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Panel on Security, Legislative Council,
Hong Kong.

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Dear All Legislative Councillors of the Panel,

Re: Proposal for Drug Treatment Courts

In view of the increasing concern of dangerous drugs in Hong Kong, a reform of the present criminal justice system may be desirable. The traditional adversarial approach emphasizing punitive measures may not touch the roots of problem. In the United States and United Kingdom, Problem Solving Courts have been set up on drug abuse. The role of problem solving court or PSC focuses on data analysis, community engagement, crime prevention and problem solving. The Judge is a facilitator of the process with engagement by other parties, like police, prosecution, doctors, social workers, school teachers, psychologists, researchers, community organizations, etc. This is a multi party process to target the healing of not only the individual offender, but also the relevant community.

The first principle is enhanced information. The relevant judge must have specialized knowledge about drug treatment like physical and psychological conditions of the defendant. Judges with counselling and psychology background may be selected for these courts. On going training courses provided by tertiary institutes may be an alternative. Case managers with appropriate qualifications may be

employed as assistants to judges. Since the whole approach is community based, the judge should be familiar with the community context of the offences. He or she should actively visit the communities, perhaps together with Police community service staff or district board members, and gather more information about the structure and environment of the communities. The judge need not to give opinions but just listens and observes. These practices do not affect Judicial Independence. Judicial Independence (JI) does not mean Judicial Ignorance. Many persons always use Judicial Independence as an excuse to challenge legal innovations.

The second principle is community engagement. I view that each district board can set up special committee to help the Judiciary for the whole healing process. The district board can sponsor and hold public meetings to meet the community citizens for gathering their views on the relevant drug problems in respective districts. Offenders in the program may be required to visit other offenders' families so that they know how their conduct have brought harm to the community's safety and anxiety. This applied the theory of Restorative Justice (RJ). Further, the public can attend graduation ceremonies of those offenders who have successfully completed the rehabilitation programs.

The third principle is accountability. To ensure that the defendant complies with the program, continuous assessment and supervision is required. The Judge may meet the defendant frequently. If there is any default or misconduct, minor sanctions such as short term jail in special center (not formal imprisonment) may be imposed. However, the Judge should not like a tyrant in the Court, he should have high emotional quotient to handle the program progress. From my experience, Mr. Denis Lau, of Kowloon City Magistracy, is an appropriate model in the Judiciary. He

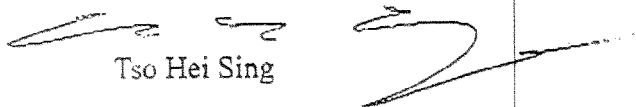
actively participates in care and protection proceedings with sufficient knowledge and skills.

The final principle is outcome assessment. This involves active data collection and analysis. Therefore, full time research teams should be employed by the Court or relevant government agencies for this purpose. In the present system, judges cannot have detailed data reports of their orders made regularly for their reference. Such data is essential for the judges to adjust to changing circumstances of the societal trends on drug abuse. This data should be shared by other stakeholders in the process and the general public so that feedback to the Court is valuable.

This letter is only a starting point. I hope all the Legislative Councillors of the Panel can have more thoughts on my proposal so that the public may engage more attention and debate on the feasibility of this legal innovation.

Thank you very much.

Yours sincerely,



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