

# UNDERSTANDING CHILDREN IN CONFLICT WITH THE LAW:

CONTRADICTIONS ON VICTIMISATION,  
SURVIVOR BEHAVIOUR AND THE PHILIPPINE JUSTICE SYSTEM

## A Study of the Situation of Children in Conflict with the Law in Davao

---

**Mae Fe Ancheta-Templa**

with

**Ma. Theresa Pacaba-Deriquito**

**Guia Sarabia**

**Myrna Montebon**

**Ariel Balofinos**

**Eldridge Tutor**

**Cristy Framer Mella**

and

**Sally Tornio**



**Save the Children**

UK

# UNDERSTANDING CHILDREN IN CONFLICT WITH THE LAW:

## CONTRADICTIONS ON VICTIMISATION, SURVIVOR BEHAVIOUR AND THE PHILIPPINE JUSTICE SYSTEM

### A Study of the Situation of Children in Conflict with the Law in Davao

Mae Fe Ancheta-Templa

This report forms part of the CD-ROM entitled, "BREAKING RULES: Children in Conflict with the Law and the Juvenile Justice Process, The Experience in the Philippines."

Published by: Save the Children UK  
3/F FSS Building I  
89 Scout Castor Street, Quezon City, Philippines

Copyright 2004 Save the Children – UK  
Philippines Programme

This material is copyright but may be reproduced by any method without fee or prior permission for teaching purposes, but not for resale. For copying in any other circumstances, prior written permission must be obtained from the publisher, and a fee may be payable.

Lead Researcher: Mae Fe Ancheta-Templa

Ma. Theresa Pacaba-Deriquito  
Guia Sarabia  
Myrna Montebon  
Ariel Balofinos  
Eldridge Tutor  
Cristy Framer Mella  
and  
Sally Tornio

Technical editing: Wilma T. Bañaga

Design and layout: Dok Pavia

Save the Children UK is a member of the International Save the Children Alliance, the world's leading independent children's rights organisation, with members in 27 countries and operational programmes in more than 100 countries.

Save the Children works with children and their communities to provide practical assistance and, by influencing policy and public opinion, bring about positive change for children.

# Acknowledgments

There were a number of individuals, organisations and facilities mobilised in this research. Some of them prefer not to be mentioned in this document but deserve wholehearted appreciation in private.

I am very much indebted to the following organisations and individuals whose valuable contributions made this research possible:

To the network of child-focused organisations in Davao City, specifically, the Kabataan Consortium-Center for Human Rights of Children and Young People, the Juvenile Justice Group and the Kabiba Alliance for Children's Concerns. Through them the research process was discussed and finalised, and the focused group discussions with community adults and young people were conducted.

To the children in conflict with the law who took part in the study, it was a great time for all of us. Their stories are indeed great contributions to the wealth of data collected so far.

To my friends and colleagues at the Mindanao Interfaith People's Conference and Karapatan Task Force on Women and Children, for providing moral support and kind understanding as I visited jails and children's centres while we were in the thick of the campaign for the indigenous and Moro peoples' rights.

To Social Work colleagues at the DSWD-FO-XI and Davao Province, who helped in coming up with a more or less comprehensive study on CICL. Their candidness about their work enriched the inputs. I thank them for their trust and confidence in me.

To the research team: Ma. Theresa Pacaba-Deriquito, the chief documentor; and to Guia Sarabia, Myrna Montebon, Ariel Balofinos, Eldridge Tutor, Cristy Framer Mella, and Sally Tornio. They have wonderfully shared their time, skills and energies in the project even as there was a problem in synchronising time for data collection and data processing.

To the members of the legal resource pool, Atty. Rose Tolosa and Nida Delgra, for extending time for the deliberations on the initial findings and feedback on the research report. They are so attached to the issues of CICL that it became very easy for me to relate the findings with them considering their own concrete experiences.

To the project partners—for Davao del Norte and Compostela Provinces, the Released Foundation, Inc.; and for Davao City, the City Council's Committee on Women, Children and Family Relations through the Office of Councilor Angela A. Librado, the Committee's Chair—for sharing their network and facilities that made possible the completion of this document.

To Don Pagusara, who has been so kind to extend editorial support.

To my newfound budding layout artists, Enginita Aloro and Bart Lagon Jr., who deserve a pat in the back. It seems they are not that bothered by the sleepless nights when they made the final form.

To my two daughters who took time re-reading for me the edited copy.

And lastly, to Pinx for the artwork used in the FGD which also appear in this document. Pinx is a young artist who opted to work with people's organisations.

# Contents

<b>Acknowledgements</b>	iii
<b>List of Tables</b>	vi
<b>List of Figures</b>	vii
<b>List of Boxes</b>	vii
<b>Glossary of Local Terms</b>	vii
<b>Acronyms and Abbreviations</b>	viii

---

<b>I</b>	<b>Introduction</b>	<b>I</b>
----------	---------------------	----------

- Objectives of the Study
- Research Areas
- Research Methodology
- Scope and Limitations of the Study
- Review of Related Literature

---

<b>2</b>	<b>The Situation of Children in Conflict with the Law</b>	<b>II</b>
----------	---	-----------

- The Context of Children: Family, Community, Society
- Varying Notions about Children in Conflict with the Law
- The Legal Framework and Local Policies Related to Children's Justice
- Profile of Children in Conflict with the Law
- Why Children Go Against the Law: A Closer Look at the Children's Context
- Crime And Discernment: Do the Children Really Know?

---

<b>3</b>	<b>Children in the Process of Justice Administration</b>	<b>32</b>
----------	--	-----------

- Offending and Getting Caught: Children's Experience of Barangay Justice
- Children in the Hands of the Police
- Children Facing Charges in Court
- Children Behind Bars
- Children in Custodial Centres
- Beyond the Criminal Justice System

---

<b>4</b>	<b>Responding through Direct Service Delivery, Collaboration and Local Action</b>	<b>79</b>
	Working on Juvenile Justice and CICL Issues	
	Collaboration on the Issue of Summary Execution	
	Engaging CWC and the Local Government Unit	
	Efforts to Amend the Davao City Children's Welfare Code	
	Support for Diversion and Reintegration	
<b>5</b>	<b>Recommendations from the Five Pillars of Justice</b>	<b>82</b>
	Barangay/City/Provincial LGU	
	Police	
	Prosecution	
	Court	
	Correction	
<b>6</b>	<b>Summary, Conclusion and Recommendations</b>	<b>85</b>
	Summary of Major Findings	
	Issues and Gaps	
	Conclusion	
	Recommendations	
	<b>Bibliography</b>	<b>95</b>
<b>Annex 1</b>	List of Research Participants	<b>96</b>
<b>Annex 2</b>	Davao City Budget Allocation for Children's Programmes, 1999-2001	<b>98</b>
<b>Annex 3</b>	Flowchart of the Juvenile Justice Process	<b>108</b>

## List of Tables

- 2.1 Total budget allocation for children by budget item and year, Davao City, 1999-2001
- 2.2 Total budget allocation for children by areas of concern and year, Davao City, 1999-2001
- 2.3 Distribution of arrested children by sex, age and educational attainment, Davao City, January-June 2002
- 2.4 Distribution of arrested children by sex and age, Tagum City, 2001
- 2.5 Distribution of arrested children by sex and age, Nabunturan, January 2000 to January-June 2002
- 2.6 Number of children's cases handled by the Public Attorney's Office, Public Attorney's Office (PAO) Region XI, 2000-January to June 2002
- 2.7 Distribution of children with cases filed at the Family Court by sex and age, Nabunturan, January 2000 to January-June 2002
- 2.8 Distribution of cases of children by sex and age, Davao City Jail, 11 February 2002
- 2.9 Distribution of arrested minors by type of offence, Davao City, 2000 to January-June 2002
- 2.10 Distribution of arrested children by type of offence, sex and age, Tagum City, 2001
- 2.11 Distribution of arrested children by sex, age and type of offence, Nabunturan, 2000 to January-June 2002
- 2.12 Distribution of children's cases filed in court by type of offence, Tagum City, 1999-June 2002
- 2.13 Number of children's cases and accused according to the top three offences, Tagum City, 1999-June 2002
- 2.14 Cases filed at the Family Court, Nabunturan, 2000 – January to June 2002
- 2.15 Distribution of detained children by type of offence, sex and age, Davao City, 11 February 2002
- 2.16 Distribution of cases of children by type of offence, sex and age, Tagum City Jail, 5 June 2002
- 2.17 Distribution of cases of children in custody by type of offence/crime, Regional Rehabilitation Center for the Youth (RRCY), June 2002
- 2.18 Distribution of arrested minors by type of offence and previous criminal record, Davao City, January-June 2002
- 3.1 Distribution of children arrested by sex, age and arresting officer, Nabunturan, 2000-2002
- 3.2 Distribution of children arrested by sex, age and arresting officer, Tagum City, 2001
- 3.3 Distribution of children's cases by the time of commission of the crime, Davao City, January to June 2002
- 3.4 Distribution of cases by the type of substance used by the arrested children upon apprehension, Davao City, January to June 2002
- 3.5 Distribution of arrested children's cases by status, Davao City, 2000 to January-June 2002
- 3.6 Number of children's cases handled by the Public Attorney's Office, cases terminated and clients involved, PAO Region XI, 2000-2002 (January-June)
- 3.7 Summary of criminal cases, RTC Davao Family Courts, 2000-2001
- 3.8 Number of criminal cases pending, received, disposed and archived, Davao Family Courts, 2000-2001
- 3.9 Number of cases handled by public attorneys in family courts by month, Regional Trial Court (RTC) Branches 8 and 12, January-June 2002
- 3.10 Distribution of terminated children's cases by whether or not decision is favourable to the child, PAO Region XI, 2000- January to June 2002
- 3.11 Distribution of cases by status and year filed, RTC Branch 3-Nabunturan, 2000-June 2002
- 3.12 Distribution of cases filed against children by nature of case and age, RTC Branch 3 - Nabunturan, 2000-January to June 2002
- 3.13 Distribution of cases of children by characteristics of case, sex and age, Davao City Jail, as of 11 February 2002
- 3.14 Daily schedule of activities for child residents at the Juvenile Welfare Unit-Davao City Jail
- 3.15 Distribution of children by status of family support, sex and age, Davao City Jail, 11 February 2002
- 3.16 Daily schedule in the RRCY
- 3.17 Individual checklist of children's performance and behaviour
- 3.18 List of young people killed by summary execution, Davao City, 1999-2002

## List of Boxes

- 1 A Snapshot: RTC Branch 3-Nabunturan
- 2 Benben's Story
- 3 12 Steps: A Therapeutic Process
- 4 Emy's Story
- 5 Boboy's Story
- 6 Dong, Jun and Manny's Story
- 7 Children's Notions of Rights

## Glossary of Local Terms

barkada	peer group or gang
barangay	the local term for village; the smallest political unit in the country
buntog	a Cebuano word for bird, but is used to refer to children and young people in the streets; specifically used as a label for street girls in gangs who engage in “sexual promiscuity” or “free sex” with their male counterparts initially as part of their initiation into the gang and later on, as a regular activity, thus, the comparison to a bird, which freely flies from one partner to the next.
purok	Puroks are politico-geographic subdivisions that make up a barangay
barangay tanod	village police
delihensiya	petty extortion
barangay kagawad	barangay councilor or local legislator
gipasalbahan	fire warning shots
Katarungang Pambarangay	Village Justice System
lumad	a general term used to refer to various indigenous communities in Mindanao
rugby	a popular term for a commercial adhesive with addictive properties, and which has been considered under the law as a “dangerous drug”
jeepney	customised vehicles originally made from surplus US army jeeps; the primary means of public transport in Manila and in most urban centres, and commonly found even in very remote places in the Philippines
shabu	a colloquial term for methamphetamine hydrochloride, a very popular abused substance
umamin	plead guilty to a crime

## Acronyms and Abbreviations

AKAP – AHRC	-	Adhikain Para sa Karapatang Pambata [Child Rights Desk]– Ateneo Human Rights Center	NGO	-	Non-Government Organisation
ARB	-	Agrarian Reform Beneficiary	NSO	-	National Statistics Office
BADAC	-	Barangay Drug Abuse Council	OR	-	Observation Room
BANAT	-	Barangay Anti-Narcotics and Trafficking	PAO	-	Public Attorney's Office
BCPC	-	Barangay Council for the Protection of Children	PD	-	Presidential Decree
BIMP-EAGA	-	Brunei, Indonesia, Malaysia and Philippines-East Asia Growth Area	P/Insp.	-	Police Inspector
BJMP	-	Bureau of Jail Management and Penology	PNP	-	Philippine National Police
Brgy.	-	Barangay	POC	-	Parenting Orientation Courses
CEDC	-	Children in Especially Difficult Circumstances	RA	-	Republic Act
CHR	-	Commission on Human Rights	ROR	-	Release on Recognisance
CICL	-	Children in Conflict with the Law	RRCY	-	Regional Rehabilitation Center for the Youth
CSSDO	-	City Social Services and Development Office	RCDD	-	Rehabilitation Center for Drug Dependents
CSU	-	Civil Security Unit	SC-UK	-	Save the Children UK
CSWD	-	City Social Welfare and Development	SEC	-	Securities and Exchange Commission
CVO	-	Civilian Volunteer Organisation	SK	-	Sangguniang Kabataan
CWC	-	National Council for the Welfare of Children	SPAG	-	Station Police Auxiliary Group
CYRO	-	Child and Youth Relations Officers	TADECO	-	Tagum Development Corporation
CYRS	-	Child and Youth Relations Service	TESDA	-	Technical Education and Skills Development Authority
DAMOSA	-	Davao Motor Sales	UN CRC	-	United Nations Convention on the Rights of the Child
DCPAG	-	Davao City Police Auxiliary Group	UNICEF	-	United Nations Children's Fund
DCPO	-	Davao City Police Office	WCCD	-	Women and Children's Concerns Desk
DSWD	-	Department of Social Welfare and Development	WCCD-DCPO	-	Women and Children's Concerns Desk-Davao City Police Office
FGD	-	Focus Group Discussion	ADF	-	Annual Development Fund
FO	-	Field Office	CAME	-	Coordination, Administration, Monitoring and Evaluation
GHG	-	Group Home for Girls	DDS	-	Davao Death Squad
IRR	-	Implementing Rules and Regulations	DOLE	-	Department of Labor and Employment
JICA	-	Japan International Cooperation Agency	MSWDO	-	Municipal Social Welfare and Development Officer
JJG	-	Juvenile Justice Group	NEDA	-	National Economic and Development Authority
JWU	-	Juvenile Welfare Unit	NPC	-	National Police Commission
KI	-	Key Informant	Php	-	Philippine Peso
km	-	Kilometre	RFI	-	Released Foundation, Inc.
LGU	-	Local Government Unit	RTC	-	Regional Trial Court
MOA	-	Memorandum of Agreement	SB	-	Supplementary Budget
NCR	-	National Capital Region	SEF	-	Special Education Fund
			TWG	-	Technical Working Group
			US\$	-	United States Dollar



# I Introduction

Save the Children-UK (SC-UK), a member of the International Save the Children Alliance, is an international non-government organisation (NGO) committed to upholding the rights of children and ensuring the delivery of immediate and lasting improvements to children's lives. Based in London, SC-UK has offices in over 50 countries including the Philippines.

The primary area of work of SC-UK's Philippine Country Programme is currently child protection, with focus on abused and exploited children and children in conflict with the law (CICL). Work on these issues is strategically carried out through partnerships with government agencies and locally-based NGOs. Current efforts are geared towards the creation and institutionalisation of support systems and service-delivery mechanisms that will ensure the promotion and protection of children's rights at the community level. The term, "abused and exploited children," generally refers to children who are sexually, physically and emotionally abused. Given such definition, the term also includes streetchildren, working children and CICL—all of whom often experience these types of abuse in their immediate environment.

SC-UK works for the protection of CICL through its Children's Justice Programme. This programme seeks to introduce changes or reforms in the administration of justice for CICL at the local and national levels based on the principles of restorative justice and as provided for in the United Nations Convention on the Rights of Children (UN CRC) and other relevant international instruments on juvenile justice. SC-UK believes that protection for CICL can be effected through diversion at the community, police and prosecutors' level in the administration of justice. This is aimed at minimising the CICL's entry into the criminal justice system.

Two mission visits have been conducted by programme advisors from the SC-UK headquarters in London to assess the current work on and provide support in

refining the concept of Children's Justice. One notable finding was the lack of data that will support the assumptions in the initial programme design. Such data would be valuable for analysing the needs of CICL vis-à-vis their rights. This would in turn help SC-UK and its partners in defining their advocacy agenda on CICL at the local and national levels.

In a previous research conducted by the Adhikain Para sa Karapatang Pambata (Child Rights Desk) – Ateneo Human Rights Center (AKAP-AHRC) entitled "Situation Analysis on CICL and the Juvenile Justice System," a rather consistent pattern was established in terms of children's sex, age, educational attainment, family situation and socio-economic status, among others. In the current study, quantitative and qualitative data gathered enabled the researcher to pinpoint the stages where the main abuses happen in administering justice to CICL.

This research is part of a bigger study on CICL that was also conducted in two other areas—Cebu City and its neighbouring cities and municipalities and key cities in Metro Manila. These areas were identified because of the continuous migration of people stemming from uneven rural-urban development and the high incidence of criminality.

In 1999, Davao City was dubbed the "Most Child-Friendly City in the Philippines" by the National Council for the Welfare of Children (CWC). Indeed, with the pioneering legislation of the Davao City Children's Welfare Code and the Women in Development Code, as well as the active collaboration and partnerships between government and NGOs, there is relative advancement in terms of local laws on children's rights and welfare in the city.

Nevertheless, it is also in Davao City where street adolescents supposedly linked to illegal activities have been brutally shot to death on the streets by extra-legal

forces in acts of so-called “immediate justice.” Ironically, the fate of children deemed in conflict with the law is either brutal “civilian (in)justice” or subjection to the harsh adult criminal justice system.

Child-focused and human rights groups have criticised the limitations—if not the absence—of a comprehensive children’s or juvenile justice system in the Philippines. Amidst current children’s justice initiatives in the Philippines, this research aims to generate local quantitative and qualitative data on the situation of CICL, bringing together different perspectives including those of the children, to aid in clarifying and defining advocacy and action plans. Particularly, it endeavours to pinpoint the areas where the main abuses happen in administering justice to CICL. Data were gathered from administrative data sources, key informants from the adult community and, more importantly, from children who have been exposed to the criminal justice system.

## Objectives of the Study

The study has the following objectives:

1. To generate and analyse quantitative and qualitative data on the situation of CICL in two cities (Davao and Tagum) and one municipality (Nabunturan) in Compostela Valley;
2. To describe the process in administering children’s justice at the level of the community, the police and the prosecutor, and identify gaps and problems;
3. To establish the various stages in the justice system where there are CICL;
4. To better understand the impact of the criminal justice system by seeking the views of children who have been directly affected by it;
5. To establish trends in offences committed by CICL at least for the past two years (demographic

profile, areas of high incidence of crime, kinds of violations, among others);

6. To establish differentiated situations of CICL at various stages in the justice system arising from gender differences;
7. To facilitate stakeholder discourse towards collection of practical and strategic recommendations on the issue of diversion; and
8. To recommend ways by which SC-UK and its partners can most strategically assist in sustainably diverting children from the criminal justice system.

## Research Areas

The research areas include the cities of Tagum and Davao, and the municipality of Nabunturan in Compostela Valley—all in Southern Mindanao (see Figure 1). The municipality of Braulio Dujali in Davao del Norte is a special area covered by the study only for the follow-through of the children who have been into community reintegration after being charged of qualified theft by plantation company guards as previously reported in a separate study.

### DAVAO CITY

Davao City is the economic hub of Southern Mindanao and even the whole of Mindanao. While a large portion of its land area remains agricultural in nature, the city centre hosts several large and medium-scale industries in the manufacturing and services sector. Wage earners, peasants, farm workers and own-account workers comprise its productive force.

Right in the heart of the national government’s avowed regional growth area, the Brunei, Indonesia, Malaysia and Philippines-East Asia Growth Area (BIMP-EAGA), Davao City’s development context mirrors the Philippine government’s programme towards trade liberalisation, deregulation, and pri-



Figure 1  
Research Sites in Davao

vatisation of resources and services. Owing to its urbanisation, Davao City's socio-cultural context is also characterised by commercialisation and commoditisation of both natural and human resources. Tourism is targeted to be a major source of economic activity.

Peasant landlessness remains to be common in all the research areas as large agricultural companies share control of lands with big property owners, causing rural displacements through massive land and crop-use conversions, and in turn aggravating a growing urban poor population.

Other areas covered by the research surround Davao City and are both contributors to and recipients of its economic activities.

### **Tagum City**

Tagum City is located in the province of Davao del Norte. It is a newly installed city where large export crop plantations are located. While the government claims to have redistributed land to several agrarian reform beneficiaries (ARBs) in the countryside, extensive land areas are still planted to export crops (instead of subsistence food crops) since ARBs are almost automatically entered into tie-ups or contract-growing arrangements with agricultural transnational companies or their subsidiaries. Genuine control of the lands they till remains distant even to ARBs.

The new Braulio Dujali municipality in Davao del Norte encompasses a previous resettlement area of

the Davao Penal Colony. Land use in Braulio Dujali is largely for export crops as it is among the areas controlled by the Tagum Development Corporation or TADECO, which is owned by the economic and political clan of the Floirendos.<sup>1</sup> Key informants from Davao Norte revealed that the vast tracts of lands used by the plantations of the Floirendos include those that were originally meant to be resettlement areas of the Davao Penal Colony.

### **Nabunturan**

Nabunturan, capital of the newly created Compostela Valley Province, a division of the Davao del Norte Province, is mainly agricultural. Compostela Valley is the site of several multinational mining and logging operations that are continuously displacing *Lumad* (indigenous peoples) communities.

Almost half (48% or 2.63 million) of Southern Mindanao's 5.5 million population are aged 19 and below. Some 22% or 1.2 million are in the 10-19 age group, such a proportion being the same for both males and females. The female population is younger, with those aging 19 and below constituting 70% of the total 2.7 million females. Meanwhile, males in the same age group account for 48% of the total 2.8 million males in Southern Mindanao.

The situation of children and young people in the research areas, as well as their families, reflect the limited social services provided by government. Health, or rather ill health, remains a growing concern. In the

<sup>1</sup> Antonio Floirendo is a Marcos crony and his extended family is a major player in the banana industry. As a seasoned political kingpin in Southern Mindanao, Floirendo has made his wife's brother, Rodolfo del Rosario, the current governor of the province. Del Rosario held other electoral posts in previous terms while maintaining his being a car magnate through his Davao City-based Davao Motor Sales (DAMOS). Floirendo's own son, Tony Boy, is the congress representative of the second district of Davao Norte. Likewise, he had enjoyed previously held electoral posts. The Floirendos and del Rosarios are pioneers in the banana industry as local conduit of the multinationals. Moreover, the family maintains various types of animal breeding centres that sustain a network of meat products nationwide.

largely low-income families, education and productive recreational activities for the youth are given less priority in favour of early participation in production.

Recently, there is also a growing concern on the perceived increasing anti-social activities, if not involvement in crimes, of urban adolescent peer groups, summarily tagged as gangs. This is not surprising as their social environments, aggravated by media, are pervaded by negative influences that thrive in poverty situations such as prostitution, illegal drug trade, pornography and criminality.

## Research Methodology

### DATA COLLECTION TECHNIQUES

The research employed various techniques to meet its objectives. The respondent's nature of work or daily routine was highly considered. Likewise, all stakeholders on the issue of juvenile justice have participated in data collection and data analysis, as well as in the deliberation of recommendations. The following research techniques were utilised where appropriate:

- Literature review and secondary data collection. The research proceeded based on the review of secondary data. Research instruments were consequently developed. Data from records of various offices involved with CICL comprised a substantial part of the quantitative data and aided in establishing trends in the situation of CICL.
- Key Informant (KI) interviews. Stakeholders from the five pillars of the justice system (law enforcement, prosecution, courts, jail and community), government and non-government centres, and child rights advocates participated in personal one-on-one interviews. Key informants were either the head of the office, the officer in charge of children's concerns or personnel who have active/

actual contact with CICL in the identified offices per pillar. The study used purposive sampling to enable the comparison of official statements with actual experiences and practices.

- Visual arts workshops and focus group discussions with children in jails/centres. Children in identified jails and centres were invited to participate in a non-threatening activity such as the visual arts workshop to determine the conditions and perceptions of CICL. Children were asked to engage in visual arts sessions based on specific themes followed by smaller workshop discussions.

A one-day visual arts workshop cum cultural presentation participated in by 71 children was held in the Maa, Davao City Jail while a group discussion, with nine children, chosen according to type of offence and age, was conducted at the Tagum City Jail. Two focus group discussions (FGDs) were also held in the municipality of Dujali, Davao Norte where children from nearby banana plantations accused of petty and qualified theft shared their experiences. One hundred four (104) CICL took part in the visual arts workshop-FGDs while five children served as key informants in data sifting.

Interviews with children whose rights were denied or violated were also conducted. Individual story-telling sessions were undertaken among the children who participated in the five FGDs. Their stories were presented as vignettes or short stories of children that were spread throughout the data presentation.

- Focus group discussions among adults. A series of FGDs were held in each identified community in Davao City, Dujali, Tagum City and Compostela Valley to enable stakeholders, including parents of the CICL, to share their collective experiences, sentiments and concerns as well as their recommendations.

Separate sessions were held for: (1) Child rights advocates/NGOs; and (2) The community, which included parents, *barangay*<sup>2</sup> (village)/*purok*<sup>3</sup> (area) leaders and complainants, among others.

- Case studies. Three case studies were chosen from among the case stories of CICL as generated through the various research techniques used. The case studies were considered based on the following: (1) Child's personal circumstances; (2) Child rights violations in the administration of justice; and (3) Locale, that is, rural and urban.
- Drama-forum: diversion/mediation as principle and policy. This technique facilitated data gathering in a more creative way as children who came into conflict with the law themselves presented their stories using a 20-minute reality-based script using the characters of three favourite fictional superheroes among the youth. The drama-forum was aided by a team of facilitators who enjoined the participants to react and give feedback throughout the drama after every scene depicting the stages of justice administration.

Participant-experts who were invited to shed light on a particular issue or point took their time so that ideas naturally come together. All stakeholders were invited, especially those who were not able to attend other data collection sessions. Participants were given cards where they wrote their concerns or reactions. The advantage was that children, child rights advocates and members of the five pillars of the justice system were in one forum to deliberate on their concerns in a more intimate manner as the drama became their venue to be spontaneous in their presentations. The exchange of views proved to be educational.

Moreover, the multisectoral character of the drama-forum participants, as expected, facilitated the discourse. The forum drew out specific recommendations on the issue of rehabilitation and diversion, as well as evoked commitments towards immediate action. It also facilitated the initial validation of information gathered from other methodologies utilised in the research process.

Two drama-forums were held – one for Davao City and another for Tagum City and Compostela Valley participants.

## STUDY PARTICIPANTS

One hundred thirty-seven (137) individuals participated in the study, which included the following either as key informants or as participants of the FGD (see Annex 1).

- 2 elected government officials (1 *barangay* captain and 1 municipal mayor)
- 4 police officers
- 1 prosecutor
- 2 judges
- 2 court personnel
- 3 Public Attorney's Office (PAO) personnel (1 regional head, 1 municipal PAO and 1 statistician)
- 2 lawyers (1 from the Commission on Human Rights [CHR]; 1 private practice)
- 3 jail wardens
- 4 jail personnel
- 10 government social workers and welfare officers

2 The *barangay*, the local term for village, is the smallest political unit in the country.

3 *Puroks* are politico-geographic subdivisions that make up a *barangay*.



- 20 parents and barangay leaders
- 18 child rights advocates from development NGOs
- 66 CICL

### DATA VALIDATION

Immediately after the data collection and initial analysis, a validation session was held with some key stakeholders and the legal resource pool. This facilitated the drafting of the study results. In between writing, there were consultations with other members of the legal resource pool and key informants as well as the City Council's Technical Working Group for the Drafting of Amendments to the Davao City Children's Welfare Code.<sup>4</sup>

Two validation sessions were also conducted in the cities of Davao and Tagum with 108 participants using the drama-forum as a technique to screen and further enrich previously collected data. This ended with a set of recommendations for action by all stakeholders.

### Scope and Limitations of the Study

Much as the study was expected to have collected a set of statistics on the administration of justice to CICL at each stage of the justice system, the inefficient and inadequate system of recording in the five pillars, especially in the province, hindered the collection of sufficient data. Segregation of data according to age and sex remained lacking especially for data on sentence impositions and repeat offences. This has been a major concern for the Southern Mindanao Regional Office

of the Department of Social Welfare and Development (DSWD) as it affects the provision of appropriate assistance to the local social welfare units in the entire region. Moreover, data sheets were usually not consistently filled out and there was difficulty in tracking the movement of documents.

### Review of Related Literature

Society's concern for children is very evident in the large collection of literature on their situation, issues and concerns, and development. However, literature that specifically delves into the intricacies of the situation of CICL is very limited.

In Davao City, while a handful of researches deal with children and young adolescent life— including those who are abused, labouring, in the streets and in gangs—topics related to CICL surface only in terms of experiences of abuse by authorities. At most, such cases only offer packets of information on the situation of CICL.

#### Who are the children in conflict with the law?

Various researches and surveys, national in scope, have established trends in the profile of juveniles (AKAP-AHRC 1998). According to existing studies, CICL are usually males between the ages of 14 and 17 who have low educational attainment, mostly reaching only the elementary level. They are usually middle or in-between children in very large low-income families.

Various studies have established that many of these children are either on the streets or of the streets when they were apprehended. While a significant number

4 Because of identified gaps in the Children's Welfare Code, in 2001, the City Council initiated efforts to amend the Code with the creation of a Technical Working Group to gather, review and recommend proposals for its amendment.

still live with parents or a relative, they are usually out on the streets to eke out a living or are involved in peer groups or gangs, which are usually associated with vices and illegal activities.

On a national scale, CICL have been found to be usually involved in crimes against property, mainly robbery and theft. At the local level, however, the trend in monitored offences is quite different. Data from the Davao City Jail show that the majority of children in detention are involved in cases of chemical and substance abuse (Ancheta-Templa 2001). Meanwhile, data from the Davao City Social Services and Development Office (CSSDO 2001) show that rugby and solvent users comprise 38.7% of the reported 472 CICL provided with services. Children involved in curfew violations (32.2%) and in theft and shoplifting (22.6%) turned out to be the most common cases (CSSDO 2001).

Established local trend in terms of sex, age, educational status, and socio-economic background of families is consistent with national data. Nevertheless, there is no conclusive data to develop a profile of CICL who are not in detention or in rehabilitation centres. The DSWD Field Office and the CSSDO have adopted a system for monitoring the number of children provided with services but detailed case records are rarely completed. The existence of the Katarungang Pambarangay (village justice system) indicates that several apprehensions and mediations that involve children may have been left undocumented.

### **Why are these children in conflict with the law, or do laws run counter to the welfare of children?**

Several studies in Davao City point to certain circumstances as reasons why children and young adolescents

encounter police authorities. The Tambayan Center for the Care of Abused Children, Inc. (2000) conducted a participatory action research with street adolescents that covered five themes: socio-demographic profile; family situation; life in the streets; knowledge, attitude and practice on sexuality; and hopes and dreams.

Participatory researches were also conducted by Abad and others (2000), the Kaugmaon Foundation, Inc. (2002) and Higala Foundation on street adolescents in gangs and the so-called *buntog*<sup>5</sup> (a colloquial term or euphemism for a child in prostitution) phenomenon. Ancheta-Templa's (2000) documentation of the child-friendly movement in Davao City gives insights on situations where ordinances purportedly protective of children are taken out of context or are weakened due to lapses in process.

### **On the streets and coping with poverty**

In the discussion of life in the streets, Tambayan (2000) underscores street adolescents' vulnerability to police arrests. Eighty-two percent (82%) of adolescent respondents claimed to have stayed in the streets day and night. In the evenings, the adolescents may go to community discos (dances) and other outings, or engage in drug use, petty theft and prostitution. What was perceived as the topmost risk associated with staying in the streets, however, is that of being arrested by abusive law enforcers. This was noted by 44% of the respondents. Among the acknowledged violations were sniffing rugby, vagrancy, petty theft and going against the 10 o'clock-curfew imposed by the city.

Second to peers (48%), law enforcers (38%) were usually tagged as perpetrators of abuse in the streets owing to their rough and violent treatment particularly of

5 Buntog is a Cebuano word for bird that is used to refer to children and young people in the streets. The term is more specifically used as a label for street girls in gangs who engage in "sexual promiscuity" or "free sex" with their male counterparts initially as part of their initiation into the gang and later on, as a regular activity, thus, the comparison to a bird, which freely flies from one partner to the next.



male CICL. One of the respondents mentioned being beaten by a baton, slapped and held at gunpoint when they were rounded up for curfew violation.

One third of the respondents admitted to doing petty crimes such as picking pockets and *delihensiya* (petty extortion) to meet their daily needs. The incidence of substance abuse was also noted to be rather high with 69% of the respondents saying that they have engaged in this activity as a coping mechanism.

In addition, FGD data from Tambayan (2000), and Abad and others (2000) reveal the specific experiences of CICL detained in police stations of verbal, physical and sexual abuse by police authorities. Males were usually beaten up while a female respondent reported being raped. She also reported that one of her friends willingly went to a lodge with the same police officer to be able to get out of jail.

In the Kaugmaon study (2002) on adolescent gangs, respondents were able to recall several incidences of arrests and detention due to gang riots and trouble making during community discos. Some 181 of their peers and gangmates were involved.

Children interviewed also complained about being chased and beaten by the police when arrested, stating that the police should instead concentrate on arresting leaders and protectors of drug and crime syndicates. In some cases, CICL actually become accessories to adult-led criminal acts. The same study points to the increased influence of mass media, particularly its role in desensitising children to crime (for instance, children come to consider stealing as a recreational activity instead of a crime).

It has been widely established that poverty and the breakdown of the family as a support mechanism play a major role in the increasing number of street children and child workers, the growing number of gang



members, and the increase in the incidence of volatile substance abuse and petty crimes against property. Ancheta-Templa (2001) describes children and youth as “victim-survivors of the socio-economically-rooted injuries of their families and communities.”

#### **Law enforcers as law “offenders”?**

Ancheta-Templa (2000) observes that the imposition of curfew on minors seems to run counter to the interests of children as they are treated simply as law offenders. This has been corrected by a provision in the Davao City Children’s Welfare Code where the imposition of curfew was set in the context of protecting children. Owing to the tedious process of taking the children to their homes and/or referring them to social workers, children are simply rounded up and locked up in police stations overnight. They then appear in police

blotters as “violators” instead of “rescued for protection purposes.”

Moreover, the provision in the Code banning benefit dances or community discos that commercialise children has not been strictly followed. Notably, the children who participated in these researches confirmed that it is when they attend discos that several arrests happen, mostly in relation to gang riots.

All the studies mentioned above present cases of child rights violations by law enforcers. Referring to a forum on the *buntog* phenomenon, Miñlat-Cacayan (1998) cites in her study the complaints of abuses in the hands of male authorities made by girl-children such as:

- 1) Physical and psychological abuse in the hands of civilian volunteers, police, local barangay *tanod* (community police), and ironically, members of the Barangay Council for the Protection of Children (BCPC);
- 2) Attempted rape and acts of lasciviousness perpetrated by the police; and
- 3) Being threatened with death, in order to teach other “dirty” children a lesson and to “arrest” the tide of “filth.”

Ancheta-Templa (2000) also notes that while Child and Youth Relations Officers (CYRO) were trained on the UN CRC as well as in handling children, the problem of understaffing has led to untrained officers having to perform the roles of CYROs when the former were not on duty. CYROs were also found to have multiple responsibilities in their respective stations that are not necessarily related to children’s concerns.

### **Experiencing the criminal justice system**

Problem areas regarding the experiences of CICL with the adult criminal justice system are varied. Most of the literature points to the lack of separate cells or

congested detention cells for children. Basic needs such as food and toiletries are reported to be limited owing to low budgetary allocation.

Detention pending trial is also commonplace. In terms of adjudication, the slow delivery of justice seems to be the norm. Moreover, instances of negligence of some judges and the lack of specialised training for judges handling youth offenders in court (AKAP-AHRC 1998) have also been cited among the areas of concern.

Moreover, there has been no detailed discussion of children’s experiences as perceived by the children themselves. For instance, most children charged with petty crimes have limited access to legal assistance. Thus, they were not aware of the legal proceedings they were made to go through.

Hence, there is a need to look deeper into the impact of the adult criminal justice system, including rehabilitation programmes, on CICL.

### **On discernment**

Ortiz (2000), in a study conducted among out-of-school children in Metro Manila, found that the 300 respondents’ level of discernment was very low. Ortiz used Kohlberg’s six stages of moral development as a framework for the parallel study, which was a follow-up of a previous study done with schoolchildren.

According to Ortiz, “Adherence to the existing laws, regulations and policies are not the values or norms followed by the respondents. They do not clearly know what is right and what is wrong.” The discernment study found that even at 18 years old, out-of-school youths determine the rightness or wrongness of their actions on the satisfaction of their needs and those of others. This has several implications on children’s accountability to crimes committed.

## 2 The Situation of Children in Conflict with the Law

Childhood is a relative term. While the Philippine government adopted the UN CRC definition of children as those below 18 years of age, socio-cultural realities make “adults” out of Filipino children even before they reach 18.

For many adults and children, a 15-year-old who bears a child willingly or unwillingly ceases to be a girl-child but a young mother. An 11-year-old who takes on the task of tilling the fields ceases to be a boy but a labouring farmhand. A 16-year-old who spends most of his time at a wage-factory ceases to be a young adolescent but a breadwinner. A 9-year-old girl made to peddle her body on the streets becomes a commodity. An 8-year-old boy on the street stealing someone’s money for food is a criminal. Boys and girls loitering in the streets sniffing rugby are considered dregs of society. Seldom are their situations seen in the context of poverty and lack of parental guidance and societal responsibility.

As dictated by social practice, a child may be considered an adult when he or she becomes part of social production and reproduction, or when the child performs responsibilities such as making a living or having his or her own family. While children are not distinguished simply by chronological age, physical and psychological development identifies an age range that sets a general definition of who are children, that is, (also as defined by law) individuals below 18 years old.

On the other hand, different socio-cultural contexts characterise children and their childhoods. Children have become more vulnerable as they succumb to their families’ insecurities, society’s inadequacies and social exclusion as the marginalisation of the poor heightens.

Despite the circumstances they find themselves in, children, youth, young people and children are still

developing individuals who have particular needs and rights. They have both vulnerabilities and competencies. They are not simply “adults-to-be” who need to be moulded or “just children” who are to be taken for granted. Children are social actors and can be active participants in social change.

### The Context of Children: Family, Community, Society

#### FAMILIES IN CRISIS

Children are products of their environments. Their situation mirrors the realities of their families, community and society. While the Filipino family puts much premium on the welfare of its children, families are increasingly breaking down in the midst of the struggle for survival. In the process, children are inadvertently sacrificed.

The Filipino family is mired in poverty. According to official estimates, a little over one-third (34.2%) of the 65-million Filipino population in year 2000 live below the poverty threshold, which was set at Php38 (around USD 0.70<sup>6</sup>) a day (National Statistics Office [NSO] 2000). An analysis of government data, however, reveals that 77.4% of Filipino families do not earn enough to maintain a decent standard of living. Ibon Foundation further estimates that some 92% of rural families are poor. In the midst of purported economic growth brought about by globalisation, the prices of basic commodities are fast rising; leaving behind the legions of families whose incomes cannot catch up.

Delivery of social services is severely wanting. According to the NSO 2000, more than 20% of the population do not have access to safe drinking water; 17% do not have access to sanitary toilets; 27% do not have access to electricity; and a mere 6% avail of public

---

6 USD1 is equivalent to about Php54 in July 2003.

housing programmes. Moreover, more than one-third of family heads are reportedly unemployed or underemployed. Some 15% of families were also reported to have working children, while 16% and 42% of those with children aged 6-12 and 13-16, respectively, are not able to send their children to school.

As of January 2002, some 3.4 million of the total labour force is unemployed, a 10.3% unemployment rate. Meanwhile, underemployment was pegged at 15.9%. Unpaid family workers, including children, are steadily rising at 24.8% of the labour force.

#### **TO COPE OR NOT TO COPE**

To say that children are products of their contexts is not to say that they are simply passive by-products. Undeniably, children themselves also influence their situation. Given their contexts, children cope – both positively and negatively.

As the statistics above show, children are not mere inactive appendages but have increasingly been important actors in the survival of their families. In many cases, children are forced to leave school to work so that they can contribute to the family income.

While child labour—defined by the Department of Labor and Employment (DOLE) as the “employment of children below 15 years of age and the employment of those below 18 years in hazardous or deleterious work”—is declared illegal, the government differentiates it from child work, which is considered an “acceptable vocation for children.” In reality though, the distinction is not clear. Even the exemption provided for when parents give consent for their child’s engaging in labour validates the reality that a family’s economic status decides whether or not a child is forced to work.

Preoccupation with survival sometimes causes the breakdown of families. Parents are no longer able to care for their children so the older ones take charge

of their younger siblings, or they are left to fend for themselves. In some cases, children take to the streets where they find “alternative families” among their peer groups (*barkada*) or gangs. On the streets, children and young people learn survival skills that may border along anti-social activities. In some cases, petty crimes against property constitute survival strategies.

On the other hand, while child labour or child work may seem undesirable, many children are in fact proud of their contribution to the family income. Some children believe that work, even if hazardous or illegal, is a normal part of their existence. Among those considered “high-risk” are abandoned and neglected children who have not been taken in by existing DSWD facilities, children deliberately used in criminal activities and children of prostituted women.

Such is the context of children who become vulnerable to circumstances where they come into conflict with the law.

### **Varying Notions about Children in Conflict with the Law**

Juvenile delinquents, youth offenders, street urchins, gangsters, young criminals, abandoned children, and dregs of society – these are some of the labels commonly given to children who find themselves in conflict with the law.

The treatment to which CICL are largely subjected is reflective of such labels ascribed to them by society. For instance, children apprehended for violating a law are often presumed guilty when they are referred to as youth offenders, whether they are aware of the law or not. Once a minor is detained while awaiting trial, the brand “ex-convict” will remain even though he or she is not convicted.

In the course of the research, key informants interviewed commonly lump youth offenders with CICL. Some duty-bearers even wince or sigh when asked about their perception of CICL, saying these children are pitiful since they have brought upon themselves the loss of their future. Still, even public officials and other duty-bearers suggest that because of their actions, children who have committed criminal offences seem not worthy of being referred to and treated as children anymore.

As used in this research, children in conflict with the law or CICL are those below 18 years old who are accused of committing or found to have committed, advertently or inadvertently, an unlawful act or a criminal offence.

CICL is different from a youth offender. The latter is defined by Philippine law as “one below 18 but over 9 years old upon commission of a criminal offence and whose case has been filed in court.” On the other hand, CICL encompass those who had been arrested or apprehended for violating a law but whose cases have not been filed in court. CICL are found in various stages of the justice system, starting at the community level. CICL refer to children at all stages of the juvenile justice process—from law enforcement at the community level to the police, courts, jails and rehabilitation.

Being products of their individual and societal contexts, many CICL are also victims themselves rather than simply offenders.

## The Legal Framework and Local Policies Related to Children’s Justice

### INTERNATIONAL INSTRUMENTS ON JUVENILE JUSTICE

Adopted in 1985, the *United Nations Standard Minimum Rules for the Administration of Juvenile Justice* (also known as the *Beijing Rules*) provides guidance

to States for the protection of children’s rights and respect for their needs in the development of separate and specialised systems of juvenile justice. Accordingly, limited provisions concerning juvenile justice may be located in general human rights treaties and in the International Covenant on Civil and Political Rights (1966). The United Nations Standard Minimum Rules for the Treatment of Prisoners was adopted in 1955, but it failed to address specific issues in relation to young offenders.

The Beijing Rules was the first international legal instrument to comprehensively detail norms for the administration of juvenile justice with a “child rights and development-oriented” approach. Principles enunciated within the Rules have been encompassed in the provisions of the UN CRC. The Rules cover investigation and prosecution; adjudication and disposition; non-institutional treatment; institutional treatment; and research, planning, policy formulation and evaluation. The Rules also apply to juveniles who may be punished for any specific behaviour not punishable if committed by an adult (that is, “status offences,” such as truancy and curfew for minors), juveniles in welfare and care proceedings and young adult offenders.

The *United Nations Rules for the Protection of Juveniles Deprived of their Liberty* is one of the three international instruments that seek a primary goal of regulating the management of institutions for young people and take into account the special entitlements of children. These rules, however, are not only applicable to juvenile justice institutions but most importantly, apply to deprivations of liberty based on children’s welfare and health. The rules are intended to counteract the detrimental effects of deprivation of liberty by ensuring respect for the human rights of juveniles.

The third international instrument that complements the Beijing Rules is the *United Nations Guidelines for the Prevention of Juvenile Delinquency*, also called the



*Riyadh Guidelines.* The Guidelines outline the basic characteristics of children as full-fledged human beings. These emphasise the promotion of the welfare and well-being of the child. In the First Congress on Crime Prevention and Treatment of Offenders (1955), juvenile delinquency was treated as a broad category. It encompassed not only problems related to youthful offenders but also to abandoned, orphaned and maladjusted children. The Second Congress (London, 1960) already recommended limiting the concept of juvenile delinquency to violations of criminal law, excluding vaguely anti-social behaviour or rebellious attitudes that are widely associated with the process of growing up (Cappelaere 1998). These deal with the three main environments of the socialisation process (family, school and community); the mass media; social policy legislation and juvenile justice administration.

Upgrading the quality of life of all is a basic issue in prevention. Following the principle of inclusion and participation, the Riyadh Guidelines provision states that, “Due respect should be given to the proper personal development of children and young persons, and they should be accepted as full and equal partners in socialization and integration processes.” Indeed, the Guidelines appreciate the social and judicial approach to children where capacities of children should be valued and protected. Prevention goes as much with the promotion and respect of human rights (civil, political, social, cultural and economic rights) in every individual. The aim of the Riyadh Guidelines goes far beyond prevention of juvenile delinquency.

Other related international instruments are helpful in locating the roles, functions and tasks of duty-bearers and stakeholders. The instruments mentioned above are those elucidating the provisions of the UN CRC to assist children and duty-bearers in pursuing their rights and promoting their welfare as applied to CICL.

## **PHILIPPINE LAWS APPLICABLE TO CICL**

As declared, the purpose of the Philippine Juvenile Justice System is rehabilitation of CICL. However, there are no specific laws, procedures and programmes on how to rehabilitate the juveniles. The procedural law applicable to juveniles is the same with the adult system, that is, the Revised Rules of Criminal Procedure. This is a violation of the UN CRC (Art. 40). In April 2002, new rules of court was issued by the Supreme Court on handling CICL which is yet to be implemented, with much popularisation needed.

There are, however, substantive laws applicable to CICL. These include the more than three-decade-old Child and Youth Welfare Code, the Revised Penal Code, the Special Protection Act (Republic Act [RA] 7610 and RA 7658), the Rule on Examination of Child Witnesses (15 December 2000), Rule on Adoption (22 August 2002) and the Rule on Commitment of Children (15 April 2002). Moreover, there are more than 40 local issuances and legislations directly and indirectly benefiting children, of which the extent of implementation should be monitored and evaluated

## **DAVAO CITY LOCAL CODES AND ORDINANCES RELATED TO CHILDREN**

Davao City Children’s Welfare Code. The Davao City Children’s Welfare Code was passed into an ordinance in 1994 with a set of implementing rules and regulations (IRR) using the UN CRC as its framework. It gave particular focus to codifying the major Philippine laws that deal with children’s survival, protection and development. However, issues and concerns specific to CICL were not addressed owing to their low key if not, invisibility, in both government and non-government databases at the time of its formulation. Nonetheless, the Children’s Code offers several mechanisms and provisions that could be maximised for children.

Nevertheless, a specific provision affecting CICL is the curfew on minors. As provided for in the Code, children below 15 years old are prohibited from loitering around public places in Davao City from 10pm to 4am of the following day, unless they are in the company of their parents or guardians. This provision outlines the procedure in looking after the children in an attempt to humanise the legislative measure. It tasks law enforcers and trained community volunteers to escort unattended children immediately to their respective homes to ascertain their parents/guardians as respondents in a citation-order to be issued by the “apprehending” party/ies. While the Code is clear on its policy that the curfew on minors shall be enforced to protect the welfare of children, their parents/guardians will also be reminded of their parental responsibilities by requiring them to attend parenting orientation courses (POC). The Code further provides that habitually neglectful parents or guardians will be required to render community service.

An earlier study indicated that police officers, barangay officials and community volunteers have constantly by-passed the procedures outlined in the Code’s IRR. It was surmised that the authorities were overwhelmed by the tedious process in implementing this provision on curfew on minors. While the Code tries to correct the previous ordinance on curfew, some police and barangay authorities reverted to the superseded City Ordinance Imposing Curfew on Minors (1957) as their legal basis. The old ordinance simply looks at curfew violators as law offenders. Thus, children find themselves locked up at congested Philippine

National Police (PNP) stations until social workers from CSSDO conduct their counselling sessions the next day. Moreover, to the consternation of CSSDO social workers, they have to shell out personal money for the children’s breakfast and transportation because of budgetary constraints.

Police officers themselves have violated the ordinance because their function as cited in the IIR of the Code does not give them the authority to arrest and lock up children. Children are supposed to be rescued and turned over to their parents, guardians, the barangay captains, or the local social welfare officer for appropriate assistance.

Budgetary allocation for children. For 1991-2001, the Davao City local government allocated a total of Php959.7 million (US\$17.7 million) for children’s programmes and services in all barangays within the city, or an average of about Php319.9 million (US\$5.9 million) every year (see Table 2.1; please refer also to Annex 2 for the Davao City budget allocation for children’s programmes 1999-2001).

While in absolute value the budget may appear to be significant, a closer look at how it was allocated reveals that only a very small proportion was intended for actual programmes and services. In 1999-2001, more than half of this budget was allocated for the Annual Fund, which basically funds the salaries of city health officers and social welfare officers.

The second largest chunk is the allocation for the Special Education Fund<sup>7</sup> (SEF), which is specifically

7 The Special Education Fund (SEF) represents the share of local government units from the proceeds of the one-percent additional real property tax as mandated by the Local Government Code. The SEF is automatically released to local school boards, which determine and approve how it is to be allocated. This fund is generally intended for the operation and maintenance of public schools; construction and repair of school buildings and facilities; purchase of books and periodicals, and equipment; and sports development (Local Government Code, Sec. 272; Sec. 309).

meant for education-related programmes and services. Allocation for specific programmes and projects for children—through the annual development fund (ADF) and supplemental budgets (SBs)—constitutes a very small proportion of the total children's budget during the three-year period. It can also be observed that the projects funded mostly involve construction and/or repair of physical infrastructure such as school buildings, health centres, playgrounds, and day care centres (see Annex 2).

In terms of prioritised areas, for the three-year period, the city government allocated the biggest chunk of the children's budget to health and nutrition, although the budget for this decreased in 2001 (see Table 2.2.). As mentioned earlier, a large portion of this was allotted for health workers. Health and nutrition services prioritised for this period include integrated primary health care services, disease surveillance and control, construction and renovation of health centres, and health and nutrition programmes.

Table 2.1. Total budget allocation for children by budget item and year, Davao City, 1999-2001

Budget item	1999		2000		2001		Total	
	Amount	%	Amount	%	Amount	%	Amount	%
AF	182,391,146.00	61.14	185,849,283.00	60.11	191,237,861.00	54.32	559,478,290.00	58.31
SEF	83,222,146.00	27.90	96,957,118.60	31.36	121,606,362.00	34.54	301,785,626.60	31.45
ADF	25,128,133.00	8.42	21,500,000.00	6.95	37,678,000.00	10.70	84,306,133.00	8.79
SB	7,582,588.00	2.54	4,878,000.00	1.58	1,534,200.00	0.44	13,994,788.00	1.46
Total	298,324,013.00	100.00	309,184,401.60	100.00	352,056,423.00	100.00	959,564,837.60	100.00

Note: AF - Annual Fund; SEF - Special Education Fund; ADF - Annual Development Fund; SB - Supplemental Budget.  
Source: Davao City Planning and Development Office (1999; 2000; 2001)

Table 2.2. Total budget allocation for children by areas of concern and year, Davao City, 1999-2001

Area of concern	1991		2000		2001		Total	
	Amount	%	Amount	%	Amount	%	Amount	%
Education	84,782,746.00	28.40	98,066,118.60	31.72	125,365,562.00	35.61	308,214,426.60	32.11
Health & Nutrition	122,327,397.00	40.98	123,618,522.00	39.98	124,615,079.00	35.40	370,560,998.00	38.61
Social Welfare	90,883,870.00	30.45	85,999,761.00	27.82	100,375,782.00	28.51	277,259,413.00	28.89
CAME*	500,000.00	0.17	1,500,000.00	0.49	1,700,000.00	0.48	3,700,000.00	0.39
Total	298,494,013.00	100.00	309,184,401.60	100.00	352,056,423.00	100.00	959,734,837.60	100.00

\*CAME stands for Coordination, Administration, Monitoring and Evaluation.  
Source: Davao City Planning and Development Office (1991; 2000; 2001).



Education received the second biggest share (32%) of the children's budget for the three-year period (although in 2001, its share was slightly higher than that of health and nutrition). The allocation for this increased every year by around 10%. The budget schedules show that more than 90% of the education allocation went to the SEF (the proceeds of which were not indicated in the budget schedules). Projects related to education include the construction of school facilities such as playgrounds, school buildings (including *madrasah* or Islamic schools), stages, comfort rooms, covered courts and waiting sheds.

Meanwhile, the social welfare budget, comprising an average of 28% of the total annual budget for children, was allocated primarily for the salaries of social workers. The rest were intended for the construction or renovation of day care centres, as well as such programmes as early child care and development programme, shelter programmes under the urban land reform programme, and gender sensitivity and livelihood training programmes. Specific programmes concerning CICL include the street children services and assistance programme, construction of a dormitory for youth offenders and the construction of an extension office for a children detention and investigation room.

The children's budget shows that children's programmes and services in Davao City were largely in the form of physical structures. Social services particularly for children in difficult circumstances, such as abused children, child labourers, prostituted children, abandoned children, street children, and CICL, are significantly lacking. Programmes that will enhance the capacities of children and that will provide them opportunities to participate in community life is markedly absent.

## Profile of Children in Conflict with the Law

### FACTORS THAT DRIVE CHILDREN TO OFFEND

Children who find themselves in conflict with the law, particularly in Davao City, are either neglected or stow-away children from neighbouring provinces. They are on the streets for survival. Monitoring and active referral of these children for appropriate commitment or state intervention to protect them from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development do not seem to be routinely and consistently undertaken.

In many instances, these children's circumstances of "neglect" stem from impoverished conditions rather than deliberate parental neglect or abandonment. Community-based family support projects that alleviate poverty are not reflected in the local government budget nor do these appear in the social welfare reports of the local social welfare officers, according to a senior officer of the DSWD FO Region XI in charge of the Women and Children in Need of Special Protection Program.

Still, a significant number live with parents or a relative but are usually out on the streets to eke out a living or are involved in barkadas, which are usually involved in risk-taking behaviour, including illegal activities.

### COMMON CHARACTERISTICS

An examination of the various stages of the criminal justice system where CICL can be found shows that these children are primarily male with ages ranging from 11 to 15, and have not finished elementary schooling. Many come from a large brood of siblings in low-income families with irregular sources of income.

Characteristics of children arrested in police stations. Records at the Davao City Police Office (DCPO) show that of the 497 children arrested for various offences in Davao City from January to June 2002, the majority were male (412, or 83%) and within the ages of 9 to 15 years old (364, or 73%). More than half (279, or 56%) are either currently in or have reached the elementary level; more than a third (182, or 37%) are in high school and some (24, or 5%) have had no formal education (see Table 2.3.).

Table 2.3. Distribution of arrested children\* by sex, age and educational attainment, Davao City, January-June 2002

Characteristic	No.	%
<b>Sex</b>		
Male	412	82.90
Female	85	17.10
Total	497	100.00
<b>Age</b>		
Below 9	22	4.43
9 - 15	364	73.24
16 - 17	111	22.33
Total	497	100.00
<b>Educational attainment</b>		
Elementary	279	56.14
High school	182	36.62
Vocational	8	1.61
College	4	0.80
No formal education	24	4.83
Total	497	100.00

\* The number of arrested children includes police arrests and referrals to police stations.

Source: Women and Children's Concerns Desk-Davao City Police Office (WCCD-DCPO; January-June 2002).

Key informants from the Women and Children's Concerns Desk - Davao City Police Office (WCCD-DCPO) also reveal that some children as young as five and six, usually boys, have also been rounded up for petty offences against property and for *rugby*<sup>8</sup> sniffing. Usually arrested with a group, these young children are either turned over to social workers or returned to their parents, who in turn are reminded of their accountability over their children.

Following the trend at the DCPO, data from the Tagum City Police show that in 2001, the majority of children arrested were male (30 out of 42) and within the 11-15 age range (see Table 2.4). Of 26 children who were kept in custody pending trial, all were male and almost all (20 out of 26) were within 11-15 years old. Cases recorded by the WCCD of the Tagum City Police in 2001 also show that the majority of the CICL (50 out of 66) were within the 11-to-15 age range; likewise, almost all (59 out of 66) were males.

Table 2.4. Distribution of arrested children by sex and age, Tagum City, 2001

Characteristic	No. of reported arrests of children	No. of children pending trial	No. of cases of children recorded by the WCCD
<b>Sex</b>			
Male	30	26	59
Female	12	0	7
Total	42	26	66
<b>Age</b>			
10 below	1	0	2
11 - 15	41	20	50
16 - 17	0	6	14
Total	42	26	66

Source: WCCD- Tagum City Police (2001).

8 Rugby is a popular term for a commercial adhesive with addictive properties, which has been considered under the law as a "dangerous drug."

In Nabunturan, Compostela Valley, the police reported only 14 arrested children from January 2000 to June 2002 (see Table 2.5). However, as in the other areas, almost all (12 out of 14) were males and the majority (10 out of 14) were also aged 11 to 15.

Characteristics of children with cases at the Public Attorney's Office. Data from the Public Attorney's Office (PAO) Region XI indicate the large volume of cases being filed against children. In the period 2000-June 2002, the PAO has handled a total of 1,551 cases of children, with the number of cases averaging more than 500 every year (see Table 2.6). The number of cases is notably high for 2002. Only halfway through the year, the PAO had already handled 474 cases, almost as many as the yearly average for the two previous years. Unfortunately, the data available were not disaggregated by sex and age, thus, the profile of these children at this stage in the justice process could not be determined.

Table 2.5. Distribution of arrested children by sex and age, Nabunturan, January 2000 to January-June 2002

Characteristic	No. of children arrested*
<b>Sex</b>	
Male	12
Female	2
Total	14
<b>Age</b>	
10 below	0
11 - 15	10
16 - 17	4
Total	14

\* In year 2000, 3 children were arrested, 5 in 2001, and 6 children from January to June 2002.

Source: WCCD-Nabunturan (January 2000 to January-June 2002); Nabunturan community validation (2002).

Characteristics of children with cases in court. There were no sufficient data to determine the sex and age of children who have reached the courts since the data available were also not disaggregated by sex and age. Nonetheless, data from Tagum City and Nabunturan Family Courts show that there is still a good number of children being charged in court, mostly for petty offences or crimes involving theft and robbery. In the period 1999-June 2002, the Tagum City Family Court handled 107 cases, or an average of about 30 cases a year. Meanwhile, from year 2000 to June 2002, the Nabunturan Family Court handled about 17 children's cases a year, or a total of 44 cases for the period, half of which involve children aged 11-15 (see Table 2.7.).

Characteristics of detained children. Unlike in the police stations and in the courts, children in jails tend to be older. Data provided by the Juvenile Welfare Unit (JWU) of the Davao City Jail show that as of February 2002, more than half of the detained children (40 out

Table 2.6. Number of children's cases handled by public attorneys, PAO Region XI, 2000-January to June 2002

Period	No. of cases handled
2000	509
2001	568
January-June 2002	474
Total	1,551

Source: PAO Region XI (2000-January-June 2002).

Table 2.7. Distribution of children with cases filed at the Family Court by sex and age, Nabunturan, January 2000 to January-June 2002

Age	No. of children with case
11 - 15	23
16 - 17	11
Not indicated	10
Total	44

of 67) were aged 16-18 and all were male (see Table 2.8.). The six female children detained were all younger children aged 11-15.

Table 2.8. Distribution of cases of children by sex and age, Davao City Jail, 11 February 2002

Age	Male	Female	Total
11 - 15	21	6	27
16 - 18	40	0	40
Total	61	6	67

Source: Davao City Jail, Ma-a, Davao City (11 February 2002).

The same trend in age is observed among those who are committed for centre-based rehabilitation in the Regional Group Home for Girls of DSWD and the Pag-Asa Home for Girls-CSSDO in Davao City.

## THE ECONOMIC DIVIDE

Notably, children from the lower-income classes do not have the monopoly of being embroiled in juvenile offences. However, adolescent adventurism and peer pressure seem to be the overriding motivation of those who come from the middle and higher income class families (particularly in cases related to shoplifting and substance abuse), compared with the defining and complicating issue of poverty and a sense of deprivation among those who come from poorer families.

Children from the higher-income classes who have come into conflict with the law are invisible in official statistics. They are able to settle through various means before they are logged on or, at most, their cases remain in police blotters, while a much lower number reach the courts. Key informants from the CHR Region XI,

local courts, as well as the police officers validated this observation.

A cursory review by WCCD-DC Chief Villela reveals that children who are brought to the police stations come from all walks of life – from street children to upper and middle class private high school students. Those who are relatively well off, however, are able to settle out of court or post bail immediately.

Warden Barretto of the Davao City Jail observes that those who are able to afford bail and the services of private lawyers do not end up in jail custody. He also associated shorter stay in jail with access to private lawyers who may be able to follow-up the courts for faster disposition of cases.

Children who find themselves in jail mostly come from indigent families who are not able to take care of their children, or altogether neglected. A significant proportion of those who remained in custody and detained at the Davao City and Tagum City jails come from nearby rural provinces. Victimization tends to increase among poor children.

## TRENDS IN OFFENDING

Common crimes. In all the research areas covered and based on data from the police, the courts and jail, CICL are most often involved in crimes against property. Substance abuse, a violation of Presidential Decree (PD) 1619,<sup>9</sup> is more common in the urbanised areas of Tagum City and Davao City. A local ordinance in the cities under study regarding curfew for minors also triggers round-ups and related arrests of children.

9 Section 2 of PD (Presidential Decree) 1619 (“Penalizing the Use or Possession or the Unauthorized Sale to Minors of Volatile Substances for the Purpose of Inducing Intoxication or in any Manner Changing, Distorting or Disturbing the Auditory, Visual or Mental Process”) prohibits the possession and use of volatile substances, punishable by imprisonment.

Data from WCCD in Davao City show that from 2000 to the first semester of 2002, a total of 2,758 children were arrested (see Table 2.9). A drop in the number of arrests can be observed in 2001. The top three offences among the arrested children were theft (35%), violation of PD 1619 (28%) and curfew violation (19%). However, the number of theft cases significantly decreased in 2001 (201 cases vs. 616 cases in 2000). Violation

of curfew also decreased considerably in the same year (192 cases vs. 265 cases in 2000). The figures for 2002 for these two offences slightly approximate the 2001 figures. Cases of violation of PD 1619 (possession or use of volatile substances), however, increased from 286 cases in 2000 to 322 cases in 2001, and appears to increase further in 2002.

Table 2.9. Distribution of arrested children by type of offence, Davao City, 2000 to January-June 2002

Type of offence	2000		2001		January-June 2002		Total	
	No.	%	No.	%	No.	%	No.	%
Theft	616	43.4	201	22.6	139	30.8	956	34.7
PD 1619	286	20.2	322	36.3	170	37.6	778	28.2
Curfew on minors	265	18.7	192	21.6	72	15.9	529	19.2
Concealment of deadly weapon	36	2.5	57	6.4	17	3.8	110	4.0
Physical injury	32	2.3	41	4.6	14	3.1	87	3.2
Vagrancy	68	4.8	0	-	0	-	68	2.5
Rape	16	1.1	18	2.0	8	1.8	42	1.5
Robbery	13	0.9	23	2.6	9	2.0	45	1.6
RA 6425	18	1.3	6	0.7	6	1.3	30	1.1
Malicious mischief	3	0.2	11	1.2	9	2.0	23	0.8
Acts of lasciviousness	7	0.5	4	0.5	3	0.7	14	0.5
Murder/homicide/ parricide	4	0.3	3	0.3	1	0.2	8	0.3
Others	54	3.8	10	1.1	4	0.9	68	2.5
Total	1,418	100.0	888	100.0	452	100.0	2,758	100.0

Source: WCCD-DCPO (2000 to January-June 2002)

Table 2.10. Distribution of arrested children by type of offence, sex and age, Tagum City, 2001

Type of offence	Sex		Age			Total no. of arrested children
	Male	Female	10 below	11-15	16-17	
PD 1619	26	2	0	20	8	28
Curfew on minors	15	3	2	15	1	18
Theft	8	1	0	8	1	9
Robbery	6	1	0	3	4	7
Rape	4	0	0	4	0	4
Murder	0	0	0	0	0	0
Total	59	7	2	50	14	66

Source: WCCD-Tagum City Police (2001).

In Tagum City, data from police records reveal that more than one-third of the cases of arrested children in 2001 (28 out of 66) involve violation of PD 1619 (see Table 2.10). In addition, more than one-fourth (18 out of 66) of arrested children violated the curfew ordinance.

Meanwhile, in Nabunturan, Compostela Valley, the majority of the CICL cases (11 out of 14) recorded involved theft and robbery (see Table 2.9). In Dujali, almost all CICL recorded by the Municipal Social Welfare and Development Officer (MSWDO) in the past three years involved cases of qualified theft as filed by TADECO, a banana plantation company.

Based on the data from the Family Courts, it was found that children are most often charged with theft, qualified theft or robbery. Although there are still cases of violation of PD 1619 that reach the courts, these cases are no longer as common at this stage. There are, however, more cases involving heinous crimes such as rape and murder.

At the Tagum City Family Court, data from 1999 to June 2002 show that the top three cases are of theft (35 out of 107), qualified theft (12 out of 107) and PD 1619 violation (12 out of 35; see Table 2.12.). The number of children's cases filed increased significantly in 2000 with the rise in cases of theft and qualified

Table 2.11. Distribution of arrested children by sex, age and type of offence, Nabunturan, 2000 to January-June 2002

Type of offence	Sex		Age			Total
	M	F	10 below	11-15	16-17	
Robbery	5	1	0	3	3	6
Theft	4	1	0	5	0	5
Murder	2	0	0	1	1	2
Rape	1	0	0	1	0	1
TOTAL	12	2	0	10	4	14*

\* In year 2000, 3 children were arrested, 5 in year 2001, and 6 from January to June 2002.

Source: WCCD-Nabunturan (2000 to January-June 2002); Nabunturan community validation.

Table 2.12. Distribution of children's cases filed in court by type of offence, Tagum City, 1999-June 2002

Type of offence	1999	2000	2001	January-June 2002	Total
Theft	7	13	3	12	35
Qualified Theft	0	12	0	0	12
PD 1619	0	0	6	6	12
Murder/Homicide	0	3	3	4	10
Physical Injury	0	2	3	2	7
Robbery	0	5	1	0	6
RA 6425*	1	2	0	1	4
Others	6	7	5	3	21
TOTAL	14	44	21	28	107

\* RA 6425 is also known as the Dangerous Drugs Act of 1972.

Source: Tagum City Family Court (1999-June 2002)

theft, but dropped as dramatically the following year. The number of cases for January-June 2002 indicates another substantial increase, surpassing even the annual figure for the previous year.

It was also found out from court records that having multiple respondents to one case is common; that is, offences are usually committed by groups of children rather than by an individual child. Thus, for the top three types of offences recorded at the Tagum City Family Court, 124 children are accused of the 65 cases

filed (see Table 2.13.). This confirms observations that children engage in offences and crimes with their peers, mostly for survival.

In Nabunturan, the most common cases filed against children in the Family Court for the period 2000- June 2002 was also robbery (15 out of 44 cases), followed by theft (11 out of 44 cases; see Table 2.14.). Theft appears to be more common among younger children (aged 11-15), while robbery, among older children (aged 16-17).

Table 2.13. Number of children's cases and accused according to the top three offences, Tagum City, 1999-June 2002

Type of offence	1999		2000		2001		2002		Total	
	Case	Respondent	Case	Respondent	Case	Respondent	Case	Respondent	Case	Respondent
Theft	7	9	13	22	3	4	12	21	35	56
Qualified theft	0	0	12	22	0	0	0	0	12	22
PD 1619	0	0	0	0	6	15	6	17	12	32
Total	7	9	30	57	10	20	18	38	65	124

Source: Tagum City Family Court (1999-January to June 2002).

Table 2.14. Cases filed at the Family Court, Nabunturan, 2000 – January to June 2002

Type of offence/crime	Age			Total
	11 - 15	16 - 17	not indicated	
Robbery	3	5	7	15
Theft	9	1	1	11
Qualified theft	5	0	0	5
Rape	1	3	0	4
Acts of Lasciviousness	4	0	0	4
RA 6425	0	0	2	2
Murder	1	0	0	1
Attempted murder	0	1	0	1
Others	0	1	0	1
Total	23	11	10	44

Source: Regional Trial Court (RTC) 3 Nabunturan, 2000 – January to June 2002

Even while the police claim to exercise leniency in relation to filing charges of PD 1619 violation, data from jails reveal that a considerable number of cases filed against children in urban areas covered by the study is still related to volatile substance abuse. Violation of PD 1619 and robbery remains to be the most common crimes committed by children. It can be observed, however, that like in the courts, there are several cases involving serious crimes like rape and homicide among the detained children. Records of children committing such crimes are hardly to be found in police stations.

In the JWU, violation of PD 1619 constitutes more than a third of the cases (23 out of 67), followed by robbery, with 11 cases (see Table 2.15.). Meanwhile, one-third (8 out of 67) were facing charges of various

crimes against persons, including frustrated rape and murder, mostly committed by male children aged 16-18.

In the case of the Tagum City Jail, around one-third of the total children detained here (10 out of 31) were facing charges of PD 1619 violation, which is the most common case. Nine (out of 31) were facing charges of rape, murder and frustrated murder, all of them male and mostly aged 16-18 (see Table 2.16.). Meanwhile, among children in the custody of RRCY, almost half (40%) were in for theft; 20% were in for robbery (see Table 2.17).

Rate of repeat offending. Based on police data, the incidence of arrested children having previous crimi-

Table 2.15. Distribution of detained children by type of offence, sex and age, Davao City, 11 February 2002

Case filed	Age				Total
	11 - 15		16 - 18		
	Male	Female	Male	Female	
PD 1619	9	5	9	0	23
Robbery	4	1	6	0	11
Frustrated homicide w/ rape	1	0	7	0	8
Frustrated rape	1	0	5	0	6
Murder	1	0	5	0	6
PD 1866	1	0	2	0	3
Theft	3	0	0	0	3
Robbery w/ homicide	0	0	2	0	2
Homicide	1	0	1	0	2
Acts of lasciviousness	0	0	1	0	1
Child abuse	0	0	1	0	1
Rape	0	0	1	0	1
Total	21	6	40	0	67

Source: Davao City Jail, Ma-a, Davao City (11 February 2002).



nal records is lower than popularly perceived. Davao City police data show that almost all (412, or 91%) of children arrested in the period January-June 2002 were actually first-time offenders and have never been arrested (see Table 2.18.). Most of the repeat offenders violated PD 1619 (22 out of 40).

In Nabunturan, however, more than half (57%) of the 14 CICL recorded by the police from 2000 to June 2002 were repeat offenders who had previous records of theft and other petty crimes.

Table 2.16. Distribution of cases of children by type of offence, sex and age, Tagum City Jail, 5 June 2002

Type of offence	Age				Total
	11 - 15		16 - 18		
	Male	Female	Male	Female	
PD 1619	3	3	1	3	10
Robbery	2	0	3	0	5
Rape	0	0	4	0	4
Theft	1	0	2	0	3
Frustrated murder	2	0	1	0	3
Murder	0	0	2	0	2
RA 6425	1	0	0	0	1
Others	1	0	2	0	3
Total	10	3	15	3	31

Source: Tagum City Jail (5 June 2002).

Table 2.17. Distribution of cases of children in custody by type of offence/crime, RRCY, June 2002

Type of offence/crime	2000			2001			Total	%
	Carried over	New Cases	Total	Carried over	New Cases	Total		
Theft	25	48	73	31	29	60	133	40.0
Robbery	13	25	38	16	12	28	66	20.0
Rape/Acts of Lasciviousness	6	14	20	18	6	24	44	13.0
Murder/Frustrated Murder	8	11	19	10	5	15	34	10.0
Illegal Possession of Firearms	5	15	20	2	4	6	26	8.0
Homicide/Frustrated Homicide	1	7	8	5	4	9	17	5.0
Violation of RA 6425	2	4	6	1	0	1	7	2.0
Anti-Fencing Law w/ Carnapping	0	0	0	1	3	4	4	1.0
Trespassing	0	0	0	1	1	2	2	1.0
Total	60	124	184	85	64	149	333	100.0

Source: RRCY (June 2002).

Table 2.18. Distribution of arrested children by type of offence and previous criminal record, Davao City, January-June 2002

Type of offence	First-time offenders		Repeat offenders		Total cases
	No.	%	No.	%	No.
PD 1619	148	87.1	22	12.9	170
Theft	131	94.2	8	5.8	139
Physical Injury	13	92.8	1	7.2	14
Robbery	8	88.9	1	11.1	9
Others	112	93.3	8	6.7	120
<b>TOTAL</b>	<b>412</b>	<b>91.1</b>	<b>40</b>	<b>8.8</b>	<b>452</b>

Source: WCCD-DCPO (January-June 2002)..

## Why Children Go Against the Law: A Closer Look at the Children's Context

An analysis of a child's particular circumstances points to the interplay of several factors that unwittingly lead many children to come into conflict with the law or drive them to commit offences, either individually or in groups.

Among these factors, structural poverty and a sense of deprivation—material, emotional or social—are consistently on top of the list. In many cases, succumbing to peer pressure stems from a sense of empathy for peers that is often stronger than parental authority and which arise from feelings of inadequacy in one's family life.

### NEEDING TO EARN

Seventeen-year-old Jonjon left home for Davao City when he was 15 and lived with friends while working as a carwash boy, and later as a passenger *jeepney*<sup>10</sup> conductor. Jonjon said he was bored with rural life and wanted to experience the fast life in the city. Besides, his peasant parents were having a hard time feeding the family. He has been to both the Regional Rehabilitation Center for the Youth (RRCY) and the Rehabilitation Center for Drug Dependents (RCDD) and has landed in jail for the fourth time in a span of two years.

*Naka-agi na ko diha tanan, RRCY ug RCDD.  
Maayo man unta didto sa RRCY. Ambot lang,  
puga man ko. Nanginabuhi lang man ko, di lang  
nila ko daug-dauga kay mobalos gyud ko. [I had*

10 Customised vehicles originally made from surplus US army jeeps, jeepneys are the primary means of public transport in Manila and in most urban centers, and commonly found even in very remote places in the Philippines. A jeepney can carry 12 up to as many as 20 passengers, and in some areas, even more, as people also sit themselves on the vehicle's roof or dangle from its sides and rear.

been to both the RRCY and RCDD. RRCY was somehow a nice place. I don't know, I still escaped. I am just working for my keep. People should not just maltreat or insult me because I will really fight back and get even.]

A feeling of relief surged through 17-year-old Jay when he found out his widowed father would marry his aunt. Someone would then take care of his siblings when he was away working at a mining site. However, when his father changed his mind, the aunt whom Jay was so fond of became suicidal. Jay was furious when he learned his broken-hearted aunt almost killed herself because of the aborted wedding. Jay held his father responsible and threatened to kill him with a stolen gun. A case of theft was filed against him by the barangay captain.

*Gusto nako ipakita sa akong amahan nga isog ko ba. Wa na koy laing nahunahunaan, nakaduyog ko sa dautang barkada, mao to napugos ko og kuha sa baril sa kapitan, gikuha nako sa ilang balay. Ako gyung gipasalbahan akong amahan pero wa nako ig-a. Suko gyud ko sa iyaha.* [I just wanted to show my father that I could stand up to him. I was not able to think of anything else. I was with bad company and I was forced to get the barangay captain's gun. I stole it from their house. I fired the gun at my father but I did not intend to shoot him. I was really mad at him.]

Small-framed Ondoy comes from the Mandaya lumad tribe in Compostela Valley. At 15 years old, his participation in the drug trade as a courier was a source of income for his hard-up peasant family. Despite his denial, he seemed aware that marijuana was illegal, but his young mind rationalised his acts.

*Gidakop ko kay nagdala man ko ug marijuana. Ning-sugot ko kay gihatagan man ko og P300. Bawal man diay nang marijuana! Herbal man na (smiles). Makapagana og kaon.* [I was arrested because I was delivering marijuana. I was given Php300 to do it, so I agreed. I did not know that marijuana was prohibited, but it is herbal medicine (smiles). It stimulates appetite.]

## NEGLECTED AND ABUSED BY PARENTS

Key informants often mention the lack of responsibility of individual families as a determining factor to why children come into conflict with the law. Some key informants particularly blamed the mothers for not taking care of their children, pointing out that even when fathers fail to be good role models, it is the mothers' role to compensate. Mothers who engage in productive work at the expense of reproductive tasks seem to be more at fault in the eyes of some duty-bearers.

From the perspective of the CICL themselves, parental neglect and breakdown of families also figure high among their reasons. In many cases, the children felt unwanted at home and felt belongingness with peer groups. Children interviewed felt they would not be pushed to the streets if their parents took care of them in the first place. Sixteen-year-old Joy, who is in jail for substance abuse, writes:

*Noon at hanggang ngayon ako ay bata na matigas ang ulo. Alam ba ninyo kung bakit matigas ang ulo ng mga bata? Dahil ang ibang mga magulang ay kulang sa pagmamahal. Bakit hindi sumusunod ang mga bata sa magulang? Dahil nakikita ang ginagawa ng magulang, dahil bakit*

*silang nagiging ganito bakit sila nandito sa loob ng bilangguan?* [I have always been and still am a hard-headed child. Do you know why children are hard-headed? Because some parents lack love and caring. How come children do not obey their parents? Because they see what their parents do. Why do children come to this? Why are they here inside the jail?]

Eleven-year-old Benben left home because he could not take the responsibility of taking care of his younger siblings when their mother died. He felt neglected by his father. On the streets, he felt good bantering with peers. When they sniff rugby, problems seem remote, he said.

*Nganong di ko molayas? Kalisod anang ikaw tanan trabaho sa balay! Gamay pa man ko, bata pa gani. Mag-atiman pa ko sa akong mga manghod, mangita pa kog ipakaon sa ilaha. Ang akong papa ala lang. Gimingaw na ko sa akong mama, 'te.* [Why would I not leave home? I do all the work at home. It is so hard and tiring! I am still small, yet a child! I still have to take care of my younger siblings, look for food to feed them. My Papa does not care. I miss my Mama.]

Fourteen-year-old Ruby did not imagine she would be arrested twice because of rugby sniffing. She said she did not understand why others are hooked on it and abhorred those rugby boys back home. However, Ruby could not stand her father's beatings anymore and ran away from home. She joined a gang, took on rugby sniffing first then used *shabu*<sup>11</sup> later on.

*Kadtong nilayas ko nakita ko ni Titing. Gihagad ko mag-rugby unya nangutana ko kung unsay lasa sa rugby hangtod naadto na ko sa dinagko. Ginalibre lang ko sa akong mga kauban. Ang among gang "Rugby Habang Buha".* [Titing saw me when I left home. He persuaded me to join them in sniffing rugby and I asked what it tasted like. Later on, I was hooked on much stronger drugs. My friends usually pay for the stuff. We call our gang, "Rugby for Life."]

Seventeen-year-old Gino recounts how he took care of himself on the streets since he left home when he was seven. Mostly, he took on all sorts of menial tasks in exchange for food or loose change. Hunger, however, would often push him to stealing. To survive the harsh street life, he joined a gang. He said he always had a knife or some weapon with him for protection.

*Daladala namo pang depensa lang sa among kaugalingon. alangan kung maunahan mi, luoy kaayo mi. Labi nag ako ang maunhan, layas god ko, wala koy ikabayad sa ospital. Way ikapalit og tambal, mamatay na lang ko ani.* [We only carry them around to defend ourselves. We do not want to be caught unprepared, particularly myself. I am a vagrant! I do not have money for hospitalisation. I cannot afford medicines. I will simply die helpless.]

## CAUGHT UP IN A WORLD OF CRIME

Sixteen-year-old Dexter was lucky enough to be employed as a conductor in a passenger jeepney. Feeling a debt of gratitude to the jeepney driver for giving him work, Dexter felt compelled to do whatever the driver

11 Shabu is a colloquial term for methamphetamine hydrochloride, a very popular abused substance.

asked him to do. One time, Dexter was caught selling stolen items. It turned out he was framed and deceived by his employer, who did not extend any help when he was arrested.

*Konduktor man ko. Paghuman nako'g pangondok niingon ang driver sa akoo nga naay kuhaon. unya 'diri lang ka sa jeep'. Unya pag-abot didto sa driver kay niadto ang driver didto sa kuan. didto sa balay.gidala niya pantaloon, camera. daghan to, daghan.kwarta. Gibutang niya sa jeep. Ingon ana, ana ko 'Kol (Uncle) unsaon ni nato 'kol?' Ingon siya kay ibaligya nato ni kay. unsaon diay? Kinsa diay ni? A diri ni. Didto ni ilang kuan.wala na siya, guba na ni. Unya mao na to. Unya akoy nibaligya. Niana man tong CVO nga 'mao ra ba ning namaligya og appliances, mao ni?' A, ako nadakpan. Ako ang giduot. Ang driver nikatawa lang kay ngano tanga-tanga daw ko. Tanga-tanga daw ko. [I work as a jeepney conductor. One day, after work, the driver told me to stay behind and explained that we were going to a particular place to get something. When we arrived at the place, a house, the driver went inside the house. He brought out a pair of jeans and a camera. There were other things, many others. Money. He kept these items inside the jeepney. That was what happened. I told him, 'Uncle, what will we do with these?' He replied that we would sell these. I asked him why, who owns these. He explained, 'Ah, there, the owner has gone and these items are damaged.' Just like that. Then I was the one who sold those things. Then a CVO (member of a civilian volunteer organization) asked if I was the one who was selling the appliances. It appears somebody told on me. I was arrested. I was the one who was held responsible. The driver*

simply laughed and told me I was so stupid. He said I was stupid.]

Seventeen-year-old Nonoy was convinced by his best friend to give up drugs and concentrate on his studies, but when the same friend was stabbed in a gang riot, he felt he had to avenge his death. He is awaiting trial for homicide.

*Narinig ko lang na may pinatay daw sa labas ng discohan. Pinuntahan ko at nakita ko yung kasama ko, yung kasama ko sa paggamit ng bawal na gamot ang pinatay. Yung taong nagsabi sa akin na magbagong buhay ka na dahil hindi naman kayo makapagbagong buhay pag naubos kayong lahat. [I heard someone was killed outside the disco. I went and found that it was my friend; the friend I took drugs with was killed. He was the one who told me to start a new life, that we cannot change anymore when we are dead.]*

#### FOR MANY OTHER REASONS

Other children rationalise their acts by saying that they were just getting even, they just had nothing else to do, or they were simply entertaining themselves. Others say they have no other choice. Still, some attributed their acts to mere adventurism. Many felt they were naturally hard-headed.

*Dili man gud ko patuo sa akong papa istoryahan, dili ko maminaw, akong ginatuman akong gusto. [I simply do not listen to my father. I only do what I want to do.]*

*Dili man pod sa ingon nga wa koy kwarta, dili man pod sa ingon nga gigutom ko. Trip lang nako to. [It is not that I do not have money, not that I am hungry. I simply wanted to do it for fun.]*

*...wala man koy linga. Gukod ko'g CBO (CVO) aning orasa ni. Maglatagaw ko. Gukod ang CBO sa akoo, kataw-an ra namo siya. Di man kagukod. [...because I am bored. There were times when I would just roam around. Then a CVO would run after me. We just laughed at him because he could not chase me.]*

*Murag nagbalos lang ko. Naay dalo sa akoo, trip-ingan nako na. "Segi lang kay makabalos lang gihapon ko nimo." Mao nga pag-abot sa gabii, kuhaon nako tong iyang pantalon. Dili nako na unsaon, dili nako ibaligya. Ipundo lang nako sa balay hangtud sa maguba. [It is like I am just getting even. You spite me; I will get back at you. So when night came, I took his pants. I did not do anything with it. I did not sell it or anything. I just dumped it at home.]*

*Kanang akong gikawatan di man pod tong tantong pobre. Kanang na koy kalagot sa usa ka tao. [I do not steal from poor people; only from those with whom I have a score to settle.]*

*Lami man gud mag-rugby, Makalipong. Naay power sa huna-huna. [It feels good when I sniff rugby, I feel light-headed. In my mind, I feel I have power.]*

*Kabalo man ko na dautan to pero nahimo namo to para naay makaon. [I know that it is bad but we had to do it so we can eat.]*

The stories can go on and on, bearing witness to how children cope, both negatively and positively, depending on whose point of view is taken. They cope with experiences of violence, abuse, abandonment and deprivation. In the process, they often find themselves in conflict with the law.

Warden Baretto of the Davao City Jail believes that while parents should learn how to handle their children, society is also at fault. He points out that many families are not given support by the government.

The reality is that children and young people are on the streets – whether to eke out a living or to spend their youthful energies with peers. As more and more of their families experience breakdown amidst society's indifference and the absence or lack of government support services, life on the streets afford them recreation and companionship, even survival.



## Crime and Discernment: Do the Children Really Know?

While key informants have different perspectives regarding the age of discernment, a point of agreement is that children are products of their individual and community contexts and different children develop different levels of discernment based on the resources and influences afforded by their immediate environments.

Discernment cannot be readily determined based on age. Key informants from among duty-bearers agree that it does not simply know what is right or wrong but more importantly, discernment has something to do with how consistently a person is able to differentiate between right and wrong. Advances in information technology, particularly mass media, were also cited by duty-bearers as influencing young people's discernment.

Key informants corroborate what many CICL claim that while they are usually aware of the wrongness of their acts, particularly stealing and other petty offences (*kasalanan sa Diyos, dautan* [a sin against God, it is bad]), they do not necessarily associate such acts as

punishable by law. Confronted with a felt need or want, many children rationalise their acts with the resulting immediate rewards or benefits, disregarding the wrongness of the means of acquiring such felt benefits.

Children are becoming more confused as to who gets what, as well as when and where to get what. They often experience mixed feelings—on the one hand, wanting to care for themselves (being able to feed themselves) and on the other hand, hating themselves for violating the law of God.

*Sa uban, dautan to pero sa akua, panginabuhin lang kanang mangawat ko.* [For others, it may be bad, but for me, stealing is only a means of livelihood.]

*Pigado na man mi mao nga nangisda mi sa fishpond.* [We were already desperate. That is why we got fish from the pond (supposedly private property).]

*Magpa-palit mi sa tigulang, hatagan sila'g sinko. Makabusog man ang rugby, naa pud power sa huna-huna.* [We ask adults to buy the rugby for a fee of five pesos. Rugby makes one feel full. There is also power in the mind.]



### 3 Children in the Process of Justice Administration

The administration of justice for children who come into conflict with the law operates through the five pillars of the criminal justice system—the community, law enforcement/police, the prosecution, the courts and correction. The flowchart in Annex 3 illustrates the juvenile justice process as experienced by the CICL involved in the study. It presents the highlights of the administration of justice involving children.

#### Offending and Getting Caught: Children's Experience of Barangay Justice

A crucial pillar in the justice system is the community, particularly the barangay or village, functioning even before a minor comes into conflict with the law through crime prevention strategies integrated in development programmes. In itself, the barangay also provides mechanisms for juvenile justice administration at the community level, which may effectively divert children from the formal judicial procedure.

##### EXISTING MECHANISMS

The *Katarungang Pambarangay* (barangay or village justice system) provides for the resolution of local disputes through mediation, conciliation or arbitration by the Lupong Tagapamayapa (Peacekeeping Board) headed by the Barangay Captain. Its avowed objectives are to:

- Obtain a just, speedy and inexpensive settlement of disputes at the barangay level;
- Preserve Filipino culture and tradition concerning the amicable settlement of disputes; and

- Relieve the courts of docket congestion and thereby enhance the quality of justice dispensed by them.

Ideally, such system provides the basis for diversion of CICL at the barangay level. The Barangay Council for the Protection of Children (BCPC),<sup>12</sup> mandated under PD 603, is expected to ensure that children's needs are provided for and their rights are protected. The Barangay Drug Abuse Council (BADAC), as per an executive order issued by deposed President Joseph Estrada, and the PNP's Barangay Anti-Narcotics and Trafficking (BANAT) are also involved in the handling of children who are caught in the web of illegal drug use and trade.

At the barangay, there is also the Davao City Police Auxiliary Group (DCPAG), a Securities and Exchange Commission (SEC)-registered aggrupation whose 500 members all over Davao were screened by the Davao City Police Office (DCPO) to become regular volunteers with an allowance to augment the police force. In addition, the district police chiefs are also authorised by the PNP to establish Station Police Auxiliary Groups (SPAGs) to assist in law enforcement at the barangay level, in addition to the existing Barangay Tanod. The latter is accountable not to the local police chief but to the Barangay Captain.

Aside from police officers, the abovementioned authority figures make arrests at the barangay level. However, there is no clear orientation on the roles and functions of the community police since the barangay officials do not share a common perspective regarding this. The tendency is for them to turn over the CICL to the local police officer.

12 Presidential Decree 603, or the Child and Youth Welfare Code, encourages the creation of the barangay council for the protection of children (BCPC). The BCPC is a community-based multi-sectoral body within the formal barangay structure that is tasked to ensure that children's rights are protected and promoted, and that basic services and programmes are being implemented in the community to address the needs and concerns of children.



CVOs likewise share in the whole spectrum of community-based peace-and-order maintenance. Civil Security Units (CSU) under local government units (LGUs), which are in charge of security in marketplaces, also often arrest children who get embroiled in petty crimes and those who stay and sleep at the market after curfew.

The Sangguniang Kabataan (SK, or Youth Council) also extends support to the youth through its sports development programmes and occasional fund raising projects such as the hosting of community discos. The CICL who were involved in this study, however, did not mention any involvement of the SK in handling their problems.

In Davao City, the Children's Welfare Code as a local policy document deals with children's survival, protection and development. Although it does not directly discuss CICL, the Code offers various provisions in the interest of children, including CICL. Unfortunately, awareness on the Children's Welfare Code is rather low at the barangay level. A study on the child-friendly movement in Davao City (Ancheta-Templa 2000) reveals that 85% of the barangay stakeholders who participated in the study did not have any idea on the Children's Code. The barangay officials themselves declared that a significant number of them are not aware of the existence of the Code. It appears that Davao City's leaders from Congressional Districts 2 and 3 have little or no knowledge about the Code. This was attributed to the tendency of the councillor who was a proponent of the Code to concentrate the information drive on the Code within his own jurisdiction (that is, District 1). This finding is surprising since the Code was passed six years ago. However, barangay leaders agreed that it is critical for them to keep abreast with new laws, ordinances or issuances affecting their constituents directly or indirectly.

Moreover, other barangay leaders who took part in the same study strongly indicated that the mandated budgetary appropriation for children's programmes as stipulated in the Code has not been implemented, resulting in the shortage of funds for children's concerns. The leaders have to rely on solicitations and donations when they conduct children's activities in the communities, hinting that they only react to specific issues or concerns.

The local plan of action for children is not seriously undertaken despite the setting up of BCPCs. In fact, the leaders reported that cases affecting CICL are immediately endorsed or referred to the police for action.

There are also ongoing community-based bilateral projects focused on children. One of these projects is funded by the United Nations Children's Fund (UNICEF), which aims to popularise the UN CRC. However, child rights advocates from NGOs lamented on the quality of training being funded by UNICEF in Davao City. The impact of these capability-building activities has not been felt in the community especially in terms of appreciation for and protection of children's rights. In this regard, they recommend assessing the appropriateness of the modules in terms of both content and process.

Initial observations also point out that participants attend these seminars and trainings because of the impressive venues and the accompanying special meals. Key informants also pointed out the lack of monitoring in terms of how the training participants were able to translate the learning to practice.

Despite the numerous policies, projects and barangay-level mechanisms, children's concerns remain largely ignored. In particular, CICL in many barangays are not provided appropriate interventions at the local level after arrest or apprehension. Barangay authori-

ties' action is mostly limited to referring the child to corresponding police stations in their area or to the CSSDO/DSWD.

Despite the opportunity to maximise its position and mandate, the BCPC does not undertake mediation. Of the 180 Barangays in Davao City, some 104 BCPCs have been organised but child rights advocates who participated in this study doubted the functionality of these support mechanisms for children. Many BCPCs have also failed to effectively address children's concerns.

Key informants also point out that while the *katarungang pambarangay* system can be an effective mechanism for diversion, it is greatly affected by the changes in the barangay leadership as a result of regular elections. The personal priorities of barangay officials usually determine the types of programmes and projects that are implemented in the community. Thus, the continuity of programmes and projects are gravely affected. This is aggravated by the fact that a proper turnover of programmes/projects to newly-elected officials does not necessarily take place. In addition, many *lupon* (village justice committees) do not distinguish between cases involving children or adults and thus, in current practise, may have not been able to address the specific concerns of CICL or handle children's cases any differently from adults.

Aside from these issues, the barangay officials who were interviewed lamented that there is no coordination between the numerous mechanisms in the community.

#### **ARRESTS BY BARANGAY AUTHORITIES**

Arrests at the barangay level happen in several instances: (1) during roving patrols, when children are rounded up particularly during curfew hours; (2) when children are caught in the act by *tanods* or other barangay officials; or (3) when community members refer or register a complaint against a minor. In some

barangays, the lupon may send a summons to the children and their parents particularly when complaints are registered.

Practices in handling children after arrest or apprehension vary among different barangays. Some are taken for a "joy-ride" in the patrol vehicle, where they are reprimanded before being released to parents, guardians or any responsible adult. In many instances, after some form of scolding, including harassment, children are set off and told to go home on their own.

Some are taken to a holding centre, usually the barangay hall, pending referral, mediation or a case conference with the parents. Most often, after being logged at the barangay blotter, children arrested by barangay officials are turned over to the nearest police station or precinct. In cases where the children are not residents of the barangay, they are endorsed to the DSWD.

In an FGD with barangay officials, participants said some *barangay tanods* no longer arrest "rugby boys" since the police automatically release them anyway. There are also cases where children rounded up for sniffing rugby and referred to police stations are simply set free by the police after 24 to 48 hours if the police officers on duty felt hesitant about filing cases against them. Commonly, these children are not provided with appropriate help towards rehabilitation.

While barangay officials are usually the CICL's first contact with authority (instead of the police), there are no data to ascertain the proportion of arrests made by barangay authorities vis-à-vis police arrests. It can be noted that in Tagum City, majority of the children who were arrested and taken to the police station were first arrested by the police and not by the *tanod* (see Table 2.4. in Chapter 2). In many barangays, however, these categories of data are hard to find. Notably, there is very limited effort at classifying cases involving children in terms of recording at the barangay level.

Barangays with a separate blotter or recording system for children are rare.

### **CORPORAL PUNISHMENT IN THE HANDS OF BARANGAY OFFICIALS, TANODS AND CIVILIAN VOLUNTEERS**

In several areas, as identified by children themselves and the NGOs working with them, arrests by barangay authorities are made without regard to child rights and, in many cases, even involve outright violation of these rights. “Disciplinary action” is sometimes used as a blanket term in describing such practices at the barangays.

First-hand accounts of children apprehended and arrested at the barangay level tell of verbal and physical abuse. Corporal punishment in secluded areas has been reported purportedly in the guise of teaching the children a lesson. Interviews with children reveal that many of them were slapped, boxed, hit with the butt of a gun or hit with various objects by *barangay tanods* or by members of the CVO and DCPAG. Firing warning shots (*gipasalbahan*), usually in uncalled for situations, caused panic and trauma to children.

*Nakahibalo man ang barangay kung asa mi tigrugby-han, gilibutan mi. Ako wala ko kadagan kay na-high naman ko sa rugby. Natulala ko unya gipabuthan man mi ug baril, abi namo naay naigo sa among kauban. Paghuman, gi-gunitan ko, naglubnot-lubnot ko pero dili man ko kalubnot kay dako man kaayo ang barangay. [Barangay officials knew where we usually sniffed rugby. They surrounded us. I was not able to run because I was already high on rugby. I was just staring, suddenly we were fired at. I thought one of my companions was shot. I tried escaping from the barangay tanod who held me but I was not able to since he was so big.] (Jan-jan, 15)*

Public humiliation and outright disregard of children’s integrity is commonplace. Children’s stories include being dragged around crowded places in handcuffs or with their hands tied and being scolded at the barangay plaza within sight of bystanders. Small-framed Lisa was ordered by a *barangay kagawad* (barangay councillor or local legislator) to sing the national anthem but was not able to do so because of panic and fear. Earning the ire of the *kagawad*, she was later brought to the central police station and was detained there for curfew violation.

In Tagum City, an imprudent anti-child labour directive was supposedly the reason for the arrest of all children found working in the public market as vendors or peddlers. A Muslim child rounded up for peddling was forced to eat pork as punishment. Several children were reported by the police to have been “detained” by the CSU in an abandoned ice storage area where there was no proper ventilation.

The *tanods* are never consistent in the way they handle children. Some take it upon themselves to lecture those they arrest and then release them after some form of punishment. The children interviewed, however, felt that when a child gets on the nerves of the *tanod*, the latter would get back at the child by filing a case at the police station.

*Wala man ko kadagan kadtong gidakop ko. Gibatstroke [butt stroke] ko ug baril sa barangay. Gi-file-an ko ug kaso kay lagot man kaayo ko giingnan nako ug buang. Paghuman ato gi-file-an ko ug kaso unya pagkaabot ug mga tulo ka semana gihatod dayon ko diri. [I was not able to run to escape the arrest. The barangay tanod hit me with his gun (butt-stroked). A case was filed against me because I was so angry I called him crazy. After that, they filed a case and after three weeks, I was sent here (City Jail).] (Yan-yan, 14)*

In an FGD, 14-year-old Ria recounts how she was degraded and referred to as a child prostitute.

*Nasaktan ako sa mga sinasabi ng mga pulis sa akin na kahit ipa-check-up daw ako, hindi na daw ako virgin. Buntog daw ako. [I was hurt when the police said that even if I go through a medical check-up I was no longer a virgin. They said I was a buntog.]*

A group of young girls described how their *barkada*, while chatting inside a friend's house, were suddenly dragged to the barangay hall, barefoot, by *tanods*. They were accused of sniffing rugby and a bottle of it as evidence was conveniently waiting for them at the hall when they arrived. They were detained for three days at the police station.

*Kinaladkad kami papuntang barangay hall. Wala pa naman kaming mga tsinelas. Pagdating doon, meron nang rugby sa harapan namin. [We were dragged to the barangay hall. We didn't even have slippers on. When we got there, there was already rugby in front of us.]*

A youth organiser shared his observation on how some barangay officials in their area handle erring youth.

*Pagdakop sa mga bata sa kamot sa mga CVO, grabe kay bunal dayon walay pangutana, sumbagon. Labi na diha sa palengke, naay kawatan nga mga bata, ipakulata man nila sa [mga tao sa] community, 'Kulatata na kay kawatan na.' Ang buhaton sa [mga tao sa] community, kula-tahon tong bata, so sila - ang mga pulis, mga CVO kanang luwas na sila kay wala man sila nagkulata. [When CVOs arrest children, they are automatically hit, no questions asked. They are punched. In the marketplace, in particular, when there are children [petty] thieves, they [CVOs] tell the people to beat them up. The*

people will then maul the child, so the police and the CVOs are off the hook since they were not the ones who did the beating.]

Instructing bystanders to punish children caught or suspected of stealing somehow relieve barangay police and CVOs of the liability to physical abuse since they can always put the blame on the angry victims. There were also reports that arrests of children at the barangay level may even be arbitrary, with some being victims of personal grudges while some were intentionally let off the hook to protect personal interests.

For instance, 17-year-old Manuel had an otherwise simple argument with a soldier neighbour that led to a brawl. After the incident, he was picked up by the latter's friends who were CVOs, was brought to the police station and slapped with a direct assault case. The CVOs beat him up while in transit.

*Namunal ko og sundalo, gikulata ko sa sakyanan pa lang daan. Wala man ko kabalo na sundalo diay to, hamburgero kaayo. [I punched a soldier and I was beaten up on the way (to the police station). I didn't know he was a soldier. He was such a show-off.]*

In some barangays, drug-related arrests, or even those not related to drug abuse, illustrate instances where personal interests come in conflict with law enforcement.

A staff of Higala, Inc. (an NGO working with adolescents in communities) who was interviewed points out that adults are very much responsible for the predicament of children in conflict with the law, particularly those trapped in the drug trade. Higala observes that children and young people are enlisted to play specific roles in the adult-managed illegal activity. Younger children usually act as lookouts or fronts while older ones are "timers" during drug trading.

At the extreme, drug trading has been tagged as a community affair, being a source of livelihood for some families who have no other income. Children themselves allege that some police residents and barangay officials in fact provide protection to the drug network. In some areas, this observation is strengthened since community members say that those involved in the drug trade are all well known. However, while several raids have been conducted, arrests were seldom made. “It has become a family enterprise, it is easy money, and security is available,” key informants say. Moreover, with the increasing advocacy against the use of children in the drug trade, there have been reports that unscrupulous barangay officials even went to the extent of identifying barangay boundaries within which minors can go about their illegal activities and still enjoy some form of protection from arrests. When the issue of drug-use prevention was raised in an FGD with children and youth, a participant countered, “*Di na ni ma-prevent, gobyerno man ni! Dinagko man ni `te.* [This cannot be prevented. The government is involved! This is big-time!]” The children were even able to identify by face and name who among the community members are buyers, suppliers and police assets.

## Children in the Hands of the Police

In its general policy, the Police Handbook on Dealing with Children in Especially Difficult Circumstances (CEDC) declares:

In dealing with CEDC, the primary consideration will not only be the security and protection of society but also the welfare and rehabilitation of these children.

Protecting, promoting and recognising children’s rights, thus, becomes a responsibility of and a challenge to the law enforcement pillar, or the police. In this light, NPC (National Police Commission) Memo Circular 92-010 directs all police stations in the National Capital Region (NCR)<sup>13</sup> and highly urbanized cities to create a Child and Youth Relations Service (CYRS) and all other police stations to designate a Child and Youth Relations Officer (CYRO).

However, the pillar of justice confronted with the least trust from the community is perhaps the police sector. Suffering from media hype, law enforcers have often been accused of being law offenders and abusers. This image needs to be validated against actual experiences. In the case of handling CICL, Davao City’s WCCD Chief, Police Inspector (P/Insp.) Royina Garma Villela, neither confirms nor denies reported abuses among the ranks of the police, yet, she is convinced that such cases may be the exception and not the norm.

### THE POLICE AS THE PRIMARY ARRESTING OFFICER

The police or law enforcement is a crucial element in the administration of justice for children given that the police are the ones who usually apprehend children who come into conflict with the law. In many cases, children who are arrested by the barangay officials or *tanods* are immediately brought to police stations.

For instance, among 15 cases recorded at a barangay in Nabunturan, either the police (7 out of 15) or a private citizen (6 out of 15) made the arrest and never the *barangay tanod* (see Table 3.1.). Those arrested by the police were all male (7 out of 7), more than half

<sup>13</sup> The National Capital Region is composed of the thirteen major cities of Metro Manila, including the capital city of Manila, and four adjacent municipalities.

(4 out of 7) were aged 16 to 17; the rest (3 out of 7) were aged 11 to 15.

Table 3.1. Distribution of children arrested by sex, age and arresting officer, Nabunturan, 2000-2002

Arresting officer	Sex		Age			Total
	M	F	10 below	11-15	16-17	
Police	7	0	0	3	4	7
Private citizen	4	2	0	6	0	6
Voluntary	1	0	0	1	0	1
Surrender	1	0	0	1	0	1
Barangay tanod	0	0	0	0	0	0
Total	13	2	0	11	4	15

In Tagum City in 2001, however, the *barangay tanods* arrested a significant number of children caught offending (14 out of 42) but the police still made more than half of the arrests (25 out of 42; see Table 3.2.). Majority of those arrested by the police were male (18 out of 25) and all were within the age range 11 to 15.

Table 3.2. Distribution of children arrested by sex, age and arresting officer, Tagum City, 2001

Arresting officer	Sex		Age range			Total
	M	F	10 below	11-15	16-17	
Police	18	7	0	25	0	25
Barangay Tanod	9	5	1	13	0	14
Private Citizen	3	0	0	3	0	3
Total	30	12	1	41	0	42

Source: WCCD-Tagum City (2001).

## CIRCUMSTANCES OF ARREST

The circumstances of arrest among children vary. Rounding up or the practice of the police and *barangay tanods* of going to public places and apprehending those who are caught in the act of violating the law are conducted regularly. Primarily a form of crime prevention through police visibility according to P/Insp. Villela, a significant number of apprehensions involving rugby use and curfew violations happen during roundups. *barangay tanods*, members of the DCPAG and private citizens also apprehend children and refer them to corresponding police stations in the area. The police act as facilitators dispensing the children and their cases to appropriate agencies.

Data from the Davao City police reveal that in most of the cases recorded within the period January-June 2002 (195 out of 497, or 39%), the children arrested committed the offence between 12nn and 6pm, and not during curfew hours as may have been commonly perceived (see Table 3.3.). Offences committed during the wee hours of the morning (from 12pm to 6am) constitute only 28% of cases recorded for the period.

Table 3.3. Distribution of children's cases\* by the time of commission of the crime, Davao City, January - June 2002

Time of commission of the crime	No.	%
12:00 p.m. – 6:00 a.m.	63	12.7
6:00 a.m. - 12:00 a.m.	82	16.5
12:00 a.m. – 6:00 p.m.	195	39.2
6:00 p.m. – 12:00 p.m.	138	27.8
Undetermined	19	3.8
Total	497	100.0

\*The total number of cases includes police arrests and referrals to police stations.

Source: WCCD-DCPO (January - June 2002).



Police data in Davao City also reveal that majority (318, or 65%) of the children arrested were not under the influence of any substance during the time of apprehension (see Table 3.4.). The rest of the children have taken a commercial adhesive called rugby, which is considered by Philippine law as a “dangerous drug.”

Table 3.4. Distribution of cases by the type of substance used by the arrested children upon apprehension, Davao City, January - June 2002

Type of harmful/volatile substance	No.	%
Drugs	1	0.2
Alcohol	8	1.6
Both	0	-
Rugby	170	34.2
None	318	64.0
Total	497	100.0

Source: WCCD-DCPO (January - June 2002).

### PROGRESS OF CHILDREN'S CASES BROUGHT TO THE POLICE

Davao City Police data show that from January 2000 to June 2002, majority (53%) of the children who were brought to police stations were referred to other agencies such as the DSWD and the CSSDO (see Table 3.5.). In 2000, such referrals constituted more than half (65%) of children's cases. Although this number was cut in half in 2001, most of the cases (407 out of 888 cases, or 46%) were still referred to other agencies. However, the proportion of cases that remained under investigation or reached the courts has been increasing, with a significant increase in 2002. From January to June 2002, more cases were unresolved or brought to the courts compared with those for previous periods. In all periods, only a few of the cases were brought back to the barangay for resolution, although the proportion of cases being settled in the barangay has been gradually increasing. These cases mostly involve slight physical injury or those with penalties of nine days and below. The data also reveal that only 1.4% to about 2% of all the cases reported at the police station has been resolved or settled.

Table 3.5. Distribution of arrested children's cases by status, Davao City, 2000 to January-June 2002

Status	2000		2001		January-June 2002		Total	
	No.	%	No.	%	No.	%	No.	%
Other agencies	925	65.2	407	45.8	130	28.7	1,462	53.0
Under investigation/pending	211	14.9	161	18.1	117	25.9	489	17.7
Court	128	9.0	179	20.2	127	28.0	434	15.7
PD 1508/at the barangay	98	6.9	81	9.1	60	13.2	239	8.7
Settled/Solved	40	2.9	12	1.4	12	2.6	64	2.3
CPO/MPO/PPO*	16	1.1	48	5.4	7	1.6	71	2.6
TOTAL	1,418	100.0	888	100.0	453	100.0	2,759	100.0

\*CPO – City Prosecutor's Office; MPO – Municipal Prosecutor's Office; PPO – Provincial Prosecutor's Office

Source: WCCD-DCPO (2000; 2001; January-June 2002)



In Tagum City, most children whose cases were filed with the prosecutor are remanded in custody pending trial (84% of 31 cases in 2001) rather than released on recognisance (ROR)<sup>14</sup> under the custody of parents (16%).

### **THE POLICE STATION: DETENTION OR HOLDING CENTRE?**

Officials of the police who were interviewed reported that technically, the police does not maintain detention cells for children; thus, they do not detain children. P/Insp. Villela explains that police stations are simply holding centres where alleged violators are held while waiting for case settlements or for a commitment order of the court if a case is filed. She opined that children should not stay more than three days at the holding centre. With the present set-up, however, children do stay longer.

For the well-off, any possible detention usually takes only two days since bail is posted immediately. For the poor, however, factors like not being able to afford private lawyers and the practice of raffling off PAO lawyers every week can usually delay the process by two to three weeks. For those whose cases are forwarded to the prosecutor, waiting for subsequent court orders vary. Conditions are worsened not only because of the unfamiliar legal processes but also by the reported presence of “fixers” who victimise poor CICL. Fixers usually come in to supposedly arrange for the child to be ROR with DSWD or at the courts.

In some cases, parents themselves request the WCCD to allow their children to stay longer even if the court commitment order instructing transfer to the City Jail has been released. These parents, who usually ply the streets along the WCCD station or work within its

vicinity, complain that their children would be out of their reach if transferred to the city jail, where conditions are less desirable.

Since the city has no detention facility, there is no budget for food for those held in police stations. However, children in police stations are still able to eat three times a day, courtesy of the CSSDO (which provides food upon request). On weekends, however, food is problematic since the office is closed.

Police sources lament that there are no social workers who will monitor the children and check on their conditions. The Davao City police chief emphasised that a social worker is needed to provide interventions like counselling services, which the local government’s social services division should be providing. In some cases deemed urgent, the PNP endorses the children to the DSWD. The police even extend their roles to giving the children advice. Children also share their personal problems, which are mostly related to breakdown of families or being abandoned by parents.

A holding centre or detention centre, which are cells with bars, are still prison cells. Current detention rooms in police stations have three sidewalls and one side with bars, usually measuring 1.5 metres by 2 metres. WCCD has the smallest detention room, but is reportedly preferred by children who are frequently held for curfew violations. Not all police stations have separate detention rooms for children. For lack of provisions, it is commonplace to see children mixed with adults in the same cell. In some stations, there are at least two cells, one for adult males and the other alternately for females or children depending on the need. In cases where there are both women and children, one cell is provided for males, both adult and children, and

---

<sup>14</sup> To “release on one’s own recognisance” means to release from custody without requiring the person to post bail.

another cell for females, both adult and children. Generally, male children are separated from the adults, but only when there are no arrested females, in which case they are returned to the adult male cells. Sometimes younger male children are mixed with female adults while the older ones are mixed with the males. Female children are always separated from the adult males but there are some instances when they are mixed with male children in police stations.

First-time offenders are usually traumatised by the experience of merely being held behind bars. Police officers who were interviewed observed that those who have previously been detained have already gotten used to being detained. Some would simply get in the cell, take a corner, take his/her place to sleep, or even ask for food (“*Gutom ko, ‘te*” [I am hungry]) or a bar of soap for bathing.

P/Insp. Villela said that the necessity for detention should be dependent on the case, the crime and the psychological assessment of the child. Detention centres, however, should not be a place with bars but should be like a home or a camp.

While the children are at the police stations, there is minimal effort exerted in contacting the parents of the children. In Tagum City, police officers get the parents’ addresses and call them by phone only when possible, and they just wait for the parents to show-up. According to Tagum WCCD Chief P/Insp Josephine Estanilla, parents usually do not come. Most of the time, there is difficulty in tracing them, especially since there are no personnel at the City Social Welfare Department (CSWD) to help in the process. The police detains and then releases CICL after three days for lack of facilities and food supply at the Tagum Central Police Office.

In Tagum City, the staff assigned to the CSWD stay from 8am to 5pm only, but it is during the night that children are caught/rounded-up. Thus, the children’s cases end up in the general blotter from 5pm to 8am the following day since there is no one to handle the cases/records exclusively for children.

In Davao City, while the WCCD is open 24 hours assuring appropriate handling of children who are arrested and brought to their office, CYROs assigned in police stations are only on duty during their eight-hour shifts. Thus, children who are apprehended and brought to police stations at times when there are no CYROs on duty, are not assured of proper handling. In many instances, they are treated no differently from adults and their cases end up in the general blotter, which are feasted on daily by the broadcast media.

#### **POLICE DISCRETION, DIVERSION AND SETTLEMENT**

In the absence of institutionalised measures for diversion, there is police discretion. However, there are lapses in practice. Since personal judgment is usually used, there is a tendency for decisions to be inconsistent. While P/Insp. Villela thinks that “it is a poor way of enforcing the law, since it goes against the principle of the law favouring no one,” exemptions are provided for children.

When there are no complainants, police officers use their discretion in releasing children who are apprehended. First-time offenders apprehended for rugby use are usually referred to a social worker for counseling and monitoring. However, repeat offenders are already charged especially when they are considered a threat to their communities (and therefore should not be returned to their families or the community) and/or in need of rehabilitation.

In cases of theft, it is difficult to exercise police discretion since there is usually a complainant whose decision is beyond police control. While the police can exert efforts at mediation, all will still boil down to the complainant's decision to file or not to file a case. Villela is quick to point out that while they encourage out-of-court settlements particularly for petty offences, they inhibit themselves from actively participating in such for fear of being accused of getting a percentage off the monetary settlements.

Police efforts at diverting children from the formal judicial procedure are based on the recognition that children may experience trauma with the (slow) justice process, petty offenders may still be counselled, and unnecessary detention may affect the children's schooling or livelihood activities. P/Insp. Estanilla of Tagum City shares their effort at diversion concerning four older children who allegedly sodomised a nine-year old boy. The parents of both the alleged offenders and victim were called for a dialogue to persuade them against holding grudges against each other and instead work out a plan to counsel the children involved. While the amicable settlement forged between the parents were worth noting, follow-up was inadequate. More importantly, the use of mediation was quite inappropriate as the case is heinous in nature (rape of a male child), which should have merited a more thorough handling. This particular effort at mediation-diversion reflects the adults' dismissal of the sexual abuse incident as petty, which probably would have been handled differently if the victim was a girl child. The harm done to the nine-year old boy has to be professionally assessed while the offenders should be held responsible and accountable for their actions against the victim. In the police officer's narration, discretion was equated with diversion. The silence of the Tagum CSWD officer in this case illustrates how ill-prepared social workers are in situations where children are in need of special protection.

Villela also shared their efforts at discussing with mall owners how to approach shoplifting cases involving children. They proposed that cases should not be filed if the amount involved is less than Php 100 (US\$1.85 in 2003) and suggested community service instead. A dialogue was conducted and a draft memorandum of agreement (MOA) was endorsed to City Councillors Angela Librado and Lito Avila, who have incorporated this to the proposed amendment to the Davao City Children's Welfare Code. According to Villela, mall owners do not trust the barangay as some do not believe that BCPCs actually function. She credits the many problems arising from this to the lack of policies on settlements.

Villela went on to raise the issue of how mall owners let the children consummate the crime. She said that the mall personnel should at least remind the children or call their attention as soon as they see a child pocketing unpaid items, rather than wait for the child to get out of the premises and apprehend him/her there. She learned about this practice during interviews with store personnel concerned.

#### **VERBAL, PHYSICAL AND SEXUAL ABUSE**

The moment children are arrested, they become particularly vulnerable in the hands of authorities who have power over them. The research found that most violations of children's rights happen during arrests and detention at police stations. Violations range from ignoring standard operating procedures covering children's rights, to verbal, physical and sexual abuse and exploitation of children.

Villela declares that they have conducted several training and seminars among police workers regarding the proper handling of children. This is in addition to the PNP's nationwide effort at advocating for children's rights and welfare. She admitted that while there are indeed reports of transgressions by police officers, cases reported have drastically gone down in the last

couple of years. Reports on violations, however, may not show the whole picture since not all victims are able to report on authorities.

Seventeen-year-old Adonis describes how he was simultaneously handcuffed and slapped on the face when approached by a police officer for questioning while he worked washing cars. The police officer asked if he was with someone who burglarised a store. He was brought to the police station but was later released when the real offender admitted to the burglary.

*Pag-ingon namo didto sa Sasa na nang-laparo, nag-ingon dayon siya, 'Laparo gyud? Naay nakakita? Gi-laparo gyud mo sa pulis?' Nahadlok ko, nahadlok ko kay gi-blapan man ko'g istorya, basig kanang mapareho ko sa akong igsoon. Gibawi dayon nako, 'Wala man ser.' ingon nako 'Wala man ser.' Kay nahadlok man ko sa gipang-istorya niya. [When we told the police at the station in Sasa that we were slapped on the face, he immediately retorted, 'Slapped? Really? Did someone see it? Are you sure you were slapped by a police officer?' I was anxious. I was afraid since he was trying to bluff me. I might suffer the same fate as my brother (his brother was mauled and whipped at the same police station). I instantly took back what I said: 'No, sir,' I said, 'No, sir.' I felt threatened by the way he talked to me.]*

Key informants and FGD participants among children shared that a hard slap on the head or face, or a punch on the stomach upon police arrest is common. According to the young informants, seldom are encounters with police considered simply "questioning," as the latter's voices were already raised or in a threatening tone when approached. The children added that in some instances, police guns were aimed at them or warning shots were fired upon arrest.

The procedure for protecting the privacy of CICL is also violated even at the law enforcers' midst. Aside from police blotter entries finding their way into media reports, children are interviewed in front of still and moving cameras without their consent.

Moreover, when children deny the crimes they are accused of, they are made to go through various forms of torture. Sometimes, the physical abuse happens during the trip to the police station.

*Tama ba na 'te? Kung curfew diay kulatahon? Unya butangan ug nigo ang nawong? Katong mga istambay didto, mga amigo sa pulis, gipa-apil man ug kulata hinoon. Curfew lagi daw. [Is that right? Because of curfew, one is mauled? Then a basket is placed on the head? Even those who were just hanging around, friends of the police, join in the beating. 'It is already curfew,' they would say.]*

*Sa pagdakop sa akua sa pulis, gibadyakan ko sa iyang botas. Naa koy pi-ang diri sa likod. Unya, gipa-medical ko, nakuyapan man ko. [Upon arrest by the police, I was kicked. I had a back-fracture. Then I was sent for medical examination because I fainted.]*

*Pinaipit ng bala ang mga daliri ko pagkatapos inipit ang kamay. [Bullets were placed in between my fingers then my hand was pressed hard.]*

*Ipinasok ang ulo ko sa cellophane na may lamang tubig. [My head was forced into a cellophane bag filled with water.]*

A common task given to minors in the custody of police stations is sweeping the cells and cleaning the comfort rooms. Enduring the foul smell is a common complaint among them. Supposedly, they are to be released if they complete their tasks.

Children report that some police officers do not harm them, but when they are placed in cells with adults, the police give the go-signal for the adult “inmates” to beat them up. For some, beatings come from both the police and cellmates. In other instances:

*May interview muna bago pinapasok sa loob ng selda. Kapag magnanakaw binubugbog at kapag curfew lang deretso na sa kulungan.* [There is an interview before one is sent inside the cell. When your offence is theft, you are beaten-up but when it is only curfew violation, you are just sent straight to the jail cell.]

*Binugbog at nilagyan ng x-mark sa pisngi ang mga lalaki.* [The boys are beaten up and their cheeks are marked with Xs.]

*Gisugo nila ang mga pinireso sa sulod, unya gikulata na pud ko, ning-katawa lang ang pulis.* [They command the other prisoners in the cell, then I was beaten up again. The police just laughed.]

The case of Papart and four of his friends is particularly appalling as he reported being electrified at the anus for repeatedly violating the curfew.

*Gikurentihan mi sa pulis, gikurentihan mi sa lubot. Kanang live wire gud, gi-ana-ana nila (showed tapping motion). lima mi ato, gihubuan mi. Sa likod man to, sagbutan pa man gani to. Sa likod sa police station, sa unahan pa. Walay nakakita, kami-kami lang man ato, tulo ra ka pulis. Paghuman mi gikuryente, gipabalik mi sa presuhan. Sakit kaayo oy! Punish man ato siya. kung madakpan man ka’g curfew katulo naa’y parusa.* [We were electrocuted by the police, at the anus. They used live wire and tapped them like this (demonstrated the tapping motion). We were five then. Our pants were pulled down. It happened at the back (of a building).

It was even a deserted place, a grassland. It was further back, behind the police station. No one saw the incident; it was just us and three police officers. After being electrocuted, we were sent back to jail (police station cell). It was so painful! That was our punishment because when you are arrested for curfew for the third time, there is a punishment.]

Sexual abuse, towards either boys or girls, is also reportedly happening in some police stations and sometimes perpetrated even by police officers.

*Gidakpan mi tungod sa rugby. Na-presyo mi usa ka gabii. Giingnan mi sa pulis na pakolkogon na lang siya makagawas daw mi, puwede pud daw pakumuton og totoy.* [We were arrested because of rugby. We were detained one night. The police told us they would release us if we allow them to ‘finger’ us or mash our breasts.]

*Naa mi sa sulod sa pick-up unya gi-ingnan ko sa pulis na mo-uban na lang daw ko sa Annex (a motel). Masahiin ko daw siya, pakainin naman daw niya ako at pagamitin ng shabu.* [While inside the (police) pick-up truck, he (the police officer) told me to come with him to the Annex (a motel). He asked me to give him a massage then he will feed me and give me shabu.]

*Ang mga lalaking bata sa selda nagiging mga babae.* [Boys become girls inside police detention cells.]

“Authorities themselves train them to be youth offenders,” quipped a participant in an FGD of child rights advocates. The participants said that their wards/beneficiaries confirm reports that in exchange for favours, arrested children are enticed to become police assets or intelligence agents, sometimes even being provided

shabu and other illegal drugs purportedly to be used in buy-bust activities. Notably, these recruited assets are not in any way rehabilitated but are sent off to continue their dealings with drug pushers and buyers, or with peers who engage in petty crimes of snatching and the like. In the process, they are used to tell on their peers.

Fifteen year-old Papart almost took the offer but later refused:

*Pagka-ugma, ninglaya na akong kauban, ako lang nahabilin, naa man sa akoo ang kawat na cellphone gud. Pagku-an ato, gisalo man ko sa barkada nako na pulis, gi-ingnan niya ang mga pulis na 'Ako-a ni, batos nako ni.' Kato gisalo ko niya, nakagawas ko pero naay kapalit. himoon ko niyang spy. asset, kay daghan man ko'g kaila na addict, kawatan og cellphone ana. Ana siya sa ako-a 'Karon, nasalo man ti ka no?' Kaila naman ko to gud, silingan ra namo, ingon siya, 'Balusi sad ko.' Nag-ingon man siya na himoon ko'g asset, nagduha-duha ko `te. [The next day, my friends were released. I was the only one left (at the police station) since the stolen cellphone was found with me. Then, I was rescued by a police friend. He told the other police officers—"This one's mine, my recruit." Just that, he rescued me. I was released but I had to give something in return. I was to be his spy, his asset since I knew many drug addicts, cellphone snatchers, and the like. He said, 'Now, I did rescue you didn't I?' I had known him for sometime, he was a neighbour. He said, 'You should return the favour.' He was recruiting me to be a police asset. I hesitated.]*

Papart said he was offered Php 3,000 (around US\$ 56) for every person that he turns in. He thought twice and

figured that he might just be putting his life in more danger. While he first thought of trusting the police officer, experience reminded him to do otherwise.

Sadly, the police as an institution struggle with the popular association of police officers with rights violations and other misdemeanours instead of being protectors and law enforcers. In a drama-forum, participants talked about police officers' tendency to violate and disregard children's rights, pointing to the inadequate training and fast turnover of officers deployed in a particular police station.

## Children Facing Charges in Court

Despite the mechanisms ideally available for CICL intervention at the barangay level, the reality is that these do not function and cases are still forwarded to the prosecution and the courts of justice for trial. These cases include petty offences whose settlement can otherwise be provided by a functional *katarungang pambarangay*.

Supreme Court Administrative Circular No. 14-93 mandates that all disputes are subject to barangay conciliation and prior recourse thereto is a pre-condition before filing a complaint in court. Exception applies only to offences for which the law prescribes a maximum penalty of imprisonment exceeding one year, or a fine over Php 5,000 (around US\$ 93).

In the past years, an increasing trend has been noted on the number of cases involving CICL lodged at the courts of justice. Data from PAO Region XI show that almost two new cases involving children as offenders are taken on by PAO lawyers on a daily basis. While only a handful of cases involving children are handled by private lawyers, including those facilitated by children's and legal support groups, there is nevertheless a similar observed increase.



## NUMBER OF CASES AT THE PUBLIC ATTORNEY'S OFFICE

In 2000, PAO handled 509 cases involving children, or almost half (44%) of the total 1,170 cases handled by the two family courts in Davao City. In 2001, a 12-percent increase in the number of cases was recorded with 376 new cases received, registering a 20-percent increase from the previous year (376 vs. 313 cases; see Table 3.6.). New cases received for the first half of 2002 already reached 250, or 66% of the number registered for the whole of 2001.

## CASE FILING

For the children and young people whose cases reach the level of the prosecution and the courts, legalese adds to the ordeal. Notably, children and young people interviewed in jails had difficulty recounting the process of case filing, except that of being asked to admit to a crime by another set of authorities after the police. Many are not aware of the role of fiscals as much as they are aware of the judges and PAO lawyers. Apparently, case filing is considered only as paper work and as a preliminary to the much dreaded court hearings. Just the same, children and their parents are unacquainted with or feel helpless with the process of case filing.

Several children, however, noted that people at the courts (including the prosecution) seemed helpful but they looked so busy and that their encounters with them were only brief. What they could remember from their experiences with the prosecution was being told that they could be released on bail, which their families could not afford anyway.

## CONGESTION IN THE COURTS

Family Courts handle civil and criminal cases pertaining to domestic affairs. Particularly, these courts are in charge of handling cases involving children, both as victims or as accused offenders. In Davao City, there are two designated Family Courts, Regional Trial Court (RTC) Branches 8 and 12.

While all cases involving CICL should be handled in the Family Courts, several cases remain at the municipal trial courts, particularly in areas outside Davao City. Even in Davao City, where courts have been assigned according to the nature of cases, some children have pending trials outside of the Family Courts. This is true particularly to those who are facing charges in relation to illegal drug trade (handled by RTC Branch 9), as their pending cases have been filed even before the creation of Family Courts.

Table 3.6 Number of children's cases handled by the PAO, cases terminated and clients involved, PAO Region XI, 2000-2002 (January-June)

	2000	2001	January-June 2002	Total
Disputes pending	196	192	224	612
New cases received	313	376	250	939
Total cases involving children	509	568	474	1,551
Cases terminated (% to total cases)	317 (62.3)	344 (60.6)	257 (54.2)	918 (59.2)
Clients involved	113	411	254	254

Source: PAO Region XI (2000; 2001; January-June 2002).



Despite the existence of designated Family Courts, there is still a slow movement of cases involving CICL since all other domestic cases, including non-criminal cases, congest the courts. In 2000 alone, RTC 8 and 12 combined handled 1,170 cases; this increased to 1,447 cases (or an increase of 24%) in 2001 (see Table 3.7.). Since both were designated as Family Courts in August 1999, RTC Branches 8 and 12 handled around one-fourth (24%) of all 4,931 criminal cases processed in the 11 RTC branches in 2000 and 27% of the total 5,409 cases in 2001 (see Table 3.8.).

With only about 220 working days, judges lament about the paucity of decisions made in a year. In

many instances, accused children over-serve possible sentences owing to the delay of hearings. In 2000, the courts were able to dispose of only about half (47%) of these cases, and even less (28%) in 2001 (see Table 3.7.). In 2000, 192 cases of children (38% of total 509 cases) remained in “pending status” by the end of the year (see Table 3.6.). The number increased by 17% to 224 cases (39% of total 568) pending by year-end 2001. In terms of total combined family court cases, the proportion of pending cases by year-end reached 39% and 52% in 2000 and 2001, respectively (see Table 3.7.).

Table 3.7. Summary of criminal cases, RTC Davao Family Courts, 2000-2001

	2000		2001	
	No.	%	No.	%
Pending at the start of year	552	47.2	569	39.32
Received during the year	618	52.8	878	60.68
<b>Total</b>	<b>1,170</b>	<b>100.0</b>	<b>1,447</b>	<b>100.0</b>
Disposed during the year	686	47.4	411	28.02
Archived at end of the year	192	13.3	293	19.97
Pending at end of the year	569	39.3	763	52.01
<b>Total</b>	<b>1,447</b>	<b>100.0</b>	<b>1,467</b>	<b>100.0</b>

Table 3.8. Number of criminal cases pending, received, disposed and archived, Davao Family Courts, 2000-2001

Court	2000		2001	
	No.	%	No.	%
Criminal cases pending at the beginning of year				
Branch 8	310	12.0	326	11.7
Branch 12	242	9.4	243	8.7
All courts	2,585	2,779		
Criminal cases received from January to December				
Branch 8	291	12.4	477	18.1
Branch 12	327	13.9	401	15.2
All courts	2,346	2,630		
<b>TOTAL</b>	<b>4,931</b>	<b>5,409</b>		
Criminal cases disposed from January to December				
Branch 8	332	13.6	190	13.1
Branch 12	354	14.5	221	15.2
All courts	2,443	1,455		
Criminal cases archived at the end of year				
Branch 8	97	12.2	143	17.4
Branch 12	95	11.9	150	18.2
All courts	798	822		
Criminal cases pending at the end of the year				
Branch 8	326	11.7	470	15.4
Branch 12	243	8.7	293	9.6
All courts	2,779	3,047		

Source: RTC Davao Family Courts (2000-2001).

## OVER-BURDENED LAWYERS

Congested courts, indeed, contribute to the slow justice process. Aggravating this is the fact that other duty-bearers in court are not able to give enough time to children faced with cases in court. Children with filed cases reported that they met their lawyers for the first time only during the first day of the trial and saw them only during their court trial schedules. Reportedly, PAO lawyers confer with the accused and his or her parents only while waiting for the court proceedings to start. Children interviewed were not aware of the existence of court social workers.

Prosecutors and defence lawyers for children in the PAO cite their heavy workload in response to the accusation that they are indifferent to the plight of many CICL. Meanwhile, family court social workers apparently have their hands full facilitating adoption and annulment cases.

There are only 14 PAO lawyers in Davao City (which includes the regional public attorney already tasked with administrative responsibilities); the whole of Southern Mindanao only has 33. Permanent PAO attorneys are assigned to each court. Regional Public Attorney Ridgway Tanjili reports that the two PAO lawyers assigned to the Family Courts each handle an average of 8 to 10 cases everyday in court. Records show that their average monthly workload for January to June 2002 is 300 cases, with an average accomplishment rate of only 35 cases terminated monthly (see Table 3.9.).

Atty. Tanjili laments that the PAO is probably the most neglected public service office in the country. Currently, the PAO needs six more lawyers in Davao City, and while they have some 20 applicants, they are not able to hire despite the need since there is no budget allocated for additional personnel.

Table 3.9. Number of cases handled by public attorneys in family courts by month, RTC Branches 8 and 12, January-June 2002

Month	Branch 8				Branch 12			
	Workload	New Cases	Accomplished		Workload	New Cases	Accomplished	
			No. of cases	% to the workload			No. of cases	% to the workload
January	316	-	29	9.2	207	-	51	24.6
February	337	50	26	7.7	222	66	21	9.4
March	348	37	38	10.9	215	14	28	13.0
April	363	53	39	10.7	263	76	60	22.8
May	380	56	42	11.0	252	49	51	20.2
June	367	29	19	5.2	231	30	30	13.0
Total	2,111	225	193	9.1	1,390	235	241	17.3

Source: PAO Region XI (January-June 2002).

## DISPOSITION OF CASES

In 2000 and 2001 and the first six months of 2002, an end-period average of 59% of cases involving CICL as handled by PAO in Region XI have already been terminated (see Table 3.6.). Almost all of these cases were decided in favour of the children (see Table 3.10.). The disposition involves either of the following situations: cases being converted to a lesser offence, cases provisionally dismissed, cases dismissed, or acquittal of the accused. Meanwhile, based on PAO data, unfavourable disposition of cases has been rising in the past two years. From 5% in 2000, CICL with court cases who were convicted and/or given suspended sentences reached 13% in 2001.

According to key informants from the courts, majority of cases against children are terminated by dismissal rather than by sentence imposition. Owing to the volume of cases heard daily, some cases are terminated with the child having over-served while remanded in custody. Sentences are mostly automatically suspended and youth offenders found guilty are sent to the RRCY and the RCDD and/or ordered to pay fines to the victims or their families.

## OPERATION AMIN

In an attempt to cut short the court process if not simply to de-clog the courts, prosecutors and PAO lawyers reportedly advise children accused of offences to plead guilty (*umamin*). Among the “benefits” to be derived from such a scheme, dubbed “Operation *Amin*” by some sectors, is the assurance that the accused children are given rehabilitation services immediately. Some children, and even parents, are often convinced after being told that admission of guilt would mean a shorter stay in jail or skipping it altogether in favour of the open rehabilitation centres.

A lawyer interviewed admitted to being guilty of such a practice. He said, given the slow justice process and the situation in jails, sometimes pleading guilty is the best option for the interest of the child and his/her family. On several occasions, he has encountered parents whose main concern was diverting their children from jail and sending them for immediate rehabilitation. ROR, at times, is not an option since some parents feel they are not capable of supporting their children and protecting them, especially as they are embroiled in court cases.

Table 3.10 Distribution of terminated children's cases by whether or not decision is favourable to the child, PAO Region XI, 2000 to January-June 2002

Decision	2000		2001		January-June 2002		Total	
	No.	%	No.	%	No.	%	No.	%
Favorable to clients	293	92.5	289	84.0	257	100.0	839	91.4
Unfavorable to clients	15	4.7	43	12.5	0	-	58	6.3
Others	9	2.8	12	3.5	0	-	21	2.3
Total cases terminated	317	100.0	344	100.0	257	100.0	918	100.0
No. clients involved	199		310		272		781	

Source: PAO Region XI (2000; 2001; January-June 2002).

## **BALANCING BETWEEN THE VICTIM AND THE ACCUSED**

Prosecutor Andrea dela Cruz of Nabunturan, who concentrates on cases involving children, says they want to protect both the victim and the accused. She explained that prosecutors like her cannot openly take the side of the child by readily recommending a favourable action. She emphasised that they should not make things easy for the child and that offenders should be remorseful.

Atty. Dela Cruz usually allows the complainants to proceed with the complaint and wait for such time that they are ready to desist, which is usually after three months of detention. This procedure serves as an accountability check for the child, to teach him or her a lesson. “The process of legal counselling is very important. I discuss openly with the complainant and the offender. I do not want to impose, I want them to decide,” explains Atty. Dela Cruz.

A diversion committee is absent in this situation as Atty. Dela Cruz fears attacks on any decision and processes she undertakes. However, she makes sure that she requests the court for ROR as much as possible.

## **RIGHTS UNKNOWN, RIGHTS DENIED**

Unaware in court. CICL whose cases reach the courts are most often unaware of the processes they are made to go through. CICL remanded in jails recounted how they were simply spectators during court proceedings. While some strained to understand what was being talked about, the use of English as a medium prevents them from fully comprehending the proceedings.

In Davao City, WCCD Chief P/Insp. Villela told of an instance when the prosecutor’s office returned to

them an affidavit written in the vernacular (Visayan) as narrated to them by the accused child, requiring them to translate it to English. A police officer also cited the case of children who were even playing games inside the courtroom while waiting for their trial, oblivious that they are to be tried for offences punishable by law. In addition, a common story from children interviewed in jails is that they opt to stay silent and do what they are asked to, as they were anxious that they would get into more trouble if they ask questions.

On their own. In addition to the lack of information, there is a lack or absence of parental support or even support from a social worker. In cases when parents or relatives are present during court proceedings, they are often reduced to spectators since most are not even aware of the rights of the accused or of the legal options available to their young wards.

As of 11 February 2002, around 55% of the 60 minors under the custody of the Bureau of Jail Management and Penology (BJMP) whose cases are still on trial are transported to the courts and back without parental support. Even those who are released on recognisance sometimes appear in court without their parents.

Fourteen-year-old Lani travelled on her own from Kidapawan City<sup>15</sup> to Davao City without any escort to attend her hearing for violation of PD 1619. She told the court that her farmer parents had no money for transportation and that besides, they were not aware that they should be there to accompany her. No social worker was available to support her and she was even tasked by the judge to hand the latter’s request for a case report to the DSWD office in Kidapawan.

Open to the public. Children who were charged with criminal offences are treated not much differently from

<sup>15</sup> Kidapawan City is a city in Cotabato Province located about 110 km from Davao City.

adults appearing in court in terms of confidentiality. Trials are done in the open to maintain the integrity of the courts. Court records are also considered public documents while the cases are still undergoing trial.

Cases involving children are heard in court at the same time as other cases. In fact, children are made to wait for their turn in the courtroom while other domestic-related cases are heard. In the whole Philippines, only three cities have courts with separate rooms for children—Manila, Cebu and Davao. In Davao, only RTC Branch 12 has this room. The equipment, including a set for use in teleconferencing, was donated to the Courts by the UNICEF. The facility, however, is used only in cases related to child abuse, particularly sexual abuse where children involved are extremely vulnerable. Despite the Rule on Examination of Child Witnesses, hearings regarding crimes against property and substance abuse are open to the public.

Detained while on trial. Some 80% of the CICL at the Davao City Jail have cases where posting of bail is allowed. However, posting bail is hardly an option since the children's families could not afford this. The same is true in all other research areas. It is difficult to obtain information on children who are remanded in custody or are placed on ROR while trial is ongoing because of the absence of disaggregated data.

While all duty-bearers interviewed agree on the primacy of releasing children on recognisance as much as possible, sometimes even parents refuse to take their accused children home while trial is ongoing. Among the common reasons for their refusal are safety and transportation costs when they have to bring their children to court.

#### **INSTITUTIONAL OR COMMUNITY REHABILITATION**

Absence of disaggregated data makes it difficult to ascertain the trend in court dispositions of cases involving children. However, according to key in-

formants and based on data provided by the DSWD Field Office Region XI, the ratio of children under community-based rehabilitation programmes to those serving suspended sentence in rehabilitation centres may be close to 60-40.

More significant are the limited programme information and the lack of statistics regarding children serving suspended sentences in the custody of their parents; these are children who are supposedly undergoing community-based rehabilitation programmes as reported by the DSWD.

#### **OPPORTUNITIES FOR DIVERSION**

The New Rules of Court that provides for diversion at the court level has yet to be implemented at the time the interviews were conducted. However, prosecutors and judges interviewed were open to the idea of diversion, saying it would make a big difference in decongesting the courts and avoiding the trauma children are made to go through in court.

The late Judge Valles, the lone judge in Compostela Valley who unfortunately died during the data-gathering phase of this project, expressed to his colleagues that he found the exercise of diversion at the court level difficult at times. Facing complaints for minor offences, including that of volatile substance abuse, Judge Valles decided to send more than ten children back to their families while awaiting trial. While he was concerned that being detained in jail would not be for the best interest of the children, their parents felt there is no other choice. Parents refuse to take back their children because, according to them, they do not have both time and finances to follow up their children's cases. For some, putting their children in jail seem more favourable since they are relieved of the responsibility of looking after and feeding them, a clear example of how poverty increases the vulnerability of CICL.

### Box 1.A Snapshot: RTC Branch 3-Nabunturan

There was difficulty in obtaining complete descriptive statistics from the courts of Davao City and Tagum City as there are no existing administrative data disaggregating cases involving children from those involving adults. Moreover, the voluminous files of hundreds of CICL cases made searching through the documents laborious. The clerk of court in Nabunturan, meanwhile, photocopied court records and provided the research team notes on the circumstances and status of cases involving children in RTC Branch 3.

Raw data provided by RTC Branch 3 in Nabunturan show that cases involving children have been declining for the past two years. In 2001, the number of CICL cases dropped by more than half (13 cases from 28 cases in 2000; see Table 3.11.). As of June 2000, only three cases have so far been filed. Most of the children with cases filed during the period studied (14 out of 44) were serving a suspended sentence, one-fourth (10 out of 44) are still pending litigation while only 9 cases have been terminated or dismissed. The records further show that of those who are serving suspended sentences, the majority are under the custody of their parents, while some were sent to the RRCY. The available data are still incomplete, which is an indication of the inability of both the court and the DSWD to monitor the young people's performance. At least seven children were considered fugitives who have either absconded from the RRCY or failed to report to the proper courts.

Majority of the cases filed against children during the period (31 out of 44) involved robbery, theft and qualified theft (see Table 3.12.). Many theft and robbery cases involved groups of children, from two to four per case. Over the two-and-a-half year period, eight children were involved in cases of rape and acts of lasciviousness where victims were also children, aged 5 to 9. The case of the group of four children charged with acts of lasciviousness was dismissed after six months.

Table 3.11 Distribution of cases by status and year filed, RTC Branch 3-Nabunturan, 2000-June 2002

Status of cases	Year			
	2000	2001	2002(as of June)	Total
Pending litigation	3	5	2	10
Suspended sentence	12	2	-	14
Dismissed/terminated	9	-	-	9
Status not given	4	6	1	11
<b>TOTAL</b>	<b>28</b>	<b>13</b>	<b>3</b>	<b>44</b>

Source: RTC Branch 3-Nabunturan (2000; 2001; June 2002).

More than half of the children belonged to the 11-15 age group (23 out of 44); one-fourth (11 out of 44) were aged 16 to 17. All CICL found in the RTC3 court records were male.

Table 3.12. Distribution of cases filed against children by nature of case and age, RTC Branch 3- Nabunturan, 2000 to January-June 2002

Case	Age			Total
	11 - 15	16 - 17	not indicated	
Robbery-	3	5	7	15
Theft	9	1	1	11
Qualified theft	5	0	0	5
Rape	1	3	0	4
Acts of lasciviousness	4	0	0	4
RA 6425*	0	0	2	2
Murder	1	0	0	1
Attempted murder	0	1	0	1
Others	0	1	0	1
Total	23	11	10	44

\* RA 6425 is also known as the Dangerous Drugs Act of 1972.

Source: RTC Branch 3-Nabunturan (2000; 2001; June 2002).

## Children Behind Bars

In the absence of a custodial or pre-detention home for children arrested for various offences, CICL are sent to jail for custody even while awaiting trial. Thus, CICL who are not on ROR simply transfer from detention at the police stations to jails. The presentation of an Order of Commitment from the Court and medical certificate from the City Health Office constitute the in-take procedure.

All detention centres in areas covered by the research maintain separate cells for male children, while female children are mixed with adult female detainees.

## CHILDREN'S SITUATION IN THE JAILS

Davao City Jail. In the Davao City Jail, a separate building for male CICL was built only in March 2000. Later, the JWU was established. Previously, CICL at the Davao City Jail occupied only a separate cell in the same building as adult detainees, in full view of and allowing interaction with the adults. Currently, while the situation is better (the male adults' and male children's cells are separated by a high wall), both adults and children still occasionally mingle with each other. The females are housed in a separate building within the compound. The CICL in jail are mostly males. Key informants observe that accused females are rarely sent to jail since they are most often released on recognisance, if cases are filed against them at all.

Claimed to be the first of its kind in BJMP prisons, Davao City Jail's JWU was established in November 2001 as an initiative of the jail warden in support of the advocacy for children's welfare. Senior Inspector Grace Taculin serves as the Chief of the JWU while concurrently assigned as the Chief of the Personnel Division of the BJMP Region XI.

According to Davao City Jail authorities, the estimated average number of children confined in a month is 45. The number of children at the JWU rarely drops to 30 and at its peak, the number reaches the 100 mark. During the FGD session conducted in April 2002, there were 80 wards at the JWU, including four females. They crowded the two cells that had a capacity of 15-20 persons each.

Realising that it cannot rely solely on its own resources for it to provide sufficient appropriate services for its child-residents, the BJMP also solicits support from NGOs and other government offices, visiting their offices and presenting to them the situation of children detained in the City Jail.



JWU Chief Taculin reports that their efforts bore fruit as several cause-oriented groups, religious organisations and school-based outreach programmes heeded the call for support. Food, clothing, toiletries, pillows, eating utensils, pails and basins were among the items donated. Group visits to the JWU reportedly increased; December 2001 was a witness to several Christmas parties sponsored by LGUs and line agency offices, as well as by private individuals.

With support from UNICEF, the government office, TESDA (Technical Education and Skills Development Authority), conducted a 45-day skills training programme in masonry, carpentry, plumbing and concrete hollow-block making, through which the children themselves were able to build additional structures for the JWU. Through the training programme, a multi-purpose building extension (which also serves as visiting area) was built. One additional comfort room and two additional showers were also built during the training, and the water pipeline to the JWU was improved. UNICEF also donated two sets of colour television sets and video cassette players.

All the 67 cases of children detained at the JWU as of February 2003 were being handled by PAO lawyers; almost all cases (53 out of 67 cases) are actually bailable (see Table 3.13.). Almost all (60 out of 67) are still undergoing trial, while only a little more than 10 percent have been convicted or are waiting for transfer to serve their suspended sentences. Many have not been convicted, yet they already consider themselves convicts since they are already in jail.

Children at the JWU prepare and cook their own food by teams that work in shifts. Activities are assigned on a daily basis to ensure a wide range of options and things to do (see Table 3.14.). When there are no volunteer-facilitators (from among adult inmates or cause-oriented groups), the assigned jail officers or jail guards facilitate the activities. Admittedly, there are days when the jail guards feel that all they can afford to provide for their wards are token activities because of personnel limitations.

Table 3.13. Distribution of cases of children by characteristics of case, sex and age, Davao City Jail (as of 11 February 2002)

Characteristic of case	Age				Total
	11 - 15		16 - 18		
	Male	Female	Male	Female	No.
Case handled by PAO	22	6	39	0	67
Under trial	20	6	34	0	60
Bailable cases	20	5	28	0	53
Non-bailable cases	1	1	12	0	14
Suspended sentence	0	0	4	0	4
Pending resolution/judgement	1	0	2	0	3
Case handled by private lawyer	0	0	2	0	2

Source: Juvenile Welfare Unit-Davao City Jail (11 February 2002).

Table 3.14. Daily schedule of activities for child residents at the JWU

Day	Activity
Monday	Hygiene and sanitation, ground polishing
Tuesday	Sports and recreation
Wednesday	Spiritual counselling (done in the chapel and involves interaction with the adults)
Thursday	Non-formal education activities (e.g. art workshops)
Friday	Values formation activities
Saturday	Rest day
Sunday	Family Day

While the three jail guards assigned at the JWU consists of two nurses and a social worker, they are not able to practice their professions fully as much as they would want to since they are “primarily custodial officers not rehabilitation officers.” In such a situation, reliance on volunteers to conduct so-called “rehabilitative” activities thus becomes the best recourse for the jail management. Volunteerism is commendable but considering that volunteers come and go, inconsistencies in the orientation and approaches at handling issues in detention, rehabilitation and reintegration are realities in attempts at creating support systems for both children and adults.

Tagum City Jail. In the Tagum City Jail, the male children’s cells share the same area with the female adults’ cells where female minors are also housed. While there is only one building, the area for the female adults and children has a separate entry and exit gates to minimise contact with the male adult detainees. Visiting and recreation areas, however, are common.

Since there is only one cell (around 4 metres by 6 metres) assigned to children, the jail warden decided to remove the bunk beds that crowd the area and instead use large wooden platforms for sleeping. The platforms ensure that the children’s backs do not get cold from sleeping on the concrete floor and since these can be filed on one side of the room when not in use during the day, the boys can have a relatively bigger space since they stay there the whole day.

#### LACK OF PARENTAL SUPPORT

Generally, children at the JWU feel that their parents rarely visit them. The same is true at the Tagum City Jail. While JWU data show that half of the children (34 out of 67) are visited, more than one-third (23 out of 67 children) are not visited despite having contact with parents and/or relatives and the rest (10 children) were identified to be stowaways, orphaned or abandoned children (see Table 3.15.).

Table 3.15 Distribution of children by status of family support, sex and age, Davao City Jail, 11 February 2002

Status of family support	Age				Total
	11 - 15		16 - 18		
	Male	Female	Male	Female	
Visited with support	11	1	17	0	29
Visited without support	0	0	5	0	5
Not visited but w/ parents or relatives	7	0	16	0	23
No visitor/no support/no parents	3	5	2	0	10
Total	21	6	40	0	67

Source: JWU-Davao City Jail (11 February 2002).

### **LACK OF RESOURCES AND SUPPORT**

When escorting inmates to court, the limited number of jail personnel poses a problem. Ideally, each defendant is provided a guard-escort. In practice, however, only two jail guards accompany all (15 at the most) accused adult and child inmates who are required to attend court proceedings in a day. If schedules fall on the same dates, both adults and minors are handcuffed to their escorts (or to each other, when there are many) while in transit to court in a BJMP-marked vehicle. In one instance, at least six minors all accused of PD 1619 violation paraded from the BJMP vehicle to the courtroom where their cases were to be heard, passing through the entrance to the Hall of Justice Building, the lobby, up three flights of stairs, amidst spectators, all while handcuffed to each other and led by a uniformed jail guard.

The jail warden notes that procedural violations may have been committed in the manner of transporting children to court primarily because of personnel limitations. However, the jail guards have no other choice lest the inmates escape, which, among others, may cost the jail guard his job. In fact, jail guards personally provide their own handcuffs, which are used in escorting inmates because there are only a few BJMP-provided handcuffs for official use.

Only those personnel under the supervision of the BJMP get an opportunity to be part of capability-building exercises or personnel experiential trainings.



Rarely do the LGU-managed jails get such a privilege. Trainings are undertaken by the LGUs covered by the UNICEF's country programme.

BJMP personnel receive lower salaries compared with those under the PNP. To be a jail guard, one is required to finish at least two years of college, pass a series of qualifying exams and go through a six- to eight-month training.

**Box 2. BENBEN'S STORY**

When I first met Benben, he said he was 14. Two weeks later, he confessed he was just 11, though he still seemed younger for his height. His built suggests that he has done heavy work that perhaps stunted his growth. He has a cheerful disposition when with peers, but he turns grave when talking about his family.

I had just finished an interview with the jail guard on duty when he approached me to show that he was practicing his handwriting, he asked me if he wrote “dear mama” correctly. He begged for a chat before I left, it was his last day at the juvenile welfare unit of the Davao City Jail, and he was scheduled to be transferred to the Regional Rehabilitation Centre for Drug Dependents. I asked him what about, he said he just wanted someone to talk to.

*Nalipay ko kay ibyahe nako sa rehab unya. Magtinarong gyud ko didto. Dili ko mu-puga. Mag-eskwela ko para maka-mao pud ko mosulat. [I’m happy because I’ll be transferred to the rehab centre. I will really be good there. I will not escape. I’ll attend school so I’ll learn how to write.]*

Benben was arrested in January 2002 for sniffing rugby along with his friends at a public market in Davao City. A case of PD 1619 violation was filed against him and three of his friends. The barangay tanods who turned them over to the police said that it was not the first time they were apprehended for sniffing rugby and that perhaps a case should already be filed against them so that “they will learn their lesson.”

After almost four months under the custody of the City Jail, Benben was relieved when his day in court was finally scheduled. Granted suspended sentence, he was to be sent to the RCDD. It took another two weeks, however, for his transfer papers to be processed.

*Di ko ganahan diri sa presuhan, lain. Guot kaayo. Lahi daw sa RCDD, I-bartolina ang bag-ong abot, sige lang, magtarong gyud ko didto. [I don’t like it here in jail, it’s too crowded. They say it’s different at the RCDD, new comers are sent to the bartolina (an iron-grilled cell), but it’s okay, I’ll really behave there.]*

*Di ko mouli sa amoa kung makagawas nako, mamuyo lang ko sa drop-in. Kalaban man nako ang akong papa, wala na koy mama, namatay na, sala sa akong papa. [I won’t go home after I am released at the rehab, I’ll just live at the drop-in centre. I hate my Papa, Mama is already dead and it was Papa’s fault.]*

Benben has been in and out of the City’s drop-in centre for street children. It’s been almost a year since he left his rural hometown in the outskirts of Davao City. He said his mother died of pneumonia because his father failed to bring her to a doctor. They didn’t have money then

## Box 2. BENBEN'S STORY

but Benben believed his father did not try hard enough to find help. His father and mother eked a living as seasonal farmworkers.

*Nganong di ko molayas? Kalisod anang ikaw tanan trabaho sa balay! Gamay pa man ko, bata pa gani. Mag-atiman pa ko sa akong mga manghod, mangita pa kog ipakaon sa ilaha. Ang akong papa wala lang. Gimingaw na ko sa akong mama, 'te. [Why won't I leave home? I do all the work at our house, it's so hard and tiring! I'm still small, a child! I still have to take care of my younger siblings, look for food to feed them. My papa doesn't care. I miss my Mama.]*

Benben is the eldest of four siblings, the youngest is barely three years old. While Benben was able to attend a year and a half of primary school, the family's irregular income was not enough for him to continue studying. None of his three younger siblings were lucky enough to go to school. When his mother died, his father turned to beating them, especially when he came home drunk. Living on the streets with his newfound friends was difficult too, Benben said, but he preferred their company and their escapades.

*Sa barkada, lipay mi kay pirmi lang mi mangatawa, magdula, mag-rugby pud mi. [With my friends, we are always happy. We laugh a lot, we play, we also sniff rugby.]*

*Nalooy man pud ko sa akong mga manghod, nagool pud ko. Pag-gawas nako sa rehab, kuhaon nako sila, mopuyo mi sa drop-in kay guwapo didto, malipay mi. [I still pity my younger siblings. I also worry for them. When I am released from the rehab, I will fetch them. We will live at the drop-in centre, we will be happy there.]*

Benben spoke calmly, even thoughtful, despite teasing from the eavesdropping older children. Seemingly, hardened children like Benben become vulnerable again in the company of adults who show a hint of concern. He told me of his wrongdoings – the brawls and fistfights, snatching and shoplifting, how they forced open a closed pharmacy only to find the cashbox almost empty, sniffing rugby, ending-up in jail – much like a confession, and then he expected me to scold him. Teary-eyed, he said it was his fault and he deserved to be reprimanded. At that moment, perhaps he needed his mother to tell him that yes, indeed, he did wrong, but it was now all right, because he said he's sorry and that he still can do better.

**Note:** The direct quotations were extracted from the researcher's conversation with Benben in May 2002. Additional information on his case was supplied by other key informants and by Benben in previous and succeeding exchanges. Benben gave his informed consent to be the focus of one of the case studies.

## Children in Custodial Centres

The two facilities for CICL managed by the DSWD—the RCDD and the RRCY—could be a better place for the children who have been deprived of basic needs such as food and shelter. However, the training of CICL under the custody of the DSWD reflects an institutionalised system characterised by routine activities that cause boredom among children, and rehabilitation based on retribution and punishment.

The RRCY is the only rehabilitation centre for CICL in the region. Its rehabilitation programme still maintains traditional views about young offenders with very little change in the physical facilities for recreational activities. The physical set-up is good for about 60 persons but with the increasing number of offenders, there is usually an overflow of about 30 percent. The same is true with RCDD, which is in a separate compound but which caters only to boys and youth. The same centre serves as a “catch all” detention home for children in extremely difficult circumstances to include the boy-children in armed conflict situation charged with illegal possession of firearms.

Corporal punishment, isolation and inappropriate punishments are applied to the rehabilitation centres. This demonstrates staff inadequacy and the whole gamut of issues and framework for response. Understaffing is also a problem. Varying degrees of appreciation of the concept and practice of rehabilitation, or the lack of unity on the concept of rehabilitation, seem to prevail among the centre staff.

### THE DAILY ROUTINE

The experiences and sharing of children indicate that many of them were not too happy about having to adapt to the routine in the centres. Some of them absconded in search of the freedom they used to enjoy on the streets. They cannot sustain the gardening activities and other household chores/activities introduced in

the centres, what with the element of rigidity as hinted by the children themselves (see the daily schedule of RRCY in Table 3.16.).

Some of the children interviewed find the daily activities in the centres too structured. The schedule seems to be simple but not appreciated by most children. Religious activities are introduced as if children have a common religion or are practicing one. Children may have observed the use of religion to scare them and remind them always of sins they have committed or God’s commandments they have failed to follow.

Scientific and creative programming of activities has not been easy. The DSWD facilities are as old as its existence yet there is no evidence that the staff involved went into detailed planning based on the individual child and group’s needs (and rights).

### THE HEALING PROCESS

Genuine concern for reintegration varies among staff even as they allow various groups of different orientation on rehabilitation to visit the centres and conduct their own activities. Consistency is sacrificed at the expense of the children. The stigma also remains and is reinforced with the monitoring of performance and behaviour of child-residents being done within RRCY. Using a checklist, the house parents record errors committed or negative behaviour displayed by the children (see Table 3.17.). This is accomplished monthly and submitted every quarter. The checklist is also displayed at the centre. As RRCY staff stressed, “*Dapat lang na may [It is but right to have] basis for improvement, so we have to count the misbehaviour, if recurring or not.*” Rehabilitation assumes different meanings then.

The RCDD’s therapeutic process as prescribed may have added disturbance to the CICL that necessitates further investigation as to the kind of therapy introduced (see the RCDD’s 12-step therapeutic process in Box 3.12).

Table 3.16. Daily schedule in the Regional Rehabilitation Center for the Youth

Day	Time	Activity
Monday to Friday	4:00 a.m.	Awaken children assigned to cook
	5:00	Awaken all
	5:00 – 5:30	Morning prayer and coffee break
	5:30 – 7:00	Daily assignment/daily exercises
	7:00 – 7:15	Ready for breakfast
	7:15 – 7:30	Breakfast
	7:30 – 8:00	Grooming/hygiene; ready for turnover to the next staff on duty; departure to school of schooling children
	8:00 – 8:15	Physical turnover of residents to the next staff on duty; appraise incoming staff of the important matters that needs urgent attention
	8:15 – 8:30	Orient children on the flow of the day's activities
	8:30-10:30	Gardening, <i>bayanihan</i> *, welding, driving and other practical skills development activities
	10:30-11:30	Bathing/washing time
	11:30 – 12:00	Lunchtime
	12:00 – 1:30 p.m.	Siesta
	1:30 – 3:00	Formal/non-formal education/group sessions with house parents/SW/MDO/volunteer groups
	3:00 – 3:15	<i>Merienda</i> (snacks or break)
	3:15 – 4:45	Sports time/TV time/study time
	4:45 – 5:00	All children are intact inside the building, ready for turnover to the incoming staff
	5:00 – 5:45	Grooming; hygiene; bathing time inside the room
	5:45 – 6:00	TV viewing (watch news); ready for angelus
	6:00 – 6:15	Angelus
	6:15 – 7:00	Resume TV viewing/tutorial/study time
	7:00 – 7:30	Supper, brushing teeth
	7:30 – 8:45	Continue TV viewing/tutorial lessons/storytelling
	8:45 – 9:00	Spot-checking of wards' quarters
	9:00 – 9:15	Onward – complete silence
Saturday	8:30 – 10:30 a.m.	General cleaning
	1:30 – 3:00 p.m.	Bible sharing
Sunday	Morning	Holy Mass
	Afternoon	Free time

\* *bayanihan* is a Filipino word that refers to cooperation or working together.



Table 3.17. Individual checklist of children's performance and behaviour

Aspects	No. of items
1. Economic productivity 1.1. Involvement in productivity skills	7 items
2. Social adequacy 2.1. Health and nutrition 2.2. Educational and vocational skills 2.2.1. Functional literacy/non-formal education 2.2.2. Schooling status	7 items 9 items 4 items
3. Socio-cultural recreation and sports development 3.1. Recreational and sports development 3.2. Religious beliefs/spiritual development	10 items 6 items
4. Self-functioning 4.1. Physical needs/personal grooming and hygiene 4.2. Personal belongings 4.3. Problem solving 4.4. Decision-making skills 4.5. Emotional control	8 items 6 items 4 items 3 items 4 items
5. Homelife discipline 5.1. Major offence 1 5.2. Major offence 2 5.3. Minor offence 5.4. Assignment/household chores 5.4.1. Kitchen 5.4.2. Refectory 5.4.3. Office, social hall, conference room 5.4.4. Right wing, left wing, front view, lawns, back view, Sylvia Park, canals 5.4.5. Area maintenance (farming, orchids, piggery, poultry, carabaos, horse, etc.) 5.4.6. Bayanihan/communal 5.4.7. Other related tasks given to trusted minors	13 items 13 items 15 items 59 items total or 39% 11 items 12 items 9 items 10 items 9 items 5 items 3 items

Source: RRCY

### **Box 3. TWELVE STEPS: A THERAPEUTIC PROCESS**

- Step 1 “We admitted we were powerless over drugs, that our lives have been unmanageable.”
- Step 2 “Came to believe that a power greater than ourselves could restore us to sanity.”
- Step 3 “Make decisions to turn our WILL and lives over to the care of God as we understood Him.”
- Step 4 “Made a searching and fearless inventory of ourselves.”
- Step 5 “Admitted to God, to ourselves, and to another human being the exact nature of our wrongs.”
- Step 6 “We are entirely ready to have God remove all these defects of character.”
- Step 7 “Humbly ask Him to remove our shortcomings.”
- Step 8 “Made a list of all persons we had harmed and became willing to make amends with them all.”
- Step 9 “Made direct amends with such people whenever possible except when to do so would injure them or others.”
- Step 10 “Continued to take personal inventory and when we were wrong, promptly admitted it.”
- Step 11 “Sought through prayer and meditation to improve our conscious contact with God as we understood Him, praying only for knowledge of His will for us and the power to carry that out.”
- Step 12 “Having had a spiritual awakening as a result of these steps, we tried to carry this message to other drug dependents and practice these principles in all our affairs.”

Source: RCDD Region XI brochure.

### THE BARTOLINA

Upon admission to the RCDD, children are confined to the building's basement for two weeks or so as a matter of standard operating procedure (SOP) to observe their behaviour coming from pre-trial detention, a sort of de-acclimatisation. The children who absconded described the basement as cramped and having foul odour. They normally call the place, *bartolina* (an iron-grilled cell), and at the RCDD, it is in the basement and resembles a dungeon.

The infamous *bartolina* at the RCDD is technically referred to by the staff as the observation room, or OR. The OR, located at the basement of one of the buildings, actually consists of three rooms, two of which reportedly measures around 1.5 x 2.5 metres and the other, 1.5 x 3.5 metres.

According to key informants (both children and adults), while there are comfort rooms at the OR, it is usually out of order. The OR earned its nickname, *bartolina*, since, as described, it is dark, damp and foul smelling, with limited ventilation. Here, one is confined as punishment for various misdemeanours or violation of centre rules. Depending on the gravity of the offence, wards are sent to the OR for a corresponding number of days, and even weeks. A key informant shared that at a time, as much as 20 wards may crowd the three observation rooms for several days.

Visits are restricted when one is confined in the OR. It is also the place for “violent” children, who are treated as if they were in a mental hospital. Children who commit misdemeanours are also “locked up” in this “isolation” room. When interviewed, social workers used euphemisms for it, such as observation

room and reflection room. Whatever it is, it creates isolation. It violates the principles surrounding the child's rights—inherent worth and dignity, inclusion and participation.

In an FGD with minors at the Tagum City Jail, three RCDD absconders unanimously agreed they felt “better-off” where they are compared with the RCDD. Their complaints may have some basis because generally, the environment in jails are relatively more lenient and less structured compared with that in the centres.

*Ninglayas mi kay lain sa RCDD, baho ang bartolina, kulatahon ka kung bag-o ka, unya kuhaon ang imong senina.* [We absconded from RCDD because we did not like it there. The *bartolina* smelled bad, newcomers were mauled, then our clothes were confiscated.]

*Walay istorya, diretso lang sa bartolina, baho unya ngitngit pa gyud!* [There are no more discussions. One is sent straight to the *bartolina*. The smell there is so foul and it is so dark!]

*Wala mi nakaayon didto kay naay mga sakit, gikagid ang uban. Walay pangalan ang mga habol, bisan kinsa lang ang mogamit, dali lang ka matakdan.* [We did not like it there (RCDD). They had skin diseases. There were no names on the blankets. Anyone can just use these, so the skin diseases are easily passed on.]

*Sa RCDD, lisod kaayo, maligo lang kung naay bisita, pag walay bisita dili na mi atimanon.* [At the RCDD, it is difficult. We take a bath only when there are visitors. When there are none, we are not attended to.]

### **AFTERCARE SERVICES, DEVOLVED SOCIAL WELFARE FUNCTION**

Once the child is admitted at the rehabilitation centre, the concerned local government social welfare officer is immediately notified and required to submit to the RRCY an assessment of the capability of the child's parents to provide guidance and support to the child's needs towards his/her eventual return to the family. Most social welfare officers comply with this particular requisite. This is supposed to be a guide for the planning and programming of both the RRCY and RCDD, and the local social welfare officers for the child's family and community reintegration. For a six-month period, the local government is expected to design an after-care service. However, local social welfare officers at the municipal, city and provincial levels expressed inadequacy considering various factors.

Inadequate or lack of aftercare/reintegration programme for youth offenders complicates the matter. In Davao City, summary execution more likely meets the youth upon release from jail than any employment opportunity or any social reintegration process. Further stigmatisation happens with them if they slip away from the death squad. Prevention of repeat offences is not within the purview of rehabilitation as there is no clear family and community support after prison.

### **ABSCONDING FROM A RIGID ENVIRONMENT**

There have been reports of regular occurrence of children absconding from rehabilitation centres. In RRCY, 20 children out of 149 wards were reported to have run away from the centre; in 2002, there were 22 out of 127 wards. However, re-admission has been noted: three for 2001 and four for 2002. Re-admission was done in consultation with the parents upon issuance of notice by the RRCY to the parents concerned regarding the status of the wards. Thus, re-admission was on their own volition, according to the RRCY staff.

An RRCY staff, however, explains that most of those who absconded are the ones who have not been visited by any of the family members or relatives. Boredom is the strongest push factor in such cases. She further explains that there are residents who could not adjust to the living arrangements in the institution (that is, the daily schedule of activities that has to be followed; restrictions in terms of smoking, drinking liquor, etc.; penalties for misbehaviour). She concludes that those who absconded may be resisting these living arrangements as a form of control over their lives, preferring the kind of freedom they enjoyed in the streets. As earlier cited by the children themselves, street life is better than the institutional structured services.

The interviews with the RRCY staff reveal a certain degree of frustration in rehabilitation work. This frustration comes from knowing that children will be going back to the same environment that may have caused them to be what they have become, noting that 60% of the children come from homes that have disintegrated or families that are not ready to assume the responsibility of sustaining guidance and support to the child.

The RRCY staff also affirms the structured activities of the centre, also expressing enthusiasm for the forthcoming joint endeavours with TESDA, such as the six trainings on welding, tailoring, radio-assembly and battery-servicing by the end of 2003. It was also learned that the Japan International Cooperation Agency (JICA) will extend assistance to the DSWD-FO Region XI by setting up a skills development centre where children could choose as much capability-building projects as they wish to pursue sometime in 2004. Based on their performance in school, at the close of School Year 2002-2003, 13 out of 15 children were considered successful. Three children are into on-the-job training.

The disposition after the young offender's suspension of sentence is confined to custody in a closed rehabilitation centre. Various disposition measures for the court to consider open centres have yet to be explored. What is favourable to all duty-bearers is institutional detention, which is seen as the only mode for the rehabilitation of a juvenile offender.

The current court procedure takes hearings that are open to the public and governed by formal rules of procedure. These will, however, be minimized with the issuance of the new Rules of Court and if the implementing rules and regulations of the Family Courts Act will be completed.

#### **NO PROGRAMME FOR GIRLS**

The absence of a defined rehabilitation programme for girl offenders is glaring. Since the two regional rehabilitation centres, RRCY and RCDD, only cater to males, female children serving suspended sentences are sent to the DSWD's Group Home for Girls (GHG). The GHG, however, is primarily an alternative and halfway home for sexually abused, abandoned and neglected girls, and female CICL constitute a minority. While being a minority may not be much of an issue, the absence of appropriate programmes for the different cases served in the facility is a cause for concern since all of the girls are subjected to the same rehabilitation programme and treatment.

In the jail, girls are with adult females charged with crimes involving varying degrees of penalties. They are, however, relatively freer than their male counterparts. While there seems to be liberal treatment for the girls in terms of mobility inside the jail, what is not guarded



is their tendency to be strongly influenced by hardened criminals though their constant interactions with adult inmates, both male and female.

Routine physical check up at the jail also misses a gender-specific issue for girls in conflict with the law. A 14-year-old girl, for instance, was detained for three months in the Davao del Norte Provincial Jail but her reproductive health condition was not given attention. A female jail guard learned of her pregnancy after the girl's miscarriage but there was no immediate action from the jail management. An NGO involved in prisoners rehabilitation work later intervened in the course of its jail monitoring.

#### **Box 4. Emy's Story**

Despite several arrests by barangay and police authorities, 14-year-old Emy refuses to learn her lesson, or so her aunt believes. Her aunt charged her of theft and had her thrown into jail as a “disciplinary measure.”

A follow-up into Emy's background shows that she has had four blotter entries of theft in the past year in different barangays and in three municipalities in Compostela Valley, her home province. It was learned that her parents voluntarily settled all the damages with the assistance of the barangay officials.

Emy's parents plant root crops, corn and vegetables on a patch of land they do not own. Her father also helps load logs used for plywood from which he occasionally gets Php 200 (around US\$3.70) a day. The family barely survives, with two other daughters and four sons, including a one-year-old. All the school-aged children are enrolled except for Emy, who went into the habit of running away from home at 13 years old. She finished Grade Five.

Emy's parents claimed that they never inflicted harsh discipline on their children. They said that even if their children were old enough to be spanked, they would rather not hit them because they are afraid of losing the respect of their friends and neighbours. Emy's father later admitted that his wife, as well as their eldest son, had been responsible for occasional beatings.

Emy found herself involved in several petty crimes when she ran away from home at a young age. A barangay captain revealed that she escaped from the Nabunturan Police Station when she was 13. She, along with her friends, was in the custody of the police for apparently ransacking a residence in Nabunturan. A police officer, with the assistance of the barangay officials, negotiated with her parents; Emy was then persuaded to go home.

After three months, Emy left home again and her parents lost interest in locating her. After several weeks, the municipal social welfare and development officer in Montevista, a town in Davao del Norte Province, found out that Emy was in the custody of the PNP in Monkayo, a nearby town. She was detained there for one week and was transferred to the municipal jail of Montevista for two months before she was remanded to the provincial jail in Mankilam, Tagum City (the provincial capital of Davao del Norte).

Emy was in jail for allegedly taking her aunt's necklace and ring, which were on top of the refrigerator. Her aunt, who filed a complaint, said she wanted Emy to stay in jail for her to realise what she did. Asked why she did it, Emy simply said, “*Na-tripingan lang nako.*” [I just wanted to.]

In September 2002, a female guard, who is a midwife, found out that Emy was three months pregnant. A staff of Released Foundation, Inc. (RFI), an NGO doing prison work, informed Emy's parents about this upon learning of her situation. Emy was impregnated by a tricycle driver.

After a month, Emy had a miscarriage. She said one of the female inmates threw her against an iron-barred porch that resulted in profuse bleeding. She had fever for three days but was not given medical attention, even after several days when RFI found out that she had a miscarriage.

In consideration of Emy's condition and her being a child, RFI arranged for parental custody. At first, her parents hesitated because she might run away again. Emy and her family have since been scheduled to undergo counselling with RFI and other concerned agencies.

Courtesy of Released Foundation, Inc.

## Beyond the Criminal Justice System

### OUT-OF-COURT SETTLEMENTS WITH BUSINESS OWNERS

While individual complainants, in time, agree on out-of-court settlements where children are involved, several big business establishments in the research area seem to be more inclined to punitive justice.

Empirical evidence show that several big businesses, particularly mall owners in the urban areas and plantation companies in the rural areas, form a significant portion of complainants against minors in shoplifting and qualified theft cases among children interviewed.

As described earlier, some mall owners in Davao and Tagum Cities have insisted on teaching children caught shoplifting a lesson along with their parents, and filing charges seems to them the appropriate action. As a matter of policy (“All shoplifters shall be prosecuted.”), mall authorities refuse payment for the shoplifted goods from parents or relatives, arguing that the crime has already been consummated.

In cases where out-of-court settlements are arrived at, larger amounts of money than the value of stolen items are usually involved. Only those who can afford, however, are able to settle. A parent recounts how s/he was required to pay five thousand pesos (Php 5,000) while the tag of the shoplifted item was less than 20 pesos. Mall authorities cite administrative expenses and legal fees as basis for higher settlement figures.

Majority of poor minors caught shoplifting, usually food, are left to face charges in court. When mall authorities forward these minors to police stations, affidavits and related papers for case filing are already prepared.

In Dujali, Davao del Norte, more than 16 children in separate incidents, were faced with cases of qualified theft by TADECO, a banana plantation, for allegedly stealing fish from the company’s fishpond. When they were caught, these children recounted how the guards brought them to the company’s main office where they were made to sign papers and had to have their pictures taken. Police officers in the area say they could not do anything anymore when the children were referred to them since papers necessary for case filing already accompanied them. They were left with no option but to take custody of the children and facilitate case filing. In an FGD, the plantation security personnel argued that they were just doing their job and hesitation in filing cases against the children may cause them to lose their jobs.

### VIGILANTE-STYLE JUSTICE FOR CHILDREN

In Davao City, and recently in Tagum City, the issues of extra-judicial killings and vigilantism are gaining public concern. Perhaps in recognition of the slow justice system, some civilians are taking justice into their own hands, particularly in supposedly ridding the communities of criminal elements. Several children have fallen prey to this so-called “civilian justice.”



**Children dying in the streets.** From January 1999 to December 2002, at least 29 people aged 18 and below, who have been involved in petty crimes and illegal drugs, had been reported killed in Davao City (see Table 3.18.). All were either stabbed or gunned down in busy streets by unidentified men, usually riding motorcycles, with some cases happening in broad daylight in the full view of bystanders. Young people above 18

to mid-20s who suffered the same fate numbered 62, as monitored by the Kabataan Consortium<sup>16</sup> and the Tambayan Center for the Care of Abused Children, Inc.<sup>17</sup> Many of the victims who were above 18 were detained by the police either many times when they were still children or were just released from jail at the time of the killings.

Table 3.18 List of young people killed by summary execution, Davao City, 1999-2002

Name	Age	Date of death	Nature of killing	Alleged reason for killing
1. Elcid	18	17 January 1999	Shot by men wearing denim jacket	Involved in drugs, gang member
2. Royroy	17	6 July 1999	Shot by unidentified motorcycle-riding men	Petty theft, snatching
3. Maymay	18	6 July 1999	Shot by unidentified motorcycle-riding men	Petty theft, snatching
4. Adam	17	3 December 1999	Shot by men wearing denim jacket	Detained many times
5. Ricardo	18	12 December 1999	Shot at the foot; his ear was cut off and his eyeballs taken out	Has theft cases
6. Alex	18	29 March 2000	Shot by unidentified assailants	Involved in drugs
7. Nanong	17	1 September 2000	Shot dead by unidentified motorcycle-riding men	Suspected drug pusher
8. Iking	17	22 September 2000	Shot at the head by unidentified gunman	Not reported, but was a member of Notoryus Gang
9. Jerome	17	12 June 2001	Two gunshots at the back	Not reported
10. Richard	18	17 July 2001	Shot dead by unidentified vigilante	Petty crimes
11. Jason	16	4 August 2001	Shot dead by unidentified vigilante	Petty crimes, member of Notoryus Gang
12. Kalag	Teen-ager	17 August 2001	Multiple gunshot wounds (.45 caliber and 9 mm pistol)	Tagged teenage gangster; involved in several stabbing incidents
13. Macao	18	20 September 2001	Shot by unidentified motorcycle-riding men	Has pending robbery cases; repeatedly arrested for cellphone snatching but released after posting bail; had been in and out of jail
14. Pygie	18	20 September 2001	Shot dead on the head while trying to flee	Cellphone snatching

(Continued on next page)

16 The Kabataan Consortium is an umbrella organisation of nine child-focused NGOs based in Davao and which is among several NGOs and NGO networks in the province that are working on the issue of summary execution of suspected criminals, both children and adults.

17 Tambayan Center is a child-focused NGO based in Davao City that implements programmes for and works with adolescent street girls. The NGO has been continuously monitoring incidences of summary execution in the streets of Davao City as reported by the Davao print media.

(Continued...Table 3.18 List of young people killed by summary execution, Davao City, 1999-2002)

Name	Age	Date of death	Nature of killing	Alleged reason for killing
15. Sammy	17	18 October 2001	Shot dead by unidentified motorcycle-riding men (.45 caliber and 9 mm pistol)	Petty crimes, theft, snatching cases; had been in and out of police station due to snatching cases
16. Bernie	17	18 October 2001	Shot four times with a .45 caliber pistol	Petty crimes, gang war
17. Christopher	16	20 October 2001	Stabbed by unidentified assailant	Petty crimes, solvent-user; released from the Davao City Jail in July 2001
18. Poloy	17	7 November 2001	Shot by motorcycle-riding men with a .45 caliber pistol	Convicted of theft case for cellphone snatching, released from the Davao City Jail in 5 November 2001 after serving a 19-month sentence
19. Lucio	16	December 2001	Gunned down by neighbor who was an alleged DDS member	Involved in theft cases
20. Jimboy	15	6 March 2002	Stabbed by two motorcycle-riding men	Involved in several robberies; was just released the previous day from detention at a police station
21. Ricmor	17	24 March 2002	Stabbed many times by an unidentified man	Personal grudge or gang conflict; Notoryus Gang member
22. Anthony	15	4 April 2002	Gun shots in the head and body by three unidentified motorcycle-riding men (.45 caliber pistol)	Suspected drug pusher
23. Obet	17	4 April 2002	Shot in the head by unidentified motorcycle-riding men (.45 caliber and 9 mm pistol)	Mistaken identity
24. Ryan	16	6 April 2002	Shot in the head by unidentified motorcycle-riding men (.45 caliber and 9 mm pistol)	Akyat-bahay gang member
25. Teddy	18	7 April 2002	Shot in the head and neck by alleged DDS members	24 Oras gang member
26. Vanvan	18	9 May 2002	Shot dead by a bullet at the back of the shoulder	Notorious robber, snatcher; was just released from the Davao City Jail on suspicion of rape
27. EC	17	3 August 2002	Stabbed dead by a lone assailant	Gang conflict, Notoryus Gang member
28. Bobby	14	3 November 2002	Stabbed 3 times by an unidentified assailant	Gang conflict
29. Raquel	17	12 December 2002	Died of a gunshot wound on head by unidentified assailant	Drug-related; was in and out of prison for using rugby; released from the RCDD in December 2001 after staying there for four months

Both local print and broadcast media easily tag many victims as drug pushers, thieves, snatchers, teen hoodlums, gangsters or gang leaders, noticeably dropping the “suspected” qualifier in their headlines. The series of killings have since been referred to as “vigilante killings.” Meanwhile, some NGOs have dubbed the killings as “salvaging” and/or “summary execution.”

The accusing finger has been pointed to the shady Davao Death Squad (DDS), a vigilante group formed in the 1980s that aims to rid Davao of criminal elements through extra-legal means. Several accounts even link police authorities and elective officials to the group owing to the perceived inaction of these officials on the killings. While authorities deny the vigilante angle, they do not discount the existence of “hired guns.”

Human Rights Commissioner Dominador Calamba II shares the common observation that the local executives and the police knew the criminals but were “seemingly tolerating” them since the killings, in one way or another, contribute to their peace-and-order and anti-drug campaigns (“...*dahil nakakatulong yata sa kanila*” [...because it helps them.]). Calamba thinks that authorities probably have information but cannot build a case that can stand in court because of weak evidence, as no witness will surface to testify in court. He averred that there are sufficient intelligence funds, which makes it unbelievable that the police cannot solve the killings (Sunstar Davao 4 May 2002:4).

Mostly happening in busy streets, many have witnessed the killings but are afraid to testify. Fifteen-year-old Biboy reports how he witnessed an execution:

*Naglingkod lang mi didto sa\_\_\_\_, sigatoy na man mi tanan, kauban nako akong kuya, mga barkada. Ning-agi man tu siya, si---, gi-ingnan mi niya na diha lang mo, basi'g madamay mo.*

*Mura lagi'g kabalo na ato siya. Ninglingkod lang siya, ning-agian man siya'g pulis, kaila pa ko sa motor, ginawashingan man nako to, pag-agi niya, pak! Nagpurong ang pulis, kay pulis man to siya, klaro kaayo, dako kaayo'g lawas na pulis, kaila man ko sa motor gud, wala siya naka-uniform, sibilyan siya. Gi-ana lang niya ang baril, pak! Pag-agi, pak! Igo dayon. Lagsik ang dugo sa akong nawong lagi! Ning-lingi pa man tong among kauban sa nag-baril sa iya, gitiwason siya sa ulo, patay. Ang mga pulis nagtan-aw ra, imbis na magpatabang mi. 'Bos, tabanga mi bos kay naay gibaril among kauban.' Wala lang ang pulis. 'Dal-a lang na sa morge,' ning-ana lang. Ninglakaw ra tong pulis! Unsa ba ning! Ang huna-huna mi ato, murag kakonsabo man siguro sila siguro! Ang pulis ato, ning-wala na, gi-ingnan mi, 'Panguli na mo oy!' Ning-uli na lang mi. Pagka-ugma ato, giingnan ko sa parak na 'Ay kabalo man ko, kaila man ko ato sa nagtira gabii, kauban ra pud namo.' Ayaw lang saba jud, ayaw lang saba, dili lagi ka ma-unsang. Wala lang ko. [We were just sitting there at \_\_\_\_ (along a populated area). We were already high. I was with my older brother and some friends. \_\_\_\_ (a friend, the victim) passed by. He told us to stay put. He said we might be dragged into trouble. He seemed to know what was coming. He just sat down. Then, a police officer on a motorcycle passed by. I even recognised his motorcycle. I used to wash it for a fee. When he passed by, pak! The policeman had his head covered. I was sure it was a policeman—heavily-built. I knew his motorcycle. He was not in uniform, just civilian clothes. He just pointed his gun, pak! He just went by, pak! Bulls' eye! Blood even splattered on my face! Then, our friend looked back at the assassin and that was when he was shot in the head, dead. Police officers*

around just looked on instead of helping us. ‘Boss, help us! Our friend is shot!’ They did not move. ‘Just bring him to the morgue,’ they said. Then, they just left. That is why we think maybe they knew about it and that maybe they were part of the operation. They just disappeared. They told us, ‘Just go home!’ We did. The next day, a police officer told me, ‘I knew who the assassin was last night, a co-worker. Just keep quiet. Do not say a word. Nothing will happen to you.’

The public has been divided over the killings of children and young people. Even as child rights advocates cry foul, many are silent, almost consenting. Public opinion ranged from outright contempt for the killings (“They deserve a second chance or at least a just process.”), to approval (“They deserved it anyway. The times call for drastic measures.”), to dismissal (“Those are isolated cases. No cause for alarm.”).

For the past two years, during the celebration of Children’s Month in October, children’s rights advocates and child-focused NGOs have been raising the issue of summary killings. The commemoration march-rally held in October 2001 was greeted by three more deaths of young people. As the marchers passed through and offered flowers in places where some youth and children were killed, three more people were killed in broad daylight on the same day.

Child rights advocates take action. Child rights advocates and child-focused NGOs – among them the Kabataan Consortium, the Tambayan Center and the Kabiba Alliance for Children’s Concerns, a Mindanao-wide alliance of organisations and individuals advocating children’s rights – have been holding mass actions to protest the killing of minors and young adults in Davao City. They also held a dialogue with the City Mayor.

A Gender and Social Services Consultant of the Office of the City Mayor was heard saying that the parliament of the streets such as march-rallies will not stop the killings. Other forms of protest were thus explored. A whole-day silent protest in front of the City Hall, press statements and media barrage failed to stop much less slow down the incidence of violence against children and young people. The list of victims grows longer as the media continues to banner the killings in the front pages of local dailies.

The Karapatan Women and Children Task Force, together with other child-focused organizations, issued a unity statement against the summary executions and demanded for justice. Overdue, as it may seem, the regional field office of the CHR has declared the local PNP responsible for its inaction in hunting down the perpetrators of the summary executions (Sunstar-Davao 4 May 2002).

The Kabataan Consortium challenged the CHR-FO Region XI as it urged the former to produce the witnesses. Kabataan was in fact presenting a child witness to the Commission in mid-2002 but was refused and told that the child was an accessory to the crime and not a witness. The boy was actually paid to be part of the crime but later decided to go public so he could help shed light to the summary execution going on in the city.

While the city is amending its Children’s Welfare Code, its Mayor has not stopped reiterating his stance against young people involved in crimes, especially those into drugs and in gangs. He tends to implicate himself in his policy statements with regards peace and order. Proud as some of his city mates, the Mayor has been named Presidential Adviser for Peace and Order in 2002, and also serves as Chair of the Regional Peace and Order Council for Southern Mindanao. Taking cue from the global campaign against terrorism where the

Philippine President figured prominently as a staunch implementer, local progressive forces are apprehensive. Such appointment may result in pressures that would

further impinge on the basic rights of people, especially the young.

### **Box 5. BOBOY'S STORY**

Criminality runs in the family. This has been the unfair remark that Boboy has been subjected to by neighbours and even by police authorities. At 14, he now has to constantly watch his back wherever he goes after two of his teenage brothers were killed in alleged drug- or gang-related incidents.

On 12 March 2002, Boboy was arrested by the police for allegedly snatching the necklace of a woman complainant. After being held at the police station for a day, he was released through legal support from the Kabataan Centre.

After a month, on 10 April, he was arrested again for illegal possession of a deadly weapon. He was again detained in the same police station until 9 June 2002, a lengthy two months of waiting for case filing and the court's subsequent order of commitment.

Worried about the security of her son, Boboy's mother, Rita, formally requested the San Pedro Police Station to transfer Boboy to the RRCY. On 10 June 2002, Boboy stayed at the RRCY until the morning of 13 June 2002. The next day, 14 June, the RRCY formally turned Boboy over to Rita's custody. The DSWD has assessed that Rita is able and has the capacity to take care of her son.

#### **Early exposure to harsh life**

Boboy comes from a large brood of eight siblings, the eldest is 23 years old and the youngest is five. Boboy's parents got married at an early age and raised their children with an unstable income from their labour at the public market. When their youngest son was a year old, Boboy's father left them for another woman and his mother, Rita, has since become the breadwinner of the family. She has learned to carry heavy loads at the market to provide her children three square meals a day. Nevertheless, her grown-up sons occasionally help her in earning a living as labourers in the public market.

Often tagging along with playmates, Boboy already was hooked on arcade games at 7 years old, causing frequent absences in and ultimately dropping out of school. He was then enrolled in a public elementary school as a first grader. He was re-enrolled the following year but he dropped out again, preferring daily life with his friends at the market place.

continued on next page

**Box 5. BOBOY'S STORY (CONTINUATION)**

At an early age, Boboy frequented the Bangkerohan Public Market, tagging along with his mother or on his own with friends. He worked as a market vendor and a conductor for public utility jeepneys. As an adolescent, he spent most of his time with peers, learned to smoke and was exposed to other vices and risk-taking behaviours.

**Blood brothers**

The year 2001 was a very unhappy time for Rita and the family. Her two young sons, Richard and Christopher, were randomly killed by unidentified assailants believed to be members of a vigilante group in Davao City. Richard was stabbed to death in July, Christopher in October.

To keep the other children away from danger, Rita arranged for the custody of her three younger children with an alternative shelter for children and youth. "My children are now in good hands and continuing their respective classes in school. We will just visit them occasionally," Rita shared.

Rumour is rife within their community that Boboy is now in danger of being the next target, following the fate of his brothers. Both brothers were reportedly hit because of their alleged involvement in petty crimes and illegal drugs.

Boboy has since been provided temporary shelter at the Kabataan Centre. Aside from the legal support, and individual and family therapy sessions, the Kabataan Centre also did networking to explore alternative home arrangements for Boboy to prevent a possible violent death as the fear of summary execution intensifies.

Boboy, however, has opted to go back to his own community with his family under the custody of his mother. He has resumed his usual routine—occasionally working as market labourer and hanging out with friends day and night. Rita said that Boboy now heeds her advice. Nevertheless, the fear of the unknown continues.

**Victim-survivor**

Boboy is a victim-survivor of poverty and breakdown of family support. He learned the ropes of living in the public market by becoming a young market hauler and by doing other odd jobs. As a child, he has witnessed different forms of violence in the family and the community. Worse, he has witnessed the successive violent deaths of his two brothers who were in conflict with the law.

continued on next page

**Box 5. BOBOY'S STORY** (CONTINUATION)

Also a child in conflict with the law, Boboy has learned how justice is being dispensed to young people like him. Rather than threaten him, this challenged him to move on and strengthen his capacity to deal with the harsh realities of being under constant surveillance by the authorities. He draws his strength from his mother's own abilities to cope and survive; thus, he wants to be always near her. When the situation forced him to temporarily leave his mother and seek safety at the Kabataan Center, he suffered separation anxiety and went back to his family not only to be with his mother but, at the same time, to confront the situation and live with it, hoping that there would be changes in the justice system. His security is indeed at stake but his growing awareness for the plight of children like him and the presence of many NGOs that readily provide support and services have been giving him the courage to cope and to even participate in the action for promoting children's rights and ensuring children's protection.

**Postscript**

*Boboy was stabbed to death on 2 November 2002, six days before his fifteenth birthday. The brutal killing was done in the same manner as in the case of his two elder brothers. In 16 months, Rita lost three sons. Reports are rife that the brothers had been targets for extra-legal execution because of their involvement in petty crimes and gangs. Indeed, the young boys may have lost their way, but they deserved their day in court and a shot at rehabilitation. Their death, and that of other children and young people who find themselves in conflict with the law, attest to a justice system that allows "vigilante justice" to prevail in the many instances that it fails. Their deaths reflect society's indifference to the plight of many young people prone to be victims of structural violence. Rita is more than anguished; she has vowed to continue seeking justice for her sons and advocating for a comprehensive juvenile justice system lest more sons and daughters fall into the same fate as her Richard, Christopher and Boboy.*



**Box 6. DONG, JUN AND MANNY'S STORY**

*Makulong ba mi? Disi-otso naman mi karong tuiga, di na mi minor...* [Will we be imprisoned? We will all be 18 this year, we are no longer minors.]

Friends Dong and Manny are turning 18 this year. Instead of anticipation, both dread the idea of crossing over from being children to adults (at least, in terms of legal age) since they are still embroiled in a 6-year-old case of qualified theft that is still undergoing trial.

Dong and Manny, along with Jun (who already turned 18 early this year), were *barkada* (friends or gang mates). Once, when they were 13 years old, they were looking for a source of extra income to buy exchange gifts for their school Christmas party. Thus, when they were asked to help a group of farmworkers in hauling coconut shells to a nearby truck in exchange for Php 70 (around US\$1.30), they readily agreed.

The middle trader, however, did not pay for their labour at the end of the day but instead asked them, along with the adults, to come back the next day for payment. They were asked to list down their names.

The next day, a police officer came to pick them up from their homes, saying that they were being invited to the Mayor's office. Before they knew what was happening, they were shown a warrant of arrest and were immediately padlocked, along with the nine adult-tenants they worked with the previous day (including their parents and neighbours), apparently for the crime of qualified theft.

A case of qualified theft was filed against the 12 persons for allegedly harvesting the coconuts in a farm that was supposedly owned by a different person and not by the person known to the tenants. Two parties have been staking claim to the land that the boys' parents were tilling as tenants for the past decades. In the ongoing land dispute, the tenant families were unwittingly put in the line of fire.

The boys were detained at the police station for two weeks in the same cell with the adults and stayed there for one month. The three boys recalled their confusion:

They told us we stole the coconuts. *Patay na!* [We're doomed!] We were not aware those were supposedly stolen; we were just hired to help in carrying these. If we knew what would happen, we would have not joined them. We were just helping out!

Asked whether they were aware or informed of their rights as children in conflict with law, or even their rights as an accused, Manny answered:

continued on next page

**Box 6, DONG, JUN AND MANNY’S STORY (CONTINUATION)**

*Gibasahan mi sa among kaso kadto lang sa sugod, kaisa lang. Pero wala kami kabalo anang. Katungod namo? Wala mi gi-ingnan ana.* [We were informed of the case we were facing at the beginning. They read it to us once. However, we were not aware of our rights. No one told us about that.]

Dong, Manny and Jun were transferred to the DSWD and were later released in the custody of their parents.

*Gipapili mi sa DSWD pero naay kundisyon. Mouli mi sa among ginikanan pero kung magkinaunsa ang among kinabuhì bahala na mi ug ang among ginikanan. Maglikay daw mi sa away-away.* [The DSWD gave us the option to go home to our parents on the condition that whatever happens to us, we and our parents are solely responsible. They told us to avoid getting into fights.]

It has been six years and the case is still undergoing trial. The boys lamented that the complainant often causes the postponement of hearings. They attend hearings almost every quarter and the boys considered the trips to the court almost routine. They are also required to regularly report to the municipal social worker.

*Kabalo na mi sa mahitabo sa korte. Maminaw man mi sa abogado ug sa judge. Kasagaran, ma-postpone lang man, kalas sa pamasaha!* [We were already familiar with what happens in court. We listen to the lawyers and judge. Usually hearings are just postponed, we just wasted fare!]

*Usahay makasabot mi sa dagan sa korte, gina-translate man sa interpreter. Naa pud mi kauban na maestro apil sa akusado. Ginaistorya man pud mi sa among abugado mahitungod sa kaso.* [Sometimes we understand the court proceedings since the interpreter translates. One of our co-accused was a teacher. Our lawyer also discusses the case with us.]

*Gi-ingnan mi nga nangawat mi og lubi pero wala’y mo-explain nganong qualified theft ang kaso. Wala mi kasabot anang qualified.* [We were told that we stole coconuts, but no one explained why our case was qualified theft. We don’t know what qualified means.]

Of the three boys, only one continued with his studies despite the heckling and humiliation he oftentimes endures. The two others never set foot in school again, not wanting to get into trouble. They could not tolerate the name-calling.

continued on next page

**Box 6, DONG, JUN AND MANNY'S STORY (CONTINUATION)**

*Naulaw mi kay ex-convict kuno mi.* [We were humiliated because they (school-mates) called us ex-convicts.]

*Sungugon man mi unya makakita mi'g away, niundang na lang ko.* [They tease us and we end up getting into brawls, so I just decided to drop out (from school).]

*Dili pwede manubag o mangaway kay hadlok man mi madagdagan among kaso.* [We could not answer back nor defend ourselves in fights. We are afraid to get into another trouble that could add up to our case in court.]

Back in their community though, there was neither name-calling nor stigma. Neighbours were aware of the ongoing conflict in land ownership and were understanding of the predicament of the tenant families caught in the middle. No one in the community doubted their innocence.

Dong has graduated from high school but is worried that he might not be able to land a job.

*Kanang mag-apply ko, unsaon nako paghatag og police clearance?* [When I apply (for a job), how will I provide police clearance?] *Naa bay employer na modawat nga naa kay kaso?* [Is there an employer who would accept me, knowing I have a case pending in court?]

Aware of the limited opportunities for livelihood back home, Dong laments he cannot even venture to Davao or Tagum City since the case is still ongoing and he is not allowed to travel without the permission of the DSWD.

In the past six years, while they have managed to go on with their lives, Dong, Manny and Jun felt their lives were still on hold because of their pending case. Manny is currently helping in his family's farm. Jun does odd jobs, whatever will provide him income. The three, now young adults, lament:

*Kanus-a pa kaha ni mahuman among kaso?* [When will our case ever be decided on?]

Note: The researcher showed up in a scheduled hearing for Dong, Manny and Jun's case but the proceedings were cancelled because of the absence of the presiding judge. The three boys gave their informed consent to be part of the research as participants in an FGD in July 2002.

## Box 7. CHILDREN'S NOTIONS OF RIGHTS

The following are children's thoughts and ideas about rights that came out during an FGD with children conducted for this study in response to the facilitator's question, "*Kabalo ba mo na naa mo'y katungod isip bata? Sa imong tan-aw, naa ba kay katungod?*" [Do you know that you have rights as children? Do you think you have rights?"]

*Katungod? Unsa'y katungod?*

[Right? What right?]

*Unsa man na?*

[What is that?]

*Ambot lang `te! Wa ko'y kabalo ana.*

[I do not know! I am not aware of that.]

*Wala ko kasabot ana.*

[I do not understand that.]

*Asa na gikan? Wala ko'y labot ana oy!*

[Where does that come from? I know nothing about that.]

*Nagproblema ko sa pagsabot sa katungod.*

[It is difficult for me to understand what rights are.]

*Murag wala mi ana kay bata pa man.*

[Maybe we do not have that since we are still young.]

*Depende kung malaya ka o naa sa sulod.*

[It depends whether you are free or in jail.]

*Dako ko ug katungod, kay kung molaya ko, mag- bagong buhay na ko.*

[I have rights because when I am released, I will lead a new life.]

*Katungod nako nga makahibalo kung unsay kapaait sa prisuhan.*

[It is my right to know how bitter life in prison is.]

*Murag wa mi'y katungod; kung buot mi kagawas, di man makagawas.*

[It seems we do not have rights; if we want to get out, we cannot.]

*Kinahanglan naa tay katungod para makahuna- huna tag makagawas.*

[We should have rights (meant as hope) so we can still think of getting out of jail.]

*Katungod na di ko mawad-an og paglaum.*

[It is my right not to lose hope.]

## 4 Responding through Direct Service Delivery, Collaboration and Local Action

Several child-focussed NGOs in Davao are providing services to children and taking on the advocacy for the rights of children and young people. Although there is no institution focussing on CICL in the research areas, some child-focussed NGOs have expanded their services and programmes to address the specific needs and concerns of CICL. Many NGOs and child rights advocates have also joined hands to confront specific issues facing children who come into conflict with the law. This chapter mainly focuses on these efforts.

### Working on Juvenile Justice and CICL Issues

The Juvenile Justice Group (JJG)-Davao, a group of NGOs and individuals which in 1999 initiated a campaign for the passage of a bill on a comprehensive juvenile justice system in the Philippines, has been involved in several initiatives to address CICL issues. It has been conducting community education sessions on the situation/issues of CICL, as well as study sessions among group members on community diversion. It has also formed a cluster with the Kabiba Alliance for Children's Concerns for issues surrounding juvenile justice. Kabiba is composed of more than 20 Davao City-based organisations. At the time of the formation of JJG, three among the organisations involved are not members of Kabiba: Bantay Bata Foundation, RFI and METSA Foundation.

Another network that recently started providing support services to CICL is the Kabataan Consortium. Kabiba serves as its advocacy arm. Kabiba attempts to comprehensively serve the needs and protect the rights of children and youth in Davao City while working towards supporting CICL in the city in relation to summary executions. Meanwhile, the legal services for all child-related cases are lodged at the Kabataan Consortium.

In Tagum City, the RFI provides services for imprisoned individuals but focuses on specific programmes for child detainees. However, it has sustained its core programme on community-based reintegration, which includes both adults and children and their families. Church-based organisations and other social welfare institutions are also extending services to street children, particularly those who are considered neglected and abandoned.

Despite these efforts, however, not one child-focused NGO in Davao regularly monitors the situation of CICL from the barangay level up to the level of the other pillars of the justice system. Most NGOs are preoccupied with their respective organisational and programme concerns and dynamics. However, a key informant from an NGO shared that of the nine member-organisations of Kabataan Consortium, three are presently engaged in baseline information gathering on CICL in their respective assigned barangays, which include those in the north and south of Davao City.

Meanwhile, some organisations that are supposedly providing services to children have systematically refused those who were found to be in conflict with the law. A representative of a religious organisation catering to neglected/abandoned and/or street children in Tagum City who participated in an FGD shared that once a case is filed against a current or potential ward, they automatically refer the child to other organisations or to the DSWD. Children found to have been involved in petty crimes are denied admission though they have not been charged. Inability to handle such cases and bad influence to other wards were said to be the reasons behind such practice.

## Collaboration on the Issue of Summary Execution

The Karapatan Task Force on Women and Children, one of the regular task forces of the Karapatan Alliance for the Advancement of People's Rights, has been engaging the staff and some members of Kabataan Consortium in discussions on summary executions in Davao City. This led to the Karapatan network's involvement in the decision to come up with strongly coordinated, firmer and bolder actions against summary executions in 2003. Sharing on CICL issues has been a top priority since 2001 among active members of Kabiba who have a stake in community youth issues and concerns. These two organisations have also been seeking more effective mechanisms and strategies for collaboration on the issue of CICL, especially given the difficulty they experienced in working with the LGU.

## Engaging CWC and the Local Government Unit

In terms of the composition of the CWC, child-focused organisations appear to have been driven into the periphery. This development since 2001 deviates from a history of influence enjoyed by local NGOs in Davao. There was a time when NGOs chaired the Council, with the City Mayor as co-chair, and were members of critical working committees. According to member organisations of Kabiba, they are no longer invited to Council meetings.

Members of Kabiba and the Kabataan Consortium recalled that while Davao City is the seat of many of the earliest child-focused organisations operating

in the island, their existence has not been fully appreciated by the local social welfare arm of the city, the CSSDO. Except for the current Chair of the City Council's Committee on Women, Children and Family Relations, the local government in general, fails to support NGOs in their developmental programmes for and with children. According to child rights advocates from NGOs, government personnel seem to regard NGOs as rivals.

A key informant from the Kabataan Consortium added that except for the deliberations on the Work and Financial Plan of the UNICEF in Davao City, in the past three years NGOs with child programmes were not considered in the major undertakings of the City in relation to children's issues and concerns.

## Efforts to Amend the Davao City Children's Welfare Code

The Davao City Children's Welfare Code provides for programmes and services that address the specific concerns of children, providing as well implementing mechanisms for these. However, several inconsistencies have been identified in the Code itself and in its IRR. There is also difficulty in implementing certain provisions, such as those on curfew for minors. Moreover, the source of funding for the implementation of the Code is not clearly stipulated and the structure that is supposed to implement the Code has also not been constituted. As a response to these gaps, the Davao City Council formed a Technical Working Group (TWG) in 2001 to recommend proposals for amendments to the Code. Kabiba sat in this TWG representing the NGO sector, along with representatives of government agencies like the DSWD, National Economic Develop-

ment Authority (NEDA) and the CHR. The proposed amendments include specific provisions for a juvenile justice programme and diversion measures.<sup>18</sup>

## Support for Diversion and Reintegration

While the primary and most important pillar of the justice system is the community, community responses to issues relating to CICL remain inadequate. There is still the prevailing stigma against CICL, and organised efforts at diversion and reintegration remain removed and even token.

There is a need to popularise diversion as a means of providing options towards the best interest of the child and along the principles of restorative justice. While barangay authorities have practised mediation in cases involving CICL, there are no clear guidelines that will prevent personal interests or distorted values regarding children and discipline from taking over.

Note that in the exercise of any discretion, it is necessary to “ensure sufficient accountability” and that those who exercise it should be “specially qualified or trained to exercise it judiciously and in accordance with their functions and mandates” (Beijing Rules).

In terms of reintegration, a more holistic view of the child and his or her context is necessary to be able to address problem situations that in the first place were contributing factors why children come into conflict

with laws. These same problem situations such as poverty, breakdown of families, parental and societal neglect and indifference will make reintegration difficult and re-offending always a possibility.

In Tagum City, RFI’s prison work with children is turning to strategies that are more comprehensive. While previous efforts were focussed on values formation education and the like, RFI’s community-based and socio-economic projects have been extended to children-beneficiaries. The young ones who were charged by TADECO for catching freshwater fish from its plantation pond are into income-generating projects (hog raising) to support themselves in pursuing their studies in the coming school year. In fact, they were able to enrol and sustain schoolwork last year from the sale of their hogs.

Considering its limited funds and conscious of the primary role of the local government unit, the RFI approached the MSWDO of Dujali, Davao del Norte for possible joint action on the plight of CICL in the locality. The assistance of the DWSD-FO Region XI staff in charge of children in need of special protection was also sought. The positive attitudes of the local chief executive and the MSWDO encouraged RFI to introduce measures in helping the community resolve problems with children involved with crimes against property. Community education on the rights of CICL and children in general, however, has yet to be integrated in the monthly weekend education activities involving CICL, which has been running for several months.

18 The proposed amendments to the Code were adopted by the City Council in 2003 but were vetoed by Mayor Duterte. Some of the reasons cited were inconsistency with existing national laws and duplication of existing structures. With the election of the new City Council last May 2004, the NGOs are planning to re-file the amendments, incorporating the needed revisions.



## 5 Recommendations from the Five Pillars of Justice

In an attempt to encourage multi-sectoral discourse on the plight of children in conflict with the law, two drama-forums were held in the research areas. In attendance were government duty-bearers, child rights advocates, service providers from different sectors, and representatives of children and youth including CICL.

Substantial work still needs to be done to enact a bill on a comprehensive juvenile justice system. Meantime, local ordinances may be pursued to approximate actions beneficial to the local community, especially the families of poor children. Below are some of the recommended local actions that surfaced during the discussions for consideration by LGUs and concerned agencies.

### Barangay/City/Provincial LGU

1. Development of comprehensive community-based children's programmes and services to respond to basic needs and promote the rights of children – All government agencies should complement, coordinate and orchestrate their programme development, planning, implementation, monitoring and evaluation down to the villages geared towards prevention of juvenile delinquency.
2. Continuation of advocacy programmes in communities on handling CICL
3. Strengthening of the Barangay Justice System to include active mediation for children where the Barangay Captain is authorised to divert a child offender when the imposable penalty is below one-year imprisonment or a fine of less than Php 5,000 (around US\$ 93)
4. Operationalisation of BCPCs by LGUs as mandated by Philippine Law with regular planning and programming, programme and project implementation, and monitoring and evaluation with the active participation of children and their families or guardians
5. Establishment of a separate community-managed children's mediation centre through local legislative measures in the barangays for child-friendly and gender-sensitive investigation and diversion proceedings conscious of the elements of restorative justice
6. Allocation of 10% of LGU budget for prevention programmes – Primary prevention includes addressing issues of poverty and the culture of commercialism so that in addition to the social services budget as contained in the local annual development fund, a 10% child-focussed support programme is recommended of the regular annual implementation plan budget. Secondary prevention includes concerns related directly to high-risk children such as streetchildren, children of women in prostitution and children used in criminal activities. Tertiary prevention programmes should focus on keeping children from re-offending.
7. For cases not qualified for diversion, setting up of a pre-trial home and at the same time processing centre for any CICL (to include those not yet charged but complaints are still in process and parents could not yet be located) – The centre should be equipped with trained personnel and should keep an operational budget.

8. Installation of an office and appointment of an Ombudsperson for Children as an independent body to hear cases of abused children and protect those under custodial investigation – This will serve as a check and balance of the Special Office for Children's Concerns (as in the case of Davao City per Children's Code provision). It will monitor the implementation of laws/ordinances, violations and denial of children's rights, as well as investigate and prosecute cases of violations of the rights of the child. Competent and distinguished lawyers with more than 15 years of practice shall be appointed by a core of child rights advocates recognised by the local community.
9. Designing of an aftercare or post-prison programme by the LGUs in close coordination with BJMP/provincial/city jail officials/rehabilitation centre as part of the reintegration process
10. Establishment of an open detention facility for court-committed juveniles for a short period of detention
4. Child development-appropriate and gender-sensitive handling of CICL
5. Creation of a diversion/mediation committee
6. Creation of a mediation-counselling centre as a one-stop central unit for CICL with an in-house local government social worker
7. Diversion for cases where the impossible penalty is imprisonment below two years
8. Increasing the budget for facilities such as toilet and bath, food, etc.
9. Conduct of trainings on child development, children's needs and the protection and promotion of child rights
10. Conduct of information and education campaigns on the new Rules of Court for Juveniles and relevant international instruments
11. Issuance of a memorandum of agreement with the local chief executive and the National PNP on a three- to five-year moratorium on the deployment/movement of CYRO for consistency and continuity of services

## Police

1. Advancement of the protection role of the police as its present image and practices erode people's trust and confidence – The police's community relations division is essential in diversion and mediation. A special arm for children at the PNP should render 24-hour service for investigation and set up in a distinct place where child-appropriate systems are installed.
2. Increasing the knowledge of laws on children
3. Setting up of a separate temporary detention cells for children by sex

## Prosecution

1. Assignment of Special Prosecutors for child offenders who have the authority to divert cases with penalty below four years, provided that the child admits to the commission of the crime under no duress (This could be lobbied at the national legislature.)
2. Setting up of a diversion committee for CICL with special area for diversion proceedings



## Court

1. Creation of a Social Services and Counselling Unit in the Family Court as intake department for juveniles
2. Designation of child- and gender-sensitive judges and clerks of court
3. Suspension of sentences without need of application per new Rules of Court. Disposition measures should not be limited to closed rehabilitation centres – Treatment, care and maintenance and counselling orders may be included.
4. Implementation of disposition measures that take into consideration the child's developmental stage – Disposition measures may include the following:
  - a. Care, guidance and supervision orders;
  - b. Probation;
  - c. Community service orders;
  - d. Financial penalties, compensation and restitution;
  - e. Intermediate treatment and other treatment orders;
  - f. Orders to participate in group counselling and similar activities;
  - g. Orders concerning foster care;
  - h. Orders for living communities or other educational settings;
  - i. Commitment order to youth agency or centre of corrections;
  - j. Conditional dismissal; and
  - k. Mediation orders.
5. Exemption of child offenders from criminal liability based on age when used by adults in criminal activities such as acting as couriers for prohibited drugs
6. Ensuring measures to protect children in diversion proceedings

## Correction

Opening up of systems for children charged with violent/heinous crimes – An adequate programme should be provided that includes the following:

- a. Special Training for personnel on child psychology and rights promotion and protection;
- b. Personnel assignment by sex of juveniles;
- c. Routine physical check up of juveniles;
- d. Regular programme of activities designed for each problem situation of the juveniles; and
- e. Conduct of periodic case conferences for LGU-NGO coordination of aftercare programming of each child detainee.

## 6 Summary, Conclusion and Recommendations

### Summary of Major Findings

This section discusses the major findings of the research, focussing mainly on the profile of CICL, the typical processes they go through, their experiences particularly in terms of how their rights are protected in these processes, and the effects of the experience on the children and their families.

#### PROFILE OF CICL

CICL in the study areas are primarily male with ages ranging from 11 to 15, except in jails where they tend to be older (16 to 17 years old). Very few cases involving girl children were recorded. An even lesser number of girls was found to be detained in jails because most of them are placed on ROR if cases are ever filed against them. Most of those brought to police stations have not finished elementary schooling and many come from large and poor families. They are also likely to be children on the streets, most of whom have left their homes to escape violence, abuse and exploitation within their own families; to earn additional income for their families; or to find belongingness in their *barkada*. Many CICL have experienced varying forms of abuse in their homes.

Majority of the CICL recorded were first-time offenders. Theft, substance abuse (violation of PD 1619) and curfew violation were the top three offences recorded in police stations. Theft cases often involved such crimes as shoplifting and snatching while most cases of substance abuse involved rugby sniffing. Meanwhile, curfew violation is a status offence (an illegal behaviour that applies only to children and would not be considered illegal if done by an adult). In courts and jails, however, theft and robbery are the primary offences, except in Tagum City Jail, where substance abuse remains to be the most common reason for detention. In jails, cases involving serious crimes like rape and murder are increasing although these are still relatively few.

Crimes usually take place during the day, between 12nn and 6pm. In most cases, the police officer apprehends the child. Children caught in the community are usually brought to the police station. Ironically, very few cases are settled at the police level. Most proceed to litigation in court, while some are sent back to the community for settlement.

There is an observed rise in the number of cases of children entering the criminal justice system especially in 2002. One indication of this is the large volume of cases with children as respondents that are being handled by the PAO, with an annual average of 500 cases in the past three years. In the RRCY, however, there was a drop in the number of new cases for 2001.

Two major factors are identified to have driven children to leave their homes, stay and work in the streets, join gangs and, in the process, get involved in criminal activities or to risks of offending. One is poverty, which pushes children to work to contribute to the household income, often working in the streets as jeepney conductors or vendors, or forced to engage in criminal activities, such as snatching, shoplifting and acting as couriers in the illegal drugs trade. The second is the neglect and abuse they experience at home, which can also be linked to poverty. Parents who are preoccupied with livelihood activities are often compelled to pass on the burden of household responsibilities, such as the care of younger siblings, to the children. Some of the children interviewed witnessed and/or experienced violence within their homes. To survive the streets, children have learned to adopt strategies, such as working to earn, keeping deadly weapons for protection and joining gangs for protection and acceptance.

Specific cases of children also showed how the rise of shopping malls creates more risks for children to come into conflict with the law (shoplifting), while development in rural areas gives rise to corporate plantations that create income-earning opportunities for children

as farmworkers engaged in vegetable or fruit picking, fertiliser application and fresh water fishing.

In this study, children, often unintentionally and sometimes without much discernment, go against the law in the process of carrying out their livelihood as vendors, beggars, shabu couriers or farm labourers.

#### **MECHANISMS FOR ADDRESSING CHILDREN'S NEEDS AND CONCERNS**

Several mechanisms exist at the barangay that can be maximised and used in dealing with the issues and concerns of CICL, and in promoting their rights particularly in the context of diversion. Among these are the *Lupong Tagapamayapa*, which is the concrete expression of the *Katarungang Pambarangay*; the BCPC, which is the body intended to protect and promote children's rights in the community; and the SK, which is supposed to represent the issues and concerns of children and young people in the community, and to work with children and youth towards enabling them to participate in local governance.

While all these mechanisms exist, they reportedly lack effective coordination and are actually unable to address the needs and concerns of children and young people. They are also very much affected by the turnover of barangay officials as a result of local elections, and thus lack continuity and sustainability.

A landmark piece of local legislation, the Davao City Children's Welfare Code, provides for the creation and implementation of programmes and delivery of services for children. Unfortunately, several provisions in the Code have not been implemented mainly because of budgetary constraints. Moreover, many local government officials apparently are not aware of or do not know much about the Code and what it provides. In addition, while the Code addresses the issues and concerns of all children, including CICL, there are no

specific provisions that deal with the specific concerns and needs of CICL.

In the midst of these mechanisms are entities geared towards crime prevention and anti-drug activities, such as the BANAT, the PNP-initiated BADAC, and several volunteer groups that were formed to act on crimes—the PNP-initiated DCPAG and SPAG, the LGU-supervised CSU. Supposedly existing to protect children and prevent them from offending, most of these groups view CICL as criminals and subject the latter to physical punishment and verbal abuse.

#### **TYPICAL PROCESS IN ADMINISTERING JUSTICE TO CHILDREN**

**Arrest and investigation.** A child who is caught violating a law or ordinance is usually taken to the barangay hall (if arrested by the tanod or barangay officials) or to the police stations. Sometimes, tanods turn over apprehended children directly to the police stations. The child is then interviewed about the incident and his or her account is recorded in the barangay logbook (or in the blotter if the case is brought to the police station).

In the barangay, the procedure is for the tanods/barangay officials to contact the child's parents, although this is seldom done. At the police station, in the cases studied, there seem to be very little effort to get in touch with the children's parents.

Oftentimes, barangay officials are compelled to keep the child in their custody while waiting for the parents to come and get the child, or while awaiting mediation. It is the same with the police, where the child is held while awaiting settlement or filing of the case in court. However, neither the barangay hall nor the police stations have the appropriate facilities to hold a child in custody. Thus, some barangay officials sometimes simply send the child home or are forced to turn over

the child to the police. At the police station, with the absence of a holding centre for children, the child is kept in the detention cell with adult suspects. Sometimes, children stay in the police station for weeks.

**AFTER THE INVESTIGATION, THE FOLLOWING STEPS ARE TAKEN TO RESOLVE THE CASE.**

1. **Punish the child.** Violations of children's rights usually take place during investigation and after arrest. At the barangay hall, the child is reprimanded or scolded, and sometimes shouted at or insulted using bad language. The children interviewed reported that in many cases, barangay tanods/officials and the police punish the child offender by slapping, beating, boxing, hitting and other forms of physical punishment. Some arrested children are also constrained with handcuffs, while some are even subjected to torture. There are even cases, especially if there are victims involved, where the arresting officer (whether the tanods, the police or the DCPAG) allow bystanders or the victims to beat up or hit the child. However, in some cases, sanctions that are more positive are imposed, such as making the child sweep the floor or clean the bathrooms in the barangay office or police station.
2. **Release the child.** At the barangay, a child is sometimes detained for a few hours and then released and sent home or turned over to the parents after being given advice or reprimanded and after some form of punishment. However, in many cases, there are no clear efforts to re-integrate the child into the community or to repair damages caused to the victim. At the police station, police officers are forced to release the child after an extended period because food and supplies in the station have run out. In many cases, as revealed in the study, there are parents who request the barangay officials or the police to keep their child detained because either they

feel they cannot discipline the child themselves or they want the child to be taught a lesson.

3. **Refer the child to relevant agencies.** Both the barangay officials and the police sometimes refer children caught offending to the DSWD or the CSSDO. The barangay officials turn over some children to the police.
4. **Attempt mediation or settlement.** This is sometimes attempted at the barangay level but seldom by the police.
5. **Use the child as informant or asset.** It was revealed that in cases involving illegal drug trade, the police sometimes encourage the child to be an informant or intelligence agent and tell on their peers or contacts, knowing that these children have access to inside information on the drug trading networks and activities.

**Court proceedings.** The situation and general procedure during court hearings do not provide children enough opportunity to understand and take part in the whole proceedings, as evident in the following typical situations:

- Children do not meet their assigned PAO lawyers until the day of the first hearing and only for a few minutes before the proceedings begin. They are also able to talk to their lawyers only during the hearings mainly because PAO lawyers handle more cases than they can effectively manage.
- Children are made to appear in court often without the presence of their parents or any relative.
- Proceedings are conducted in the English language.
- The process is never explained to the children whether by the lawyers or the court.



PAO lawyers usually take any of the following options to help resolve the case:

1. Advise the child to plead guilty to hasten the process;
2. Allow the complainants to proceed with the complaint to “teach the child a lesson”; and
3. Request for the child to be released on recognisance.

A child in the trial process is also placed in detention usually because both the parents and the child are not aware of their right to post bail, because they cannot afford bail, or because the parents prefer not to post bail and thus save on the cost of travelling to and from the court to attend hearings.

In this study, the following were the most common outcomes of children’s cases decided in court:

1. Termination of cases through dismissal;
2. Suspended sentence (but sometimes the child over-serve their sentence); and
3. Children found guilty are sent to RRCY or RCDD, or ordered to pay fines (most female CICL are placed on ROR).

At the time of the study, majority of the cases at the Family Courts were decided in favour of the child.

**Correction and rehabilitation.** In most jails, children are placed in separate cells for males and females though not necessarily separate from adults or in cells within the same compound where adult detention cells are also located. However, there is a facility such as the JWU that is solely intended for child detainees. JWU has a set daily schedule of activities for the children. It also offers skills training through TESDA.

Both RRCY and RCDD have also made attempts to implement programmes for children under their custody that include learning household responsibilities, values formation programme, skills training and study hours. Volunteer groups also implement their own activities in these centres. The rehabilitation centres have adopted ways of instilling discipline among the children. In the RRCY, there is a system for monitoring the performance/behaviour of the children, which also involves displaying the results for others to see. In RCDD, misbehaving children are punished by making them stay in an isolation room (the staff refer to it as an “observation” room, while the children called it the *bartolina*, which also doubles as an observation room for newcomers. Other forms of physical punishment are reportedly also employed.

#### **EFFECT ON CHILDREN AND FAMILIES**

The experiences of the children who participated in the research showed that their rights are violated as soon as they enter the criminal justice system, beginning with their arrest at the barangay. With the absence of a juvenile justice system in the country, children who come into conflict with the law are made to enter the criminal justice system, which is essentially adult-oriented. Thus, children undergo the same treatment and are subject to penalties meant for adults. Moreover, the existing justice system is by nature punitive and retributive, that is, it is based on the belief that crimes can be prevented and criminal behaviour can be corrected by punishing the criminal, and that punishment should correspond to the gravity of the crime committed.

Children—mainly because of ignorance of their rights and lack of information about what is going on, what happens next and what their options are—tend to be passive participants in the justice administration process, taking whatever treatment they receive as part of this process. The children’s experiences with the justice system are characterised by the following:



- **Verbal, physical and sexual abuse.** This is especially common during arrest and investigation. CICL are subject to verbal and physical abuse as a form of punishment. Sexual abuse occurs in the hands of law enforcers themselves or of adult detainees when children are made to share cells with adults. In some cases, children are even subjected to torture and other severe forms of punishment. Some forms of punishment enforced in rehabilitation centres—such as the use of observation rooms and the public display of children’s performance/behaviour monitoring reports—can be abusive and often result in humiliation. These various forms of abuse result in loss of dignity and self-respect, humiliation, a negative image of one’s self, and deep-seated anger and resentment, all of which push the child deeper into a life of crime and farther from reintegration and rehabilitation.
- **Lack of privacy.** At the barangay, in police stations and in the courts, children’s cases are being documented in blotters, logbooks or records that are open to the public and to the prying eyes of media. Court hearings are also considered public proceedings to which everyone has access. This reinforces the child’s view of him/herself and other people’s perception of the child as a “criminal,” thus, making reintegration more difficult and often impossible.
- **Lack of access to appropriate information.** An arrested child is not usually informed of his/her right to counsel and to remain silent. When the child reaches the prosecution and the courts, s/he is all the more unaware of what s/he is entitled to, what is going to happen, what to expect, and what courses of action are available to him/her. Oftentimes, rather than be presented with all options available, the child is only offered to plead guilty as the sole and best action.
- **Deprivation of liberty and separation from parents and family.** Children are not supposed to be separated from their parents and families if this is in their best interest, but this happens in many instances in the justice process. CICL are detained during arrest (at the barangay hall or in the police station) while awaiting mediation, settlement or filing of case, during trial and in jails and custodial centres, usually with little or no opportunity to maintain contact with their parents. CICL are detained primarily because of the lack of capacity of the child’s parents to post bail and the lengthy judicial process that result in the child being detained longer than the imposable penalty.
- **Absence of parents/guardians to provide guidance.** While it is standard procedure for the child’s parents to be contacted or summoned when the child is arrested or for them to be present during court proceedings, this seldom happens. There are cases when parents could not attend court hearings or visit their children in jails or rehabilitation centres because of the transportation cost. With the absence of parents or relatives, the child feels sadness and anxiety, and is deprived of support and guidance at this crucial time. Especially during apprehension and investigation, the parents should be present to take responsibility for their child’s actions. They also have an important role to play in ensuring that the child is made accountable and any form of reparation is carried out.
- **Threat to safety and security.** The practice of using CICL as police assets or informants to solve crimes or arrest drug pushers poses a threat to the child’s life as s/he could be the target of retaliation by people or groups s/he would tell on. Also, by making public the children’s cases, the children are labelled and treated as criminals and, thus, become likely targets for

summary execution.

- **Sub-human conditions in custodial facilities.** Children who are in custody are not given sufficient food, medicine, toiletries, and sleeping facilities and supplies. They are also kept in an unclean and unhealthy environment that threatens their health and survival.
- **Deprivation of education and leisure.** Children in custody are forced to give up their schooling or, even if educational opportunities are provided, are de-motivated to go to school because of the stigma of being a CICL. They are also given little opportunity for play or other leisure activities.
- **No opportunity to express views and opinions and to participate in the process.** Procedures and practices in the justice system do not provide CICL any opportunity to say what they feel, express what they want or take part in the processes as an active participant. They are seldom asked what they want to do or what they think. In court hearings, they are virtually cut off from the proceedings because these are conducted in English and not even their parents or relatives could understand what is going on.
- **The rigid environment of custodial centres.** Most of the children interviewed resented the very rigid schedules, rules and regulations that they are made to follow in rehabilitation centres. Many also feel bored with the daily routine. Behaviour is also strictly monitored and violations are sanctioned. Life in the centres is a drastic change from their life on the streets, where there are no schedules and there is practically unlimited time for work, play or leisure, and where the children themselves determine their own daily activities, schedules and rules. Rebellious from this arrangement, some of the

children run away to go back to the streets.

## Issues and Gaps

The children's experiences reveal the many gaps and limitations within the justice system in terms of justice administration for CICL.

### GAPS IN PRACTICE

- **Absence of standard procedure for handling cases of CICL at the barangay level.** Because of this, there is inconsistency in the treatment and handling of CICL. Much depends on the discretion of arresting barangay officials or civilian volunteers. As a result, children are subject to maltreatment or abuse. Certain protocols are overlooked, such as informing the children's parents and holding conferences with parents. In many cases where victims are involved, mediation and/or settlement are no longer attempted. Children are directly turned over to the police and cases are filed against them. Sometimes, petty complaints that could have been settled in the barangay reach the police. The most common action also is for the barangay officials to refer the child to DSWD or the CSSDO.
- **Violation of protocols in the handling of children.** Children's stories reveal that many abuses take place during investigation at the level of the police. Despite existing police manuals for handling CICL, violations of the rights of CICL persist. Apparently, many police officers are either not aware of or choose to ignore these protocols.
- **Absence of policies or guidelines for case settlements at the level of the police.** As revealed in the findings, many police officers do not attempt to work out the settlement of cases at their level, fearing that this would be

misinterpreted as their asking for a commission or payoff.

- **Unclear roles and functions of court social workers.** Social workers in courts concentrate more on technical assistance than dealing with the particularities of the child's condition as affirmed by region-based social welfare specialists. This is due primarily to the lack of comprehensive implementing guidelines for the Family Courts Law and for the Children's Justice System vis-à-vis the social workers' roles, functions and tasks.
- **Child-unfriendly environment and procedures employed in courts.** The use of English as medium in court proceedings makes it impossible for the children and their relatives to understand what is going on in court hearings, and there seems very little effort on the part of the PAO lawyers to explain this to their young clients. Some cases of children, especially drug-related cases, are filed in regular courts, which generally do not have child-sensitive personnel and do not employ child-friendly procedures. Moreover, detention is still the rule rather than the last resort, even before arraignment. The system also allows the release of information as hearings of the case are still conducted in open court, when in fact the records of the cases are supposed to be confidential.

#### **USE OF CORPORAL PUNISHMENT IN REHABILITATION CENTRES**

The custodial centres studied maintain the use of isolation rooms and practise “shaming” (displaying behaviour monitoring reports in public) as forms of punishment.

#### **LACK OF PERSONNEL**

The findings highlight the lack of personnel to which some members of the pillars of justice attribute certain gaps in practices. There is a lack of social workers to monitor and look into the condition of CICL. Social workers are especially lacking in the courts. PAO lawyers are also severely wanting, resulting in lawyers being overloaded with cases and having little time to effectively counsel CICL. This also causes the very slow movement of cases in courts. Jail guards are also observed to be too few. Meanwhile, fast turnover is observed among police officers. This affects the presence of police officers trained in the handling of CICL.

#### **LACK OF PROPER ORIENTATION AND SKILLS**

The lack of training among members of the five pillars has resulted in poor practices. At the police level, training on the proper handling of CICL is concentrated on the CYROs who, unfortunately, are on duty only during their 8-hour shifts. Thus, many CICL are left in the hands of untrained police personnel and it is in these situations where the rights of CICL are most often violated. Meanwhile, for police officers who have undergone training, there is no effective monitoring and follow-up after the training.

In the jails, key informants from the BJMP claimed that jail guards and other jail personnel undergo training on how to handle children in custody. However, they said that this might not be true in the case of LGU-managed jails.

In the rehabilitation centres, it was observed that personnel have varying understandings of what rehabilitation and reintegration mean and how this is to be done effectively.

## **LACK OF SPECIFIC PROGRAMMES AND SERVICES FOR CICL**

- **Community-based mechanisms.** Mechanisms at the community level—such as the BCPC and the Lupon—exist but are unable to effectively address the needs and concerns of CICL. On the one hand, many BCPCs are not functional owing to budgetary constraints; the Lupon, on the other hand, mainly handles cases involving adults. Meanwhile, the SK implements programmes for the youth but these usually involve sports development and social activities only, and none that could support CICL.
- **Prevention of offending.** Prevention of crime is not deliberately addressed. The needs and rights of children at risk of offending—such as those below the age of criminal responsibility but have committed crimes, those used for criminal activities, and street children—are not addressed.
- **Reintegration programme.** There are no after-care or reintegration programmes for children released from jails or rehabilitation centres. Thus, re-offending may not be effectively prevented.
- **Programmes and facilities for female CICL.** Because CICL are predominantly male, programmes and facilities tend to be designed solely for boys, to the detriment of the few CICL who are female. Both RRCY and RCDD cater only to male CICL. Female CICL are brought to the GHG, whose programmes are designed for victims of sexual abuse, and for abandoned and neglected girls, which may not address the specific needs of female CICL. In jails, there are usually no separate cells for female CICL. They share cells with women adult detainees.

## **INADEQUATE FACILITIES**

Some key informants explain that sometimes they are unable to comply with protocols in handling children because they lack the needed equipment or facilities. In barangay halls or police stations, the common complaint was the absence of a place where children can be kept while awaiting settlement of their cases, thus, they are usually placed in crowded and unclean cells with adults. These holding facilities usually do not have enough supply of food and toiletries for more than three days, and children are not separated from adults, or girls from boys. There are also no separate courtrooms for children.

## **Conclusion**

The findings of the research affirm the need to divert children from the criminal justice system through a community-based diversion programme. The following characteristics of the children, types of offences that are typically committed, the nature of the criminal justice system, the children's experiences, and the impact and effects of the justice system on CICL provide a strong basis for diverting children:

1. Many are pre-adolescent children (aged 11-13);
2. Majority are first-time offenders;
3. Most of the children are arrested (and some detained) because of status and petty offences such as curfew violation, rugby sniffing and petty theft;
4. All have experienced various forms of abuse at each stage of the justice process;
5. CICL who are placed in custody are separated from their families, thus losing their most significant support system;

6. CICL are stigmatised and ostracised in their own communities, making it very difficult for them to turn a new leaf or start over; and
7. Subjecting children to the justice system has not resulted in a more positive change in behaviour among the children, nor has it prevented re-offending. Rather, as the children themselves admitted, their experience in the system has exposed them to more serious criminal activities, encouraged criminal behaviour, and heightened rebelliousness and defiance.

The findings also point to the importance of preventing offending among children. The existence of a vigilante “justice system,” which targets for execution any person suspected as criminal including children, makes crime prevention and diversion for children an even more pressing concern.

Drastic changes in policy and practice will have to be pursued within the five pillars of the justice system to ensure that the rights of children who are already in the system are not violated nor ignored. This would have to start from a change in perspectives; particularly in the way the different pillars view children in conflict with the law. They should not be seen as adults nor as criminals, but as children who, mostly because of their personal circumstances, committed an offence or a crime and have to be corrected but with the recognition that they are children, that they have rights and that they need to return to their communities as productive citizens. The involvement of children in crimes is not only an issue of criminality that is best relegated to the police but, more importantly, it is an issue of child protection. The different pillars of justice and the NGOs would have to work collaboratively towards these changes in policy and practice.

Interventions for CICL should also take into account the context of these children—chronic poverty, experiences of parental abuse and neglect, peer influence and

survival in the streets. Because the experience of abuse is so intrinsically linked to involvement in crimes among CICL, the issue of child abuse and exploitation must be addressed as an essential part of the whole effort of preventing children from coming into conflict with the law. This would involve, among others, the setting up and strengthening of support mechanisms (especially in situations where the family can no longer provide support)—especially within the community, whether government or non-government—that will respond to the needs, concerns and issues of CICL.

## Recommendations

Based on the identified gaps, the following are recommended to protect the rights of CICL and towards promoting diversion in all pillars of the justice system:

### CHANGE IN POLICY AND PRACTICE

- For the LGU to ensure the effective implementation of the Children’s Welfare Code, and for NGOs and government agencies, particularly the local DSWD and CWC, to monitor its implementation
- For the LGU to develop a strong referral system to allow systematic coordination and quick and effective response among barangays, municipalities/cities and provinces, and among different agencies, including NGOs.
- For the Social Welfare Office, through the Children’s Concerns Division, to take on a more active role in accompanying all children (not only those placed in alternative custodial centres) in every aspect of the legal process, beginning immediately upon arrest until such time that they are reintegrated into their communities, and particularly in monitoring the children’s cases. It is important to note that

monitoring results should not only land in logbooks but should aid in coming up with more appropriate and concrete responses to the particular conditions of each child.

- For appropriate authorities to work out the conditional release of CICL from an institution. Released children should be assisted and supervised by appropriate authority and should receive full support for the local community. Circumstances that allow conditional release should be preferred over serving a full sentence. With evidence of satisfactory progress towards rehabilitation, even offenders who have been deemed dangerous at the time of the institutionalisation can be conditionally released after a thorough interdisciplinary evaluation of the child's performance while in the institution and a critical consideration of family, intra-family and community resources.
- For all pillars of justice to employ diversion and non-custodial measures for CICL for minor offences at all stages in the justice process where this may be possible.
- For the LGU to formulate a policy for the creation of a comprehensive community-based development programme for children with sufficient budget allocation.

#### **SPECIFIC PROGRAMMES AND INTERVENTIONS FOR CICL**

- For LGUs, government agencies and NGOs to ensure the participation of majority of the children based on their developmental stage in designing and implementing programmes and projects for children in the community.
- For the social welfare arm of the local government unit to design and implement a comprehensive community-based children's programme to minimise if not completely pre-

vent the commission of crimes among children. It should also formulate and implement a special programme for children in need of special protection in close coordination with existing NGOs.

- For barangays to set up Children's Justice Committees to deliberate and determine non-custodial measures and prevent the formal contact of the child with the justice system. The committee should adhere to the principles of restorative justice. Resolving conflicts requires the maximum involvement of the victim, the offender, and the community. It should further facilitate a participatory process for the victim to obtain reparation; for the reconciliation of the offender, the offended and the community; and to reassure the offender that he or she can be reintegrated into society.

#### **ADVOCACY**

- For members of the pillars of justice, as well as NGOs working with CICL, to lobby for the passage of a Comprehensive Bill on the Juvenile Justice System that integrates the principles and concepts of children's rights and restorative justice.
- For NGOs and advocates to conduct awareness-raising activities that would promote a better understanding of the situation of CICL and of restorative justice and diversion, and to push for the integration of the restorative justice framework in the programmes of the BCPC and the Barangay Justice System.
- For NGOs and concerned government agencies (eg. the local DSWD and CDC) to review and regularly monitor the implementation of local laws and ordinances pertaining to children, and demand performance from the LGU and concerned agencies.



# Bibliography

Abad, Ella and others. The Buntog Phenomenon: A Descriptive Study. Davao City: Kaugmaon Foundation, Inc., 2000.

Adhikain Para sa Karapatang Pambata, Ateneo Human Rights Center. Situation Analysis on Children in Conflict with the Law and the Juvenile Justice System. Makati City: United Nations Children's Fund, 1998.

Ancheta-Templa, Mae Fe. Davao City Child-Friendly Movement: Prospects and Challenges. Makati City: United Nations Children's Fund, 2000.

Ancheta-Templa, Mae Fe. Mindanao's Children: Struggling with Disaster that is Globalization. Quezon City: Save the Children-UK, 2001.

Bautista, Violeta and others. Surviving the Odds: Finding Hope In Abused Children's Life Stories. Quezon City: Save the Children-UK and University of the Philippines-Center for Integrative and Development Studies Psychosocial Trauma and Human Rights Program, 2000.

Cappelaere, Geert. "Introduction to the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines)." University of Ghent, Children's Rights Centre. 1998.  
<[http://www.child-abuse.com/childhouse/childrens\\_rights/dci\\_del8.html](http://www.child-abuse.com/childhouse/childrens_rights/dci_del8.html)>

Cruz de la, Ma. Theresa and others. Evolving Definitions of Abuse Through Participatory Action Research. Quezon City: University of the Philippines-Center for Integrative and Development Studies Psychosocial Trauma and Human Rights Program, 2001.

Davao City Social Services and Development Office. Accomplishment Report, January-June 2001.

Kaugmaon Foundation, Inc. "A Study on Young Adolescents in Gangs in Barangay Sasa, Davao City." Unpublished research. 2002.

Miclat-Cacayan, Agnes. "'The Little Birds of Prey': Two Faces of the Prostituted Filipino Girl Child." KABIBA Occasional Paper, November 1998.

National Statistics Office. National Census. 2000.

Ortiz, Will Paraso. Arrested Development: The Age of Discernment of Out-of-School Children. Manila: United Nations Children Fund, 2000.

Sunstar-Davao, 4 May 2002.

Tambayan Center for the Care of Abused Children, Inc. "Street Adolescents in Street Gangs in Davao City: A Participatory Action Research." Unpublished research. 2000.



# Annex I List of Research Participants

## Key Informant Interviews

### Barangay/ LGU

- Jun Santander, Brgy Captain, Los Amigos, Tugbok, Davao City, 24 May 2002
- Gregorio Facula, Mayor, Municipality of Braulio Dujali, Davao del Norte, 2 July 2002
- Ibuyan, Brgy Captain, Bangkerohan, Davao City, February 3, 2003

### Police

- P/Insp Royina Garma Villela, Chief, WCCD-DCPO, 13 May 2002
- SPO I Edward Ramirez, Deputy Chief, WCCD-DCPO, November 2002
- Marjorie Libron, Officer-in charge, WCD Nabunturan, 14 June 2002
- P/Insp Josephine Estanilla, Chief, WCD Tagum City, 13 June 2002

### Prosecution and Courts

- Atty. Andrea Dela Cruz, Prosecutor, Nabunturan, Compostela Valley Province, 13 June 2002
- Atty. Ridgway Tanjili, Regional Public Attorney, PAO Region XI, July 2002, October 2002
- Joan Entice, statistician, PAO Region XI, Davao City, October 2002
- Judge Jesus Quitain, RTC Branch 15, Davao City
- Judge Paul Arcangel, RTC 12 Family Court, Davao City, May 2002
- Atty. Mae C. Tupas, Clerk of Court, RTC 12, Davao City, 3 October 2002
- Lucilyn Astonomo, Legal Researcher, RTC 3 Nabunturan, 20 June 2002

### Jail/ Corrections

- Joy Anthony Estorninos, Jail Officer 1, JWU-DC City Jail, 15 May 2002
- Nanette Conchita de Leon, Jail Officer 1, JWU-DC City Jail, May 2002
- Supt. Serafin Barreto Jr., Warden, Davao City Jail, 28 May 2002
- Redentor Delmar, Paralegal Office-BJMP, June 2002
- Grace Taculin, Head, JWU, Davao City Jail, 28 May 2002, 4 June 2002
- S/Insp Gil Delima, Warden, Tagum City Jail, 2 July 2002
- Bacus, Warden, Davao del Norte Provincial Jail, 2 July 2002

### Rehab and other Service Providers

- Ma. Vilia Vigil, Chief, DSWD FO XI Retained Services Division, 12 August 2002
- Ellen Labrador, DSWD FO XI Coordinator of Centers and Institutions, 8 August 2002
- Dahlia Padillo, SWO2, RRCY- DSWD FO XI, 9 August 2002
- Alfredo Sy, Head SW, RCDD
- Mila Basmayor, Head, Pag-asa Home for Girls
- Letty Amistoso, Head, Paginhawaan Center
- Angie Pabilona, Municipal Social Welfare and Development Officer, Dujali, 5 April 2002, 2 July 2002
- Cora Castardo, Municipal Social Welfare and Development Officer, Nabunturan, 14 June 2002
- Teresita Duran, Youth Coordinator, Tagum City Social Welfare and Development Office, 13 June 2002
- Roger Dompol, 13 June 2002

#### NGDOs

- Anita Morales, Member, Kabataan Consortium Council, 2 December 2002
- Myra Macla, Kabiba Secretariat, 13 September 2002
- Bernardo Mondragon, 3 October 2002

#### Lawyers

- Atty. Leo Delgra, Private Practitioner, Legal Consultant, Bantay Bata-Davao
- Atty. Imelda Lopez, PAO-Panabo City
- Atty. Rose A. Tolosa, Commission on Human Rights-FO-XI

#### Visual Art Workshops and Focus Group Discussions

- Children at the JWU, Davao City Jail, 22 April 2002; 4 FGD groups with a total of 50 participants (42 CICL, 8 facilitator-documenters)
- Children at Canocotan, Tagum City Jail, 5 June 2002, 13 participants (11 CICL, 1 facilitator, 1 co-facilitator-documenter, 1 documenter)
- CICL in Dujali. 5 April 2002, 8 participants; 2 July 2002, 10 participants (8 CICL, 1 facilitator, 1 documenter)
- Parents of CICL in Dujali. 5 April 2002, 8 participants
- Barangay stakeholders in Dujali. 2 July 2002, 7 participants
- Brgy 76-A barangay officials, Davao City, 7 June 2002, 7 participants (5 brgy, 1 facilitator, 1 documenter)
- NGO service providers and child's rights advocates in Davao City, 29 May 2002, 8 participants (6 representatives of 4 NGOs, 1 facilitator, 1 co-facilitator-documenter)
- NGO service providers and child's rights advocates in Tagum City, 26 June 2002, 11 participants (9 representatives of 3 NGOs, 1 facilitator, 2 documenters)

#### Drama-Forum

- Davao City, 62 participants from LGU, NGOs and national agencies excluding child-actors of 7, 22 August 2002
- Tagum City, 46 participants from LGU, NGOs and national agencies excluding child-actors of 7, 28 August 2002

## Annex 2 Davao City Budget Allocation for Children's Programmes 1999-2001

### Summary of Allocation for Children, 1999

CONCERNS	SEF	AF	ADF	SB	TOTAL
1. EDUCATION (schedule 1)	P 83,222,146.00	-	P 296,600.00	P 1,264,000.00	P 84,782,746.00
2. HEALTH / NUTRITION (schedule 2)	-	P 117,627,397.00	P 3,000,000.00	P 1,700,000.00	P 122,327,397.00
3. SOCIAL WELFARE (schedule 3)	-	P 64,763,749.00	P 21,331,533.00	P 4,788,588.00	P 90,883,870.00
4. Coordination, Admin., Monitoring & Evaluation	-	-	P 500,000.00	-	P 500,000.00
<b>TOTAL</b>	<b>P 83,222,146.00</b>	<b>P 182,391,146.00</b>	<b>P 25,128,133.00</b>	<b>P 7,582,588.00</b>	<b>P 298,494,013.00</b>

### SCHEDULE I – EDUCATION

#### A. SPECIAL EDUCATION FUND (SEF)

1. Supplemental Budget No. 1	P 59,796,368.30
2. Supplemental Budget No. 2	4,383,671.47
3. Supplemental Budget No. 3	7,943,397.16
4. Supplemental Budget No. 4	<u>11,098,709.94</u>

**TOTAL P 83,222,146.87**

#### B. ANNUAL DEVELOPMENT FUND (ADF)

1. Youth Welfare and Development Program	P 296,600.00
--	--------------

**TOTAL P 296,600.00**

#### C. SUPPLEMENTAL BUDGET (SB)

1. Renovation of Madrassah Bldg.-Brgy 9-A	P 60,000.00
2. SK Reading Center – Brgy 22-C	100,000.00
3. Construction of School Stage – Brgy 1-A	50,000.00
4. Construction of School Shed – GSIS	60,000.00
5. Playground Facilities – Brgy. Malabog	40,000.00
6. Construction of School Waiting Shed – Brgy Tibungco	100,000.00
7. School Painting	30,000.00
8. Playground Equipment – Brgy Paquibato	30,000.00
9. Playground Equipment – Brgy Paquibato	10,000.00
10. Playground Equipment – Brgy. Daliao	8,000.00
11. Playground Equipment – Brgy. Daliao	8,000.00
12. Playground Equipment – Brgy. Daliao	8,000.00
13. Children's Playground – Brgy. Mintal	100,000.00
14. Park and Playground – Brgy. Panacan	200,000.00
15. Basketball Court	100,000.00

16. School Fence – Brgy. Acacia	100,000.00
17. CR – Doña Asuncion E/S	60,000.00
18. Concreting of Basketball Court – Brgy. Mandug	100,000.00
19. Fencing of Basketball Court	<u>100,000.00</u>
<b>TOTAL</b>	<b>P 1,264,000.00</b>

## SCHEDULE 2 – HEALTH AND NUTRITION

<b>A. ANNUAL FUND (AF)</b>	
1. Current Operating Expenditure – CHO	<u>P 117,627,397.00</u>
<b>TOTAL</b>	<b>P 117,627,397.00</b>
<b>B. ANNUAL DEVELOPMENT FUND (ADF)</b>	
1. Human Disease Surveillance & Control Project	<u>P 3,000,000.00</u>
<b>TOTAL</b>	<b>P 3,000,000.00</b>
<b>C. SUPPLEMENTAL BUDGET (SB)</b>	
1. Construction / Renovation of Health Center Brgy. Langub	P 100,000.00
2. Construction / Renovation of Health Center Brgy. Bago Aplaya	100,000.00
3. Operation “Tuli”	150,000.00
4. Helath and Nutrition Program	350,000.00
5. Human and Ecology Security	700,000.00
6. Construction / Renovation of Health Center Brgy. Duterte	100,000.00
7. Construction / Renovation of Health Center Brgy. Tibuloy	100,000.00
8. Construction / Renovation of Health Center Brgy. Cawayan	50,000.00
9. Construction of Health Center – Brgy. Sasa	<u>50,000.00</u>
<b>TOTAL</b>	<b>P 1,700,000.00</b>

## SCHEDULE 3 – SOCIAL WELFARE

<b>A. ANNUAL FUND (AF)</b>	
1. Current Operating Expenditure – CSSDO	<u>P 64,763,749.00</u>
<b>TOTAL</b>	<b>P 64,763,749.00</b>
<b>B. ANNUAL DEVELOPMENT FUND (ADF)</b>	
1. Early Child Care and Development Program	P 2,000,000.00
2. Crisis Intervention Center for Children	2,500,000.00
3. Lingap Center and PDIC for Children	2,500,000.00
4. Early Childhood Care through Ustadze	2,170,000.00
5. Construction / Renovation of Day Care Center Brgy. Kasilak	300,000.00
6. Construction / Renovation of Day Care Center Brgy. Calinan	300,000.00
7. Comprehensive Shelter Program	<u>11,561,533.00</u>
<b>TOTAL</b>	<b>P 21,331,533.00</b>

**C. SUPPLEMENTAL BUDGET (SB)**

1. Construction/ Renovation of Day Care Center Brgy. I-A	P 50,000.00
2. Construction/ Renovation of Day Care Center Brgy. 5-A	100,000.00
3. Construction/ Renovation of Day Care Center Brgy. 19-B	50,000.00
4. Construction/ Renovation of Day Care Center Brgy. 35-D	50,000.00
5. Construction/ Renovation of Day Care Center Brgy. 74-A	100,000.00
6. Construction / Renovation of Project Hope Brgy. 76-A	50,000.00
7. Construction/ Renovation of Day Care Center Brgy. Bago Aplaya	100,000.00
8. Construction/ Renovation of Day Care Center Brgy. Langub	50,000.00
9. Construction/ Renovation of Day Care Center Brgy. Talomo	100,000.00
10. Construction/ Renovation of Day Care Center Brgy. 18-B	250,000.00
11. Food for Work Project	250,000.00
12. Children Hospital Master Plan	100,000.00
13. Operation of Council for Welfare of Children	285,788.00
14. Child Minding Center /Day Care	902,800.00
15. Construction/ Renovation of Day Care Center Brgy. Sasa	50,000.00
16. Construction/ Renovation of Project Hope Brgy. Duterte	150,000.00
17. Construction/ Renovation of Day Care Center Brgy. Cabantian	100,000.00
18. Construction/ Renovation of Day Care Center Brgy. Buhangin	300,000.00
19. Construction/ Renovation of Day Care Center Brgy. Sirawan	50,000.00
20. Construction/ Renovation of Day Care Center Brgy. Biao	50,000.00
21. Construction/ Renovation of Day Care Center Brgy. Los Amigos	300,000.00
22. Augmentation of Child Minding Center	200,000.00
23. Renovation of Boy's Town	500,000.00
24. Construction/ Renovation of Day Care Center Brgy. Paquibato	300,000.00
25. Construction/ Renovation of Day Care Center Brgy. Bato	<u>350,000.00</u>
<b>TOTAL</b>	<b>P 4,618,588.00</b>

**SCHEDULE 4 – COORDINATION ,ADMINISTRATION, MONITORING AND EVALUATION**

A. UNICEF / IRUBS	P 500,000.00
<b>TOTAL</b>	<b>P 500,000.00</b>

## Summary of Allocation for Children, 2000

CONCERNS	SEF	AF	ADF	SB	TOTAL
1. EDUCATION (schedule 1)	P 96,957,118.60	-	-	P 1,109,000.00	P 98,066,118.60
2. HEALTH / NUTRITION (schedule 2)	-	P 121,538,522.00	P 1,000,000.00	P 1,080,000.00	P 123,618,522.00
3. SOCIAL WELFARE (schedule 3)	-	P 64,310,761.00	P 19,000,000.00	P 2,689,000.00	P 85,999,761.00
4. Coordination, Admin., Monitoring & Evaluation	-	-	P 1,500,000.00	-	P 1,500,000.00
<b>TOTAL</b>	P 96,957,118.60	P 185,849,283.00	P 21,500,000.00	P 4,878,000.00	<b>P 309,184,401.60</b>

### SCHEDULE 1 – EDUCATION

#### A. SPECIAL EDUCATION FUND (SEF)

**TOTAL P 96,957,118.60**

#### B. SUPPLEMENTAL BUDGET (SB)

##### SB-1

1. Completion of Binugao School Building P 200,000.00

##### SB-2

2. Construction of Comfort Rooms at Davao City High School 300,000.00

3. Completion of Covered Court at V. Hizon E/S Brgy. Pampanga 500,000.00

4. Road Concreting linking Tagakapan Nat'l H/S to main road 190,000.00

**TOTAL P 1,190,000.00**

### SCHEDULE 2 – HEALTH AND NUTRITION

#### A. ANNUAL FUND (AF)

1. Current Operating Expenditure – CHO P 121,538,522.00

**TOTAL P 121,538,522.00**

#### B. ANNUAL DEVELOPMENT FUND (ADF)

1. Integrated Primary Health Care Services P 1,000,000.00

**TOTAL P 1,000,000.00**

**C. SUPPLEMENTAL BUDGET (SB)**

**SB-1**

- |  |              |
|--|--------------|
| 1. Construction of Health Center – Pangyan | P 200,000.00 |
|--|--------------|

**SB-2**

- |  |                   |
|--|-------------------|
| 2. Completion of Health Center – Brgy. 5-A                         | 380,000.00        |
| 3. Community Health Human Disease Surveillance and Control Program | <u>500,000.00</u> |

<b>TOTAL</b>	<b>P 1,080,000.00</b>
--------------	-----------------------

**SCHEDULE 3 – SOCIAL WELFARE**

**A. ANNUAL FUNDS (AF)**

- |  |                        |
|--|------------------------|
| 1. Current Operating Expenditure – CSSDO | P <u>64,310,761.00</u> |
|--|------------------------|

<b>TOTAL</b>	<b>P 64,310,761.00</b>
--------------	------------------------

**B. ANNUAL DEVELOPMENT FUND (ADF)**

- |   |                   |
|---|-------------------|
| 1. Crisis Intervention for Children                                       | P 2,500,000.00    |
| 2. Street Children Services / Assistance                                  | 2,500,000.00      |
| 3. Early Childhood Care for Ustadze and Madrassah/ Lumads/Upland Children | 3,000,000.00      |
| 4. Comprehensive Shelter / Urban Land Reform Program                      | 10,500,000.00     |
| 5. Construction of Youth Offenders Dormitory                              | <u>500,000.00</u> |

<b>TOTAL</b>	<b>P 19,000,000.00</b>
--------------	------------------------

**C. SUPPLEMENTAL BUDGET (SB)**

**SB-1**

- |  |              |
|--|--------------|
| 1. Construction of Madrassah – Brgy. 23-C  | P 475,000.00 |
| 2. Construction of Extension Office of the Children Detention & Investigation Room | 314,000.00   |
| 3. Construction of Day Care Center – Talomo River                                  | 250,000.00   |
| 4. Gender Development Program  | 1,500,000.00 |

**SB-2**

- |  |                  |
|--|------------------|
| 5. Additional of Appropriation for the Construction of Brgy Hall/ Day Care Center / Project Hope Day Care Center – Brgy. 5-A | 100,000.00       |
| 6. Construction of additional classroom at Purok 26 Madrassah Bldg. – Brgy 76-A  | <u>50,000.00</u> |

<b>TOTAL</b>	<b>P 2,689,000.00</b>
--------------	-----------------------

**SCHEDULE 4 – COORDINATION, ADMINISTRATION, MONITORING AND EVALUATION**

- |  |                   |
|--|-------------------|
| 1. Counterpart fund to the Fifth Country (CPC V) Programme For Children assistance | P 1,000,000.00    |
| 2. UNICEF / IRUBS  | <u>500,000.00</u> |

<b>TOTAL</b>	<b>P 1,500,000.00</b>
--------------	-----------------------



## Summary of Allocation for Children, 2001

CONCERNS	SEF	AF	ADF	SB	TOTAL
1. EDUCATION (schedule 1)	P 121,606,362.00	-	P 3,195,000.00	P 564,200.00	P 125,365,562.00
2. HEALTH / NUTRITION (schedule 2)	-	P 121,405,079.00	P 2,822,500.00	P 387,500.00	P 124,615,079.00
3. SOCIAL WELFARE (schedule 3)	-	P 69,832,782.00	P 29,960,500.00	P 582,500.00	P 100,375,782.00
4. Coordination, Admin., Monitoring & Evaluation	-	-	P 1,700,000.00	-	P 1,700,000.00
<b>TOTAL</b>	P 121,606,362.00	P 191,237,861.00	P 37,678,000.00	P 1,534,200.00	<b>P 352,056,423.00</b>

### SCHEDULE I – EDUCATION

#### A. SPECIAL EDUCATION FUND (SEF)

**TOTAL P 121,606,362.00**

#### B. ANNUAL DEVELOPMENT FUND (ADF)

1. Construction of Stage at F. Dizon E/S Bacaca Brgy. 19-B	P 95,000.00
2. Completion of Stage at Dolor E/S Bangkal Brgy. Talomo	95,000.00
3. Construction of Mini Covered Court at Andres Bonifacio E/S, Brgy. Talomo	475,000.00
4. Construction of Waiting Shed at Bustamante Nat'l H/S, Brgy. Tibungco	190,000.00
5. Road Concreteng linking Tagakpan Nat'l H/S Tugbok District	190,000.00
6. Fencing of Mintal E/S, Tugbok District	427,500.00
7. Additional appropriation/expansion of Mintal Covered Court Gym at Mintal E/S, Tugbok District	285,000.00
8. Construction of CR at Calinan Nat'l H/S, Calinan District	237,500.00
9. Riprapping of canal in Tagakpan E/S & Nat'l H/S at Purok San Francisco, Brgy. Tagakpan, Tugbok Dist.	950,000.00
10. Installation of 12 Electrical Posts w/ Sodium Lights at Piedad E/S, Brgy. Crossing Bayabas, Toril Dist.	<u>250,000.00</u>
<b>TOTAL</b>	<b>P 3,195,000.00</b>

#### C. SUPPLEMENTAL BUDGET

1. Transformer Upgrading & Installation of all Lights at Daniel R. Aguinaldo H/S, Matina	P 264,200.00
2. Completion of Mini Gym at Artemio Loyola E/S Toril Dist.	<u>300,000.00</u>
<b>TOTAL</b>	<b>P 564,200.00</b>

## **SCHEDULE 2 – HEALTH AND NUTRITION**

<b>A. ANNUAL FUND (AF)</b>	
1. Current Operating Expenditure	P 121,405,079.00
<b>TOTAL</b>	<b>P 121,405,079.00</b>
<b>B. ANNUAL DEVELOPMENT FUND (ADF)</b>	
1. Integrated Primary Health Care Services	P 2,000,000.00
2. Construction of Health Center – Brgy. I9-B	237,500.00
3. Repair/Improve of Nrgy. Hall/Health Center – Brgy. Bago Aplaya	300,000.00
4. Construction of Health Center Brgy. Talomo River, Calinan Dist.	<u>285,000.00</u>
<b>TOTAL</b>	<b>P 2,822,500.00</b>
<b>C. SUPPLEMENTAL BUDGET (SB)</b>	
1. Construction of Health Center – Brgy. Atan-awe	P 237,500.00
2. Additional Appropriation for Health Center Baguio District	<u>150,000.00</u>
<b>TOTAL</b>	<b>P 387,500.00</b>

## **SCHEDULE 3 – SOCIAL WELFARE**

<b>A. ANNUAL FUNS (AF)</b>	
1. Current Operating Expenditure – CSSDO	P 69,832,782.00
<b>TOTAL</b>	<b>P 69,832,782.00</b>
<b>B. ANNUAL DEVELOPMENT FUND (ADF)</b>	
1. Gender and Development Program	P 2,000,000.00
2. Comprehensive Shelter/Urban Land Reform Program	20,000,000.00
3. Gender Sensivity and Livelihood Training Skills	600,000.00
4. Construction of SK Federation Bldg., Poblacion	950,000.00
5. Construction of Day Care Center – Brgy. Tugbok	237,500.00
6. Construction of Day Care Center – Brgy. Dalagdag, Calinan District	323,000.00
7. Construction of Day Care Center – Bgry., Tamayong Calinan District	237,500.00
8. Construction of Day Care Center – Brgy. Dalagdag, Calinan District	237,500.00
9. Construction of Day Care Center – Brgy. Buda Marilog Dist.	<u>475,000.00</u>
<b>TOTAL</b>	<b>P 29,960,500.00</b>
<b>C. SUPPLEMENTAL BUDGET (SB)</b>	
1. Construction of Day Care Center Sitio Pulang Lupa, Brgy. Buda	P 237,500.00
2. Rehabilitation of Day Care Center Brgy Malagos	95,000.00
3. Construction of Project Hope Center Calinan Poblacion	<u>250,000.00</u>
<b>TOTAL</b>	<b>P 582,500.00</b>

**SCHEDULE 4 – COORDINATION, ADMINISTRATION, MONITORING AND EVALUATION**

1. Counterpart fund to the Fifth Country (CPCV) Programme For Children assistance	P 1,200,000.00
2. UNICEF / IRUBS	<u>500,000.00</u>
<b>TOTAL</b>	<b>P 1,700,000.00</b>

**Summary of Allocation for Children, 2002**

CONCERNS	SEF	AF	ADF	SB	TOTAL
1. EDUCATION (schedule 1)	P 140,000,000.00	-	P 6,267,000.00	-	P 146,267,000.00
2. HEALTH / NUTRITION (schedule 2)	-	P 122,444,422.00	P 870,000.00	-	P 123,314,422.00
3. SOCIAL WELFARE (schedule 3)	-	P 64,478,105.00	P 44,400,000.00	-	P 108,878,105.00
4. Coordination. Admin., Monitoring & Evaluation	-	-	P 1,200,000.00	-	P 1,200,000.00
<b>TOTAL</b>	<b>P 140,000,000.00</b>	<b>P 186,922,527.00</b>	<b>P 52,737,000.00</b>	<b>-</b>	<b>P 379,659,527.00</b>

**SCHEDULE I – EDUCATION****A. SPECIAL EDUCATION FUND (SEF)**

**TOTAL** **P 140,000,000.00** ( estimated)

**B. ANNUAL DEVELOPMENT FUND (ADF)**

1. Sports Promotion and Advocacy Project	P 100,000.00
2. Concreting of Pavement of Brgy. Covered Court in Bustamante Nat'l H/S	230,000.00
3. Completion of Road Concreting at Km. 6 Pioneer Subd. To Bernardo Carpio H/S	500,000.00
4. Rehabilitation of Monteverde E/S Bldg.	500,000.00
5. Construction of School Fence at Bucana Central E/S Brgy. 76-A	350,000.00
6. Children's Playground with Roofing – Brgy. 31-D Poblacion	250,000.00
7. Perimeter Fencing of Doña Soledad E/S, Kadayawan Homes, Bangkal	200,000.00
8. Completion of Project Hope Center – Matina Crossing	200,000.00
9. Perimeter Fencing of Indangan Nat'l H/S	200,000.00
10. Construction of CR at F. Bangoy Nat'l H/S Brgy. Sasa	100,000.00
11. School Fence at Acacia E/S – Brgy. Acacia	100,000.00
12. Flooring Covered Court at Cabantian Nat'l H/S	100,000.00
13. Painting of School Bldg at Landmark III E/S – Brgy Sasa	100,000.00

14. Completion of Covered Court at Doña Asuncion E/S Brgy. Pampanga	400,000.00
15. Construction of One Classroom at JB Ferriols E/S Brgy. Lizada, Toril	150,000.00
16. Repair of Atan-awe E/S Bldg	237,500.00
17. Construction of Perimeter Fence at Lamanan E/S Calinan District	50,000.00
18. Construction of Administrative Bldg at Villafuerte E/S, Calinan	300,000.00
19. Construction of slope protection at A. Pichon E/S Tibungco Relocation	<u>1,000,000.00</u>
<b>TOTAL</b>	<b>P 6,267,000.00</b>

C. SUPPLEMENTAL BUDGET (SB)

## SCHEDULE 2 – HEALTH AND NUTRITION

A. ANNUAL FUND (AF)

1. Current Operating Expenditure – CHO	P <u>122,444,422.00</u>
<b>TOTAL</b>	<b>P 122,444,422.00</b>

B. ANNUAL DEVELOPMENT FUND (ADF)

1. Renovation of Health Center – NHA Maa Purok 37	P 200,000.00
2. Renovation of Davao City Nutrition Office – Camus St.	270,000.00
3. Improvement of Health Center at West Saint Anthony NHA Phase I San Antonio	100,000.00
4. Expansion of Brgy Health Center – Brgy. Tambobong	150,000.00
5. Construction of Health Center – Purok 5, Brgy Tagluno	100,000.00
6. Construction of CR at Sto. Niño Health Center Brgy. Sto. Niño, Tugbok District	<u>50,000.00</u>
<b>TOTAL</b>	<b>P 870,000.00</b>

C. SUPPLEMENTAL BUDGET (SB)

## SCHEDULE 3 – SOCIAL WELFARE

A. ANNUAL FUND (AF)

1. Current Operating Expenditure – CSSDO	P <u>64,478,105.00</u>
<b>TOTAL</b>	<b>P 64,478,105.00</b>

B. ANNUAL DEVELOPMENT FUND (ADF)

1. Comprehensive Shelter Program 2002 (ULRP)	P 40,000,000.00
2. Construction of Day Care Center – Christian Village Purok New Washington, Talomo	300,000.00
3. Construction of Day Care Center – Brgy Matina Crossing	200,000.00
4. Construction of Day Care Center – Brgy Bucana 76-A	200,000.00
5. Repair of Day Care Center – Nrgy 22-C	50,000.00
6. Repair of Day Care Center – Balai, Brgy. Bago Aplaya Talomo District	50,000.00

7.	Repair of Day Care Center – Purok Mexha, Brgy Dumoy Talomo DistyRICT	50,000.00
8.	Repair of Day Care Center – Langub E/S Brgy Langub	50,000.00
9.	Repair of Day Care Center – Brgy. Talomo	50,000.00
10.	Repair of Day Care Center – Catalunan Pequeño E/S	50,000.00
11.	Repair of Day Care Center – Brgy Matina Pangi	50,000.00
12.	Repair of Day Care Center – Mini Forrest Brgy 23-C	50,000.00
13.	Repair of Day Care Center – Mini Forrest Brgy 9-A	50,000.00
14.	Renovation of Day Care Center – Purok 1, Brgy. 2A	100,000.00
15.	Construction of Day Care Center – Brgy 21	100,000.00
16.	Construction of Day Care Center – Purok 2, Punla Dumalag	150,000.00
17.	Construction of Day Care Center – Purok 4, Brgy. 23	150,000.00
18.	Construction of TribAL Multi-purpose Hall and Day Care Center Sitio Damilag, Brgy Mapula, Paquibato	600,000.00
19.	Improvement of Sun Bean Day Care Center San Roque Vill Km. 9 Sasa	100,000.00
20.	Fencing of Day Care Center at Brgy. Centro	<u>50,000.00</u>
<b>TOTAL</b>		<b>P 44,400,000.00</b>

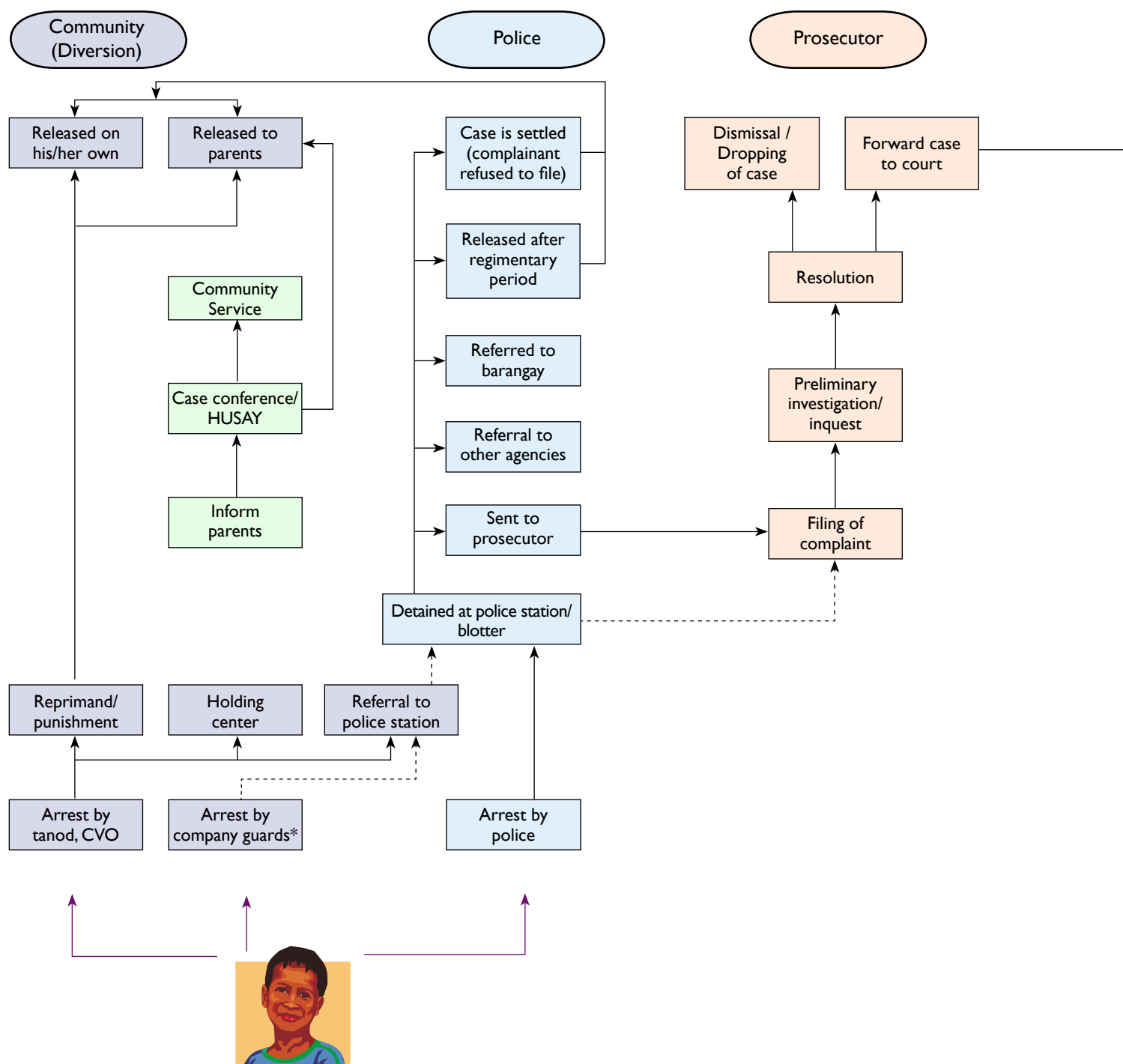
## C. SUPPLEMENTAL BUDGET (SB)

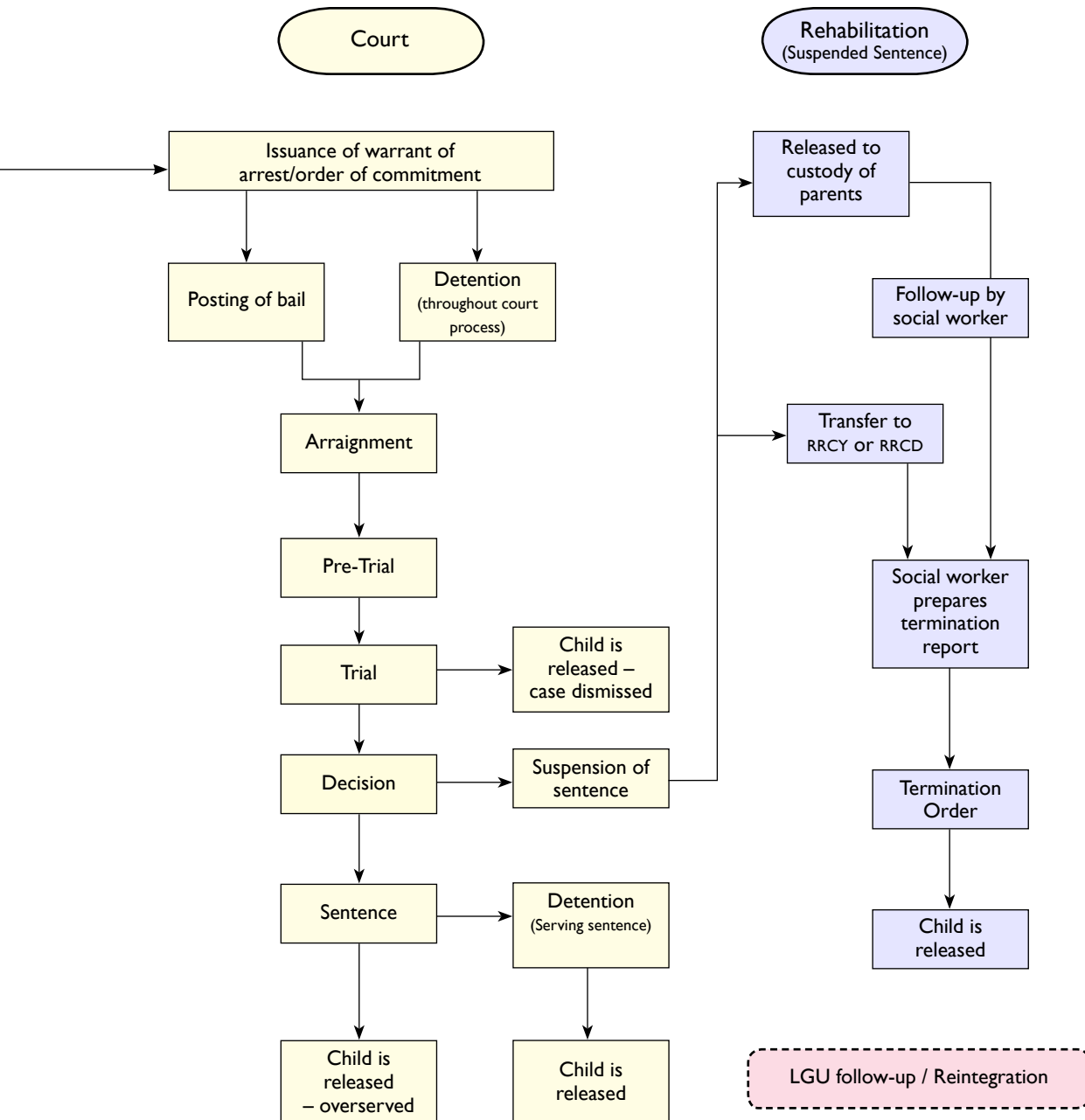
**SCHEDULE 4 – COORDINATION, ADMINISTRATION, MONITORING AND EVALUATION**

I.	Counterpart fund to the Fifth Country (CPC V) Programme for Children Assistance	<u>P 1,200,000.00</u>
<b>TOTAL</b>		<b>P 1,200,000.00</b>

Source: Davao City Planning and Development Office (1999; 2000; 2001).

## Annex 3 Flowchart of the Juvenile Justice Process









**Save the Children**

UK

**Save the Children UK  
Philippines Programme**

3/F FSS Building I, 89 Scout Castor St., Quezon City, Philippines

Telephone (+632) 372-3483 • Fax (+632) 372-3484

[www.savethechildren.org.uk](http://www.savethechildren.org.uk)