

**For discussion on
14 May 2004**

LEGCO SUBCOMMITTEE ON JUVENILE JUSTICE SYSTEM

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

At the Subcommittee meeting held on 12 March 2004, the Administration explained its response to the recommendations made in the consultancy report, as set out in LC Paper No. CB(2) 1659/03-04(01). The Administration was requested to present in tabular form, its response to views put forward by the Subcommittee and deputations. The table is now attached at Annex.

**Health, Welfare and Food Bureau
Security Bureau
May 2004**

Consultancy Report on Measures Alternative to Prosecution for Unruly Children and Young Persons

Administration’s Response to Views Put Forward

	Consultant’s Recommendation	Views of		Administration’s Response
		Non-governmental Organizations	Subcommittee	
1.	Police Child Support Service	<p>a) Generally support the introduction of Police Child Support Service to arrange for minimal follow-up actions.</p> <p>b) Suggest that:</p> <ul style="list-style-type: none"> - the Police Child Support Service can be provided by the Juvenile Protection Section or Child Protection Policy Unit of the Police; - there should be greater collaboration between the Police, educational sector and NGOs; and 	N/A	<p>➤ With the raising of the minimum age of criminal responsibility from seven to ten, children over seven but below ten can no longer be prosecuted. It is therefore not appropriate for the Police to make decisions about ‘prosecution’, or to provide ‘a mid-level alternative to prosecution’ for children of this age group.</p> <p>➤ Nonetheless, the Police are prepared to extend its Juvenile Protection Section (JPS) service, currently only available to youngsters over ten years of age, to those below ten if the circumstances of the case so justify. This would enhance support services for children under ten. The Divisional Superintendents concerned will examine the circumstances of</p>

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		<ul style="list-style-type: none"> - Police officers involved in the Police Child Support Service should receive training of child psychology or basic counselling skill. 		<p>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/she may, subject to parental consent, refer the unruly children's case to the Social Welfare Department (SWD) for the latter's assessment of and follow up on support services required.</p>
2.	Family Support Conferences for Unruly Children	a) Generally support the introduction of Family Support Conference (FSC) to draw together unruly children aged below 10, their families and related professionals to formulate welfare plans and provide greater support for the children.	N/A	<p>➤ This recommendation is worth pursuing. We have since October 2003 introduced Family Conferences (FC) for those aged between 10 and below 18 to bring together relevant professionals, the juveniles cautioned under the Police Superintendents' Discretion Scheme (PSDS) and their family members to draw up a follow-up action plan to address the needs of the juveniles. Subject to a positive outcome of the effectiveness of the FC, and to the feasibility of extending the FC to children under 10 within the existing legal framework, the Administration stands ready to launch FC for unruly children under 10 who are assessed</p>

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				to be in need of services of three or more parties and whose parents consent to this course of action.
		<p>b) Suggest that:</p> <ul style="list-style-type: none"> - a set of clear guidelines stating the roles and responsibilities of different parties as well as the objective criteria for assessing the need for family support conference need to be developed; - training should be provided for social workers who will chair FSCs; and - this new measure needs to be monitored and coordinated. 		<p>➤ The Police and SWD will draw up detailed arrangements including referral mechanism, criteria for assessing the need for FC and so on.</p>

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3. Empowerment Programmes for Unruly Children	<p>a) Generally support the idea of introducing empowerment programmes to better address the needs of unruly children under 10.</p> <p>b) Suggest to:</p> <ul style="list-style-type: none"> - incorporate the empowerment programmes into the existing programmes of Integrated Children and Youth Services Centres (ICYSCs) to avoid labelling effect; - SWD to coordinate where the unruly children are to receive training; and - provide training to social workers to equip them with knowledge and skills for assessing the children's needs and counselling them. 	N/A	<p>➤ We support some NGOs' proposal for incorporating empowerment programmes into those of ICYSCs as it would be more practicable and cost-effective for the social worker concerned to decide on what programmes would best meet the needs of the child including referring him/her to participate in programmes of the ICYSCs/Integrated Family Service Centres/outreaching social work teams and so on.</p> <p>➤ For instance, ICYSCs provide four core programmes which may cater for their needs, including –</p> <ul style="list-style-type: none"> • guidance and counselling services aimed at enabling children and youth to deal with their difficulties and stress; • supportive services aimed at facilitating mutual support and enhancing personal/social functioning; • socialization programmes aimed at enhancing interpersonal and family

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				<p>relationship and development of life skills; and</p> <ul style="list-style-type: none"> • social responsibility and competence enhancement programmes aimed at enhancing civic mindedness and involvement in community affairs. <p>➤ In addition, ICYSCs run a variety of special projects for unruly children and youth-at-risk in collaboration with related professionals. Projects like 'Project X' in Tuen Mun and 'Youth Net' in Kowloon City can also cater for the needs of unruly children.</p> <p>➤ Organizing dedicated programmes solely for unruly children would be difficult as they may reside in different areas and display behavioural problems at different times. This might not be the best way of using scarce public resources.</p>
4.	Community Alternatives to Institutional	a) Welcome the direction to explore alternatives to institutional placements.	N/A	<p>➤ SWD's present approach is that as far as possible, children should remain with their own families. If such is not possible or not desirable and out-of-home care has to be</p>

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Placements			<p>considered, the children should be placed in a home-like environment, e.g. with relatives, in foster homes or small group homes. We will continue with such policy direction.</p> <p>➤ On the number of home-like places, 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. A total of 165 foster care places (including 45 emergency foster care places) were introduced in 2002-03 and 2003-04. At present, the total number of subvented foster care places and small group home places are 745 and 952 respectively.</p>
	b) Adequate support should be provided to help foster families deal with the problems of the unruly children		<p>➤ Placement of unruly children or young offenders in a foster home is assessed against a number of factors including -</p> <ul style="list-style-type: none"> • the children's needs, the extent of the children's behavioural problems; and • the readiness / acceptance of the foster parents and their ability to cope with the children's problems, etc.

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				➤ Social workers of NGOs/SWD provide regular support and supervision to foster care families.
5.	Family Group Conferences (FGC) for Young Offenders	<p>a) Support the use of a coordinated multi-disciplinary approach to achieve restorative justice for unruly youth</p> <p>b) Propose that mandatory participation in FGC should be imposed on young offenders and their parents in special circumstances</p> <p>c) Suggest that restorative justice should be introduced to the local juvenile justice system with participation of victims in FGC</p> <p>d) Propose that FGC should be designed as a pre-charge/ pre-sentence diversion of offenders with legal provisions to bring</p>	<p>➤ Suggest the Administration to consider implementing a pilot scheme to test and evaluate the effectiveness of FGC as proposed in the Consultancy study</p> <p>➤ Need to guard against the Police having excessive power in deciding whether a particular case</p>	<p>➤ The suggestions regarding restorative justice and FGC as a diversionary measure would impact on our current juvenile justice system. They require careful consideration especially given the relatively limited overseas experience to demonstrate the effectiveness of the proposed measures. We would consider this in the light of the feedback from the Judiciary Administrator (JA) and the Department of Justice (DoJ) about the development of a new juvenile justice system as set out in item (7) below.</p> <p>➤ The role of the Police would be carefully assessed in implementing any new alternative measures.</p>

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	offenders back to the legal system if they fail to behave or complete the tasks assigned by FGC	should be referred for prosecution or to other authorities for alternative support services.	
	<p>e) Suggest to implement FGC by phases with clear guidelines for implementation while the facilitators must be adequately trained</p> <p>f) Support the use of FC jointly developed by SWD and the Police to deal with relatively minor offences</p>	<p>➤ Suggest that the Police, the prosecution, as well as SWD, decide on whether an offence case involving a young offender above 10 should be prosecuted or referred to a FGC.</p>	<p>➤ A pilot “voluntary” scheme of FC was introduced in October 2003 to bring together relevant professionals, juveniles cautioned under PSDS and their family members to draw up follow-up action plans to address the needs of the juveniles.</p> <p>➤ FC is similar to the FGC proposed by the consultant in that both seek to provide more comprehensive and professional assessment of service needs and make recommendations on support programmes for young offenders.</p> <p>➤ The mechanism of conducting FC for cautioned juveniles will be reviewed after implementation for one year to consolidate experience and</p>

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				identify areas for enhancement.
	g) Suggest improving support measures including enhancing training in conducting FC and strengthening support to families			➤ With regard to training in conducting FC, SWD will be organizing sharing sessions for social worker who take part in FCs.
	h) Suggest more involvement of parents			<p>➤ Parents' involvement is emphasized throughout the process of FC. Their participation is a pre-requisite for convening FC.</p> <p>➤ In addition, FC does not confine its assessment to the juveniles' needs; needs of the families would also be looked into. Upon assessment of FC, support service would be arranged for both juveniles and their families to address the needs identified.</p>
	i) Suggest to establish Assessment Panel on a regional			➤ The functions of Assessment Panel proposed by NGOs are similar to those of the existing FC

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		basis to assess the needs of young offenders and recommend services and alternative measures to deal with them.		or the proposed FGC, which seek to provide a forum for cross-sectoral and inter-disciplinary assessment of the needs of unruly children / juvenile offenders and make recommendations on the appropriate follow-up services / programmes. The proposed establishment of such Panel on top of FC / FGC may amount to a duplication of efforts, hence waste of scarce resources. More importantly, it may unnecessarily prolong the process that unruly children / young offenders will have to go through before they and their parents will receive appropriate services or participate in suitable programmes.
6.	Empowerment Programmes for Young Offenders	<p>a) Suggest to set up specialized centre / agency to provide empowerment programmes for young offenders</p> <p>b) Suggest the Administration to make use of existing young people services to provide support to offenders</p>	N/A	➤ We share the views of some of the NGOs that we should make use of existing young people services to provide support to young offenders. In fact, it would be more practicable and cost-effective for social workers concerned to arrange programmes that best meet the needs of the young offenders including referring them to participate in programmes of ICYSCs/ Integrated Family Service Centres / District Youth Outreaching Social Work Teams, etc.

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			<p>having regard to the needs of the children and advice of the Family Conference.</p> <p>➤ ICYSCs provide four core programmes which may cater for their needs. For details, please see item 3.</p>
	c) Suggest to provide all young offenders with empowerment programmes		<p>➤ Service of Integrated Children and Youth Services Centres / Integrated Family Services Centres / District Youth Outreaching Social Work Teams etc. are open to all young people and their families. All young offenders and their families can be provided with appropriate programmes according to their needs if they agree to take part in them.</p>
	d) Propose that parents also participate in the programmes		<p>➤ The importance of involving the parents is well recognized by professionals working with young people. Parents are engaged in the intervention process as far as possible.</p>

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		e) Suggest making empowerment programmes mandatory and subjecting offenders to prosecution if they fail to complete the assigned programme satisfactorily		➤ This is linked to the concept of restorative justice. Please see items 5 and 7.
7	Development of a new juvenile justice system	N/A	➤ Suggest the Administration to consider developing a new "juvenile justice system", taking into account recent developments overseas in the use of restorative justice for juveniles.	➤ At present, we already consider if there are alternatives to prosecution. The PSDS and the pilot FC have been put in place for the purpose. We will review the effectiveness of the pilot FC scheme before deciding the way forward in consultation with DOJ and JA.

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			<ul style="list-style-type: none"> ➤ Suggest to explore the possibility of the courts adopting alternatives to the present procedures to dispose of some of the cases concerning juveniles. 	