

**For supplementary information
8 October 2007**

LEGCO PANEL ON WELFARE SERVICES

Subcommittee on Strategy and Measures to Tackle Family Violence

Effectiveness of Binding Over Abusers in Domestic Violence Cases

Introduction

Further to the Information Paper setting out the prosecution policy and the enforcement actions against abusers in cases of domestic violence submitted jointly by the Department of Justice and the Hong Kong Police in July 2007 (LC Paper No. CB(2)2532/06-07(01)), the Police has been requested during the Subcommittee meeting held on 25 July 2007 to examine the effectiveness of bind over orders by looking specifically into the relapse rate of bind over subjects. This supplementary note sets out the methodology of the Police study and its findings.

Bind Over Order

2. The Police handle and investigate all reports of domestic violence and conduct thorough investigations to gather evidence according to the circumstances of each report. Depending on the circumstances of the individual case and subject to the availability of sufficient evidence such as victims' and witnesses' testimony, medical reports and other circumstantial evidence, the Police will initiate prosecution action.

3. Distinctive from other cases, domestic violence often occurs in private and involves parties in a spousal relationship. The victim in the vast majority of cases is the only witness who can testify to the commission of the offence to which the accused may deny. Situations often arise where victims withdraw their support for prosecution and this is especially common in relatively minor cases where no physical injury is involved, the violence involved is minimal, the accused shows remorse and both parties are reconciled.

4. In the absence of a prospect for prosecution and in the event that there is a concern over a future breach of the peace, a bind over order may be appropriate as an alternative. The court, may upon the application by the Police/Prosecution under Section 61 of the Magistrates Ordinance, Cap. 227 or Section 109I of the Criminal Procedure Ordinance, Cap. 221 or upon conviction of a charge, order a subject to enter into a recognizance and find sureties to keep the peace and to be of good behaviour. The effective period of the order is specified by the court at the time of making the order.

5. While prosecutions and bind over proceedings are pursued under different legal provisions, both are dealt with by court and aim at pursuing cases under the law and thus holding the abuser responsible for his/her act of violence under the criminal justice system.

Research Methodology

6. As a measurement of the relapse rate, a subject of a bind over order would be regarded as a recidivist if he commits a subsequent domestic violence related crime during the specified period of the said order. For the purpose of the present research, the study has been confined to domestic violence related crime cases occurring in the year of 2005 and the first six months of 2006 so as to allow at least a 12-month period for the relapse to surface. All crime cases occurring on or before 31 July 2007 have been included in the research. Although the effective period of bind over orders made in 2005 to June 2006 ranged from one month to 36 months, in 90% of the cases, the order was valid for a period of 12 months.

Relapse Rate of Subjects of Bind Over (B.O.) Orders

7. In 2005 and the first six months of 2006, there were 1,274 and 719 domestic violence crime cases amongst which 628 and 343 cases resulted in bind over orders being made by courts.

8. The subjects in only 7 out of 628 cases in 2005 (1.1%) and 20 out of 343 cases (5.8%) in the first six months of 2006 reoffended during the bind over periods. The relapse rate after the expiry of the B.O. period stood at 2.1% (13 cases) for 2005 and 2% (7 cases) for 2006 cases.

9. For reference purposes, the relapse rate of two other groups of DV offenders namely those against whom criminal charges have been laid and also those abusers who have been released unconditionally after Police investigation has also been examined and the results are tabled as follows:

Relapse Rates in Domestic Violence Related Crime	2005	2006 (Jan – Jun)
Total No. of Bind Over Cases	628 cases	343 cases
Bind over cases where abusers re-offended during bind over period	1.1% (7 cases)	5.8% (20 cases)
Bind over cases where abusers re-offended after bind over period	2.1% (13 cases)	2% (7 cases)
Total No. of Prosecuted Cases	287 cases	169 cases
Prosecuted cases where abusers re-offended within 12 months	0.3% (1 cases)	1.8% (3 cases)
Prosecuted cases where abusers re-offended after 12 months	0.7% (2 cases)	0% (0 cases)
Total No. of Released Cases	265 cases	128 cases
Released cases where abusers re-offended within 12 months	3.8% (10 cases)	3.9% (5 cases)
Released cases where abusers re-offended after 12 months	2.3% (6 cases)	3.1% (4 cases)

For the purpose of the present research, abusers who have been charged or released would be regarded as a recidivist if he/she reoffended within a 12-month period which is the prevalent period in the vast majority of B.O. orders.

Handling of Relapsed Offenders

10. In the event of a bind over subject committing a further domestic violence crime during the specified period, he/she would be arrested forthwith and brought before the court as soon as practicable. Criminal charges would be pursued as far as the sufficiency of evidence allows. In addition to the particulars of the subsequent case, the Police will bring the full history of violence including the facts of the previous domestic crime that has resulted in the issue of a B.O. order to the attention of the Court for deliberation. The court, after examining the circumstances of each case, may order for his/her surety to be confiscated in addition to imposing other sentences commensurate with the gravity of the case.

Conclusion

11. The relapse rate of bind over subjects is only one of the possible indicators in reflecting the overall effectiveness of such orders, and a single-digit re-offending rate is considered very low. In the present study, on the basis of the relatively low relapse rates (1.1% in 2005 and 5.8% in the first six months of 2006), we can come to the conclusion that bind over orders are effective in achieving preventive justice.

Hong Kong Police Force
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