

## **Singapore 新加坡**

### **Question 1**

#### **Ministry of Community Development and Sports**

The Ministry of Community Development and Sports (MCDS) is the lead agency in rehabilitation work. MCDS administers the statutory requirements of these legislations and provides statutory services. It oversees the sentencing options for juvenile offenders as well as the operations of the juvenile institutions. MCDS formulates policies and designs services for the rehabilitation and reintegration of juvenile offenders together with its stakeholders—the Courts, the Ministry of Home Affairs, the National Youth Council and other voluntary welfare agencies. Overall, MCDS is guided by the following principles in developing and implementing strategies for the rehabilitation of juvenile offenders:

- The family as a basic building block and change agent of society.
- The “Many Helping Hands Approach”, where all aspects of the community are utilized.
- Maintaining the juvenile in his home environment as far as possible, with institutionalization as the last resort.
- Maximizing the fullest potential of every juvenile through treatment and rehabilitation.

#### **社會發展及體育部**

社會發展及體育部(MCDS)是更生工作的領導機構。當中，MCDS 處理及提供與法律有關的法定服務，監督對違法少年的判刑選擇，而且更提供少年院舍服務。MCDS 與其夥伴——法庭、內政部、全國青年理事會及其他志願福利機構，為違法少年的自新和重新融入社會制定政策和設計服務。總括來說，MCDS 是根據以下之原則來發展及推行其策略：

- 家庭為社會之根基及改變的原動力
- 眾志成城地動員社區各層面的人士
- 盡量維持少年在家庭中成長，而院護照顧只是最後的選擇
- 透過矯正與更生，使少年的潛能得到最大的發揮

## **Questions 1 and 2**

### **Measures for Children and Young Persons Beyond Parental Control**

The Beyond Parental Control measures aim to help pre-delinquents or those presenting delinquent behaviours as well as their parents who cannot provide proper supervision and disciplining of their children.

Children and Young Persons beyond Parental Control refer to those below 16 years of age and who display behavioural problems in schools or at home. They are not arrested for seizable offences or charged in court by police, but their delinquent behaviours are beyond their parents' control and are serious enough for the state to take statutory measures. The *Children and Young Persons Act* makes provision for the power of parent or guardian to bring child or young person before the Juvenile Court.

In dysfunctional families, parental supervision was commonly lax or inconsistent. Some parents tended to rely too much on the Court and MCDS to rehabilitate their children for them and were not proactive enough to improve their own parenting skills and put in efforts to participate throughout the rehabilitation process. Rehabilitation programmes would have limited effects unless the parents take their roles seriously and sharpen their parenting skills, and the families function in proper order. Previously, many parents refused or failed to take part in the rehabilitation of their children. The *Children and Young Persons (Amendment) Act* was passed on 20 April 2001 to widen the scope of child protection and to strengthen rehabilitative measures. It makes provision to bond parents to comply with the orders made by the Court.

Under the *Children and Young Persons Act*, when children and young persons are beyond parental control, their parents can seek assistance from MCDS, which will refer them to receive counselling from social service agencies or for voluntary admission to residential care. If the intervention is unsuccessful, they may file complaints at the Juvenile Court. After court hearing, the magistrate may (i) discharge the complaint, (ii) place the young person under statutory supervision of an approved Welfare Officer or of some other persons appointed for the purpose by the Court for a period not exceeding 3 years, or (iii) place the young person in an approved home for a period of not less than 2 years and not more than 3 years.

For non-offenders, recourse through the Juvenile Court serves as a possible option only when diversionary measures cannot be adopted or are not suitable for the juveniles. Institutionalisation as a means of treatment for both offenders and non-offenders is used only as a last resort and only if deemed necessary and in the interest of the juvenile. Where possible and practical, the juvenile is treated within the community to minimise disruption to the juvenile's education, and to provide for greater family involvement and responsibility in the rehabilitation of the juvenile.

All youths sent to the MCDS approved homes undergo educational and vocational programmes according to their academic level and aptitude so as to equip them with marketable job skills. Residents who show good progress and performance are allowed to attend school or work outside the Home by virtue of the Day Release Scheme. Upon their release from the Homes, all residents are placed under the supervision of the Ministry's Aftercare Unit. The Aftercare programme requires the youths discharged to keep in contact with the Aftercare Officers, attend group-work sessions and talks on topics such as secret societies, sexuality, and participate in community service projects and healthy recreational activities such as canoeing, camping. The Aftercare Officers also help to link the youths to volunteers who serve as mentors and friends.

Under the *Children and Young Persons (Amendment) Act 2001*, the Court is further empowered to compel parents and guardians to exercise proper care and supervision of their children. The Court can now make orders that instruct:

1. The parent/guardian, and/or the juvenile placed under supervision to participate in programmes (e.g. counselling) that help in the rehabilitation of juvenile or improving parent-child relationship.
2. The parent/guardian, and/or the juvenile to approach a medical practitioner, psychologist or an approved social worker for assessment (e.g. psychotherapy).
3. The parent/guardian to attend all stages of court proceedings that their child is involved in unless it is not in the interest of the child to do so.
4. The parent/guardian to borne the cost of any assessment or treatment made in respect of the juvenile, pursuant to the Court's order as the Court thinks fit.
5. The parent/guardian to enter into a bond to comply with the order given. Penalty for non-compliance is a fine up to \$2,000.

### ***處理不受父母控制的青少年之措施***

幫助缺乏家教青少年之措施，旨在幫助一些邊緣青少年或那些已有偏差行為之青少年，及那些未能適當管教和督促子女之家長。

幫助缺乏家教青少年之措施針對十六歲以下，而於校內或家中表現出行為問題之少年。他們並非犯了罪行而被警方拘捕或起訴，但他們的偏差行為卻不受父母的控制，而其嚴重程度足以由國家採取法定措施來介入。在《兒童及青年人法》下，父母或監護人可將兒童或青少年帶上少年法庭。

在功能失調的家庭，父母的監管是較為鬆懈和不一致。一些父母更是過於依賴法庭和MCDS來代他們督促其子女，而且他們也不會主動去改善自己的管教技巧，亦沒有用心參與子女的更生過程。除非他們認真的擔上父母之角色及改善他們的管教技巧，令家庭產生正常的功能，否則更生計劃亦只會有有限的效果。過往，很多家長拒絕或不會參與其子女的更生過程。當《兒童及青年人(修訂)法》於二零零一年四月二十日正式通過後，保護兒童的範疇得以擴大，並加強了更生之措施。在這法例下，家長們可被要求簽訂契約以遵從法庭所發之法令。

在《兒童及青年人法》下，一旦青少年或兒童不受父母管教，其父母可向MCDS尋求援助。MCDS會將其子女轉介到社會服務機構接受輔導或自願性的住院服務。假若此安排並不成功，其父母可向少年法庭作出申請。經聆訊後，裁判官可(i)撤銷該申請，(ii)給予該青少年法定的督導，由法庭委派福利官或其他人員督導該青少年，為期不超過三年，或(iii)轉送該青少年到核准院舍居住，為期二至三年。

對非違法者而言，只有在分流措施不適用或不能用之下，才會考慮交由少年法庭處理。不論對違法者或非違法者，住院照顧是在必要時並顧及了該少年福祉的最後選擇。在實際情況許可下，是先以社區治療為本，以減低對該少年學業的影響，並增加其家庭在更生過程中的參與和責任。

所有送到MCDS核准院舍的青少年會根據其教育程度和能力，接受教育和職業訓練，以強化他們的工作技能。在日間離院計劃下，進度和表現良好之青少年均會獲准到院外的學校上課或外出工作。參加者離開院舍後，仍會受到MCDS的善後輔導組的監管。善後輔導計劃要求該等青少年與善後輔導官保持聯絡，出席小組活動及講座，例如有關秘密會社和性問題的講座，並參與一些社區服務計劃和有益身心的康樂活動，如獨木舟、宿營等。另一方面，善後輔導主任亦會幫助該青少年與一些義工建立聯繫，作為他們的導師和朋友。

在《二零零一年兒童及青年人(修訂)法》下，法庭的權力被提昇，可要求父母和監護人對其子女提供適當的管教和照顧。法庭現可發出下列法令：

1. 指示父母/監護人，及/或被監管的少年參加一些計劃(如輔導)，協助該少年更生或改善親子關係。
2. 指示父母/監護人，及/或該少年會見醫護人員，心理學家或委任的社會工作者以接受評估(如心理治療)。
3. 除非其參與會對其子女不利，否則父母/監護人必須出席法庭所有涉及其子女的訴訟。
4. 指示父母/監護人承擔法庭認為適合的有關其子女的評估或治療費用。
5. 父母/監護人須簽署契約遵從所發之法令。違者最高罰款新加坡幣\$2,000。

## **Hong Kong 香港**

### **Measure to Deal with Children / Young Persons Beyond Parental Control**

In Hong Kong, either the Police or any person authorized by the Director of Social Welfare may initiate application for a Care or Protection (C or P) Order with the juvenile court in accordance with the Protection of Children and Juveniles Ordinance (PCJO), Chapter 213 as one of the measures to deal with children / young persons beyond parental control. The PCJO applies to children and juveniles under the age of 18 (those with Director of Social Welfare (DSW) being appointed as their legal guardian are of exception and statutory supervision will be rendered until they attain the age of 21).

### **Child / Juvenile In Need of Care or Protection**

According to Section 34(2) of the PCJO, a child or juvenile in need of care or protection means a child or juvenile –

- (a) who has been or is being assaulted, ill-treated, neglected or sexually abused; or
  - (b) whose health, development or welfare has been or is being neglected or avoidably impaired; or
  - (c) whose health, development or welfare appears likely to be neglected or avoidably impaired; or
  - (d) who is beyond control, to the extent that harm may be caused to him or to others,
- and who requires care or protection.

Apart from protecting children from abuse or neglect, the provisions of the PCJO also empower the DSW to handle the behavioural problems of children, as quoted in the preceding paragraph. From Social Welfare Department (SWD)'s operational experience, children beyond control include runaway children beyond family control, teenage girls working in sex dens, underaged girls having sex with the opposite sex, behavioural problem children associated with undesirable peers, or children having committed minor offences, etc. Whilst the main concern is on protection of children / juveniles and the care arrangements for them, social workers of SWD will, having regard to the individual circumstances of the child / juvenile concerned and his / her family, make recommendation(s) to the court on the welfare plan of the child / juvenile including the need for the granting of a C or P order. Besides, if a criminal charge against a child or juvenile is dismissed by the Court, SWD's probation officers may recommend the child or juvenile to be made subject of a C or P order in accordance with Section 34 (1)(b)(d) of the PCJO.

### **Granting of a C or P order**

In accordance with Section 34(1) of the PCJO, the juvenile court may (a) appoint the DSW to be the legal guardian of such child / juvenile; or (b) commit him to the care of any person including a relative or an institution who is willing to undertake the care of him; or (c) order his parent or guardian to enter into recognizance to exercise proper care and guardianship; or (d) make an order placing him under the supervision of a person for a specified period not exceeding 3 years. Section 34A also provides that a supervision order can insert requirements as to the residence or medical / surgical treatment of the child.

### **Intervention by Social Workers of SWD**

Social workers of SWD will render statutory supervision to the child / juvenile who is made subject of a C or P Order. The major responsibilities include:

- (a) assisting and befriending the child / juvenile and providing assistance to ensure his general welfare, covering such areas as study / career plan, social life, conduct, personal growth and development, family relationship, etc;
- (b) paying visits to or maintaining face-to-face contact with the child / juvenile on regular basis;
- (c) providing parents with advice, guidance and assistance to enable them to have a better understanding of the needs of their children / juveniles and to become more competent in parenting skills;
- (d) reporting to the Court and the Police if the child / juvenile is found missing;

- (e) reporting to the Court and applying for amendment of court order if the supervision order is not complied with or there are other changes in the child / juvenile's circumstance that warrant amendment of the order, such as transfer of institution, change in care arrangement, etc.; and
- (f) applying to the Court for discharge of order if the child / juvenile marries, leaves Hong Kong for good reasons which makes it impossible for the supervising officer to enforce the court order.

### **處理不受父母控制的兒童或少年的措施**

現時香港的警務人員或任何獲社會福利署(社署)署長授權的人可根據保護兒童及少年條例(第 213 章)向少年法庭申請保護令，作為處理不受父母控制的兒童或少年的其中一項措施。保護兒童及少年條例(第 213 章)適用於 18 歲以下的兒童或少年(由社署署長擔任其法定監護人的兒童/少年則例外，社署會為他們提供法定監護直至他們年滿 21 歲)。

### **需要受照顧或保護的兒童或少年**

根據保護兒童及少年條例(第 213 章)第 34(2)(d)條，需要受照顧或保護的兒童或少年指—

- (a) 曾經或正在受到襲擊、虐待、忽略或性侵犯；或
- (b) 健康、成長或福利曾經或正在受到忽略或於可避免的情況下受到損害；或
- (c) 健康、成長或福利看來相當可能受到忽略或於可避免的情況下受到損害；或
- (d) 不受控制的程度達至可能令他本人或其他人受到傷害，

而須受照顧或保護的兒童或少年。

正如前文所提及，保護兒童及少年條例(第 213 章)除了保護兒童免受虐待或疏忽照顧外，亦賦予社署署長權力以處理有行為問題的兒童。根據社署的實際經驗，不受控制的兒童包括不受家庭約束而出走的兒童、在色情場所工作的少女、與異性發生性行為的未成年少女、與不良份子為伍的行為問題兒童，以及曾犯輕微罪行的兒童等。在處理這些不受控制的兒童／少年時，社署社工的主要關注是保護他們及為他們作出適切的照顧安排。社工會考慮該兒童／少年的個別處境及家庭狀況而向少年法庭建議福利計劃，包括是否需要頒佈保護令。此外，社署的感化主任亦可向少年法庭建議根據保護兒童及少年條例(第 213 章)第 34(1)(b)(d)條向已被法庭撤銷控罪的兒童/少年頒佈保護令。

### **頒佈保護令**

根據保護兒童及少年條例(第 213 章)第 34(1)條，少年法庭可(a)委任社署署

長為該兒童或少年的法定監護人；或(b)將該兒童或少年付託予任何願意負責照顧他的人士，包括親屬或願意負責照顧他的機構；或(c)命令該兒童或少年的父母或監護人辦理擔保手續，保證對他作出適當的照顧及監護；或(d)下令將該兒童或少年交由法庭為此目的而委任的人士監管一段指明的期間，以不超過 3 年為限。此外，少年法庭亦可根據第 34A 條在監管令內加入關於受監管人須居住的地方或須接受內科/外科治療的規定。

### 社署社工的介入工作

社署社工會向獲頒佈保護令的兒童/少年提供法定監管，其主要職責包括：

- (a) 協助受監管人、與其建立友誼及提供援助以確保其在學習/就業計劃、社交生活、行爲、個人成長及發展、家庭關係等各方面均得到充足的照顧；
- (b) 定期探訪或定期與該兒童/少年面談；
- (c) 為家長提供建議、指導和支援，協助他們進一步瞭解兒童/少年的需要及更有能力地管教該兒童/少年；
- (d) 如兒童/少年失蹤，社工會向法庭及警方報告
- (e) 如兒童/少年未能遵守監管令，或在其境況有重要轉變（例如所居住的機構或照顧安排有所改變等）而引致需更改保護令時，社工會向法庭報告及申請更改命令；及
- (f) 若兒童/少年結婚或有充份理由須離港而致監管令無法執行，社工可考慮向法庭申請解除已頒佈的命令。

### Question 3

1. To be conducted by an independent body, eg. academic institution or consultancy firm, but not by the service provider themselves.
2. Perfect evaluation requires a Pre and Post Test with Comparison/Control Group design, but this has not been adopted in Hong Kong regarding research on offenders due to its impracticality and statutory requirements.
3. If a perfect evaluation design outlined in 2 cannot be adopted due to various reasons, a Pre and Post Test design is preferable. This method was used in the evaluation of CSSS of Hong Kong in 1997. However, the Pre and Post Test design cannot be used in some evaluation studies because of the short duration of the study period, eg. one year only, whereas the period of imprisonment could be longer than one year. In this respect, a Post Test can only be used. Respondents will be asked how they feel about a particular rehabilitation programmes and what changes they have experienced after attending the programmes.