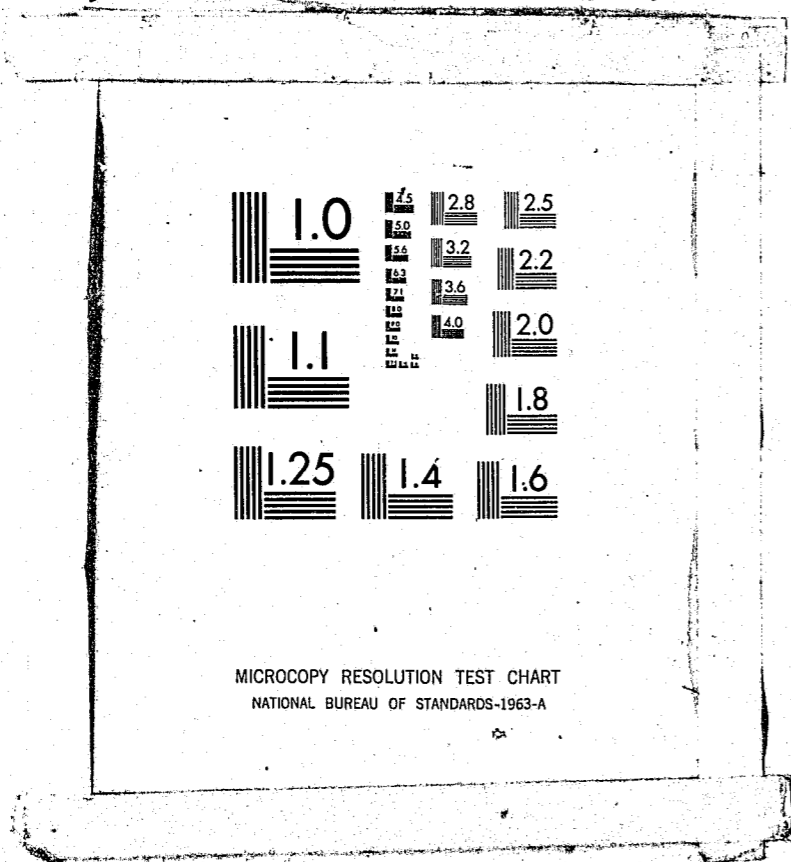


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ISSUES AND CONCERNS IN COMMUNITY-BASED
CORRECTIONS: THE PHILIPPINE EXPERIENCE

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Community-based corrections have been accepted in the Philippines as positive and effective means of re-integrating offenders into the society. The sudden change in environment, in cultural orientation and set of rules and policies, the feeling of being "thrown away" and alienated, are amongst the ill effects of institutionalization which are avoided and prevented in community-based corrections.

Community-based corrections are more effective for youth offenders whose families and communities play vital roles in their rehabilitation and treatment. In the Philippines where about 20% of the reported offenses in 1976 were committed by youth offenders, this kind of treatment becomes even more meaningful and indispensable.

The agencies working in the Philippines towards the treatment and rehabilitation of the youth offenders believe that the release of the youth to the custody of his parents or to a responsible person in the community where he can have more physical and emotional support is still the best arrangement. Thus, government and non-government sectors have launched various programs to prevent the onset of delinquency among the youth or to strengthen community-based correction efforts for the youthful offender.

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These efforts, however, are sometimes hampered or negated by certain gaps, concerns, inadequacies or problems. This paper will try to present some of these issues and problems as these are existing in the five pillars of the criminal justice system, namely, the police, the prosecution, the courts, corrections and the community, collectively or sectorally, for which possible solutions are now in the process of being evolved and/or are continuously being sought. These concerns and issues are primarily related to the juvenile offenders.

Need for Integrated Planning. The juvenile criminal justice system should be viewed in an integrated manner and from the point of the five different pillars as mentioned above. The goals of these pillars can be summarized into two, i.e., (1) to stop the deviant behavior pattern of the juvenile and (2) to help the juvenile become a better, useful and law-abiding citizen. These goals can be either superficial or deep, and immediate or long-range.

There is no doubt that all these pillars have the above elements and characteristics in their goals but of course these will vary in degrees and intensity, depending on the innate nature and function of the pillar. Hence, the police, the prosecution and the courts will have heavy emphasis on the first goal of stopping the deviant behavior pattern of the juvenile while the corrections sector and the community will place stress in making him useful, productive and law-abiding which is a long-range goal.

The goals of these pillars, therefore, share some degree of congruence instead of being mutually exclusive of each other. Hence, each of the five pillars must serve as a link in a chain of efforts to rehabilitate the offender.

One of the gaps in the juvenile justice system can be traced to the lack of planning activities within the system. The Philippines is no exception to this situation. An example of this is the change of the age of the youthful offender from below 21 years, as earlier spelled out in Presidential Decree No. 603 (Child and Youth Welfare Code), to below 18 years of age per Presidential Decree No. 1179, which amended P.D. 603. As such the offenders between the ages 18 to below 21 years were released into the adult criminal justice system. Said change, however, was not accompanied by plans to provide support special treatment or rehabilitation programs for said type of young offenders. This resulted in placing young offenders in the 18 to below 21 years age range under the prison regime reserved for adult convicts.

Thus, there is a need to establish and/or strengthen system-wide planning within the criminal justice system. If this is done, the importance of community-based corrections will be appreciated by all these sectors. Fortunately, this is now being attended to by the Council for the Welfare of Children and Youth which sees to it that the provisions of the Child and Youth Welfare Code are properly implemented. An ad hoc committee has been formed recently, composed of representatives of the 5 pillars of the juvenile criminal justice system, which will be coordinating and planning for services for the youthful offenders.

Unified Reporting System. Reports on the incidence of crime, nature of offenses, number of cases settled at the different levels of the criminal justice system and other related data are very important if we are to know the magnitude of the problem and thus come up with plans for overcoming such problems. Such reports' lack or inadequacy can hamper efforts towards evolving treatment plans for offenders. The Philippine

experience is that presently the available crime statistics are not complete. The available statistics on juvenile delinquency do not reflect the workloads of the 5 pillars of the criminal justice system but rather come only from the police, the courts and the correctional institutions. Moreover, these sources do not follow a uniform format for reporting incidences of delinquency.

The preparation of a comprehensive research or study on the subject is therefore needed. This situation will hopefully be solved when the ad hoc committee earlier mentioned becomes fully operational.

Need to Strengthen Operational Linkages. There is also a need to strengthen the formal operational linkages among the five pillars of the criminal justice system. The absence or weakness of such linkages is manifested by the lack of a uniform method in the handling of cases of youth offenders in the courts of justice and the law enforcement agencies and the non-implementation of some laws. This situation can hamper and/or retard efforts towards the prevention of the entry of the youth into the criminal justice system and/or towards the prevention of his institutionalization or availment of community-based corrections.

SECTORAL PROBLEMS, GAPS AND ISSUES

In addition to the above issues which are more or less related to and involving all the 5 sectors, there are specific problems, gaps and issues akin to each sector, to wit:

1. Law enforcement agencies. The police plays a vital role in the minor's rehabilitation. For as long as there are police who are punitive and who do not know the proper handling and treatment of youth offenders, our efforts in helping

the latter will be difficult.

Apprehension, police interrogation and detention are the most crucial experiences to the life of a youthful offender. Once exposed to the trauma of police brutalities, the minor in conflict becomes indifferent and the treatment plan for him becomes rather hard to implement. Thus, as early as the stage of apprehension, it is important that the youth is "intercepted" into his entry in the criminal justice system and the police has a great role and participation in his community-based correction.

In the Philippines presently there is still a need to intensify the education and training of police along the handling and treatment of youth offenders. Without such training, the tendency is for the young offender to be treated like hard-core criminals. The National Police Commission (NAPOLCOM) has included a subject on the problem and needs of juvenile delinquents in the basic police training course but as to how these are used to practice is another thing. Also, while the NAPOLCOM ordered local police agencies to form juvenile control units to deal specifically with juvenile delinquent cases, this is not fully carried out in all parts of the country due to lack of manpower and funding resources.

Another problem related to the police is their non-implementation of the specific provision of Art. 190 of P/D. 603 which requires the law enforcement agency to take the youthful offender, immediately after apprehension, to the proper medical or health officer for a thorough physical and mental examination. This condition contributes to the inadequacy of assessment of the youth's condition that would warrant his entry or not into the criminal justice system.

Hence, the social service workers of the Ministry of Social Services and Development intervene and assist the

police at this stage to divert the youth to the community and avoid his entry into the criminal justice system. Also, with the member of the police sitting in the ad hoc committee, these situations promise some improvements.

2. Prosecution. The entry of the youth offender into the justice system can be prevented at this stage. As early as this point, too, diversion of the youth to community-based programs can be done. It is unfortunate, however, that there are lawyers who ask minors to plead guilty, even if the latter are not, so that the proceedings can be expedited and the minor can avail of a suspended sentence. The psychological impact of this practice to the youth and his family has not been considered.

Hence, there is also a need to interpret to the fiscals or prosecutors the necessity of knowing the circumstances surrounding the youth's commission of an offense so that they can prevent the entry of the youth into the justice system. The Philippine situation is such that there are still lawyers and prosecutors who are not receptive to community-based corrections.

3. Courts. It is sad to note that while P.D. 603 has long been issued, many judges in the Philippines do not fully implement the provisions of the decree yet. Most judges of the municipal, city and local courts and the courts of first instance still try the youth offender in the same manner as the adult offenders, hence the trauma of conviction is present.

While there are a number of Juvenile and Domestic Relations Courts in the country today (at least 10 presently), which are established on the philosophy that the state through these courts is "the guardian/parent of children and that it must act in behalf of the child as a wise parent should," there is still a need to establish more of this kind of court

to protect the youth who comes in conflict with the law. These juvenile courts are inclined to utilize community-based corrections as means of treatment and rehabilitation.

Another court-related problem is the slow disposition of cases. This situation results in the prolonged detention of some minors and their deprivation of the opportunity to avail of community-based services at an early stage. This problem is also aggravating the clogging of court dockets in view of the increase in the number of court cases.

Evidently, the above conditions point to the need to:

- 1) humanize trials to prevent the trauma of court appearance by a minor,
- 2) give emphasis to the care and welfare of children in the continuing legal education of judges and lawyers,
- 3) institutionalize and establish a uniform procedure in the trial of youth offenders adaptable to all courts, and
- 4) establish criteria for the use of diversion, dispositional alternatives, dismissal of cases and determination of incorrigibility.

Fortunately, these situations are now given closer attention by the courts and operationalization of solutions are underway.

4. Corrections. As the primary government agency in charge of corrections of youth offenders, the Ministry of Social Services and Development (MSSD) believes that any effort toward rehabilitation would not be very effective if reintegration is not thought of and effected even at the start of the entry of a youth into the justice system.

While the MSSD is trying its best to provide social

service interventions and the most effective delivery of community-based services to the youth offenders, the law enforcement authorities, the courts and the judges have also a share in the gaps in service delivery. The law enforcement, for example, fails to refer all cases to the MSSD immediately after apprehension for intake and other court-related services, resulting to detention for weeks, when the youth can be best served while in their own homes or trial of his case in court can be facilitated. Some courts, on the other hand, do not recognize the importance of the social inquiry report or the social worker's contribution during adjudication processes. Most often, the MSSD worker is involved only to provide the "tail end" services when a lot of damage, both physical and emotional, have been done on the child.

The MSSD has, therefore, intensified the implementation of its intervention network for youth offenders, (This was included in my first paper). Continuous dialogue with the other pillars of the justice system are also carried out to have an integrated approach on the treatment of youth offenders. Community-based programs and services are being strengthened and continuing education of people involved in the treatment of offenders are done.

5. Community. It is obvious that the family and the community play vital roles in the community-based treatment of offenders. It is the primary setting of the family where a minor acquires all his values and attitudes regarding interpersonal relationships in general and regarding authority specifically. It is the community where he lives where he does a lot of socialization activities.

The process of re-integration of a minor offender to his community becomes difficult if the people starts labelling him as delinquent and puts stigma on him. The situation will

even be worse if his own family does not accept him or "disowns" him. This condition makes the task of providing community-based services to the minor difficult, specially so if there are no available families in the community who are willing to act as foster parents for the child.

One problem related to the offender's family is the latter's perception of the juvenile's problem as unrelated to them and something which is not caused by the family -- something which is caused by a moral germ which the youth contacted outside of their own family. While this belief on the part of the family is true for some cases, most juvenile offenders manifest problems which are deeply rooted in family problems. Another problem is the non-involvement of the parents, siblings and family in the rehabilitation process.

In the Philippines, a lot of "unlabelling" and foregoing of the stigma attached to the offenders have to be done. Efforts are therefore made to enhance participation of the family and the community in the treatment and rehabilitation of the youth offender. Programs and services for the prevention of juvenile delinquency have been strengthened. Treatment and rehabilitation efforts are geared towards establishing harmonious relationships within the family and among parents and siblings and vice versa.

An intensified information and education campaign on the handling and treatment of youth offenders directed to the community is also made, wherein the needs, the problems and the dynamics of the youth offender are included.

All the above efforts are necessary for after all, as I have stated earlier in my first paper, delinquency is a community phenomenon and the solution to delinquency lies primarily in the family and the community.

CONCLUSION

As the foregoing concerns and gaps are summarized, the creation of the ad hoc committee and a youth offender network to establish the linkages among the five pillars of the criminal justice system become evidently necessary.

One must not overlook, however, the necessity of emphasizing the importance of the training of the people involved in community-based corrections in all the five pillars. Much depend on the worker's awareness of the entire process in the criminal justice system but of equal importance is his ability to establish meaningful relationships with the youth offender so that the latter will find in him a true CHANGE AGENT, ENABLER and a FRIEND.

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