection but there is prima facie evidence to show that the child has committed an offence, e.g. a child is caught red-handed for a shop theft, but cannot be held liable because of his/her age, the police officer may refer the case to the Social Welfare Department (SWD) or Education Department (ED) with the consent of the parents of the child for appropriate follow-up services.

7. In order to make this consensual referral system more systematic, the Police will draw up criteria under which a case will be referred to other agencies for follow-up action. When drawing up the detailed criteria, reference will be made to the existing guidelines for referral of cases dealt with under the Police Superintendent's Discretion Scheme (PSDS). Examples of factors to be considered include –

- (a) whether the child has family or behavioural problems;
- (b) whether the child's family is in hardship and requires social welfare assistance;
- (c) whether the child is a school drop-out;
- (d) whether the child is associated with bad elements from the same school;
- (e) whether the child is likely to benefit from community activities, etc.

8. To ensure that referrals can be done in an efficient and timely manner, the Police will establish a direct liaison point with SWD at the district level. When any child who is below the minimum age and are considered to be in need of services

comes to the attention of the Police, frontline police officers handling the cases will directly refer the cases to relevant District Social Welfare Offices (DSWOs) of the SWD. Officers of the DSWOs will assess the needs of the children, render services to them, or refer them to appropriate agencies for follow up.

Services of the Social Welfare Department

9. The SWD is providing a comprehensive spectrum of support services for young people of different background and with varying degrees of problems, either directly or through subvented non-governmental organizations (NGOs). Depending on their needs, young people in-need and their families will be provided with appropriate services operated by the following units -

- (a) Integrated Family Service Centre/Family Services Centre;
- (b) Integrated Children & Youth Services Centre/Children and Youth Centre;
- (c) School Social Work Service;
- (d) District programmes for youth-at-risk;
- (e) Services for Young Night Drifters;
- (f) District Youth Outreaching Social Work Team; and
- (g) Counselling Centre for Psychotropic Substances Abusers.

A. Integrated Family Service Centre/Family Services Centre

10. SWD and NGOs operate an extensive network of 66 Integrated Family Service Centres (IFSCs) / Family Services Centres (FSCs) to serve local residents with welfare needs, including those children who have offended but are below the minimum age. Acting upon referrals from the Police, social workers in IFSC and FSC will make conscious effort in engaging the problematic children and their parents to formulate the treatment plans with mutually agreed objectives targeting at fostering positive behavioural changes.

11. Experience shows that children who have committed offences often exhibit

problems of weak self-control, loose self-discipline, blurred concept of right and wrong, susceptibility to undesirable peer influence, bleak parent-child relationship, inadequate parental supervision, parenting difficulty, etc.. All these problems warrant social work intervention. Counselling service, group programmes, community-based supportive services, residential services and other forms of assistance will be arranged for these children and their parents. On-going evaluation will be conducted on the children's performance against the agreed objectives through information gathered from self-report, parents' observation and feedback, school records and relevant comments from significant others on a regular basis.

B. Integrated Children & Youth Services Centre/Children and Youth Centre

12. Children and youth who show behavioral problems may be referred to Children and Youth Centres (C&Y Centres) to assist them with their personal development. C&Y Centres encourage children and youth to engage in worthwhile activities and pursuits, to organize their own groups and to reach out into the community. Through guidance and support, they are helped to overcome adjustment difficulties arising from family and other personal relationship and to develop community and international perspectives. To help children and youth face new challenges and difficulties in their personal growth and changing environment and circumstances, four core programmes are provided by C&Y Centres: guidance and counselling, supportive service for young people in disadvantaged circumstances, socialization programme and development of social responsibility and competence.

13. In addition to C&Y Centres, Integrated Children and Youth Service Centres (ICYSCs) are set up through pooling of existing resources. Through flexible deployment of manpower and other resources and by adopting different service models / approaches, ICYSCs provide a comprehensive range of services including children and youth centre services, outreaching social work services and school social work services under one management to meet the multi-farious needs of children and youth aged six to 24. There are now 115 ICYSCs throughout the territory. Through pooling of resources, the number will increase to 132 by 2003-04.

C. School Social Work Service

14. For students with academic, social and emotional problems, school social work service helps maximize their education opportunities, develop their potential and prepare them for responsible adulthood. Services provided to students by school social workers include counselling, group and mass programmes. They also provide consultation services for school personnel with regard to issues of addressing needs of students. Where appropriate, school social workers are responsible for drawing in community-based services to support students, parents and school personnel. All secondary schools are now provided with one social worker. In addition, these schools are served by the Police Secondary School Liaison Officers Programme. This is an initiative introduced in 2001, through which police officers work actively in partnership with schools, social workers and parents to help and support students at-risk to stay away from crimes.

D. District programmes for youth-at-risk

15. To address needs of local youth-at-risk on the preventive and remedial fronts, DSWOs of the SWD have been operating targeted programmes in collaboration with other government departments, schools, NGOs and local leaders at the district level. Examples of such multi-agency programmes include 'Project X' in Tuen Mun, 'Youth Care Net' in Kowloon City, 'Community Youth Enhancement Scheme' in Tai Po, etc.. These programmes involve mechanisms for prompt referral of youth in-need to appropriate services as well as programmes for and visits to youth-at-risk to help them develop a healthy lifestyle.

E. Services for Young Night Drifters

16. To better equip ICYSCs to provide comprehensive service for youth-at-risk, 18 ICYSCs have been allocated with additional manpower, vehicles, mobile phones and additional programme expenses with effect from September 2001. This enables them to provide overnight outreaching services for young night drifters (YNDs), who

are more likely to be exposed and susceptible to negative influence by bad elements, over the territory. The enhanced service aims at providing timely intervention for young people at-risk with a view to forestalling further deterioration of their behavioural and social problems.

17. As additional support to services for YNDs, a pilot all-night drop-in centre has been set up in July 2002. Facilities available at the drop-in centre include counselling rooms, band and karaoke rooms, cyber café and basketball field. The centre provides a safe place for young people to hang out and to receive services from social workers thus minimizing the chance of youth being exposed to negative elements on the street at night. In addition, the SWD and the Leisure and Cultural Services Department have collaborated to open various indoor recreation centres as well as outdoor recreation facilities at night for NGOs to conduct programmes for YNDs.

F. District Youth Outreaching Social Work Team

18. To address needs of youth who demonstrate a high level of risk and those associated with juvenile gangs, the SWD has restructured outreaching social work teams into 16 District Youth Outreaching Social Work Teams (YOTs) in September 2002. The YOTs seek to reach out and provide counselling and guidance to those young people who normally do not participate in conventional social or youth activities and are vulnerable to undesirable influences.

G. Counselling Centre for Psychotropic Substance Abusers

19. Young persons who are occasional or habitual psychotropic substance abusers will be referred to Counselling Centre for Psychotropic Substance Abusers (CCPSA) for counselling and assistance with a view to assisting them abstain from using psychotropic substance. Services provided include rehabilitative services for psychotropic substance abusers, preventive education programmes for potential or occasional substance abusers, counselling service and supportive programmes for

family members of clients, expert information and advice on substance and substance abuse, and training for allied professionals who are working with potential, occasional or habitual substance abusers. With the setting up of two new CCPSAs in October 2002, there are currently five centres providing full coverage of services over the territory.

Services of the Education Department

20. Children and youth who are found to be school drop-outs will be referred to the ED. Children and youth who are of universal basic education age range (6 to 15 years of age) and who are not attending either primary or junior secondary (secondary one to three) school can be referred to the Non-attendance Cases Team (NACT) of the ED for counseling and school placement service. Any children below the minimum age who are full-time primary school pupils and who may require intensive support in school, with parental consent, can be referred directly to the school where they will be supported by the Student Guidance Officer (SGOs), Student Guidance Teachers (SGTs) or Student Guidance Personnel (SGPs). Youth wishing to resume schooling may seek assistance from the Regional Educational Offices of the ED or the NACT.

21. On the preventive front, the ED has been initiating a multi-dimensional prevention programme involving school teachers, students, parents and the community. At the school level, schools have been encouraged to adopt the Whole School Approach to Guidance by which all teachers and school personnel work together to create a positive school environment and to assist all students to be aware of and to overcome their adjustment and developmental problems. Essential elements such as positive attitude towards life, management of emotions and stress, and coping with adversities have been integrated into the curriculum to help students enhance their problem-solving, relationship building and coping skills.

Children Above the Minimum Age

22. For children above the minimum age but are under 14 years who have

offended the law, they may be held criminally liable for what they have done, depending on whether the existing presumption of doli incapax can be rebutted.

23. At present, this group of children who come to the attention of the Police will usually be dealt with by one of the following ways –

- (a) released unconditionally. This may be due to the Police's conclusion that there is no criminal case involved after investigation into the case, or there is a case involved but the presumption of doli incapax cannot be rebutted;
- (b) cautioned under the Police Superintendent's Discretion Scheme (PSDS). A caution will be administered only if the child and the offence in question meet the criteria for consideration of PSDS;
- (c) prosecuted. This route may be chosen, for example, when the child in question is not eligible for the PSDS due to the serious nature of the offences, or the number of previous cautions that have been administered on him/her.

24. For children who are released unconditionally, police officers will adopt the same referral system as that for children below the minimum age. Children above the minimum age who have demonstrated behavioral problem and are considered in need of services will therefore also be opened to the wide spectrum of services provided by SWD and ED mentioned above. The care or protection order referred to in paragraphs 4 and 5 is also applicable to children above the minimum age and is below 14 years and juveniles aged between 14 and 18 years as long as they meet the prescribed criteria provided for under the PCJO.

25. Regarding those who are cautioned under the PSDS, there is at present a well-established system to provide aftercare services to children who are cautioned. Cautioned children who require aftercare services will be referred to any of the following –

- (a) Police's Juvenile Protection Section;

- (b) Community Support Service Scheme run by NGOs and subvented by the Social Welfare Department;
- (c) Integrated Family Service Centre / Family Services Centre of the Social Welfare Department; and
- (d) Education Department.

The operation of the PSDS, aftercare services provided for cautioned children, and criteria for referring cases to SWD, ED and/or NGOs are explained in a separate paper.

Conclusion

26. The above sets out the comprehensive services rendered to children below and above the minimum age who are of varying degree of behavioral problems. All of the services aim at promoting healthy development of young people, providing support and assistance to help children and youth-at-risk overcome difficulties they face in their development and preventing unruly or misbehaving children and youth from going astray and those who have committed crimes from re-offending.

Security Bureau

November 2002