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**Panel on Administration of Justice and Legal Services
and Panel on Security**

**Minutes of joint meeting
held on Monday, 27 October 2003 at 4:30 pm
in Conference Room A of the Legislative Council Building**

Members present : Members of Panel on Administration of Justice and Legal Services

- * Hon Margaret NG (Chairman)
- Hon Jasper TSANG Yok-sing, GBS, JP (Deputy Chairman)
- * Hon Albert HO Chun-yan
- Hon Martin LEE Chu-ming, SC, JP
- Hon CHAN Kam-lam, JP
- * Hon Ambrose LAU Hon-chuen, GBS, JP
- Hon Emily LAU Wai-hing, JP
- * Hon Audrey EU Yuet-mee, SC, JP

Members of Panel on Security

- # Hon James TO Kun-sun (Chairman)
- Hon WONG Yung-kan (Deputy Chairman)
- Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
- Hon CHEUNG Man-kwong
- Hon Howard YOUNG, SBS, JP
- Hon LAU Kong-wah, JP
- Hon Michael MAK Kwok-fung
- Hon IP Kwok-him, JP

Member attending : Hon Cyd HO Sau-lan

Members absent : Members of Panel on Administration of Justice and Legal Services

Hon Miriam LAU Kin-yee, JP
Hon TAM Yiu-chung, GBS, JP

Members of Panel on Security

Dr Hon LUI Ming-wah, JP
Hon Andrew WONG Wang-fat, JP

* Also a member of Panel on Security

Also a member of Panel on Administration of Justice and Legal Services

Public officers attending : Security Bureau

Ms Winnie NG
Principal Assistant Secretary for Security (E)

Miss Angela LEE
Assistant Secretary for Security (E)

Health, Welfare and Food Bureau

Ms Wendy CHEUNG
Assistant Secretary (Welfare)

Hong Kong Police Force

Mr Ian MACKNESS
Chief Superintendent (Crime) (Support)

Ms Cecilia NG
Superintendent (Crime) (Support)

Social Welfare Department

Mr CHEUNG Hing-wah
Assistant Director (Youth & Corrections)

Judiciary Administration

Mr Augustine L S CHENG
Deputy Judiciary Administrator (Operations)

Attendance by invitation : Dr Dennis WONG
Associate Professor
Department of Applied Social Studies of the
City University of Hong Kong

The Hong Kong Bar Association

Mr Andrew BRUCE, SC
Mr P Y LO
Mr Selwyn YU

Clerk in attendance : Mrs Percy MA
Chief Assistant Secretary (2)3

Staff in attendance : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Mr Paul WOO
Senior Assistant Secretary (2)3

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I. Election of Chairman

Miss Margaret NG was elected Chairman of the joint meeting.

II. Juvenile court system and proceedings

(Consultancy Report on Measures Alternative to Prosecution for Handling Unruly Children and Young Persons : Overseas Experiences and Options for Hong Kong; LC Paper Nos. CB(2)160/03-04(01) and 160/03-04(02))

2. The Chairman invited Dr Dennis WONG to brief the Panel on the "Consultancy Report on Measures Alternative to Prosecution for Handling Unruly Children and Young Persons : Overseas Experiences and Options for Hong Kong" (the Consultancy Report) commissioned by the Security Bureau and prepared by Youth Studies Net, City University of Hong Kong. Dr Wong said that the Consultancy Report looked into the respective juvenile justice systems in six selected overseas jurisdictions, namely, Singapore, England and Wales, Belgium, Canada, Australia (Queensland) and New Zealand. In main, the Consultancy Report covered the following major aspects -

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- (a) in-depth research on the measures alternative to prosecution adopted in the selected overseas jurisdictions for handling unruly children and young persons;
- (b) assessment on the effectiveness of such measures in preventing and diverting children and young persons from going astray; and
- (c) recommendations on whether there was a case for introducing new measures alternative to prosecution in Hong Kong to deal with unruly children and juveniles.

3. In the interest of time, Dr Wong gave a power-point presentation on the respective juvenile justice systems in three of the selected overseas jurisdictions, namely, Singapore, Canada and New Zealand.

4. Dr Dennis WONG advised that in formulating options for handling unruly children and young offenders in Hong Kong, the study had taken into account the international trend to shift from punitive and retributive approaches to restorative and reintegrative practices, and the fact that the minimum age of criminal responsibility had been raised from seven to ten years of age in Hong Kong. Arising from the study, four options for children below the minimum age of ten years and two options for persons aged from ten to below 18 had been proposed. A detailed explanation of the options was set out in Chapters 10 and 11 of the Consultancy Report.

5. Principal Assistant Secretary for Security (PAS(S)) briefed members on the Administration's paper (LC Paper No. CB(2)160/03-04(01)) which gave an overview of the Consultancy Report and explained the way forward for the Administration in following up the recommendations made in the Report.

6. PAS(S) further informed members that the Administration had, on 1 October 2003, launched a pilot scheme under which Family Conferences were conducted for children/juveniles cautioned under the Police Superintendent Discretion Scheme (PSDS). The Administration planned to review the operation of the pilot scheme in 12 months' time. As for other recommendations made in the Consultancy Report, an interdepartmental working group comprising representatives from Security Bureau, Health, Welfare and Food Bureau, Education and Manpower Bureau, Social Welfare Department, the Police and Department of Justice had been formed to consider how to take them forward. The working group would also draw up plans to consult relevant parties, in particular providers of children and youth services. She said that the Administration would keep the Legislative Council (LegCo) informed of the progress of the deliberations of the working group.

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Issues raised by members

7. On the various measures alternative to prosecution to deal with unruly children and young persons, the Chairman pointed out that the Administration's paper had only highlighted the pilot scheme on Family Conferences for children/juveniles cautioned under PSDS. She said that in view of the wide range of findings and recommendations made in the Consultancy Report, it was necessary for LegCo to consider them on a comprehensive, rather than a piecemeal, basis. The Chairman added that the Administration should inform LegCo as soon as possible of any conclusions and recommendations made by its interdepartmental working group.

8. PAS(S) said that the system of family group conferences to deal with children/juveniles was one of the major findings of the Consultancy Report. As the Family Conference pilot scheme had recently been put to trial after extensive discussions, the Administration wished to make use of the opportunity to update members on its operation. She said that the interdepartmental working group would proceed to consider the findings and recommendations of the Consultancy Report and revert to LegCo on its conclusions at appropriate stages.

9. The Chairman sought the Bar Association's view on the review. Mr Andrew BRUCE said that the Bar Association's position was that there was a need to review and improve the juvenile justice system in Hong Kong. The Bar Association welcomed the Administration's move to conduct a comprehensive review, and it would participate in the process as the review progressed.

10. Regarding measures to deal with unruly children and young offenders, Mr Andrew BRUCE opined that the Administration should guard against well-intentioned schemes being turned ineffective because of bad administration. He commented that the operation of PSDS, for example, was bureaucratic. Moreover, the lack of sufficient professional training for the staff involved in dealing with youth problems had hampered the provision of services under the scheme.

11. Ms Emily LAU enquired about the costs of conducting the consultancy study. PAS(S) replied that the costs were about \$500,000.

12. Ms Emily LAU noted that the Consultancy Report was only available in English. She pointed out that reports on consultancy studies conducted by the Administration were usually published in both languages, and suggested that a translated version of the Consultancy Report in Chinese should be produced. The Chairman shared the view of Ms Emily LAU. She said that a Chinese version would facilitate consultation and active participation by the public in the review. She considered it worthwhile for the Administration to incur some

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extra costs to produce a Chinese version of the Report. PAS(S) agreed to consider members' proposal.

(Post-meeting note : The Administration advised that arrangement would be made to translate the Consultancy Report into Chinese. It was expected that the Chinese version of the Report would be available towards the end of January 2004.)

Way forward

13. The Chairman opined that as the policy issues arising from the review on juvenile justice system straddled the portfolios of different policy bureaux of Government and different Panels of LegCo, it would be appropriate for the House Committee to set up a subcommittee comprising all interested members of LegCo to follow up the relevant issues. This would obviate the need for the relevant Panels to hold joint meetings and facilitate discussions of Members to proceed in a more efficient manner.

14. Members agreed that the two Panels should make a report to the House Committee and recommend that a subcommittee should be formed to follow up the relevant issues.

(Post-meeting note : The House Committee agreed on 7 November 2003 to set up a subcommittee as recommended by the Panels.)

15. The Chairman suggested and members agreed that the subcommittee, if formed, should consult the two legal professional bodies and those deputations that had given views to the Bills Committee on the Juvenile Offenders (Amendment) Bill 2001 on the findings and recommendations of the Consultancy Report.

16. The meeting ended at 5:30 pm.