

立法會
Legislative Council

LC Paper No. CB(2)285/06-07
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seen by the Administration)

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Panel on Welfare Services

Subcommittee on Strategy and Measures to Tackle Family Violence

Minutes of the 11th meeting
held on Wednesday, 20 September 2006, at 4:30 pm
in Conference Room A of the Legislative Council Building

- Members present** : Hon CHAN Yuen-han, JP (Chairman)
Hon LEE Cheuk-yan
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon LI Fung-ying, BBS, JP
Hon Alan LEONG Kah-kit, SC
Dr Hon Fernando CHEUNG Chiu-hung
- Member absent** : Hon LEUNG Kwok-hung
- Member attending** : Hon Margaret NG
- Public Officers attending** : Miss Hinny LAM
Principal Assistant Secretary for Health, Welfare and Food
(Women)
- Ms Winnie LEUNG
Assistant Secretary for Health, Welfare and Food (Women)

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Mrs Anna MAK
Assistant Director (Family and Child Welfare)
Social Welfare Department

Ms PANG Kit-ling
Chief Social Work Officer (Domestic Violence)
Social Welfare Department

Mr NG Kam-wing
Chief Superintendent
(Crime Support) (Crime Wing)
Hong Kong Police Force

Ms HO Yuen-ha
Superintendent of Police (Crime Support)
Hong Kong Police Force

**Deputations
by invitation** : Against Elderly Abuse of Hong Kong

Ms Kennex YUE
Chief Executive Director

Hong Kong Association for the Survivors of Women Abuse
(Kwan Fook)

Ms LIU Ngan-fung
Chairman

Hong Kong Women's Coalition on Equal Opportunities

Ms CHUNG Yuen-yi
Co-ordinator

Association Concerning Sexual Violence Against Women

Ms WONG Sau-yung
Service in-charge

Hong Kong Council of Social Service

Ms Elsa CHIU Lai-suen
Chief Officer, Service Development (Family and Community)

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Government Social Work Officers' Association

Mr Timothy HO Kin-chung
Chairman

Miss Monica MOK
Executive Committee Member

Christian Family Service Centre

Ms NG Kwok-tung
Senior Programme Director
(Family and Community)

Caritas Hong Kong - Family Service

Miss HO Yee-ching
Crisis Care Worker

Clerk in attendance : Miss Mary SO
Chief Council Secretary (2) 5

Staff in attendance : Mr LEE Yu-sung
Senior Assistant Legal Adviser 1

Miss Vivien POON
Council Secretary (2) 3

Miss Maggie CHIU
Legislative Assistant (2) 4

I. Meeting with the Administration and deputations

(LC Paper Nos. CB(2)2132/05-06(01), CB(2)3027/05-06(01) to (07), CB(2)3047/05-06(01) to (03) and CB(2)3067/05-06(01))

(a) *Update of the Police improvement measures on handling domestic violence*

The Chairman invited representatives from the following organisations to give their views on the latest improvement measures by the Police on the handling

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of domestic violence as detailed in LC Paper No. CB(2)3027/05-06(01).

Views of deputations

*Against Elderly Abuse of Hong Kong
(LC Paper No. CB(2)3027/05-06(03))*

2. Ms Kennex YUE commended the Police on its efforts on improving ways to handle domestic violence. The Against Elderly Abuse of Hong Kong, however, pointed out that the focus of these improvement measures was mainly centred on assisting families with the problems of spouse battering and child abuse and not elder abuse, and urged that rectification be made in this regard.

*Hong Kong Association for the Survivors of Women Abuse
(LC Paper No. CB(2)3027/05-06(04))*

3. Ms LIU Ngan-fung pointed out that if frontline Police remained insensitive to the needs of victims of domestic violence, tragedies would still recur no matter what actions had been taken by the Police to improve the handling of domestic violence. Ms LIU told the meeting of two recent cases whereby the victims were left on their own device to seek help from social workers and other relevant professionals, despite reporting their cases on more than one occasion to the Sergeant deployed to the scene to take charge of the investigation. Ms LIU then sought clarification from the Police on the criteria for determining which reported family case should be followed up under the to be implemented three-tiered investigation structure referred to in paragraphs 8 to 11 of LC Paper No. CB(2)3027/05-06(01).

4. Ms LIU noted that to complement the aforesaid three-tiered investigation structure and to overcome some of the complications arising from different units handling different cases arising from the same family, a "One Family One Team" approach would be adopted by the Police. The same investigation unit, be it the Designated Domestic Violence Investigation Units which would be set up at District level or the Divisional Investigation Team, would take over all subsequent cases involving the same family until all outstanding cases had been concluded and investigation curtailed. Although such an initiative was worthy of support, Ms LIU hoped that consideration could be given to expanding such team into a multi-disciplinary one comprising not only Police but also social workers and other relevant professionals, having regard to the multi-faceted nature of the problem of domestic violence.

5. Ms LIU welcomed the Police's plan to improve its response to domestic violence reports and to ensure standardisation of investigations by introducing an

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Emergency Referral Questionnaire (ERQ) and an Action Checklist. Ms LIU urged the Police to let Kwan Fook and other concern groups to have sight of the ERQ and the Action Checklist before implementation to ensure that these tools could achieve the desired effect.

Hong Kong Women's Coalition on Equal Opportunities
(LC Paper No. CB(2)3027/05-06(06))

6. Ms CHUNG Yuen-yi urged the Police to set down clear criteria for classifying which types of family cases should be followed up under the to be implemented three-tiered investigation structure and to let the Coalition and other concern groups have sight of the ERQ and Action Checklist before implementation. To ensure frontline Police officers would closely employ the ERQ and Action Checklist, Ms CHUNG suggested imposing sanction for non-compliance. Noting that there were at present only two outreaching teams comprising a total of four social workers from the Social Welfare Department (SWD) to render immediate crisis intervention outside office hours, Ms CHUNG asked whether consideration would be given to increasing the number of such teams to complement the latest efforts made by the Police on handling domestic violence.

Association Concerning Sexual Violence Against Women
(LC Paper No. CB(2)3027/05-06(07))

7. Ms WONG Sau-yung urged the Police to step up equipping its officers with the knowledge of the power differences between the victims and the abusers, state of mind of women victims, gender differences and the need to view the problem of domestic violence to be a public health issue. The Association hoped that the Police could make public the contents of its training package on handling domestic violence, so as to facilitate better multi-disciplinary collaboration to combat the problem. Apart from this, the Police should set down clear criteria for classifying which types of reported domestic cases should be handled by the Designated Domestic Violence Investigation Units. Ms WONG further urged the Police to release information from its Central Family Violence Database in future, so as to enable the public to gauge the effectiveness of the measures implemented to tackle domestic violence.

Hong Kong Council of Social Service
(LC Paper No. CB(2)3047/05-06(01))

8. Ms Elsa CHIU requested the Police to step up communication with key stakeholders on how it intended to take forward its new investigative framework built on a three-tiered structure on handling domestic violence, so as to promote

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better multi-disciplinary and multi-sectoral collaboration. Ms CHIU further requested the Police to make clear what criteria would be used to grade the seriousness of a reported domestic case, having regard to the fact that the three-tiered structure was designed at providing a graded response by investigation units at different levels.

9. Ms CHIU hoped that the setting up of the Designated Domestic Violence Investigation Units at District level would not result in the demise of the existing Police's Child Abuse Investigation Unit. Ms CHIU also hoped that the Police would include in its Action Checklist that enforcement action against the abusers would still be pursued even though it had referred the victims to a place of refuge or had approached the SWD outreaching teams for immediate crisis intervention, so as to safeguard the safety of the victims. Besides, frontline officers should not merely rely on the evidence given by the victims for taking enforcement action against the abusers, as this was tantamount to "blaming the victims" for not able to take enforcement action against the abusers if the victims were unwilling to give evidence against their abusers. Instead, the Police should adopt a more active role in evidence gathering, such as interviewing the neighbours who might be witnesses to the crime.

*Government Social Work Officers' Association
(LC Paper No. CB(2)3047/05-06(01))*

10. Mr HO Kin-chung requested the Administration to review the existing manpower of social workers from the SWD to see whether the number of these workers were adequate to complement the work of the Police in combating domestic violence. It was envisaged that with the implementation of the ERQ, Action Checklist, enhanced Police training on the handling of domestic violence and the setting up of the Designated Domestic Violence Investigation Units, requirements for assistance by social workers would increase. It was particularly worrying whether the existing manpower arrangement outside office hours would be able to cope with the rising demand for immediate crisis intervention by social workers.

*Christian Family Service Centre
(LC Paper No. CB(2)3047/05-06(03))*

11. Ms NG Kwok-tung called upon the Police to set down clear criteria on how it would grade the seriousness of reported domestic cases for investigation by Police units at different levels as well as the criteria for determining what constituted a family dispute case and a domestic violence case, so as to ensure consistency in the handling of domestic violence. As the problem of domestic violence could only be effectively tackled by collaboration among all parties

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concerned, it was necessary for the Police to discuss with all relevant professionals on the delineation of duties prior to the implementation of the ERQ, the Action Checklist and the three-tiered investigation structure. To ensure the effectiveness of the improvement measures on handling domestic violence, periodically review should be conducted. Consideration should also be given to the setting up of a telephone hotline to answer enquiries on the measures taken by the Police to handle domestic violence.

*Caritas Hong Kong – Family Service
(LC Paper No. CB(2)3067/05-06(01))*

12. Miss HO Yee-ching expressed views similar to other deputations. Miss HO further said that there were still incidents of frontline officers giving out the contact numbers of the agencies to the victims to seek help instead of taking the initiative to refer the victims to these agencies. Miss HO however pointed out that generally speaking, frontline officers had become more sensitive to the special needs of victims of domestic violence in recent years, and the attitude of the frontline offices at the Ngau Tau Kok Police station in this regard was particularly commendable.

The Administration's response

13. Chief Superintendent (Crime Support) (Crime Wing) responded as follows -

- (a) under the new three-tiered investigation structure, serious domestic violence cases would be taken up by the Designated Domestic Violence Investigation Units to be set up at District level under the supervision of District Commanders; whereas repetitive (non-crime) cases, would be taken up by the Divisional Investigation Teams and non-repetitive/miscellaneous (non-crime) domestic violence cases by Uniform Branch Officers;
- (b) a domestic violence case would be considered serious if it involved acts such as serious assault, rape, murder and use of weapons in committing the offence. Other factors would be how recent the violent act had repeated itself, injuries inflicted, the likelihood of the abuse on the victim escalating and use of threat to intimidate the victim and/or his/her children;
- (c) being internal documents for frontline officers to follow, the Police had no intention to make public the ERQ and Action Checklist as a matter of principle. It should however be pointed out that the main thrust of the ERQ and Action Checklist had been provided in LC

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Paper No. CB(2)2389/05-06(01) previously submitted to the Subcommittee for the meeting on 15 June 2006. Nevertheless, the Commissioner of Police intended to invite all relevant stakeholders to his office to brief and exchange views with them on the latest package of improvement measures on handling domestic violence, in particular the ERQ and Action Checklist, prior to their implementation in late October 2006;

- (d) there was no need to introduce sanction on frontline Police officers for not completing the ERQ and Action Checklist faithfully, as all Police officers were subject to disciplinary actions for non-compliance of orders and guidelines;
- (e) depending on the nature of the domestic violence cases, different means of referrals to SWD for follow-up actions would be taken by the handling officers. If situation warranted, immediate crisis intervention from SWD would be called for or arrangement would be made to remove the victim and his/her children to a place of refuge. If a case did not warrant immediate crisis intervention from SWD, the handling officers would refer such case to SWD after completing the investigation at the scene. Where such was required outside office hours, the District Social Welfare Officer (DSWO) concerned could be contacted for assistance;
- (f) when requested to make referrals, frontline Police should not just leave the victims with the addresses and contact numbers of the Government departments or non-governmental organisations (NGOs) for them to seek assistance on their own. Under the existing Police guidelines on the handling of domestic violence cases, Police officers should brief the victims on the services available for victimised persons and the conditions under which the Police would make referrals to SWD with or without the consent of the victimised parties. Deputations were invited to refer to the Police with details of the cases whereby the victims were asked to seek assistance from SWD or NGOs on their own;
- (g) the worry that the Police would not take arrest action on the offender if the victim was referred for social service follow-up was unfounded. When evidence of a crime was established, necessary arrest action would be taken by the Police;
- (h) the operation of the Child Abuse Investigation Unit would not be affected by the setting up of the Designated Domestic Violence

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Investigation Units;

- (i) the topics suggested by the Association Concerning Sexual Violence Against Women in paragraph 7 above were already included in the Police training package on the handling of domestic violence. In the development of training materials for the Police on the handling of domestic violence, due regard had been given to the experience of overseas jurisdictions; and
- (j) the Police would keep the implementation of the improvement measures on handling domestic violence under continuous review to ensure that they achieved the desired effect.

14. Assistant Director of the Social Welfare Department (Family and Child Welfare) (ADSW(FCW)) expressed that the existing arrangement to respond to the calls for assistance outside office hours functioned adequately. ADSW(FCW) pointed out that of the 79 calls received by SWD social workers outside office hours from 1 April 2005 to 31 March 2006, only 37 required immediate crisis intervention. ADSW(FCW) further said that there should be no question of the Police unable to get assistance from SWD outside office hours, as the Police had the mobile phone numbers of all 12 DSWOs. Upon receipt of the request for assistance from the Police outside office hours, the DSWO concerned would mobilise the manpower in his/her district to deploy staff to render immediate crisis intervention, if so required. Notwithstanding the aforesaid, SWD would keep in view the situation and consider increasing the number of social workers working on shift outside office hours if warranted.

15. Chief Superintendent (Crime Support) (Crime Wing) supplemented that he was not made aware of any complaint lodged by frontline officers for not being able to obtain assistance from SWD outside office hours. In his view, it was unlikely that frontline officers did not request for immediate crisis intervention from SWD if the situation warranted.

Discussion

16. Noting that there were still incidents of frontline Police leaving the victims to fend on their own, Mr TAM Yiu-chung urged the Police to continue to step up training on the handling of domestic violence and strengthen collaboration with local NGOs, relevant professionals and District Councils. In response, Chief Superintendent (Crime Support) (Crime Wing) said that the Police would continue to strive to make improvements in this regard.

17. Dr Fernando CHEUNG said that one of the Concluding Comments made

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by the Committee on the Elimination of Discrimination against Women of the United Nations (the UN Committee) in August 2006 on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women under the Hong Kong Special Administrative Region (HKSAR) concerned the low prosecution rate of domestic violence in the HKSAR. To that end, the UN Committee recommended the HKSAR to allocate sufficient resources to combat all forms of violence against women and to provide details about the budget allocation in its next periodic report. Dr CHEUNG asked about the actions which the Administration intended to take to address the concern expressed by the UN Committee.

18. PAS/HWF(W) responded that the UN Committee had commended the efforts made by the HKSAR in protecting women against domestic violence, including the adoption of the "zero tolerance on domestic violence" principle. Violence acts were liable to criminal charges under the law regardless of whether the acts occurred in a domestic context. In addition, a wide spectrum of preventive, supportive and specialised services was provided to victims of domestic violence and families in need. Notably, more than \$1.33 billion had been allocated in the current financial year, for counselling, shelter, child care, clinical psychology, emergency financial support and compassionate-rehousing services for victims. Training and coordination for social workers, Police officers and related professionals had also been strengthened. The Administration would continue to explore effective means to assist the victims. In response to a question by the deputation, PAS/HWF(W) advised that the \$1.33 billion quoted was the amount allocated under the Family and Child Welfare Programme to provide the range of preventive, supportive and specialised services.

19. On prosecution figures, PAS/HWF(W) said that in 2005 the Police received a total of 1 274 reported crime cases related to domestic violence, out of which 67% (851 cases) had been brought to the criminal court for bind-over orders or criminal charges as at end of May 2006. Chief Superintendent (Crime Support) (Crime Wing) supplemented that 234 out of these 1 274 criminal cases were brought to prosecution with 118 resulted in conviction, and 617 were bound over by the court. In addition to the 1 274 criminal cases related to domestic violence recorded in 2005, a total of 1 354 non-criminal cases related to domestic violence were also recorded during the same year. Chief Superintendent (Crime Support) (Crime Wing) further said that the main reason why many criminal cases related to domestic violence could not be brought to prosecution was due to insufficient evidence from the testimony given by the victims.

20. Mr LEE Cheuk-yan opined that the Police should press ahead with prosecuting the batterer if there was sufficient evidence, instead of

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recommending to the court for making a bind-over order.

21. Chief Superintendent (Crime Support) (Crime Wing) responded that how the Police would treat each criminal case related to domestic violence would depend on the circumstances of the case. Besides, it might not always be in the best interests of the victimised families to prosecute the batterers.

(b) *Update of the review on Domestic Violence Ordinance (Cap. 189)*
(LC Paper Nos. CB(2)2132/05-06(01), CB(2)3027/05-06(02) to (07),
CB(2)3047/05-06(01) to (03) and CB(2)3067/05-06(01))

22. At the invitation of the Chairman, PAS/HWF(W) briefed members on the progress of its review on the Domestic Violence Ordinance (DVO) (Cap. 189), details of which were set out in its letter of 13 September 2006 to the Subcommittee (LC Paper No. CB(2)3027/05-06(02)).

Against Elderly Abuse of Hong Kong
(LC Paper No. CB(2)3027/05-06(03))

23. Ms Kennex YUE urged the Administration to include parents-adult son/daughter and parents-in-law relationships under the scope of the DVO and set up a dedicated domestic violence court.

Hong Kong Association for the Survivors of Women Abuse
(LC Paper No. CB(2)3027/05-06(04))

24. Ms LIU Ngan-fung urged the Administration to clearly define "domestic violence" in the DVO to include physical abuse, sexual abuse and psychological abuse, expand the scope of the DVO to cover all familial relationships and persons living in the same household, include in the DVO legislative sanction against stalking behaviour in domestic context, introduce a court-ordered Batterer Intervention Programme (BIP), not to set a time limit on the validity of injunction order and allow a third party to apply for an injunction order on behalf of the victim.

Hong Kong Women's Coalition on Equal Opportunities
(LC Paper No. CB(2)3027/05-06(06))

25. Ms CHUNG Yuen-yi expressed strong dissatisfaction that the Administration was still reluctant to clearly define "domestic violence" in the DVO to include physical abuse, sexual abuse and psychological abuse, expand the scope of the DVO to cover all familial relationships and persons living in the same household etc. as repeatedly recommended by many deputations in the past.

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Ms CHUNG hoped that the Administration would not drag its feet even in making the small changes it had agreed to amend the DVO to render better protection for victims of domestic violence.

*Association Concerning Sexual Violence Against Women
(LC Paper No. CB(2)3027/05-06(07))*

26. Ms WONG Sau-yung hoped that the Administration would expeditiously proceed with the legislative amendments to the DVO within this year, as the deliberations on how the DVO should be amended to render better protection for victims of domestic violence had been made since the setting up of this Subcommittee in December 2004 and a number of family tragedies had continued to crop up. Ms WONG further said that the Association in particular could not agree with the reasons given by the Administration that to extend the scope of the DVO to cover parent/adult child and parent/adult child-in-law relationships would undermine family values and that resorting to the law was not necessarily the only way or best way to resolve family disputes. Ms WONG also requested members to follow up on the Administration's refusal to abide a motion passed by this Subcommittee on 31 July 2006 requesting the Administration to suspend the bidding procedure for operating the Multi-purpose Crisis Intervention and Support Centre.

*Hong Kong Council of Social Service
(LC Paper No. CB(2)3047/05-06(01))*

27. Ms Elsa CHIU urged the Administration to introduce an amendment bill on the DVO within this year, as a consensus on how the DVO should be amended to render better protection for victims of domestic violence had long been reached. Ms CHIU hoped that the Administration would adopt an open mind in finalising the legislative proposals by extending the scope of the DVO to cover parent/adult child and parent/adult child-in-law relationships, amongst others. Ms CHIU pointed out that although resorting to the law was not the only way or the best way to resolve family disputes, it nevertheless was one effective way to prevent people from being victimised by their family members. Ms CHIU further hoped that consideration could be given to exploring the feasibility of attaching a BIP to a bind over order.

*Christian Family Service Centre
(LC Paper No. CB(2)3047/05-06(03))*

28. Ms NG Kwok-tung requested the Administration to re-consider extending the scope of the DVO to cover parent/adult child and parent/adult child-in-law relationships and expand the scope of public consultation on the review of the

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DVO. Ms NG however hoped that the Administration could introduce an amendment bill on the DVO within this year so that better protection could be provided to victims of domestic violence as soon as possible.

Caritas Hong Kong – Family Service
(LC Paper No. CB(2)3067/05-06(01))

29. Miss HO Yee-ching urged the Administration to expeditiously introduce legislative amendments to the DVO to extend the scope of the DVO to cover parent/adult child and parent/adult child-in-law relationships and introduce a new provision to the DVO to allow victims to apply for a protection order. Miss HO also urged the Administration to introduce a court-ordered BIP to stem out domestic violence in the long run and set up a dedicated domestic violence court.

Discussion

30. Miss Margaret NG requested the Administration to come up with a timetable for introducing legislative amendments to the DVO.

31. PAS/HWF(W) responded that the Administration planned to consult the Panel on Welfare Services on the final package of proposed legislative amendments to the DVO by the end of this year.

32. Ms Margaret NG urged the Administration to introduce the amendment bill within this year to implement the following proposed amendments of which a common consensus had been reached. They were, namely, expanding the scope of the DVO to include former spouses and former co-habitees, enabling a next friend of a child under the age of 18 to make application for an injunction order on behalf of the child and removing the requirement that the child had to live together with the applicant, allowing the court to vary any existing custody/access order when it made an order to exclude the abuser from the matrimonial home or from a specified area in accordance to section 3(1)(c) of the DVO, empowering the court to attach a power of arrest and extending the duration of the injunction order to a maximum of 24 months. Ms NG said that the Administration should not drag its feet on introducing the amendment bill, as it appeared unlikely that the Administration would change its stance on other proposals put forward by members and NGOs in the foreseeable future. The Chairman, Ms LI Fung-ying, Mr LEE Cheuk-yan and Dr Fernando CHEUNG concurred.

33. Dr Fernando CHEUNG suggested that the Chairman should write to the Administration requesting for a reply by October 2006 on the timetable for introducing the amendment bill. Members agreed.

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(*Post-meeting note* : The Administration replied in writing to the Chairman on 12 October 2006 that the Administration planned to amend the DVO. It was at the final stage of the consultation on the amendment proposals and aimed to consult the Panel on Welfare Services on the final package of the proposals by the end of this year. The Administration would proceed with the preparation of the amendment bill within the current legislative session.)

II. Any other business

34. As the House Committee was not tasked to consider policy issues of Panels, the Chairman suggested that the issue of the Administration's refusal to abide a motion passed by this Subcommittee on 31 July 2006 requesting the Administration to suspend the bidding procedure for operating the Multi-purpose Crisis Intervention and Support Centre be referred to the Panel on Welfare Services for follow-up. Members agreed.

35. There being no other business, the meeting ended at 6:25 pm.

Council Business Division 2
Legislative Council Secretariat
10 November 2006