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Panel on Welfare Services

Subcommittee on Strategy and Measures to Tackle Family Violence

Minutes of the 16th meeting
held on Wednesday, 25 July 2007, at 4:30 pm
in Conference Room A of the Legislative Council Building

Members present : Dr Hon Fernando CHEUNG Chiu-hung (Chairman)
Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon CHAN Yuen-han, SBS, JP
Hon LEUNG Kwok-hung

Members absent : Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon LI Fung-ying, BBS, JP
Hon Alan LEONG Kah-kit, SC

Public Officers attending : Items I and II
Miss Hanny LAM
Principal Assistant Secretary for Labour and Welfare (Welfare)2

Ms Winnie LEUNG
Assistant Secretary for Labour and Welfare (Welfare)2A

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

Ms Irene HO
Superintendent (Child Protection Policy Unit) (Crime Wing)
Hong Kong Police Force

Item I only

Mr Patrick CHEUNG
Senior Assistant Director of Public Prosecutions
Department of Justice

Miss Agnes CHAN
Senior Government Counsel
Department of Justice

Item II only

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

**Deputations : Item I only
by invitation**

The Hong Kong Council of Social Service

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

Ms Jeff WONG
Officer, Service Development (Family and Community)

Association Concerning Sexual Violence Against Women

Ms Linda WONG
Executive Director

Ms TAN Kong-sau
Counsellor

The Against Elderly Abuse of Hong Kong

Mr Bernard TANG
Supervisor (Policy & Legal Support)

Hong Kong Chinese Civil Servants' Association, Social Work Officer
Grade Branch

Mr LEUNG Kin-hung
Chairman

Mr CHEUNG Kam-ki
Vice-Chairman (External Affairs)

Hong Kong Women's Coalition on Equal Opportunities

Miss WONG Wai-yin
Member

Miss WONG Pik-fong
Member

Harmony House

Ms Queenie YUEN
Supervisor of Children & Youth Services

Association for Concern for Legal Rights of Victims of Domestic
Violence

Ms NG Wai-ching
Chair-person

Hong Kong Federation of Women's Centres

Ms LAW Ying-tsz
Centre-in-charge

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

Staff in attendance : Ms Maisie LAM
Council Secretary (2) 2

Ms Sandy HAU
Legislative Assistant (2) 5

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I. Prosecution of abusers

[LC Paper Nos CB(2)2532/06-07(01), CB(2)2550/06-07(01) and CB(2)2564/06-07(01) to (08)]

The Subcommittee deliberated (Index of proceedings attached at **Annex**).

2. The Subcommittee received views from the following deputations on the enforcement actions against abusers in cases involving domestic violence taken by the Police, and the policy of the Department of Justice (DoJ)'s for prosecuting such abusers -

- (a) The Hong Kong Council of Social Service
[LC Paper No. CB(2)2564/06-07(01)];
- (b) Association Concerning Sexual Violence Against Women
[LC Paper No. CB(2)2564/06-07(02)];
- (c) The Against Elderly Abuse of Hong Kong
[LC Paper No. CB(2)2564/06-07(03)];
- (d) Hong Kong Chinese Civil Servants' Association, Social Work Officer Grade Branch
[LC Paper No. CB(2)2564/06-07(04)];
- (e) Hong Kong Women's Coalition on Equal Opportunities
[LC Paper No. CB(2)2564/06-07(05)];
- (f) Harmony House
[LC Paper No. CB(2)2550/06-07(01)];
- (g) Association for Concern for Legal Rights of Victims of Domestic Violence
[LC Paper No. CB(2)2564/06-07(06)]; and
- (h) Hong Kong Federation of Women's Centres
[LC Paper No. CB(2)2564/06-07(07)].

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The major views/concerns of the deputations are summarised as follows -

- (a) frontline Police officers should be mindful of the victim's psychology in the handling of domestic violence cases. Instead of relying on the victim to give evidence, and having regard to the fact that domestic violence often remained a one-against-one case, frontline Police officers should take the initiative to, say, interview neighbours and family members, including young children of the victims, and gather other circumstantial evidence;
- (b) the Police should conduct a study to find out why most domestic violence cases were determined as non-crime cases by its frontline officers, given that only 1 811 out of 4 704 domestic violence cases received in 2006, or 38.5%, were determined as crime cases;
- (c) "zero tolerance" policy should be strictly observed by the Police and DoJ in the prosecution of abusers. Promoting family unity should not come into play in the prosecuting policy or the making of bind over order in cases involving domestic violence. In all instances, frontline Police officers should interview the victims and abusers to get their testimony before deciding whether there was sufficient evidence to initiate prosecution action, rather than dismissing domestic violence cases as mere family disputes unless serious bodily harm was inflicted on the parties involved;
- (d) to deter abusers from offending again, the court should be empowered to require the abusers to undergo counselling as a condition attached to a bind over order and the Police's Designated Domestic Violence Investigation Units should follow up all received domestic violence cases;
- (e) support service for victims of domestic violence to testify against their abusers at court should be strengthened in areas such as arranging the victims to see the court beforehand and learn about the court procedures, arranging a social worker to go with the victims to court to give evidence, providing a separate access for victims to enter the court and allowing victims to give evidence by use of special measures such as CCTV. In addition, consideration should be given to establishing a legal advocate scheme as practised in the United Kingdom;
- (f) to encourage victims of domestic violence to come forward to testify against their abusers, criminal proceedings should be held and

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conducted expeditiously;

- (g) testimony given by victims of domestic violence suffering from or had mental illness should not be prejudiced by the Police in determining whether to initiate prosecution action against the abusers;
 - (h) the Police should come up with ways to effectively deal with domestic violence-related crime cases whereby self-defence was claimed by parties involved;
 - (i) to better improve Police's handling of domestic violence case, periodic analysis should be made to the information on the Central Domestic Violence Database (CDVD); and
 - (j) for the alert mechanism in the CDVD to achieve the best effect, it was necessary for the Police to formulate a series of follow-up actions by its Domestic Violence Investigation Units. At present, the alarm installed in the CDVD would be automatically generated to the attention of Divisional supervisory officers in respect of repetitive incidents occurring within 12 months or less.
3. Miss CHAN Yuen-han, Mr LEE Cheuk-yan and Mr Albert HO raised concerns similar to the deputations.

Responses from the Police and DoJ

4. Chief Superintendent of Police (Crime Support) said that -
- (a) the Police would take the full circumstances of the case into consideration when reviewing the sufficiency of evidence to initiate prosecution action against the abusers and under no circumstances would rely solely on the willingness of the victims to give evidence;
 - (b) the Police handled and investigated all reports of domestic violence professionally and conducted thorough investigations according to the circumstances of each report. Where there was evidence of an offence, Police would take prompt and decisive actions to effect arrest. Depending on the circumstances of each individual case and subject to availability of sufficient evidence such as the victims' and witnesses' testimony, medical reports and other circumstantial evidence, the Police would initiate prosecution action;

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- (c) in the absence of any other witnesses, the Police might encounter difficulties in verifying the accounts of the victims and the abusers as domestic violence cases often occurred in private. Despite the existence of medical reports and other circumstantial evidence, the victim's testimony remained the crucial part in establishing the prosecution case. Nevertheless, a victim, for various reasons, might decline to provide further information to the Police, not to mention testifying against the abuser in criminal proceedings. Under these circumstances, the Police might encounter certain difficulties in initiating prosecutions against the domestic violence abusers;
- (d) legislation and established procedures were in place for the Police to determine the appropriateness of prosecuting or applying for binding over orders against the abusers. All reports of domestic violence would be thoroughly investigated and decisions would be made in accordance with the "The Statement of Prosecution and Practice" and "The Policy for Prosecuting Cases involving Domestic Violence" of DoJ. If a victim, after giving statement to the Police, refused to testify against the abuser in criminal proceedings, such proceedings would have to be put on hold unless there were other witnesses or evidence available. As an alternative, application might be made to the court for binding over the abuser;
- (e) under no circumstances would the frontline Police officers treat family violence cases as family disputes lightly and arbitrarily. The Police were committed to handling and investigating all reports of domestic violence professionally. Since May 2006, supervisory officers at the rank of Sergeant or above had been designated to take charge of the initial police investigations and actions at scene to ensure propose case classifications and handling. The measure was further complemented by the implementation of the Emergency Referral Questionnaire and the Action Checklist since November 2006;
- (f) there was no cause for concern over the classification of domestic violence related crime cases as all frontline Police officers were properly trained to investigate and determine as to whether any criminal act or offence was committed;
- (g) to examine the effectiveness of the bind over order made in cases of domestic violence, the Police intended to examine the recidivism rate of the abusers who were bound over by court in previous domestic violence related crime cases and to present the findings in the

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forthcoming meeting;

- (h) support services were in place for helping the victims to undergo the court proceedings. The Police would update the victims on the investigation/court progress. Court procedures would also be explained to the victims with the "Witness in Court" leaflet served. In conjunction with the Social Welfare Department (SWD), other support measures including counselling, court visit, escort by social worker during trial, etc. might be arranged. If the court was satisfied that the victim was a "witness in fear", application for special arrangements, such as using live television link to testify, could also be made;
 - (i) out of all the 4 704 domestic violence cases received in 2006, only 1 811 were found to be crime related. After police investigations, the remaining 2 893 cases were miscellaneous (non-crime) cases with no crime disclosed, such as incidents of dispute etc;
 - (j) in cases of assaults or wounding where both parties claimed self-defence, thorough investigation would be conducted by the Police to verify the facts, and if necessary legal advice would be sought, before deciding there was sufficient evidence to prosecute either one or both parties; and
 - (k) there were clear guidelines for Police officers to interview and deal with domestic violence victims suspected of suffering from mental illness.
5. Senior Assistant Director of Public Prosecutions said that -
- (a) in deciding whether to take forward a prosecution in a case of domestic violence, the prosecutors would need to consider alignment with the public interests. Public interests would normally require that a prosecution be brought in a case of domestic violence if (i) there was sufficient evidence to provide a reasonable prospect of conviction, and (ii) the victim was willing to give evidence. It should however be pointed out that the fact that the victim was not willing to give evidence would not necessarily cause the case to be dropped. The prosecutor would still prosecute the offender if there was other sufficient evidence such as the seriousness of the violence acts, the fact that the offender had history of violence, witnesses' testimony and other circumstantial evidence. It should not be assumed that bringing the victim to court to testify was the only way

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to prove a case;

- (b) bind over order was not sought to promote family unit. A bind over order might be appropriate as an alternative to prosecution if the case was minor, the parties were reconciled, there was no history of violence and there was a concern over a future breach of the peace. A bind over order might also be sought if the victim withdrew support for the prosecution, and the prosecution decided to discontinue the case. Even then, the prosecutor should only seek such an order if there was still sufficient evidence to substantiate the complaint. In some instances, an accused might offer to be bound over on condition that the charge(s) was/were dropped. The prosecutor would approach any such proposal with great caution. It would only be accepted after a careful consideration of the possible consequences and whether it would be in the public interests to do so. To dispose of the case in this way was not likely to be in the public interests in cases involving serious violence. Ultimately, it would be for the court, not the prosecution or the defence, to decide if a bind over order was appropriate in the case presented before it; and
- (c) DoJ would see whether, and if so, what improvements should be made to the existing support service for witnesses.

Conclusion

6. The Chairman suggested and members agreed to hold further discussion on prosecution of abusers at the next meeting.

7 At the request of members, Senior Assistant Director of Public Prosecutions agreed to provide the following prior to the next meeting -

- DoJ (a) copies of "The Policy for Prosecuting Cases involving Domestic Violence" and "The Statement of Prosecution and Practice"; and
- Police (b) supplementary information in writing on the prosecution policy adopted by DoJ.

Chief Superintendent of Police (Crime Support) also agreed to report to members in writing prior to the next meeting the findings of the study referred to in paragraph 4(g) above.

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II. Handling of high risk domestic violence cases by the Police and the Social Welfare Department

[LC Paper No. CB(2)2532/06-07(02) and CB(2)2564/06-07(01)]

8. The Subcommittee noted the existing measures adopted by the Police and SWD in handling high-risk domestic violence cases, details of which were set out in the Administration's paper [LC Paper No. CB(2) 253206-07(02)].

9. The Subcommittee also noted the submissions received from the following deputations -

- (a) The Hong Kong Council of Social Service
[LC Paper No. CB(2)2564/06-07(01)];
- (b) Association for Concern for Legal Rights of Victims of Domestic Violence
[LC Paper No. CB(2)2564/06-07(06)]; and
- (c) Hong Kong Federation of Women's Centres
[LC Paper No. CB(2)2564/06-07(07)].

10. The Chairman urged the Administration and the Police to carefully consider the views/concerns expressed by deputations, in particular, the findings of a recent survey conducted by the Hong Kong Council of Social Services which revealed areas for improvement identified with regard to the gathering of evidence by Police and the referral mechanism between Police and SWD.

11. Mr Albert HO enquired whether, and if so, what actions had been made to improve the hotline service for victims of domestic violence after office hours. Mr HO also urged that more social work support be provided to the young children staying with their mothers in the refuge centres.

12. Assistant Director of Social Welfare (Family and Child Welfare) (ADSW(F&CW)) responded that people calling the SWD hotline outside the operating hours, i.e. from 9 a.m. to 10 p.m. from Monday to Saturday and from 1 p.m. to 10 p.m. on Sunday and during public holidays, could press on "0" to connect to the 24-hour crisis line of the Family Crisis Support Centre operated by the Caritas - Hong Kong which was also answered by social workers. Following the setting up of the CEASE Centre, a new crisis intervention and support centre, in March 2007, which provided round-the-clock service throughout the year for individuals and families affected by, amongst others, domestic violence, the public could now also access the Centre's 24-hour hotline manned by social workers to seek help or refer cases. ADSW(F&CW) further said that no significant rise in

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the number of requests for outreaching visits by social workers of SWD outside normal office hours, which averaged about some 40 visits a year, had been observed thus far, following the strengthening of the 24-hour crisis line service as well as the setting up of the 24-hour Direct Referral Line for the Police to seek urgent professional advice/and or support services from SWD outreaching team in high-risk cases. Notwithstanding, SWD would continue to review demand for emergency social work support outside office hours and make improvements where necessary.

13. Regarding social work support to women refuge centres, ADSW(F&CW) said that additional resources had been allocated to strengthen work in this regard. ADSW(F&CW) further said that if residents of women refuge centres were afraid that their spouses or former spouses would harass their young children on their way to school, tutoring arrangements for these children inside the refuge centres could be arranged.

14. Mr Albert HO noted from paragraph 20 of the Administration's paper that during initial contact with victims of domestic violence, assessment would be made in four areas, namely risk assessment, assessment of welfare needs, assessment of psychosocial and family functioning, and assessment of the motivation of the victims, their families and the batterers to receive help. In conducting the assessment, social workers might make use of different assessment tools as appropriate. Some commonly used assessment tools were "Initial Risk Assessment Form of Battered Spouse Cases (IRA)", "Spousal Assault Risk Assessment Guide (SARA)", "Child Abuse Risk Assessment Matrix (CARA)", "Los Angeles Suicide Prevention Centre Scale (LASPC)" and "Danger Assessment (DA)". ADSW(F&CW) said that she would be happy to provide members with the afore-mentioned assessment tools upon request after the meeting.

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

**Proceedings of the meeting of
Subcommittee on Strategy and Measures to Tackle Family Violence
on Wednesday, 25 July 2007, at 4:30 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 000419	Chairman	Opening remarks	
000420 - 001800	Admin Chairman	Briefing on the Administration's paper on the enforcement actions taken by the Police against the domestic violence abusers and the policy of the Department of Justice (DoJ) for prosecuting the abusers [LC Paper No. CB(2)2532/06-07(01)]	
001801 - 002146	The Hong Kong Council of Social Service	Presentation of views	
002147 - 002605	Association Concerning Sexual Violence Against Women	Presentation of views	
002606 - 002923	The Against Elderly Abuse of Hong Kong	Presentation of views	
002924 - 003251	Hong Kong Chinese Civil Servants' Association, Social Work Officer Grade Branch	Presentation of views	
003252 - 003633	Hong Kong Women's Coalition on Equal Opportunities	Presentation of views	
003634 - 003952	Harmony House	Presentation of views	
003953 - 004353	Association for Concern for Legal Rights of Victims of Domestic Violence	Presentation of views	
004354 - 004804	Hong Kong Federation of Women's Centres	Presentation of views	
004805 - 013631	Chairman Admin Miss CHAN Yuen-han Mr LEE Cheuk-yan Mr Albert HO	Police's and DoJ's responses to the views expressed by deputations and members DoJ agreed to provide the following prior to the next meeting - (a) copies of "The Policy for Prosecuting Cases involving Domestic Violence" and "The Statement of Prosecution and Practice"; and	✓ (Police and DoJ to provide)

Time marker	Speaker	Subject	Action required
		(b) supplementary information in writing on the prosecution policy adopted by DoJ. Police agreed to report to members in writing prior to the next meeting the number of abusers on bind over order in 2006 offending again.	
013632 - 014859	Chairman Admin Chairman	Briefing on the Administration's paper on the existing measures adopted by the Social Welfare Department and the Police in handling high-risk domestic violence cases [LC Paper No. CB(2)2532/06-07(02)]	
014900 - 015611	Mr Albert HO Admin Chairman	Adequacy of SWD hotline service Social work support to women refuge centres	
015612 - 015901	Mr Albert HO Admin Chairman	Tools for assessing domestic violence cases	
015902 - 015918	Chairman	Concluding remarks	

Council Business Division 2
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