

**RESOURCE MATERIAL**  
**SERIES No. 78**

**UNAFEI**

**Fuchu, Tokyo, Japan**

**September 2009**

Masaki Sasaki  
Director

United Nations  
Asia and Far East Institute  
for the Prevention of Crime and  
the Treatment of Offenders  
(UNAFEI)

1-26 Harumi-cho, Fuchu, Tokyo 183-0057, Japan  
<http://www.unafei.or.jp>  
[unafei@moj.go.jp](mailto:unafei@moj.go.jp)

---

# CONTENTS

---

<i>INTRODUCTORY NOTE</i> .....	v
--------------------------------	---

## PART ONE

### ANNUAL REPORT FOR 2008

Main Activities of UNAFEI .....	3
UNAFEI Work Programme for 2009.....	16
Appendix .....	18

## PART TWO

### WORK PRODUCT OF THE 139TH INTERNATIONAL TRAINING COURSE

#### “Profiles and Effective Treatment of Serious and Violent Juvenile Offenders”

#### Visiting Experts’ Papers

- Issues in the Assessment of Juvenile Offenders  
by *Dr. Robert D. Hoge (Canada)* ..... 41
- Serious and Violent Juvenile Offenders: Assessment and Treatment  
by *Dr. Robert D. Hoge (Canada)* ..... 49
- Introduction to the Canadian Juvenile Justice System  
by *Dr. Robert D. Hoge (Canada)* ..... 57
- Juvenile Justice: A Study of National Judiciaries for the United Nations Asia and  
Far East Institute for the Prevention of Crime and the Treatment of Offenders  
by *Dr. Joseph Ozawa (Singapore)* ..... 64
- The Youth Justice System of England and Wales  
by *Mr. Ian Blakeman (United Kingdom)* ..... 80

#### Participants’ Papers

- Profiles and Effective Treatments of Serious and Violent Juvenile Offenders  
by *Mr. Samuel Tong (Hong Kong SAR)*..... 94
- The Profile and Treatment of Serious Juvenile Offenders in Jamaica  
by *Ms. Ina Rose Hunter (Jamaica)* ..... 120
- Juvenile Crime and Treatment of Serious and Violent Juvenile Delinquents in  
Thailand  
by *Ms. Korakod Narkvichetr (Thailand)* ..... 128

## **Selected Participants' Papers on the Profiles and Effective Treatment of Serious and Violent Juvenile Offenders of Japan**

- On Appropriate Assessments of Serious Juvenile Offenders in the Family Court  
*by Ms. Kazumi Watanabe* ..... 139
- Assessment of Juvenile Offenders at Juvenile Classification Homes in Japan  
*by Mr. Masaru Takahashi* ..... 151
- Effective Institutional Treatment Programmes for Serious and Violent Juvenile Offenders  
*by Ms. Mayu Hayashi* ..... 158
- Effective Community Treatment Programmes in the Probation Office for Violent Juvenile Offenders  
*by Ms. Akiko Tashiro* ..... 165

## **Reports of the Course**

- Issues and Methods of Criminal Investigation, Prosecution and Judicial Procedures for Serious and Violent Juvenile Offenders  
*by Group 1* ..... 174
- Effective Institutional Treatment Programmes for Serious and Violent Juvenile Offenders  
*by Group 2* ..... 181
- Effective Community Treatment Programmes for Serious and Violent Juvenile Offenders  
*by Group 3* ..... 191

## **APPENDIX** ..... 199

---

## INTRODUCTORY NOTE

---

It is with pride that the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI) offers to the international community the Resource Material Series No. 78.

This volume contains the Annual Report for 2008 and the work produced in the 139<sup>th</sup> International Training Course which was conducted from 19 May to 27 June 2008. The main theme of the 139<sup>th</sup> Course was “Profiles and Effective Treatments of Serious and Violent Juvenile Offenders”.

Even in instances where juveniles commit very serious and violent offences, we cannot lose sight of the fundamental philosophy of juvenile justice: the rehabilitation of juvenile offenders. The problem areas of juvenile offenders relevant to serious and violent crimes have to be clarified in order to create proper justice systems and treatment programmes. Although these problems of juvenile offenders are seriously complicated, and are deeply rooted in their mental, psychological, family, school and social situations, it is our obligation to continue our efforts to discover the causes of these problems and find methods to solve them.

The United Nations has tried to establish rules and regulations for the purpose of proper juvenile justice administration and treatment. “The United Nations Standard Minimum Rules for the Administration of Juvenile Justice” (The Beijing Rules) outlines basic philosophies such as respecting human rights, pursuing the best interest of juveniles and exploiting social resources, and especially, promoting diversion systems. This rule, together with “The United Nations Convention on the Rights of the Child” and “The United Nations Guidelines for the Prevention of Juvenile Delinquency” (The Riyadh Guidelines), provides that treatment programmes in the community must be prioritized because of their protective and rehabilitative value. Treatment in institutions must be a last resort, but remains necessary, for example, in cases of deteriorated criminal tendencies and other problems. “The United Nations Rules for the Protection of Juveniles Deprived of Their Liberty” was enacted to prevent inappropriate treatments and the infringement of the human rights of juveniles. More than that, the United Nations recognizes the importance of the development of effective treatment programmes for those accommodated in institutions. Paragraph 9 of resolution 45/113 (1990) of the UN General Assembly, which adopted the rule, asserts that it is indispensable for Member States to consider treatment methods for serious and persistent young offenders and requests the UN Secretary-General to report the results of considerations at the Ninth UN Congress on the Prevention of Crime and the Treatment of Offenders.

Despite the efforts of the UN Member States to solve these problems, juvenile offending remains a problem all over the world, involving crimes like terrorism, child abuse, domestic violence, gun massacres, gang conflicts, and so on. There is an urgent need for us to establish proper justice systems and to implement effective assessment and treatment methods for these serious and critical cases.

UNAFEI, as a regional institute of the United Nations Crime Prevention and Justice Programme Network, decided to hold this Course in order to provide an opportunity for juvenile criminal justice personnel to consider the various issues for the purpose of clarifying challenges and discovering solutions suitable for their own countries.

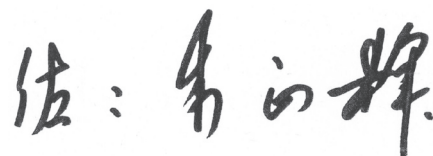
In this issue, in regard to the 139<sup>th</sup> Course, papers contributed by visiting experts, selected individual presentation papers from among the participants, and the Reports of the Course are published. I regret that not all the papers submitted by the Course participants could be published.

I would like to pay tribute to the contributions of the Government of Japan, particularly the

Ministry of Justice, the Japan International Cooperation Agency, and the Asia Crime Prevention Foundation for providing indispensable and unwavering support to UNAFEI's international training programmes.

Finally I would like to express my heartfelt gratitude to all who so unselfishly assisted in the publication of this series; in particular, the editor of Resource Material Series No. 78, Ms. Grace Lord.

September 2009

Handwritten signature in Japanese calligraphy, reading "佐々木 昌之".

Masaki Sasaki  
Director, UNAFEI

**PART ONE**  
**ANNUAL REPORT  
FOR 2008**

- 
- 
- *Main Activities of UNAFEI*
  - *UNAFEI Work Programme for 2009*
  - *Appendix*
- 
- 

**UNAFEI**





# **MAIN ACTIVITIES OF UNAFEI (1 January 2008 - 31 December 2008)**

## **I. ROLE AND MANDATE**

The Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI) was established in Tokyo, Japan in 1961 pursuant to an agreement between the United Nations and the Government of Japan. Its goal is to contribute to sound social development in Asia and the Pacific region by promoting regional co-operation in the field of crime prevention and criminal justice, through training and research.

UNAFEI has paid utmost attention to the priority themes identified by the Commission on Crime Prevention and Criminal Justice. Moreover, UNAFEI has been taking up urgent, contemporary problems in the administration of criminal justice in the region, especially problems generated by rapid socio-economic change (e.g., transnational organized crime, corruption, economic and computer crime and the reintegration of prisoners into society) as the main themes and topics for its training courses, seminars and research projects.

## **II. TRAINING**

Training is the principal area and priority of the Institute's work programmes. In the international training courses and seminars, participants from different areas of criminal justice discuss and study pressing problems of criminal justice administration from various perspectives. They deepen their understanding, with the help of lectures and advice by the UNAFEI faculty, visiting experts and ad hoc lecturers. This so-called "problem-solving through an integrated approach" is one of the chief characteristics of UNAFEI programmes.

Each year, UNAFEI conducts two international training courses (six weeks' duration) and one international seminar (five weeks' duration). One hundred and forty nine government officials from various overseas countries receive fellowships from the Japan International Cooperation Agency (JICA; an independent administrative institution for ODA programmes) each year to participate in all UNAFEI training programmes.

Training courses and seminars are attended by both overseas and Japanese participants. Overseas participants come not only from the Asia-Pacific region but also from the Middle and Near East, Latin America and Africa. These participants are experienced practitioners and administrators holding relatively senior positions in criminal justice fields.

During its 47 years of existence, UNAFEI has conducted a total of 140 international training courses and seminars, in which approximately 3,394 criminal justice personnel have participated, representing 117 different countries. UNAFEI has also conducted a number of other specialized courses, both country and subject focused, in which hundreds of other participants from many countries have been involved. In their respective countries, UNAFEI alumni have been playing leading roles and holding important posts in the fields of crime prevention and the treatment of offenders, and in related organizations.

### **A. The 138<sup>th</sup> International Senior Seminar**

#### **1. Introduction**

The 138<sup>th</sup> International Senior Seminar was held from 17 January to 15 February 2008. The main theme was "Effective Legal and Practical Measures for Combating Corruption: A Criminal Justice Response". In this Seminar, fifteen overseas participants and six Japanese participants attended.

#### **2. Methodology**

Firstly, the Seminar participants respectively introduced the current position regarding the role and function of criminal justice agencies in their country in regard to the main theme. The participants were then divided into three group workshops as follows:

Group 1: Identifying and Punishing Corrupt Offenders

Group 2: Confiscation of Illegal Benefits and Asset Recovery

Group 3: Strengthening the Capacity and Ability of Criminal Justice Authorities and their Personnel

Each Group elected a chairperson, co-chairperson(s), a rapporteur and co-rapporteur(s) in order to facilitate the discussions. During group discussion the group members studied the designated topics and exchanged views based on information obtained through personal experience, the Individual Presentations, lectures and so forth. Later, Plenary Meetings were held to discuss the interim outline of the Group Workshop reports and to offer suggestions and comments. During the final Plenary Meetings, drafts of the Group Workshop reports were examined and critiqued by all the participants and the UNAFEI faculty. Based on these discussions, the Groups further refined their reports and presented them in the Report-Back Sessions, where they were endorsed as the Reports of the Seminar. The full texts of these reports are published in UNAFEI Resource Material Series No 77.

### 3. Outcome Summary

#### (i) *Identifying and Punishing Corrupt Offenders*

The Group addressed the above matter by dividing the subject into three subsections: Firstly, measures to encourage persons or bodies with useful information on corruption to pass that information on to anti-corruption authorities, investigative and prosecutorial; secondly, proactive measures to collect information on corruption and/or evidence; and thirdly, international co-operation. The Group emphasized the potential of the media and education to create and sustain public support for anti-corruption measures. The Group also stressed that to achieve transparency, it is very important that anti-corruption authorities have access to the declarations of assets made by public servants and high-ranking officials. This is the case in all of the countries represented in the Group. On the matter of international co-operation, the Group limited its discussions to the issues of obtaining evidence and information of bank accounts in foreign jurisdictions.

The following recommendations were made:

1. The States Parties to the UNCAC should express their will to prevent corruption by investing in educational programmes and publicity campaigns to illustrate the damaging effects of corruption;
2. States should encourage the reporting of offences through various measures such as witness protection, where financially viable; whistle-blower protection; dedicated hotlines; plea bargaining or immunity in certain cases; and obliging public servants to report any knowledge of corrupt acts of which they become aware in the course of their duties;
3. Traditional investigative techniques such as obtaining information from media, other cases and informants; search and seizure; clearing bank secrecy and surveillance and expert reporting should be enhanced;
4. Special techniques such as undercover agents, wire-tapping, and electronic surveillance should be enhanced;
5. Transparency should be strengthened by the appointment of an Ombudsman; the participation of civil society; obliging all public servants to declare their assets and income; and further obliging public servants to provide requested information in investigations;
6. All countries should ratify the UNCAC and adopt the necessary legal instruments to provide international co-operation;
7. The value of informal, direct contact between criminal justice professionals cannot be overstated and should be strengthened and continually encouraged.

#### (ii) *Confiscation of Illegal Benefits and Asset Recovery*

The Group discussed the above topic with reference to the following agenda: 1) identifying and tracing crime proceeds; 2) seizure, freezing and confiscation; 3) international co-operation in identifying, tracing,

## MAIN ACTIVITIES OF UNAFEI

seizing, freezing and confiscating the proceeds of corruption; 4) asset recovery; and 5) other related matters such as money laundering.

Regarding the identification and tracing of crime proceeds, a majority of participants agreed that investigation agencies need access to the bank accounts and bank records of suspects as well as government, business and corporate records. It was also the general consensus that such agencies should have access to information on the bank loans and mortgaged properties of the suspect. Collaborating with experts and maintaining a close relationship with FIUs is important in acquiring reports of suspicious transactions. Regarding seizure, freezing and confiscation, the group acknowledged that it can be difficult to prove beyond a reasonable doubt the link between the criminal action and the property of a suspect, and that therefore civil proceedings could be considered in conjunction with criminal proceedings, as provided by the laws of the respective countries. With regard to the third point, international co-operation, the Group agreed, *inter alia*, that the UNCAC provides an effective mechanism for such co-operation and as such its ratification should be encouraged by all countries. With regard to the final agenda item, asset recovery, the Group felt that countries must put in place legal frameworks which enhance international co-operation pertaining to asset recovery and emphasized the importance of mutual legal assistance, supplemented by informal contact.

The following recommendations were made:

1. The Group underlined the need for adequate legal and practical measures to gather evidence in corruption cases;
2. Investigators must foster credibility to earn the co-operation of banks and other agencies;
3. Expert help should be requested in deciphering complex transactions;
4. Countries may consider using NGOs to help and assist law enforcement agencies for the above purpose;
5. Whistle-blowers should be adequately protected;
6. Without compromising human rights, countries should implement legal measures for the search, seizure, freezing and confiscation of assets;
7. Investigators should receive continuous training in collecting evidence linking the proceeds of crime;
8. Confiscating assets of an equivalent value should be considered where it is not feasible to confiscate crime proceeds;
9. Ratification of the UNCAC should be encouraged as it provides for international co-operation on identification, tracing, freezing, seizing and confiscation of proceeds of corruption;
10. MLA should be maximized in order to enhance bilateral international co-operation;
11. MLATs and legislation shall provide for the repatriation of criminal proceeds to the requesting state and the requested state may deduct expenses incurred in the recovery of same;
12. MLAT procedures for bilateral co-operation should be simplified, allowing direct contact between central authorities of the respective countries;
13. The Group emphasized the need for informal contact between law enforcement agencies in international co-operation. For effective assistance, countries may allow teams of prosecutors or investigators to travel to requesting countries;
14. Impediments to asset recovery are identified as *inter alia*, absences of appropriate legal frameworks, disparity of systems internationally, lack of technical expertise and insufficient financial resources. Proper frameworks are a necessary first step to addressing these problems. By implementing the

measures envisaged in the UNCAC and maximizing MLA supplemented informal contacts countries can enhance the level of international co-operation which they can provide.

*(iii) Strengthening the Capacity and Ability of Criminal Justice Authorities and their Personnel*

The Group considered the above topic with regard to the following agenda: 1) ensuring the necessary independence of the criminal justice authorities; 2) integrity of the personnel of the criminal justice authorities; 3) transparency and accountability in the relevant decisions in criminal proceedings; and 4) specialization of the criminal justice authorities.

With regard to the first agenda item, the Group suggests that countries in which the criminal justice authorities are not fully independent must endeavour to pass, adopt and enforce relevant legislation that shall clearly define the functional divisions of the three branches of government and stringently observe and put into force constitutional provisions on their independence.

Regarding the second agenda item, the integrity of criminal justice personnel, the Group made the following recommendations:

1. Increasing remuneration of criminal justice personnel in line with private sector salaries;
2. Measures to underscore and strengthen conduct and ethical standards in public service;
3. The creation by law of a permanent and independent multi-sectoral body that will regularly evaluate and audit performances of public servants, without prejudice to the independence of criminal justice authorities;
4. Ratification of and full compliance with the UNCAC by all countries concerned, it containing measures guaranteeing the integrity of the judiciary and the prosecution service;
5. Countries should adopt and observe pertinent UN guidelines and resolutions, particularly the Guidelines on the Role of Prosecutors and the Bangalore Principles of Judicial Conduct.

The Group further noted that, regarding the third agenda item, accountability of law enforcement officials and prosecutors in their decision making, an internal audit system, like the one presently employed by the ICAC of Honk Kong, must be considered.

Finally, regarding the fourth agenda item, the Group agreed by consensus that it is preferable for a country to have specialized criminal justice authorities, and to that end, it is suggested that the creation of special anti-graft bodies be considered. The ratification of and full compliance with the UNCAC is desirable in this regard as it contains provisions on specialized authorities.

**B. The 139<sup>th</sup> International Training Course**

**1. Introduction**

The 139<sup>th</sup> International Training Course was held from 19 May to 27 June 2008. The main theme was "Profiles and Effective Treatments of Serious and Violent Juvenile Offenders". In this Course, sixteen overseas participants and eight Japanese participants attended.

**2. Methodology**

The objectives of the Course were primarily realized through the Individual Presentations and Group Workshop sessions. In the former, each participant presented the actual situation, problems and future prospects of his or her country with respect to the main theme of the Course. The Group Workshops further examined the subtopics of the main theme. To facilitate discussion, the participants were divided into three groups to discuss the following topics under the guidance of faculty advisers:

Group 1: Issues and Methods of Criminal Investigation, Prosecution and Judicial Procedures for Serious and Violent Juvenile Offenders

Group 2: Effective Institutional Treatment Programmes for Serious and Violent Juvenile Offenders

Group 3: Effective Community Treatment Programmes for Serious and Violent Juvenile Offenders

The three Groups elected a chairperson, co-chairperson(s), rapporteur and co-rapporteur(s) to organize the discussions. The Group members studied the designated subtopics and exchanged their views based on information obtained through personal experience, the Individual Presentations, lectures and so forth. During the course, Plenary Meetings were held to discuss the interim outline of the Group Workshop reports and to offer suggestions and comments. During the final Plenary Meeting the drafts of the Group Workshop reports were examined and critiqued by all the participants and the UNAFEI faculty. Based on these discussions, the Groups further refined their reports and presented them in the Report-Back Sessions, where they were endorsed as the reports of the Course. The full texts of the reports are published in full in this edition of the UNAFEI Resource Material Series.

3. Outcome Summary

(i) *Issues and Methods of Criminal Investigation, Prosecution and Judicial Procedures for Serious and Violent Juvenile Offenders*

The Group divided its discussion of the theme into two distinct areas: 1) investigation; and 2) the judicial system. Each area was further sub-divided, allowing the Group to focus on the various stages of investigation and court proceedings, and drawing on the professional expertise of the Group members. Particular consideration was paid to the best methods of interviewing and assessing juveniles, deciding on the necessity of detention, and the preservation of familial privacy and relationships.

Regarding investigation procedure, the following recommendations were made:

1. Juvenile offenders should be interviewed in a segregated place, separated from other juveniles, witnesses, or the victim;
2. It is desirable that criminal justice officials who deal with juveniles be specially trained;
3. Whether or not the juvenile's parents may be present should be decided in the best interests of the juvenile and the best interests of the investigation;
4. Bearing in mind the different needs and practices in each country, the period of detention should be as short as possible;
5. The decision to detain a juvenile must balance the protection of society and the protection of the juvenile;
6. With due regard to the gravity of the alleged crime, the decision should reflect the authority's concern for the juvenile;
7. Behavioural and psychological analysis should be integral elements of the investigation;
8. The privacy of the juvenile, his or her family, as well as the integrity of the investigation, should be protected;
9. A complete report of the investigation should be forwarded to the relevant authority.

Regarding judicial procedure, the Group made the following recommendations:

10. Rehabilitation and re-socialization should be the goal of juvenile justice;
11. The role and duties of parents are important, as is the family as an institution;
12. As each juvenile is an individual, the final disposition of the case should be based on a comprehensive social inquiry and psychological report;
13. The privacy of the juvenile and his or her family should be carefully protected;

14. Victims should, at least, have the opportunity to voice their concerns in court;
15. Detention should be for the minimum period *sufficient to rehabilitate* the juvenile.

(ii) *Effective Institutional Treatment Programmes for Serious and Violent Juvenile Offenders*

The Group carefully considered the theme according to the following agenda: 1) problems and challenges of assessment techniques; 2) effective treatment programmes for serious and violent juvenile offenders; 3) treatment programmes which consider the victim's views; 4) problems and challenges of continuous treatment programmes from institutional care to community treatment; and 5) goals and needs to improve effective institutional treatment programmes for serious and violent juvenile offenders.

In considering each item of the agenda the Group made careful comparisons of the current systems of each participating country and identified five common challenges: 1) an absence of clear classification regulations; 2) the lack of physical infrastructure and financial resources; 3) an insufficient number of institutional programmes which consider the views of victims; 4) a lack of systematic follow-up programmes; and 5) inadequate information-sharing between institutional and community treatment authorities. Having carefully considered the situation and practices in each participating country, the Group agreed upon the following recommendations:

1. The group underlined the necessity of identifying the risk of reoffending and the needs of the targeted juvenile;
2. Juveniles should also be assessed for mental disorders, maturity and level of intellect;
3. Levels of offending behaviour should be categorized to connect assessment and treatment;
4. Assessment should be conducted by specialists in a range of disciplines;
5. Standardized assessment tools which are adaptive to different situations and combine both qualitative and quantitative methods should be introduced;
6. Assessment methods should be properly selected and implemented;
7. Governments should allocate the necessary human and financial resources to juvenile justice;
8. The minimum essential number of institutions should be constructed;
9. Existing resources should be utilized to the best extent possible;
10. All approaches should be culturally and socially sensitive;
11. The juvenile justice system should encompass the needs of the juvenile and the concerns of the victim, and should be administered by qualified personnel in a consistent manner;
12. Consideration should be given to systems of restorative justice to redress the harm that has been done to victims;
13. Development of programmes which integrate institutional and community-based treatment is recommended;
14. An organization with responsibility for both institutional and community-based treatment is desirable;
15. Sharing information between related agencies should be facilitated by the development of electronic data network systems;
16. At an early stage of the period of incarceration, interventions which prepare the juvenile for release should be applied.



## MAIN ACTIVITIES OF UNAFEI

### *(iii) Effective Community Treatment Programmes for Serious and Violent Juvenile Offenders*

The Group considered the above theme for juveniles who received non-custodial sentences as well as those released from institutions. The Group was also tasked with addressing the problems and challenges of continuous treatment programmes, including assessing the achievement levels of same; the relationships between criminal institutions, government agencies, and NGOs; and crime prevention strategies such as screening in early childhood and treatment for high-risk children. The Group emphasized the importance of community-based treatment in the prevention of crime and highlighted the importance of community support in this endeavour.

The following recommendations were made:

1. Every country should introduce non-custodial sentences and aftercare services for juveniles released from institutions;
2. Professionals in each country should seek political support for community-based treatment systems through the introduction of statistically proven research;
3. A network of NGOs, community groups and businesses should be established, with the dual aim of creating financial support for rehabilitation activities and employment opportunities for rehabilitated offenders;
4. Public awareness of the work of probation offices and social workers should be increased to ensure that sufficient numbers of competent staff are recruited;
5. Extensive training should be provided for all officers, especially those who deal directly with juvenile offenders or children in conflict with the law;
6. The establishment of halfway houses, whether government run or supported by civil society, would ease the problems of overcrowding, which hampers treatment programmes currently being implemented;
7. Family-oriented policies should be implemented to create strong families which can support young people;
8. An inter-agency committee which develops consistent treatment programmes, co-ordinates treatment and, with due respect for privacy, distributes information amongst social welfare services, correctional institutions and probation personnel, would aid the implementation of successful treatment programmes;
9. Juveniles should be individually analysed for risk and need levels and programmes should be tailored accordingly;
10. Vocational training should be relevant to the current jobs market to increase employment opportunities;
11. Benchmarking should be utilized to develop common assessment tools and gauge established practices and programmes in different institutions;
12. High-risk families should be assisted by early intervention programming to assist in cultivating healthy family relationships.

### **C. The 140<sup>th</sup> International Training Course**

#### **1. Introduction**

The 140<sup>th</sup> International Training Course was held from 1 September to 10 October 2008. The main theme was “The Criminal Justice Response to Cybercrime”. Ten overseas participants, two overseas counsellors, and five Japanese participants attended.

## 2. Methodology

The participants of the 140<sup>th</sup> Course endeavoured to explore the investigation, prosecution and trial of cybercrime. This was accomplished primarily through a comparative analysis of the current situation and the problems encountered. The participants' in-depth discussions enabled them to put forth effective and practical solutions.

The objectives were primarily realized through the Individual Presentations and the Group Workshop sessions. In the former, each participant presented the actual situation, problems and future prospects of his or her country with respect to the main theme of the Course. To facilitate discussions, the participants were divided into two groups as follows:

Group 1: Issues and Measures Concerning the Legal Framework to Combat Cybercrime

Group 2: Challenges and Best Practices in Cybercrime Investigation

Each Group elected a chairperson, co-chairperson, rapporteur and co-rapporteur(s) to organize the discussions. The Group members studied the situation in each of their countries and exchanged their views based on information obtained through personal experience, the Individual Presentations, lectures and so forth.

Plenary Meetings were later held to discuss the interim outline of the Group Workshop reports and to offer suggestions and comments. During the Plenary Meetings, drafts of the Group Workshop reports were examined and critiqued by all the participants and the UNAFEI faculty. Based on these discussions, the Groups further refined their reports and presented them in the Report-Back Sessions, where they were endorsed as the reports of the Course. The reports will be published in full in UNAFEI Resource Material Series No. 79.

## 3. Outcome Summary

### (i) *Issues and Measures Concerning the Legal Framework to Combat Cybercrime*

The Group discussed the above topic according to the following agenda: 1) issues and measures according to the criminalization of cybercrime; 2) legal issues related to the procedural law related to cybercrime, including the admissibility of digital evidence; and 3) challenges in combating trans-border cybercrime, including issues of jurisdiction and international co-operation. The Group reached the following conclusions:

1. The Council of Europe Convention on Cybercrime can be a good reference for minimum standards that may need to be adopted by the participating countries, and some basic rules regarding collection and admissibility of evidence from foreign jurisdictions are necessary;
2. Investigative and judicial mechanisms of international co-operation must be improved; adequate procedural laws may be implemented to assure the preservation of evidence when requested;
3. With regard to international co-operation, training and technical aid should be available to law enforcement officials and others;
4. Amendment of Article 2 of the Convention on Cybercrime to properly address the issue of data espionage should be considered;
5. Diffusion of unsolicited emails should be suppressed;
6. The general principles of substantive law of the respective countries may be taken into account in matters such as illegal gambling, etc. committed in cyberspace;
7. Private online communication should be protected as a civil right; investigative interception of same should be subject to judicial review;
8. While remote investigation is sometimes the only available option to investigators, it is a controversial issue and should be the subject of in-depth analysis;



## MAIN ACTIVITIES OF UNAFEI

9. National legislatures should consider a mandatory 180 day retention period of Internet traffic data;
10. Measures to record the identity of users of public terminals are desirable;
11. There should be no mandatory disclosure of encryption keys and passwords;
12. The principle of “passive personality” ought to be considered for addition to the Convention on Cybercrime;
13. There was majority but not unanimous agreement on the importance of strengthening co-operation between local offices of transnational service providers and national authorities in order to identify nationals who use remotely located services to commit crimes.

### *(ii) Challenges and Best Practices in Cybercrime Investigation*

The Group discussed the above topic according to the following agenda: 1) initial information gathering and undercover online investigations; 2) tracing and identifying criminals; 3) digital forensic analysis of evidence; 4) cross-border investigative abilities; and 5) international co-operation in cybercrime investigation.

The Group made the following recommendations:

1. Improve initial information gathering by: (i) educating the public about cybercrime; (ii) improving communication with victims, and training officers in report making; and (iii) increasing cyber-patrol facilities;
2. Undercover online investigations should be improved;
3. Data retention by ISPs and telecoms providers should be enforced and available to criminal justice officials in conducting an investigation;
4. Resources must be devoted to capacity building of specialized units;
5. It is advisable to follow the recommendations of the International Review of Criminal Policy (No. 43 & 44) - United Nations Manual on the Prevention and Control of Computer-related Crime (1994), art. 198-209;
6. In each country, a main cybercrime unit should assist smaller units in technically demanding investigations;
7. A regular, formal training course on dealing with digital evidence, and not restricted to specialists, should be established;
8. Training activities should be included in international co-operation programmes and efforts;
9. A properly equipped Computer Emergency Team (CERT) is essential for responding promptly to cyber threats, and government and the private sector should co-operate closely on the operation of such teams;
10. In addressing cross-border investigations, the following are suggested: (i) requests for evidence be made under existing MLAT, MLA or Letter Rogatory procedures; (ii) 24/7 points of contact be utilized; (iii) embassies be utilized; (iv) networks of foreign counterparts be utilized;
11. General recommendations regarding international co-operation include: (i) implementing 24/7 points of contact; (ii) sharing information through regional organizations; (iii) co-operation in legal, operational and technical dimensions; (iv) legal frameworks allowing engagement and joint investigation with foreign countries; (v) using the diplomatic channel to contact other countries' private sector entities or ISPs.

#### **D. Special Seminars and Courses**

1. The Fourth Seminar on Criminal Justice for Central Asia

The Fourth Seminar on Criminal Justice for Central Asia was held from 25 February to 14 March 2008. The main theme was “Countermeasures for Drug Offences and Related Crimes and Treatment for Drug Abusers in the Criminal Justice Process”. Fourteen criminal justice officials from Central Asian countries (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan) attended.

2. The 13<sup>th</sup> Special Seminar for Senior Criminal Justice Officials of the People’s Republic of China

The 13<sup>th</sup> Special Seminar for Senior Criminal Justice Officials of the People’s Republic of China was held from 3 to 19 March 2008. The main theme was “Reform of the Criminal Justice System: Introducing the Views of Crime Victims and Improving Offender Treatment, Taking into Account the Risks and Needs and Needs of Offenders”. Nine participants and two course counsellors attended.

3. The Third Country Specific Training Course on the Revitalization of the PPA Volunteer Probation Aide System for the Philippines

The Third Country Specific Training Course on the Revitalization of the PPA Volunteer Probation Aide System for the Philippines was held from 15 to 25 April 2008. Nine Parole and Probation Officers and three Volunteer Probation Aides from the Philippines discussed measures to improve communication and feedback, and measures to promote Volunteer Probation Aide Associations.

4. The Eleventh International Training Course on the Criminal Justice Response to Corruption

The Eleventh International Training Course on Corruption Control in Criminal Justice was held from 16 October to 14 November 2008. In this Course, 15 overseas participants, four Japanese participants, and five Thai observers, all of whom were officials engaged in corruption control, comparatively analysed the current situation of corruption, methods of combating corruption, and measures to enhance international co-operation.

5. The Ninth Training Course on the Juvenile Delinquent Treatment System for Kenya

The Eighth Training Course on the Juvenile Delinquent Treatment System for Kenya was held from 5 to 27 November 2008. Four policy-makers and eight senior practitioners from Kenya reviewed their progress in regard to improving the treatment of juveniles in correctional institutions and in the community and the progress they have made in establishing a Volunteer Children’s Officers programme. The policy-makers attended from 5 to 14 November, while the practitioners stayed from 5 to 27 November.

6. The Second Regional Seminar on Good Governance for Southeast Asian Countries

The Second Regional Seminar on Good Governance for Southeast Asian Countries, jointly hosted by UNAFEI, the Office of the Attorney General of Thailand and the UNODC Regional Centre, Bangkok was held from 23 to 25 July 2008 in Bangkok, Thailand. The main theme was “Corruption Control in Public Procurement”. Approximately 25 participants from seven countries, comprising judges, prosecutors and other law enforcement officials, attended.

### **III. TECHNICAL CO-OPERATION**

#### **A. Regional Training Programmes**

1. Short-Term Experts in Kenya

Two UNAFEI professors were dispatched to Kenya, from 26 July to 5 September 2008, to assist in the enhancement of the activities of the Department of Children’s Services, Ministry of Gender, Children and Social Development.

2. Short-Term Experts in Latin America

Two UNAFEI faculty members visited Costa Rica and Argentina from 16 to 30 August 2008. In Costa Rica, they jointly hosted, with ILANUD, a course on Criminal Justice Reform in Latin America in which six countries were represented. They also held a follow-up seminar in Argentina, focusing on the specific situation in that country.

3. Short-Term Experts in the Philippines

A UNAFEI professor was dispatched from 17 to 26 November 2008 to the Philippines, to participate as

## MAIN ACTIVITIES OF UNAFEI

a short-term expert in the In-Country Training Programme for the Enhancement of the Volunter Probation Aide System.

### **B. Second Regional Seminar on Good Governance for Southeast Asian Countries**

UNAFEI, the Office of the Attorney General of Thailand and the UNODC Regional Centre for East Asia and the Pacific held the Second Regional Seminar on Good Governance for Southeast Asian Countries in Bangkok, Thailand from 23 to 25 July 2008. Approximately 25 participants from seven countries attended the Seminar. The main theme of the Seminar was “Corruption Control in Public Procurement”.

## **IV. INFORMATION AND DOCUMENTATION SERVICES**

The Institute continues to collect data and other resource materials on crime trends, crime prevention strategies and the treatment of offenders from Asia, the Pacific, Africa, Europe and the Americas, and makes use of this information in its training courses and seminars. The Information and Library Service of the Institute has been providing, upon request, materials and information to United Nations agencies, governmental organizations, research institutes and researchers, both domestic and foreign.

## **V. PUBLICATIONS**

Reports on training courses and seminars are published regularly by the Institute. Since 1971, the Institute has issued the Resource Material Series, which contains contributions by the faculty members, visiting experts and participants of UNAFEI courses and seminars. In 2008, the 74<sup>th</sup>, 75<sup>th</sup> and 76<sup>th</sup> editions of the Resource Material Series were published. Additionally, issues 125 to 127 (from the 138<sup>th</sup> Seminar to the 140<sup>th</sup> Course respectively) of the UNAFEI Newsletter were published, which included a brief report on each course and seminar and other timely information. These publications are also available on UNAFEI’s web site <http://www.unafei.or.jp/english>.

## **VI. OTHER ACTIVITIES**

### **A. Public Lecture Programme**

On 1 February 2008, the Public Lecture Programme was conducted in the Grand Conference Hall of the Ministry of Justice. In attendance were many distinguished guests, UNAFEI alumni and the 138<sup>th</sup> International Senior Seminar participants. This Programme was jointly sponsored by the Asia Crime Prevention Foundation (ACPF), the Japan Criminal Policy Society (JCPS) and UNAFEI.

Public Lecture Programmes increase the public’s awareness of criminal justice issues, through comparative international study, by inviting distinguished speakers from abroad. This year, Mr. Pascal Gossin, from the Swiss Federal Office of Justice, and Dr. Thomas Cassuto, from the Tribunal de Grand Instance de Nanterre, France, were invited as speakers to the programme. They presented papers on “International Mutual Assistance in Criminal Matters” and “Effective Legal and Practical Measures for Combating Corruption: The French System”, respectively.

### **B. Regional Forum on Good Governance for East Asian Countries**

UNAFEI and the Supreme Public Prosecutors Office of Japan co-hosted a Regional Forum on Good Governance for East Asian Countries which was held at UNAFEI on 10 and 11 December 2008. The theme of the Forum was “Strengthening of Domestic and International Co-operation for Effective Investigation and Prosecution of Corruption”, and it was attended by high-ranking officials from 13 East Asian countries: Brunei Darussalam, Cambodia, China, Indonesia, Japan, Republic of Korea, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam.

### **C. Assisting UNAFEI Alumni Activities**

Various UNAFEI alumni associations in several countries have commenced, or are about to commence, research activities in their respective criminal justice fields. It is, therefore, one of the important tasks of UNAFEI to support these contributions to improve the crime situation internationally.

### **D. Overseas Missions**

Mr. Koji Yamada (Professor) and Ms. Akane Uenishi (Staff) visited the Philippines from 15 to 24 January

## ANNUAL REPORT FOR 2008

2008 to attend the In-Country Training Programme for the Revitalization of the PPA Volunteer Probation Aide System.

Mr. Shintaro Naito (Professor) and Mr. Ikuo Kosaka (Staff) visited Bali, Indonesia from 27 January to 6 February 2008 to observe the Second Conference of the States Parties to the United Nations Convention against Corruption. They also visited Bangkok, Thailand to make preparations for the Second Regional Seminar on Good Governance for Southeast Asian Countries.

Director Keiichi Aizawa and Mr. Junichiro Otani (Professor) visited Vienna, Austria from 13 to 20 April 2008 to attend the 17<sup>th</sup> Session of the Commission on Crime Prevention and Criminal Justice. The Director made a statement to the Commission.

Ms. Tae Sugiyama (Professor) visited Canada from 29 April to 4 May 2008 to attend an International Meeting of Experts at the International Centre for Criminal Law Reform and Criminal Justice Policy. The topic of the meeting was “International Study of Suspension, Recall and Revocation Legislation, Policies, Practices and Processes”.

Deputy Director Takeshi Seto and Mr. Jun Oshino (Professor) visited China from 7 to 17 May 2008 to meet with personnel from various criminal justice organizations and to prepare for the 14<sup>th</sup> Special Seminar for Criminal Justice Officials of the People’s Republic of China, which was held in March 2009.

Director Keiichi Aizawa visited the Philippines from 28 to 31 May 2008 to prepare for the Third Regional Seminar on Good Governance for Southeast Asian Countries, to be held in Manila in December 2009.

Mr. Shintaro Naito (Professor) visited Busan and Seoul, Korea from 8 to 13 June 2008 to attend the High Level Prosecutors Meeting of the 5<sup>th</sup> International Association of Prosecutors Asia-Pacific Regional Conference.

Director Keiichi Aizawa, Deputy Director Takeshi Seto, Mr. Shintaro Naito (Professor), Mr. Etsuya Iwakami (Staff), and Mr. Ikuo Kosaka (Staff) visited Bangkok, Thailand from 20 to 26 July 2008 as co-hosts of the Second Regional Seminar on Good Governance. The focus of the Seminar was “Corruption Control in Public Procurement”.

Ms. Tae Sugiyama (Professor) and Mr. Tetsuya Sugano (Professor) visited Kenya from 26 July to 22 August 2008 and 1 August to 5 September 2008 respectively. The purpose of the trip was to visit children’s institutions, observe the conditions of the treatment of children and the activities of volunteer children’s officers, and exchange ideas with and provide advice to the staff of the Children’s Department of the Ministry of Gender, Children and Social Development. The professors also gave lectures at training seminars.

Deputy Director Takeshi Seto and Mr. Junichiro Otani (Professor) visited Costa Rica and Argentina from 16 to 30 August 2008. In Costa Rica they jointly hosted with ILANUD an international training course on Criminal Justice System Reforms in Latin America in which six countries participated. In Argentina, they held a follow-up seminar, focusing on the particular situation in that country.

Director Keiichi Aizawa, Mr. Koji Yamada (Professor) and Mr. Yuichi Shirakawa (Staff) visited Ulan Bator, Mongolia from 25 to 30 August 2008 to attend the 12<sup>th</sup> ACPF World Conference.

Mr. Shintaro Naito (Professor) visited Singapore from 26 to 30 August 2008 to attend the 13<sup>th</sup> Annual Conference and General Meeting of the International Association of Prosecutors.

Mr. Tetsuya Sugano (Professor) visited Prague, the Czech Republic, from 26 October to 2 November 2008 to participate in the 10<sup>th</sup> ICPA (International Corrections and Prisons Association) Annual General Meeting.

## MAIN ACTIVITIES OF UNAFEI

Deputy Director Takeshi Seto went to Medellin, Columbia, from 3 to 10 November 2008, to attend the Second Expert Group Meeting for the Elaboration of the Digest of Terrorist Cases for Practitioners, organized by the UNODC and the Government of Colombia.

Mr. Koji Yamada (Professor) visited the Philippines from 17 to 26 November 2008 to participate as a short-term expert in the In-Country Training Programme for the Enhancement of the Volunteer Probation Aide System. Professor Yamada gave lectures to the participants of the In-Country Training Programme.

Mr. Ryuji Tatsuya (Professor), Mr. Kenichiro Koiwa (Staff) and Ms. Miki Usuki (Staff), visited Langkawi, Malaysia from 23 to 28 November 2008 to attend the 28<sup>th</sup> Asian and Pacific Conference of Correctional Administrators.

Director Keiichi Aizawa visited Courmayeur, Italy, and Geneva, Switzerland from 12 to 17 December 2008. Director Aizawa attended the ISPAC (International Scientific and Professional Advisory Council) International Conference on Organised Crime in Art and Antiquities, and the 2008 Co-ordination Meeting of the Programme Network Institutes, respectively.

Deputy Director Takeshi Seto visited Vienna, Austria, from 17 to 21 December 2008 to attend the Open-ended Intergovernmental Working Groups on Technical Assistance of the UNCAC.

### **E. Assisting ACPF Activities**

UNAFEI co-operates and collaborates with the ACPF to improve crime prevention and criminal justice administration in the region. Since UNAFEI and the ACPF have many similar goals, and a large part of ACPF's membership consists of UNAFEI alumni, the relationship between the two is very strong.

## VII. HUMAN RESOURCES

### **A. Staff**

In 1970, the Government of Japan assumed full financial and administrative responsibility for running the Institute. The Director, Deputy Director and approximately nine professors are selected from among public prosecutors, the judiciary, corrections, probation and the police. UNAFEI also has approximately 15 administrative staff members, who are appointed from among officials of the Government of Japan, and a linguistic adviser. Moreover, the Ministry of Justice invites visiting experts from abroad to each training course and seminar. The Institute has also received valuable assistance from various experts, volunteers and related agencies in conducting its training programmes.

### **B. Faculty Changes**

Mr. Ikuo Kamano, a Professor of UNAFEI, left UNAFEI on 11 January 2008.

Mr. Haruhiko Higuchi, a Professor of the National Police Academy, joined UNAFEI as a Professor on 11 January 2008.

Ms. Kayo Ishihara, a Professor of UNAFEI, was transferred and appointed to the Ministry of Justice on 1 April 2008.

Mr. Junichiro Otani, a public prosecutor, joined UNAFEI as a Professor on 1 April 2008.

## VIII. FINANCES

The Ministry of Justice primarily provides the Institute's budget. UNAFEI's total budget for its programmes is approximately ¥95 million per year. Additionally, JICA and the ACPF provide assistance for the Institute's international training courses and seminars.



## UNAFEI WORK PROGRAMME FOR 2009

### I. TRAINING

#### A. The 141<sup>st</sup> International Senior Seminar

The 141<sup>st</sup> International Senior Seminar was held from 13 January to 13 February 2009. The main theme of the Seminar was “The Improvement of the Treatment of Offenders Through the Enhancement of Community-Based Alternatives to Incarceration”. Sixteen overseas participants and nine Japanese participants attended.

#### B. 142<sup>nd</sup> International Training Course

The 142<sup>nd</sup> International Training Course was held from 11 May to 19 June 2009. The main theme of the Course was “Effective Countermeasures against Overcrowding of Correctional Facilities”. Fourteen overseas participants, two overseas observers and eight Japanese participants attended.

#### C. 143<sup>rd</sup> International Training Course

The 143<sup>rd</sup> International Training Course is scheduled for 28 September to 6 November 2009. The main theme of the Course is “Ethics and Codes of Conduct for Judges, Prosecutors and Law Enforcement Officials”. Twelve overseas participants and five Japanese participants will attend.

#### D. The Fifth Seminar on Criminal Justice for Central Asia

The Fifth Seminar on Criminal Justice for Central Asia was held from 23 February to 6 March 2009. The main theme of the Seminar was “Effective Measures against Drug Offences and Related Crimes and Enhancement of International Co-operation in the Criminal Justice Process”. Eleven government officials from four Central Asian countries, Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan, attended.

#### E. The 14<sup>th</sup> Special Seminar for Senior Criminal Justice Officials of the People’s Republic of China

The 14<sup>th</sup> Special Seminar for Senior Criminal Justice Officials of the People’s Republic of China was held from 2 to 19 March 2009. The main theme of the Seminar was “Enhancement of Community-Based Alternatives to Incarceration at All Stages of the Criminal Justice Process”. Ten participants and three Course Counsellors attended.

#### F. The Fourth Country Specific Training Course on the Revitalization of the PPA Volunteer Probation Aide System for the Philippines

The Fourth Country Specific Training Course on the Revitalization of the PPA Volunteer Probation Aides System for the Philippines was held from 29 June to 9 July 2009. The number of participants, who were Parole and Probation Officers and Volunteer Probation Aides, was fourteen. They discussed measures to improve the probation system and the promotion of Volunteer Probation Aides.

#### G. The Twelfth International Training Course on the Criminal Justice Response to Corruption

The Twelfth International Training Course on Corruption Control in Criminal Justice was held from 13 July to 7 August 2009. In this Course, Japanese and overseas officials engaged in corruption control comparatively analysed the current situation of corruption, methods of combating corruption and measures to enhance international co-operation.

#### H. The Tenth Training Course on the Juvenile Delinquent Treatment System in Kenya

The Tenth Training Course on the Juvenile Delinquent Treatment System for Kenya is scheduled for 15 February to 11 March 2010. Participants from Kenya will review their progress in regard to improving the treatment of juveniles in correctional institutions and in the community and the progress they have made in establishing a Volunteer Children’s Officers programme.

### II. TECHNICAL CO-OPERATION

#### A. Regional Training Programmes

##### 1. Short-Term Experts in Latin America

Two faculty members visited Costa Rica and Nicaragua in August 2009. In Costa Rica they jointly hosted,

with ILANUD, a course on Criminal Justice Reform in Latin America in which seven countries were represented. In Nicaragua, they held a follow-up seminar on the specific situation in that country.

2. Short-Term Experts in Kenya

Two UNAFEI professors will be dispatched to Kenya in October and November 2009. The professors will assist the Department of Children's Services of the Ministry of Gender, Children and Social Development in its training programmes and systems for officers with responsibility for children in need of care and protection, as well as those in conflict with the law.

3. Short-Term Experts in the Philippines

A UNAFEI professor will be dispatched to the Philippines in October 2009, to attend the In-Country Training Programme of the Philippines PPA.

**B. Third Regional Seminar on Good Governance for Southeast Asian Countries**

The Third Regional Seminar on Good Governance will be held from 9 to 11 December 2009, in Manila, the Philippines. The main theme of the Seminar will be "Measures to Freeze, Confiscate and Recover Proceeds of Corruption, Including Prevention of Money Laundering". Approximately 25 participants from Southeast Asian countries will attend.

## APPENDIX

---

### MAIN STAFF OF UNAFEI

---

Mr. Keiichi Aizawa  
Mr. Takeshi Seto

Director  
Deputy Director

#### Faculty

Mr. Motoo Noguchi  
Mr. Haruhiko Higuchi  
Ms. Tae Sugiyama  
Mr. Tetsuya Sugano  
Mr. Jun Oshino  
Mr. Ryuji Tatsuya  
Mr. Koji Yamada  
Mr. Junichiro Otani  
Mr. Shintaro Naito  
Ms. Grace Lord

Professor  
Professor  
Chief of Information & Library Service Division, Professor  
Chief of Research Division, Professor  
Chief of Training Division, Professor  
Professor  
Professor  
Professor  
Professor  
Linguistic Adviser

#### Secretariat

Mr. Sakumi Fujii  
Mr. Hitoshi Nakasuga  
Mr. Masato Fujiwara  
Mr. Masaaki Kojitani  
Mr. Etsuya Iwakami  
Mr. Kenichiro Koiwa

Chief of Secretariat  
Co-Deputy Chief of Secretariat  
Co-Deputy Chief of Secretariat  
Chief of General and Financial Affairs Section  
Chief of Training and Hostel Management Affairs Section  
Chief of International Research Affairs Section

AS OF 31 DECEMBER 2008



APPENDIX

---

**2008 VISITING EXPERTS**

---

**THE 138<sup>TH</sup> INTERNATIONAL SENIOR SEMINAR**

Mr. Jeremy Lo Kwok-chung	Assistant Director of Operations Department Independent Commission Against Corruption (ICAC), Hong Kong Special Administrative Region, China
Mr. Pascal Gossin	Head International Legal Assistance Section, Federal Office of Justice, Swiss Confederation
Dr. Thomas Cassuto	Vice Président chargé de l'instruction Section économique et financière, Tribunal de Grande Instance de Nanterre, Paris, France
Ms. Brigitte Strobel-Straw	Crime Prevention and Criminal Justice Officer Crime Conventions Sections, Treaty and Legal Affairs Branch, Division for Treaty Affairs, United Nations Office on Drugs and Crime

**THE 139<sup>TH</sup> INTERNATIONAL TRAINING COURSE**

Dr. Robert Hoge	Emeritus Professor of Psychology and Distinguished Research Professor Carleton University, Canada
Dr. Joseph Ozawa	Senior Deputy Director Family and Juvenile Justice Centre, Subordinate Courts of Singapore
Mr. Ian Blakeman	Head of Group Women and Young People's Group, HM Prison Service, United Kingdom

**THE 140<sup>TH</sup> INTERNATIONAL TRAINING COURSE**

Dr. Marco Gerke	Council of Europe Expert/ Lecturer University of Cologne, Germany
Mr. Joel Michael Schwarz	Computer Crime and Intellectual Property Section Criminal Division, US Department of Justice, USA

ANNUAL REPORT FOR 2008

Mr. Junsik Jang

Professor/Senior Inspector  
Department of Police Science,  
Korea National Police University,  
Republic of Korea

**THE FOURTH SEMINAR ON CRIMINAL JUSTICE FOR CENTRAL ASIA**

Ms. Olga Zudova

Senior Regional Legal Adviser  
United Nations Office on Drugs and Crime,  
Regional Office for Central Asia

**THE ELEVENTH INTERNATIONAL TRAINING COURSE  
ON THE CRIMINAL JUSTICE RESPONSE TO CORRUPTION**

Mr. Giovanni Gallo

Crime Prevention Expert  
Corruption and Economic Crime Section,  
Division for Treaty Affairs,  
United Nations Office on Drugs and Crime

Mr. Tony Kwok Man-wai

International Anti-corruption Consultant  
Former Deputy Commissioner and  
Head of Operations  
Operations Department,  
Independent Commission Against Corruption (ICAC),  
Hong Kong Special Administrative Region,  
China

APPENDIX

---

**2008 UNAFEI PARTICIPANTS**

---

**THE 138<sup>TH</sup> INTERNATIONAL SENIOR SEMINAR**

**Overseas Participants**

Mr. Younsi Noureddine	Inspector Ministry of Justice, Algeria
Ms. Clelia Fabiana Akizawa	Attorney Ministry of Economy and Production, Argentina
Ms. Anna Mphetlhe	Assistant Director Directorate on Corruption and Economic Crime, Botswana
Mr. Marco César dos Santos Sousa	Police Chief Civil Police of the Federal District, Brasília, Brazil
Ms. Claudia Alejandra Forner Ortega	Legal Anti-Corruption Adviser Anti-Corruption Specialized Unit, Public Prosecutor's Office, Chile
Mr. Vladimir Georgiev	Head of Department State Commission for Prevention of Corruption Secretariat, Former Yugoslav Republic of Macedonia
Mr. Giorgi Phiphia	Head of the Section of the Constitutional Security Department, In the Ministry of Internal Affairs, Georgia
Mr. Dharam Chand Jain	Deputy Inspector General of Police Central Bureau of Investigation, New Dehli, India
Mr. Harlan Mardite	Section Head of Program Setting Office of the Attorney General, Indonesia
Mr. Hassan Ghasemi	Judge and Head of Justice Department Qazvin Province, Iran
Mr. Madhav Prasad Ojha	Joint Secretary Ministry of Home Affairs, Nepal

ANNUAL REPORT FOR 2008

Mr. Muhammad Hashim Tareen	Additional Secretary Health Department, Government of the Punjab, Pakistan
Mr. Antonio Pinto Mendoza, Jr.	Chief Senior Officers Placement and Promotion Board Secretariat, Directorate for Personnel and Records Management, Police Superintendent, Philippine National Police, Philippines
Mr. Joselito Delos Reyes Obejas	Second Assistant City Prosecutor Office of the City Prosecutor of Manila, Department of Justice, Philippines
Mr. Alharbi Ali Khalaf S.	Military Affaire Madinah Branch, Ministry of Interior, Saudi Arabia

**Japanese Participants**

Ms. Mihoko Aso	Director General Affairs Division, Kyushu Regional Parole Board
Mr. Hiroshi Fukushima	Public Prosecutor Tokyo Public Prosecutors Office, Hachioji Branch
Mr. Yasunobu Hishita	Judge Tokyo District Court
Mr. Shinji Iwayama	Public Prosecutor Tokyo District Public Prosecutors Office
Ms. Satsuki Miyaji	Professor Research and Training Institute, Ministry of Justice
Ms. Midori Shoji	Deputy Director Katano Juvenile Training School for Girls, Osaka

**THE 139<sup>TH</sup> INTERNATIONAL TRAINING COURSE**

**Overseas Participants**

Ms. Claudina Josette Nathaniel-Morgan	Corporal Rape Unit CID, Royal Police Force, Antigua and Barbuda
---------------------------------------	--

## APPENDIX

Ms. Salma Begum	Additional Superintendent (Training) Police Headquarters, Bangladesh
Mr. Wangdi Tshering	Staff Officer to Chief Royal Bhutan Police, Bhutan
Ms. Gloria Barakanye Dithupa	Superintendent Prisoners Administration and Rehabilitation, Botswana Prison Service, Botswana
Mr. Barakanye Kootsene	Senior Social Welfare Technician Social and Community Development, North West District Council, Botswana
Mr. Marcelo Eustaquio Goncalves Cesário	Police Chief Civil Police of the Federal District, Brasília, Brazil
Dr. Álvaro Burgos	Magistrate Superior Juvenile Criminal Court, Costa Rica
Mr. Alain-Bertin Tobunelo Bekolo	Director Inspector of Scientific Field Justice Department, Democratic Republic of Congo
Ms. Ina Rose Hunter	Educational Co-ordinator Department of Correctional Services, Ministry of National Security, Jamaica
Mr. Hazem Naeem Al-Smadi	Judge Amman First Instance Court, Jordan
Ms. Grace Yerro Naparato	Chief Women and Child Protection Center Police Regional Office, Calabarzon IV-A, Philippine National Police, Philippines
Ms. Korakod Narkvichetr	Director Nakornratchasima Probation Office Department of Probation, Ministry of Justice, Thailand
Ms. Gonna Satayathum	Judge Nakorn Panom Provincial Court Juvenile and Family Division, Office of the Judiciary, Thailand

## ANNUAL REPORT FOR 2008

Mr. Fernando Oscar Viera Rivero  
Assistant to Director  
Police Instructor,  
National Police School,  
Uruguay

### Observers

Mr. Chi-wai Samuel Tong  
Principal Officer  
Correctional Service Department,  
Hong Kong SAR

Mr. Jaemyung Jung  
Correctional Supervisor  
Prison Industry Section,  
Anyang Corrections Institution,  
Korea

### Japanese Participants

Mr. Hideaki Gunji  
Assistant Judge  
Tokyo District Court

Ms. Mayu Hayashi  
Chief Specialist  
Haruna Juvenile Training School for Girls

Ms. Naoko Naito  
Assistant Judge  
Tokyo District Court

Mr. Kotaro Nakamura  
Public Prosecutor  
Toyama District Public Prosecutors Office

Mr. Masaru Takahashi  
Chief Specialist  
Chiba Juvenile Classification Home

Ms. Akiko Tashiro  
Probation Officer  
Yokohama Probation Office

Ms. Kazumi Watanabe  
Family Court Probation Officer  
Tokyo Family Court

Mr. Yoshihiro Uchida  
Facilities Planning Officer  
Facilities Division,  
Minister's Secretariat,  
Ministry of Justice

## THE 140<sup>TH</sup> INTERNATIONAL TRAINING COURSE

### Overseas Participants

Mr. Mirza Abdullahel Baqui  
Superintendent of Police  
Satkhira,  
Bangladesh

Mr. Bafi Nlanda  
Chief Prosecution Counsel  
Directorate of Public Prosecutions,  
Botswana

## APPENDIX

Mr. Elcio Ricardo de Carvalho	Federal Criminal Expert First Class Technical-Scientific Directorate, Federal Police Department, Ministry of Justice, Brazil
Mr. Sergio Gardenghi Suiama	Federal Prosecutor Cybercrime Division Co-ordinator Cybercrime Division, Federal Attorney's Office for the State of Sao Paulo, Brazil
Mr. Napoleon Bonaparte	Deputy Director Crime Investigation Department, South Sumatera Police Region, Indonesian National Police, Indonesia
Mr. Saleh Ibrahim Mohammed Altawalbeh	Head of Operation Division in North Region Public Security Directorate, Jordan
Mr. Jesus Rodriguez Almeida	Director of Intelligence State of Mexico Security Agency, Mexico
Mr. Syed Abbas Ahsan	Superintendent of Police Islamabad Capital Territory Police, Pakistan
Mr. Gilbert Caasi Sosa	Chief Anti-Transnational Crime Division Criminal Investigation and Detection Group, Philippine National Police, Philippines
Mr. Vijith Kumara Malalgoda	Deputy Solicitor General Criminal Division, Attorney General's Department, Sri Lanka
Ms. Lam Chun-fa Rita	Senior Computer Forensics Examiner Technology Crime Division, Hong Kong Police Force, Hong Kong SAR
Mr. Santipatn Prommajul	Deputy Superintendent High Tech Crime Center, Royal Thai Police, Thailand

### **Japanese Participants**

Mr. Hiroyuki Ito	Public Prosecutor Osaka District Public Prosecutors Office
Mr. Takuya Matsunaga	Public Prosecutor Fukuoka District Public Prosecutors Office, Kokura Branch

ANNUAL REPORT FOR 2008

Mr. Yoichi Omura

Assistant Judge  
Tokyo District Court

Mr. Koji Sakamoto

Judge  
Osaka District Court

Mr. Nozomu Suzuki

Public Prosecutor  
Fukushima District Public Prosecutors Office



APPENDIX

---

**FOURTH SEMINAR ON CRIMINAL JUSTICE FOR CENTRAL ASIA**

---

Mr. Ametov Bek	Chairman of the Collegium West Kazakhstan Regional Court, Kazakhstan
Mr. Maksingereev Baglan Alkenovich	Senior Public Prosecutor General Prosecutor's Office, Kazakhstan
Mr. Nurmukhamedov Marat Beibetovich	Senior Public Prosecutor General Prosecutor's Office, Kazakhstan
Mr. Yeshtay Akzhan	Judge Supreme Court of Kazakhstan, Kazakhstan
Mr. Abdukul Uulu Mavlen	Head Division Division on Legal Support, Analysis and Strategy Department, Ministry of Justice, Kyrgyzstan
Mr. Barannikov Sergey	Senior Officer/Investigator Ministry of Internal Affairs, Kyrgyzstan
Mr. Dononbaev Marat	Prosecutor Office of the General Prosecutor of the Kyrgyz Republic, Kyrgyzstan
Mr. Tashkarev Kanat	Senior Investigator Drug Control Agency of the Kyrgyz Republic, Kyrgyzstan
Mr. Kamolov Saifiddin Ismonovich	Lawyer of Tursun Zadee Court of Tursun Zadee, Tajikistan
Mr. Mirzoev Abdulhakim Latifovich	Vice Chief Court of Ismoeru Somoni, Dushonhe City, Tajikistan
Mr. Okilov Bakhtiyor Davronovich	Head of the Kayrokhum Court Court of Kayrokhum, Tajikistan
Mr. Shomusalomov Saidmusalam	Chairman Gorno-Badakhshan Autonomous Oblast Court, Tajikistan

ANNUAL REPORT FOR 2008

Mr. Hanmukamedov Begench  
Amanmuhamedovich

Chief of Department  
Investigative Department,  
Ministry of Internal Affairs,  
Turkmenistan

Mr. Egamberdiev Muzaffar  
Shermamatovich

Head of Investigation Department  
Prosecutors Office of Tashkent City,  
Uzbekistan

APPENDIX

---

**13<sup>TH</sup> SPECIAL SEMINAR FOR SENIOR CRIMINAL JUSTICE OFFICIALS OF  
THE PEOPLE'S REPUBLIC OF CHINA**

---

Mr. Zha Qingjiu	Vice Director General Office, Ministry of Justice
Mr. Qi Tengjuan	Deputy Chief Prosecutor The People's Procuratorate of Yunnan Province
Ms. Song Jinying	Programme Officer Department of Judicial Assistance and Foreign Affairs, Ministry of Justice
Mr. Li Shouwei	Director Criminal Legislation Department, Legislative Affairs Commission, Standing Commission of NPC China
Mr. Huang Yong	Senior Section Member Criminal Legislation Department, Legislative Affairs Commission, Standing Committee of NPC China
Mr. Li Ruiyi	Judge Fifth Criminal Tribunal of the Supreme People's Court of the People's Republic of China
Mr. Li Jian	Judge Fourth Criminal Tribunal of the Supreme People's Court of the People's Republic of China
Mr. Xu Chuangye	Division Chief of Office The People's Procuratorate of Chinqing
Mr. Fang Baofeng	Police Legal Affairs Department, Ministry of Public Security
Ms. Sun Jianying	Vice President Institute of Judicial Administration, Ministry of Justice
Mr. Geng Zhichao	Division Director Department of Judicial Assistance and Foreign Affairs, Ministry of Justice

---

**THE THIRD COUNTRY SPECIFIC TRAINING COURSE ON  
REVITALIZING THE VOLUNTEER PROBATION AIDE PROGRAMME  
FOR THE PHILIPPINES**

---

Mr. Rodolfo Pastor Pascua	Assistant Regional Director Cordillera Administrative Region, Parole and Probation Administration, Department of Justice
Ms. Cecilia Gaddi Dela Cruz	Chief Administrative Officer Parole and Probation Administration, Department of Justice
Ms. Twila Garingan Dela Cruz	Chief Probation and Parole Officer Boyombong City Parole and Probation Office, Region 2, Parole and Probation Administration, Department of Justice
Mr. Rene Saldon Remollo	Supervising Parole and Probation Officer Tanjay City Parole and Probation Office, Region 7, Parole and Probation Administration, Department of Justice
Ms. Hyacinth Verzosa Castanos	Supervising Probation and Parole Officer Community Services Division, Parole and Probation Administration, Department of Justice
Mr. Wilfred Dang-ao Gonnay	Supervising Probation and Parole Officer Bagiuo City Parole and Probation Office, Cordillera Administrative Region, Parole and Probation Administration, Department of Justice
Mr. Joel Romano Cabatos Arjinal	Senior Probation and Parole Officer Santa Rosa City Probation Office, Region 4, Parole and Probation Administration, Department of Justice
Mr. Juan Raymundo Claravall Angangan	Probation and Parole Officer II Cauayan City Parole and Probation Office, Region 2, Parole and Probation Administration, Department of Justice
Ms. Mary Ann Claver Aranca	Probation and Parole Officer II Tabuk City Parole and Probation Office, Cordillera Administrative Region, Parole and Probation Administration, Department of Justice

APPENDIX

Mr. Gideon Michael Rodriguez  
Patricio

Volunteer Probation Aide  
Roxas City,  
Region 6,  
Parole and Probation Administration,  
Department of Justice

Mr. Margarito Tanagon Pacilan

Volunteer Probation Aide  
Dapitan City,  
Region 9,  
Parole and Probation Administration,  
Department of Justice

Ms. Virginia Matias Peralta

Volunteer Probation Aide  
Santa Rosa City,  
Region 4,  
Parole and Probation Administration,  
Department of Justice

---

**NINTH COUNTRY FOCUSED TRAINING COURSE ON THE JUVENILE  
DELINQUENT TREATMENT SYSTEM FOR KENYA**

---

**Policy-Makers**

Ms. Jacqueline Adhiambo Oduol	Secretary Ministry of Gender, Children and Social Development
Mr. Titus Mwenda Karani	Deputy Commissioner Prison Department, Ministry of Home Affairs
Ms. Miriam Ngina Muli	Deputy Commissioner Police Department
Mr. Odhiambo Jerim Oloo	Director Probation Department, Ministry of Home Affairs

**Senior Practitioners**

Mr. Justus David Muthoka	Assistant Director Department of Children's Services, Ministry of Gender, Children and Social Development
Ms. Marygoretti Cheruto Tororey Chepseba	Senior Principal Magistrate Kitale Court
Ms. June Eddah Minayo Machayo	Volunteer Children's Officer Coast Province, Mombasa District
Ms. Mary Wanjiku Mbau	Deputy Director Probation Department, Ministry of Home Affairs
Ms. Rose Nekesa Moturi	Nairobi Provincial Prisons Commander Prison Department, Ministry of Home Affairs
Mr. Samwel Kiplangat Ngeno	Provincial Commander Nakul Provincial Police, Police Department
Mr. David Barasa Rapando	Acting Principal Economist Central Planning Unit, High Court of Kenya
Ms. Anne Wambere Waichinga	Chief Children's Officer Department of Children's Services, Ministry of Gender, Children and Social Development

---

**ELEVENTH INTERNATIONAL TRAINING COURSE  
ON THE CRIMINAL JUSTICE RESPONSE TO CORRUPTION**

---

**Overseas Participants**

Ms. Jahanara Pervin	(Director) Deputy Secretary Anti-Corruption Commission, Bangladesh
Mr. Tshering Namgyel	Judge Royal Court of Justice, District Court, Thimphu, Bhutan
Mr. Tong Vannak	Deputy Director Administration and Personnel, Ministry of National Assembly-Senate Relations and Inspection, Cambodia
Mr. Ahmed Mahmoud Moustafa	Chief Investigation Officer-Lt. Col. Cairo Public Investigation Department, Ministry of Interior, Cairo Public Security, Egypt
Mr. Mohammed Ali Azeez	Public Prosecutor Investigating Department, Ministry of Justice, Iraq
Ms. Gabriela Martinez Lagarde	Public Defender Direction of Defence Attention to Victims, Government of Hidalgo State, Mexico
Mr. Rajan Prasad Bhattarai	Deputy Attorney Investigation Department, Commission for the Investigation of Abuse of Authority, Nepal
Mr. Shreelal Poudel	Section Officer Drafting Division, Ministry of Law, Justice and Constituent Assembly Affairs, Nepal
Mr. Cornelio Lopez Somido	Acting Deputy Special Prosecutor Office of the Special Prosecutor, Prosecution Bureau IV, Office of the Ombudsman, Philippines

ANNUAL REPORT FOR 2008

Mr. Geronimo L. Sy	Assistant Secretary Department of Justice, Philippines
Mr. Nalin Rohantha Abeysuriya	Senior State Counsel Criminal Division, Attorney General's Department, Ministry of Justice and Law Reform, Sri Lanka
Ms. Sunethra Indumathie Jayasinghe	Deputy Director General Legal Division, Commission to Investigate Allegations of Bribery or Corruption, Sri Lanka
Ms. Uthaiwan Jamsutee	Public Prosecutor Thailand Criminal Law Institute, Office of the Attorney General, Thailand
Ms. Tosaporn Leepuengtham	Judge Buriram Provincial Court, Juvenile and Family Section, Courts of Justice, Thailand
Mr. Abduljalil Saif Ali Al-Suhaiqi	Head Investigation Department, Law Department, Central Organizarion for Control and Auditing, Yemen

**Thai Observers**

Mr. Kittikhun Dancharoen	Corruption Suppression Officer Office of the National Anti-Corruption Commission
Mr. Virote Kongwong	Legal Officer Office of the National Anti-Corruption Commission
Mr. Mongkol Sirijunrattana	Corruption Suppression Officer Office of the National Anti-Corruption Commission
Mr. Seksan Sommat	Corruption Suppression Officer Office of the National Anti-Corruption Commission
Mr. Sorayuth Weteewisai	Asset Inspection Officer Level 8 Office of the National Anti-Corruption, Commission



APPENDIX

**Japanese Participants**

Mr. Minao Ishiwatari	Public Prosecutor Nagano District Public Prosecutors Office, Matsumoto Branch
Mr. Jun Obayashi	Public Prosecutor Sendai District Public Prosecutors Office
Mr. Toru Yamada	Public Prosecutor Tokyo District Public Prosecutors Office
Mr. Takehiro Yasunaga	Judge Osaka District Court

ANNUAL REPORT FOR 2008

**DISTRIBUTION OF PARTICIPANTS BY  
PROFESSIONAL BACKGROUND AND COUNTRY**

(1<sup>st</sup> International Training Course/Seminar - 140<sup>th</sup> International Training Course/Seminar)

Professional Background Country/Area	Judicial and Other Administration	Judge	Public Prosecutors	Police Officials	Correc-tional Officials (Adult)	Correc-tional Officials (Juvenile)	Probation Parole Officers	Family Court Investiga-tion Officers	Child Welfare Officers	Social Welfare Officers	Training & Research Officers	Others	Total
Afghanistan	7	9	6	4									26
Bangladesh	21	13		14	5		4			5		2	64
Bhutan				9									9
Brunei	4				2								6
Cambodia	1	2	1	7	1								12
China	13	5	5	10							8		41
Georgia				1									1
Hong Kong	16			12	27	3	9		1	3	1		72
India	15	10		53	7	1	1			2	6	4	99
Indonesia	23	22	32	26	14		3			6		1	127
Iran	5	12	8	8	6						2	1	42
Iraq	6	3	3	5	5	5					2		29
Jordan		1		5									6
Korea	13	3	53	6	26	4					3		108
Kyrgyzstan	1			1									2
Laos	10	6	7	10									33
Malaysia	21	2	7	46	35	8	3		1	5	3	1	132
Maldives	1	3	1	1									6
Mongolia	1			2									3
Myanmar	7	1	1	4	1								14
Nepal	29	13	11	32								3	88
Oman			1	3									4
Pakistan	20	10	2	38	8	1	2				2	2	85
Palestine	1			1			1			1			4
Philippines	18	9	24	39	9	3	11	3	1	7	5	6	135
Saudi Arabia	5			7	3						1	1	17
Singapore	10	18	5	12	10	3	10			3	1	1	73
Sri Lanka	21	20	16	20	20	1	11		1	3		1	114
Taiwan	12	4	2	2	1								21
Tajikistan	1												1
Thailand	24	40	39	17	18	9	12	1		8	5	1	174
Turkey	2	1	1	2							1	1	8
United Arab Emirates	1												1
Uzbekistan												1	1
Vietnam	12	5	2	7	1					4	1		32
Yemen	1			1									2
<b>A S I A</b>	<b>322</b>	<b>212</b>	<b>227</b>	<b>405</b>	<b>199</b>	<b>38</b>	<b>67</b>	<b>4</b>	<b>4</b>	<b>47</b>	<b>41</b>	<b>26</b>	<b>1,592</b>
Algeria		4	2										6
Botswana	1		1	5	1					1			9
Cameroon	4		1										5
Cote d'Ivoire		2		1									3
Democratic Republic of the Congo	1			1									2
Egypt	1	3		3							3	1	11
Ethiopia	3			2									5
Gambia				2									2
Ghana	1		1	5	1								8
Guinea			1	3									4
Kenya	6	4	1	12	7		7				2		39
Lesotho				1			2						3
Liberia											1		1
Madagascar				1									1
Malawi			1										1
Mauritius		1											1
Morocco			1	4								1	6
Mozambique	1			1	1								3
Namibia			1										1
Niger	1			5	5							1	12
Nigeria			1										1
Seychelles				4	3					1	1		9
South Africa				3			1						4
Sudan	2		1	13	1						2		19
Swaziland				2									2
Tanzania	4	3	4	7	2								20
Tunisia		1		1									2
Uganda			1	5								1	7
Zambia		1		6									7
Zimbabwe	1		3	8									12
<b>A F R I C A</b>	<b>26</b>	<b>19</b>	<b>20</b>	<b>95</b>	<b>21</b>	<b>0</b>	<b>10</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>9</b>	<b>4</b>	<b>206</b>

APPENDIX

Professional Background	Judicial and Other Administration	Judge	Public Prosecutors	Police Officials	Correc-tional Officials (Adult)	Correc-tional Officials (Juvenile)	Probation Parole Officers	Family Court Investiga-tion Officers	Child Welfare Officers	Social Welfare Officers	Training & Research Officers	Others	Total
Country/Area													
Australia			1				1			1			3
Fiji	6	1	9	21	17					1			55
Kiribati	1												1
Marshall Islands	1			4									5
Micronesia				1			1						2
Nauru				1									1
New Zealand	1			1									2
Palau				1	1								2
Papua New Guinea	10	1	4	16	10		4			1		2	48
Samoa	1			2			1					1	5
Solomon Islands	3		1	2									6
Tonga	2	1		7	3		2				1		16
Vanuatu				3									3
<b>THE PACIFIC</b>	<b>25</b>	<b>3</b>	<b>15</b>	<b>59</b>	<b>31</b>	<b>0</b>	<b>9</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>1</b>	<b>3</b>	<b>149</b>
Antigua and Barbuda				1			1						2
Argentina	2	2	0	2								1	7
Barbados				1			1						2
Belize	1			2									3
Bolivia		1										1	2
Brazil	2		4	22	1				1	1			31
Chile	1		1	4	2								8
Colombia	3	1	2	3					1			1	11
Costa Rica	3	5	4								1	2	15
Dominican Republic				1									1
Ecuador			1	4		1							6
El Salvador	1	1		2	1							1	6
Grenada				1									1
Guatemala					1							1	2
Guyana				1									1
Haiti				1									1
Honduras			1	8									9
Jamaica	3			1	1	1							6
Mexico	1			2									3
Nicaragua		1											1
Panama			4	3								1	8
Paraguay			1	9		1							11
Peru	4	10	4	2	1						1	2	24
Saint Christopher and Nevis			1	1									2
Saint Lucia	1				1								2
Saint Vincent				2									2
Trinidad and Tobago	1				1								2
U.S.A.(Hawaii)								1					1
Uruguay				2									2
Venezuela	1		1	12							1		15
<b>NORTH &amp; SOUTH AMERICA</b>	<b>24</b>	<b>21</b>	<b>24</b>	<b>87</b>	<b>9</b>	<b>3</b>	<b>2</b>	<b>1</b>	<b>2</b>	<b>1</b>	<b>3</b>	<b>10</b>	<b>187</b>
Albania	1			2									3
Bulgaria				1									1
Estonia			1										1
Former Yugoslav Republic of Macedonia	2												2
Hungary	1												1
Lithuania				1									1
Poland				1									1
<b>EUROPE</b>	<b>4</b>	<b>0</b>	<b>1</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>10</b>
United Nations Office on Drugs and Crime												1	1
<b>JAPAN</b>	<b>115</b>	<b>173</b>	<b>272</b>	<b>96</b>	<b>91</b>	<b>85</b>	<b>195</b>	<b>64</b>	<b>38</b>	<b>2</b>	<b>48</b>	<b>70</b>	<b>1,249</b>
<b>TOTAL</b>	<b>516</b>	<b>428</b>	<b>559</b>	<b>747</b>	<b>351</b>	<b>126</b>	<b>283</b>	<b>69</b>	<b>44</b>	<b>55</b>	<b>102</b>	<b>114</b>	<b>3,394</b>



**PART TWO**  
**RESOURCE MATERIAL SERIES**  
**No. 78**

---

---

**Work Product of the 139<sup>th</sup> International Training Course**  
**“Profiles and Effective Treatment of Serious and Violent Juvenile Offenders”**

---

---

**UNAFEI**



---

# VISITING EXPERTS' PAPERS

---

## ISSUES IN THE ASSESSMENT OF JUVENILE OFFENDERS

*Robert D. Hoge\**



### I. INTRODUCTION

The assessment process involves the collection, processing, and synthesis of information about the individual. The outcome of the assessment is generally expressed as a judgment or opinion which may, in turn, be expressed as a diagnosis (e.g., bi-polar depression, psychotic, autistic) or categorization (e.g., borderline developmentally delayed, high risk for violent offending). As we will see below, formal and informal assessments are conducted in juvenile justice systems by police, prosecuting attorneys, probation officers, and judges, and these assessments are used as the basis for important decisions about the offender. Although not a primary concern in our discussions, assessments of risk for antisocial behaviours are also important in prevention programmes.

While the assessment process is critical to the quality of decisions made about the youth, many juvenile justice systems depend on badly flawed assessment processes. In some cases there are simply no systematic assessments conducted. In other cases the assessments are conducted by unqualified individuals or reflect an absence of adequate standards and procedures. Ample research now exists to show that justice systems that depend on structured and validated assessment procedures are more effective in producing reduced reoffending rates than those that do not use these procedures. The use of standardized assessments constitutes one of the most important of the principles of best practice (Andrews & Bonta, 2006; Grisso, 2005; Hoge, 1999, 2008; Hoge & Andrews, 1996).

### II. CONTEXTS AND PURPOSES OF ASSESSMENTS

Table 1 provides an outline of the major decision areas encountered in juvenile justice systems. These range from the initial police contact with the youth to final discharge from the system.

---

**Table 1**  
**Major Decision Areas in Juvenile Justice Systems**

---

Pre-arrest diversion
Arrest
Criminal charge
Pre-trial detention
Waiver to adult court
Competency to stand trial
Adjudication
Sentencing/disposition
Rehabilitative intervention planning

---

Some of these decisions relate to legal issues involving, for example, judgments about guilt or innocence. Those issues are outside the scope of our interest. However, many other decisions involve assessments relating to the psychological functioning of the youth or his or her circumstances. For example, a decision of the police or prosecutor to formally charge the youth may be affected by judgments about the youth's cognitive abilities or emotional maturity. Other decisions such as waiver to the mental health system may involve more complex diagnoses relating to the youth's psychiatric status. Disposition or sentencing

---

\* Department of Psychology, Carleton University, Ottawa, Ontario, Canada.

decisions made by a judge or magistrate may be affected by a probation officer's assessment of the family circumstances of the youth. These are all important decisions and highlight the importance of conducting careful and valid assessments of the youth.

As suggested by the above examples, the focus of assessments will vary. In some cases the concern is with describing the criminal history of the individual. In other cases the concern is with describing or diagnosing internal conditions of the youth, relating, for example, to his or her emotional state or propensity for violence. In still other cases the goal is identification of problems existing with family circumstances, educational achievement, peer group associations, or substance abuse. Still another focus may be on the attitudes and values of the young person.

Many decisions require that the assessment be expressed as an evaluation of risk for engaging in future criminal behaviour (criminogenic risk). This may be a factor in decisions about pre-trial detention or diversion. For example, programmes designed to divert youth out of the criminal justice system without further processing are generally reserved for low risk individuals. Risk level may also be a consideration in deciding on an appropriate disposition following a finding of guilt. This could, for example, be the basis for deciding whether custody or community supervision is the appropriate courses of action.

Assessments may also be expressed as criminogenic needs. In this case we are attempting to identify the risk factors that can be changed through interventions to reduce the probability of future offending. For example, associations with antisocial peers is a risk factor, but it is something we can influence and, to the extent that we succeed, we can reduce the risk level. Needs assessments are very important wherever interventions or treatments are to be provided within the judicial action. We will talk more about risk and need assessments later in the paper.

Under some circumstances legal criteria may be available for guiding the assessment process. For example, specific psychiatric assessments may be indicated where decisions are to be made regarding competence to stand trial (Grisso, 1998, 2004). In still other cases regulations may guide the decision process. We will see in a later paper that the Canadian Province of Ontario has specified procedures to be followed in preparing pre-disposition reports for judges. However, in many cases rules or regulations for the conduct of assessments are not available, leaving open the possibility for decisions to be based on invalid or biased assessments.

The primary concern in our sessions will be with diversion and disposition decisions based on risk and need assessments. These assessments will be used to make decisions about the proper placement of the youth in the system and the kinds of interventions or treatments they should receive while in the system. We turn next to some issues relevant to this matter.

### III. ISSUES IN ASSESSMENT

The following is an introduction to some key concepts relevant to the assessment process. The reader is referred to Grisso (1998), Grisso, Vincent, and Seagrave (2005), Hoge (1999, 2008), and Hoge and Andrews (1996) for further discussions of these issues.

#### A. Screening versus Assessment

A distinction is sometimes made between screening and assessment procedures, although the line between these is not always entirely clear. Screening instruments are generally relatively simple measures designed for use with all individuals within a group. The *Massachusetts Youth Screening Instrument—Version 2 (MAYSI-2)*; Grisso & Barnum, 2000), for example, is a self-report form used as a preliminary screening device for detecting emotional, behavioural, and psychological disturbances. It does not yield psychological diagnoses, but it does provide initial information about symptoms that may require more intensive assessments. Screening measures of this sort generally do not require a high level of training or expertise for administration or interpretation.

Psychological assessments, on the other hand, involve more thorough analyses of psychological or behavioural functioning. This might, for example, involve a comprehensive evaluation of cognitive and



personality functioning through the use of standardized tests and clinical interviews. This would be appropriate where signs of serious disorder are present. Many psychological assessments will require the services of a mental health practitioner such as a psychiatrist or psychologist.

However, as we will see below there are other assessments that can be conducted by non-mental health professionals such as probation officers, youth workers, or teachers. These generally involve a period of training and supervision in the use of some standardized measure.

### **B. Clinical versus Standardized Assessments**

We can distinguish two general categories of assessment. Clinical assessments involve the unstructured collection of information and the interpretation of that information on the basis of past clinical experience. A probation officer, for example, might conduct an open-ended interview with a youth, interview parents, examine file information and conclude that the youth is high risk for continued criminal activity. Some clinical assessments do involve a certain amount of structure, but clinical interviews are relatively unstructured and allow the assessor considerable latitude in collecting and interpreting information. Decisions within juvenile justice systems are often based on clinical assessments.

Standardized assessments, on the other hand, represent more structured procedures for forming assessments. These are instruments or procedures with (a) fixed stimulus, response, and scoring formats; (b) yielding quantitative scores; and (c) for which normative and psychometric data are available. The *Wechsler Intelligence Scale for Children-IV (WISC-IV)* (Wechsler, 2004) and the *Minnesota Multiphasic Personality Inventory – Adolescent (MMPI-A)* (Butcher et al., 1992) are examples of standardized psychological measures.

Mechanical or actuarial prediction represents a special form of standardized assessment procedures whereby the procedures yield a specific prediction regarding an outcome. We will examine some comprehensive risk/need assessment instruments later and see that they yield specific estimates of risk for reoffending. These mechanical or actuarial predictions are always based on empirical analyses and provide information on reliability and validity.

We will examine another form of standardized assessment later. This is referred to as guided professional assessment or structured professional judgment (Webster, Hucker, & Bloom, 2002). This involves the use of clinical judgments within a structured framework. These instruments or procedures are based more or less directly on empirical data and may be accompanied by psychometric information. We will present examples in a later section.

Considerable research is now available demonstrating that the use of standardized assessments, particularly actuarial or guided professional assessments, is preferable to a dependence on clinical assessments (Borum & Verhaagen, 2006; Hoge, 1999, 2008).

### **C. Normative Scores**

Norms or normative scores are also important assessment terms, particularly with reference to standardized measures. Normative scores reflect performance on a measure relative to the performance of a group of respondents. The *Wechsler Intelligence Scale for Children-IV (WISC-IV)* (Wechsler, 2004), for example, is scored in terms of a large and representative sample of children. An individual's score is expressed relative to that sample. A full-scale *WISC-IV* score of 100 for a nine-year old would indicate that the child's raw score was at the mean level for the normative sample of nine-year olds, while a score of 115 would indicate a performance one standard deviation above the mean. The quality of the normative data forms one basis for evaluating the utility of a standardized measure.

### **D. Evaluating Assessment Measures**

It is very important to pay attention to the quality of a screening or assessment measure when deciding whether to incorporate it into the system. Reliability and validity are the primary qualities we look for when evaluating quality, and the basic forms of these constructs are defined in Table 2. Only a brief introduction will be provided to these terms in this paper, and you are referred to Grisso (2005), Hoge (2008), and Hoge and Andrews (1996) for more thorough discussions.

Reliability refers to the stability or consistency of a measure. More formally, it refers to the relative proportion of true and error variance in a measure.

---

**Table 2**  
**Definitions of Psychometric Terms**

---

Reliability	The stability or consistency of a measure; formally defined as the relative proportion of true or error variance within a measure.
Content Validity	The adequacy with which a measure represents the conceptual domain it is expected to encompass.
Construct Validity	The theoretical meaning of scores from a measure; the accuracy with which the measure represents the construct in question.
Criterion-Related Validity	Extent to which scores from a measure relate to a criterion of performance; the two forms of criterion-related validity are concurrent and predictive validity.
Dynamic Predictive Validity	The sensitivity of a measure to changes in the dimension being assessed; also referred to as treatment validity.
Incremental Predictive Validity	The extent to which a measure exhibits improvements in prediction relative to other procedures.

---

Three standard procedures are available for evaluating reliability: test-retest, inter-rater agreement, and internal consistency. Each provides a somewhat different approach to detecting the extent to which extraneous or error factors are affecting scores on a measure. Reliability coefficients are generally expressed through correlation coefficients.

Reliability constitutes an essential condition in a measure. Lack of stability or consistency in a measure seriously interferes with its utility in applied assessment situations. If, for example, we found that scores on a personality test were affected by factors not related to the personality trait being assessed and that scores fluctuated in a more-or-less random fashion over time, we could have little confidence in that measure.

Validity is a more difficult construct to define since it is used in a number of different ways in different contexts. However, when referring to psychological tests or procedures, the term refers in its broadest sense to the meaningfulness of scores from a measure (Messick, 1995). Table 2 defines a number of different forms of validity, but only two will be noted in our discussion.

Construct validity is sometimes regarded as the key form of validity and may be defined as referring to the theoretical meaning or accuracy of a measure. It is also often defined as referring to the extent to which a measure is measuring what it says it is measuring.

Some illustrations of the definition may be useful. In raising a question of the construct validity of an intelligence test we would be raising a question about the meaningfulness of scores from the test. Just what does a full-scale score of 113 mean so far as the cognitive functioning of the youth is concerned? We could also ask how well that score reflects what we consider the meaning of "intelligence." Consider a second example. If we raised a question about the construct validity of a measure of behavioural pathology we would be asking about the actual meaning of scores from the measure. How do those scores define behavioural pathology? Construct validity may be evaluated through theoretical and empirical procedures.

Criterion-related validity is a second form of validity important for our purposes. It refers to the extent to which scores on a measure relate to some criterion of performance. The two forms of criterion-related validity are concurrent validity (where predictor and criterion scores are collected at the same time) and predictive validity (where predictor scores are collected at one point and criterion scores at a later time).

Criterion-related predictive validity is particularly important in applied settings because we often

need to know how well scores from a measure predict future behaviour or performance. For example, the comprehensive risk/need measures described below are designed to identify the current risk and need factors exhibited by the youth as a means of estimating their likelihood of engaging in continued criminal activity. Data from criterion-related predictive studies would provide us with that kind of information.

It is important to have some familiarity with the meaning of the reliability and validity constructs, and it is extremely important to obtain information about the reliability and validity of instruments being considered. Measures that do not display adequate levels of reliability and validity are of no value to us.

#### IV. TYPES OF ASSESSMENT INSTRUMENTS

This section will provide a brief overview of the major categories of assessment instruments and procedures relevant to juvenile justice settings. More thorough discussions may be found in Grisso (1998), Grisso et al. (2005), Hoge (2008), and Hoge and Andrews (1996). A further discussion of tools for assessing risk for violence in juveniles will be provided in the second paper in this series.

Two broad categories of assessment instruments can be identified. The first includes measures developed for general application but relevant to assessment in juvenile justice settings and the second includes instruments and procedures specifically developed for forensic application.

##### A. General Application Measures

A large number of personality tests, structured interview schedules, rating/checklist measures and attitude measures have been developed that have proven useful sometimes in assessing juvenile offenders.

The *Minnesota Multiphasic Personality Inventory-Adolescent (MMPI-A)*; Butcher, Williams, Graham, Archer, Tellegen, & Ben Porath, 1992) and *Reynolds Adolescent Depression Scale (RADS)*; Reynolds, 2002) are just two examples of the many standardized personality tests useful in the psychological assessment of adolescent offenders. These tests generally require special training in scoring and interpretation.

Structured interview formats designed for assessing behavioural and emotional pathologies may also play a role in these forensic assessments. Examples include the *Diagnostic Interview Schedule for Children (DISC)*; Shaffer et al., 2000) and *Child and Adolescent Functional Assessment Scale (CAFAS)*; Hodges, 2000).

Standardized rating and checklist measures have also proven very useful in these assessments. These may serve as screening tools for the preliminary identification of problems or as part of more intensive psychological assessments. The parent, teacher, clinician, and youth forms of the *Child Behavior Checklist (CBCL)*; Achenbach & Rescorla, 2001) has proven invaluable in identifying behavioural pathologies in youth. More focused rating instruments such as the *Massachusetts Youth Screening Instrument-Version 2 (MAYSI-2)*; Grisso & Barnum, 2000) and *Aggression Questionnaire (AQ)*; Buss & Warren, 2000) may also be useful. Some of the rating/checklist measures are only suitable for use by mental health professionals, but others can be used by probation officers, teachers, or youth workers with some training in scoring and interpretation.

##### B. Forensic Assessment Instruments

This category includes instruments and procedures specifically developed for assessments in juvenile justice systems. Some of these are specialized measures designed for evaluating legally relevant considerations. An example is the *MacArthur Competence Assessment Tool-Criminal Adjudication (MacCAT-CA)*; Poythress et al., 1999) instrument.

Several standardized self-report measures of antisocial attitudes, values, and beliefs are also available, including the *Criminal Sentiments Scale - Modified (CSS-M)*; Simourd, 1997) and *How I Think Questionnaire (HIT)*; Gibbs, Barriga, & Potter, 2001). The latter is especially important because it helps identify specific aspects of defective reasoning that can lead to antisocial actions.

Comprehensive risk/need assessment instruments constitute another important category of measures. These are generally in the form of structured checklists and employ either an actuarial or structured professional judgment approach. The instruments are designed to guide disposition and treatment planning

decisions by identifying risk and need factors in the youth. Two examples include the *Youth Level of Service/Case Management Inventory (YLS/CMI)*; Hoge, 2005; Hoge & Andrews, 1996) and *Estimate of Risk of Adolescent Sexual Offence Recidivism (ERASOR)*; Worling & Curwen, 2001). This type of measure will be discussed further in the second paper in the series.

## V. PRACTICAL AND ETHICAL ISSUES

We will conclude the paper with brief introductions to some practical and ethical matters you should consider in designing an assessment system.

### A. Selecting Relevant Measures

A choice of assessment measure or procedure should be guided, first, by the purposes of the assessment. There would be little value, for example, in using a personality test to aid in a decision about pretrial detention or an intelligence test to guide a decision about length of probation. It is also important to ensure that the assessment instrument is appropriate for the individual being assessed. This depends on the relevance of available normative, reliability, and validity data for the youth. For example, a personality test developed and evaluated with samples of boys between 8 and 12 years may not be relevant for a 17-year-old girl. Age, gender, ethnic group membership, and the presence of physical or mental handicaps are among the factors that should be considered in selecting assessment tools. Many of the standardized aptitude, personality, and behavioral measures have been evaluated for a wide range of respondent types, but this is not true of all instruments, and it is important to keep this issue in mind in selecting assessment tools.

### B. Evaluating the Measures

We have already commented on the importance of researching the reliability and validity of the measures being considered. Information about these properties will be available from manuals or guides accompanying the instrument and from reference materials such as the *Mental Measurements Yearbook* and any number of web-based sources.

### C. Cost

The cost of test materials and their administration is also a factor to be considered in evaluating the suitability of measures. Psychological services are sometimes expensive, and it is important to weigh those costs against the potential benefits of using the services. However, research shows that following principles of best practice, including the use of standardized assessment procedures, can lead to significantly reduced levels of reoffending. The savings there will often offset the costs of the assessment.

### D. Professional Expertise

Standardized assessment instruments and procedures require varying levels of training and experience, and this must be considered in planning the assessment. As we have seen, some of the tools can be used by professionals such as probation officers, youth workers, or teachers with some special training. In other cases, however, the assessments must be conducted by qualified mental health professionals such as psychiatrists or psychologists. All professionals involved in the assessment should have a thorough understanding of child and adolescent development. A related point is that the use of the assessment instruments and procedures should be continually monitored, with periodic retraining provided for those using the measures.

### E. Ethical and Legal Considerations

Some juvenile justice systems will provide explicit guidelines regarding the conduct of assessments, while others may provide more guidelines, and still others will give no guidance on the matter. One goal should be to encourage all systems to provide explicit guidelines. This will help to ensure that all youth are treated in a fair and consistent manner.

Professional associations in some areas have developed guidelines regarding the conduct of assessments. Examples include *Standards for Educational and Psychological Testing* developed by the American Educational Research Association and American Psychological Association and the *Specialty Guidelines for Forensic Psychologists* from Division 41 of the American Psychological Association. The British and Canadian associations of professional psychologists have also developed assessment guides.

## REFERENCES

- Achenbach, T. M., & Rescorla, L. A. (2001). *Manual for the ASEBA School-Age Forms and Profiles*. Burlington, VT: University of Vermont, Research Center for Children, Youth, and Families.
- Andrews, D. A., & Bonta, J. (2006). *The psychology of criminal conduct—Fourth edition*. Cincinnati, OH: Anderson.
- Borum, R., & Verhaagen, D. (2006). *Assessing and managing violence risk in youth*. New York: Guilford.
- Buss, A. H., & Warren, W. L. (2000). *Aggression questionnaire manual*. Los Angeles: Western Psychological Services.
- Butcher, J. N., Williams, C. L., Graham, J. R., Archer, R. P., Tellegen, A., Ben-Porath, Y. S., & Kaemmer, B. (1992). *Minnesota Multiphasic Personality Inventory—Adolescent*. Minneapolis, MN: University of Minnesota Press.
- Gibbs, J. C., Barriga, A. Q., & Potter, G. B. (2001). *How I Think (HIT) questionnaire*. Champaign, IL: Research Press.
- Grisso, T. (1998). *Forensic evaluation of juveniles*. Sarasota, FL: Professional Resource Press.
- Grisso, T. (2005). Why we need mental health screening and assessment in juvenile justice systems. In T. Grisso, T. Vincent, & D. Seagrave (Eds.), *Mental health screening and assessment in juvenile justice* (pp. 3-21). New York: Guilford.
- Grisso, T., & Barnum, R. (2003). *Massachusetts Youth Screening Instrument—Version 2: User's manual and technical report*. Sarasota, FL: Personal Resource Press.
- Grisso, T., Vincent, G., & Seagrave, D. (Eds.). (2005). *Mental health screening and assessment in juvenile justice*. New York: Guilford.
- Hodges, K. (2000). *Child and Adolescent Functional Assessment Scale*. Ypsilanti, MI: Eastern Michigan University.
- Hoge, R. D. (1999). An expanded role for psychological assessments in juvenile justice systems. *Criminal Justice and Behavior*, 26, 251-266.
- Hoge, R. D. (2005). Youth Level of Service/Case Management Inventory. In T. Grisso, T. Vincent, & D. Seagrave (Eds.), *Mental health screening and assessment in juvenile justice* (pp. 283-294). New York: Guilford.
- Hoge, R. D. (2008). Assessment in juvenile justice systems. In R. D. Hoge, N. G. Guerra, & P. Boxer (Eds.), *Treating the juvenile offender* (pp. 54-75).
- Hoge, R. D., & Andrews, D. A. (1996). *Assessing the youthful offender: Issues and techniques*. New York: Plenum.
- Hoge, R. D., & Andrews, D. A. (2002). *Youth Level of Service/Case Management Inventory user's manual*. North Tonawanda, NY: Multi-Health Systems.
- Messick, S. (1995). Validity of psychological assessment: Validation of inferences from person's responses and performances as scientific inquiry into score meaning. *American Psychologist*, 50, 741-749.
- Poythress, N. G., Bonnie, R. J., Monohan, J., Otto, R., & Hoge, S. K. (2002). *The MacArthur Competence Assessment Tool—Criminal Adjudication: Professional manual*. Lutz, FL: Psychological Assessment Resources.



Reynolds, W. M. (2002). *Reynolds Adolescent Depression Scale—Second Edition*. Lutz, FL: Psychological Assessment Resources.

Shaffer, D., et al. (2000). *Diagnostic Interview Schedule for Children (DISC-4)*. New York: New York State Psychiatric Institute.

Simourd, D. (1997). The Criminal Sentiments Scale-Modified and Pride in Delinquency Scale: Psychometric properties and construct validity of two measures of criminal attitudes. *Criminal Justice and Behavior*, 24, 52-70.

Webster, C., Hucker, S., & Bloom, H. (2002). Transcending the actuarial versus clinical polemic in assessment risk for violence. *Criminal Justice and Behavior*, 29, 659-665.

Wechsler, D. (2004). *Wechsler Intelligence Scale for Children—Fourth Edition*. San Antonio, TX: The Psychological Corporation.

Worling, J. R., & Curwen, M. A. (2001). *Estimate of Risk of Adolescent Sexual Offense Recidivism (ERASOR)*. Toronto, ON: Thistletown Regional Centre.

# **SERIOUS AND VIOLENT JUVENILE OFFENDERS: ASSESSMENT AND TREATMENT**

*Robert D. Hoge\**

## **I. INTRODUCTION**

Many adolescents engage in risky rule-breaking behaviours. This may involve under-age drinking, cheating on a test, vandalism, or involvement in a physical fight. Minor legal infractions and rule breaking are normative during adolescence. However, it is important to observe that the majority of young people do not engage in serious criminal activity and are, in fact, responsible citizens.

On the other hand, a minority of youth engage in criminal acts serious enough to merit attention by the police and judicial system. Most of these youth have not committed a serious crime and most do not continue to engage in criminal activities. However, a small group of young people commit serious crimes of a non-violent (e.g., auto theft, drug trafficking) or violent (e.g., aggravated assault, rape) nature. Some will only engage in these acts once, while others will exhibit a chronic pattern of offending.

The primary concern of this paper is with youth who commit serious criminal actions repeatedly, whether of a violent or non-violent nature. We will examine some of the research on the characteristics of these young people and consider the available assessment and intervention strategies. We turn, first, though to a closer look at the categories of youth we are interested in.

## **II. DEFINING SERIOUS AND VIOLENT CRIMINAL ACTS**

Identifying criminal actions as serious and violent is sometimes complicated. Jurisdictions may differ in the way in which individual actions are regarded. For example, cigarette smoking by children is treated as a serious criminal act in Singapore but treated as a very minor transgression in other areas. Similarly, a physical confrontation between two youth in the school may be treated as a serious criminal action in some jurisdictions but regarded as simply a disciplinary matter for the school to deal with in others.

However, non-violent criminal acts involving, for example, car theft, drug trafficking, and burglary are recognized in most jurisdictions as serious. Similarly, violent actions such as homicide, aggravated assault, rape, and robbery are almost always treated as serious violent crimes.

Some ambiguity is also associated with the identification of chronic serious criminal activity. There are no firm rules about the number or duration of criminal actions that define chronicity. Generally speaking, though, we are concerned with youth who engaged in repeated antisocial actions over a period of time.

We will not worry too much about these issues in definition. Our concern is with youth exhibiting a pattern of repeated serious criminal activity or those at risk of this. We turn next to a brief overview of developments from theory and research on the causes of antisocial behaviours in youth.

## **III. IDENTIFYING PATTERNS OF SERIOUS AND CHRONIC CRIMINAL ACTIVITY**

Research in developmental criminology has identified a number of relatively stable patterns or trajectories of antisocial behaviour (see Arseneault, Tremblay, Boulerice, & Saucier, 2002; Frick, 2006; Loeber, 1988; Moffitt, 2003, 2006). These patterns describe groups of individuals following similar paths in the expression of criminal behaviours.

---

\* Department of Psychology, Carleton University, Ottawa, Ontario, Canada.

One of the paths is particularly relevant to our discussion of chronic criminal behaviour. The *life-course-persistent* pattern is characterized by youth who exhibit symptoms of a difficult temperament during the early years, the appearance of various forms of conduct and oppositional disorders during the preschool years, an escalation of the incidence and severity of antisocial actions during early childhood and adolescence, and the persistence of the antisocial behaviours into adulthood. These are individuals with a long history of behavioural problems, and they constitute the majority of those we refer to as chronic serious offenders. Their antisocial behaviours may be expressed in violent actions or as serious non-violent criminal actions.

Caution needs to be observed with this pattern. Not all youth who exhibit an early difficult temperament and serious conduct disorders during later childhood and adolescence will continue a life of criminal activity. Some do manage to cease their antisocial life style by the time they reach the adult years. However, some do not desist and will continue their criminal actions into adulthood.

The other major pattern identified in the research cited above is referred to as the *adolescent-limited trajectory*. This is characterized by normal development during the childhood years and the more-or-less sudden appearance of antisocial behaviours during adolescence. Youth exhibiting this pattern normally desist from further criminal actions during later adolescence and the adult years. These are youth who suddenly get into trouble during their teens but revert to a pro-social life style later on. Youth exhibiting this pattern are of concern to us in the juvenile justice system, but they present a somewhat lesser challenge than those who exhibit the life-course-persistent pattern.

These two patterns do not characterize all youth who engage in criminal activities. Some will not begin serious criminal activities until adolescence but will continue them into adulthood. Another pattern we sometimes observe involves persistent and chronic non-serious criminal activities. These are people who never engage in serious criminal acts but who seem to have continual conflicts with the judicial system.

Our primary concern in this case is with the youth who seem at risk of life-course persistent criminal activity, and we turn now to some research and theory relevant to explaining this phenomenon.

#### IV. SEARCHING FOR THE CAUSES OF SERIOUS CRIMINAL ACTIVITY

The fundamental challenge in the search for the causes of antisocial behaviours arises from the complexity of human behaviour. Many of the early theoretical positions regarding the causes of criminality focused on a single causal variable, whether poverty, weak ego, deficient self-control, or the XXY chromosome anomaly. These approaches were clearly inadequate. We now know that a wide range of factors can influence the commission of a criminal act. Some of these are internal (e.g., aspects of temperament, social competencies, modes of perception) and some external (e.g., influences of parents and peers, features of the immediate situation in which the action occurs). Further, these factors do not operate in isolation; rather, it is complex interactions among factors that have the causal impact. Further still, the dynamics of these factors are complicated. For example, individual predispositions relating, for example, to impulsivity and aggressiveness, are likely the product of complex interactions among genetic, biological, and environmental influences.

A wide range of theories have been advanced to explain the commission of serious antisocial acts, including those of a violent nature. The most satisfactory of the contemporary theories are the developmental life-course theories incorporating a social learning theory perspective into a broad-based integrative framework (see Andrews & Bonta, 2006; Guerra, Williams, Tolan, & Modecki, 2008a; Farrington, 2004; Rutter, 2003). Catalano and Hawkins' (1996) Social Development Model is an example of this approach. It describes causal chains leading to the development of pro-social or antisocial life styles. The theory incorporates a broad range of ecological and individual factors and tries to show how these operate at different points in the developmental sequence. Boxer & Frick (2008) and Frick's (2006) analysis of the factors leading to a life-course-persistent pattern expressed in violent actions is an example of a recent formulation focusing specifically on violence.



This theoretical work is being supported by sophisticated research on the correlates and causes of delinquency. The most important research is based on prospective longitudinal designs involving the study of the same individuals over a period of time, tracking changes in their behaviours, and exploring factors associated with those changes.

The Cambridge Study in delinquent development is an example (Farrington, 1997, 2003, 2004; Farrington, Coid, Harnett, Jolliffe, Soteriou, Turner, and West, 2006). The study was initiated in the early 1960s with the collection of data from a group of 411 eight and nine-year old males drawn largely from working class districts of London. The researchers are continuing to collect measures from these participants who are now in their late forties. A wide variety of psychological measures have been employed, including psychological tests, questionnaires completed by teachers and peers, and interviews conducted with the participants and their parents. The incidence of criminal activity on the part of the participants constitutes the primary outcome variable, and this has been measured through official records and self-reports. This research has yielded very important information about factors affecting the development of antisocial behaviours.

## V. RISK AND NEED FACTORS ASSOCIATED WITH SERIOUS AND VIOLENT CRIME

These theoretical and empirical developments are important in a number of respects, but it is their contribution to the identification of risk and need factors associated with serious and violent crime that is of primary concern to us. A brief introduction to these terms is required. *Risk factors* refer to characteristics of the youth or his or her circumstances associated with antisocial actions. Having a history of criminal activity, coming from a dysfunctional home environment, friendship with antisocial peers, and aggressive tendencies are examples. These factors place the youth at risk of continuing criminal activity. *Need factors* are risk factors that can be changed, and, if changed, reduce the chances of future criminal activity. Improving parent-child relations and reducing associations with negative peers will, for example, reduce the probability of continuing criminal activity.

We now have considerable information from the theoretical and research efforts cited above about risk and need factors associated with serious and violent criminal activity. This work will be briefly reviewed here, and you are referred to Hoge (2001), Loeber and Farrington (1998, 2000), and Rutter, Giller, & Hagell (1998) for further discussion of the factors.

Table 1 identifies the major categories of risk and need factors associated with serious and violent criminal activity. It is the presence or absence of these factors that contribute to the likelihood the youth will engage in serious antisocial acts or develop a pattern of criminal activity. They are divided in the table into proximal factors that have a direct impact on the criminal action and distal factors that operate through the proximal factors.

---

**Table 1: Major Risk/Need Factors**

---

**Proximal Factors**

Antisocial attitudes, values, and beliefs  
Dysfunctional parenting  
Dysfunctional behaviour and personality traits  
Poor school/vocational achievement  
Antisocial peer associations  
Substance abuse  
Poor use of leisure time

**Distal Factors**

Criminal/psychiatric problems in family of origin  
Family financial problems  
Poor accommodations  
Negative neighbourhood environments

---

While all of these factors are likely relevant to the evolution of a life-course-persistent pattern expressed in violent behaviour, special attention should probably be paid to three factors when analysing a propensity of violent actions: a history of aggressive conduct disorders, certain personality and behavioural dispositions, and embracing antisocial attitudes and values.

Individuals who persistently engage in violent crimes generally have a history of serious conduct disorders. In fact, the research shows that a history of antisocial behaviour is the single best predictor of future criminal activity. However, this does not represent a need factor since we cannot do anything about history.

The second important factor relates to personality and behavioural dispositions. Youth who engage in serious and chronic crime often exhibit signs of impaired learning ability, poor self control expressed in impulsivity, a propensity for risk taking, and high levels of aggressive emotions. These traits are common among all youth who engage in criminal actions, but they are particularly pronounced in those exhibiting a life-course-persistent pattern involving violent actions. Some of these youth also exhibit a callous and unemotional type of orientation (Boxer & Frick, 2008; Frick, 2006). These are individuals who do not seem capable of forming normal attachments with others and who lack a capacity for empathy. This characterizes some of those engaging in the most serious violent crimes.

The third type of critical factor includes antisocial attitudes and values. This is reflected in negative feelings about police, judges, teachers or anyone else in positions of authority. It is also reflected in dysfunctional modes of perception and information processing. For example, many youth who engage in persistent violent behaviours exhibit a tendency to perceive hostile intent in the actions of others even when no such intentions are present.

Several cautions should be stated in interpreting the content of Table 1. First, individual factors do not operate in isolation. For example, there is often a close link between poor parenting and associations with antisocial peers. Second, the importance of these factors may vary with age level. For example, the quality of parenting is likely a more important factor during late childhood than during adolescence. Third, while this list of factors seems to apply across gender and culture, there may be differences among these groups in the weighting of the factors and the way in which they impact the youth. For example, research suggests that girls may be more affected by a dysfunctional home environment than boys. Finally, it is important to recognize that strength or protective factors are as important as risk and need factors in describing the youth. Even young people engaging in serious crime and displaying many risk factors may also possess sources of strength that need to be recognized. The youth may have an interest in sports, or exceptional abilities in an academic area, or a caring and co-operative parent. As we will see, these can often be used as part of a treatment programme.

## VI. IMPLICATIONS FOR ASSESSMENT AND TREATMENT

We now have considerable information from programme evaluation research about effective and ineffective practices in the treatment of the juvenile offender (Andrews & Bonta, 2006; Guerra, Kim, & Boxer, 2008b; Hoge, 2001; Loeber & Farrington, 1998). Several of these principles are relevant to our discussion. This research demonstrates that:

- Effective programmes use standardized assessment tools and procedures;
- The risk principle of case classification is observed: high risk cases are provided intensive services, while lower risk cases receive less intensive services;
- The need principle of case classification is observed: targets of service are matched with the specific needs of the youth;
- The responsivity principle of case classification is observed; interventions take account of individual or circumstantial characteristics of the youth;
- Interventions are structured and focused and are based where feasible on evidence-based programmes;
- Interventions are delivered in the community setting where feasible;
- Interventions are multimodal; address the full range of needs of the youth.

There are some additional rules that, while not extensively researched, reflect the clinical experience of professionals:

- Goals and means of achievement are realistic for the youth;
- Staff delivering services are selected with care and provided adequate training and support.
- Staff take care to ensure that they represent pro-social models.

The following are brief discussions of some specific implications of these principles for the assessment and treatment of serious and violent offenders.

#### **A. Assessment**

Assessment of the full range of characteristics and circumstances of the youth is critical to the success of any intervention effort (Hoge, 2008; Hoge & Andrews, 1996). Assessments will be used to ensure that the risk, need, and responsivity principles are applied in case planning. Practical guidelines in the conduct of assessments were discussed in the first paper in this series. It was shown there that assessment tools must demonstrate adequate levels of reliability and validity.

Full psychological assessments conducted by a mental health practitioner may be called for in the case of very serious chronic offenders, particularly where there are indications of emotional disorder. These assessments will generally involve standardized personality and intelligence tests as well as structured interview procedures.

However, full psychological assessments are not required in all cases, and a number of structured assessment tools for evaluating risk and need factors in youth engaged in serious and violent crimes are available for use by non-mental health professionals. This includes probation officers, youth workers, or staff of institutional facilities. The instruments do require a background in child studies and special training in administering, scoring, and interpreting the measures.

The *Youth Level of Service/Case Management Inventory* (YLS/CMI; Hoge, 2005; Hoge & Andrews, 2002) is an example of a standardized actuarial measure providing estimates of risk for serious and violent offending and a framework for developing case plans based on a risk/needs assessment. The risk/needs section of the inventory contains 42 items reflecting characteristics of the youth (e.g., "truancy", "chronic drug use") or his or her circumstances (e.g., "parent provides inadequate supervision"). The section yields an overall risk/needs score and scores for the following domains: Prior and Current Offences/Dispositions; Family Circumstances/Parenting, Education/Employment, Peer Relations, Substance Abuse, Leisure/Recreation, Personality/Behaviour, and Attitudes/Orientation. An opportunity is also provided to indicate areas of strength. Subsequent sections provide formats for developing a case plan based on the risk/needs assessment. Reliability and validity research has been reported for the measure.

Other instruments in this category include the Early Assessment of Risk List for Boys (EARL-20B; Augimeri, Koegl, Webster, & Levene, 2001); Structured Assessment of Violence Risk in Youth (SAVRY; Bartel, Borum, & Forth, 2005); and the Washington State Juvenile Court Assessment (WSJCA; Barnoski, 2004). Borum and Verhaagen, 2006 and Grisso, Vincent, and Seagrave (2005) have provided extended discussions of these measures.

#### **B. Treatment**

Interventions with serious and violent juvenile offenders often involve purely punitive sanctions, with incarceration in a correctional institution the most common response. However, research clearly shows that punitive sanctions are generally ineffective in reducing criminal activities (Andrews & Bonta, 2006; Lipsey & Wilson, 1998). Effective interventions are based on the principles of best practice reviewed earlier in the paper. That is, they adjust the intensity of the intervention to the risk level of the youth, direct interventions at the specific needs of the youth, and take account of responsivity factors in selecting the intervention. Further, where possible we will select standardized treatment programmes that have proven effective in dealing with high risk youth (evidence-based programmes).

Research has shown that youth engaged in serious and violent criminal activities can exhibit a wide

range of risk and need factors, some of them individual characteristics (e.g., impulsivity, substance abuse, educational failure) and some characteristics of their situation (e.g., poor parenting, lack of community resources). However, it is individual characteristics relating to poor impulse control, attention deficits, high levels of anger, antisocial attitudes, and defective social-cognitive information-processing that seem most closely related to the serious criminal activity.

A number of structured intervention programmes for dealing with these individual deficits have been developed and for which some empirical support for efficacy is available. These are identified in Table 2. It should be clear, however, that applications of these programmes require the careful selection and training of individuals administering them.

---

**Table 2: Examples of Evidence-Based Treatment Programmes**

---

Anger Control Therapy  
 Aggression Replacement Training  
 Equip Program  
 BrainPower Program  
 Anger Coping Program  
 Gang Resistance Education and Training Program  
 Social Competence Promotion Program

---

## VII. FINAL COMMENTS

The introduction of standardized assessment procedures and structured intervention programmes requires financial resources. However, these should be regarded as investments rather than simply expenses. The use of proven techniques and procedures can produce significant reductions in the criminal activities of youth and this can represent meaningful savings in the legal and social costs associated with those activities.

## REFERENCES

- Andrews, D. A., & Bonta, J. (2006). *The psychology of criminal conduct (Fourth Edition)*. Cincinnati, OH: Anderson.
- Arseneault, L., Tremblay, R. E., Boulerice, B., & Saucier, J. F. (2002). Obstetric complications and adolescent violent behaviors: Testing two developmental pathways. *Child Development*, 73, 496-508.
- Augimeri, L. K., Koegl, C. J., Webster, C. D., Levene, K. S. (2001). *Early Assessment Risk List for Boys: EARL-20B, Version 2*. Toronto, ON: Earls court Child and Family Centre.
- Barnoski, R. (2004). *Assessing risk for re-offense: Validating the Washington State Juvenile Court Assessment* (Report No. 04-03-1201. Olympia, WA: Washington State Institute for Public Policy.
- Bartel, P., Borum, R., & Forth, A. (2005). *Structured Assessment of Violence Risk in Youth (SAVRY)*. Tampa, FL: Louis de la Parte Florida Mental Health Institute, University of South Florida.
- Borum, R., & Verhaagen, D. (2006). *Assessing and managing violence risk in youth*. New York: Guilford.
- Boxer, P., & Frick, P. J. (2008). Treatment of violent offenders. In R. D. Hoge, N. G. Guerra, & P. Boxer (Eds.), *Treating the juvenile offender* (pp. 147-170).
- Catalano, R. F., & Hawkins, 1996. The social development model: A theory of antisocial behavior. In J. D. Hawkins (Ed.), *Delinquency and crime: Current theories* (pp. 149-197). Cambridge, UK: Cambridge University Press.
- Farrington, D. P. (1997). Early prediction of violent and non-violent youth offending. *European Journal on Criminal Policy and Research*, 5, 51-66.
- Farrington, D. P. (2003). Key results from the first 40 years of the Cambridge Study in Delinquent Development. In T. P. Thornberry and M. D. Krohn (Eds.), *Taking stock of delinquency: An overview of findings from contemporary longitudinal studies* (pp. 137-183).
- Farrington, D. P. (2004). Conduct disorder, aggression, and delinquency. In R. M. Lerner, & L. Steinberg (Eds.), *Handbook of adolescent psychology Second Edition* (pp. 627-624). New York: Wiley.
- Frick, P. J. (2006). Developmental pathways to conduct disorder. *Child and Adolescent Psychiatric Clinics of North America*, 15, 311-332.
- Grisso, T., Vincent, G., & Seagrave, D. (Eds.). (2005). *Mental health screening and assessment in juvenile justice*. New York: Guilford.
- Guerra, N. G., Williams, K. R., Tolan, P. H., & Modecki, K. L. (2008a). Theoretical and research advances in understanding the causes of juvenile offending. In R. D. Hoge, N. G. Guerra, & P. Boxer (Eds.), *Treating the juvenile offender* (pp. 33-53). New York: Guilford.
- Guerra, N. G., Kim, T. E., & Boxer, P. What Works: Best practices with juvenile offenders. In R. D. Hoge, N. G. Guerra, & P. Boxer (Eds.), *Treating the juvenile offender* (pp. 79-102). New York: Guilford.
- Hoge, R. D. (2001). *The juvenile offender: Theory, research, and applications*. Boston: Kluwer.
- Hoge, R. D. (2005). Youth Level of Service/Case Management Inventory. In T. Grisso, G. Vincent, & D. Seagrave (Eds.), *Mental health screening and assessment in juvenile justice* (pp. 283-294). New York: Guilford.
- Hoge, R. D. (2008). Assessment in juvenile justice systems. In R. D. Hoge, N. G. Guerra, & P. Boxer (Eds.), *Treating the juvenile offender* (pp. 54-75). New York: Guilford.

Hoge, R. D., & Andrews, D. A. (1996). *Assessing the youthful offender: Issues and Techniques*. New York: Plenum.

Hoge, R. D., & Andrews, D. A. (2002). *Youth Level of Service/Case Management Inventory user's manual*. North Tonawanda, NY: Multi-Health Systems.

Lipsey, M. W., & Wilson, D. B. (1998). Effective intervention for serious juvenile offenders: A synthesis of research. In R. Loeber & D. P. Farrington (Eds.), *Serious and violent juvenile offenders: Risk factors and successful interventions* (pp. 313-345). Thousand Oaks, CA: Sage.

Loeber, R. (1988). Natural histories of conduct problems, delinquency, and associated substance use: Evidence for developmental progressions. In B. B. Lahey & A. E. Kazdin (Eds.), *Advances in clinical child psychology (Volume 11)* (pp. 73-124). New York: Plenum.

Loeber, R., & Farrington, D. P. (1998) (Eds.) *Serious and violent juvenile offenders: Risk factors and successful interventions*. Thousand Oaks, CA: Sage.

Moffitt, T. E. (2003). Life-course-persistent and adolescence-limited antisocial behavior: A 10-year research review and research agenda. In B. B. Lahey, T. E. Moffitt, & A. Caspi (Eds.), *Causes of conduct disorder and juvenile delinquency* (pp. 49-75). New York: Guilford.

Moffitt, T. E. (2006). Life-course-persistent versus adolescence-limited antisocial behavior. In D. Cicchetti & D. Cohen (Eds.), *Developmental Psychopathology (Second Edition)* (pp. 570-598). New York: Wiley.

Rutter, M. (2003). Crucial paths from risk indicator to causal mechanism. In B. B. Lahey, T. E. Moffitt, & A. Caspi (Eds.), *Causes of conduct disorder and juvenile delinquency* (pp. 3-24). New York: Guilford.

Rutter, M., Giller, H., & Hagell, A. (1998). *Antisocial behavior by young people*. Cambridge, UK: Cambridge University Press.



# INTRODUCTION TO THE CANADIAN JUVENILE JUSTICE SYSTEM

*Robert D. Hoge\**

## I. INTRODUCTION

This paper presents a description of some features of the Canadian youth justice system, including the principles underlying the system and procedures followed in the system. We will begin, though, with a review of the importance of addressing youth crime, some alternative models of juvenile justice, and principles of best practice.

## II. THE ISSUE OF YOUTH CRIME

Criminal activity of children and adolescents represents one of our most significant social issues. Its importance is reflected in public opinion polls where the issue of youth crime is nearly always cited as one of the leading public concerns. It is also reflected in the media, where reports of youth crime, particularly violent crime, inevitably receive prominent coverage. Its significance is represented well in the rhetoric of some politicians who build political platforms around concerns about juvenile crime and who frequently advocate drastic solutions to the “problem.”

Our society places a great deal of emphasis on youth and this is undoubtedly one factor accounting for our intense concern with youth crime. There are other considerations as well. Fear of being a victim of crime is a factor. Surveys show, for example, that many young people and their parents are concerned with violence in schools, and there are data showing that many people do not feel safe in their neighbourhoods. These fears may be exaggerated in some cases, but they are real to the people holding them.

There is likely a general feeling as well that we have less control over the actions of children and adolescents than adults. There are two considerations. First, we recognize that primary responsibility for controlling the behavior of young people rests with parents, and there is a widespread feeling that many parents are unable or unwilling to meet their responsibilities in this respect. Second, there is a perception on the part of some that the justice system is too “lenient” with children and adolescents than adults. This is often an erroneous perception, but it does influence public opinion.

Finally, criminal activity on the part of young people often represents social conditions that we find difficult to confront. Poverty, racial prejudice, unemployment, family conflict and violence are all conditions associated with youth crime, and they also represent difficult social problems for which we often have no easy solutions. Some of our anxiety about youth crime probably reflects our feelings of helplessness in the face of these problems and perhaps some degree of guilt over our inability to solve them.

These observations about the bases for our concerns about youth crime are not intended to deny its importance. Tremendous costs are associated with these activities. First, there is the significant harm often suffered by the victims of crime. Physical pain and psychological trauma to the victim are often the consequences of violent crimes, and the families of victims may also suffer from these actions. Even so-called property crimes such as vandalism, shoplifting, and petty theft may result in burdensome monetary costs to individuals and organizations, as does the need to fund police and security services. There are, as well, significant costs associated with the processing of young people in juvenile justice systems and housing them in custody and other residential facilities. These costs escalate dramatically, of course, where the young person continues the criminal activity into adulthood.

---

\* Department of Psychology, Carleton University, Ottawa, Ontario, Canada.

One should also consider the consequences for the young person engaging in the criminal activity. It is sometimes difficult for those who are the victims of crime and for those who work closely with these youth to feel compassion for them. Some, in fact, do “get away” with their crime and some are treated in an apparently lenient way by the justice system, but many boys and girls do experience the consequences of their actions through stigmatization, periods of removal from their family and community, or, where they do not desist from their criminal actions, through continued conflicts with the justice system. In the latter case, the highest price is paid by society through its loss of a productive member of the community.

Parents and families of the youth committing the crime may suffer. Some parents may be indifferent to their child’s criminal activity and cases exist where parents encourage the activity. These, however, are exceptions, and in many cases the criminal activity of the youth places great strains on parents and has a negative impact on the functioning of the family.

One final potential cost associated with youthful criminal activity should be noted. Some politicians and members of the public have used fears about alleged escalating rates of youth crime to propose drastic solutions. The latter may involve suspending or modifying traditional judicial rights or introducing severe punitive measures. However, these actions do not always have the desired effects and in some cases may have unintended and undesirable consequences. To illustrate, some jurisdictions in an effort to “crack down on youth crime” have increased the numbers of youths incarcerated in custody facilities. However, incarcerating youths, especially low risk young people, may have the effect of increasing levels of criminal activity. Judicial systems within a democracy are fragile creations and should be tampered with only with great caution.

### **III. ALTERNATIVE MODELS OF JUVENILE JUSTICE**

We can identify three broad goals for a juvenile justice system. First, systems are responsible for providing the public with protection from criminal activity. This is particularly important from the point of view of public support for any police or juvenile justice system. Second, the system is responsible for providing accountability to victims of crime. Victims have a right to see that those who have harmed them are held accountable for their actions and, where possible, receive some form of compensation for their injury. Third, and this a somewhat more controversial point, a juvenile justice system is responsible for addressing the factors that placed the youth at risk of the criminal activity. The goal in this case is developing positive competencies in the youth to reduce the likelihood they will engage in further criminal activity.

Controversies arise over the best strategies to achieve these goals, and the controversies are complicated by the perception that three goals are contradictory. That is, strategies for ensuring public protection may run counter to strategies required for improving the youth’s competencies through rehabilitative strategies. We will see later that strategies for achieving the goals do not have to be contradictory in spite of the polarized public debates.

Corrado (1992) has provided a useful framework for describing alternative strategies for addressing the issue of youth crime. At one extreme is the Corporatist model where the treatment of the youthful offender is integrated into the broader social service system. The Scottish system represents this approach, where educational, mental health, juvenile offending, and child protection are all integrated into a single social service system for children and families. At the other extreme is the Crime Control model where the focus is solely on limiting criminal activity through the use of judicial processing and punitive sanctions.

However, most juvenile justice systems are based on what Corrado terms Justice or Modified Justice models. These are systems that incorporate both punitive and rehabilitative strategies within a formal judicial framework. We will see this approach illustrated in the Canadian juvenile justice system discussed later in the paper.

### **IV. THE RESEARCH EVIDENCE**

The two earlier papers in this series indicated that considerable research has now been reported on best practices in the treatment of juvenile offenders (see Loeber & Farrington, 1998, Guerra, Kim, & Boxer, 2008; Hoge, 2001). We can ask what lessons that research provides us in selecting among the alternative models.



### **A. General Findings from the Research**

Research on the effects of alternative intervention strategies has provided us with four important conclusions:

- Early prevention programmes carefully targeted to the needs of the child and the family and delivered effectively can be effective in reducing future antisocial activities;
- Punitive sanctions are generally not effective in discouraging initial criminal activity or reducing the likelihood of continued activity on the part of those exposed to the punishment;
- Appropriate treatment programmes delivered effectively can be effective in reducing criminal activity;
- Appropriate prevention and treatment programmes delivered effectively can reflect a favourable cost/benefit ratio; that is, the programmes can pay for themselves in longer term outcomes.

### **B. Importance of Best Practices**

Two important qualifications represented in the latter two conclusions should be noted. First, programmes must be delivered effectively or with fidelity. In too many cases evidence-based programmes do not have the desired effects because of inadequacies in their delivery.

The second point relates to the qualification regarding 'appropriate treatment programmes.' Not everything works and some programmes work better than others. Fortunately we now have guidelines for effective programmes based on the principles of best practice emerging from research in psychology and criminology. These guidelines, reviewed in the second paper in this series, indicate that effective programmes (a) observe the risk, need, and responsivity principles of case classification, (b) deliver services in the community setting where possible, (c) where institutionalization is necessary, provide needed services, (d) address the full range of needs of the youth (multimodal), and (e) utilize evidence-based programming. The effectiveness of any juvenile young offender system will depend on the extent to which these principles are observed.

## **V. THE CANADIAN YOUNG OFFENDER SYSTEM**

The Youth Criminal Justice Act is the current law governing the treatment of youth (ages 12 to 18) engaged in criminal activity. The law is an act of the Federal Parliament of Canada, while the administration of the law is the responsibility of each of the 10 provinces and three territories of Canada. The Act provides guidelines regarding definitions of illegal acts, legal procedures to be observed in dealing with the youthful offender, and the range and conditions of available dispositions for youth convicted of a criminal action. The provinces and territories are then responsible for the structure of the court, the probation system, the various institutional facilities used with juvenile offenders, and juvenile offender programming. We will see more details on this later in the paper.

### **A. History**

No special laws relating to juvenile crime existed in Canada prior to 1908, although an Act for Establishing Prisons for Young Offenders was passed in 1857 to establish separate prisons for youthful offenders. The first law specifically applying to young people charged with criminal acts was passed in 1908 and since that time two other laws have been declared:

- Juvenile Delinquents Act (1908-1984)
- Young Offenders Act (1984-2003)
- Youth Criminal Justice Act (2003-present)

Each of those acts was preceded by heated parliamentary debates over the most effective strategy for addressing youth crime. Those debates always revolved around the three goals of juvenile justice systems discussed above with the real issue the balance of punitive and rehabilitative focus. However, the resulting system has always reflected what Corrado (1992) refers to as a Modified Justice model. That is, it is a system including both punitive and rehabilitative elements within a formal judicial system. The Canadian judicial system has always exhibited a more child welfare oriented approach to youthful offenders than many other systems, but still the relative emphasis on the punitive and rehabilitative elements has shifted back and forth over the years.

The current act, the Youth Criminal Justice Act, represents an interesting compromise. It provides somewhat harsher dispositions for very serious offences than did the earlier Young Offenders Act, but it places considerable stress on diversion and rehabilitative strategies for youth charged with lesser crimes. An effort was made to observe the principles of best practice reviewed above in developing the Act. The following section provides a discussion of the major principles of the Youth Criminal Justice Act.

### **B. Principles of the Canadian Youth Criminal Justice Act**

The Act is built on three general principles. These state that the youth criminal justice system is intended to:

- Prevent crime by addressing the circumstances underlying a young person’s offending behaviour;
- Rehabilitate young persons who commit offences and reintegrate them into society; and
- Ensure that a young person is subject to meaningful consequences for his or her offence in order to promote the long-term protection of the public.

As can be seen, provision is made for both rehabilitative and punitive strategies. The goal of accountability to the victim is also represented through the indication that dispositions should “encourage the repair of harm done to victims and the community.”

The Act also includes sentencing guidelines for judges, and while these allow for the provision of punitive sanctions including incarceration, there is also a strong rehabilitative emphasis represented. The following are the major sentencing principles:

- All available alternatives to custody must be considered;
- The sentence must be the least restrictive sentence consistent with other sentencing principles;
- The sentence selected must be that most likely to rehabilitate the young person and reintegrate them into society and promote a sense of responsibility in the young person.

As indicated above, the Act also provides for a harsher sentence for 14 to 18 year old youth committing serious violent crime by allowing the judge to assign an adult sentence. However, the parole eligibility dates are earlier for offenders committed as youth, and there is an assumption that the individual will receive rehabilitative services while in custody. The provision is not used often.

### **C. Specific Provisions of the Youth Criminal Justice Act**

The principles of the Act are then supplemented by a set of specific guidelines regarding appropriate actions. The following is a brief discussion of some of the major provisions.

#### 1. Extrajudicial Measures

These measures are designed to divert youth from the justice system. The use of this option is at the discretion of the police, with the following options available: release, release with informal warning, release with formal warning, or referral to a community-based intervention programme. The provision is designed for low to moderate risk youth committing relatively minor crimes. The goal is to keep youth out of the judicial system wherever possible but to provide interventions where needs exist. Restorative justice procedures may also be included as extrajudicial measures. Details of one of the diversion programmes will be presented later.

#### 2. Extrajudicial Sanctions

These are alternatives to formal court processing and are applied after the youth has been charged with a crime but prior to trial. They represent a post-charge diversion action designed to reduce the use of custody. The sanction will generally involve successful completion of a community-based treatment programme.

#### 3. Probation

A period of supervision in the community by a probation officer is the most common disposition for youth convicted of a crime. Because of the rehabilitative focus of the Act, services are to be provided during the probation period to address the risk and need factors of the young person. Probation officers are also responsible for supervision of youth for a period of time following release from custody.

#### 4. Custody

Each province and territory is required to maintain institutional settings for youth assigned a custody disposition. These are generally secure facilities or more open group homes. Authorities are responsible for ensuring that appropriate programming is provided the youth in these settings. However, as we have seen above, the Act directs judges to use custody only where all alternatives are considered inappropriate. In fact, the use of custody has declined significantly since introduction of the Act in 2003.

#### 5. Intensive Rehabilitative Custody and Supervision

These programmes represent community or institution-based interventions for youth with serious mental health issues. They are staffed by mental health professionals.

### **D. Applications of the Youth Criminal Justice Act in Ontario**

As indicated above, the administration of the Youth Criminal Justice Act is the responsibility of the provincial and territorial governments. This inevitably means that there will be some variability across Canada in the actual treatment of a juvenile offender. Some of this variability will arise from financial considerations and some from cultural differences among regions of the country. However, the Act provides reasonably strict guidelines for the treatment of the offender, and the differences across regions of the country tend to be relatively minor. The following is a description of some features of the application of the Act in the Province of Ontario.

Ontario is one of the larger provinces in terms of population and relatively speaking one of the wealthiest. However, it confronts a number of serious issues. The immense size of the province and relatively small populations in more remote areas presents serious problems in providing services. The larger cities have also had to deal with large numbers of immigrant families, many from third-world countries. Special challenges are also presented by the remote Aboriginal communities in the north of the province, many of which face serious economic and social problems. These issues should be kept in mind in considering the following discussion of some features of the province's juvenile justice system.

#### 1. Diversion Programmes

Diversion of as many youth as possible out of the justice system is one of the most important goals of the Act. Each region of the province is required to have a structured diversion programme, although some are more advanced than others. The City of Ottawa has developed one of the most effective programmes operated by the Boys and Girls Club and Ottawa Police Services. Police Services perform the initial screening of the youth, and those deemed eligible for the programme are then referred to the Boys and Girls Club for more intensive assessment and referral to community-based programmes suited to the needs of the youth. This programme addresses two of the major goals of the Act by diverting low and moderate risk youth out of the justice system and by providing rehabilitative services for those in need.

#### 2. Probation Services

The Province of Ontario has developed a case management system operated by the Youth Justice Division of the Ministry of Children and Youth. Within this system a probation officer is responsible for the youth from the time of adjudication to discharge from the system. The probation officer's responsibilities include ensuring that the youth observes the conditions of the sentence and that the young person is able to access community-based services consistent with his or her needs. Where the youth is incarcerated, the probation officer works with institutional personnel in developing an intervention programme. The officer is also responsible for monitoring the youth for a period following release from custody. Probation officers hold a university degree and are provided six weeks of intensive training by the Ministry.

#### 3. Alternative to Custody Programmes

We have seen that the provision for community-based post-adjudication programmes forms an important part of the Youth Criminal Justice Act. Ontario has established a variety of these programmes across the province. One example is the Attendance Centre programme. The initial step of the programme involves an intensive assessment of risk and need factors of the youth. The youth then attends group-based intervention programmes designed to address specific need areas: attitudes/behaviour change, peer group associations, alternatives to aggression, pro-social problem solving, substance abuse, and education/employment.

The Intensive Support and Supervision Program of Eastern Ontario Youth Justice Agency is an example

of a community-based programme specifically designed for youthful offenders with serious mental health issues. Staff members are experienced clinicians who are able to work intensively with the youth and his or her family. Community-based mental health services are also accessed.

#### 4. Custody

The province directly operates five secure custody facilities for youth and contracts with non-profit organizations for an additional five facilities. The other type of custody facility, open custody, is less restrictive, and these involve group homes operated under contract by private or non-profit organizations. All facilities are expected to have intervention programmes available to meet the needs of the youth.

#### 5. Aftercare Services

The Youth Criminal Justice Act stipulates that after release from custody youth must receive a period of supervision by the probation officer. Some specialized programmes have also been introduced for this post-release period. An example is the "A Different Street" programme in Ottawa. This programme is specifically designed for 16 to 18 year-old youth released from custody who would otherwise be homeless on release. The programme is housed in a residence accommodating 24 males. Staff within the programme are able to provide intensive counselling services for the young men and refer them to needed services outside the residence. The programme focuses on developing living, educational, and vocational skills in the clients.

### **E. Barriers and Strengths**

The Youth Criminal Justice Act and the programmes being created across Canada in connection with that Act represent efforts to incorporate research-based principles of best practice and, as well, the UNICEF Guiding Principles for Organizations and Individuals Dealing with Child Welfare and the United Nations Convention on the Child.

However, it is useful to acknowledge barriers in fully implementing the Act. Political barriers arise from advocates of tough-on-crime policies that emphasize the use of punishment and consider rehabilitative efforts a waste of money. This type of pressure is seen from the public and politicians and, regrettably, sometimes from staff of juvenile justice systems. Educational efforts are the only way to counter this type of resistance.

Economic barriers arise because many programmes effective in addressing the needs of the youth are expensive and produce resistance from the public and politicians. Two responses to these economic barriers are appropriate. First, many of the community-based programmes, even the more costly ones, are often less expensive than incarceration. Second, many of the programmes are cost effective. In other words, if the interventions are implemented effectively, the costs will be recovered through future reductions in offending rates, lower school drop out rates, lesser demands on adult mental health facilities and other such outcomes. Fortunately, we are beginning to obtain good information from cost/benefit analyses that provide actual figures on the economic returns of many programmes (see Tyler, Ziedenberg, & Lokke, 2006).

Finally, we sometimes encounter practical barriers to implementing our programmes. First, and as we have seen, the range of our options may be limited by economic and resource considerations. We all have limited resources, and sometimes difficult choices must be made. The only response is to observe, as closely as possible, the principles of best practice. Another practical obstacle derives from the fragmented nature of our human service systems. Our youth often exhibit special needs in many areas and may have contacts outside the juvenile justice system, including special services in the schools, treatment in the mental health system, and services from child protection and other such service agencies. All of these systems must work together to effectively address the needs of the youth, but in too many cases barriers exist to that co-operation.

There are, on the other hand, positive developments to note. First, our understanding of the causes of youth crime and of the most effective means of addressing the phenomenon are advancing rapidly through psychological and criminological research. Second, and perhaps most important, are the countless individuals working in our juvenile justice systems who care about young people and who are willing to make efforts to address their needs. The potential profits of their efforts to society are incalculable.

**REFERENCES**

Corrado, R. R. Introduction. In R. R. Corrada, N. Bala, R. Linden, & M. Le Blanc (Eds.), *Juvenile justice in Canada: A theoretical and analytical assessment* (pp. 1-20). Toronto, ON: Butterworth.

Guerra, N. G., Kim, T. E., & Boxer, P. What Works: Best practices with juvenile offenders. In R. D. Hoge, N. G. Guerra, & P. Boxer (Eds.), *Treating the juvenile offender* (pp. 79-102). New York: Guilford.

Hoge, R. D. (2001). *The juvenile offender: Theory, research, and applications*. Boston: Kluwer.

Loeber, R., & Farrington, D. P. (1998) (Eds.) *Serious and violent juvenile offenders: Risk factors and successful interventions*. Thousand Oaks, CA: Sage.

Tyler, J. Ziedenberg, J., & Lotke, E. (2006). *Cost effective corrections: The fiscal architecture of rational juvenile justice systems*. Washington, DC: The Justice Policy Institute.



**JUVENILE JUSTICE:  
A STUDY OF NATIONAL JUDICIARIES FOR THE UNITED NATIONS  
ASIA AND FAR EAST INSTITUTE FOR THE PREVENTION OF CRIME AND  
THE TREATMENT OF OFFENDERS**

*A focus on Singapore and selected comparisons with California (USA) & Australia*

*Joseph Ozawa\**



### **I. SINGAPORE**

When Singapore is mentioned in various parts of the world, there are certain predictable responses, often focusing on Singaporean laws or the judicial system. “Oh, the place that makes chewing gum illegal!” or “The country that caned Michael Fey for spraying graffiti!” or “The nation that makes it a crime not to flush a toilet!” However, despite these sometimes amusing though derisive attributions, taking decisive action on minor infractions was subsequently popularized and advocated by James Q. Wilson and George L. Kelling in their 1982 treatise entitled, “broken windows.” Here Wilson and Kelling argued that actually tolerating broken windows will actually result in larger and more extensive crimes. A successful anti-crime strategy is to fix problems when they are still minor. New York City government used much of Wilson’s and Kelling’s theory in “cleaning up” New York streets.

Whatever the end product of “small laws,” Singapore has 12 times the population of Vancouver but just half the crime rate. It is difficult finding many recent international crime comparisons and as researchers know, comparing crime rates is filled with methodological problems. However, in general, in 1993, the juvenile delinquency rate in Singapore was rated at 538 per 100,000 persons whereas Japan was rated 1,220 per 100,000 and the USA 5,460 per 100,000. Similarly, in 1994, property crimes in the UK were 7,107 per 100,000, the USA 4,654, Japan 1,248 and Singapore 874 per 100,000. Finally, a 2004 study by the United Nations on homicide rates found that of all nations studied, Singapore had the lowest homicide rate, and a rate which has been consistently below other nations such as the United Kingdom, the USA, and most European nations.

Anecdotally, many foreign companies find Singapore not only safe but clean and a very open environment for foreign investment and business activities. Singapore is a popular tourist destination, receiving over eight million visitors a year. At just 700 sq. kilometres, and little more than 4.5 million people with no natural resources, Singapore has an annual GDP that competes with leading nations of Europe. This gives it the world’s fourth most competitive economy. The city-state also has a high standard of living, low unemployment, and a literacy rate of 98 percent.

All this despite, or perhaps due to, Singapore’s pluralistic society. In the 2000 census, the Singapore citizen population was 76.5% Chinese, 13.9% Malay, 7.9% Indian and 1.4% others. Since then, in 2007, seven years later, the demographics have changed - foreigners were estimated to be around 25% of the total population and about 30% of the total work force. From Muslims to Western technological companies, from Chinese to Malays to Indians to Japanese to Australians, Singapore is usually experienced as a welcome home to all races, cultures, and religions.

Further, Singaporeans are globally effective, successful in top universities, and the rate of suicide or severe mental disorders is low. Health services are some of the best in Asia. Corruption is rarely heard of.

To what can the “Singapore story” be attributed? One factor is its judiciary which, though maligned by

---

\* Senior Deputy Director, Family and Justice Centre, Subordinate Courts of Singapore.

pundits, has consistently been rated as one of the best in Asia and in the world. In 2006-2007, the Hong Kong-based Political and Economic Risk Consultancy (PERC) ranked Singapore in the top three positions for judicial systems in Asia, together with Hong Kong and Japan. In PERC's comparative risk report for 2007, Singapore retained its ranking as the overall least risky country in Asia.

The PERC report also pointed out that Singapore and Hong Kong are the only two systems in Asia that have judiciaries which are rated on par with those in developed Western societies. Singapore is also highly rated in matters of judicial independence. There are three essential elements of judicial independence: the courts and individual judges are publicly perceived to be impartial in their decisions; the judicial decisions are accepted by the contesting parties and larger public; judges are perceived to be free from undue interference from other branches of government.

Singapore was also ranked top in another report – the World Bank Worldwide Governance Indicators. This report covers six dimensions, including the rule of law. Among nine Commonwealth countries, Singapore was ranked number three, after New Zealand and Canada.

## II. SOCIETAL “ANOMIE” VERSUS SHARED MORAL VALUES

It might be argued that crime deals with violations of laws, and that laws reflect prohibitions against a breach of human relationships as well. For example, assault is essentially an attack on another's physical body. In the case of protection orders, even emotional abuse of a family member can be considered grounds for a legal order. Child protection is a defence against adults neglecting or abusing a much weaker, defenseless child; divorce matters are considerations of the disintegration of marital relationships and the consequences on children and property; theft in dwelling is the unlawful entry into another's personal/professional building or living quarters for the purpose of stealing their property; rioting or unlawful assembly is the gathering of individuals with the collective intention of doing harm to someone.

In this sense, justice is not just an abstract concept, but the rectification of or recompense for interpersonal wrongs. Crime rates thus reflect not simply matters of rules and regulations, but the violation of societal norms, interpersonal values, and principles governing behaviour and the treatment of other citizens within a given nation. At one extreme, there is what this author has termed, “*anomie*,” the breakdown of moral values, the absence of interpersonal connections, the development of purely self-centered, hedonistic, developmentally immature patterns of behaviour which lead to random acts of violence and suicide. Nineteenth century French sociologist Emile Durkheim discussed “*anomie*” in relationship to suicide which reflected an absence or diminution of standards or values, a “normlessness,” alienation, purposelessness and in a moral sense, a lawlessness. Durkheim argued that societal “*anomie*” rather than negative events in an individual's life, led to suicidal behaviour. He also argued that it was religion which provided the shared moral values to counter-act *anomie*.

Contrary to *anomie*, or a society of alienation, is a society of low crime and high interpersonal care and concern. This is a society which not bred of retaliatory rules nor simply reduced to fear of legal sanctions, but steeped in the heart of the citizens - a high regard for interpersonal and familial connectivity.

Even though Singapore is a multi-cultural, multi-religious, multi-ethnic society, commonly shared high religious and cultural moral values are integrally woven into a judicial system of high standards of justice, integrity, and fairness. This is the Singapore model.

*“The time has come for the Court to develop a new family and juvenile justice pathway...(taking) an integrated approach to tackling the problems of marital breakdown and poor parenting, which in turn lead to problems of juvenile delinquency, and, in a vicious circle, lead to problems of marital breakdown and poor parenting in the next generation...”* The former Chief Justice of the High Court of Singapore, His Honour, Chief Justice Yong Pung Howe Jan 2002.

Reparation is not so much an execution of legal rules as rectification of human relationships gone awry and the violation of cultural, moral and religious values. This is reflected in the characteristics of court users. Somewhere, there has been a wrong against another, whether actual, perceived, or even imaginary.

Somewhere, there is usually an interpersonal conflict, often between neighbours, friends, and family members. In courts we often find:

- seemingly intractable disagreements
- acrimonious confrontations
- emotions that have gone out of control
- interpersonal traumas
- revenge, lack of forgiveness, retaliation
- dysfunctional families
- addictions
- violence
- generational cycles
- societal “*anomie*”

As the Chief Justice of the High Court of Singapore has reflected in the above quote, this requires an “integrated pathway,” one which is legal but also informed and in dialogue with the social sciences - psychology, social work, counselling, social science research, forensic science, sociology. No prison term, however restrictive or lengthy, can, in and of itself, deal with lack of forgiveness, post-traumatic stress disorder, suicidal ideation, drug addiction or chronic, impulsive violence. The rate of recidivism will always be extremely high when simple punitive approaches based on deprivation of key familial and community interpersonal relationships is seen as a solution crime which is largely interpersonal in nature.

### III. REDEMPTION VERSUS RECIDIVISM

In sum, the courts of Singapore are of the belief that courts are not dealing simply with complex legal matters but with complex human relationships within an overall context of societal values based on religious and moral traditions. It is not recidivism which is the touchstone of Singaporean justice, but rather the redemption of individuals from lives which violate high norms of interpersonal behaviour.

As a relatively “new” nation, Singapore is rooted in shared values, a common sense of justice based upon the vibrant cultural, ethnic and religious values of its citizens, including a high value placed on interpersonal harmony within a diverse, multi-cultural context. Thus, a foreigner in Singapore comes quickly to learn that, Singaporeans do not allow child abuse or rape to take place despite what may have been the norm in an individual’s homeland. Further, revenge and retaliation are not high moral values in Singapore. Confucian values of families and home, of respect for the elderly and for parents, of honesty over corruption, of achievement over cronyism, of honesty over cheating, of respect for the lives of all people whether adult or children, male or female, or of a different religion, race, or culture, prevail. Foreigners are treated with dignity and people of other skin colour, religions or cultures are respected rather than denigrated.

To visitors from many other lands, this feels like “over-control.” “Doing your own thing” and “freedom of expression,” related to “indecent” actions are not permitted in Singaporean society which still exercises censorship, demands modest dress codes of all students, and respect for teachers and elders. There is an Islamic Sharia Court which operates in specific matters pertaining to Islamic families and many of the Muslims in Singapore insist on conservative values and morality. This is supported by a conservative evangelical Christian community as well.

The courts of Singapore are rooted in English law and as a former Crown Colony, Singapore’s system of law seeks to be impartial, denoting the absence of bias or prejudice in favour of, or against, particular parties or classes of parties. The courts seek to maintain an open mind in considering all issues. In this sense, the judiciary is also independent, reflecting reasoning which does not manifest discrimination, prejudice or influence through outside/social contacts.

Thus, juvenile justice within Singapore reflects not just a system of laws, but norms and values related to interpersonal connectivity, such as honesty, mutual respect, protection of weaker, more vulnerable individuals (e.g. children or women) from perpetrators of crime, restitution, restoration, respect for authority and family, yet prohibitions against interpersonal abuse or neglect, rights of advocacy, equality under the law, freedom from corruption or outside influences, integrity of action, objectivity, and as



mentioned above, judicial impartiality. The yardstick of success is not merely less recidivism but the redemption of individuals.

#### IV. CONVENTIONS RELATED TO JUVENILES AND CHILDREN

Within these high societal moral and legal values comes a basic regard for vulnerable citizens, in this case, children and juveniles. Presuppositions regarding children and juveniles set the stage for juvenile justice. The definitions of "child" or "juvenile" establish judicial norms.

Nowhere is the redemption of individuals more highlighted than in Singapore's juvenile justice system. In Singapore, the presupposition is that anyone who is broadly a child/juvenile/young person is not an adult and therefore requires assessment, treatment, protection, and sentencing which may be "special," meeting their particular needs and protecting them as they are especially vulnerable or developmentally less mature. This is in keeping with international conventions.

Following the Convention on the Rights of the Child (U.N., 1989), United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules") adopted by General Assembly resolution 40/33 of 29 Nov 1985, children must be "dealt with for an offence in a manner which is different from an adult. Thus, the age at which an offender is considered a "child" is important.

Further, the "United Nations Rules for the Protection of Juveniles Deprived of their Liberty" adopted by General Assembly resolution 45/113 of 14 Dec 1990 reads: *"Deprivation of the liberty of a juvenile should be a disposition of last resort and for the minimum necessary period and should be limited to exceptional cases. The length of the sanction should be determined by the judicial authority, without precluding the possibility of his or her early release."*

In examining this matter, it appears that most nations consider those under 18 to be a "child," but the application and exceptions makes this a complex matter indeed. For example, in the USA and Australia, the age range (low end of accountability for crimes committed and high end for transition to adult status) is 10-18 whereas for Singapore it is 7-16.

Some considerations include:

- At what age is a person held "criminally responsible"?
- Is there a "presumption against" criminal responsibility?
- Is the age of criminal responsibility different from international, cultural or "legal" norms of the age at which a child becomes an adult? (e.g voting, smoking, driving, enlisting in military, etc.)
- What is the person's developmental/psychological maturity (i.e. is someone who is of "low functioning" mentally to be considered an adult)?
- What is the age at which a person develops "sufficient maturity of understanding"?
- At what age does a person develop adequate "moral reasoning" or "moral accountability"?

Thus, superficially, Singapore appears to be less juvenile friendly than California. However, in Singapore, though the lower age limit is seven, rarely is a child below ten considered to be of "sufficient maturity of understanding" to be charged as a juvenile so the net effect is that the age of actual criminal responsibility is around ten. On the other hand, though California law highlights 18 as the upper age bracket for juvenile offenders, in fact, someone who is 14 can be tried as an adult for many crimes (e.g. robbery with a weapon, crimes with guns, drug crimes, escaping from detention, etc.), making California's effective upper limit 14 rather than 18 in some cases. Due to some high profile crimes, the slogan in the US became, "adult crime, adult time," and these "super-predators" who were juveniles, were tried and sentenced as adults. As will be discussed below, Singapore has formed a new court, the Community Court designed to provide more rehabilitative practices for offenders even up to age 21!

In point of fact, paradoxically to some, but actually quite predictably, according to Amnesty International, since 1990, the United States has had one of the highest rates of "executions of child offenders" in the world (along with China, Iran, Saudi Arabia and Pakistan). Thus, despite the 18 year upper limit, even young offenders are "executed" for crimes in the U.S.A. Singapore has executed no juveniles.

## V. JUVENILE COURT SYSTEMS

Discussing or comparing juvenile justice systems is therefore fraught with complexities, and perhaps only broad strokes can be used. For example, an examination of the overall crime rates, incarceration rates, and recidivism would yield some comparisons. Reforms and innovative (and successful or unsuccessful) programmes and “best practices” are worthy of consideration.

For example, as California led the USA in juvenile arrests and incarceration in 1997, the severity of problems was immense. California then proceeded with a series of reforms including disposition planning processes, treatment of juveniles by multi-disciplinary teams, the provision of aftercare, reintegration through “step-down” facilities and graduated sanctions for parole violators, more mental health services, improved conditions at detention centres, risk assessment, and community-based youth crime and violence prevention programmes. In 2006 in California and across the USA in general, the rate of juvenile violent crime arrests has consistently decreased. In California, crime went down 46% from 1994 to 2005.

Yet on 26 April 2008, the *San Jose Mercury News* (California) published a scathing indictment of the juvenile justice system in California, alleging, among other things:

- Abused/neglected children not adequately dealt with
- Poor legal representation
- “Broken Families, Broken Courts”
- Lack of youth offenders programmes, inadequate mental health care, drug treatment, and limited care for teenage girls
- Public safety is at “risk”
- Poor judicial leadership
- Poor resources for youth offenders
- High caseloads and overly superficial court proceedings
- Incomprehensible language in courts.

What then causes a juvenile justice system to fail? Conversely, what are some of the attributes of successful systems?

1. National legislation governing and mandating special treatment for juveniles with specific delineation of ages at which they are criminally responsible for crimes and the upper limit at which point they are charged as adults.
2. Community-based diversionary programmes which are “upstream” and designed to deal with “at-risk youth” in lieu of having them charged in the juvenile justice court system, making the assumption that juveniles may be “adolescence-limited” offenders passing through a developmental stage of maturation.
3. Specialized courts dedicated only for children and juveniles including procedural safeguards which differentiate juvenile court processes from adult criminal processes to minimize stigma and ensure the consideration of developmental needs and restorative practices.
4. Broad-based scope of legal handling of children and juveniles involving not only juvenile arrest cases, but child abuse and protection, child victims of family violence, personal protection orders, child responses to acrimonious divorces which places them at risk, custody evaluations, and status offenders (or “beyond parental control” cases).
5. Separating juveniles who commit crimes from children who are victimized, abused, or neglected; providing special, non-stigmatizing courts and treatment for children who are abused, neglected, rejected, and who suffer the fallout of adult criminality, broken relationships, and pathology.
6. Holistic and integrated, inter-disciplinary treatment of offenders, including family therapy, treatment by psychologists, social workers, counsellors, lawyers, medical/psychiatric care for mental health matters and medication, community intervention specialists, and judicial officers. The development of and working out of “treatment plans” based upon “risk assessment instruments.”

7. Graduated dispositional orders (“sentencing” in adult terms) including various degrees of probation options in order to differentiate between offenders and ensure that juveniles are given every opportunity to reform within home and community settings rather than in custodial centres.
8. In-court programmes and specialized treatment such as restorative family conferences, risk and treatment assessments, specialized social science consultations, and counselling services.
9. Treatment options including custodial sentences but which may have a variety of potential dispositional orders such as counselling for the juvenile and parents, community service, workshops on such matters as smoking cessation or violence prevention, theft intervention, and the development of pro-social relationships.
10. Specialized detention facilities which are designed to accommodate juveniles (and not adult prisoners), providing less obviously criminogenic surroundings and exposure to hardened criminals. These facilities provide educational and vocational training opportunities, religious and moral education, restorative practices, and counselling opportunities.
11. Community-based integrated and collaborative services involving family services/counselling centers in local communities, co-operation with schools, police involvement, employment, and management of dysfunctional families in the community. The belief that “It takes a whole village to raise a child.”
12. Systems integrating the “state of the art” in terms of social science applications including forensic assessments, case planning, counselling and group work, and rehabilitative practices.

## VI. SYSTEMIC VALUE SYSTEMS AFFECTING JUVENILE JUSTICE

Having visited the juvenile justice systems of Australia and Japan, having been raised in California (and with a daughter who is an Assistant District Attorney in California) and having worked in Hawaii, and finally, being a court psychologist in Singapore, has given me the ability to offer very rough comparisons between different nations. What appears to be one way of studying nations is not just examining the mechanisms of juvenile justice but the fundamental underlying values in each nation regarding crime and young people.

The following are impressionistic rather than factual, yet offered as potential comparative descriptions of national landscapes. Certainly warranting a much more in depth analysis, one might offer some of the following quick comparisons:

### A. USA (California)

America, and certainly California, one of America’s most prominent and populous states, is a nation which explicitly promotes “freedom” and the “pursuit of happiness.” Divorce rates are high, people often live together without being married, juveniles often have access to lethal weapons (reflecting the “right to bear arms”), drugs/alcohol, violence and sexuality are graphically depicted in the cinema and media, racial and ethnic inequalities are deeply rooted, and poverty remains a salient problem. Reacting to high crime, gang violence, broken families, and murder as major issues in inner city California, especially amongst Hispanics and African-Americans, the juvenile justice system has often become punitive. In America, incarceration rates are high. One recent response to waves of juvenile gang crimes in California has been to maintain public safety by placing offenders under the California Youth Authority (CYA) and placed in detention centres. However, it should be noted that for every 1,000 youth cited by police only six will be placed on formal probation and one referred to CYA. Many are released without adequate rehabilitation.

### B. Australia

One Australian juvenile court judge said to me recently, “We are a Commonwealth nation, much like the UK, but we are sliding towards America!” Indeed, in my visit in May 2008 to the courts of Australia, I noted that they too have a high divorce rate (one judge estimated 40%), broken families, inequalities (especially, according to judges, regarding the “aboriginal” peoples), drugs/alcohol, and family violence. However, they have much tighter gun control laws than in the USA, an absence of flagrant sexually explicit/violent drama or media, and a juvenile justice system which is rarely punitive but much more focused towards rehabilitation. The nation has very exceptional training for social workers, psychologists, and other helping professionals,

substantial insurance support for counselling, and a high judicial regard for the role of psychologists and mental health professionals within the court itself (or under the Attorney General's Office). Mental health teams, court "consultants" and case workers are actively involved in their court processes. Australia also appears not to have the same major divide between rich and poor as in America; it appears to be a strong welfare state, providing quite amply for the less fortunate.

## VII. JUVENILE JUSTICE IN SINGAPORE AND "PRAGMATISM"

Singapore is known as a "pragmatic" society, governed by individuals who are less concerned with philosophy or politics than whether a policy operates in a positive and effective manner. Thus, despite international derision over "chewing gum," "no-spitting," "no-littering" laws, it saves millions of dollars annually from having to clean up public facilities from various forms of problems. The public transportation, irrigation, road pricing, educational system and retirement "schemes" are all based upon what has been effective in other nations. These policies are subsequently adapted to local needs and norms.

Similarly, the juvenile justice system is based upon what works (what we today might call, "best practices") in other similar nations. Much has been adapted from Hong Kong, Canada, the United Kingdom, Australia, and other Commonwealth nations with similar legal systems. Singaporeans are always eager to import "expert consultants" from nations whose systems are effective to "teach" the local government and equally are very quick to even instantaneously adapt the new learning. Thus, although there are many aspects to the juvenile justice system of Singapore, the following are not always "innovative" or "unique" to Singapore, but adaptations of successful systems of other nations. As a partial result of this system, crime rate is one of the lowest in Asia, indeed, in the world, violent crimes are low, murder is rare, mental health disorders and disabilities are dealt with, schools are relatively orderly and free of gangs, violence or severe bullying, and general youth in the nation are polite, decently dressed, and genuinely have "pro-social" attitudes.

## VIII. SINGAPORE: MENTAL HEALTH DISABILITIES / DISORDERS AND CRIME

To make this matter concrete, let us examine a recent issue under national scrutiny: mental health disabilities and disorders. Although the overall numbers of mental disorders appear to be about 16% of the population (Changi General Hospital study, 2006), this number may be similar to the United States in which about 22% suffer from mental disorders or substance abuse disorders. If substance abuse disorders are added to the 16%, it may come up to about 20%, which is similar to US figures.

But in Singapore, the "stigma" of mental disorders is greater than in the USA. More than one in three Singaporeans believe that the mentally ill are "dangerous" and almost half the population believes that the public should be "protected" from those with mental problems (Straits Times, 29 Oct 07). This becomes increasingly problematic when psychiatric disorders are clearly related to criminal arrests. One of the seminal studies was done by Joan McCord and Cathy Spatz Widon in *Juvenile Crime, Juvenile Justice* (2001) in which they studied various research and concluded that psychiatric disorders are 3 – 5 times higher in incarcerated juveniles than in the normal population. Many juveniles naturally have conduct disorders, but members of those with depression are also high. This study did not include personality disorders. In Singapore, as well as in other nations, if we include those with developmental delays, mental disabilities such as low intelligence levels, the number of complaints, arrests, and charges (not necessarily incarceration) figures related to mental problems would be very high indeed.

How does Singapore confront the issue of mental health and juvenile crime? First, in Singapore, the problem must be identified, which has been done, statistically as well as anecdotally. Then, psychiatrists, psychologists, social workers, counsellors, were hired to deal with the problem. In the mid-1990s, the Ministry of Community Development (the main social welfare arm of the government) began the Psychological Services Unit (PSU) under the direction of a clinical psychologist, Dr. Ozawa. The unit began assessments of child abuse and especially of juvenile arrest cases brought under the purview of the Probation Services Branch. Pre-treatment assessments which helped to formulate rehabilitation programmes in the Singapore Boys/Girls Homes (the basic youth institutions for custodial sentences) were implemented.

In approximately 1999-2000, the government began a further step under Dr. Ozawa by beginning psychological services within the court system. The full integration of psychological and mental health services within the justice system is something also found to be efficacious in Canada, Hong Kong, and Australia. A team of psychologists, social workers, and counsellors were hired to deal with cases involving family law, domestic violence, child abuse/protection and juvenile arrests.

In 2005-2006, the mental health screening, assessment and referral services (as well as coordination with the government's Institute of Mental Health and Prisons Department) was been further expanded to 16-18 year old offenders under the newly formed Community Court which in various ways also now acts as a "mental health court" (a model found in United States jurisdictions as well). In 2008-2009, the age range was expanded to 16-21 years of age as this age cohort is often the genesis of subsequent criminal behaviour. New criminal laws, including a "Mandatory Treatment Order" (MTO) in which young offenders with mental disorders can be involuntarily placed for treatment (for any recommended disorder or offence) and counselling/psychotherapy/medication are under consideration. This will reduce the incarceration of such offenders, and lead to a panoply of community treatment options.

Under the "Community Court" (as it involves the collaboration with community family service centres, hospitals, and mental health treatment facilities), the courts are now focused on reducing crime even further by treating and rehabilitating youth offenders with mental disabilities and disorders in a holistic, community and family-based system. As in most issues in Singapore, the true test will be not only the reduction of recidivism rates, the longitudinal success of MTOs, and the overall reduction in youth crime but additionally whether the people of the nation are more resilient, productive, prosperous, embracing of others, even more altruistic. This requires a revolutionary re-definition of justice outcomes.

## IX. SINGAPORE JUVENILE JUSTICE PRINCIPLES

### A. Deterrence versus Restoration

The pendulum of juvenile justice appears to swing to and fro in various nations depending on the juvenile crime rate and the public outcry; there also appears to be "politically correct" language and theoretical concepts, often in conformity with international norms. In Singapore, the pendulum does not swing very wildly in any direction; rather the Confucian notion of "balance" is often applied.

Part of the movement of juvenile justice, in Singapore and in many Commonwealth nations, in the last decade has been in utilizing concepts such as "transformative," "therapeutic" or "restorative" justice - indicating that the judicial process is a broad process meant to rehabilitate and reform the wayward juvenile, to reconcile broken relationships and promote forgiveness, and to support the notion that much juvenile crime is "adolescence limited," behaviour linked to a developmental stage which will pass with maturity and time.

On the other hand, Singaporean juvenile justice is equally concerned with protecting the public and with dealing proportionately with "life course persistent" offenders, those who are more "incorrigible" (to use Western terminology), less prone to reform or restoration. In this sense, severity of offences, protecting the public (esp. more vulnerable youths and students), deterrence (i.e. sending messages to peers), redressing wrongs, providing restitution and compensation to victims are also salient objectives of the juvenile justice system in Singapore. It is essentially a balance.

### B. Defining "Child" and "Juvenile"

The juvenile justice system of any nation is reflected in the legal definitions of "child" or "juvenile." Further, this is not only reflected in the actual legal definition but also in the practice of the law (especially in the "exceptions" to the law). A highly punitive system might prosecute children at a young age and hold them accountable as adults at an early age as well. On the other hand, a more permissive system might not prosecute children until they are adolescents and maintain more protected status for young people until they are much older.

In Singapore, a "juvenile" is defined under the Children and Young Persons Act as a male or female person who is above seven years of age and below the age of 16. As many Western jurisdictions have the base age at ten years of age and the upper limit as 18 years of age, Singapore's law would seem at first



blush to be unduly punitive of juveniles. However, the “practice” of the law is such that rarely is a child under ten ever prosecuted in Singapore due to the “presumption of insufficient maturity of understanding.” Thus, without the maturity or cognitive ability to understand right from wrong, to understand the charges or indeed the crime itself, young children are not prosecuted. Further, rarely are exceptions made so those under age 16 are rarely prosecuted as adults. Finally, Singapore has instituted a Community Court in which offenders 16-21 years of age are given special consideration in terms of treatment, rehabilitation, and sentencing. In fact, compared with say the United States where offenders as young as 14 can be prosecuted as adults and where even those who are 17 can be subsequently executed for their crimes, the Singapore system is actually considerably more restorative than the system of say, Texas.

## **X. SINGAPOREAN JUVENILE JUSTICE PRACTICES**

### **A. Courts and Detention Facilities**

As in most jurisdictions, Singapore has established a separate court to handle juvenile cases (Children and Young Persons Act, 1993). The Juvenile Court is housed in a separate building from adult criminal cases, surrounded with more comfortable surroundings, and has no open gallery for the public, thus protecting the confidentiality of the identities of juvenile offenders. If being brought from remand, the juvenile offenders are brought to court through corridors and passageways where their identities cannot be revealed. All matters before the Juvenile Court are held in confidentiality and the press is forbidden from using any names of juveniles in their reports.

Equally, the detention facilities, often called “correctional institutions” in many American jurisdictions, are called, “Boys Home” or “Girls Home” in Singapore, helping to reduce stigma. Further they are not “sentenced,” but have a “dispositional order” passed.

Of critical importance is that rather than having routine litigation with legal representation (though engaging legal counsel is an option for all cases), the juvenile can be represented by his/her parents. Parents are given the right to stand with their children in court, offering whatever “mitigation” or “representations” might normally be offered by a legal counsel. They are brought into Juvenile Court Conferences (see below) and are usually asked to offer their input in such Conferences regarding the proposed dispositional order. This is highlighting the importance of parental involvement in the restorative process of juveniles. This differs markedly from a nation like Australia in which parents are not routinely involved in the sentencing of juvenile offenders for in Australia, juveniles are seen as quite independent and free from parental constraints.

### **B. Community-Based Involvement**

With a diversity of universities, many of which are related to foreign universities, a broad spectrum of trained social workers, psychiatrists, psychologists, and counsellors, with extensive multi-cultural, multi-religious, and multi-ethnic range of family service centers which provide counselling, social work, psychological and consultation services to families, and with a government which actively seeks to develop a justice framework informed by the social sciences, research, and “best practices” in medicine, psychiatry, and psychology, Singapore provides a fertile context for the growth of community-based treatment for offenders and families.

The military, police, prisons, social welfare agencies, Ministry of Education and courts all have psychological services units, and private practitioners in psychiatry and psychology can be found in every medical hospital. Every school has a counsellor and referral network to psychologists. There is an extensive department of forensic psychiatry and a developed addictions medicine department at the nation’s Institute of Mental Health.

#### **1. Ministry of Education: Counselling Services & Restorative Counselling**

Through the Psychological/Guidance Services Branch of the Ministry of Education (MOE), the schools attempt to identify at-risk cases throughout the nation. Besides obvious “at risk” behaviour, conduct disorders, and attention deficit disorders (ADHD), the MOE has a very targeted programme to deal with depression and suicidal children and youth. Teachers and school teams under the supervision and training of the Psychological/Guidance Branch can be rapidly mobilized to deal with school crises and suicidal matters.

The Psychological/Guidance Services Branch has also been instrumental in developing a nation-wide "Growing Years" programme aimed at providing education and guidance regarding teenage sexuality, thereby reducing moral danger, and risky sexual activities.

Finally, the MOE has begun a new series of family counselling initiatives based upon the Subordinate Courts' Juvenile Court Family Conferencing model. Trained by Australian psychologists, school personnel and external community agencies team up to provide "restorative justice family conferences" whereby school officials, mental health professionals, and family service counsellors meet with family members, students, and related parties to deal with infractions of school rules such as violation of dress code, truancy, theft, bullying, smoking, etc. In this manner, the school becomes the frontline for intervention and treatment of "at risk" juvenile delinquents.

## 2. Singapore Police Force's "Guidance Programme"

Besides the schools, the other "front line" dealing with "at risk" juvenile behaviours is the Singapore Police Force. Whereas in years past, the police issued, "cautions" or "warnings," then ended up arresting and charging youth who did not heed their "warnings," in 1997, the police joined with the Attorney General's Chambers (AGC), the Ministry of Community Development, and social service agencies, to form the "Guidance Programme" (GP) for youth offenders.

When a juvenile is first apprehended for committing a minor crime (often such as shoplifting/shop theft), the police will "divert" the juvenile into GP to provide:

- Counselling for juvenile
- Counselling for parents/families
- Group work
- Visits to juvenile's home
- Family camps
- Community service
- Training on self-control, taking responsibility, life skills, etc.

GP has been extremely successful and the re-offending rate has been reduced from 33% to 10%.

Due to this notable achievement, GP is now being expanded by:

- Extending the age of GP candidates to offenders 16-19 years of age in keeping with the new Community Court expansion;
- Extending to intellectually/mentally disabled offenders, Developing "risk assessment" evaluations in order to "tailor" programmes for different types of offenders;
- Using outdoors activities, treks, climbing, etc. for offenders' rehabilitation.

## 3. "Streetwise" Programme of Family Service Centres

Some family services centres which offer low cost treatment to individuals and families in various Singapore communities specialize in youth programmes. As a result, the "Streetwise" programme was started for youths who have unwittingly drifted into gang involvement. It is an intensive six months structured programme that incorporates elements of peer support, counselling, recreation and academic activities in order to "turn around" youths before they become more entrenched in anti-social gangs, violence, and theft.

## 4. Singapore Children's Society Diversionary Programme

Singapore Children's Society (SCS), an NGO, is one of the most active community agencies in Singapore and has a special focus on juveniles. When a juvenile is below the age of 16, they can be brought before the Juvenile Court for a "Beyond Parental Control" (BPC) application (also called "status offenders" in American jurisdictions). In Singapore, the most common behavioural manifestations of BPC are:

- Defiance towards parents
- Running away from home

- Keeping late nights
- Playing truant
- Gangsterism
- Vice, drug taking
- Moral danger

Of these, a large percentage are related to females who defy their parents, run away, and become involved in sexual activities at a young age. Due to the Internet, the number of such females “at risk” is certainly a matter of grave concern. In order to deal with these BPC cases as diversionary (in order to prevent them from coming to court), SCS has the following programmes:

*(a) Beacon Works*

The objective of this six month diversionary rehabilitative programme is to help the youth and families stabilize existing behavioural problems that endanger the cohesiveness of the family unit. Individual and family counselling is critical to this process. This is a programme which requires voluntary admission on the part of both the parents and child and Beacon Works is suggested before a Beyond Parental Control complaint is applied for in Juvenile Court.

*(b) Round Box*

Round Box is a drop-in centre targeting youth-at-risk through a variety of performing arts programmes. At this centre, youth are able to express their creative energies, learn new skills as well as make new friends through activities such as dance, drama, puppetry, mime, circus and music. The classes, conducted by professional trainers or volunteers, are offered at no charge to these youths.

## **XI. JUVENILE JUSTICE CONTINUITY**

One of the most significant movements in the Subordinate Courts of Singapore has been the recognition that many families have multiple applications in various courts over time - such as divorce, custody, access, maintenance, family violence, juvenile arrest, and adult criminal arrest cases all in the same family. It is this “dysfunctional” family which needs to be dealt with, not in a piecemeal fashion, but “holistically,” in an “integrated” manner. This is the original intention of what in other jurisdictions has been called the “unified family court.” It is recognized that a young boy who enters the system as a child protection case can become a “beyond parental control case,” then a “juvenile arrest case,” and then an adult “criminal offender.”

Thus, besides community-based or early intervention programmes, the court deals with juvenile crime in both a preventive, “pre-emptive” manner and in a current, even “prospective crime” evaluation.

### **A. Children Care Court (CCC)**

Recognizing that dysfunctional families affect even the youngest children, CCC was set up to deal with care and protection cases. In addition, if there are applications for Protection Orders on behalf of a child or a custody case in which child abuse emerges as a potential issue, these cases can be referred to CCC for disposition. Exploitation of children, girls in moral danger, child abuse/neglect, emotional/psychological abuse, are all dealt with in order to stop “upstream,” cases which could one day evolve into juvenile or adult criminal cases. BPC are also handled in this court as BPC children and youth are not actually charged with any criminal activities.

### **B. Children Care Court (CCC) Clinic**

The CCC Clinic is headed by a psychologist and assists the court in its functions. The Clinic assesses cases as they arise initially in a “triage” function, then refers the cases to the social welfare ministry (MCYS) for in depth assessment, evaluation and action. Under the direction of the CCC judge, the Clinic staff also hold conferences with parents and families whose children are placed under care and protection to facilitate the eventual reintegration of the child into his/her nuclear family.

### **C. Family Transformation and Protection Unit**

The genesis of juvenile delinquency is often through the door of extreme family violence. Such cases often come through the Family Court at the Family Transformation and Protection Unit (FTPU). These family violence cases (which are related to application for Personal Protection Orders/PPOs) can sometimes



be sent for Family Justice Team (FJT) meetings in which issues are dealt with in a holistic manner through mediation and counselling.

#### **D. “Beyond Parental Control” (BPC) Cases**

When young people finally begin to exhibit signs of pre-delinquent behaviour, it can be uncovered by the schools (in which case, the Ministry of Education takes active steps described above) or it is manifest in defiance and wayward activities at home. When the juvenile is below 16, they can be brought to Juvenile Court by his/her parents who can “lay a complaint against them.” The complaints are enumerated above. If diversionary programmes are not effective, then these BPC cases are placed under the supervision of Singapore Children’s Society case workers who provide not only structured supervision, but counselling and alternative programmes. The BPC child can also voluntarily be placed in a more structured environment, a religious institution, or “home” which provides 24 hour supervision and monitoring as well as rehabilitative programmes.

## **XII. JUVENILE ARREST CASES**

The Juvenile Court is the “last stop” for recalcitrant offenders. Usually, all the above options have been exhausted. Most juveniles charged with a crime such as shop theft or rioting have probably committed such offences many times before but were not apprehended or were “given another chance” by upstream agencies eager to “divert” such wayward youths from juvenile homes (i.e. detention facilities). Yet, when juveniles victimize others, extort money from their fellow classmates by force, intimate or physically assault others (often for “just staring the wrong way”), then the juveniles are usually charged in court. These are not mild offenders, but those who flagrantly defy school authorities, show no responsiveness to supportive counselling, and consistently thumb their noses at devoted teachers and caring parents. Many are indifferent, complacent, and appear before the Juvenile Court judge with a “chip on their shoulders” and sporting dyed hair grown too long for school codes. They even stand indifferently in court.

The “wonder” of Juvenile Court is the wide array of options available to the Juvenile Court judge - from very mild orders to an order of three years in the Singapore Boys/Girls Home (i.e. custodial sentences). If of the appropriate age, they can even be sent to adult prison (to the Reformatory Training Centre, which is the institution within the adult prison for young offenders).

#### **A. The Pre-Sentencing Report of the Probation Service**

Upon being charged, the Ministry of Community, Youth and Sports (MCYS) will have a probation officer investigate the offender’s background. This thorough analysis includes interviews with the offender and his/her family, school reports, psychological testing for risk and protective factors, and forensic assessments for the development of subsequent care plans. Psychiatric mental assessments are also available from the Child Guidance Clinic if needed. If the offender is found suitable for probation, he/she is then supervised for various periods of time with time restrictions, a community service order, and other measures.

Additional orders might include: parental bond to exercise proper care and guardianship (i.e. if the parents fail to participate in the rehabilitation process they can be fined); Theft Intervention Programme (TIP); Smoking Cessation Programme; Mandatory Counselling Order for the parents or family to get counselling and a bond to complete the counselling process; a visit to the Singapore Boys/Girls Home to see what a custodial sentence can be like; electronic tagging to monitor a boy’s/girl’s movements.

If the offender’s profile and PSR indicate more severe pathology, an offender can be sent to an “open” institution where schooling can take place under a more regimented and structured “home.” And finally, if the risk level appears to be high and the rehabilitative potential low, an offender can be placed in a custodial institution and older offenders can even be sent to adult District Court where they can be sentenced to the Reformatory Training Centre (RTC) in Changi adult prison for up to four years.

#### **B. Restorative Processes through the Ministry of Community, Youth and Sports**

Once an offender pleads guilty or has been found guilty, he/she is either placed on probation or sent to various approved institutions and schools depending on the dispositional order. Some may be closed institutions, other open, some related to religious education and others secular.

Within each institution there are case managers, social workers, and usually access to psychologists and psychiatrists as well. In all institutions, intakes are assessed and care plans developed. Case management might then include participation in such programmes as theft intervention programmes, anger management, “Positive Adolescent Sexuality Treatment” (PAST) for juveniles who have offended in crimes related to sexuality, moral education, and religious education in an offender’s chosen religion. In the Boys and Girls Home, there is also vocational training, education, special programmes for mental disabilities, drug and substance abuse counselling, and programmes and workshops for the parents of offenders.

### **XIII. JUVENILE COURT PROCESSES AND PROGRAMMES**

#### **A. The Family and Juvenile Justice Centre (FJJC)**

The Family and Juvenile Justice Centre (FJJC) is the joining together of several court support arms related to the social sciences within the judicial system. Consisting of psychologists, social workers, and counsellors, the FJJC provides staff for support services for the courts including: intake and assessments of family violence applications; assessments of juvenile offenders; conducting of Juvenile Court family conferences (below); mediation and counselling of Family Court cases of divorce, custody, and access; consultations in Children Care Court cases involving child abuse and neglect; Child Care Court conferences; operation of Family and Juvenile Court programmes.

#### **B. Juvenile Court Conferences**

Under the Children’s & Young Persons Act of Singapore, the Juvenile Court Magistrate is empowered to convene “family conferences.” Not to be confused with family group counselling sessions, these special Juvenile Court Conferences are legally convened with powers which can lead to “formal cautions,” assignment/recommendation of community service, compensation for damages, mandatory counselling orders, and in most cases, recommendation to the Juvenile Court Magistrate of relevant dispositional orders. Conducted in a room adjoining Juvenile Court and in cases where a young person is held on remand, adjoining a “holding” room for juveniles brought over from remand, these meetings are usually “pre-sentencing” conferences immediately preceding open court final sentencing orders. They are formal and consist of a court representative, the social welfare officer, offender, parents, and often many others involved such as school officials, investigating officer, psychologists, and social workers. The sessions are a mixture of judicial mediation, problem-solving, advocacy and often confrontation of offender and/or parents with regard to their behaviour which may impede rehabilitation.

One variation of Juvenile Court conferences is “HEAL” conferences (“Healing, Empowering And Linking”). These are specifically dealing with cases where victims may be involved. The primary focus is NOT the offender, but rather the best interests of the victims. Reconciliation may take place, but only if it furthers the best interests in the eyes of the victim. Restitution, compensation, apologies from the offender and his/her family, are common results of HEAL conferences. If the victim chooses to do so, he/she can confront the offender. If the victim does not want a face-to-face meeting, “victim impact statements” are taken and presented. A special MCYS team prepares the victims and follows up with them to ensure that they receive maximum care and support in the process.

#### **C. Juvenile Offender Behaviour Scale (JOB)**

Developed with international consultation and using portions of assessment tools developed abroad, the Juvenile Offender Behaviour Scale (JOB) is used as a judicial tool. It is a “reference” tool and though it has numerical figures and guidelines, it is used as seen fit by the magistrate. Some magistrates use it as a general guide whilst others may ignore it entirely. Based upon risks and needs assessment and developed with local norms and input (e.g. with input from Singapore police, detention home staff, probation officers, psychologists, judges, and court advisers), the JOB provides an actuarial tool derived from the Pre-Sentencing Report (see above PSR). The JOB has been used for over five years and has been shown to be accurately predictive of breach patterns.

#### **D. Panel of Advisers**

The Panel of Advisers are nominated by the Ministry of Community Development Youth and Sports (MCYS) and appointed by the President of the Republic. They are esteemed members of the community who participate in an advisory capacity to the Magistrate of the Juvenile Court. They come from a variety of backgrounds: school principals, community leaders, psychologists, professors, and business people, etc. and

provide the Juvenile Court with a perspective which reflects the interests and values of the community at large.

#### **E. Other Juvenile Court Related Programmes**

Various other Juvenile Court programmes have been developed in collaboration with outside NGOs and agencies to enhance and complement the work of Juvenile Court. They are monitored by FJJC staff and the Juvenile Court Magistrate.

##### **1. Youth Family Care**

Youth Family Care (YFC) was formed to provide “family role models” for Juvenile Court families. As Singapore places a high premium on families in the rehabilitative processes of juveniles, it was found that many families have dysfunction and pathology for generations and despite counselling, have little knowledge of how a “functional” family operates. Volunteer families are then “matched” with Juvenile Court families for age, race, culture and religion, then trained by the Singapore Children’s Society (a local NGO) in procedures and aspects of dealing with offender families, formally appointed by the Juvenile Court Magistrate, then assigned for the period of the dispositional order to meet with and act as role models for the given offender’s family.

##### **2. Buddy Care**

The “Buddy Care” programme is rooted in the concept that juveniles often have no healthy “peers” with whom they can relate and therefore turn to peers who lead them astray or who provide negative role models for them. As group and peer attachment are critical to juveniles, volunteer “buddies” are recruited who are trained by Singapore Children’s Society, matched for background, and who then meet with and act as friends to the offenders. Always older and more mature, the “buddies” are seen as “older brothers or sisters” and provide companionship and support from youth (rather than from adults).

##### **3. Peer Group Advisers**

Peer Groups Advisers (PGA) are students from Secondary Schools in Singapore who are exposed to the workings of the Juvenile Court in order to educate students about juvenile justice, not only in concept but in practice. Many misconceptions and distortions result from often sensationalistic media reports and rumours passed from juveniles to their peers. Participating PGA schools select students to come to Juvenile Court, meet with the Juvenile Court Magistrate, and observe “real cases without actual identities” and chamber discussions. They are given the opportunity to “evaluate” cases themselves (of course, anonymously presented), provide their own reflection, input, and recommendations to each case. At points, PGA students may even have a “mock” trial in which they act as various members of the Juvenile Court and handle a “mock” case. Usually, PGA concludes with a “finale” in which the participating schools compete in an activity centered around juvenile justice issues.

### **XIV. THE COMMUNITY COURT**

In 2006, the new Chief Justice of the Supreme Court of Singapore initiated the Community Court, which more than being a court for the “community,” was a court in which certain classes of offenders would receive differentiated treatment. Amongst the designated offenders were accused aged 16-18. In this manner, though Singapore Juvenile Court handles cases involving children under 16 years of age, the Community Court began to provide increased attention up to age 18. In May of 2008, the upper age of the Community Court was raised to 21 years of age. In a study done in 2002, the Subordinate Courts found that the 16-21 year old cohort group was particularly vulnerable to shop theft and drugs and that treatment of this cohort could conceivably reduce subsequent recidivism. In addition, other studies in the USA (SAMSHA) and in European nations found that in matters of brain development, vulnerability to alcohol and drug abuse, and maturation, those under age 21 were less mature than offenders in their 20’s and 30’s.

The Community Court thus began special probation assessments parallel to Juvenile Court assessments, provisions under the Probation of Offenders Act for fewer custodial sentences and more probationary sentences, and piloting of various assessment tools such as the YLS-CMI to examine not only risk levels, but treatment plans as well. The Community Court was also tasked to deal with mental health disorders and disabilities, providing a nexus of mental health and youth offenders. A special “Senior Case Manager” and a Senior level psychologist were assigned to the court to deal with cases and to convene special Community

Court Conferences, gathering social workers, investigating officers, attorneys (defence and prosecution), families, and other professionals (e.g. psychiatrists from the state mental hospital) together to assess cases.

In 2008-2009, the Criminal Procedure Code and the Probation of Offenders Act are being amended. Proposals regarding the Community Court will empower the Community Court to order Mandatory Treatment Orders (MTOs) for offenders, not only for probationers, but for all. In that manner, offenders aged 16-21 might be sentenced to community service orders, mandatory counselling, treatment for drug/alcohol problems, special programmes for shop theft, impulse control/violence, or sexual offending behaviours. Their differentiated sentencing will be on a continuum with juvenile offenders in the Juvenile Court.

## XV. SUMMARY AND CONCLUSIONS

A relatively young nation, Singapore is a Commonwealth nation and shares much of the judicial-legal flavour of the United Kingdom. Very similar to its “Australasian” neighbour, Australia, Singapore also shares many values of its North American counterparts. Yet, with a population drawn from ancestral roots in China, Malaysia, India and other parts of Asia and Southeast Asia, and populated with religions of the region (mostly Buddhist, but also strongly Christian, Muslim, and Hindu), Singapore is also infused with Confucian values.

These values in English and Chinese are: compassion (“*ren*”); filial piety (“*xiao*”); righteousness (“*yi*”); propriety (“*li*”); loyalty (“*chung*”), and reciprocity (“*shu*”). In this schema of life, for example, “reciprocity” sees persons not so much as individuals, but as persons caught up in an intricate web of relationships. Filial piety requires fidelity to parents who in this way of life are always part of accountability and responsibility. Righteousness means acting for the greater good of society rather than for one’s own limited needs. Propriety requires harmony (balance) and reciprocal courtesy.

Thus, within this contextual blend of British legality and Confucian values, Singapore has developed into a unique hybrid of juvenile justice. Justice and propriety are paramount as is respect for the law and parental rights and responsibilities. The Western notions of the pursuit of individual rights, freedom from societal constraints, or passionate expression of contrarian views are difficult for some Singaporean Asians to comprehend.

Juvenile justice in Singapore is thus marked by reciprocal interaction between the government and community, by the active respect for familial participation at all levels, by compassion yet for the furtherance of the common good, by balance of deterrence with restoration, and by an inherent respect for marital/relational fidelity (not necessarily synonymous with monogamy). At each level, whether in school, community agencies, police, social service agencies, courts, or prisons, these “values” are inculcated and reinforced.

Finally, as was raised at the outset, Singapore has survived because it is also a pragmatic nation, quick to adapt (not to adopt wholesale) systems and technologies, borrowing juvenile justice models (such as community-based involvement, up-stream preventive measures, the use of assessment tools which are locally normed, the infusion of social scientists and professionals with expertise in human behaviour, at the same time a formalization of parental rights and responsibilities) which, in essence, work. Perhaps, the high success of Singaporean youth (in a global assessment) is reflected in quantifiable results: the low crime rate, the relatively low use of drugs, and the low rate of teen suicide. To bemused Singaporeans, this makes the “banning of chewing gum” as onerous as the “banning of eating durians (a local fruit known particularly for its offensive smell but good taste) in public places.” If it renders the society more felicitous, then why question it?

## REFERENCES

### Internet :

Restorative Justice / juvenile delinquency:

<http://www.lawgazette.com.sg/2001-7/July01-focus3.htm>

<http://www.restorativejustice.org/rj3/Feature/2003/feb/singapore.htm>

[http://www.gov.sg/judiciary/subct/Juvenile/publications/LawgazetteJuly01\(focus3\).pdf](http://www.gov.sg/judiciary/subct/Juvenile/publications/LawgazetteJuly01(focus3).pdf)

### Publications:

Ozawa, J.P., "Co-Morbidity, Dual Diagnosis and Tobacco Use," Alcohol and Drug Abuse Division, Department of Health, USA, Honolulu, Hawaii, 19 July 2007

Ozawa, J.P. "The Family and Juvenile Justice Centre," in R. Magnus, Lim Hui Min, M. Mesenas & V. Thean (eds.), *Rebuilding Lives, Restoring Relationships: Juvenile Justice and the Community*. Eastern University Press: London, 2003.

Ozawa, J.P. "Transformative Psychological Intervention: The Family Justice Team -- treatment for "anomie" in Singapore and Japan," in *Advances in Psychological Research*, Nova Publishers: Hauppauge, NY, 2003, in final draft form.

Ozawa, J.P. Relational Distress and Self-Destructive Behaviours in Singapore. Plenary paper presented at the Japan Society of Social Psychiatry, 23<sup>rd</sup> Annual Congress. Morioka, Japan, 4 March 2003. Published in Japanese, Jan 2004.

Ozawa, J.P. Developing Holistic Approaches (to Restorative Justice) in Singapore, *Restorative Justice Online*, International Centre for Justice and Reconciliation, Prison Fellowship International, February 2003.

Ozawa, J.P. Juvenile Delinquency: An Asian Perspective. In Lim K.Tham & Lynette Balotta (Eds.), *Hedges and Edges: A Compendium for Social Workers, Counsellors and Family Therapists*, Care Corner: Singapore, 2002, 17-24.

Ozawa, J.P. Transformative Justice: Psychological Services in the Criminal, Family and Juvenile Justice Centres of the Subordinate Courts of Singapore, *Applied Psychology: An International Review*, 2002, 51, 218-235.

Ozawa, J.P. Addressing the Criminogenic Effects of Divorce. *Law Gazette*, Law Society of Singapore, August 2001, 32-34.

Ozawa, J.P. Juvenile Offender Behaviour (JOB) Criteria: Assessing Risk of Recidivism in Juvenile Court. *Law Gazette*, Law Society of Singapore, July 2001, 14-16.

Ozawa, J.P. The Internet and Juvenile Crime in Singapore. Workshop paper presented at the 8<sup>th</sup> Congress of the ASEAN Federation for Psychiatry and Mental Health, Singapore, 18 March 2001.

Ozawa, J.P. & Teong, E. A profile study of female juvenile offenders. *Research Bulletin, Subordinate Courts of Singapore*, 26, January 2001.

Ozawa, J.P. & Teong, E. Alcohol or drug abuse: relationship to domestic violence. *Research Bulletin: Subordinate Courts of Singapore*, 25, December 2000.

Ozawa, J.P., Overview of the Assessment and Classification of Juvenile Offenders -- The Singapore Model. Paper presented at the Youth Justice 2000 Conference, Singapore, 13-15 Sept 2000.

Ozawa, J.P. & Loh, D. Wait until your father comes home: a study of institutionalized male juveniles and parenting styles. *Research Digest, Ministry of Community Development*, Singapore, 3-4, March 2000, 1-16.



# THE YOUTH JUSTICE SYSTEM OF ENGLAND AND WALES

*Ian Blakeman\**



## I. INTRODUCTION

This paper will describe the Youth Justice System of England and Wales, beginning with the legal framework setting out the Court arrangements, the work done on prevention and the options for disposal, before going on to discuss the governance commissioning and delivery frameworks for youth justice. It will then explore the background to youth offending in England and Wales, looking at numbers of offenders and the range of court disposals, including the use of custody and the causes of offending. It will also look at work on international comparisons of the use of custody. The second part of the paper will focus on the work of the public sector Prison Service caring for young people in custody. This will begin by outlining the aims set out in Prison Service Order 4950 which governs the care of young people; it will then go on to explore measures to ensure that young people are held in safe and decent conditions; the work that is done to reduce the risk of young people reoffending; and how the Prison Service and the outside agencies, primarily the Youth Offending Teams, work together to deliver Offender Management. Finally the paper will consider possible future developments.

## II. THE LEGAL FRAMEWORK

### A. Age of Criminal Responsibility

Section 50 of the Children & Young Persons Act 1933 states: “It shall be conclusively presumed that no child under the age of ten years can be guilty of any offence.”

### B. Definition of ‘Children’ and ‘Young People’

In the criminal justice system a ‘child’ means a person under the age of 14; and ‘young person’ means a person who has attained the age of 14 and is under the age of 18 (see, for example, section 117 of the Crime and Disorder Act 1998). However, for the purposes of the Children Acts 1989 and 2004, a ‘child’ is anyone who has not reached their eighteenth birthday. Although the phrase ‘juvenile’ is still widely used to describe young people under 18 in English it carries connotations of childish and of immature behaviour which can be seen as labelling and so we are increasingly seeking to use the term ‘young people’.

### C. Aims of Youth Justice System

Section 37 (1) of the Crime and Disorder Act 1998 establishes that the principal aim of the youth justice system is “to prevent offending by children and young persons.”

### D. Prevention

Government policy in England and Wales has explicitly sought to promote work to prevent offending by young people. Through the work of local Youth Offending Teams (YOTs) a wide range of prevention work targeted at offenders and at those who are seen as being most at risk of offending has been developed.

One of the best and most cost-effective ways to reduce youth crime is to prevent young people from getting into trouble in the first place, by dealing with the problems that make it more likely they will commit crime or anti-social behaviour. Early intervention to prevent young people offending could save public services more than £80 million a year, according to the Audit Commission’s report *Youth Justice 2004: A Review of the Reformed Youth Justice System*.

Problems that may lead to a young person’s troublesome behaviour include a lack of education, poor

---

\* Head of Women and Young People’s Group, HM Prison Service for England and Wales.

family relationships, having family members or peers who have offended, and misuse of substances. The following programmes aim to deal with risk factors, engage young people's interests and increase their knowledge:

1. Youth Inclusion Programme (YIP)

Youth Inclusion Programmes (YIPs), established in 2000, are tailor-made programmes for 8 to 17 year olds who are identified as being at high risk of involvement in offending or anti-social behaviour.

YIPs are also open to other young people in the local area. The programme operates in 110 of the most deprived/high crime estates in England and Wales.

YIPs aim to reduce youth crime and anti-social behaviour in neighbourhoods where they work. Young people on the YIP are identified through a number of different agencies including Youth Offending Teams (YOTs), police, social services, local education authorities or schools, and other local agencies.

An independent national evaluation of the first three years of YIPs found that:

- arrest rates for the 50 young people considered to be most at risk of crime in each YIP had been reduced by 65%;
- of those who had offended before joining the programme, 73% were arrested for fewer offences after engaging with a YIP;
- of those who had not offended previously but who were at risk, 74% did not go on to be arrested after engaging with a YIP.

2. Youth Inclusion and Support Panels (YISPs)

Youth Inclusion and Support Panels (YISPs) aim to prevent anti-social behaviour and offending by 8 to 13 year olds who are considered to be at high risk of offending.

They have been designed to help the YJB meet its target of putting in place, in each YOT in England and Wales, programmes that will identify and reduce the likelihood of young people committing offences.

Panels are made up of a number of representatives of different agencies (e.g. police, schools, health and social services). The main emphasis of a panel's work is to ensure that children and their families, at the earliest possible opportunity, can access mainstream public services.

3. Parenting

Parenting programmes provide parents with an opportunity to improve their skills in dealing with the behaviour that puts their child at risk of offending. They provide parents/carers with one-to-one advice as well as practical support in handling the behaviour of their child, setting appropriate boundaries and improving communication. Poor parenting is seen as one of the major risk factors associated with young people at risk of offending.

Parents with a child who has become involved with the youth justice system may be offered the opportunity to voluntarily attend a parenting programme by the local YOT, if they consider that it would be useful. However, if voluntary participation cannot be achieved, a Parenting Order can be sought by the YOT which compels the parents/carers of a child at risk to attend.

4. Safer School Partnerships

The Safer School Partnerships (SSP) programme enables local agencies to address significant behavioural and crime-related issues in and around a school. A result of the YJB's proposal to develop a new policing model for schools, the SSP programme was launched as a pilot in September 2002, and brought into mainstream policy in March 2006.

All schools involved in the Safer School Partnerships initiative have a police officer based in their school. The school-based officer works with school staff and other local agencies to:

- reduce victimization, criminality and anti-social behaviour within the school and its community
- work with schools on whole-school approaches to behaviour and discipline
- identify and work with children and young people at risk of becoming victims or offenders
- ensure the full-time education of young offenders (a proven preventative factor in keeping young people away from crime)
- support vulnerable children and young people through periods of transition, such as the move from primary to secondary school
- create a safer environment for children to learn in.

Close working between police and schools is seen as crucial to keeping children in education, off the streets and away from a life of crime. This is a joint initiative between the Department for Children, Schools and Families, the YJB and the Association of Chief Police Officers.

#### 5. Mentoring

Mentoring pairs a volunteer with a young person at risk of offending. The volunteer's role is to motivate and support the young person on the scheme through a sustained relationship, over an extended period of time. The relationship is built upon trust and a commitment to confidentiality and equality between the mentor and the young person.

The relationship must be structured and have clearly identified objectives. These objectives should be to help the young person identify and achieve educational, vocational or social goals which address the factors in the young person's life that put them at risk of offending.

### **E. The Court System**

When a young person is charged with an offence, they will appear before the youth court. If the case cannot be dealt with immediately, the court will make a decision as to whether the young person will be bailed or remanded into custody.

If a young person pleads not guilty, a date will be set for the trial when the magistrates will hear all the evidence and decide whether or not the young person is guilty. If the decision is guilty, they will then decide on the most appropriate sentence. If the case is very serious, the youth court will send the case to the Crown Court for trial and/or sentence.

#### 1. The Youth Court

Adult magistrates' courts can only undertake trials and sentence people for offences for which the maximum penalty is six months in prison. Magistrates' courts deal mainly with cases involving people over the age of 18. They can deal with young people, but only if they are being tried with an adult.

The youth court is a section of the magistrates' court and can be located in the same building. It deals with almost all cases involving young people under the age of 18. This section of the magistrates' court is served by youth panel magistrates and district judges. They have the power to give Detention and Training Orders of up to 24 months, as well as a range of sentences in the community.

Youth courts are less formal than magistrates' courts, are more open and engage more with the young person appearing in court and his or her family. Youth courts are essentially private places and members of the public are not allowed in. The victim(s) of the crime, however, has/have the opportunity to attend the hearings of the court if they want to, but they must make a request to the court if they wish to do so. The needs and wishes of victims will always be considered by the court and, through the youth offending team (YOT), they often have the opportunity to have an input into the sentencing process.

#### 2. Non Custodial Disposals

When young people first get into trouble, behave anti-socially or commit minor offences, they can usually be dealt with, by the police and local authority, outside of the court system, using a variety of orders and agreements. This is to stop young people getting sucked into the youth justice system too early, while still offering them the help and support they need to stop offending.



*Pre-court measures*

- Reprimand
- Final Warning

*Anti-social behaviour measures*

- Acceptable Behaviour Contract (ABC)
- Anti-Social Behaviour Order (ASBO)
- Individual Support Order (ISO)

*Other measures*

- Local Child Curfew

3. Sentences in the Community

- Supervision Order
- Community Rehabilitation Order
- Community Punishment Order
- Action Plan Order
- Attendance Centre Order
- Referral Order
- Reparation Order
- Fine
- Conditional Discharge
- Absolute Discharge

4. Custodial Sentences

(i) *The Detention and Training Order*

Section 73 of the Crime and Disorder Act 1998 (now section 100 of the Powers of Criminal Courts (Sentencing) Act 2000), established a new custodial sentence, the Detention and Training Order (DTO) for young people aged under 18 years. The new sentence was devised to rationalize the sentencing arrangements which previously existed for those aged under 18 and to make custody more effective in preventing reoffending. The DTO replaced the sentences of detention in a young offender institution (DYOI) for 15-17 year olds, and the sentence of the secure training order (STO) for 12-14 year olds.

The only DTO sentences available to the courts are ones of 4, 6, 8, 10, 12, 18 and 24 months. Half of the sentence is served in custody and the other half under supervision in the community. Consecutive sentences are also available to the courts but only up to a maximum of 24 months (i.e. 12 months in custody). Young people sentenced to a DTO who reach the age of 18 will continue to serve the DTO; it cannot be converted into a term of DYOI.

Section 37 (1) of the Crime and Disorder Act establishes that the principal aim of the youth justice system is "to prevent offending by children and young persons." Section 37 (2) imposes a duty on everyone working in the youth justice system to have regard to that aim. The DTO is designed to ensure that the most appropriate form of training is provided for each young offender to help prevent further offending. To enable this, the DTO can be served in a secure children's home (SCH), in a Secure Training Centre (STC), in a YOI and in any other place that the Secretary of State determines.

For those serving eight months or more but under 18 months release from custody *one* month earlier or later than the mid point of the total sentence is possible. For those serving 18 months and over, release from custody two months earlier or later than the mid point of the total sentence is possible. However, decisions to transfer early or late will be authorized only when clearly established criteria have been met. There is a presumption in favour of *early* release.

(ii) *Sentences for Serious Offences*

Section 90 of the Powers of Criminal Courts (Sentencing) Act 2000 (formerly Section 53(1) of the Children and Young Persons Act 1933) provides that a person aged under 18 (at the time of the offence) convicted of murder shall be sentenced to be detained at Her Majesty's pleasure. Section 91 (formerly Sections 53(2) and 53(3) of the 1933 Act) provides that children and young people convicted of certain

specified “serious” offences other than murder which in the case of an adult are punishable with imprisonment for 14 years or more, may, if no other methods of disposal are deemed suitable, be sentenced up to the adult maximum for the offence, which may be for life. Those sentenced under Section 90 or 91 are liable, under Section 92 (formerly part of Section 53(3) of the 1933 Act), to be “detained in such place and under such conditions as the Secretary of State may direct or arrange with any person.”

A Section 90/91 sentence is passed not only to meet the requirements of retribution and deterrence but also to reflect the fact that special attention needs to be given to the offender’s rehabilitation. Such sentences vary considerably in their length and consequently in terms of how and where the offenders spend their time in custody. At one end of the scale is the young person who is sentenced to no more than a few months’ detention and who, because of his/her age or vulnerability, will spend the whole of the custodial period in secure accommodation in a SCH. At the other end of the scale are those who are convicted of murder or some other grave crime and who, after spending periods first in a SCH or STC and then in a Prison Service under 18 establishment, will eventually move, via a young adult (age 18-20) YOI, to the adult prison system to complete the custodial part of their sentence.

A determinate sentenced ‘section 91’ young person will in most cases receive automatic release on licence at the mid-point of their sentence. Home detention curfew will normally be available. The licence period in the community lasts until the sentence expiry date.

The procedures for the release of those young people sentenced to detention at her Majesty’s pleasure or detention for life are similar to those for adult Lifers and involve consideration by the Parole Board.

### *(iii) Sentences for Public Protection and for Certain Violent or Sexual Offences*

Section 226 of the Criminal Justice Act 2003 provides that young people convicted of a specified sexual or violent offence carrying a maximum penalty of 10 years’ imprisonment or more and who are considered by the court to be dangerous will be eligible to receive a sentence of *detention for public protection* unless the court considers that:

- a Section 91 sentence of detention for life (see above) is justified; or
- an Extended Sentence under section 228 (see below) would be adequate in terms of public protection.

A section 226 sentence means that the young person must remain in custody until the custodial part (the tariff) set by the Court has been served, at which time the offender will become parole eligible. Release from custody is at such a time as the Parole Board feels that it is safe for them to be released, i.e. when a full risk assessment indicates that they no longer pose a significant risk to the public. Home Detention Curfew is not available. Once released, the young person may remain on license indefinitely, but in contrast to life licensees, they can apply to have their licence reviewed at the 10 year point by the Parole Board and at yearly intervals thereafter. The licence will be terminated if the Parole Board considers it safe to do so on the grounds of public protection.

Section 228 of the 2003 Act provides that young people who have been convicted of specified sexual or violent offences (including if they have been convicted of an offence carrying a maximum penalty of 10 years or more) and who are considered by the court to be dangerous, will be eligible to receive an *Extended Sentence* which extends the period on licence and excludes them from early release except on parole.

## **III. GOVERNANCE, COMMISSIONING AND DELIVERY FRAMEWORKS**

### **A. Responsibility for the Youth Justice System**

To ensure an integrated approach to Youth Justice in which justice and child welfare policies are in harmony and practitioners in both fields can work together effectively, the Department for Children, Schools and Families (DCSF) and the Ministry of Justice (MoJ) have been given a shared responsibility for youth justice policy and funding. A Joint (DCSF/MoJ) Youth Justice Unit has been established with the dual aims of

- contributing to the protection of the public by developing policy and law in relation to children who offend and are at risk of offending, to ensure implementation and delivery; and

- contributing to the outcomes of *Every Child Matters* in terms of ensuring children and young people in contact with the criminal justice system achieve all five outcomes.

This last bullet point is a reference to the 2004 Children's Act which underpins the "Every Child Matters: Change for Children" programme in England and a number of similar initiatives in Wales. All these programmes/initiatives lay particular emphasis on multi-agency working at local level to improve outcomes for children.

Section 10 of the 2004 Act (Section 25 for Wales) requires cooperation between local authorities and other specified bodies or agencies to improve the well-being of children in the authority's area; and it defines "well-being" by the following five outcomes:

- physical and mental health and emotional well-being
- protection from harm and neglect
- education, training and recreation
- the contribution made by them (the children) to society
- social and economic well-being

## **B. The Commissioning Framework**

### **1. The Youth Justice Board (YJB)**

The YJB is a non-departmental public body set up by the Crime and Disorder Act 1998 (Section 41). Its purpose is to monitor the operation of the youth justice system and the provision of youth justice services; and to advise the Justice Secretary about how the principal aim of the youth justice system might most effectively be pursued, and on the content of any national standards he or she may set with respect to the provision of the entire secure juvenile estate. The Joint Youth Justice Unit is the departmental sponsoring body for the YJB.

#### *(i) Community Supervision*

##### *(a) Youth Offending Teams*

The Crime and Disorder Act 1998 (section 39) requires local authorities with social services and education responsibilities to establish a Youth Offending Team or teams, in partnership with the police, probation service and health authorities. The YOTs, which have been in place in all areas of England and Wales since April 2000, must include social workers, police and probation officers and education and health staff, and may include staff from other agencies, including local custody providers, if this is considered appropriate. Managers from other agencies may also be involved in local steering arrangements for the teams. The role of the YOTs is to work with young offenders and those at risk of offending in the community to turn them away from crime. The teams deliver or co-ordinate the delivery of a range of youth justice services, including bail support and the supervision of community sentences and of young people released from custody. How these services are to be delivered and funded locally and the functions and funding of the youth offending teams have to be set out in an annual youth justice plan, drawn up by the local authority in consultation with other agencies, and which is submitted to the YJB and published. Local custody providers should be consulted in drawing up the plan. Inter-departmental guidance on establishing YOTs was issued on 22 December 1998 and sent to Governors.

A key feature of the DTO is the importance attached to the continuity of work with each young person after transfer to the community. To ensure this, a supervising officer will be appointed by the YOT to each young person immediately after sentence and will establish and maintain contact with them throughout their time in custody, contributing to the sentence planning, review and preparation for release. The supervising officer is the establishment's main point of contact with the YOTs, these being the means by which effective inter-agency planning and co-operation will be organized and delivered locally. Governors must keep the supervising officer informed of all the developments and the difficulties experienced by the young person in custody and put in place arrangements to facilitate quality contact between the establishment, the young person and supervising officer.

##### *(b) Commissioning of Secure Accommodation*

From April 2000, under powers conferred by Section 41(5) of the Crime and Disorder Act (as amended by the Youth Justice Board for England and Wales Order 2000), the YJB became the commissioning and

purchasing body for all forms of secure accommodation for children and young people.

## 2. Secure Accommodation

There are three types of establishment in which 10 to 17 year olds sentenced or remanded to custody in England and Wales can be placed:

- secure children's homes
- secure training centres (STCs)
- young offender institutions (YOIs).

### *(i) Secure Children's Homes*

Secure children's homes are run either by local authority social services departments or by private companies, overseen by the Department of Health and the Department for Children, Schools and Families. Out of the three types of establishment, secure children's homes have the highest ratio of staff to young people, and are generally smaller, ranging in size from six to 40 beds. They are usually used to accommodate younger children (those aged 12 to 14), young women up to the age of 16, and 15 to 16 year old young men who are assessed as needing extra care.

### *(ii) Secure Training Centres*

STCs are purpose-built centres for young people up to the age of 17. They are run by private operators under Youth Justice Board for England and Wales (YJB) contracts, which set out detailed operational requirements. There are four STCs in England:

- Oakhill in Bedfordshire
- Hassockfield in County Durham
- Rainsbrook in Northamptonshire
- Medway in Kent.

### *(iii) Young Offender Institutions*

YOIs are run either by the Prison Service or by the private sector, and can accommodate 15 to 21 year olds. The YJB commissions and purchases the places for under-18s (i.e. 15 to 17 year old boys and 17 year old girls), who are held in units that are completely separate from those for 18 to 21 year olds. About 81% of young people in custody are held in YOIs. YOIs have lower ratios of staff to young people than STCs and secure children's homes, and accommodate larger numbers of young people.

In 2006/7, the last year for published population data, there were an average of 2,914 young people under 18 in custody; of those 226 (7.7%) were in Secure Children's Homes, 257 (8.9%) were in Secure Training Centres and 2,431 (83.4%) were in Young Offender Institutions. Of the total 2,704 were male and 211 female.

## **IV. YOUTH OFFENDING IN ENGLAND AND WALES**

There are about 4.7 million young people between 10 and 17 in England and Wales. Of those about 130,000 committed an offence dealt with by the courts; in all there were nearly 300,000 offences in 2006/7. Of these, 236,000 were committed by boys and 60,000 by girls. The most common offences were theft and violence against the person (both 56,000), criminal damage (41,000) and motoring offences (37,000). Other notable offences are drugs (12,000) robbery (7,000) burglary (5,700) and sexual offences (1,800).

Public attitudes towards offending by young people have been characterized by a growing intolerance towards quality of life crimes leading to the use of Anti-Social Behaviour Orders, and concern about increasing evidence of gangs and serious violent crime, particularly knife and gun crime where the victims are other young people.

## **V. INTERNATIONAL COMPARISONS**

The YJB have recently published a study of youth justice systems across different jurisdictions. It is explicitly aimed at influencing policy in England and Wales. The paper 'Cross-national comparison of youth

justice' by Neal Hazel of the University of Salford looks at the different models of youth justice. Drawing on a topology developed by Cavadino and Dignan, Hazel describes the England and Wales system as being Neo-correctionalist, characterized by stressing the responsibility of parents and children, the need for early intervention and prevention, a focus on victims and on the need for effectiveness in treatment. This is contrasted with the Welfare models of Europe and Japan and the Justice models of the US. Hazel also notes a gap between the views of policy makers in England and Wales and those of the public and politicians who remain wedded to a Justice model.

Hazel also reviews attempts to compare juvenile prison populations by collecting data from each jurisdiction. However, it is clear that any such comparison is fraught with difficulties as each jurisdiction uses different definitions around age and crucially what constitutes custody. It is clear that some countries use reform schools which young people cannot leave at will but which aren't considered custody. On any count though it is clear that England and Wales has a particularly high population of young people in custody at 46 per 100,000 compared to an average in Western Europe of around 17 per 100,000, though the figure for the US remains much higher at 336 per 100,000.

## **VI. HER MAJESTY'S PRISON SERVICE FOR ENGLAND AND WALES**

HM Prison Service is managed as part of the National Offender Management Service. NOMS is responsible for delivering Prison and Probation Services in England and Wales. The Prison Service has always been responsible for delivering custodial sentences for offenders 15 and over. Since 2000 all 15–17 year olds held in prison have been held in dedicated prisons for young people. Two YOIs are run by private companies: Ashfield near Bristol and Parc in Wales. There are fourteen YOIs for young people run by the public sector; four are small separate units for 17 year old girls within larger prisons for women at Eastwood Park near Bristol, New Hall near Wakefield, Foston Hall near Nottingham and Downview near London. There are four YOIs holding only young men aged 15–18: Wetherby near Leeds, Huntercombe near Reading, Warren Hill near Ipswich and Werrington near Stoke. The remaining places holding young men do so in separate units within prisons that also hold young adults aged 18–21; they are Stoke Heath and Brinsford near Wolvehampton, Castington near Newcastle, Feltham in London, Hindley near Manchester and Lancaster Farms in the North West.

### **A. Management Arrangements and the Role of the Women and Young People's Group**

The YOIs in the public sector are managed within regional structures by Area Managers for Prisons, who deliver against the Service Level Agreement with the YJB. Area Managers and Governors are supported by the Women and Young People's Group. The relative roles and responsibilities are set out in the SLA which states the following.

#### **1. The Roles and Responsibilities of Governors**

The Governors are to operate safe and secure establishments, operating within all relevant PSOs, PSIs and YOI rules including specifically PSO4950, reflecting service standards and actions set out within continuous improvement delivery plans, whilst focused on reducing offending; provide the places prescribed in the SLA at paragraph 4.10; provide reliable data, facilitate visits, communicate appropriately, provide access to records and utilize support available from W&YPG; continue to operate an open and transparent relationship with the YJB – providing reliable data, facilitating monitoring visits and providing access to records, and communicating appropriately with the YJB SLA Management Team; seek to continuously improve delivery against YJB Outcomes; and report progress against the Continuous Improvement Delivery Plan.

#### **2. The Roles and Responsibilities of Area Managers**

The Area Managers are to ensure that establishments' continuous improvement delivery plans are realistic, challenging but achievable and deliver the YJB Outcomes; sign off the Action Plans requested by the Performance and Development Board; hold Governors accountable for delivery; operate an effective working relationship with W&YPG utilizing the support they can provide to the Area Team; ensure establishments are appropriately resourced and supported to deliver effectively; and act as a point of escalation for issues relating to establishments in their area.

#### **3. The Roles and Responsibilities of the Women and Young People's Group**

The Women and Young People's Group is to represent the Prison Service in taking the lead in the



negotiation of the SLA with the YJB; on behalf of the Deputy Director General, ensure that the Prison Service meets commitments in the SLA; advise and support establishments and Area Offices to improve delivery; understand the performance of establishments and their ability to develop further; provide support and guidance to establishments and Area Managers on the development of Continuous Improvement Delivery Plans that meet YJB Outcomes; deploy resources to support establishments and Area Offices as appropriate, providing a specialist resource on operational issues at young people's establishments; facilitate meetings between the YJB SLA Management Team, YJB Commissioning Team and Area Managers when required by any party within a reasonable timescale; ensure the timely delivery of all Continuous Improvement Delivery Plans to the YJB; ensure all establishments are in possession of an up-to-date version of the Delivery manual; work towards ensuring resources are distributed across sites to enable maximum delivery against YJB outcomes and provide visibility on this distribution. This will be achieved by developing activity analysis for YJB funded establishments within the scope of Prison Service policies and initiatives; using the information as the base for the 2010/11 budgets of all YJB commissioned establishments; facilitate and support the YJB in relation to agreed development in the secure estate and operationalize new policy for the Prison Service across the YJB commissioned places; support implementation of projects agreed in the workplan providing dedicated project support and expert advice relating to young people held in custody; engage as appropriate with the YJB Placement and Casework Service, to ensure delivery against the Allocations Strategy; and the Head of W&YPG has final authority within the Prison Service with regard to the allocation of young people to prison places.

## VII. AIMS OF IMPRISONMENT

Section 47 of the Prison Act 1952 provides that the Secretary of State may make rules for the regulation and management of prisons and YOIs (and STCs) and for the classification, treatment, employment, discipline and control of persons required to be detained in those establishments. The regimes which the prison service provides to young people are accordingly governed by the Young Offender Institution Rules 2000 and the Prison Rules 1999 (both sets of Rules having last been amended in 2005). The YOI Rules apply to sentenced young people and the Prison Rules to those held on remand.

The detail of the regimes which establishments in the prison service young people's estate are required to provide, as agreed with the YJB, is set out in Prison Service Order 4950 (which is incorporated in the SLA between the prison service and the YJB). PSOs do not have the force of law, but the courts will expect establishments to follow the policies contained in them unless they can show good reason for not doing so.

The regimes are built upon the evidence-based research into 'what works' with offenders and upon effective practices established for young people, male and female, within the young people's secure estate and the community as set out in the YJB's Key Elements of Effective Practice.

Key features of the PSO 4950 regimes are:

- A child centred approach reflecting responsibilities under the Children Acts 1989 and 2004;
- A special emphasis on safeguarding the provision of a safe environment for all young people at all times;
- Special attention to every young person's physical, mental and social health, including the promotion of healthy lifestyles;

and, more particularly:

- Screening on day of arrival to ensure all immediate healthcare and other needs are identified and provided for;
- Provision of an induction programme including information materials about the establishment and sources of help and advice;
- Sentence plans - based on each young person's needs and regularly reviewed and updated – which set realistic objectives for the young person and help prepare them for their return to the community;
- An intense early focus on assessing a learner's needs, formulating those into an individual learning plan and ensuring those needs are delivered through a specification - the *Offender's Learning Journey* – which the teaching contractors are required to deliver;

- A range of offending behaviour programmes which reflect the diversity and individuality of the young people as well as their educational abilities. [See section on JET below];
- A child appropriate approach to behaviour management with greater focus on interventions to address the causes of the young person's poor behaviour and to help them towards a more positive attitude;
- Rewards and sanctions schemes designed specifically for young people and offering realistic and motivating incentives which nurture and reward good behaviour;
- An independent Advocacy Service aimed at providing a useful additional source of help and advice.

### **VIII. SAFE AND DECENT PRISONS**

At the heart of what of HMPS do is recognition of the privilege of potentially being able to make a positive change and impact on the life chances of children and young people whose lives, experience, and behaviour are characterized by difficulty, disruption and social exclusion.

The almost 3,000 15-18yr old young people HMPS looks after are legally children. This is a huge responsibility, and it's vital that staff have the trust of the young people themselves, their parents/carers, other responsible agencies like children's social care, as well as the trust of the commissioning authority the YJB, and the general public.

A typical young person in the care of the Prison Service is likely to have experienced multiple disruption and difficulty. Up to a half may have been in care, most are likely to have significantly disrupted education or be excluded from school. Many are likely to be facing unmet resettlement needs on release such as suitable accommodation.

#### **A. Feeling Safe**

The starting point for engendering this trust has to be delivering an environment where the young people and staff feel safe. This a priority for HMPS and the YJB who have invested in a dedicated safeguarding programme integrating child protection, suicide prevention, self harm management and violence reduction policy and practice and, provided dedicated senior safeguarding managers, training, young people's advocacy programme and capital works improvements. Effective working partnerships with local authorities and YOTs are seen as vital to secure positive outcomes.

Establishments aim to respond appropriately (firmly where necessary) and consistently to the behaviour of young people, and need to take forward a joint YJB programme to develop young people specific strategies such as guidance for adjudications, and look at the use of separation with young people, and how to adopt "time out/calm down" type approaches that might provide a more instant management response. Establishments are also piloting restorative justice approaches.

#### **B. Code of Practice on Behaviour Management**

YOIs are working to the YJB Code of Practice on Behaviour Management which includes the approaches outlined below.

##### **1. Management Responsibilities**

It is important to place behaviour management within a framework of overall management responsibility. The senior managers of each establishment are responsible for leading the approach to managing behaviour; and in particular, they must:

- demonstrate a commitment to a child-centred culture that encourages a calm, ordered, and respectful living environment (which therefore promotes self-control);
- ensure that every relevant member of staff receives appropriate training for all aspects of managing behaviour;
- ensure that monitoring systems are in place to identify the extent of compliance with the Code;
- ensure that lessons learned from monitoring information and from incident analysis are used to inform and improve the development of effective practice within their establishment.

2. An Acceptable Behaviour Statement

The establishment must have a clear, widely distributed statement, written in child-friendly language, about what behaviour is acceptable and unacceptable.

This statement must be made available to the young person as part of the induction process, and be continually referenced (for example, through personal officer/key worker relationships and during care planning meetings). Information about the consequences of unacceptable behaviour must be made clear (see section 3 below).

3. A Coherent and Fair System of Rewards and Sanctions

The establishment must have a clear, widely distributed statement, written in child friendly language, about the rewards and sanctions that are used, and the kind of circumstances in which they are deployed. Restorative justice principles should be at the heart of the system. This statement must be made available to the young person during the induction process, and be continually referenced (for example, through personal officer/key worker relationships and during care planning meetings).

4. A Planned Approach to Managing Individual Behaviour

Behaviour management must be specifically covered in care and sentence planning processes. Triggers to unacceptable behaviours, and tactics for avoiding or defusing them should be identified in the planning process, in consultation with the child or young person. A child or young person who is assessed to need it must have a tailored behaviour management plan in place, which is formulated at planning meetings, and in consultation with the child or young person, his or her parents/carers, and relevant professionals. Behaviour management plans must be reviewed at each planning meeting. Parents/carers and relevant professionals must be kept informed of behavioural problems and achievements.

5. Processes for Consulting with Children and Young People

The establishment must demonstrate a commitment to consulting with children and young people about issues that affect them, and provide information about the processes that are in place to support this commitment.

6. A Complaints Procedure

The establishment must demonstrate that it has an effective complaints procedure. Information on the procedure, written in child-friendly language, must be provided to children and young people, and followed up by explanations from staff during their induction. Children and young people must have access to an independent advocacy service to support them through the complaints procedure. There must be a staged or tiered procedure for resolving complaints. The initial stages of the procedure must seek to resolve complaints locally, informally and swiftly.

Restorative justice principles must be used in resolving complaints wherever possible. There must be clear signposts, where necessary, linking complaints by a child or young person to child protection procedures. The establishment must have a monitoring system in place to review the operation of the complaints procedure, both in terms of the nature of the complaints made and their outcome, from the child or young person's perspective, and at an individual and an aggregate level.

7. An Independent Advocacy Service

The establishment must ensure that children and young people have access to an advocacy service that is:

- child/young person-led;
- independent of the establishment;
- confidential (within the limits of child protection and security requirements).

8. Diversion, De-escalation and Defusing Processes

The policies of the establishment must emphasize de-escalation, and defusing potentially violent or conflict situations. Restorative justice principles should be used where possible to help de-escalate and defuse conflict. This approach must be reflected in the establishment's training strategy.



#### 9. Removal from Normal Location

Removing children and young people from their normal location and separating them from their peers is a procedure used throughout the secure estate to assist in the management of certain types of behaviour. Although the language and some practical aspects of the process differ according to the type of establishment, the following principles must underpin the process wherever it takes place.

The decision to remove a child or young person because of problematic behaviour must be made only on the basis of an assessment that:

- the continued presence of the child or young person in the normal location threatens the good order of the establishment; or
- the child or young person will benefit from a period of separation to assist him or her in bringing his or her behaviour under control.

The decision to remove the child or young person must be taken by a senior member of staff. It must not be used as a punishment. The reasons for the decision must be made clear to the child or young person. Every effort must be made to assist the child or young person in addressing the behaviour that led to the removal, so that he or she may be restored to the normal location as soon as possible. While the child or young person is separated, he or she must continue to have access to regime activities, particularly education. The separation arrangement must be reviewed frequently to ensure that it is still justified. When the period of separation is over, the child or young person must be given the opportunity to debrief with a suitable member of staff.

#### 10. A System for Restrictive Physical Intervention

Only staff who are properly trained and competent to use restrictive physical interventions should undertake them. Restrictive physical interventions must only be used as the result of a risk assessment. They must be mindful of the particular needs and circumstances of the child or young person being restrained (for example, medical conditions or pregnancy). Restrictive physical interventions must not be used as a punishment, or merely to secure compliance with staff instructions. Any intervention must be in compliance with the relevant rules and regulations for the establishment, and carried out in accordance with methods in which the member of staff has received training. Restrictive physical interventions must only be used as a last resort, when there is no alternative available or other options have been exhausted. Methods of restrictive physical intervention that cause deliberate pain must only be used in exceptional circumstances. Restrictive physical interventions must be carried out with the minimum force, and for the shortest possible period of time.

The degree of physical intervention must be proportionate to the assessed risk. Every effort must be made to ensure that other staff are present before the intervention occurs. Medication must only be used for treatment of a medical condition, and not as a means of control. After the intervention, the child or young person must have the opportunity to debrief with a suitable member of staff, with the support of an advocate if requested. A medical examination must be arranged immediately if there is any evidence of injury, or if the child or young person complains of discomfort or pain, or requests it. There must be clear policy links between restrictive physical interventions and child protection procedures (i.e. there must be signposts to the need for a child protection referral if a child or young person is injured, or complains about the intervention).

Staff must have the opportunity to debrief with their manager. Family/carers and appropriate professionals must be informed of the intervention. A monitoring system must be in place to record individual incidents in a way that allows them to be aggregated over time to give a total picture of the use of restrictive physical interventions in each establishment. The establishment must prepare an annual report, which evaluates practice in the area of restrictive physical interventions for the previous year. The establishment must have processes in place to ensure that practice is informed and developed by the debriefing and monitoring information.

## IX. INTERVENTIONS TO REDUCE REOFFENDING

The interventions in YOIs are built around the needs of young people. Primarily these are exclusion from mainstream education through social exclusion or through behaviour management that results in a low level of educational attainment that in turn means young offenders are excluded from employment opportunities; substance misuse; and cognitive behaviour deficits. So the primary interventions are a focus on education a substance misuse service and cognitive skills courses.

### A. Education

The YJB have prioritized education funding for young people in custody, providing 15 hours of structured education within an overall programme of 30 hours' activity that includes physical education, some vocational work and other interventions. The main emphasis of the education provision is on basic skills in literacy and numeracy, with a target to raise attainment levels by one level on the national framework during the period in custody. Education is provided in small groups of about 8 young people with a teacher and teaching assistant in each class.

### B. Substance Misuse Service

Drug Services in HM Prisons were put in place in 1998 and were a structured approach to what was essentially a concern about problematic class A drug use. The approach was very adult focused and it did not include interventions on alcohol, solvents or nicotine.

At that time only 20% of young people accessed Prison Drug Services. A more child orientated approach was pioneered within the North West Prison Area between 2000 and 2003. Following the success of this work, the YJB have invested about £4million per year for a dedicated substance misuse service for young people.

The Young People's Substance Misuse Service (YPSMS) team are in all Prisons - one worker per 30 young people (i.e. Wetherby has 12 workers). All young people have an initial assessment and all receive substance misuse awareness. Those assessed as appropriate are offered one-to-one work and group work.

The main substances covered are alcohol and cannabis – these accounts for 90% of assessed need. Less than 2% of YP are assessed as needing in-patient detoxification from heroin/benzodiazepine/alcohol; most of those that do are females.

The service links closely to community services in terms of continuity of care.

### C. Juvenile Enhanced Thinking Skills (JETS)

The JETS Living Skills programme is a cognitive behavioural programme, based on principles of cognitive behaviour theory. It aims to teach younger offenders how to behave and think in more pro-social ways by changing maladaptive thinking patterns, and providing opportunities for practising new more effective ways of thinking and behaving. It aims to equip them with a range of skills that will enhance their abilities to behave in pro-social ways and interact more effectively with other people e.g. skills in self control, perspective-taking, problem solving and reflective thinking. The programme contributes directly to the principal aim of the youth justice system - to prevent offending by young people.

The programme evolved from evaluating existing interventions and looking at what facilitators and Treatment Managers felt were effective methods with this age group. The aim was to ensure that exercises were exciting, practical and easily accessible to the young people.

The value of the programme is in the potential it has to impact as a core effective regime activity. It adheres to the YJB's 'Key Elements of Effective Practice' criteria for offending behaviour programmes but also, because it takes a holistic and integrated approach, it is designed to fit into the existing regime and resettlement structures.

The programme has been written specifically for the 15-17 age group. It is targeted at males (though it could be easily developed further to make it more responsive to females) who have a medium to high risk of reoffending, who are motivated sufficiently to participate in the programme and who have the offence related

needs in terms of cognitive deficits but who do not have current mental illness, or significant language barriers that would prevent participation.

The programme consists of 25 sessions. The formal group work sessions amount to approximately 48 hours but in addition to this there are a further 7 hours of individual support, and a further 25 hours of homework assignments involving practise of skills. This amounts to a total of 80 hours' treatment work.

#### **D. Sex Offenders**

For adult sex offenders HMPS deliver the Sex Offender Treatment Programme in group sessions. The nature of this programme and the particular vulnerabilities of young people mean that SOTP is not appropriate for under 18s. Where there is a clear need for intervention that cannot wait for the offender to complete SOTP as an adult due to sentence length there is a programme of one-to-one work which is provided in partnership with The Lucy Faithfull Trust, a charity specializing in working to prevent the sexual abuse of children.

### **X. OFFENDER MANAGEMENT AND RESETTLEMENT**

Responsibility for young people serving DTOs rests with the local Youth Offending Team. YOTs work with YOIs to ensure effective Offender Management during and following the period in custody. A common Offender Management tool - Asset - is used and increasingly this is provided through an I.T. solution that is being rolled out under a strategy for 'wiring up Youth Justice'. The emphasis of offender management is on responding to identified need both in terms of vulnerability and the reasons for offending. The YOT case holder attends case conferences in custody, helping to prioritize work to address offending while in prison and planning for a successful resettlement on the return to the community when the same YOT worker will be the lead professional providing supervision.

### **XI. FUTURE DEVELOPMENTS**

The Prison Service continues to work with its commissioner, the YJB, to develop the services provided. The SLA sets out a comprehensive action plan for 2008/9 which prioritizes further developing the Behaviour Management Framework, a Workforce Development Plan that aims to increase the specialization and professional skill base of staff, and a move to rationalize the young people's estate and begin a strategic move towards dedicated sites. These developments will need to be made within the context of changing attitudes, and a reduced tolerance, to youth offending. There are early signs of a loss of confidence in the YJB, both from those who promote a welfare approach, and also from those who advocate a more punitive approach. It will be important to be able to demonstrate success in the system to continue the programme of work undertaken over the last decade. The UK is also entering the part of the political cycle that usually marks a shift to more punitive criminal justice policies.

### **XII. CONCLUDING REMARKS**

This paper has set out the legislative administrative and political context for the Youth Justice System in England and Wales with a particular emphasis on the role of the Public Sector Prison Service. It has looked at research on international comparisons, at the causes of Youth Offending and at the preventive work done in the community before looking at the regimes in place and the treatment interventions offered within custody. It concluded with some thoughts on future developments.

---

# PARTICIPANTS' PAPERS

---

## PROFILES AND EFFECTIVE TREATMENTS OF SERIOUS AND VIOLENT JUVENILE OFFENDERS

*Samuel Tong\**

### I. INTRODUCTION

Hong Kong, like many other countries and cities around the world, applies special procedures and systems for young offenders.

This paper will firstly outline the prevailing juvenile justice system in Hong Kong, with a detailed discussion of the relevant legislation, the juvenile court, the procedures after arrest of a young offender, the court procedures and sentencing principles.

After that, the paper will analyse the aspects of the assessment and treatment methods for young offenders, with highlights on different correctional regimes administered by the Hong Kong Correctional Services Department (HKCS).

Lastly, the paper will study the prevention methods that help young offenders under HKCS' programmes to rehabilitate and reintegrate into society. There will be a detailed description of HKCS' rehabilitation services which specifically target young offenders.

### II. JUSTICE MODEL AND PROCEDURES

#### A. Brief Description of Hong Kong's Juvenile Justice System

##### 1. Legislation

The policy and procedures for the handling of youths in Hong Kong's juvenile justice system is primarily governed by the Juvenile Offenders Ordinance (JOO) (Cap 226). Other relevant legislation includes the Protection of Children and Juveniles Ordinance (Cap 213); the Probation of Offenders Ordinance (Cap 298); the Detention Centres Ordinance (Cap 239); the Training Centres Ordinance (Cap 280); the Community Service Order Ordinance (Cap 378); the Rehabilitation Centres Ordinance (Cap 567); and the Reformatory Schools Ordinance (Cap 225).

##### 2. Juvenile Court

The minimum age of criminal responsibility in Hong Kong has been raised from seven to 10 after the Juvenile Offenders (Amendment) Ordinance 2003 (the Ordinance) came into force<sup>1</sup>. Any persons below the age of 10 cannot be guilty of an offence in law, but they may be subject to care and protection proceedings under the Protection of Children and Juveniles Ordinance.

The Juvenile Court is presided over by a permanent magistrate, who has the jurisdiction to adjudicate alleged criminal offences, other than homicide, committed by a juvenile aged 10-15.

Nevertheless, there are occasions on which juveniles may be transferred to adult courts for trial. These exceptions include a juvenile being:

---

\* Correctional Services Department, Hong Kong Special Administrative Region, China.

<sup>1</sup> The Secretary for Security set 1 July 2003 as the commencement date of the Juvenile Offenders (Amendment) Ordinance 2003. The commencement notice was published in the Gazette on 25 April 2003 and tabled at the Legislative Council on 30 April 2003 for negative vetting.

- (i) charged jointly with a person who has attained 16 years of age;
- (ii) charged with aiding, abetting, counselling, procuring, allowing or permitting an offence with which a person who has attained the age of 16 years is charged at the same time; or
- (iii) charged with an offence arising out of circumstances which are the same as or connected with those giving rise to an offence with which a person who has attained the age of 16 years is charged at the same time.

There is no statutory requirement for magistrates appointed to hear juvenile cases to possess any particular background or training. Nevertheless, before sitting in the Juvenile Court, a Juvenile Court magistrate will be briefed by his or her predecessor on the court practice and procedures. From time to time, Juvenile Court magistrates are encouraged to attend seminars and conferences on related topics.

### 3. Procedures after Arrest of a Young Offender

#### *(i) Interview*

A juvenile arrested by the police will only be interviewed in the presence of a parent, a guardian, or a person (e.g. an older brother or sister) who is of the same sex of the juvenile being interviewed. The absence of such person when a statement is obtained from a juvenile may be considered oppressive and can be sufficient reason for the court to exclude the statement from evidence.

After the interview, the police have the discretion to handle minor offenders informally by cautioning the juvenile. Should the offence warrant formal measures, the police may deal with the case by proceeding with prosecution. Appendix I contains a flowchart which outlines the process of handling a young offender under Hong Kong's juvenile justice system.

#### *(ii) Bail/Detention*

Section 4 of JOO stipulates the conditions for the release of a juvenile on bail pending trial. It provides that a juvenile aged under 16, apprehended with or without warrant, must be brought forthwith before a Juvenile Court. Where that cannot be done, an inspector of police or other officer of equal or of superior rank, or the officer in charge of the police station where such a person is brought, must enquire into the case and grant bail unless: the charge is one of homicide or other grave crimes; it is in the juvenile's interest to remove him or her from association with an undesirable person; or the officer has reason to believe that the release of the juvenile would defeat the ends of justice. If a juvenile is not allowed bail, JOO requires that the juvenile be detained in the police station, but must be kept separate and apart from adult detainees.

#### *(iii) Police Cautioning*

In Hong Kong, a juvenile aged under 18 who commits a minor offence may receive police cautioning under the Police Superintendent's Discretion Scheme. Under the Scheme, the young offender is interviewed by a police officer of at least the rank of superintendent and given a severe warning about the offence and the consequences of such conduct in future. The juvenile is subject to visits by police officers of the Juvenile Protection Section so as to reinforce the warning with continued police contact.

### 4. Court Procedure

#### *(i) Admitting/Denying the Charge*

When a juvenile is brought before a Juvenile Court for any offence, it is the duty of the court to explain to the juvenile in simple language the substance of the alleged offence. If the court is satisfied that the juvenile understands the nature of the alleged offence, the court will ask the juvenile if he or she admits or denies the charge rather than asking him or her to plead guilty or not guilty.

If the juvenile admits the offence, the usual procedure is for the court to receive a statement of facts from the prosecutor. If the court is satisfied that the offence is made out, the facts will be explained in simple language to the juvenile.

The juvenile will then be asked whether or not those facts are admitted. If the facts are accepted and the court finds the offence is proved, the court will proceed to sentence.



*(ii) Hearing*

If the offence is not admitted, or if the court is not satisfied that the juvenile understands the nature of the alleged offence, the court will proceed to hear evidence. At the conclusion of the provision of evidence by the prosecution witness, the court will ask the juvenile, or, if it sees fit, his or her parent or guardian, whether he or she wishes to question the witness. The defendant is allowed to make a statement instead of asking a question if he or she so wishes.

If it appears to the court that a *prima facie* case is made out, the juvenile is allowed to give evidence and call defence witnesses, but is not obligated to do so. After hearing all the evidence, the magistrate will render the verdict. If the verdict is not guilty, the court will release the youth. Otherwise, the magistrate will make a finding of guilt and the case proceeds to sentencing.

*(iii) Legal Representation*

A juvenile is entitled to instruct a private lawyer, to apply for legal aid, or to seek legal assistance from the Duty Lawyer Service (in Magistrates Courts and Juvenile Courts) to represent him or her in court proceedings.

*(iv) Parents/Guardians' Involvement*

The parent or guardian of the juvenile must attend all stages of the proceedings unless the court orders otherwise.

*(v) Protection of Privacy*

JOO safeguards the privacy of the youths who appear before the Juvenile Court for trial. It has laid down restrictions on the reporting of and access to the court proceedings in the Juvenile Court.

*(vi) Reporting Restrictions*

It is an offence for any person to publish written reports or broadcast any proceedings in the Juvenile Court or on appeal from the Juvenile Court, revealing the name, address, school or any particulars calculated to lead to the identification of the juvenile or any witness concerned in the proceedings. The court may dispense with these restrictions if it is in the interests of justice to do so.

*(vii) Access to Juvenile Court Hearing*

Juvenile courts are not open to members of the public. Only the following persons can be present: the magistrate and officers of the court; parties to the case before the court, their solicitors and counsel, and witnesses and other persons directly concerned in that case; bona fide representatives of newspapers or news agencies; and such other persons as the court may specifically authorize to be present.

## 5. Sentencing

In determining the method of dealing with a juvenile who has admitted an offence or been found guilty after the trial, the Juvenile Court will obtain such information, maybe by way of calling for a pre-sentence report, as to the juvenile's general conduct, home surroundings, school record and medical history.

In addition, the Juvenile Court magistrates may seek advice from a Young Offenders Assessment Panel (YOAP) to assist them in sentencing young offenders. YOAP was formed on 1 April 1987 by HKCS and the Social Welfare Department (SWD). It currently consists of seven members of different disciplines from HKCS and SWD, such as correctional services officers, social workers, clinical psychologists and education officers. YOAP provides a co-ordinated view of the most appropriate sentencing option for offenders aged 14-25, and the panel will interview the offenders and consider all relevant factors before rendering its advice to the magistrates for consideration.

Section 11 of JOO restricts the imprisonment of juveniles by specifying that no juveniles shall be sentenced to detention if he or she can suitably be dealt with in any other way. As such, imprisonment should be the last resort to be used where the nature and seriousness of the offence make imprisonment necessary in the public interest, or where the offence merits imprisonment and all other methods of disposal have been excluded.

#### 6. Court Environment

Procedures in the Juvenile Court tend to be less formal than that in a Magistrate's Court. For example, the defendant does not sit in the dock and is accompanied by his or her parents or guardians sitting alongside or behind him or her. Further, the magistrate sits on a slightly raised bench or on the same level as the defendant.

Section 6 of JOO requires that no juvenile shall be permitted to associate with an adult (not being a relative) who is charged with any offence other than an offence with which the juvenile is charged, while being conveyed to or from any criminal court or waiting before or after attending any criminal court.

Further, in order to ensure a complete separation between adult and juvenile defendants, the courtroom used for juvenile proceedings should be completely separate from the one used for proceedings involving adult offenders. Where the same courtroom is used for both adult and juvenile defendants, JOO requires a clear one hour break between the sittings of a juvenile court and the sittings of an adult court.

### III. ASSESSMENT METHODS

#### A. **Violent Crime in Hong Kong**

According to Hong Kong Law Chapter 589 Section 2, "serious crime" means any offence punishable: in relation to the issue or renewal, or the continuance, of a prescribed authorization for interception, by a maximum penalty that is or includes a term of imprisonment of not less than seven years; or in relation to the issue or renewal, or the continuance, of a prescribed authorization for covert surveillance, by a maximum penalty that is or includes a term of imprisonment of not less than three years or a fine of not less than \$1,000,000.

As classified by the Crime Statistics (Appendix II), violent crime includes offences such as "Homicide", "Robberies", "Wounding and Serious Assault", "Criminal Intimidation", "Blackmail", "Arson", "Rape" and "Indecent Assault".

According to the statistical table in Appendix III, the general trend of the crime committed by young people has been quite steady in the past few years. In 2006, there were 4,974 young persons and 4,510 juveniles arrested (total: 9,484 persons), whereas in 2005, the numbers were 4,780 and 4,531 respectively (total: 9,311). However, when compared with the figures from 2004 and earlier, the total number of young persons and juveniles arrested in 2005 and 2006 showed a decrease.

Another statistical table compiled by Hong Kong HKCS in Appendix IV shows that in 2007, the total number of young male offenders being sentenced to correctional institutions was 1,100 whilst that of young female offenders was 476, but in 2006, the two different numbers were 1,065 and 908 respectively.

### IV. TREATMENT METHODS

#### A. **Sentencing Options for Young Offenders in Hong Kong**

If the court is satisfied that the juvenile is guilty of an offence, it may deal with the case in one or more of the following ways:

- (i) by dismissing the charge;
- (ii) by a discharge upon entering into a recognizance;
- (iii) by a probation order under the provisions of the Probation of Offenders Ordinance. The court may make a probation order requiring the offender to be under the supervision of a probation officer for a period of between one and three years;

- (iv) by release on a bond of good behaviour under section 96(b) of the Magistrates Ordinance (Cap 227)<sup>2</sup>;
- (v) by an order under the Protection of Children and Juveniles Ordinance, if in need of care and protection;
- (vi) by sending the offender to a reformatory school under the Reformatory Schools Ordinance for a period of between one and three years, and in any case not longer than until the offender attains the age of 18 years;
- (vii) by ordering the juvenile to pay a fine, damages or costs;
- (viii) by ordering the parent or guardian of the offender to pay a fine, damages or costs;
- (ix) by ordering the parent or guardian to give security for the good behaviour of the offender;
- (x) where the offender is a young person aged 14-15, by sentencing him or her to imprisonment or to detention in a Training Centre established under the Training Centres Ordinances or to detention in a rehabilitation centre within the meaning of the Rehabilitation Centres Ordinances. The period of detention in a Training Centre is from six months to three years, and that in a rehabilitation centre is from three to nine months;
- (xi) where the offender is a male person, by dealing with him under the provisions of the Detention Centres Ordinance. For those aged over 14 and under 25, the period of detention is from one to six months;
- (xii) where the offender is aged 14-15, by ordering him or her to perform community services not exceeding 240 hours within a 12-month period under the Community Service Orders Ordinance; or
- (xiii) by dealing with the case in another manner in which it may be legally dealt with, e.g. imprisonment, as the last resort.

The criminal courts play a key role in the criminal justice system and the options available to them are related to the pertinent ordinances. Then the courts decide which are the most appropriate sentences within their jurisdiction to achieve these objectives.

It is recognized in the criminal justice system that young offenders are a separate group who deserve separate sentencing and treatment programmes. The main reason for this is that they are not as mature as adults and they are still developing in connection with their character and personality.

In other words, there is a likelihood that the young offenders could be transformed. For this age group of offenders, the goal of rehabilitation is of greater importance than the other three. Besides, reintegration into society is also an important factor to be considered. Therefore, noncustodial sentences such as probation, fine, bind-over, community services order, etc., would be first considered by the courts.

However, there are several conditions for which non-custodial sentences seem to be inappropriate: if it appears that the young offender is unable or unwilling to respond to non-custodial sentences; if a custodial sentence is necessary for the protection of the public; or if the offence was so serious that a non-custodial sentence cannot be justified.

It is also stipulated in Section 109A(1) of the Criminal Procedure Ordinance that no court shall sentence a person of or over 16 and under 21 years of age to imprisonment unless the court is of opinion that no other method of dealing with such person is appropriate. However, this provision shall not apply to young

---

<sup>2</sup> This provision prescribes for delivering the offender "to his parent, guardian or nearest adult relative or, if the offender is an apprentice or servant, to his master or mistress or, if the offender is a pupil, to the person in charge of the school at which the offender is attending, on such parent, guardian, relative, master, mistress or person in charge of a school executing a bond, with or without sureties, that he will be responsible for the good behaviour and also, if the magistrate thinks it necessary, for the proper education of the offender for any period not exceeding 12 months".



offenders who commit serious offences.

Therefore, it is clear that in sentencing young offenders in Hong Kong, the basic rule is that incarceration should not be taken for granted. Moreover, among the different types of custodial sentences, imprisonment should be the last choice. Even if a custodial sentence is necessary, detention in a Boys' Home, Reformatory School, Detention Centre, Rehabilitation Centre, Training Centre or Drug Addiction Treatment Centre should be first considered by courts, whereby the offenders will undergo different rehabilitation programmes according to the place of detention so as to achieve the aims of sentencing or the objectives of the criminal justice system.

### 1. Roles of Relevant Agencies

Having the case tried and the defendant found guilty of the charge, then the court faces the question of sentencing. Bearing in mind the goals of the criminal justice system, there is always more than one option for sentencing unless the punishment of the offence is already fixed by law. The option usually takes into consideration the following information concerning the offender: age of the offender; nature of the offence; criminal history; past institutional performance (if any); physical and mental condition; educational background and school performance; family background and relationship; and working experience. This information is particularly helpful to the sentencing of young offenders.

HKCS and SWD are responsible for providing a range of rehabilitation programmes intended for young offenders. Each differs in design in the context of the programme to aim at particular target group of offenders. However, according to Section 11 of the Juvenile Offenders Ordinance, a child who is under the age of 14 should not be sentenced to imprisonment or committed to prison in default of payment of a fine, damages or costs. Therefore the rehabilitation programmes for young offenders between the ages of 10 to 14 are limited to the domain of the SWD.

In the rest of the paper, the main focus will remain on the treatment programmes offered by the HKCS.

At present, the major programmes for young offenders run by HKCS are the Detention Centre Programme; the Rehabilitation Centre Programme; the Training Centre Programme; the Drug Addiction Treatment Centre Programme and the Young Prisoners Programme.

### 2. Detention Centre Programme

The first point of entry into the HKCS institutions for young offenders in the early stage of their deviation from the law would be the Detention Centre. This system of the Detention Centre provides an alternative means of dealing with young offenders who cannot learn to respect for the law by non-custodial sentences like fine or probation, or when it is in the interest of the general public that a custodial sentence is imposed.

The Detention Centre is administered under the Detention Centre Ordinance Chapter 239 which was enacted in June 1972. It provides for the establishment of a correctional agency set up as Detention Centres where young first offenders are detained and undergo programmes with the aim of inducing in them respect for the law and deterring them from further criminal activity.

The period of detention for young offenders (age 14 to 21) in the Detention Centre will not be less than one month and not more than six months. Following release from the centre, the young offender is required to undergo statutory supervision for one year. Non-compliance with the terms of the supervision could result in being recalled to the Detention Centre for further training.

In 1976, the Detention Centre Ordinance was amended such that the programme was extended to young adult offenders aged between 21 and 25, but their detention period would not be less than three months and not more than 12 months.

The Detention Centre is basically a regime of brisk and firm discipline, with emphasis on hard work and the highest standard of achievement. The design is to give a "short, sharp, shock" treatment to the young offenders in their early stages of deviation.

The rehabilitation programmes of the Detention Centre do not cease on the day when the young offender

is released from the centre. The general terms of the Supervision Order require the offender: to inform his or her after-care officer of any change in place of residence or occupation; to lead an honest life and not to associate with known bad characters including members of unlawful societies; to obey the instructions of his or her after-care officer and to consult him or her whenever necessary; to see his or her Rehabilitation Unit officer in person at least once every month; to remain at home or at another designated place between 11:00 p.m. and 6:00 a.m. every night unless otherwise authorized; and to keep away from all undesirable places frequented by triad or gang members.

So throughout the 12 month period of supervision, the young offender is constantly reminded of his or her obligation to respect the law, and a violation of the supervision conditions may result in recall for further training, or a conviction by the court.

### 3. Rehabilitation Centre Programme

With the enactment of the Rehabilitation Centres Ordinance Chapter 567 in 2001, the Department started operating rehabilitation centres on 11 July 2002. The centres provide an additional sentencing option for the courts to deal with young offenders aged from 14 to under 21 who are in need of a short-term residential rehabilitation programme.

The programme consists of two phases. The first phase provides two to five months' training in a correctional facility. It focuses on discipline training with the aim of helping young offenders learn to exercise better self-control and develop a regular living pattern through half-day basic work skills training and half-day educational/counselling programmes. During the second phase, young offenders are accommodated in an institution of a half-way house setting for a period of one to four months. They may go out for work; attend vocational training and educational courses; and participate in community service programmes. Discharged young offenders are subject to one year's statutory supervision by aftercare officers.

### 4. Training Centre Programme

The Training Centre Programme in Hong Kong is operated under the Training Centre Ordinance 9 Chapter 280 which was enacted in March 1953. The ordinance provides for the establishment of Training Centres for the training and reformation of young offenders aged between 14 and 20.

Although admission to the Training Centre also requires a suitability report as stipulated in Section 4(3) of the Training Centre Ordinance, the construction of the section only demands the courts to consider the recommendation of the suitability report but it is not necessary that the conclusion of the report must agree in order to pass such sentence. However, the courts cannot sentence a young offender to the Detention Centre if the suitability report does not agree, so admission criteria to Training Centre is much more flexible than that which applies to the Detention Centre.

The regime of the Training Centre is focused on the training and reformation value of detention with emphasis on productive and constructive activities for the young offenders. Young offenders, of either sex, and aged not less than 14 but under 21 years can be sentenced to a Training Centre if the court thinks that it is in the interest of the community and it is expedient for his or her reformation and for the prevention of crime.

The Training Centre Programme is composed of two major aspects. Firstly, Section 12(1) of the Training Centre Regulations provides that every Training Centre inmate, unless excused on medical grounds, shall be employed on suitable work calculated to assist him or her in earning a livelihood on discharge. Secondly, the law also provides that each inmate is required to take remedial education classes which are adjusted to his or her educational background for his or her own benefit.

The period of detention in Training Centres is indeterminate, ranging from a minimum of six months to a maximum of three years. A Training Centre inmate's suitability for discharge is decided and evaluated by a Board of Review which periodically interviews each inmate to consider his or her progress. When a young offender is assessed to have reached the peak of his or her performance, he or she is released.

Following the release, the young offender is required to undergo a statutory supervision period of three

years. If the young offender fails to comply with the terms and instruction as laid down in the Supervision Order, he or she can be recalled to a Training Centre for further detention and training.

#### 5. Young Prisoners' Programme

Imprisonment is the last resort of the various options for disposal of young offenders by courts. It is explicitly stipulated in the Criminal Procedure Ordinance that it should be the final preference for courts to sentence a young offender to imprisonment. Moreover, the stipulation in Section 8(A) of the Detention Centre Ordinance; Section 10 of the Rehabilitation Centres Ordinance and Section 7(2) of the Training Centre Ordinance empower the Chief Executive to transfer a Detention Centre/Rehabilitation Centre/Training Centre inmate to prison if he or she is reported by the Commissioner of Correctional Services to be exercising a bad influence on other young offenders, or he or she is considered to be incorrigible.

Presumably those young offenders sentenced to imprisonment should primarily be persons whom the courts consider the most difficult and incorrigible young offenders who have advanced a considerable way along their criminal trajectory.

Apart from the stipulation in the Criminal Procedure Ordinance and the age criterion, no other exclusion principle is stated in the law as admission criterion to sentence a young offender to imprisonment. There is no suitability report in relation to a sentence of imprisonment.

However, there are other reasons for which the young offenders will be sentenced to imprisonment. The most numerous of such cases are those of young illegal immigrants who are convicted of offences listed in the Immigration Ordinance, Chapter 115, such as "Remaining in Hong Kong without authority" and "Using an Identity Card relating to another person". After serving their terms of imprisonment and being released, they are subject to deportation or repatriation. Therefore they are unable to undergo the statutory period of supervision which is a vital and inseparable element of treatment in the Detention Centre, Rehabilitation Centre or Training Centre Programme. Besides, usually their immediate family members are not residents of Hong Kong therefore the mechanism of building stronger family ties to develop their personalities could not be applied.

Prisons in Hong Kong are operated under the Prisons Ordinance and the Prisons Rules, Chapter 234. The length of sentences for young offenders is specified in the court order. However, they are entitled to have one-third of the sentence reduced as remission provided that it is not less than thirty-one days. They shall be subject to a one year period of statutory supervision after release if their sentence is three months' imprisonment or more (except those sentences which could be reduced by paying fines or if they reach the age of 25). Those who are illegal immigrants need not undergo the supervision period. Failure to comply with the conditions of the Supervision Order would result in recall to prison.

The Prisons Ordinance and Prison Rules give little distinction between young and adult prisoners. First, the two age groups should be detained in different penal institutions. The other difference is that young prisoners are required to attend educational classes. The law states that every prisoner shall engage in work for not more than ten hours a day and young prisoners may be required to attend educational classes and time in class will be counted as time engaged in useful work.

The regime of the prisons for young offenders focuses on the training and reformation value of detention. The treatment programme is basically designed in the form of half-day vocational training and half-day educational classes. Besides, discipline is emphasized in the treatment of young offenders by requiring them to perform footdrill. Imprisonment should be the last option in sentencing a young offender.

#### 6. Drug Addiction Treatment Centre Programme

The Drug Addiction Treatment Centre Ordinance Chapter 244 was enacted in January 1969. It provides for the establishment of Drug Addiction Treatment Centres for the cure and rehabilitation of offenders found guilty of criminal offences who are suffering from drug addiction.

It empowers the court with the authority to sentence a drug addict convicted of offences of a relatively minor nature yet punishable by imprisonment to detention in a Drug Addiction Treatment Centre if the court considers that a period of treatment in a Drug Addiction Treatment Centre is more beneficial than

a term of imprisonment. Besides, the ordinance stipulates that when a court makes a detention order, no conviction shall be recorded, unless in the opinion of the court, the circumstances of the offence so warrant.

In accordance with Section 4(3) of the Drug Addiction Treatment Centre Ordinance, similar to the Detention Centre, Rehabilitation Centre and Training Centre Ordinance, the court shall consider a suitability report before an order for detention in a Drug Addiction Treatment Centre is made. The criteria of admission is concerned with the relevancy of the offence, whether the offender is a drug addict and whether it is in the interest of the offender and the public interest to detain in the centre in lieu of prison.

A drug addict who is over the age of fourteen may be sentenced to a Drug Addiction Treatment Centre. Therefore, the programme is not limited to young offenders only. However, young offenders sentenced to a Drug Addiction Treatment Centre are separated from the adult inmates. The two groups are either detained in different centres or in different sections of the same centre.

The period of detention in a Drug Addiction Treatment Centre is indeterminate, ranging from a minimum of two months to a maximum of 12 months, followed by 12 months of statutory aftercare supervision. The actual length of treatment is based on the inmate's health and progress and the likelihood of remaining free from addiction to dangerous drugs after release.

The problem of drug addiction and its treatment are complicated and its causes are varied. The prevailing legal framework allows the Superintendent of the Drug Addiction Treatment Centre to order an inmate to attend any course, class or lecture which he or she considers could be beneficial to the inmate.

There are three aims of the compulsory drug treatment programme: detoxification and restoration of physical health; up-rooting of psychological and emotional dependence on drugs; and preparation for the inmate's reintegration into society.

In summary, young offenders who are drug addicts may be sentenced to a Drug Addiction Treatment Centre in lieu of other sentence options so far as the courts think appropriate. The aim is to restore the health of the offender and to develop his or her resistance against drug dependence. The programme is a combination of medical treatment, work therapy and counselling. On the whole, it is therapeutic rather than punitive in nature.

## **V. PREVENTION METHODS**

### **A. Rehabilitation Services**

As an integral part of the Hong Kong criminal justice system, HKCS is committed to providing safe and secure custodial services and preparing offenders for successful reintegration into the community as a law-abiding and productive citizen through the provision of comprehensive rehabilitative services. HKCS' mission is to protect the public and help reduce crime.

The effectiveness of HKCS' work in rehabilitation is not only affected by the quality of the custodial regime and rehabilitative programmes, but also the motivation and responsivity of offenders towards such programmes, as well as community acceptance of rehabilitated persons. Since the establishment of a Rehabilitation Division in 1998, HKCS has been forging ahead with a two-pronged approach of enhancing its rehabilitative services and programmes, and cultivating community involvement in the provision of such services, including pre-sentence assessment services, prisoners' welfare and counselling services, psychological services, education programmes, vocational training and post-release supervision services.

In order to enhance the success of reintegration of offenders, HKCS has substantially enhanced vocational training and education for offenders in recent years so as to better equip offenders in their reintegration into the community after discharge. HKCS has also organized public education and publicity activities to increase the public's understanding of offender rehabilitation and to appeal for their support in this connection.

### 1. Vocational Training for Offenders

Employment is a key reintegration factor. This is confirmed by a survey conducted by HKCS in 2000 to identify the needs of rehabilitated persons. The results of the survey revealed that over 60% of the rehabilitated persons considered that securing employment was their immediate concern at the initial stage of their release. Therefore, HKCS has strengthened the vocational training available to offenders in custody. The purpose is to enhance their employability through vocational training that keeps pace with development of the community and through the recognized qualification they obtain after the training.

Young offenders under the age of 21 will receive half-day compulsory vocational training on technical or commercial skills. HKCS constantly reviews the vocational training courses provided to them to ensure such courses are in line with market needs. The current courses include decorative joinery, electrical and electronic servicing, mechanical engineering crafts, plumbing and pipefitting, vehicle body painting, computer-aid drafting, computer servicing, food and beverage service and printing and desktop publishing. In 2006, young offenders attempted 525 public examination papers and trade tests, and the overall passing rate was 96%.

### 2. Education for Offenders

Enhancing the education level of offenders can help them tackle the challenges they face, and also improve their employability, upon their return to the society after discharge. For young offenders, HKCS' policy is to bridge the education provided for young offenders to mainstream education. Having regard to the introduction of a new senior secondary education (NSSE) curriculum in Hong Kong, HKCS has started the necessary preparations to introduce NSSE subjects for inmate students in 2009 and to prepare them to sit the Hong Kong Diploma of Secondary Education Examination in 2012. The preparations include, *inter alia*, identification of suitable NSSE subjects for introduction in correctional institutions and development of existing teaching staff or recruitment of teaching staff with relevant qualifications to teach the new subjects.

### 3. Community Involvement

While HKCS is committed to providing the best possible opportunity for all offenders to make a new start in life upon release, the efforts made by the government and the offenders themselves are not adequate. Their successful reintegration also depends on how ready the community is to support and accept them.

The common misconceptions about offenders and, to a certain extent, the prison regimes, are mainly due to lack of information and public education. This not only creates obstacles to the smooth reintegration of rehabilitated persons but also leads to wastage of resources devoted to their rehabilitation.

Recognizing the importance of community acceptance and support of the successful reintegration of rehabilitated persons, HKCS established in late 1999 the Committee on Community Support for Rehabilitated Offenders, comprising community leaders, employers, education workers, professionals and representatives of non-governmental organizations (NGOs) and government departments, to advise on rehabilitation programmes and reintegration and publicity strategies.

Since then, a series of publicity and public education activities targeting four community groups, students, the general public, employers and community leaders at district level, have been organized to appeal for community support for offender rehabilitation as well as to educate the public on crime prevention. These activities include, *inter alia*, special TV and radio programmes, roving exhibitions at district level, a TV documentary drama on rehabilitated persons – “The Road Back”<sup>3</sup>, appointment of local celebrities and public figures as Rehabilitation Ambassadors, and television and radio announcements in the public interest.

---

<sup>3</sup> The HKCS, in collaboration with Radio Television Hong Kong, produced three 10-episode series of a TV docu-drama entitled ‘The Road Back’. The series were produced in 2000, 2002 and 2004 and all were well-received. The first series was awarded the Silver Award for Best Television Programme and the New Television Programme Award in 2000. The second series in 2002 was awarded the Gold Award in Entertainment Programme and Silver in the Best Television Programmes Award. The third series in 2004 was awarded the Gold Remi Award at The Houston International Film Festival and the Bronze Plaque in the 53<sup>rd</sup> Columbus International Film & Video Festival. The fourth series was telecast from May to July 2006.



Community involvement and participation in various aspects of offenders' correctional and rehabilitative process narrows the gap between the public at large and the offenders. It helps change the negative attitude of society towards offenders. To help diversify and enrich HKCS' service delivery, it needs the regular and active participation of NGOs and religious bodies.

As a result of HKCS' incessant publicity efforts, supportive connections and partnerships conducive to offenders' reintegration have been established. At present, there are more than 60 religious bodies and NGOs partnering with HKCS to provide services to help prisoners reintegrate into the community.

These organizations are actively involved in a variety of services ranging from the provision of counselling services and religious sacraments to the organization of cultural ventures and recreational projects in correctional institutions. To strengthen co-operation amongst NGOs and provide all NGO partners with an opportunity to exchange views on matters relating to rehabilitation services, HKCS holds annual forums with NGO representatives on top of regular service reviews.

In addition, a web-based messaging platform has been set up to provide users with an interactive site to post topics for open discussion. Another remarkable example of partnership between HKCS and NGOs is the implementation of a "Continuing Care Project" since early 2004 wherein seven NGOs provide follow-up services for supervisees who are assessed to be still in need of and are willing to receive counselling services after completing the statutory supervision. As at the end of May 2007, a total of 352 cases have been successfully referred to respective NGOs for the service.

Responding to HKCS' call for support and assistance to offender rehabilitation, the involvement of and sponsorship from renowned community organizations and local charitable organizations<sup>4</sup> in various programmes for the benefits of offenders and rehabilitated persons have been increasing in recent years. The various initiatives include the running of professional beautician certificate courses and hairdressing courses for female prisoners.

To enhance the employment opportunities for rehabilitated persons, HKCS has also facilitated enthusiastic business organizations to launch a "One Company One Job" campaign<sup>5</sup> since 2004 in local districts to promote fair job opportunities for rehabilitated persons.

To further broaden the scope of public involvement, HKCS formed the HKCS Rehabilitation Volunteer Group in early 2004. The Group, comprising over 200 volunteers who are mostly university students and serving teachers, aims to supplement the services of HKCS, particularly in terms of addressing the reformative, emotional, educational, social and recreational needs of inmates. Apart from conducting interest groups on such topics as languages, computer studies and other cultural pursuits for offenders in various correctional institutions, they also assist in other areas of rehabilitation work, such as public education activities for promoting community acceptance of rehabilitated persons.

To ensure co-ordinated channels for disseminating our messages, HKCS needs to establish a network at different local districts to deliver the message that rehabilitation can help prevent crime and reduce reoffending, a message signifying social responsibility on the issue.

HKCS accordingly co-operates with all of Hong Kong's 18 District Fight Crime Committees<sup>6</sup> by inviting them to organize publicity activities relating to offenders' rehabilitation. Senior correctional officers are

<sup>4</sup> These organizations include, among others, the Care of Rehabilitated Offenders Association, Lok Sin Tong Benevolent Society, Kowloon, Rotary Clubs, International CICA Association of Esthetics, Zonta Clubs, Lions Clubs, etc.

<sup>5</sup> The campaign is about promoting to the members of those business organizations the employment of at least one rehabilitated offender in each of their companies.

<sup>6</sup> The District Fight Crime Committees which are district bodies appointed by the Government to advise on means to combat crime, consist of both members of the public and government officials. They help monitor the crime situation at district level; co-ordinate community resources to assist in fighting crime; and make recommendations to the Central Fight Crime Committee with regard to fight crime measures and community involvement. Chaired by the Chief Secretary for Administration of the Hong Kong SAR Government, the Central Fight Crime Committee draws up plans to reduce; co-ordinates efforts in fighting crime; monitors the results; and determines ways in which the public can be stimulated to contribute to the reduction of crime.

appointed as Regional Liaison Officers to facilitate the co-ordination of these activities and to provide necessary support. With this network of channels functioning, HKCS organize year-round activities in all districts and sustain a broad and pervasive permeation of the rehabilitation message to the public.

Rehabilitative work, being the collective responsibility of the whole community, requires the participation of all citizens rather than the sole effort of correctional jurisdictions. The ultimate goal is to build a safer and more inclusive society. Providing public education for the next generation is a long-term target in soliciting support for offender rehabilitation as well as crime prevention. In this regard, HKCS has been undertaking a number of public education initiatives for youth over the years. These initiatives include those outlined below.

*(i) Personal Encounter with Prisoners Scheme<sup>7</sup> (PEPS)*

HKCS has been running PEPS since 1993 with a view to generating attitudinal and behavioural changes among youth at risk. Under this Scheme, participants will visit one of the designated correctional institutions, and have face-to-face discussions with reformed prisoners. The objective is to prompt the participants to think about the consequences of committing crimes. At the same time, the participating prisoners can develop a positive self-image and build up confidence through the experience sharing sessions. In 2006, a total of 207 visits were arranged for a total of 3,399 young people and students under PEPS.

*(ii) Green Haven Scheme<sup>8</sup> (GHS)*

HKCS started the Scheme in January 2001 to promote anti-drug messages and the importance of environmental protection among young people. Under the Scheme, participants visit the mini drug museum at a Drug Addiction Treatment Centre and meet with young offenders there to learn about the harmful effects of drug abuse. They also take part in a tree planting ceremony to pledge support for rehabilitated offenders and environmental protection, and as a vow to stay away from drugs. In 2006, a total of 33 visits were arranged for 904 participants under GHS.

*(iii) "Options in Life" Student Forum*

To demonstrate the willingness of rehabilitated offenders to make a contribution to society, HKCS organized a series of district-based student forums in all 18 districts from late 2003 to late 2005 to provide opportunities for secondary school students to interact with rehabilitated offenders, and to discuss with them the detrimental consequences of committing crimes. A total of 20 student forums have been organized with 3,300 participants. In line with HKCS' community involvement strategy, arrangements have been made for similar forums to be run by 12 non-government organizations (NGOs) since 2006. HKCS provides the necessary support and steer to the NGOs.

In the run-up to the tenth anniversary of the Rehabilitation Division in January 2008, another series of publicity and public education activities for rehabilitated persons were organized from August 2007 to January 2008. Some of the major events include district-based publicity activities co-organized with all 18 District Fight Crime Committees, a Liu Shih Kun Concert<sup>9</sup>, production and broadcast of new TV and radio announcements in the public interest, an experience sharing forum with NGOs, a Rehabilitation Fair, a symposium on employment for rehabilitated persons, an NGO service day, a professional development workshop on offender rehabilitation, and a TV variety show.

---

<sup>7</sup> The Scheme was awarded "The Outstanding Performance Award for the Crime Fighting Staff" by the Fight Crime Committee in December 2001.

<sup>8</sup> The Green Haven Scheme has won a Gold Award in the 2002 Hong Kong Eco-Business Award. The venue for conducting the Scheme, namely Hei Ling Chau, has also been certified to ISO 14001:1996 standards for its environmental management system by the Hong Kong Quality Assurance Agency.

<sup>9</sup> Mr. Liu Shih Kun is a pianist well-known among Chinese over the world and the concert aims to bring care, concern and encouragement to inmates as well as appealing to the public to accept and give opportunities to the persons under custody or who have completed a period of incarceration.



## **B. Programmes Targeted at Young Offenders**

### **1. Offending Behaviour Programme**

The Offending Behaviour Programme (OBP) in HKCS has been developed with a view to helping young offenders to develop attitudes and skills which are instrumental to reducing the risk of reoffending, taking into careful consideration the elements of effective treatment. Three of the basic considerations in the development and implementation of OBP included: the enhancement of the motivational state of young offenders; the application of the cognitive-behavioural conceptualization of criminal behaviours in treatment and rehabilitation efforts; and the matching of treatment materials and formats to the general characteristics of young offenders.

For punishment to be effective the punishment should be immediate; the pattern of punishment schedule has to be constant and consistent; and most important of all, the person has to draw a link cognitively between the behaviours and the punishment received. As these criteria are hard to meet under the present legal system, to effect behavioural change more effort has to be made in rehabilitating offenders rather than relying solely on the punitive effect of imprisonment.

Various offender programmes are developed and conducted in Canada and the United States in both the probation and prisoner setting. Recent evaluation studies report remarkably encouraging results which supported treatment work on offending behaviours in reducing recidivism. For example, Losel (1995) made a review of 13 meta-analyses on offender treatment studies and found that all have positive effects. Of greater relevance to the young offender population is the large-scale study made by Lipsey (1992). He made a meta-analysis of 400 control or comparison group studies of treatment for delinquency since 1950, involving over 40,000 subjects aged from 12 to 21 and found an average treatment effect of 10 % reduction in recidivism. In fact, over 100 prisons in England are running such treatment programmes. In HKCS, the OBP has been developed with the aim of reducing the recidivism rate of young offenders and helping offenders develop a new set of values, attitudes and skills which are essential for pro-social adjustment.

There is a considerable body of evidence that suggests offenders as a group differ from non-offenders in terms of a number of individual characteristics. Factors identified to be characteristic of persistent offenders include egocentricity, rigid thinking, impulsivity, poor problem-solving abilities, low self-esteem and poor emotional handling, just to name a few. For example, Ross and Fabiano (1985) showed that offenders had deficits in their ability to conceptualize consequences, means-end reasoning, understanding the feelings of others, etc. J. McGuire (1999) focused on offenders' poor interpersonal problem solving skills while J. Bush (1995) and Yochelson and Samenow (1976) pointed out deficits in thinking styles such as entitlement and victim stance.

In short, offenders are undersocialized; they lack the values, attitudes and skills essential for a pro-social way of life. Therefore, the OBP directs treatment efforts at those "criminogenic" factors, those aspects of individual characteristics conducive to offending behaviours. Apart from dealing with criminogenic factors, the important risk factor of substance abuse is also one of the targets for treatment.

Substance abuse cannot be considered a direct criminogenic factor as it can hardly be categorized as an individual characteristic, like impulsivity and egocentricity. However, it is likely that substance abuse will put a person at a relatively higher risk of reoffending as substance abuse will magnify other criminogenic factors, for example, by increasing a person's impulsiveness, decreasing a person's ability in consequential thinking, affecting a person's problem solving skills and relaxing a person's emotional control.

Being part of the OBP, modules on the prevention and treatment of substance abuse share the same prime objective of recidivism reduction rather than focusing only on achieving abstinence or controlled use of substances. Lastly, the OBP also works on strengthening a person's protective factors against crime.

Family, being the most prominent protective factor against crime, is one of the treatment targets. Therefore, helping young offenders improve their family relationships and family communication is an important element in OBP. Parallel to the work with young offenders, services are also rendered to parental figures who would like to improve their communication and parenting skills with their young ones. The content modules of the OBP are summarized in Appendix V.

*(i) Principles of Responsivity*

To enhance programme effectiveness, the principles of responsivity were carefully considered and included when developing the OBP for young offenders (Antonowicz and Ross 1994).

Four important elements of responsivity, namely the employment of a consistent conceptual model, Cognitive-Behavioral Therapy (CBT), employment of motivational techniques, the employment of the Risk and Needs principles for programme matching and employment of materials and formats congruent with young offenders' characteristics are integral parts of the programme.

*(ii) Employment of the Risk/Need Principles*

Research has shown that offender programmes are most effective when directed at offenders of relatively higher risk of recidivism. In evaluating the overall risk of offenders both the static risk factors (behavioural history) and the dynamic risk factors (changeable criminogenic needs and others) are taken together.

For programme matching, the dynamic needs take precedent as they are the changeable treatment targets. Priority of participation in OBP is determined first by the level of need and then the level of static risk of the offender.

To further refine the principle of risk and need, modules of the programme are matched to the different specific needs of the offenders. For example, those with considerable need in the area of "criminal attitude" would be matched to the module dealing with "Criminal Attitudes and Thinking Styles". Those with considerable need on impulsivity may be matched to the module on "Problem Solving Skills" and "Anger Management".

With this double matching of offenders' risk level and specific need areas to specific OBP Modules, the effectiveness of the OBP should be enhanced.

*(iii) Employment of Motivational Techniques in the Offending Behaviour Programme*

Responsivity also depends greatly on young offenders' motivational state. Motivational Interviewing has been proven an effective strategy for offender intervention and is widely applied on treatment of addictive behaviours (Miller, 1994, 1996, 1998, etc.). This directive, person-centred counselling method is powerful in developing the intrinsic motivation of clients to change by helping them explore and resolve their ambivalence about change (Johnson, 2005).

In the design of programme activities for various modules of the OBP, the five basic principles of motivational interviewing, expressing empathy, developing discrepancy, avoiding argumentation, rolling with resistance, and supporting self-efficacy were applied, with special effort paid to suit the needs of the young offender population.

Whereas empathy is an important attitude, the message is clearly conveyed that it is not the juvenile's offending behaviour that is accepted, but their person as a whole, and they are repeatedly guided to think of reasons to desist offending for their own sake. Programme facilitators are well versed with the philosophy and techniques of Motivational Interviewing and they are trained to listen reflectively and empathetically.

The discrepancy between their ideal future and realistic outcomes of repeated offending is developed in the format of games and written exercises. This intentional creation of "cognitive dissonance" can serve as a strong drive for young offenders to make a decision to change their past anti-social lifestyle.

As young offenders are generally rebellious and many have a past history of problems and conflicts with authority figures, it is particularly important not to play the expert role or argue with them, which would cause resistance to develop. Therefore, the OBP is carefully designed and delivered to avoid being judgmental and confrontational. For example, the metaphor of visual illusion has been used in the discussion of criminal thinking and joint effort in exploration of the pro-social alternatives.

To improve young offenders' self-efficacy, activities are also designed to help offenders identify their personal strengths. Together with presentation of cases (in the form of audio-visual materials) who have successfully desisted, their self-efficacy in anticipating and working on self-improvement towards a non-

offending life is enhanced.

*(iv) Employment of a Consistent Conceptual Model (CBT)*

Application of Cognitive-Behavioural Therapy has been found to be effective in the modification of emotional disorders (Beck 1979), and applicable to the adolescent population (Kazdin, 1994), including those with behavioural problems (e.g. Feindler & Ecton, 1994). In particular, a strong cognitive element was identified as an ingredient for effective intervention in offending behaviour (Ross & Fabiano, 1985).

Cognitive Behavioural Therapy assumes that individuals would actively construct their reality. It is hypothesized that emotions, thoughts and behaviour are inter-related, while behaviours and emotions can be affected and changed by thoughts. In addition, it is postulated that identification of attitude, expectancy and appraisal will help in the assessment of psychological and emotional problems.

When applying CBT in Offending Behaviour Programme design, psycho-education, skills training and skill rehearsals are applied. The interaction between thoughts, emotions and behaviour is initially introduced through psycho-education. Such information serves to facilitate understanding the consequences of one's behaviour, in particular those related to offending behaviour.

Identification of one's own thoughts and thinking style is an important element in the OBP. For example, young offenders are helped to identify their common thinking and attitude behind offending behaviour through selected illustrative examples and participation in games. They are helped to examine, self-challenge and change their distorted criminal thinking.

Furthermore, participants are invited to identify their personal high risk factors of offending. Social cognitive skills training then targets three different areas: cognition, behaviour and environment. They are then provided with opportunities to practice adaptive coping skills for replacement of problematic behaviour. Moreover, a good deal of cognitive restructuring and skills training are required to help young offenders to cope with or avoid environmental risk factors. In addition, during skill rehearsals high risk offending situations are re-constructed for clients and involve active participation in role-play, using both examples from institution scenarios to enhance learning and practice, and community scenarios for generalization into real life situations.

*(v) Matching Programme Format and Design with Young Offender Characteristics*

Young offender characteristics are carefully considered when developing and designing the OBP as young offenders' participation, responsiveness and involvement are crucial to the success of the programme.

Firstly, HKCS recognizes that young offenders are very much a heterogeneous group with great individual differences in different aspects. To cater for individual differences, the OBP provides different options in the format of OBP modules. The more open, disclosing and expressive clients may be more ready to join small treatment or counselling groups of 8-10 persons while the more private and conservative clients can join the self-help programme which allows much more personal space. There are CD-ROM formats and a large class format to cater for clients with varying degrees of readiness for disclosure, open discussion, open support or open criticism.

As most young offenders do not like complicated definitions, abstractions and intellectually taxing exercises, difficult and abstract concepts are presented in the form of daily life examples supplemented with visual presentations such as graphs and charts. For example, criminal attitudes are presented in common daily anti-social behaviours and the strength of such attitudes is presented in the form of a bar chart.

To overcome young offenders' fear of long-winded materials and to maintain their attention, a variety of presentations are used in the programme. Presentations of ideas can be in the form of a video clip, song, cartoon pictures, pamphlets with short phrases, short newspaper cuttings, magazine excerpts, and advertisements, etc. Clients are allowed ample opportunity to be actively involved in different activities, such as games, competitions, role plays, discussions, case analysis, drawings, etc.

As most young offenders are school failures and have a relatively unsophisticated level of literacy, long articles are cut into small passages accompanied by graphics and pictures where appropriate. Simple

and colloquial language is used. And to compensate for their expressive ability, responses can be made in the form of short sentences, questionnaires, multiple choices, yes/no answers, matching exercises and drawings.

With considerations of the different characteristics of young offenders, it is hoped that young offenders can become actively involved in the programme and hence more capable of overcoming their deficits, learning new skills and consolidating and generalizing what they have learned in their rehabilitative process.

*(vi) Effectiveness of the Offending Behaviour Programme*

The OBP represents an evidence-based approach in the rehabilitation work of young offenders. A careful review of research findings has confirmed not only the effectiveness of offender programmes but also identified crucial elements of effectiveness. The OBP is developed by integrating local experiences in the young offenders' culture with Western findings on treatment effectiveness. It adopts the cognitive-behavioural conceptualization, focuses on the criminogenic needs of offenders, and addresses the responsibility of young offenders, particularly their motivational level and characteristics. Integration of both elements has shown promising results. Attempts to evaluate the effectiveness of individual modules of the OBP were made and findings are generally positive.

2. Inmate-Parent Programme

It had been shown in many Western findings that the behavioural problems of youngsters were associated with family backgrounds. Dynamic factors regarding family relationships (Cashwell & Vacc, 1996) particularly on the sufficiency and quality of parenting (McDonald & Frey, 1999; Chambers, et al., 2000, Sanger, et al., 2004) and the parent-child bond (Widom, 1992; Yeung, 1997; and Thornberry, et al., 1999) were found to be significant factors contributing to the criminal behaviour of youth. Family intervention, in the format of family therapy (Lipsey & Wilson, 1998), family empowerment (Dembo, et al., 2001), and systematic skills training (Don Dinkmeyer, 1997), were found effective in reducing the recidivism of young offenders.

The Inmate-Parent Program (IPP) was launched in June 1999 by the Psychological Unit of HKCS. To enhance the competence of the parents and the offending children in relationship enhancement, the programme was delivered to both the parents and their children. Services for parents target: facilitating the reintegration of the young offenders into their families by enhancing the communication skills of the parents and reducing young offenders' risk of reoffending by strengthening the parents' capability in supervising their children. Apart from the captioned rich theoretical background of IPP, there were a number of characteristics of the programme contributing to its success.

*(i) Services for Parents*

A survey was conducted in 1999 to explore the needs of the parents. Three hundred and seventy nine parents of young offenders participated in the survey. It was found that family communication (particularly in conflict resolution, understanding the needs and feelings of children, and lowering the resistance of children) and parenting skills (particularly in making children comply and meet their expectations as well as handling anti-authority behaviour) were the major concerns of the parents. Seventy eight per cent of the parents expressed interest in joining the IPP. The most preferred formats of the IPP were talks, audio visual materials and counselling groups. The parents' cognitive style, their ambivalence towards their children, and their other sources of stress were also considered in the programme design.

*(ii) Easily Accessible and Needs-Matching Services*

Parents, who are very often occupied by other life tasks, may not always be able to make use of the services. Besides, their needs for services may vary. Hence, IPP was designed in different formats and with different focuses. A letter was issued to all parents at the beginning of their children's incarceration publicizing the IPP. An Inmate-Parent Series in leaflet format was issued to target general skills. The skills included family communications (namely initiating conversations and self-expression), parenting (namely reinforcement, punishment, and praising) and general guidance skills (namely importance of family, emotional management, and helping children to stay away from substance abuse) were available in the visitors' room of young offenders institutions.



Parents were invited to participate in two in-depth skills training video seminars targeting communications and parenting skills. Micro communication skills and conflict resolution skills were introduced in these video seminars. Finally, talks were conducted periodically on special topics like “Enhancing children’s self-esteem”, “Effective handling of emotions”, and “Understanding children’s substance abuse behaviour”. The parents could enroll in the programme when the programmes were conducted in correctional institutions or in the downtown counselling room.

*(iii) Emphasizing Motivational Enhancement*

An effective programme for parents should firstly enhance the motivation of the participants so as to raise their receptiveness to the programme. The IPP had adopted a number of motivational enhancement techniques to gain the parents’ participation. It included confrontations of cognitive distortions, facilitating insights of the ineffectiveness of previous communication or parenting styles, emphasizing the effectiveness of the recommended techniques, and making use of models who shared similar personal characteristics with the parents (e.g. like style of speech, their emotional state, etc.).

*(iv) Emphasizing Skills Training*

IPP made use of lively examples to repeatedly demonstrate the skills. There are always concrete and practical steps for the parents to take in order to carry out each skill. A number of techniques attaining the same goal of communication or parenting were available for parents to choose according to their personal styles.

*(v) Emphasizing Consolidations of Skills*

For video seminars and talks, there were usually some guided discussions for the parents to consolidate the skills learned. Complementary video compact discs (VCD) were granted to each participant for their revision of the skills in the future. Posters and reminder cards, with a summary of the communications and parenting skills, were issued for the participants as well.

*(vi) Systematic Evaluations*

Up to September 2005, a total of 7,705 copies of the Inmate-Parent Series had been issued while 2,274 participants had benefited from 153 video seminars or talks. The outcome evaluations on the video seminars confirmed the effectiveness of skills training by video seminars and the complementary VCD as a booster. In total 289 young offenders, selected by convenience sampling, participated in the evaluation. Simple statistics and T-tests were performed. A customer satisfaction survey found that the parents perceived the programme as useful to them. They maintained a positive change of parenting and communication skills six months after their participation in the programme. The children whose parents participated in the program also viewed their parents as more competent in terms of parenting skills and as more affectionate in their parent-child relationships. The positive findings in evaluations support continuous implementation of IPP in young offender institutions.

*(vii) Services for the Inmates*

With family as a system, the reciprocal and dynamic interplay among parents and their children performs a significant role in determining the quality of the family relationship. On such a ground, the IPP was not only designed for parents of young offenders. As a parallel programme, it was tailor-made to fit the needs of young offenders in enhancing the family relationship. With the same targets as the services for parents, the IPP for young offenders aimed at (1) facilitating the reintegration of young offenders into their families and; (2) reducing young offenders’ risk of recidivism.

From Jan 2004 to July 2005, there were 1,569 young offenders admitted into HKCS. They aged from 14 to 20, with 74% of them having completed lower secondary educational level schooling. Regarding their principal offences, quite a number of them (42%) committed offences against property while the rest committed narcotics offences (15%), and offences against local law (15%), etc. The IPP was planned according to the profile of these young offenders.

*(viii) Programme Design Dependent on the Needs of the Young Offenders*

Upon admission, each young offender would undergo a Risk and Need Assessment. Followed by the assessment, programme matching would be provided according to his or her needs. The IPP targeted

young offenders' needs in the family domain. Nonetheless, programmes targeting other criminogenic needs, namely the drug, criminal thinking and personal/emotional domains, also played peripheral roles in supporting attitudinal change in the family relationship. For instance, improved emotional regulation facilitated better conflict resolution in the family. Conversely, it is believed that the quality of family relationships could have a dynamic impact on all these need domains.

*(ix) Programme designed with Consideration for the Characteristics of Young Offenders*

When designing the programme, consideration was given to the individual differences, cognitive ability, attention span, educational level, language ability and motivational level of young offenders. As young offenders used to have shorter attention spans, the programme applied appealing games to hold their attention and to facilitate their learning in a more at-ease atmosphere. Role-play and interactive activities were adopted to deepen their impression of certain abstract concepts in a more vivid presentation. For those who had a lower educational level and weaker cognitive ability, the programme starts with more easy-to-grasp concepts with frequent use of daily examples for illustration. Simple language matching with colourful pictures, cartoons and graphics were used to make the reading more pleasant and amusing. Multiple choice questions and matching were commonly used exercises so that most of the young offenders could master the programme concepts well. For those who were relatively unmotivated, making use of the group dynamics also facilitated their motivation to learn. Besides, all the programmes were run on a voluntary basis. With the purpose of lowering their defences, young offenders were free to share their experiences in a harmonious and supportive environment.

*(x) Different Modules for Service Matching*

All the afore-mentioned means of learning were applied in both Group Counselling and Self-Help Modules. In the Group Counselling, the learning was more interactive, with opportunity for the young offenders to model each other. When young offenders mutually challenge and support each other in a group, their participation is enhanced and their learning maximized. On the other hand, the Self-Help Program was a highly individualized and personalized programme that could be implemented according to a young offender's progress and treatment plan. It made good use of self-reflective questions, audio-visual materials and interactive exercises.

*(xi) Emphasizing Motivational Enhancement*

Motivational skills and strategies were adopted to stimulate young offenders to improve their family communication. One of the core strategies was changing their attitude towards their parents through perspective-taking exercises. For instance, young offenders were stimulated to find the similarity between themselves and their parents and to understand the developmental background of their parents. By stepping into the shoes of their parents, young offenders' understanding of their parents' behaviours and thinking was enhanced. This in turn raised their acceptance of their parents. Besides, by using songs and recalling previous positive family interactions, young offenders' affiliations with their parents were enhanced. Very often, these contents were touching enough to impress upon the young offenders the inner apprehension of parents.

*(xii) Emphasizing Skills Training*

Skill training started with the identification and correction of past communication errors. The previous dysfunctional interactions between young offenders and their parents were examined. Cognitive restructuring was introduced and practiced in order to change their old way of thinking and to develop insight for new thinking. Communication skills like ice-breaking, starting a conversation, attentive listening, questioning, sharing of feelings, showing appreciation, etc. were then highlighted. Finally, the training on conflict resolution was conducted. Young offenders were coached step by step in identifying the problem, clarifying viewpoints, expressing expectation, making contracts, etc. in role-plays.

*(xiii) Emphasizing Consolidation of Skills*

As well as teaching verbal and non-verbal communication skills, role-plays of numerous scenarios were video-taped for comment and sharing among group participants. In order to consolidate the skills learnt, the video-taped role-plays of young offenders were discussed thoroughly one by one. This interesting evaluation process further enhanced their insight and strengthened their learning.

*(xiv) Effectiveness of Inmate-Parent Program*

The Inmate-Parent Program received positive and encouraging responses from both parents and their children. It was promising in enhancing the family relationship of young offenders. Both parents and young offenders mentioned the importance of parallel programmes in creating a mutual effort to improve family communication and to modify family dynamics. Actually, effective family intervention for both young offenders and their parents will help in reducing juvenile offending.

**VI. CONCLUSION**

Hong Kong has a juvenile justice system and correctional regimes that help, as far as possible, young offenders to rehabilitate and reintegrate into society. However, these efforts alone cannot achieve successful reformation. We need more to succeed.

Looking forward, we need to do more work to knit tightly together the four following factors: Quality Custodial Services; Comprehensive Rehabilitative Services; Offenders' Responsivity and Determination; and Community Support.

By Quality Custodial Services, we mean: being one of the core business of HKCS, quality custodial services manifest HKCS' duty to provide a humane, secure, decent and healthy penal environment for young offenders. Yet, it is not a simple task to sustain the correctional setting with good discipline and order as well as detaining offenders in a stable and harmonious manner. It relies on professional teamwork across HKCS as well as effective and efficient management systems.

For human resources management, HKCS has focused on maintaining a highly committed and motivated workforce through the provisions of strategic development and training. Likewise, HKCS has well-developed monitoring systems to assure all the relevant rules and regulations are complied with. In addition, there are ongoing renovation and redevelopment projects to improve the penal environment and to modernize facilities.

By Comprehensive Rehabilitative Services, we mean: as almost all young offenders will return to society, HKCS strives to help them rehabilitate and reintegrate as law-abiding citizens, so comprehensive rehabilitative services are of paramount importance. Through timely and appropriate intervention, HKCS aims to address young offenders' offending behaviour and criminal thinking, improve their skills to make a living, and eventually help them reintegrate into society. To achieve such a purpose, our professional and qualified staff deliver systematic and effective rehabilitation programmes, which cater for offenders' rehabilitative needs. To adopt an evidence-based and scientific approach in offender rehabilitation, HKCS will continue to work on the "Risks and Needs Assessment and Management Protocol for Offenders" which was adopted in October 2006.

By Offenders' Responsivity and Determination, we mean: apart from our foremost duty to provide quality custodial services and comprehensive rehabilitative services, the process of rehabilitation would not be successful without young offenders' own effort. Their inner motivation and willingness to cherish rehabilitation chances and to live a new life after discharge are an indispensable part of their successful reintegration. Likewise, such motivation and willingness will directly affect the programme effectiveness. If they can sustain their willingness to rehabilitate, it will be easier for them to resist temptation, remain law-abiding and leave the vicious cycle of reoffending.

Yet, their determination is affected by a myriad of independent but interlocking criminogenic, personal and socio-economic factors. While, HKCS has been strengthening its rehabilitative services to help enhance young offenders' responsivity towards the programmes offered, it also draws in non-governmental organizations (NGOs) to provide services to facilitate their reintegration into the community.

By Community Support, we mean: community support occupies a significant position in building a safer and more inclusive society. In fact, the community's understanding, acceptance and support could help stop the vicious cycle of reoffending. The best way to achieve this is through continuous public education. Since the nineties, HKCS has been actively involved in youth education, for example, through the "Personal Encounter with Prisoners Scheme", to promote crime prevention and offender rehabilitation. To enlist wider



public support and involvement, HKCS has been organizing various rehabilitation-related activities across the community in recent years.

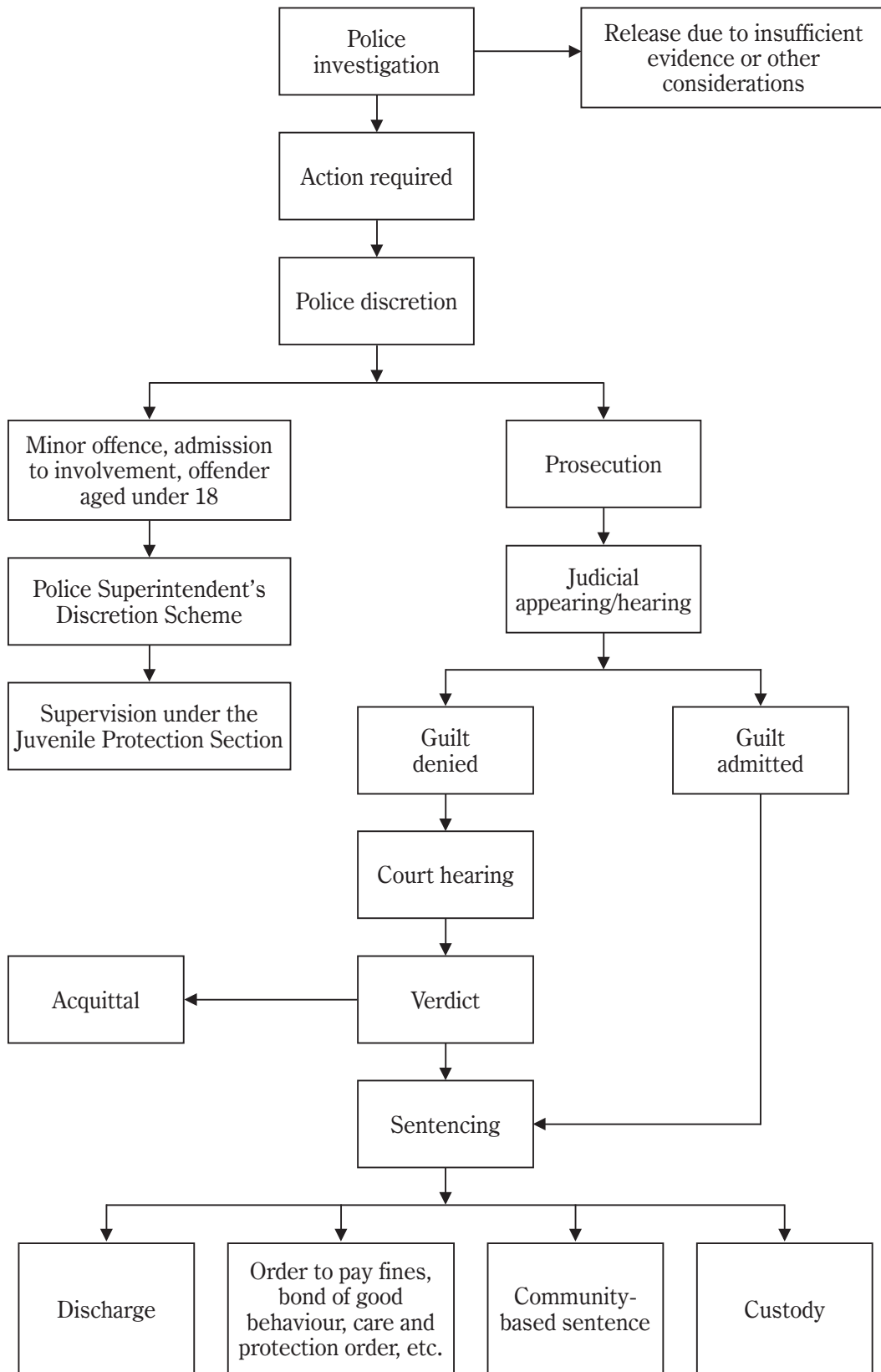
It would be unrealistic to say that crime can certainly be reduced or recidivism be prevented if the factors aforementioned are being implemented effectively, but, we believe that when we have the right vision and mission that lead us ahead, we will be doing the right job for the 'right' persons.

**REFERENCES**

- Antonowicz, D. H. & Ross, R. R. (1994). Essential components of successful rehabilitation programme for offenders. *International Journal of offender Therapy and Comparative Criminology*. Vol. 38(2): 97-104.
- Beck, A. T. (1979). *Cognitive therapy and the emotional disorders*. New York: New American Library.
- Bush, J. (1995). Teaching self-risk management to Violent offenders. In J. McGuire (ed.) *What works: Effective methods to reduce re-offending*. Sussess, England: Wiley.
- D’Zurilla, T. J. & Nezu, A. M. (1992). Development and preliminary evaluation of the Social Problem Solving Inventory, SPSI. *Psychological Assessment*, 2, 156-163.
- Feindler, E. L. & Ecton, R. B. (1994). *Adolescent anger control: cognitive-behavioral techniques*. Boston: Allyn and Bacon.
- Johnson, W. R. (2005). *Motivational Interviewing and Criminal Justice Populations*. A presentation in the Advanced Workshop on Motivational Interviewing in CSD, HKSAR.
- Kazdin, A. E. (1994). Psychotherapy for Children and Adolescents. In Bergin, A. E. & Garfield, S. L. (ed.). *Handbook of psychotherapy and behavior change* (4<sup>th</sup> ed.). New York: J. Wiley, pp. 543-594.
- Lipsey, M.W. (1992) The effect of treatment on juvenile delinquents: Results from meta-analysis. In F. Losel, D. Bender & T. Bliesener (ed.). *Psychology and Law: International Perspectives*. Berlin, New York: de Gruyter, pp.131-143.
- Losel, F. (1995) The efficacy of correctional treatment: A review and synthesis of meta-evaluations. In J. McGuire (ed.). *What Works: Reducing Re-offending: Guidelines from Research and Practice*. Chichester: John Wiley and Sons.
- McGuire, J. (1999) Problem solving training: Pilot work with secure hospital patients. In Mason, J, Mercer, D, Mckeown, M & McCann (eds.). *Forensic Health care Planning: Directions & Dilemmas*. Edinburgh: Churchill Livingstone.
- Miller, W. R. (1994). *Motivational Interviewing: III. On the ethics of motivational intervention*. *Behavioural and Cognitive Psychotherapy*, 22, 111-123.
- Miller, W. R. (1996). *Motivational interviewing: Research, practice, and puzzles*. *Addictive Behaviors*, 21, 835-842.
- Miller, W. R. (1998). *Enhancing motivation for change*. In W. R. Miller & N. Heather (Eds.), *Treating addictive behaviors: Processes of change* (2<sup>nd</sup> ed.). New York: Plenum Press
- Ross, R. R. & Fabiano, E. A. (1985). *Time to think: A cognitive model of delinquency prevention and offender rehabilitation*. Johnson City, TN: Institute of Social Science and Arts.
- Simourd, D. J. & Andrew, D. (1994). *Correlates of delinquency: A look at gender differences*. *Forum on Corrections Research*, 6, 26-31.
- Simourd, D. J. & Van de Ven, J. (1999). *Assessment of criminal attitudes – Criterion related validity of the Criminal Sentiments Scale-Modified and Pride in Delinquency Scale*. In *Criminal Justice and Behavior*, 26, No. 1, March 1999, 90-106.
- Yochelson, S. & Samenow, S. E., (1976). *The criminal personality, Vol. 1: A profile for change*. New York, Jason Aronson.

APPENDICES

I. OPERATION OF THE JUVENILE JUSTICE SYSTEM IN HONG KONG



**II. CRIME STATISTICS**

**Comparison of 2008 and 2007 Crime Situation**

	2008 (Jan)	2007 (Jan)	2008 (Jan) Compared with 2007(Jan)			
			Numerical		%	
1. Overall Crime	7029	7402	-	373	-	5.0
2. Violent Crime	1325	1293	+	32	+	2.5
3. Homicide (1)	5	2	+	3	+	150.0
4. All Robberies (1), including :	98	122	-	24	-	19.7
- Robbery with Firearms	-	-		-		-
- Robbery with Arms (Stun Guns)	-	-		-		-
- Robbery with Pistol Like Object	1	-	+	1		-
- Bank Robbery	-	-		-		-
- Goldsmith/Watch Shop Robberies	2	-	+	2		-
5. Burglary	402	414	-	12	-	2.9
6. Wounding and Serious Assault (1)	703	704	-	1	-	0.1
- Wounding	151	152	-	1	-	0.7
- Serious Assault	552	552		-		-
7. Serious Narcotics Offences	282	272	+	10	+	3.7
8. Criminal Intimidation (1)	144	163	-	19	-	11.7
9. Blackmail (1)	38	37	+	1	+	2.7
10. Arson (1)	90	69	+	21	+	30.4
11. Rape (1)	10	13	-	3	-	23.1
12. Indecent Assault (1)	160	107	+	53	+	49.5
13. All Thefts, including :	3200	3351	-	151	-	4.5
- Snatching	27	33	-	6	-	18.2
- Pickpocketing	101	115	-	14	-	12.2
- Shop Theft	891	828	+	63	+	7.6
- Theft from Vehicle	173	220	-	47	-	21.4
- Miscellaneous Thefts	1826	1939	-	113	-	5.8
- Missing Motor Vehicles	109	115	-	6	-	5.2
14. Deception	391	596	-	205	-	34.4
15. Criminal Damage	630	640	-	10	-	1.6
16. Triad-related Crimes	209	188	+	21	+	11.2
17. Domestic Violence	580	629	-	49	-	7.8
- Crime Cases	178	204	-	26	-	12.7
- Miscellaneous Cases	402	425	-	23	-	5.4
18. Persons Arrested for Crime						
- Juveniles (aged 10 - 15)	460	462	-	2	-	0.4
- Young Persons (aged 16 - 20)	462	533	-	71	-	13.3
- Mainland Illegal Immigrants	18	58	-	40	-	69.0
- Mainland Visitors	123	124	-	1	-	0.8

Note :

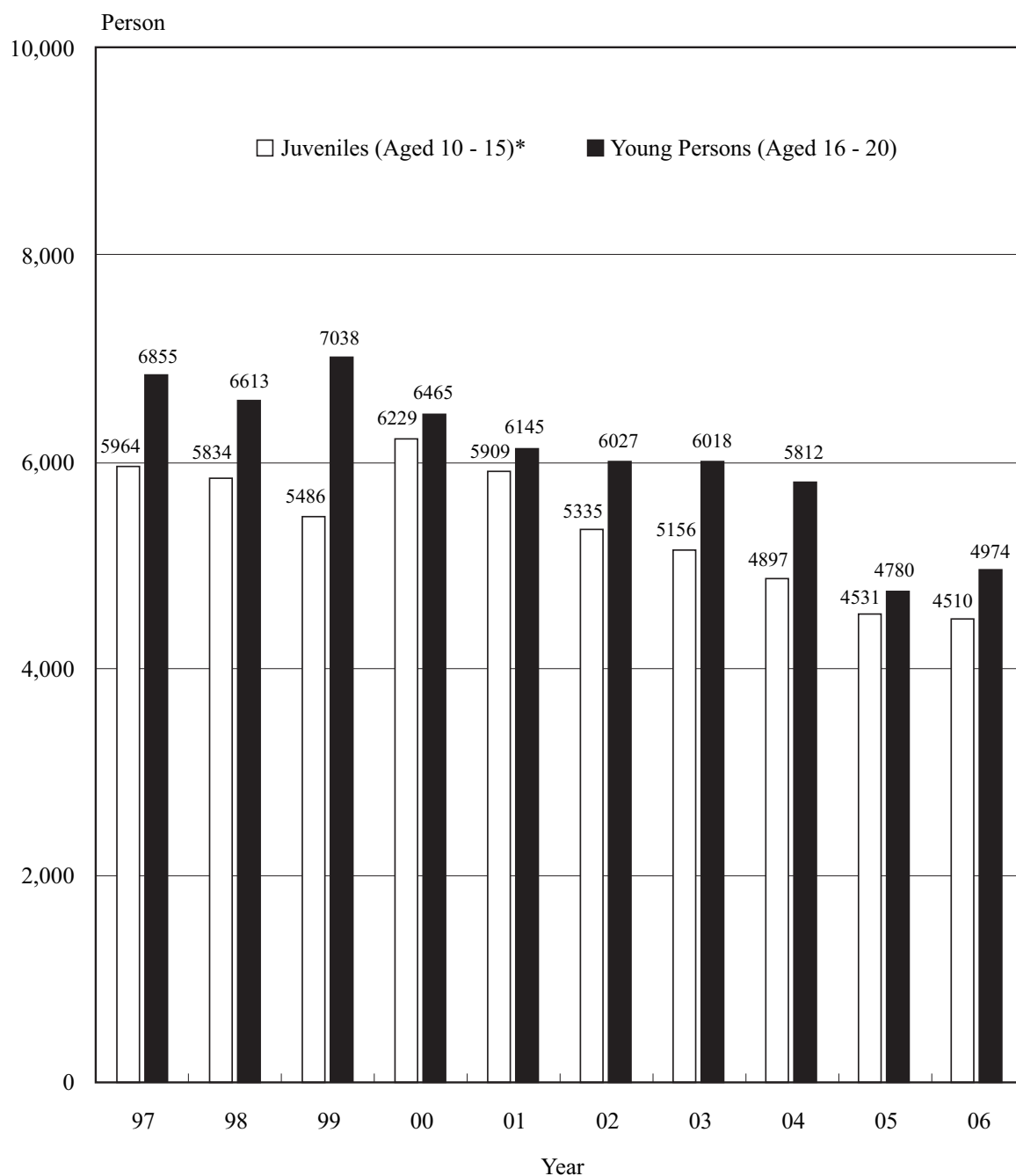
(1) Belongs to a type of violent crime.

Last revision date: April 24, 2008

Source: <http://www.police.gov.hk/hkp-home/english/statistics/compare08.htm>

### III. JUVENILES AND YOUNG PERSONS ARRESTED FOR CRIME (1997-2006)

#### JUVENILES AND YOUNG PERSONS ARRESTED FOR CRIME, 1997 - 2006



\* Prior to July 2003, "juveniles" refers to those aged 7-15. Thereafter, due to the change of the minimum age of criminal liability, it refers to those aged 10-15.

## IV. ADMISSION OF REMANDS / PRISONERS / INMATES BY CATEGORY

按還押犯 / 監獄囚犯 / 所員類別劃分的收納人數  
Admission of Remands / Prisoners / Inmates by Category

類別 CATEGORY	收納人數 ADMISSIONS					
	男 MALE			女 FEMALE		
	2005	2006	2007	2005	2006	2007
<b>A. 還押犯 Remands</b>						
1. 聆訊的法院 For hearing in :						
(a) 區域法院 District Court						
不足 21 歲 Under 21 Years	50	24	19	12	6	6
21 歲及以上 21 Years and over	499	323	198	78	61	52
(b) 裁判法院 Magistrates' Courts						
不足 21 歲 Under 21 Years	446	493	588	194	166	153
21 歲及以上 21 Years and over	5746	6112	6424	2296	1942	1972
2. 於高等法院受審 For trial at the High Court						
不足 21 歲 Under 21 Years	4	2	2	2	0	0
21 歲及以上 21 Years and over	49	23	27	8	3	6
3. 等候報告確定是否適合判入戒毒所 Pending suitability report for sentence to a drug addiction treatment centre						
不足 21 歲 Under 21 Years	175	212	423	25	23	50
21 歲及以上 21 Years and over	2004	1569	1850	337	257	335
4. 等候報告確定是否適合判入教導所 # Pending suitability report for sentence to a training centre #						
不足 21 歲 Under 21 Years	20	41	34	95	80	96
5. 等候報告確定是否適合判入勞教中心 ## Pending suitability report for sentence to a detention centre ##						
不足 21 歲 Under 21 Years	829	865	811	不適用 N.A.	不適用 N.A.	不適用 N.A.
21 歲及以上 21 Years and over	198	176	191	不適用 N.A.	不適用 N.A.	不適用 N.A.
6. 等候報告確定是否適合判入更生中心 Pending suitability report for sentence to a rehabilitation centre						
不足 21 歲 Under 21 Years	72	41	64	59	76	65
<b>小計 Sub-total :</b>	<b>10092</b>	<b>9881</b>	<b>10631</b>	<b>3106</b>	<b>2614</b>	<b>2735</b>
<b>B. 定罪監獄囚犯 / 所員 Convicted Prisoners / Inmates</b>						
1. 判處監禁 Sentenced to imprisonment						
不足 21 歲 Under 21 Years	496	384	332	1097	828	375
21 歲及以上 21 Years and over	12831	11855	10783	8775	7059	5261
2. 召回監獄 Recalled to a prison						
不足 21 歲 Under 21 Years	6	4	11	0	0	0
21 歲及以上 21 Years and over	20	19	21	1	1	2

備註：# 包括等候報告判入教導所 / 更生中心犯人

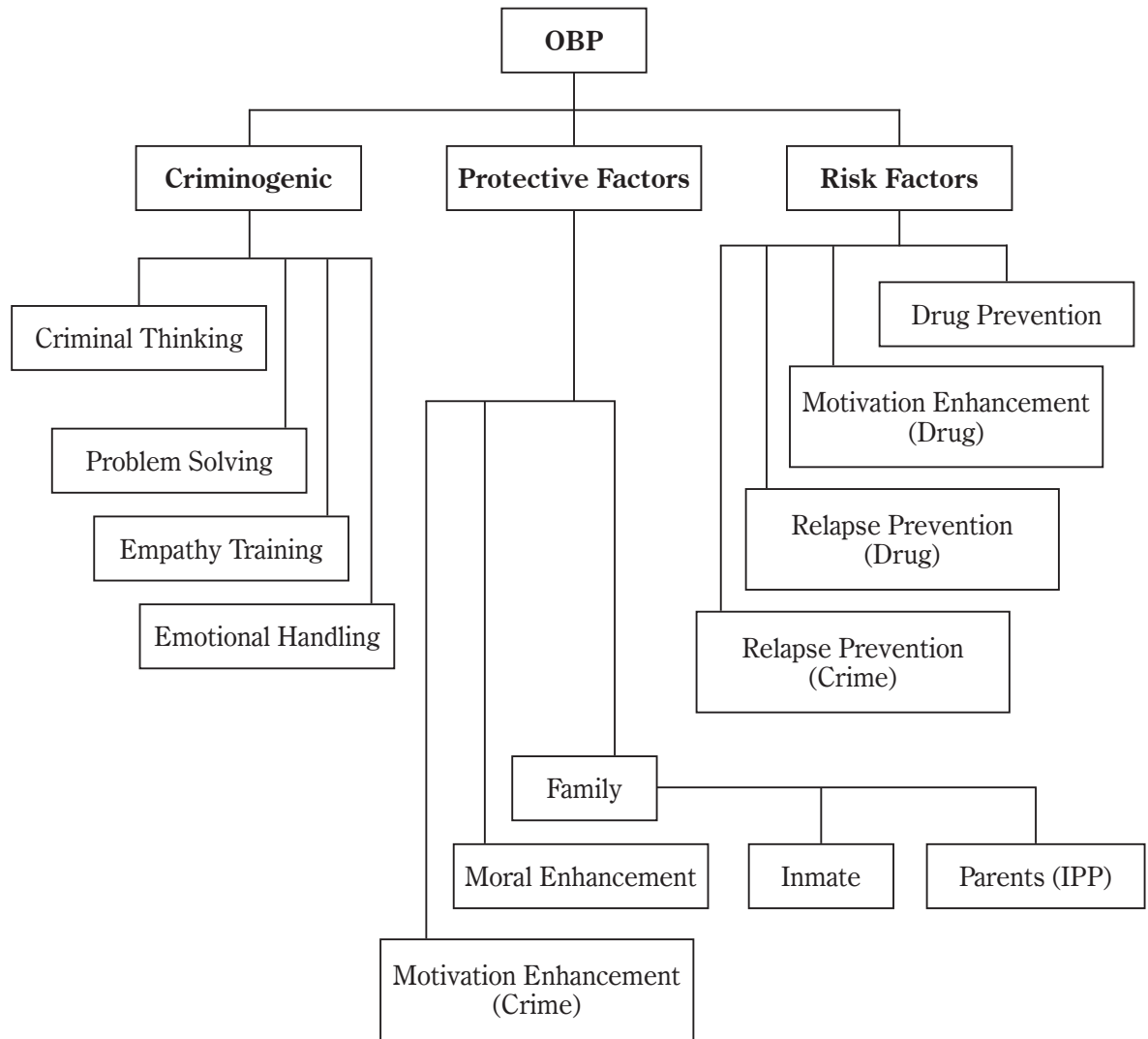
Notes: Including those pending suitability reports for sentencing to a training / rehabilitation centre.

## 包括等候報告判入勞教中心 / 教導所 / 更生中心犯人

Including those pending suitability reports for sentencing to a detention / training / rehabilitation centre.



**V. MODULES OF OFFENDING BEHAVIOUR PROGRAMME**



# THE PROFILE AND TREATMENT OF SERIOUS JUVENILE OFFENDERS IN JAMAICA

*Ina Rose Hunter\**

## I. INTRODUCTION

One of Jamaica's growing concerns is the state of crime and violence and in particular the involvement of children in criminal activities. The fear is that the fate of successive generations is precariously poised if this trend continues. Factors such as unstable family life, poverty, peer pressure, exposure to drugs and gang related activities as well as an erosion of strong morals, values and attitudes have been linked to the increase in the incidence of crime among our children.

This paper seeks to put in perspective the profile and treatment of children in Jamaica who are in conflict with the law, especially those who commit serious and violent offences. The treatment of these children is placed within the context of pre-trial, trial and institutional care. The main focus is placed on the Department of Correctional Services, the state agency responsible for the care and custody of offenders, and in whose charge the most violent and serious offenders are placed.

In recent years, the profile of children who commit crimes has changed. For those involved in serious crimes, the persona as summarized by journalist Geof Brown in the local Daily Observer of 21 October 2005, gives an indication of the extent of this change: "Police tell us that if you face a gunman in his early or mid teens, your chances of survival are virtually nil. Older gunmen in their 20s and 30s will spare you on the basis of your appeal that you have a family dependent on you".

The general profile of a violent and serious child offender is a male, 15 to 16 years of age, who lacks basic literacy and numeracy skills and who is armed with a type of bravado which appears to make him feel ruthless and invincible. Such a profile has resulted in calls from different areas of the society for a move away from the interest and welfare of the child offender, toward one which is more concerned with public safety. The justice system is however undergirded by a rehabilitative thrust which places the welfare of the children first and foremost, while acknowledging the threat to themselves and to the society. The understanding is that there are factors and experiences which are impacting on these children's behaviour and given the appropriate interventions, change is possible.

### A. Legislative Support

Issues affecting children have always been given priority attention. Further to the United Nations Conventions on the Rights of the Child, a National Plan of Action for Children was developed. The formulation of a National Policy for Children in 1997, as well as a task force and a monitoring committee which directed the legislative process and the subsequent enactment of the Child Care and Protection Act in 2004, emerged from the justice review process. The legislative framework was further strengthened by the appointment of a Children's Advocate in 2006 and the establishment of the Office of the Children's Advocate. The Children's Advocate acts as an Ombudsman for matters affecting children and the Office of the Children's Advocate makes legal representation on their behalf.

The legislative framework makes provision for the care and protection of all children who offend the law, irrespective of their offences. The Child Care and Protection Act, the main domestic instrument that implements rights recognized by the Convention on the Rights of the Child and related international guidelines, uses the term "child" instead of "juvenile". It defines a child as "a person under the age of

---

\* Educational Co-ordinator, Department of Correctional Services, Ministry of National Security, Jamaica.

eighteen years” and stipulates that “it shall be conclusively presumed that no child under the age of twelve years can be guilty of an offence” (Section 63).

### **B. Reasons for which Children were brought before the Court**

The reasons for which children were brought before the Court in 2006, as indicated in Table 1, paints a disturbing picture of the needs of our children and their involvement in criminal activities. There were 2,629 cases of children appearing before the court, an increase of 365 compared to 2005. The offences with the highest frequencies were Wounding, Dangerous Drugs, Armed with Offensive Weapon and Assault Occasioning Bodily Harm. Of major concern is that over the years offences have noticeably shifted from mainly simple larceny and wounding to include more serious ones which are related to sex, guns and drugs.

**Table 1: Reasons for which Children were brought before the Courts in 2006**

Major Offences/Reasons	Male	Female	Total
Murder	13	3	16
Assault	40	19	59
Carnal Abuse	24	-	24
Rape	25	-	25
Indecent Assault	63	3	66
Robbery with Aggravation	35	-	35
Unlawful Possession	1	-	1
Attempted Larceny & Praedial Larceny	105	16	121
Breaking & Entering & Larceny	41	3	44
Wounding	173	75	248
Assault Occasioning Bodily Harm	93	39	132
Dangerous Drugs	184	8	192
Armed with Offensive Weapon	161	14	175
Malicious Destruction of Property	26	9	35
Care and Protection	409	525	934
Other Major Offences	110	40	150
Minor & Other Offences	176	196	372
Grand Total	1679	950	2629

Annual Report, Department of Correctional Services 2006

Although the number of children brought before the court for care and protection was 15 fewer than 2005, there is much cause for concern. Care and protection of children are underlying issues for some of the serious offences. This is evident in the increase in the number of children who transition from Places of Safety (usually for care and protection) to Juvenile Correctional Centres for offences which are related to conduct disorders. It is mooted that the young age at which people take on the responsibility of parenting is contributing significantly to this scenario. Children are having children and the implication is that there is the need for the necessary guidance and training of these young parents so that they can pass on the appropriate norms and values of the society.

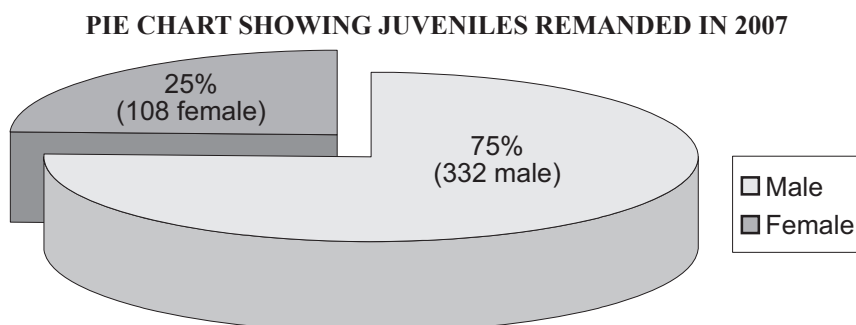
## **II. PRETRIAL**

When a child comes into conflict with the law, the Child Care and Protection Act empowers the police to take the child into custody. If the child cannot be brought forthwith before the Court, the officer or sub-officer in charge of the police station to which the child is brought has the responsibility to find an immediate placement for the child in one of the Places of Safety which are operated by the Child Development Agency (which falls directly under the Ministry of Health). For an offence deemed violent and/or serious, the child may have to remain in the custody of the police until the matter is brought before the Children’s Court or before a Resident Magistrate in chambers if there is no sitting of the Children’s Court in that parish.

“Any court on remanding or committing for trial a child who is not released on bail shall commit that child to custody in a juvenile remand centre named in the commitment, to be detained there for the period for

which the child is remanded or until the child is there delivered by a course of law” (Section 68 (1).

There is however only one male juvenile facility and it has a capacity for 48 children. Currently there is no female juvenile facility. This is posing a major problem as offences by females have been increasing steadily. The reality is that children who commit serious offences have had to be remanded in adult facilities. While this is not desirable, the legislative framework makes such a provision but stipulates that children should not be placed within the same areas as adults and should have attained the age of 14 years. The pie chart below indicates that a total of 440 children were remanded in the care of the Department of Correctional Services in 2007 (Research, Planning and Evaluation Unit, Department of Correctional Services).



Although remand is intended for short term placement, children sometimes spend over a year on remand. This no doubt affects their state of mind as they become preoccupied with the uncertainty of the outcome of their case. Affected as well is the ability to plan effectively given the uncertainty of a rolling population and the infrastructure limitations of adult facilities.

### III. TRIAL

In examining each case, the Juvenile or Family Court usually requests a Social Enquiry Report (SER) from the Probation Officer assigned to the case. Included in this report are the findings from interviews with the victim(s), the community, school, parents and the child accused of the offence. A psychiatric evaluation may also be requested.

In summing up the case, the Probation Officer makes a recommendation to the Court from his or her findings on the home surrounding, school record, health and character/profile of the child.

Based on the circumstances surrounding the case and what it deems to be in the best interest of the child, the Court may choose one of the options which include but are not limited to the following:

- (i) an order committing the child to the care of a fit person;
- (ii) an order placing the child for a specified period not exceeding three years under the supervision of a probation aftercare officer, a children’s officer, or some other person selected for the purpose by the Minister;
- (iii) an order (Correctional Order) sending a child to a juvenile correctional centre.

The Correctional Order places the child into the custodial care of the Department of Correctional services for a period not beyond the 18<sup>th</sup> birthday, on the premise that a structured environment with opportunities for rehabilitation best serves the interest of the child. There are situations however, in which a child who commits a serious and or violent offence is treated differently. In such instance, the commitment may be made for the child to be detained beyond the 18<sup>th</sup> birthday. The child having attained the age of 18 is then transferred to the adult facility to complete his/her sentence.

“The death sentence however, shall not be pronounced or recorded against a person convicted of an offence if it appears to the Court that at the time when the offence was committed he was under the age

of eighteen years, but in place thereof such person shall be liable to be imprisoned for life" (Section 77, Child Care and Protection Act). The court may specify the period which the person becomes eligible for parole. The person should be 14 years old before being committed to an adult correctional centre. However, according to Section 78 (5), "a child under fourteen years old may be sentenced to a maximum of twenty five years if the court considers this to be the only suitable sentence where a child is convicted of a serious offence".

#### IV. INSTITUTIONAL CARE AND TREATMENT

##### A. The Department of Correctional Services

The Department of Correctional Services in Jamaica falls directly under the Ministry of National Security and is mandated to contribute to the safety and protection of the society by keeping offenders placed by the court in its facilities secure and facilitating their rehabilitation. The Department carries out its mandate within the guidelines of a number of Acts including but not limited to the Corrections, the Child Care and Protection, the Probation of Offenders, the Criminal Justice Reform and Parole Acts. It is also guided by international bodies such as the United Nations.

The Department's Chief Executive Officer is the Commissioner of Corrections, who is presently Major Richard Reese. Custodial Services and Human Resource Management/Community Services are the two main areas of the Department and are each managed by a Deputy Commissioner. The rehabilitation of offenders is one of the core strategic functions of the Department. In 2000 the Rehabilitation Unit was established to streamline and better manage the rehabilitative services for adult and child offenders, which were up to that time infused in the general operations of the Department. The Unit works closely with the Director of Juvenile Services (who has direct supervision of juvenile institutions) on matters pertaining to the welfare of children in custodial care.

Consistent with the idea of empowerment through rehabilitation, the correctional process of the Department of Correctional Services, Jamaica, is one that seeks to provide an environment that will empower and rehabilitate those in its care and custody, so that upon their release to open society they will be successfully reintegrated and become peaceful, responsible and productive law abiding citizens. Stinchomb and Fox (1999) see this as replacing correctional control with self-control.

##### B. Juvenile Institutions

Although the Child Care and Protection Act uses the word "child" instead of "juvenile" there is yet no change in legislation for the renaming of juvenile centres. There are three Juvenile Correctional Centres (two for males) in which offenders between the ages of 13 and 17 are placed subsequent to the ruling by the court. There is also a Juvenile Remand Centre for males who are awaiting a final disposition of their cases. Each juvenile centre embraces the home and school concept and is managed by a Superintendent and a cadre of Correctional Officers, Teachers, Instructors, a Welfare Officer, a Case Manager, House Mothers and other support staff. As much as is possible, activities for schools in the centre mirror those in the regular schools which are operated by the Ministry of Education.

Institutional care and treatment however, take place in institutions which accommodate children above their physical capacity. Table 2 gives the capacity and the population (muster) in adult and juvenile institutions as of 5 March 2008. This indicates one of the highest numbers of children in the care of the Department of Correctional Services (for both males and females). Of note is that there is a significant increase in female offenders.

**Table 2: Juvenile Correctional Centres Capacity Status as of 5 March 2008**

JUVENILE CENTRES	CAPACITY	MUSTER	EXCESS
Armadales (females)	45	65	20
Hill Top (males)	98	103	5
Rio Cobre (males)	120	126	6
St. Andrew Remand (males)	48	46	-
ADULT CORRECTIONAL/REMAND			
Fort Augusta (females)	-	39	39
Horizon (males & females)	-	52	52
TOTAL	311	431	120

(Research Planning & Evaluation Unit, Department of Correctional Services)

### C. Assessment Procedures

On entry into correctional facilities an initial interview is conducted with the child to welcome and inform him/her of the nature of the facility, the opportunities for rehabilitation and what is expected of him/her. The concerns and needs of the child are noted. Within 30 days of admittance, a risk/need analysis is done using the Youth Level of Service/Case Management Inventory (YLS/CMI). This is a Canadian-based instrument used subject to the training of all persons who use the instrument, as a condition to preserve its integrity and to guard against its misuse.

The use of this instrument is predicated on the assumptions that the causes of youth offending arise from interrelated variables and that intervention with high-risk youths can be effective in reducing the chances of anti-social activity. Information gathered is used to classify children according to their risk needs levels and for special occasions such as the granting of licence and other conditional release programmes.

The YLS/CMI is skewed more toward a psychological assessment of the factors which predispose persons to commit crimes and those factors which may result in recidivism. The major challenge in using this instrument is that there is some disconnect between the Social Enquiry Report (SER) and the information required by the instrument. Arising from this, not enough information is obtained from the first assessment. However as the assessor interacts more with the child, the assessment which is done six months after provides more reliable information and more effective use of the instrument. The Department is now challenged to review the SER form to facilitate greater harmony with the risk assessment instrument.

Periodic assessment informs behaviour modification and treatment regimes. A treatment plan is developed for each child and managed by a Case Manager who is assigned to each of the juvenile remand and correctional centres as well as the adult correctional centres in which the children are placed. The efforts of the Case Managers are complemented by psychiatrists, psychologists, medical doctors and other specialized service providers. Each centre also has a welfare officer who sees to the general needs of the children and whose duties include conducting risk assessment, scheduling visits, making medical/dental and other appointments and facilitating the relationship between children and the outside world.

In the past children were separated based on the types of offences as Juvenile Correctional Centres were classified based on the level of security. The more serious offenders and older children were placed at the Hill Top Juvenile Correctional Centre. Overcrowding in all the facilities however, has led to children being placed based on the availability of space and not so much on the nature of the offences. Additionally, similar security features now exist in all the institutions and it is difficult to differentiate the security levels based on physical appearance. Risk assessment now assists in standardizing the risk levels of child offenders. Scores of low, medium, high and very high immediately convey to authorities the security risk of each child.

### D. Education and Training

The Child Care and Protection Act makes education compulsory for children in the care of the state. Each juvenile facility has an education programme which offers academic, vocational and development training.



Children are placed in ability groups and are exposed to all areas of training. They are prepared for internal as well as external examinations. A recent study conducted in juvenile correctional centres indicates that more than 75% of the children are motivated to achieve academically. The findings suggest however, that the teaching modalities are not meeting the needs of most of the children. The emotional and psychological issues which the children bring to the classroom impact negatively on teaching and learning, a situation made worse by the lack of expertise among the teachers to effectively manage the psychological effects of custodial care on learning.

#### **E. Behaviour Modification**

Each child's progress is monitored through several means such as the disciplinary committees, case conferences, peer counselling and special awards systems. Children who improve in their behaviour are granted special privileges. Twice per year, in the summer holidays and at Christmas, children who qualify are allowed home leave. Some are granted licence, a form of conditional release whereby they are given the opportunity to spend the remaining portion of the Correctional Order in their community, under statutory supervision of a Probation Aftercare Officer. Any breach of conditions for licence can result in a recall to the juvenile correctional centre.

#### **F. General Care and Protection**

The understanding is that children are in custodial care as punishment and not for punishment. Every effort is therefore made to protect children from physical, emotional and other types of abuse. Corporal punishment is forbidden and mutual respect encouraged. Officers assigned to juvenile remand and correctional centres are carefully selected and receive additional training in how to treat children, especially those with conduct disorders.

Support systems are in place to ensure and encourage communication between children and their homes. Each child is entitled to visits and telephone calls. Special events such as Parents Day, Probation Day, Sports Day and Christmas Dinner provide opportunities for all children to meet with their families.

Efforts toward rehabilitation however, are impeded by overcrowding and the placement or transfer of children to adult facilities. The Montpelier Camp, situated in St. James, a parish in the western end of the island, has been officially declared as the site for a new juvenile remand and correctional centre with a capacity to accommodate two hundred and fifty children. Budgetary constraints however present a formidable challenge to this venture.

### **V. REINTEGRATION AND COMMUNITY INTERVENTIONS**

It is argued that the true test of rehabilitation is the ability of persons to remain focused and law abiding upon their return to open society. While this is true it can be further argued that in any behaviour modification, a support system is necessary for continued progress. The major hindrance to the support mechanism is that the Department of Correctional Services has no legal authority over children once they are released from its care even if they have not attained the age of eighteen.

On moral grounds and in the best interest of the children, the Department seeks placement in educational institutions including colleges and monitors the process for the smooth transition into education programmes. The probation offices are available for those who choose to utilize the services. Those children who show an aptitude or interest in vocational training are referred to HEART/NTA, (Human Employment and Resource Training/National Training Agency) for vocational training. Parents are also encouraged to be a part of the reintegration process and are asked to seek out institutions in close proximity to their homes for placement. Interest in entrepreneurship is facilitated as financial and material support is available for children so inclined.

Hoge, Guerra & Boxer (2008) advise that treatment for serious and violent offenders should be risk-focused and strength-based. A major issue requiring such consideration is an assessment of the needs of children who are from volatile communities with very fragile support. The risks/needs of these children would best be served if after their release from the correctional centres they were placed in a facility for further support as they make the transition back into open society. The introduction of a halfway house

for children who need to be distanced from the negative influences of their community and placed in an environment for furthering their education and general development is an idea that the Department has advanced. This however requires policy change and additional financial, human and material resources.

The Department embraces the Asian adage that “it takes a whole village to raise a child”. Aware of the challenges which parents have in carrying out their role effectively, parental seminars are held in the institutions, at Probation Offices, at Parent-Teachers’ Meetings and in aspects of the communities. Some schools have been experiencing challenges which stem from problems in the home. In their effort to find solutions to the growing indiscipline among students, they have been requesting tours of correctional facilities. The Department continues to facilitate these requests and the feedback is that the visits serve as a wake-up call for students and a positive influence on their behaviour.

Representatives of the Department are usually invited to speak on issues of correctional management and opportunities for service in correctional institutions. Counselling services for parents and children are available at the probation offices which are located island-wide. Together with parents/guardians and teachers, proactive measures are undertaken. However, if the situation warrants the intervention of the court, this is sought. For those matters in which children are considered uncontrollable, parents are usually made aware of the implications of taking the matter before the court, which include the possibility that the child could be removed from their custody as a measure of last resort.

## **VI. CONCLUSION**

Like many developing countries, Jamaica is challenged by the involvement of children in criminal activities. The change in the profile of these children and the corresponding change in the landscape of the crimes in which they are involved are areas of major concern. While there is evidence of a sensitive justice system through reform, the corresponding processes need to be in tandem with the needs of our children, especially those who are on remand.

The efforts of the Department of Correctional Services, the agency responsible for custody and rehabilitation of offenders, are being hampered by the limited infrastructure. The lack of appropriate facilities for remand cases results in children being placed in adult facilities. Although this conforms to the legislative framework it is far from desirable given the limited provisions in adult facilities. The effective management of treatment for child offenders, especially those who commit serious and violent offences, requires a smoother transitioning from the correctional process back to their communities. In this regard, the concept of a halfway house is an idea which is worth pursuing to minimize the risk of reoffending.

**REFERENCES**

Department of Correctional Services, Jamaica. (2006). Annual Report.

Hoge, R.; Guerra; & Boxer, P. (2008) *Treating the juvenile offender*. Guilford Press, New York.

Stinchomb, B. & Fox, V. (1999). *Introduction to corrections*. Simon & Shuster, Prentice Hall.

The Child Care and Protection Act, Jamaica (2004).

The Child Care and Protection Act, Jamaica (2004). Implementation handbook for professionals.

# JUVENILE CRIME AND TREATMENT OF SERIOUS AND VIOLENT JUVENILE DELINQUENTS IN THAILAND

*Korakod Narkvichetr\**

## I. OVERVIEW OF JUVENILE DELIQUENCY

Owing to its history and position, Thailand is a leading partner in Southeast Asian trade and politics. As a result of socio-economic development, political change and globalization in recent last decades, Thai society has been transformed from a completely agricultural country to a semi-industrial country. While globalization has provided some groups in society with new opportunities for social mobility, it has also created new sources of inequality and insecurity for others. Moreover, urbanization and industrialization have created complicated communities that have a variety of competing cultures, thus breaking down previous tradition and more cohesive patterns of values. Subsequently, crime rates, including deviance and crime among children and youth, have increased.

According to the Department of Juvenile Observation and Protection's statistics, the number of juvenile delinquents (7 to 18 years old) who were arrested by the police and sent to the Juvenile Observation and Protection Centers across the country increased from 29,915 in 2003 to 51,128 in 2007, an increase of 70.91 % in the space of 10 years. (Table 1)

**Table 1: The Number of Juveniles in 2003-2007, Classified by Gender**

Year	Number of Children and Youths		
	Male	Female	Total
<b>2003</b>	27,174	2,741	<b>29,915</b>
<b>2004</b>	30,368	2,940	<b>33,308</b>
<b>2005</b>	32,756	3,324	<b>36,080</b>
<b>2006</b>	44,161	4,057	<b>48,218</b>
<b>2007</b>	46,593	4,535	<b>51,128</b>

Source: The Juvenile Observation and Protection Department, Ministry of Justice, 2008.

However, the number of juvenile offenders in 2007 (51,128) is only 0.45% of the total national juvenile population of 11,233,070 in 2008 (Department of Provincial Administration, 2008).

In Table 2, the number of juveniles, whose age range is from 7 to 18 years, has increased substantially. The age distribution of juveniles is shown in Table 2. More specific demographics of juveniles in 2003 to 2007 are shown in Tables 2 to 5.

**Table 2: The Number of Juveniles in 2003- 2007, Classified by Age**

Age	Number of Children and Youths/Year				
	2003	2004	2005	2006	2007
7-14 years old	4,313	5,177	5,872	8,078	8,888
15-18 years old	25,602	28,131	30,208	40,140	42,240
<b>Total</b>	<b>29,915</b>	<b>33,308</b>	<b>36,080</b>	<b>48,218</b>	<b>51,128</b>

Source: The Juvenile Observation and Protection Department, Ministry of Justice, 2008.

\* Director of the Probation Office, Region 3, Department of Probation, Ministry of Justice, Thailand.

139TH INTERNATIONAL TRAINING COURSE  
PARTICIPANTS' PAPERS

**Table 3: The Number of Juveniles in 2003-2007, Classified by Level of Education**

Education	Number of Children and Youths/Year				
	2003	2004	2005	2006	2007
Non-education-Below G1	498	586	1,024	2,333	2,235
Grades 1-6	10,305	11,001	11,951	14,522	15,350
Grades 7-9	12,433	13,836	15,050	19,197	20,434
Grades 10-12 or higher	5,420	5,885	6,381	9,521	10,019
Others	1,259	2,000	1,674	2,645	3,090
<b>Total</b>	<b>29,915</b>	<b>33,308</b>	<b>36,080</b>	<b>48,218</b>	<b>51,128</b>

Source: The Juvenile Observation and Protection Department, Ministry of Justice, 2008.

**Table 4: The Number of Juveniles in 2003-2007, Classified by Residence**

Residence	Number of Children and Youths/Year				
	2003	2004	2005	2006	2007
<b>Together with Parents</b>	<b>14,495</b>	<b>16,196</b>	<b>17,981</b>	<b>24,175</b>	<b>24,950</b>
<b>Separated family</b>	<b>15,420</b>	<b>17,112</b>	<b>18,099</b>	<b>24,043</b>	<b>26,178</b>
Homeless	495	481	308	142	128
Single parent	8,374	9,296	9,688	12,369	13,192
Stays with others	5,810	6,476	7,233	10,724	11,995
Stays alone	741	859	870	808	836
<b>Total</b>	<b>29,915</b>	<b>33,308</b>	<b>36,080</b>	<b>48,218</b>	<b>51,128</b>

Source: The Juvenile Observation and Protection Department, Ministry of Justice, 2008.

**Table 5: The Number of Juveniles in 2003-2007, Classified by Causes of Offence**

Causes of Offence	Number of Children and Youths/Year				
	2003	2004	2005	2006	2007
Mental disorder	-	-	-	135	79
Quarrel and fight	-	-	-	2,515	2,432
Economic status	2,400	2,381	2,510	3,375	3,505
Induced / forced	-	-	-	1,849	1,870
Family condition	3,220	2,760	3,129	3,867	3,060
Peer group	15,310	17,213	19,035	19,374	20,215
Unawareness	4,484	4,735	4,853	5,722	5,539
Impetuosity	-	-	-	5,566	7,839
Indictment on charge	4,501	6,219	6,553	5,815	6,589
<b>Total</b>	<b>29,915</b>	<b>33,308</b>	<b>36,080</b>	<b>48,218</b>	<b>51,128</b>

Source: The Juvenile Observation and Protection Department, Ministry of Justice, 2008.

The tables show that most of the juvenile offenders are 15 to 18 years old. Most of them have an education that ended between the seventh and ninth grades. A large number of them are from separated families and lived with their single parents. Most juveniles reported that they committed the offence because of peer group influence. The interrelationship of these factors is, on the surface, self-evident. Economic pressures create problematic situations in the family and these situations impact family relations, which can result in pushing juveniles under the influence of their peer groups. Peer groups then create their own subculture, which can have positive or negative influences on the juveniles. Unfortunately, most of the peer groups' influence is assumed negative. In addition, the juveniles might be tempted by the changing materialistic values concomitant with economic development. While this is speculation based on many Western criminological assertions, from a practical perspective policies are approached on these assumptions. However, the approach of the juvenile system in Thailand assumes that no single factor alone can be identified as responsible for the causation of juvenile delinquency and that the above factors are conditions to be considered.

There are research findings which affirm that most juveniles, who were found guilty by the Central Juvenile and Family Court and were sentenced to attend a programme at a training school for boys, finished elementary school, were involved with drugs, and came from broken families (Prinya, 2001). Another other study found that the juvenile's marital status, level of education, job, deviant behaviour, neighbourhood, family income, and debt and criminal record of family members do not have any relationship with the crime they committed but associated friends and associated victims do have a relationship with the incident (Puttidej, 1999).

**Table 6: The Number of Juveniles in 2003-2007, Classified by the Offences**

Offences	Number of Children and Youths/Year				
	2003	2004	2005	2006	2007
Against property	8,886	10,496	10,733	14,314	14,764
Homicide & bodily injury	4,843	5,969	6,112	8,284	7,784
Sexual offence	1,735	2,416	2,680	3,652	2,154
Public peace & security	1,016	1,149	1,271	1,731	3,247
Drug abuse	5,897	5,310	6,542	8,803	10,279
Weapons & explosives	1,957	2,031	2,404	3,414	3,650
Other offences	5,581	5,937	6,338	8,020	9,250
<b>Total</b>	<b>29,915</b>	<b>33,308</b>	<b>36,080</b>	<b>48,218</b>	<b>51,128</b>

Source: The Juvenile Observation and Protection Department, Ministry of Justice, 2008.

From Table 6, the largest group of juvenile delinquents was committed to the centres for property offences. Significantly, the number of juveniles who committed homicide and bodily injury offences increased from 4,843 cases in 2003 to 8,284 cases in 2006 and dropped slightly in 2007. In the last two decades, heroin was the major drug problem among both adults and juveniles, but since 1996 methamphetamines have played a significant role, followed by various kinds of volatile substances such as glue, thinner, lacquer, etc.

The findings of Chulalongkorn University's Faculty of Education research interviews with drug users aged between 17 and 23 stated that the most common characteristics of drug abusers were that they come from broken families and suffer from low self-esteem. Youths took methamphetamines so they could feel more relaxed and relieved of their troubles. They sought instant gratification, to escape from hard work and academic difficulties. Most abusers resort to stealing and end up trading in methamphetamines due to the easy profits to be made (Rojanaphruk, 2001). Similarly, research organized by the Foundation for Child Development found that some school students used drugs and had to find money to afford the drugs they used. Moreover, children were also introduced to the business by adults who saw a loophole in the law because of the light punishment for children who commit such offences (Tulyawasinpong, 2002).

Besides drug abuse offences, offences against property as well as bodily injury and homicide cases are serious problems, especially in the big cities. The Metropolitan Police Bureau 9 declared that in the first five months of 2003 five hundred children were arrested for crimes ranging from robbery, pick-pocketing and bag-snatching to extortion. The number of youth gang offenders held in police stations had more than doubled during the two-month school holidays. Most of them were aged from 9 to 15. They robbed victims and used the money to buy drugs, play video games and go out. Youths were committing more serious crimes and at younger ages. The victims are also young and sometimes young offenders get to know their victims through the Internet (Hanpanyapichit and Somsin, 2003).

The other concern for teenagers is the battleground between rival student gangs. The main culprits in the street fights are vocational students, who are typically aged 16 to 18. Formerly, students used their school equipment, such as T-squares, iron rulers, cutters, and their belts as weapons, and the fighting rarely caused death. Nowadays teen gangs, including students, use guns to shoot students from the rival institutes without knowing those students personally. In addition, the events always occur in public places such as on buses, in shopping malls, etc. Thus, students who joined gangs, normal students, and bystanders are easily injured or killed in violence between teenagers. Students attest to the level of violence that has been used in nearly 2,000 attacks recorded by police in the capital during 10 months in 2004. Recently, fighting that culminated in running battles involving nearly 100 students left nine injured, and the education ministry ordered two



schools shut for a chance to bring their students into line or face permanent closure. In addition, a total of 12 schools have been placed on a government watch list because of violent behaviour (Chaisatien, 2003).

Many reasons and theories are suggested to explain juvenile offences. Some officials in charge of juvenile cases say that fighting gives some students their only role in life. The students who lead the battle want society to accept them, so they do something to draw people's attention and fighting is the best way to get attention rather than winning scholarships, which benefits only a few people. The police claim that problems have been compounded by the failure of schools to try to solve the problem by denying their involvement and often stating that troublemakers had already been expelled or left. Moreover, psychologists indicated that contributing factors to teen deviance also include the media, peer pressure, and biological disorders (Chaisatien, 2003). Additionally, young people are becoming increasingly violent and blaming society and their own families for their behaviour. In a student forum, students stated that they resorted to violence as a means to solve every problem. They brawl because they cannot win against one another and they are all feeling the pressure of strict school rules and the decrees of their parents and society, so they are releasing their stress through violence. Some accepted that they absorbed violent behaviour from violent computer games. However, most students agreed that resorting to corporal punishment will not solve the problem (Na Mahachai, 2003). Nevertheless, from a larger societal perspective, juvenile delinquents are a reflection of the failure of the family unit, curriculum and school administration, and poor criminal justice procedure and rehabilitation. The Thai Farmer Research Center's survey on children in the capital found that children in Bangkok were living under pressure due to family, love, and financial problems. Sixty percent of the 920 children interviewed said they had family problems, while 69% said their schools and colleges were not drug-free. In addition, most juvenile delinquents came from broken families, families which failed to inculcate morals in their children, or families where parents often used violence to solve problems and failed to act as role models (Bunnag, 2001).

Looking at the family, the researchers suggest that parents of delinquents are often struggling to reach higher living standards and ignore their relationships with their children. The education system is also given some responsibility for the problems, and critics argue that the system has produced virtually nothing except selfish individuals who strive solely for upper social status or wealth. Poor school management also has been criticized for failing to protect students from social problems (Chaisatien, 2003). The criminal justice system is also considered culpable for its failure in crime prevention, correction, and rehabilitation. About 15% of juveniles released from detention are later rearrested. This reflects the practice of merely warehousing them at detention centres where many learn to commit more serious crimes, and for responding to the problems with only punishment (Roujanavong, 2001). Thus, criminal justice officials and legal experts are searching for alternative and innovative approaches to delinquent corrections and juvenile justice reformation.

## II. THE THAI JUVENILE JUSTICE SYSTEM

### A. Juvenile Justice System

The Thai juvenile justice system has been based on the assumption that young offenders are not considered to be criminally responsible for their actions and that they should not be treated the same as adults. Children aged ten and younger are not punishable under Thai law, and the criminal code does not allow for any kind of punishment to be levied upon any person below 14 years of age. It had been the practice to send juvenile delinquents to a vocational school under the Primary Education Act of 1935 or to a reformation school under the Act on Instruction and Training of Certain Classes of Children of 1936 for treatment after trial rather than having them imprisoned. However, under these provisions, treatment of the juvenile was available only after the court's order and there were no special provisions made for juveniles before adjudication. Juveniles were, therefore, detained in the same detention facilities as adult criminals and they were required to undergo the same court procedures as adults. In 1952 the Central Juvenile Court and the Observation and Protection Center were established under the Juvenile Courts and the Juvenile Court Procedure Act of 1951, which was later revised as the Juvenile and Family Courts Act of 1991. The Act embraces the principle of the "best interests of the child" with respect to the protection of children and their families. A child who has committed a violation of the law shall not be regarded as an offender, considering that he or she is under-aged and victimized by a corrupted environment and that his or her wrongdoing is not committed out of malice. The child can repent and express willingness to undergo correction and rehabilitation under adult care and supervision.

## **B. Guidelines for the Treatment of Juvenile Offenders**

Guidelines relating to the treatment of juvenile offenders are stipulated in Articles 32 to 57 of the Juvenile and Family Court and its Procedural Code Act of 1991, which distinguish juvenile justice from the general administration of justice in seven major ways:

1. The consideration of a juvenile case is undertaken in confidentiality and in a room separate from adult cases.
2. Some flexibility may be exercised when considering cases involving juveniles.
3. An investigation will be conducted into a juvenile's social background and his or her behaviour. The findings of the investigation will be submitted to the juvenile and family court when it considers the case.
4. Juveniles under investigation or awaiting trial are kept in a detention facility that is separate from that of adults.
5. Juvenile offenders will receive both physical and psychological examinations.
6. The Juvenile and Family Court may change the final verdict if it deems it appropriate to do so.

The Juvenile and Family Court can consider cases involving family members (Economic and Social Council, 1996).

## **III. JUVENILE CRIMINAL CASE PROCEDURE**

### **A. Arrest**

Arrests of the accused child are prohibited unless he or she committed a flagrant offence, an injured person identified him or her and insisted on the arrest, or a warrant for arrest is made under the criminal procedure code. After apprehension, the police officer is required by law to notify the director of the Observation and Protection Center (OPC) and the juvenile's parents, guardians or a person with whom he or she is residing.

### **B. Inquiry and Investigation**

During this process, it is required that a counsellor or legal adviser is provided for the juvenile. In addition, the presence of a public prosecutor, psychologist or social worker and the juvenile's parents is compulsory during interrogation and is an essential element to protect the juvenile. The inquiry must be completed within 24 hours from the time of arrival at the office of the inquiry official. After the inquiry, the juvenile shall be sent to the OPC and the file of inquiry will be sent to the public prosecutor.

### **C. Detention and Provisional Release on Bail**

In general, the juvenile may be detained during the investigation at the remand home of the OPC. The director of the OPC may keep the juvenile in custody. A request for provisional release on bail of the arrestee shall be made to the custodial authorities (Ukris, 2002).

### **D. Criminal Prosecution and Deferred Prosecution**

The government is represented in both criminal and civil matters by public prosecutors stationed throughout the country. The public prosecutor has to enter a charge in the JFC within 13 days from the time the juvenile was arrested. In a case where the alleged juvenile offender escapes from custody while the case is being conducted, the time during the escape shall not be included in the period of charging. In case of necessity, when the charge against the offender cannot be filed within the mentioned period, the police officer or public prosecutor shall apply by motion to the court for a deferment (extension). In case of an offence where the minimum imprisonment is five years or more, the court may grant a longer deferment.

### **E. Trial**

The court trial is the fact-finding process in which the truth of the guilt stated in any claim is ascertained and used as a tool in deciding the case. The JFC has the authority to transfer an accused juvenile to the Criminal Court for trial and adjudication after the JFC considers the juvenile's physique, intelligence, health, and habits. The JFC has the discretion to determine that the accused juvenile has the same status as a person who is 18 years old or older. Correspondingly, the Criminal Court may transfer any accused person who, when the offence was committed, was not over 20 years old to the JFC when the Criminal Court exercises its discretion that that person should be treated as a juvenile. The JFC procedure will be informal

and simplified in the interest of the juvenile. The trial is held in private. The persons present at the trial are the accused, parents, guardians, attorney, witnesses, prosecutor, members of the court and other persons permitted by the court. Photographs and reports on facts presented at the proceedings are not to be released to the public (Central Juvenile and Family Court, 1996).

#### **F. Adjudication**

The judgment process is based on two stages: the adjudication of guilt and sentencing. An adjudication of guilt means that the court gives a judgment on whether or not an accused is guilty in accordance with the charge. If the judge considers all the evidence and is uncertain that the accused has committed the offence, regardless of whether the accused pleads guilty or not, he or she will dismiss the charge. On the contrary, if the judge is certain that the accused committed the offence he or she will convict the accused and then decide a punishment. However, after the trial is completed, prior to a judgment or an order being given, the court will review the social investigation report submitted by the OPC. In addition, Section 75 of the Thai Penal Code provides that whenever any person over 14 years but not yet over 17 years of age commits any act provided by the law to be an offence, the court shall take into account the sense of responsibility and all other things concerning him or her in order to come to a decision as to whether or not it is appropriate to pass judgment by inflicting punishment on him or her. If the court does not deem it appropriate to pass judgment inflicting punishment, it shall adopt other correctional measures short of punishment. If the court deems it appropriate to pass judgment inflicting punishment, it shall reduce the scale of punishment provided for such offence by one half. Section 76 of the same Code also states that whenever any person over 17 years but not yet over 20 years of age commits any act provided by the law to be an offence, the court may, if it thinks fit, reduce the scale of the punishment provided for such offence by one third or one half.

### **IV. TREATMENT OF SERIOUS AND VIOLENT JUVENILE OFFENDERS**

Serious juvenile offenders are those who commit the following felony offences: larceny or theft, burglary or breaking and entering, extortion, arson, and drug trafficking or other controlled dangerous substance violations. Violent juvenile offenders are those who commit the following felony offences: non-negligent manslaughter, homicide, rape or other felony sex offences, mayhem, kidnapping, robbery, or aggravated assault.

There are three principal organizations dealing with juvenile delinquents, Juvenile and Family Courts, the Juvenile Observation and Protection Department, and the Department of Probation.

#### **A. The Juvenile and Family Courts (JFC)**

The JFC has jurisdiction in any criminal case involving children aged 10 to 14 years old and youths aged 15 to 18 years of age, and also handles civil actions involving any minor (under 20 years old) under the Civil and Commercial Code. A trial in the JFC is adjudicated by two professional judges and two lay judges, where at least one of the four must be a female. An appeal against a judgment or order of the JFC is heard by the Courts of Appeal. The JFC consists of the Central Juvenile and Family Court, 10 Provincial Juvenile and Family Courts, and 31 Divisions of Juvenile and Family Court in the Provincial Courts. Thailand is divided into 76 provinces; therefore, in those provinces where the JFC or the juvenile and family section do not exist, accused juveniles must be dealt with in adult courts. Definitely, the JFCs are authorized to transfer serious and violent juvenile delinquents to criminal court or place them in adult prisons but this only happens in a few cases. The reason is that the courts have to hear the Juvenile Protection Committee's resolution before they exercise this authority. Additionally, all or most authorities, including the court, consider that treating juvenile delinquents in the vein of adult criminals is actually more likely to lead to recidivism and retention in the juvenile justice system. In addition, their recidivism rates as well as the severity of their offences appear to increase after they are released from prison. Therefore, the great majority, or all, of the juveniles who are found guilty as charged are placed under the responsibility of the Juvenile Observation and Protection Department, the institutional rehabilitation organization, and the Department of Probation, the non-institutional rehabilitation organization.

#### **B. The Juvenile Observation and Protection Department (JOPD)**

The JOPD is the institution that provides care, protection, and training to juvenile offenders in the institutions. The mandate and responsibilities of the Department include keeping juveniles under investigation and those awaiting trial under detention, preparing the social investigation report, and

supervising remand homes and training schools. The JOPD consists of the Administration Divisions, the Bangkok Observation and Protection Center, the Provincial Observation and Protection Centers, and Juvenile Training Centers. At present, there are 76 Observation and Protection Centers nationwide.

Normally, both serious, violent offenders and non serious, non-violent offenders have to participate in the same basic treatment programmes. However, serious, violent juvenile offenders will be classified by a classification form and will be placed on some proper programmes. The rehabilitation programmes in OPCs are run by teachers, social workers, psychiatrists and doctors. Programmes include non-formal education, instruction in moral values, art, music, and sport activities. Institutional treatments are divided into three types: the training school, the vocational training school, and the therapeutic community centre.

1. Training Schools

There are 17 training schools throughout the country. Since juveniles are admitted to the training schools for “reformatory treatment” and are still at the stage of character formation, educational programmes are conducted. The OPCs and school programmes aim to develop adjustment skills and life skills of inmates through regular guidance, vocational training, education, moral and religious instruction, and recreational activities. While most of these activities help instill specific disciplines, general discipline is encouraged by granting or revoking rewards and privileges such as home visits, pre-release, participation in special activities, etc. The conduct of a juvenile staying in the institutes is evaluated by means of ascertaining his or her performance at training school in regard to study, vocational training, work, personal appearance, language, behaviour, respect for authority, care of property, and co-operation. The director of the OPCs is empowered to send an incorrigible juvenile who is a source of danger to other juveniles for detention in a prison.

2. Vocational Training Schools

The vocational training school under the JOPD has a capacity of 200 persons. The salient features emphasize positive working attitudes as well as helping juveniles to acquire work-related skills, and arrangements for juveniles to undergo a test of the Trade Standard Testing Committee, of the Ministry of Labor and Social Welfare. The school conducts treatment and operates eight vocational training courses. However, the enrollment schedule and number of juveniles are fixed because of the limited capacity of the institute.

3. The Drug Addict Treatment Center

The Drug Addict Treatment Center, the Ayudthaya Therapeutic Community Center, provides compulsory treatment and rehabilitation programmes for juvenile addicts. The programmes are intended to restore physical health, uproot psychological and emotional dependence on drugs, and apply the therapeutic community models and techniques (Ukris, 2002).

**C. The Department of Probation (DOP)**

Prior to 2003, the Department of Probation’s main duties were to conduct pre-sentence investigation, supervision, and rehabilitation only for adult probationers ordered by adult courts. Six years ago, the department was reorganized in accordance with the Resolution of the Council of Ministers of 2001, which has authorized the Department of Probation to be the principal organization of community-based corrections for all types of offenders in communities, including juvenile probationers and juvenile parolees shifted from the JOPD, and adult parolees shifted from the Correctional Department. Moreover, the other new missions of the department include the co-ordination of reintegration efforts of medical and social agencies and Drug Rehabilitation Centers in accordance with the Drug Rehabilitation Act of 2002, and also to provide aftercare services for offenders in communities.

The DOP consists of six technical and support units in the central administration of the department; 76 provincial probation offices nationwide; 14 leaders/or representatives of the provincial groups; and one Drug Rehabilitation Center.

The Drug Rehabilitation Center, the other initiative of the Department of Probation starting in 2003, has been organizing compulsory treatment for drug users under the Drug Rehabilitation Act of 2002. The major concept is to provide arrestees who used or processed small quantities of any illicit drug and did not commit other offences to undergo treatment like a patient instead of prosecuting them as a criminal. If the



arrestees are willing to receive treatment and relinquish their drug habits, the prosecutors will drop the charges and the arrestees will have no criminal record and will be assisted in continuing their daily lives in the community as ordinary people. A benefit of the compulsory treatment system is that it can provide an opportunity to divert offenders from the general criminal justice procedure, and especially to reduce the number of suspects in courts and thereby to reduce the number held in jails and juvenile detention centres. To ensure success, the Department of Probation, in its capacity as the co-ordinator of the programmes, has worked closely with many government and non-government agencies as well as communities all over the country. It is believed that by concentrating seriously on rehabilitation and prevention, the compulsory drug treatment system will be an effective strategy for curbing crime committed by drug abusers (Kittayarak, 2003; Kalyanasuta, 2002).

Probation for juveniles is commonly used for first offenders who commit a relatively minor offence. Therefore, serious, violent juveniles come to the probation office by parole assessment. Parole is a measure for juveniles who have been conditionally released from the training school by the decree of the JFC. The term of parole supervision is usually up to the remaining term of his or her sentence, with early discharge in cases of serving one quarter of the period of training with good behaviour. Screening of inmates for release on parole requires conditions such as good results in treatment and rehabilitation programmes, and a good home environment. Supervision of the parole process is the same as the process of supervision of probationers, starting with a court's prescription of supervision conditions for juveniles, such as forbidding them to: enter any place or locality which might corrupt them; leave their residences at night except in cases of necessity; associate with any person who is deemed undesirable by the court; and do any act which might corrupt them. The court may also order them to present themselves from time to time to the court or to the probation officer or social worker who was assigned by the director of the OPC, and order them to pursue an education or substantial occupation.

In practice, a probation officer is to provide supervision and personal guidance or individual counselling to juveniles through interviewing the juvenile and visiting his/her home regularly. Moreover, the probation officer also provides group counselling, family counselling, religious training, skill-oriented programmes, and multiple services, combinations of services or treatments that involve several different approaches, such as community service, life and occupational training, restorative justice processes, and compulsory treatment programmes for drug addicts. Therefore, the probation officer is to exercise professional skill and knowledge of local resources to meet the juvenile's needs and, where necessary, provide the family members with financial assistance, employment, etc.

In addition, the DOP has operated a volunteer scheme for probationers which aims at providing greater community involvement in the rehabilitation of offenders. Under this scheme, selected volunteers provide probationers with personal and moral support and help juveniles develop meaningful hobbies and habits, cultivate healthy pursuits, find jobs, and provide tuition for them. Besides, the community justice network was implemented within certain communities around the country in 2004 with the DOP's support and under the policy of the Ministry of Justice. These networks will assist in persuading drug users to receive voluntary treatment without the necessity of arresting them, and will also support the treatment and aftercare of drug addicts in the compulsory system. The networks will collaborate closely with the volunteer probation officers in the aftercare and the follow-up of drug users within the community. If they perform well, the networks' responsibilities will be extended to other functions such as the prevention of crime, community mediation, etc. (Kittayarak, 2003).

Regarding the success rate of the juvenile rehabilitation programmes of the DOP, 76 per cent of juveniles are fully discharged from probation with no violations of conditions or rearrests. Less than 7 per cent become recidivist offenders after release from probation supervision. For JOPD's services, there is a study indicating that juvenile delinquents who participated in group counselling showed a significantly greater increase in self-concept than the juvenile delinquents who did not. (Kanchana, 1992). Additionally, the results of a study found that juvenile delinquent recidivists had an average age of 17.1 years, graduated from the sixth grade and largely committed drug and narcotics offences. Environmental factors after release from the juvenile centres, such as associating with their peer groups, financial status and types of delinquency, were significantly related to recidivism. However, factors of family relationship, residential location and training in Central Observation and Protection Centers had no relation to recidivism (Ruangchai, 2000).

Both institutional and non-institutional rehabilitation organizations are faced with the same difficulties in providing more effective intervention or treatments for serious, violent juveniles. The major difficulties are legal measures which are not suitable for rehabilitation of juveniles in conflict with the law to reintegrate into society (Suphansa, 2004); lack of juvenile rehabilitation administration personnel such as counsellors, psychologists, criminologists, or sociologists (which are not in proportion to the number of juveniles in the criminal justice system); and lack of advanced skill for implementing special programmes focusing on matters such as interpersonal skills, social interactional skills, aggression replacement training, etc.

## **V. CONCLUSION**

Crime rates seem to parallel the growth of industrialization, urbanization, and globalization, especially when the economy is unstable. Along with this growth, juvenile delinquency, especially serious, violent juvenile delinquency, increases. In addition, more serious crimes are being committed by ever-younger children. Therefore, effective treatments play an essential role in any strategy designed to diminish the rates of juvenile delinquency. Currently, the Thai criminal justice system, including juvenile justice, is in the process of reorganization and performance redesign. Additionally, many innovations are being created and adopted; many national laws and practices dealing with juveniles are being raised to international standards for the administration of juvenile justice and to break the cycle of youth crime. Nonetheless, reforming the criminal justice system alone will never solve crime and the juvenile delinquent problem because, in one way or another, crime is a symptom of social disorganization. As such, other social issues, especially the gap between urban and rural living standards and disparities in income distribution, must be addressed by the government.



## REFERENCES

Bunnag, S. (2001). "Parents Blamed for Rise in Number of Young Criminals." *Thai Youth Issues in Thailand*. See: [www.thailandlife.com/thaiyouth.html](http://www.thailandlife.com/thaiyouth.html) (9/5).

Central Juvenile and Family Court (1996). *Guide to the Juvenile and Family Court and the Protection Centre of Thailand*. Bangkok: Grangrow Printing.

Chaisatien, A. (2003). "Bring Them Up Right." *Thai Youth Issues in Thailand*. [www.thailandlife.com/thaiyouth.html](http://www.thailandlife.com/thaiyouth.html) (6/19).

Charoenpo, A. (2003). "Families Set to Have Rehab Role." *Bangkok Post* (6/6). Pathumwan, Bangkok.

Futrakul, V. (2003). *Fact Sheet on the Royal Thai Government Anti-Narcotic Drugs Policy*. Ministry of Foreign Affairs of Thailand, (Narathip3/3).

Hanpanyapichit, S. and B. Somsin (2003). "Police on Holiday Youth Patrol" *The Nation* (5/8). Bang Na, Bangkok: Nation Multimedia Group.

Kalyanasuta, K. (2002). "The criminal justice system and community-based treatment of offenders in Thailand" Paper presented at the United Nations Asia and Far East Institute For the Prevention of Crime and the Treatment of Offenders (UNAFEI), Fuchu, Tokyo, Japan.

Kanchana Imsunranrach (1992). "Effects of group counseling on juvenile delinquents' self-concept". Thesis (M.Ed.), Chulalongkorn University.

Kittayarak, K. (2003). "Restorative Justice: The Thai Experience". UNAFEI Resource Material Series No.63. Fuchu, Tokyo, Japan.

Office of the Judiciary (2004). *The Judiciary of Thailand*. Retrieved 14 October 2004 from: <http://www.judiciary.go.th/eng/engjud.htm>

Na Mahachai, S. (2003, June 19). "Fighting: the first solution." *The Nation* (6/19). Bang Na, Bangkok: Nation Multimedia Group.

Prinya Lernguthai (2001). "Factors affecting the conforming of delinquent juveniles to the rules of the Central Protection and Observation Center: a case study of Ban Karuna training school for boys" Thesis, Chulalongkorn University.

Public Relations Department (2003). *THAILAND: International Narcotics Control Strategy Report*. Bangkok: Office of the Prime Minister, Thailand.

Puttidej Bunkrapue (1999). "Factors relating to the incidence of violent crime among delinquent youth" Thesis (M.A. (Sociology)), Chulalongkorn University.

Rojanaphruk, P. (2001, July 9). "Teenage methamphetamine users" *The Nation* (7/9). Bang Na, Bangkok: Nation Multimedia Group.

Roujanavong, W. (2001). "Alternative Juvenile Justice: Innovative Approaches to Delinquent Corrections". Paper presented at the Ministry of Justice seminar, Bangkok.

Ruangchai Ruangpaison, Pol. Capt. (2000). "Social factors affecting recidivism of juvenile delinquency: a case study of the central observation and protection center in Bangkok metropolis" Thesis (M.A. (Sociology)), Chulalongkorn University.

Suphansa Somsee (2004). "Legal measures on rehabilitation of children in conflict with the law through community, offender and victim involvement", Thesis (LL.M.), Chulalongkorn University, 2004.

Tulyawasipong, S (2002). *More Children turn to Selling Drugs: Children's Problems*. Foundation for Child Development: Bangkok.

Ukris, D. (2002). "Juvenile Justice System in Thailand." UNAFEI Resource Material Series No. 59 and Annual Report for 2000. Fuchu, Tokyo, Japan.

---

**Selected Participants' Papers on the Profiles and Effective  
Treatment of Serious and Violent Juvenile Offenders of Japan**

---

**ON APPROPRIATE ASSESSMENTS  
OF SERIOUS JUVENILE OFFENDERS IN THE FAMILY COURT**

*Kazumi Watanabe\**

**I. INTRODUCTION**

In Japan, many people are concerned about recent serious crimes committed by juveniles. They are, in particular, shocked that juveniles under the age of 14 years old commit serious offences. Furthermore, some juveniles do not exhibit any signs of criminal intent until just before the crime is committed. Anxiety and embarrassment slowly spread through society because the public is unable to understand why juveniles commit such serious offences.

In the Family Court, we have conducted detailed investigations from various viewpoints to find out what has caused the crimes, and to make suitable judgments for juveniles. However, there is a lot we do not yet understand about these juveniles' psychological conditions, backgrounds, etc. In the Family Court, appropriately assessing serious juvenile offenders has become an urgent problem.

**II. THE ORGANIZATION AND THE FUNCTION OF THE FAMILY COURT**

Before discussing the main subject, let us review the system of the Family Court in Japan.

The Family Court was established in 1949 with the concept of maintaining the welfare of families and seeking the sound upbringing of juveniles. It is a court specialized in dealing comprehensively with domestic relations cases and juvenile delinquency cases, and it is a court of first instance. There are 50 head offices throughout Japan with at least one in each prefecture. The Family Courts have 203 branches in total. In addition, there are 77 local offices of the Family Court in towns throughout Japan.

It goes without saying that the Family Court has a judicial function. In addition, the Family Court has the following characteristics. First, it looks at juveniles through the lens of human science to solve their problems. Next, it can do casework when it is necessary. Finally, it has the function of providing welfare and education in the procedure of the Family Court. The Family Court probation officer is a professional unique to the Family Court to enforce these purposes.

As previously stated, the Family Court deals with domestic relations cases and juvenile cases. Typical examples of domestic relations cases are: guardianship of adults, permission to adopt a minor, requesting maintenance for bringing up a child, designation of parental authority and alteration thereof, partition of estate, marital relationship disputes, and divorce. Typical examples of juvenile delinquency cases are listed as follows: theft, extortion, bodily injury, violation of Road Traffic Laws, etc.

Family Court probation officers conduct investigations into the facts of these cases and co-ordinate human relationships for the proper disposition of cases of domestic relations, personal affairs, and juvenile delinquency, and submit reports to the judge.

Family Court probation officers are specialists in the field of human sciences such as psychology, sociology, pedagogy, and social work, and are engaged in the scientific function of the Family Court by utilizing their technical knowledge and skills. However, the acquisition of such knowledge and skills is not easy. They do this by taking a two-year training course at the Research and Training Institute for court officers. The course also strengthens their practical capabilities. After the course, Family Court probation

---

\* Family Court Probation Officer, Tokyo Family Court.

officers will be able to handle cases by themselves.

### III. THE SYSTEM OF JUVENILE DELINQUENCY CASES IN JAPAN

Figure 1 shows the procedure of juvenile delinquency cases in Japan. The Family Court usually receives juvenile delinquency cases by referral from police officers, public prosecutors, or the chiefs of a child guidance centre.

These cases may involve juveniles who are arrested, or those who are still at large. The arrested juvenile delinquent is placed in a juvenile classification home and receives a mental and physical evaluation. The standard maximum detention period is four weeks. Almost all juvenile offenders who commit serious crimes will enter a juvenile classification home.

When the Family Court receives a juvenile delinquency case, a judge orders the Family Court probation officers to investigate. This investigation is generally called a “social inquiry”.

The objective of the juvenile procedure is to uncover the facts of delinquency cases as well as to determine the necessity for educative measures. The necessity for educative measures is directly related to the possibility of recidivism. The main purpose of the investigation is to clarify the existence and degree of risk of recidivism.

Family Court probation officers investigate juveniles or any other people involved. They evaluate the risk of recidivism by utilizing their knowledge of related fields of human science. In addition, the Family Court has psychiatrists on its staff and can receive advice from the technical standpoint if necessary.

Family Court probation officers conduct the investigation by summoning juveniles, parents, school teachers, or any other persons concerned to come to the Family Court. It also interviews the juvenile and may use methods of psychological testing. Also, they may visit the juvenile’s home to observe his or her environmental situation, or make inquiries to the juvenile’s school regarding their school life. They may also investigate the situation of the victims.

Family Court probation officers examine the juvenile’s personality, habitual behaviour, personal history, environment, etc. By these investigations, they assess the risk of recidivism from a medical, psychological, and social viewpoint. In other words, they evaluate current developmental problems and developmental stages of the juvenile. At the same time, they consider how strong an influence the environmental factor has on juveniles. They then determine how it is related to the act of delinquency and evaluate the risk of recidivism. Finally, they submit reports regarding what kind of treatment the juvenile needs to the presiding judge or judges.

Based on the investigation results, judges decide whether or not to hold hearings for the juveniles. The final dispositions are as follows: 1) dismissal without hearing; 2) dismissal after hearing; 3) protective measures; 4) referral to the chief of a child guidance centre; or 5) sending a case to a public prosecutor. Protective measures are as follows: probationary supervision, commitment to a juvenile training school, commitment to a home for juvenile training, or to a home for dependent children.

Regarding serious juvenile offenders, the Juvenile Law was revised in 2000. According to the current law, when a juvenile intentionally takes the life of a victim, a judge should send the case to the public prosecutor. The revised law takes into consideration the viewpoint of the victim and the protection of the public.

The Juvenile Law Article 20-2 says;

*The Family Court should send the case of the juvenile, who takes a life of victim by an intentional act of crime, and who is over 16 years of age at the time of the offense, to the public prosecutor. However, the Family Court can determine other measures if it recognizes that disposition except sending the case to the prosecutor is suitable, by considering the motivation of the juvenile delinquency, the situation after the crime, the character, age, behavior, environment and others, as a result of investigation.*

In short, the Family Court aims for the realization of the ideal of “sound upbringing of juveniles” by measuring suitable dispositions for juveniles. Family Court probation officers play an important role in this procedure. Of course, by the Juvenile Law, a serious juvenile offender who lets a victim die intentionally should be subject to the same justice process as that applied to adult penal trials from the viewpoint of victims and those seeking social protection. However, even in serious cases, the rehabilitation of juvenile offenders should not be made light of. Therefore the Family Court can determine protective measures if they are required. We can be certain that the appropriate disposition of the case is the most important object of hearings in Japan.

#### IV. STATISTICS

##### A. Recent Trends of Serious Juvenile Offences

Graph 1 shows the change in the number of serious juvenile cases and of juvenile theft cases in Japan over the last 20 years. (In judicial statistics in Japan, serious offences mean the four offences of “murder, robbery, rape and arson”.)

The number of serious juvenile offenders has remained steady over the past 20 or so years. The annual percentage has also been steady at around 1% of the total number of juvenile penal cases since 1985. In 2006, 0.8% of cases were classified as serious. Even in 1997, when it is said that serious juvenile offences increased rapidly in Japan, only 1.3% of cases fell into this category.

Graph 2 shows the rate of four serious offences committed by juveniles out of 1000 children between 10 and 20 years of age. Murder and arson cases remain steady at less than 0.05%. Likewise, the number of rape cases does not vary. The only change is in robbery cases. However, this is due to the increase in “robbery on the road,” dating from 1997. Most road robbery are incidents of constructive robbery, where a victim is hurt in a mugging by an assailant on a bicycle or a scooter. This number increases and decreases according to the policy of arrest and prosecution. Therefore, by this graph alone, it does not follow that Japanese juvenile delinquency has become more serious.

However, it is true that serious juvenile delinquency which has caused public concern has occurred frequently in recent years. As a result, the Juvenile Act was revised in 2000. Therefore, we wonder if juvenile delinquency has really become more serious. It seems in part that the media has formed that image. But it is a fact that there have been several cases which a child who has previously been regarded as “obedient and good” at home and school suddenly displays cruel and brutal behaviour. These cases were not seen in the past, so why are they happening now? Later, I shall try to give an account of the characteristics of recent serious juvenile offenders.

##### B. Judgments on Serious Juvenile Delinquent Offenders

Next, let us now look at judgments in serious juvenile delinquency cases in Japan. Graph 3 shows the percentages of judgments reached on serious juvenile delinquents in 2006, 1996, and 1986. For comparison, Graph 4 shows the percentages of judgments rendered in theft juvenile cases. The results are as follows:

- Judgments in theft cases haven't changed over the last 20 years.
- In contrast, for serious juvenile cases, the percentage of cases resulting in custodial treatment has risen.

Note: The reason for this is that, in regard to robbery, cases sent to a public prosecutor have greatly increased. (It seems that the increase has resulted from the revision of the Juvenile Law in 2000.)

#### V. CHARACTERISTICS OF SERIOUS JUVENILE OFFENDERS

Recently, several adequate practical and pragmatic research studies have been made by the Family Court to deepen understanding of these cases. We're concerned with the characteristics identified by the research.

##### A. Characteristics of Personality and Behaviour

###### 1. High Impulsivity

Serious juvenile offenders tend to grasp situations at a level of pleasure or pain and cannot express their

feelings using appropriate vocabulary. As a result, juveniles are compelled by their immediate emotions and act impulsively. Juveniles only feel irritated without knowing the reason why. Therefore, they are apt to commit offences impulsively. The main reason for this problem is the lack of a process of development by which other children with a healthy parental relationship develop skills to express their feelings appropriately.

## 2. Cognitive Distortion

Serious juvenile offenders tend to avoid, repress and deny events which are unpleasant for them. Since juveniles cannot objectively grasp the relationship between themselves and those around them, they tend to cling to their own beliefs and have excessive feelings of being unnecessarily persecuted. This distorted view leads to inappropriate reactions which contribute to them committing an offence. Moreover, this trend is stronger in groups than in individuals.

## 3. Bad Self-image

Many serious juvenile offenders have a bad self-image. Because they believe that those around them may attack them, they become defensive. Their self-esteem is strongly affected by minor triggers. As a result, they become emotionally confused and commit offences.

One of the reasons for this problem is that many juveniles grow up without interacting well with others. Here is a typical example: a juvenile was physically abused, neglected and rarely praised. For the juvenile, his or her home was not a secure base psychologically or physically. In such terrible circumstances a juvenile cannot learn to rely on him or herself.

Juveniles who committed offences in a group display this tendency strongly. Because juveniles strengthen ties with friends of similar circumstances and become dependent on each other, they cannot stop themselves from escalating the offences they commit for fear that they will be excluded from the group.

Some juveniles immerse themselves in fantasies such as TV games to avoid hurting their self-esteem. Because these juveniles have fewer relationships with those around them, there are big gaps between their self-images and societal reality. Subsequently, the juveniles are sensitive, and their sensitive self-esteem is easily affected by small things.

## 4. Insufficient Interpersonal Skills

It is extremely difficult to form and to keep good relationships for both juveniles who commit offences alone, and for those who commit offences with a group. Therefore, their circle of acquaintances is very limited. Since they are extremely cautious and cannot believe others, they avoid forming new relationships, and their feelings of isolation deepen.

In contrast, some juveniles seem to be adjusted to society and live their lives peacefully. For such juveniles, the evaluations from people around them are good. However, in reality, they superficially make themselves agreeable to everybody in order that they are not excluded by their friends. It is, as it were, an over-adjustment. These relationships with friends are not mentally stable. Consequently, when the juveniles can no longer endure these painful situations, their emotions burst, resulting in the committing of offences.

Since both types of juveniles are strained by human relationships, they do not develop their interpersonal skills.

## 5. Social Restriction by Developmental Disorders and Mild Mental Retardation

Many juveniles who commit serious offences alone have some developmental disorders such as Pervasive Developmental Disorders, Attention Deficit/Hyperactivity Disorders or mild mental retardations. The backgrounds of juveniles who commit offences are as follows:

- The juveniles have extreme cognitive distortion, and thus they cannot deal in appropriate ways with events which occur in daily life.
- The juveniles have fixations with specific things. Therefore they cultivate odd behaviours.
- Since the juveniles cannot form healthy relationships, they cannot adjust to group environments.



Because of these characteristics, such juveniles are susceptible to causing trouble at school and at home. However, most of them do not receive appropriate support, and thus they are in a vicious spiral; the more trouble they cause, the worse their adjustments to society. Of course, the existence of these disorders does not directly connect with offences. But, if these juveniles are adversely affected by their social environment, in addition to disorders, they more easily become unstable and commit offences.

## **B. Characteristics of Circumstances Surrounding Serious Juvenile Offenders**

### **1. Characteristics of Family Relationships**

Almost all juvenile offenders' families are dysfunctional. These families can be described as follows.

#### *(i) Families in which Problems are Evident*

##### *(a) Families with a violent daily life*

This type of parent uses violence to discipline children, and such violence also exists between the parents. Furthermore, these juveniles may also experience multiple changes of environment, such as their parents' divorce, or moving house because of neighbourhood troubles, etc. Such changes have serious effects. Their home is not a secure base for them.

##### *(b) Families in which the parents neglect the children*

Some parents do not have the mental or economic resources to take care of their children. In this type of family, the parents are not conscious of the juveniles' problems, or they ignore them though they are conscious of them. The parents repeat temporary solutions, such as scolding or corporal punishment. This cycle only aggravates the juveniles' problems.

##### *(c) Families in which parents cannot raise children because of their own mental disorders*

This type of family is one where the parents have some mental disorder such as depression, personality disorder or alcoholism. The parents' mental states affect the juveniles, and thus the juveniles are susceptible to instability. In addition, the parents are dependent on their children in many cases.

#### *(ii) Families in which Problems are not Evident*

##### *(a) Families with less emotional interaction*

This type of family ostensibly looks like a usual family. Though both parents are in the home and there is plenty of money, the family lacks warm communications. The reason is that parents do not express their feelings enough, or that there is underlying family animosity, and so on. As a result, the juveniles in these families cannot express their real intentions and feelings, increasing their discontent.

##### *(b) Families in which parents have excessive expectations of their children*

In this type of family, parents overestimate the juveniles, demand of them to be "an ideal child" and intend to look at only the good side of them. The juveniles continue to pretend to be "a good child" for as long as possible without showing their true nature to their parents. But this burden is too heavy to be borne for long. The juveniles cannot live up to their parents' expectations, which causes them to commit offences.

### **2. Characteristics of School and Friends**

#### *(i) Changes of School Atmosphere and Relationships with Teachers*

Though juveniles' families may have serious problems, school (especially an elementary school) can sometimes become a strong social resource. While teachers can support these juveniles in appropriate ways, juveniles do not cause excessive problems. However, juveniles lose support when teachers are transferred, and the juveniles can become mentally unstable. Upon entering a junior high school in particular, the professional distance between juveniles and teachers changes greatly and study quickly becomes more difficult. Although these changes press juveniles to adapt, many of the troubled ones cannot cope with the changes.

#### *(ii) Bullying*

Many juveniles have experienced bullying which greatly damaged their self-esteem. There are two types of juvenile offenders who commit offences alone: the first type is a juvenile who directly attacks the person who bullies them; the second type is a juvenile who vents his or her aggression on his or her family and on the weak instead of directing an attack at the perpetrator of the bullying.

*(iii) Association with Delinquent Peers*

Juveniles who are not comfortable in their homes strengthen ties with friends under similar circumstances and form associations with delinquent peers. In the groups, ranking is born by physical strength, build, intelligence and so on. These juveniles tend to attack the weaker members of the group. Furthermore, group dynamics often work as follows:

- As the juveniles deny their own inferior feeling, they try to satisfy their need to dominate with violence.
- The juveniles who are influenced by their peers and want to prove their fearlessness tend to act in concert with groups.

As a result, the juveniles cannot stop themselves from escalating their offences.

3. Social Changes

- (a) Compared with the past, neighbours are indifferent to each other, and there are fewer stable communities. Therefore juveniles and their families who need some support tend to remain unaided. The function of oral traditions regarding childcare or culture has shifted from the family and community to some institutions.
- (b) It has become much easier for juveniles to acquire things without their parents' knowledge, at convenience stores or volume sales stores. In addition, most people have a wide variety of goods, and people tend to consume more in order to differentiate themselves slightly from those around them.
- (c) Juveniles are greatly influenced by the media, which has not yet been proved to have direct causality with crime. To take an example, many juveniles who have committed murder learn something about their offences from TV programmes or DVDs. Almost all juveniles play video games and watch DVDs daily. Some of them have interest in horror movies and video games with violent or disturbing contents, and they cannot distinguish fantasy from reality. The juveniles are exposed to a great deal of distorted information which is beyond the imagination of most adults.

In this chapter, we considered the characteristics of serious juvenile offenders from both aspects; individual factors such as personality and behaviour, and environmental factors such as family, school and society. The important point to note is that there is not only one factor directly connected with serious juvenile delinquency, but that various interacting factors drive juveniles to commit serious offences.

**VI. PROGRESSION TO SERIOUS JUVENILE DELINQUENCY**

Let us now consider how the characteristics mentioned above influence juvenile delinquency. Figure 2 shows the typical progression to serious juvenile delinquency. This schematic diagram appeared in practical and pragmatic research, based on case studies concerning serious juvenile offenders under 14 years old in the Family Court. However, this idea can be applied to juveniles over 14 years old.

First, let us start with the family. Juvenile offenders interact inappropriately with other family members, for example, some face domestic violence, neglect, little emotional interaction and their parents' own problems. These juveniles' emotions have not developed sufficiently by the time they reach puberty. The juveniles cannot deal with negative feelings on their own. Therefore they tend to have poor emotional control, act impulsively, and also deny their own feelings. As the juveniles grow up, their problems get worse. If the juveniles have developmental disorders or mental retardation, their personality and behaviour become more distorted than their peers who do not have these problems. Their personality and behaviour are also greatly influenced by the atmosphere of the community to which they belong, or by the amount of support they receive from public institutions.

Puberty is a critical phase when juveniles change physically and psychologically. Rapid bodily developments shake their self-image. These changes press parents to deal with juveniles' problems and to reconstruct family relations. Juveniles experience a conflict between independence and dependence at this developmental stage. The conflict between dependence and independence becomes very strong between

parents and juveniles, and thus parent-child relationships become unstable. In addition, juveniles need to adjust to new environments in this stage.

Therefore juveniles and the environments surrounding them are susceptible to instability. Juveniles are worried and stressed, they cannot solve their problems without consulting anyone, and thus they feel depressed. Some of them cause many small problems frequently but do not ask for assistance. If the people around them do not deal with the problems, the juveniles' depressive emotions intensify, and they are consumed by stress and discontent. At that time, juveniles tend to feel that minor issues which they have experienced previously have increased and become very unpleasant. These stimulations become a trigger. This trigger rapidly increases their accumulated discontent, anxiety and pent-up feelings. Moreover juveniles believe that this trigger is the cause of their discontent and stress. As a result, juveniles violently attack the target, and crimes occur. To use an analogy, a balloon which has been over-inflated is grazed by a needle.

As we have now seen, there is certainly a process by which juveniles accumulate stress or discontent through the interaction of various factors until serious cases of juvenile delinquency occur. We need to follow carefully the progression of juvenile delinquency, and we need to understand why juveniles commit offences.

## VII. CASE STUDY

The following is a case which I have handled in the past. I introduce it to you hoping to make more specific the characteristics and process mentioned above.

### A. Outline of the Facts

The public prosecutor sent this case to the Family Court as a bodily injury case, but it was actually an attempted murder case. This juvenile was a 14-year-old boy, in the third year of junior high school. He lived in very small two room apartment with his mother. He felt a strong pressure to pretend to be an "honest and serious type of man", which was for a long time considered to be his true character by his classmates and teachers at both his school and cram school. One day he had a trifling misunderstanding with his only friend. It made him feel sick and tired of his whole life and everything in it. He thought that he did not have any way to be free except by killing his mother. In the night he prepared a long fluorescent light and a kitchen knife. He hit his sleeping mother with the fluorescent light, and stabbed her with the knife, but she struggled and he could not kill her. Later he said: "if I could kill my mother, I would dismember her body and throw the pieces into the river near my apartment, like some scene that I saw in a TV drama before."

### B. This Juvenile's Personality and Behaviour

This juvenile had no criminal record. His IQ was 87(WISC-III). According to the physical and psychological examination, he was diagnosed with Pervasive Developmental Disorder, not otherwise specified. He has a deep attachment to the "Romance of Three Kingdoms (*Sangoku-shi*)" which is one of the most famous Chinese classics, and reads very many related books. He remembers all the details of the characters, especially those from a video game based on the "Romance of Three Kingdoms (*Sangoku-shi*)".

This juvenile's ideation is self-centered and lacked objectivity. He is too sensitive to anything that others say and do against him. He tends to regard every trifling stimulus from those around him as persecution. He becomes increasingly discontented without conveying his feeling to others. Since he believes that he is very poor at human relations, he retracts into his own shell and indulges in a kind of childish delusion that he is almighty. Therefore he is alienated from those around him, but he actually wants to be accepted by others. At the time of his interview, he pleaded with me to understand his pain.

### C. The Family

His family consisted of him and his mother. He did not have his own private room in the apartment. His parents divorced when he was in the second year of elementary school. The main reason for the divorce was that his father was unfaithful to his mother and that he frequently changed his job. According to his mother, during some periods his father had stayed indoors at home for whole days at a time. This means that there might be some possibility that his father had some kind of mental disorder. The juvenile sometimes met his father at his father's request, but reluctantly. When he was in elementary school, he and his mother had

a very close relationship. During elementary school, he was always with his mother at home after school. However, he kept away from his mother after he entered junior high school and she began to tell him to study hard. In addition, since the juvenile entered the second grade of junior high school, his mother had been associating with a man who already had a wife and children.

#### **D. School and Friends**

The juvenile did not speak at all at school. He was bullied at elementary school by some classmates. At junior high school, he spoke only to a male classmate who had the same unsocial tendencies. He mixed up this friend with a famous sexy female TV star and projected her onto him sometimes. He even had a kind of loving feeling for this friend. He hated studying and was doing poorly at school, but he did not refuse to attend.

#### **E. Educative Measures**

The judgment was to send this juvenile to a juvenile training school for one and a half years. He was sent to a training school which specializes in treating juvenile offenders who have developmental and emotional disorders.

#### **F. Additional Considerations**

Because this juvenile had a developmental disorder, it was very difficult for him to react appropriately in daily life. He often did unexpected and startling things at school, so his classmates bullied him. Therefore he did not speak at school. He had tried to form fewer human relationships, in order to avoid hurting his self-esteem. He was withdrawn into himself and never opened his mind to anybody. He did not have any chance to develop the skills to express his emotions with suitable words and behaviour, nor did he have any chance to correct his cognitive distortion. However, the parent-child relationship was very close and his home was a secure base for him in his elementary school years.

As mentioned above, however, after he entered junior high school, his environment suddenly changed. His schoolwork rapidly became more difficult and his mother told him to study hard. In addition, his mother began to associate with a man. He wondered if she would choose this new man over him. His anxiety about being deserted increased and his home was not a secure base for him any longer. However, he was not aware of his anxiety and discontent and did not know how to express his feelings appropriately. He felt increasingly isolated and frustrated. Developmentally, he was approaching puberty, thus he was liable to be unstable. Under such circumstances, he had a trifling misunderstanding with his only friend, and this issue was the trigger. He was cornered mentally and selected his mother as his target because she was the only the person to whom he could express his emotional dependence.

### **VIII. CONCLUSION**

The objective of the Family Court is the accurate assessment of serious juvenile offenders, appropriate judgment suitable for each juvenile, and classification of the treatment programme. In order to realize the objectives, it is necessary for the Family Court to tackle the following points.

#### **A. Accumulation and Sharing of Case Studies**

Research regarding serious juvenile offenders has just started. At present, Family Court probation officers depend heavily on their past experience in their work. If the Family Court cannot provide continuous accurate assessments, it cannot make appropriate judgments. The Family Court needs to gain experience in dealing with serious juvenile cases, to advance practical and pragmatic research on both risk factors and protective factors, and to share the knowledge gained in doing so.

#### **B. Improvement of Interview Skills and Enrichment of Training**

We often encounter difficulty in interviewing serious juvenile offenders, because they are poor at expressing their feelings verbally and have developmental disorders or mental retardation. It is important for each Family Court probation officer to improve his or her interview skills in order to carry out accurate assessments. In addition, the Family Court should have a more integrated training system.

#### **C. Co-operation with Institutions Concerned**

I think that one of the Family Court's important roles is to smoothly connect juveniles and the

institutions which can help them. In order to fulfill that role, co-operation with those institutions is indispensable.

In order to indicate the point of the treatment programme, Family Court probation officers must be very knowledgeable about what treatments are available at each institution. In addition, it is very useful for the Family Court to know not only the contents of treatments, but the effect of the treatments.

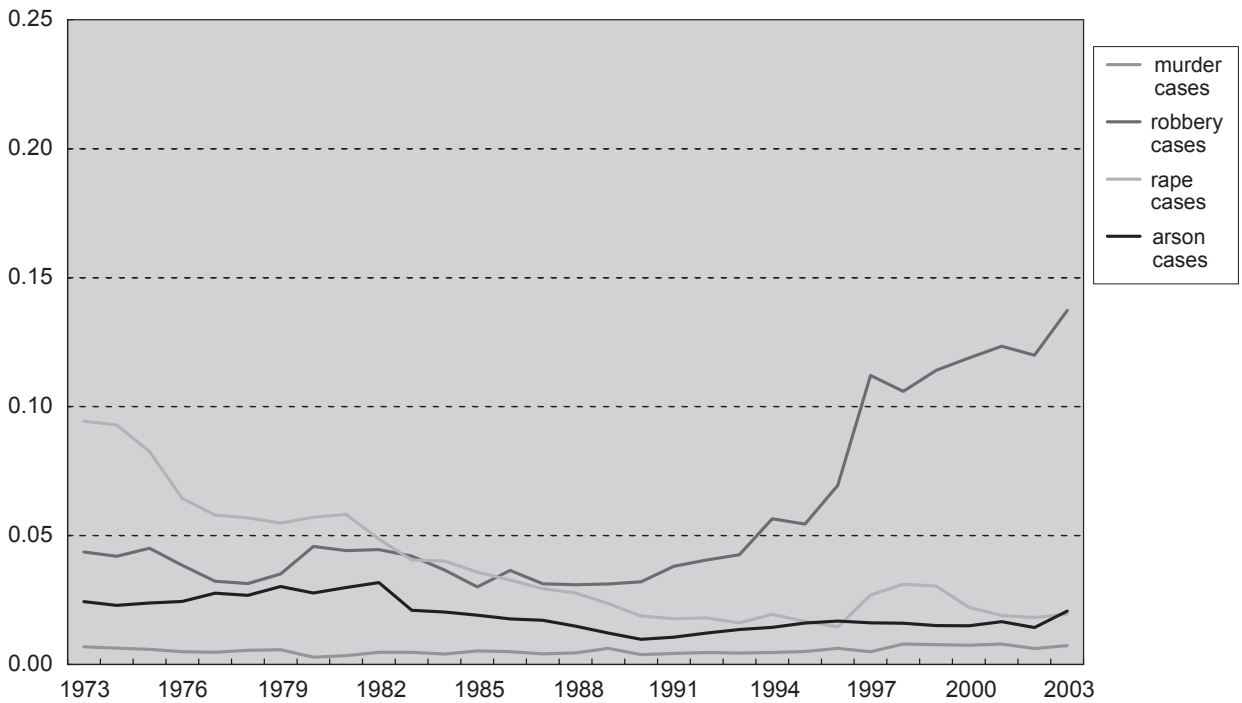
Furthermore, the Family Court needs to co-operate not only with institutions for correctional education, but also with other institutions such as hospitals or educational counselling centres, etc. Juveniles who have obvious problems (e.g. developmental disorders, mental retardation) are sometimes sent to the Family Court for minor delinquency before committing serious offences, but most of these juveniles and their families do not receive appropriate support. From the viewpoint of the prevention of offences, we need to connect these juveniles with the institutions suitable for them.

Finally, society's views of serious juvenile offenders have gradually hardened over the years. Every time serious juvenile delinquency is reported in the media, there is a public appeal for more severe punishment of juveniles. Considering this issue from the viewpoint of the victim, that opinion may stand to reason. However, it is obvious that the more serious a juvenile delinquent case is, the bigger and deeper the problems the juvenile has. I think that it is the duty of society to re-educate them before they reach adulthood. But I do feel it is a serious problem for the Family Court to keep a balance between both sides, namely, the rehabilitation of delinquent juveniles and victims, in making judgments, and thus I have not reached any solid conclusion myself.

**Graph 1: Comparison of the number of juvenile theft cases and serious cases**

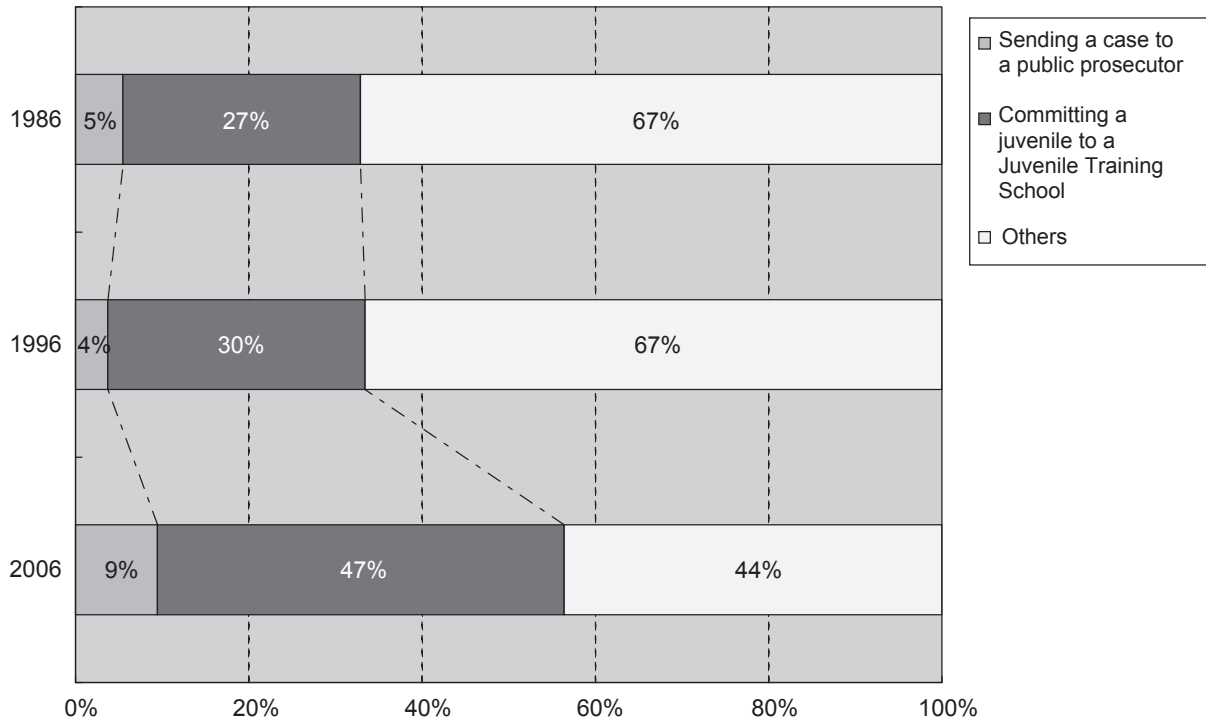


**Graph 2: Comparison of four types of serious juvenile cases**





**Graph 3: Percentage of various judgments in serious juvenile cases in Japan**



**Graph 4: Percentage of various judgments in theft cases in Japan**

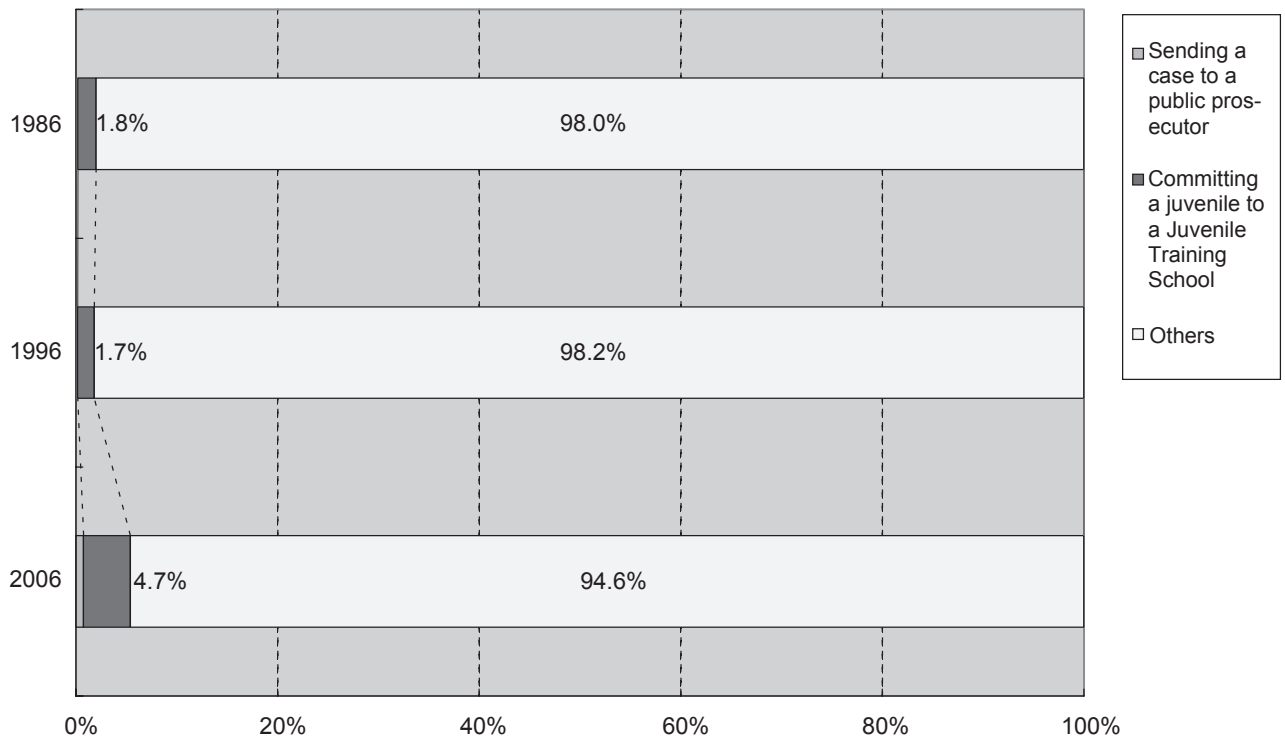


Figure 1: Procedure of Juvenile Proceeding

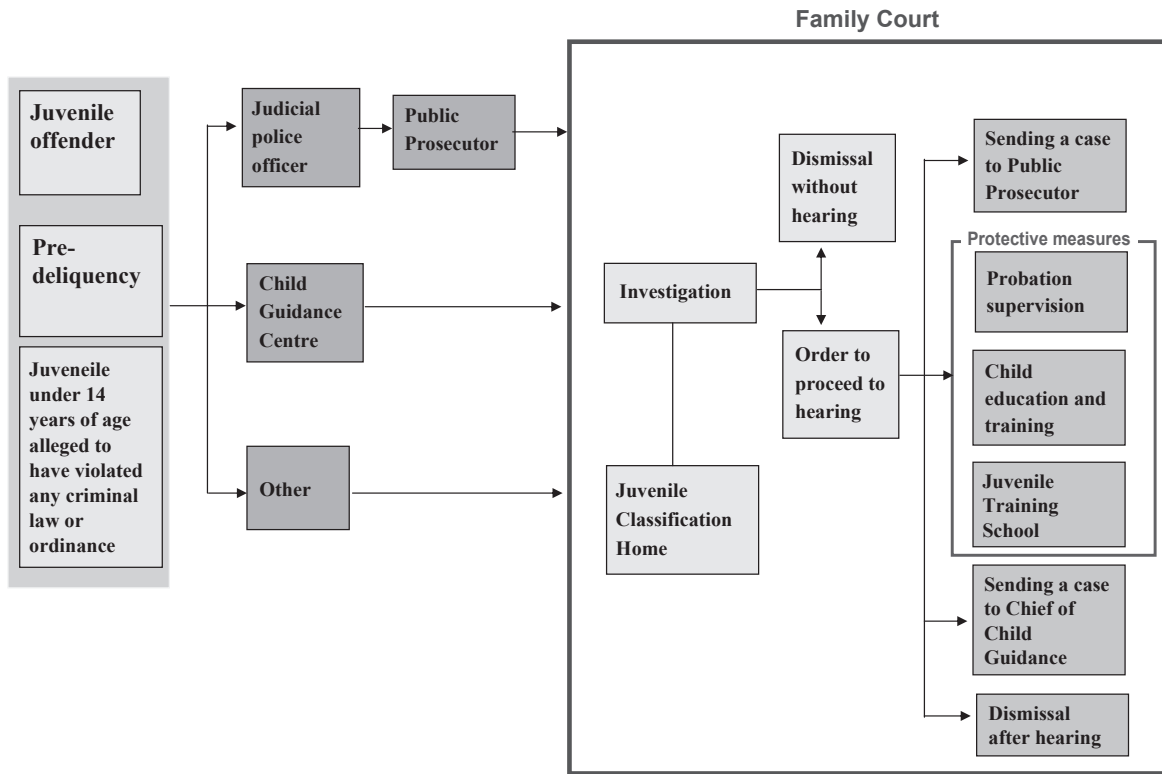
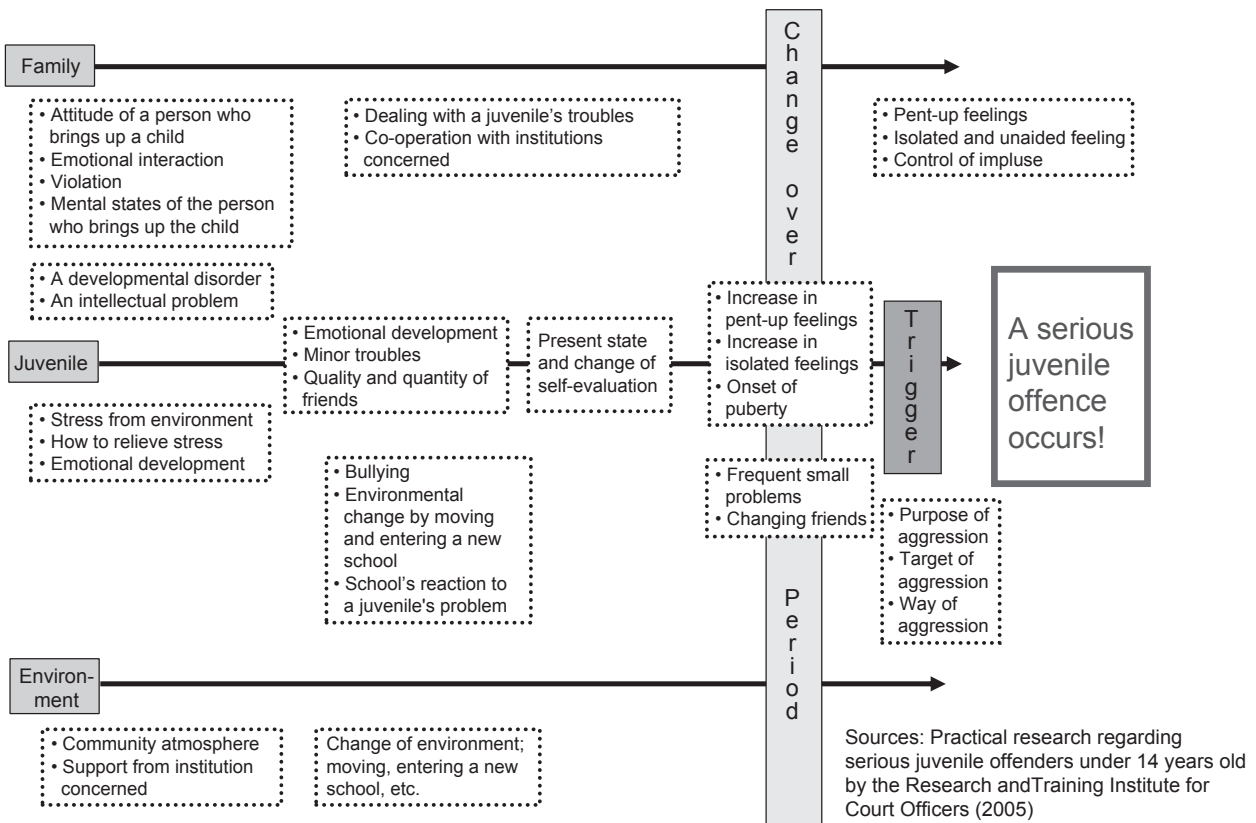


Figure 2: Typical progression to serious juvenile delinquency



# ASSESSMENT OF JUVENILE OFFENDERS AT JUVENILE CLASSIFICATION HOMES IN JAPAN

*Masaru Takahashi\**

## I. INTRODUCTION

This paper summarizes the current situation of assessment and classification systems for juvenile delinquents in juvenile classification homes in Japan and presents some ideas to improve and enhance the quality of assessment. The paper consists of four parts, (1) an outline of juvenile correctional institutions in Japan; (2) the basic framework of classification at juvenile classification homes; (3) problems of current assessment systems and development of risk assessment tools; (4) challenges in designing and introducing risk assessment tools.

## II. OUTLINE OF JUVENILE CORRECTIONAL INSTITUTIONS IN JAPAN

In Japan, juvenile correctional institutions are composed of juvenile training schools and juvenile classification homes. There are 104 juvenile correctional institutions (52 juvenile classification schools and 52 juvenile training homes) in Japan as of April 2008.

### A. Juvenile Classification Homes

A juvenile classification home is mainly designed to admit juveniles who have been the subject of a protective remand decision by the Family Court and to conduct assessments on their physical and mental problems, and criminal predispositions, based on the expertise of personnel in medicine, psychiatry, psychology, sociology, and other academic fields, for a Family Court hearing. Juvenile offenders who committed serious and violent offences or who need immediate protective interventions because of their deteriorated family or social environments usually enter juvenile classification homes.

Each home has a general affairs section and a classification section. A classification section consists of officers in charge of classification and protective detention. Juvenile classification homes are relatively small and 33 out of 52 have less than 20 staff officials.

The number of juveniles newly admitted to juvenile classification homes has been on the decrease in recent years, as shown in Figure 1 of the Appendix.

### B. Juvenile Training Schools

A juvenile training school accommodates juveniles subject to a Family Court adjudication to be committed there as a protective measure in order to give them correctional education programmes. There are four types of juvenile training schools (primary, middle, special, medical) categorized by ages, levels of criminal tendency, and physical and mental conditions of juveniles. Males and females are detained separately, except in medical juvenile training schools. The types of schools are decided by Family Court hearings.

Juveniles committed to juvenile training schools may be detained legally, in principle, until they reach the age of twenty. Within this legal detention term, there are three types of treatment programmes which are designed to be conducted in different administrative terms: general short-term programmes (maximum term of detention is six months); special short-term programmes (maximum term of detention is four months); and long-term programmes (maximum term of detention is two years).

---

\* Classification Department, Chiba Juvenile Classification Home, Japan.

In the following chapters, I would like to introduce how classification homes tackle the assessment of serious and violent juvenile delinquents and how they plan to find a solution to the problems they encounter in their work.

### III. BASIC FRAMEWORK OF CLASSIFICATION AT JUVENILE CLASSIFICATION HOMES

Under the Amended Juvenile Law, a Family Court can remand a juvenile into protective detention for two weeks. The term can be extended by a period of two weeks, and this is generally sufficient for the classification of the juvenile to be completed. However, the Amended Juvenile Law also allows for two further extensions, to a total maximum term of eight weeks. This generally only occurs in cases of serious and violent crimes. Classification and assessment have to be completed within this timeframe.

Figure 2 illustrates the regular flow of assessment at juvenile classification homes.

#### A. Interview for Classification

Individual interview sessions are usually conducted in a bright and peaceful atmosphere to allay the fear and anxiety of the subject juveniles. The interview aims to find out what the juveniles feel and how they respond to their environment, such as their families, friends, schools, and workplaces.

#### B. Psychological Tests

Group psychological tests are conducted on juveniles within a few days of their entry to a juvenile classification home, aiming to comprehensively understand their intelligence, personality, and attitudes. If more detailed investigation is needed for juveniles' attributes, individual psychological tests are conducted separately. The following are psychological tests usually conducted in juvenile classification homes:

1. Psychological Tests Conducted in a Group
  - New Tanaka Intelligence Test B
  - Ministry of Justice Personality Inventory (MJPI)
  - Ministry of Justice Sentence Completion Test (MJSCT)
  - Ministry of Justice Attitude Test (MJAT)
  - Ministry of Justice Driver Attitude Test (MJDAT)
2. Psychological Tests Conducted Individually According to Need
  - Wechsler Adult Intelligence Scale (WAIS - III)
  - Wechsler Intelligence Scale for Children (WISC - III)
  - Rorschach Test
  - Thematic Apperception Test (TAT)
  - Baum Test
  - House-Tree-Person Test (HTP)
  - Tokyo University Egogram
  - Szondi Test
  - CRT Driver Aptitude Test

#### C. Behavioural Observation

In juvenile classification homes, juveniles' behaviour and attitudes towards tasks such as essay assignments, drawings, paper crafts, group discussion, writing remarks on books or film programmes, etc., are closely observed in order to understand their characteristics and behavioural problems, and to clarify their distinctive lifestyles and interpersonal relationships concretely and objectively.

#### D. Medical Diagnosis

Health checkups are conducted when juveniles enter juvenile classification homes. If a juvenile is found to be suffering from an injury or illness, he or she will be treated by a medical doctor. Juveniles suspected of having a mental disorder will undergo examination and diagnosis by a psychiatrist.

#### E. Classification and Assessment Report

Finally, the classification and assessment report is developed and submitted to the Family Court. This includes the treatment recommendation which is based on the analysis of the personal information collected

through the methods mentioned above and determines the types of protective measures necessary. The report is recorded and sent to a Family Court as a supporting document for the hearing. Usually one psychologist is assigned to develop the report; however, in difficult cases, such as serious and violent juvenile offences, several psychologists will jointly work on collecting and analysing information and developing reports.

The judge determines the protective measures to be taken for the juvenile based on the results of the social inquiry report prepared by Family Court probation officers, the classification and assessment report, and hearing procedures. These measures include placing juveniles under probationary supervision, commitment to a juvenile training school, and commitment to a support facility for the development of the self-sustaining capacity of children. When the judge considers it unnecessary to take protective measures, the case is dismissed after giving an admonition to the juvenile. If protective measures are ruled necessary, the results of hearing are sent to the organizations in charge of treatment, such as juvenile training schools or probation offices.

#### **IV. PROBLEMS OF CURRENT ASSESSMENT SYSTEMS AND DEVELOPMENT OF ACTUARIAL RISK ASSESSMENT TOOLS**

##### **A. Present Situation and Issues of Classification**

The main purpose of classification systems is to analyse the offending behaviours and to support the Family Court in understanding the risks of reoffending and the protection needs of juveniles in order to make proper protective treatment orders. The classification report is also used to make an appropriate intervention plan at treatment institutions (such as juvenile training schools) and community-based treatment agencies.

The current classification system for juvenile offenders in Japan functions well on the whole, but there are some problems to be solved to improve and enhance the quality of assessment.

##### **1. Reliability and Validity of the Classification Report**

In the current classification system, officers in charge (psychologists) have considerable autonomy in how they assess juvenile offenders and what to recommend in the classification report. Although the supervisors check the results of assessment and classification, the quality of the assessments depend upon the skills and knowledge of each psychologist. We have training programmes and manuals specifically tailored for psychologists in charge of juvenile cases which focus on the methods of clinical interview, psychological testing, and behavioural observation. However, there are many discrepancies among psychologists in terms of professional skills and knowledge. Moreover, there is no comprehensive and standardized assessment inventory for measuring the risk of reoffending based on empirical research. As described above, the aim of the classification report is to assist the court in determining the most appropriate treatment method. So, we need more consistent and validated approaches to measure the risks and needs of juveniles.

##### **2. Planning and Evaluation of Treatment Programmes**

There is limited empirical research on the recidivism of juvenile offenders in Japan, and also limited research on the evaluation of the effectiveness of treatment programmes practiced in juvenile training schools and in probation offices. It is difficult for practitioners to measure objectively changes of risk factors which are composed of attitudes, cognitions, and behaviours related to reoffending, because as mentioned above, there is no standardized assessment inventory designed for juvenile offenders which measures risks.

The introduction of a standard assessment instrument which evaluates offending-related risk and need would enhance the planning of intervention, the evaluation of the effectiveness of institutional and non-institutional correctional treatment, and the collaboration of multiple agencies.

##### **B. Overview of Risk Assessment Tools**

During the past 20 years, there have been significant developments in the area of offender assessment. The introduction of actuarial risk assessment tools helps practitioners to evaluate the risk of recidivism and to plan appropriate intervention programmes. Much evidence-based research has shown that actuarial assessments of risk are significantly superior to clinical assessments.

Representative actuarial risk assessment tools which are used in practice in Western countries are as follows:

1. Violent Offenders

- VRAG (Violence Risk Appraisal Guide)
- HCR-20 (Historical Clinical Risk Management-20)

2. Sex Offenders

- ERASOR (Estimate of Risk of Adolescent Sexual Offense Recidivism)
- Static-99
- MnSOST-R (Minnesota Sex Offender Screening Tool-Revised)
- VASOR (Vermont Assessment of Sexual Offender Risk)
- SORAG (Sex Offender Risk Appraisal Guide)

3. Juvenile Offenders

- YLS-CMI (Youth Level of Service / Case Management Inventory)
- ASSET

Andrews, Bonta and Wormith (2006) described the development process of risk assessment tools. The first generation consisted mainly of unstructured professional judgments of the probability of offending behaviour. A variation of this approach is now called “structured clinical judgments”. Second-generation assessments were empirically based risk instruments but were atheoretical and consisted mostly of static items. Third-generation assessments were also empirically based but included a wider sampling of dynamic risk items, or criminogenic needs, and tended to be theoretically informed. The fourth-generation assessments guide and follow service and supervision from intake through case closure. With post-closure follow-up, outcome may be linked with intake assessments of risk, strengths, need, and responsivity; with reassessments; and with service plans, service delivery, and intermediate outcomes. The point is not only the development of management information systems but also the development of human service assessment and treatment systems. A major goal of the fourth generation instruments is to strengthen adherence to the principles of effective treatment and to facilitate clinical supervision devoted to enhancing public protection from recidivism. Examples of the fourth generation instruments include the Offender Intake Assessment (OIA) of the Correctional Service of Canada and the Level of Service/Case Management Inventory (LS/CMI).

**C. Present Situation of Design and Development of Risk Assessment Tools in the Japanese Criminal Justice System**

In our country, an actuarial risk assessment tool called ‘RAT’ (based on Static-99) was introduced to assess adult sex offenders in 2007, but unfortunately, there is not yet any such tool for juvenile delinquents. The Juvenile Correction Division of the Correction Bureau of the Ministry of Justice, which is in charge of the administration of juvenile classification homes and juvenile training schools, is now planning to develop a risk assessment tool for use with juvenile offenders aged 14-19.

It is intended to provide a common framework for assessment. Also it is designed to be different from tools used with adults in order to reflect the particular risks and needs of juvenile offenders. The introduction of such a tool is expected to improve the quality of practice in assessment and planning.

The draft form was designed and influenced by two primary sources: the review of literature relating to risk factors for juveniles and the professional opinions of correctional officers. This trial version of the risk assessment tool has 11 main sections as follows:

- Family relationship (22 items)
- Employment (9 items) or Education (9 items)
- Leisure/Lifestyle (3 items)
- Companions (5 items)
- Criminal history and characteristics of current offence (19 items)
- Substance misuse (10 items)
- Mental problems (3 items)
- Cognition of self and others (6 items)
- Antisocial personality patterns (11 items)



- Antisocial attitudes and beliefs (10 items)
- Motivation to change (4 items)

Assessors are required to rate each item above on a scale of 0-3. Each item has an objective rating, sources of information, terms of rating, criteria of rating, and examples of rating.

This tool includes some static factors (e.g. criminal history) but focuses on dynamic factors as to measure changes over time. Of course, some of the most significant actuarial information is static, including age, gender and criminal history, and they are very important in terms of risk classification, as they can provide the most accurate predictions of likelihood of reconviction. However they gives less help in planning interventions because static risk factors cannot be changed.

This trial tool is not intended to predict specific recidivism such as serious and violent offences, but if juvenile offenders who are most likely to continue to offend could be identified at the earlier stages of their development, we could take steps to prevent further offending. It is not yet decided when and how to introduce this tool into practice at a national level; a pilot study began in March of 2008.

## **V. POSSIBLE PRACTICAL PROBLEMS IN THE DESIGN AND INTRODUCTION OF RISK ASSESSMENT TOOLS**

Several practical problems are expected in implementing the risk assessment tool.

### **A. How to Merge the Results Obtained from Tools with the Classification Reports**

Risk assessment tools are sometimes viewed by practitioners as an isolated piece of work and are not closely linked into practice such as classification report writing. Therefore, before introducing the instrument, it is necessary to establish systems which integrate the results of the instrument into comprehensive assessment procedures, especially the development of the classification report. In sum, it is necessary to introduce a tool to help practitioners to complete the accurate and practical classification report. If the results of the instrument cannot be integrated into inclusive assessments, they will only burden practitioners with extra work. Although actuarial risk assessment tools have their disadvantages, if properly used, they would serve as integrating theory, practice, and research in the area of juvenile offender assessment and treatment. In this regard, it is essential to explain the merits and values of instruments for improving practice to officers who work in the juvenile criminal justice system.

### **B. Professional Discretion and Risk Assessment Tools**

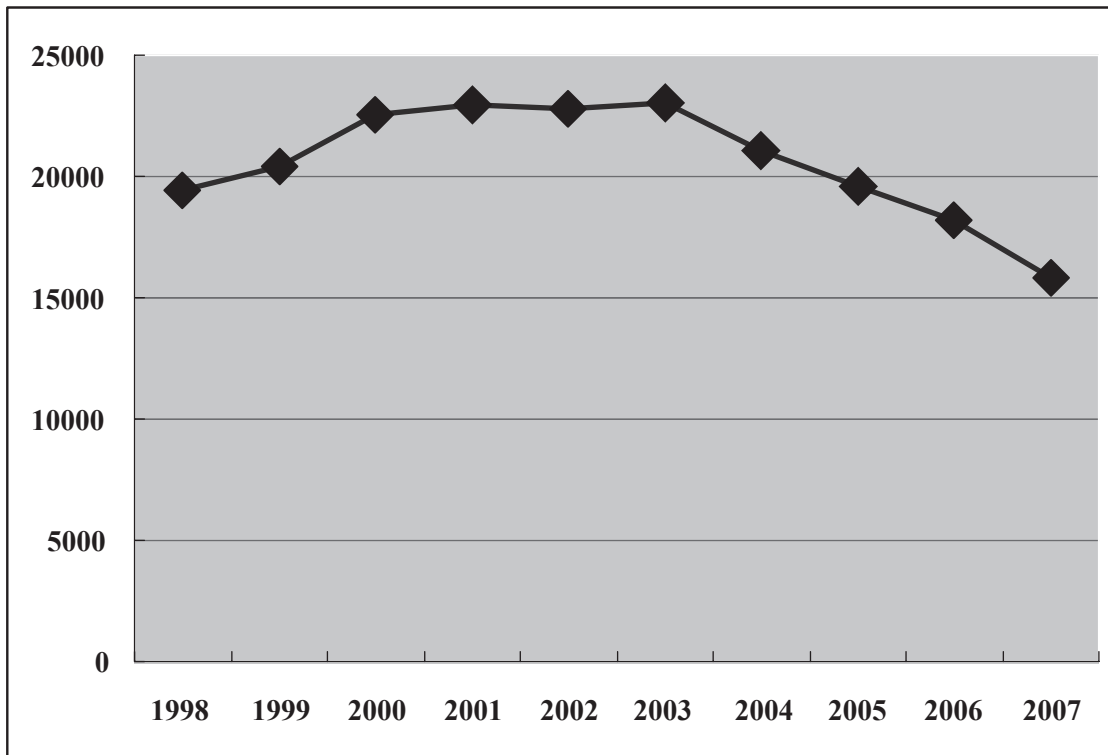
Baker (2002) pointed out that the introduction of Asset as a common assessment tool for England and Wales had sometimes been viewed as part of a "managerialist" agenda which replaced professional discretion with an uncritical routinized approach to practice. Andrews and Bonta (2003) stated that "we must be careful that professional overrides are not used in a haphazard and irrational manner and that they do not become the preferred choice for making predictions."

As mentioned previously, classification officers in our system have considerable autonomy in how they assess juvenile offenders, and in what they decide to recommend in classification reports. Like the introduction of any novel approach, staff resistance may lead to the undermining of the efficacy of the risk assessment tools. Of course, there is room and need for professional judgment, but we should consider and define what "professional discretion" is and how and when professional judgment is allowed in a whole assessment process.

### **C. Lack of a Comprehensive Computerized Case Management Database**

In Japan, all matters regarding corrections, including the management of correctional institutions, is under administrative control of the Correction Bureau of the Ministry of Justice. Unlike some other countries where a correctional agency manages both the custodial institutions and community treatments, the Rehabilitation Bureau of the Ministry of Justice has control over community-based treatment of offenders in Japan. Each Bureau maintains a separate database; they are not linked to each other. One of the advantages of using risk assessment tools is that data could be collected in a standard way in large numbers across the country. So, it is essential to build a comprehensive computerized case file management system that gathers, stores, and retrieves information through institutional and community-based treatment.

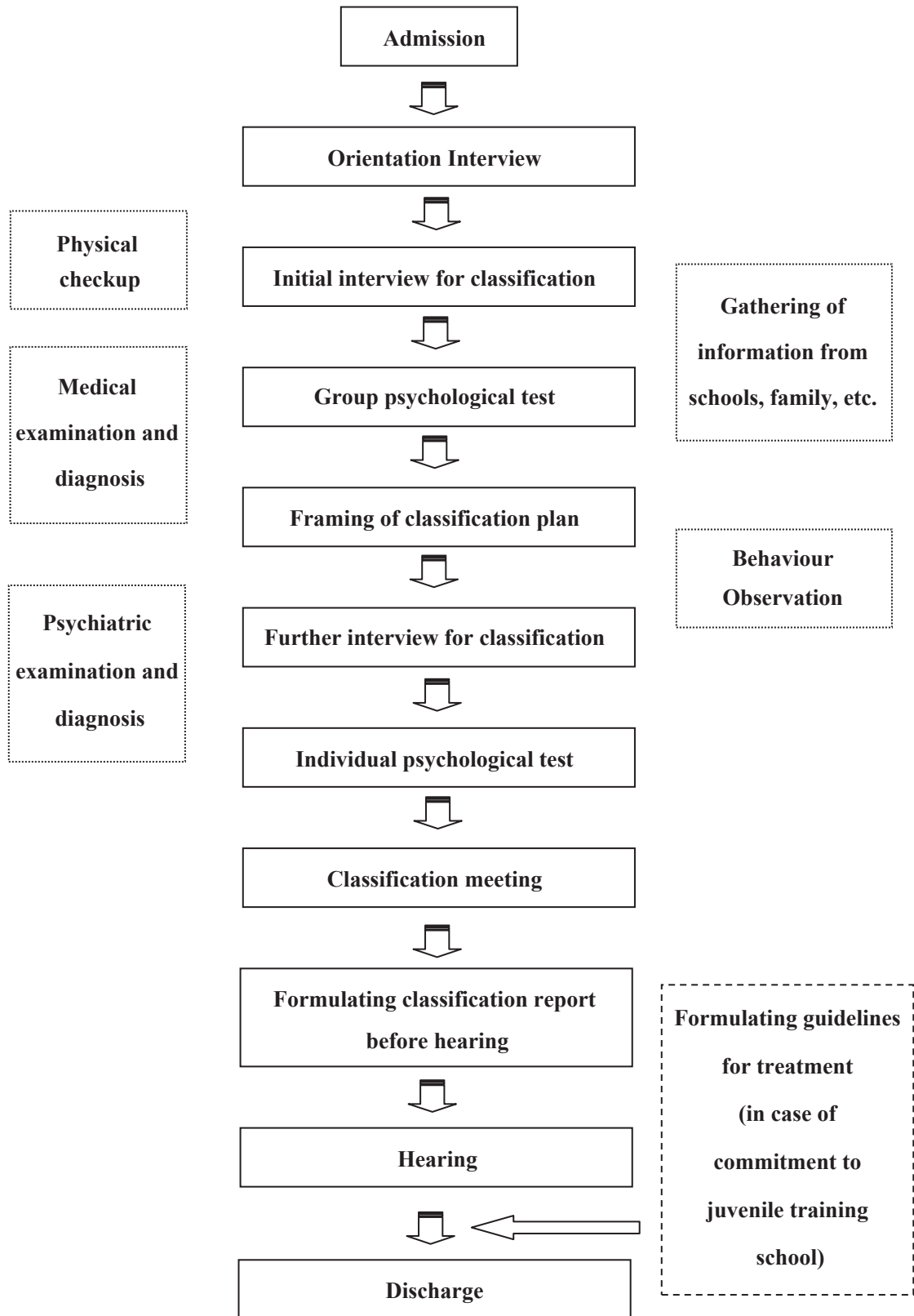
**Figure 1: Trends in the number of inmates in juvenile classification homes (1998-2007)**



Year	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Total	19,421	20,382	22,525	22,978	22,767	23,063	21,031	19,628	18,166	15,800

Source: Annual Report of Statistics on Correction

Figure 2: Flow of classification in juvenile classification homes



# EFFECTIVE INSTITUTIONAL TREATMENT PROGRAMMES FOR SERIOUS AND VIOLENT JUVENILE OFFENDERS

*Mayu Hayashi\**

## I. HARUNA JUVENILE TRAINING SCHOOL FOR GIRLS

Haruna Juvenile Training School for Girls (hereinafter referred to as HJTS) is one of the nine juvenile training schools for girls in Japan. HJTS accommodates those juveniles who have been adjudicated by a Family Court to have come under Category I (14 or over but under 16 years old), Category II (16 or over but under 20 years old), or Category III (16 years old or over but under 23 years old with advanced criminal tendencies) mainly in the metropolitan area.

HJTS is the only juvenile training school for girls in Japan that provides long-term treatment programmes for up to a maximum of two years. Inmates in these type of programmes need a relatively long time with a possibility of extension of the specified term as needs arise. The Family Court makes some recommendations on the treatment programmes in its decision in accordance with the criminal tendencies of the juvenile. Based on the recommendations, one of the eight treatment courses is provided in line with the educational requirements of the juvenile. Specifically, HJTS has academic education courses for those who need compulsory education or senior high school education (E1, E2), living guidance courses for those who are extremely difficult to treat (G1, G2, G3), a vocational guidance course (V2), and special education courses (H1, H2). The G2 course targets juveniles of foreign nationalities who need treatment different to that given to Japanese juveniles. Juveniles who are designated as requiring G2 treatment and need special consideration are sent to HJTS from family courts nationwide. The G3 course was established for such juveniles as will need special correctional treatment due to the heinous nature of their crimes and extremely complex and serious problems. Juveniles designated as G3 at a juvenile classification home in the Nagoya region are also sent to HJTS. Furthermore, HJTS confines such juveniles as had been transferred to an adult court and received a prison sentence in the said region up to the age of 16 years. The course for such juvenile prisoners is referred to as the JtW course.

## II. CASE STUDY

Now that the profile of HJTS has been outlined, examining an actual case of treatment of a juvenile who committed injury resulting in death will help in considering effective educational programmes for youths who have committed serious and violent offences.

### A. Overview

This case deals with actively implementing the “victimization awareness programme” for a juvenile who assaulted a passive victim over a period of hours with seven boys, causing the death of the victim. During her stay at HJTS, she heard the feelings of the bereaved family from a probation officer in the Kanto Regional Parole Board. Through this experience, along with correctional education at HJTS, she came to realize her great culpability in depriving the victim of his life and made a firm resolution to take good care of others as well as herself.

### B. Facts of the Case

#### 1. The Juvenile

This case concerns a 16 year-old girl who was committed to HJTS under Category II (16 or over but

---

\* Chief Specialist, Classification and Aftercare Co-ordination Section, Education Division, Haruna Juvenile Training School for Girls.

under 20 years old) by Saitama Family Court in August, 2002. Upon this decision, the juvenile (hereinafter referred to as "Hanako," an assumed name) was admitted thereto in the same month. She was placed in the living guidance course. In July, 2005, she was released on parole. The period of her detention at HJTS was approximately two years and eleven months.

## 2. History of the Delinquent Prior to this Offence

Before Hanako committed this offence, she had violated the Traffic Control Law and received a protective measure of "dismissal after hearing" from the Family Court and was required to take lessons in the Traffic Control Law.

## 3. Incident

Hanako committed the crime of bodily injury resulting in death. In June, 2002, she and seven accomplices continuously assaulted a 15 year-old boy for three hours in a park. The victim was repeatedly struck on his chest and abdomen with fists and the saddle of a bicycle. His assailants also kicked him, threw the bicycle towards him, drove a motorcycle into his abdomen and chest, bound his wrists with a rope and hung him on athletic equipment in the park, and burned his pubic hair with a lighter. As a result of these persistent assaults, he died in the park the following morning from a loss of blood resulting from rib fracture and rupture of the liver.

## 4. Features of the Juvenile's Delinquency

From childhood, Hanako had defective hearing, and grew up with delusions of persecution and a sense of isolation. Therefore, she developed a biased sense of value whereby she could impose violent sanctions on a person just because she disliked him or her.

## 5. Family Background

There are five people in Hanako's family: her father, her mother, her elder sister, her elder brother, and herself.

Except for her brother, who is a company employee, all the family members were unemployed. The family had an average economic status. Since the time of her birth, her father was often sick and was repeatedly hospitalized. Her mother had to work hard to make a living and thus was not often at home. Additionally, her mother's temper was variable. Hanako had a jaundiced view that her mother did not take care of her as well as her sister and her brother. She did not feel as if her life had a purpose enough and her home was not a solid basis for her to rely on.

Two years after her admission to HJTS, her parents purchased a duplex house and moved in with their elder daughter and her family, but the father and the elder daughter did not get along well. For that reason, her parents left after only two months, and moved to an apartment where Hanako later came to live after release.

## 6. Life History

Hanako was born in 1985. During her first year at junior high school, her academic performance was not good. In 1999, her rebellious acts became habitual. She smoked, violated the school dress code, and protested against schoolteachers. She felt bored at school. When she was 14 years old, she self-harmed by cutting her wrist. In 2001, she graduated from junior high school. She was enrolled in a part-time senior high school. As a senior high school student, her academic performance was not good. In her first year, she verbally abused a teacher and a schoolmate and received a disciplinary measure from the school. When she was 16 years old, she was the victim of an attempted rape. In 2002, she physically assaulted a friend. In the same year, without having a driver's license, she drove a borrowed motorcycle. In the same year, she again self-harmed by cutting her wrist. She was arrested the day after the attack causing the death of the 15-year-old and dropped out of senior high school. She was committed to a juvenile classification home.

## 7. Attributes of the Juvenile

### (i) Physical Condition

Hanako has defective hearing. When she was six years old, she suffered from inflammation of the right and left middle ear. Her disease was treated, but the hearing problem remained. Her right ear is especially weak, and she has worn a hearing aid in her right ear since the first year of junior high school.

*(ii) Mental Condition and Personality*

Hanako's IQ is 73. She is not good at handling tasks speedily, yet her work has few errors. She has an adequate level of general knowledge, writing and verbal expression abilities. Her activity level is high. She is short of self-restraint and acts on impulse. She tends to lose her temper over trivial matters and her emotions are unstable. Her impulse to turn to violence is sometimes directed towards others, and sometimes towards herself. She wants to rely on others, but has a deep-rooted distrust of others, especially adults. Thus, she does not consult others to find constructive solutions to her problems.

8. Treatment Policy Recommended by the Juvenile Classification Home

Hanako did not have someone to talk to who could understand the loneliness and suffering caused by her defective hearing and communication problems. She began to develop a sense of atonement for the victim through a series of legal measures that accompanied her hearing and treatment. However, she still could not embrace the gravity of killing a person, and tried to escape from the difficulties facing her and grew desperate. Therefore, it was highly recommended that Hanako deepen her atonement towards the victim and make compensation for the consequences of her action throughout her life by considering seriously the grief and pain of the bereaved family.

Besides, it was proposed that Hanako reflect on her life and be aware that sanctioning others with violence is wrong. Furthermore, she needed to accept the weaknesses behind her anger, and cultivate her attitude to solving her problems in a constructive way. Lastly, she had not yet made a realistic and concrete future life plan, and it was necessary for her to make such a plan by incorporating compensation for the victim's family. She had the plasticity to be rehabilitated by treatment and warm support around her, taking the above points into consideration.

9. Disposition

In her hearing, Hanako received a disposition of commitment to a juvenile training school to accommodate Category II inmates with a recommendation by the Family Court that she needed a considerably long correctional treatment of approximately three years.

**C. Treatment Process at HJTS**

1. Individualized Educational Goals

An individualized treatment plan was formulated for Hanako. Her individualized education goals were as follows:

- (a) Prompting her to understand the pain of the victim and the grief of his bereaved family to sense the gravity of this offence, learn the preciousness of life and become firmly determined never again to physically assault someone;
- (b) Teaching her how to assert herself appropriately, developing problem-solving skills and interpersonal abilities to maintain harmonious relationships with others;
- (c) Instructing her to sort out her feelings towards her family members, discuss ways to compensate the victim's bereaved family, and make a solid life plan.

In order to accomplish these final goals, step-by-step educational objectives were established at each stage of the education process.

2. Lower Second Grade (92 days)

*(i) Educational Objectives at this Stage*

- (a) Considering problems in her life so far.
- (b) Being able to honestly express her feelings.
- (c) Mastering basic lifestyles in the school.

*(ii) Educational Contents and Methods*

- (a) Guiding the juvenile to reflect on her life to date through introspection and thematic composition.
- (b) Stabilizing her mood, motivating her to lead a life in the training school and establishing trusting relationships with an instructor through individual interviews. Considering what she really feels about her family through meetings and correspondence with family members.
- (c) Instructing her in basic lifestyle principles through orientation and group drill training.



*(iii) Especially Effective Treatment at this Stage*

Individual interviews were most effective at this stage. Because of her hesitation to show her weak points, she was not good at expressing her true feelings; however, with this method, she began to realize the importance of explaining her true feelings to others.

*(iv) Treatment Matters Given Special Attention*

Staff members, including the Principal Specialist of the Education Division, the Educational Research Specialist, the Chief Specialist of the Planning, Coordination, and Education Section, the Dormitory Chief, and the Instructor in charge of Hanako formed a project team and examined this case periodically. The members jointly trained her according to the plan. She had a two-week intake and a subsequent two-week individual treatment period. Thereafter, she was transferred to a group dormitory. Group dormitory instructors had explained to other students that Hanako had a hearing problem. Because of such consideration in advance, other students were mindful of her handicap and approached her kindly.

3. First Term of the Intermediate Stage I Upper Second Grade (114 days)

*(i) Educational Objectives at this Stage*

- (a) Reflecting on her life before admission and thinking of situations where she resorted to violence.
- (b) Interacting with others without making herself look good or bluffing.
- (c) Sorting out her feelings towards her family members.

*(ii) Educational Contents and Methods*

- (a) Through a treatment programme for violence, prompting her to realize that she has resorted to violence without any thought for the future and tried to solve problems with physical force.
- (b) Prompting her to express her feelings non-verbally by using sand play therapy, a treatment method where toys are placed in sand inside a box to exhibit one's inner world. Along with this, individual interviews and exchanging a diary with her instructor helped her to establish a rapport with her instructor. By doing so, she gained experience and confidence in speaking freely about what is on her mind and acknowledging her problems.
- (c) Promoting mutual communication between Hanako and her family members through visits and correspondence.

*(iii) Especially Effective Treatment at this Stage*

In the treatment programme for those with violent tendencies, she had group sessions and did role-playing. This class was effective in having her be aware that she wanted to get things as her own way, with physical force, if necessary.

*(iv) Treatment Matters Given Special Attention*

At this stage, she started doing introspection on the date of the victim's death each month. She was likely to be influenced by her self-righteous, preconceived ideas. Because she lacked empathy and it was difficult for her to establish smooth interpersonal relationships, instructors advised her how to relate to other inmates or staff.

*(v) Matters Especially Mentioned at this Stage*

In December 2002, Hanako self-harmed without attempting a suicide and received a warning from the Principal Specialist of the Education Division. In a meeting with her father in the same month, she could not apologize to him for her offence. She interpreted this as a lack of repentance for the offence and became angry with herself. For this reason, she hit herself on the left elbow and scratched the back of her left hand.

4. First Term of the Intermediate Stage II Upper Second Grade (153 days)

*(i) Educational Objectives at this Stage*

- (a) Considering her problems and reasons for resorting to violence easily.
- (b) Co-operating with others and not being emotional when she does not have her own way.
- (c) Conveying her true feelings to her family members.

*(ii) Educational Contents and Methods*

Through role-lettering, Hanako hypothetically exchanged letters with others. This facilitated her in understanding other people's feelings by considering a situation from their viewpoint.

*(iii) Especially Effective Treatment at this Stage*

By offering incense on the anniversary of the victim's death, she came to imagine herself visiting his bereaved family after her discharge and apologizing to them. Also, on the first anniversary of the victim's death, an individual memorial service was held and she really recognized the victim's death as a reality.

*(iv) Treatment Matters Given Special Attention*

In order to build confidence and a positive self-image, she took intensive classes in sales as a business skill. She was awarded a sales clerk third grade certificate.

5. Second Term of the Intermediate Stage I Lower First Grade (153 days)

*(i) Educational Objectives at this Stage*

- (a) Deepening empathy with the pain and the grief of the victim and his bereaved family.
- (b) Judging surrounding situations appropriately without being affected by the atmosphere and her own feelings.
- (c) Understanding the effect that her actions have had on her family and thinking about future family relationships.

*(ii) Educational Contents and Methods*

- (a) Prompting her to think about the gravity of her offence and to recognize the preciousness of life through the cultivation of aesthetic sentiments by raising small animals and growing plants, individual interviews, and introspection. Additionally, having her realize the suffering of the victim and people related to him by reading books and watching videos on the feelings of victims at the time of an offence and thereafter.
- (b) Making her aware that her friendships and associates, as well as her offence, were problematic, through lectures and discussions in the treatment programmes for pre-delinquency. Also, through assigned duties in her dormitory, improving her levels of co-operation and a sense of belonging to a group.

*(iii) Especially Effective Treatment at this Stage*

Through role-lettering, she hypothetically wrote a letter to the bereaved family and replied to the letter by herself. She realized how self-centered she was, and she became aware of the deep sorrow the bereaved family must be feeling. Moreover, she realized the difficulty of conveying her apologies to the bereaved family.

*(iv) Matters Especially Mentioned at this Stage*

In December 2003, her behaviour became wild and she received a disciplinary measure of reprimand from the Superintendent. In the previous month, she had had a small misunderstanding with an instructor, but complained disproportionately. She was continually furious, and verbally abused the instructor by calling her "noisy," and saying "Do not stand beside me." Soon thereafter, she hit and kicked the door and the wall of her room with her fist and foot several times.

6. Second Term of the Intermediate Stage II Lower First Grade (182 days)

*(i) Educational Objectives at this Stage*

- (a) Realizing the problems she has in resorting to violence and the grave responsibility she carries.
- (b) Speaking and behaving with good consideration for other people's feelings and situations.
- (c) Being aware of the role she plays in her family, in view of the compensation for the damage she has caused.

*(ii) Educational Contents and Methods*

- (a) Through school events and performing duties assigned to her, fostering her self-reliant attitude and responsibility for her conduct.
- (b) Having her imagine the feelings of her family members towards her and appreciate them by practicing "*naikan*," which is the Japanese method for reflecting on one's family relationships. It requires the person to consider "what my parents did for me," "what I did for my parents," and "what trouble I caused to my parents."

*(iii) Especially Effective Treatment at this Stage*

Introspection using articles and essays written by victims of juvenile crimes gave her insight into her

offence from multiple perspectives.

*(iv) Matters Especially Mentioned at this Stage*

In April 2004, she was moved to another group dormitory. With this transfer, she recognized that she tried to have human relationships based on power and always wanted to be superior to others. She associated this notion with her offence and decided that she would correct her problem of looking at human relationships only from a power-structure viewpoint.

7. Pre-Release Stage I Upper First Grade (184 days)

*(i) Educational Objectives at this Stage*

- (a) Realizing the gravity of the offence she committed and the importance of life.
- (b) Considering others and behaving responsibly and with consideration for the future.
- (c) Discussing with her family members and realistically planning for the damage she caused to the victim's bereaved family.

*(ii) Educational Contents and Methods*

- (a) Through interviews with a counsellor specializing in life and mind issues, having her realize the significance of life. Child-rearing lessons provided her with an understanding of respecting life and knowledge on giving birth to and raising a child.
- (b) Through vocational guidance (firstly horticulture; secondly, a caring services course), encouraging her to acquire a professional licence and a steady work habit.

*(iii) Especially Effective Treatment at this Stage*

For six months, she studied in a caring services course. She learned from this class how moving and fulfilling it is to consider other people's standings and the benefits of mutual help. She was awarded a second grade certificate in "home help" caring services. She hoped that she would take advantage of the licence and get a job in the field of human welfare, to compensate, in a sense, for her offence.

*(iv) Matters Especially Mentioned at this Stage*

She had interviews with instructors and wrote thematic compositions to reflect on her offence and how she came to commit it. Consequently, she noticed her egotistical ideas.

8. Pre-Release Stage II Upper First Grade (174 days)

*(i) Educational Objectives at this Stage*

- (a) Making a firm resolution not to resort to violence again, based on her deep understanding of the preciousness of life.
- (b) Gain confidence through taking responsibility, performing her assigned roles, and being acknowledged by others.
- (c) Thinking about how she should live from now on and making a concrete life plan, including compensation for the victim and his bereaved family.

*(ii) Educational Contents and Methods*

Through volunteer activities in social and child welfare facilities in the community, guiding her to a deep understanding of the meaning of respect for life, consideration for others, and support for others.

*(iii) Especially Effective Treatment at this Stage*

Through extramural education in social and child welfare facilities and practical training in nursing care, she realized the necessity for people to supplement and help one another without distinguishing between the strong and the weak, and the able-bodied and the handicapped. She felt the worth of being helpful to others and being appreciated for what she did.

*(iv) Matters Especially Mentioned at this Stage*

At this stage, her sorrow for the victim led her to believe that she would give up her own chance of a happy future due to her strong sense of guilt and remorse for her crime. However, gradually she reaffirmed that she would need to live a steady and sincere life while always remembering her regret, being aware of the bereaved family's situation, and compensating them step-by-step. In June, 2005, she had an interview with a probation officer.

Then, she heard from the probation officer that he had a letter for her from the victim's mother. In the same month, she read the letter in the presence of her instructor. She was faced with the real feelings of the bereaved family towards her and realized the harsh reality awaiting her after release, which had previously been beyond her imagination.

### III. PROBLEMS AND FUTURE IMPLICATIONS

As we have seen in section I above, HJTS accommodates many juveniles who have pronounced proclivities to commit crime, for example, those who have committed an atrocious crime, are associated with organized crime and have been committed to a juvenile training school twice or more. Juvenile training schools also house many juveniles who are greatly in need of protection; for example, because they are being brought up in an unstable family where their parents or guardians lack abilities to take care of the child properly.

Although part II of this paper outlined a relatively successful example of the victimization awareness programme, I had some cases where juveniles reoffended after release, even though they had lived a stable and solid life inside the institution. In order to prevent this problem, the roles of juvenile training schools are to strengthen a juvenile's mental resolve and to adjust his or her environment to a degree that will allow his or her smooth and systematic re-socialization.

Firstly, instructors at juvenile training schools need to have a rapport with the juveniles and empower them. Juveniles should be rehabilitated and educated in how to establish a settled life for themselves after discharge, reducing the likelihood of reoffending. In order to develop juveniles' social skills, programmes are to be selected carefully to match the individual need of each juvenile. For instance, in our case study described in Chapter II, the victimization awareness programme was given to Hanako, who committed an offence which has had a serious influence on the victim. As juvenile delinquency issues become more diverse and complicated, we need to develop and enrich treatment programmes to respond to each youth's need appropriately. For example, HJTS has not yet implemented an anger management programme; however, there is much room for developing and offering such a programme for violent and serious juvenile offenders.

Secondly, it is most difficult to change the juvenile's surrounding circumstances for the better; yet, juvenile training schools should tackle this demanding task by utilizing such methods as the programme on one-day or overnight visits to the juvenile at the pre-release stage from his or her family members, which has already been implemented in HJTS. In the programme, the family members discuss various issues that will affect their family life after release in order to gradually reduce anxieties. Another role of juvenile training schools is to function as a liaison between related agencies and to establish support systems which a juvenile can take advantage of as helpful social resources. For instance, employment support is provided while a juvenile is still in a juvenile training school. Therefore, an inmate may look for a job through the public job security offices during his or her stay in order to arrange for post-release life. Furthermore, aftercare, providing guidance and advice for parents or guardians of juveniles, is also crucial and this is stipulated in the Amended Juvenile Law 2007. We need to further strengthen comprehensive treatment of inmates in this direction.

In conclusion, juvenile justice proceeds with the close connection of all the parties involved; juvenile offenders, victims, families, community residents, and juvenile justice professionals. Thus, juvenile justice ultimately aims to strike the best balance in its five functions of deterrence, incapacitation, restoration, rehabilitation, and retribution.

# EFFECTIVE COMMUNITY TREATMENT PROGRAMMES IN THE PROBATION OFFICE FOR VIOLENT JUVENILE OFFENDERS

*Akiko Tashiro\**

## I. INTRODUCTION

“The Advisory Council for the Regeneration of the Rehabilitation System,” set up in July 2005, submitted its final report, named “The Proposal of Reformation of the Rehabilitation System; Aiming to Build a Safe Country and Community”, on June 2006. The Rehabilitation Bureau of the MOJ and the Rehabilitation Service throughout Japan are now undergoing various reforms to improve and regenerate the rehabilitation system.

Because this Advisory Council was established in response to several serious tragic offences committed by adult probationers/parolees from 2004 to 2005, the new policies to reinforce the probation/parole treatment system were mostly focused on adult probationers/parolees. However, serious and violent reoffending by juvenile probationers/parolees still occurs. Therefore, reinforcing the treatment of serious and violent juvenile probationers/parolees is one of the crucial issues facing the Japanese rehabilitation system.

In this paper, I would like to outline for you the actual situation and the characteristics of the violent juvenile probationers/parolees that we handle in the Japanese rehabilitation service, and then I will introduce the two structured programmes which have been lately introduced to the Japanese Rehabilitation Service, i.e. the Atonement Programme and the Violence Prevention Programme.

## II. OUTLINE OF VIOLENT JUVENILE PROBATIONERS/PAROLEES

### A. Number of Violent Juvenile Probationers/Parolees

Table 1 shows the number of newly received juvenile probationers, by type of offence. According to this table, among the total number of newly received juvenile probationers in 2006, which was 19,475, the number of violent juvenile probationers (who committed an offence of homicide, injury, robbery, or violation of the physical violence law) was 3,236, constituting 16.6% of all juvenile probationers.

Table 2 shows the number of newly received juvenile parolees, by type of offence. According to this table, among the total number of newly received juvenile parolees in 2006, which was 4,711, the number of violent parolees (who committed an offence of homicide, injury, robbery, or a violation of the physical violence law) was 1,084, constituting 23% of all juvenile parolees.

### B. Characteristics of Violent Juvenile Probationers/Parolees

Various surveys and statistics show the characteristics of violent juvenile probationers/parolees as follows.

#### 1. Offence

In 2005, the Research and Training Institute of the Ministry of Justice made a survey of 86 case records of juveniles who had intentionally committed serious crimes (e.g. murder), by the amendment of the Juvenile Law, and had been placed on probation/parole. According to the survey, the offence can be classified into four categories, which are: (i) the Group Category (committing a crime with accomplices); (ii) the Single Category (committing a crime without accomplices); (iii) the Family Category (juveniles and victims are related, including cases where a juvenile kills his or her lover's child); and (iv) the Traffic Category. The

\* Senior Probation Officer, Yokohama Probation Office.



percentage of each category of the total is as follows: (i) Group: 59 cases (68.6%); (ii) Single: 7 cases (8.1%); (iii) Family: 17 cases (19.8%); (iv) Traffic: 3 cases (3.5%).

## 2. Complicity Rate

The statistics of the section above are limited to the most serious offences, such as intentional killing; however, other statistics show that many of the other violent offences by juveniles are committed with accomplices. Statistics from the National Police Agency (2004), which are not limited to probationers/parolees, show that the complicity rate of robbery is 57.8% and that of injury is 35.5%, which shows a reasonably higher rate of complicity than that of all types of offences (26.8%).

Moreover, all of the cases of serious reoffending by juvenile probationers/parolees committed in 2007 were committed by groups (Rehabilitation Bureau material).

## 3. Repetition Rate

Though not limited to probationers/parolees, the National Police Agency (2008) shows the repetition rate of juvenile offenders (the ratio of juveniles who have committed offences in the past to the total number of juveniles whose cases were handled by police). The repetition rate for all types of offences is 30.3%, whereas for serious offences (homicide, robbery, larceny, and rape) it is 59.4% and for of violent offences (violence, injury, carrying weapons, and extortion) it is 53.4%.

Since this repetition rate does not refer to what type of offence they committed in the past, it does not show that violent offenders more easily reoffend; however, the statistics do show that juveniles with an advanced level of delinquency and/or juveniles who committed offences in the past are more likely to commit serious and violent offences.

## 4. Motivation for Offending

A 2006 survey by Family Court probation officers of Osaka Family Court, Sakai Branch of 126 juveniles who committed violent offences classifies the cases by their motivation for offending. There are six categories, listed in order of their prevalence: (i) expression of unpleasant emotion; (ii) desire to be perceived differently; (iii) punishment; (iv) compulsion to subordinate others; (v) personal retaliation; and (vi) damage recovery and defence. This survey also shows that the ratio of type (iii) and (iv) decreases in juveniles over 17 years old, and that those over 17 years old are likely to use violence intentionally, for example to gain money or escape from police, etc. These statistics are not solely those of probationers/parolees, however, from my fieldwork experience as a probation officer, the tendencies seem to be the same for probationers/parolees.

## 5. Outcome of Probation/Parole Supervision

The reconviction rate is the ratio of those who were sentenced to penal sanctions or protective measures because of reoffending, or for delinquent behaviour during their probation/parole period. Compared to 17.9%, which is the reconviction rate for juvenile probationers in total, the reconviction rate of those who were placed on probation for causing injury is 18.1%, while for burglary the rate is 15%. Moreover, the percentage of those placed on probation for causing injury, and being reconvicted for the same offence during the probation period is only 4.2%.

Compared to the reconviction rate of juvenile parolees in total, which is 22.2%, the reconviction rate of those who were placed on parole for committing an injury is 22.4%; while for burglary it is 17.9%; and for homicide it is 6.3%. Moreover, only 5% of those placed on parole for causing injury were reconvicted for the same offence during the parole period.

These statistics show that the reconviction rate of juveniles who committed violent offences, which is one good indicator of the outcome of probation/parole supervision of violent juveniles, is not relatively higher than the rate of reconviction of juveniles who committed other types of offences.



### **III. THE ACTUAL SITUATION OF TREATMENT FOR VIOLENT JUVENILE PROBATIONERS/PAROLEES**

I will not refer in detail to the system or the process of probationary/parole supervision for violent juveniles in this paper. The Japanese probation service does not have specialized, exclusive treatment for violent juveniles. A categorized treatment system, which was introduced in 1990, groups offenders into 13 categories. Among those categories, there are five which include juveniles who have violent tendencies: (i) domestic violence; (ii) school violence; (iii) belonging to organized gangs; and (iv) joy-riding. However, for those juveniles who have violent tendencies, we do not have "structured" treatment programmes focusing on their violence. In the categorized treatment system, a probation officer and a volunteer probation officer co-operate in supervising the probationers/parolees, understanding the actual conditions of their daily lives, and giving necessary guidance and intervention. They also sometimes assist the probationer/parolee to utilize social resources.

In 2000, the Rehabilitation Bureau set forth the national guidelines for the treatment of the most serious juvenile offenders on probation/parole: those who caused the death of their victims. The outline of the guidelines is as follows:

- (i) (For parole cases.) The probation officer must be involved in the case from the inquiry into living conditions stage, while the juvenile is still in juvenile training school; strengthen co-operation with the juvenile training school; and make sure that treatment before and after release is sufficiently consistent.
- (ii) Pay attention to and take care of juveniles' mental health, guide their social nature, and deepen their introspection.
- (iii) Help the juvenile to consider the appropriate ways to communicate with others, and promote their adaptation to the community.
- (iv) Help the juvenile and their family to understand each other, arrange and adjust their family relationships, and maintain healthy emotions.
- (v) Cultivate the juveniles' awareness of their victims, and guide them and their families in how to face their victims.

Since juveniles to whom these guidelines were applied did not reoffend seriously during their probation/parole period, this treatment for such juveniles can be said to be successful to some extent; however, this policy indicates only the basic guidelines on how to treat those offenders, which is different from a so-called structured programme.

Furthermore, although not introduced as a treatment focused especially on violent juvenile probationers/parolees, social participation activities were added to the rehabilitation system in 1994. Participating in nursing care activities and volunteer activities for the aged helps violent juvenile probationers/parolees to empathize and sympathize with other people as well as building a positive self image. Social participation activities have now become established in rehabilitation services throughout Japan.

### **IV. THE ATONEMENT GUIDANCE PROGRAMME**

#### **A. Introduction of the Atonement Guidance Programme**

Since March 2007, the Japanese rehabilitation service has implemented a new atonement guidance programme for probationers/parolees who seriously injured or killed their victim. (A serious injury is a physical injury that requires six or more months of treatment.) This programme is applied to adults too. The programme aims to have the probationers/parolees behave in accordance with their victim's wishes with consideration for the victim's feelings. This can only happen if the probationers/parolees realize how serious their offence is, and the damage and impact it has had on their victims. The probationers/parolees ought to develop empathy for their victims by understanding the offence from the victim's viewpoint. Ultimately, the programme aims to formulate within probationers/parolees a determination not to reoffend.

#### **B. Content of the Programme**

This programme consists of four sessions, and the object of each, from the point of view of the offender, is outlined below.

- Session 1: Look back over your offence, and recognize its seriousness.
- Session 2: Understand the actual situation of your victim, i.e. their feelings, their present situation.
- Session 3: Think from the viewpoint of your victim and realize the responsibility offenders have to apologize and make reparations.
- Session 4: Make your own atonement plan.

### **C. The Procedure of the Programme**

At the initial interview at the beginning of the probation/parole supervision period, the probation officer shall explain the content and the procedure of the programme to the offender. The probation officer shall specify when to start the programme and include it in the treatment plan. The probation officer decides when to start the programme taking into account the treatment given in the correctional facilities and the current work and educational situation of the offender, etc. Both professional and volunteer probation officers can deliver the programme, which is conducted on a one-to-one basis.

After starting the programme, the probationers/parolees must complete one session each month. The probationers/parolees must finish their homework every session and discuss it with the probation officer and volunteer probation officer.

### **D. Implementing the Atonement Plan**

When carrying out the Atonement Plan made by the probationer/parolee in Session 4 of the programme, the probation officer or volunteer probation officer gives guidance or advice to the probationer/parolee to be careful with the victim's feelings and to make sure that the victim is ready to receive the offender's apologies or reparation.

### **E. Points to Consider**

- (i) The probation officer or volunteer probation officer must be careful not to divulge the victim's information without consent.
- (ii) When delivering the programme, the probation officer or the volunteer probation officer shall explain the programme to the parents or guardians of the juvenile in order to gain their co-operation.
- (iii) When parolees have already participated in a victim awareness programme in a juvenile training school, the probation officer or volunteer probation officers must be consistent with the guidance given by the tutors of the juvenile training school.

### **F. The Actual Practice of the Programme**

From March to September 2007, 36 juvenile probationers and 31 juvenile parolees nationwide participated in this programme.

## **V. THE VIOLENCE PREVENTION PROGRAMME**

From 2008, the Rehabilitation Bureau will introduce the new Violence Prevention Programme to all Probation Offices. I took part in the Rehabilitation Treatment Programme Research Board hosted by the Rehabilitation Bureau, and was involved in developing the programme for violent offenders. Since this programme has not yet been implemented, it is still a little early to reference it; however, as it is a new challenge to cope with violent offenders, I would like to refer to the outline of this programme.

### **A. Basic Theory of the Programme**

The basic theory of the programme is cognitive-behavioural therapy, in particular, anger management methods and the relapse prevention theory.

#### **1. What is Cognitive-Behavioural Therapy (CBT)?**

CBT has been chiefly used as the background theory of this programme. Sakano (1995), defines cognitive-behavioural therapy as follows: "A structured therapy that focuses on the individual's behaviour and cognition, planned to solve behavioural problems and physical problems rationally, and the process of a teaching method of problem solving and self control based on self-understanding." In other words, concerning a certain problem of an individual, we must understand the circumstances they are in, and then structurally understand their self cognition, behaviour, emotions, and physical reaction. Secondly, the

client must be made to comprehend the mechanism by which their problem occurs to facilitate their self-understanding.

By identifying the factor which perpetuates the problem or by searching for an easier way to solve the problem, the client learns the problem solving method, and determines the particular target using behaviour-modification and cognitive reframing, which results in solving the problem.

## 2. Use of CBT in Probation in Japan

Although CBT is a relatively new treatment theory in the history of clinical psychology, its development has nevertheless been remarkable. Its original objects were depression, obsessive compulsive disorder, panic disorder, PTSD, anxiety disorder, and schizophrenia, etc. In the 1980s and 1990s the judicial institutions, such as correctional services or probation services, in North America and Britain started using CBT as a treatment for offenders. For instance, from the 1990s, the Probation Service of the UK developed and practiced many evidence-based CBT treatment programmes for many types of offending behaviour. They named this policy the "What Works Initiative" and rolled out these programmes to all the probation offices throughout the UK (Takushima (2002)).

In Japan, some probation officers have attempted to utilize CBT individually with the probationers/parolees in their charge. However, in 2005, the Correctional Bureau and the Rehabilitation Bureau jointly set up the Sex Offender Treatment Programme Research Board, organized by outside psychologists and psychiatrists etc., and developed a sex offender treatment programme, for use in both prison and probation, based on CBT. This means that CBT has nationally and systematically become one important option in our probation/parole treatment. (Sex Offender Treatment Programme Research Board (2006)).

Following the sex offender treatment programme we decided to develop and introduce a programme targeted at violent offenders, using CBT as the basic theory.

## 3. Essential Principles of CBT

According to Ito (2005), there are six essential principles in CBT as follows.

- (i) It uses a basic model to understand the client.  
It is assumed that therapists must understand the client's experience using the basic model prepared for each programme.
- (ii) It uses co-operative positivism.  
The counsellor and the client will form a team and work together from an empirical viewpoint, which is different from traditional counselling where we expect the counsellor and the client to face each other. (Communications in CBT will not be of a "listen to" type, rather the counsellor and the client will interact.)
- (iii) It is problem solving oriented.  
The focus is applied to resolving "here-and-now problems". It doesn't mean that the method doesn't address the past, for instance, the counsellor listens carefully to the client's experiences of their infant stage and past trauma, and handles it by asking, "How does it influence the present problem?"
- (iv) It values psycho-education, and assumes as a consequence the client's self-treatment and self-counselling.
- (v) The procedure of the whole programme and each session is structured.
- (vi) It specifies the particular target of the counselling, and makes use of the package of various skills to achieve the target.

## 4. Anger Management

Anger management is a system of psychological therapeutic techniques and exercises based on the CBT framework mentioned above. It provides information on the nature of anger and coping skills for dealing with the emotion. It uses cognitive-reframing, behaviour-modifying and skill acquisitions to control anger.

Honda (2007) explains that anger is the impulsive energy derived from various chaotic feelings, and explains that anger management is to develop a consciousness of the process of accumulating anger and an appropriate method of resolving the problem. Honda also assumes that the object of anger management is not to endeavour not to be angry but to notice feelings of anger and to control those feelings using one's

mind, while acquiring the skill to express one's feelings.

#### 5. Relapse Prevention Theory (RP)

RP theory, known as one realm of CBT therapy, is proposed by Marlatt and Gordon in the field of addiction, such as alcohol and drug abuse. RP has been adapted to various types of behaviours which can be seen as addiction, including aggression. RP theory for violent offenders aims to have the client acquire particular skills to avoid violence. It does this by specifying an "early warning sign" and a "high risk situation" that increases one's distorted cognitions or inappropriate behaviour which results in violence. RP teaches the offender to notice physical reactions and his or her behavioural tendencies when they encounter an "early warning sign" and a "high-risk-situation" and helps them to acquire useful skills to extricate themselves from those situations.

### **B. Offenders Appropriate for the Programme**

The violence prevention programme (VPP), based on the theories mentioned above, is suitable for the offender whose violence has close relations with his or her poor emotional control, immaturity in emotional expression, or immature communication skills.

On the other hand, is the VPP is not regarded as appropriate for those who have acquired the peculiar thinking style or behavioural style of organized gangs (*yakuza*), or those who carefully, artfully uses violence as means of accomplishing of their objective. The programme is not effective with such offenders.

Moreover, because this programme urges intellectual understanding through language, an offender with intellectual disability (LD) must be individually evaluated to decide whether or not he or she can understand the ideas of this programme.

### **C. Assessment**

The assessment before starting the programme is crucial to its effective delivery. Not only is selecting the right person for the programme vital, but by pointing out where and how serious the offender's problem is, you can also clarify which element of the programme requires focus, and can make use of the result of the assessment when practicing the programme.

As risk assessment tools for violent offenders, STAXI and HCR20, both developed in North America, are well known. In the rehabilitation services of Japan, according to the proposal of the Board mentioned above, probation officers are given the opportunity to take the training course for using HCR20 during their professional training. Although the use of HCR20 is not compulsory in the rehabilitation services, it is recommended before starting the VPP programme.

### **D. Programme Procedure**

This programme will be practiced on a one-to-one basis in Japan. Similar programmes for violent offenders are usually delivered in groups in prisons and probation offices in North America and the UK, etc., because it is assumed to be effective to deliver these programmes in groups, making best use of the group dynamics and the mutual communication of the programme participants to come upon their own cognitive distortions. However, in the probation offices of Japan, it was assumed that it would be very difficult to adjust the schedules of probationers/parolees who go to work or school, and there was anxiety about probationers/parolees acquiring further problematic traits or forming new delinquent friendships through group sessions. Finally, probation officers in Japan are not used to group therapy.

### **E. Content of the Programme**

#### 1. Necessary Elements of the Programme

According to the report of the Board mentioned above, there are four necessary elements for a programme for violent probationers/parolees.

- (a) Analysis of their own problem  
It is necessary to make the participant thoroughly and precisely analyse their environment, situation, ideas, feelings, and body when they feel anger and behave violently.
- (b) Psycho-education and knowledge  
It is necessary to make the participant understand intellectually why the state referred to above in

- (a) happens and teach the participant how to avoid using violence.
- (c) Particular behavioural training  
It is necessary to make the participants practice the particular skills repeatedly and acquire the skills that they learned intellectually in (b) mentioned above.
- (d) Self monitoring  
It is necessary to make the participants use the skills they have learned to avoid violent behaviour in their daily lives, and to teach them to check that they are using the right skills.

## 2. Composition of the Programme

The composition of the programme is as follows. The session contains the elements mentioned in 1 above. We referred to the content of the violence prevention programmes in other countries, mainly the VPP programme used in Canada. The programme requires the offender to do the following.

- (a) Introduction: Look back over your own offence  
Through looking back over the participant's own offence in detail, including the damage caused to the victim, the offender must sincerely acknowledge their own offence and strengthen his or her determination not to use violence again. They must also be motivated to attend the programme.
- (b) Session 1: Violence Analysis  
Through analysing your violent behaviour in three stages: event, idea, and consequences, learn that an event or situation which arouses anger does not always result in violence. This means that you can control yourself and refrain from violence.
- (c) Session 2: Attitude Modification  
Understand that even if the trigger occurs, if you have attitudes that do not lead you to violence, your behaviour will change accordingly. Modify your thinking patterns from that of a violence-inducing-attitude to a violence-avoiding-attitude.
- (d) Session 3: Violence "Danger Signals"  
Specify the events or ideas that could be a trigger to violence, or a bodily reaction that informs you of rising stress, causing you to become angry easily, and signalling you to become violent. After specifying your own "danger signals", repeatedly practice the coping skills you have learned to lessen or eradicate the signal and acquire coping skills that are useful and appropriate for you.
- (e) Session 4: Improve Interpersonal Skills  
Use role-plays to observe your own behaviour and communication style objectively by adopting the perspective of other persons. Learn the appropriate ways to express your feelings, and how to communicate with others without using violence.
- (f) Session 5: Relapse Prevention Plan  
Using all the knowledge, information and skills you've learnt through this programme, build a relapse prevention plan which includes your "danger signals" and effective coping skills.  
To end the programme, motivate the participant that it is important to carry out their own relapse prevention plan in order not to reoffend in the future.

## **F. Problems in Effective Practice of the Programme**

The violence prevention programme of Canada shows a 16% reduction in the reconviction rate of middle-risk offenders, and a 30% reduction in the reconviction rate of high risk offenders (Correctional Bureau BC 2005).

We have only very little pilot practice of this programme in Japan, so we cannot refer to the effectiveness of the programme developed by the Japanese rehabilitation services. We must continuously monitor the programme, and try to clarify both its effects and limitations. We must improve and modify the programme based on empirical data.

### 1. Improving the Skill of Probation Officers

Improving the practical skills of the probation officers who will implement the programme is indispensable. It is necessary to provide training for the skills required in the programme, besides understanding the theory of CBT. Anger management skills, relaxation skills, behavioural training, and role-play methods are relatively new for probation officers. Training courses for these skills should be required for probation officers.



2. Obligatory Attendance

At present, there are no plans to designate this programme as a special condition for probationary supervision for juvenile probationers/parolees. The number of juvenile probationers/parolees attending this programme voluntarily is estimated to be quite low.

However, recently, the Rehabilitation Bureau has been instructing probation officers to supervise serious violent juveniles directly, without the support of volunteer probation officers. Therefore, it is expected that probation officers will use the VPP programme for the treatment of serious violent juvenile offenders who are placed under their direct supervision so that they can establish regular direct contact with the offenders.

**VI. CONCLUSION**

As I have shown above, the Rehabilitation Bureau has just introduced two new programmes which are expected to be effective in the treatment of violent offenders.

I must emphasize here that even after these programmes have been introduced, the traditional style of Japanese probationary supervision, namely, probation officers and volunteer probation officers working together, observing the daily lives of probationers/parolees by means of one-to-one interviewing, visiting their families, and intervening quickly when problems occur, will continue as the basic method of probation treatment in our country.

Particularly important is treatment to adjust the daily lifestyle of violent juvenile offenders who mostly lead unhealthy and unwholesome lives, e.g., loitering outdoors at night with their delinquent friends, coming home only several times a week, etc. I would say that the volunteer probation officers living in the juveniles' neighbourhoods, observing them very closely, and interviewing them frequently have a significant influence on them.

Moreover, as I mentioned in section II above, many juveniles commit violent offences in groups. To deal effectively with gangs of local youths, co-operation between probation officers, junior high schools and/or local police stations can be effective, based on past experience.

I suppose the effectiveness of these new programmes depends on how probation officers will combine these new structured programmes with the traditional methods of our community-based practices.

Rather than replacing our traditional Japanese rehabilitation system, I imagine that these new programmes will instead be effective in strengthening it.



**REFERENCES**

- Ministry of Justice (2006) Annual Report of Statistics on Rehabilitation for 2006
- Research and Training Institute, Ministry of Justice (2005) White Paper on Crime 2005 –Juvenile Delinquency–
- National Police Agency (2004) 警察庁「少年非行等の概況」平成16年1月～12月
- National Police Agency (2008) 警察庁「少年非行等の概況」平成19年1月～12月
- Osaka Family Court Sakai Branch (2006) 粗暴少年に対する保護的措置「家裁調査官研究紀要 第7号」平成20年2月
- Sakano (1995) 坂野雄二「認知行動療法」日本評論社（1995）
- Takushima (2002) 多久島晶子英国における一般的犯罪行動プログラム「犯罪と非行」
- Sex Offender Treatment Programme Research Board (2006) 性犯罪者処遇プログラム研究会「性犯罪者処遇プログラム研究会報告書」（2006年3月）
- Ito (2005) 伊藤絵美「認知療法, 認知行動療法カウンセリング初級ワークショップ」星和書店（2005）
- Honda (2007) 本田恵子「キレイやすい子へのソーシャルスキル教育教室でできるワーク集と実践例」ほんの出版
- Correctional Bureau of Canada (2005) Violence Prevention Program Evaluation with Community and Custody Sentenced Group
- Rehabilitation Treatment Programme Research Board (2008) 更生保護処遇プログラム研究会「更生保護処遇プログラム研究会報告書」（2008年3月）日本更生保護協会

---

## REPORTS OF THE COURSE

---

### **GROUP 1**

#### **ISSUES AND METHODS OF CRIMINAL INVESTIGATION, PROSECUTION AND JUDICIAL PROCEDURES FOR SERIOUS AND VIOLENT JUVENILE OFFENDERS**

---

<b>Chairperson</b>	Mr. Hideaki Gunji	(Japan)
<b>Co-Chairperson</b>	Ms. Gonna Satayathum	(Thailand)
<b>Rapporteur</b>	Mr. Marcelo Cesário	(Brazil)
<b>Co-Rapporteur</b>	Mr. Fernando Rivero	(Uruguay)
<b>Members</b>	Mr. Al-Smadi	(Jordan)
	Ms. Naoko Naito	(Japan)
	Mr. Kotaro Nakamura	(Japan)
	Dr. Robert Hoge	(Canada)
	Prof. Shintaro Naito	UNAFEI
<b>Visiting Expert Advisers</b>	Prof. Junichiro Otani	UNAFEI
	Prof. Jun Oshino	UNAFEI
	Prof. Haruhiko Higuchi	UNAFEI

---

### **I. INTRODUCTION**

Group 1 started its discussion on 2 June 2008, and elected, by consensus, Mr. Al Smadi as its Chairperson and Mr. Gunji as its Co-Chairperson. Mr. Cesário was elected as Rapporteur and Mr. Rivero as Co-Rapporteur. Soon after the first meeting of the group, Mr. Al Smadi unfortunately had to leave UNAFEI and return to Jordan unexpectedly, so Mr. Gunji assumed the position of Chairperson and Ms. Satayathum became Co-Chairperson.

The group, which was assigned to discuss “Issues and methods of criminal investigation, prosecution, and judicial procedures for serious and violent juvenile offenders”, agreed to conduct its discussion in accordance with the following issues: 1) investigation; and 2) the judicial system.

Besides this, the group divided each issue into the following sub-topics:

1. Investigation:
  - A. Interview
  - B. Arrest and Detention
  - C. Social Environment/Technical Assessment
  - D. Report.
2. Judicial System
  - A. Court Procedure in Juvenile Justice System
  - B. Involvement of Victims
  - C. Disposition for Juveniles.

### **II. INVESTIGATION**

#### **A. Interview and Violent Cases**

Regarding this specific point in the investigation procedure, paying particular attention to serious and violent cases committed by juveniles, the group discussed different methods of interviewing the juvenile offender. The Chairman asked the participants, principally those who are police chiefs, to relate their own experiences.

Mr. Rivero spoke of the extremely difficult conditions during the interview; sometimes the juveniles can be very unstable and, sometimes, a little aggressive. Mr. Rivero also remarked on the juveniles’ vulnerability and noted the difference between three types of interview for an investigation, which are: the primary interview by the police, trying to establish the relationship between the crime and the suspect; the second interview, by the prosecutor or judicial officers, searching for the details of the offence; and the third

interview, for technical assessment.

Mr. Cesário told of his experience in Brazil, where there are specialized police stations for investigation of juvenile offenders, completely separate from those places for adults. He also told the participants about the importance of the presence of the juvenile offender's parents during the interview.

On this specific point, Dr. Robert D. Hoge, whose honored us with his presence during this discussion, said that, from the point of view of psychology, the value or benefit of the presence of the parents during the interview of the juvenile offender will vary, case-by-case, and that it is very difficult to form a general rule on this issue.

Still on the matter of interviews, Mr. Nakamura recalled that the initial interview by the public prosecutor is mainly for judging the necessity of detention, not for fact-finding.

Whether the atmosphere where the interview will take place is formal or not it is much more a question of "interview techniques" than related to the interview itself, which implies that formal environments could vary according to each case.

After all of these topics were discussed, the group agreed that there are two specific points about interview of juvenile offenders, including but not limited to serious and violent juvenile offenders, that must be considered: the place where the interview is to be held and the presence or not of the parents of the juvenile offender during his or her interview.

## **B. Arrest/Detention**

Recognizing the existence of serious and violent crime committed by juvenile offenders, our discussion of the topic above began with a brief explanation by Mr. Nakamura of the Japanese system for arrest and detention, at the invitation of the Chairperson, Mr. Al Smadi.

According to Mr. Nakamura, a judge's approval is always required for the detention of a juvenile. Besides this, he emphasized that the measure of depriving the juvenile of freedom is more necessary if there is an accomplice, in order to avoid communication between the two and, therefore, the destruction of evidence. Mr. Nakamura ended by saying that it would be better to research the necessity of arrest of the juvenile before the enforcement of the measure itself, and concluded that the main objective of the investigation in Japan is "to find the truth," and that there is no exception in matters of serious and violent juvenile crime.

Mr. Rivero gave a brief explanation of the arrest and detention system of a juvenile in Uruguay.

Mr. Cesário emphasized that the factors that imply the need to take the juvenile into custody must be of two different orders: "social needs" (or "social claims") and "juvenile protection", which form an equation to be solved by the judge regarding the balance of those two factors.

Ms. Satayathum told us that in Thailand, in most cases, the juvenile will be released, except when the alleged offence is very serious.

On the other hand, Mr. Gunji asked us to focus on the factors that really imply the necessity of taking a juvenile into custody and to think about the factors that should be considered in order to detain a juvenile.

At this specific point, Mr. Cesário said that the factors need to reflect the aims of the investigation, and proposed that "preservation of the evidence" and "preservation of the integrity of the juvenile" should be the priority factors.

Mr. Nakamura said that we should not put factors into a priority order, but should analyse them all. Besides this, he added that the detention place for juvenile should be separate from those places assigned for adults.

Finally, Mr. Al Smadi pointed out that during the arrest minimum force should be used, including handcuffs, unless extremely necessary, and properly justified.

By the end of the discussion of this topic, the group agreed that the most important point about arrest and detention in the investigation is consideration of what factors lead to the requirement to detain the juvenile.

**C. Social Environment**

First of all, and in order to better delimit such a vague issue, the group decided that it is paramount to define what constitutes “social environment”.

At this point, the Chairman, Mr. Gunji, suggested that the “Countermeasures to protect the privacy of the family and of the juvenile” could be a topic, and asked us to talk about our experience in each country.

In that way, Mr. Rivero said that it is necessary to prescribe guidelines concerning information gathered through investigation.

We also introduced the topics of regulation and the present situation of the reports of juvenile cases by the press in each respective country.

After some members of the group gave accounts of their own experiences, the following issues were considered most important when talking about social environment: preservation of the privacy of the family and of the juvenile and the importance of maintaining information gained through investigation.

**D. Report**

Regarding the report of the investigation, Mr. Rivero introduced the theme by giving us a brief overview of the rules in Uruguay.

After this, Mr. Al Smadi pointed out that we should discuss if recommendation has to be assigned or not in the final report of the investigation, besides asking “who has the right of drop the case”?

On the other hand, the group has not achieved any consensus about the inclusion of the recommendation in the final report, as well as about the competent authority to allow the case to be dropped, as the peculiarities of each country demand different treatment on this specific point.

At the conclusion of discussion of this topic, the group has accorded that every case has to be reported and sent to the competent authority, no matter what authority this is.

**III. JUDICIAL SYSTEM**

**A. Court Procedure in the Juvenile Justice System**

First of all, the group decided to draft a comparative table of the situation in the four countries whose participants make up the group:

	<b>JAPAN</b>	<b>THAILAND</b>	<b>BRAZIL</b>	<b>URUGUAY</b>
Principle (philosophy, idea)	Protection	Rehabilitation	Full protection and rehabilitation	Protection and rehabilitation
Age of criminal responsibility (Juvenile)	14 to 19	10 to 18	12 to 17	13 to 17
Type of Court	Family Court (protective) or District Court (criminal)	Juvenile and Family Court	Juvenile Court	Family Court (protective) and Adolescent Court (criminal)

139TH INTERNATIONAL TRAINING COURSE  
REPORTS OF THE COURSE

Persons Present	<u>For the Family Court:</u> 1. Judge 2. Lawyer Attendant 3. Probation Officer 4. Parents 5. Persons approved by judge who can be helpful for rehabilitation <u>For the District Court:</u> 1. Judge 2. Prosecutor 3. Defence Counsel	1. Judge 2. Public Prosecutor 3. Probation Officer 4. Parents 5. Legal Adviser of defendant	1. Judge 2. Public Prosecutor 3. Public Defender 4. Parents 5. Probation Officer	1. Judge 2. Public Prosecutor 3. Public Defender 4. Parents
Maximum Punishment	18 or above: death penalty 14 to 17: life sentence	Life sentence	3 years of internment in an educational establishment	5 years of internment
Duration of detention before final disposition	23 days + 8 weeks	60 days	45 days	60 days

Each participant spoke about his or her own judicial system, briefly explaining the procedure, in order to compare different systems.

This topic - Court Procedure in the Juvenile Justice System - was divided into two main sub-topics, which are: 1) the role of parents; and 2) special consideration during the justice procedure.

Regarding the role of parents during the juvenile justice procedure, Ms. Naito told us that in Japan, the parents of the juvenile have the right to attend the hearing in the Family Court. In some cases however, the presence of the parents can be prejudicial for the juvenile, and so the Family Court, in those cases, can ask the parents to leave and can hold hearings for the juvenile and the parents separately. On the other hand, in the District Court the parents do not have the right to be a part of the proceedings, but as the trial is open to public, they can observe the trial.

Ms. Satayathum explained that in Thailand the presence of the juvenile's parents is required during all procedures.

Mr. Rivero said that in Uruguay the presence of the juvenile's parents is also required during the trial, but that there is no sanction for those who don't appear, just advice.

Still on this topic, Mr. Cesário said that Brazil is just like Uruguay and Thailand, meaning that the presence of the juvenile's parents is always required, but if they don't appear the hearing will not be postponed, but an ad hoc legal representative for the act will be pointed by the judge.

The method of using social inquiry reports was one of the special considerations during justice system procedures that the group discussed. On this specific topic, Ms. Naito explained that in Japan the social inquiry report is basically prepared by the Family Court probation officer and the official of the Juvenile Classification Home (JCH). The first is dedicated to social data and the recommendation for disposition; the second attends to psychological aspects such as IQ tests and behavioural tendencies, besides giving recommendations for the appropriate treatment.

In Thailand, according to Ms. Satayathum, the social inquiry report is basically prepared by the probation officer and its aim is to advise the most effective treatment.

According to Mr. Rivero, in Uruguay this report is made by the forensic office and also looks to recommend the best treatment.

Finally, Mr. Cesário pointed out that Brazil a specialized section of the Juvenile Court, staffed by social welfare and psychology specialists, do make a social inquiry report, with the same objective of the of Thai reports.

Aspects like, *inter alia*, who has access to the reports, the possibility of taking or making copies, and the stage of proceedings when the report is read by the judge were also included in the discussion of social inquiry reports.

**B. Involvement of Victims**

Our discussion of this issue began with a request by our Chairperson to each participant to explain his or her own experience of (or country’s policy on) the involvement of victims during juvenile criminal justice procedure.

After a brief explanation by each member, two issues were identified as important when discussing the involvement of victims: the effect on the juvenile and the effect on the final decision.

On this topic, according to Ms. Naito, it is possible to make the juvenile think about the seriousness of his or her conduct by letting him or her know about the feelings of the victim. On the other hand, the presence of the victim during the hearing could make the juvenile feel uncomfortable when talking about the facts, leading to the juvenile not expressing his or her real feelings.

The group also discussed the convenience or otherwise of the full involvement of the victim in the trial.

The extent of the involvement of the victim in the hearing/trial, including contact with the juvenile, was discussed exhaustively, in order to ascertain the advantages or disadvantages of this kind of procedure. In spite of the differences between the countries, the group accorded that in juvenile criminal justice procedure the feelings of the victims should be considered, giving them at least the opportunity of being heard.

**C. Disposition for Juvenile Offenders (Including Serious and Violent Juvenile Crime)**

The group’s main worry regarding this topic was to discuss which measures are the most appropriate for the juvenile offenders to be disposed by the judge according to the main objectives of focusing on the juvenile, resocialization and rehabilitation. In this way, each member briefly exposed the legal measures existing in his or her own country, making possible the following table.

	Main Types of Disposition for Juvenile Offenders	Term of Incarceration
<b>Japan</b>	1. <u>Protective Measures</u> (i) Probation (ii) Juvenile Training School	Indeterminate
<b>Thailand</b>	<u>Criminal Punishment</u> (i) Office of the Observation and Protection Center (ii) Probation	Determinate
<b>Brazil</b>	1. <u>Protective Measures</u> 2. <u>Socio-educational Measures</u>	Indeterminate
<b>Uruguay</b>	1. <u>Socio-educational Measures</u> (i) Educational Programme (ii) Community Work 2. <u>Criminal Punishment</u>	Indeterminate



During discussions on this issue, it emerged that it is important to have some flexibility in dispositions for juveniles, in order that the length of their sentences not always be fixed, but that there is some discretion accorded to the authorities to evaluate the best moment to release the juvenile, according to his or her development during the imposed treatment period.

Another point discussed was related to the competent authority to release the juvenile after the enforcement of the treatment imposed or after the juvenile has reached an acceptable level of re-habilitation.

Recalling that the main theme of the Course is “Profiles and Effective Treatments of Serious and Violent Juvenile Offenders”, Ms. Naito explained that in Japan there is a provision in the Juvenile Law that, in principle, serious cases in which a juvenile intentionally acted causing the victim’s death should be sent to the public prosecutor, meaning that a criminal sentence should be imposed by the Criminal Court, when the juvenile is 16 or over.

According to the participants from countries other than Japan, there is no similar provision in their countries to restrict a judge’s discretion regarding disposition.

According to Mr. Cesário, in Brazil, by the occasion of the final disposition, the juvenile judge has the discretion to choose between any of the socio-educational measures, but once “internment in an educational establishment” has been chosen, a minimum of six months has to be observed, with the obligation of re-examining the juvenile’s development and condition every six months. Besides this, in Brazil there is no criminal punishment for juveniles, including serious and violent juvenile offenders.

Regarding criminal punishment and socio-educational measures, it is important that these issues be discussed separately, taking into consideration that they are completely different and have different natures and characteristics.

#### IV. CONCLUSIONS

After nine sessions of work and discussion, the Group has agreed on the following terms:

##### A. Investigation

1. The interview of the juvenile offender should be conducted in a separate and reserved room, in order to avoid putting the juvenile in contact with other juveniles, the victim, witnesses, and people in general, and also to protect the privacy of the juvenile.
2. Specialized training for those who deal with and interview juvenile offenders is desirable.
3. Regarding the presence of the parents of the juvenile during the interview, the juvenile’s wish should be respected regarding whether he or she will feel more or less comfortable, with due consideration for what would be most effective for the investigation.
4. The period of detention of a juvenile offender shall be as short as possible, even though the appropriate period of time cannot be specified because of the special needs of each country.
5. The factors that must be considered preponderant when deciding upon the detention of a juvenile can be summarized as “preservation of the evidence” and “protection of the juvenile”. These factors reflect the balance that must be struck between the “claims of society” and “the preservation of the rights of the juvenile” by those who make requests in these matters as well as those who ultimately make decisions regarding detention.
6. When deciding upon the detention of a juvenile during the investigation, the judge or the proper authority must focus more on the juvenile him or herself than on the crime as a fact by itself, not forgetting the seriousness and the gravity of the crime.
7. The perspectives of behavioural analysis and psychological conditions should be respected in the investigation of the juvenile case.

8. It is vital to protect the privacy of the juvenile offender as well as that of his or her family, by protecting the secrecy of the investigation as much as possible and by imposing limits on media reports of juvenile crime.
9. In every case, the results of a formal investigation must be reported, and the report shall contain as much information and evidence as possible in it.

**B. Judicial System**

1. The goal of juvenile judicial system should be the rehabilitation and resocialization of the juvenile offender, not punishment;
2. During the juvenile procedure, the role of parents is always important, considering two main factors: protection of the juvenile and the duties of parents and family as an institution;
3. The social inquiry report, with sufficient information and analysis, such as family and educational background, in addition to psychological aspects of the juvenile, is an essential document to give support to the final disposition on the ground that each juvenile shall be considered as an individual in his or her own particular circumstances;
4. All those who handle information about juvenile offenders must be careful to keep it safe and confidential in order to protect the privacy of the juvenile and his or her family, avoiding any kind of unnecessary exposure;
5. In the juvenile procedure, the feelings of the victims should be considered, giving them at least the opportunity of being heard by the court;
6. The disposition for the juvenile shall not be too harsh regarding the period of time, but should give the competent authority some discretion or flexibility to evaluate the best moment to release the juvenile offender, taking into consideration two main factors: the minimum *as well as the sufficient* period necessary for rehabilitation of the juvenile.

**GROUP 2**

**EFFECTIVE INSTITUTIONAL TREATMENT PROGRAMMES  
FOR SERIOUS AND VIOLENT JUVENILE OFFENDERS**

<b>Chairperson</b>	Dr. Álvaro Burgos	(Costa Rica)
<b>Co-Chairperson</b>	Ms. Salma Begum	(Bangladesh)
<b>Rapporteur</b>	Ms. Claudina Morgan	(Antigua and Barbuda)
<b>Co-Rapporteurs</b>	Ms. Gloria B. Dithupa	(Botswana)
	Mr. Wangdi Tshering	(Bhutan)
<b>Members</b>	Ms. Mayu Hayashi	(Japan)
	Mr. Masaru Takahashi	(Japan)
	Mr. Yoshihiro Uchida	(Japan)
	Mr. Jung Jaemyung	(Korea)
<b>Advisers</b>	Prof. Tetsuya Sugano	(UNAFEI)
	Prof. Ryuji Tatsuya	(UNAFEI)

**I. INTRODUCTION**

Group 2 started its discussion on 2 June 2008. The group elected, by unanimous consensus, Dr. Álvaro Burgos as its Chairperson, Ms. Salma Begum as its Co-Chairperson, Ms. Claudina Morgan as its Rapporteur, and Ms Gloria B. Dithupa and Mr. Wangdi Tshering as its Co-Rapporteurs. The Group, which is assigned to discuss “Effective Institutional Treatment Programmes for Serious and Violent Juvenile Offenders”, agreed to conduct its discussion in accordance with the following agenda: 1) Problems and challenges of assessment techniques; 2) Effective treatment programmes for serious and violent juvenile offenders; 3) Treatment programmes taking into consideration victims’ viewpoints; 4) Problems and challenges of continuous treatment programmes from institutional care to community treatment; and 5) Goals and needs for improving effective institutional treatment programmes for serious and violent juvenile offenders.

**II. PROBLEMS AND CHALLENGES OF ASSESMENT TECHNIQUES**

The group first reviewed the definition of juveniles in each participant’s country. The legal ages for juveniles vary from country to country, ranging from the lower limit of seven years old in Bangladesh through the upper limit of 19 years old in Korea and Japan (refer to Table 1 below).

**Table 1: Juveniles’ Legal Age of Criminal Responsibility and Possible Maximum Penalty**

Country	Age	Possible Maximum Penalty for Juveniles
Antigua-Barbuda	8 – 16 yrs	Indefinite sentence
Bangladesh	7 – 16 yrs ( According to the Children Act, 1974 the definition of “children” embraces all up to the age of 16 years. “Juvenile” is not defined in age terms anywhere in the Children Act.)	10 years
Bhutan	10 – 18 yrs	Half of the applicable sentence for an adult. The death sentence is not applied in Bhutan.
Botswana	14 – 18 yrs	Indefinite sentence with the possibility of parole.
Costa Rica	12 – 18 yrs	10 years (for juveniles aged 12-14) 15 years (for juveniles aged 15-18)
Japan	14 – 19 yrs	Life sentence with parole (for juveniles aged 14-17) Death penalty (for juveniles aged 18-19 at the time of committing a crime)
Korea	14 – 19 yrs	15 years (for juveniles aged 14-17). Indefinite sentence (for juveniles aged 18-19)

The group then discussed situations of assessment for juvenile offenders in each member's country. Specifically, the group focused on assessors, the stages at which assessment is conducted, and problems and challenges of assessment (refer to Table 2 below). As a result, we found that major assessors include probation officers, social workers, psychologists, police officers, and instructors. Assessment is carried out mainly in court, correctional institutions, and other places, such as probation offices. Also, cases were assessed at multiple case handling processes, such as the as pre-trial/hearing, during the trial/hearing, at the initial stage of institutional treatment, and at the middle stage of institutional treatment. The group agreed the following four reasons as the purposes of assessment:

1. To clarify the type of treatment the juvenile needs;
2. To assist decision-making for appropriate disposals at court;
3. To make an individual treatment plan;
4. To evaluate the outcome of treatment.

The participant from Korea raised an issue regarding point 1 above. In Korea, gangster juveniles and non-gangster juveniles are confined in the same facility and there is no distinction made between them. Thus, non-gangster juveniles are susceptible to negative influence by gangster juveniles. The Korean participant emphasized the significance of classification and division of juvenile offenders who are in gangs/groups and those who are not. The participant from Botswana also commented that systems in her country do not make a distinction between serious juvenile offenders and general juvenile offenders, which is a problem. The group additionally discussed what to assess for juvenile offenders and consented that the juvenile's internal factors, including mental state, personalities, thinking patterns, intellectual abilities, as well as the juvenile's social background, including involvement in organized crime groups, family, school, employment, and community, should be comprehensively assessed. Furthermore, many participants stressed that taking cultural differences and varieties in ethnic backgrounds into consideration is critical in conducting assessment. For example, the participant from Antigua and Barbuda noted that a large number of immigrants has had some level of effect on the present crime rate in her country. The participant from Costa Rica also stated that immigration issues are important in conducting assessment. His country has many immigrants from Colombia, Nicaragua, El Salvador, and so on, and a high correlation has been identified between robberies and a low economic situation among juveniles.

Problems and challenges of assessment voiced by participants are summarized as the following four points:

1. Lack of infrastructure (e.g. funds, facilities);
2. Insufficiency of professional staff and training (e.g. medical doctors, social workers);
3. Shortage of clear classification regulations;
4. Lack of resources to assess the effectiveness of programmes.

Concerning point 3 above, the participant from Bhutan, for instance, said that his country has no clear standards and regulations to classify juvenile offenders and the formulation of such acts are now in progress by the government. With regard to point 4, Mr. Takahashi, from Japan, mentioned that importing assessment tools from developed countries and using them tailored to each country's situations would be useful in dealing with this issue.

139TH INTERNATIONAL TRAINING COURSE  
REPORTS OF THE COURSE

**Table 2: Current Situation: Assessment for Juvenile Offenders**

Country	Assessor (Who?)	Case stage (When?)	Purpose (What for?)	Problems and challenges of assessment for effective treatment
Antigua-Barbuda	<ul style="list-style-type: none"> <li>○ Psychologist</li> <li>○ Social worker</li> <li>○ Probation officer</li> </ul>	<ul style="list-style-type: none"> <li>○ From initial stage through to end</li> </ul>	<ul style="list-style-type: none"> <li>○ To assist with the best possible disposal of the matter being dealt with</li> <li>○ To assist the offender</li> <li>○ To maintain procedural standards</li> <li>○ To provide adequate treatment to juveniles</li> </ul>	<ul style="list-style-type: none"> <li>○ The cases should be dealt with at the court in a timely manner in submitting reports</li> <li>○ Other persons involved (police, social workers, probation officers) are not sufficient to enhance efficiency of the process</li> </ul>
Bangladesh	<ul style="list-style-type: none"> <li>○ Probation officers</li> <li>○ Instructor at the Juvenile Certified Institute</li> </ul>	<ul style="list-style-type: none"> <li>○ Pre-trial</li> <li>○ During hearing</li> </ul>	<ul style="list-style-type: none"> <li>○ To clarify what type of treatment the juvenile needs</li> <li>○ To help decision-making for appropriate disposal at Juvenile Court</li> <li>○ To decide whether to send to a certified institute or to keep the juvenile on probation - under the guidance of parents or relatives and under the supervision of the probation officer</li> </ul>	<ul style="list-style-type: none"> <li>○ Lack of infrastructural facilities</li> <li>○ Insufficient number of probation officers</li> <li>○ Social workers are not that much involved in the assessment process</li> </ul>
Bhutan	<ul style="list-style-type: none"> <li>○ WCP (Women and Child Protection Unit)</li> <li>○ Investigation officers</li> <li>○ Staff of YDRC</li> </ul>	<ul style="list-style-type: none"> <li>○ Before trial</li> <li>○ After trial</li> </ul>	<ul style="list-style-type: none"> <li>○ To help decision-making for early disposal at the court</li> <li>○ To minimize the sentence as far as possible</li> </ul>	<ul style="list-style-type: none"> <li>○ Absence of a Juvenile Act</li> <li>○ Inadequate knowledge among police officers or responsible staff</li> <li>○ Absence of facilities</li> <li>○ No psychologists</li> <li>○ Lack of infrastructure</li> <li>○ No half way home facilities</li> <li>○ Lack of after release care services and monitoring systems for juvenile</li> <li>○ Risk of reoffending is very high</li> </ul>
Botswana	<ul style="list-style-type: none"> <li>○ Social workers</li> <li>○ Employment of Prisoners and Allocation Committee</li> </ul>	<ul style="list-style-type: none"> <li>○ Upon admission into an institution</li> <li>○ Within one month of incarceration</li> </ul>	<ul style="list-style-type: none"> <li>○ To provide counselling and guidance on an individual basis</li> <li>○ To conduct group sessions to help develop social and interpersonal competence</li> <li>○ To assist inmates to make decisions based on interest and ability especially with vocational training programmes</li> </ul>	<ul style="list-style-type: none"> <li>○ Lack of skilled manpower to deal with serious and violent juveniles (e.g. psychiatrists or psychologists)</li> <li>○ No monitoring tool to assess the extent of effectiveness of programmes</li> </ul>

Costa Rica	<ul style="list-style-type: none"> <li>○ Psychologist at Juvenile Court</li> <li>○ Psychologist for the sentencing</li> </ul>	<ul style="list-style-type: none"> <li>○ Before trial</li> <li>○ After trial</li> </ul>	<ul style="list-style-type: none"> <li>○ To determine the mental capacity of the juvenile</li> <li>○ To help with personal treatment</li> </ul>	<ul style="list-style-type: none"> <li>○ Small number of psychologists and forensic scientists for all the whole country</li> </ul>
Japan	<ul style="list-style-type: none"> <li>○ Psychologist at Juvenile Classification Homes</li> <li>○ Probation officer at Family Court</li> <li>○ Instructor at Juvenile Training School</li> </ul>	<ul style="list-style-type: none"> <li>○ Pre-hearing</li> <li>○ Initial stage of institutional treatment</li> <li>○ Middle stage of institutional treatment</li> </ul>	<ul style="list-style-type: none"> <li>○ To help decision-making for appropriate disposals at the Family Court</li> <li>○ To classify and keep conformity within a treatment group</li> <li>○ To make an individual plan for institutional treatment</li> <li>○ To evaluate the outcome of treatment</li> </ul>	<ul style="list-style-type: none"> <li>○ No standardized tool for measuring the risk of recidivism</li> </ul>
Korea	<ul style="list-style-type: none"> <li>○ Classification officer at Juvenile Classification Homes</li> <li>○ Investigator at Family Court</li> </ul>	<ul style="list-style-type: none"> <li>○ Before trial</li> <li>○ Before releasing juveniles from Juvenile Training School</li> </ul>	<ul style="list-style-type: none"> <li>○ Same as Japan</li> <li>○ To decide on the kind of confinement facility to be used</li> <li>○ To decide when to release the juvenile</li> </ul>	<ul style="list-style-type: none"> <li>○ Ordinary juvenile offenders are not always separated from juvenile gangsters</li> <li>○ No rules or regulations to separate juveniles according to the nature of their crimes</li> </ul>

### III. EFFECTIVE TREATMENT PROGRAMMES FOR SERIOUS AND VIOLENT JUVENILE OFFENDERS

#### A. Current Situations

##### 1. Japan

In Japan, serious and violent juvenile offenders are usually committed to special or medical juvenile training schools or juvenile prisons where those offenders can receive treatments specifically tailored for their conditions, such as the victimization awareness programme which will be described later. Japan provides individual treatment programmes for juvenile offenders. In juvenile correctional institutions, each juvenile is assigned an individual instructor at the initial period of admission. An individual instructor frequently conducts interviews with the assigned juvenile and strives to deeply understand the inmate. However, in such facilities, not only the individually assigned instructor, but also many staff members are involved in the treatment of juveniles throughout the whole process. For example, inmates have opportunities to communicate with dormitory staff, officers in the classification and aftercare co-ordination section, and the general affairs section. Such daily contacts with many people prompt co-operative relationships. Thus, Japan approaches juvenile inmates in every part of daily life. Japan also offers counselling by psychiatrists and group guidance by the type of offence, such as violence. However, the challenges include conducting more research on the effectiveness of programmes and enriching and developing them, based on research findings. Securing the necessary number of treatment staff members, especially medical doctors and psychiatrists, is also a crucial issue in order to respond to each juvenile's needs appropriately.

##### 2. Antigua and Barbuda

In Antigua and Barbuda, serious and violent juvenile offenders are usually committed to the boys' home or adult prisons. The Child and Family Guidance Center provides anger management and conflict resolution programmes for juveniles, vocational training (e.g. PC skills), commuting to school outside the facility, and community activities in the boys' training school. Ms. Nathaniel-Morgan noted three issues in her country. Firstly, evaluation of programmes is insufficient. Specifically, the correctional institution's priority does not go beyond meeting basic needs. Secondly, her country has no follow-up, aftercare programme due to the limited number of probation officers. Thirdly, programmes for juveniles are not very rehabilitation-oriented,



but rather punishment-oriented, reflecting public opinion.

### 3. Bangladesh

In Bangladesh, serious and violent juvenile offenders are usually committed to Juvenile Development Centers. There are two juvenile development centers for boys and one such center for girls. Bangladesh provides primary and high school level academic education, vocational training to boys for their economic rehabilitation, and other kinds of training for girls such as tailoring, handicrafts, etc. There are recreational and medical facilities, and counselling services for juvenile inmates are provided in the Juvenile Development Center. Counselling sessions are conducted on an individual or group basis. For the inmates, there are classes on social norms and values, good behaviour, religious belief, and manners and etiquette. In the certified institutes, serious and violent juvenile offenders are kept separated from others.

### 4. Bhutan

In Bhutan, serious and violent juvenile offenders are usually committed to a Youth Development Rehabilitation Center (YDRC). Bhutan provides HIV programmes, vocational training programmes (handicrafts, hairdressing), and guidance on the concept of giving hope for a better future. Moreover, Bhutan adopts behaviour modification systems. It encourages the inmates to continue their education. On weekends, an outing programme is provided for inmates who have engaged in pro-social behaviours. If inmates misbehave, these privileges are forfeited.

### 5. Botswana

In Botswana, serious and violent juvenile offenders are usually committed to a boys' prison. There, social workers compile a social assessment and make an individual treatment plan, and the prison committee decides on appropriate treatment. Based on this decision, social workers provide counselling and guidance for inmates. A new programme called the "Character Moulding Programme" was initiated in 2005. This programme was introduced from Canada and consists of eight modules, including stress management (all inmates including juveniles are required to take this programme); assertiveness training; anger management; positive parenting (a child under two years is housed with his or her mother until the weaning stage); respective relations; and project management (for juveniles who want to start a business upon release). One social worker, with input from NGOs, conducts programme sessions by using manuals and textbooks. Each class meets once a week and lasts for three months. Target groups are selected based on risk assessment, except for the "stress management" programme. Trained vocational staff members in every vocational area offer vocational programmes, such as carpentry, welding, and horticulture, for boys, and tailoring for both genders. Juveniles' progress in programmes is monitored by social workers. Products manufactured through vocational training courses are sold to community residents. Inmates get incentive for their labour. Ms. Dithupa called attention to some issues in her country. No aftercare programme exists, because the public tend to think that punitive sanction is better even for juvenile offenders, as in the case in Antigua and Barbuda. Other problems include a lack of human resources and research on the correlation between undergoing the programme and the recidivism rate. The Character Moulding Programme is relatively new and as such its effectiveness has not been evaluated yet.

### 5. Costa Rica

In Costa Rica, serious and violent juvenile offenders are usually committed to specialized prisons. Costa Rica provides institutionalized juveniles with sex offender programmes, computer training, a theatre programme, and a sport programme. These programmes are not mandatory for all inmates, but voluntary for inmates when the following conditions are met: (i) inmates are assessed as requiring the programme based on psychological testing, and so forth; and (ii) both inmates and their parents sign a contract and agree to take the programme. Mr. Burgos mentioned that the small number of specific institutional treatment programmes for serious and violent juvenile offenders is an issue in his country.

### 6. Korea

In Korea, serious and violent juvenile offenders are usually committed to juvenile training schools. However, more emphasis is placed on confinement rather than treatment programmes. The public has few interests in juvenile offenders although there are many homicide and robbery cases committed by juveniles. The participant from Korea further emphasized the gangster matters in his country as an underlying factor of many serious and violent juvenile offences. Several years ago, a TV drama which glamourized gangsters became popular among young people. Consequently, many youths were attracted to gangs and joined them.

Gangs have enlarged their territories and recruited more gang members. Therefore, he suggested that measures should be taken to separate gangster juvenile offenders and non-gangster juvenile offenders to avoid the negative influence of gangs spreading further, and for gang members, treatment programmes dealing with gang problems are necessary.

#### **IV. TREATMENT PROGRAMMES TAKING INTO CONSIDERATION VICTIMS' VIEWPOINTS**

##### **A. Japan**

In juvenile training schools in Japan, there are victim awareness programmes provided for inmates who have committed offences against other people. This programme which is especially considered to be crucial for serious and violent offenders is offered mainly at the intermediate and pre-release stages in the treatment process. At the orientation stage, inmates are usually not yet ready to think about their crime victims because inmates tend to be more concerned about their families and themselves than their victims, and crime victim issues involve sensitive topics. Therefore, instructors, especially an instructor individually assigned to an inmate, frequently conducts individual interviews and takes time to create a trusting relationship with the inmate. Also, inmates are often abused and hurt by violence before commission to the juvenile training school, and they need grief care. With this close and harmonious relationship between the inmate and the instructor, inmates gradually open their hearts and speak their minds to instructors. This is an important foundation to get inmates to ready for the victim awareness programme.

As for the contents of the victim awareness programme, it includes such methods as writing thematic essays; group guidance and group discussions on violence; watching videos and reading books on crime victim issues; individual interviews; and using the role lettering method, by which inmates write letters to their victims and victims' families. The letters are not actually mailed to victims/victims' families. Then, inmates read letters that they wrote and reply to letters by themselves, in the position of their victims. Additionally, for inmates who have committed a fatal offence, individual religious education and a monthly memorial service are provided to mourn the victim. For example, Buddhist followers burn an incense stick and put it on a Buddhist altar and recite a sutra inside the institution with a priest from outside the institution. Moreover, juvenile training schools hold lectures by crime victims or crime victim supporters, and have individual counselling sessions on life and mind, by counsellors who are specialists in the welfare or medical field. In order to teach inmates the preciousness of life, animal therapy, such as having a dog as a pet, is also provided for inmates. Finally, in order for inmates to make plans to apologize to and compensate victims, the juvenile's efforts and their family members' co-operation are essential. Therefore, juvenile training schools also approach guardians to increase their abilities in leadership as guardians and put importance on their visits to and communication with their children in the facility.

##### **B. Antigua and Barbuda**

There is no particular institutional programme which takes victims into consideration; however, there are support groups more for victims of serious violence, domestic violence, AIDS, and rape. Victims and people concerned hold meetings and the support groups serve as social resources. The groups are not structured, not official, and more for the community, and thus they are not considered restorative justice, which can be defined as leaving out official justice and allowing victims to speak on their own behalf. The victims of rape are offered sexually transmitted disease screening and HIV testing as well as pregnancy testing. All victims are offered counselling.

##### **C. Bangladesh**

There is no particular institutional programme which takes victims into consideration. However, in the process of the criminal justice system, victims can appear in court and voice opinions. Social counselling is also available for victims, which functions as mental support for victims. In rural areas there is a system called "*Shalish*" which is applied for juveniles as well as adults. In the non-cognizable offence cases, an elected Chairman of an area or an elderly, learned and wise person holds meetings where victims, offenders, and the parents all contribute to decision-making. Neighbours of victims and offenders, the representatives of society, also remain present in the meetings. Councillors in the village discuss how to recover the damage inflicted on victims of minor offences. If the case is not resolved, it is transferred to court. So far, most of the minor or non-cognizable offence cases have been agreed upon and settled. Sometimes the decision is written on an agreement document, but this is not compulsory. The underlying principle of this system is

that the community and families pay respect to the elderly. That is why the elderly make a fair decision and the community obeys it.

#### **D. Bhutan**

In the Women and Child Protection Unit, and police departments, counselling is provided for inmates and victims. Victims can receive counselling before and after the sentence of offenders. Inmates can receive counselling after the sentencing. In Bhutan, compensation for victims is given by offenders and it is mandatory.

#### **E. Botswana**

There is no particular institutional programme which takes victims into consideration. However, there is a counselling programme available for rape victims. A non-governmental organization (NGO) provides the counselling. Additionally, compensation to the victim is made by offenders. If offenders commit crimes such as theft they must pay money to their victims. For sex offenders, the NGO "War Against Rape" provides programmes for offenders and victims to solve the problems caused by this crime. This programme is also applied to juveniles. In sex offence cases, the court orders HIV testing for offenders and victims. HIV testing for offenders is conducted before the trial. If the offender tests HIV positive, he receives 15 years. If the offender tests HIV negative, he receives 10 years. If the offender knew that he was HIV positive before committing rape, he receives 20 years to a life sentence. Furthermore, in order to protect rape victims, the prohibition on abortion is lifted in rape cases.

#### **F. Costa Rica**

Few particular institutional programmes which take victims into consideration exist. The court judge has to listen to the victim before rendering a decision. In cases where mediation is done, hearing the victims' opinion is compulsory for the judge. However, in sexual/domestic violence cases, and homicide, mediation is not allowed. There are specific guidelines and social workers, first instance court judges, medical doctors, prosecutors, and attorneys, trying to help victims. A specialized judge deals with the execution of sentence taking into consideration the victim's point of view.

### **V. PROBLEMS AND CHALLENGES OF CONTINUOUS TREATMENT PROGRAMMES FROM INSTITUTIONAL CARE TO COMMUNITY TREATMENT**

#### **A. Japan**

Currently, juvenile training schools have a close connection and communication with probation offices in order to prepare inmates for smooth re-entry into society. Especially in cases of serious and violent offenders, juvenile training schools need close contact with probation offices in order to find proper places for offenders to go back to and plan carefully their future lives. Approximately one month after the admission of a juvenile into the facility, staff members of the Classification and Aftercare Coordination Section prepare documents on the inmate's offence, personality, and background, based on the Juvenile Book, taken from the juvenile classification home, and the social investigation report, sent from the Family Court. When the relevant probation office receives the document from the juvenile training school, environmental adjustment begins. In principle, one probation officer and one volunteer probation officer are assigned to each inmate. Every two or three months, the probation officer sends the environmental adjustment report to the juvenile training school, based on the report from the volunteer probation officer. The juvenile training school sends the probation office periodical reports on the progress of the inmate. The inmate exchanges letters with the volunteer probation officer. Sometimes, the volunteer probation officer or the probation officer visits the juvenile training school to interview the inmate. In this way, the volunteer probation officer and the probation officer build strong relationships with the inmate while he or she is still in the juvenile training school. If there is some concern about environmental adjustment (e.g. no visit to the inmate by his or her parents or guardians), the juvenile training school first approaches the parents or guardians, and if this does not produce positive results, contacts the appropriate probation office to seek assistance.

Before inmates' release from the facility, juvenile training schools explain to them conditions to be observed during parole. Inmates also have an opportunity to make an observation visit to a probation office near the facility at the pre-release stage. Juvenile training schools also explain the parole system to juveniles' parents or guardians on occasions like guardians' meetings or visits. After release, the juvenile goes to the probation office and meets the volunteer probation officer once a month and reports his or her

life conditions. Approximately one month after release, the juvenile training school sends the Juvenile Book, the record of treatment at the institution and the juvenile's achievement to the relevant probation office.

However, the absence of a computerized information network system between the Correction Bureau, which has jurisdiction over institutional treatment, and the Rehabilitation Bureau, which has jurisdiction over community treatment, is a serious issue in Japan. Databases of these bureaus are not electronically inter-linked. As such, sharing information between juvenile training schools and probation offices is conducted in writing. Establishing the electronic information network system is an urgent issue to further bridge the gap between juvenile training schools and probation offices. If such a database is created, it would create the following benefits:

1. Mitigate the work of inputting information on the juvenile;
2. Make accumulation of research activities on continuous treatment easier;
3. Allow smoother communication between juvenile training schools and probation offices.

### **B. Antigua and Barbuda**

The lack of education of the general population in regard to the criminal justice system is a major barrier to persons who have returned to their communities. The lack of awareness and ignorance of the judicial system does not allow for a smooth transition to a home environment. The treatment programmes must incorporate the community if there is to be productive life after incarceration. Aftercare treatment programmes, though effective in theory, are useless if the persons to be treated do not make themselves available for treatment, because they are afraid of what may be said about them and they do not trust the confidentiality of the system. They would rather do without the care that in some cases may save their lives. Finger pointing, name calling, teasing, and labelling affect these persons very deeply and lead to reoffending. Aspects of cultural, ethnic and religious beliefs and philosophies must also be considered because tolerance levels vary in different cultures. There is a growing concern as well for persons who are mentally challenged and need to be on medication, but who, in some cases, were not assessed appropriately. In these cases the affected persons have not been afforded the opportunity to lead normal lives within their limits.

### **C. Bangladesh**

There is little structured community treatment in existence. In Bangladesh, finding jobs suitable for juvenile offenders, who often have not received adequate education, is a challenge to be dealt with. Communities do not always treat juvenile offenders cordially. Probation officers and the juvenile's parents counsel the juvenile. Upon and after release, probation officers sometimes help the juvenile to find a job. Police keep the records of the juvenile offender. Certified institutes also keep such records.

### **D. Bhutan**

In Bhutan, the community treatment system has not yet been implemented and whatever is required to be done depends entirely on the parents once the juvenile is released from the centre. Records are kept for future reference. Prior to release we inform the parents to report to the institution to complete the necessary formalities and during release we obtain a letter from the juvenile undertaking to stay away from crime for our records and to prevent the juvenile from committing further offences.

### **E. Botswana**

There are two programmes that are mainly concerned with continuous treatment programmes from institutional care to community treatment. These are extra-mural labour and parole. Before placement of offenders in these programmes, a social enquiry report is made reflecting the environment, employment and accommodation aspects of the offender's potential placement. For extra-mural labour the offender should be placed in an employment facility near his or her place of abode to avoid transportation costs as the employment is not paid but rather takes the form of community service. The offender is only provided with monthly food rations at government expense and other expenses are taken care of by the family as they are expected to participate in his or her rehabilitation. But as for parolees, they are only provided with guidance and counselling as they are expected to find paying jobs to sustain themselves. There are problems and challenges concerning these programmes. The community continues to deny responsibility for crime prevention and this leads to expectations that custodial sentencing alone will provide a solution. Stigmatization/labelling of offenders is also a problem as it is inconducive to their rehabilitation. Limited resources to implement best supervision practices in community treatment programmes are also a barrier.

#### **F. Costa Rica**

A specialized new law dealing with the execution of sentences for juveniles was enacted. This law is based on the principle that juveniles must be treated differently from adults and that the best interest of the juvenile has to be pursued. Judges, prosecutors, and public defenders specializing in sentencing and the execution of sentences of juvenile offenders were stipulated in the law. There are two types of judges: (i) those for sentencing; and (ii) those for execution of sentence. A multi-disciplinary team, including psychologists, educators, and social workers, provide treatment for juveniles. Another basic principle is that prison is used as the last resort. Based on this policy, the sentence rate of juveniles in Costa Rica is fairly low. Eighty-five percent of the cases are disposed of by measures other than commission to prison. In prison, there is a classification department. Different professionals, such as psychologists and educators, conduct interviews with inmates. Structured community programmes dealing with juveniles are provided. Juveniles, their legal advisers and their parents or guardians sign a specialized agreement and the juveniles engage in community volunteer service, in such places as a fire department, the Red Cross, homes for the elderly, and special education facilities. If juveniles do not do well in community treatment, they can be sent to jail.

#### **G. Korea**

The gangster issue is also a serious issue in the transition from institutional to community care. Since no distinction is made between non-gangsters and gangsters in correctional institutions, non-gang member juveniles are easily affected by gangsters, and the possibility of their involvement with gangs after release increases and this poses a grave risk to community treatment.

### **VI. GOALS AND NEEDS FOR IMPROVING TREATMENT PROGRAMMES FOR SERIOUS AND VIOLENT JUVENILE OFFENDERS**

After reviewing the current situations and issues, the group identified several relatively common challenges, such as:

- A shortage of clear classification regulations;
- A lack of infrastructure (e.g. funds, facilities);
- An insufficient number of institutional programmes taking victims' viewpoints into account;
- A lack of systematic follow-up programmes;
- Inadequate information sharing between institutional and community treatment authorities.

Based on the findings of these relatively common problems, the group agreed the following recommendations as possible solutions for the effective treatment of serious and violent juvenile offenders.

1. Identifying the risk of reoffending and the needs of the targeted juvenile;
2. Assessing such factors as the degree of danger of mental disorders, maturity, and intellectual level and juveniles at risk of reoffending;
3. Categorizing specific levels to connect assessment and treatment;
4. Utilizing multiple-disciplinary assessors;
5. Introducing standardized assessment tools, combining both quantitative and qualitative methods, adaptive to different situations;
6. Establishing proper selection and implementation of assessment methods;
7. Allocating necessary human and infrastructural resources;
8. Utilizing the existing resources as best possible;
9. Constructing the minimum essential number of institutions;



10. Taking into consideration varied cultural contexts;
11. Creating an integrated package holistically encompassing the needs of the juvenile and the concerns of the victim and having it implemented by a cadre of qualified personnel, maintaining standards of consistency and continuity;
12. Considering the restorative justice system for compensating victims for the harm suffered;
13. Developing programmes integrating institutional and community-based treatment as a package;
14. Establishing a united organization handling both institutional and community treatment;
15. Developing electronic data network systems between related agencies for smooth information sharing;
16. Conducting intervention at the early stage of incarceration to prepare the juvenile for discharge.



### **GROUP 3**

## **EFFECTIVE COMMUNITY TREATMENT PROGRAMMES FOR SERIOUS AND VIOLENT JUVENILE OFFENDERS**

---

<b>Chairperson</b>	Ms. Ina Rose Hunter	Jamaica
<b>Co-Chairperson</b>	Mr. Barakanye Kootsene	Botswana
<b>Rapporteur</b>	Ms. Grace Yerro Naparato	Philippines
<b>Co-Rapporteurs</b>	Mr. Chi-wai Samuel Tong	Hong Kong
	Ms. Akiko Tashiro	Japan
<b>Members</b>	Mr. Alain-Bertin Tobunelo Bekolo	Democratic Republic of Congo
	Ms. Kazumi Watanabe	Japan
	Ms. Korakod Narkvichetr	Thailand
<b>Advisers</b>	Prof. Tae Sugiyama	UNAFEI
	Prof. Koji Yamada	UNAFEI

---

### **I. INTRODUCTION**

Group 3 was required to discuss effective community treatment programmes for serious and violent juvenile offenders released from institutions as well as those who receive non-custodial sentences. We were specifically asked to address the problems and challenges of continuous programmes from institutional care onwards, including the achievement levels of same. In addition, we were to examine the relationships between criminal justice institutions, government agencies and NGOs, as well as crime prevention strategies, such as screening in early childhood and treatment for boys and girls in high risk families.

It was the consensus that community-based treatment is very important in the prevention of crime. Robert Hoge, (2008) noted psychologist, suggests that because the treatment is in the juveniles' real-life setting it affords the opportunity to treat them in an authentic way.

Our discussion was informed by a general exploration of the topic and individual reports on the current situation in the different countries. Common problems were identified and their attendant issues discussed with a view to finding practical solutions and recommendations.

### **II. CURRENT SITUATION IN PARTICIPATING COUNTRIES**

In order to provide a background for the discussion, the group considered it necessary to understand the perspectives of different countries.

#### **A. Botswana**

A Probation Order is one of the sentencing options available to courts in Botswana. However, there are no full time Probation Officers in Botswana. Supervision of juveniles (up to 18 yrs) who are on community-based sentences or extra-mural services are carried out by the local police and traditional leaders.

After release from correctional institutions, there is no statutory supervision. However, in situations where supervisees are serving non-custodial sentences, they are required to adhere to supervision requirements which involve performing extra-mural services for up to six months. Breach of conditions can result in the young offenders being taken to court.

Chiefs (traditional leaders) can exercise community-based jurisdiction. There was a time when the children were the responsibility of the entire community but such support is now diminishing.

#### **B. Democratic Republic of Congo (DRC)**

When juveniles (those under 18 years of age) commit infractions, the Judge of the Peace has two options. One is to return the young offender to the care of his or her family with the recommendation that the family ensures the juvenile's good behaviour. The other option is to send him or her to the Establishment of Guard and of Education of the State (EGEE). After release, no service is provided.

### **C. Hong Kong**

The non-custodial sentencing options for juveniles/young offenders (those aged from 10 to 20 years) in Hong Kong are as follows:

- (i) discharge upon entering into a recognizance;
- (ii) a probation order;
- (iii) a bond of good behaviour;
- (iv) a care and protection order;
- (v) attendance at a reformatory school;
- (vi) fine, damages or costs (paid by offender or his or her family).

The Social Welfare Department is in charge of some of the non-custodial sentences.

The custodial sentencing options for young offenders (those aged from 14 to 20 years) in Hong Kong are:

- (i) commitment to a detention centre;
- (ii) commitment to rehabilitation centre;
- (iii) commitment to a training centre;
- (iv) commitment to a drug addiction treatment centre; or
- (v) imprisonment.

When an inmate is released from the institutions, statutory supervision by the Correctional Services Department is provided but the period of supervision varies according to the kind of programme the particular inmate receives.

### **D. Jamaica**

The Community Probation Officers supervise adult and child offenders on community-based sentences; adults on parole; children on license and children on statutory supervision (whose Correctional Order expires before their 18<sup>th</sup> birthday). In Jamaica, the Probation Service is a part of the Department of Correctional Services (Ministry of National Security) which is responsible for the custody and rehabilitation of adult and child offenders. The non-custodial sentencing options include, but are not limited to, the following: Community Service Orders; Curfew Orders; Fit Person and Probation Orders.

Recipients of community-based sentences are expected to comply with the conditions of their order. Non-compliance may result in the matter being referred to the court. A breach of a Probation Order, for example, may result in the court upgrading the Probation Order to a Correctional Order. Conversely, a breach of the conditions for license may result in recall to the juvenile correctional centre. The latter is the purview of the Department of Correctional Services.

### **E. Japan**

In Japan, the Rehabilitation Bureau of the Ministry of Justice (MOJ) is responsible for the overall administration of community-based treatment of juvenile offenders (those aged from 14 to 19 years). The Probation Officers (POs) and Volunteer Probation Officers (VPOs) provide guidance and support for juvenile offenders.

There are two types of community supervision for juveniles. One type of supervision involves juvenile probationers who are placed on probation by a decision of a Family Court. The other involves juvenile parolees who are granted provisional discharge from juvenile training schools.

When placed on probation or parole, certain conditions are imposed on the offenders. On breaching such conditions, the juvenile offenders may be sent to court and be returned to the juvenile training school by the decision of the Family Court.

### **F. Philippines**

In the Philippines, the community-based treatment system and supervision is carried out primarily by the Department of Social Welfare and Development (DSWD) through the Local Social Welfare Officers (LSWDO). However, once a child aged between 15 years plus one day but below 18 years of age has committed a serious and violent crime the court, instead of pronouncing the judgment of the child being in

conflict with the law, will place him or her under probation in lieu of service of his or her sentence taking into account the best interest of the child. The monitoring and supervision shall then be carried out by probation officers (of the Probation and Parole Administration).

The Child in Conflict with the Law (CICL) together with the parents will sign a contract which stipulates requirements such as the mode of reporting compliance, attendance at seminars and counselling, etc. If the CICL breaches the said undertaking, the Social Welfare Development Officer and/or Probation Officers supervising and monitoring the subject CICL will then make a written report addressed to the court with jurisdiction. Furthermore, the non-compliance on the part of CICL warrants the court to issue stringent measures.

### **G. Thailand**

In Thailand, the Department of Probation is in charge of juveniles' (those aged from 10 to 18 years) non-custodial treatment. Probation Officers and Volunteer Probation Officers (VPOs) supervise juveniles. On the other hand, the Juvenile Observation & Protection Department is in charge of institutional treatment. When the juveniles are released from correctional institutions (training school, vocational training school, therapeutic community centre, etc.) very few of them are released with parole. If released with parole, offenders will be under the supervision of probation officers.

## **III. COMMON ISSUES AND CONCERNS**

The members of the group agreed that there are several factors which contribute to the problems and challenges of community-based treatment. For those offenders released from institutions, the lack of a smooth assessment and treatment process into community-based treatment is a major factor, except in the case of Jamaica where probation and institutional treatment fall within the same Department. The group also identified negative influences, labelling and stigmatization as factors affecting juvenile offenders. High-risk families, exposure to drugs and guns, and problems in schools were identified as factors which could lead to serious and violent delinquency. In our discussions of these factors some common issues emerged.

### **A. Resources**

The group saw this issue as critical to the continuity or success of all treatment programmes. The lack of resources is one of the prevalent issues which undermine the effectiveness of treatment programmes. Participating countries expressed that most of the time the resources needed were not regarded as priority funds by their government. It was also noted that some governments needed to be convinced of the importance of community-based treatments and this could be proven by research. However, non government organizations (NGOs) do provide support in some countries. Sadly, in some cases, the government is unable to procure the finances required for community-based treatment. In such instances there is no follow up or aftercare programme following the institutionalization of the juveniles.

### **B. Staffing - Probation, Supervision (Parole)/Social Workers/Corrections**

An effective treatment programme requires adequate manpower. Staff members should be proportionally paid and well trained. In some countries, probation service or work is not a popular profession for graduates and job seekers because such work is not widely known to the general public. It does not attract the same remuneration as other comparable professions such as psychologists and social workers. Although in most countries probation officers require at minimum an undergraduate degree, it was agreed that based on the increasing complexity of juvenile offences, probation officers need to receive more comprehensive training.

### **C. Community Support (Education and Infrastructure)**

In all treatment programmes, community support plays a vital role in achieving the desired goal. Its presence is imperative to the total rehabilitation of juvenile offenders. Although the laws exist to protect the rights and welfare of juvenile offenders the implementation of effective treatment is retarded when there is very limited education, infrastructure and support from community members. Both Japan and Thailand benefit from the service of Volunteer Probation Officers. For the other countries, this is a workable idea.

There are instances where juveniles are released and have no accommodation or community support is very fragile. It was agreed that the support of halfway houses as used in Hong Kong, Japan, the Philippines and Thailand is very important and a worthwhile consideration for other countries. In the case of the

Philippines these houses are managed by NGOs but supervised by the department of Social Welfare and Development.

Adult responsibility in the treatment of juveniles, a point mentioned during one of our individual presentations, is very important. The stigma attached to offending sometimes makes it difficult for offenders to get employment. Support for employment is important, especially for those serious and violent juvenile offenders who were in institutions and who were disconnected from their employment. Their risk of reoffending can be significantly reduced through gainful employment.

The family, as the primary and basic element of society, has a great impact on the reintegration of juveniles from institutions as well as those who are given non-custodial sentences. It is important that the home provides a stable environment with the necessary guidance which will help in keeping these offenders away from criminal activities. This task is made even more difficult because the family structure in many communities is not as strong as it used to be. A community collaboration of civil society groups, schools, courts, social welfare agencies and correctional institutions is important to provide support to the home.

#### **D. Interagency Communication**

Effective assessment and treatment can be made easier through interagency networking of relevant bodies, such as departments of corrections, probation, health, social welfare and education, as well as NGOs. However, the situation as reported in most countries is one that is fragmented. Because of this, there is a lack of communication and problems such as overlapping functions, mismanagement of resources and gaps in the flow of the services and treatment programmes.

One of the participants averred that although there are initiated or scheduled forums or meetings between these agencies only high ranking officials are required to participate. These persons are usually not in touch with what is happening on the ground. The prime movers or those directly involved on the ground would actually benefit more from those meetings because they have the practical and hands-on information and experience.

#### **E. Assessment Procedures**

The group discussed the fact that one of the major challenges to an effective community-based treatment is a lack of a reliable scientific assessment process. The practice in some countries is that treatment relies heavily on non-standardized assessment. Because of this, the results may vary according to the tool/method of assessment used. This unreliable source of assessment cannot adequately ascertain the risks posed by and needs of serious and violent juvenile offenders. The implication, we agreed, is that such unreliable assessment will not produce an appropriate treatment plan and the multi-modal programmes which research suggests should be in place for effective treatment. Special mention was made of the Youth Level of Service/Case Management Inventory (YLS/CMI), a risk assessment tool developed by Dr. Hoge to determine the criminogenic needs and risk of reoffending in serious and violent juvenile offenders. The group considers this a useful instrument and thinks that it could be used to provide a scientific means of assessment.

Another problem in the assessment process is that information is not shared or transferred to different treatment points. Family court or institutional assessment is not necessarily transferred to community-based treatment authorities, e.g. in Japan, the Family Court, Classification Homes/Juvenile Training Schools and Probation Office conduct separate assessments. This can also be seen in Thailand and perhaps in some developed countries. Because of this, results vary depending on the assessment tools applied. The situation however is worse in some countries where there are no assessment mechanisms in place at all.

#### **F. Development of Treatment Programmes**

This issue is very relevant since this is a great avenue for helping juveniles to cope with their society's norms through the development of more practical and result oriented treatment programmes. These norms are being influenced by forces such as globalization and the innovations in information and technology. The group agreed that programmes in institutions and in the community must be relevant to the needs of offenders in their rapidly changing societies.

The group therefore explored the gap which exists in offender training and market needs, particularly in the institutions, where some areas of vocational training are no longer economically viable. A similar gap

exists in matching the risk/need level with a specific individual plan in the community.

### **G. Evaluation of Treatment Programmes**

The group acknowledged that a broad based multi-modal approach is also necessary to narrow the gaps between the assessment and treatment regimes. Most countries have no systematic way of knowing the extent to which their programmes or interventions help juvenile offenders, especially those juveniles who are considered serious and violent.

The group agreement was that programmes and activities were conducted repeatedly and with some beneficial results. However, better results could be achieved from an evaluation process which would determine the need to revise programmes, discard programmes or introduce other programmes. It was our belief that because most countries do not have standardized assessment tools it was difficult to evaluate the outcomes of their programmes because the outcomes of programmes which use standardized tools are usually specific and measureable. The same cannot be said for some non-standardized assessment procedures.

Furthermore, evaluation is very significant in communicating the effectiveness or non-effectiveness of the programmes to the public. It is usually difficult to persuade the public or the government to fund certain programmes without providing evidence of their success or potential for success.

### **H. Monitoring**

One of the challenges to the treatment regime is the ability to monitor juvenile offenders. Most participants' jurisdictions had similar conditions which are imposed on the juvenile offenders in the community, which may result in the matter being referred back to the court for stricter options, including institutional treatment.

During the discussion it was noted that there are differences when it comes to monitoring those juveniles or children in conflict with the law. These differences vary in terms of the period of reporting; manner of supervision or monitoring; requirements or conditions stipulated by the court concerned; persons involved in the supervision and monitoring; and the mode of supervision or contact with the juveniles/CICLs. In some countries probation officers are responsible for supervision while in other countries it is the responsibility of the local police or the corrections department.

Concerning the breach of conditions or requirements, in Japan and Hong Kong, the probation officers/corrections officers are entitled or vested with the authority and legal premise to arrest the juvenile who is in breach or fails to comply with the conditions and requirements expected of them. On the contrary, in most of the participating countries, the probation or corrections service do not have such authority as this is the purview of the law enforcement agencies.

In the final part of the discussion on monitoring, the group examined electronic monitoring, which is considered to be a harsh option for monitoring juvenile offenders. For instance, the United Kingdom utilizes the electronic monitoring system specifically for violent and serious offenders but its use is combined with intensive supervision. In Thailand, they are considering a pilot programme of electronic monitoring, while in Hong Kong, after a long debate, the city decided not to introduce the system because of the debate about human rights considerations.

Some participants were not in agreement with applying electronic monitoring to juveniles and thought that it could be suitable for adult offenders as a diversion from imprisonment. In strengthening this argument it was observed that using electronic monitoring with serious and violent juvenile offenders might result in reduced motivation to rehabilitate and stigma which may carry undesirable effects.

Another point raised was that although the use of electronic monitoring is useful to locate the offender physically, it is not necessarily effective to prevent them from reoffending. Some participants considered the electronic system ideal as an intermediate sanction for serious and violent juvenile offenders rather than imprisonment. Although it cannot prevent reoffending, because the offender can be easily tracked down and monitored, it may serve the purpose of protecting the public and appease their cry for stricter penalties for juvenile offenders.



The group could not reach a single conclusion concerning the issue of electronic monitoring. However, using electronic monitoring in restricted conditions, i.e. clarifying the purpose, selection of the subject juvenile and combination with other treatment measures, could be an option for the treatment of serious and violent offenders.

#### IV. CRIME PREVENTION PROGRAMMES IN THE COMMUNITY

##### A. Early Detection

In looking at crime prevention, we recalled Dr. Hoge's lecture on "Issues in the Treatment of Juvenile Offenders Part II", and his reference to "Life-Course Persistent Delinquency". He identified several factors for our understanding of crime prevention. The factors are: (i) that signs of difficult temperament appear very early in childhood; (ii) levels of conduct disorder escalate through early childhood and adolescent years; (iii) antisocial behaviour may be expressed in violent or nonviolent forms; and (iv) in many cases, it will persist into early adulthood. The challenge is that these signs may go undetected in the home and in the school because of lack of knowledge. It was agreed that the medical screening of children in early infancy and early childhood provided in most countries is intended mainly to ascertain their physical wellbeing and is not aimed at psychological or behavioural problems.

Another view was that these check ups are meaningful in identifying children who have developmental disorders or mental disorders. Although the objective of health checkups is not to predict future offences, it might be of some help to intervene early before disorders become very serious. For example, in Japan, the officers concerned have a legal obligation to report to a Child Guidance Center when they detect children whose situation requires intervention.

##### B. Relationship Building

Children at risk are common to all countries because they are faced with similar issues of divorce, domestic violence, abuse and other situations which put them at risk. Our group's examination of these factors pointed us to Dr. Ozawa's presentation and his emphasis on relationships and how these children should be treated. We agreed with his idea of a holistic approach (individuals, families and community) which is needed to forge relationships, identified as a critical support mechanism. In support of this idea we discussed his philosophy that at the root of crime is the breakdown in relationships and unanimously agreed that strong and healthy relationships at home and in the community are important for crime prevention.

##### C. Interventions for Families

All members of the group agreed that the family is regarded as the basic unit of society. However, because of the high rate of divorce, domestic violence, lack of supervision by parents, abuse and other factors, in many cases the family unit is not able to function effectively. This situation puts at risk those children who are not in conflict with the law, and it is therefore necessary to give support as a means of crime prevention. Such support may come in the form of interventions. Some participants however cautioned that there are legal issues when it comes to intervening in families which have children who are at risk. Other forms of support include the education of parents on how to be better parents. In some countries, the Probation Service conducts seminars with parents who experience problems with their children as well as those who lack parenting skills.

##### D. Interventions for Schools

Some participants pointed out that the schools can be very useful in crime prevention. Some juveniles exhibit offending tendencies at school, but these are sometimes ignored or not viewed as potential problems. In some cases for example, students who show symptoms of *autism and attention deficit hyperactivity disorders* are regarded as rude or difficult to manage. These types of behaviour sometimes worsen into delinquency and offending. The conclusion was that the lack of information among teachers and the absence of experts (psychologists) are contributing factors to juvenile offending which surfaces in the classroom.

In some countries personnel from the criminal justice system participate in intervention strategies. In Jamaica, for example, Probation Officers are involved in school programmes and the Department of Correctional Services facilitates requests from schools to visit adult and juvenile institutions as a part of crime prevention activities. Likewise, in the Philippines, the Women and Children Protection Centers and Police Community Relations Division conduct information drives or advocate in schools and universities.



### **E. Community Corrections/Community Awareness**

Correction is about community awareness. The Asian proverb “It takes a village to raise a child” speaks of the need for community involvement in the correction process. Community correction is our ultimate test and it is the part of corrections which has the highest visibility for the public and about which the public cares most. We firmly believe that the safest release is a supported, supervised, conditional release (parole/aftercare supervision). Just as the serious and violent offender/CICL must become integrated with the community, so must the relevant government departments/agencies and NGOs be integrated with the community they serve.

The group recognized that there is indeed a need for continuous improvement to enhance co-operation in bringing about successful integration. This is because communities are not static, and interaction with them must be continuous and progressive. We require our probation officers, parole officers, aftercare officers and social welfare officers to be experts and active in their communities, but we also believe it is important to take a strategic approach to this critical part of corrections.

## **V. CONCLUSION**

From our discussion, there are many problems and challenges which affect the effectiveness of community-based treatment programmes for serious and violent juvenile offenders. One of the major problems for these offenders released from institutions is the lack of continuity from institutional treatment into community based treatment. This disconnect, which arises chiefly from a lack of communication and a fragmented approach, requires a networking of the relevant personnel so that a better understanding of juvenile cases and their appropriate assessment and treatment can be achieved.

Community support has been identified as having a major impact on community-based programmes. It is not always easy to get the support of the community because some peoples’ attitudes toward juvenile offences have become hardened and this is sometimes reflected in the lack of employment opportunities for juvenile offenders. However, in our group, we believe that an effective community treatment system cannot be realized through forcing severe punishment alone. We believe that humane treatment, in a warm and co-operative community setting is the best way to help juvenile offenders.

Although juveniles in conflict with the law require special attention, an effective community programme is one which is also geared towards crime prevention. There are many factors which prevent the early detection of signs and which can lead to offending. Although public education, screening and other methods can help, it was the consensus of the group that relationship building is not only important when juveniles offend, but is a critical success factor in crime prevention. The group endorsed Dr. Ozawa’s philosophy that “crime is primarily an offence against human relationships and secondarily a violation of law.” It is this relationship building that will reduce the level of risk in families, schools and in the community and will help to achieve the goals of rehabilitation which is to reduce the risk of reoffending as well as to prevent first offences.

## **VI. RECOMMENDATIONS**

Having examined the challenges of effective community-based treatment for serious and violent offenders, the following recommendations were considered useful. The intent is that as much as is possible participants will seek to implement them or at best refer them to those in authority.

1. Every country should introduce non-custodial sentences as well as aftercare services for juveniles released from institutions;
2. Seek support from government and politicians on funding for community-based treatment systems, e.g. an offending behaviour programme, an assessment programme, and monitoring systems, through the introduction/implementation of statistically proven research;
3. Build up networking of NGOs/the community, and the business sector, to raise funding and support (donations and expertise), etc. and to encourage them to employ former juvenile offenders;

4. Enhance public awareness of the work of probation officers and social workers so as to attract and recruit bright and able staff, since a limited number of personnel may deter the smooth application of the treatment programmes;
5. Implement extensive training (train-the-trainer methodology). This will enable the office to train a pool of trainers, especially those who directly handle juvenile offenders or Children in Conflict with the Law (CICLs);
6. Establish halfway houses. These institutions or establishments may be the initiatives of the government or supported by NGOs. This will lessen the problems of overcrowding which hampers the effectiveness of treatment programmes;
7. Empowerment of the family to become a primary source of support;
8. Establishment of a joint approach or an interagency committee to design and develop consistent treatment programmes; co-ordinate the treatment services, e.g. case conferences; sharing of database of inmates amongst probation offices, correctional institutions and social welfare services, with utmost respect for confidentiality of the given information;
9. Effective analysis of risks/needs and programme planning (in relation to the needs of individual inmates);
10. Review of vocational training with consideration for its relevance to the current job market to make it easier for former juvenile offenders to find a job;
11. Benchmarking with established practices and programmes and the development of a common assessment tool for correctional institutions;
12. Early intervention programmes and planning for high-risk families and high-risk children to look after their needs and to help them to cultivate good relationships.

## APPENDIX

---

*COMMEMORATIVE PHOTOGRAPH*

• *139<sup>th</sup> International Training Course*

---

UNAFEI



# The 139<sup>th</sup> International Training Course



**Left to Right:**

**Above:**

Dr. Hoge, Dr. Ozawa, Mr. Blakeman, Prof. Higuchi, Prof. Naito

**4th Row:**

Mr. Shirakawa (Staff), Mr. Iwakami (Staff), Mr. Koiwa (Staff), Ms. Tomita (Staff), Mr. Matsumoto (Chef), Mr. Nakayasu (Staff), Mr. Takagi (Staff), Mr. Kitada (Staff), Mr. Kojitani (Staff), Ms. Usuki (Staff), Ms. Ota (Staff), Ms. Ono (Staff)

**3rd Row:**

Ms. Uenishi (Staff), Mr. Kootsene (Botswana), Mr. Uchida (Japan), Mr. Tong (Hong Kong), Mr. Jung (Korea), Mr. Gunji (Japan), Mr. Nakamura (Japan), Mr. Tshering (Bhutan), Mr. Takahashi (Japan), Mr. Tobunelo Bekolo (DR Congo), Dr. Burgos (Costa Rica), Ms. Obayashi (JICA)

**2nd Row:**

Mr. Al-Smadi (Jordan), Ms. Hayashi (Japan), Mr. Cesário (Brazil), Ms. Tashiro (Japan), Ms. Narkvichetr (Thailand), Mr. Rivero (Uruguay), Ms. Begum (Bangladesh), Ms. Watanabe (Japan), Ms. Yerro Naparato (Philippines), Ms. Hunter (Jamaica), Ms. Naito (Japan), Ms. Satayathum (Thailand), Ms. Dithupa (Botswana), Ms. Nathaniel-Morgan (Antigua and Barbuda)

**1st Row:**

Ms. Lord (LA), Mr. Nakasuga (Staff), Prof. Yamada, Prof. Sugiyama, Prof. Sugano, Deputy Director Seto, Director Aizawa, Prof. Oshino, Prof. Otani, Prof. Tatsuya, Mr. Fujii (Staff), Mr. Fujiwara (Staff)

