



Information on the Police Superintendents' Discretion Scheme

What is Police Superintendents' Discretion Scheme (PSDS)?

PSDS allows a police officer of or above the rank of Superintendent to issue a caution to a juvenile offender rather than initiate a criminal prosecution.

What is the Purpose of the PSDS?

Involvement in criminal proceedings may be a very distressing experience for a juvenile, and the stigma of a criminal conviction and the consequent sentence may cause irreparable harm to his or her future. It is therefore desirable to divert juvenile offenders from court proceedings whenever possible. The Department of Justice has therefore authorized Superintendents and above to caution, rather than prosecute, young offenders in appropriate cases.

The Pre-requisites

Before a juvenile offender can be dealt with by way of the PSDS, the following conditions must be fulfilled:

- ✓ at the time the caution is administered, the offender is under the age of 18;
- ✓ the evidence available is sufficient to support a prosecution, and that a prosecution would be the only alternative course of action;
- ✓ the offender voluntarily and unequivocally admits the offence;
- ✓ the offender and his/her parents or guardians agree to the cautioning; and
- ✓ the offender and his/her parents or guardians voluntarily consent to receive support by the extended Community Support Service Scheme (CSSS) and to be visited by the Juvenile Protection Section (JPS) officers.

Other Considerations

The Superintendent will decide whether to exercise his discretion after considering all of the circumstances surrounding the case. Each case rests on its own merits. In general, the following factors will be considered:-

- a.  the nature, seriousness and prevalence of the offence
- b.  the offender's previous record
- c.  the attitude of the complainant
- d.  the attitude of the offender's parents or guardians

Initial Action upon Arrest of a Juvenile

- 1 When a juvenile offender is arrested, his/her parents or guardians will be asked to accompany the juvenile at the police station during the interview.
- 2 Police will gather information about the juvenile's family, social, and educational background. This information should be as accurate as possible as it will help to determine whether a caution is to be administered, and, if so, what follow-up counseling would be of most assistance to the juvenile.
- 3 The juvenile and parents or guardians will be asked if they consent to receiving support from the extended Community Support Service Scheme (CSSS) and be visited by the Juvenile Protection Section (JPS) officers.
- 4 After the officer-in-charge of the case completing necessary enquiries, the juvenile will be released on police bail if a caution is being considered. The case will then be submitted to a Superintendent, who will decide whether to administer a caution.

Post-discretion Visits

JPS officers conduct regular after-caution visits to monitor the juvenile offenders' rehabilitation progress. The officers will document their observations in a report after each visit. These visits continue for up to a maximum of two years after the caution or until the offender turns 18, whichever is earlier.

The visits are divided into three categories:

Category (I)	Total 5 visits	with quarterly visits during the first six months of the aftercare period of supervision, followed by half-yearly visits for the remaining 18 months.
Category (II)	Total 7 visits	with bi-monthly visits for the first six months, followed by quarterly visits for the second six-month period, and six-monthly visits for the remaining 12 months.
Category (III)	Total 10 visits	with monthly visits in the first six months, followed by quarterly visits for the second six months, and six-monthly visits for the remaining 12 months.

Follow-up Counselling

When necessary, the Superintendent may also refer the juvenile to the Social Welfare Department and/or the Education Department and/or other relevant agencies for after-care measures. The consent of the offender's parents or guardians is required before a juvenile can be referred to these agencies.

Fingerprints

If a juvenile is arrested for an offence, the police are legally empowered to take his or her fingerprints. If a caution is subsequently administered to the juvenile, police will retain the fingerprints until the juvenile reaches the age of 18 or a period of two years has lapsed after the caution, whichever is the later. The fingerprints, and the record of the caution, will then either be destroyed or delivered to the person concerned.

Frequently Asked Questions:

Q: Can my friend accompany me during the exercise of Superintendent's discretion?

A: Only your parents or guardians may be present during the caution.

Q: What if I do not admit the offence during the Superintendent's Discretion?

A: If you do not admit the offence during the superintendent's discretion, your case may be reviewed and the formal charges may be laid.

Q: How can I learn about the investigation process?

A: The officer-in-charge and the investigating officer of your case will be responsible for briefing you on the investigation progress and informing you of the investigation results.

Q: Will my caution record be used if I commit another offence?

A: Your previous caution may be cited if you appear before a court in respect of any subsequent offence.

Q: If I already have social workers following up on my welfare, is it necessary to consent to NGOs running the extended CSSS?

A: Yes, consenting to the referral to NGOs running the extended CSSS is one of the pre-requisite of the PSDS. The extended CSSS is specifically designed for juvenile offenders, aiming to enhance their law-abiding awareness, reduce recidivism and develop positive life attitudes.

NGOs running the extended CSSS

METHODIST CENTRE



THE BOYS' & GIRLS' CLUBS ASSOCIATION OF HONG KONG



HONG KONG PLAYGROUND ASSOCIATION



THE HONG KONG FEDERATION OF YOUTH GROUPS



EVANGELICAL LUTHERAN CHURCH OF HONG KONG





什麼是 警司警誡計劃？

警司警誡計劃就是讓一名警司或以上職級的警務人員向一名少年犯人施行警誡，而非向其提出刑事檢控。

警司警誡計劃的目的是什麼？

對少年犯人而言，涉及刑事訴訟程序可能是一次非常痛苦的經歷，而刑事定罪的污名及其後果可能對他或她的未來造成不能彌補的傷害。因此，在可能的情況下，避免將少年犯人帶上法庭受審是可取的做法。律政司已授權警司或以上職級人員在適合的案件中，對少年犯人施行警誡，而非向其提出檢控。

先決條件

施以警司警誡方式處理前必須符合下列準則：

- ✓ 在施行警司警誡時，該罪犯未滿18歲；
- ✓ 有足夠的證據檢控犯案人，而檢控是唯一及不可避免的另一選擇；
- ✓ 少年犯自願及明確地認罪；
- ✓ 少年犯及其父母或監護人同意接受警誡；及
- ✓ 少年犯及其父母或監護人自願地同意接受「擴展社區支援服務計劃」的支援及青少年保護組人員的探訪。

其他應考慮的準則

一名警司或以上職級人員在決定是否運用酌情處理時，會考慮與該案有關的情況及每宗案件的實情。一般來說，有關人員會考慮下列各點：

- a. 罪行的性質、嚴重性及猖獗性
- b. 犯案人的以往犯罪紀錄
- c. 投訴人的態度
- d. 犯案人的家長或監護人的態度

警方拘捕少年犯後會採取的行動

- 1 當一名少年犯被捕後，警方會在接見該名少年犯前通知其父母或監護人前來警署陪伴著該少年犯。
- 2 警方會收集該名少年犯的家庭、社交及教育背景資料。這些資料須盡可能準確，以便評估是否適合施以警誡，若施以警誡，亦可據此決定何種跟進輔導最能幫助該少年犯。
- 3 少年犯及其家長或監護人會被詢問是否同意接受「擴展社區支援服務計劃」的支援服務，以及青少年保護組人員的探訪。
- 4 當案件主管完成所需的調查後認為該名少年所犯的案件適合以施行警誡方式處理，可以讓該名少年犯以警察擔保方式保釋外出。隨後案件檔案將會呈交一名警司，以決定應否運用酌情權施行警誡。

酌情處理後的探訪

少年保護組人員會定期進行警誡後探訪，以監察少年犯的更生進度。由酌情處理案件日期起計算，探訪期限最長為期兩年或持續至該名少年滿十八歲（兩者中以較短的期限為準）。

探訪分為三個類別

第一類別	共5次探訪	於善後輔導期的首6個月進行季度探訪，而餘下的18個月則作半年探訪。
第二類別	共7次探訪	於首6個月進行隔月探訪；次6個月進行季度探訪，而餘下的12個月則作半年探訪。
第三類別	共10次探訪	於首6個月進行每月探訪；次6個月進行季度探訪，而餘下的12個月則作半年探訪。

事後的輔導

如有需要，施行警誡的警司亦可將該名少年犯轉介社會福利署及/或教育局及/或其他相關機構以便進行善後輔導工作。將一名少年轉介給這些機構前，需要得到該少年犯的家長或監護人的同意。

指模

如一名少年被警方拘捕，警方有合法權力套取他/她的指模。如該名少年最終被施行警誡，警方可保留他/她的指模直至該名少年犯人年滿十八歲。之後，其指模及與該警誡有關的紀錄將會被銷毀或交還予相關人士。

常見問題

問：於進行警司警誡時，我的朋友可以陪同嗎？

答：在警司警誡程序進行期間，只有你的父母或監護人可以陪同在場。

問：若我在進行警司警誡時否認控罪會怎樣？

答：你的案件有機會被重新審視，並可能會被正式起訴。

問：我如何得知調查的進度？

答：負責調查的案件主管和調查員會告知你調查進度及結果。

問：如果我再次犯罪，我的警司警誡紀錄會被引用嗎？

答：若你其後再犯罪而需出庭受審，你之前的警司警誡紀錄將會在法庭上被引述。

問：如果我已經有社工跟進我的情況，是否仍需要同意由「擴展社區支援服務計劃」的非政府機構跟進我的個案？

答：是的，警司警誡計劃的其中一個先決條件是需要該少年犯同意接受轉介至「擴展社區支援服務計劃」下的非政府組織。「擴展社區支援服務計劃」是專門為少年犯而設，目的是提升他們的守法意識，減低重犯機會，並培養正面的人生態度。

「擴展社區支援服務計劃」下的非政府組織

