

NORTH LANARKSHIRE COUNCILAGENDA ITEM No. **6**.....**REPORT**

TO: Social Work Committee Operations and Services Sub Committee	Subject:
FROM : Jim Dickie Director of Social Work	Crime and Punishment (Scotland) Bill Restriction of Liberty and Electronic Monitoring of Young Offenders
DATE : December 16 1996	
REF:	

1. PURPOSE OF REPORT

The purpose of this report is to :

- Inform the Committee of the contents of a consultation paper, on the topic of Restriction of Liberty and Electronic Monitoring of Young Offenders, issued by the Scottish Office in November 1996.
- ♦ Make comment on the above.
- Seek approval from the Committee for comments to be returned to the Scottish Office.

2. BACKGROUND

The Crime and Punishment (Scotland) Bill is currently proceeding through the House of Commons. The Bill is expected to be passed to the House of Lords by Christmas, and is based on the White Paper, 'Crime and Punishment', the contents of which were reported to the Committee earlier this year.

Proposals to include measures to restrict liberty and monitor electronically offenders over the age of 16 appearing before the courts were included in the White Paper. This has now led to consideration of the applicability of these measures to young offenders.

Local Authorities and others have been asked to make comment, in response to the consultation document.

Application of these measures to children under the age of 16 will require further legislation.

3. CONTENTS OF CONSULTATION PAPER

The following points are made in the paper :

- The Bill provides for the Courts to make Restriction of Liberty Orders and impose electronic monitoring on offenders aged 16 upwards, following conviction in criminal proceedings, and seeks comment on the proposal that electronic monitoring should be made available to children's hearings considering compulsory measures of care for children under 16 referred to them on offence grounds.
- That the vast majority of children who commit offences are dealt with by the Children's hearings, rather than the courts. The paper questions whether electronic monitoring should be extended to children where offences have been committed, and considerations of 'public interests' apply.

There is no definition of 'public interest' in the paper.

- To provide for a form of supervision which would include electronic monitoring, it would be necessary to amend Part II of the Children (Scotland) Act 1995, which is to be implemented in April 1997.

4. COMMENT

The following comments are made in relation to the proposals.

- ♦ Supervision of children is intended to achieve positive and permanent change for good in children's lives. Such restrictions on the movements of people, as young as 8, would be incompatible with the ethos of the Children's Hearings System, and is inconsistent with the philosophy of partnership envisaged by the Children (Scotland) Act 1995. Inclusion of such a measure within the provisions of this Act would be a simplistic answer to complex difficulties.
- ♦ The measures are unnecessary in practice. The Children's Hearings already have significant measures at their disposal which can be applied in the interests of children.
- ♦ The measures are likely to be counterproductive in a number of ways :
 - They will undermine the role of parents, by removing responsibility from the parent to a remote base.
 - They will fundamentally change the balance in the relationship between social work staff, carers and children, to concentration on control.
 - Many children will find the prospect of high technology tempting, as a badge and as a further opportunity to test the rules.

Breaking of the rules will presumably trigger review Children's Hearings. The Hearing will be faced with the problem of its own credibility. If a child does not conform to the requirements of the curfew, but does not otherwise require a higher level of intervention, there is a likelihood that a number of children will be accelerated through the tariff of responses to non co-operation, and unnecessarily committed to residential care as a consequence.

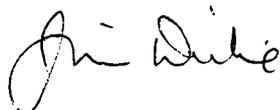
- The measures are likely to become an end in themselves, and distracting from the real purpose of intervention, which is to challenge, help and guide children and families. This means helping families find strengths and ways of improving their own methods of coping with difficulties. Far from being the solution to the problem, monitoring itself will become the problem.
- They are likely to be dangerous for some children. In many ways, child offending behaviour is linked to parental difficulties. These will include difficulties in the application of care, the abuse of alcohol or drugs, and abuse of children. Requiring a child to stay at home will raise tension between children and parents, and may leave him / her unsupervised or in the care of a drunk or abusive parent.

Overall, it is difficult to see any merit in the proposals. They do not contribute in any positive way to dealing constructively with the problems caused by young offenders, which are inextricably intertwined with the abilities and actions of their parents and others with whom are in contact. They are likely to deflect both resources and attention from dealing constructively with these problems.

5. CONCLUSION

The Committee is asked to :

- ♦ Note the contents of the Consultation Paper.
- ♦ Consider the comments above, as the basis of a response to the Scottish Office.



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December 16th 1996

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