

**Hong Kong Bar Association's comments on  
Subcommittee on Juvenile Justice System:  
Consultancy Report on Measures Alternative to Prosecution for  
Handling Unruly Children and Young Persons**

1. The Hong Kong Bar Association ("HKBA") has considered the Administration's Response to the Consultancy Report on Measures Alternative to Prosecution for Handling Unruly Children and Young Persons ("the Consultancy Report").
2. The HKBA recalls its earlier views that the recommendations contained in the Consultancy Report will have wide implications for the juvenile justice system in Hong Kong as a whole and thus have an impact on the administration of justice in our society; and that they should not be implemented on a piece-meal basis. Instead there should be a study to consider a structured implementation.
3. The HKBA welcomes the Administration's proposal to introduce enhanced measures to strengthen publicly-funded support to unruly children and young offenders to help prevent them from developing behavioural problems again or re-offending. The HKBA agrees with the proposals to extend the existing support services to unruly children under 10 and to sanction references by the police of cases of unruly children under 10 to the Social Welfare Department for follow-up in the absence of parental consent.
4. The HKBA notes that the Sub-committee is in favour of the introduction of a "new juvenile justice system". The Administration's response is to emphasize the existing alternatives to prosecution (such as the Police Superintendent Discretion Scheme and the pilot Family Conference scheme) and to review the effectiveness of the pilot Family Conference scheme before deciding the way forward in consultation with the Department of Justice and the Judiciary.

5. The HKBA considers that the present juvenile justice system has incorporated a significant degree of flexibility. Changes to it should not be lightly contemplated. That said, it is important to consider from time to time whether the present juvenile justice system can be improved.
  
6. With respect to any proposed improvements, the HKBA's primary areas of concern are the impact of any new system or measure on the rights of the accused person, the rights of the accused person's family and the rights of the victim and on the proper observance of due process. At present, however, there do not appear to be any concrete proposals on the table for comment. Given the primary focus of the HKBA's interest in this matter, only when there are concrete proposals on the table would the HKBA consider that it can make a real contribution to the development of the juvenile justice system of the HKSAR. The HKBA would like to be kept informed of any timetable and details of such proposed improvements so that timely comments can be provided.

Dated 13th May 2004.

Hong Kong Bar Association