

GROUP 3

THE USE OF EFFECTIVE INTERVENTION IN REDUCING RECIDIVISM AND PROMOTING PUBLIC SAFETY AFTER THE OFFENDER HAS SERVED HIS OR HER SENTENCE

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I. INTRODUCTION

The alarming rise in crime rates all over the world has forced the international community to explore new avenues to save the public at large from criminals. In the pursuit of public safety, different effective measures and models for the rehabilitation of offenders and their reintegration into society after their release are being vigorously examined.

Reintegration demands that the scope of the legal system be enlarged so that the future life of the offender in the community is considered in sentencing and during the correctional phase. By now it should be clear that the reintegration concept not only serves the social interest by preventing recidivism, but also the personal life of the offender who benefits from the opportunities of a crime free life. Reintegration should introduce the broader social issues into the criminal justice system, creating an area of convergence with the social welfare, public health and educational systems.

The group is comprised of two judges of District Courts, an Additional Secretary from the Public Prosecution Department, a public prosecutor, an immigration officer, police officer, and two prison officers. The group is grateful to the visiting experts and professors of UNAFEI especially Professors Shinkai and Sugiyama who not only advised us during the discussion but also guided us to prepare this paper. The group was assigned to study the topic and present a detailed report keeping in mind the following tentative points:

- Problems and challenges facing current legal systems;
- Identification of effective policies and models that reduce recidivism and promote public safety;
- Continuation of treatment programmes offered while the offender served his or her sentence and provision of new programmes;
- The supervision of known offenders in the community;
- Appropriate co-ordination among related agencies and the use of community resources;
- Monitoring and evaluation of the selected interventions;
- The adoptability of such models in the respective countries.

II. PROBLEMS AND CHALLENGES IN CRIMINAL JUSTICE SYSTEMS

The criminal justice system is comprised of police, prosecution, courts and corrections (prison, probation and parole) and is facing a number of challenges and problems, in particular in the implementation of correctional programmes.

- Corruption, being an international problem, is prevailing in all countries. However, some countries, by enacting special laws and developing strong systems of checks and balances between the exercise of powers, authority and accountability, have been able to control corruption. The relationship of corruption to recidivism is relevant to the extent of implementation of policies to control recidivism. Lack of devotion to implementing policies can be regarded as corruption. Corruption is also one of the major problems not only in criminal justice systems but also in other departments.
- The courts are overburdened because of understaffing, the delaying tactics of defence lawyers and inefficient, insufficient and non-specialized prosecutors. Judges have no proper sitting arrangements and are sometimes even without adequate staff.
- There is massive overcrowding in jails and a preponderance of inmates under trial due to delays in completing investigations, restrictive application of bail laws, and frequent adjournment of hearings. Delay in submission of indictment results from inefficiency, non-availability of modern techniques of investigation, and lack of integrity on the part of police in the investigation.
- The police-public ratio is extremely low which results in the inefficiency of the existing police personnel. Frequently, they are to exercise their duties round the clock.
- The group observed the extent to which the participating countries exercise correctional programmes; however, they were not considered adequate. In particular, programmes for offenders who have satisfied their legal obligations are non-existent.
- Existing classification of offenders and rehabilitation or correctional programmes may not necessarily be based on established principles of risk, needs and responsivity.

III. EXISTING CORRECTIVE MEASURES

The group was of the view that rehabilitative programmes for released ex-offenders should begin on the very first day of custodial and non-custodial sentences. The programme cannot meet success unless the foundation is laid at the start on the basis of assessment of risk/need factors by a team of professionals. The offender should be classified in one or two particular groups as per requirement and be admitted to a particular programme. Reassessment should occur before release, keeping in mind the response shown by the offender to the programme. It was necessary to first analyse the existing system of classification of prisoners on the basis of risk/need factors, responsivity at the end of the sentence, and the presently available rehabilitation programme. There was also consensus on the proposal made by Mr. Mbongo that the offender should not be exposed to society directly. There should be a system of rehabilitation where he or she can be sent out for three months before release. The group found that the system of parole in some countries, and half-way houses in Japan and in some other countries, caters for this purpose before release in addition to providing residence and meeting other needs. We then discussed generally the present classification systems, rehabilitation programmes offered to offenders, parole systems and systems of half-way houses in some of the participating countries. The issue of rehabilitation programmes for inmates and released offenders was discussed thoroughly, keeping in mind the knowledge gained through visiting Kawagoe Juvenile Prison, Sapporo Prison, and a half-way house in Sapporo; and a presentation on the Hong Kong system of corrections. It was agreed that rehabilitation programmes should be based on these patterns.

A. Classification Systems

In almost all the countries in Group 3 there is a classification system for categorizing prisoners. In some countries, it is based on categories of crimes or the treatment programmes to be offered to the offender, i.e. violent offenders, sex offenders, drug addicts, etc. and in some countries the offenders are classified on the basis of the length of sentence, age, gender and work to be assigned in the prisons. Some of the countries classify the prisoners in the categories of organized crime, major crime, middle crime or minor crime. The group considered the classification systems of many countries and agreed that prisoners should be classified on the basis of risk, need and responsivity factors.

B. Rehabilitation Programmes

Presently, different countries are running different rehabilitation programmes according to their system of classification and their social environment. On the basis of classification, the inmates are provided the following rehabilitation programme:

- (i) General academic education; and
- (ii) Skill development education such as carpentry, bakery, dressmaking, cosmetology, etc.

Some of the countries, in addition to providing formal and market based vocational education, also introduced the following rehabilitation programmes:

- (i) Psychological treatment like anger management control
- (ii) Anxiety intervention treatment
- (iii) Creative thinking and resolution of problems
- (iv) Emotional control treatment
- (v) Sex offender treatment
- (vi) Drug addiction treatment.

Several kinds of sport and recreation are offered to prisoners to keep them mentally and physically fit. Many countries, like Pakistan and Thailand, provide religious education to the inmates.

C. System of Parole

In Japan, Pakistan, Korea, and Thailand etc., prisoners are released after serving one third of sentences in prison, on the basis of good conduct. During the parole release period the offender is supervised and kept under observation by probation or parole officers. During parole release, he or she enjoys full or limited liberty according to the law of his or her country. In case they misuse their release, they are punished with revocation of license and return to prison to undergo the remaining period of their sentence of imprisonment.

D. Half-Way Houses

Half-way houses can be defined as community-based centres where offenders can obtain basic necessities like food, clothing and shelter. They generally cater for probationers, parolees and fully released prisoners.

Half-way houses are generally run by private associations (such as the Juridical Persons for Offenders' Rehabilitation Services). Half-way houses offer vocational guidance to discharged prisoners and help them to find suitable employment. The half-way houses provide accommodation, money and food as well as training and job referrals for the discharged prisoners. Most residents work outside the half-way house on a daily basis. Employment offers them financial independence and builds in them good work ethics. The Japanese and Korean systems have a nationwide special type of supervision and aftercare for discharged prisoners. Thailand has only one half-way house which provides assistance including the offering of accommodation, meals, job placement and counselling services.

IV. POST RELEASE REHABILITATION PROGRAMMES

A. Legal Framework

At the very outset of the discussion, consensus was reached that fully released offenders must be rehabilitated to help their reintegration into society and that the assessment of offenders on the basis of need/risk factors should be made before their release. If required they should be sent to rehabilitation centres for further treatment. In many countries, it was found that different post-release rehabilitative programmes, especially for drug offenders, are being implemented successfully, but it was noted that most of the offenders after their release do not come forward or volunteer themselves for rehabilitative programmes. Many group members proposed that treatment should be compulsory for those who are assessed as requiring it. At this stage, lengthy discussion started on the point that after full release of the offender, compulsory rehabilitation programmes violate constitutional protection against double jeopardy in most countries and violate human rights.

Ms. Valdivieso, participant from El Salvador, vehemently opposed making rehabilitation programmes compulsory for fully released ex-offenders on the aforementioned grounds. On the contrary, Mr. Jaffery proposed that, for recidivists, it can be made compulsory, whereas for first time and juvenile offenders this can be voluntary. For achieving the objective of public safety, such provision can be enumerated in law. Ms Valdivieso was of the view that in her country, the matters pertaining to offences and punishment are constitutionally governed, therefore such a law cannot be promulgated in contravention of the constitutional provisions.

The group was about to reach to a conclusion that in this context, practices of the United Kingdom regarding compulsory drug treatment, and Hong Kong for all types of offenders, can be adopted as role

model by every country according to its circumstances.

However, there was strong dissenting opinion that such a model may not be applicable to some countries' legal contexts. The group then discussed how we can motivate ex-offenders into programmes when there are no legal provisions. In this controversy, Mr. Mbongo floated the idea of awarding of certificates after undergoing a rehabilitation programme making the involvement of the offender in the programme indirectly compulsory and to make it helpful in seeking employment. He stressed his idea on two points: firstly, it will serve as good behaviour certificate; secondly, it will motivate the offender to undergo the rehabilitation programme in order to be accepted by society. Such certificates may be important for society: offenders who have undergone rehabilitation have a good conduct certificate with which to find a job. However the idea was not supported by the majority of members on the grounds that it may have a reverse effect on the ex-offender due to the unco-operative attitude of society in their respective countries.

The group was advised by Dr. Marshall that in order to attract offenders to undergo the aftercare programme motivation factors should be addressed carefully. Motivation can be formed externally or internally. In some cultural contexts, motivation could be given in a form of incentive; e.g. provision of vocational training, employment or the issuing of good behaviour certificates. Offenders may even be coerced into treatment by making an appropriate legal framework. However, motivation can also be formed internally by offenders in order to lead a better life by receiving treatment.

B. Continuation of Rehabilitation Programmes

The group pondered the continuation of rehabilitation programmes after full release of the ex-offender and also discussed various modes for rehabilitation and reintegration into society. The group considered existing programmes in the participating countries. However, we did not find applicable ones except for a very modest example in El Salvador. In El Salvador, the provision of assistance to ex-offenders has been assigned to the Prison Department. After release of the offender, the prison officers make occasional calls to the ex-offender and ask about his or her activities. Consequently, the group agreed that the main stress was on the fact that continuation of rehabilitation programmes should not be for all ex-offenders but before release a team of professionals should reassess the inmate on the basis of conduct during the sentence (prison, probation and parole) on the basis of need, risk and responsivity. Thereafter, the period, degree and kind of treatment to be continued should be decided.

The group also considered how to decide continuation of rehabilitation programmes, and who would make such decisions. Two proposals were put forward by Mr. Jaffery. First, the already existing departments of prisons and parole boards may be assigned to assess and supervise the programme in consultation with each other. Second, new departments may be established to carry out the aforementioned functions. After deliberations the first option was accepted. During the discussions, the Hong Kong system of Corrections¹ was also examined and was found more suitable. The salient features of the Rehabilitation Service of Hong Kong are that:

- The service has been divided into Assessment Services, Programme Services, Psychological Services, Education Services, Vocational Training Services and Supervision Services;
- Each service provides a complete programme for offenders preparing him or her during the sentence period to become a useful and law abiding citizen according to assessments made by the Assessment Service;
- The supervision staff provide support to offenders and their families and advises the offenders during and after release.

C. Problems and Needs of Offenders

When a prisoner is released from prison or released on parole or has his or her sentence suspended, he or she generally faces many problems or has different needs, requiring help. There is now considerable evidence of the factors that influence reoffending. Building on criminological and social research, the Social Exclusion Unit (SEU) of the United Kingdom, for example, has identified nine key factors:²

¹ Kwok Leung-ming, "Mobilization of Community Resources and Successful Reintegration of Offenders", contained in this volume of the Resource Material Series.

² Peter Wheelhouse, "Interventions with Drug Misusing Offenders and Prolific and other Priority Offenders", contained in this volume of the Resource Material Series.

- education
- employment
- drug and alcohol misuse
- mental and physical health
- attitudes and self-control
- institutionalization and life-skills
- housing
- financial support and debt
- family networks.

The group was also informed of the fact that the Canadian model of correctional treatment is based on the principles of risk, needs and responsivity. Prof. Don Andrews from Carleton University in Canada,³ in his writing, has given four basic principles: risk, needs, responsivity and professional discretion, to be taken into account while making assessment and recommending treatment to an offender. He presented two types of risk factors: static factors and dynamic factors. Assessment of risks can be made using two types of information: static and dynamic. Static information is information that cannot change. For example, age and gender are clearly static factors. History of previous offences and type of crimes committed are also static factors. It is not possible to change these factors through treatment. Dynamic risk factors are important because these are the factors that are changeable. Risk factors are changeable, therefore they can be reduced through treatment, and it is possible to measure changes that indicate a decreased risk of re-offending. For example, treating substance abuse problems can reduce the risk of drug use that is likely to result in a return to prison, and educational and employment programmes can increase skills and work opportunities, thereby supporting employment after release. The offenders with the highest risk require the most intensive treatment services

The need principle states that in a correctional system only criminogenic needs should be addressed. The reason for this is that if one is trying to change criminal behaviour, it is only those factors that are associated with criminal activity that should be addressed. Other factors may seem likely to be targets for treatment, but they will not result in reduced crime by the offender. The principle of professional discretion recognizes that assessment instruments cannot be designed to address every case. There are, at times, unique characteristics of an individual or situation that must be taken into account when making decisions about treatment. This means that there will be situations when the assessment tools might indicate an offender has a low risk of reoffending, but special circumstances, such as behaviour since arrest, may indicate that there is a high risk or probability of reoffending. The professional classification officer should use this information when making decisions. Thus, addressing the criminogenic needs of the highest risk offenders contributes to public safety by reducing the likelihood of new offences after release from prison.

The group debated each of the factors given above and came to the conclusion that rehabilitation programmes are being provided to inmates during the period of sentence. The group has already resolved that post-release rehabilitation programmes for all of the above need factors should be continued after full release, except the provision of housing facilities and financial support due to the resource constraints of most countries. However, the ex-offender can be helped in seeking a job. The idea of half-way houses has also been supported as they also provide housing to fully released offenders. Instead of providing housing, ex-offenders can be accommodated in half-way houses as their capacity is increased.

V. UNHELPFUL SOCIETAL ATTITUDE

Society has inherent hatred for offenders and the public at large thinks that criminals should be punished severely for the crimes they commit. However, in order to grasp 'true' public opinion, we may need to create more reliable and valid social surveys. In any case, the idea of rehabilitation is new for the general public of the participating countries; therefore, as a general rule of resistance against change, the public shows its discontent with such idea. Research shows that rehabilitative treatment has produced better results compared to strict incarceration. The group discussed how the community can be motivated and involved in the genuinely required process of rehabilitation and reintegration of ex-offenders, as without the support of

³ Quoted in Brian A. Grant, "Reducing Recidivism by Applying the Principles of Risk, Need and Responsivity", contained in this volume of the Resource Material Series.

society, the desired objective of public safety can hardly be achieved. The group discussed the Hong Kong model in detail and concluded that by motivating and involving society through different effective steps society's attitude can be changed to a great extent, if not totally.

The print and electronic media can be very helpful in creating awareness and modifying the attitude of society to the reintegration of ex-offenders. Therefore, it was stressed that a media strategy should be developed by the corrections system in collaboration with the information ministries of respective countries to educate the public on the realities of the ex-offender population. The information ministries can launch programmes showing documentary films, interviews of film stars and renowned sportspersons on television through the co-operation of big industries and other business communities. The purpose can be further achieved by arranging seminars and workshops and walks or rallies involving non-governmental institutions, notables from all walks of life, and students.

The group was unanimous on the point that religious institutions can play an important role creating awareness in society for accepting and rehabilitating the ex-offenders as all religions preach that one should hate the sin and not the sinner.

Informal institutions like the Cooperative Employers of Japan, Volunteer Probation Officers, Juridical Persons for Offenders' Rehabilitation Services and Women's Association for Rehabilitation Aid can play an important role in mobilizing and motivating the community. These organizations can make efforts for employment of released offenders in the construction, manufacturing, service, wholesale and retail sectors.

VI. SUPERVISION OF KNOWN EX-OFFENDERS

A. Legal Dispositions

On this issue, the group again entered into a very heated debate that after full release of the offender, supervision is not possible on the following grounds:

- (i) Most of the Constitutions of the participating countries provide protection against double jeopardy; and
- (ii) Supervision after release interferes with the liberty of the person and will amount to violation of the human rights of the ex-offender.

Ms. Valdivieso, participant from El Salvador, vehemently opposed the supervision of known offenders on the aforementioned grounds. On the contrary, Mr. Young-hoon Ha and Mr. Jaffery were of the view that laws can be amended as laws are made for the people and for the sake of the safety of the people at large laws can be modified. The group predominantly concluded that for the greater interest of society laws may be made, where deemed necessary, and protection of society can not be sacrificed for the sake of the human rights of habitual and known ex-offenders. Mr. Peter Wheelhouse, Visiting Expert from United Kingdom, also endorsed the proposition. So it was decided to examine the systems of different countries which have already evolved some system of supervision of known ex-offenders which may be adopted by other countries with due modifications according to their needs.

B. Supervision by Police and Other Related Agencies

During the discussion it was apprised that police functionalities of almost all the countries keep track of the activities of known and habitual ex-offenders but it is not conducted in a systematic manner except in Japan and the United Kingdom.⁴

For instance, Japan⁵ has no comprehensive supervision system for prisoners who are released after completion of their sentence in prison, under parole or probation. The police have recently created a watching system for known sex offenders. According to the system, the Ministry of Justice is informed of the release of the sex offender by the prison authorities at least 28 days before release. Upon receiving such information, the Ministry forwards the information to the National Police Agency which alerts the police of

⁴ Peter Wheelhouse, "Interventions with Drug Misusing Offenders and Prolific and other Priority Offenders", contained in this volume of the Resource Material Series.

⁵ Based on the briefing given in the National Police Agency, Japan on 1 February 2007.

the area where the offender resides. The concerned local police keep the offender under observation indirectly. Till now, 237 sex offenders have been kept under observation. Sixteen have reoffended, including sex crime. Although this indirect watching system is being criticized to some extent it has met success. This may be because the offender knows that the police are keeping track of his or her activities. This system is good, but watching is confined to known sex offenders.

In the United Kingdom, the Prolific and other Priority Offenders (PPO) Programme started in 2004 and it specifically targets the small number of the most active and/or problematic offenders. It was designed to give offenders a choice between the cessation of offending with the acceptance of support in the form of rehabilitative programmes or to carry on offending, resulting in prompt arrest and punishment. The PPO programme is comprised of following:

- Prevent and Deter
- Catch and Convict
- Rehabilitate and Resettle.

The essential feature of the PPO programme is that it has been designed to tailor responses to local problems and avoid a prescriptive approach regarding implementation. In doing so, the PPO programme embraces the use of local knowledge, practitioner expertise, and previous experience of similar schemes. The individual stakeholders, practitioners, and specific agencies are responsible for all the decision-making aspects of the programme throughout, from how to choose the prolific offenders through to which interventions they may receive and how often they may receive them. These factors were all designed with a specific intention: to reduce the crime levels of the offenders on the PPO programme.

C. Vigilance Committees in Cities, Towns and Villages

While discussing the watching system conducted by the police and other agencies, it was realized that police alone, unless the community gives full support, are unable to handle the gigantic task of supervision of known ex-offenders because supervision is confined only to watching and to making the offender aware that he or she is under observation. The police cannot watch the offender every moment and also cannot interfere with his or her private life. Mr. Young-Hoon Ha informed the group that in Korea, the government notifies the public bi-annually of the list of known sex offenders and the public can check whether or not a sex offender is residing near their home. This helps the public to remain cautious. The role of non-institutional organizations and volunteers was also discussed. Such groups can extend full co-operation and support to the police in observing the known ex-offenders. Many proposals were considered and agreement was reached that in each city, town and village there should be a vigilance committee comprising of notables of the respected area from all walks of life including lawyers, doctors, educators, students, and representatives of the local police. In some societies, such vigilance committees could be made responsible for observing the activities of known ex-offenders. In other situations such committees' responsibility may be limited to general crime prevention. However, all members agreed that it should be used to create awareness in the concerned community of adopting safety measures.

VII. RECOMMENDATIONS

The group considered the topic for discussion in detail, keeping in mind that rehabilitation of the offender during the period of sentence and after sentence is key to public safety. Reduction in the rate of recidivism is possible only through rehabilitation of offenders; custodial or non-custodial sentences without rehabilitative programmes are useless. The issues of detrimental societal attitudes and supervision of known habitual offenders were discussed in detail and the following recommendations were made:

1. Necessity of an Aftercare Programme

- The group agrees on the general need for an aftercare programme when an offender completes his or her sentence. It is advisable that the programmes are designed to make the offenders useful and law abiding citizens who can rehabilitate and reintegrate and have an objective to reduce recidivism.
- Such programmes should be based upon standard assessment of the offenders upon their entry into prison. The programme should be based upon the risk, need and responsivities of each offender. The specific programmes could address a wide variety of their criminogenic needs such as: sex offender therapy, drug addiction treatment and treatment for their criminal style of thinking (cognitive distortion) so that the chance of reoffending can be reduced.

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- Priority would have to be placed on programmes for high risk and high need offenders in order to reduce the chances of reoffending and to effectively utilize limited resources.
- (i) *Gradual Reintegration*
 - Upon release, high risk offenders should not be exposed to society directly. There should be a system of rehabilitation where the information of the offender may be sent out for short periods prior to release, depending upon his or her risk.
 - As a practical system, where applicable, there should be half-way houses and parole systems, not only to provide board and lodging, but to offer mental care, living skills guidance and job placement services.
- (ii) *Good Staff: Recruitment, Training, Integrity and Motivation*
 - Aftercare programmes should be of employ specialized staff such as psychologists, social workers and psychiatrists. Staff should high integrity in the execution of their work.
 - To raise the level of efficiency, the conditions of service of personnel involved in the programme may have to be improved to motivate them and also to attract highly qualified staff.
 - Staff should be exposed to new techniques in carrying out their tasks. The staff should have access to institutions where they can acquire more knowledge and higher qualifications.
 - The current strength of correction officers should be enhanced to reduce the burden on the existing officers.
- (iii) *Volunteers*
 - Efforts have to be made to seek the involvement of volunteers with relevant competence to implement specialized programmes at minimum cost. The Japanese Volunteer Probation system could be a good model.

2. Post Release Rehabilitation Programme

- For successful results of post-release rehabilitative programmes, offenders should be given treatment from the very first day of custodial and non-custodial sentences.
- The standard classification/assessment system needs to be introduced to the custodial and non-custodial punishment system and used upon an offender's entry into the system. Assessment should consider the motives and circumstances of the crime and the degree of the criminal behaviour i.e. assessment on the basis of need/ risk.
- (i) *Information Flow*
 - Management information systems may have to be improved to keep and maintain up-to-date records of offenders. As far as practicable, computers should be utilized.
 - In order to judge the success of the programme, assessments may be made regularly, duly recognizing the risk of the offender.
- (ii) *Motivation of Offenders After Release*
 - In order to attract offenders to the aftercare programme, motivating factors should be addressed carefully. Motivation can be formed externally or internally. In some cultural contexts, motivation could take the form of incentive; e.g. provision of vocational training, employment or the awarding of a good behaviour certificate. Offenders may even be coerced into treatment by making an appropriate legal framework. However, motivation can be formed internally by offenders in order to lead a better life by receiving treatment.

3. Co-ordination among Related Organizations

- Efforts to co-ordinate the work of not only related agencies such as prisons departments, parole and probation departments, and police departments, but also private institutions like NGOs, religious institutions, and charitable institutions should be made to enhance the capabilities of these organizations.
- The personnel in governmental organizations engaged in the delivery of programmes may exchange information with each other freely to enhance better understanding of the offenders.

4. Community Involvement (Public Awareness)

- Societal attitude may be changed by conducting seminars or workshops, media campaigns, walks or

rallies, with the co-operation of non-governmental institutions, notables from all walks of life, students, and religious institutions to create or develop awareness of rehabilitation and reintegration of offenders and to reduce stigmatization of offenders by society.

- Informal organizations performing rehabilitative activities for reintegration of ex-offenders should be encouraged by the government.

5. Sustainability of Programmes (Political Support)

- In designing programmes, factors such as consistency, adaptability, feasibility, suitability and affordability ought to be given prime attention. Gaining political support by presenting the effectiveness of such programmes is of vital importance.

6. Supervision of Known Ex-Offenders

(i) *Supervision by Police and Other Related Agencies*

- In order to protect the public, there would be a need to keep eye on high-risk known offenders. Information on such offenders should be given to the police from correctional institutions upon their release. Examples from Japan and the UK can be used as a model.

(ii) *Vigilance Committees*

- Where applicable, a vigilance committee comprising notables of the respected area from all walks of life including lawyers, doctors, educators, students and representatives of local police, may take responsibility for the supervision of known offenders.