

立法會
Legislative Council

LC Paper No. CB(2)3113/03-04
(These minutes have been seen
by the Administration)

Ref : CB2/HS/2/03

Subcommittee on juvenile justice system

**Minutes of meeting held on
Friday, 14 May 2004 at 4:30 pm
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Margaret NG (Chairman)
Hon Cyd HO Sau-lan
Hon Miriam LAU Kin-yee, JP
Hon Emily LAU Wai-hing, JP
Hon LI Fung-ying, JP
Hon Michael MAK Kwok-fung
Hon Audrey EU Yuet-mee, SC , JP
- Member absent** : Hon WONG Sing-chi
- Public officers attending** : Security Bureau

Miss Pamela LAM
Principal Assistant Secretary for Security (E) (Acting)

Miss Rosalind CHEUNG
Assistant Secretary for Security (E3)

Health, Welfare and Food Bureau

Miss Diane WONG
Principal Assistant Secretary for Health,
Welfare and Food (Welfare)

Social Welfare Department

Mr FUNG Man-chung
Assistant Director (Youth and Corrections) (Acting)

Miss Maria LAU
Senior Social Work Officer (Youth)

Hong Kong Police Force

Mr Ian MACKNESS
Chief Superintendent (Crime Support) (Crime Wing)

Mr Kent CHUNG
Superintendent (Crime Support) and
(Child Protection Policy Unit) (Crime Wing) (Acting)

**Attendance by :
invitation**

The Hong Kong Council of Social Service

Ms Jane TSUEI
Business Director (Service Development)

Ms Klare CHAN
Officer (Service Development)

The Boys' & Girls' Clubs Association of Hong Kong

Mr CHAN Wing-kin
Supervisor

Evangelical Lutheran Church Social Service Hong
Kong

Mr CHUK Wing-hung
Development Officer

Miss HO Kam
Service Officer (Youth Enhancement Scheme)

Hong Kong Playground Association

Mr WAN Lap-man
Supervisor

Ms CHENG Mei-duen
Team Leader (Community Support Service Scheme)

Hong Kong Bar Association

Mr P Y LO

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

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

Mr Paul WOO
Senior Council Secretary (2)3

Action

I. Confirmation of minutes of meeting

(LC Paper No. CB(2)2100/03-04 and 2274/03-04).

The minutes of the meetings held on 5 February and 12 March 2004 were confirmed.

II. Meeting with the Administration and deputations

(LC Paper Nos. CB(2)2291/03-04(01), 2339/03-04(02), 2369/03-04(01), 2339/03-01(01) and 1659/03-04(01)).

2. The Subcommittee received oral representations from the deputations on their submissions and discussed relevant issues with the Administration and the deputations (index of proceedings attached at **Annex.**)

Joint submission from Hong Kong Council of Social Service and concerned non-government organizations

3. The major views of the deputations were as follows -

- (a) the Administration's plan to extend the pilot scheme on Family Conferences (FCs) to unruly children under the age of 10 was supported;

Action

- (b) regardless of whether a FC should be held, the case in question should be referred to social workers for follow-up action. Non-government social service organizations should be allowed to make recommendations to the Social Welfare Department (SWD) on the necessity of holding FCs for specific cases as they saw fit;
- (c) for offenders who had committed a second offence, the Police should refer the case to SWD for assessing the need for a FC, prior to issuing a caution under the Police Superintendents' Discretion Scheme. This would make the offenders and their parents more cooperative and more willing to participate in FCs;
- (d) the welfare sector should be involved in the review of the pilot FC scheme;
- (e) the initiative of the Department of Justice to promote the interests of victims of crime and witnesses by introducing a limited system of restorative justice as an alternative to prosecution for young offenders aged 10 to 17 was supported. Under the proposed system, the offenders and the victims would receive assistance from a trained mediator as part of a healing process; and
- (f) the Administration and the relevant Panels of the Legislative Council (LegCo) should take forward the development of a new juvenile justice system incorporating the principles and practices of restorative justice.

Submission from Hong Kong Bar Association

4. Mr P Y LO said that the Bar Association supported the Administration's plan to extend the services provided under the pilot FC scheme to unruly children below the age of 10. The juvenile justice system as a whole should be reviewed from time to time so that improvements could be made. Nevertheless, the Bar Association cautioned that in contemplating changes to the juvenile justice system, the impact of any new measures on the rights of the victims, the rights of the accused persons and their families, and the observance of due process had to be carefully observed.

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Family Group Conferences (FGCs) and pilot scheme on FCs

5. Mr CHUK Wing-hung said that the Family Group Conferences (FGCs) proposed in the Consultancy Report was intended to serve as a diversionary option to deal with offenders who had committed offences of a more serious nature. The proposal incorporated a restorative justice approach involving not only the offenders but also the victims and their families and other concerned parties in the community, in agreeing on the remedial tasks to be performed by the offenders. In his view, the FCs implemented under the present pilot scheme, which operated on an entirely voluntary basis and participated only by the cautioned juveniles and their family members, could not fulfil the functions of FGCs.

Alternative measures available to the court

6. Mr P Y LO pointed out that section 15(1) of the Juvenile Offenders Ordinance (Cap. 226) provided for a variety of sentencing options with which the court might deal with children and young persons found guilty, including dismissing the charge and discharging the offender on his entering into a recognizance.

7. The Chairman and Ms Miriam LAU opined that the Administration and the Judiciary should review, as a legal policy issue, whether the court should make use of the alternatives provided in section 15(1) of the Juvenile Offenders Ordinance more frequently in disposing cases in appropriate circumstances. The possibility of introducing legislative means to provide the court with additional alternative measures to deal with young offenders should also be explored.

Development of a new juvenile justice system

8. The Chairman and Ms Miriam LAU opined that the Administration had made little progress in developing a new juvenile justice system. This went contrary to the Administration's advice given to the Bills Committee on Juvenile Offenders (Amendment) Bill 2001 that it would consider the findings and recommendations of the consultancy study in reviewing the juvenile justice system. They said that the Administration should consider taking more positive steps to take forward the development of a new juvenile justice system featuring more of a restorative justice approach.

Action

9. The Administration responded that the views and suggestions of the Subcommittee and the deputations would be considered. The Administration would also consider the relevant issues in the light of the outcome of the review of the pilot FC scheme and consultation with the Judiciary Administrator and the Department of Justice on the possible development of a new juvenile justice system.

Recommendations of the Subcommittee

Admin 10. The Subcommittee recommended that the Administration should consult the relevant non-government organizations in the welfare sector on the review of the pilot FC Scheme.

Admin 11. The Subcommittee recommended that the Administration should report to LegCo in the new term on -

(a) the effectiveness of the enhanced support measures introduced since October 2003; and

(b) its consideration regarding the possible development of a new juvenile justice system incorporating the principles and practices of restorative justice.

Admin 12. The Subcommittee also recommended that the Administration should submit the report(s) of its review for the consideration of the relevant LegCo Panel(s). Where considered appropriate, the Panel(s) might recommend to the House Committee for the setting up of a subcommittee to follow up the relevant issues.

Report of the Subcommittee

13. Members agreed that the Subcommittee should make a report on its deliberation to the House Committee before the end of the current LegCo term.

(Post-meeting note : The report of the Subcommittee was made to the House Committee on 25 June 2004.)

Subcom 14. Members agreed that the Subcommittee's report should be provided to the organizations which had submitted views to the Subcommittee for their reference.

Action

15. The meeting ended at 6:20 pm.

Council Business Division 2
Legislative Council Secretariat
19 July 2004

**Proceedings of the meeting of the
Subcommittee on juvenile justice system
on Friday, 14 May 2004 at 4:30 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker(s)	Subject(s)	Action required
000000 - 000703	Chairman	Confirmation of minutes of meetings held on 5 February and 12 March 2004 (LC Paper Nos. CB(2)2100/03-04 and 2274/03-04)). Invitation of the deputations and Administration to the meeting.	
000704 - 001943	Admin Chairman	Introduction on the paper prepared by Admin which responded to the views put forward by the Subcommittee and deputations on the Consultancy Report on Measures Alternative to Prosecution for Handling Unruly Children and Young Persons (LC Paper No. CB(2)2291/03-04(01)).	
001944 - 002445	Ms Jane TSUEI	Oral representation on behalf of Hong Kong Council of Social Service (LC Paper No. CB(2)2339/03-04(02)).	
002446 - 002841	Mr CHUK Wing-hung	Oral representation on behalf of Evangelical Lutheran Church Social Service - Hong Kong (LC Paper No. CB(2)2339/03-04(02)).	
002842 - 003625	Ms CHENG Mei-duen	Oral representation on behalf of Hong Kong Playground Association (LC Paper No. CB(2)2339/03-04(02)).	
003626 - 004040	Mr CHAN Wing-kin	Oral representation on behalf of Boys' & Girls' Clubs Association of Hong Kong (LC Paper No. CB(2)2339/03-04(02)).	
004041 - 004926	Mr P Y LO	Oral representation on behalf of the Hong Kong Bar Association (LC Paper No. CB(2)2369/03-04(01)). Alternative measures available to the court under section 15(1) of the	

Time marker	Speaker(s)	Subject(s)	Action required
		Juvenile Offenders Ordinance (Cap. 226) to deal with children and young persons found guilty.	
004927 - 005702	Ms Audrey EU Mr CHUK Wing-hung	Differences in purpose and operation between Family Group Conferences (FGCs) proposed in the Consultancy Report and Family Conferences (FCs) implemented by the Admin under the pilot scheme as a diversionary measure to deal with juvenile offenders. Use of restorative justice approach involving all concerned parties in dealing with juvenile offenders.	
005703 - 010155	Ms Miriam LAU Mr P Y LO Chairman	Sentencing options under section 15(1) of the Juvenile Offenders Ordinance.	
010156 - 010849	Ms Miriam LAU Admin Chairman	Development of a new juvenile justice system featuring a restorative justice approach taking into account practices in overseas jurisdictions. Admin's review on pilot scheme on FCs and consultation with the Judiciary Administrator and the Department of Justice on possible development of a new juvenile justice system.	
010850 - 011649	Ms Miriam LAU Admin Chairman	Review on the sentencing options available under section 15(1) of the Juvenile Offenders Ordinance and possibility of introducing legislative means to provide the court with additional alternative measures to deal with young offenders.	
011650 - 012239	Ms LI Fung-ying Ms Jane TSUEI Chairman	Mechanism for referral of cases which came to Police attention for follow-up support services.	
012240 - 012635	Ms Cyd HO Mr CHUK Wing-hung	Ability of FGCs to deal with offenders in cases where there were no identifiable victims.	

Time marker	Speaker(s)	Subject(s)	Action required
		Experiences of overseas jurisdictions regarding the involvement of concerned parties in the community in the process of achieving restorative justice for young offenders.	
012636 -014035	Chairman Admin	Recommendations of the Subcommittee on the way forward for review of the juvenile justice system.	Admin to consult the relevant non-government organizations in the welfare sector on its review of the pilot FC Scheme and report to LegCo on the effectiveness of the enhanced support measures as well as consideration regarding the possible development of a new juvenile justice system (paragraphs 10 to 12 of the minutes). The Subcommittee to make a report to the House Committee and provide the report to the deputations for their reference (paragraphs 13 to 14 of the minutes).