

# THE PROFILE AND TREATMENT OF SERIOUS JUVENILE OFFENDERS IN JAMAICA

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## I. INTRODUCTION

One of Jamaica's growing concerns is the state of crime and violence and in particular the involvement of children in criminal activities. The fear is that the fate of successive generations is precariously poised if this trend continues. Factors such as unstable family life, poverty, peer pressure, exposure to drugs and gang related activities as well as an erosion of strong morals, values and attitudes have been linked to the increase in the incidence of crime among our children.

This paper seeks to put in perspective the profile and treatment of children in Jamaica who are in conflict with the law, especially those who commit serious and violent offences. The treatment of these children is placed within the context of pre-trial, trial and institutional care. The main focus is placed on the Department of Correctional Services, the state agency responsible for the care and custody of offenders, and in whose charge the most violent and serious offenders are placed.

In recent years, the profile of children who commit crimes has changed. For those involved in serious crimes, the persona as summarized by journalist Geof Brown in the local Daily Observer of 21 October 2005, gives an indication of the extent of this change: "Police tell us that if you face a gunman in his early or mid teens, your chances of survival are virtually nil. Older gunmen in their 20s and 30s will spare you on the basis of your appeal that you have a family dependent on you".

The general profile of a violent and serious child offender is a male, 15 to 16 years of age, who lacks basic literacy and numeracy skills and who is armed with a type of bravado which appears to make him feel ruthless and invincible. Such a profile has resulted in calls from different areas of the society for a move away from the interest and welfare of the child offender, toward one which is more concerned with public safety. The justice system is however undergirded by a rehabilitative thrust which places the welfare of the children first and foremost, while acknowledging the threat to themselves and to the society. The understanding is that there are factors and experiences which are impacting on these children's behaviour and given the appropriate interventions, change is possible.

### A. Legislative Support

Issues affecting children have always been given priority attention. Further to the United Nations Conventions on the Rights of the Child, a National Plan of Action for Children was developed. The formulation of a National Policy for Children in 1997, as well as a task force and a monitoring committee which directed the legislative process and the subsequent enactment of the Child Care and Protection Act in 2004, emerged from the justice review process. The legislative framework was further strengthened by the appointment of a Children's Advocate in 2006 and the establishment of the Office of the Children's Advocate. The Children's Advocate acts as an Ombudsman for matters affecting children and the Office of the Children's Advocate makes legal representation on their behalf.

The legislative framework makes provision for the care and protection of all children who offend the law, irrespective of their offences. The Child Care and Protection Act, the main domestic instrument that implements rights recognized by the Convention on the Rights of the Child and related international guidelines, uses the term "child" instead of "juvenile". It defines a child as "a person under the age of

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eighteen years” and stipulates that “it shall be conclusively presumed that no child under the age of twelve years can be guilty of an offence” (Section 63).

### B. Reasons for which Children were brought before the Court

The reasons for which children were brought before the Court in 2006, as indicated in Table 1, paints a disturbing picture of the needs of our children and their involvement in criminal activities. There were 2,629 cases of children appearing before the court, an increase of 365 compared to 2005. The offences with the highest frequencies were Wounding, Dangerous Drugs, Armed with Offensive Weapon and Assault Occasioning Bodily Harm. Of major concern is that over the years offences have noticeably shifted from mainly simple larceny and wounding to include more serious ones which are related to sex, guns and drugs.

**Table 1: Reasons for which Children were brought before the Courts in 2006**

Major Offences/Reasons	Male	Female	Total
Murder	13	3	16
Assault	40	19	59
Carnal Abuse	24	-	24
Rape	25	-	25
Indecent Assault	63	3	66
Robbery with Aggravation	35	-	35
Unlawful Possession	1	-	1
Attempted Larceny & Praedial Larceny	105	16	121
Breaking & Entering & Larceny	41	3	44
Wounding	173	75	248
Assault Occasioning Bodily Harm	93	39	132
Dangerous Drugs	184	8	192
Armed with Offensive Weapon	161	14	175
Malicious Destruction of Property	26	9	35
Care and Protection	409	525	934
Other Major Offences	110	40	150
Minor & Other Offences	176	196	372
Grand Total	1679	950	2629

Annual Report, Department of Correctional Services 2006

Although the number of children brought before the court for care and protection was 15 fewer than 2005, there is much cause for concern. Care and protection of children are underlying issues for some of the serious offences. This is evident in the increase in the number of children who transition from Places of Safety (usually for care and protection) to Juvenile Correctional Centres for offences which are related to conduct disorders. It is mooted that the young age at which people take on the responsibility of parenting is contributing significantly to this scenario. Children are having children and the implication is that there is the need for the necessary guidance and training of these young parents so that they can pass on the appropriate norms and values of the society.

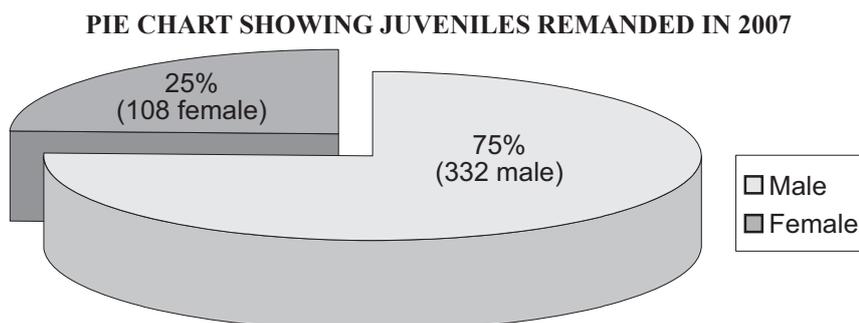
## II. PRETRIAL

When a child comes into conflict with the law, the Child Care and Protection Act empowers the police to take the child into custody. If the child cannot be brought forthwith before the Court, the officer or sub-officer in charge of the police station to which the child is brought has the responsibility to find an immediate placement for the child in one of the Places of Safety which are operated by the Child Development Agency (which falls directly under the Ministry of Health). For an offence deemed violent and/or serious, the child may have to remain in the custody of the police until the matter is brought before the Children’s Court or before a Resident Magistrate in chambers if there is no sitting of the Children’s Court in that parish.

“Any court on remanding or committing for trial a child who is not released on bail shall commit that child to custody in a juvenile remand centre named in the commitment, to be detained there for the period for

which the child is remanded or until the child is there delivered by a course of law” (Section 68 (1)).

There is however only one male juvenile facility and it has a capacity for 48 children. Currently there is no female juvenile facility. This is posing a major problem as offences by females have been increasing steadily. The reality is that children who commit serious offences have had to be remanded in adult facilities. While this is not desirable, the legislative framework makes such a provision but stipulates that children should not be placed within the same areas as adults and should have attained the age of 14 years. The pie chart below indicates that a total of 440 children were remanded in the care of the Department of Correctional Services in 2007 (Research, Planning and Evaluation Unit, Department of Correctional Services).



Although remand is intended for short term placement, children sometimes spend over a year on remand. This no doubt affects their state of mind as they become preoccupied with the uncertainty of the outcome of their case. Affected as well is the ability to plan effectively given the uncertainty of a rolling population and the infrastructure limitations of adult facilities.

### III. TRIAL

In examining each case, the Juvenile or Family Court usually requests a Social Enquiry Report (SER) from the Probation Officer assigned to the case. Included in this report are the findings from interviews with the victim(s), the community, school, parents and the child accused of the offence. A psychiatric evaluation may also be requested.

In summing up the case, the Probation Officer makes a recommendation to the Court from his or her findings on the home surrounding, school record, health and character/profile of the child.

Based on the circumstances surrounding the case and what it deems to be in the best interest of the child, the Court may choose one of the options which include but are not limited to the following:

- (i) an order committing the child to the care of a fit person;
- (ii) an order placing the child for a specified period not exceeding three years under the supervision of a probation aftercare officer, a children’s officer, or some other person selected for the purpose by the Minister;
- (iii) an order (Correctional Order) sending a child to a juvenile correctional centre.

The Correctional Order places the child into the custodial care of the Department of Correctional services for a period not beyond the 18<sup>th</sup> birthday, on the premise that a structured environment with opportunities for rehabilitation best serves the interest of the child. There are situations however, in which a child who commits a serious and or violent offence is treated differently. In such instance, the commitment may be made for the child to be detained beyond the 18<sup>th</sup> birthday. The child having attained the age of 18 is then transferred to the adult facility to complete his/her sentence.

“The death sentence however, shall not be pronounced or recorded against a person convicted of an offence if it appears to the Court that at the time when the offence was committed he was under the age

of eighteen years, but in place thereof such person shall be liable to be imprisoned for life" (Section 77, Child Care and Protection Act). The court may specify the period which the person becomes eligible for parole. The person should be 14 years old before being committed to an adult correctional centre. However, according to Section 78 (5), "a child under fourteen years old may be sentenced to a maximum of twenty five years if the court considers this to be the only suitable sentence where a child is convicted of a serious offence".

#### IV. INSTITUTIONAL CARE AND TREATMENT

##### A. The Department of Correctional Services

The Department of Correctional Services in Jamaica falls directly under the Ministry of National Security and is mandated to contribute to the safety and protection of the society by keeping offenders placed by the court in its facilities secure and facilitating their rehabilitation. The Department carries out its mandate within the guidelines of a number of Acts including but not limited to the Corrections, the Child Care and Protection, the Probation of Offenders, the Criminal Justice Reform and Parole Acts. It is also guided by international bodies such as the United Nations.

The Department's Chief Executive Officer is the Commissioner of Corrections, who is presently Major Richard Reese. Custodial Services and Human Resource Management/Community Services are the two main areas of the Department and are each managed by a Deputy Commissioner. The rehabilitation of offenders is one of the core strategic functions of the Department. In 2000 the Rehabilitation Unit was established to streamline and better manage the rehabilitative services for adult and child offenders, which were up to that time infused in the general operations of the Department. The Unit works closely with the Director of Juvenile Services (who has direct supervision of juvenile institutions) on matters pertaining to the welfare of children in custodial care.

Consistent with the idea of empowerment through rehabilitation, the correctional process of the Department of Correctional Services, Jamaica, is one that seeks to provide an environment that will empower and rehabilitate those in its care and custody, so that upon their release to open society they will be successfully reintegrated and become peaceful, responsible and productive law abiding citizens. Stinchomb and Fox (1999) see this as replacing correctional control with self-control.

##### B. Juvenile Institutions

Although the Child Care and Protection Act uses the word "child" instead of "juvenile" there is yet no change in legislation for the renaming of juvenile centres. There are three Juvenile Correctional Centres (two for males) in which offenders between the ages of 13 and 17 are placed subsequent to the ruling by the court. There is also a Juvenile Remand Centre for males who are awaiting a final disposition of their cases. Each juvenile centre embraces the home and school concept and is managed by a Superintendent and a cadre of Correctional Officers, Teachers, Instructors, a Welfare Officer, a Case Manager, House Mothers and other support staff. As much as is possible, activities for schools in the centre mirror those in the regular schools which are operated by the Ministry of Education.

Institutional care and treatment however, take place in institutions which accommodate children above their physical capacity. Table 2 gives the capacity and the population (muster) in adult and juvenile institutions as of 5 March 2008. This indicates one of the highest numbers of children in the care of the Department of Correctional Services (for both males and females). Of note is that there is a significant increase in female offenders.

**Table 2: Juvenile Correctional Centres Capacity Status as of 5 March 2008**

JUVENILE CENTRES	CAPACITY	MUSTER	EXCESS
Armadales (females)	45	65	20
Hill Top (males)	98	103	5
Rio Cobre (males)	120	126	6
St. Andrew Remand (males)	48	46	-
ADULT CORRECTIONAL/REMAND			
Fort Augusta (females)	-	39	39
Horizon (males & females)	-	52	52
TOTAL	311	431	120

(Research Planning & Evaluation Unit, Department of Correctional Services)

### C. Assessment Procedures

On entry into correctional facilities an initial interview is conducted with the child to welcome and inform him/her of the nature of the facility, the opportunities for rehabilitation and what is expected of him/her. The concerns and needs of the child are noted. Within 30 days of admittance, a risk/need analysis is done using the Youth Level of Service/Case Management Inventory (YLS/CMI). This is a Canadian-based instrument used subject to the training of all persons who use the instrument, as a condition to preserve its integrity and to guard against its misuse.

The use of this instrument is predicated on the assumptions that the causes of youth offending arise from interrelated variables and that intervention with high-risk youths can be effective in reducing the chances of anti-social activity. Information gathered is used to classify children according to their risk needs levels and for special occasions such as the granting of licence and other conditional release programmes.

The YLS/CMI is skewed more toward a psychological assessment of the factors which predispose persons to commit crimes and those factors which may result in recidivism. The major challenge in using this instrument is that there is some disconnect between the Social Enquiry Report (SER) and the information required by the instrument. Arising from this, not enough information is obtained from the first assessment. However as the assessor interacts more with the child, the assessment which is done six months after provides more reliable information and more effective use of the instrument. The Department is now challenged to review the SER form to facilitate greater harmony with the risk assessment instrument.

Periodic assessment informs behaviour modification and treatment regimes. A treatment plan is developed for each child and managed by a Case Manager who is assigned to each of the juvenile remand and correctional centres as well as the adult correctional centres in which the children are placed. The efforts of the Case Managers are complemented by psychiatrists, psychologists, medical doctors and other specialized service providers. Each centre also has a welfare officer who sees to the general needs of the children and whose duties include conducting risk assessment, scheduling visits, making medical/dental and other appointments and facilitating the relationship between children and the outside world.

In the past children were separated based on the types of offences as Juvenile Correctional Centres were classified based on the level of security. The more serious offenders and older children were placed at the Hill Top Juvenile Correctional Centre. Overcrowding in all the facilities however, has led to children being placed based on the availability of space and not so much on the nature of the offences. Additionally, similar security features now exist in all the institutions and it is difficult to differentiate the security levels based on physical appearance. Risk assessment now assists in standardizing the risk levels of child offenders. Scores of low, medium, high and very high immediately convey to authorities the security risk of each child.

### D. Education and Training

The Child Care and Protection Act makes education compulsory for children in the care of the state. Each juvenile facility has an education programme which offers academic, vocational and development training.

Children are placed in ability groups and are exposed to all areas of training. They are prepared for internal as well as external examinations. A recent study conducted in juvenile correctional centres indicates that more than 75% of the children are motivated to achieve academically. The findings suggest however, that the teaching modalities are not meeting the needs of most of the children. The emotional and psychological issues which the children bring to the classroom impact negatively on teaching and learning, a situation made worse by the lack of expertise among the teachers to effectively manage the psychological effects of custodial care on learning.

#### **E. Behaviour Modification**

Each child's progress is monitored through several means such as the disciplinary committees, case conferences, peer counselling and special awards systems. Children who improve in their behaviour are granted special privileges. Twice per year, in the summer holidays and at Christmas, children who qualify are allowed home leave. Some are granted licence, a form of conditional release whereby they are given the opportunity to spend the remaining portion of the Correctional Order in their community, under statutory supervision of a Probation Aftercare Officer. Any breach of conditions for licence can result in a recall to the juvenile correctional centre.

#### **F. General Care and Protection**

The understanding is that children are in custodial care as punishment and not for punishment. Every effort is therefore made to protect children from physical, emotional and other types of abuse. Corporal punishment is forbidden and mutual respect encouraged. Officers assigned to juvenile remand and correctional centres are carefully selected and receive additional training in how to treat children, especially those with conduct disorders.

Support systems are in place to ensure and encourage communication between children and their homes. Each child is entitled to visits and telephone calls. Special events such as Parents Day, Probation Day, Sports Day and Christmas Dinner provide opportunities for all children to meet with their families.

Efforts toward rehabilitation however, are impeded by overcrowding and the placement or transfer of children to adult facilities. The Montpelier Camp, situated in St. James, a parish in the western end of the island, has been officially declared as the site for a new juvenile remand and correctional centre with a capacity to accommodate two hundred and fifty children. Budgetary constraints however present a formidable challenge to this venture.

### **V. REINTEGRATION AND COMMUNITY INTERVENTIONS**

It is argued that the true test of rehabilitation is the ability of persons to remain focused and law abiding upon their return to open society. While this is true it can be further argued that in any behaviour modification, a support system is necessary for continued progress. The major hindrance to the support mechanism is that the Department of Correctional Services has no legal authority over children once they are released from its care even if they have not attained the age of eighteen.

On moral grounds and in the best interest of the children, the Department seeks placement in educational institutions including colleges and monitors the process for the smooth transition into education programmes. The probation offices are available for those who choose to utilize the services. Those children who show an aptitude or interest in vocational training are referred to HEART/NTA, (Human Employment and Resource Training/National Training Agency) for vocational training. Parents are also encouraged to be a part of the reintegration process and are asked to seek out institutions in close proximity to their homes for placement. Interest in entrepreneurship is facilitated as financial and material support is available for children so inclined.

Hoge, Guerra & Boxer (2008) advise that treatment for serious and violent offenders should be risk-focused and strength-based. A major issue requiring such consideration is an assessment of the needs of children who are from volatile communities with very fragile support. The risks/needs of these children would best be served if after their release from the correctional centres they were placed in a facility for further support as they make the transition back into open society. The introduction of a halfway house

for children who need to be distanced from the negative influences of their community and placed in an environment for furthering their education and general development is an idea that the Department has advanced. This however requires policy change and additional financial, human and material resources.

The Department embraces the Asian adage that “it takes a whole village to raise a child”. Aware of the challenges which parents have in carrying out their role effectively, parental seminars are held in the institutions, at Probation Offices, at Parent-Teachers’ Meetings and in aspects of the communities. Some schools have been experiencing challenges which stem from problems in the home. In their effort to find solutions to the growing indiscipline among students, they have been requesting tours of correctional facilities. The Department continues to facilitate these requests and the feedback is that the visits serve as a wake-up call for students and a positive influence on their behaviour.

Representatives of the Department are usually invited to speak on issues of correctional management and opportunities for service in correctional institutions. Counselling services for parents and children are available at the probation offices which are located island-wide. Together with parents/guardians and teachers, proactive measures are undertaken. However, if the situation warrants the intervention of the court, this is sought. For those matters in which children are considered uncontrollable, parents are usually made aware of the implications of taking the matter before the court, which include the possibility that the child could be removed from their custody as a measure of last resort.

## **VI. CONCLUSION**

Like many developing countries, Jamaica is challenged by the involvement of children in criminal activities. The change in the profile of these children and the corresponding change in the landscape of the crimes in which they are involved are areas of major concern. While there is evidence of a sensitive justice system through reform, the corresponding processes need to be in tandem with the needs of our children, especially those who are on remand.

The efforts of the Department of Correctional Services, the agency responsible for custody and rehabilitation of offenders, are being hampered by the limited infrastructure. The lack of appropriate facilities for remand cases results in children being placed in adult facilities. Although this conforms to the legislative framework it is far from desirable given the limited provisions in adult facilities. The effective management of treatment for child offenders, especially those who commit serious and violent offences, requires a smoother transitioning from the correctional process back to their communities. In this regard, the concept of a halfway house is an idea which is worth pursuing to minimize the risk of reoffending.

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