

**For discussion on
12 March 2004**

LEGCO SUB-COMMITTEE ON JUVENILE JUSTICE SYSTEM

**Consultancy Report on Measures Alternative to Prosecution for
Handling Unruly Children and Young Persons :
Administration's Response**

Purpose

This paper informs Members of the Administration's response to the recommendations of the consultancy report on measures alternative to prosecution for handling unruly children and young persons.

Background

2. At the meeting on 18 December 2003, we informed Members of the findings and recommendations of the consultancy study on measures alternative to prosecution for handling unruly children and young persons, as well as the Administration's initial response to those recommendations (ref : LC Paper No. CB(2)735/03-04(01)).

3. We explained to Members the need for more cautious interpretation of the results of the consultancy study because of the relatively limited overseas experience to demonstrate the effectiveness of the proposed alternative measures. We also informed Members of the recently enhanced support measures targeted at unruly children and young offenders, the wide range of existing services for unruly children and young offenders provided by the Social Welfare Department (SWD), Non-Governmental Organizations (NGOs) and the Police, as well as the re-offending rates for young offenders cautioned under the Police Superintendents' Discretion Scheme (PSDS).

4. We have also taken note of the comments by the welfare NGOs at the meeting on 5 February 2004. We note that NGOs generally supported in principle the introduction of further enhanced support measures and/or diversionary measures for unruly children and young offenders. However, some have cautioned against too much leniency on youngsters who should take up the responsibility of their own acts. If they are given too many chances, they may not take their misbehavior seriously. This may also lead to abuses of the system.

5. At the meeting on 5 February 2004, Members requested the

Administration to:

- (a) indicate the Administration's present thinking on taking forward the recommendations of the consultancy report; and
- (b) provide more information on certain support services for unruly children and young offenders, and consider some of the proposals put forward by the NGOs.

6. The Administration's response to the recommendations of the consultancy report (paragraph 5(a) above) is presented in the following paragraphs. Additional information on the relevant support services (paragraph 5(b)) and our response to NGOs' recommendations are attached at the Annex.

Administration's Response

7. The inter-departmental working group set up to examine the consultancy study, comprising representatives from Security Bureau, Health, Welfare and Food Bureau, Education and Manpower Bureau, the Police, Department of Justice and Social Welfare Department, has carefully studied and discussed the consultancy report. We have also carefully examined the consultants' recommendations in the light of NGOs' views expressed at the meeting on 5 February 2004. Our views on how to take forward the recommendations and the relevant considerations are set out below.

8. As we have indicated before, the issues raised by the Consultants have far-reaching implications. It is important that the limited overseas experience is examined in the light of the social and legal situations in Hong Kong, e.g. whether the families and victims here are willing to get involved in the process as those in other countries do.

9. The Consultants' recommendations aim at reducing the "re-offending" rates for unruly children and young offenders. In this regard, it should be noted that with the wide range of support services already in place:

- (a) the number of children aged between 7 and 9 that had been arrested for crime from 1998 to 2002 averaged 161 a year;

(b) the re-offending or recidivism rate¹ for young offenders cautioned under the PSDS is maintained at a low level, at 18% in 2000 and 18.9% in 2001²; and

(c) the re-offending rate during the supervision period (from six months to two years) for young offenders supported under the Community Support Service Scheme (CSSS)³ overseen by SWD is less than 10% in 2002-03.

10. Besides, adequacy of the existing support measures can also be reflected by the relevant indicators below:

(a) parents give high recognition to the supervision visits and referral services rendered by the Police's Juvenile Protection Section (JPS)⁴ in respect of youngsters cautioned under the PSDS. A survey conducted by the Police in 2001 indicated that the parents concerned were highly satisfied with the JPS's visits (97% to 98% were satisfied) and the majority of the responding parents (75% to 94%) regarded JPS's visits as effective in positively changing the behavior of their

¹ A person is regarded as a recidivist if he/she is arrested for another crime within two years from the date of the caution, or before he/she reaches 18 years old, whichever is earlier. Recidivism rates for those cautioned in 2002 and 2003 are therefore yet to be finalized.

² Such recidivism rates are different from the figures quoted in paragraph 13 of the earlier paper (ref : LC Paper No. CB(2)735/03-04(01)) which indicated that the re-offending rates were from 13% to 17% in the period from 1997 to 2001. The latter set of re-offending rates were compiled for the purpose of the discussions of the Bills Committee on Juvenile Offenders (Amendment) Bill 2001 in November 2002. Due to the two-year rule explained in footnote 1 above, the figures quoted then for 2000 (17.3%) and 2001 (13.2%) were provisional ones. They have now been finalized to be 18% (2000) and 18.9% (2001).

³ When young offenders are cautioned by the Police, they may be referred by the Police to the CSSS teams attached to Integrated Children and Youth Services Centres. Social workers would help them cope with problems in life, correct wayward behavior, and strengthen family and peer support. They provide counseling and organize structured groups and special activities to meet their personal needs, improve inter-personal relationships, and develop a sense of social responsibility through participation in community service. As an initiative to enhance support services for young offenders, SWD has set up two additional CSSS teams in September 2001; thus achieving full coverage of the service over the territory.

⁴ Supervision visits by JPS serve the purpose of periodically monitoring the development of the young offenders being cautioned to prevent them from re-offending or associating with undesirable characters. Areas of concern covered during visits include academic or work progress, family relationship, etc. Maximum period of supervision is two years. Whilst JPS visits are compulsory in nature, not all offenders require the same period of supervision. The Superintendent concerned will carefully consider each case, including the family background of the offender, the circumstances and facts of the case, general attitude and behaviour of the offender; etc. Where appropriate, the supervision period by JPS will be adjusted.

children⁵; and

- (b) over 90% of the young offenders supported under the CSSS have continued with their schooling/employment or resumed schooling/secured employment during the supervision period in 2002-03.

11. Against the above background, the Working Group has agreed that we should build on existing services in putting forward enhanced support measures. Taking into account the underlying principles of the Consultant's recommendations, our plan is as follows.

Proposed Enhanced Measures

12. We intend to introduce the following enhanced measures to further strengthen our support to unruly children and young offenders to help prevent them from developing behavioral problems again or re-offending :

(a) Introduction of Family Support Conference

The Consultants have proposed the introduction of Family Support Conferences to draw together an unruly child aged below 10, the family and representatives of potential professional service providers (but not victims) to formulate a follow-up service plan to provide greater support for prevention of any re-offending behavior. We consider this recommendation worth pursuing.

We have since October 2003 introduced Family Conferences for those aged between 10 and below 18 to bring together relevant professionals, the juveniles cautioned under PSDS and their family members to draw up a follow-up action plan to address the needs of the juveniles. Having regard to the review of these Family Conferences and the feasibility of extending it to children under 10 under the existing legal framework, we stand ready to launch the Family Support Conference as recommended by the Consultants for unruly children under 10 who are assessed to be in need of services of

⁵ The survey was conducted by the Police in 2001 in the form of a questionnaire survey among 258 parents in the New Territories North (NTN) Region and a telephone survey among 100 parents in the Kowloon West (KW) Region. The survey indicated that 97% of the respondents in the NTN Region and 98% of those in the KW Region considered the JPS's visits as satisfactory. 94% of the respondents in the NTN Region and 75% of those in the KW Region considered that JPS's visits were effective in positively changing the behavior of their children.

three or more parties and whose parents consent to this course of action.

(b) Increased Involvement of the Juvenile Protection Section (JPS)

The consultancy report recommends that the functions of the Police's JPS be enhanced to provide support services for children under 10. The Administration accepts the principle of this recommendation and agrees to strengthen Police's role in this regard.

Specifically, the Police may extend its JPS service, currently only available to youngsters over 10 years of age (as a result of the change in the minimum age of responsibility from July 2003 onwards), to those below 10. The Divisional Superintendents concerned will examine the circumstances of each case. Should the Superintendent consider it appropriate or necessary, he/she may, subject to parental consent, arrange for JPS supervision visits to be made to the unruly child for a maximum of two years. In addition, he may, subject to parental consent, refer the unruly children's data to the SWD for the latter's assessment of and follow up on whatever support services required of for the child.

(c) Further Enhanced Referral Mechanism between the Police and SWD/EMB

Since 1 October 2003, we have strengthened police referrals of unruly children below 10 and juveniles to service providers for follow-up support services with parental consent, by establishing direct points of contact between the Police and the SWD/EMB. District Social Welfare Officers of SWD and School Development Officers of the Careers Guidance and Home School Cooperation Section of EMB are designated as contact points at the district level to take up referrals from the Police.

NGOs attending the Sub-Committee meeting on 5 February 2004 suggested that the existing referral mechanism be further enhanced. We have now received legal advice that the Police can refer personal data of unruly children under 10 to SWD for follow up on the children's well-being, when prevention of injury to life is at issue, even in the absence of parental consent. Under such circumstances, the Police will make such cross-departmental referrals for unruly children and young offenders even without parental consent if the Police assess that there is a need to do so.

(d) Improved Information Leaflet

Since October 2003, the Police have enhanced the accessibility of professional support services for unruly children and youngsters who have come to the Police's attention by providing them and their parents with an information leaflet. The leaflet contains useful information on a wide range of services provided by both Government departments and NGOs. Such services include counseling for those with emotional problems, hotlines to seek information and immediate help, advice on education and career opportunities, and assistance for those with drug-related problems.

Some NGOs attending the Sub-Committee meeting held on 5 February 2004 suggested that the information leaflet be enhanced to provide additional information for families in need of support services. We accept this proposal and will enrich the content of the leaflet by including in it addresses of websites of major youth-related NGOs, which organize regular programmes for juveniles (particularly those at-risk) and/or their families.

13. As regards the other recommendation of placing the needy children below 10 in a family-like environment as far as possible, as we have explained previously⁶, SWD has increased the number of foster care places and small group homes over the years and we are not in lack of such provision. In fact, a total of 165 foster care places (including 45 emergency foster care places) were just introduced in 2002-03 and 2003-04. As a result, the total number of subvented foster care places and small group home places in 2003-04 are 745 and 952 respectively. Placement of unruly children or young offenders in a foster home will be assessed against a number of factors including the children's needs, the extent of the children's behavioural problems, the readiness / acceptance of the foster parents and their ability to cope with the children's problems, etc. SWD will continue with such direction.

14. For the remaining recommendations on empowerment programmes for unruly children and young offenders, we consider that it may be difficult for NGOs to render tailor-made programmes for these children/young persons as they may reside in different areas and display behavioral problems/commit

⁶ in paragraph 12(h) of the paper discussed at the meeting on 18 December 2003 (ref : LC Paper No. CB(2)735/03-04(01).

crimes at different time. We therefore consider it more practicable and cost-effective for the social worker who has taken up the referral from the Police to decide on what programmes would best meet the needs of the child/young person including referring him/her to participate in programmes of the Integrated Children and Youth Services Centres/Integrated Family Service Centres/outreaching social welfare teams and so on.

Conclusion

15. The inter-departmental working group has completed its study of the consultancy's recommendations in the light of the comments received. We intend to roll out the four proposed enhanced measures set out in paragraph 12 above as soon as practicable.

Health, Welfare and Food Bureau
Security Bureau
March 2004

Support Services for Unruly Children and Young Offenders

Q(a). The proposal that the Police should take more proactive measures to help unruly children below 10 and their parents gain access to professional support services. Some members and deputations consider that the role of the Police should be strengthened, after the minimum age of criminal responsibility was raised to 10.

A(a). In respect of children under 10 years of age who come to Police notice during the investigation of allegations of criminal conduct, the Police will enhance their assistance to parents who wish to gain access to professional support services. This may be achieved by the increased involvement of the Juvenile Protection Section (JPS) and improvements to the information presently made available to parents in Police stations. Please refer to paragraphs 12(b) to (d) of the paper.

Q(b). The number of Police referrals of unruly children aged below 10 to service providers for follow-up support services.

A(b). Since July last year, the Police have issued clear guidelines to frontline officers and report room staff in relation to the enhanced support services targeted at unruly children and juvenile offenders. These children and juveniles, when come across by Police, would be expeditiously provided with the Youth Services Information Leaflet and/or referred to SWD/Education and Manpower Department (EMB) for follow-up services through direct point of contacts, subject to parental consent.

Between July and December 2003, 33 unruly children under 10 years of age came to Police attention in relation to reported offences. Police in most cases warned and released the children with information leaflet served and there was one direct referral to SWD made for follow-up service during that period. This however does not include those cases whereby parents based on the information in the leaflet, seek follow-up services themselves at a latter date.

Q(c). The number of offenders (including children below the age of 10 and those aged between 10 to 17) dealt with under the Police Superintendents' Discretion Scheme (PSDS) and the number of offenders who have received cautions under PSDS for more than once.

A(c). Please see the table below for the requested statistics on persons aged below 18 arrested for crime and cautioned under PSDS.

	2000	2001	2002	2003#
Total Arrested for Crime	9 173	8 732	8 156	7 918
Cautioned under PSDS (from 1996 to the corresponding year)				
<u>Times</u>				
1	3 575	3 414	3 156	2 684*
2	178	162	184	125*
3	6	9	5	5*
>3	1	-	-	-*
<u>Total</u>	3 760	3 585	3 345	2 814

* Provisional figure

Up to 31.12.2003

Q(d). How cases dealt with under PSDS are followed up in order to assess the effectiveness of the Scheme.

A(d). The cautioning itself and aftercare services programme are important to the success of PSDS. Apart from subjecting a juvenile offender to the supervision of JPS, the Superintendent administering the caution may make referral to Community Support Service Scheme (CSSS), SWD and / or EMB as appropriate. Over 80% of those cautioned under PSDS are referred to JPS and / or CSSS for follow-up.

The rate is a quantifiable indicator for evaluating the effectiveness of follow-up services of and the PSDS. The recidivism rate for those cautioned under PSDS in the corresponding years quoted in A(c) above are 18.0% (2000), and 18.9% (2001)⁷. They are encouraging

⁷ A person is regarded as a recidivist if he/she is arrested for another crime within two years from the date of the caution, or before he/she reaches 18 years old, whichever is earlier. Recidivism rate for those cautioned in 2002 and 2003 are therefore yet to be finalized.

when compared to the recidivism rate of 25% for juvenile offenders afforded with Police Support Services in New Zealand (Police ‘Youth Aid Diversion’ Project – New Zealand, Inspector Chris Graveson) and 18% for offenders referred to community conference in Queensland, Australia (Operational Performance Review Feedback, T.J. Kajewski).

Besides, the satisfaction rate of JPS and CSSS are also relevant indicators on the effectiveness of PSDS. Police in 2001 conducted a Questionnaire Survey (258 parents) in the New Territories North (NTN) Region and a Telephone Survey (100 parents) in Kowloon West (KW) Region. Both surveys found high satisfaction rate of JPS’s visits (NTN : 97%, KW : 98%) and respondents considered JPS’s visits as effective in positively changing the behaviour of their children (NTN : 94%, KW : 75%).

Similar satisfactory result was also found in CSSS by measuring their output standards (over 85% of young offender back to school or successfully seek employment) and recidivism rates during supervision period (less than 10%).

Q(e). The proposal that mandatory participation in family group conferences should be imposed on young offenders and their parents in special circumstances.

A(e). A pilot “voluntary” scheme of Family Conferences (FCs) has been introduced since October 2003 to bring together relevant professionals, the juveniles cautioned under the PSDS and their family members to draw up a follow-up action plan to address the needs of the juveniles. These are similar to the Family Group Conferences (FGCs) proposed by the consultants in that both of them seek to provide more comprehensive and professional assessment of service needs and make recommendations on support programmes for young offenders.

We will keep the effectiveness of the pilot scheme under review, having regard to the following –

- (a) the experience and effectiveness of FGCs in other countries;
- (b) the need to ensure fair and equitable treatment of young offenders should victims refuse to participate; and
- (c) the legislative and resource implications.

Q(f). The proposal that Assessment Panels should be established on a regional basis to assess the needs of young offenders and recommend services and alternative measures to deal with them.

A(f). The proposed Assessment Panel would conduct inter-disciplinary assessment of young offenders to decide whether he/she should be referred to an FGC, empowerment programme or other community services. These proposed functions are similar to those of the existing FCs or the proposed FGCs, which seek to provide a forum for cross-sectoral and inter-disciplinary assessment of the needs of unruly children / juvenile offenders and making recommendations on the appropriate follow-up services / programmes. As such, the proposed establishment of such Panel on top of the FCs / FGCs may amount to a duplication of efforts. More importantly, it may unnecessarily prolong the process that young offenders will have to go through before they or their parents will receive appropriate services or participate in suitable programmes.

Q(g). The existing scheme operated by the SWD under which ex-offenders take part in rehabilitation programmes as “tutors” for young offenders, with case examples to illustrate the effectiveness of the scheme.

A(g). We understand that the LegCo Members were in fact referring to a Peer Counsellor Programme launched by the SWD since January 2002. Under this Programme, we have engaged 150 peer counsellors who are mature, responsible and have gone through challenges during their own developmental process, to provide guidance and support to Form Three school leavers as a measure of early prevention and early intervention. They are not ex-offenders and the service recipients are not young offenders. This is therefore not a rehabilitation programme. As such, the Programme may not be relevant to the deliberations of this Sub-Committee. If, however, Members are interested in this preventive programme, we stand ready to provide more information on the operation of this programme to the Sub-Committee.