

AGAINST CHILD ABUSE
Submission to the Law Reform Commission of Hong Kong
The Review of Sexual Offences Sub-Committee
On
Response to Interim Proposals on a Sex Offender Register
July 2008

Introduction

1. The review for improvement in the area to prevent and monitor sexual offences is long overdue. We welcome the consultation and look forward to prompt improvements strengthening a child perspective in the community and heightening community awareness in the risks and harm of sexual offences towards children and incapacitated individuals and the problem's prevention.
2. We strongly support the view captured in para 15 & 16 of the consultation paper that any registration system of sex offenders and any notification system required of offenders after their release from prison should be seen as only a part of an integrated approach for the treatment and rehabilitation of sex offenders and a network of measures and good practice to protect children and the community from those who may harm them. Hence, an integrated approach should be adopted, and adopted promptly to include appropriate punishment; treatment and rehabilitation of offenders, as well as risk assessment and management should be closely linked.
3. We urge for prevention before problem arises and such should include head start programs, early childhood education, tertiary education, parent education and professional training to strengthen the quality of education to impact the core values, knowledge and skills against sexual offences and abuse.
4. We understand that by setting up a sex offender's register does not automatically eliminate or prevent sexual abuse. However its set up would reflect our determination to tackle the problem of sexual offences and understanding of the complexity of the matter, the adverse impact on children, families and societies, and the set up is based on a careful balancing of the rights of safety of children in our society and protecting them from further abuse, and safeguarding human rights of the offenders and protecting them from stigmatization.

5. This paper stipulates our response towards the recommendations and rationale listed in the consultation paper.

Comments from the Against Child Abuse

- 1 We are concerned of the time frame involved in coming up promptly with a comprehensive plan for improvement in the prevention, management and treatment/rehabilitation of sexual offences in Hong Kong. It has taken over two years to come up with this consultation. We urge the Law Reform and the Government to speed up on the process for an integral and holistic approach.
2. The term “Paedophiles” (refer to chapter 1, 1.2, 36) needs to be carefully addressed as some sex offenders may be abusing children and adults alike. We should be equally concerned in monitoring such individuals and not merely those who have specific interest only in children.
3. Refer to chapter 1, 1.11 rate of recidivism of sex offenders....
The consultation report mentioned that there is no evidence that the recidivism in Hong Kong is high. We think that this may be due to the small number of cases we have handled and studied. We support the view that Hong Kong requires on going research and study in the problem before concluding that our recidivism is low. Funding for such study should be allocated to ensure cases properly studied and situation analyzed. Trends and characteristics could thus be traced and made known for more effective prevention, management and rehabilitation.
4. Responding to Chapter 2 the Interests at stake in the possible introduction of a sex offender register in Hong Kong, we have to reiterate the concern that we do not support a very open and non restrictive sex offender register and any sex offender register should not be perceived as a punishment but monitoring measure. Such measure is not only non punitive but to certain extent also beneficial to the offender as it reminds him/her to restrict himself/herself from repeating similar offences.

In the balancing exercise, we do respect the rights of the offenders and we do believe that offenders who have served their terms should be given every opportunity to rehabilitate and rejoin the society and they should be adequately respected and safety and privacy protected. Yet their rights are not absolute and in the best interest of children we think people who have track records of

contributing to serious harm of children sometimes should not be given a second chance to do the same or similar job, or if given such chances they should be properly monitored to ensure their improved attitude and behavior when relating to children and their performance in the work place.

We therefore suggest the Law Reform Commission and the Government to ensure a strong child perspective to ensure children safe and their rights protected and the set up of a restrictive and carefully monitored offender register serves this purpose so that parents and employers may be provided with more information to decide whether such person is fit to work with their children.

Responding to the Recommendations

1. The current proposed interim measure, being non mandatory and only administrative, is far too weak and unwise as it does not meet the need to monitor the problem and to ensure better safety and protection for children and people in the communities.

If we as an interim measure only require employers to raise and employees to seek their own sex offending records as they see fit, those who are desperate in seeking employees or employers, for convenience sake may shy or hide away from these checkings without having to face any consequences.

We think that this should be a mandatory system and all designated employers and parents should be required to refer to the sex offenders register. Such checking should refer to all parties and not only the prospective employees. (We do not support your recommendations 2, 4, 6).

2. We support your recommendation 1 against Megan's Law and that there should be no community notification as it would be undesirable for both offender and the community in contributing to possibility of fear and unrest.

However the many measures such as those acquired by the American jurisdictions, even though they may be considered overbroad and the scope overlong in duration or bring more harm than good, reflect a very strong force and determination attached to putting a stop to the problem and to ensure safety of children and community rather than acquiring a toned down administrative approach that would benefit nobody.

It was said that most sex crimes are not committed by registered offenders and some may argue against spending such efforts to set up one. However one could also argue that if that is the case, then the register may actually be serving as an alarm against repeated offending.

3. Regarding your recommendation 6, we are concerned with the proposed method of application particularly when a clean checking result would not be recorded in writing. We think that this is unwise as it would be hard to differentiate one genuinely with a clean record from one who did no checking at all for both will not be presenting any written proof.
4. Regarding your recommendation 7, types of offences, we would like to enquire for the offences not being included and the rationale behind.
5. As for your recommendation 8, we disagree with you and we do recommend that if a person has been arrested or charged with a sexual offence but not yet convicted or acquitted, the employer should be informed of such status.
6. We do propose that those young offenders, first time and sex offenders of less serious degrees should be exempted from the register. However thorough and effective treatment and rehabilitation programs be made mandatory to all of them and designate a reasonable period after their discharge to support them and for their situation be carefully monitored in the community to ensure low chances of re-offending.

Prepared by: Priscilla Lui

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