

**HONG KONG COMMITTEE ON CHILDREN'S RIGHTS**

**RESPONDING TO THE CONSULTANCY REPORT  
ON  
MEASURES ALTERNATIVE TO PROSECUTION FOR UNRULY  
CHILDREN AND YOUNG PERSONS**

1. The Committee supports the Consultancy Report's stance to shift from punitive and retributive approaches and from purely welfare models to a new emphasis on restorative and reintegrative practices. We believe that the punitive approach would not stop the offenders from committing offences or correct their unruly behaviour. Instead it would heighten their hostility to the society. But through experiencing a reflective, rehabilitative process the chance of the offenders stopping the unruly behaviours may be higher.

2. Restorative practices should be made through a built in referral system. The offenders would take responsibility for repairing harm done to the victims. The family members of the offenders should go through the process with the offenders. The family members are defined as the parents of the offender and significant family member(s) such as the sibling(s) or the kin that have close relationship with the offender. They are influential in helping the victims to change their behaviours. As the above-mentioned is remedial, we wish to see more preventive measures being promoted, such as parent education.

3. Involvement of the victim in the restorative process is important. However, that should not be made compulsory. The victim should be encouraged to take part in the process, so that he/she has a chance to deal with his/her feelings resulting from what has been done to him/her, and to forget and forgive the offender. Counselling services are a necessity in such circumstances. But the victim's involvement does not necessarily mean a face-to-face contact with the offender (he/she may be afraid of seeing the offender again or be too upset and angry), there should be other creative ways suggested for bridging between the two parties, such as letter, picture, cassette tape, videotape, or televised conferences.

4. Regarding enhancement of the accessibility of professional support services in the Administration's Initial Response (10a) of the LC Paper No.CB(2)735/03-04(01), providing information leaflets on youth services whenever these unruly children and their parents come to police attention is not enough. Information posted on the internet, seminars by police and school-based professionals and home-school collaborative activities are more effective means. This information and these resources are useful not only for those who have committed the offence, but also for students and their parents in general. The purpose is informative and preventative.

5.1 The Committee supports the Consultancy Report's suggestion of establishing a built-in mechanism between Police and the Social Welfare Department for a centralized referral to youth services for unruly children, with parental consent. These services could be provided by various already available agencies. But the one-stop mechanism would ensure that these unruly children are followed up properly, with the aim of reducing further offending and anti-social behaviour. We do not agree with the Administration's Initial Response (9) to the LC Paper No.CB(2)735/03-04(01) implying the introduction of new support services to deal with a small group of unruly young children is not worthwhile. The mechanism would ensure that unruly young children get appropriate guidance and training before it is too late.

5.2 We also have a reservation in regard to the Administration's Initial Response in the same paragraph. This states that any formalized programmes initiated and arranged by the Police that are specifically targeted at the wrongful acts by children under the age of 10 may be criticized as tantamount to lowering the age of criminal responsibility. Instead, the passive manner adopted by the police sends a wrong message to unruly children that the police are powerless until they have reached the age of 10. Sending them away from the police station is also dangerous and harmful both to society and to the children themselves. This point has been emphasized repeatedly by many frontline youth workers. While we understand the police concern that they must act cautiously in relation to cases where there is no prosecution, we believe that a built-in referral system is in the best interests of the child, as well as a responsible move as the part of society as a whole.

Prepared by : Hong Kong Committee on Children's Rights

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