

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

Past Reviews of the Police Superintendent's Discretion Scheme

Purpose

At the Bills Committee meeting held on 13 November 2002, Members requested to have more information concerning the objectives and findings of the reviews conducted on the Police Superintendent's Discretion Scheme (PSDS) in the past few years to facilitate further deliberation of the Bill. This paper seeks to provide Members with such information.

Background

2. The PSDS was introduced in 1963 when the then Attorney General authorized police officers of Superintendent (SP) rank and above the power to caution, rather than prosecute, young offenders under the age of 14 years.
3. The PSDS has been subject to constant review since its implementation. Throughout the years, the PSDS was extended to offenders aged under 16, 17 and then 18 in 1966, 1987 and 1995 respectively.
4. This paper summarizes the major reviews conducted on the PSDS since 1994.

Reviews on PSDS

5. A total of six major reviews on PSDS were conducted from 1994 to 2002 and the objectives and major findings of the reviews are set out below.

Review in 1994

- (a) Department responsible for the Review: Inter-departmental Working Group on PSDS, under the chairmanship of the then Solicitor General with representatives from the then Security Branch, Health and Welfare Branch, Education and Manpower Branch, Police, Education Department (ED) and Social Welfare Department (SWD) as members.
- (b) Objectives of the Review: To review the effectiveness of the PSDS and to identify improvement to the Scheme.
- (c) Major findings of the Review: Several recommendations to improve the Scheme were made on the following areas -
- ∄ the age limit of the Scheme should be raised to include persons who are under 18 years of age at the time of cautioning;
 - ∄ the operation of the Scheme should be monitored and reviewed by means of annual reports by the Commissioner of Police to the Fight Crime Committee (FCC). (Half-yearly progress reports on the PSDS have been submitted to the FCC since 1996);
 - ∄ additional mandatory criteria to require the consent of the offender and his/her parent or guardian to both cautioning and referral to professional support agencies should be introduced;
 - ∄ criteria for repeated cautioning and other administrative guidelines in relation to the operation of the scheme and the retention of caution records were worked out; and
 - ∄ liaison between the Police, SWD and ED should be emphasized.

Review in 1995

- (a) Department responsible for the Review: The Police
- (b) Objectives of the Review: To examine the extension of PSDS to include minor non-opiate drug offences

- (c) Major findings of the Review: The proposal to extend the PSDS to include minor non-opiate drug offences was supported. The related additional discretionary criteria and handling procedures were also worked out.

Review in 1997

- (a) Department responsible for the Review: The Police
- (b) Objectives of the Review: To examine the extension of PSDS to further include minor opiate drug offences
- (c) Major findings of the Review: The proposal of extension was supported. Relevant additional discretionary criteria and handling procedures were also worked out.

Review in 2001

- (a) Department responsible for the Review: The Police
- (b) Objectives of the Review: To review the effectiveness of the PSDS, taking into account the causes and types of offences committed by juvenile recidivists who have previously been cautioned under the PSDS and the recidivism rate under the PSDS.
- (c) Major findings of the Review:
- € The existing PSDS was generally effective.
 - € Juveniles aged between 14 and 16 were identified to be prone to re-offending and should be specifically targeted.
 - € Closer supervision should be given to juvenile offenders during their first six months after being cautioned.

€ Additional training should be given to the staff of the Police Juvenile Protection Section to enhance their professionalism and skills in discharging their duties.

Review in 2001 (by interdepartmental committee)

- (a) Department responsible for the Review: Committee on the Extension of the PSDS, under the chairmanship of the Deputy Director of Public Prosecutions with representatives from the Police, Security Bureau, ED, SWD, Department of Justice and Independent Commission Against Corruption.
- (b) Objectives of the Review: To consider whether it was expedient to extend the operation of the PSDS to -
€ young offenders under the age of 21; and
€ offenders of all age groups.
- (c) Major findings of the Review: The Committee, by a majority, recommended that the PSDS should not be extended to other age groups.

Review in 2002

- (a) Department responsible for the Review: The Police
- (b) Objectives of the Review: To review comprehensively on the policy and procedural guidelines on PSDS with particular focus on improving aftercare services for the cautioned juveniles.
- (c) Major findings of the Review:
€ It was concluded that the aftercare services provided by the non-governmental organizations (NGOs) running the Community

Support Service Scheme (CSSS) were essential and effective. Guidelines on referral to CSSS were properly established and promulgated.

- ∄ In addition, the co-operation and co-ordination between the Police and SWD, ED and NGOs were strengthened.
- ∄ The format of the Background Report of Juvenile Offender was revised.

Conclusion

6. In addition to the aforementioned major reviews, the police guidelines on the operation of the PSDS are constantly reviewed with a view to identifying any improvement and adjustment needed and incorporating the latest development into the guidelines. Relevant issues concerning the subject will also be promptly disseminated to all frontline officers to keep them abreast of the latest information and developments. Besides, all follow-up visits to the cautioned juveniles are monitored by supervisory officers, and cases of particular interest are reviewed by senior officers at Regional level. This is to ensure that service of high quality can be provided and a uniform standard in exercising the discretion is to be maintained throughout the Police Force.

Security Bureau
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