

Session Four: Treatment of Juvenile Delinquents

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INSTITUTIONAL TREATMENT OF JUVENILE DELINQUENTS IN JAPAN

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I. JUVENILE INSTITUTIONS IN JAPAN

A. Institutions for Juveniles Waiting for Trial/Hearing

In Japan, there are three institutions which may be used to accommodate juveniles under trial/hearing: Temporary Protective Units of the Child Guidance Center, Juvenile Classification Homes and Detention Houses. However, in practice, Temporary Protective Units are not used for this purpose because of their unsecured facilities. Also, because very few juveniles are taken into custody under criminal trial, the number of juveniles housed in Detention Houses (where inmates under criminal trial are detained) is very limited at present although, due to the recent revision of the Juvenile Law, the number is expected to increase to some extent.

Therefore, practically speaking, Juvenile Classification Homes (JCHs) are the only institutions for juveniles waiting for trial/hearing. They mainly accommodate juveniles under “protective detention”, measure taken by the Family Court to secure the custody of the juvenile during their court proceedings. JCHs are established at prefectural level and directly administered by the Ministry of Justice. There are fifty-two JCHs in the nation each of which works with the Family Court which has the jurisdiction over the corresponding area.

The length of stay at JCHs is usually 3 to 4 weeks although it can be extended for exceptional cases. The daily average population of JCHs was 1,321 in 1999 and has been steadily increasing over the last several years. The number of staff at JCHs is 1,216 including approximately 200 clinical psychologists who are in charge of classification and assessment of juveniles accommodated. In Japan, the Family Court commits a quarter of JCH inmates to Juvenile Training Schools. The selection of a particular JTS is carried out by the JCH.

In Kenya, juvenile institutions which have similar functions to JCHs are remand homes. The biggest difference between JCHs and remand homes is the lack of classification functions in the latter, which I will take up in a later chapter.

B. Institutions for Juveniles Detained Due to the Final Decision of the Court

There are three kinds of institutions for juveniles detained due to the final decision of the court: Support Facilities for the Development of Self-Sustaining Capacity, Juvenile Training Schools and Juvenile Prisons. Juvenile Prisons house juveniles sentenced to imprisonment (unless they are under 16) and young offenders up to the age of 26. There were only 23 juvenile prisoners in 1999 in our prison system. Although its number is expected to increase due to the recent revision of the Juvenile Law, the significance of Juvenile Prisons as institutions incarcerating juvenile delinquents is quite limited at present.

Support Facilities for the Development of Self-Sustaining Capacity house juveniles committed thereto by the prefectural governor or the Family Court. There are 57 seven of them in the nation: 53 run by the prefectural government, 2 by the national government and 2 by private organizations. They are established as one type of child welfare facilities defined in the Child Welfare Law and, therefore, regulated by the administrative rules laid out by the Ministry of Health, Labour and Welfare. The population of inmates in Support Facilities was 1,998 in October 1998 although their capacity is 4,844. They mainly take care of

juveniles whose problems are not serious enough to warrant their commitment to Juvenile Training Schools.

Juvenile Training Schools (JTSs) house juveniles sentenced to imprisonment by the criminal court until they reach 16 as well as juveniles committed thereto under the protective measure rendered by the Family Court. There are fifty-two JTSs in addition to one branch, scattered all over the nation. The Ministry of Justice directly administers them. The daily average population of JTSs was 4,198 in 1999 and has been on the increase. Thus, JTSs take care of a larger number of more delinquent juveniles than Support Facilities and have played a major role in the institutional treatment of juvenile delinquents. To add, their practices are nationally standardized under the direct administration of the Ministry of Justice.

Courses at JTSs are categorized basically into two types in terms of their length: short-term and long-term. The typical length of stay for short-term courses is 150 days and that of long-term courses is 400 days. The total staff strength of JTSs is 2,469, most of whom are juvenile instructors.

In Kenya, juvenile institutions housing juveniles sent there by the final decision of the court are Approved Schools and Borstal Institutions. Approved Schools have welfare- or education-orientation while Borstal Institutions have discipline-orientation. There is a similar contrast in Japan, too. Support Facilities for the Development of Self-Sustaining Capacity are welfare-oriented while JTSs are discipline-oriented. However, the difference between the two types of institutions in respective countries seems much greater in Kenya. Approved Schools have had difficulty in controlling some of their inmates and Borstal Institutions are run more like prisons. In any sense, the realization of a good balance of welfare and discipline is always a challenge to both countries.

Since JCHs and JTSs play major roles in Japan, I will focus upon the management of these two institutions, which are called juvenile correctional institutions in Japan.

II. MANAGING JUVENILE CORRECTIONAL INSTITUTIONS

A. Management Structure

The Correction Bureau of the Ministry of Justice manages juvenile corrections at a national level. They set out national standards of services by issuing national regulations; enforce them by conducting inspection for auditing as well as holding national meetings where the policy of the Correction Bureau is directly communicated to administrators of juvenile institutions.

At a regional level, Regional Correction Headquarters (RCHs), located in each of the 8 jurisdictions of the High Courts, play a function similar to that of the Correction Bureau, in order to put the Bureau's policies into action. Indeed, their inspection is much more thorough than that of the Correction Bureau, taking advantage of the geographical proximity and knowledge of local practices.

Moreover, the RCHs are responsible for the formulation of the classification guidelines to be used in the Correctional Region. It is their responsibility because the selection of a most appropriate JTS for a juvenile is in principle carried out within one region.

B. Two Basic Systems to Manage Juvenile Corrections

Two systems fundamental to the management of juvenile correctional institutions are the classification system and the risk-based progressive treatment system. The classification system is an inter-institutional system established by RCHs. In this system, a JCH in a correctional region selects the most appropriate JTS for a juvenile from among the JTSs located in the same region. The risk-based progressive treatment system is an intra-institutional system implemented within each JTS.

Before going into the explanation of these two systems, some clarification concerning the definition of classification versus assessment would be necessary. I define 'classification' as the act of sorting juveniles into one of the predetermined categories. In the present context, the classification carried out by a JCH results in the selection of a JTS where a juvenile is to be sent. On the other hand, I define 'assessment' as the act of studying the characteristics of each juvenile and formulating individualized recommendations on the treatment of the juvenile. In the present context, the assessment carried out by a JCH results in a set of recommendations forwarded to the JTS selected.

1. Classification System

The two main purposes of classification are 1) to group juveniles with similar needs and provide efficient rehabilitative services, and 2) to separate juveniles according to their criminality and prevent contamination. The latter purpose can include the separation of accomplices or juveniles who have associated with each other.

The classification system can be inter-institutional and/or intra-institutional. If you have only one institution in your country, you only need to develop intra-institutional classification, while, if you have a large number of institutions, you may need to develop inter-institutional institutions. A system of a smaller number of larger institutions can be cost-effective, but a system of a larger number of smaller institutions can maintain a closer link to the community and the juvenile's parents. The juvenile justice policy of the United Nations clearly encourages the latter approach, which we believe Japanese corrections has adopted so far.

The criterion variables of classification used in Japanese juvenile corrections are in the order of priority:

1. Region
2. Gender
3. Special Needs
4. Criminality and
5. General Needs.

I would like to use an example of how male juveniles in Tokyo Correctional Regions are classified to illustrate the classification system (See Appendix A). In this example, region (=Tokyo Correctional Region) and gender (=male) are already fixed. First, special needs are used to exclude juveniles with non-ordinary needs. Therefore, substantively important variables are criminality and general needs. Then, criminality is examined to prevent contamination. Third, general needs are taken into account to maximize the efficiency of rehabilitative services.

There are fifteen JTSs in the Tokyo Correctional Region. The JTSs can be divided into three types: medical, short-term and long-term JTSs. Three are two Medical JTSs: Kanto Medical and Kanagawa Medical. Short-term JTSs number five: Ariake, Ichihara, Suifu and Sunpu. Long-term JTSs number eight: Akagi, Ibaraki, Kitsuregwa, Kurihama, Niigata, Odawara, Tama and Yachimata.

First, in allocating juveniles to a JTS, special needs are taken into consideration. There are three kinds of special needs: medical needs, needs for special education, and needs for non-Japanese way of life. Juveniles with medical needs are sent to Kanto Medical JTS. Those with needs for special education are sent to Kanagawa JTS. Those with needs for non-Japanese way of life are sent to Kurihama JTS.

Second, criminality is taken into account. Criminality is rated into one of the four levels: very low, low, high and very high. Juveniles with very low and low criminality are enrolled into one of four short-term JTSs, namely, Ariake, Ichihara, Suifu and Sunpu. Those with very low criminality and low criminality

have to be separated and differentially treated within each JTS. Juveniles with high criminality are enrolled into one of eight long-term JTSs, namely, Akagi, Ibaragi, Kitsuregawa, Kurihama, Odawara, Tama and Yachimata. Juveniles with very high criminality are enrolled into Kurihama JTS.

Third, general needs are taken into account. Juveniles with low criminality are further divided into three groups: those who pursue an academic track, those who pursue a vocational track and those who need career guidance. Juveniles with high criminality are also divided into three groups: those who pursue an academic track, those who pursue a vocational track and those who need personality development.

Those who pursue an academic track are further divided into two: those who receive compulsory education and those who pursue secondary education. The former is sent to Akagi and the latter is sent to Kisuregawa.

Among those on the vocational track, those with slight mental retardation are sent to Ibaragi, those with attitudinal problems are sent to Odawara, and those who need intensive vocational training are sent to Tohoku (which is not in Tokyo but in Tohoku Correctional Region). Specific vocational interest linked to occupational opportunity is also taken account at this stage. For example, juveniles who need to be trained in the operation of construction vehicles are sent to Ibaragi, and those who need training in information technology are sent to Tama. All other juveniles on this track are sent to one of the three JTSs: Kisuregawa, Niigata and Tama.

Those who need personality development are divided by age: those under 19 are sent to Yachimata and those of 19 are sent to Kurihama.

Thus, one JTS has to offer more than one course because it receives more than one group of juveniles. For example, in the case of Kurihama JTS, it has to offer three courses: a course for juveniles with non-Japanese lifestyle; a course for juveniles with high criminality and needs personality development; and a course for juveniles with very high criminality. Of course, juveniles in different courses have to be treated separately.

Juveniles are classified into a JTS by the staff of JCHs. Details of their protocol of classification/assessment are described in Appendix B. The process of classification/assessment starts as a process of gathering information through interviews, psychological tests, observation of behavior, medical checkups and other sources, integrating the information at a case conference of the staff and submitting a recommendation to the Family Court concerning their disposition. When the Family Court makes a decision to commit a juvenile to a JTS, the JCH selects a JTS to which the juvenile is sent to and prepares a set of recommendations on treatment at the JTS. Thus, classification/assessment conducted at JCHs are critically important to the management of JTSs.

2. Risk-Based Progressive Treatment System

The fundamental challenge to the intra-institutional management of juvenile institutions in charge of treating juveniles committed thereto by the final decision of the court is the maintenance of security while maximizing its rehabilitative capacity. A risk-based progressive treatment system provides one of the solutions to this challenge because this system links security and rehabilitation in an ingenious way: the exercise of control according to the risk level of inmates yields well-maintained security while the reduction of risk level of individual inmates leads to their rehabilitation.

In a sense, a risk-based progressive treatment system is a form of classification. As in the inter-institutional classification system, categorization along criminality (=risk) level is the most important. The only difference is that, in a risk-based progressive treatment system, the upward and downward movement along risk levels is incorporated as a part of the system. However, inter-institutional classification systems

can also incorporate such movement along risk levels. In some countries such as the U. S. A., inmates have to be transferred from a high security to a low security institution before they are released back to society. In Japan, however, we avoid such inter-institutional movement because it produces unnecessary stress on the part of inmates every time they are transferred from one institution to another and it tends to lengthen incarceration periods. That is why we limit the application of the risk-based progressive treatment system to intra-institutional treatment management.

The risk-based progressive treatment system is a system of dividing inmates of a JTS into three stages according to their risk: high risk to orientation stage, medium risk to intermediate stage and low risk to pre-release stage. Simply speaking, this is a system in which an inmate has to show that his/her risk is reduced to earn trust from others, especially staff. The less (more) the risk an inmate is, the more (less) trust will be accorded to the inmate and the less (more) tight control will be exercised over him/her. The inmates belonging to different stages are grouped and treated separately to prevent contamination.

When an inmate is admitted to the JTS, s/he is considered to be a high risk because s/he has not yet developed an interest in the programs of the JTS and may not be motivated enough to stay at the JTS. Also, since s/he has not yet learned how to maintain interpersonal relationships at the JTS, s/he has a greater chance of getting into trouble with other inmates. Inmates at this stage should be kept in a small group under the constant surveillance of the staff and the interaction among the inmates should be strictly controlled.

After his/her interest in programs of the JTS has been developed and s/he has learned the way of life at the JTS, s/he moves to the intermediate stage. The interaction allowed at this stage is used to organize inmates into a formal structure, in which an inmate is expected to play a role to achieve the goals of the group s/he belongs to. For example, inmates are guided to form various inmate committees. These inmate committees are expected to improve the quality of life at JTS by organizing cleaning programs, recreational events, academic quizzes and other activities.

After his/her risk is further reduced so that we can trust the inmate to interact more freely, s/he moves to the pre-release stage. At this stage, inmates are encouraged to engage in rehabilitation of other inmates by sharing personal problems and engaging in the discussion to solve them. The staff are responsible for structuring the environment facilitating positive interaction.

Unless the inmate reaches the pre-release stage, s/he will not be considered for parole, and so the risk-based progressive treatment system is a powerful lever in enhancing inmate's motivation to reduce his/her risk of reoffending or potential for reintegration. Thus, the risk-based progressive treatment system not only minimizes security incidents in JTSs but also rehabilitates inmates efficiently.

There are several sub-systems which work with risk-based progressive treatment system: risk-based dormitory system; grading system; individualized treatment system; dormitory-staff system; daily reporting system; and parole system.

Risk-Based Dormitory System

The risk-based dormitory system is a system of physically separating inmates belonging to different stages into different dormitories. Usually, inmates at the orientation stage are housed in an admission or orientation dormitory, those at the intermediate stage in two or more intermediate dormitories, and those at the pre-release stage in a pre-release dormitory. Since the length of the intermediate stage is longer than that of other stages, the number of intermediate dormitories is proportionately larger. A typical layout plan of a JTS is shown in Appendix C. An orientation dormitory typically consists of approximately 20 single rooms with locks while intermediate dormitories and a pre-release dormitory typically consist of 5 four-person rooms and 5 single rooms, both without locks. This difference reflects a higher risk level of inmates at the orientation stage.

By classifying dormitories according to risk levels, it becomes possible for the staff to prescribe rules and behavior control levels appropriate to the risk level of the inmates at each stage. At the same time, the risk of contamination is minimized by physically separating inmates with different risk levels. Also, the system can motivate inmates by symbolizing risk reduction as a key to move from a lower dormitory to an upper dormitory.

Grading system

The most critical foundation supporting the risk-based progressive treatment system is the grading system because upward and downward movement of inmates between stages is carried out as a result of grading. A grade of an inmate is determined as a result of an overall examination of the degree of the achievement of two types of goals: general goals and staged individualized goals.

General goals consist of five goals common to all inmates: basic life skills, attitudes towards rules, motivation to engage in programs, interpersonal relationships and post-release planning. The general goals are expected to adapt inmates to the life at JTS and contribute to the development of rehabilitative milieu in JTSs. Staged individualized goals, laid out in stages in Individualized Treatment Plan, are different from juvenile to juvenile. Staged individualized goals are expected to contribute directly to the rehabilitation of each inmate because they are based upon the analysis of his/her past behavior pattern and personality. Grading is carried out every two weeks in short-term JTSs and every month in long-term JTSs. An inmate usually needs to earn a series of decent grades to be upgraded.

Individualized Treatment System

The individualize treatment system is based on the Individualized Treatment Plan (ITP) (Appendix D) which provides the basis of the case file/records system at JTSs. Using case files handed from the JCH and the Family Court, the ITP is formulated at the JTS. In the case file of an inmate, all documents recoding the information required to prepare, implement and evaluate the ITP is included, such as records of daily behavior observation, records of visits and correspondence, and records of grading.

Individual-focused treatment at JTSs starts with the planning of the ITP and ends with the completion of the goals laid out in the ITP. The goals set for each inmate are called individualized treatment goals, which an inmate is expected to achieve to be released. The individualized treatment goals are staged into staged individualized goals, which are graded periodically as stated above.

The identification of needs of individual inmates also leads to the identification of a list of needs common to most or many of the inmates of a JTS. Once these common needs are identified, the staff of the JTS can prepare programs focused upon the needs specific to their inmates, such as drug abuse, poor family relationships and lack of social skills to cope with peer pressure.

Dormitory-Staff System

The dormitory-staff system is a system developed to realize an efficient allocation of human resources necessary to run the risk-based progressive treatment system. In this system, 4 to 6 staff members are assigned to a dormitory. They take turns to do a night shift and thus are in charge of both treatment and night time security (Find a staff bedroom located inside a dormitory in Appendix E: Structure of a Typical Intermediate/Pre-Release Dormitory).

The dormitory-staff system is important because it is the system that designates staff to be personal officers (officers personally in charge) of inmates. Inmates of a dormitory are distributed to each staff of the dormitory who works as a personal officer of the inmates assigned to him/her. Thus, for example, in a case where a dormitory has four members of staff and thirty inmates, one member of staff will take care of

7 to 8 inmates. Personal officers are primary graders of inmates and, consequently, play a central role in the grading system. In a sense, a personal officer is a co-runner of the inmate who needs personal and professional assistance to continue on the road of the progressive treatment system. The personal officer is expected to guide the inmates to minimize his/her risk in the shortest and most effective way.

Daily Reporting System

The lifeline of the risk-based progressive treatment system is a constant evaluation of risk, which is impossible without the supply of fresh information. The information on individual inmates is supplied daily from the front-line as the record of behavior observation. All staff who find any verbal/nonverbal behavior worth being taken note of should document it in a behavior observation record sheet. The record sheet is submitted every morning to middle and top managers of the JTS to be examined. If necessary, prompt action is taken.

Also, daily logs supply information on various groups as well as on individual inmates. Each dormitory keeps its own daily log and each program (e.g. academic classes, vocational training, problem behavior programs, etc.) keeps its own log. Therefore, many daily logs are submitted to middle and top managers of a JTS every morning.

Staff meet every morning to share the information thus collected. For example, suppose that an inmate is reported to have been worried in the staff meeting, staff members are requested to pay attention to the inmate, find out the reason for any anxiety, and try to solve the problem. Information gathered is also used by staff to grade inmates. Grading of inmates should be objective and needs to be supported by documented information.

Parole System

Almost all the inmates of the JTS are released on parole. Release on parole generally means the release of an inmate before the completion of the sentence with supervision until the completion of the sentence. In the case of juveniles in Japanese JTSs, release on parole usually means release of an inmate with supervision until the inmate reaches the age of 20 because the JTS can confine its inmate until s/he becomes 20 years old according to the Juvenile Law.

Without the parole system, the risk-based progressive treatment system will not work, because, without the parole system, we may fail to link the concept of risk to the concept of potential for reintegration. If the risk reduction does not lead to the rehabilitation of inmates, juvenile confinement cannot help but be harmful.

The administration of the parole system is a collaborative work with agencies in charge of community-based treatment as necessary. In the case of Japan, home condition adjustment starts right after the inmate is admitted to a JTS. Regular and close communication with the probation office in charge of the home area of the inmate and the parole board in charge of the case is maintained until the inmate is released.

Case Example

Taro was admitted to the Tama JTS on 21 April 2000. The Tama JTS is one of the long-term JTSs in this correctional region. He was directly escorted to the Admission Dormitory. Mr. Ogawa, assigned as his personal officer, came to talk with him. The classification section of the JTS started to formulate his Individual Treatment Plan, using information from various sources. Within two weeks after the admission, the ITP was formulated. His individualized treatment goals were: 1) Improve family relationships; 2) Disassociate with delinquent peers; and 3) Find stable employment. Staged individualized goals at this

stage were: 1) Reflect on his past relationships with the family; 2) Reflect on his past relationships with his delinquent peers; and 3) Participate in daily programs seriously. His grade for May is was C (=fair) and he was allowed to move up to the intermediate stage.

Taro moved to the Intermediate Dormitory III, one of the three intermediate dormitories. Mr. Yoshida became his personal officer. He was quite helpful and Taro responded. For example, when Taro was requested by another inmate to tell his address, Taro reported the incident in the diary which was read by the staff member on night duty. The incident was reported in the staff meeting which took place the next morning, and Mr. Yoshida who learned of the problem appropriately intervened and solved it. At this stage, his staged individualized goals were: 1) Discuss with family members how to improve relationships through correspondence and visits; 2) Develop skills to cope with peer pressure; and 3) Learn the importance of work through vocational training. Although the standard term of the intermediate stage is 8 months at the Tama JTS, Taro spent only 6 months there because he kept earning Bs (=good).

Taro was now enrolled into the Pre-Release Dormitory and, at the same time, the superintendent of the Tama JTS wrote a letter to the Parole Board to ask for his release on parole. Staged individualized goals at the pre-release stage were: 1) Maintain close and truthful communication with family members; 2) Be mentally prepared to disassociate with his old delinquent peers; 3) Request the family and the volunteer probation officer to secure a post-release job. Mr. Sakai, his personal officer, worked with him to realize these goals. After spending about a year in the Tama JTS, Taro was released on May 26, 2001.

III. RECOMMENDATION

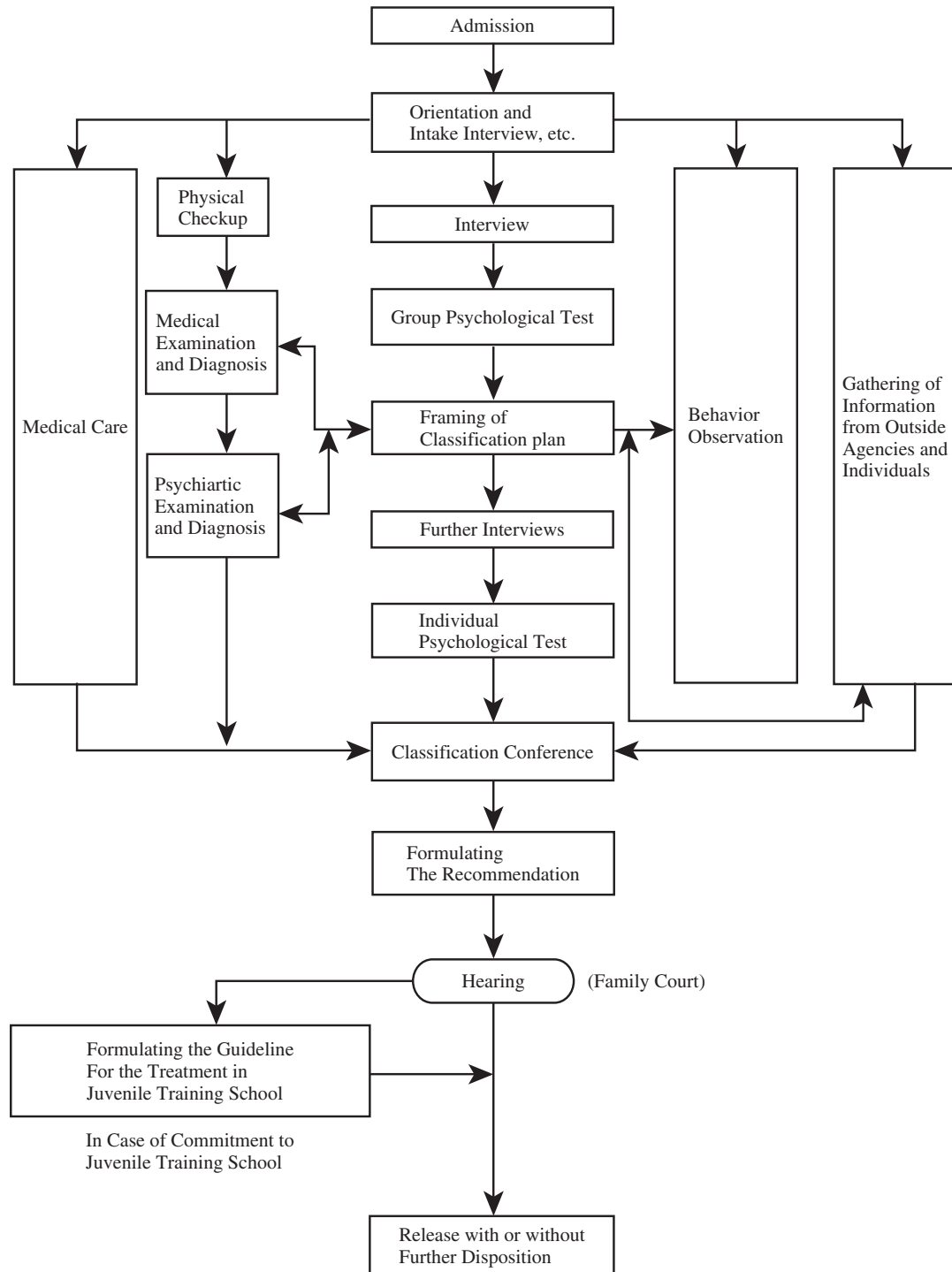
Two fundamental systems to manage juvenile corrections are recommended to for adoption, namely, the classification system and the risk-based progressive treatment system. Actually, these are the systems that I have recommended as a JICA expert attached to the Children's Department of Kenya.

We have worked together and are working together to introduce these two systems into Kenya. We will work together until they are firmly institutionalized as Kenyan property.

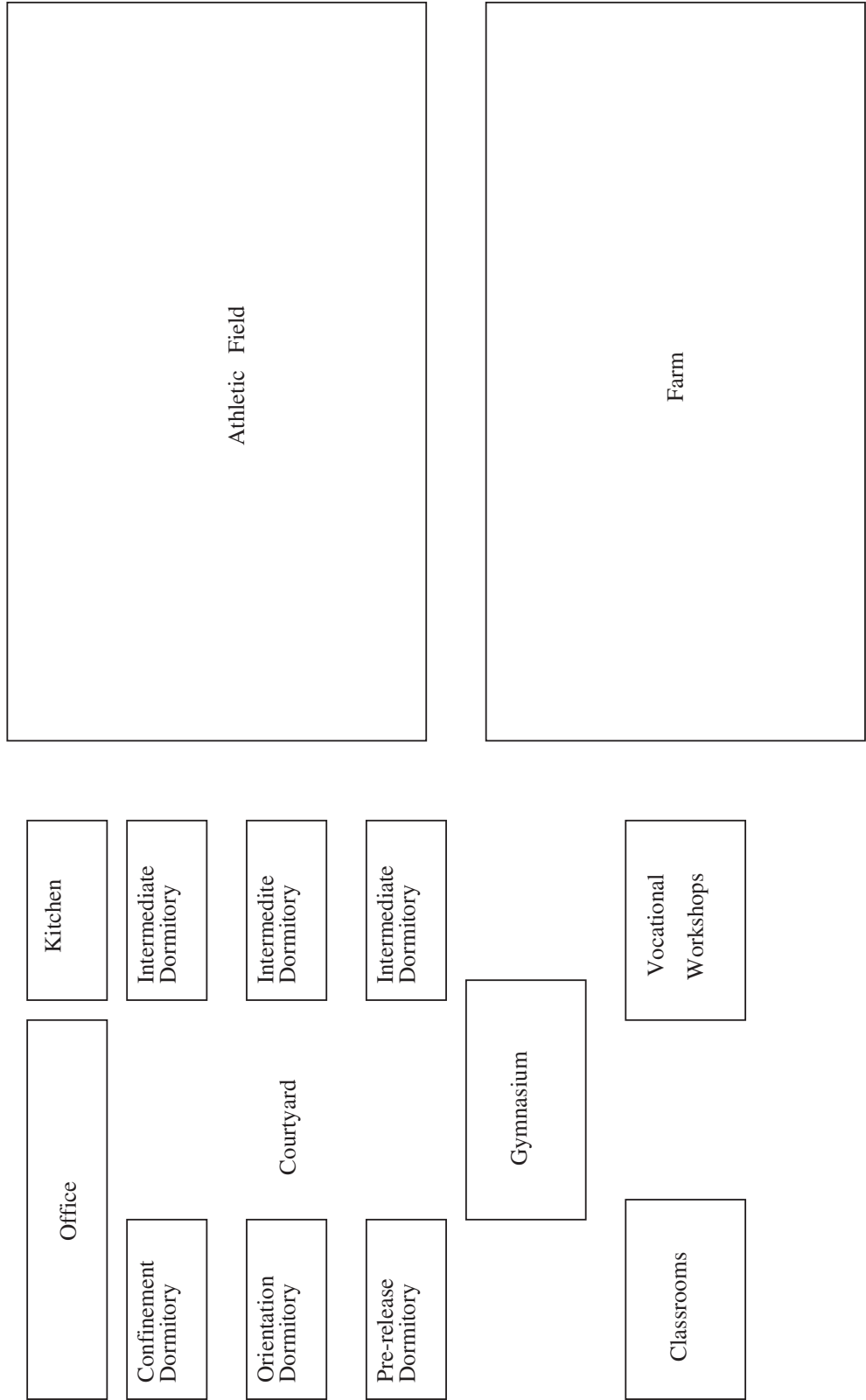
Example of the Classification System: Male Juvenile Training Schools in the Tokyo Correctional Region

Category	Special Needs	Criminality	General Needs	Specific Training Needs	JTS	Note
P1, P2, M1, M2	Health				Kanto Medical	
H1, H2	Mental Retardation				Kanagawa Medical	
G2	Non-Japanese Lifestyle				Kurihama	
O	Others	Very Low			Ariake, Ichihara, Suifu and Sunpu	Splitting juveniles by home prefecture
S1		Low	Academic Education		Ariake, Ichihara, Suifu and Sunpu	
S2			Vocational Training		Ariake, Ichihara, Suifu and Sunpu	
S3			Career Guidance		Ariake, Ichihara, Suifu and Sunpu	
V1		High	Vocational Training	Intensive Training	Tohoku	Not in Tokyo Correctional Region
V2				Slight Mental Retardation	Ibaragi	
				Attitudinal Problems	Odawara	
				Specific Trade (Information Technology)	Tama	
				Specific Trade (Construction Vehicle Operation)	Ibaragi	
				Others	Kitsuregawa, Niigata, and Tama	Splitting juveniles by age and home prefecture
E1			Academic Education	Compulsory Education	Akagi	
E2				Senior-High School Education	Kitsuregawa	
G1			Personality Development	Under 19	Yachimata	
G3		Very High		19	Kurihama	
Key to Classification Categories						
Medical						
P1	Those who are physically disordered or pregnant					
P2	Those who are physically handicapped or in need of special treatment, including those who are blind, deaf or mute					
M1	Those who are psychotic or who are diagnosed as having considerable psychotic tendencies					
M2	Those who are psychopathic or who are diagnosed as having considerable psychopathic tendencies					
Short-Term	Those who have a high probability of making rapid improvement and are expected to be rehabilitated by undergoing intensive and continuous training so as to be reintegrated into society.					
O (Especially Short-Term)	Those who have criminality, not so advanced, and a high probability of making rapid improvement and are expected to be rehabilitated by undergoing intensive and continuous training so as to be reintegrated into society, and are suitable for open-type treatment					
S1	Those who need to take compulsory education, need and wish to take senior high school education, or need to take remedial education					
S2	Those who need vocational guidance to improve attitude, knowledge and skills suitable to post-release job					
S3	Those who need career guidance to develop a concrete life plan					
Long-Term	Those who are not suitable for short-term programs					
G1	Those who need therapeutic guidance individually because of excessive deviance of their personality or of their highly anti-social behavior patterns					
G2	Foreigners who need different treatment from the Japanese					
G3 (Especially Long-Term)	Those who need special programs due to the gravity of their delinquency					
E1	Those who need to take compulsory education					
E2	Those who need and wish to take senior high school education					
V1	Those who need a job to go on the ability development course (over 10 months)					
V2	Those who need a job to go on the ability development course (under 10 months)					
H1	Those who are mentally handicapped, whose IQ level is lower than around 69					
H2	Those who need special therapeutic treatment and education in order to correct their associate maladjustment due to emotional immaturity					

Protocol of Classification/Assessment



A Typical Layout of a Juvenile Training School



**Individual Treatment Plan
(Vocational Training Course)**

Date: / /

								(Name of Juvenile Training School)	
Name	(Name of the Inmate)	M/F	Adjudicating Family Court	(Name of Family Court)	Reason for Admission	Commitment to Middle Juvenile Training School (Date of Admission: / /)	Date of Adjudication	Recommendation of the Family Court	None
	Date of Birth	/ /	Juvenile Classification Home in Charge of Assessment	(Name of Juvenile Classification Home)	The Recommendation by the JHC				
							1. Develop self-control and time perspective. 2. Cultivate positive working attitude. 3. Improve the relationship with the family.		

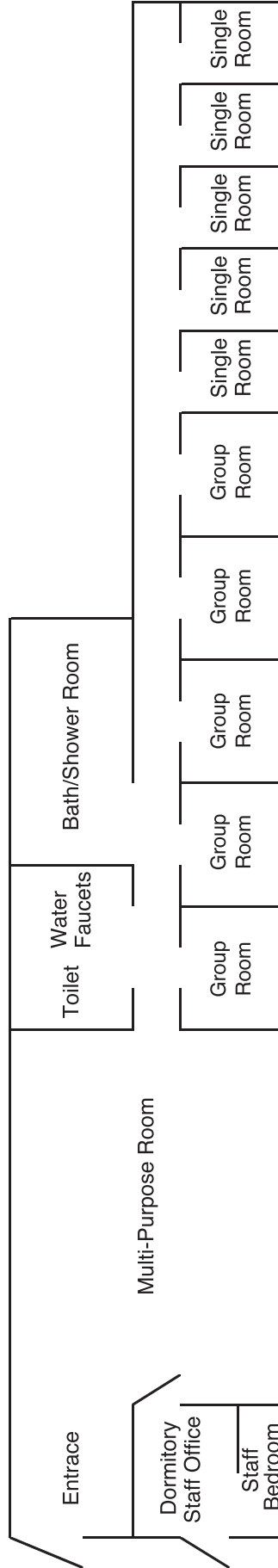
Notes
 1. Crime committed: bodily injury. 2. Intelligence and Personality: IQ=78; Lacks confidence in ability but does not like to be a loser. Emotionally unstable, and easily becomes aggressive or pessimistic. 3. Family Conditions: 5 members (biological parents, younger sister, and maternal grandfather). Weak parental control. Often rebels against the parents. 4. Work Experience: After graduating from junior high, worked part-time as a deliverer for only two weeks. 5. Others: High risk of getting in trouble with other inmates.

Individualized Treatment Goals
 1. Improve self-control so that he can build good interpersonal relations.
 2. Guide J (=juvenile) to develop the life-plan founded on stable work.
 3. Equip J with proper attitude to the family.

Treatment Process	(Orientation Stage)			(Intermediate Stage)			(Pre-Release Stage)		
	Admission	1-5 months	3 months	4 months	3 months	3 months	3 months	3 months	Release
Staged Individualized Goals	1. Recognize one's own problems leading to delinquency. 2. Carry out tasks assigned in the juvenile training school with positive attitude. 3. Reflect upon the relationship with the family. (amendment or improvement)	1. Control emotions and do not get upset when facing a problem. 2. Recognizing the value of work, carry out daily tasks patiently. 3. Recall past behavior in the family and understand how they were wrong. (amendment or improvement)	1. Acceptance of other's opinions: group discussion, role playing, individual counseling. 2. Responsible participation in vocational training: Vocational training (mental processing), diary keeping and individual counseling. 3. Development of the appreciation of the importance of family; problem focused programs, counseling by outside voluntary counselors and guided reading program. (amendment or improvement)	1. Be considerate of the feelings and standpoints of other inmates. 2. Actively participate in vocational training and acquire reliable working attitudes. 3. Understand the way the family has to be and one's role in it. (amendment or change)	1. Sympathizing with other inmates, cooperate with them voluntarily. 2. Develop a concrete plan of post release life, firmly founded on work. 3. Communicate closely with family members and maintain good relationships. (amendment or change)	1. Active cooperation with others: committee activities, and role playing. 2. Confirmation of post-release job and the establishment of solid life-planning: individual counseling, social skills training, introspective meditation and essay writing. 3. Facilitated communication with family members: family counseling and overnight visit by parents. (amendment or improvement)			
Educational Targets and Measures	1. Development of introspection in the delinquent behavior and insight into one's own problems: introspective meditation and essay writing. 2. Internalization of the purpose of treatment at juvenile training school: orientation programs and individual counseling. 3. Understanding the past relationship with the family: individual counseling, essay writing and meeting with parents. (amendment or improvement)								

Curriculum

Structure of a Typical Intermediate/Pre-Release Dormitory of JTS



* A group room houses four juveniles.

* Multi-purpose room is used as a mess hall as well as for other purposes such as group discussion, recreation, etc.

COMMUNITY-BASED TREATMENT OF JUVENILE DELINQUENTS IN JAPAN

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PART 1 OUTLINE OF THE SYSTEM

I. INTRODUCTION

A. Outline of Community-Based Treatment of Juvenile Delinquents in Japan

Probationary/parole supervision plays a central role in the community-based treatment system of juvenile delinquents in Japan. It aims to rehabilitate juvenile delinquents with consultations and support, while allowing them to live normal lives as part of a free society in accordance with special requirements, and at the same time giving them adequate guidance to comply with these requirements.

Under the current system, two types of juvenile are subjected to probationary/parole supervision:

- (1) Juveniles who are placed on probation by the Family Court (hereafter “juvenile probationers”).
- (2) Juveniles who have been released on parole from a juvenile training school (hereafter “juvenile parolees”) following a decision of the Regional Parole Board.

Probationary/parole supervision is implemented at 50 Probation Offices, 3 branches and 27 local offices throughout Japan. Probation and parole services are generally performed by Probation Officers, who are full-time government officials, and Volunteer Probation Officers, charitable persons in the community who have offered to work with Probation Officers.

B. The Features of the System

The community-based treatment system of juvenile delinquents in Japan has three distinctive features.

First, the community-based treatment system in Japan is organized and administered by the Ministry of Justice, rather than the court or other governmental agencies as in other countries. The Rehabilitation Bureau of the Ministry of Justice is responsible for the overall administration of the community-based treatment system of juvenile delinquents as well as adult offenders.

Second, the subjects placed on community-based treatment are designated upon the decision of the Family Court as well as the Regional Parole Board.

Third, extensive use of volunteers is an essential part of the community-based treatment system. There are about 49,000 volunteer probation officers across the country, while only 734 Probation Officers are engaged in probationary/parole supervision. Under the concept “Rehabilitation services hand in hand with the community,” Volunteer Probation officers are contributing a lot to improving the community-based treatment of juvenile delinquents.

II. LEGAL BASIS OF THE COMMUNITY-BASED TREATMENT OF JUVENILE DELINQUENTS

A. The Fundamental Framework

The basic provisions of probation and parole are laid down by **the Offenders Rehabilitation Law** (1949). The Offenders Rehabilitation Law provides for: a) the organization of community-based treatment; b) the subject and the term of probationary/ parole supervision; c) measures and procedures for parole/probationary supervision, termination of probationary supervision and application for review of dispositions; d) aftercare for discharged offenders; and e) crime prevention activities.

1. Juvenile Probation

Article 24 of **the Juvenile Law** (1948) provides the protective measures for juvenile delinquents, which can be issued by the Family Court, including placing the juvenile under the probationary supervision of the Probation Office.

2. Juvenile Parole

Paragraph 1 of Article 33 of the Offenders Rehabilitation Law provides that a person released on parole from a juvenile training school shall be placed under parole supervision.

B. Law for Regulating the Matters Related to Persons Who Provide Services

The Law for Offenders Rehabilitation Service (1995) serves two main purposes: a) it regulates juridical persons for offenders rehabilitation services; b) monitors the approval, supervision (including penal regulations) and financial assistance for offenders rehabilitation services. **The Volunteer Probation Officer Law** (1998) stipulates administrative office conditions for Volunteer Probation Officers (hereinafter VPOs) including recommendation and appointment procedures, regulations for service, the number of officers to be employed, their duties, and other relevant factors.

III. ORGANIZATION OF THE COMMUNITY-BASED TREATMENT OF JUVENILE DELINQUENTS

A. Agencies

1. The Rehabilitation Bureau

The Rehabilitation Bureau is one of six departments of the Ministry of Justice and is responsible for the overall administration of the community-based treatment of juvenile delinquents as well as adult offenders, and it maintains single and uniform standards of administration.

The Bureau handles probation and parole policy-making, the supervision of Regional Parole Boards and Probation Offices, the recruitment and transfer of probation officers, the editing of periodical publications on community-based treatment of juvenile delinquents and adult offenders, etc.

2. Probation Office

The basic organization to implement the community-based treatment of juvenile delinquents is the Probation Office. There are 50 probation offices (headed by a Director of a Probation Office), 3 branches and 27 local offices throughout Japan.

Their main duties in juvenile cases are as follows:

- (1) Supervision of juvenile probationers and juvenile parolees;
- (2) Adjustment of inmate's family relationships and other social conditions prior to release on parole from juvenile training schools;
- (3) Promotion of crime prevention activities in the community;
- (4) Recommendation and selection of volunteer probation officers;
- (5) Supervision of halfway houses and volunteer probation officers; and
- (6) Training for workers of halfway houses and volunteer probation officers.

The first three functions are carried out by probation officers in close collaboration with volunteer probation officers from local communities. When shelter care is required, the halfway houses run by volunteer organizations are utilized.

3. Regional Parole Board (RPB)

The Regional Parole Boards are located in the eight regions covering the whole of Japan where high courts and high public prosecutors offices are located. In juvenile cases, they perform the following duties:

- (1) **Decision of release on parole** from juvenile training schools.
- (2) **Revocation of parole:** In the case of a parolee from a juvenile training school, the RPB decides whether or not community-based treatment is effective for his/her rehabilitation. When the RPB decides that institutional treatment is more effective and appropriate, it submits an application to the Family Court seeking for recommitment to the juvenile training school.

A panel of three RPB members must collectively decide the disposition to be made by means of a ruling in accordance with the Offenders Rehabilitation Law. The verdict of the panel is made by a majority vote. The number of RPB Members varies in each region from three to twelve. Probation officers attached to the RPB assist the board members by gathering information useful to their decision.

B. Personnel

1. Probation Officers

Probation Officers work for either Regional Parole Boards or Probation Offices. Both groups have the same qualifications, training and official status; thus they are exchangeable by means of official transfer.

Probation officers are full-time officials employed by the Ministry of Justice. The Offenders Rehabilitation Law requires them to have a certain degree of competence in medical science, sociology, psychology, education and/or other disciplines relevant to the treatment of offenders. Probation Officers are mainly recruited from the list of candidates who passed the national civil service examination by the National Personnel Authority specializing in psychology, education, sociology, law or public administration.

Table 1 shows the number of professional staff members working in the whole rehabilitation service.

Probation officers working for the Ministry of Justice have no duty to perform pre-sentence investigations, but Family Court Probation Officers working for the Family Court conduct the social inquiry of juvenile delinquents.

Table 1: Number of Staff (Whole Country)

The Rehabilitation Bureau of the Ministry of Justice	23
Regional Parole Board	249
Members of Parole Board	53
Probation Officers (excluding administrators)	83
Others	113
Probation Office	1,085
Probation Officers (excluding administrators)	741
Others	344
Total	1,357

Source: Rehabilitation Bureau

(2001. 4. 1)

Since staff training is of vital importance to the effective implementation of the service, the Rehabilitation Bureau provides continuing in-service training to its staff. Training courses for professional probation officers are as follows: (1) Primary Courses, (2) Secondary Courses, (3) Senior Courses, (4) Special Courses, (5) Supervision Courses, (6) Administration Courses, (7) Advanced Administration Courses and (8) Self-development Seminars.

2. Volunteer Probation Officers (VPO)

Since the enactment of the Volunteer Probation Officer Law in 1950, the number of VPOs has stood at approximately 50,000 across the country. According to the Offenders Rehabilitation Law, a VPO is expected to assist Probation Officers and make up for the inadequacies of the latter's work under the supervision of the director of the probation office. Of the VPO's rehabilitation aid activities, the most important is supervising and assisting probationers and parolees assigned to him/her, while keeping close consultation with the probation officer. (See part 2 for detailed information on VPO)

C. **Halfway Houses**

1. Smooth Transition and Aftercare

The successful re-integration of juvenile delinquents into society may be impossible without their smooth transition from custody to the community. Halfway houses can provide the opportunity for them to deal with sudden changes, and they can be provided with the necessary aftercare services such as accommodation and counseling. As the structure of the family has changed due to urbanization and industrialization, the family has assumed the acceptance and care of juvenile delinquents less than before. Drastic changes in social structures may deteriorate the positive factors that support the upbringing of juveniles and prevent them from committing crime. Thus, the establishment and development of halfway houses and aftercare services should be emphasized.

2. Practices in Japan

(i) *Current Situation*

At present, non-governmental bodies run 101 halfway houses under the authorization of the Ministry of Justice. Among them, 5 houses accommodate only juveniles, 22 houses are only for adults, and 74 houses are for both juveniles and adults. Additionally, 91 houses accommodate only men, 7 houses only women,

and 3 houses both men and women. As of March 29, 2001, the total capacity of the halfway houses for juveniles was 372 individuals. By gender, there were 322 boys and 50 girls.

The national government supervises and provides financial support to the halfway houses. In 1999, halfway houses received approximately 76 percent of their budget from the national government.

There is a total of 526 employees nationally; an average of five per facility. Among them, 331 employees are appointed as VPOs concurrently (April 1, 2000).

(ii) *Functions*

Halfway houses are important and special institutions for the treatment of juvenile delinquents. Halfway houses primarily provide room, board and guidance to juvenile probationers and parolees. Moreover, halfway houses not only help their residents secure employment within the community or in the workshops which are available in some halfway houses, but also provide juveniles with treatment for drug, social skills training and special vocational guidance, etc.

For example, a unique program has been implemented by a halfway house for juveniles – the training course for licensed chefs in Chinese cooking offered at Keiwa-en, a halfway house in Tokyo. If a training school inmate wishes to live at Keiwa-en to become a Chinese-style cook, a volunteer probation officer experienced in Chinese cooking visits the juvenile in the training school to have an interview. If the subject is recognized to have the qualities needed in a Chinese-style cook, he is sent to Keiwa-en. For the first ten days, the juvenile is taken around candidate Chinese restaurants and chooses one from them as his place of employment. The subject then commutes from Keiwa-en to the chosen Chinese restaurant to receive cooking training on probation for three to six months. If, at the termination of the probation period, the juvenile is considered to have settled into the job at the restaurant, he moves to the restaurant's dormitory to continue working in order to qualify as a Chinese-style cook. To establish himself as such a cook, a new apprentice will generally take about ten years. Currently, a few minors are working hard under this program to become professional cooks.

This cooking program at Keiwa-en is just one example of activities of halfway houses. Many halfway houses nationwide are making efforts to develop effective treatment programs.

D. Other Volunteer Organizations

In addition to VPOs, there are other private organizations that are not directly involved in the treatment of juvenile delinquents, but give much support to the community-based treatment of juvenile delinquents. Probation Offices and Regional Parole Boards support and guide such organizations.

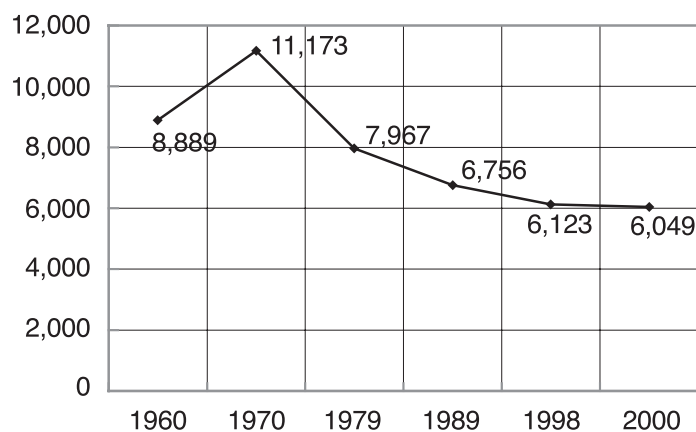
1. Women's Association for Rehabilitation Aid (WARA)

This association is an autonomous group that conducts crime prevention activities in the community and helps juvenile delinquents rehabilitate themselves by making use of their experience as women and mothers. For example, it organizes crime prevention meetings for residents, including junior high school students and gives material support to VPOs, halfway houses and BBS groups. Also they visit inmates in juvenile training schools or other correctional institutions and encourage them to rehabilitate. Currently, more emphasis is placed on supporting young mothers who are at a loss for bringing up their children. As of April 1, 2000, national membership totaled 202,345. Membership is open to any woman in the community.

2. Big Brothers and Sisters (BBS) Association

Figure 1: Number of BBS Members

Source: Rehabilitation Bureau



BBS is an organization of youths who befriend juvenile delinquents and discourage their delinquency. As of April 1, 2000, there were 6,049 members throughout Japan. Regardless of educational or occupational background, any person aged from 17 to 30 capable of befriending delinquents, with a proper understanding of their problems and needs, can be a member. There are 582 associations, some of which are certified as university clubs. Their activities include organizing sports events, doing volunteer work with juvenile delinquents in the homes of aged people, doing group work outdoors and talking about their life and future. Their activities are conducted based on entrustment by probation offices, the Family Courts, child consultation centers, local police, etc.

3. Cooperative Employers

They help juvenile delinquents or adult offenders by offering stable employment in spite of their criminal history. During the fiscal year 2000, there were 3,780 cooperative employers who employed 536 offenders and juveniles. In recent years, the number of Cooperative Employers is decreasing because of economic recession.

Table 2: Cooperative Employers by Occupation (1998)

Occupation	Number	%
Construction	1,947	46.1
Manufacturing industry	710	16.8
Service entrepreneur	463	11.0
Wholesaler, retailer	237	5.6
Constructor of electricity, gas and water supply	176	4.2
Transportation	156	3.7
Agriculture, forestry and fishery	57	1.3
Mining industry	10	0.2
Others	472	11.2
Total	4,228	100.0

Source: The Community-Based Treatment of Offenders System in Japan (1999), Rehabilitation Bureau, Ministry of Justice

IV. PROBATION AND PAROLE

A. Subjects of Probationary/Parole Supervision

1. Juvenile Probationers

Juveniles who commit an offence or are adjudicated as “pre-delinquent” may be placed on probation by the Family Court.

Probation for juveniles is a protective measure stipulated in item 1, paragraph 1 of Article 24 of the Juvenile Law. The legally prescribed maximum period of supervision is up to 20 years of age or at least two years, whichever is longer. In 2000, 51,701 juveniles nationwide were placed on probation by the Family Court.

2. Juvenile Parolees

A juvenile parolee is a juvenile who has been conditionally released from a juvenile training school at the decision of the Regional Parole Board based on item 3, paragraph 1 of Article 12 of the Offenders Rehabilitation Law.

The period of parole supervision is up to the twentieth year of the parolee’s age or the last day of a fixed period of custody determined by the Family Court, which shall not exceed the twenty-sixth year of his age¹.

In 2000, 5,357 juveniles were released from Juvenile Training Schools and placed on parole supervision. The rate of parolees among all juveniles who were released from Juvenile Training Schools was 97.7 percent.

B. Parole Procedure

The decision to release on parole from juvenile training schools is a major duty of the Regional Parole Board in juvenile cases. The parole procedure is the same throughout Japan.

In Japan, an inmate has no right to apply for parole. The right to file an application for parole is vested in the head of the institution. The RPB will consider an individual for release upon the request of the superintendent of the juvenile training school where the juvenile is confined.

1. Environmental Adjustment for Juveniles in Custody at Training Schools

Right after a juvenile is taken into custody at a training school, the probation office starts conducting “environmental adjustment.” For this purpose, the juvenile training school sends a classification summary stating his/her past life and offenses committed to the probation office that has jurisdiction over the prospective place where he/she will live. It includes information about his/her physical and psychological traits, employment plans and family background.

¹ Article 11 of the Juvenile Training School Law stipulates as follows:

(Paragraph 2) If the superintendent of the Juvenile Training School deems it improper to release an inmate from the Juvenile Training School, because he is considerably defective physically or mentally or his criminal tendency has not been corrected, he shall make application to the Court for a ruling which orders the continuation of his custody.

(Paragraphs 3, 4) If the Court, having received the application under the preceding paragraph, finds that inmate is in the conditions provided for in paragraph 2, it shall make a ruling which orders the continuation of his custody for a fixed period. However, such period shall not exceed the twenty-third year of his age.

(Paragraph 5) If the Court finds, upon the application of the superintendent of the Juvenile Training School, that it is improper, for public welfare, to release the inmate who has become twenty-three years of age from the Juvenile Training School because he is mentally defective to a remarkable degree, it shall make a ruling which orders his continued custody in the Medical Juvenile Training School for a fixed period not over the twenty-sixth year of his age.

Environmental adjustment services play an essential role in the rehabilitation of juvenile delinquents. Persistent environmental factors are present in juvenile delinquency. As widely known, there is a strong possibility that minors might repeat offences after returning to the community, unless environmental factors have been improved. Thus, in order to make juvenile rehabilitation successful, it is vital to correct or adjust the environment for juveniles while they are in custody.

In environmental adjustment, the following factors are examined and adjusted when necessary:

- (1) family conditions of the inmate.
- (2) Conditions of the neighborhood.
- (3) Feelings of the community about the misconduct of the inmate.
- (4) Compensation made by the inmate or the inmate's family and feelings of the victims.
- (5) The inmate's living conditions and relationships with friends and acquaintances before custody at training school.
- (6) Prospects for schoolwork, occupation and living after release from training school.
- (7) Motives for, and causes of, misconduct.
- (8) Other relevant information.

Environmental adjustment is carried out by probation officers or volunteer probation officers under the direction of the director of a probation office. The environmental adjustment activities include consultation with concerned parties, interviews and communication with inmates, and cooperation with training schools and other agencies involved.

Usually, the probation officer entrusts the duty of such inquiries to a VPO living near the prospective place where he/she will live, usually his/her family's home. The VPO must visit immediately the prospective home to determine the feasibility of an inmate's return there. If any negative factors are found during the adjustment process, efforts are made to remove them in cooperation with family members. Such adjustment efforts continue until the date of release, unless some other place is determined to be more suitable for the inmate's rehabilitation.

When no family is willing to accept the inmate after his/her release, efforts are directed toward finding an appropriate employer, friend, halfway house or other resource person or agency that will offer comparable assistance to him/her in re-integrating into the community. Through this process, the VPO often visits the inmate at the juvenile training school or writes letters to him/her in order to grasp and clarify his/her future plans, and to encourage him/her to rehabilitate himself/herself.

The progress of environmental adjustment is reported in writing every three months from probation officers or volunteer probation officers to the director of a probation office. Opinions of the director are added to the Environmental Adjustment Report, which is then sent to the RPB and the training school. This report is part of the important data used for parole review. It is also used to support correctional education in juvenile training schools and probationary supervision.

Because support and understanding from the family is crucially important for juveniles to rehabilitate themselves and not to commit another offence, some probation offices hold group work meetings on a voluntary basis for the family of special categories of parole candidates such as drug abusers, gang members to prepare for their release. In the meetings, probation officers provide them with information about the particular mental mechanism of the misconduct and the problems faced by the juveniles. Moreover, they educate the family to be good supporters of the juveniles' rehabilitation.

2. Preliminary Parole Examination

One of the intermediary roles of RPBs to bridge institutional treatment with community-based treatment is a "Preliminary Parole Examination." Preliminary parole examinations aim at reinforcing

systematic connections between correctional treatment and parole supervision to facilitate the rehabilitation of juveniles. These examinations are carried out by the probation officer attached to the RPB, having been sent to the juvenile training school to have interviews with the inmate.

Preliminary parole examinations on training school inmates are initiated when the RPB receives from the training school a classification summary with regard to the inmate. The probation officer is to investigate the following matters necessary for parole examination concerning each inmate:

- a) The state of mind and body.
- b) Past life habits.
- c) Motivations for, and causes of, offence and misconduct.
- d) Life habits at the correctional institution.
- e) Compensation made to the victims.
- f) Occupational knowledge and technical or academic records.
- g) The environment of the planned place of residence.
- h) The state of the family.
- i) Life plan after release.
- j) Other necessary information.

A variety of measures are taken in a preliminary parole examination. In addition to interviews with the inmate, these measures include the review of records at the juvenile training school, consultation with correctional officers, discussion with the probation officer on environmental problems, in addition to cooperation with the family members, concerned parties, welfare offices, and employment offices with regard to the pre-custody life and employment of the inmate and so on. Interviews with the inmate are intended not merely to collect information but also to give advice for his/her rehabilitation.

The results of the preliminary parole examination are documented and sent to the training school and probation office. They are used at the training school as materials on which to base correctional education and at the probation office for improving the inmate's environment.

Institutional education and the probation office's environment adjustment are connected to each other through preliminary parole examination. These three activities spirally progress in coordination around inmates.

3. Parole Examination and Decision

On the receipt of the application, a board member visits the juvenile training school and interviews the inmate in question. Later, three members of the board examine the case on the panel and evaluate whether the individual really meets the requirements in view of observations at the interview, as well as on the basis of the information gathered from the institutional record, the result of the environmental adjustment, and preliminary parole examination.

When the panel of three board members finds that an inmate meets the requirements and that parole will better serve the goal of correctional efforts, it determines a definite date of parole, the place where he/she should return, and the conditions that the parolee should abide by during the period of supervision.

A release on parole from training school is permitted either when the inmate reaches the highest grade of the progressive stage in the training school and is deemed qualified for parole supervision for the sake of his/her rehabilitation, or when the inmate demonstrates improvements in his/her records and parole supervision is deemed necessary in order to rehabilitate him/her even if he/she is yet to reach the highest grade.

On the other hand, the release on parole from prisons is permitted when parole supervision is recognized adequate for the rehabilitation of the inmate on the basis of four factors: (a) demonstration of repentance, (b) motivation for rehabilitation, (c) possibility of repeating offences and (d) feelings of the community. Compared with prison parole, the conditions for training school parole are significantly relaxed. This discrepancy comes from an essential difference in nature between criminal punishment and protective measures. For training school inmates, strong efforts are made to hand them over to the community, considering the flexibility of minors.

Most juvenile parole applications have been approved by the Regional Parole Boards nationwide. In 1999, all 5,226 juvenile parole applications, up 7.8% from the preceding year, were approved and none rejected.

C. Probation and Parole Conditions

The following general conditions as provided by law are automatically imposed upon a juvenile parolee and a juvenile probationer:

- (1) to live at a specified residence and to engage in a lawful occupation;
- (2) to maintain good conduct;
- (3) to discontinue criminogenic companionships; and
- (4) to get prior approval for a change of residence or long journey.

In addition to general conditions, the parolee is also required to abide by special conditions that the RPB sets forth as a guide toward a law-abiding life. Special conditions vary widely as they are designed to meet the individual needs of each parolee. Frequently used are those such as a restriction against using drugs and regular contact with the volunteer probation officer. In relation to juvenile probation, on the other hand, the authority to stipulate special conditions is vested in the director of a probation office.

D. Supervision Process and Treatment

1. Routine Supervision Process

The routine process of supervision is briefly delineated below.

The juvenile who has been placed on probation or released from the juvenile training school should report immediately to the probation office. At the office, he/she is interviewed and the framework of probation or parole supervision is explained by a probation officer. Taking into consideration all of the information including the information from the Family Court and/or training school, the probation officer analyzes the juvenile's maladjustment to various social and psychological environments; hypothesizes about the cause of his/her crime and assesses the individual's risks and needs that require special attention; and frames a treatment plan. The probation officer assigns a VPO as the day-to-day supervisor of the juvenile. The assignment is based upon the probation officer's belief that the VPO best matches the juvenile's personality, and will most effectively supervise the juvenile and his/her family. Often a VPO lives in the same community as the juvenile and this makes contact between the VPO and the juvenile more secure.

Receiving the information from the probation office, the assigned VPO starts supervising the juvenile. The VPO keeps in touch with the juvenile and his/her family by means of mutual visits and interviews generally twice a month or so, while the frequency and mode of contact varies as the case requires.

2. Treatment

The Offender Rehabilitation Law (1949) describes the purpose of probationary /parole supervision as:
To promote the improvement and rehabilitation of the person under probationary/parole supervision, by leading and supervising him to make him observe the conditions [of supervision] ... and giving him guidance and aid, in recognition of the fact that he naturally has the responsibility to help himself.

The methods of the guidance and supervision are:

To watch the behaviour of the person under probationary/parole supervision by keeping proper contact with him/her, to give the person under probationary/parole supervision such institutions as are deemed necessary and pertinent to make him observe the conditions ... and to take other measures necessary to aid him to become a law-abiding member of society.

Special care is often given on job seeking, school attendance and keeping good relationships with others in society, etc. VPOs help them to find jobs, go to school to ask teachers' understanding for them or teach them socially acceptable behavior, etc. Since most VPOs are familiar with and keep close relations with community residents, groups and organizations, they can utilize those factors effectively for helping juveniles rehabilitate. Also VPOs themselves often serve as role models of desirable persons in society.

The VPO submits a regular progress report on each juvenile to the probation office every month. When the probation officer thinks it necessary, judging from the information from the VPO or the juvenile's family, he/she interviews and supervises the juvenile as crisis intervention.

3. Recent Trends toward Diversifying Treatment

Under the current probationary/parole supervision system, the consciousness and the conduct of juveniles are becoming more complicated and diverse with rapid changes occurring in recent years in society, economy, culture, and other aspects of the country. Under these circumstances, it is increasingly important for probation officers to have an active role in the treatment of juvenile probationers and parolees. In less serious delinquent cases, such as traffic offenses, it would best meet the needs of the times to discontinue probation at an early date after implementing suitable measures for each juvenile. In these minor cases, we are required to create a system to carry out probationary/parole supervision more efficiently.

To keep pace with the times and social changes, efforts have been made in probationary/parole supervision to establish new measures and to revise existing policies that will improve the treatment of juvenile delinquents. These measures and policies practiced with respect to the treatment of juveniles are generally classified into two categories: the extended involvement of probation officers in direct treatment and the diversification of treatment.

(i) *Classified Treatment Scheme*

The central policy for the direct involvement of probation officers in the treatment of juvenile offenders is the Classified Treatment Scheme, which was put into effect in 1971. Under this system, juveniles subject to probation or parole are divided into two groups, A and B, according to the difficulty involved in treating the subject. Juveniles in group A, who are highly problematic and disposed to repeating offences, are placed under the systematic and active control of probation officers. To serve the purposes of this system, probation officers are also required to work in collaboration with volunteer probation officers through close communication and consultation with regard to juveniles in group A.

As of the end of 2000, with a total of 47,322 subjects of probation and parole excluding traffic offenders (including adult cases), 6,242 subjects were categorized into group A (13.2%), and 41,080 were placed in group B (86.8%). Six point nine percent of juvenile probationers went into group A and 28.6 % of juvenile training school parolees went into group A. The extremely high figure for training school parolees in group A indicates that training school parolees include many juveniles who have negative personal problems related to their disposition and family relationships, and, as a result, they have a strong tendency to repeat misconduct.

(ii) *Day Offices System*

Another policy aimed at systematic and positive treatment by probation officers of juvenile offenders is the Day Offices System. Under this system, probation officers stay all day on a regular basis at local community centers and other places to interview or call on subjects, discuss the treatment of them with volunteer probation officers, and confer with concerned organizations. In the present situation, where there are few local fieldwork bases in the country, such as probation branch offices and local offices, this system plays a vital role in the treatment of probationers and parolees.

(iii) *Categorized Treatment Scheme*

The policy designed to provide diverse treatment is materialized first in the Categorized Treatment Scheme. This system aims to divide problems and characteristics of probationers and parolees according to the type of offense and misconduct, environmental conditions and other factors regarding subjects of probation or parole. Efforts are made to handle these subjects based on the categorization. The initial treatment plan contains the category and the treatment guidelines for each subject.

Of 56,442 subjects on probation and parole as at the end of 2000, excluding cases under short-term traffic probation and short-term general probation, 6,470 were categorized as motorcycle gang members, 6,450 as drug abusers, 4,933 as paint-thinner abusers, 1,714 as sex offenders, 1,554 as gang-related juveniles, 1,160 as juveniles in junior-high school, 544 as mentally disordered minors, 219 as domestic violence users and 153 as school violence users.

(iv) *Short-Term Traffic Probation*

To carry out efficient probationary supervision and achieve its purpose, traffic offenses are handled separately from other offences. Short-term traffic probation applies to juvenile delinquents on probation for traffic offenses (speeding, driving without a license, negligently causing death or injury etc.) with a recommendation of the Family Court in favor for short-term traffic probation. As a rule, these juveniles are placed under direct supervision of probation officers on the assumption that they will be on probation for a period of between 3 and 4 months. During this period, group treatment is given one or more times, and subjects are required to present a written report on a monthly basis, providing details of their daily life. Group treatment, which performs an essential part of this treatment system, includes group discussions, lectures, use of audiovisual education aids and drivers' aptitude tests. It is provided according to the number of subjects in the jurisdiction, real state of the community, type of offence and other factors, including whether the subject has a driver's license.

(v) *Short-Term General Probation*

The short-term general probation system was introduced in 1994 as an addition to the existing juvenile treatment systems. This new system applies to juveniles placed under probation for offences other than traffic offences at the recommendation of the Family Court in support of short-term general probation. The probation period is expected to be between 6 and 7 months. As at the end of 2000, a total of 3,027 juveniles were on probation under this system. Subjects of short-term general probation are considered to

pose relatively moderate problems, without a strong disposition to commit further offenses. In implementing short-term general probation, just a limited number of problems are selected and guidance is given to each subject on the solution of these problems. Subjects are required to submit a written report each month. "Social Participation Activities" is stressed to engage them with their consent in social experience, including volunteer activities, in order to build up their sense of self-esteem, as well as facilitating their rehabilitation.

Social Participation Activities is implemented at probation offices nationwide, including mealtime assistance at special homes for the aged, cleaning of parks and rivers and assistance in growing and harvesting crops. Between April 1999 and March 2000, a total of 573 social participation activities were implemented throughout the country, with the participation of 1,699 juveniles.

(vi) Strengthened Guidance For Gang-Related Juveniles

Special efforts have been made in probationary/parole supervision to prevent further offences by gang-related juveniles. Since May 1990, these juveniles have been categorized as such under the Categorized Treatment Scheme to reinforce supervision focusing on them. In response to the Law for the Prevention of Illegal Acts of Gangsters, collaboration of Probation Officers has been strengthened with the police and Prefectural Violence Eradication Campaign Centers to encourage subjects to cut ties with gangsters.

E. Termination of Probation and Parole

1. Measures for Juveniles with Good Records

The following measures (alleviation measures) are taken for juveniles whose behavior has been so stabilized in the course of probationary/parole supervision that the resumption of delinquency is deemed unlikely.

- (1) Juvenile probationer: The director of a probation office is vested with the authority to decide on an early discharge from probationary supervision. He/she can also temporarily suspend supervision preserving the right to resume probationary supervision.
- (2) Juvenile parolee: The parole board may discharge early a parole supervision on the basis of an application from the director of a probation office.

2. Measures for Juveniles with Bad Records

The following measures (aggravation measures) are taken against juveniles who have violated the conditions of probation/parole or committed repeat delinquency, etc., in the course of probationary/parole supervision.

- (1) Juvenile probationer: The director of a probation office files a notification to the Family Court seeking a new disposition including commitment to a juvenile training school.
- (2) Juvenile parolee: The director of a probation office notifies the parole board, which subsequently requests the Family Court to recommit the juvenile to a juvenile training school.

F. Outcome of Supervision

In 2000, a total of 24,113 juvenile probationers were discharged from probation, excluding those on short-term traffic probation. Of them, 76.2% were discharged on the basis of the "excellent" results of probation, and when those with "good" results are added, they represent 78.8%. Meanwhile, 14.8% were discharged from probation with "poor" results on account of the revocation of probation, placement in

custody, unknown whereabouts or other reasons. On the whole, favorable results were obtained for juvenile probationers. This fact is explained, for the most part, by a large proportion of them having relatively moderate problems, such as traffic offences, and the effective probationary supervision for juveniles who will adapt.

With regard to training school parolees, 4,799 juveniles were discharged from parole supervision in 2000. Of them, 18.4% were discharged prior to the termination of the parole period. When those who completed the parole period with “good” results are added, 48.9% were discharged in favorable conditions. On the other hand, 23.8% did not complete the parole period successfully as they were returned to custody, their whereabouts were unknown or other reasons existed. This resulted from repeated misconduct or violation of their parole conditions. Compared with juvenile probationers, training school parolees demonstrate poor results. This reflects the fact that training school parolees have many problems with their characters and circumstances, with a considerable number of such parolees highly likely to repeat misconduct.

PART 2 VOLUNTEER PROBATION OFFICERS (VPOs)

V. DEVELOPMENT OF THE VPO SYSTEM

A. The Judicial Rehabilitation Service Law (1939)

The precursors of the present halfway houses emerged in the 1880s, some of which appointed volunteer workers to provide ex-prisoners with counseling and assistance. When the old Juvenile Law established the probation system for juvenile delinquents, the shortage of regular staff was supplemented through an increased number of juvenile VPOs. In 1939, the Judicial Rehabilitation Service Law was enacted which provided a basic framework for “Rehabilitation Workers” (predecessors of the VPOs). At the beginning, approximately 13,000 Rehabilitation Workers were appointed.

B. The Volunteer Probation Officer Law (1950)

At the time of reorganizing the community-based treatment system, after World War II, it was argued that probation and parole services should be established as a professional service. However, the new organization emerged in the form of combined services by professional staff and volunteer workers. Two considerations prevailed: first, government officials generally had a strong commitment to the use of volunteers in a variety of social welfare areas, which included programs for offenders, and second, funding was lacking at that time.

The Volunteer Probation Officer Law (1950) stipulates administrative office conditions for VPOs, including recommendation and appointment procedures, regulations for service, the number of officers to be employed, their duties and other relevant factors. Recently a law to make a partial amendment to the Volunteer Probation Officer Law was passed by the Japanese Parliament and came into force on 1 April 1999.

VI. STATUS OF VPOS

Legally, the VPOs are defined as non-permanent officials of the National Government and are entitled to the benefit of national compensation when any bodily injury is inflicted on them in the performance of their duties. However, they are not paid any remuneration for their services. The Government may pay only the total expenses incurred in discharging their duties, or a part thereof. In practice, the VPO is reimbursed a certain amount for the following expenditures (based on figures for fiscal year 2000):

- (1) a maximum of 5,410 yen and a minimum of 2,210 yen for each probationer or parolee supervised per month.
- (2) 1,550 yen for a report on the investigation and adjustment of the environment of inmates who will be paroled soon;
- (3) 1,100 yen for a day’s attendance at a training meeting; and
- (4) 10,602 yen for practices for the community (e.g., crime prevention activities; activities exploring and mobilizing social resources).

As in any other fields of volunteer work, what constantly motivates VPOs is a sense of mission and gratification from helping others. Of course, some social prestige attached to the volunteer’s activity may also be an incentive.

Manifest recognition of meritorious service, which is awarded regularly on formal occasions by the Emperor or other authorities at different levels, has traditionally been a practical means of encouraging voluntary service in Japan.

VII. RECRUITMENT OF VPOS

A VPO's character and personality contribute substantially to their role. The Volunteer Probation Officer Law requires VPOs to be:

- (1) evaluated highly with respect to their character and conduct in the community;
- (2) enthusiastic and sufficiently available to work;
- (3) financially stable; and
- (4) healthy and active.

The term of service of a VPO is two years with the possibility of re-appointment. In practice, most of them are re-appointed repeatedly for a number of years, because the duties of a VPO require long-term experience with much knowledge and skill about the treatment of offenders.

To recruit VPOs, the directors of the 50 probation offices prepare a list of candidates based of the information gathered from various sources in the community. In effect, the list reflects to a great extent the opinion of representatives of the VPOs' Association. Further screening is made by a VPO Screening Committee, an advisory committee to the Ministry of Justice which is established in 50 locations corresponding to probation offices. This committee consists of representatives of the court, the prosecution, the bar association, correctional institutions, probation and parole services, other public commissions in the community and learned citizens. The candidates who pass the screening process are then appointed as VPOs by the Minister of Justice.

VIII. CHARACTERISTICS OF VPOS

The actual number of VPOs has changed from 48,000 to 49,000 in this decade, as compared with the legal limit of 52,500. As of 1 January 2000, there were 48,679 VPOs and the average age of VPOs was 63.2 and, in terms of gender, the participation of females has increased to 23.9 percent. These facts reflect a situation where salaried workers are difficult to recruit and retired persons or housewives tend to be recruited as VPOs.

Figure 1: VPOs by Age Bracket

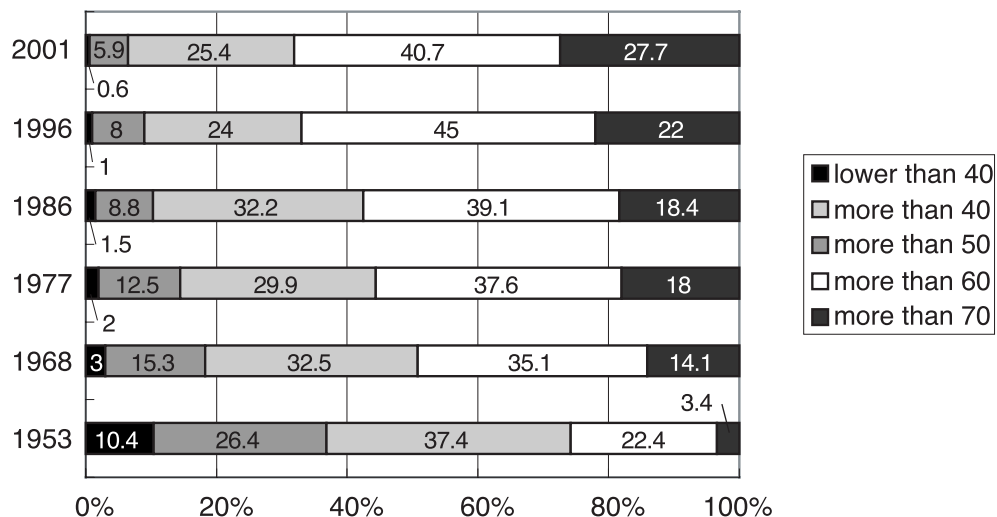


Figure 2: VPOs by Average Age

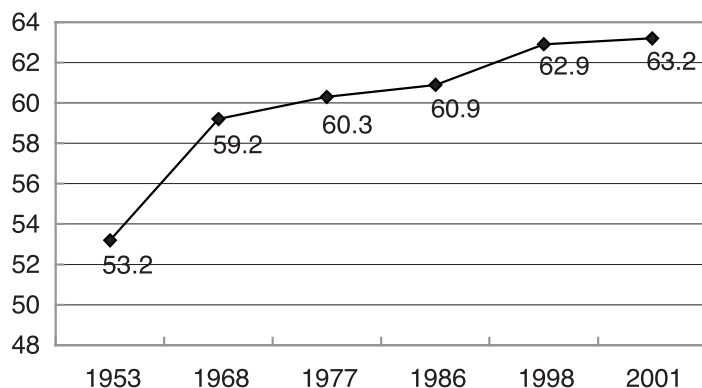


Figure 3: Female VPOs

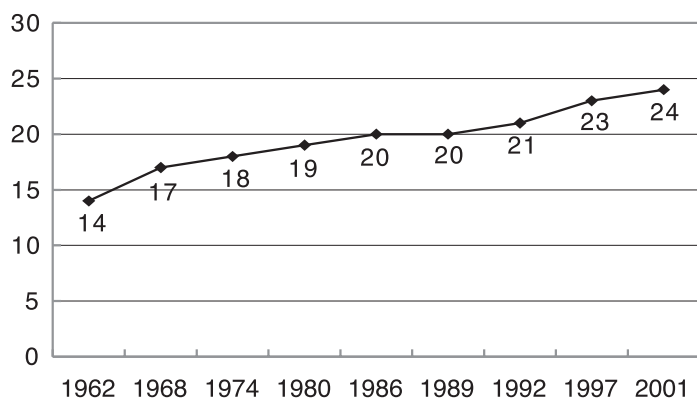
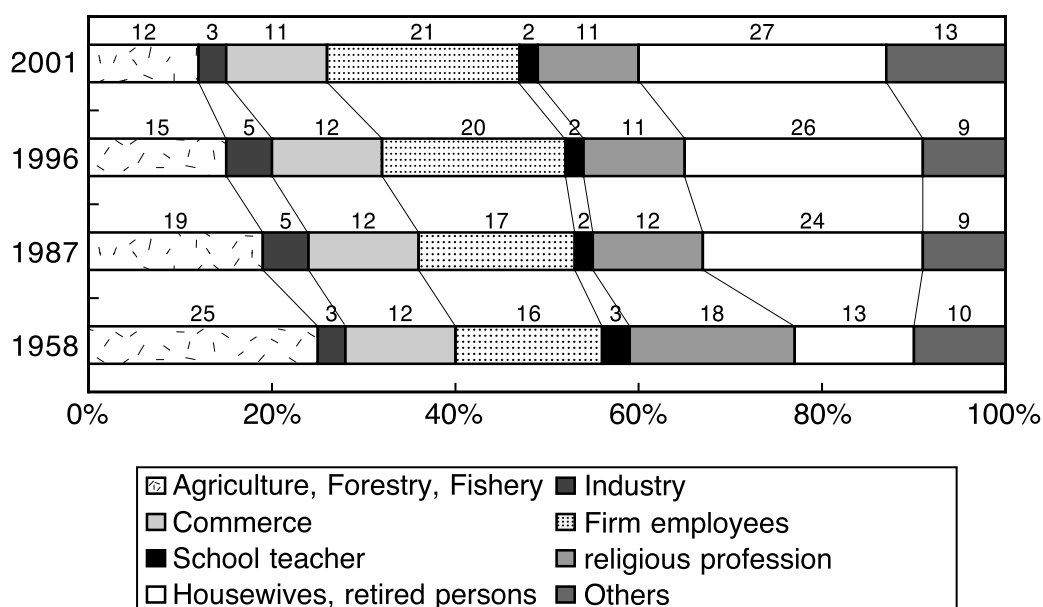


Figure 4: VPOs by Occupation



As to occupation, VPOs represent almost every sector of society. As of 1 January 2001, the largest group (27%) was comprised of housewives and retired persons followed by firm employees (21%) and those engaged in primary industries (12%), such as farming and fishing. The religious profession constitutes

11.0%, still reflecting a tradition stemming from the early days of the rehabilitation service. Other individuals serving as VPOs include company owners, government officials, manufacturers, social workers, schoolteachers, medical doctors and private lawyers.

Concerning the length of service, half of all VPOs have been working as such for more than ten years. In spite of the hard and complicated nature of volunteer work, many continue to do this work willingly.

IX. ACTIVITIES OF VPOS

The activities of VPOs are classified into two categories: Rehabilitation Aid Activities and Crime Prevention Activities.

A. Helping Offenders Rehabilitate Themselves in the Community

The VPO rehabilitation aid activities include:

- (1) to supervise and assist the probationers and parolees assigned to the VPO;
- (2) to inquire into the environment where an inmate of a correctional institution is expected to return upon release and adjust to any problems there;
- (3) to locate a probationer or parolee who has moved to the VPO's residential area with or without permission and take over their supervisory casework; and
- (4) to conduct preliminary investigation for a candidate for pardon.

The process of supervision through the collaboration of a Probation Officer and a VPO is described in Part 1. While the professional probation officer is involved in the case as a specialist in the treatment of offenders, as well as a law enforcement official, the VPO works as a neighbor to the offender, assisting them on behalf of the community. Furthermore, some VPOs make use of their special work knowledge such as business practice. For example, some VPOs run construction companies and offer vocational training to young probationers.

VPOs also submit their opinions about early discharge from supervision to the probation office, although they cannot participate in the decision-making for early discharge.

B. Crime Prevention Activities

VPOs carry out many forms of crime prevention activities with other volunteer workers such as the Women's Association of Rehabilitation Aid and Big Brothers and Sisters.

The annual crime prevention campaign, called "the Movement Towards a Brighter Society" is conducted under the auspices of the Ministry of Justice as a nationwide effort to promote public understanding of the rehabilitation of offenders. The campaign is expected to diffuse the philosophy against the prejudice or resentment towards offenders through education campaigns which emphasize that public support is essential to achieve rehabilitative goals which will eventually benefit the entire community. The community organization approach is emphasized so that a social support network for the rehabilitation of offenders is developed and strengthened. The absence of these efforts might lead to an erosion of public trust to the rehabilitation goal, resulting in the ineffectiveness of rehabilitation services. In this sense, the crime prevention which is initiated by the persons with interests in the rehabilitation of offenders is important.

Specifically, the following activities are carried out in the community as well as in campaigns to combat crime using the mass media, by the central government:

- (1) Public relations activities on the street;
- (2) Public symposium about delinquency problems;
- (3) Small discussion meetings in local neighborhoods; and
- (4) Fund raising activities for rehabilitation aid.

VPOs play an important role in these activities with their experience in helping offenders rehabilitate. For example, VPOs and WARA members hold small discussion meetings with residents in the local community. During these meetings, attendants, usually ranging from 10 to 50 persons per meeting, talk about the problems of crime and delinquency or relevant themes such as the education, family or environment of children. Through such meetings, volunteers try to make people aware of the actual problems taking place in the community, with which residents are usually unfamiliar. By relating their experiences in these discussions, the volunteers can effectively teach people that issues concerning crime and delinquency are close to all residents, not isolated to a few people, and should therefore be tackled by the whole community.

In many cases, the meetings held during the “Movement for a Brighter Society” developed into a standing conference of the representatives of the community to talk about and cope with issues related to crime and delinquency. Since the Movement is actually led by volunteers, who themselves are members of the community, its activities are easily accepted by the public.

Additionally, the national government conducts a nationwide campaign using the mass media. However, without such grass-roots activities led by volunteers, the Movement to combat crime would not be effective.

X. ORGANIZATION OF THE VPOS

The volunteers are assigned on the basis of their place of residence to one of 903 Rehabilitation Areas in the country. They are guided by a Probation officer in charge of the rehabilitation area. VPOs have formed a VPOs’ Association in each area. Every VPO is affiliated with one such association depending on their residence. Leaders of VPOs’ associations form organizations at prefectural, regional and national levels, play roles in facilitating better VPO activities by means of training, awards and other services.

XI. ADVANTAGES OF THE VPO SYSTEM

Locality, Non-Government Official Status And Continuity

The advantages of the VPO system, as generally acknowledged among practitioners, can be summarized as follows:

- (1) Since both the VPO and the probationer/parolee live in the same community, a probationer/parolee can make immediate contact with a VPO (immediate contact).
- (2) The VPOs can provide the probationer/parolee with various social resources and useful information about the community to help them rehabilitate in the community (social resources).
- (3) The VPOs find themselves in a more advantageous position in bringing about a change in the public attitude towards the offender and in mobilizing social resources (practices based on community needs).
- (4) The probationer/parolee and their relatives look upon a VPO as a neighbor, rather than as a

representative of the government. As a fellow citizen, he/she can demonstrate purely fraternal concern about the welfare of the offender and even intervene in the offender's family relationship more smoothly. Experiencing such a relationship with the volunteer undoubtedly helps the offender regain their self-respect and identify themselves with law-abiding culture; since most offenders have never previously experienced such warm concern for them (close relationship).

- (5) The very fact that the VPO is not working for a salary or obligation may often influence the offender more (cultural background). Yokoyama (1996)² argued this by illustrating the Japanese cultural heritage, stating:

Japanese people respected the ethics of Giri. Although Giri includes a most heterogeneous list of obligations, we feel Giri to another, after receiving some favor from him/her. Giri is also regarded as one of the feudal ethics. However, many offenders, especially those coming from the lower class still share the ethics of On and Giri. Therefore, if VPOs help clients earnestly with affection, without receiving any reward as a volunteer, the latter feel On and Giri to the former. Motivated by this feeling, the probationers and the parolees endeavor not to commit a crime anymore. Their bond to the VPOs contributes to their rehabilitation.

- (6) VPOs live continuously in the community, and therefore, can establish relationships on a more continuous basis. A Probation Officer sometimes fails to keep close relationships because he/she moves to other offices every two or three years. Furthermore, even after the expiration of the probation/parole period, private relationships between the offenders and the VPOs may continue in their community, and the VPOs may provide them with various services even though there is no legal requirement to do so. This continuation of providing services may contribute to the rehabilitation of offenders (continuous support).
- (7) A VPO can provide more flexible services as he/she is not bound by regulations and working hours as much as regular staff (flexibility of services).

XII. PROBLEMS AND COUNTERMEASURES

The VPO system itself is not immune from several problems. Some arise along with the changes in our society. The following are examples:

- (1) VPOs as laymen are likely to deal with their clients according to personal or inherent views that have been established through their experiences. This may result in a wide difference in the treatment of offenders from one VPO to another. Although treatment methods should be individualized, such partial treatment, resulting in partial disposition should be minimized in order to ensure that every probationer/parolee gets the same benefit from probation/parole service.
- (2) The average age of VPOs tends to become older year after year. At present, the average age of VPOs is more than 60 years. On the other hand, more than three-fourths of the clients are under 20 years of age. After World War II, we have experienced drastic changes in our value systems and behavior models. Therefore, there is a considerable gap in the way of thinking between the older VPOs and young delinquents. The generation gap may disturb smooth communication and invalidate positive influence.
- (3) Rapid economic growth from the 1960s onward has brought about social mobility and has resulted in the decreasing significance of the extended family and greater emphasis on the nuclear family.

² Yokoyama M., 1996, "Volunteer Probation Officer in Japan", a paper presented at the Annual Meeting of the American Society of Criminology, Chicago, USA.

As a result, new residents have increased in urban areas. They come from different social and cultural backgrounds and can be characterized by a strong sense of individualism and anonymity. They have paid little attention to the people in their community. Thus, the spirit of mutual aid among local community members has not been fostered; the control of crime is weak; and assistance for the rehabilitation of offenders has not been cultivated. Thus it has become difficult to obtain the appropriate support of community for the rehabilitation of offenders. VPOs reported that residents are isolated from each other not only psychologically but also geographically in that “strangers” are not allowed to enter into the apartment buildings because the front door automatically locks. As a result, VPOs have difficulty in making daily contact with offenders.

(4) VPOs used to be easily recruited from among those who had a good reputation in the traditional community. However, it has been difficult to recruit VPOs in urbanized areas because there are few qualified residents in this regard (e.g. a new comer is not well known in the new community).

(5) As a number of parents of offenders have an increasingly higher level of education, they tend to contend with the advice of VPOs based on their own personal experience.

XIII. THE AMENDED VOLUNTEER PROBATION OFFICER LAW (1999)

A. Rationale

1. Expansion of Crime Prevention Activities

These days, the importance of crime prevention activities for ‘nipping the problems of delinquency in the bud’ has been emphasized. These activities can be effective and have much impact when they are carried out with the cooperative efforts of different organizations and people concerned, rather than isolated individual efforts. In addition, these activities should consider the unique factors of a particular community, such as the composition of the population; their income; legal and illegal opportunities; susceptibility for victimization; availability of drugs and alcohol; and availability of social support. The needs felt by the local residents also vary from community to community. The community is unique in terms of the needs felt such as crime victimization experience; observations of drug dealing, crime and disorder; perceptions of neighborhood conditions and quality of life; fear of crime; experiences with police; attitudes towards offenders; priorities given to various community problems; participation in various community activities; and perceptions regarding problems and solutions to crime. Depending on the characteristics of the respective local community, a different approach to crime prevention should be applied. In this regard, the organization of VPOs in the local community is expected to take the initiative in making crime prevention plans, with the appropriate support of the national government.

2. Enhancement of Social Support Network

Besides crime prevention activities, the availability of a social support network is the key to the rehabilitation of offenders and juvenile delinquents. A more systematic approach by VPOs is needed. For example, in a society characterized by an egocentric attitude and serious competition, only one VPO’s individual effort by means of his/her personal connection is likely to fail to solicit cooperation from employers.

The recruitment of younger volunteers should be carried out on the basis of collecting information from various sources, by more intensively using networks with other relevant agencies.

3. Closer Collaboration with Local Government

The municipal governments that have a general interest in the well-being of the residents in the local community are important allies to the VPOs in the implementation of crime prevention activities and rehabilitation services for offenders.

B. Amended Law

Taking these necessities into consideration, the law to make a partial amendment to the Volunteer Probation Officer Law was passed by the Japanese Parliament and it came into force on 1 April 1999. The new law has three main points:

- (1) Community organizing and networking activities for crime prevention and the mobilization of social resources are defined as major activities of VPOs;
- (2) The VPO's association is defined as a public organization certified by the Law, to which every VPO is affiliated without exception depending on their residence; and
- (3) Cooperation of municipal governments with VPOs and VPO associations is emphasized in the community.

The VPO's association's role as "a supply base" for VPOs' rehabilitation activities and "an advanced base" for crime prevention are supposed to receive full attention under the new Law. Specifically, these affiliations play an important role in the maintenance of mutual solidarity, the development of abilities (skills development training) and the co-ordination of efforts and resources, as well as crime prevention activities.

C. Remaining Problems and Some Countermeasures

These efforts mentioned above are the first step for the further improvement of the VPO system. Additionally, consideration should be given to the fact that too much emphasis is placed on supervision by VPOs. In Japan, daily contacts with a probationer/parolee and their supervision are usually carried out by a VPO. In this connection, there is an opinion that actual supervision should be placed in the hands of a Probation Officer and that the activities of the VPO should supplement those of professionals, as the law prescribes. In order to alleviate the overburdening of VPOs, several countermeasures have been practiced, such as a classified treatment scheme, day offices, and the increased opportunity for direct supervision by Probation Officers. However, further improvement in Probation Officers' specialized involvement of supervision is needed.

Furthermore, growing attention has been paid to the idea espoused by some that certain VPOs should be defined as para-professionals and should assume stronger supervision responsibilities over offenders. Since it is necessary for VPOs to take a professional approach in supervising the offenders, even as volunteers, systematic training courses and consultations by Probation Officers in the supervision process should be developed. The subjects of training should be based on the latest research in human sciences.

It is said that more VPOs with special expertise and professional experience in human services should be recruited and assigned to special tasks such as psychological counseling and legal assistance. In addition, the recruitment procedure should be reconsidered so as to have younger volunteers and specialists serving as VPOs. Since interest in volunteer activities among young people is recently growing, networks with other voluntary activities should be broadened for more effective recruitment. Although there is no consensus among VPOs as to an application system like in Singapore, new appointment mechanisms should be explored so that the task of VPOs can be opened to all persons who apply.

THE ROLE OF THE CHILDREN'S DEPARTMENT IN THE TREATMENT OF JUVENILE DELINQUENTS

Mr. S. Ole KWALLAH
Director of Children's Department, Kenya

I. HISTORY OF THE DEPARTMENT

The History of the Children's Department can be traced back to the colonial epoch when it existed as the Juvenile Correctional Institution.

Its earliest correctional and rehabilitation institution Kabete Approved School, was built between 1910 – 1912, in the Lower Kabete area. The school was founded to cater for youth who had been imprisoned for failing to register themselves or their inability to carry identity cards (Kipande).

Around 1924, Vocational and Industrial Training was established. It was to be followed by Crop and Animal Husbandry on a 200 acres farm. This kind of technical training was compulsory for every juvenile who was committed to the school notwithstanding academic education which was mandatory as well.

During the second world war in 1945, the boys from Kabete Approved School were transferred to Dagorretti Approved school to give space for the detention of German and Italian Prisoners of War. With the end of the war and freeing of the prisoners in 1945, the Institution was again designated for correction of Juveniles and Youth.

Between 1947 – 1960, when the struggle between the Colonial administration and the Liberation force (Mau Mau) had intensified, many infants and children were orphaned and left Homeless. A decision was made to transfer some older boys from Dagorretti back to Kabete Approved School. (Dagorretti is up to date a Junior Approved School).

It is befitting to note that up to mid 1955, Approved Schools were headed by the commissioner of Prisons and Chief Inspectors of Approved Schools. Between mid 1955 to end of 1958, the schools were under the Principal Probation Officers and Chief Inspectors of Approved Schools, under the then Ministry of Community Development. Following reorganization and prior to attainment of self rule, before Independence, the approved schools were up-graded into a fully fledged Department. The activities in these approved Schools then started to receive civil attention as opposed to the negative stigma of prisoners which was associated with the Juveniles when the Institutions were under the Prisons Department.

It is important to note that the Department has undergone significant transformation from when it was called the Department of Approved Schools at Independence to the children's Department currently.

This brief history explains the Genesis and evolution of the juvenile delinquent treatment system in Kenya Under the Children's Department.

Currently the Department draws its legal mandate from the Children's and Young Persons Act Cap 141 Laws of Kenya which is the main Legislation stipulating provisions for the rehabilitation of Juvenile delinquents.

It is worth noting at this juncture that the Children's and Young Persons Act has both child Welfare and Juvenile Justice provisions. For the purposes of this seminar which is addressing Juvenile Justice, my paper will dwell on the Justice aspects of the Law, which provides for the treatment of juvenile delinquents. Kenya unlike Japan does not have a separate welfare law from the Juvenile (single) Law but has welfare

provisions in the same Juvenile Law as well as different welfare statutes e.g. the Adoption Act Cap 143 the Guardianship of Infants Act Cap 144. The Children's Bill 2001 seeks to address these loopholes once enacted by combining the three legislations. Apart from the Children's and Young Persons Act, a key guiding principle in the operations of the Department is our Vision – "STABLE CHILDHOOD RESPONSIBLE ADULTS" and a mission thus "to produce quality services for the welfare of the child through direct delivery of services, facilitation, supervision, co-ordination and collaboration with duty bearers".

One of our goals as a Department is the development of a sound Juvenile Justice system in Kenya.

The treatment of Juvenile delinquents in Kenya takes two dimensions.

- (1) Community-based treatment through the field services rendered by the Department.
- (2) Institutional treatment of Juvenile delinquents through the corrective facilities i.e. Juvenile Remand Homes and Approved Schools.

II. TREATMENT OF JUVENILE DELINQUENTS IN INSTITUTIONS

We have relatively high serious and repetitive crime rates among young offenders in Kenya because our existing Juvenile Justice System has many gaps occasioned by lack of resources. For this reason it is realistic to accept that for some time to come we will continue to have children in Institutional settings. This custody system is described as Care Institutions which range from open care with minimum supervision, to secure care facilities with maximum supervision. For the latter, the offenders are ensured the following rights:-

- Never mix with adult prisoners or other youths aged eighteen or over, and shall be suitably grouped according to age, gender, size or level of danger;
- Constant supervision;
- Sufficient opportunity and equipment for daily large muscle exercise, adequate open air facilities and recreational facilities;
- Health protection facilities, including adequate nutrition and medication where necessary;
- Young people with a disability shall receive appropriate care;
- Staff of institutions where young people are in insecure care shall be appropriately trained to manage the young people in their care;
- Staff of institutions where young people are in secure care shall take reasonable steps to protect the young people from assault and sexual assault;
- Appropriate education shall be provided to all young people in secure care, from literacy training to matriculation;
- Young people with learning disabilities should be appropriately cared for, and there should be an emphasis on job skills and life skills training to equip the young person to reintegrate into society upon release;

- Counseling services will be available for all young people in secure care;
- Correction of young people in secure care shall be humane and in keeping with the relevant regulation;
- Transport costs to allow for monthly contact visits from members of the young persons family or supportive network shall be provided;
- Pre-release programmes must be provided for all sentenced young people in secure care institutions.

The Department considers, consultations in the process of Treatment of Juvenile delinquents as critical factors to the success in rehabilitating young offenders. Consultations with people who work within the confines of the Juvenile Justice System like magistrates, prison and police, prosecutors and social workers (Children’s officers and Probation Officers), and very importantly families and communities, through workshops and other related avenues, continue to yield handsomely in our endeavour in Juvenile Justice Administration. We educate and criticize one another and improve our service delivery.

III. FIELD SERVICES

Children’s Officers receive cases of juvenile delinquency in a number of ways.

- They could be preferred by members of the public or schools administration.
- Parents and guardians
- Institutions offering rehabilitation care for children.
- Other Government offices including the Police Department.
- Approved Schools for cases released on licence or on leave of absence of juveniles.

IV. CASE FLOW AT THE CHILDREN’S OFFICE.

Once a case has been reported to the Children’s officers, the following options might be used.

- The Juvenile is first supervised by the children’s officer after interviews and social enquiry is conducted.
- If Supervision does not help, the case may be referred to court for proceedings of Protection and Discipline.
- The case may be referred to other agencies to help in supervision e.g. the chiefs and sub-chiefs who are approved officers.
- When the child is deemed to be a risk to public safety, the police are notified so that they can arrest the Juvenile and produce him in court within 24 hours for criminal proceedings or proceedings for protection and discipline, by detaining the juvenile in a place of safety until he is brought to court.

Cases of Juvenile delinquency or Juvenile offending are brought before the Juvenile court in the case of Nairobi, or before other District courts in other parts of the country. The Juvenile courts are established by the provisions of the Children and Young Persons Act Cap. 141 Laws of Kenya Part II section 3. They are established to hear cases of persons under 18 years of age and the Chief Justice is empowered to appoint a magistrate to be the chairman or Deputy and such other number of people to constitute a panel for trying Juvenile cases. Such a panel shall be gazetted.

Section 77 of the same Act empowers the chief Justice to make rules governing the constitution and conduct of the courts, in the administration of Juvenile Justice.

The definition or description of a child who is in need of discipline, which is our main concern today is provided for under section 22 Cap 141. the section however generally describes a child who is in need of “protection or discipline” and reflects situations where children are in need of welfare or justice interventions. For the purpose of this presentation I will highlight sections that are used for Juvenile delinquents.

Sub-section (a) one who cannot be controlled by his parents or guardian.

d) is falling in to bad association or is exposed to moral or physical danger.

e) one who is prevented from receiving compulsory concoction or is a habitual truant.

f) who frequents any public bar or gambling house or is found buying or receiving or in possession of any drug which is deemed to be dangerous or habit forming.

g) Who is found begging or receiving alms or inducing the giving of alms whether or not there is any pretence of singing, playing or performing.

The court disposes of these matters subject to provisions of section 25 and 17 of the Children and Young Persons Act (CYPA) Cap 141 Laws of Kenya. Of relevance to the role of the children’s Department in the treatment of Juvenile delinquents is the provisions under sub-section (d) section 17 which allows the court to commit the offender to the care of a fit person or voluntary institution.

Part (e) of the same section which provides for the committal of such persons to approved schools.

Part (i) of the section 17 requiring parent to give security for the good behaviour of the offenders,
Sub-section 25 paragraphs

(a) Ordering the child to be returned to his parent or guardian.

(b) Ordering the parent to execute a bond with or without sureties.

(c) Committing the child to the care of an appointed local authority.

(d) Committing the child to the care of an appointed local authority.

(e) Placing the juvenile under supervision of an approved officer or Children’s officer for a period not exceeding 3 years.

(f) Committing the Juvenile to approved school.

In all these instances, the court relies greatly on social enquiry reports from the district children’s

officers, before making the aforesaid orders. The officers as well are required to supervise juvenile who might have delinquents tendencies.

In order to effectively attain our mandate the Children's Department has over the years involved community members and the public in Juvenile crime prevention and treatment of young offenders.

- The district Children's Advisory committees have provided an important forum for public participation. Children's officers normally act as secretaries to these committees which were established in 1991 as a Presidential decree. They are chaired by the Provincial Administration and they meet to develop local policies on the effective administration of Juvenile Justice and child protection.
- In the past three years with the technical support from UNAFEI, the Department established the volunteer children's Officers system, which is operational in several pilot districts including Kisumu, Dagorretti Division, Nyeri, Kwale, Garissa, Laikipia, and many others which are at the recruiting stage. This system was borrowed from the famous Japanese Volunteer Probation Officer system V.P.O., which has greatly succeeded in administering restorative Justice to Juveniles in Japan and preventing crime through extensive use of the Volunteers. These volunteers help the Department in providing closer supervision to juvenile delinquents at village level, since most cases assigned to them are from their neighbourhood. They work under the close supervision of the District's Children's Officers.
- The Children's Department is currently involved in a number of initiatives aimed at strengthening the community-based treatment of Juvenile offenders. These initiatives have been possible with the experts advise from short-term experts from UNAFEI who have been attached to the Department for short periods since 5 years ago.

Areas being addressed include:-

- The standardization and systematization of field work practice.
- Improvement of case management by introducing supervision plans, development of individualized treatment system for Juvenile delinquents and Home environment adjustment.
- Improving the data management system in the children's offices.
- Currently, the Department is finalizing the manner of operations for Children's officers which will provide a detailed professional guide to practitioners (Children's officers e.t.c.) on the actual methodology in managing Juvenile delinquency cases at community level.
- With technical advise from UNAFEI experts and Save the Children U.K., the Department has undertaken a diversion program for children in conflict with the Law which aims at minimizing the number of children who are having to go through formal trial for status offences. This programme is being piloted in Nairobi, Nakuru and Kisumu and aims at reducing the numbers of children being committed to our Juvenile Remand Homes causing congestion and overstretching of the facilities.

V. INSTITUTIONAL TREATMENT OF JUVENILE DELINQUENTS

Having looked at the history of the Department since the colonial era, it is interesting to note that to date the Department runs ten (10) Approved Schools, one (1) Reception Centre and eleven (11) Juvenile Remand Homes.

The Juvenile Remand Homes are established by Provisions of Section 36(1) Children and Young Persons Act to provide safe custody for children under the age of 16 years, pending termination of court process.

However the order committing a person to a Remand Home may be varied, and in the case of a child who is over the age of 14 years and is of so deprived character that he cannot be safely contained in a Juvenile Remand Home, the order may be varied for a prison Remand order.

The eleven Juvenile Remand Homes in Kenya have consolidated capacity of only 520 children. However, it is sad to note that this population can be easily found at the Nairobi Juvenile Remand Home following mass arrests and detention by police officers the Juvenile court. The individual capacity of this particular remand Home is eighty (80) but early this year records indicate that it held over five hundred children which is way above the total holding capacity of all the Juvenile Remand Homes country wide.

Having said that, I wish to note other critical problems that have faced our Juvenile Remand Homes for many years.

They include:

- Overstaying of criminal and petty cases in the institution either because witnesses are not available in court, or police have not concluded investigations.
- Lack of alternative placement for disabled children who find their way to the remand Homes through police swoops.
- Lack of adequate resources including manpower for re-integration of street children who make a great percentage of Juveniles Remand therein.
- Overstretching of the facilities which makes it impossible to separately confine Juveniles who commit serious crimes from the welfare cases arrested from the streets committed to the Remand Homes as provided for by the U.N. Convention on the rights of the child.
- Closely related to the immediate problem is the high chances of contamination of non offenders by serious offenders.
- It is impossible to maintain hygienic standards in the Juvenile Remand Homes if population is not controlled. May I note here that as the courts commit huge numbers of children to the Homes without notice, the Treasury does not give the Department proportionate amounts of budget to cater for these children. It is a serious omission therefore on the part of the police to wake up in the morning and imagine that arresting street children will solve the street children's problems.
- As the police arrest and produce street children to court, they do not arrest the parents. Some of whom are clearly seen on the streets using their children to beg. This makes it difficult to administer justice, children continue to be criminalized even when they are being used by their parents to beg, which is an offence against the law.
- I would propose that for every child arrested, police should make some effort to find the parents and produce them at the same time in court. This is the only way that justice will seem to be done, and the power of Law will send an important lesson to parents who deliberately abdicate their responsibility of bringing up children in a socially and legally acceptable manner.

VI. APPROVED SCHOOLS AND RECEPTION CENTRE

Approved schools are established under the provisions of section 38 of the CYPA Cap 141 by the Minister.

According to the Act, the schools are established for the reception, maintenance and training of persons ordered to be sent there by the same Act. These Institutions have over the years served to offer behaviour correction and rehabilitation of wayward children. They are classified according to age and gender, which reflects the history of the Juvenile Correctional Service as detailed at the beginning of this presentation. The 10 Approved schools and one reception Centre – Getathuru have a total holding capacity of 2,290 Juveniles. The actual populations have however been on the higher side. One approved School is designated for girls – Kirigiti Girls approved School.

Despite the services rendered by these facilities, the problem of Juvenile delinquency has continued to rise to alarming rates. Children have continued to commit serious heinous crimes to the shock of the Kenyan public. Incidences such as setting colleagues on fire in school dormitories by the Juveniles and destruction of property during student unrests have become a common story.

Yet the big question still looms in our minds what measures do we have in place to provide appropriate detailed diagnosis of the children's motivation to community crime, for purpose of effective treatment of the Juveniles.

All that in view, the Children's Department continued to seek further assistance from the specialized U.N. Institute, UNAFEI, by requesting experts to be attached to the Approved Schools and Remand Homes to provide technical assistance to the Government on the establishment of sound institutional treatment systems for juvenile delinquents.

Through this type of technical cooperation, the Children's Department is developing a rehabilitation system whose care function is to provide individualized treatment for Juvenile delinquents, and put in place Home environment adjustment systems to enable the proper re-integration of ex-inmates and other Juveniles in the Justice system back to the community.

This system links very well with the initially mentioned Volunteer Children's Officer (V.C.O.) system.

At the Juvenile Remand Homes, the Department is currently training staff on how to conduct detailed assessment and classification of Juveniles, borrowing a leaf from the Japanese Juvenile classification Homes.

It is in the Department plan to finally classify the approved schools to be designated for specialized functions e.g. High risk, Academic, Vocational e.t.c.

Still in this direction all is not well. The Department faces a serious staff shortage as earlier indicated and most of our institutions do not have properly trained staff to handle this daunting task.

The children's legislation in Kenya does not adequately provide for the protection and rehabilitation of children, thus the Children's Bill 2001, currently in Parliament holds our hope for the improvement of the Juvenile Justice System in Kenya.

Effective Co-ordination of Juvenile Justice Agencies as the theme of this Seminar echoes one of the surest ways of addressing most of the problems mentioned in my presentation and ensuring the full utilization of existing legal provisions for the maximum benefit in the Juvenile Justice System.

Thank you.

THE ROLE OF THE PRISON DEPARTMENT IN THE TREATMENT OF JUVENILE DELINQUENTS

Mr. J. I. ODONGO
Public Relations Officer, Prisons Department, Kenya

It is a privilege for me to address this important Joint Seminar. I am grateful to the Judicial Training Committee for hosting the UNAFEI – Kenya Joint Seminar and to the Government of Japan. UNAFEI has been responsible for offering continuous training to Prisons Officers at its Institute in Japan. I have personally been one of the beneficiaries and I am proud to admit that in my day-to-day work I continuously implement what I have learnt at the UNAFEI Institute.

EXECUTIVE SUMMARY

Mission Statement

Our mission is to keep in safe custody prisoners entrusted to us to be able to contribute to community protection, stability and development and in so doing, rehabilitate them through good example and leadership by encouraging their potential to function as law abiding citizens.

Vision

Our vision is to provide a service to the community and to those entrusted to our care.

Key Objectives

- Protect the public by holding those committed by the courts in a safe, decent and healthy environment.
- Reduce crime by providing constructive skills, guidance and counselling in order to: -
 - (i) Rehabilitate prisoners through addressing offending behaviour.
 - (ii) Improve educational and work skills
 - (iii) Promote law-abiding behaviour in custody and after release.

The theme of this Seminar is Co-ordination of Juvenile Justice Agencies for the effective administration of Juvenile Justice in Kenya. Most people tend to assume that the Prisons Department only deals with adults. The Service comprises 87 Penal Institutions for adult offenders, two Borstal Institutions and one Youth Corrective Training Centre for young offenders. Borstals are established under Borstal Institutions Act, Cap 92, Laws of Kenya

As at 20th July 2001 the three Institutions had a total of 668 boys in the training. Declining traditional values and decreasing economic growth have spawned a rise in juvenile delinquency, which has resulted in a conflict of youth conceptualisation with the law. Many of these children are usually first the victims of crime or a socio-economic situation that is not conducive to their upbringing and well-being. This includes broken families, single parenthood, poor parenting, poverty, and irresponsibility of the guardian or offender and to a large extent peer group influence.

The situation of children in many parts of Kenya remains critical as a result of poverty, crime levels, severe social and economic conditions and illiteracy; among others.

The name Borstal Institution is derived from a village in England called Borstal where the first youthful offenders were kept separate from the adult offender to avoid contamination and improve on rehabilitation. Therefore, a borstal is a place where young offenders live and receive training designed to reform them.

A youthful offender is any person convicted of an offence punishable by imprisonment and who has attained the age of 15 years but is under the age of 18 years. The objectives of sending an offender to a Borstal Institution are to rehabilitate him, avoid contamination by adults and promote self reliance, respect and obedience in order for the offender to become a good citizen on release. An offender is committed to a Borstal Institution for a period of 3 years. Currently we do not have a Borstal Institution for girls.

Committal of an inmate to a borstal institution is determined by: -

- Age
- Background information from the Probation Officer on his/her character
- Previous conduct of the offender, his/her age, health and the circumstances leading to the committal of the offence. The Probation Officer interviews the parents of the offender, neighbours, headmaster of his school following which he advises the court accordingly.
- The court has to confirm availability of a vacancy by the Commissioner of Prisons in the Borstal.

The treatment of offenders while at the Borstal Institution and Youth Corrective Training Centre is based on the dual themes of reformation and rehabilitation. The Prisons Department recognises juvenile prisoners as a vulnerable group within the penal system. A model of skills training and rehabilitation has been put in place to meet their special needs.

In the Borstal Institutions both technical training and formal education are offered. Every inmate is given a chance to choose the programme of training they would like to undertake. Formal education is conducted in classes taught by teachers seconded from the Ministry of Education or at ordinary schools outside the Institute. Upon successful completion of standard eight the boy may get a chance to go to secondary school though his guardians have to meet his school fees. The boy should maintain good behaviour in school or risk being sent back to the Institution to serve the remaining portion of his borstal order. When undergoing a course outside the Borstal Institution the boy remains under the supervision of the Probation and After Care Officer.

The main technical courses offered in our Institutions are carpentry, masonry, tailoring, metal work, electrical wiring, painting, plumbing and sign writing. The youthful offenders sit for Government Trade Tests on the same so that on release they either secure gainful employment, or become self-employed.

Agricultural Courses that include horticulture, floriculture, animal husbandry and agroforestry are also offered. Attachment to agricultural Institutes e.g. Kilifi and Bukura Agricultural Institutes is arranged for the boys to get practical experience.

Social/Spiritual counselling is also offered in order to assist the resocialization process of the offender and his assimilation and re-integration into society.

In order to ensure that effective rehabilitation of the prisoners as well as review of the youth

offender's sentences, a Board of Visitors is appointed by the Minister in charge of prisons composed of not less than 10(ten) people in the Kenya Gazette, the board visits a borstal institution four times a year. The board's Chairman is the Permanent Secretary. Membership includes reputable members of the public and Provincial Heads of Government Departments and Company Managers and ex-officio members. They review cases of boys who have served for a period of one year and are skilled in their trades. If a boy is well behaved the board may recommend his early discharge. From among the board members, an aftercare committee is appointed to visit the Institution once a month in order to: -

- Hear complaints from the inmates.
- Ensure that educational and industrial training facilities for the boys are provided.
- Examine punishment book.
- Ensure that no inmate is detained illegally.
- Ensure proper provision of sanitation, health care and food.

When reports on the Institution are made, the Superintendent in Charge of the Borstal comments on the report and forwards it to the Commissioner of Prisons for action: -

There are several ways an offender can be released from the Institution: -

- i. The leave of absence is granted by the Commissioner of Prisons to an offender to be away for a specific reason e.g. training not offered in the Institutions.
- ii. Release on licence is granted by the Superintendent in Charge on recommendation of the board of visitors to offenders who have attained a skill and are of good behaviour. They remain under supervision of trustworthy person usually Probation Officers for the remaining period.
- iii. Normal release is granted when the boy completes three years stay at the institution.
- iv Discharge on medical ground is granted on the recommendation of a medical officer.

While in the Institution the offender is allowed visits and letters to and from relatives and friends. In order to motivate them, the offenders are placed in an earning scheme system where they receive payment for the work they do. To encourage good behaviour they are put on a progressive stage system as follows.

- Stage I – Brown grade – lasts for 2 months
- Stage II – Brown grade – lasts for 2 months
- Stage III – Brown grade – lasts for 2 months
- Blue grade I – lasts for 2 months
- Blue grade II – lasts for 2 months
- Blue grade III – lasts for 2 months

If he maintains good behaviour he is promoted to prefect status, house captain or Institutional Captain.

At this stage I need to draw out some differences between the Youth Corrective Training Centre and the Borstals. The Youth Corrective Training Centre admits offenders aged between seventeen and twenty one years. Though the underlying objectives remain the same as the borstal i.e reformation and rehabilitation the conviction in Youth Corrective Training Centre is limited to four months of intensive physical, spiritual, education training that is discipline oriented. The offender on completion of the four months should be able to rejoin society and training with a new sense of discipline while carrying out his duties.

The youths are usually first offenders. The four months conviction is in due consideration to their

ages and it is supposed to deter them from committing other crimes.

While it is relatively difficult to ascertain our rates of success or failure to rehabilitate, we have received reports from Probation Officers on some –re-offending as well as some reformed offenders. I would suggest the following recommendations:-

1. Borstal Institutions for girls should be put in place in order to separate the young offenders from adult offenders.
2. More borstal institutions for boys should be put up at least one in each Province and especially in Nairobi where most of the young offenders come from. This is because there are a number of young offenders who should be in Borstals Institutions but are in Prison although segregated, because of lack of space.
3. Special training should be accorded to officers who handle youth offenders at both the Police and the Prison levels.
4. More qualified teachers from the TSC to be seconded to Borstal Institutions, to promote formal educational training.
5. Personnel with professional knowledge in clinical psychology, guidance and counselling, sociology and religious affairs, to be deployed in Borstal Institutions to discriminate counselling therapy to the inmates.
6. The community needs to be involved in diversifying alternatives to conviction for the young offenders when they admit their offences. Countermeasures whereby the court could involve community leaders, guardians and teachers could assist the offender to reform without resulting in conviction which leads to confinement.
7. There is need for an integrated approach to combat juvenile delinquency whereby administration of juvenile justice systems agents, the community, parents, schools, church organisations and NGOs with interest in juvenile affairs, work as a team in the spirit of *harambee*.
8. Mothers with children accompanying them should be confined in designated institutions.
9. Conditional release by the court could be used as an alternative to conviction. In this case the family could be assisted to supervise the young offender from home by Probation Officers and the Police. Strict monitoring of the offender and family situation would however be necessary.
10. Family links between the offenders, their families and communities are necessary in order to assist the re-integration upon release.
11. A policy for effective quantitative and qualitative collection and analysis of data should be put in place. This would involve computerisation and would effectively systematize figures of re-offending among others.
12. A vocational training program should be designed to promote not only the offenders life after release but also his re-integration into the community.
13. Greater efforts should be directed to training of teachers who teach the youthful offenders, as well as improving

learning and teaching facilities so as to increase the offenders interests in learning.

14. There is need to strengthen efforts to ensure that children from vulnerable groups and circumstances e.g. orphans who are youthful offenders benefit from other positive measures as a result of conviction e.g. access to donors who facilitate education and shelter.

CONCLUSION

As prisons officers charged with the responsibility of taking care of these young offenders in the field of administration of juvenile justice, my vision is for a department that will ensure respect for the UN Standard Minimum Rules and legal safeguards that have been put in place by the law. This will in turn ensure that the youths in our charge are reformed and rehabilitated translating them into responsible young adults and law-abiding citizens.

RECOMMENDATIONS

1. Establishment of more Borstal Institutions, at least one in each Province.
2. Establishment of girls Borstal Institutions.
3. Specialized training of Prisons Staff who will work in institutions where Youthful Offenders are confined.
4. More qualified teachers from the Teachers Service Commission to be seconded to Borstal Institutions to promote formal educational training.
5. Personnel with professional knowledge in clinical psychology, guidance and counseling, sociology and religious affairs to be deployed in borstal Institutions to discriminate counseling therapy to the inmates.
6. There is need for an integrated approach to combat juvenile delinquency whereby administration of juvenile justice systems agents, the community, parents, schools, church organizations and NGOs with interest in juvenile affairs work as a team in the spirit of *Harambee*.
7. Mothers with children accompanying them should be confined in designated institutions.
8. There should be an effective juvenile after-care service to ensure re-integration of youthful offenders into society upon release.

THE ROLE OF THE PROBATION DEPARTMENT IN THE TREATMENT OF JUVENILE DELINQUENTS

Mr. P. K. MUHORO
Director of Probation Department, Kenya

I. INTRODUCTION

I consider it a privilege for me to have been invited to deliver a paper to this seminar. May I from the onset state that I am not an expert on juvenile justice matters. Much of what I know on this subject has been gathered through the years while practising as a Probation Officer. During this period, I have dealt with juvenile offenders and issues relating to the treatment of juvenile delinquents. On this score, I can therefore claim a fair knowledge and understanding of the issues of this seminar.

This seminar could not have come at a better time. I say this because the long awaited Children's Bill is finally back and back and to be debated in Parliament. The Bill amongst other objects aims to bring under one act all the various legislations, which currently govern the issues of children – including juvenile delinquency. It is my hope that issues to be discussed during the seminar will have a direct and significant bearing on the Children's Bill.

II. DEFINITION OF JUVENILES AND DELINQUENCY

In this presentation I will try to limit myself to the definitions underscored by the Children and Young Persons Act – Chapter 141 Laws of Kenya. The preamble to this Act states: -

“An Act of Parliament to make provision and discipline of Children and Young Persons, and for matters incidental and connected therewith”.

Under this Act,

- a child means a person under the age of 14 years;
- a juvenile means a person who is of age 14 years or more and is under 16 years;
- while a young person means a person who is of the age of sixteen years or more and is under the age of 18 years.

It is necessary to note that the catchment age cohort is age 14 years and under 18 years. As a department, our role is pronounced during our involvement with juveniles delinquents especially those in conflict with law.

As a department, our unwritten position is to leave alone matters of children, juveniles and young persons to others. By precedence and practise however, the courts refer quite a number of these cases. We do not have a say in the courts discretion and we are therefore handling quite a significant proportion of juvenile delinquents processed through the courts.

The Department's role in these matters is principally derived from the Probation of Offenders Act Chapter 64 Laws of Kenya Section 4 (1) which states:-

“Where a person is charged with an offence which is triable by a subordinate court and the court thinks that the charge is proved but is of the opinion that having regard to youth, character, antecedents, home surrounding, health or mental condition of the offender, or to the nature of the offence was committed, it is expedient to release the offender on probation, the court may”:-

- (a) convict the offender and make a probation order or;
- (b) without proceeding to conviction make a probation order . . . and in either case may require the offender to enter into a recognizance with or without sureties, in such sum as the court may deem fit”.

The Probation of Offenders Act, in addressing the issue of juvenile delinquency, seems to have been heavily influenced by definitions and authority of some scholars who defined delinquency as deviant behaviour that constitutes an infraction of the normative order. Cohen (1966) defines it as:-

“behaviour which violates institutionalized expectations, that is, expectations which are shared and recognized and legitimate within a social system. [p.1]”

Similarly, Merton [1966] wrote that deviant behaviour refers to conduct that departs significantly from the norms set for people in their social statuses.... it cannot be described in the abstract but must be related to the norms that are socially defined as appropriate and morally binding for people occupying various statuses. [p.805]

A final example is suggested by Clinard [1963], who wrote that deviant behaviour is:-

“behaviour in a disapproved direction from the norms and sufficient in degree to exceed the tolerance limit of the community [p.22]”

From the above definitions, the Department has been mandated with the responsibility of collecting social data and assessing factors that influence juvenile delinquency.

III. SOCIAL INQUIRY REPORTS

A Probation Officers first endeavour, while preparing a pre-sentence report is to interview an offender. During an interview, a Probation Officer investigates the personal and family background of a juvenile offender. Facts on the social, economic standing of the parents, parents’ character type and degree of parental concern and control they have exercised are looked into. And an overview of the juveniles developmental history, noting any physical, social, economic or psychological force that could have significantly influenced the juveniles’ personality development is also considered. Of great importance also while investigating the juvenile cases are the circumstances related to the offending behaviour; the juvenile’s attitude towards the offence; and any previous criminal record.

Rule 16.1 of The Beijing Rule (1986) sites social inquiry report as a necessary requirement to courts before making a final disposition. Through a social inquiry report a court has a better understanding of a juvenile in a total social environment hence an aid determining the most appropriate sentence and the suitable mode of rehabilitation to an individual juvenile case. In Kenya the practice is that pre-sentence report is a requirement for all the juvenile cases before making a disposition. The importance of the social reports therefore needs no emphasis. The report should also be prepared without delays at all times, barring any assumptions e.g. availability of funds, transport and other logistics.

Arising from the role of providing social enquiry reports, the Probation Department has gained a trusted position in courts. Recommendations made to courts in some of the cases lead to some juvenile offenders being committed to institutions. These are as follows:-

- 95% committals made to Youth Community Training.
- 80% Committals made to Borstal Institutions.
- 50% to Approved Schools.

The above percentages reflect departments involvement with other agencies.

IV. REHABILITATION

One of the objectives of the Probation and Aftercare Services Department is to prevent crime. Once a juvenile is placed on probation, it is the responsibility of a Probation Officer to ensure guided rehabilitation of the offender while residing in the community. A Probation Officer has three paramount considerations to contend with while recommending a juvenile on probation i.e. security of the community in which the accused person is likely to be released, safety of the offender once in the community and possibility of the offender to reform while in the community as opposed to institutions.

CASES OF JUVENILE OFFENDERS RELEASED ON PROBATION ORDERS AND SUBJECT OF SUPERVISION IN THE COMMUNITY.

OFFENCES (Under the Penal Code)	Probation Orders Made		
	1999	2000	TOTAL
Changaa (Trad. Liquor)	37	41	78
Grievous Harm	16	6	22
Stealing	132	150	282
Assault	47	44	91
Defilement	11	19	30
Protection & Discipline	11	11	22
Malicious Damage to Property	6	25	31
Shop/House/Office breaking	63	53	116
Burglary & Stealing	13	23	36
Concealing Birth	6	4	10
Gambling	12	2	14
Theft of Produce	16	11	27
Possession of Narcotics	44	53	97
Loitering	3	-	3
Forging Documents	1	1	2
Robbery	6	11	17
Creating Disturbance	15	8	23
Unnatural Offence	4	-	4
Consuming Liquor	2	2	4
Handling Stolen Property	7	10	17
Stealing Stock	10	15	25
Arson	5	4	9
Theft of Motor Vehicle Parts	1	2	3
Trespass	2	4	6
Injuring an Animal	3	2	5
Neglecting a Child	2	3	5
Rape	2	2	4
Disobeying Chiefs' Order	1	6	7
Affray	1	3	4
Indecent Assault	7	1	8
Procuring Abortion	1	3	4
Preparation to Commit Felony	-	5	5
Possession of Dangerous Weapon	2	2	4
Possession of Game Trophy	4	7	11
Manslaughter	6	7	13
Infanticide	1	-	1

Attempted Suicide	-	2	2
Attempted Rape	-	5	5
Failure to Register	-	1	1
Grazing on Government Land	-	5	5
Careless Driving	-	1	1
Working in a Hotel without Licence	1	1	2
Possessing of Government Stores	-	1	1
Fishing without a Licence	-	1	1
Rogue & Vagabond	1	-	1
Abduction	1	-	1
Polluting Water	2	-	2
	505	557	1062
Other offences under the Penal Code	356	689	1045
Total Placements	861	1246	2107

V. PROBATION HOSTELS

Probation Hostels are places of safety for needy probationers. The hostels are run by the Probation Department as per Cap.64 Section 5 (2) Laws of Kenya.

There are four Probation Hostels in the Republic. These are: Shanzu in Mombasa for boys aged between 10 and 16 years, Nairobi for males aged 17 years, Eldoret for males aged 17 years and above. And Nakuru for girls aged 16 to 22 years.

While considering an order with a condition of hostel residence for a probationer, courts have in mind that a probationer:-

- Could be a threat to himself/herself.
- Comes from a hostile environment.
- Needs intensive counselling that cannot effectively be achieved by the field stations.
- Is a school drop out and cannot be effectively rehabilitated without gaining vocational skills to make him/her marketable.
- Comes from a crime prevalent area and needs to be separated while undergoing rehabilitation to avoid re-offending.
- Requires to continue with formal education but the family is unable to provide a conducive environment due to social-economic problems.
- Comes from families with single mothers engaged in vices and unable to offer adequate parental guidance.

Although most Probationers are committed to the Hostel for a maximum period of one year, the minimum period remains open-ended and is largely needs driven and may be as short as a few hours or days. The uppermost aim of the probation hostels is to facilitate development of a probationer to enable him/her to return to the community with reduced chances of re-offending.

Probation Hostels operate under the philosophy of home away from home in that whereas the probationer is in an institution he/she still lives in an open, free and homely environment.

Juvenile offenders committed to the Hostels are found to be not suitable candidates for penal institutionalisation but cannot be catered for immediate community supervision, rehabilitation, resettlement and reintegration. The latter takes cognisance of the sensitivity of the offence committed such as

manslaughter, grievous harm, attempted rape or defilement, where the victim and the community express bitterness and resentment towards the offender. An immediate release of an offender may provide chances to get revenge and commit more offences.

Hostels are therefore refuge for the weak and needy away from the hostile social economic environment where their lives are in danger or where they endanger the lives of others through their delinquent activities.

Juvenile offenders are hence helped to identify their strengths and weaknesses, build on their strengths to create new future potentialities, instil positive attitudes and strengthen their hope and future based on self-drive, self-reliance and self-discipline.

NATURE OF OFFENCES FOR WHICH PROBATIONERS WERE ADMITTED IN PROBATION HOSTELS (2000)

OFFENCE	PENAL CODE Section	Probation Hostels			
		SHANZU	NAIROBI	NAKURU	KIMUMU
1. Stealing	275	10	6	7	14
2. Burglarly & Stealing	304/279(b)	2	6	-	1
3. Protection & Discipline	22 Cap.141	2	7	4	2
4. Defilement	145(1)	-	2	-	2
5. Manslaughter	202	2	2	1	4
6. Stealing from Dwelling House	279(b)	5	-	1	-
7. Theft of Farm Produce	8(11)	2	1	-	-
8. Assault C.A.B.H.	251	2	1	-	-
9. Stock Theft	278	-	1	-	3
10. Possession of Narcotic Drugs.	3(I)(a) of 4/9	3	1	3	2
11. Rogue & Vagabond	83(c)	2	-	-	-
12. Malicious Damage	339	-	1	-	2
13. Infanticide & Concealing Birth.	227	-	-	6	-
14. Stealing by Servant.	281	-	1	5	1
15. Robbery.	296(2)	-	-	-	2
16. Possession of Changaa.	3(1) P.C	-	-	4	-
17. Attempted Suicide.	226	-	2	-	-
18. Preparation to Commit Felony.	308(2)	-	2	-	-
19. Administration of Poison	236	-	-	1	-
20. Abandoning a Child	23	-	-	1	1
TOTALS		30	33	34	32

Total Admissions to the Probation Hostels.

	Shanzu	Nairobi	Kimumu	Nakuru (Girls)
1999	29	31	21	30
2001	30	33	32	34

These figures, modest as they are, reflect the following:-

1. That Probation Hostels are used as havens of last resort.
2. That the offences are under the penal code.

3. That the decision to use hostels is recommended to the courts based on assessed individual needs of the juvenile offender.
4. The duration is fixed for one year but could be as short as one month depending on an individual's needs and circumstances.

(N.B: on average the duration is one year).

VI. CONSTRAINTS

Some of the constraints experienced by the Probation Officers while undertaking rehabilitation of their clients are lack of reliable and adequate transport. In some of the stations it is not unusual to have a landrover in the station being shared by over ten officers to do their cases within the specified time despite that the cases are scattered all over the district. Where they are willing to use public transport there could be a problem of refund. In some areas it is not just possible to access by any mode of transport.

VII. CONCLUSION.

There continues to be controversy over the concepts and measures of delinquency, and especially over the question as to whether it is justifiable at all to consider delinquent offenders as a significant group of individuals, or delinquencies as valid group behaviours. The controversy stems in part from ideological issues, but also in part from the empirical findings on the complexity and apparent arbitrariness. From the definition of certain sorts of behaviours as delinquent acts, to the taking of a suspect to court, there is a wide range of discretion available as to which course in the process to pursue. In part this discretion lies with members of the general public. Opinions have been made that the whole process is seriously biased to the disadvantaged and the poor in society.

Notwithstanding any controversy, the Probation Department is well positioned to play its role in matters of juvenile justice in our country.

Thank you.

ROLE OF PROBATION DEPARTMENT IN THE TREATMENT OF JUVENILE DELINGUENTS

SUMMARY

(i) Pre-Sentence Reports

Probation Department's pre-sentence and social enquiry reports to courts especially mandatory for all Juvenile offenders.

The Department has projected that the proportion of such reports will increase by over 20% from 2000 – 3000 per annum to 2400 – 4200 per annum within the next three years.

(ii) Supervision orders

Probation Departments capacity to supervise and rehabilitate Juvenile offenders currently stands at 25% – 30% of the entire client's caseload. This proportion is projected to decline from 25% to 20% due to:-

Diversion strategies already being experimented on involving several stakeholders and the anticipated significant inputs of the Childrens Bill when it goes through will have the effect of making treatment of Juvenile delinquency social/welfare process with family/community participation and involvement.

The department will therefore move away from direct juvenile caseload supervision. Probation officers will however increasingly get involved as catalysts and collaborators spearheading diversion and restitutive programs of juvenile justice into the community.

(iii) Probation Hostels

The Department has drawn a strategic plan covering juveniles in conflict with the law especially in the age brackets 16–18 years. Our hostels arrangement will be so designed to provide shelter, vocational training and skills and intensive interventions aimed at redirecting the juvenile delinquents into law abiding and self reliant citizens.

(iv) Way Forward

Juvenile delinquency has been shown to fade away overtime. However, while it lasts, it can be a distabilizing and disorienting factor to families and communities. It has also been shown that juvenile delinquency in some situations can persist into adulthood. Probation Department will in future target preventive strategies/activities by involving families and communities. Probation officers will be encouraged to be proactive in all programs addressing these matters.

**JUVENILE PROBATIONERS
FROM JANUARY TO APRIL, 1998 PER PROVINCE**

WESTERN

AGE	MALES			FEMALES		
	0-13	13-18	TOTAL	0-13	13-18	TOTAL
	28	939	967	10	108	118

NYANZA

AGE	MALES			FEMALES		
	0-13	13-18	TOTAL	0-13	13-18	TOTAL
	24	913	937	8	128	136

RIFT VALLEY

AGE	MALES			FEMALES		
	0-13	13-18	TOTAL	0-13	13-18	TOTAL
	104	1,660	1,764	31	394	425

CENTRAL

AGE	MALES			FEMALES		
	0-13	13-18	TOTAL	0-13	13-18	TOTAL
	74	1,142	1,216	24	245	269

EASTERN

AGE	MALES			FEMALES		
	0-13	13-18	TOTAL	0-13	13-18	TOTAL
	116	890	1,006	4	165	169

COAST

AGE	MALES			FEMALES		
	0-13	13-18	TOTAL	0-13	13-18	TOTAL
	99	1,038	1,137	11	148	159

NORTH EASTERN

AGE	MALES			FEMALES		
	0-13	13-18	TOTAL	0-13	13-18	TOTAL
	3	66	69	4	23	27

NAIROBI

AGE	MALES			FEMALES		
	0-13	13-18	TOTAL	0-13	13-18	TOTAL
	4	326	330	1	77	78

TOTALS	452	6,974	7,426	93	1,288	1,381
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Total National Daily Average caseload in April was 8,807