

**The Judiciary's Response to
Issues Raised by the Bills Committee on the
Domestic Violence (Amendment) Bill 2007 and
LegCo Panel on Welfare Services**

(a) Establishment of a Specialised Domestic Violence Court ("SDVC")

The Judiciary notes that there is a suggestion for the Administration to consider setting up an SDVC to handle both civil and criminal cases relating to domestic violence ("DV"). The Labour and Welfare Bureau ("LWB") has relayed this suggestion to the Judiciary.

2. The problem of DV is a complex and multi-faceted one requiring careful study. A host of other supporting services, such as short-term refuge facilities, counselling services, behavioural therapy groups, emotion management services, and financial assistance etc would have to be put in place to help address the problem.

3. Currently, DV cases are dealt with by the courts mainly in two aspects, namely –

- (a) on the civil side, applications for injunction under the Domestic Violence Ordinance ("DVO") (Cap. 189) dealt with in the Family Court; and
- (b) on the criminal side, injuries inflicted on family members are dealt with at various levels of Courts, depending on the seriousness of the cases.

The Family Court always gives priority to dealing with applications for injunction relating to DV cases. For criminal DV cases, the courts at various levels can competently deal with them.

4. The Judiciary has noted from the research findings provided by the Administration that overseas jurisdictions have developed different models of SDVC.

5. If the suggestion for an SDVC is to set up a specialized court to handle both civil and criminal cases relating to domestic violence, it would involve a host of complicated legal issues as to how the proposed set-up would fit in with the existing legal framework, such that a single court would be able to deal with both criminal and civil aspects.

6. The Judiciary has noted from the Administration's research findings that in the UK, an SDVC takes the form of special administrative

arrangements, e.g. (i) fast-track listing of criminal DV cases and (ii) better coordination of civil and criminal cases related to DV. The Judiciary shares the Administration's view (as set out in the Administration's paper for the Legislative Council Panel on Welfare Services dated 8.1.2007) that some of these administrative measures are worth exploring. The implementation of these administrative measures would involve legal and practical issues, which have to be carefully considered by relevant parties concerned, including the Administration and the Prosecution.

(b) Strengthening training for judges and judicial officers (“JJOs”)

7. The Judicial Studies Board provides training programmes for JJOs at all levels. Every year, it organises and coordinates JJOs' participation in various professional training courses, international/local conferences, seminars and visits. In 2006, (i) an experience-sharing session on the work of the Family Court and (ii) a briefing session on the Social Welfare Department (“SWD”)’s “Batterer Intervention Programme” were organized. As part of its on-going efforts to update JJOs on issues of public concern, new legislation and crime trends, the Judiciary will continue to organize suitable training programmes for JJOs.

(c) Court Security for DV Cases

8. Applications may be made by the Prosecution for special measures to assist the vulnerable witnesses when giving evidence. These special measures include separate waiting rooms and giving evidence outside the courtroom via a TV/video link. The Judiciary would also make appropriate arrangements to step up court security on the advice of the Police on a case-by-case basis.

(d) Application for an Injunction Order under the DVO

9. The Judiciary is preparing an information leaflet on the application procedures for an injunction order under the DVO, and will make available such information at the Family Court, SWD, and other relevant Non-Governmental Organisations dealing with DV cases. The Judiciary plans to finalise the content of the information leaflet after the enactment of the DV (Amendment) Bill 2007, to take into account the latest amendments as appropriate, and will liaise with the Administration as to how best to disseminate the information to the target groups.

(e) Whether the same Judge that made a custody or access order in respect of a child could be arranged to hear the case in respect of the related application for exclusion orders

10. This is the normal practice in the Family Court, unless for urgent applications made outside work hours, in which case, it will be the Family Court Duty Judge who will deal with such applications.

(f) Whether judicial guidelines should be issued to facilitate consistent handling of DV cases

11. On the civil side, in handling applications under the DVO, Judges in the Family Court will exercise their powers in accordance with section 3 of the DVO, and apply similar principles in relevant precedent cases, where appropriate. On the criminal side, DV cases are dealt with at the Magistrates' Court, the District Court or the Court of First Instance, depending on the nature and seriousness of individual cases. As each case depends on its own facts, the Judiciary considers that the issue of judicial guidelines may not serve any practical purpose.

(g) Designating a specialized pool of Judges to handle DV-related cases

12. On the civil side, applications under the DVO are dealt with by a dedicated pool of seven Judges at the Family Court, except those urgent or special cases which are brought before the Court of First Instance. On the criminal side, DV cases are dealt with at the Magistrates' Court, the District Court or the Court of First Instance, depending on the nature and seriousness of individual cases. The Judiciary sees little justification to designate a pool of JJOs to try DV criminal cases at this stage.

Judiciary Administration
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