

ENHANCING CRIME PREVENTION THROUGH COMMUNITY-BASED ALTERNATIVES TO INCARCERATION

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I. INTRODUCTION

The Philippines, just like many other countries in the world, is actively pursuing its commitment in the international community as set forth in the United Nations Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules) regarding the treatment of its criminal offenders. It has long been accepted that the search for alternatives to incarceration of offenders should take priority in the sentencing arena if we are to really address the issues of prison effectiveness, overcrowding and the consequential psychological harm resulting from prolonged or unnecessary incarceration.

The Philippines has offered many alternatives to incarceration of its criminal offenders and these alternatives can generally be grouped as interventions in the pre-sentencing or post-sentencing stage of the criminal justice process. In practice however, it is the probation and parole system that is widely used and can be considered as the best alternative for a community-based rehabilitation programme. For these reasons, a more detailed discussion of these systems is presented, including the operational procedure and mandated programmes of the agency, the Parole and Probation Administration, which is tasked by law to administer them.

Other alternatives to incarceration that are practiced in the Philippines are also presented, such as community service, fines, release on recognizance, bail and diversion, which is specifically suited for minors or children in conflict with law and greatly enhanced with the passage of Republic Act 9344.

A brief explanation of the operation of the Philippine Criminal Justice System is also included to show at what stage of the criminal justice process the alternatives to incarceration are offered.

II. UNDERSTANDING THE PHILIPPINE CRIMINAL JUSTICE SYSTEM

The criminal justice system in the Philippines is composed of five components or “pillars” and they are usually referred to as the “Five Pillars of the CJS”. Its components, composition and basic functions are as follows.

A. Law Enforcement

Law enforcement is basically represented by the Philippine National Police (PNP), the National Bureau of Investigation (NBI) and other law enforcement agencies. They have the duty to: (a) investigate crime; (b) arrest suspects; and (c) refer the case and suspects to public prosecutors or courts (if warranted).

B. Prosecution

Prosecution is basically represented by the public prosecutors, the Ombudsman, other prosecuting officers of the different governmental agencies and even private lawyers who act as private prosecutors. They have the duty to: (a) evaluate the police findings; (b) file the corresponding information or criminal complaints in the proper courts; and (c) prosecute the offenders.

C. Judicial

The judiciary is principally represented by the Supreme Court, other regular trial courts and the special courts like Family Courts, Drugs Court, and the *Sandiganbayan*. They have the responsibility of

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final determination of the innocence or guilt of the accused after the latter has undergone the hierarchical processes of the Philippine courts.

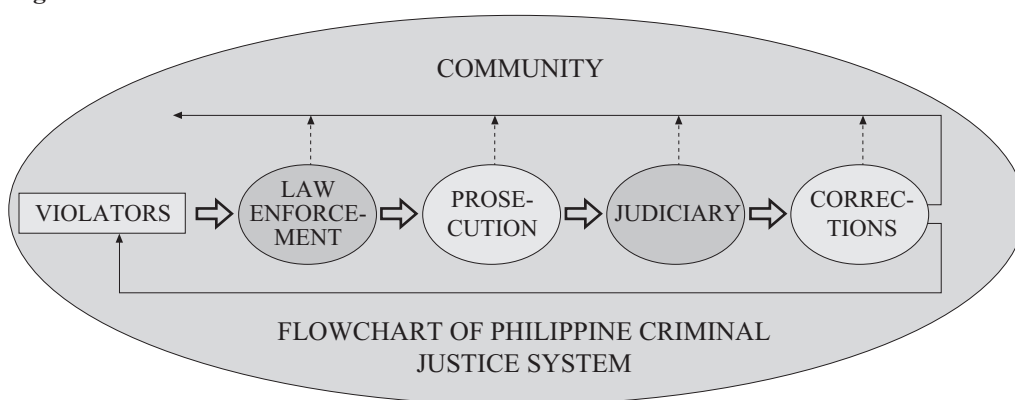
D. Correctional

The correctional aspect is represented by the Bureau of Corrections (BUCOR), the Bureau of Jail Management and Penology, the Provincial Jails for Institutional Corrections, and the Parole and Probation Administration for Non-Institutional Corrections. These agencies have the main function of receiving referrals from courts and other authorized governmental agencies.

E. The Community

The community is composed of the general public and is morally obliged to (a) create the environment for development of civic-spirited and law-abiding citizens; (b) co-operate with duly constituted authorities for effective implementation of criminal justice processes. The interaction and collective efforts of the components of the Philippine criminal justice system is illustrated in Figure 1.

Figure 1



(Note: Just like any other criminal justice model, the choice of alternatives to incarceration is available at the early stage of the criminal justice process.)

III. THE PAROLE AND PROBATION ADMINISTRATION

A. Historical Background

Probation was first introduced in the Philippines during the American colonial period (1898-1945) with the enactment of Act No. 4221 of the Philippine Legislature on 7 August 1935. This law created the Probation Office under the Department of Justice, which provided probation to first-time offenders 18 years of age or over, convicted of certain crimes. On 16 November 1937, after barely two years of existence, the Supreme Court of the Philippines declared the Probation Law unconstitutional because of some defects in the law's procedural framework.

In 1972, House Bill No. 393 was filed in the Congress, intended to establish a probation system in the Philippines. This bill avoided the objectionable features of Act 4221. The bill was passed by the House of the Representatives, and it was pending in the Senate when Martial Law was declared, and the Congress was abolished.

In 1975, the National Police Commission, acting on a report submitted by the Philippine delegation to the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, created an Inter-disciplinary Committee tasked to formulate a national strategy to reduce crime and to draft a probation law. After 18 technical hearings over a period of six months involving 60 resource persons, including international experts in the field of corrections, the draft decree was presented to a select group of 369 jurists, penologists, civic leaders and social and behavioural scientists and practitioners. The group overwhelmingly endorsed the establishment of an adult probation system in the country.

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On 24 July 1976, Presidential Decree No. 968, also known as the Adult Probation Law of 1976, was signed into law by the President of the Philippines.

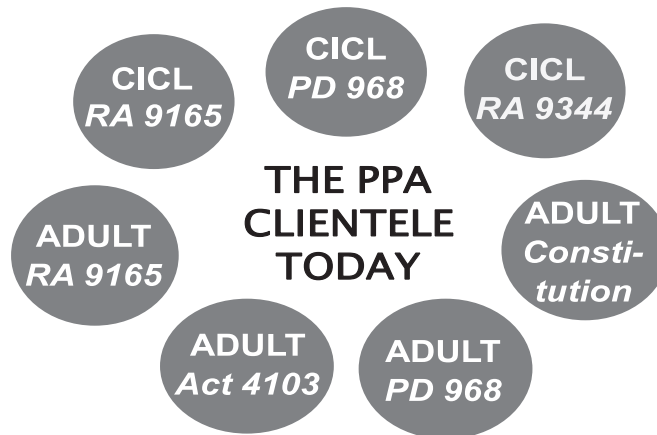
With the enactment of this law, the Probation Administration was created to administer the probation system. Under Executive Order 292, "The Administrative Code of 1987", the Probation Administration was renamed the "Parole and Probation Administration" and given the added function of supervising prisoners who, after serving part of their sentence in jails are released on parole or are granted pardon with parole conditions.

Recently, the investigation and supervision of First Time Minor Drug Offenders placed under suspended sentence (FTMDO) have become another added function of the Administration pursuant to the provisions of Republic Act No. 9165, "The Comprehensive Dangerous Drugs Act of 2002" and per Dangerous Drugs Board Resolution No. 2 dated 19 July 2005 and the Memorandum of Agreement between the Dangerous Drugs Board and the Parole and Probation Administration dated 17 August 2005. As embodied in the said Memorandum of Agreement, the Dangerous Drugs Board tapped the assistance of the Administration through its manpower in the performance of its duties to investigate and supervise minor drug offenders who apply for and/or are granted suspended sentences by the courts. The Dangerous Drugs Board appointed some of the Administration's trained personnel to be its authorized representatives to carry out the former's duty of determining whether a minor drug offender may enjoy a suspended sentence and supervising his or her treatment and rehabilitation.

Further, Executive Order 468, mandating the revitalization of the Volunteer Probation Aide (VPA) programme, places the Administration in the forefront in relation to crime prevention, treatment of offenders in the community-based setting and on the overall administration of criminal justice.

As aforementioned, Presidential Decree 968 was originally envisioned to cover only adult offenders but as practiced today, supervision of clients now covers the following groups of offenders.

Figure 2



B. Major Final Outputs

1. Investigation Services for Petitions for Probation, Parole, Executive Clemency and Suspended Sentence for First Time Minor Drug Offenders

This programme makes certain the suitability of petitioners for probation, parole, conditional pardon and first-time minor drug offenders, who will likely respond to community-based individualized treatment. Those offenders who have no potential to reform are recommended to remain in jail or prison to ensure community safety.

It gathers information on the petitioner's personality, character, antecedents, environment and other relevant information, which includes the internal as well as external resources which shall be tapped in rehabilitating clients.

The investigation of first-time minor drug offenders in the implementation of Section 57 (Probation and Community Service under the Voluntary Submission Program) and Section 70 (Probation or Community Service for a First-Time Minor Drug Offenders in lieu of imprisonment) of Republic Act 9165, "The Comprehensive Dangerous Drugs Act of 2002", was implemented only in 2006 pursuant to a Memorandum of Agreement between the Administration and Dangerous Drugs Board.

2. Supervision and Rehabilitation Services for Probationers, Parolees, Conditional Pardonees and First-Time Minor Drug Offenders Placed on Suspended Sentence or Community Service

This programme seeks to administer and execute existing laws relative to probation and parole systems in order to effect the rehabilitation and integration of probationers, parolees and pardonees as productive, law abiding and socially responsible members of the community.

Supervision is the essence of the probation and parole systems as it is in the area where intervention strategies are effected towards client rehabilitation.

The objective of supervision is the permanent regeneration of the client's attitude towards law observance. Supervision treatment should be concerned with the total configuration of the offender's personality in relation to family, community and society.

3. Administration of Volunteer Probation Aide Program (Volunteer Program Revitalized – Executive Order 468, dated October 11, 2005)

In support of the national policy of maximizing community involvement in the administration of the criminal justice system, it has become imperative for the Parole and Probation Administration to open every opportunity to allow people's participation in the implementation of the parole and probation programmes.

The recruitment and deployment of volunteers who can assist the Administration in the pursuit of its vision, mission and goals will play a pivotal role in strengthening the essence of partnership between government and the private sector in ensuring the success of programmes and activities that derive their existence from public funds.

Volunteer Probation Aides (VPAs) are provided with necessary training and orientation for them to appreciate the knowledge, skills, attitudes and values that will enable them to perform their functions and duties with utmost efficiency, effectiveness and productivity, and at the same time, experience fulfilment and satisfaction from a job that gives them very minimal or no monetary returns at all.

IV. THE PROBATION AND PAROLE SYSTEM

A. Probation

1. Definition

Probation is a disposition under which a person who is convicted of criminal offence is released, subject to the conditions imposed by the sentencing court and to the supervision of a probation officer (Section 3(a), Probation Law of 1976). It is a mere privilege and as such, its grant rests solely upon the discretion of the court. A court may, after it shall have convicted and sentenced a defendant and upon application within 15 days from promulgation of judgment, suspend the execution of said sentence and place the defendant on probation for such period and upon such terms and conditions as it may deem best. It may be granted whether the sentence imposes a term of imprisonment or a fine only. The filing of the application shall be deemed a waiver of the right to appeal. An order granting or denying probation shall not be appealable (Section 4, Probation Law of 1976).

2. Disqualifications

Any person who is not otherwise disqualified under the probation law can apply. The following are disqualified to apply for probation (Section 9, Probation Law of 1976):

- Those sentenced to serve a maximum term of imprisonment of more than six years;
- Those who have previously been convicted by final judgment of an offence punished by imprisonment of not less than one month and one day and/or a fine of not less than two hundred pesos;
- Those who have been placed on probation under the Probation Law;

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- Those who are already serving sentence at the time the Probation Law became applicable or took effect;
- Those whose conviction is on appeal;
- Those convicted of violation of the Omnibus Election Code of the Philippines;
- Those convicted of violation of Wage Rationalization Act (Sec. 12, Republic Act No. 6727).

B. Parole

1. Definition

Parole is the conditional release of a prisoner from a correctional institution after he or she has served the minimum period of his or her indeterminate sentence. A prisoner case shall not be eligible for review by the Board of Pardons and Parole unless: (a) the prisoner is confined in prison or jail to serve an indeterminate sentence, the maximum period of which exceeds one year, pursuant to a final judgment of conviction which has become final and executory, and (b) he or she has served the minimum period of said sentence (Rule 2, Sec. 2.1 of Rules of Parole, 26 June 2003). Act 4103 as enacted in 1933, otherwise known as the Indeterminate Sentence Law, is the basic law governing the administration of the parole system in the country. The Board of Pardons and Parole is the administrative arm of the President of the Philippines in the exercise of the constitutional power to grant parole and other forms of executive clemency after conviction by final judgment.

2. Persons Who are Disqualified from Parole

The following persons are disqualified to be granted parole:

- Those convicted of an offence punished with the death penalty, *reclusion perpetua* or life imprisonment (*reclusion perpetua* has a duration of 20 years and 1 day to 40 years of imprisonment);
- Those convicted of treason, conspiracy or proposal to commit treason or espionage;
- Those convicted of misprision of treason, rebellion, sedition or *coup d'etat*;
- Those convicted of piracy or mutiny on the high seas or Philippine waters;
- Those who are habitual delinquents;
- Those who escaped from confinement or evaded sentence;
- Those who having been granted conditional pardon by the President of the Philippines violated any of the terms thereof;
- Those whose maximum term of imprisonment does not exceed one year or those with definite sentence;
- Those certified as suffering from mental disorder as certified by a government psychiatrist or psychologist;
- Those whose conviction is on appeal or has not yet become final and executory;
- Those who have pending case/cases;
- Those national prisoners serving sentence in a municipal, city, district or provincial jail, unless the confinement in said jails is in good faith or due to circumstances beyond the prisoner's control.

V. ADMINISTRATION OF PAROLE AND PROBATION AS COMMUNITY-BASED ALTERNATIVES TO INCARCERATION

A. Investigation and Supervision

1. Investigation of Court Referrals

The investigation process involves detailed and in-depth study of the applicant's criminal records, family history, educational background, married life, occupational records, interpersonal relationships, spirituality, behavioural history, substance use, economic and social status and other aspects of his or her life.

The investigation procedures as enunciated in the Probation Law of 1976 are as follows: After conviction and sentence, an offender or his or her counsel files a petition for probation with the trial court, which in turn orders the probation officer to conduct a post-sentence investigation to determine whether or not an offender may be placed on probation. The grant of probation is premised upon three conditions: (1) an application for probation by the offender; (2) an investigation conducted by the probation officer; and (3) a determination by the court that the ends of justice and the best interest of the public as well as the offender will be served thereby (*Section 5*). The post-sentence investigation report must be submitted by the probation officer within 60 days from receipt of the order of the court to conduct investigation. The court shall resolve the petition for probation not later than 15 days after receipt of the said report. Pending submission of the investigation report and the resolution of the petition, the defendant may be allowed on temporary liberty under his or her bail filed in the criminal case, provided that, in cases where no bail is

filed or that the defendant is incapable of filing one, the court may allow the release of the defendants on recognizance to the custody of a responsible member of the community who shall guarantee his appearance whenever required by the court (*Section 7*). The grant of probation in effect suspends the execution of the sentence of imprisonment.

2. Investigation of Board of Pardons and Parole/Jail Referrals

The pre-parole/executive clemency investigation is conducted to provide the Board of Pardons and Parole with necessary and relevant information in determining the prisoner's fitness for parole or any form of executive clemency. The investigation and evaluation focus on the physical, mental and moral records of prisoners confined in city jails, the national penitentiary and penal colonies to identify who are eligible for parole or executive clemency.

3. Investigation of Referrals from the Dangerous Drugs Board

The conduct of a Suspended Sentence Investigation which aims to gather substantial data or information about all aspects of the client's life will be a crucial factor in the grant or denial of the petition for suspension of sentence.

B. Administration's Performance Target

In 2007, the national average disposition rate for probation investigation was 94.93, surpassing the Administration target disposition rate of 90% for investigation cases completed within 60 days. For pre-parole/executive clemency investigation, the Administration obtained 97.42% average disposition rate.

It is noteworthy to mention that the courts, the Board of Pardons and Parole and the Dangerous Drugs Board often uphold the findings and recommendation of the field officers as can be measured in terms of sustained recommendation of 99.59% for investigation and 99.91% for supervision.

VI. CORRECTION AND REHABILITATION OF OFFENDERS

Probation once granted to an applicant is accompanied by conditions imposed by the court and which conditions must be followed by the probationer while he or she is under the supervision of a probation officer. There are two types of conditions that the probationer must adhere to. These are the general mandatory conditions and the special or discretionary conditions, both of which are incorporated in every order of probation issued by the court.

- The mandatory conditions require that the probationer shall (a) present him or herself to the probation officer designated to undertake his or her supervision at each place as may be specified in the order within 72 hours from receipt of said order; and (b) report to the probation officer at least once a month at such time and place as may be specified by the officer.
- Special or discretionary conditions are those additional conditions imposed on the probationer which are geared towards his or her correction and rehabilitation outside of prison and in the community to which he or she belongs. The court may require him or her to: (a) co-operate with a programme of supervision; (b) meet his or her family responsibilities; (c) devote him or herself to a specific employment and not to change said employment without the prior written approval of the probation officer; (d) undergo medical, psychological or psychiatric examination and treatment and enter and remain in a specified institution, when required for that purpose; (e) pursue a prescribed secular study or vocational training; (f) attend or reside in a facility established for instruction, recreation or residence of persons on probation; (g) refrain from visiting houses of ill-repute; (h) abstain from drinking intoxicating beverages to excess; (i) permit the probation officer or an authorized social worker to visit his or her home and place of work; (j) reside at premises approved by it and not to change his or her residence without prior written approval; or (k) satisfy any other condition related to the rehabilitation of the defendant and not unduly restrictive of his or her liberty or incompatible with his or her freedom of conscience. The conditions as enumerated are non-exclusive. The court has the discretion to add other conditions or omit some of those already provided.

A violation of any of the conditions may lead either to a more restrictive modification of the same or the revocation of the grant of probation. Consequent to the revocation, the probationer will have to serve the sentence originally imposed.

In order to address the different areas where the client may need assistance or help in pursuing his or her rehabilitation, the Administration through its field officers conducts different rehabilitation activities intended to focus on the needs of the clients. These activities are always conducted in co-ordination with socio-civic, charitable, religious organizations, local government, individuals and our Volunteer Probation Aides. The rehabilitation activities are as follows.

A. Individual and Group Counselling

Individual counselling involves one-on-one interaction between the client and the probation and parole officer. The officer assists the client in trying to sort out his or her problems, identify solutions, reconcile conflicts and help resolve them.

Group counselling has the same objective but it is done with a group, ideally intended for those with similar problems, conflicts or offences. The activity focuses on reminders of compliance to the conditions of their probation and parole, lectures on individual and marital problems, behavioural problems, proper conduct in the community, health issues and social responsibility, as well as environmental awareness.

B. Social-Moral and Values Formation and Spiritual/Religious Activities

These activities are accomplished through seminars, lectures or training offered or arranged by the office, most of the time inviting outside resource person and availing of their services for free. Active Non-Governmental Organizations, local government units, lay ministers and their ministries, school and faculty associations provide much help in facilitating the conduct of these activities.

C. Work and Livelihood

The Administration initiates a self-sustaining livelihood programme to ensure that a client can provide basic necessities for himself and his or her family. Field officers conduct/organize seminars for a home-based, labour intensive economic activity, in co-ordination with local government units, non-government organizations and civic organizations which can assist the clients in the pursuit of feasible livelihood projects.

D. Skills Training

Productivity and economic sufficiency of the clients during the process of reintegration is one of the objectives of the Administration aimed to achieve for the clients, such that clients with inadequate technical know-how are encouraged and referred for skills training to enhance/acquire marketable skills to make them more competitive for employment.

E. Health and Medical Services

To address some of the basic needs of clients and their families, medical missions are organized to provide various forms of medical and health services including physical examination and treatment, free medicines and vitamins, dental examination and treatment, drug dependency test and laboratory examinations. Psychological testing and evaluation as well as psychiatric treatment are likewise provided by the Administration's Clinical Division and if not possible by reason of distance, referrals are made to other government accredited institutions.

F. Literacy Programme

In co-ordination with local government unit programmes, adult education classes are availed of to help clients learn basic writing, reading and arithmetic. Likewise, literacy teach-ins during any sessions conducted for clients become part of the module. This is particularly intended for clients who are "no read, no write" to help them become functionally literate. Likewise, there are regular linkages with educational foundation, other government organizations and non-government organizations for free school supplies, bags and uniform for clients' children and relatives.

G. Community Service

This programme refers to the services in the community rendered by clients for the benefit of society. It includes tree planting, beautification drives, cleaning and greening of surroundings, maintenance of public parks and places, garbage collection, blood donation and similar socio-civic activities.

H. Clients’ Self-Help Organization

This programme takes the form of co-operatives and clients’ associations wherein the clients form co-operatives and associations as an economic group to venture on small-scale projects. Similarly, client associations serve another purpose by providing some structure to the lives of clients where they re-learn the basics of working within a group with hierarchy, authority and responsibility much like in society in general.

I. Payment of Civil Liability

The payment of civil liability or indemnification to victims of offenders is pursued despite the economic status of clients. Payment of obligations to the victims instils in the minds of the clients their responsibility and the consequences of the harm they inflicted on others.

J. Environment and Ecology

To instil awareness of and concern for preserving ecological balance and environmental health, seminars/lectures are conducted wherein clients participate. These seminars/lectures tackle anti-smoke belching campaigns, organic farming, waste management, segregation and disposal and proper care of the environment.

K. Sports and Physical Fitness

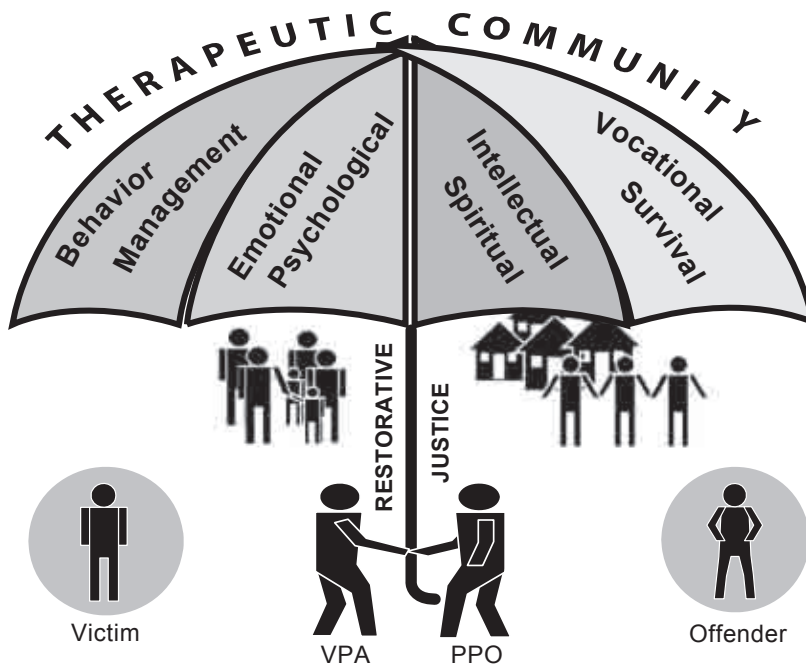
Activities that provide physical exertion like sports, games and group play are conducted to enhance the physical wellbeing of clients. Friendly competitions of clients from the various offices of the sectors, together with the officers, provides an enjoyable and healthful respite.

VII. PROGRAMME FOR THE REHABILITATION OF CLIENTS

It is a community-based, harmonized three-pronged approach to crime prevention and treatment of offenders with restorative justice as its philosophical foundation, therapeutic community its unifying structure and volunteerism its lead community resource.

It can also be described as an individualized, community-based programme using therapeutic community as the treatment modality that integrates restorative justice principles and practices and mobilizes community involvement through volunteerism.

Figure 3: Symbolism of the Umbrella



The integration of the three programmes is depicted by the diagram of the umbrella.

The rod holding up the umbrella represents restorative justice (RJ) which is the philosophical foundation of the agency mission and provides the unifying principle for all rehabilitation activities integrated within the therapeutic community (TC) modality.

The four-panelled canopy represents the TC Modality with its four distinct but overlapping categories of activities, namely: behaviour shaping/behaviour management; emotional and psychological assistance; intellectual and spiritual; and vocational/survival skills categories.

The two figures holding up the umbrella represents the Probation and Parole Officer and the volunteer probation aides (VPA) who work collaboratively in order to bring about the social transformation of offenders, victims and community.

A. Therapeutic Community

Therapeutic Community is based on the Social Learning Model, which utilizes the community as the primary therapeutic vehicle to foster behavioural and attitudinal change. In this model, the client receives the information and the impetus to change from being a part of a community. The expectations that the community places on its individual members reflect not only the needs of the individual, but also the social and support needs of the community. This community model provides social expectations, which are parallel to the social demands that the client will confront upon discharge to their home community. The attitudes, skills and responsibilities learned in the community are not only necessary for survival, but also, essential to surviving in the larger community.

B. Restorative Justice

Restorative Justice is a victim-centred response to crime that provides opportunity of restoring broken relationship caused by crime and putting closure to the hurt feelings and repairing the damage done among those directly affected – the victim, the offender, their families and the community. In the restorative process, parties affected are encouraged to actively participate together in the resolution of matters resulting from the offence with the fair and impartial third party or the Chief Probation and Parole Officer or investigating officer as mediator. During the year 2007, the programme effected the healing process among 1,254 victims and 3,170 clients by way of dialogue, victim-offender mediation, conferencing, restitution, community work service and peacemaking encounter and/or agreement.

C. Volunteer Probation Aide Program

The Volunteerism Program of the Philippines has evolved, being mandated in Section 28 of the Presidential Decree No. 968, otherwise known as Adult Probation Law of 1976, which authorizes the appointment of citizens of good repute and probity to act as Volunteer Probation Aide to assist the probation officer in the supervision of probationers.

Since the Administration recognizes the vital role of the community in the treatment and rehabilitation of clients, probationers, parolees and pardonees, there was a move to revive the Volunteer Probation Aide Program. Hence in 2002, Executive Order No. 468 was issued for the Revitalization of the Volunteer Probation Aide of the Administration which aims to heighten and maximize community involvement and participation in the community-based programme in the prevention of crime, treatment of offenders and administration of criminal justice system. This is also used as a strategy to address the lack of manpower in the Administration.

To implement things in order, the Administration has engaged in aggressive and extensive recruitment and appointment of qualified Volunteer Probation Aides following the prescribed set of criteria with a target that by the end of 2010, the number of Volunteer Probation Aides appointed would reach 5,000. At present, the Administration has already exceeded its initial target set for year 2010.

1. Current Situation

The Philippines has 79 provinces and cities, with 229 Parole and Probation field offices. A total of 704 Probation and Parole Officers are supervising 36,821 clients as of 30 September 2008.

2. Recruitment and Appointment

Only about 259 volunteers were recruited as of 2003. As of 21 November 2008, however, a total of 7,554 Volunteer Probation Aides were already appointed, with 1,704 Volunteer Probation Aides appointed from January to 21 November, 2008.

Figure 4 shows the Cumulative Total of Volunteer Probation Aides Appointed by Region from 2003 to November 21, 2008.

Figure 4

Region	2003	2004	2005	2006	2007	2008
NCR	10	70	107	159	312	521
CAR	0	2	11	39	225	293
I	5	36	191	241	280	323
II	2	12	43	54	168	256
III	6	29	157	652	958	1141
IV	32	154	429	922	1184	1271
V	79	84	90	108	176	225
VI	4	12	348	441	533	764
VII	41	46	203	288	482	709
VIII	2	21	75	121	208	316
IX	27	30	70	147	319	478
X	10	111	112	222	335	416
XI	32	65	115	177	251	332
XII	0	0	43	73	151	214
CARAGA	9	9	36	94	268	295
Total	259	681	2030	3738	5850	7554

2. Volunteer Probation Aide Mobilization

The target ratio for Volunteer Probation Aides supervising clients is 1:2. As of 30 September 2008, of 36,821 total active supervision cases only 7,466 (20.28 percent) are supervised by 2,347 Volunteer Probation Aides. This accounts for only 31% of 7,554 appointed Volunteer Probation Aides.

3. Trainings and Development

For effective implementation of the Volunteer Probation Aide Program and proper utilization of the Volunteer Probation Aides, continuous training and workshops are held to equip the Probation and Parole Officers and Volunteer Probation Aides with adequate knowledge and skills in the implementation of the programme and facilitation of supervision work in the community, with the technical assistance of Japan International Cooperation Agency and the United Nations Asia and Far East Institute for the Prevention of Crime and Treatment of Offenders, since the revitalization of the Administration's programme.

The Basic Training for Volunteer Probation Aides, a 16-hour basic training session, is given to prior to the VPOs' supervision of clients. Other training sessions which are continuously conducted for the Probation and Parole Officers/Volunteer Probation Aides are the following:

- Information Drive
- Orientation
- Basic Training
- Specialized Training on Restorative Justice
- Specialized Training on Therapeutic Community Modality
- Leadership Training
- Capability Building of VPAs on the following:

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- Managing their own organization
- Leadership and Organizational Development
- Team Building
- Counselling and other skills necessary in the conduct of their duties and responsibilities
- In-Country Training Program on the Holistic Approach to Volunteer Resource Development
- Country Training Programme on the Revitalization of the Parole and Probation Administration Volunteer Probation Aide Programme in Japan

4. Organization

At present, out of 229 field offices, 125 ((54.59 percent) have already organized their associations. As to its membership, out of 7,554 appointed Volunteer Probation Aides, 3,870 (or 51.23 percent) are members. Only 104 field offices have not yet organized their association though they have already appointed Volunteer Probation Aides.

There is already a national association of Volunteer Probation Aides – the Association of Volunteer Probation Aides of the Philippines (AVPAP) and registered with the Security and Exchange Commission (SEC).

VIII. OTHER ALTERNATIVES TO INCARCERATION

A. Community Service

This programme refers to the services in the community rendered by clients for the benefit of society. It includes tree planting, beautification drives, cleaning and greening of surroundings, maintenance of public parks and places, garbage collection, blood donation and similar socio-civic activities. The effectiveness of community service is often underestimated or underappreciated and usually imposed only as an add-on requirement in probation and parole supervision. Under RA 9165, The Comprehensive Dangerous Drugs Act of 2002, community service can now be imposed as a separate penalty.

B. Fine

In lieu of imprisonment the court may impose upon the offender the payment of a fine commensurate to the offence he or she committed. Imposition of fines or finical punishment is traditionally used in conjunction with other penalties or for minor offences. Interestingly, the Supreme Court of the Philippines in a circular has discouraged judges from imposing the penalty of imprisonment for violation of Batas Pambansa 22, the Bouncing Check Law, and instead to consider fine as the more appropriate penalty. Prosecution for violation of the Bouncing Check Law is now also covered by the Summary Rules on Criminal Procedure where summons are just issued for the appearance of the accused instead of the usual warrant of arrest.

C. Release on Recognizance

Recognizance is an obligation of record, entered into before some court duly authorized to take it, with condition to do some particular act or acts, the usual condition being the appearance of the accused for trial. The application for release on recognizance may be filed at any time before conviction in the court where the case is pending.

Presently, release on recognizance is available only in the following instances:

1. When the offence charged is for violation of an ordinance, a light felony or a criminal offence, the imposable penalty for which does exceed six months' imprisonment and/or a 2,000 peso fine (Republic Act 6036).
2. When a person is in custody for a period equal to or more than the minimum of the principal penalty prescribed for the offence charged (Rule 114 Section 16, Revised Rules on Criminal Procedure).
3. When the accused has no bail filed or he or she is incapable of filing for bail (Rule 114, Section 24, Revised Rules on Criminal Procedure).
4. When the youthful offender is held for physical and mental examination, trial or appeal (Presidential Decree 603).

A new bill on release on recognizance (Recognizance Act of 2008) is now pending in the Philippine Congress. The Administration strongly supports such proposal. This measure is intended to serve as the enabling law for the full implementation of release on recognizance as an instrument for temporary release. Moreover, this measure is a means to promote the principle of restorative justice especially among poor litigants who have yet to be convicted but are detained due to their inability to post bail or due to a simple lack of an enabling law on recognizance. It would give the members of a community a bigger and more proactive role in reforming suspected offenders and upholding a fair system of justice. This is also a way to address other problems confronting the criminal justice system such as protracted trials, prolonged resolution of cases, lack of legal representation, lack of judges, congestion in jails, and lack of opportunity to reform and rehabilitate offenders. This bill also seeks to expand the coverage of release on recognizance from the present six months up to 20 years' imprisonment.

D. Diversion

Jails and prisons are simply not for children under the new law on juvenile justice. Instead of putting them to jail, children in conflict with the law will be placed in diversion programmes without undergoing court proceedings, subject to the conditions imposed by law. It may be conducted at the *Katarungang Pambarangay*, the police investigation or the inquest or preliminary investigation stage and at all levels and phases of the proceedings, including judicial level (Section 4 (i) of Republic Act No. 9344, or the Juvenile Justice and Welfare Act). The diversion programme includes adequate socio-cultural and psychological responses and services for the child. At the different stages where diversion may be resorted to, the following diversion programmes may be agreed upon, such as, but not limited to:

1. At the Level of the Punong Barangay

- Restitution of property;
- Reparation of the damage caused;
- Indemnification for consequential damages;
- Written or oral apology;
- Care, guidance and supervision orders;
- Counselling for the child in conflict with the law and the child's family;
- Attendance in training, seminars and lectures on anger management skills, problem-solving and/or conflict resolution skills, values formation, and other skills which will aid the child in dealing with situations which can lead to repetition of the offence;
- Participation in available community-based programmes, including community service; or
- Participation in education, vocation and life skills programmes.

2. At the Level of the Law Enforcement Officer and the Prosecutor

- Diversion programmes as specified above; and
- Confiscation and forfeiture of the proceeds or instruments of the crime.

3. At the Level of the Appropriate Court

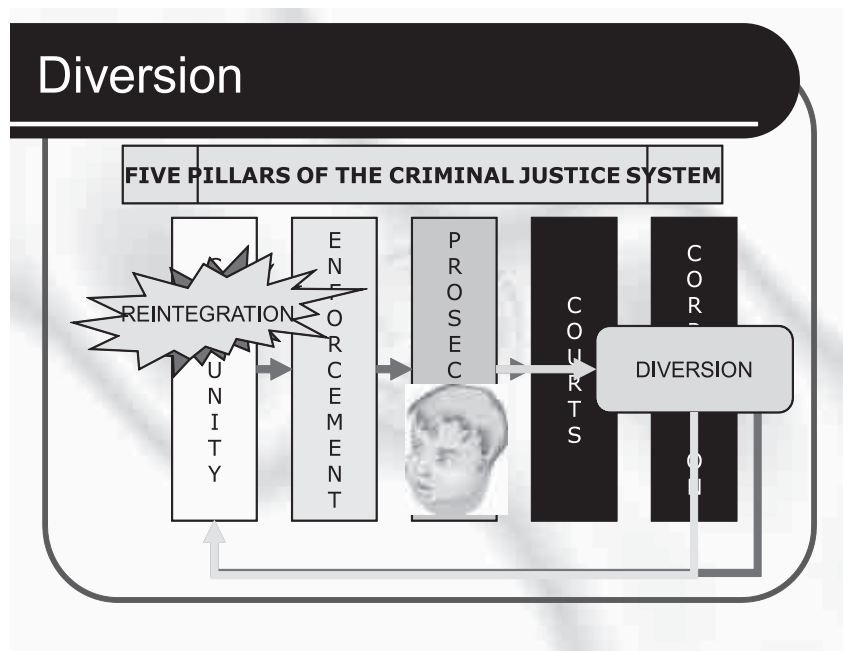
- Diversion programmes as specified above;
- Written or oral reprimand or citation;
- Fine;
- Payment of the cost of the proceedings; or
- Institutional care and custody.

Community-based programmes on juvenile justice and welfare are instituted by the local government units through the Local Councils for the Protection of Children, school, youth organizations and other concerned agencies. The local government units are mandated to provide community-based services which respond to the special needs, problems, interests and concerns of children and which offer appropriate counselling and guidance to them and their families. These programmes shall consist of three levels:

- Primary intervention includes general measures to promote social justice and equal opportunity, which tackle perceived root causes of offending;
- Secondary intervention includes measures to assist children at risk; and
- Tertiary intervention includes measures to avoid unnecessary contact with the formal justice system and other measures to prevent reoffending (Section 19 of Republic Act No. 9344, or the Juvenile Justice and Welfare Act).

To ensure the effective implementation of the new juvenile justice law, a Juvenile Justice and Welfare Council (JJWC) was created, chaired by an Undersecretary of the Department of Social Welfare and Development and attached to the Department of Justice for administrative supervision. Co-ordination with the following agencies is likewise mandated by law: (a) Council for the Welfare of Children (CWC); (b) Department of Education (DepEd); (c) Department of Interior and Local Government (DILG); (d) Public Attorney's Office (PAO); (e) Bureau of Corrections (BUCOR); (f) Parole and Probation Administration (PPA); (g) National Bureau of Investigation (NBI); (h) Philippine National Police (PNP); (i) Bureau of Jail Management and Penology (BJMP); (j) Commission on Human Rights (CHR); (k) Technical Education and Skills Development Authority (TESDA); (l) National Youth Commission (NYC); and (m) other institutions focused on juvenile justice and intervention programmes.

Figure 5



As illustrated above, in the prosecution of minors or children in conflict with law under RA 9344, diversion proceedings are applied at all levels, even up to the judicial level.

E. Bail

As a mode for releasing a person usually under preventive imprisonment, bail can be granted by the court as matter of right or discretion. Release on bail is available as matter of right in the following instances:

1. Before and after conviction in the Municipal Trial Courts;
2. Before conviction in the Regional Trial Courts for offenses not punishable by death, *reclusion perpetua* or life imprisonment;
3. Before conviction in the Regional Trial Court for offences punishable by death, *reclusion perpetua* or life imprisonment where the evidence of guilt is not strong.

After conviction in the Regional Trial Court for offences not punishable by death, *reclusion perpetua* or life imprisonment, release on bail, usually for humanitarian reasons, is already discretionary.

IX. CONCLUSION

With the ever increasing prison population which is prevalent in most jails and prisons locally and internationally, community corrections or alternatives to incarceration are now essential elements of a

modern criminal justice system. While institutional corrections may continue to be practiced alongside other alternatives, it should serve only as a deterrence or remedy of last resort for hardened criminals who may pose a direct or immediate threat to the community. The questionable impact of incarceration as a tool for rehabilitation and treatment has long been seriously challenged. The physical, psychological and dehumanizing effects of unnecessary incarceration have been likewise raised as issues of major concern and identified as a cause for incidence of recidivism. While probation and parole systems may continue to be the traditional community-based alternatives to incarceration, there is still a need to further enhance them or perhaps to develop other alternatives or intermediate sanctions that would provide greater levels of supervision, control and treatment of offenders. If we can have more and more of these community-based alternatives to incarceration then we can be certain that we will have fewer and fewer criminal offenders channelled by our courts to jails and prisons.