

To: Mrs Percy Ma

Clerk to Subcommittee on Juvenile Justice System

Legislative Council Secretariat

From: The Chinese Rhenish Church Hong Kong Synod

(中華基督教禮賢會香港區會)

**Comment and suggestions on the consultancy report on Measures
Alternative to prosecution for handling unruly children and young
person**

Views on the consultancy report

Overall

1. We strongly agree that the Government and the Criminal Justice System (CJS) take a restorative and integrative practice to handle the unruly children and young person.
2. In our daily experience, we witness the phenomena that the children and the young person though attempting to break the rules and norms, many of them were the victims in social senses. They need the social support and regulation from the helping professionals to foster their development on becoming a responsible person in the society. Thus, to target on the unruly children and young person individually or punish them for all is getting to prove ineffective in one sense and expensive for the deterrent and punitive approaches in another.
3. Measures alternative to prosecution to divert the young person from going astray should be fully explored and reviewed form time to time. Since ‘Early Detection’ and ‘Early Intervention’ is our progressive social philosophy in HKSAR, such

diversion can reduce the numbers of the young persons to fall into the ‘net’ of the criminal justice system. This conveys a positive message of the supportive attitude of the government and society on the wrongdoers. It also breaks the hostile cycle of aggravation and prevents young person become re-offensive.

4. According to the philosophy of the ‘Reintegrative Shaming’, we welcome measures to involve the victims where possible. In our experience to work with juvenile offender, most of them are not fully understood what they have done to other people in the first trial. As they were caught, they fell into the judicial procedures and met other problems in the CJS; it may lead them to focus on other things like their human right, whether they are maltreated by police or other law enforcement agents. This process might teach them to be ‘smarter’ but is not enough for them to review what they have done and realize the meaning to other related parties especially to the victims. We believe that this is one of the effective steps to handle unruly youngster, as they need to face the victim and have a chance to compensate what they did.
1. We suggest to use the Chinese term “違規兒童” and “違法青少年” instead of “頑劣兒童”. The terms reflect a closer picture as their behaviors violate the rules or the Law.
6. We treasure the sincerity of the government to review the CJS to explore measures alternative to prosecution for handling unruly children and young person. Since this is a very important move for our youngsters, we request the consultation period should be extended three months so that all practitioners and NGO can have a thorough discussion on the direction and details of the proposed alternatives.
7. Since this review affect the young person population, the government should try her best to initiate discussion and arouse public concern on the measures alternative to prosecutions. We suggest that the welfare agencies and the public will be consulted once the detail or the concrete practice is proposed. And there will be a second

round consultation as the details of the measures is operationalized.

8. The full report of Measures Alternative to prosecution for handling unruly children and young person in Chinese and English version should be provided to all the agencies and the public for full range of consultation.
9. With the consideration of the following alternatives, we suggest that the department should consider a flexible and buffer mechanism to provide short term follow up service, say six months, for some difficult cases or the families in need as they have fulfilled the minimal requirement of the measures.

Alternatives

10. In general, we support the four alternatives for handling unruly children and young person under 10 and the two alternatives for handling unruly children and young person from 10-17 mentioned in the report.
11. These alternatives are not mutually exclusive; rather it is considered as kinds of supplementary options to prevent young persons' reoffending behavior.
12. Besides, we would like to mention the following points under each alternative, which may make a big difference in practice.

Police child support service (unruly children under 10)

1. As police as a key main figure to handle children, the skill and knowledge level of the police officers should be polished, supported, monitored and enhanced. Since children are not hard-core criminals, it is not appropriate to use the traditional skill to lobby their cooperation. It would be better if the police officers have received training of child psychology or basic counseling skill or have a sufficient understanding of children to have unruly behavior.
2. On the make up activities for the victims, a second advice of a welfare officer from SWD or NGO is fruitful to ensure that the 'supportive response' or activities are appropriate and leading to a desirable outcome.

Family support conference (unruly children under 10)

1. Concerning the facilitator, it would be better to state clear the requirement and quality of the social worker, the channel to figure out this person and the flexibility of this arrangement.
2. SWD taking up the role of monitoring the operation should be guided with a clear and well-defined guideline, including general steps of the family support conference. Further, SWD is preferred to monitor the agency to exercise according to the guideline and the administrative event, except the professional area in order to avoid conflict in the follow-up plan and any delay of service due to this reason. SWD also take up the role of coordinator and look after complaint of the service if any.

Empowerment programme (unruly children under 10)

1. It is better to state clear whether only police can refer the unruly children to SWD to receive the empowerment programme.
2. The programme should consider to involve children, who have been cautioned before by police but their behavior have no improvement, we suggest any NGO identify them can refer them to the SWD or the case assessment unit to make an assessment. SWD then coordinate where they can receive training in their nearby area or have a channel to be referred back to Court or Police.

Community alternative to institutional placements

1. The direction to explore alternatives to institutional placements is welcomed.
2. If the placement with kin or foster family is assessed as a good choice, a reasonably allowance should be paid for the family to cater the daily expenses. It would reduce the potential conflict between the child and other members in the family due to

economic reason. The subsidy can make reference to the social security standard.

3. Adequate support, including consultation and counseling, should be provided to help the family deal with the unruly children.

Family group conference (unruly children and young person 10 to 17)

1. To launch a family group conference, there should be a manual or guideline, which states clear the role, stage task, principles for practice reference. It should include the steps to ensure the involved parties are ready to meet each other and the conference is working for the benefit of the child.
2. To make sure the agreed tasks are fully explored, the conference should not be fixed on a one-time basis. Besides, for the case of pre-charge diversion, the professional parties should aware to balance the benefit of different parties. The social worker or conference in charge should prevent victims or other parties to destroy the dignity of the unruly young person and help to negotiate reasonable and workable tasks.

Empowerment programme (for young offender).

1. All young offenders should be offered this kind of programme.

~ The End ~

Thank you for your attention!