



# BEST PRACTICES HANDBOOK ON REHABILITATION OF JUVENILE OFFENDERS AND VICTIMS



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*“Integrated European Model for Rehabilitation of Victim and Offender Children”*

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REHABILITATION OF JUVENILE  
OFFENDERS AND VICTIMS**

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# FRANCE

## Introduction

The French Republic is a sovereign state located in Western Europe and composed of seven regions. The mainland covers 547,030 square kilometres which is considered to be the largest one among the EU countries. In the mainland, there are 22 administrative regions which are further divided into 101 departments. According to the 2014 data, it has a population of 66,616,416 inhabitants which makes it the third most populous country in Europe. Large-scale immigration over the last century and a half has led to a more multicultural society. France has become more diverse over the last century due to the immigration. In 2004, it was estimated that in the Metropolitan France 85% of inhabitants was White, 10% North American, 3.5% Black and 1.5% Asian. Its capital city is Paris with a population of around 12 million (Wikipedia).

## 1. Juvenile Justice in France

The real start of juvenile justice in France started in 1945 with the passage of the Order of 2/2/1945 which viewed imprisonment as a form of punishment that should only be applied when absolutely necessary. The order emphasized the importance of “educative measures” which stress that instruction and treatments should be individualized to the needs of every young people. The juvenile court was established together with a position of a juvenile judge who oversees youth placements (Peterson, 2014).

As a result of the increase in youth crime in the past couple of years, the political climate in France has shifted from rehabilitation to incarceration and harsh sanctions for juvenile offenders. Young people between the ages of 16 and 18 who commit a repeat offense can receive the same sentence as an adult offender and are eligible for sentence mitigation (Peterson, 2014).

The Order of 2 February 1945 introduced two forms of intervention methods available for juvenile courts: 1. Custodial sentences, 2. Educational measures. When the Law of September 9 2002 was passed, the French government added a third type of sanction which lies in between the two defined intervention methods (Peterson, 2014).

Young offenders aged 10-18 are usually required to participate in a several forms of educational sanctions including reparations, involvement in public education, and can be banned from visiting victims or the place of offence etc. Community service, fine, suspended sentence or

supervision are also forms of interventions that can be chosen by juvenile court judges (Peterson, 2014).

The Law of 9/9/2002 also called for the construction of youth detention centres which are designed for juveniles aged 13-18 and have a capacity of holding up a maximum number of 60 young offenders. The Law emphasizes however, that custodial sentencing should be only used when absolutely necessary. The magistrate has the authority to place the young offender in a secure custody if the educational sanction is not viewed to be enough (Peterson, 2014). The first point of contact for young offenders is the police in France but only the juvenile courts have the power to order custody. The consent of the prosecutor's office is needed to hold a juvenile in custody. However, very much attention paid to ordering custodial sentences to ensure that custody is reserved for the most serious offenders who failed to comply with alternative measures/orders (Peterson, 2014).

Youth aged 13-16 cannot be given a custodial sentence unless he/she would otherwise receive a potential sentence of at least 5 years and other sanctions/measures were not effective previously. If a juvenile commits an offence so serious that it would be punishable with seven or more years, the judges have the power to impose imprisonment without the presence of previous criminal history (Peterson, 2014).

The length of custody for a young criminal cannot exceed the half of the length of the offence that an adult would be given for committing the same offence. The juvenile courts in France have tried to reduce the average time spent in custody which was approximately 50 months on average between 1988 and 1955. By 2005, this number has decreased to less than 40 months. Between 1980 and 1990, the rate of custodial sentences compared to non-custodial ones has increased but this number decreased since 1998. In 1996, 26 per cent of juvenile dispositions were custodial sentences, while this number declined to 20 per cent in 1998 (Peterson, 2014).

There are several youth residential facilities located in France some of them puts more emphasis on rehabilitation. Education actions centres and children's homes offer long-term placements and educational support and are often the place of transition from custody. Closed education centres are for young criminals who are suspended or on conditional release sentences. One major problem with closed education centres is that they are often located far away from the offenders' families.

Various prevention programmes are available in France to identify children at-risk and their criminogenic needs. On the other hand, they are not evidence-based programmes and there is

no system used to evaluate the effectiveness of youth treatment programmes. Restorative measures are relatively new forms of solutions and one example can be the so called school monitoring programme which aim is to identify those young people who are at risk of dropping out from school. Young people participate in a range of voluntary activities which may encourage them to return to school. Nine years after its start, 70 per cent of young people have returned to school (Peterson, 2014).

There are three categories of offence in the French youth justice system: (1) serious violent offences, (2) lesser violent offences and property offences, and (3) minor offences. The type of the offence determines what court deal with the case regardless of whether the offender is an adult or a young person. The youth court, besides the nature of the crime, also takes into consideration the age of the offender.

If the offender is 16 or older and has committed a serious crime, the case will be dealt by the “cour des assises des mineurs” (juvenile assize court). If a serious offence is committed by someone younger than 16, the case belongs to the “tribunal pour enfants”. “Juge des enfants” deals with less serious cases and property crimes (“tribunal pour enfants” also deals with such cases in some instances). In the case of the least serious offences, “juge des enfants” or a police court gets the case (Caputo & Vallée, 2007).

There are 3 judges in the juvenile assize courts, one president and 2 children’s judges. The jury is composed of 9 people. The criminal responsibility in France is the “capability of understanding”. The age of discernment is set between eight and 10 years of age. In summary, the age is one determining factor in sentencing young people and the thresholds are the following:

1. Under 10 years of age: no sentence
2. 10-13 years of age: educational penalties can be taken. If the minor does not comply with the penalty, he/se may be placed with foster carers or to a specialized centre for juvenile offenders
3. 13-16 year of age: sentence, including imprisonment, can be given but the young offender is only liable to half the sentence prescribed for adults. They cannot be remanded in custody, except if they have committed a serious offence.
4. 16-18 year of age: minors can be remanded in custody, and depending on the kind of offence they have committed, the special provision for dealing with minors may be set aside by the

judge. Immediate summary trials are also allowed in the case of habitual offenders (Ministère de la Justice, 2013).

The guilty plea was introduced by the Act of March 2004 and is applicable in cases where the maximum penalty for an offence can be 5 years of imprisonment. Alternative solutions are highly emphasized by the Act including probation, community service, electronic surveillance etc. If the young offender is aged between 13-18 public training courses are also made available.

With the introduction of The Act of March 2007 mayors have become responsible for establishing prevention policy in cities and the role of public prosecutors were also reinforced. Moreover, it put a high emphasis on supporting vulnerable families and identifying new forms of punishment and care for drug users. Furthermore new forms of care for drug users were identified and “day activity orders” and summary proceedings were introduced for young offenders between ages 16 and 18 (Ministère de la Justice, 2013).

In France, there are 3 types of institutions for offenders aged under 18. There are the followings:

1. Juvenile wings in adult prisons (quartiers mineurs): These units are under the authority of the Direction of the Penitentiary Administration (*DAP*) and are controlled by the Prison Inspectorate (*ISP: Inspection des services pénitentiaires*). Educators are present in these facilities to ensure educational and moral rehabilitation of young offenders.
2. Children Detention Facilities (*établissements pénitentiaires pour mineurs – EPM*): EPMs hold children detainees only.
3. Closed educational institutions for young offenders (*centres éducatifs fermés – CEF*): These facilities can be public or private run by empowered associations. They hold repeat young offenders and children under judicial criminal measure (e.g. release on parole, work release, probation order, probation) (DEI-France, 2014).

## 2. Violent Crimes

The definition of violent crime is different for each country within the EU. They usually include: homicide, murder, assault, manslaughter, sexual assault, rape, robbery, negligence, endangerment, kidnapping (abduction), extortion, and harassment (European Commission, 2014). In France, criminal offences are categorised as according to their seriousness as felonies, misdemeanours or petty offences. Felonies as mentioned earlier are considered as the most serious offences. Book II of the French Penal Code lists the felonies and misdemeanours against persons (Spencer, 2005).

### 2.1. Rehabilitation of Violent Criminals

#### 2.1.1. Mediation Reparation

The Amiens prison in France has a young offenders' section which accommodates 12 inmates aged 13-18. In April 2002, the manager of the prison informed the deputy public prosecutor about the extensive damage caused in the young offenders' section of the prison. This damage was the starting point for creating a mediation-reparation procedure. The deputy public prosecutor visited the prison and spent several hours with the young criminals involved in the damage caused. An alternative method to prosecution was offered to the inmates namely, to work together with the person responsible for prison maintenance and carry out a variety of works including cleaning, surface preparation and painting. Besides the cost of the repairs, a high emphasis was put in the respect for environment and for others. The aim was to make young offenders realise that they are responsible for the state of their own cells. This action can be regarded as part of a bigger picture which leads young prisoners to be more responsible not only in the prison but after their release as well. As a result of implementing this alternative, punishable incidents in the prison have dropped by 75% and the use of disciplinary cells has decreased extensively. The minors also have shown an interest in continuing these activities even in the absence of vandalism. For this reason, two activities were organised:

- Creating wall paintings: a visual-art specialist was invited from an outside organisation to renovate the activity rooms inside the prison
- Basic training in house painting: since 2003, a master technician is working with the section every other week. The training can be continued even after release.

The project itself has led to further developments later on. The professionals are now looking for ways to reward young prisoners for improved behaviour by making more equipment available to them (for example purchase of leisure equipment or furniture for the cells after renovation of activity rooms). Since the young offenders' attention was also focussed on hygiene, it has further led to a health-education project focussing on self-hygiene and diet.

In summary, the project has been a great success and led to the formation of other initiatives. It also became a good illustration of the partnership between professionals working together in the field. Hence, it facilitates the prevention of reoffending and serves the interests of minors (ECPA, 2004).

### 2.1.2. Arts and cultural activities

Within the literature it is frequently noted that arts and cultural programmes in prisons can help the personal and educational development of prisoners. They can support the rehabilitation of a prisoner and be of a great help in reconstructing his/her relationship with society. Creative and physical activities often encourage inmates to proceed further in other forms of education.

In France, culture and arts in prison has been in the focus of attention for the last 20 years mainly by the Ministry of Justice and the Ministry of Culture. After a conference in Valence in 2005, nearly all regions have signed the framework agreements to increase cooperation in this area. Access to cultural activities is well regulated and is available to all prisoners. The Code de procédure pénale states that each prison should have a library available and that the "service pénitentiaire d'insertion et de probation" (SPIP) should create weekly cultural activities and regular artistic events. It is recognised that culture in prison has immense positive effects on self-esteem, attitudes, motivation and hence it facilitates reinsertion.

### 2.1.3 The Art of Living Prison SMART Program

The Prison SMART Programme is aimed at transforming the lives of people incarcerated in prisons. The main goal of the programme is to teach skills to prisoners which help them reduce stress, and teaches them to handle negative emotions. Furthermore, it is aimed to bring together probation departments, juvenile court systems, and law enforcement departments to implement the

activities offered by the Prison SMART Programme. Studies have shown that such programmes help to reduce the rate of relapse (The Art of Living, 2015)

#### 2.1.4. Programmes conducted at the Centre des jeunes Détenus à Fleury-Mérogis (Youth Detention Centre)

The use of “stress management” modules are in place since November 2010 in the Fleury-Merogsis Youth Detention Centre. Participants usually subscribe to this programme without knowing its content in detail. Breathing and relaxation and meditation are very important elements of the programme. There were 6 cycles of young offenders participating out of which 2 cycles received 14 hours of instruction and 4 cycles received a 3-5 hour instruction on simple breathing exercises.

The independent evaluation of this module was made by the Prison Service of Integration and Probation (SPIP) and has shown that 50-60 % of prisoners have reported interest and benefited from the tools of the Art of Living Programme (Art de Vivre, 2015)

#### Closed educational center of the Jubaudière

The French Ministry of Justice has created 5 closed educational centres (CEC) specifically for therapeutic purposes after 2007. The Jubaudière centre is part of this five CECs that was part of the pilot project started in 2008. These CECs were created for adolescences for whom hospital care was not justified, but because of their behavioural issues they do not fit into the normal educational structure. The main objective is to bring education and therapeutic care closer together.

The placement of minors aged 13-15 are under judicial warrant. The Jubaudière CEC can accommodate 12 minors in total and the staff is consisted of 27 people including a psychologist, art therapist, two teachers, one sports teacher, educators, and a housewife. The duration of the treatment is initially 6 months and is renewable once. It is important to mention, that placement is not on a waiting-list basis. The CEC informs the various institutions when there is a place. The young person has to give consent of the placement.

The CEC is consisting of 4 buildings including administrator and director offices, classrooms and meeting rooms, chambers of minors and laundry, and dining room, gym activity room.

Regarding education within the CEC, minors have private lessons in the beginning. After this, they work in pairs with teachers. Various workshops and activities are organised including

riding sessions, art therapy workshops. In addition, a health centre was established in which psychiatric follow-up with a child psychiatrist and collective follow-up with a psychologist take place. Within the health centre, regular discussion groups are held with external professionals. The CEC is planning to have a separate discussion group for juvenile sex offenders. Within the health centres, nurses are present who monitor the compliance with prescribed medical treatments (International Juvenile Justice Observatory, 2008).

#### Institution of Educational Placement and Crisis Treatment (IEPCT) - (Suresnes)

Institution of Educational Placement and Crisis Treatment (IEPCT) - (Suresnes) is a socio-educational institution. It has opened in 2006 and is administratively attached to the public sector of the JPY (Judiciary Protection of the Youth). The institution is a partnership between the JPY Les Hauts de Seince, the Théophile Roussel Hospital Centre and the General Council.

Violent juvenile delinquents aged 13-18 are placed here based on a Provisional Order Placement by the Juvenile Court or Magistrate. The average duration of the treatment provided here is 8 days to 1 month. The team working here consists of a director, a head of service, one psychiatrist, one psychologist, 2 cooks, 6 educators, 3 technical education agents, and one secretary.

The IEPCT is primarily an educational placement with medical reinforcement. The treatment starts with the crisis defined as a result of interactions between the youth, professionals and family history. The institution believes that the understanding of these interactions will help prevent future crises. The treatment follows a strict chronology (International Juvenile Justice Observatory, 2008).

#### Placement of a young offender with a host family:

Host family can be a good alternative for adolescents who have been placed into several institutions before unsuccessfully and who are deprived of affection or have trouble being alone. Young people hosted are usually aged between 13 and 18.

The host family serves as a role model who provide warm and stable environment for the young offender who, in this way, can acquire new habits. This allows the young criminal to get away from their past and family problems. Host families can help to solve problems with their own families. The new daily routine, work and encouragement and healthy lifestyle are all factors that are important in the rehabilitation process. Young offender may be taken into a family home, social residence, rural residence (farm worker's home) or individual housing (pre-autonomous studio).

There is a specific monitoring provision and selection criteria for host families including motivation and commitment, negotiation skills and the ability to lay down rules and limits. Periods spent away from the host family is an important factor. In these times, the young offender may be sent to another family, to their own family or to youth camps.

Host families are not paid by the establishment. There is an agreement between the host family and the educational unit which allows the host family to claim a flat rate of 36€ per day or 1080€ for 30 consecutive days. They are also part of a network that consists of other professionals or host families and can contact a special educator or psychologist if they recognise a specific problem experienced with the young person. In the most serious cases, the host family can ask someone to collect the young person (Marchand, 2014).

#### Poissy centre: meetings between prisoners and victims

The Poissy centre is a parole space that allows victims and offenders to meet. It is important to mention that they do not know each other and are not related to the same crime. These kinds of meetings are already set up in Canada and Belgium and recently have been trialled in France. This sort of mediation allows victims to recover but also gives the chance to offenders to take responsibility for their actions. It can be regarded as a form of restorative justice. The aim is to help each participant to become aware of the consequences of their actions rather than to find a solution. This experiment took place in the Poissy centre where 3 victims met 3 prisoners. The type of crime they have been involved in was murder in all cases. Altogether 6 meetings were held. Some of the advantages highlighted by prisoners were that the meetings helped them to restore their self-esteem and feel empathy. The victims mentioned the feeling of mutual recognition and the feeling of being listened to as major advantages of the meetings. (Marchand, 2014).

### 3. Sexual Crimes

Sexual Crimes are listed in Section III (Sexual Aggression) of Chapter II (Offences against the physical or psychological integrity of the person). According to this, “Sexual aggression is any sexual assault committed with violence, constraint, threat or surprise”. Rape, other sexual aggression and sexual assault belong to this Section (Spencer, 2005).

#### 3.1. Rehabilitation of Child Victims of Sexual/Violent Crimes:

##### 3.1.1. Hors la Rue (France)

Hors la Rue started with the creation of an association named Parada in Bucharest in 1996. Parada’s goal was to integrate street children back into society by offering several tools to the youth to help them to acquire concrete basic skills. *Source: Unesco*.

In 2001, Parada France was created initially in order to collect funds to carry out activities in Romania. At the same time it was raising awareness about the life conditions of street children (*Source : Parada France*). Parada France was also partner in creating a framework which aim was to direct street children towards existing structures e.g. reception centres.

Hars la rue became a different association when Pagada split in two in 2004. The mission of this new association remained the same: working with street children in Paris. It has been focusing on mostly minors of Romanian origin; mostly these children were escaping from institutions as they didn’t know how to take care of them. Today, Hors la Rue is dealing with children from many different origins. The missions of the association are the following:

- **Identify and accompany foreign at-risk minors**
  - Street rounds are taken to track youth on their living or activity place (or when partners ask for it) in order to establish a trusty relationship with at-risk minors. (through frequent street rounds), to listen and to offer solutions
  - Build personalised and viable street exit projects, and personalised and strong life projects with the minors
  - Accompany them toward Common law and child protection services.
- **Raise international awareness of this phenomenon among institutional, associative and political actors:**
  - Campaigns for a fairest and better regulation.

- Share experience to other departments and regions

It operates a day-care centre in Montreuil which welcomes minors Monday-Thursday from 10am till 5pm. Mornings start with French language lessons with the help of volunteers. Later on, cultural, arts and sports activities take place with special educators. The emphasis is on the playful aspect which helps minors to forget their problems for a while, but activities are still embedded on the educational follow-up.

Specialised educators discuss the young people's situation, help them resolve any occasional issues and help them get back in touch with their families. The team works with every young people on their own street exit project through a series of educational means. Furthermore, young people have the chance to meet a psychologist and to take part in a home cooked meal, take a shower and wash their clothes. It is important to mention that this place is open to all according the free-adhesion principle. Young majors can come to have an appointment and information about their rights and about other organizations which work with majors.

In addition, Hors la Rue has a mobile team comprised of two specialised educators who go around by day and/or evening on different places (housing and activities spots) in the Paris area e.g. camps, subways, train stations, streets (Hors La Rue, 2015)

### 3.1.2. Hors la Rue project: "Separating and safeguarding young victims"

Hors le Rue had a three- year project "*Separating and safeguarding young victims*" running in France. The objective of the project was to continue to support Hors la Rue's ongoing project, which responds directly to the needs of child trafficking victims in Paris. The aim of the project was to support the Government of France in finding way the leads to the better identification of children who have been trafficked. It also aimed to support the needs of child victims, providing reintegration care and support, psychosocial care, medical care and education to make it possible for them to reintegrate into society.

#### Description of the project:

Unfortunately, the French law treats youth victims of trafficking differently from adult victims of trafficking; they are often seen as delinquent children and not as the victims of trafficking. Furthermore, the emergency housing structures where these children are normally sent

are, most of the times, operated by criminal and the shelters do not provide any reintegration or other types of care (psychosocial, medical, etc.) that these children would require.

The aim of the project was to address these problems by: (a) helping government actors to better identify child victims of trafficking through training and capacity-building; (b) providing these children with specialized and individualized care and support; and (c) helping children find suitable and appropriate housing. Hors la Rue is specialized in identifying isolated and unaccompanied foreign minors who are outside of the common institutional child protection system, and therefore at risk of being exploited. The activities run by Hors la Rue are designed to enable these young people to access the protection they are entitled under the Convention on the Rights of the Child ratified by France in 1990.

The project duration was 36 months, from May 2012 to May 2015. The overall budget was USD75,000.

#### Assessment of implementation and monitoring of project activities

As mentioned earlier, initially the organisation focuses on assisting young people (9-17 years old) from Eastern Europe and the Roma community living in and around Paris. During the second quarter of 2012 the organisation has identified a vast amount of younger children who are considered as vulnerable. During this reporting period, it has worked with around 60 young people and carried out the following activities:

- Day-Care Centre (previously discussed)
- Emergency Housing : Trafficked youth or youth at risk of being trafficked need a safe and secure accommodation to remove them from danger and further exploitation. The organisation works with relevant government and/or childcare agencies to provide safe shelter to at-risk youth
- Education: The teams main focus has been to improve the young people's understanding of exploitation— recruitment by crime gangs. A majority of the minors lacked education, which exacerbated vulnerability to exploitation. Seeking to fully integrate them into the French schooling system, Hors La Rue also offers French language lessons (discussed earlier). Hors la Rue also designed specific tools to help the organisation gain a better understanding on the stages of exploitation which can further be used to address specific needs of the young people.

- Psychological assistance: The psychological state of young people (both on the streets and in the day care centre) is constantly assessed by a psychologist. The interviews carried out have been used to create a realistic profile of the young people and to identify the factors that lead to homelessness and exploitation.
- Health and Medical Care: Children on the streets are vulnerable to violence, abuse and exploitation. Therefore, the day centre offers weekly sessions to educate them on health issues and the risks associated with substance abuse. The organisation partnered with Médecins du Monde therefore a doctor was available once a week to address medical issues.
- Legal Support/Services: The teams work with young people who are in the justice system services. Hors la Rue supports the Paris Police Commission, Minor Public Prosecutor Department, and judiciary youth protection services.

### 3.1.3. Professional Training for Authorities and Social Services

Hors La Rue has organized two training sessions during this reporting period. One of them was for the Educative Unit of the Bobigny Courthouse staff (Department of Seine Saint Denis) and the other one was held at the Paris Courthouse which targeted the juvenile delinquents who are victims of trafficking. To make sure that the assistance provided is comprehensive, the organisation has worked with key institutions which included: the Department of Justice, the Police Commission, the Children Social Services, the Minors' Protection Squad, the Minors' Public Prosecutor, the Parisian Police Stations, and various educational institutions.

### Major obstacles encountered when implementing the project

The organization has faced the following obstacles: Some exploited young people are at times treated as young criminals by the police and judicial authorities. In the effort to improve coordination amongst multiple actors (Police, Justice, Child Protection), Hors la Rue has developed a multi-agency approach to intervention and protection of the youth. Also, Authorities sometimes lack adequate training and sensitisation, about how to protect and assist at risk and vulnerable foreign youth who are at risk of exploitation and abuse; Due to the high number of youth seeking assistance, the organisation has apportioned less resources to other activities such as training (United Nations, 2013).

## 4. Drug Crimes

### 4.1. Rehabilitation available for juvenile drug addicts

#### 4.1.1. Departmental (sub-regional) Justice And Health Conventions Of Objectives (CDO)

Departmental (sub-regional) Justice And Health Conventions Of Objectives (CDO) is a national programme in France which aim is to offer the same treatment and prevention services to drug addicts both in the community and in the criminal justice system. Its aim is to contact drug users with care services in a more efficient way and to find a better way to identify health problems. It was initiated in 1993 by various ministries including the Ministry of Justice, Home Affairs, Social Affairs and Integration, Ministry of Health etc.

CDO aims at creating a useful response at local level involving health, social and judicial services by direct problematic users towards health and social care.

The CDOs, at every stage of the penal procedure:

- create educational or health and social undertaking opportunities for offenders (young and adult) who are also substance misusers
- increase treatment and prevention services in prisons
- create specific responses in the case of young offenders

Professionals involved include social workers, psychologists, judges, police officers, drug workers and so on. Since its creation, more users are now in contact with care services and health problems are identified more efficiently. The actions taken include providing alternatives to drug use, counselling, out-patient detoxification, psychotherapy, work training, housing etc.. The Interministerial Mission for the Fight against Drugs and Drug Addiction (MILDT) finances the CDOs from decentralised credits. With the creations of CDOs, additional financing became available for specialised drug addiction centres, accommodation centres etc. (EMCDDA, 1993)

#### 4.1.2. The ABSINT project

The Applied Basic Skills in New Technologies for Drug Prevention in Prisons (ABSINT) project was building on an earlier European project called Connect which included 4 countries namely: England, Ireland, France and Belgium. Amiens Prison in France was also involved in both the Connect and later on the ABSINT project as well.

The ABSINT project focused on developing training modules to help those young offenders who were characterised by drug and alcohol misuse. This pilot project looked at ways in which web-authoring technology could be used to help in the development of basic skills competencies through the theme of health and drugs education in prison settings. The project partners believed that web-authoring could be a useful tool to motivate and challenge offenders who otherwise hadn't been successful in the contexts of traditional learning. With the help of technology learners could express their experiences, tell their stories which could help them to break down some barriers to drug rehabilitation. Therefore this project was building on a multidisciplinary approach – drugs and health education, literacy, ICT (Information and Communication Technology) – which hasn't been tried before. The aim was to:

1. Train staff to use new approaches for drug prevention programmes
2. Develop curriculum materials involving young offenders themselves (use their own life experiences to enhance the curriculum aims)
3. Utilise multimedia technology in programmes

The training modules and materials were developed to be used within prisons in the participating partner states. In France particularly, the project made it possible to link in broader health issues. It focussed on creating a multi-disciplinary team that worked together to address the issues of drug prevention. The team was consisting of prison administration, the Department of Education, probation and prison psychology & medical services, theatre and music groups just to mention a few. Collaborating made it possible to use each partner's area of expertise. In addition, the prison medical service used the project to make the already existing questionnaires simpler as it was a common problem that questionnaires collected from young offenders were incomplete due to the low level of literacy skills.

In Amiens prison, 45 young people attended 77 sessions. Some workshops provided a chance for young offenders to express their ideas about the project itself and to share their own experiences which, in some cases, became almost a therapeutic experience on its own but students received support throughout the whole process. This was the “discussion phase” of the project which was followed by the “production phase” where young people were using a wide range of media (computer software, slide shows, cartoons, stories, brochures, drama etc.) to develop their ideas (Kett & Kambouri, 2014).

## 5. Abuse and Neglect

Chapter VII (Offences against minors and the family), Section V (endangerment of minors) of the Penal Code is the part which best reflects neglect of a minor as an offence: *“Deprivation of food or care to the point of endangering the health of a minor under fifteen years of age, inflicted by an ascendant or by any other person exercising parental authority or having authority over the minor, is punished by seven years' imprisonment and a fine of €100,000”* (Spencer, 2005, p. 63).

### 5.1. Programs for abuse and neglect cases

#### 5.1.1. La Voix De l'Enfant (The Child's Voice)

The Child's Voice is a federation of associations created in 1981. All the associations have their own field of expertise in France and/or in the world including the followings: health, training, education, abandoned children, street children, all forms of mistreatments and sexual exploitation and many more. Since 1999, La Voix De l'Enfant supported the creation of Multidisciplinary Care Units in a hospital environment (d'Unités d'Accueil Médico-Judiciaires Pédiatriques - UAMJP) for the child victims of sexual or other forms of abuse. Today, 55 units are open and more to be planned in 2015-16 (La Voix De l'Enfant, 2015).

The objectives of Multidisciplinary Care Units are:

1. Provide a safe environment for the child which facilitates his/her expression
2. Avoid minor new traumas which are caused by the various phases of investigation
3. To provide professional audio-visual recording equipment
4. To promote multi-disciplinary work

The federation also operates a helpline number which maintains the link between young victims in distress and adults. The helpline is available 24 hours a day.

Between 2012 and 2015 the federation has coordinated a project which aim was to provide training and networking of volunteers. The training mainly focused on creating modules that addressed several aspects of working with children. (La Voix De l'Enfant, 2015).

### 5.1.2. Enfance et Partage

Enfance et Partage is present for 37 years in France fighting for the recognition, promotion and defence of the rights of children in France and worldwide. The association combats to protect children from any form of abuse let it be psychological, physical or sexual. The main tasks of the organisation is around listening, counselling, prevention and support. It operates a helpline, works with around 30 clinical psychologists to provide counselling, and has connection with around 50 lawyers to provide legal aid.

Enfance et Partage also operates a green line that can be called Monday to Friday from 10 till 18h. The line is operating with counsellors, specifically trained and supervised by psychologists and lawyers of the association, who come from various backgrounds (social, legal, education, health etc).

#### SNATED (Service National d'Accueil Téléphonique de l'Enfance en Danger)

The French Parliament voted a bill on 10<sup>th</sup> of July, 1989 on the prevention of child abuse and on child protection. As a result, a National Hotline Service for Maltreated Children was created which has a simplified 3-digit dial code: 119. This number is classified as an emergency number and must be displayed in all premises that receive children. It is a toll-free number and can be called from cell phones and overseas territories of France. Since 5 March 2007, the missions of the helpline were broadened and became the National Hotline Service for Children in Danger.

The legal framework includes the state, the departments and child protection organisations. Half of the funding comes from the state, and the other half from the departments. There is a technical specialist team which assists the service. There are two main missions of SNATED:

1. Telephone assistance of any person who is in a situation where a child is in danger or at risk
2. To transmit any information that is giving rise to concern to relevant services

The call centre has 50 professionals who are trained on care-giving relationships, are familiar with child abuse pathologies, understand judicial, administrative and departmental processes, and know the department-based social network. Their main task is to listen to the callers'

immediate concerns and to refer them to the relevant services. A team of coaches coordinate these professionals at the pre-screening and call-centre levels. The coordinators supervise information-sharing processes and organise follow-ups (Service National d'Accueil Téléphonique de l'Enfance en Danger, 2015).

The President of the General council is responsible at the departmental-level after the information has been received from the call centre. There is one appointed professional in each department who is in regular contact with SNATED. Multiple professionals come together to assess the situation and to agree on the most relevant response. The types of measures decided after the department-based authorities validated them. They can include educational assistance, financial help but the department can also turn to the judicial authorities when the family refuses to cooperate. (Service National d'Accueil Téléphonique de l'Enfance en Danger, 2015).

## **6. Training of Professionals**

### **6.1. Grundtvig Project : Effective Induction for Prison Teachers**

The Grundtvig project officially began in 2009 with the CNED, France (National Centre for Distance Learning). Another French partner, INS HEA, was invited to join the project. The duration of the project was 2 years and over this period altogether 6 steering group meetings and workshops were organised. Year one was devoted to carry out a Desk Research and to organise focus and the training framework was laid down in year two (Grundtvig Learning Partnership, 2011).

In France, The Prison Administration Department and the School of Education Department offered an in-service training to help teachers adapt to working in prison. Within the framework, newly appointed prison teachers were offered training in order to acquire the necessary teaching skills that are in line with the needs of offenders. During their first year at work, the appointed teachers had 3 separate weeks of training. Teachers can come from elementary or secondary school background. The first week's course took place at the National School of Prison Administration (ENAP). The two following weeks were delivered at the National Higher Institute for Training and Research of Young Disable Persons and Adapted Teaching (INSHEA). The

trainee teachers were sent to work in various types of prisons including young offenders' establishments and short-stay prisons. Altogether nine Regional Teaching Units were used which corresponded to the nine prison administration districts in France (Grundtvig Learning Partnership, 2011b).

The modules were not only pedagogical or educational but they all have common principles, produced at a European level. Therefore these modules were designed to be adapted to national contexts. The outputs of the project were designed to be used by not only prison teachers but by decision-makers and justice institution managers. (Cornu, 2011)

## 6.2. La Voix De l'Enfant – Train Together

The European Council established a programme in 2007 “Prevention and Fight against Crime” as part of a general programme called “Security and Safeguarding Liberties” to develop best practices for the support of victims of crime and to establish cooperation between police, social services, hospitals and schools. Within this frame, La Voix De l'Enfant proposed a new European project “Train Together – Se Former Ensemble”. The project had 9 partners from 7 European Countries including the Children's Legal Centre in England and SOS Enfants in Belgium. The goal of the project was to develop specific training for professional working with minors e.g. magistrates, psychologists, police officers, child psychiatrists, and doctors. The project was concentrating on discussing the possibilities of a basic training module which can be used by all professionals working in the field and then to develop specific programmes in the field of judicial, police service, psychological, and medical or social activities.

The project started in 2008 and was running for two years. During this time, each partner country created a follow-up committee that gathered one professional from each of the above mentioned 4 fields. The training provided had a multi-disciplinary approach to help each and every professional understand their own roles and to help to avoid confusion of roles and competences. The training was also a great chance for professionals to get to know each other (La Voix De l'Enfant, 2008)

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## **GERMANY**

### **Introduction**

#### **Brief information about the country**

Population characteristics (age, sex, racial/ethnic diversity etc), capital city, geographical location, etc.

*The Federal Republic of Germany, is a federal parliamentary republic located in western-central Europe. It is the seventh largest country in size in Europe and the 62th largest country in the world. It includes 16 constituent states and covers an area of 357,021 square kilometers with a largely temperate seasonal climate. Its capital and largest city is Berlin. With 80.7 million inhabitants, Germany is the most populous member state in the European Union. After the United States, it is the second most popular migration destination in the world.*

*Germany is situated in Western and Central Europe. Its neighboring states are: Denmark (north), Poland and the Czech Republic (east), Austria and Switzerland (south), France and Luxembourg (southwest), and Belgium and the Netherlands (northwest). In the southern part Germany is also bordered by the third largest freshwater lake in Europe, Lake Constance. Germany is situated between 47 °N and 55° N latitude and 5° and 16° E longitude.*

*Elevation ranges from the mountains of the Alps in the northeast. The forested uplands of central Germany and the lowlands of northern Germany are traversed by such major rivers as the Rhine, Danube and Elbe. Glaciers are found in the Alpine region, but are experiencing deglaciation.*

*After 1990, the total fertility rate (TFR) in the East dropped to 0.772 in 1994. This has been attributed to the fact that there was a "demographic shock" (people not only had less children, they also were less likely to marry or divorce after the end of the GDR) the biographic options of the citizens of the former GDR had increased. Young motherhood seemed to be less attractive and the age of the first birth rose sharply. In the following years, the TFR in the East Germany started rising again, surpassing 1.0 in 1997 and 1.3 in 2004, reaching the West's TFR in 2007 (1.37). In 2010, the East's fertility rate (1.459) clearly exceeded that of the West (1.385), while Germany's overall TFR has risen to 1.393, the highest value since 1990 - which is still far below the natural replacement rate of 2.1 and the birth rates seen under communism. In 2012 the TFR of East Germany was 1.454, while TFR in the West was only 1.371.*

Germany is characterized by an unevenly distribution of woman. In some regions the number of women between the ages of 20 and 30 has dropped by more than 30%. In 2004, in the age group 18-29 there were only 90 women for every 100 men in the new federal states (including Berlin).

Germany	German 91.5%, Turkish 2.4%, Italian 0.7%, Greek 0.4%, Polish 0.4%, other 4.6%			
Total expenditure on social protection (% of GDP) <sup>2</sup>	2012	29.5 % <sup>P</sup>	29.5 % <sup>P</sup>	Eurostat
Unemployment rate	2014	5.0 %	10.2 %	Eurostat
Unemployment rate of population aged under 25 years	2014	7.7 %	22.2 %	Eurostat
Prison population rate (per 100 000 of national population)	2013	84.1	:	Council of Europe, SPACE I-2013
At risk of poverty rate	2013	16.1 %	17.6 %	SILC

#### Sex ratio:

**at birth:** 1.06 male(s)/female

**0-14 years:** 1.06 male(s)/female

**15-24 years:** 1.04 male(s)/female

**25-54 years:** 1.03 male(s)/female

**55-64 years:** 0.97 male(s)/female

**65 years and over:** 0.76 male(s)/female

**total population:** 0.97 male(s)/female (2014 est.)

#### State structure, government

## 1. Crime problem in the country

Based on the Police Crime Statistic Report 2013, published by the Bundeskriminalamt (BKA; [www.bka.de](http://www.bka.de))<sup>1</sup>, 5,961,662 violations of Federal criminal laws were registered in 2013 in Germany in addition to traffic offences and offences against state security.

This rate includes in the same way completed acts, subject to punishment, as they attempts and represents a decrease of -0.6 % compared to the previous year. The number of cases per 100,000 inhabitants for 2013 (offence rate) is 7,404. The table below, also published in the Police Crime Statistics, Federal Republic of Germany, Report 2013, shows the changes since 1999 about population and the offence rates:

4 – T01

year	number of inhabitants as of 01. Jan *)	number of cases	change in % compared to previous year	total offence rate **)	change in % compared to previous year	clearance rate in %
1999	82,037,000	6,302,316	-2.4	7,682	-2.4	52.8
2000	82,163,500	6,264,723	-0.6	7,625	-0.7	53.2
2001	82,259,500	6,363,865	1.6	7,736	1.5	53.1
2002	82,440,300	6,507,394	2.3	7,893	2.0	52.6
2003	82,536,700	6,572,135	1.0	7,963	0.9	53.1
2004	82,531,700	6,633,156	0.9	8,037	0.9	54.2
2005	82,501,000	6,391,715	-3.6	7,747	-3.6	55.0
2006	82,438,000	6,304,223	-1.4	7,647	-1.3	55.4
2007	82,314,900	6,284,661	-0.3	7,635	-0.2	55.0
2008	82,217,800	6,114,128	-2.7	7,436	-2.6	54.8
2009	82,002,400	6,054,330	-1.0	7,383	-0.7	55.6
2010	81,802,300	5,933,278	-2.0	7,253	-1.8	56.0
2011	81,751,602	5,990,679	1.0	7,328	1.0	54.7
2012	81,843,743	5,997,040	0.1	7,327	0.0	54.4
2013	80,523,746	5,961,662	-0.6	7,404	1.0	54.5

\*) Source: German Federal Statistical Office

\*\*) Offence rate: number of cases per 100,000 inhabitants

The Report evidences a highest percentage of attempts in case of murder and manslaughter offences, closely followed by extortion cases attempts (65.4 %, compared to 63.1 % in 2012). Regarding the cases of theft under aggravating circumstances, robbery, rape and sexual coercion,

<sup>1</sup> Police Crime Statistics, Federal Republic of Germany, Report 2013, Bundeskriminalamt (Federal Criminal Police Office) - Section KI 12

*the Report shows that the percentage of attempts is also relatively high. For thefts committed under aggravating circumstances in particular, the percentage of attempts recorded provides an useful indicator for the success of preventive measures.*

*Starting from 1971 the recording of attempts has been separate revealing only a small long-term change in the percentages of the "aggravated" thefts.*

*(percentage of attempts in 1971: 16.7 %; percentage of attempts in 2013: 22.5 %). However, in the case of theft by burglary in a dwelling, the percentage of attempts has risen from 28.3 % (1993) to 40.2 % (2013), which can probably be attributed to improved home security measures. But it is important to keep in mind that, in the case of attempted theft, the number of unreported crimes is particularly high<sup>2</sup>.*

*In the sexual offences category and also in the case of robberies, there is an above-average representation of youngsters from 14 to under 18 years old.*

*Males are usually associated as victims of robbery, bodily injury, murder, manslaughter and offences against personal freedom.*

*Adults between the 21 and 60 years old are mostly victims of homicide, offences against personal freedom and bodily injury.*

*Relatively few persons aged 60 years or older were recorded as victims, with the exception of completed murder and manslaughter cases (the absolute number is small, however) and cases of robbery.*

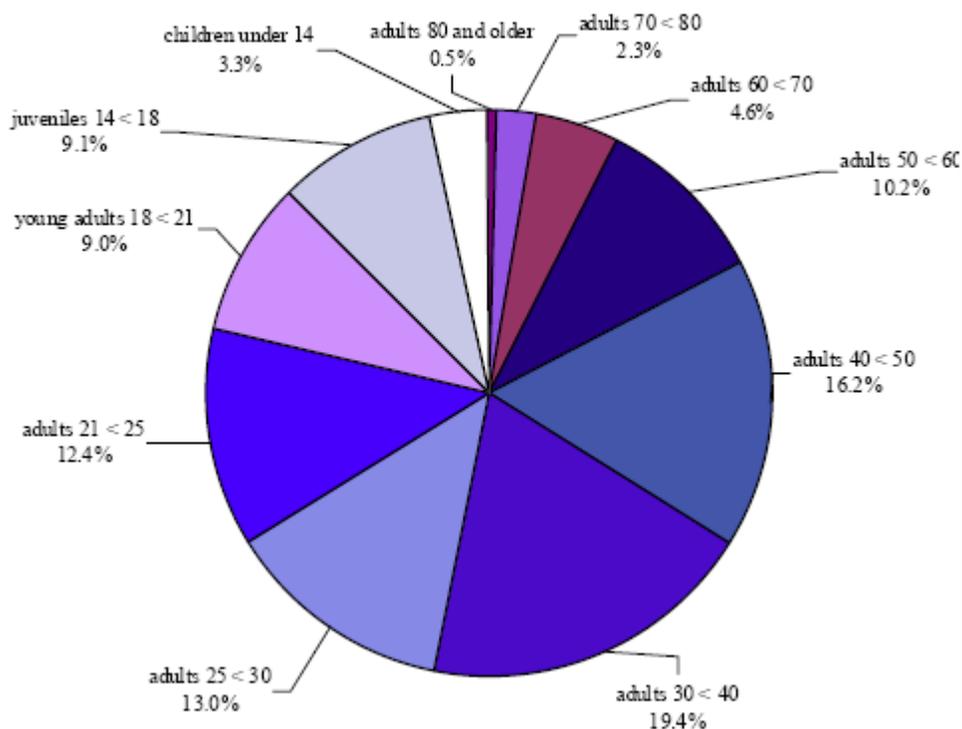
*In 2012, it has been recorded a decrease of 6.2% of offences against sexual self-determination and in robbery with 3.6% reduction of victims number. Regarding sex and age-related crimes, there are various differences among the victims: 3,249,396 cases were cleared up in 2013, and 2,094,160 suspects were recorded in the Police Crime Statistics (see figure). The highest amount of suspects was from the age group between 30 and 40 years (19.4%), followed by adults between 40 and 50 (16.2%) and adults in the age between 25 and 30 years (13.0%). Fewer suspects came from the age group of young adults between 21 and 25 years (12.4%) and from adults between the ages of 50 and 60 years. The age groups between 60 to 70 years, 70 to 80 years and above 80 years as well as children under 14 years mad up only a minor amount of the reported suspects. The amount of juvenile suspects (ages between 14 and 21 years) is compared to the other age groups extremely high (19.1%).*

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<sup>2</sup> *ibid*

## Suspects by age group in relation of total offences

8 – G01



### *A brief history of the development of the criminal justice system in this country<sup>3</sup>*

*The Federal Republic of Germany was founded on May 23<sup>rd</sup> 1949 with the declaration of the Constitution. Germany was divided into eastern and western sectors under allied control until 3<sup>rd</sup> of October in 1990 where it regained total sovereignty with unification. The basis for Germany's modern day statutory law is the "Penal Code for the German Empire" codified in 1871 and was influenced by the French Penal Code of 1810, the Bavarian Penal Code of 1813 as well as the Prussian Penal Code of 1851.*

*Before (the creation of/the beginning of the existence of) the German Empire in 1871, each German state had its own prison/punishment code. Revenge was the most in control (way of thinking/related to learning about how people think) and heavy importance and focus was placed*

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<sup>3</sup> Alexis A. Aronowitz. WORLD FACTBOOK OF CRIMINAL JUSTICE SYSTEMS. Netherlands Ministry of Justice, Grant No. 90-BJ-CX-0002.

*upon prevention through punishment. In 1882 F. v. Liszt called in his "Marburg Programme" for reform of criminal sanctions with a focus on prevention through special crime-prevention method which draws attention to discouraging the offender, not the offense. The Prison/punishment Code of 1871 remained (compared to other things) unharmed and in one piece for over 100 years, but there have been done big changes and changes (for the better) such as the registering of served sentences (1920), the creation of a special immature/youth-related criminal law (1923), and the introduction of fines to hold back short-term prison sentences (1921-1924). The most in control (way of thinking/related to learning about how people think) changed with the rise of the Nazi time in history. Sweeping and harsh good changes with an importance and focus upon general crime-prevention method through extreme (seriousness/ level) (the death penalty) were introduced. The basic prison/punishment code was left unharmed and in one piece but introduced punishment on order of the Fuhrer.*

*Between 1949 and 1990, the new Federal Republic of Germany worked to renovate its legal system. A first attempt was made by the "Grand Criminal Law Commission", composed by legal scholars, practitioners and politicians, who created, in 1962, a draft called the "Draft of a Penal Code". The Federal Assembly refused the text because of its weakness in formulating a criminal policy with regard to the sanctioning system. The reasons for that were its focus on punishment and revenge, as well as its conservative view and stiffness/lack of flexibility on sexual mores.*

*A second reform Special Committee on Criminal Law Reform were established after the failure of this reform proposal composed by German and Swiss legal scholars and criminologists.*

*The Special Committee proposed the "Alternative Draft of a Penal Code" and restricted the criminal law to socially harmful conduct under the philosophy of a rehabilitation system.*

*The main reform elements were introduced in partial steps through a significant legislation created in five Criminal Law Reform Acts, beginning from 1969. The Special Committee proposed a decriminalization process and to replace certain definitions with more practical working definitions.*

*The Criminal Law Reform Acts drew its attention to breaking down and rebuilding the sanctions to make them more suitable to a rehabilitation approach.*

*With the Act on the Treaty of 31<sup>st</sup> of August 1990 (Einigungsvertragsgesetz), signed by the Federal Republic of Germany and the German Democratic Republic on the Establishment of*

*German Unity, it was stated one of the last significant pieces of the German legislation replacing in large part, the laws of the former German Democratic Republic with those of the Federal Republic of Germany<sup>4</sup>.*

*the German government permanently restricted the short-term prison sentences, also introducing money penalties and due to societal change and the importance of certain criminal acts, also produced new legislation concerning environmental and economic crimes, hostage-taking and aircraft hijacking.*

## **2. The Juvenile Justice System in the Country**

*In Germany, the legislator started in 1923 to address criminal youngsters with educational measures instead of punishment and the current penal actions against juvenile criminal acts has to be adopted only if absolutely necessary and in particular, under the principle of “subsidiarity” or “minimum intervention” (“Subsidiaritätsgrundsatz”). In this aim, the sanctions must also be limited by the principle of proportionality and thus, the primary sanctions acted by the courts of the juvenile are mostly educational or disciplinary measures<sup>5</sup> and the Juvenile imprisonment has been restricted to just a last resort, only if educational or disciplinary measures seem to be inappropriate, in line with the principles of the 'Beijing-Rules' of the United Nations of 1985. In case of youth imprisonment, the execution happens in a separate juvenile prisons.*

*The catalogue of juvenile sanctions has been renewed in 1990, extended new community sanctions like the community service, the special care order (“Betreuungsweisung”), the social training course<sup>6</sup> and mediation<sup>7</sup>. Thus, in order to educate and to prevent dangerous situations, the juvenile court own educational measures that includes different forms of directives concerning the everyday life of juvenile offenders. The judge can forbid contact with certain persons and prohibit going to certain places (“whereabouts”). Disciplinary measures can foreseen also formal*

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<sup>4</sup> Limited exceptions, however, allowed laws from the former East German penal code to exist in the former eastern states.

<sup>5</sup> Frieder Dünkel (2004). Juvenile Justice in Germany: Between Welfare and Justice. Ernst-Moritz-Arndt-Universität Greifswald

<sup>6</sup> Dünkel/Geng/Kirstein 1998

<sup>7</sup> Dünkel 1996; 1999; Bannenbergh 1993

warnings, community service, a fine and detention from one to four weeks or weekends in a special juvenile detention centre (“Jugendarrest”)<sup>8</sup>.

Now a day, because of the petty nature of the crime committed or because of other social and/or educational interventions, the law emphasises the discharge of juvenile and young adult offenders and in cases of minor criminal offences (“petty offences”), the most common solution is the dismissing without any sanction. Since the end of Nazi regime, police diversion (like the British of cautioning) has been prohibited to avoid abuse by the police who are bound by the principle of legality, but starting from 1990, the legal possibilities for diversion has been considerably extended with the Juvenile Justice Act<sup>9</sup>. All forms of diversion are currently provided only at the level of the juvenile court judge or to the juvenile court prosecutor to whom all criminal offences have to be referred<sup>10</sup>.

Within educational measures, German law includes also the efforts to make reparation to the victim or to participate in victim-offender reconciliation (mediation). The offences that can be “diverted” within these principles can be various like also, for example, felony offences (“Verbrechen”) happened under certain circumstances, e. g. a robbery, if the offender has repaired the damage or made another form of apology (restitution/reparation) to the victim<sup>11</sup>.

Based on Frieder Dünkel (2004), German law can be classified under four different levels of diversion:

1. “non-intervention”, applied in cases of petty offences, without any sanction.
2. “diversion with education”, acting with measures taken by one or more social players like parents, schools or in combination with mediation.
3. “diversion with intervention”, imposing a minor sanction, such as a warning, or a community service (usually between ten and 40 hours), the mediation (“Täter-Opfer-Ausgleich”), the participation to a training course for traffic offenders (“Verkehrsunterricht”) or certain obligations like reparation/restitution, an apology to the victim, community service or a fine, under the proposal of the prosecutor to the juvenile court. Once the young offender has fulfilled

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<sup>8</sup> Frieder Dünkel (2004). Juvenile Justice in Germany: Between Welfare and Justice. pp5-6, Ernst-Moritz-Arndt-Universität Greifswald

<sup>9</sup> Bundesministerium der Justiz 1989; Heinz in Dünkel/van Kalmthout/Schüler-Springorum 1997

<sup>10</sup> Frieder Dünkel (2004). Juvenile Justice in Germany: Between Welfare and Justice. Ernst-Moritz-Arndt-Universität Greifswald

<sup>11</sup> Frieder Dünkel (2004). Juvenile Justice in Germany: Between Welfare and Justice. pp5-6, Ernst-Moritz-Arndt-Universität Greifswald

these obligations, the juvenile court prosecutor will dismiss the case in co-operation with the judge.

4. The fourth level is the introduction of levels one to three at the juvenile court proceedings after the charge has been filed. Fairly often in practice the juvenile court judge will face the situation that the young offender has, in the meantime (after the prosecutor has filed the charge), undergone some educational measure like mediation, and therefore a formal court seems unnecessary. Section 47 of the JJA enables the judge to dismiss the case in these instances<sup>12</sup>.

*To put in prison a youth offender are necessary preconditions like either the “dangerous tendencies” of him, that let exclude community sanctions as inappropriate, or the “gravity of guilt” regarding particular and serious crimes like murder, aggravated robbery, etc<sup>13</sup>.*

*For 14 -17 year-old juveniles, when all the disciplinary measures fail, the Juvenile imprisonment can be given for a minimum of six months, to five years maximum. In cases of very serious crimes, for which adults could be punished with more than ten years of imprisonment, the maximum duration of youth imprisonment is ten years.*

*For 18-20 year-old young adults sentenced, the maximum penalty is ten years, too.*

In case of a favourable prognosis and always involving the probation service, the periods of up to two years duration of a youth imprisonment can be suspended for a period of probationary supervision<sup>14</sup>.

## **A brief introduction of the juvenile justice system and juvenile delinquency in the country**

*Juvenile delinquency in general refers to criminal offences committed by young people aged 14 to under 21 years. The currently applied definition is based on the age range specified by the Juvenile Criminal Law, which applies to juveniles from 14 to under 18 years and – upon certain conditions – to young adults aged 18 to less than 21 years.*

*Since the introduction of crime statistics, delinquent behaviour by young people has frequently been observed at all levels of society and in all western countries. From a statistical point of view, it can thus be regarded as a "normal" phenomenon. There is solid scientific evidence that this behaviour is usually confined to the phase of growing up. As outlined by the Federal Government's First Periodical Report on Crime and Crime Control (only in German), there are*

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<sup>12</sup> *ibid*

<sup>13</sup> *ibid*

<sup>14</sup> *ibid*

*very few cases of juvenile offenders who embark on long-term criminal careers and repeatedly commit serious crimes. The public discussion about juvenile delinquency is often focused on young habitual offenders and perpetrators of violence, because they most strongly affect the population's perception of security.*

*In Germany no longitudinal studies of victimisation and delinquency on the basis of representative surveys, like in the USA or some European countries, exist. Police and court-based data are, besides the well-known shortcomings, problematic as the counting methods were changed in the 1970s and 1980s. Thus, more or less comparable data is at our disposal only from 1984 onwards. These indicate that juvenile delinquency has been stable or has even slightly decreased in the 1980s up until 1989, and then increased until the mid-1990s. From then onward a rather stable rate of young offenders and of violent offenders, in particular, can be seen when looking on the rates of convicted offenders (see Figures 1-3).<sup>6</sup> Police data indicate, however, a stabilisation only for robbery offenders, whereas serious and bodily injury after 1993 was still increasing for juveniles and young adults. A particular increase can be observed in the five new federal states of former East Germany (Brandenburg, Mecklenburg-Western Pomerania, Thuringia, Saxony, and Saxony-Anhalt). The rates for certain offences, particularly violent offences, even surmounted the ratio of the western federal states (see Figure 4). In the last 8 years however the violent and other young offender crime rates in West and East Germany have grown closer together because of an increase in West- and a stabilisation or even reduction in East Germany. This development could be interpreted as a kind of normalisation after a period of particular problems of social transition and anomie or "normlessness" in East Germany*

*Young migrants and members of ethnic minorities have become a major problem for the criminal justice system in Germany. They are over represented particularly concerning violent offences. For the time period of 1984-97 83% of the increase of the police registered juvenile and young adult offender's crime rate (persons aged between 14 and 21) is due to foreign citizens (see Pfeiffer et al. 1998: 48). Most of these foreigners are born in Germany. The Turkish minority plays a specific role in this problem. Self report studies reveal that the rate of violent offenders is double as high in the Turkish compared to the German juvenile age group (Pfeiffer et al. 1998). Looking at different groups of ethnic minorities or foreigners up to 1993 asylum seekers played a predominant role explaining the increase of the general crime rate, but also the increase of pre-trial detainees and sentenced prisoners. This problem has disappeared after a change of immigration legislation in 1993 reducing the flux of immigration considerably. A specific problem*

*has emerged with the so-called “Aussiedler”, regularly people from the former empire of the Soviet-Union with a German passport, who show severe problems of integration because of language deficiencies and other problems. They often are sentenced for serious violent crimes and build a rather explosive prison subculture (see Dünkel 2005; Dünkel/Walter 2005). All the phenomena described here concerning young migrants and ethnic minorities are only valid for the old federal states of former West Germany. The East German “Länder” insofar face very different crime problems. These are connected with the German native population. As there live very few foreigners they do not really contribute to the crime problem. However, they deserve particular interest as they are over represented as victims of violent crimes, particularly committed by xenophobic or right wing extremists (see Dünkel/Geng/Kunkat 2001; Dünkel/Geng 2003). However, right wing extremist and xenophobic attitudes as well as self reported violent crime since 1998 in East Germany has declined, too (see Wilmers et al. 2002: 101 ff.; Sturzbecher 2001; Dünkel/Geng 2003; all with further references).*

## **History**

*Germany has had an enlightened policy on juvenile delinquency since the 19th century. Since then, the goal of the juvenile justice system has been to limit detention time for young offenders and to focus on their rehabilitation through educational measures. Aside from a few years toward the end of the Nazi regime, these principles have been applied consistently in Germany, and today Germany has the lowest juvenile incarceration rate in Europe, despite an increase in juvenile crime in Germany and public outcries against leniency. When Germany enacted a Youth Court Act in the 1920s, it served as a model for other countries. Since then, this Act has been refined repeatedly, and some of its reforms were inspired by the practice in the United States, in particular, the principle of diversion. In its current version, the Youth Court Act<sup>64</sup> continues to live up to the principles of diversion, “depenalization,” and “decarceration.” The Act applies to offenders who were between the ages of fourteen and eighteen at the time of their offense. The Act states that these juveniles should be punished only if they were mature enough to realize the wrongfulness of their conduct and were also capable of acting accordingly. Yet, even though these circumstances are commonly investigated by social and psychological evaluations, the Courts usually find young offenders guilty and punishable, within the more lenient framework of the Youth Court Act. The Act also allows for its application to offenders between the ages of eighteen and twenty, if they lack the maturity to be tried as adults.<sup>68</sup> Juvenile offenders are tried*

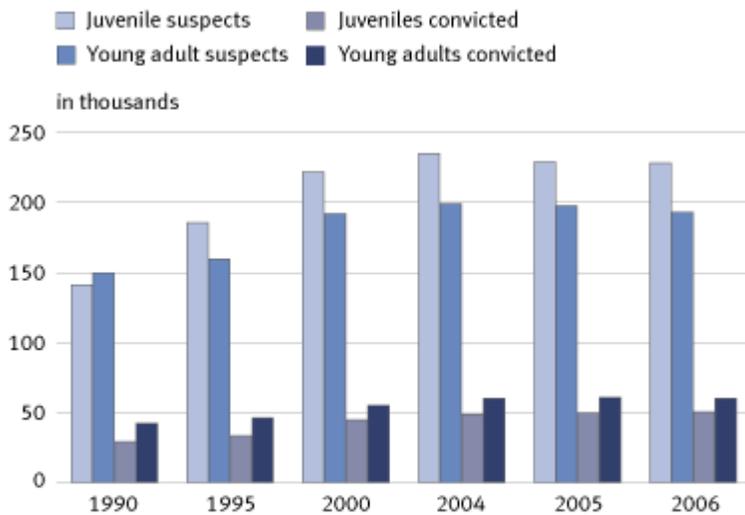
*for the same criminal offenses as adults, albeit with different consequences. Prison time is kept to a minimum by not imposing prison sentences of less than six months and by making ten years in prison the maximum penalty that can be meted out. Juvenile offenders are never imprisoned together with adults, and the youth prisons are staffed with personnel with educational expertise. Recently, a bill has been drafted by the Cabinet that would allow for the detention of very dangerous young criminals after they have served the prison sentence, in order to protect the public from their continued violent predisposition. Such an institution already exists for adult offenders, and a need seems to exist to extend this institution to the few juvenile offenders who continue to be very dangerous.*

### **Minimum age of criminal responsibility**

*Persons who commit an offense while under the age of 14 are not held criminally liable for their offense. Criminal liability attaches at the age of 14. A juvenile is one who, at the time of the act, has reached the age of 14 but is not yet 18. A separate category exists for young adults between the ages of 18 and not yet 21 (JGG, 1(2)). A young adult, based upon mitigating circumstances, may be dealt with by a juvenile court.*

### **Statistics on victimized and offender children**

### Young suspects and persons convicted<sup>1</sup>



<sup>1</sup> Criminal offences excl. road traffic offences.

Sources:

Suspects: Federal Criminal Police Office; persons convicted: Federal Statistical Office.

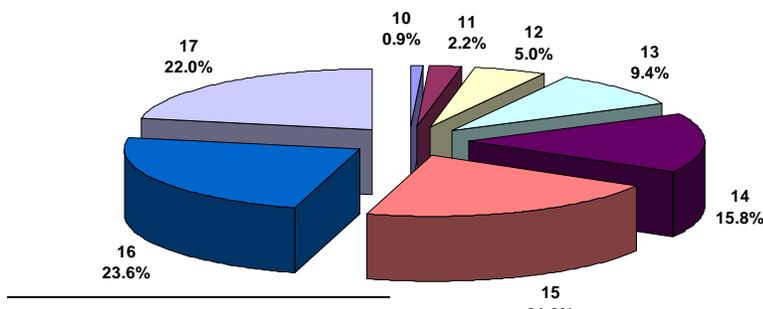
1990: former territory of the Federal Republic; from 1995: former territory of the Federal Republic incl. Berlin as a whole.

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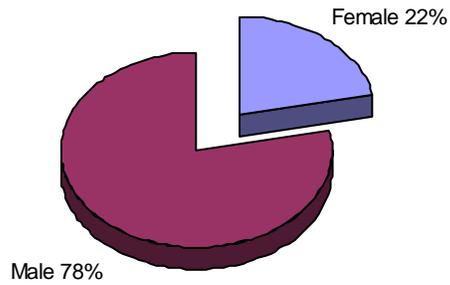
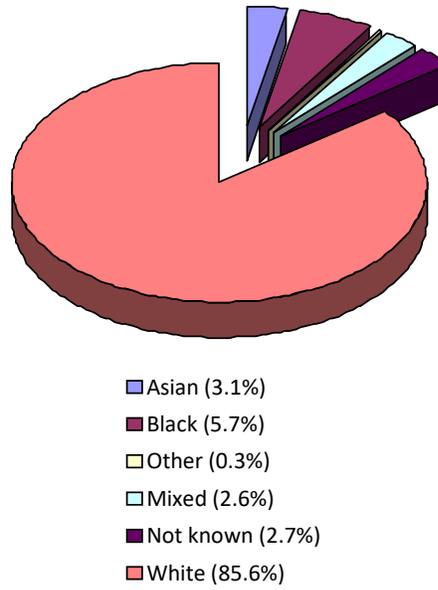
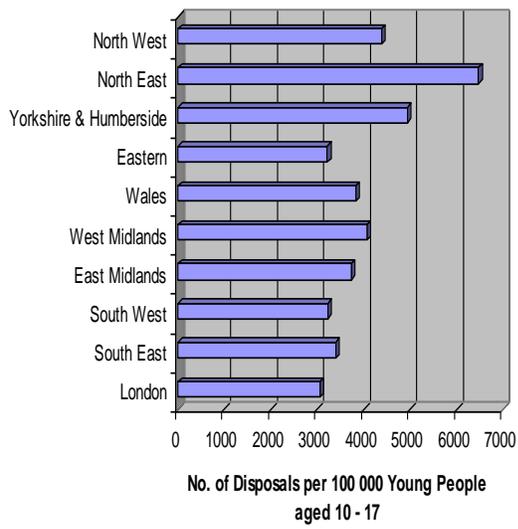
Statistics from the Youth Justice Board indicate that around 150,000 children and young people under the age of 18 enter the youth justice system each year, around 70,000 of whom are of compulsory school-age. The highest number of disposals (ranging from police reprimand to custodial sentence) for young people in 2005/06 was for 16 year-olds (49,991 from a total of 212,242 disposals<sup>15</sup>). Disposals almost double from age 12 to 13 (from 10,577 to 20,011) and increase sharply to 33,540 at age 14 and 44,649 at age 15.

Young people committing offences by age, gender, ethnicity and region

Age



<sup>15</sup> Young people can be represented more than once within the disposal figures.



## Gender

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## **Juvenile justice system in the country, institutions, how the system works, etc.**

*In general the legal procedural rules in German juvenile justice system are very similar for juvenile and adult criminal justice. The JJA states that the procedural rules, for example the rules of evidence, are the same as for general criminal procedure. Deviations from this general rule are*

based on educational aims. So, for example, the court hearings are not open to the public (see § 48 JJA) in order to protect the juvenile's privacy and to avoid stigmatisation. In juvenile trials the participation of the so-called social court assistant (**“Jugendgerichtshilfe”**), i.e. a social worker of the community youth welfare department, is required (see § 38 (2) JJA). They have to prepare a social report and are required to participate in the court trial in order to give evidence about the personal background of the juvenile and to assist the judge in finding the appropriate sanction. The right to a defense counsel, in principle, is more extended in the juvenile justice system, as every juvenile who is put in pre-trial detention has to have an advocate appointed immediately (see § 68 No. 4 JJA), whereas in criminal cases for adults this right is realised only after having suffered three months of pre-trial detention. Furthermore, there are restrictions for imposing pre-trial detention on juveniles, particularly for 14 and 15 year-old offenders (see § 72 (2) JJA). Residential care in a juvenile home should always be given priority to pre-trial detention. The reality, however, sometimes indicates that the legal preconditions are not always complied with. Therefore the criticism against inappropriate forms of pre-trial detention cannot be refuted.

**How the system works:** Usually, a youth crime proceeding begins with a criminal investigation that is referred to the prosecutor for a decision on whether to drop the charges or prosecute. At a very early stage in the investigation, social workers are involved to evaluate the background and psychological development of the young person. If the case comes to trial, the social worker must report his findings to the judge, and the social worker is often influential in shaping the sentence. Youth criminal trials are not open to the public; only the parents of the accused and the victim may attend the trial.

*Sanctions of the German juvenile justice system (Jugendgerichtsgesetz, JGG)*

**criminal offence**

2001: 69 per

2001: 31 per

**diversion (informal sanctions, dismissal of the case)**

**formal (court) sanctions**

**principle of „subsidiarity“ (§ 5 II JGG):** disciplinary measures and youth imprisonment only if educational sanctions are not sufficient

**educational measures**

**disciplinary measures**

**youth imprisonment**

measures of the Juvenile Welfare Act § 12 JGG, SGB VIII

- whereabouts
- traineeship/working pl.
- community service
- supervisory directive
- social training course
- victim-offender mediation
- traffic instruction
- other directives

- reparation
- apology
- community service
- fine

- leisure-time detention
- short-term detention
- long-term det. (-4 w.)

**suspended sentence, § 21 JGG**

**§ 27 JGG: probation**

**§ 57 JGG: preliminary probation sentence**

**unconditional**

youth imprisonment in combination with directives/disc. meas.

combination of discipl. m. and educational m.

*Rehabilitation system and institutions for juvenile offenders and victims (their history, when they were established, their functions and roles in the jj system, areas of expertise)*

### ***Jugendgerichtshilfe***

*In connection to the criminal proceedings the youth service has especially the following four duties and positions:*

- *the youth welfare office has to be informed in an early stage of the proceedings. It participates in the whole proceedings from the beginning to end.*
- *the youth welfare advises the law enforcement authorities about the personality of the offender, his family and social situation, the possible interventions and measures.*
- *the youth welfare also assists the young offender during the whole proceedings. That means, it (tries to) help him to get along with the prosecution:*
- *to stand this uncomfortable situation,*
- *to develop new (legal) perspectives*
- *and when possible to solve the problems that played a role for the delinquent behaviour.*

*The Youth Court Law amendment of 1990 further enhanced youth rehabilitation. The amendment emphasizes the individual rather than the offense and mandates rehabilitation and education. Education is defined as the prevention of relapse and cannot entail manipulation of a youth's attitude or behavior (Albrecht 1997). The amendment also abolished indeterminate prison sentences for juveniles, placed restrictions on sending juveniles to pretrial detention, and expanded diversionary and victim-offender mediation programs. Youth courts are prohibited from transferring juveniles to adult court. The opposite is far more likely. Youth courts sentence an average of 60 percent of young adults as juveniles (Albrecht 1997).*

*The Youth Court Law amendment specifies three categories of youth sanctions. Educational measures seek to improve youth socialization through community service, social training courses, victim-offender mediation, and vocational training. Disciplinary measures include judicial cautioning (formal verdict entered in criminal record), court-ordered conditions (community service, victim compensation, formal apology) and short-term detention. The third category is imprisonment. Courts can order imprisonment when educational sanctions and disciplinary measures have been ineffective in rehabilitating youths (Albrecht 1997).*

*Tertiary prevention encompasses measures introduced to combat repeat offences and to support the rehabilitation of young offenders. They include »diversion«-projects, probation services, therapy provisions and support programmes offering training opportunities to imprisoned offenders. Whether or to what extent custodial treatment of young offenders constitute preventive measure is a matter of dispute.*

*The third category would include the activities of the Jugendgerichtshilfe (youth services in youth court proceedings; JGH) and all provisions for the social rehabilitation of young offenders made in accordance with the KJHG. Such social work with young people includes a wide range of advisory and non-residential services, intensive socio-educational support in individual cases and various forms of detention.*

How juveniles enter and exit from the juvenile justice system?

*The juvenile justice system is large and complex, and its processes and components vary greatly from State to State. Figure 2:a depicts a simplified illustration of the relationship of juvenile corrections to the rest of the juvenile justice system. At the entry point, services and programs need to be very broad and serve the largest group of young people, with prevention programs for at-risk youth. With effective prevention programs that include family-strengthening strategies and support of community institutions, progression of many youth further into the juvenile justice system can be averted.*

*At the next juncture of the system after prevention programming, youth who commit delinquent offenses are arrested. At this point, some youth will be released or diverted. If the crime is not a serious one and law enforcement officers believe a youth will not be a risk to himself or herself or to the public, a youngster may be released without further involvement in the juvenile justice system. Other youth will proceed further in the system and be scheduled for formal processing in juvenile or family court, and they may or may not be held in detention. A few who have committed the most serious offenses may be waived to (adult) criminal court. Youth who are formally processed in the juvenile justice system will be adjudicated. Some of these cases will be dismissed, and the youth involved will be released from further involvement with the court. Others will be adjudicated*

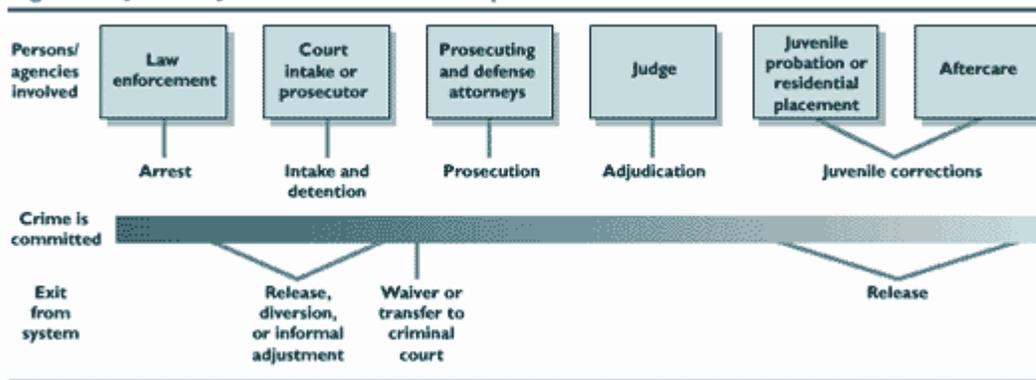
*as delinquent and will proceed to juvenile corrections programs or other dispositions. The system narrows the number of youth at every successive point, resulting in fewer youth reaching the most restrictive corrections programs at the end of the system.*

*Juvenile corrections programs work with the smallest number of youth, but they usually have the most intensive involvement with them. Corrections programs include community supervision (probation), nonresidential programs and services, and residential programs such as group homes, ranches or camps, and institutions. Boot camps and day treatment programs recently have been developed, contributing to the full spectrum of juvenile corrections programs. In addition, aftercare programs or parole may be used to supervise and assist youth with reintegration into the community following a residential placement. There are many subcomponents of each type of corrections programming, such as intensive supervision and electronic monitoring within community corrections. Residential programs may serve general populations with standard services or special groups of youth with services that are specific to their problems, such as substance-abuse or sex-offender treatment.*

When juveniles are directed to rehabilitation services?

*A more common view of the juvenile justice system is a linear one that depicts the progress of youth through the system. Figure 2:b shows this process and the elements of the system involved. Although juvenile justice systems and processes vary somewhat in activities and labels from State to State, their general operation is fairly consistent with that in Figure 2:b. The thick horizontal line represents a youth's path through the system and possible points for exiting it. The top row shows the various entities responsible for each of the functions shown across the top of the line.*

Figure 2:b Juvenile Justice Process and Components

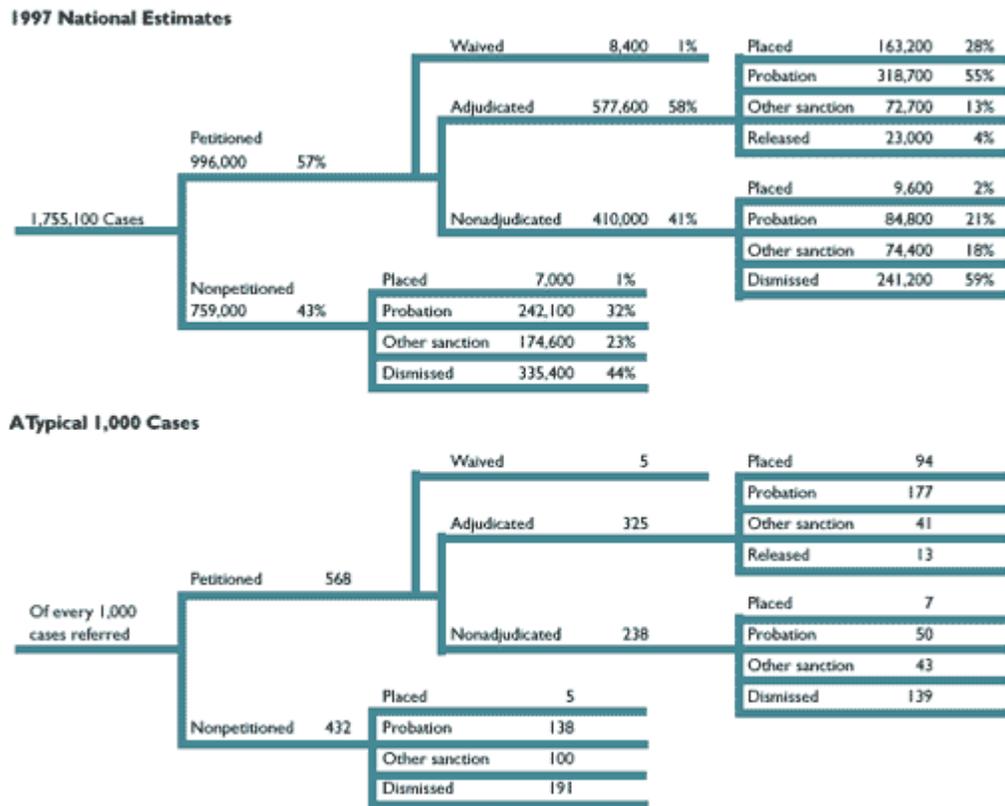


When a crime is witnessed or reported, law enforcement personnel investigate, apprehend, and may arrest the youthful offender. Depending on the crime, community resources, and community values and norms, some youth may exit the juvenile justice system after apprehension and/or arrest. Programs, such as educational and recreational programs, drug prevention or treatment, and counseling services, to which law enforcement personnel can refer youth whose delinquent behavior is not serious are in place in some communities. Youth referred to these programs may have no further involvement with the juvenile justice system (Bureau of Justice Statistics, 1997).

Generally, however, youth who are arrested will go through an intake process. They may be held in detention prior to their initial hearings or released to their parents or guardians. An intake process begins within a short time after arrest so that the court can determine whether formal proceedings will occur. Some youth remain in detention until their cases are prosecuted and adjudicated, whereas others are released until they return to court. Some youth may exit the system after the intake hearing, through either a total release or referral to a diversion program. For youth who have committed very serious crimes, are nearing legal adulthood, and/or are chronic offenders, a waiver or transfer process may result in the (adult) criminal court taking jurisdiction over the case (Bureau of Justice Statistics, 1997).

The Figure below provides another view of the processing of delinquency cases through juvenile courts. As youth proceed through the system, fewer and fewer cases remain in the system. In 1997, the year on which the data in Figure 2:c are based, less than half (43 percent) of the cases that entered the system led to probation or placement in a residential facility. Although there may be some variation among formally adjudicated, non-adjudicated, and non-petitioned cases, these represent the cases usually referred to juvenile corrections programs.

**Figure 2:c Juvenile Court Processing of Delinquency Cases, 1997**



Note: Detail may not add to totals because of rounding.  
 Source: Puzanichera, C., et al., 2000.

## How the incomers are welcomed?

### Daily Living

- Normalised regime as far as possible.
- Lunch in canteen in groups during break from work/education.
- Responsible young people able to dine out in the living units.
- Small kitchen for young people to prepare snacks.

### Education, Training and Employment

- Sufficient places for all to do full day.
- Occupational therapy for those with vulnerabilities.

- • Education.
- • Vocational Training in a variety of trades.
- • Work Opportunities.
- • Payment for work training and education.

### **Recreation and Leisure Activities**

- • Sports (Football, athletics).
- • Drama and Music (including Choir and Music lessons).
- • Arts (including wood sculpture).

### **Treatment Programmes**

- Specialist treatment programmes for violent, sexual, property, drug and traffic offenders.
- Programmes for those who cannot live in groups, have unstable personalities, learning difficulties and are potential victims.

### **Preparation for Release**

- Standardised and structured transition from custody to community (INSTAR).
- Starts 6 months before release.
- Case conference.
- Standardise documentation
- Special programme for those with nowhere to go
- “Safe landing”.
- Mentoring for all/Through the Gate.

### **Annex**

size – (<400) Single and double cells with under 18’s not to share with over 18’s but able to live in same units where appropriate.

- • Separate unit for young women but joint education, work and recreation activities.
- • Induction unit for assessment followed by step by step approach towards normalised regime Implementation plan. Three weeks induction? More than current.

- • Open unit attached with young people working in the community before release.
- • Socio-therapeutic unit for those with most problematic behaviour and violent offences. Higher staff ratio, plus therapists offering individual and group work.
- Treating violence in the same way as self-harm
- Special unit for vulnerable young people.

### **Daily Living**

- • Normalised regime as far as possible.
- • Lunch in canteen in groups during break from work/education.
- • Responsible young people able to dine out in the living units.
- • Small kitchen for young people to prepare snacks.

### **Education, Training and Employment**

- • Sufficient places for all to do full day.
- • Occupational therapy for those with vulnerabilities.
- • Education.
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## **General procedures from accepting the juvenile to the release from the rehabilitation system/institution(s)?**

### **The certificate of conduct**

Assuming the criminal and administrative authorities handle the information of the register carefully, no private individual has access to the full register information. Also with regard to hiring or concession procedures, the person concerned remains - technically – master of the information, because only he or she can apply for a so-called certificate of conduct if needed.<sup>18</sup> The crucial question, of course, is: Who may request such a certificate from a person who wants a job (or a license)? These questions relate to labour and partly to public law<sup>19</sup> and are characterized by the legitimate interest of the employer to know who he is hiring and the interest of an (ex-)offender not to be discriminated against because of his or her criminal past. Again, two types of certificate have to be distinguished: firstly, the certificate of conduct for private employers and secondly, the certificate of conduct for public employers and authorities that are responsible for licensing in different areas.

### **No entry in the certificate of conduct for minor offences**

As mentioned above, according to Jeschek and Weigend (1996), a first step to rehabilitation for minor offenders (or rather a countermeasure to de-socialization) must be seen in the fact that minor offences (punished with a maximum of 90 day fine units or three months of imprisonment)

are usually not included in a certificate of conduct. As a rule, the inclusion of entries and later on the deletion of entries depend on the actual sentence, not on the legal classification (possible penalty *in abstracto*) of an offence. That means that minor offences of first offenders are usually not included in the certificate because they were punished mildly, while the same minor offence committed by a repeat offender may be included. My own experience has shown that judges (and defense counsels) are well aware of this fact when they determine a sentence.

### **Practical implications**

Although there are several legal provisions that aim at protecting ex-offenders against discrimination and helping to re-integrate them into working life, practice may look different. First of all, employers may ask more questions and request more certificates than they are entitled to. Secondly, even if this were not the case, the system of different regulations named above already may block the path for many applicants with regard to a lot of workplaces (in particular where public authorities are either the employers or are otherwise concerned): E.g. nobody who has been convicted for drug offences (and certain other offences) may employ or instruct juveniles according to the Youth Employment Protection Act (Art. 25 Jugendarbeitsschutzgesetz). One of the booming parts of the service sector is geriatric care – for employers in this area, a legitimate interest with regard to a criminal record containing certain property but also violent offences cannot be denied. The same can be said about another booming branch, the security companies, but also for classic jobs that are often chosen by persons with few professional qualifications such as taxi-driving etc. (examples taken from Veith [1999: 132] who explicitly recommends probation officers to take these problems – be it in the private or the public sector - into account). It might thus be difficult for ex-offenders to find work because of their record but additional problems, in particular for untrained persons in the modern, highly specialized labour market, often may be in the foreground (e.g. Wirth, 2006).

It is, however, not clear, whether the generally prevailing idea that somebody, who has a criminal record will *therefore* not get a job, is always justified. Empirical research has been conducted in Germany to evaluate several projects that focused on re-integrative programs for the transition from prison to working life (within the EQUAL Initiative by the EU; Wirth 2006; 2007; 2009). These studies indicate that this assumption may not always be true: 275 officials in temporary employment agencies were asked whether they would employ ex-prisoners. Even in the group that

had no previous experiences with ex-prisoners as employees only 10% explicitly said ‘no, never’; about 50% had no reservation at all (Schmitz et. al., 2009). It is debatable whether these results can be generalized because the survey was connected to a relatively large and well-known project that also received media coverage. This project was linked to a comprehensive strategy of prison education (cf. additional professional training for prisoners resulting in formal certificates), preparation for release and aftercare. The answers thus may also reflect a certain degree of social expectancy. On the other hand the results suggest that as long as the target group is well-informed (both about the program and about the past of the potential employee) and the ex-prisoner is backed by institutional support the readiness to employ him or her is far higher than expected.<sup>24</sup> It seems to be a promising strategy to appeal to the ‘social conscience’ of potential employers via their umbrella organizations: A follow-up project is now concentrating on networking with the regional chamber of crafts and its associated, mainly small and mid-sized companies (Bex, Grosch, Wirth, 2010).

Nevertheless, having a criminal record may strongly impede the way (back) to a secure civil existence, particularly in times (and regions) of high unemployment. To help ex-offenders in desisting, step two and three - no further inclusion in the certificate of conduct after a certain period and finally a removal of entries in the register if the person concerned has not reoffended - on the way to rehabilitation (Jescheck, Weigend 1996, see above) are necessary.

Any screening tests?

Are there any screening tests at the welcome and further stages to direct the juvenile to more specialized programs?

Risk assessments?

Professionals working in the rehabilitation system/programs

Which professionals work in the rehabilitation system/programs?

General statistics on these professionals (age, sex, and other social-demographic characteristics of these professionals, the average number of personnel per a certain number of children in the program, etc)

What is their educational background? Is there a specific higher education program for this particular job?

How they are selected/recruited?

Average benefits, salary, social security, and other work related matters in comparison with other professions?

Is there a compulsory rotation system/work place change?

(Assigning the professional to different locations or institutions)

Rights and responsibilities of the professionals

Basic training, on the job training, specialized training programs for these professionals?

Detailed information about these training programs

Certifications after the trainings?

Refreshment trainings?

How these trainings are delivered? Any cooperation with other institutions, universities?

### *3. Violent Crimes*

#### **What is considered as violent crime?**

A violent crime or crime of violence is a crime in which an offender uses or threatens force upon a victim. This entails both crimes in which the violent act is the objective, such as murder, as well as crimes in which violence is the means to an end. Violent crimes may, or may not, be committed with weapons. Depending on the jurisdiction, violent crimes may vary from homicide to harassment. Typically, violent criminals includes aircraft hijackers, bank robbers, burglars, terrorists, carjackers, rapists, kidnappers, torturers, active shooters, murderers, gangsters, drug cartels, and others.

Germany, the following violent crimes in the police crime statistics will be grouped under the term violent crime:

- murder (§ 211 Criminal Code),
- manslaughter (§212 StGB)
- killing on request (§216 StGB)
- dangerous and grievous bodily harm (§224, §226 of the Criminal Code),
- bodily injury resulting in death (Penal Code §227)
- affray (§ 231 Criminal Code),

- rape and serious sexual duress (§177, §178 of the Criminal Code),
- robbery (Section 249 to §252, §255, §316a StGB)
- kidnapping for extortion (§239a StGB)
- Attack on the sea and air transport as well as hostage-taking (Criminal Code §239b  
This definition takes into account only serious violent crimes, not "simple" assault (§223 Penal Code) and similar offenses, although it can be in no way denied that these crimes have to do with violence or aggression.

**Which training programs are available for rehabilitation professionals to deal with violent crime cases? (If available)**

Pre-service trainings

In-service // on-the-job trainings

Best practices/programs in rehabilitation for juvenile violent criminals and victims in the country

Program #1 (victims): obtaining compensation in the form of damages from the offender

A brief description of the program

In criminal proceedings, any party who has suffered injury or loss as a result of a criminal act, or such a person's heir can make a financial claim which arises from the criminal act, forms part of the jurisdiction of the courts of law and is not yet legally pending elsewhere against the defendant. The application can be made as early as the investigation procedure, before the criminal proceedings are pending in court or else in the main proceedings up to the start of the final submissions. The application by which the claim is made can be put forward in writing - to the public prosecutor's office and, after charges have been preferred, to the court - or orally to be written down by the court registrar, and may still be made orally at the main hearing. The public prosecutor's office conducting the investigation procedure against the defendant, or the court at which the charge has been laid, has responsibility for the matter. The application must specify the subject-matter and basis of the claim. A requested sum of money must normally be calculated but this is not necessary if the amount must only be established by an expert or if a claim for pain and suffering is made which is within the discretion of the court. The applicant must on request be granted legal aid as soon as the claim has

been made, if his personal and financial circumstances mean that he is unable to afford the costs of conducting the proceedings, or if he can only afford to pay part of them or only to pay them in instalments. There must additionally be sufficient prospect of the intended legal proceedings succeeding, and they must not appear to be malicious. The application whereby the claim is made should contain the appropriate evidence. If the evidence is not given, that is not a problem, because the court must also, in investigating the truth, automatically extend the taking of evidence to all facts and evidence that are relevant for the decision.

When did the program start?

What was the specific policy/reason behind developing that program?

Was it a public or private initiative?

Is it a national, regional or local program?

Evaluation

Are there any evaluations of the program?

What are the results?

Why the given programs/models are best practices?

What makes them good practices?

What are their advantages and disadvantages compared to other similar/previous programs?

Program #2 (victims): Obtaining compensation from the state or from public bodies

#### *4. Sexual Crimes*

##### **What is considered as sex crime?**

Sexual acts that you experience against your will, are sexual assault / sexual violence. The law distinguishes between various sexual offenses (sexual offenses). Sexual offenses, inter alia, to distinguish in the following points:

- the type of sexual act
- Age and sex of the victim
- use of physical and / or psychological violence by the offender / perpetrator
- the relationship between the perpetrator / offender and victim

The main sexual offenses under Swiss law are (SCC) regulated "Offences against sexual integrity"

in the Swiss Penal Code chapter. We list them here:

Sexual acts with children (Art. 187 of the Criminal Code)

Sexual acts with children include any sexual acts with a child under 16 years. This includes intercourse, anal sex and oral sex, as well as touches that occur in sexual intent, eg Kisses, touches on sex, chest etc. The offender / perpetrator applies not establish a direct violence or compels the victim does not (in these cases it would be a rape or sexual assault). The offender / the perpetrator must be at least three years older than the victim. More you read this text.

Rape (art. 190 of the Criminal Code)

Sexual violence is defined as rape, if the following conditions are met:

- the victim is female
- The offender is penetrated with the penis into the vagina ("cohabitation", sexual intercourse)
- the offender has to apply force, they put under psychological pressure or made to resist incapable

Sexual assault (art. 189 of the Criminal Code)

This offense applies the offender / perpetrator direct violence, threats and / or immediate psychological pressure on to perform the sexual act can. Age and gender of victims and perpetrators / -in irrelevant. Among these items include all criminal sexual acts other than intercourse. The forced sexual intercourse is considered a rape

Sexual acts with dependent (Art. 188 of the Criminal Code)

This crime is the 16 to 18-year-old victim in a dependent relationship with the offender / Hot on the trail. The dependence may be due to a permanent or temporary education ratio, a supervisory relationship or an employment relationship. The offender / perpetrator uses his / her position in order to engage in sexual acts. The victim does not want these actions, but does not dare to oppose, because it is set to open or hidden under pressure or because disadvantages are threatened him. An example: The teacher threatened to throw the apprentice from the doctrine when it does not consent to the sexual act.

Desecration (Art. 191 of the Criminal Code)

Here the victim was incapacitated before the act with regard to the sexual act. This applies, for example, a man with a severe mental disability or to a strongly intoxicated or drugged person. In young children, usually 187 Criminal Code Art. Applied. With a judicious child (from about 12 years), to carry out the offense of knockout drops were administered, 187 of the Criminal Code, either Art. 191 of the Criminal Code or Art. Applied.

Sexual harassment (Art. 198 of the Criminal Code) and exhibitionism (Art. 194 of the Criminal Code)

Pointing his genitals or masturbation in front of other people who do not want is an exhibitionist act or sexual harassment. These crimes are only prosecuted if the victim is a criminal complaint.

If such a request offends the offense within three months shall be indicated for the fact to the police. With unknown perpetrators include the three months from the date on which the perpetrator is known. The victim must sign an application in which it stated that it wants the punishment of the perpetrators.

Incest (Art. 213 of the Criminal Code)

"Incest" is in popular parlance a commonly used word for sexual exploitation. Legally, it is the incest but to an offense, which is not located in the area of sexual exploitation. But it relates to sexual intercourse between people who are in a straight line related (parents, grandparents, children) or siblings and half-siblings. The object of protection here is the family and not the sexual integrity of the victim. A typical example of this crime - which is, incidentally, very rare for display - is a sexual relationship between siblings (2nd degree relatives)

Which training programs are available for rehabilitation professionals to deal with sexual crime cases? (If available)

Pre-service trainings

In-service // on-the-job trainings

Best practices/programs in rehabilitation of juvenile sex offenders and victims in the country

Program #1:

A brief description of the program

When did the program start?

What was the specific policy/reason behind developing that program?

Was it a public or private initiative?

Is it a national, regional or local program?

Evaluation

Are there any evaluations of the program?

What are the results?

Why the given programs/models are best practices?

What makes them good practices?

What are their advantages and disadvantages compared to other similar/previous programs?

## *5. Drug Abuse*

What is considered as a drug crime?

Drug statutes and regulations specifically spell out the drugs which are prohibited or controlled by German law because of their potentially addictive effects or danger to the population. By law, the Federal Minister for Youth, Family and Health may, without confirmation from the Bundestag, alter the current list of drugs. 5 Anyone not licensed, who cultivates, imports, buys or sells, prescribes, manufactures or possesses an illegal drug is subject to punishment under the BtMG (punishment may range from a fine or probation to incarceration usually for a period of not less than 2 but not more than 4 years) (BtMG, ss 29-36).

If a drug offence involves several types of drugs, the following priorities apply when the respective statistics are recorded:

Heroin

Cocaine

Amphetamine/methamphetamine and derivatives of these in powder or liquid form

Amphetamine/methamphetamine and derivatives of these in the form of tablets or capsules

(ecstasy)

LSD

Cannabis

Other drugs.

Hard drug users are considered to be the users of the substances and preparations listed in Annexes I - III of the Narcotic Drugs Act, including manufactured pharmaceuticals that are subject to the provisions of narcotics legislation - with the exception of those persons who use only cannabis products (hashish, marijuana, hashish oil) or psilocybin (mushrooms) and of "exempted preparations". How these substances and preparations are consumed by the user does not matter.

To the extent that persons known as hard drug users consume alternative substances - "exempted preparations" or other medications or substances not covered by the Narcotic Drugs Act - this must also be considered as hard drug use.

Which training programs are available for rehabilitation professionals to deal with drug abuse cases? (If available)

Pre-service trainings

In-service // on-the-job trainings

Best practices/programs in rehabilitation of juvenile drug addicts in the country

Program #1:

A brief description of the program

When did the program start?

What was the specific policy/reason behind developing that program?

Was it a public or private initiative?

Is it a national, regional or local program?

Evaluation

Are there any evaluations of the program?

What are the results?

Why the given programs/models are best practices?

What makes them good practices?

What are their advantages and disadvantages compared to other similar/previous programs?

## ***6. Neglect and Abuse***

What is considered as neglect & abuse?

Which training programs are available for rehabilitation professionals to deal with neglect & abuse cases? (If available)

Pre-service trainings

In-service // on-the-job trainings

o Best practices/programs in rehabilitation of juvenile neglect & abuse victims in the country

Program #1:

A brief description of the program

When did the program start?

What was the specific policy/reason behind developing that program?

Was it a public or private initiative?

Is it a national, regional or local program?

Evaluation

Are there any evaluations of the program?

What are the results?

Why the given programs/models are best practices?

What makes them good practices?

What are their advantages and disadvantages compared to other similar/previous programs?

### **PROGRAMS**

*Rehabilitation is required by law and is called transition management. One project is RESI which is described in the next paragraph.*

#### **Rehabilitation and social integration (Resi)**

*There are a variety of projects implementing this approach and one of these projects is Resi. This program is addressed to juvenile criminals in the age between 14 and 17 years. It has been started in 2009 in Cologne. Within this program juveniles get a community worker taking care of them (also called case manager). The first contact between the case manager and the juvenile criminals is established in jail. After the juveniles are discharged from jail, the case manager's task is to assist the juvenile with daily tasks, like finding a flat or visits at governmental or public offices.*

*Only two juveniles have to be put into jail after this program. One major problem of rehabilitation programs is the lack of funding.*

As indicated earlier (see 1. above) Germany experienced a reform movement that evolved from the "grassroots" of the juvenile justice system. Practitioners of private or community organisations (youth welfare departments in the cities) and juvenile court prosecutors and judges developed so-called new community sanctions (see for one of the first projects of so-called "Brücke"-initiatives Pfeiffer 1983) from 1974 on when it became evident that legislative reforms would not be achieved in the near future. These projects were established close to the juvenile courts at the community level, very often by the communal welfare boards, but were then transferred to private organisations. This is a peculiarity of the juvenile welfare system that gives priority to privately run projects (principle of subsidiarity of state versus privately run organisations, see § 4 (2) JWA). The idea of the 1970s and 1980s was to establish appropriate and educational alternatives to the traditional more repressive sanctions, such as short-term incarceration in a detention centre ("Jugendarrest", see 2.

above). The first “new” community sanction to be implemented was the community service order. It was followed or accompanied by the special educational care order. This care order means that a social worker is attached to a juvenile offender like a mentor for a period of, usually six to 12 months. It is seen as an alternative to the classic probation sanction where a probation officer sometimes has 70 or more cases. The care order amounts to more intensive oversight, as a social worker in practice will have not more than ten to 15 cases. It is evident that the care order can be much more efficient in providing help and social integrative services than a suspended prison sentence with supervision by a probation officer. Since the beginning of the 1980s another “new” community sanction has been developed: the social training course. This is a group-centred educational measure that targets both leisure-time problems and day-to-day living problems. Its aim is to improve social competence and skills required in private and professional life. Social training courses are organised as regular meetings once or twice per week, often in combination with intensive week-end arrangements (sometimes sportlike activities, “adventure” experiences like sailing, mountain climbing etc.), for a period usually of up to six months (see Dünkel/Geng/Kirstein 1998). The first mediation projects started in the mid-1980s (see Dünkel 1999: 108). At the beginning of the 1990s already 60% of the youth welfare departments reported that a mediation project had been established. In 1995 a national poll revealed a total of 368 mediation projects, which is a 68% increase since 1992 (see Wandrey/Weitekmap in Dölling et al. 1998). However, the authors reported that the majority of mediation schemes runs on an “ad-hoc basis” to cater for individual cases and not as a priority measure within the ambit of educational measures provided by the JJA (see Wandrey/Weitekmap in Dölling et al. 1998: 130 ff.) With the reform law of 1990 the legislator recognised the development of “new community sanctions” by creating legal provision for their further and wider application. Mediation, in particular, in the draft bill was mentioned as “the most promising alternative to the more repressive traditional sanctions”

*Increase of projects of “new community sanctions” (offered by private or public organisations) in the old federal states before and after the amendment of the JJA in 1990 Measure educative*

Mesure éducative	Increase <i>before</i> the law amendment (1 <sup>st</sup> December 1990)	Increase <i>after</i> the law amendment (1 <sup>st</sup> December 1990)	Relation
Mediation	23%	60%	1 : 2,6
Care order	17%	37%	1 : 2,2
Social training course	16%	30%	1 : 1,9
Community service	2%	5%	1 : 2,5

### *Conclusion*

The German system for support to young people having become criminal, has a long standing tradition and has grown over the last 25 years tremendously in the wake of unification of the 2 German states and the new problems which have been emerging for young people. Up to 25 years ago, each system in both German states has made its own experience under the very different political and social conditions. Institutions differed and approaches. The reasons for the court to condemn young people for a crime were different due to the definition of the word crime and the inclusion of mainly political issues in the judiciary system.

In the wake of unification and the new liberty which young people were faced with in a unified Germany and their previous experience they have gained in the former East Germany, new problems and cases of violation of the law were identified for which solutions had to be sought for. A drastical increase of crime in the group of young people between 14 and 21 was to be observed. This has required a new approach by the judiciary system and new measures to fight against youth criminality. The judicial system of the former Federal East Germany as it existed before there was introduced for the unified Germany in 1990. The judiciary system in East Germany was cancelled and the legal and judiciary system of the Federal Republic was introduced as acting legislation in the entire country. These measures have been established on the level of all federal states belonging to Federal Republic of Germany.

A number of measures was decided which encompasses of the following issues in prisons and as awareness among young people;

### **Prisons**

- Young people below the age of 21 are imprisoned in special prisons and are often condemned only to a small number of months in prison and are guided wherever possible to do “social work” for children, old people and ill people in order to allow them to remain in their usual environment. They are in this case assisted by a professional from the social system to support the individual young people and allow them to continue school. The verdict which is issued in this case by the court does not imply the status of being previously convicted and will not be registered in this case in the criminal record
- Young people with a penalty for prison are sent to special prisons for young people where they will be assisted permanently for the end of imprisonment by social workers and are prepared for a life in liberty
- For young people special TVET programs are envisaged within prisons where specialized staff belonging to the judiciary are training young people in TVET (the number of trades is limited) and where young people receive neutral diploma so that a future employer cannot see that the diploma was obtained in prison and thus they have equal chances as young people without being in prison.
- The only exception are young prisoners with sexual crimes, They undergo the same registration and supervision procedures as adults beyond the age of 21.

### **Awareness**

- Large and comprehensive programs are organized for young people who did not finish in prisons
- They are invited to participate in such programs instead of being imprisoned
- Some of them become criminal again despite the measures and will finish in prison finally.

# ITALY

## Introduction

Italy (officially the Italian Republic) is a parliamentary republic. Italy has 60,808,000 inhabitants (January 1<sup>st</sup> 2015 - ISTAT). Its population density, at 201 inhabitants per square kilometre (520/sq mi), is higher than that of most Western European countries (fourth in the European Union after Germany, France and the United Kingdom).

Land area of Italy is 294.019,00 sq km; while the total area is 301.230,00 sq km.

The distribution of the population is quite unequal: the most densely populated areas are the Po Valley (almost half of the national population is concentrated in this area), the metropolitan areas of Rome and Naples, as well as, generally speaking, the coasts. Other vast regions such as the Alps and Apennines highlands, the plateaus of Basilicata and the island of Sardinia are very sparsely populated.

The population of Italy almost doubled during the twentieth century, but the pattern of growth has not been constant due to large-scale internal migration from the rural South to the industrial cities of the North. This phenomenon is due to the Italian economic miracle of the 1950-60s.

Furthermore, after centuries of net emigration (main destinations used to be the US, Argentina and Brasil), starting with the eighties Italy has experienced large-scale immigration phenomena for the first time in modern history (the biggest communities currently are the Romanian and the Albanian ones). According to the Italian government, in 2014 there were an estimated 5.000.073,00 foreign nationals resident in Italy.

Immigration should be considered as an important phenomenon, seen also the recent incoming flow coming from northern Africa.

Fertility and birth rates, high until the 1970s, started to dramatically decline, leading to rapid population aging. At the end of the first decade of the 21st century, one in five Italians was over 65 years old.

However, as a result of the massive immigration of the last two decades, in recent years Italy experienced a significant growth in birth rates, even if current rate is still modest.

The total fertility rate has also increased from an all-time low of 1.18 children per woman in 1995 to 1.41 in 2008 and then decreased due to the economic crisis.

Since the 1984 Lateran Treaty, Italy has no official religion. However, it recognizes the role the Catholic Church plays in Italian society.

87.8% of the population identify as Catholic (but only 30,6% as a “practicant Catholic”, 5.8% as non-believers or atheists, 2.6% as Muslims, and 3.8% adhere to other religions.<sup>1</sup>

### Demographic data about the country

#### Characteristics of the population: Sex, Italian / Different Origin

Data source: ISTAT Official data, 2011 – *date of the last census*

	Italian population			Different origin			Total		
Sex	Male	Female	Total	Male	Female	Total	Male	Female	Total
	26.864.477	28.541.640	55.406.117	1.881.030	2.146.597	4.027.627	28.745.507	30.688.237	<b>59.433.744</b>
%	48,49%	51,51%	100%	46,70%	53,30%	100%	48,37%	51,63%	100%
				<b>Out of total in %:</b>		6,77%			

**The distribution per sexes is almost equal, with a slight predominance of women (1,63% more than men).**

**The non-Italian residents in Italy are 6,77% of the total population. Their distribution per sexes shows a more relevant predomination of women.**

#### Sex ratio:

At birth: 1,06 males / female

0-14 years: 1,05 males / female

15-24 years: 1,01 males / female

25-54 years: 0,98 males / female

55-64 years: 0,93 males / female

65 years and over: 0,74 males / female

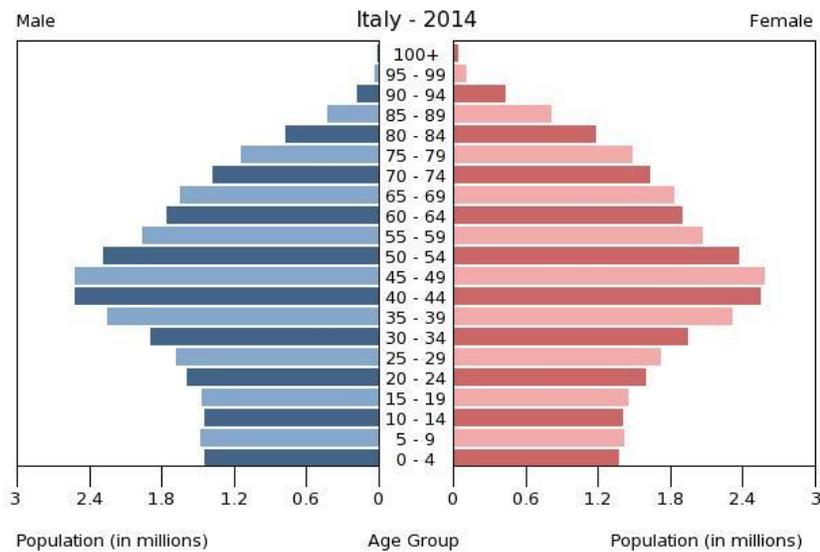
Total ratio: 0,93 males / female

Source: <https://www.cia.gov/library/publications/the-world-factbook/geos/it.html>, 2014

### Age of the population: Age, Italian / Different Origin

Age (years)	Italian population			Different origin			Total		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
<b>0-9</b>	2.537.675	2.397.888	4.935.563	307.457	288.003	595.460	2.845.132	2.685.891	5.531.023
<b>% out of total</b>	4,27%	4,03%	8,30%	0,52%	0,48%	1%	4,79%	4,52%	9,31%
<b>10-19</b>	2.691.155	2.540.795	5.231.950	228.148	204.387	432.535	2.919.303	2.745.182	5.664.485
<b>% out of total</b>	4,53%	4,28%	8,80%	0,38%	0,34%	0,73%	4,91%	4,62%	9,53%
<b>20-29</b>	2.867.516	2.744.049	5.611.565	329.888	386.438	716.326	3.197.404	3.130.487	6.327.891
<b>% out of total</b>	4,82%	4,62%	9,44%	0,56%	0,65%	1,21%	5,38%	5,27%	10,65%
<b>30-39</b>	3.687.901	3.655.378	7.343.279	467.386	534.874	1.002.260	4.155.287	4.190.252	8.345.539
<b>% out of total</b>	6,21%	6,15%	12,36%	0,79%	0,90%	1,69%	6,99%	7,05%	14,04%
<b>40-49</b>	4.392.520	4.435.026	8.827.546	341.570	398.752	740.322	4.734.090	4.833.778	9.567.868
<b>% out of total</b>	7,39%	7,46%	14,85%	0,57%	0,67%	1,25%	7,97%	8,13%	16,10%

<b>50-59</b>	3.691.685	3.809.510	7.501.195	143.034	227.605	370.639	3.834.719	4.037.115	7.871.834
<b>% out of total</b>	6,21%	6,41%	12,62%	0,24%	0,38%	0,62%	6,45%	6,79%	13,24%
<b>60-69</b>	3.245.446	3.499.230	6.744.676	41.360	74.125	115.485	3.286.806	3.573.355	6.860.161
<b>% out of total</b>	5,46%	5,89%	11,35%	0,07%	0,12%	0,19%	5,53%	6,01%	11,54%
<b>70-79</b>	2.492.664	3.094.071	5.586.735	17.364	24.879	42.243	2.510.028	3.118.950	5.628.978
<b>% out of total</b>	4,19%	5,21%	9,40%	0,03%	0,04%	0,07%	4,22%	5,25%	9,47%
<b>80-89</b>	1.126.045	1.980.963	3.107.008	4.315	6.489	10.804	1.130.360	1.987.452	3.117.812
<b>% out of total</b>	1,89%	3,33%	5,23%	0,01%	0,01%	0,02%	1,90%	3,34%	5,25%
<b>90-99</b>	129.430	372.152	501.582	488	1.004	1.492	129.918	373.156	503.074
<b>% out of total</b>	0,22%	0,63%	0,84%	0,0008%	0,0017%	0,0025%	0,22%	0,63%	0,85%
<b>100 and more</b>	2.440	12.578	15.018	20	41	61	2.460	12.619	15.079
<b>% out of total</b>	0,0041%	0,0212%	0,0253%	0,00003%	0,0001%	0,0001%	0,0041%	0,0212%	0,0254%
<b>Total</b>	26.864.477	28.541.640	55.406.117	1.881.030	2.146.597	4.027.627	28.745.507	30.688.237	<b>59.433.744</b>
<b>%</b>	48,49%	51,51%	100%	46,70%	53,30%	100%	48,37%	51,63%	100%
				<b>Out of total in %:</b>		6,77%			



Source: <https://www.cia.gov/library/publications/the-world-factbook/geos/it.html>

### Population pyramid

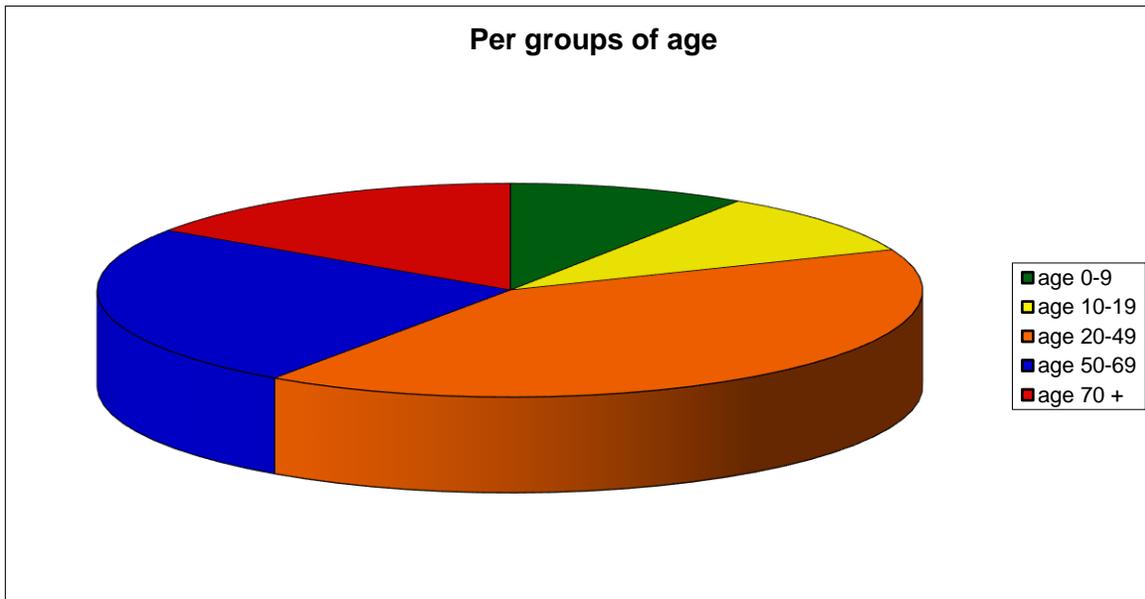
A population pyramid illustrates the age and sex structure of a country's population and may provide insights about political and social stability, as well as economic development. The population is distributed along the horizontal axis, with males shown on the left and females on the right. The male and female populations are broken down into 5-year age groups represented as horizontal bars along the vertical axis, with the youngest age groups at the bottom and the oldest at the top. The shape of the population pyramid gradually evolves over time based on fertility, mortality, and international migration trends.

The Italian population is slowly growing old.

The distribution per groups of age shows that, when considering the groups aged 50 and more we obtain a percentage of 40,38 over the total n° of the population.

Almost a third of the population is aged 60 and more: 27,13%.

<b>Groups of age (years old)</b>	
<b>Age 0-9</b>	9,31%
<b>Age 10-19</b>	9,53%
<b>Age 20-49</b>	40,79%
<b>Age 50-69</b>	24,79%
<b>Age 70 and more</b>	15,5934%



**Other demographic information (source: 2014, ISTAT):**

Birth and death rates:

- birth: 8,84 births / 1000 population
- death: 10,1 deaths / 1000 population
- infant mortality rate: 3,31/1000 population

Net migration:

- 4,29 migrants / 1000 population

Urbanization:

- urban population: 68,8% of total population
- rate of urbanization: 0,39% annual rate of change

Literacy (age 15 and over who can read and write):

- over 99% of the total population (male: 99,3%, female: 98,8%)

School life expectancy (primary to tertiary education):

- male: 16 years
- female: 17 years
- total: 16 years

## The Structure of Italy's Government

- I. The Italian Constitution and its fundamental values.
- II. Constitutional bodies.

- 2.1 The division of powers
- 2.2 Functions and powers
- 2.3 The role of political parties
- 2.4 President of the Republic
- 2.5 The Constitutional Court
- 2.6 Parliament.
- 2.7 The Government
- 2.8 The President of the Council
- 2.9 Ministers
- 2.10 The Council of Ministers
- 2.11 The Judiciary
- 2.12 Administrative divisions

### I. The Italian Constitution and its fundamental values

1.1. The Constitution is a set of rules which establish a legal-type state. It rests on meta-judicial values, such as respect for human dignity and freedom of the individual, felt as general principles of orientation of the action of the community of citizens.

The Italian Constitution, which came into force on 1 January 1948, intends to assert that:

- the Italian people wanted to organize a second form of republican government;

- ❑ the Italians rejected the authoritarian-dictatorial model which had been ruled by choosing a liberal-democratic model based on free elections, the party pluralism and the protection of the inviolability of the rights of freedom.

With this Constitution, Italy has therefore adopted a system of pluralist government and a Western-type democracy.

1.2. Article. 2 of the Constitution, after a list of inviolable rights, demands the fulfillment of "mandatory duties of political solidarity, economic and social." Each subject should exercise her own rights and defend her freedom while respecting the rights and freedoms of others.

It is essential, therefore, that each citizen fulfils those obligations of solidarity that are necessary for the respect of other people's freedom of action and needed in order to ensure the peaceful coexistence of citizens.

In the constitution the content of such obligations is explained in the following articles:

- Art. 52, which defines the "sacred" duty to defend the homeland and citizens by imposing compulsory military service<sup>16</sup>;
- Art. 53 obliging citizens and foreigners (who have business interests in Italy) to share in the expenses of the state by paying taxes;
- Art. 54 where it is prescribed to all the citizens of the "duty to be loyal to the Republic and to uphold its Constitution and laws."

## II. The constitutional bodies

The constitutional bodies of the State are those bodies associated with the policy: they take part in the identification of goals that the State is called to pursue. These bodies are directly governed by the Constitution and therefore a change in their definition or functioning calls for the adoption of a constitutional reform. They are: the President of the Republic, the Parliament, composed of the Chamber of Deputies and the Senate, the Prime Minister and the entire Government, the body of the Judiciary, and the autonomous local governments<sup>17</sup>.

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<sup>16</sup> The military service is actually currently regulated by the Military code and is divided into "compulsory" and "voluntary". There are lists with all male citizens and the obligatory service, now suspended, can be enforced through a Decree of the President of the Republic (DPR).

<sup>17</sup> Not being essential for the purpose of this document, we will not take into consideration the local autonomous governments.

The bodies of constitutional importance are, however, those who, while not participating in the political function, and not 'being essential to the constitutional structure of the state', are listed, but not directly governed by the Constitution. The ordinary law governs their organization, structure and activities.

The bodies of constitutional importance are: the National Council for Economy and Labour (CNEL), the Council of State, the Court of Auditors, the Council of the Judiciary, the Supreme Defence Council.

### 2.1. The division of powers

The state structure, which has just been outlined, has various tasks and is accountable towards the people who elected the government. These tasks can be divided into three basic functions.

***The legislative function:*** through the laws, the state defines the rules which govern the activities implemented in order to achieve the aims of the social group which elected the government.

***The administrative function*** (or executive): through the administrative bodies, the State defends the interests of the citizens in the fields where individuals or private groups could not afford the organization needed to obtain better results (according to the principle of subsidiarity) . In the administrative function the State behaves like public body, with different legal capacity than the one of individual private parties.

The most important administrative functions are the following: the defense of the territory, the public internal security, the public health, the education, the organization of the territory, the environment.

***The judicial function:*** through the judicial function the state resolves conflicts of interest among its citizens, the issues regarding rights, conflicts between the State itself and the citizens whose individual right or legitimate interest might have been jeopardized or injured by the State's action.

In addition, the State determines the penalties for those who commit breaches of its laws. These offenses may be against criminal law, or against the administrative law. The gravity of the offense determines the level of penalties.

### 2.2. Functions and powers

In a state that has a model of liberal democratic government the three functions are not concentrated in fact or law in one subject as in dictatorial or totalitarian systems. They are divided between several agencies (and therefore each one democratically controls the power of the others) which have the power to organize and implement their functions.

In Italy the legislative function is divided between the Parliament and the Government, while at the regional level it is held by the Regional Council; the administrative function is handled at the level of government according to the organization of the ministries; the judicial role is ensured through the work of the Judiciary.

### 2.3 The role of political parties.

All the activity of organization and determination of the main choices of a State, which is expressed through the main constitutional functions, as political activity, is implemented by the political parties. In order to allow the selection of the best ideas and subjects for this activity, in the 18th century are born a few specific associations of private type, which at first took the form of clubs. Here the people met and decided to give his confidence to a single representative of the group who would participate in the elections to bring their ideas and their interests in the national parliament.

Today, the parties in Italy are free associations of private law allowed to public funding for their activity of organization and selection of citizens which will be part of the bodies of the state if freely elected in the Parliament. The great ideological parties of the 70s and 80s disappeared: the Communist Party and the Christian Democrats. The difficult attempt is now to create a system that is composed of two distinct partisan groupings: one of the center-right, moderate and conservative, the other of the center-left orientation, labourist and progressive.

### 2.4. President of the Republic

In the Italian system, which is a parliamentary system, the President of the Republic is a neutral apolitical power and impartially exercises the functions of guarantee and control over the political bodies on top of the three traditional functions (legislative, executive, judicial), with the order to balance the system without performing active functions of government and policy.

The President of the Republic is the guarantor of the Constitution and, as such, oversees its compliance. He is also an arbitrator between parties, forming the junction of all the national political forces: this is provided by art. 87 of the Constitution which qualifies the President as Head of State and the representative of the Italian national unity.

The President of the Italian Republic is elected by Parliament in joint session of its members, supplemented by three delegates for each region (except for the Aosta Valley that has only one delegate); the election is by secret ballot and requires a two-thirds majority of the Assembly in the first three ballots, while in subsequent years the absolute majority is sufficient (art. 83 Const.).

Any Italian citizen who has turned 50, which is in full enjoyment of civil and political rights and not connected, by descent or family relationship, to the House of Savoy (XIII Final Const. provisions), can be elected as President of the Republic.

Under Article. 84 of the Constitution being President of the Italian Republic is incompatible with any other function and office; the term of the office is of seven years from the date of the oath. If unable to attend the functions of President, the President of the Senate can take the President's roles.

The functions of the President of the Republic (hereafter "PDR") are summarized as follows:

- ❑ guarantor of the Constitution
- ❑ detention of legislative power, and therefore:
  - Ratifies international treaties;
  - May dissolve the Chamber;
  - Can send messages to the Houses;
  - Appoint five senators for life;
  - Authorizes the presentation of bills of the Government;
  - Promulgates (or reserves) laws;
  - Dissolves local councils, provincial and regional proposal of the Government.
  - Index the referendum;
  - Calls elections.
- ❑ detention of executive power, and therefore:
  - Appoints the Government;
  - Appointed officials of the highest degree;

- Declares the state of war, commands the armed forces, chairs the Supreme Council of Defense;
- Confers citizenship;
- Confers honors;
- Accredited and receive diplomatic representatives.
- detention of Judiciary power, and therefore:
  - Presides over the Council of the Judiciary;
  - Appoint five judges of the Constitutional Court

As a representative of national unity the PDR:

- Is the state;
- Has the power to outsource;
- May grant a pardon.

Article 89 of the Const. foresees the so-called Institute of "ministerial countersignature by providing that" no act of PdR is valid if it is not signed by the proposing Ministers who assume responsibility." The Government (of which the ministers are part) thus becomes the only political body responsible in front of the Parliament.

## 2.5. The Constitutional Court

The Constitutional Court is 'the body which carries out functions of control and guarantee of the compliance of laws with the principles of the constitutional system.' The Constitutional Court consists of 15 judges, appointed by the Parliament for 1/3, by the President of the Republic for 1/3, and by Courts (ordinary, administrative, accounting) for 1/3, among professors, lawyers and judges. Judges are appointed for 9 years and cannot be re-elected; a president is elected among the judges. He has a mandate of three years. The President and the Judges in the exercise of their functions are aided by studio assistants. The tasks of the court are the following:

- controlling the constitutionality of laws and acts with force of law incidentally (on the initiative of a judge during a trial) and of the legislative acts (on appeal against the laws of the State of the Regions and on appeal of a region, against the laws of State or another Region);

- ❑ resolving jurisdictional disputes between state powers, between the state and the regions, and between regions;
- ❑ deciding on the admissibility of requests for referendum;
- ❑ deciding on charges of high treason or attempt against the Constitution against the President of the Republic.

## 2.6. The parliament

The Parliament is the constitutional body which, in the Western liberal-democratic tradition, is the guardian of the so-called political representation, because elected by the electorate as a whole, without any exclusion from the right to vote for economic, social, or other reasons. This peculiarity implies that the Parliament reproduces the different political orientations of the electorate.

We recall that the Chamber is elected in its entirety, while the Senate is almost entirely elected: in fact, the President of the Republic may nominate senators for life (up to five citizens who have honored their country through their outstanding achievements in the social, artistic and literary fields) and that Senators by right and for life are also designated in the Constitution: the former presidents of the Republic.

The bicameral system of the Italian state is structured on an equal basis: for almost all types of laws, in fact, the approval of the text by both Houses is needed.

The Chamber of Deputies consists of 630 members, the Senate by more than 315 senators, plus 5 senators by right and for life. The age of 18 is requested for the right to vote for the Chamber, while 25 is the inferior age limit to vote for the Senate. Eligible citizens who are twenty-five can be elected for the Chamber, those who have at least forty can be elected for the Senate.

The Italian parliamentary system is based on the principle of perfect bicameralism, with two chambers having similar functions. Functions of the Parliament are listed as follows:

- ❑ legislative function: it has the power to express the political will of the country and transform it in laws having therefore juridical effects;
- ❑ political control: it exercises control over the executive, i.e. the Government, and on subsidiary bodies. Besides, the Government, in order to carry out its functions, must obtain the “confidence” (the agreement) of the Chambers

- political function: represented by inspections, through which the Parliament knows and evaluates the performance of the government and the Political Orientation by which the Parliament can influence the activity of the Government. This political address consists of:
  - the Proceedings of the Political Orientation strictly speaking, generally contained in special agendas, motions (simple), resolutions and recommendations, with which the chambers respectively hope, invite or urge the government to accept a certain political attitude;
  - the motions of “confidence” and “retrieved confidence” (fiducia e sfiducia), with which it will be the relationship of trust between parliament and government, and directed to cause the obligation of the government to resign (no-confidence motion) or approve the policy direction of the incumbent government (motion confidence).

## 2.6. 1. The formation of laws

### 1. The constitutional law

The Constitution is characterized by the element of rigidity, so the changes of the rules contained therein may be made only by means of laws for constitutional amendment for which there is a special legislative procedure (called aggravated) in order to allow greater reflection to the members of Parliament on the choices to be made. Laws amending the Constitution and other constitutional laws shall be adopted after two successive debates at intervals of not less than 3 months, and are approved by an absolute majority of members of each body (Senate and Chamber of Deputies) in the second voting.

For their legal significance, constitutional laws require a particular method of training that requires the dual deliberation by the two chambers and the interval between the first and the second resolution is not less than 3 months. An absolute majority in the second vote of the members of each chamber is needed. The project of Constitutional Law, once approved, does not turn immediately into law, but remains at the planning stage and as such is published in the "Official Gazette of the Italian Republic" in order to make known the contents to the citizens. Within three months from that publication, 500,000 voters, one fifth of the members of each House or five Regional Councils may request that the project be submitted to popular referendum.

If the three months shall run, the referendum is not required, and the project is tacitly approved by the electorate. In the event, however, the referendum is required, the project is considered approved if it has obtained the majority of votes. The draft of the constitutional amendment, approved explicitly (by referendum), or tacitly, becomes law and it will be promulgated by the Head of State and published as law. If, however, in the second parliamentary vote the project is approved by each House by a majority of two thirds of its members, it becomes law and is not the draft is not submitted to a referendum.

The ordinary law - main act of Parliament, it is an expression of the legislative function that the Constitution confers collectively the two Houses. Established the procedure for the formation of laws, it is appropriate to distinguish the following stages:

a) The legislative initiative. It consists in the presentation to the houses of a bill, the presentation that can be done by the government, by resolution of the Council of Ministers and authorization of the President of the Republic and also by the members of Parliament who individually or collectively can make a bill in the House to which they belong. The electorate can also propose a law, (min. 50.000,00 voters can exercise the legislative initiative: the voters must be registered in the lists for the election of the Chamber of Deputies and their signatures must be notarized and accompanied by copy of the voting cards). The Regional Councils can also propose laws, for matters directly affecting the region and that there are already regional legislative competence.

Other entities having initiative: the municipal councils (limited to bills for Changes in provincial boundaries and the establishment of new provinces); the National Council for Economics and Labour (only on matters under its competence). This initiative can not be exercised to the tax laws, the budget, enabling legislation and the ratification of international treaties, nor on an object on which a Chamber or the Government have already sought the opinion of the Board, or when the government has submitted to parliament a bill.

b) The approval of the Bill by each House. It can take place through four distinct processes: ordinary, abbreviated, decentralized, mixed.

The *ordinary procedure* implies that the bill is preliminarily examined and discussed by a parliamentary committee which shall carry out its tasks in a reporting capacity. The commission, finished the examination, sends out the draft accompanied by one or more reports (depending on the opinions formed in the committee). If the assembly proves favorable to the project, the discussion and approval article by article begins. This procedure is mandatory in the case of laws on electoral

matters, enabling legislation, approval of budgets and accounts and authorization for the ratification of international treaties.

The *summary judgment* instead is adopted for those bills declared urgent. The request for the declaration of urgency is approved by show of hands. The approval of the declaration of emergency involves the reduction of the lengths of each phase.

The *decentralized procedure* takes place when the committees do not just consider the draft as law, but also approve of. In this case, the Commission carried out its work during the deliberation without the approval taking place in front of the entire assembly. There are guarantees against any abuse (drafting and mandatory distribution to all members of the Parliament of the summary records of committee meetings, to allow control by the assembly)

The *mixed (or drafting) procedure* consists of a division of labor between the Committee and the legislative assembly: generally speaking, the commission gives approval article by article and the assembly gives final approval.

The law approved by one of these four cases is promulgated by the President of the Republic and published in the Official Gazette.

## 2.7. The government

The government is a complex body entrusted with the function to identify and translate into concrete action programs the political guidance expressed by the electorate (first) and the Parliament (after) and to ensure the implementation of these programs in all ways in which it is configurable.

The Government, in the Italian constitutional system, is a complex body, as set up internally by various bodies with autonomous powers. Some of these bodies are expressly provided for by the Constitution (Council of Ministers, Ministers, Chairman of the Board), while others are not, and are governed by ordinary law. The government's functions are as follows:

- ❑ Political: as it participates in the political leadership of the country, as part of the address indicated by the parliamentary majority;
- ❑ Legislative: it can create legal acts having the force of law as provided by former arts. 76 and 77 of the Constitution. (Legislative decrees and law decrees);

- ❑ Executive (or administrative): as it is at the top of the executive branch, and individual ministries are part of all sectors of State's administration (the so-called "top management function" belongs to the Government);
- ❑ Control: this function is exerted on the activities of all administrative bodies.

## 2.8. The President of the Council

The President of the Council is of great importance because it is entrusted with the function of coordinating and directing the activities of the Council of Ministers. He is appointed by the President of the Republic following a special procedure which consists of a series of consultations with the political parties and presidents of the chambers. The President of the Council forms the government, appointing ministers and extending the program of the Government.

His legal position with respect to the Ministers is of supremacy (he chooses them as his collaborators and proposes the appointment to the PDR, directs and supervises the activities of the ministers, and is responsible for all acts carried out by the Cabinet). Law 400/1988 has strengthened the role of President of the Council, not only enhancing the functions of policy and coordination, but also giving him the right to suspend the adoption of acts.

The constitutional powers of the President of the Council can be summarized as follows:

- ❑ The direction of the general policy of the Government;
- ❑ Preservation of the unity of political and administrative direction of the Government;
- ❑ Promotion of the Cabinet;
- ❑ Relations with the President of the Republic;
- ❑ Relations with the Constitutional Court, with the EU, with the regions.

Further, the president of the council presides over almost all inter-ministerial committees and directs the office of the Presidency of the Council.

## 2.9. The Ministers

Ministers may also be chosen among citizens not belonging to the Chambers. They perform political function, as jointly participate at the political government, and administration, because they are placed at the head of the individual ministries. Ministers in particular have the following constitutional duties:

- ❑ the exercise of legislative initiative by submitting to the Council of Ministers draft laws to be submitted to Parliament;
- ❑ participation in meetings and activities of the government. Furthermore, with respect to administrative functions, the ministers endeavor to issue administrative acts of various nature, acts of executive administration and regulations.

## 2.10 The Council of Ministers

Ministers (including those without portfolio) and the President of the Council, together with the Vice President, the Secretary of the Prime Minister, form the Council of Ministers (collegial body). The functions of the Council of Ministers consists of:

- ❑ determining the general policy of the government and the general direction of the administration (it takes decides on matters relating to the policy set by the fiduciary relationship with the Chambers);
- ❑ taking decisions on the regulatory policy of the government.
- ❑ finding solutions to political divergencies or jurisdictional disputes among ministers
- ❑ taking decision on the government's policy in the relationship with the regions.

Among the bodies which make up the government at large, particularly important are the inter-ministerial committees, the Government Commissioner, the Special Commissioners and the President of the Council.

## 2.11 The Judiciary

The Judiciary consists of the combination of civil, criminal and administrative bodies which, taken together, constitute the judicial power holding the judicial function.

The Constitution states that judges are completely independent and are subject only to the laws of the State. They perform the important task of implementing the law in the daily life of citizens. Judges interpret the rules (but their interpretation is not binding) and adapt them to meet different concrete situations, deciding who is entitled to certain rights, who must be protected, who should be punished for behaviour contrary to the general rules of coexistence.

## 2. 12 Internal Administrative divisions in Italy

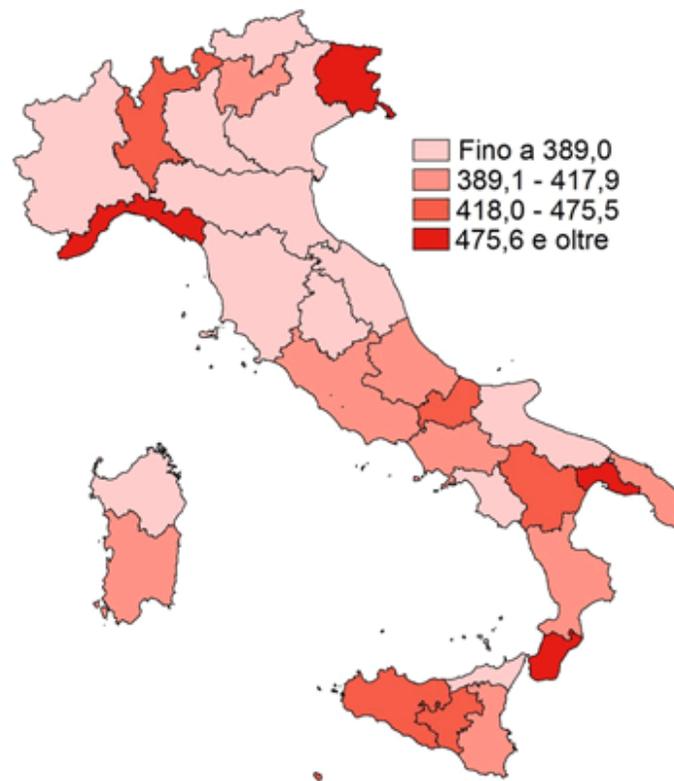
15 regions (regioni, singular - regione) and 5 autonomous regions (regioni autonome, singular - regione autonoma)

- **Regions:** Abruzzo, Basilicata, Calabria, Campania, Emilia-Romagna, Lazio (Latium), Liguria, Lombardia, Marche, Molise, Piemonte (Piedmont), Puglia (Apulia), Toscana (Tuscany), Umbria, Veneto (Venetia)
- **Autonomous regions:** Friuli-Venezia Giulia; Sardegna (Sardinia); Sicilia (Sicily); Trentino-Alto Adige (Trentino-South Tyrol) or Trentino-Suedtiroel (German); Valle d'Aosta (Aosta Valley) or Vallee d'Aoste (French)

### 1. Crime problem in the country

Those convicted for criminal offence were 231.999 in 2012, equal to 389,7 per 100.000 inhabitants. The percentage is 3% lower with respect to the previous year. In the decade 2002-2012 the phenomenon is irregularly shaped, with a peak in 2008. However, no significant variations have been registered.

The persons convicted for minor criminal offences (“contravvenzioni” in Italian) are 104.698 in 2012, the equivalent of 175,8 per 100.000 inhabitants. The data register a small increase, of 1,2% with respect to the previous year.



*Convicted for major criminal offence (“delitto” in Italian) in 2012 (per 100.000 inhabitants), by region – Source ISTAT:*

[http://noi-italia.istat.it/index.php?id=7&user\\_100ind\\_pi1%5Bid\\_pagina%5D=64&L=0&cHash=ce2d5f42b6af1f347ddb2a7131ff9d74](http://noi-italia.istat.it/index.php?id=7&user_100ind_pi1%5Bid_pagina%5D=64&L=0&cHash=ce2d5f42b6af1f347ddb2a7131ff9d74)

*Pink: up to 389,0 convicted persons every 100.000 inhabitants*

*Dark pink: between 389,1 – 417,9 convicted persons every 100.000 inhabitants*

*Red: between 418,0 – 475,5 convicted persons every 100.000 inhabitants*

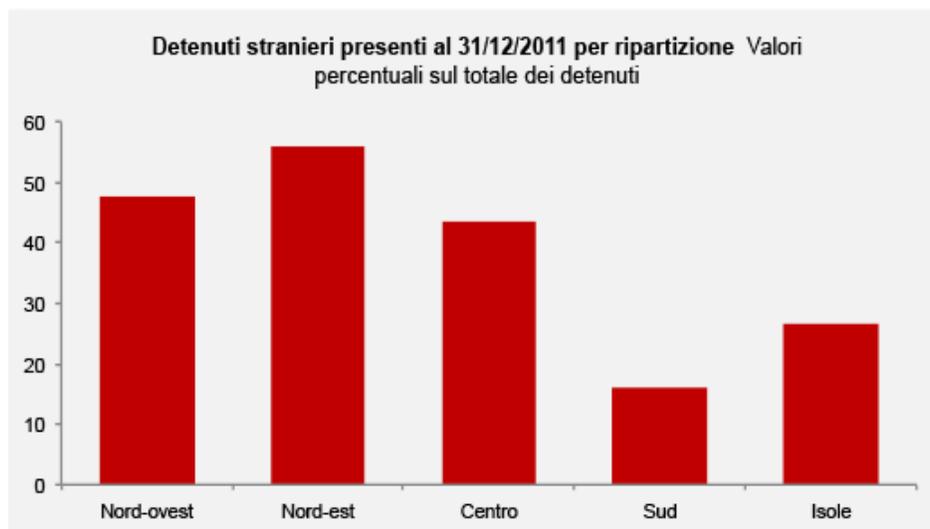
*Dark red: over 475,6*

In Italy most of the convictions are for:

- theft (51,9 persons convicted every 100.000 inhabitants in 2012)

- violations of laws concerning drugs and psychotropics (43,6 persons convicted every 100.000 inhabitants)
- money-laundering and misappropriation / receiving stolen goods (24,6 persons convicted every 100.000 inhabitants)
- violation of the laws concerning immigration (11,2 persons convicted every 100.000 inhabitants)
- voluntary personal injury (11,5 persons convicted every 100.000 inhabitants)
- robbery (10,9 in 2012 persons convicted every 100.000 inhabitants)

The persons of different nationality represent 32,6% of the total of the convicted persons and 36,7% of the persons in prison:



*Foreigners convicted and in prison at 31/12/2011 (percentages divided per areas: north-west, north-east, center, south, islands). Source: ISTAT: <http://www.istat.it/it/immigrati/prodotti-editoriali/criminalit%C3%A0>*

### **Courts and Criminal Law in Italy**

The criminal law system in Italy is designed for deterrence. The police are responsible for preliminary investigation of alleged offenses and detection of the criminals. The police are also responsible for gathering evidence.

The defense counsel has the right to be present when their client is being interviewed by police. The police have the right to hold a suspect for two days.

The judicial process begins with a judicial investigation. In a case where the evidence is very clear and the suspect has admitted guilt, then the investigation is done by a magistrate of the prosecutor's office. If the evidence is not really clear then there will be an investigating judge who goes out and conducts the investigation on his own. The judge has thirty days to make a decision in cases involving less-serious crimes and they have a year and a half to make a decision involving serious crimes. If a suspect is found guilty they have the ability to appeal the decision.

The Italian criminal law system is a mix of the inquisitorial and adversarial systems. The adversarial part of the criminal law system is the idea of an appeal after the original ruling. The inquisitorial system is the main system used. The trial process is focused on finding the truth. The judge actually goes out and investigates the case and makes his decision based upon that.

Other info:

- The police have the right to hold a suspect for two days
- The judicial authority must be informed of the decision within this period. During the following 48 hours the judicial authority must interrogate the suspect and decide on the legality of the deprivation of liberty and on the need for custody pending trial. The public prosecutor is bound by the legality principle in the presentation of formal charges.

## **Punishment**

The types of sanctions that Italy uses are imprisonment, fines, probation, house arrest, and semi-custody. All crimes in Italy are divided into two categories, delitti which are the serious crimes, and contravvenzioni which are less serious crimes. The minimum age for crime responsibility is 14. For murder, a person is imprisoned for a period not less than 21 years. For robbery, a person is placed in prison for 3-10 years and fined. For theft, a person is placed in prison for up to three years and faces a big fine. For assault, a person is placed in prison from 3 months to 3 years. The country uses fines along with imprisonment as a form of punishment. The fines differ in every crime that is committed. Italy does not use corporal or capital punishment. The imprisonment rates in Italy are 100 people per 100,000 people.

The prison conditions in Italy are object of various debates, but the overcrowding problem is very serious and determines a bad position in the European classification regarding the prison conditions.

The European Court of Human Rights received over 6.829 complaints relating to inhumane conditions; the report of the Council of Europe in late April 2014 revealed that the rate of suicide in Italian prisons is among the highest in EU, second only to the one in France.

Some prisoners are able to get out early due to good behavior.

Italy tries to emphasize rehabilitation in their prison system. The convicts do education work, play sports, work, participate in religious activities, and are encouraged to keep in contact with friends and family. There are 27 male prisons and only 2 female prisons which show that there are some gender disparities.

There is a juvenile justice system that deals with juveniles up to the age of 18. The juvenile court consists of two stipendiary judges and two judges who are psychologists or experts in juvenile crime. Juveniles could be prosecuted in the adult court based on the severity of the crime.

### **History of the development of the Criminal Justice System in the country**

The idea of deterrence had been prevalent and this could be seen in the system of penalties as well as in the ways the Code dealt with professional and habitual offenders. The Code has been amended several times. The amendment of 1975 broadened the possibilities of imposing probation; the amendment of 1981 decriminalized those minor offences that had been transferred to the category of petty offences or administrative infractions. The same amendment of the Code also introduced new substitutes for shortterm imprisonment. The amendment of 1984 modified the terms of pretrial detention and the competence of judges of first instance and appeal.

The basic operation and outline of the Italian criminal justice is determined primarily by the Code of Criminal Procedure enacted in 1930. The Code has been amended several times. One major amendment was passed in 1955. The police are charged with preliminary investigation of alleged offences and detection of their perpetrators, including the collection and holding of evidence. The defence counsel has the right to be present when the suspect is being questioned by the police. The police are obliged to report to the judicial authorities all offences involving ex officio prosecution which come to their attention.

If a suspect is arrested the defence counsel must be present at any interrogation. However, according to a provision introduced in 1978, the participation of the defence counsel is not necessary when the continuation of the investigation requires the urgent interrogation of a suspect. In such a case the police prosecutor and the defence counsel must be notified. The statements of the suspect may not be minuted for use in judicial proceedings.

Judicial proceedings begin with a preliminary judicial investigation. In the case of flagrant offences, offences admitted by the suspect or demonstrated by clear evidence, the investigation is conducted by a magistrate of the public prosecutor's office ("istruzione sommaria"). In all other cases, the investigation is carried out by an investigating judge ("istruzione formale"). It is the public prosecutor who decides which of the two procedures is to be followed, but a suspect may request that the investigating judge undertake the preliminary enquiry. If the suspect is in custody, the investigation must be carried out by the investigating judge if, after 40 days, the public prosecutor has not asked for discharge or trial.

The 1930 Code of Criminal Procedure was inspired by the principle of secrecy, and therefore the presence of the defence counsel was not allowed in all judicial acts of investigation. In 1955 a law granted the defence counsel the right to be present at certain stages. An extension of the stages in which the right of defence must be assured followed over the next years due to the intervention of the Constitutional Court. Today, the defence counsel has the right to be present during the following stages: the interrogation of the suspect, enunciation of a judicial view or expert judgement, and search.

The provisions regulating pretrial detention have changed frequently. A law enacted in August 1984 has considerably shortened the maximum term allowable. According to this law, the maximum period of custody pending trial is fixed at 6 years for the most serious crimes (those carrying a minimum period of imprisonment of twenty years or life) and at 5 months for the less serious offences (those carrying a maximum of three years).

Within these periods of time, the appeal procedure (on question of fact) and the cassation procedure (on points of law) in addition to the new judgment after a cassation decision, must have been completed. Furthermore, the various phases of proceedings carry their own maxima. For example the judgment of the first instance must be pronounced within thirty days for the less serious crimes and within one and a half years for the most serious ones, the period being measured from

the end of the judicial investigation. During investigation the judge may discontinue the proceedings and discharge the accused.

The minimum age of criminal responsibility is fourteen for minors and eighteen for adults. Between the ages fourteen and eighteen, the judge must establish whether the minor has reached a sufficient level of maturity to be considered responsible for his or her acts.

Because the Code of Criminal Procedure was enacted under different social and political conditions and it has often been amended, work was undertaken on a new draft during the 1970s. The new Code of Criminal Procedure has been passed and will come into force in October 1989. It was designed to accord with the demands laid down by the Italian Constitution and relevant international agreements. It was also meant to guarantee greater rights to the defendant and transform the so-called mixed procedure into a primarily adversarial procedure.

## 2. Juvenile Justice System in the Country

This specific part of the Country report follows partially an article published by Meringolo, P. (2012). “Juvenile justice system in Italy: Researches and interventions” .*Universitas Psychologica*, 11(4), 1081-1092. – in green below

### **Theoretical background (introduction)**

“Juvenile justice system in Italy has its roots in the wide theoretical debate about social rules and social opportunities developed in the Seventies, who led to important reforms in psychiatric health (Law 180/1978), and in penitentiary law (Law 354/1975.)

In Italy, social problems have been seen as complex phenomena that emerge from the interactions between real needs, perceptions of those needs in the particular sociopolitical and cultural situation, and the definitions and choices of the agencies of social control (Pitch, 1985). In the Italian case, thus, there are many influential factors, related to the conflict and negotiations between the national and local levels of the State and governance, and to the specific relationship established in the Italian context between the state and the civil society; situation that may cause community’s participation in crime control strategies (Selmini, 2005).

Also, a large body of investigations, has theories focused on punishment and penology, relations between criminal sciences and criminal policies, relations between psychiatry and criminal justice system, preventive policies and actions (Curi & Palombarini, 2002), social representation of

deviance, criminal justice system for juvenile offenders (Pavarini & Melossi, 1977), also deepening social meanings of crime (De Leo & Patrizi, 1992), and importance of educational treatments (Guetta, 2010; Meringolo, 2010).” (P. Merignolo, University of Florence – full text: [http://www.scielo.org.co/scielo.php?pid=S1657-92672012000400004&script=sci\\_arttext](http://www.scielo.org.co/scielo.php?pid=S1657-92672012000400004&script=sci_arttext) )

### Minimum age of criminal responsibility

“Italian juvenile justice system concerns boys and girls aged from 14 to 18 years, who have committed offenses of the civil or penal code (Sportello di Informazione Sociale Provincia di Torino, 2011). Note: It is impossible to charge criminally a person aged less than 14 years, it is possible though to charge the youth of ages from 14 to 18 years, noticing that the person isn’t mentally ill, that have to be assessed case by case. For juvenile offenders life imprisonment cannot be sentenced, this by a rule from Italian Constitutional Court (Sentence n. 168/1994), that accomplished Art.31 of Italian Constitution foreseeing a special protection for childhood and youth. Sentences are served in juvenile justice institutions until 21 years, and cognizance of Juvenile Court remains until 25 year.” (P. Merignolo, University of Florence)

### Statistics on offender children (signaled by the Judicial Authority to the Social Services<sup>18</sup>)

The subjects signaled to the Social Services by the Judicial Authority in 2013 have been 16.317, having mostly an age between 16 and 17 years old (46%). 25% of the minors signaled had an age between 14 and 15 years old; while 27% belongs to the category of “young adults” (they have committed the crime as minors; but are now adults). The remaining 2% are less than 14, and cannot therefore be accused. The third row indicates the minors already known to the Social Services (11% of the total).

Soggetti segnalati	Italiani			Stranieri			Totale		
	m	f	mf	m	f	mf	m	f	mf
Nuovi soggetti	9.292	1.608	<b>10.900</b>	3.029	646	<b>3.675</b>	12.321	2.254	<b>14.575</b>
Soggetti già conosciuti	1.167	75	<b>1.242</b>	390	110	<b>500</b>	1.557	185	<b>1.742</b>
<b>Totale soggetti segnalati</b>	<b>10.459</b>	<b>1.683</b>	<b>12.142</b>	<b>3.419</b>	<b>756</b>	<b>4.175</b>	<b>13.878</b>	<b>2.439</b>	<b>16.317</b>

*Nuovi soggetti:* soggetti per i quali il fascicolo è stato aperto nel periodo in esame.

*Soggetti già conosciuti:* soggetti con fascicolo aperto in periodi precedenti e nuova notizia di reato nel periodo in esame.

<sup>18</sup> Not all of them are then charged

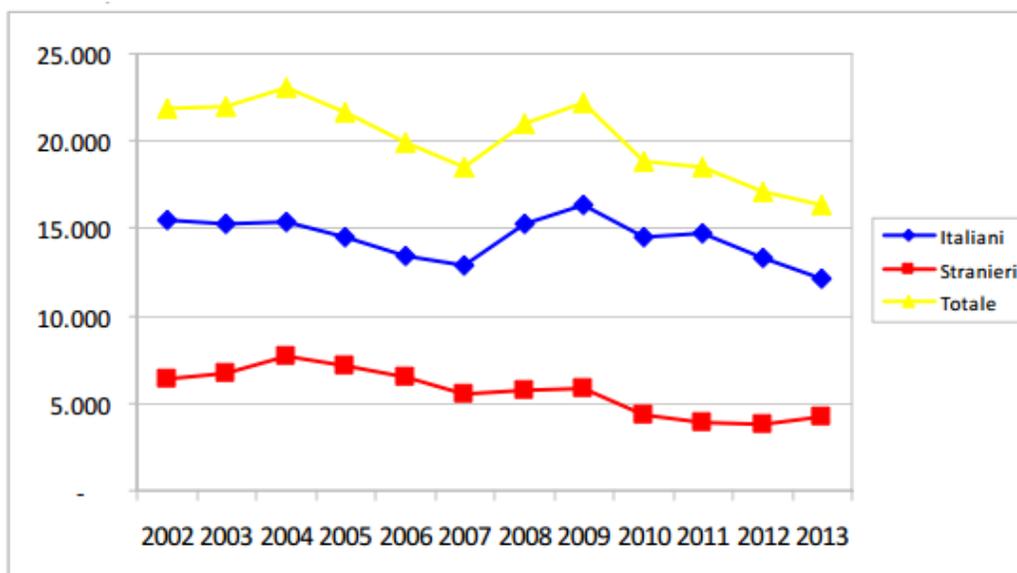
85,1% of the minors are Italian. Other come from various other countries, as shown by the table below:

Paesi	Sesso		Totale
	Maschi	Femmine	
<b>Italia</b>	<b>10.459</b>	<b>1.683</b>	<b>12.142</b>
<b>Altri paesi dell'Unione Europea</b>	<b>886</b>	<b>296</b>	<b>1.182</b>
<i>di cui:</i> Romania	760	260	1.020
<b>Altri Paesi europei</b>	<b>895</b>	<b>306</b>	<b>1.201</b>
<i>di cui:</i> Albania	387	25	412
Croazia*	66	84	150
Bosnia-Erzegovina	65	89	154
Serbia, Repubblica di	86	60	146
Macedonia	64	16	80
Moldova	90	14	104
Ucraina	61	12	73
<b>Africa</b>	<b>1.177</b>	<b>64</b>	<b>1.241</b>
<i>di cui:</i> Egitto	108	1	109
Marocco	586	34	620
Senegal	83	2	85
Tunisia	177	9	186
<b>America</b>	<b>237</b>	<b>74</b>	<b>311</b>
<i>di cui:</i> Ecuador	76	16	92
Perù	38	18	56
Brasile	31	10	41
<b>Asia</b>	<b>221</b>	<b>16</b>	<b>237</b>
<i>di cui:</i> Bangladesh	48	1	49
<b>Apolide</b>	<b>3</b>	<b>0</b>	<b>3</b>
<b>Totale</b>	<b>13.878</b>	<b>2.439</b>	<b>16.317</b>

Source: *Analisi dei flussi di utenza dei Servizi della Giustizia Minorile – Year 2013 -*

[http://www.giustiziaminorile.it/statistica/analisi\\_statistiche/flussi\\_di\\_utenza/Flussi\\_di\\_Utenza\\_2013.pdf](http://www.giustiziaminorile.it/statistica/analisi_statistiche/flussi_di_utenza/Flussi_di_Utenza_2013.pdf)

Historically, the trend is in decline, with Italian offenders decreasing and foreigners trend remaining stable (please note these are signaled minors, the trend is different when talking about minors in charge of the social services):



Source: *Analisi dei flussi di utenza dei Servizi della Giustizia Minorile – Year 2013 -*

[http://www.giustiziaminorile.it/statistica/analisi\\_statistiche/flussi\\_di\\_utenza/Flussi di Utenza 2013.pdf](http://www.giustiziaminorile.it/statistica/analisi_statistiche/flussi_di_utenza/Flussi_di_Utenza_2013.pdf)

## Juvenile Justice System

“The New Code of Criminal Procedure for Minors (1988) has considerably reduced the number of minors in Criminal Institutions: from more than 7000 entries each year before 2000 until the present day. The main purpose if possible is to avoid detention and use alternatives measures (probation, community work, etc.), and strategies for inclusion in social life (Art. 1, and Art. 21 and 22.)

As a protection of minors’ psychological and educational development, institutions take care first of all the personality assessment (Art. 8 and 9), for a better planning of activities, try to prevent minors’ labeling risks – both with a suitable treatment and avoiding spread of information about their deviant behavior (Art. 13, 14 and 15) – and pay attention to preserve minors’ intimate networks, if existing and reliable, and to increase their formal and informal social networks.

Besides these important results, however, there are some negative issues that will be shown below, because recourse to juvenile imprisonment doesn’t seem to decrease, especially for young people that lack social support, or come from abroad.” (P. Merignolo, University of Florence)

## **Juvenile Justice Procedures in Italy**

**“Arrest:** May be done both if in the act of the crime or under investigation, with some rules to protect minors during legal procedure, e.g. Information about taken measures, emotional and psychological support, presence of specialized professionals interacting with them, suitable pursuance of the law and privacy policy.

**Preliminary Investigation:** The Magistrate in charge for preliminary investigation decides if the minor may be released or leaded in a Community for juvenile offenders until judicial authority’s decision. Minors on trivial charges may be leaded to a Community or even home.

**Centers and communities for first reception (CPA):** They shelter minors that aren’t able to drive themselves or with their relatives back home. The centers haven’t the feature of a prison (there aren’t bars, even if there are guards), and their purpose is to detain minors up to four days. During their stay these children are observed by a specialized team (psychologist, educator, youth worker), that writes a first report for the Juvenile Judge. These centers may be also organized as small custodial communities with a “family” structure and a prevailing educational value. After the four days, the Judge decides the measure for the minor, founded on the following criteria: A non interruption of their educational process, reduction of harm caused by the proceeding, a quick judging process and detention as a residual choice.

**Communities:** There are public communities (depending on Juvenile Justice Administration, or private communities, associations or cooperatives working with adolescents), acknowledged by Regional Authority. This must follow requirements such as family organization, presence of other youngsters not in charge of justice, no more than ten people per group and employment of professional workers.

**Detention:** The minor is leaded in a Juvenile Prison (Istituto Penale Minorile, IPM). This measure is provided for offenses with punishments over 9 years and must be justified for risk of tampering with the evidences, or of running away, or repeating the offense.

In IPM there are minors submitted to a criminal measure, and also young adults who committed a crime when they were minors and – according to Italian law - may stay in juvenile prison until 21 years old. The IPMs through all Italy are sixteen in total, and are located in most of the Italians regions.

## **Alternative measures that can be decided by the Judge**

**House arrest:** The Court requires that the minor can stay at the family house, sometimes with moving limitations, and may allow the moving from home to school (or other educational related activities).

**Probation:** The Judge can adjourn the trial and start up procedures for probation, asking Social Services to plan an intervention, after which the minor will be assessed and –if the evaluations’ result is positive– the offense can be discharged. The Social Services for Juvenile offenders cooperate in promoting, and protect youth rights with other services of Juvenile Justice and with Community Social Services.

**Nonsuit judgment:** During preliminary investigations the Judge, by request of Prosecuting Attorney, can decide nonsuit judgment if the offense is trivial and criminal behavior seems occasional.

**Pardon for juvenile criminal offenders:** It’s a release decided by the Judge for a first-time juvenile criminal, related to an expected punishment less than 2 years.

**Substitute measures:** Instead of detention for punishment lower than 2 years, part-time detention, or conditional release may be applied.

Currently the most common choice in alternative measures for criminal minor is probation in conditional release.

## **Data**

Data source for all the following figures come from Dipartimento della Giustizia Minorile (2011). Nevertheless the data has been revised by researchers of Fondazione Michelucci, to show best information of minors, and also to fill the gaps in collecting the data within juvenile institutions.

## **More statistics**

Figure 1 shows the different trending between the number of charged minors: We can see that often for Italian youngsters offence doesn’t means an entry in the justice system, while for foreign minors, especially those belonging to Rom ethnic group, the percentage is higher.

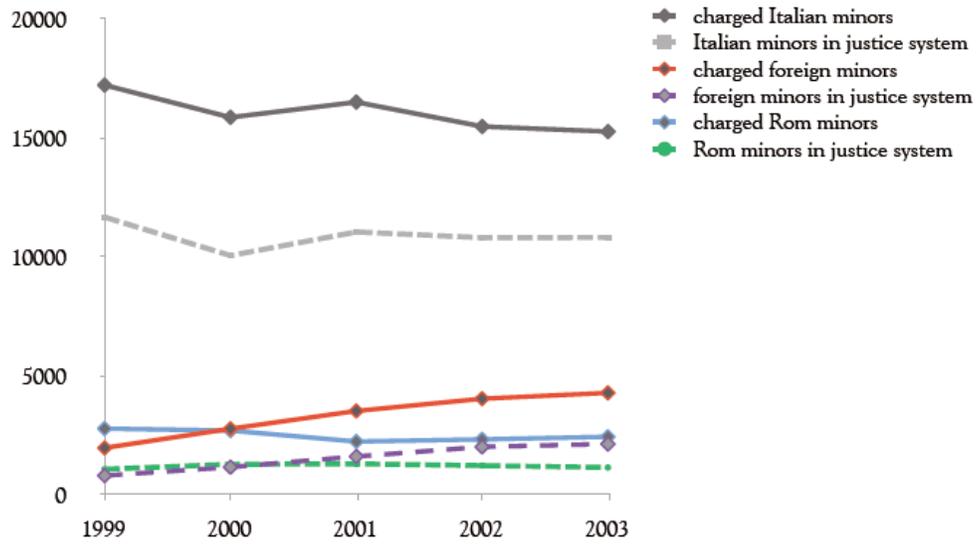


Figure 1. Italian, Foreign and Rom Minors Charged and Cared by Juvenile Justice System.  
 Source: [www.giustiziaminorile.it](http://www.giustiziaminorile.it) by Fondazione Michelucci.

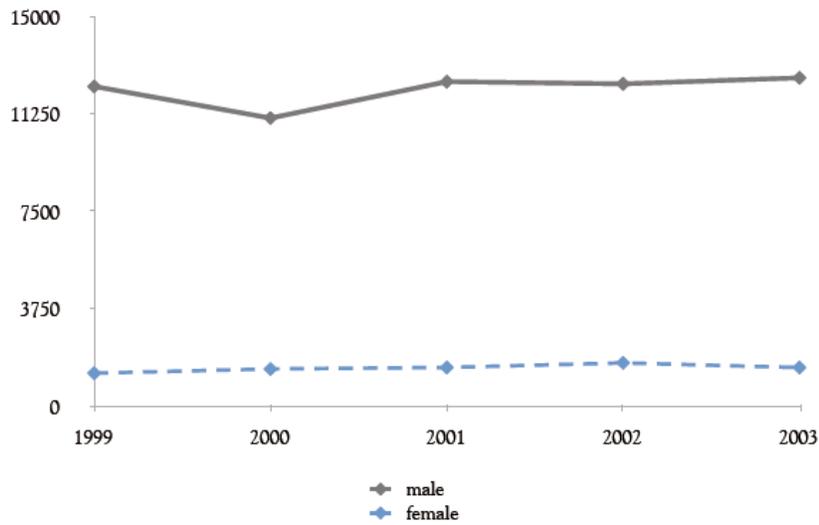
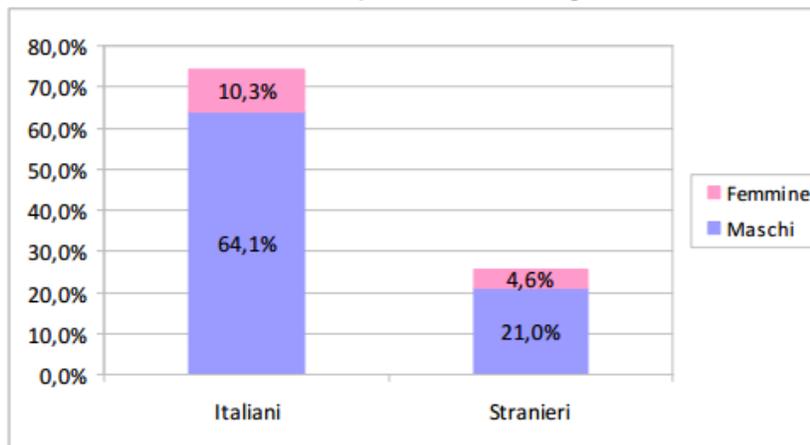


Figure 2. Male and Female Juvenile Offenders.  
 Source: [www.giustiziaminorile.it](http://www.giustiziaminorile.it) by Fondazione Michelucci.

Figure 2 shows the great difference between males and females within juvenile offenders cared by the justice system.” (P. Merignolo, University of Florence).

The trend is the same in 2013<sup>19</sup>: the subjects signaled (not charged, but the trend is the same) by the Judicial Authority to the Social Services, by nationality and sex (pink for females, purple for males, first column Italians, second one foreigners):

**Grafico 2 - Soggetti segnalati dall'Autorità giudiziaria agli Uffici di Servizio sociale per i minorenni nell'anno 2013, secondo la nazionalità ed il sesso. Valori per 100 minori segnalati nell'anno.**



*Figure 3 –Source: Analisi dei flussi di utenza dei Servizi della Giustizia Minorile – Year 2013 - [http://www.giustiziaminorile.it/statistica/analisi\\_statistiche/flussi\\_di\\_utenza/Flussi di Utenza 2013.pdf](http://www.giustiziaminorile.it/statistica/analisi_statistiche/flussi_di_utenza/Flussi_di_Utenza_2013.pdf)*

Historically, the trend is confirmed (see below figure 4 with data from 2002 to 2013 included for subjects signaled):

<sup>19</sup> Not all data are available for 2013, but, whenever they are, we will quote them.

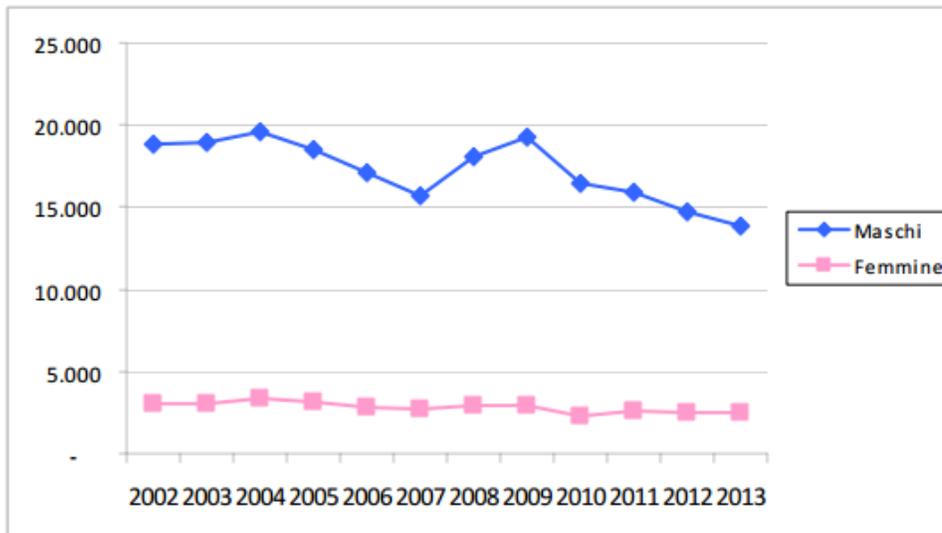


Figure 4 –Source: *Analisi dei flussi di utenza dei Servizi della Giustizia Minorile – Year 2013 -*  
[http://www.giustiziaminorile.it/statistica/analisi\\_statistiche/flussi\\_di\\_utenza/Flussi di Utenza 2013.pdf](http://www.giustiziaminorile.it/statistica/analisi_statistiche/flussi_di_utenza/Flussi_di_Utenza_2013.pdf)

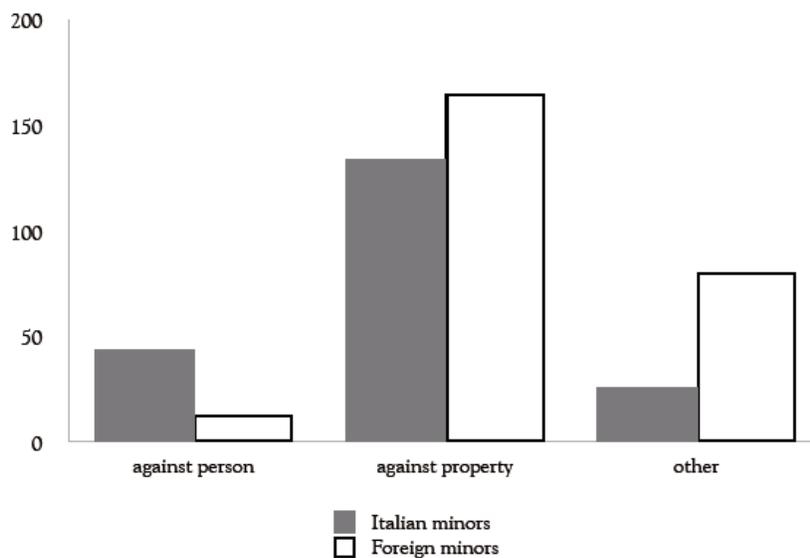


Figure 5. Minors in IPM, According to the Most Serious Office (at 31/12/2004).

Source: [www.giustiziaminorile.it](http://www.giustiziaminorile.it) by Fondazione Michelucci.(subjects charged) -(P. Merignolo, University of Florence – full text: [http://www.scielo.org.co/scielo.php?pid=S1657-92672012000400004&script=sci\\_arttext](http://www.scielo.org.co/scielo.php?pid=S1657-92672012000400004&script=sci_arttext) )

If we analyze the crimes where minors are involved (Figure 5), it can be observed that Italian minors are mostly charged with crimes against people (and this is because of their involvement in organized crime), while foreign minors are often charged with offence against property, crimes related to drug trafficking, or because violation of migration laws.

The following figure (Figure 6) shows, in 2013, the subjects signaled by the Judicial Authority to the Social Services, by age and nationality (in red foreigners, in blu Italians):

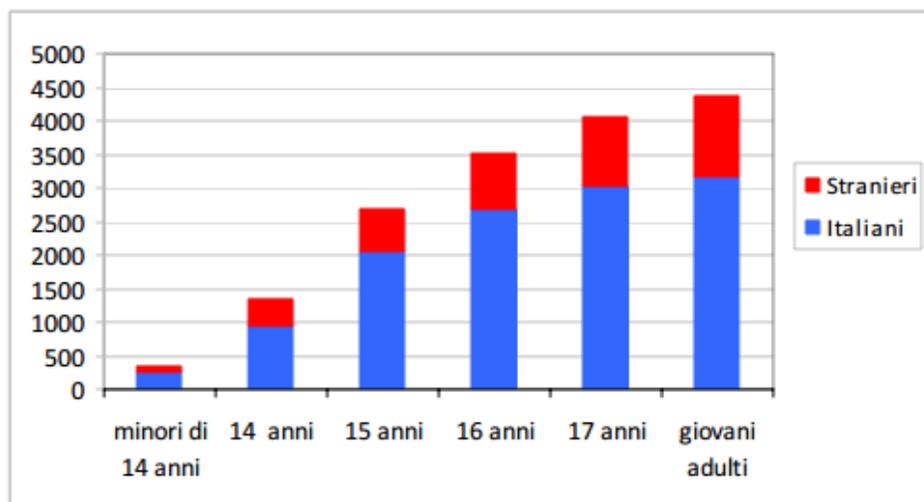


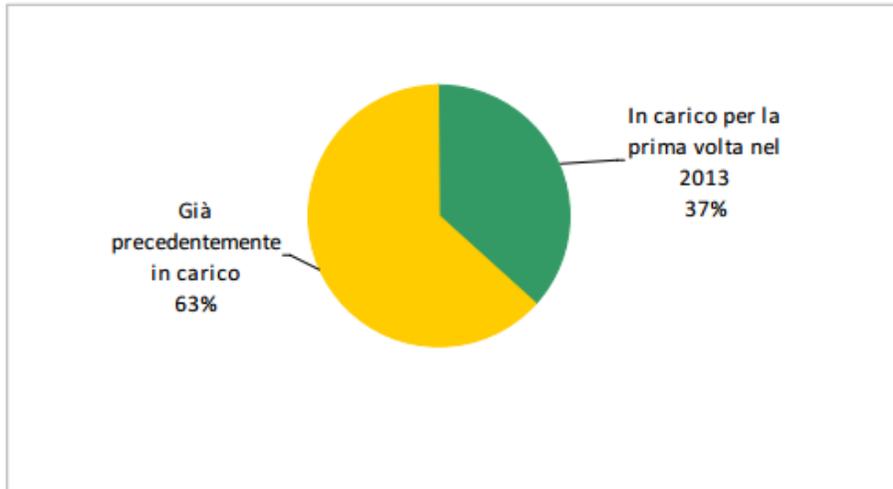
Figure 6 - Source: *Analisi dei flussi di utenza dei Servizi della Giustizia Minorile – Year 2013 – by age and nationality (subjects signaled, not all charged)*

[http://www.giustiziaminorile.it/statistica/analisi\\_statistiche/flussi\\_di\\_utenza/Flussi\\_di\\_Utenza\\_2013.pdf](http://www.giustiziaminorile.it/statistica/analisi_statistiche/flussi_di_utenza/Flussi_di_Utenza_2013.pdf)

*Giovani adulti = young adults (persons who committed the offence as minors but are now adults)*

### Subjects in charge of the Social Services in 2013 – statistics

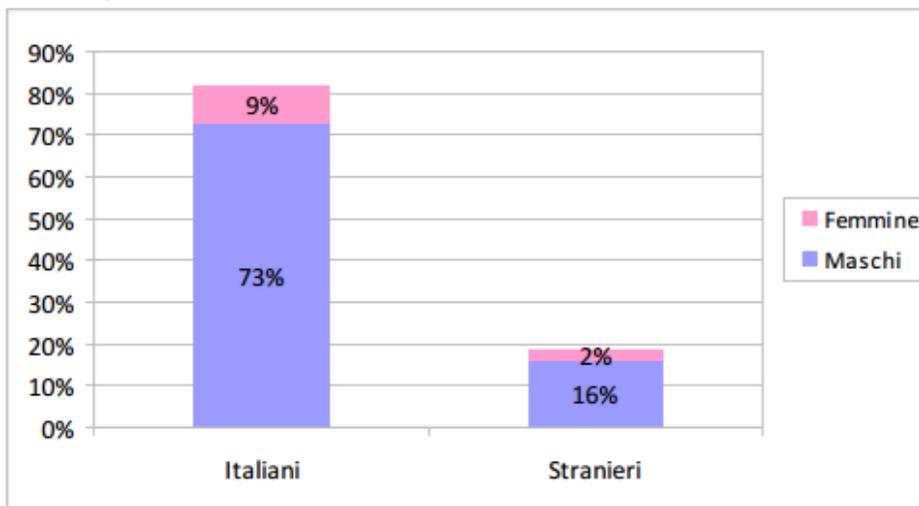
63% of the minors taken in charge are not taken in charge for the first time:



Source: *Analisi dei flussi di utenza dei Servizi della Giustizia Minorile – Year 2013*

[http://www.giustiziaminorile.it/statistica/analisi\\_statistiche/flussi\\_di\\_utenza/Flussi\\_di\\_Utenza\\_2013.pdf](http://www.giustiziaminorile.it/statistica/analisi_statistiche/flussi_di_utenza/Flussi_di_Utenza_2013.pdf)

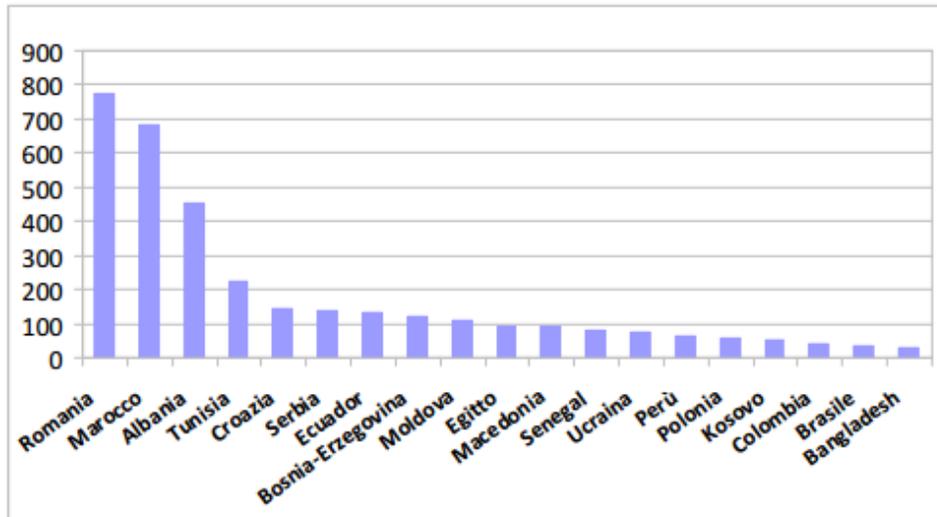
If divided by sex and nationality, the situation is the following:



Source: *Analisi dei flussi di utenza dei Servizi della Giustizia Minorile – Year 2013*

[http://www.giustiziaminorile.it/statistica/analisi\\_statistiche/flussi\\_di\\_utenza/Flussi\\_di\\_Utenza\\_2013.pdf](http://www.giustiziaminorile.it/statistica/analisi_statistiche/flussi_di_utenza/Flussi_di_Utenza_2013.pdf)

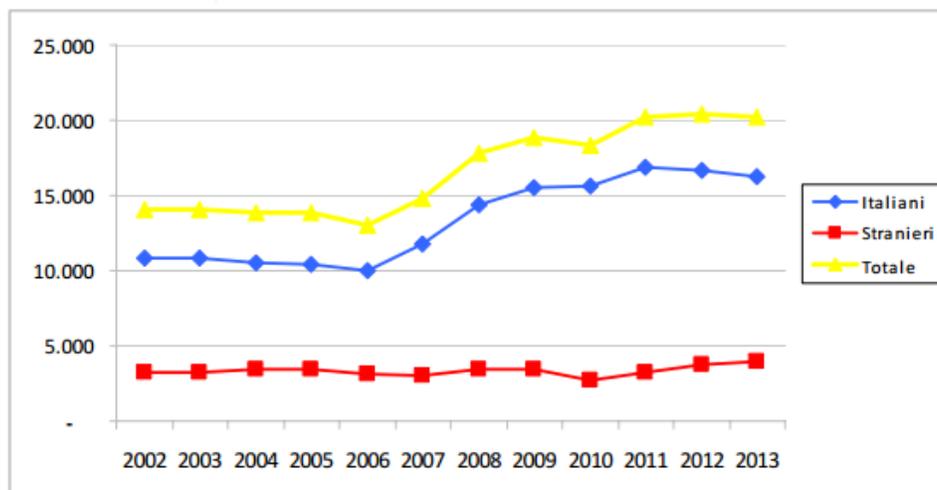
18% of the minors are not Italian. The table below shows the various nationalities:



Source: *Analisi dei flussi di utenza dei Servizi della Giustizia Minorile – Year 2013*

[http://www.giustiziaminorile.it/statistica/analisi\\_statistiche/flussi\\_di\\_utenza/Flussi\\_di\\_Utenza\\_2013.pdf](http://www.giustiziaminorile.it/statistica/analisi_statistiche/flussi_di_utenza/Flussi_di_Utenza_2013.pdf)

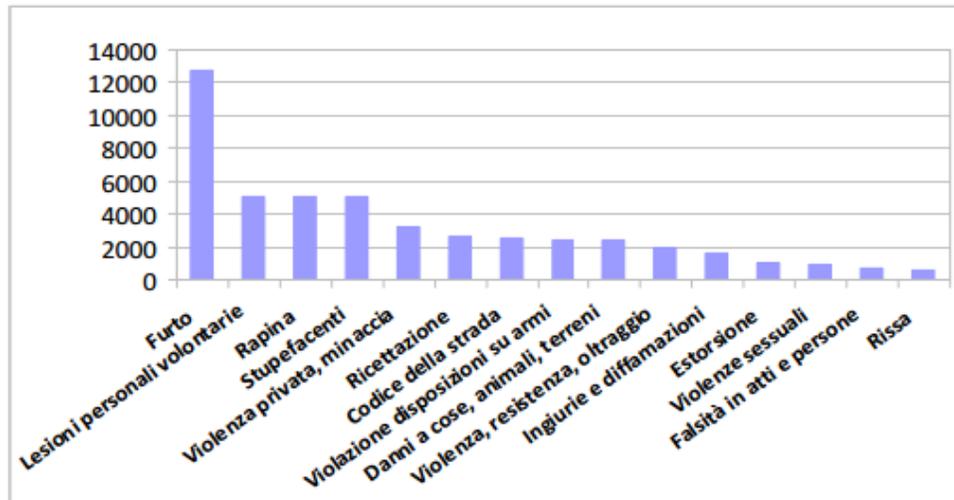
Historically, the trend for minors taken in charge by the social services is increasing since 2006:



Source: *Analisi dei flussi di utenza dei Servizi della Giustizia Minorile – Year 2013*

[http://www.giustiziaminorile.it/statistica/analisi\\_statistiche/flussi\\_di\\_utenza/Flussi di Utenza 2013.pdf](http://www.giustiziaminorile.it/statistica/analisi_statistiche/flussi_di_utenza/Flussi_di_Utenza_2013.pdf)

According to a division per typology of the offence we see theft, personal voluntary injuries, robbery and drugs as the most frequent crimes in 2013:



Source: *Analisi dei flussi di utenza dei Servizi della Giustizia Minorile – Year 2013*

[http://www.giustiziaminorile.it/statistica/analisi\\_statistiche/flussi\\_di\\_utenza/Flussi di Utenza 2013.pdf](http://www.giustiziaminorile.it/statistica/analisi_statistiche/flussi_di_utenza/Flussi di Utenza 2013.pdf)

### IPM (Istituti Penali per i minorenni)

“The following table (Table 1) is about the most recent data of capacity and presence in Italian institutions for minors. The total of presences is close to the capacities, even if the last aren’t well distributed.” (P. Merignolo, University of Florence – full text: [http://www.scielo.org.co/scielo.php?pid=S1657-92672012000400004&script=sci\\_arttext](http://www.scielo.org.co/scielo.php?pid=S1657-92672012000400004&script=sci_arttext) )

The greatest presence of minors, particularly males, is in the southern IPM and in relation to mafia crimes, while the more crowded institutions are in the greater northern towns. The number of crimes charged by minors in Italy is less than 40.000 per year. However the number of involved minors is surely lower, because some of them are charged several times. About 6.500 of them cannot be charged because they are not yet fourteen. The data is quite steady; perhaps it might be slightly decreasing. Among them, foreigners are 25% and less than 20% are female.

Half the crimes are against property, about 25% against individuals, and about 13% are crimes related to drug trafficking (Dipartimento della Giustizia Minorile, 2011).

**TABLE 1**  
*Capacities and Presences in Italian IPM (16 September 2010)*

	Capacity			Presences		
	Male	Female	M+F	M	F	M+F
Total	451	63	524	460	40	500
(In Southern Italy)	282	12	294	285	8	293

Source: [www.giustiziaminorile.it](http://www.giustiziaminorile.it) by Fondazione Michelucci.

**Table from P. Merignolo, University of Florence – full text:**

[http://www.scielo.org.co/scielo.php?pid=S1657-92672012000400004&script=sci\\_arttext](http://www.scielo.org.co/scielo.php?pid=S1657-92672012000400004&script=sci_arttext)

*Entries in IPM are decreasing from about 1.900 at the beginning of 2000, to about 1.200 in 2009. Among them, female number was the one that decreased the most, and foreigner minors, who were prevalent in the past years, with a peak on 2004 with 60% of presences, are now 43%, thanks to local communities' policy about their social inclusion.*

“IPM in Italy are now 16 (on 2011), located in almost all regions. Four of them have girls’ divisions.

The majority of IPM are located in the South and in the Islands, because of the marginality and poverty of this places, and particularly of the minor’s involvement in organized crime, as *mafia* (in Sicily), *camorra* (in Campania), and *ndrangheta* (in Calabria), who offers a sort of training in professional crimes. These organizations are widespread in many other regions, with the same – even though lower – effects for youth.

Foreigner minors in IPM are 65% in the North West of Italy, 71.2% in the North East, 70% in Central Italy, 15.5% in the South, and 11.9% in the Islands. Their number is higher in northern regions, because migration is headed towards more industrialized regions, as those in the north side of the country.

Minors’ number in 2011 is about 450-500. Is important to notice that this is their real number, because it’s independent from the reentries. Within IPM young people aged from 18 to 21 years is

about 40-45%, and even more. On 2009 they were 57%, and in the same year it increased until reaching 61% of presences. The longer stay of youngsters in institutions allows a better care of their educational, work or rehabilitation process, but it may cause some strained relationships among guests.” (P. Merignolo, University of Florence).

Employed staff in IPM on 2900 was composed by 1.390 units, both office-workers and youth workers, and 800 prison officers. Youth and social workers are nevertheless the minority, and often they work away from Institution: Their number also includes those involved in “criminal external area”, like in local communities.

### **Negative aspects**

“Alternative punishments are not applied generally to minors lacking social networks to support them (family, school, job), particularly to those coming from abroad or Italian minors living in the South.

Boys and girls coming from abroad are often submitted to preventive detention. In such cases juvenile prison becomes a way to contain, and restrain their marginalization and poverty.

In the South of Italy there are many Italian youngsters with a final judgment who are shut down in prisons until they are 21 years when they are moved to adult imprisonment. For them juvenile justice doesn’t foresee real recovery efforts, but rather stresses criminalization, preparing them for a future life marked by continuous entries to jail.” (P. Merignolo, University of Florence).

### **Foreign minors**

“In IPM foreign minors are a very heterogeneous group, including those who came for family reunification, or were born in the country of migrant parents, or arrived here alone, escaping from war and poverty. They are vulnerable in two ways (Abbiati, 2010): Being underage minors who aren’t able to fulfill their need on their own, and because of the migration status that turns them to “stranger” and “other” to the eyes of the other citizens. What’s more, those who are *unaccompanied*, without a legally responsible adult, are facing all alone the difficulties, mostly when their behavior is unsuitable and needs boundaries. Most of them can become deviant and undertake a criminal

career. Sometimes they are unable to solve their migrant situation because they can't reach the proper information and know the legal procedures.

Forced to grow up quickly, they are often distrustful. It's quite difficult for them to have significant Italian adults, perceived sometimes as the reason of their detention. Cultural mediation appears as an indispensable means not only to translate procedures, but to really understand cultural needs. The most serious problems however appear outside, and at times foreigner minors may have more opportunities during their stay in IPM than after their release." (P. Merignolo, University of Florence).

### **“Reducing detention**

By law reforming juvenile trial (1988) detention would be a “residual” treatment, and we can see that youth inmates are decreasing. “Less prison” doesn't produce more deviance. We know that is rather prison that may cause more criminality: Minors with higher stays “in” are authors of more serious and repeated crimes, are older than the other kids or are coming from abroad (and then with less inclusion possibilities). In IPM there aren't usually minors for whom it is possible to plan educational interventions. For the most of them their stay is short. For foreigners or Rom minors detention is often “justified” by social control. So it ends in a containment and stigmatization for marginalized individuals who frequently commit crimes as thefts (e.g. Rom youth), drug trafficking and so on.

### **Age**

IPM isn't always a “juvenile” prison, for relevant presence of young-adults (aged 18-21) carrying on their educational treatment. This may cause difficulties in relationships inside. There are different points of view in front of such phenomenon, with different evaluations on possible outcomes, and the question is still under discussion.

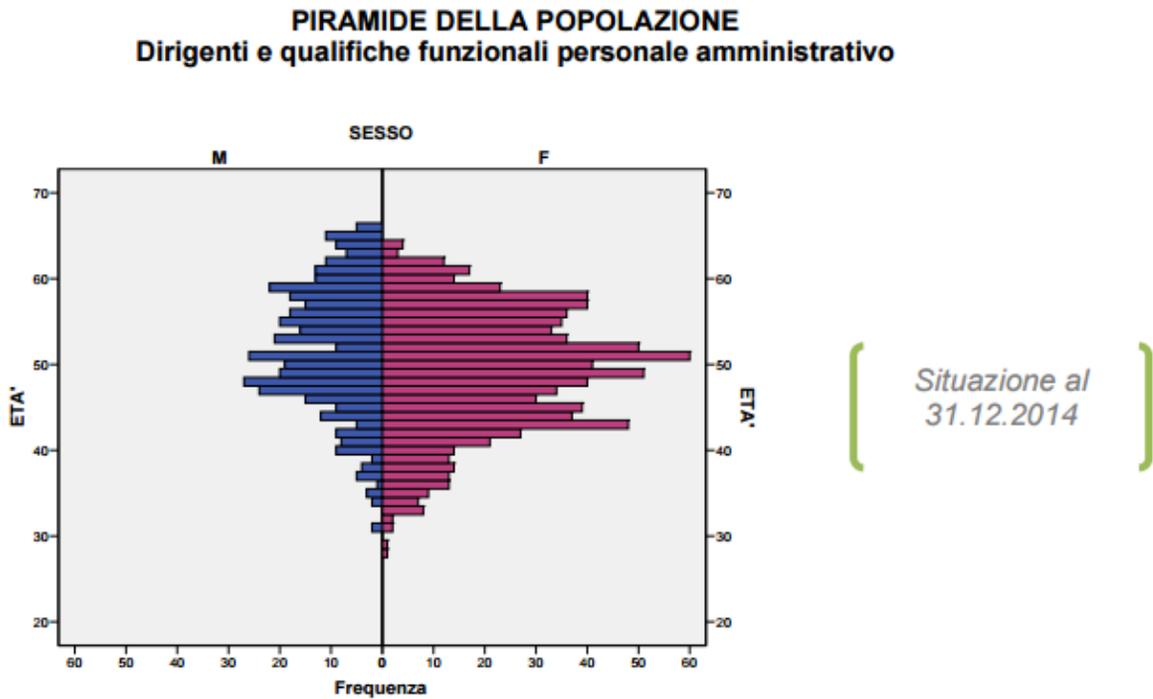
### **Employed professionals**

Everyday management is mostly carried out by prison officers (whose number is the highest in EU), while educational staff is prevalently employed outside. Even though they are more trained

than in the past, the outcome is that IPM is focused more on custodial aims than in educational treatments.

For facing relationship with minors from abroad and Rom, cultural mediators have been engaged. Such professionals are few and often are doing voluntary work.” (P. Merignolo, University of Florence).

*Administrative employees and managers – Pyramid of the employees:*



Analisi statistica dei dati del personale amministrativo, tecnico e del Corpo di Polizia Penitenziaria secondo età e genere, Dipartimento Giustizia Minorile

**Personale del Corpo di Polizia Penitenziaria  
secondo il sesso e la classe di età**

**In servizio al 31.12.2014**

<b>Classe di età</b>	<b>Maschi</b>	<b>Femmine</b>	<b>Totale</b>
21 - 25 anni	8	11	19
26 - 30 anni	46	20	66
31 - 35 anni	46	11	57
36 - 40 anni	45	13	58
41 - 45 anni	173	15	188
46 - 50 anni	182	14	196
51 - 55 anni	104	20	124
56 - 60 anni	13	6	19
<b>Totale</b>	<b>617</b>	<b>110</b>	<b>727</b>
<b>Età media</b>	<b>43,9</b>	<b>40,1</b>	<b>43,35</b>

Prison police – personnel: sex and age

*Translation:*

<i>Age</i>	<i>male</i>	<i>female</i>	<i>Total</i>
<i>Total</i>			
<i>Average age</i>			

**Source: Analisi statistica dei dati del personale amministrativo, tecnico e del Corpo di Polizia Penitenziaria secondo età e genere, Dipartimento Giustizia Minorile**

**Professionals working in the penitentiary police, Minors Dept.:**

[http://www.giustiziaminorile.it/statistica/analisi\\_statistiche/personale/Personale\\_Rel\\_2014.pdf](http://www.giustiziaminorile.it/statistica/analisi_statistiche/personale/Personale_Rel_2014.pdf)

See Annex 1

**“Quality of treatment**

Quality has been undoubtedly improved, paying attention to minors’ needs and local communities support. Fewer numbers of minors and better professional training have led to more effective programs, at least for Italian minors. There are significant experiences in planning

educational treatments that may continue after release, activities such sports or drama, cooperation with local communities, and also specific treatments for young sex offenders or for those in mafia related crimes.

### **Alternative punishments**

Several authors (Pazè, 2010) underlined the importance of semi-detention, house arrest (everyday or in the weekend), conditional release, punishment based on restoring behavior, or on public services (as in other countries), to lessen even more the figure of detention.

The real difficult in creating an alternative punishment lies in the lack of social resources, particularly for minors with more needs: Migrants, minors coming from families with multiple problems, or gipsy minors. For all of them is almost impossibile to grant custody to their families.

The same goes for children involved in mafia or other organized crime, where their social network cannot be thought as a resource for rehabilitation.” (P. Merignolo, University of Florence).

### 3. Violent crimes

#### What is considered a violent crime?

Eurostat defines violent crime the following crimes : violence against the person (eg assault) , sexual assaults, robberies and muggings .

The definition used for the analysis of national and regional comparisons follows that of the information system of the Ministry of Interior and includes: crimes for massacre, murder volunteers consumed, infanticide, unintentional murder, attempted murder, bodily harm, rapes, kidnappings, bombings, robberies.

This aggregate is not fully comparable with that of Europe.

On the other hand, in criminology, as a violent crime approaches it depends a lot on how you define the crime. So there are many different legal terms for the various forms of violent crime that is often difficult for people to keep track of what this means. Here are definitions of some simple yet detailed common types of violent crimes:

Homicide: The killing of one person by another (regardless of the circumstances).

Murder: The intentional killing of another human being.

First-degree murder: A term some states use to refer to a deliberate murder.

Second-degree murder: A term some states use to refer to a manslaughter where the murderer shows "extreme indifference to human life" or "wanton disregard" for the victim's life.

Felony murder: A term used by some states that a death occurs during the commission of a serious crime, such as robbery or kidnapping. (All participants in such a crime can be charged with murder.)

Manslaughter: The unintentional killing of another person, where the killer engages in reckless behavior that causes a death/ the cause of someone's death through negligence.

Battery: The act of making offensive physical contact with someone.

Assault: The threat of a battery or a battery tried, without physical contact.

Simple assault or battery: The act of causing some low-level - not serious - injury.

Aggravated assault or battery: conduct serious offense involving the use of dangerous or deadly weapon or resulting in serious injury.

Vehicular assault: dangerous driving causing injury to another.

Spousal assault (also called domestic violence or domestic violence): violence between domestic partners.

Rape: The act of convincing force someone to have sex, or sexual contact between an adult and a partner younger than 18, or the act of having sex with someone who believes the law incapable of consent because a mental handicap.

Sodomy: The act of having forced anal or oral sex with someone, or the act of consent to participate in those same acts between an adult and a minor.

At 0.013 per 1,000 people, Italy has the 47th highest murder rate in the World. This makes the murder rate in Italy one of the lowest among Western countries. It is less than 1/3 of that of the United States. Italy is also safer than Finland, France, Australia, Canada and the U.K. and roughly as safe as Spain, Germany and the Netherlands.

Italy is also a country with lower rates of rape than most other nations of the Western world. It has the 46th highest per-capita rate of rape in the world meaning that Italian citizens are 7 times safer from rape than American ones. Similarly, Italy has a lower per capita rate of rape than most of the advanced Western countries in the European Union.

## **Which training programs are available for rehabilitation professionals to deal with violent crimes?**

### **Pre-service trainings**

#### **Crime prevention strategies in Italy**

Source:

[www.ufrgs.br/ufrgsmun/2009/preparation/pp/ccpcj\\_33.doc](http://www.ufrgs.br/ufrgsmun/2009/preparation/pp/ccpcj_33.doc)

<http://www.scribd.com/doc/260014615/Eucpn-Crime-Prevention-Strategy-Italy#scribd>

“The law enforcement strategy aimed to enhance overall security and public order over the Italian territory is mainly based on re-launched prevention.

Talking about prevention today means being able to remove real or supposed risks from any territory and establishing safe environmental conditions so as to raise widespread confidence in the people frequenting them.

Besides territory policing through the activities carried out by law enforcement agencies based on coordinated territory control plans (foreseeing the rotation of National Police and Carabinieri officers in each set area) as well as through an ever increasing involvement of the Municipal Police with regard to the checks within the areas of their responsibility (local administrative police, urban traffic regulations, commercial areas, and so on.) , the concept of “neighbourhood policing” is more and more gaining ground and being integrated at national level according to new operational models. The aim is to bring institutions closer to citizens in order to better understand their needs and find, possibly with the active involvement of the parties concerned, solutions that are shared by them and, as such, more useful and appropriate.

In this connection, in 2002 the “neighbourhood police and carabinieri officer” service was launched - first in 28 provincial chief towns and then progressively extended to cover 748 areas within such towns and in further 79 urban centres, involving 3,701 operators - which seems to meet with public approval and represents one of the many initiatives based on a new way of approaching security, which also means security “extended” to all social actors capable of making a positive contribution to ensure the peace and liveability of our towns and cities.

The distinguishing feature of the “neighbourhood police and carabinieri officer” consists in generating a closer link with their policing areas, providing further opportunities for collaboration with citizens, communities and other institutions, thus maximizing their ability to instil confidence. This is, therefore, a familiar and reassuring figure who provides support to territory policing activities carried out by the various patrolling and emergency units.

The primary tasks entrusted to the “neighbourhood police and carabinieri officer” are to establish and maintain stable contacts with citizens, traders and any leading figure within the community, give advice on security matters, direct anyone seeking information to the appropriate service for further action, provide information on persons or offices or, in any case, orientate citizens

to meet their specific requirements, accurately control the territory to get to know its distinctive elements, early notify the office of any emergency in order to both provide useful information and allow for possible further developments in the investigations, take direct action in case of absolute necessity and, in so doing, without substituting for first-response services.

This new operational model has proved successful in preventing predatory crimes (thefts, bag-snatching, pick-pocketing and robberies) with a dramatic drop recorded in the three-year period from 2004 to 2006 in a number of cities in Northern, Central and Southern Italy as well as in a few islands included in a recent sample survey.

Within the “neighbourhood policing” scheme, the enhancement of operational modules is being implemented in order to ensure a more and more visible and widespread law enforcement presence all over the territory. In particular, a set of new initiatives has been undertaken such as the establishment of district police stations, the “home reporting service” for the elderly and the disabled, the Children’s Office, the “secure parks” project with the deployment of special national mounted police patrols, consisting of a policeman and a State Forester, controlling the green areas of major Italian cities, the opening of the offices for relations with the public within the Police Provincial Headquarters, the organisation of “football fans teams” to prevent incidents on the occasion of football matches, the project named "the policeman is another friend of yours” in conjunction with the Ministry of Public Education and the Italian Committee for Unicef, aimed to spread the culture of legality and social solidarity among elementary school children. Besides that, “neighbourhood policing” has been considered a sort of “e-policing” through the enhancement of the Internet websites of the National Police and the Carabinieri Corps, operating an online desk that enables the public to directly report thefts or losses along with computer crimes and also provides information on administrative issues thanks to the assistance of an online operator.

To optimize general prevention services, preference is given to the use of **state of-the-art** and well-established communication and visualisation technology, as well a to the increased utilisation, also by “vulnerable” private entities of technical equipment capable of reducing the risk of criminal attacks connected to this activity. In this context, mention should be made of :

- The interconnection of the Police Forces' control rooms designed to conduct targeted operations through a timely overview of the men and means deployed over the territory, with a view to promoting recovery of human resources, thus making the operational work more rational. In this regard, an objective to be achieved is the connection of the control rooms of the Police Forces having general responsibility with those of the Municipal Police.
- The use of video-surveillance systems which have been installed in sensitive urban areas in agreement with the local bodies concerned and which make it possible to accurately monitor target public places where public order disturbance cases are mostly recorded.

However, prevention cannot be regarded as the exclusive duty of Police Forces. To be perceived as a social stability factor, this activity requires the involvement of all public and private actors that, to a different extent, can contribute to making every territory in which citizens live and work a more secure and safer place.

In the light of the development of the collective thought and of the synergy between institutional and non-institutional components, collaboration with institutional bodies as well as with both private and public entities is being fostered in order to undertake effective initiatives within the framework of the so-called dedicated security, that is conceived to address the needs of specific economic and production-sector categories such as traders, entrepreneurs, the banking and insurance sectors and so on.

Within the framework of the measures for re-launching the economic and social development of Southern Italy, in relation to which security of the territory and of the economic operators is a pre-requisite, the National Operational Programme on "Security for the development of Italy's Mezzogiorno", funded by the European Union, has been designed to combine the enhancement of technologies (infrastructural interventions with a marked interforce connotation), the development, training and updating of personnel, the involvement of civil society (through strong awarenessraising action and cultural adjustment) and enlarged partnership with social and economic actors ( in order to combat social disruption, marginalisation and deviancy).

In addition, it is worth mentioning the various urban security memoranda of understanding and the agreements between local bodies and the Ministry of the Interior for the definition of security standards and the promotion of initiatives directed at guaranteeing appropriate security conditions in the framework of the actions aimed at the re-qualification of productive areas, the development of entrepreneurial activities and the establishment of a balanced and sound economy.

Finally, in March 2007 a "Security Agreement between the Ministry of the Interior and the National Association of Italian Municipalities", involving all Italian Municipalities, was signed for the purpose of implementing shared projects to foster subsidiarity between State and local governments.

With regard to the prevention of sexual violence in urban areas, it was agreed that the best possible intervention strategy should be supported by synergic action from territorial bodies resorting to general prevention measures (such as lightning enhancement and extended video-camera surveillance network, street furniture interventions, connection of all radio-taxi central control rooms with law enforcement agencies' ones, introduction of "social caretakers" in housing estates).

Furthermore, in order to assist the victims of intra- and extra-familial violence, the "Antiviolence Network among the Urban-Italy cities" project has been implemented. In this context, the "Arianna Project" has been conceived to fight all forms of violence against women all over the national territory, through the activation of a national telephone line (namely number 1522) to combat violence against women and designed to provide support, protection and assistance to women who have been victims of ill-treatment and abuse. This service is staffed by special trained and exclusively female personnel, operates 24 hours a day, 365 days a year, is multilingual (Italian, English, French, Spanish and Russian are spoken), and can be accessed free of charge by all male and female citizens throughout the national territory, using both the fixed and mobile telephone network. Any woman resorting to this service is guaranteed absolute anonymity."

## **In-service/ On the job trainings**

### **Best practices**

1- Latin Kings and Ñetas: the experience of Genoa.

[https://ewwadiana.files.wordpress.com/2015/03/salah-husein-sirio-regione-liguria-it\\_agimp\\_md1\\_iolavoroforum\\_84\\_immigrazione.pdf](https://ewwadiana.files.wordpress.com/2015/03/salah-husein-sirio-regione-liguria-it_agimp_md1_iolavoroforum_84_immigrazione.pdf)

In 2004, a research group of the University of Genoa began to investigate the phenomenon of Latin American youngsters with the aims of studying the complex social conditions of these youths and of deconstructing the criminal image that the mass media presented of them. This research project on street organisations included two main steps:

- *Action-research (researchers are able to do field work and conduct a series of interviews with members of street organisations).*
- *Participative action-research (involvement of leaders in the research project, interviews and ethnographic study with Latin American members and Italian tutors).*

In June, 2006, Latin Kings and Ñetas were invited to talk to the public at the convention on ‘Youths, migrants and Latinos. Beyond the gangs, for a process of recognition and non-violence’. They announced their intention to quit violence and begin a peace process that would be supported by the Assessorship for Culture of the Municipality of.

Consequently, the two main street organisations contacted each other and began to manage together the Zapata Social Centre. As you may know, Emiliano Zapata was a Mexican warrior, who managed to mobilise the population in the rural areas of Chiapas against the central government,

demanding better living conditions for them, as they had been (and still continue) living in the poorest part of Central America. He created the EZLN (Ejercito Zapatista de Liberacion Nacional – Zapatist Army for the Liberation of the Country), and still today most of the rural areas keep fighting for a more fair social well-being.

The centre is a meeting point for gang members, academics, militants of the centre, social educators of the institutional Centre of Services for Minors and Families.

It is also attended by some officials of the Municipality of Genoa. It has become a prime way for implementing projects and initiatives targeted at second generation immigrants. The emergence of “official” Latin American street organisations in Genoa produced positive effects both for young people and for the wider local community, which can be summarised as follows:



- Reduction of violence between groups, and also inside the groups.
- Increased interactions between street groups and associations and institutions.
- Application of mediation methods to prevent manage conflicts between groups.
- Decrease of public alarm.
- Legitimisation of codes and symbols.
- Providing a better criminal image of street organisations and Latin Americans in the media.
- Better knowledge and awareness of the characteristics of street groups among social and institutional agents and representatives
- Participation of street organizations’ members in social projects aimed at increasing educational, professional and cultural opportunities.

2 - The “Spazio Raga” project by the Municipality of Reggio Emilia

<http://www.solidarieta90.it/servizio/155/Attivit%C3%A0-Pomeridiane---Spazio-Raga.html>



The *Spazio Raga* project promoted by the Municipality of Reggio Emilia is an example of social and community prevention programme, which relies strongly on conflict mediation and was implemented in a multi-ethnic neighbourhood (named “Turri-Paradisi”). First, social educators analysed the signs of juvenile discomfort (e.g. lack of strong educational models, school dropout) and territorial characteristics. Then, they assessed specific interventions (targeting the expectations and motivations of young people) such as school support, handwork activities, photography, theatre and musical courses.

*Spazio Raga* is a youth club for teenagers who live in the area of Reggio Emilia East, opened in December 2005. Nowadays, about 40 young people (30% of the whole youth population living in the area) regularly attend the centre. They are aged from 13 to 18, and are originated from different countries: Albania, China, Egypt, Ghana, Mauritius, Morocco, Nigeria, Senegal, and Ukraine.

The project was focused on helping young people develop their personal skills (by helping them with their homework, the use of free time, sports activities, creative labs) and their relationships within the group. It also implemented small “active citizenship” programmes. Another target of *Spazio Raga* is to create a strong connection among the families and socio-educational projects in the area in order to promote trust, social cohesion and positive neighbourhood, with the support of cultural and linguistic mediators.

The success of this initiative depends mainly on the following elements: the capacity to address the needs of young people to build an individual and collective identity and to gain self-confidence; school support; having a place where youngsters can experiment constructive reciprocal relationships and positive interactions with adults.

## 4. Sexual Crimes

### **What is considered a sexual crime?**

Source:

<http://criminal.lawyers.com/sexual-crimes/blogs/archives/53-what-is-the-penalty-for-child-molestation,-sexual-assault,-sexual-battery,-prostitution-or-lewd-conduct.html>

“Sex crimes refer to criminal offenses of a sexual nature. Commonly known sex crimes include, rape, child molestation, sexual battery, lewd conduct, possession and distribution of child pornography, possession and distribution of obscene material, prostitution, solicitation of prostitution, pimping, pandering, indecent exposure, lewd act with a child, stalking, sexual harassment, and penetration of the genital or anal region by a foreign Object. The following is an example of a state law defining sex crime:

Sex crime means an illegal sexual act, activity, or behavior, for example, rape in any degree, sodomy in any degree, unlawful sexual penetration in any degree and sexual abuse in the first or second degree.”

Research on minors and sexual crimes available in Italian:

[http://www.giustizia.it/giustizia/it/mg\\_1\\_12\\_1.wp?facetNode\\_1=0\\_6&facetNode\\_4=3\\_1&facetNode\\_3=0\\_6\\_0\\_9&facetNode\\_2=0\\_6\\_0&previousPage=mg\\_1\\_12&contentId=SPS955053](http://www.giustizia.it/giustizia/it/mg_1_12_1.wp?facetNode_1=0_6&facetNode_4=3_1&facetNode_3=0_6_0_9&facetNode_2=0_6_0&previousPage=mg_1_12&contentId=SPS955053) See

Annex 2

## 5. Drug Abuse

### What is considered drug abuse?

Source:

[http://www.medicinenet.com/drug\\_abuse/page2.htm](http://www.medicinenet.com/drug_abuse/page2.htm)

If we look for the definition of this term, we can find that drug abuse, which is also called substance abuse or chemical abuse, “is a disorder that is characterized by a destructive pattern of using a substance that leads to significant problems or distress. Teens are increasingly engaging in prescription drug abuse, particularly narcotics (which are prescribed to relieve severe pain), and stimulant medications, which treat conditions like attention deficit disorder and narcolepsy”.

There is another term linked to the drug abuse term which is drug addiction, which is also called substance dependence or chemical dependency that by definition “is a disease that is characterized by a destructive pattern of drug abuse that leads to significant problems involving tolerance to or withdrawal from the substance, as well as other problems that use of the substance can cause for the sufferer, either socially or in terms of their work or school performance”.

The term dual diagnosis makes reference to the presence of both a drug-abuse or dependence issue in addition to a serious mental-health problem in an individual. Unfortunately, dependence or substance abuse occurs quite often to people that also have severe mental illnesses. These individuals that have a dual diagnosis also have a higher risk and a tendency to not follow the rules of the treatment.

Basically, the euphoric (“high”) feeling obtained by ingesting any substance can be abused. Apart from the well known fact that there is an abuse of legal substances like alcohol or illegal drugs like marijuana (in most countries) and cocaine, there is little awareness of the fact that inhalants like household cleaners are some of the most commonly abused substances. The following are many of the drugs and types of drugs that are commonly abused and/or result in dependence (definitions obtained in [medicinenet.com](http://www.medicinenet.com)):

“Alcohol: Although legal, alcohol is a toxic substance, particularly to a developing fetus when a mother consumes this drug during pregnancy. One of the most common addictions, alcoholism can have devastating effects on the alcoholic individual's physical health, as well as his or her ability to function interpersonally and at work.

**Amphetamines:** This group of drugs comes in many forms, from prescription medications like methylphenidate (Ritalin, Concerta) and dextroamphetamine and amphetamine (Adderall) to illegally manufactured drugs like methamphetamine ("crystal meth"). Overdose of any of these substances can result in seizure and death.

**Anabolic steroids:** A group of substances abused by bodybuilders and other athletes, this group of drugs can lead to terrible psychological effects like aggression and paranoia, as well as devastating long-term physical effects like infertility and organ failure.

**Caffeine:** While it is consumed by many, coffee, tea and soda drinkers, when consumed in excess this substance can be habit forming and produce palpitations, insomnia, tremors, and significant anxiety.

**Cannabis:** More commonly called marijuana, the scientific name for cannabis is tetrahydrocannabinol (THC). In addition to the negative effects the drug itself can produce (for example, infertility, paranoia, lack of motivation), the fact that it is commonly mixed ("cut") with other substances so drug dealers can make more money selling the diluted substance or expose the user to more addictive drugs exposes the marijuana user to the dangers associated with those added substances. Examples of ingredients that marijuana is commonly cut with include baby powder, oregano, embalming fluid, PCP, opiates, and cocaine.

**Cocaine:** A drug that tends to stimulate the nervous system, cocaine can be snorted in powder form, smoked when in the form of rocks ("crack" cocaine), or injected when made into a liquid.

**Ecstasy:** Also called MDMA to denote its chemical composition (methylenedioxymethamphetamine), this drug tends to create a sense of euphoria and an expansive love or desire to nurture others. In overdose, it can increase body temperature to the point of being fatal.

**Hallucinogens:** Examples include LSD and mescaline, as well as so-called naturally occurring hallucinogens like certain mushrooms. These drugs can be dangerous in their ability to alter the perceptions of the user. For example, a person who is intoxicated with a hallucinogen may perceive danger where there is none and to think that situations that are truly dangerous are not. Those misperceptions can result in dangerous behaviors (like jumping out of a window because the individual thinks they are riding on an elephant that can fly).

**Inhalants:** One of the most commonly abused group of substances due to its accessibility, inhalants are usually contained in household cleaners, like ammonia, bleach, and other substances

that emit fumes. Brain damage, even to the point of death, can result from using an inhalant just once or over the course of time, depending on the individual.

**Nicotine:** The addictive substance found in cigarettes, nicotine is actually one of the most addictive substances that exists. In fact, nicotine addiction is often compared to the intense addictiveness associated with opiates like heroin.

**Opiates:** This group is also called narcotics and includes drugs like heroin, codeine, hydrocodone, morphine, methadone, Vicodin, OxyContin, Percocet, and Percodan. This group of substances sharply decrease the functioning of the nervous system. The lethality of opiates is often the result of the abuser having to use increasingly higher amounts to achieve the same level of intoxication, ultimately to the point that the dose needed to get high is the same as the dose that is lethal for that individual by halting the person's breathing (respiratory arrest).

**Phencyclidine:** Commonly referred to as PCP, this drug can cause the user to feel extremely paranoid, become quite aggressive and to have an unusual amount of physical strength. This can make the individual quite dangerous to others.

**Sedative, hypnotic, or antianxiety drugs:** As these substances quell or depress the nervous system, they can cause death by respiratory arrest of the person who either uses these drugs in overdose or who mixes one or more of these drugs with another nervous system depressant drug (like alcohol, another sedative drug, or an opiate)".

### **Rehabilitation programs for drug abuse:**

#### **Rehabilitation programs for drug abuse “victims” – Pre-service training**

##### **Narcocon**

Source:

<http://en.wikipedia.org/wiki/Narconon>

Narconon International is an organisation that works under L. Ron Hubbard's theories of substance abuse treatment and addiction. Narcocon International has a parent organisation which is called ABLE, which is restrained by The Church of Scientology. Moreover, Narcocon, which is headquartered in Hollywood, works under several dozen of residential centers worldwide, predominantly in the United States and Western Europe.

Narcocon's team hold that it is not enough to have "rehab" programs and rehabilitation centers that compile limited number of persons, but that it must be compulsory to provide a proper education about this topic to our kids and to other adults. So, according to this statement, Narcocon has design a program called "Progetto per Educatori sulle Droghe" (Education about Drugs Program) which is basically aimed for anyone who wishes to create a balanced and fair society for all members by helping prevent the drugs and alcohol abuses.

The "Progetto per Educatori sulle Droghe" is based on evidence. This program has shown its effectiveness in reducing drug use among students of secondary schools, according to the recent results shown by an study made on this program.. Their interactive presentations contain simple and real knowledge about the physical and mental effects of drugs, as well as results of a social drug-related.

Narcocon's experts provide a realistic picture on drug abuse. They do not tell the kids to just "say no". The results of their questionnaires, filled our by students, affirm the precise information about what is that helps children to:

- Decide to stop using drugs (for that already used them)
- Change their mind, from possibly trying for the first time or using drugs, to a firm decision not to use
- Believe more firmly in their decision not to use drugs (when they state they are already against them)

They also deal with problems that often hide behind drug use. Among teenagers, the trigger can often be boredom or an inability to communicate with others. So other players such as setting and achieving goals, are discussed as a method to avoid falling into the trap of drug abuse. Narcocon notably distinguishes the feeling of "intoxicated" by taking drugs, which is harmful and temporary, from that of self-confidence and true happiness through production and obtaining results that is permanent and real.

There are several subject in which Narcocon's presentation are divided and designed for different age groups and focus on the real-life situations that often lead to drug use (we can find this information on Narcocon's website):

“The effects of drugs on the body

The effects of drugs on the mind

Marijuana: The Myth  
The Truth About Ecstasy  
The truth amphetamine  
Drugs and alcohol: how the media influence young  
Tobacco Smoking and Health  
LSD: one of the most dangerous drugs in circulation  
Set and achieve goals in life: as this eliminates the need for drugs  
Resist peer pressure  
Addiction: how it starts and what keeps addiction  
What is the role of emotions in the use of drugs”.

### **“Servizi per le Tossicodipendenze (SerT)” and “Servizi per le Dipendenze patologiche (SerD)”**

“Servizi per le Tossicodipendenze (Services for Drug Addiction), and “Servizi per le Dipendenze patologiche (Services for Pathological Dependence), are the public services of the Italian National Health Service, dedicated to the care, prevention and the rehabilitation of people who have problems that accompany abuse and dependence of psychoactive substances such as drugs, alcohol or compulsive behaviors such as pathological gambling. They also offer programs to professionals to teach them and to help them innovate about this specific field of action.

In SerT operate specialized trained professionals in the addiction field, such as doctors, nurses, educators, health workers, social workers, psychologists and staff OTA (Technical Operator for Assistance). These are workers that have specialised on this area, which have the knowledge to transfer some basic skills to other persons in order for them to collect useful information to start working with persons that have been affected by drug abuse problems.

### **Best practices**

The Gulliver Project

(Empoli Reception Center -

[http://www.centroaccoglienzaempoli.it/giovani\\_e\\_benessere\\_italiano.php](http://www.centroaccoglienzaempoli.it/giovani_e_benessere_italiano.php))

The project Gulliver was a drugs treatment program for young people aged between 15 and 25 years old, set up in Empoli (Tuscany) in 2000 in response to data emerging from a survey conducted in the area on the needs of the local youth population in respect to substance abuse. This program looked for improvement in their quality of life, including returning to work or studies, improvement in the relationship towards family, friendships and the management of free time.

Period: 2000 – 2003.

Substances addressed: alcohol, cannabis.

During this period, the program focused on the way in which to involve the youngsters and the ability of the project's activities to attract them. This was principally based in the proposal of a new life style and the constructing of an alliance with their positive, healthy and vital sides. Consequently, the work on the family side had been organized in a more specific way, enabling a more adequate response to their requests.

The project was articulated through an individualized course and group moments with the youngsters, welcoming chats and parent groups. The purpose for the youngsters was a personal growth via a proposal of changing of certain aspects of their life styles (drug use, self destructive attitudes, risky behavior, eating disorders, immature behavioral patterns, regression, refusal of anything to do with health or well-being.) A course of reflection, a course of socialization, sessions with psychologist, seminars and group themes. Reaching a drug free condition, the first three months of the projects are used to motivate the patient towards urine sample monitoring and suspension of drug taking, by the sixth month, requiring abstinence.

Regarding the work with families, the main target consisted on helping the parents to become reliable interlocutors, improving their competence as parents, acquiring better decision making capabilities, more coherence in their own actions and acquiring better communication skills.

Operators' personal working experiences and of the project's first year have highlighted the need for an initial interview in order to achieve a meaningful therapeutic partnership. The necessity of urine sampling, carried out by the regional Drug Addiction Service is based on experience gained over a period of years and on the conviction that it provides the only objective proof of the suspension of drug taking. Working experiences carried out over the eight life areas (family, professional, financial, self preservation, emotive, sexual, cultural and spiritual) has underlined the

importance of working on all eight areas to obtain a real change in attitude and at the same time an understanding of the relapse factor.

#### Results:

During this project, 27 youngsters presented to the interview and 12 of them were placed within a group (3 of them subsequently redirected to Drug addiction service). From the people placed within groups, 3 of them were in drug-free condition by 2002, another 3 by January 2004. Finally, 3 patients could not reach to the condition. The three clients attained a drug free condition by 2002 have improved relationships with their families, have changed their immediate circle of friends and undertaken the following activities: 1st client: completed secondary education, gained university entrance, joined organization helping disabled persons. 2nd client: enrolled at art restoration school, commenced psychotherapy. 3rd client: change of employment.

The three clients attaining a drug free condition in 2004 have improved relationships with their families, have changed their immediate circle of friends and undertaken the following activities: 1st client: completed middle school education, in employment. 2nd client: attending two year professional training course, in employment. 3rd client: at school, working to pay for studies. The drug-free condition has enabled us to work on the clients' sentiments, needs and aspirations in life. Furthermore the three clients still participating in the project are taking part in the cultural program together with two other groups of young people, one of which is involved in the project *Giovani & Benessere*.

#### Work and Autonomy Project

[http://www.emcdda.europa.eu/html.cfm/index52035EN.html?project\\_id=4596&tab=overview](http://www.emcdda.europa.eu/html.cfm/index52035EN.html?project_id=4596&tab=overview)

This program was set up in the region of Veneto in 2000, by the Castelfranco Veneto Drug Addiction Agency. The purpose of this project was to support people to return to work after they have completed drug rehabilitation and training programs, based in offering an employment skills course which was also supported by individual counseling.

Period: 2000 – 2002.

Substances addressed: alcohol, opiates, cocaine.

The immersion into the job market is a compulsory step in the rehabilitation of persons with drug addiction problems. Work offers support and economic independence, and furthermore allows

persons who have been subject to deviant behavioral problems to re-insert themselves into the community, establish new relationships and to have a social life that meshes with the outside world rather than one revolving around an inner self. The presence of serious psychological disturbances among addicts is the reason for them having difficulties in finding and holding down a job even after attaining stability on a drug and behavioural basis. A problem evident even in wealthy and developed economy enjoying low levels of unemployment such as this one.

A second objective, concurrent to the first, was the promotion of higher motivation levels in those not yet intending to commit to a more consistent undertaking. The project provided a rehabilitation course at a work guidance center of 20 hours per week, 4 hours per day from Monday to Friday. The work guidance center, was coordinated by a part-time vocation teacher in agreement with the educators from the public service. During the 3 year long program, the instructor was supported by a part-time educator.

There were many aspects to be empowered by the addicts, such as the adaptability of the person to respecting schedule, flexibility in relationships with workplace colleagues and superiors, and the ability to control frustration and the progressive recuperation of efficiency. Following a positive verification of the ability to work the participant was offered a 3-6 month trial placement within a company or cooperative. Users got an occupational activity at a work guidance center which could help them establish favorable relationships with peers and agency operators, thus encouraging addicts with a low motivation level to undertake increasingly challenging experiences of ever increasing duration, such as residential rehabilitation treatment within a therapeutic community.

#### Results:

During the duration of the project, 5 participants achieved the project objective of undertaking a therapeutic program within a therapeutic community, zero in the year 2000, three in 2001, and two in 2002.

## 6. Neglect and Abuse

### What is considered neglect and abuse?

Source:

<http://www.disabilityhotline.net.au/what-is-abuse-and-neglect/>

<http://www.thelocal.it/20130918/one-in-every-100-children-in-italy-is-abused>

### What is considered neglect and abuse?

By definition, abuse is the “violation of an individual’s human or civil rights, through the act or actions of another person or persons. ”

Neglect is a “failure to provide the necessary care, aid or guidance to dependent adults or children by those responsible for their care.”

If we want to distinguish between different types of abuses and neglect, we can find the following ones:

#### “Types of abuse include:

- Physical abuse - such as punching, hitting, slapping, burning etc
- Sexual abuse - forcing someone to take part in sexual activity against their will
- Psychological or emotional abuse - threatening, harassing or intimidating a person
- Constraints and restrictive practices - restraining or isolating people other than for medical necessity or to prevent immediate self harm
- Financial abuse - the wrongful use of another person's assets or denying a person the use of their own assets
- Legal or civil abuse
- Systemic abuse”

#### “Types of neglect include:

- Physical neglect - failure to provide adequate food, shelter, clothing and protection. Supervision medical or dental care that places people at undue risk through unsafe environments or practices
- Passive neglect - withholding or failure to provide the necessities of life

- Wilful deprivation - wilfully denying a person assistance and thereby exposing that person to the risk of physical, mental or emotional harm
- Emotional neglect - restricting the social, intellectual and emotional growth or well being of a person”

Neglect may include the failure to provide sufficient supervision, nourishment, or medical care, or the failure to fulfil other needs for which the victim cannot provide themselves. The term is also applied when necessary care is withheld by those responsible for providing it from animals, plants, and even inanimate objects. Neglect can carry on in a child's life falling into many long-term side effects such as: physical injuries, low self-esteem, attention disorders, violent behavior, and can even cause death.

Among the many different types of neglect, they are many different consequences, whether it be physically or mentally. Neglect can affect the body physically by affecting a child's development and health, sometimes leading to chronic medical problems. Children experiencing neglect often suffer from malnutrition, which causes abnormal patterns for development. Not being given the proper nutrients at certain growth periods can result in stunted growth, and inadequate bone and muscle growth. Brain functioning and information processing may also be affected by neglect. This may lead to difficulty in understanding directions, poor understanding of social relationships, or the inability to complete academic tasks without assistance. Neglected children or adults can have physical injuries like fractures or severe burns that go untreated, or infections, lice and other signs of lack of care. There are many physical effects neglect can have on a person.

Not only is neglect associated with physical problems; it also has an effect on a person mentally, ranging from poor peer relationships to violent behavior. Not only is behavior affected, but the way a person looks at themselves, which can lead to low self-esteem and the feeling of being unwanted. Neglect is more severe in younger children when it comes to psychological consequences. Parental detachment can harm the child's development of bonding and attachment to the parents, causing the child's expectations to be the same when they get older (furthering the cycle of abuse). Too little parental availability can result in difficulties in problem solving, coping with stressful situations and social relationships. Studies of neglected children show heightened levels of depression and hopelessness, and higher incidents of suicide attempts.

According to a report published online on “The Local”, “one in every 100 children in Italy is abused or badly treated, with more than half of the cases affecting girls, according to a report released on September 2013.

The number equates to 100,000 children in Italy being abused, according to the report by Terre des Hommes, the international children’s rights federation, and the Italian Coordination of Public and Private Services against Child Abuse (CISMAI).

More than half of the abuse or mistreatment (52.5 percent) is inflicted on girls, while 47.5 percent of boys are abused.

The survey, which is the first of its kind for Italy, involved 31 municipalities across the country, from Milan to Sicily.

Out of the child population of 750,000, the survey found that 48,280 were in care.

“The data finally shows us how many children are cared for by social services for abuse,” said Dario Merlin, the president of CISMAI. But despite the numbers, Merlin said that “child abuse is still a hidden phenomenon”.

In 52.7 percent of the cases, the children had suffered material neglect, while 16.6 percent had been forced to witness acts of violence. Another 12.8 percent had suffered psychological abuse, while 6.7 percent had been sexually abused, 6.1 percent were not cared for properly and 4.8 percent had been physically abused.

"This work reveals that abuse is a real problem, which tens of thousands of children have to deal with daily," Vincenzo Spadafora from the Authority for Childhood and Adolescence (Autorità Garante per l’Infanzia e l’Adolescenza) told the website, Vita.it.

Spadafora added that the survey also highlighted the need to implement measures to combat child abuse, child poverty and deprivation.

The official Italian statistics rank different kind of abuses as follows: physical abuse (38,4%) followed by emotional (22,8%), neglect (21,4%), then sexual abuse (17,4%) is the order of abuse reported out of 608 calls for help in the first six months of 2003 at the National Listening Center of Telefono Azzurro.

In 71% of cases deal with an abuser in the immediate family: in 45,6% of cases the father, 37,2% of cases the mother, and 7% involved other relatives. Considering all four types of abuse, there is a prevalence regarding female children and adolescents (55,8% respect to 44,2% male).ù

Analysing separately each category of abuse based on gender, there is a prevalence of females only in the category of sexual abuse (73,3% where the expected value is 55,8%); therefore female children and adolescents are the main victims.

Other types of abuse affect males more: such as neglect (53,5%), physical abuse (46%), and emotional abuse (52,9%). These data are from the Telefono Azzurro press conference on the eve of the Paris Conference regarding childhood rights, designed to show the need for more attention to prevention.”

### **Rehabilitation programs for neglect and abuse**

#### **Rehabilitation programs for neglect and abuse “victims” – Pre-service (prevention)**

### **ISPCAN Country Partner Program**

Source:

<http://www.ispcan.org/>

“The International Society for the Prevention of Child Abuse and Neglect, founded in 1977, is the only multidisciplinary international organization that brings together a worldwide cross-section of committed professionals to work toward the prevention and treatment of child abuse, neglect and exploitation globally. The countries of the partners that participate in this program are: Hong Kong, USA, Colombia, Argentina, UK, Denmark, Spain, Germany, Belarus, Italy, Japan, Australia, Kingdom of Arabia Saudi, Netherlands, Iceland, Singapore and Turkey”.

ISPCAN's mission is to try to avoid the vruelty to children in every nation, by all means, in every form that it may present: physical abuse, sexual abuse, neglect, street children, child fatalities, child prostitution, children of war, emotional abuse and child labor. ISPCAN is devoted to increase the public awareness of all violent matters, such as violence against children, and to do this, they develop activities to prevent such violence and they also promote the rights of children in all regions of the world.. ISPCAN invites anyone and everyone to join forces with its members around the world to protect children in need: their bodies, minds, hearts and rights.

Their mission is to support individuals and organizations working to protect children from abuse and neglect worldwide.

As it is shown on their website, ISPCAN's goals are to:

- “To increase awareness of the extent, the causes and possible solutions for all forms of child abuse.
- To disseminate academic and clinical research to those in positions to enhance practice and improve policy.
- To support international efforts to promote and protect the Rights of the Child.
- To improve the quality of current efforts to detect, treat and prevent child abuse.
- To facilitate the exchange of best practice standards being developed by ISPCAN members throughout the world.
- To design and deliver comprehensive training programs to professionals and concerned volunteers engaged in efforts to treat and prevent child abuse.

According to ISPCAN's history "in 1999, they launched the Partners Program, establishing affiliations with national child abuse and neglect prevention organizations around the world. The collaboration aims to further the common mission, goals and programs of ISPCAN and its partners.

The program comes up with an existing national, multidisciplinary organizations working in child abuse and neglect (CAN) prevention, with a special focus on groups in developing countries. They believe that effective and sustainable CAN prevention is achieved through education and professional cooperation, and thus, sees the strength of the partnerships in enhancing the global network of those working for child welfare.

Partnership describes a close, on-going and coordinated working relationship, supporting an exchange of materials, information and membership benefits between ISPCAN and other societies. By sharing experience, research and resources, ISPCAN hopes to increase individual, regional and national efforts to end child maltreatment once and for all. The first meeting of Partner leaders took place at ISPCAN's 13th International Congress in Durban, South Africa in September of 2000.

ISPCAN counts with an International Training Program (ITPI). This program develops programs that result in a region's sustained ability to provide quality basic, advanced and train-the-facilitator professional education; raise community awareness; strengthen multi-sector teamwork; and work toward governmental reforms.

“ITPI is grounded in the knowledge that collaboration among multiple stakeholders is the single most effective approach in advancing communities, countries and regions. An effective team includes physical and mental health specialists; social workers and case managers; educators; legal, law enforcement and criminal justice personnel; government officials and media representatives”.

#### ITPI Project Goals:

<http://www.ispcan.org/?page=ITPITraining>

ITPI CAN professional team trainings and initiatives are based on local needs. They are, therefore, context specific. However, there are goals in common with each project.

- Contribute with professional skills development to rural and urban professionals that are short of resources to increase their knowledge of child maltreatment and interventions.using best practice basic, advanced and leadership trainings
- Cherish and coordinate networking and further collaboration with other providers that would not be possible otherwise due to distance and expenses.Increase greater public and cross-sector awareness and education that that positively impacts communities and regions, including understanding of risks, exploitation, malnourishment and violence, effective prevention, early detection, successful case resolution and effective treatment.

Build long-term institutional transformation by dialoguing on effective advocacy strategies, multidisciplinary collaboration protocols, and a replicable professional child protection and care certification program.

ITPI activities result in trained professionals who are professionally trained and have a great understanding of child abuse prevention across disciplines. This disciplines include education, research, advocacy and the contribution to the knowledge base for the prevention of child abuse at the local, regional, national and international level.

#### ITPI Training Methodology:

ITPI’s training methodoly include educational workshops and seminars that incorporateparticipatory techniques based on adult learning principles. These techniques provide opportunities for active participation, cross-disciplinary sharing of experiences, case studies, visual aids and individual reflection.

## Best practices

### Civico Zero project

Source:

[http://providus.lv/article\\_files/2907/original/italy\\_early\\_prevention\\_report.pdf?1428500849](http://providus.lv/article_files/2907/original/italy_early_prevention_report.pdf?1428500849)

One of the identified promising practices it is called *Civico Zero*, set up by Save the Children Italy in 2008 (and continues nowadays), after the closure of a previous project, called *Colourful horizons (Orizzonti a colori)*, which dealt with 37 addressed migrant children within the juvenile justice system. This program has been implemented since that moment in Rome,. The phenomenon analysed and targeted is a significant presence on the territory of migrant children who live in very disadvantaged conditions and poverty or victims of human trafficking.

The first phase of this project lasted one year, until the end of 2009, publishing a report about this phase. Taking into account this report, social agents came to the conclusion that there was a lack of day youths' centre in the city of Rome, in order to provide support, protection and orientation towards the school and/or work environment. Thus, a daytime centre youngsters aged 12 - 18 was established, involving children of every nationality, with a specially focused on unaccompanied minors who live in the streets. In particular, the project addresses migrant boys and girls (and their families when present) in disadvantaged situations, juveniles within the justice system, at risk of trafficking, abuse and commit crime, to improve their life conditions. When carrying out this project, professionals from different backgrounds have been involved: educators, a psychologist, three cultural mediators (Egyptian, Afghani and Roma), social operators and lawyers. Apart from that, local services employees use to collaborate in the implementation of some project's activities (doctors, operators for vocational trainings). The areas of intervention and beneficiaries of this project are:

**The street:** children and youths implicated in prostitution, crime and begging. A Mobile Unit – daytime and night-time – provides them help, regarding street education and orientation, in order to monitor and reduce the risk.

**Criminal area:** children and youths attending First Care centres for pre-trial detention measures, in the juvenile facilities or upon social services' custody. Activities carried out: daytime

interventions, social mediation with the families and the communities, peer education, entertainment, linguistic and cultural mediation, legal counselling.

Roma Settlements: children and youths in risk of social exclusion and marginalization. A daytime Mobile Unit provides social mediation activities, entertainment, workshops, health education and other various support activities.

Day care centre *Civico Zero*: for children and youths, under aged and young adults, where the following tasks are done: day-care and basic services; children vulnerabilities' analysis and referral; informing the youth about their rights and gathering information on rights' violations;; educational and recreational activities; workshops; peer activities; legal counselling; work and education counselling; medical screening and health assistance.

The philosophy of this Centre is based in four main pillars, which involved participation, non-discrimination, reciprocal respect and non violent self-regulation. Children have directly participated in the activities' planning and management, through consultations, peer education and new activities programming.

### **Invisible City Foundation**

The second good practice which must be remarked comes from Catania (Sicily), an island located in Southern Italy which historically has been related to a strong presence of mafia. *The Invisible City Foundation (Fondazione Città Invisibile)* established in 2009 and developed various music schools for children in the city of Catania and around the province.

This idea was based in establishing a music school with children and youths' orchestras in the most conflictive areas in Catania and its province. The origin of this project came from the well-known and consolidated experience of the so-called "Abreu method". José Antonio Abreu is a Venezuelan orchestra conductor, educator and activist who rescued about 350.000 boys and girls through music and education.

Group music classes are carried out by life-coach sessions on legality and social cohesion, and by interventions aimed at stimulating children's skills, including concentration, and memory, in order to enforce sharing and collaboration aspects among the children and youngsters involved.

In this centre free training on instruments and free studying material are offered to children to learn how to play and perform within one of the three orchestra created in this project. This method has been transmitted directly from Abreus' followers who supported the school's teachers for about

two years. The name of this project, *Invisible City*, regards the invisible disadvantages of many children and youths in particularly marginalized contexts, and to the quite *invisible* method used to support them and divert them from an even more marginalized and often deviant path: an educational method which looks for the empowerment of every individual. The main target of the Foundation has been to give support and offer a positive and valuable alternative to children and youths at risk, teaching culture and legality, and empowering their individual skills..

When being carried out, the project involves diverse background professionals: music teachers, life-coaching experts, poets, theatre actors and journalists. Youngsters who join this programme are reported by the authorities, social services or any other public or private individual or entity and are introduced to the music training. The training follows a practical approach, where teachers first explain the emotional participation and beauty of music in itself, and to play it all together afterwards, respecting each other voice/sound and timing, through a sharing experience and a strong effort to boost each child's self-esteem.

The main aspect, which it is regarded as a good practice and which can be translated in a recommendation, consists in the use and transmission of culture's symbolic and effective value for self-confidence, individual development and social interaction. Specially,, using and teaching the children and youths the principles of the music orchestra, where a great variety of instruments are played together aiming at the same goal and with a harmonious outcome, adapting them to daily life and social interaction.

One of the identified promising practices it is called *Civico Zero*, a Save the Children Italy project that started at the end of 2008 (and continues nowadays), after the closure of a previous Save the Children project, *Colourful horizons (Orizzonti a colori)*, which specifically 37 addressed migrant children within the juvenile justice system. This program has been implemented since 2008 in Rome, in particular the centre of the city. The phenomenon analysed and targeted is a significant presence on the territory of migrant children who live in very disadvantaged conditions and poverty or are victims of human trafficking.

The first phase of this project lasted one year, until the end of 2009, which the first Save the Children report and this present study refers. It came out from previous observation that there was a lack of day youths' centre in the city of Rome, in order to provide support, protection and orientation towards the school and/or work environment. Therefore, a daytime centre for children and youths around the age of 12 to 18 years old was established, involving children of every

nationality, with a specific focus on unaccompanied minors who live in the streets. In particular, the project addresses migrant boys and girls (and their families when present) in disadvantaged situations, juveniles within the justice system, at risk of trafficking, abuse and commit crime, to improve their life conditions and their rights.

When carrying out this project, professionals from different backgrounds have been involved: there are educators, a psychologist/educator, three cultural mediators (Egyptian, Afghani and Roma), social operators, legal counsellors, and by a group of peer educators. In addition, operators from the local services are mobilized and collaborate to the implementation of some project's activities (doctors, operators for vocational trainings). The areas of intervention and beneficiaries of this project are:

The street: children and youths involved in prostitution, criminal activities and begging. A Mobile Unit – daytime and night-time – provides them with help, street education and orientation, to monitor and reduce the risk.

Criminal area: children and youths in the First Care centres for pre-trial detention measures, in the juvenile facilities or in social services' custody. Various activities are put in place: daytime interventions, social mediation with the families and the communities, peer education, entertainment, linguistic and cultural mediation, legal counselling.

Spontaneous Roma Settlements: children and youths at risk of social exclusion and marginalization. A daytime Mobile Unit intervenes with social mediation activities, entertainment, peer education, workshops, health education and other various support activities.

Day care centre *Civico Zero*: for children and youths, under aged and young adults. Many activities implemented: day-care and basic services; children vulnerabilities' analysis and referral; information about their rights and gathering information on rights' violations; protection interventions; educational and recreational activities; workshops; peer activities; legal counselling; work and education counselling; medical screening and health education/counselling.

The fundamental principles applied in the Centre were participation, non-discrimination, reciprocal respect and non violent self-regulation. Children have directly been involved in the activities' planning and management, through consultations, peer education and programming new activities.

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Group music classes are always preceded by life-coach sessions on legality and social cohesion, and by interventions aimed at stimulating children's life skills, such as concentration, memory, creativity, book and writing therapy sessions and various classes, in order to promote sharing and collaboration perspective among the children and youngsters involved.

In this centre free training on instruments and free studying material are offered for children to learn how to play and to perform within one of the three orchestra resulted from this project. This method has been transmitted directly from Abreus' followers who supported the school's teachers for about two years. The name of the project, *Invisible City*, refers to the often invisible disadvantages of many children and youths in particularly marginalized contexts, and to the quite *invisible* method used to support them and divert them from an even more marginalized and often deviant path: an educational method which looks for the empowerment of every individual. The mission of the Foundation has been to give support and offer a positive and valuable alternative to children and youths at risk, through education to culture and legality, and through individual empowerment.

When being carried out, the project involves professional with various backgrounds: music teachers using the *Abreu* method, life-coaching experts, poets, theatre actors and journalists. Children and youths at risk who enter in contact with the school are reported by the authorities, social services or any other public or private individual or entity and are introduced to the music training. The training has a practical approach, where teachers first try to communicate the emotional participation and beauty of music in itself and of playing all together, respecting each other

voice/sound and timing, through a sharing experience and a strong effort to boost each child's self-esteem.

The main aspect, which it is regarded as a good practice and which can be translated in a recommendation, is the use and transmission of culture's symbolic and effective value for self-esteem, individual development and social interaction. In particular, using and teaching to the children and youths the principles of the music orchestra, where a great variety of instruments are played together aiming at the same goal and with a harmonious outcome, and adapting them to daily life and social interaction.

## PORTUGAL

### Introduction

Portuguese Republic, sovereign country and Member State of the European Union, established as a social and democratic state governed by the rule of law. Portugal is a transcontinental country and Lisbon is its capital. Its territory lies in south-western Europe (in the Iberian Peninsula) and in Northern Africa. On the European side, it borders Spain on the East and the North; and it adjoins the Atlantic Ocean on the South and the West. In Africa, we find the autonomous archipelago of Madeira. It also comprises the autonomous archipelago of the Azores, which is located in the Northern hemisphere of the Atlantic Ocean. Its total area is 92,161 kms<sup>2</sup>.

Portugal has a total **population** of **10,561,614**. In Portugal, there are major differences between the North and the South, and between the coast and the interior as for the population distribution. Some regions such as Lisbon and Oporto have over 600 inhabitants/km<sup>2</sup>, while Braganza, Porto Alegre, Évora or Beja barely surpass the 3 inhabitants/km<sup>2</sup>.

As for the age structure of the population, 16% are minors under the age of 15, 66% are people aged between 15 and 65, and 18% of the population are people over the age of 65.

The history of migrations in Portugal is very intense. Since the middle of the XIX century until the middle of the XX century, Portugal has been a country of emigrants, when almost two million Portuguese decided to live abroad. Nowadays, Portugal's net migration rate is 3.2%. The origin of this immigration is the North of Africa, its former colonies (Mozambique, Angola, Cape Verde, Timor, etc.) and Brazil.

Portugal is ranked 41th in the world in terms of Human Development Index (HDI), at a rate of 0.882. The following table shows other interesting social indicators about the country:

Indicator	Rate
Per capita income (PPP)	19,660 \$
Life expectancy (2011)	79.2
Population growth % (2012)	0.15

(Ministry of Foreign Affairs and Coordination, Government of Spain)

The country went through the longest dictatorship of Europe (including the military dictatorship -1926 to 1933- and the Second Republic -1933 to 1974) that lasted 48 years. On the 25 April 1974, there was a military uprising known as “The Carnation Revolution” that led to the fall of Salazar’s dictatorship. The end of this regime, known as Estado Novo, allowed the last Portuguese colonies to achieve their independency after a long colonial war against the metropolis and it also allowed Portugal to turn into a democratic State of liberal right. In 1986, it joined the European Union and, since 2001, it is part of the Eurozone.

Portugal is a Parliamentary Republic whose Magna Carta is the Constitution of 1976, which was revised on six occasions. Article 2 of the Constitution defines the Portuguese Republic as “a democratic state governed by the rule of law that is based on Popular Sovereignty, on the pluralism of expression and a democratic political organisation, complying with respect and guaranteeing the fulfilment of the fundamental rights and freedom and the separation and interdependence of powers”.

The remaining relevant laws of the Portuguese State are the Civil Code (1966), the Criminal Code (1982), the Code of Commerce (1888), the Code of Civil Procedure (1961), the Code of Criminal Procedure and the Labour Code. All these codes have been revised since they were originally published.

The main administrative divisions of Portugal are its 18 continental districts and its two autonomous regions (Azores and Madeira). In turn, these are subdivided into 308 municipalities and these are subdivided again into 4260 freguesias.<sup>8</sup> The districts are the most relevant subdivision of the country and they serve as a basis for different administrative divisions such as the electoral constituencies.

The legislative power is exercised by the Assembly of the Republic, which is single-chambered and composed of 230 members that are elected for a period of 4 years, by universal and direct suffrage in accordance with a system of proportional representation.

The executive power is headed by the President of the Republic who is elected by universal and direct suffrage for a period of 5 years, and by the Government, headed by the Prime Minister, who presides over the Council of Ministers.

The judicial power is independent and the judicial organisation culminates at the Supreme Court of Justice. The courts administer justice in the name of the people, they protect the rights and interests of citizens, they prevent any violations of the democratic rule of law and resolve the conflicts of interest that may exist among the various institutions. The Portuguese Constitution establishes the following courts: the Constitutional Court, the Supreme Court of Justice and the judicial courts of first instance (Courts of Regions) and of second instance («Tribunal de Relación»); the Supreme Administrative Court and the administrative and fiscal courts of first and second instance (Central Administrative Courts) as well as the [Court of Audit](#).

## 1. Crime in Portugal

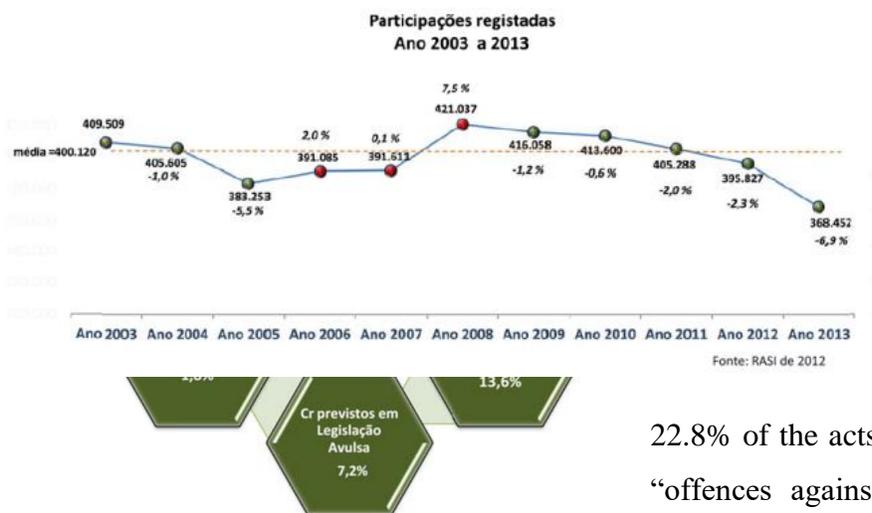
In 2013, the general jurisdiction of the Body of Criminal Police (National Republican Guard, Polícia Seguransa Publica [Public Security Police] and Polícia Judiciária [Judicial Police]) recorded a total of **368,452 crimes**, which meant a 6.9% decrease (27,375 fewer cases) compared to 2012.

The table below shows the most representative crimes. The fifteen crimes that make up this table represent approximately the 68% of the total acts that have been recorded.

Among the crimes, it can be observed that robbery, in its various forms, represents the crime with the highest incidence.

TABELA DE CRIMES MAIS PARTICIPADOS EM 2013	
Denominação	Ano 2013
Furto em veículo motorizado	29.654
Ofensa à integridade física voluntária simples	25.048
Condução de veículo com taxa de álcool igual superior a 1,2	24.607
Furto em residência c arromb Escal Ou chaves falsas	22.197
Violência doméstica contra cônjuge ou análogos	22.928
Outros danos	18.150
Condução sem habilitação legal	12.019
Furto de veículo motorizado	14.762
Ameaça e coação	14.680
Furto de metais não preciosos	13.422
Outros furtos	11.451
Furto em edif Comerc Ou indust C arromb Escal Ou chav	10.812
Furto por carteirista	10.263
Incêndio fogo posto em floresta, mata, arvoredo ou seara	9.295

An analysis of the delinquency since 2003 shows that the year 2013 has recorded the lowest rate of criminal acts and that during that year the percentage of decrease has been more significant.



**Main categories of crime:** “Offences against property” represent more than half of the crimes committed (as well as in previous years). “Offences against individuals” are the second category with

22.8% of the acts, followed by the category of “offences against life in society”, “offences recognised under criminal law”, “offences

against the state” and, finally, “offences against the cultural and personal integrity”, which had a merely residual weight as shown in the chart.

**OFFENCES AGAINST INDIVIDUALS: It represents 22.8% of the total crimes.**

Three types of offences with a high number of cases are distinguished from the rest, making up 75% of the total of 83,976 acts.



Among the offences that have fewest recorded cases we have “the attacks on physical simple voluntary integrity” (-5.2%), “threat and coercion” (-6.8%) and “other offences against physical integrity” (-23.9%).

Offences that increase in this section: “Domestic violence against one’s spouse or analogous” with a variation of +3.1%; it was the offence that experienced the most

significant change, it moved from a sharp decline in 2012 to an increase, once again, in 2013.

**OFFENCES AGAINST PROPERTY: It represents 54.6% of the total crimes.**

**CRIMES CONTRA O PATRIMÔNIO**



Five types of offences represent 48.8% of the total crimes committed: Robbery inside motor vehicle (14.7%), robbery in residences (11%), other damages (9%), motor vehicle theft (7.3%), jewel heist (6.7%)

**OFFENCES AGAINST LIFE IN SOCIETY: It represents 13.6% of the total crimes.**

As can be observed, almost half of the records are related to the crime of “driving with blood alcohol levels equal to or higher than 1.2 g/l”, which along with the crimes of “arson attack” and “falsification and passing of counterfeit money” represented 80% of the total 50,167 acts.

Crimes contra a vida em sociedade - 50.167



## OFFENCES KNOWN AS VIOLENT OR SERIOUS CRIMES

Violent and Serious crimes include 25 types of crimes and they recorded a total of 20,147 acts, only two categories account for almost 65% of the total crimes: street robbery except for “pickpockets” and robbery known as “of pickpockets”.

The following table shows the 25 types of crimes that are included in this modality called “Violent and Serious crimes” and their incidence as regards the number of cases, in the year 2013:

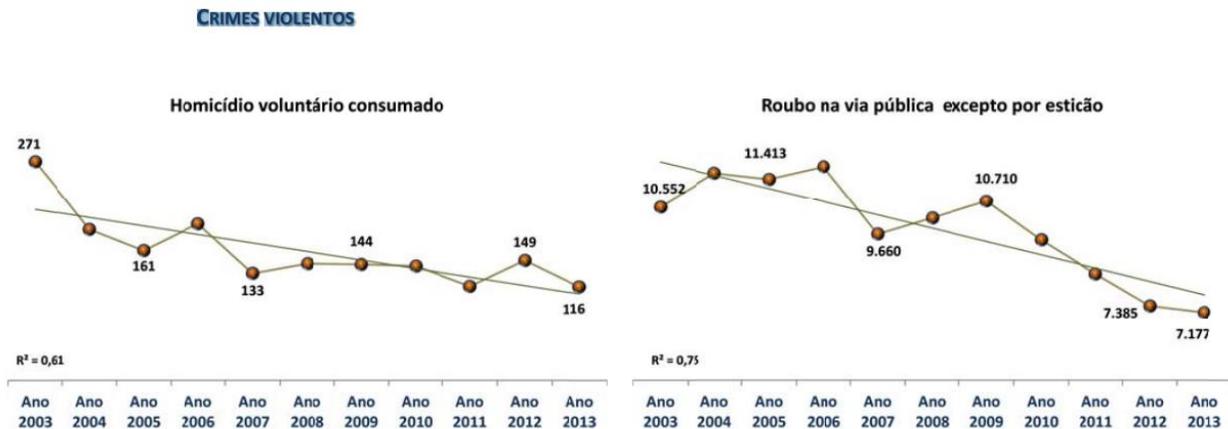
### Violent and Serious crimes

Name	Year 2013	Name	Year 2013
Consummated homicide	116	Robbery at a fuel service station	237
Serious offence on physical integrity	579	Robbery in public transport	487
Kidnapping, unlawful detention and hostage-taking	432	Street robbery, except for pickpockets	7,177
Rape	344	Pickpockets	5,879
Bank robbery or at another credit establishment	124	Other robberies	471
Robbery from pharmacies	88	Extortion	214
Robbery from jewellers	90	Air piracy, other crimes against aviation	11

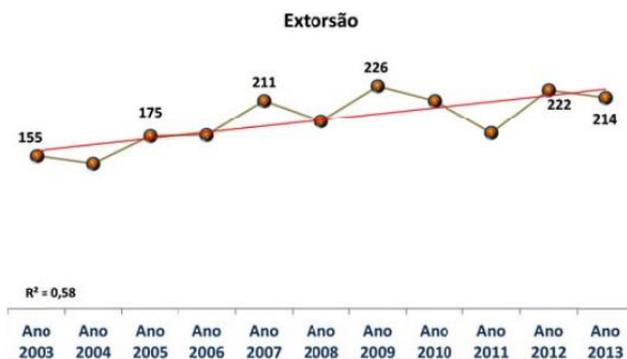
Robbery at other commercial or industrial buildings	828	security	
Robbery in residences	848	Riots, instigation or public defence of delinquency	4
Robbery in electronic commerces	51	Criminal associations	13
Robbery in transportation of valuables	20	Resistance to authority	1,849
Car theft	241	Terrorist organisations and national terrorism	*
Robbery in educational establishments	41	Other terrorist organisations and international terrorism	*
		<b>Total</b>	<b>20147</b>

- Values below 3 are concealed in compliance with the principle of statistical confidentiality

Some of the crimes tend to decrease, such as for instance: intentional and accomplished homicide and street robbery:



While crimes of extortion and resistance to authority tend to increase:



## ILLEGAL IMMIGRATION

It is worth noting that Portugal is a transit centre for several destinations within the Schengen area (and for other destinations) for the immigrants coming from South American continents, due to the convergence of three factors that interrelate: African and geostrategic position; historic and political relationship with some of the main countries of origin; creation of 32 relevant air routes.

In 2013, with respect to illegal immigration in Portugal, there was a slowing down of the pressure of illegal immigration. Among other factors, what contributed to this was the effect of the policies and measures both at EU level and at national level, the consequences of the economic and financial crisis as well as the economic transformation and the social development of some of the traditional countries of origin of the migratory flows.

As for the flow of “ILLEGAL LABOUR”, it has also decreased. On the one hand, it is due to the accession to the EU of several Eastern countries and, on the other hand, to unemployment increase and falling wages, a consequence of the crisis in Portugal, considering this an inhibiting factor of attraction of Portugal as a destination of “illegal labour”.

As regards crimes related to the unlawful search of immigration, the following ones are observed related to crimes:

- Forgery (140),
- Facilitate illegal immigration (48),
- Marriage of convenience (39),
- Illegal entry (15),

- Human trafficking (6),
- Procuring (4).

## **TRAFFICKING IN HUMAN BEINGS**

Trafficking in Human Beings (THB), especially for the purposes of sexual exploitation or labour, is increasing at the international and national contexts, so it means an institutional challenge in order to safeguard human dignity and individual and collective security.

This criminal practice has several forms of sexual exploitation, especially, labour, or for the effect of adoption.

Crimes of trafficking in human beings for the purpose of prostitution (of premises such as night clubs, or the street) are complemented by the crime of procuring.

As for labour exploitation, it has a seasonal variation in the territories of Spain and Portugal; it abuses of victims with drinking problems, who are also illiterate people and who come from rural areas. At this juncture, there are slave-like conditions.

In 2013, 308 alleged victims of THB were registered, among which 299 were foreign inhabitants that lived in Portugal and 9 were citizens of Portugal that lived abroad.

One third of the THB has its origins in the labour exploitation (mostly in seasonal periods, which coincide with agricultural demands such as the olive harvest).

### **1.4. Brief history about the development of the penal system in this country**

In Portugal, as well as in other nearby countries, the new punitive theories and the new ideas about the penal system started generating debates in the XVIII century; these debates were the base of the prison reforms that were introduced in the middle of the XIX century.

In the XVIII century, the issue of prisons' conditions was very worrisome, as they presented a very dilapidated and insalubrious state, with situations of much insecurity. Among other things, this was due to the overcrowding the prisoners that were imprisoned there suffered from. In any case, this situation was not different from the one presented in the prisons of other countries.

At that time, sentences could be: staying more or less time in prison, corporal punishments, forced labour, or in some cases, when they were particularly uneasy for the society, prisoners were sent to the colonies. Death penalty was also instituted.

As already stated, the first reforms started being introduced in the middle of the XIX century. Specifically, some modifications of the Criminal Code were carried out in 1852 and 1867.

As regards these reforms, it is particularly important to point out that both of them represent a historic milestone, as the first one meant the abolition of death penalty due to “political offences” and the second one due to “civil offences”, thereby Portugal being the first European country to eliminate capital punishment. Moreover, it is important to highlight that the last execution that was registered in Portugal took place in 1846, even before the abolition of death penalty.

Furthermore, the reform of 1852 eliminated corporal punishments and they were replaced by prison sentences, which turned out to be the normal type of criminal sanction. The reform of 1867 eliminated the sentences of forced labour. Afterwards, in 1886, the sentence of life imprisonment was eliminated and replaced by 15 years’ imprisonment and perpetual exile.

During Salazar’s dictatorship, political repression was confused with the implementation of criminal justice and, in prisons and “penal colonies” (which could be considered authentic concentration camps), common and political prisoners lived together.

With the arrival of democracy in 1975, the reform process in the penal system was restarted, and the “**Law of measures of execution of freedom**” was promulgated. It thoroughly recognises that prison must not be the only measure and that, in any case, it must be at the service of the reinsertion process of the individual in the society.

The current Portuguese Criminal Code was approved in its original form by the Decree-Law No. 400/82, of 23 September, and it was reprinted by the Law No. 59/2007, of 4 September, which was the last change so far.

### **The forthcoming reform:**

It is within the context of the structural reform within the justice that the Reform of the Judicial map is envisaged, through the regulation of the Law No. 62/2013 of 26 August (the Organic Law of the Judiciary), and it establishes the provisions regarding the organisation and functioning of the courts (ROFTJ).

This is aimed at reorganising the judicial system based on three fundamental pillars:

- The extension of the territorial basis of judicial districts;
- Establishment of specialised jurisdictions at national level;
- The implementation of a new model of court management. Management model by objectives aiming at an increased efficiency and quality. Within each one of the 23 major courts

(corresponding to the 23 existing districts) a ‘Management Board’ will be installed, which consists of a presiding judge, the Prosecutor Coordinator and liquidator, through the Law No. 52/2008 of 28 August.

## 2. The Juvenile Justice System in the Country

In Portugal, from a legal point of view, it is considered that only an individual aged **16 and over** is in a position to answer in the penal system for his/her acts.

Any crime committed before this limit age of criminal responsibility (even when under criminal law it could be qualified as a crime) can only lead to the establishment of **protective or education measures**; the child or young person can never undergo a criminal trial, lead to the execution of a prison sentence.

In 2012, 2,035 juvenile crime cases were registered in Portugal, compared to 1,978 cases in 2011. Crimes committed by young people make up between 1% and 2% of the total crimes that are committed in Portugal. The number of crimes committed by young people significantly increased between 1995 and 2000, and even a total of 5,800 incidents of this type were registered. However, afterwards, a sharp decline has been registered and it has peaked in 2011, with only 1,978 crimes.<sup>20</sup>

According to the same data, young offenders come from urban and suburban contexts, they are mainly males, they act as part of a group and the offences they commit are fundamentally property-related.

Only a small part of the crimes registered in connection with teenagers aged between 12 and 16 years reaches the trial phase. Over recent years, internment measures have been less resorted to, while the implementation of remedial measures increases.

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<sup>20</sup> Data from the Ministry for State Administration, cited in: “Delinquência infantil e juvenil e justiça em Portugal: uma questão de olhar(es)?”, Maria Joao Leote de Carvalho, Março 2013, Observatorio Permanente de Juventude. [www.opj.ics.ul.pt](http://www.opj.ics.ul.pt)

In general, boys are much more represented than girls, although women's increase has been very significant between 2005 and 2008, especially for the cases originated in the district of Lisbon (47.7% in 2008). By age groups, trials with more than 12 years increased between 2006 (56.5% of the total) and 2007 (64.5%). The group of young people aged 15 years or more is significant in the protection committees - 36% in 2006; 35.6% in 2007; 45.6% in 2008; 43% in 2009 and 2010 -, but in 2011, the most noted group was the one made up of people aged from 11 to 14 years to reach 54.7% of all the cases that handle this problem.

Profile of the minors and young people:

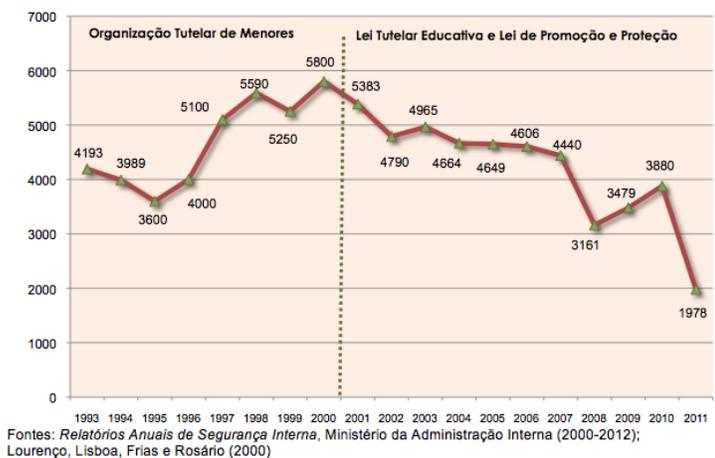
According to data from the juvenile courts of Lisbon and Coimbra<sup>21</sup>, about 90% of young people that come into contact with these courts are males and 60% are aged between 14 and 15 years. In urban areas, such as Lisbon, there is a significant percentage of foreign young people (about 20%), while in rural areas that percentage does not reach 1.5%. In any case, the datum about Lisbon is striking, as it means an over-representation of the foreign population. Most of these foreign young people come from the Portuguese-speaking countries in Africa, especially Cape Verde, Angola and Guinea-Bissau.

According to the same data, when they committed the criminal act, most of these young people lived with one or both parents. Even so, there is a significant percentage of young people (around 18%) that were placed in institutions. Most of them were studying the 2nd level of basic education, although in the urban area there is a lower level of schooling among these minors. In general, a significant number of those young people had educational levels that were under the level that corresponded them by age.

The Juvenile Justice system in Portugal is fundamentally based on three legal instruments:

**Figura 1**

Prática de factos qualificados pela lei penal como crime por crianças e jovens menores de 16 anos de idade: ocorrências registadas pelas autoridades policiais, entre 1993 e 2011



<sup>21</sup> Idem

- The Promotion and Protection Law of Children and Young people in Danger (of 1999), that is applied to boys and girls under the age of 12, which means that they receive the same treatment if they are victims or if they are offenders.
- Educational Guardianship Law (of 1999), that is applied to boys and girls between 12 and 16 years that have committed acts defined as crimes by the criminal law.
- Decree Law on the penal system that is applied to young criminals (of 1982), which is applied to young offenders aged between 16 and 21 years.

**The Educational Guardianship Law**, that has gone through some minor amendments earlier this year, develops a specific procedure, called Educational Guardianship Process, by which measures are applied, both institutional and non-institutional measures, which do not have the characteristic of sentences. This process is based on the premise that the minor is able to understand the sense of the intervention itself, so that the latter can be educational and can inculcate responsibility.

The non-institutional measures provided in this Law can be: educational accompaniment, imposition of obligations, carrying out tasks in the benefit of the community, training programmes, imposition of rules of conduct, reparation to the victim, cash benefits in the benefit of the community, warning, withdrawal of driving licence for mopeds or privation to the possibility of obtaining it.

The institutional measures basically consist in the internment of the minor offender. This internment can be in an open, semi-open or closed regime.

The imposition of any kind of measure can be carried out only if three conditions are met:

1. the existence of sufficient evidence that a criminal act has been committed,
2. the young offender needs to receive an “education in values” and,
3. that need has to continue existing when the educational guardianship institution intervenes.

Furthermore, the Law also provides for the possibility of the mediation for the reparation of the damage done, which sometimes implies that the guardianship intervention is no longer necessary.

## Current structures

- The **Republican National Guard (RNG)** is a security force of a military nature that exists in Portugal. It consists of soldiers organised in special corps of troops and endowed with administrative autonomy, and with jurisdiction about the Portuguese territory.

The RNG is made up of soldiers organised in special corps of troops, in charge of public security, of the maintenance of order and of the protection of the public and private property in the whole Portuguese territory, particularly in the most rural areas. The security force in charge of urban areas is the *Polícia de Segurança Pública (PSP)*.

- The **Polícia Judiciária (PJ, Judiciary Police)** is the main police body of criminal investigation of Portugal, whose task is to combat the great criminality, specifically organised crime, terrorism, drug trafficking, corruption and economic and financial criminality. The *Polícia Judiciária* is integrated within the Portuguese Ministry of Justice, and it acts under the guidance of the Public Ministry.

The Portuguese Justice for Minors has experienced three periods:<sup>22</sup>

**From 1911 to 1978.** The Law of 1911 included five categories of minors (in moral hazard, bystanders, delinquents, undisciplined, carriers of defects or diseases) and specific measures for each one of them (assistance, education, correction, reform, treatment). Some aspects were taken into account such as the age, the level of development, training and education, the nature and seriousness of the criminal acts and the economic situation of the parents.

**From 1978 to 1999.** With the law of 1978, logic of protection was prioritised, by which only guardianship measures of protection, assistance or education can be applied to the minors. Offenders and victims were treated in the same way. This law introduced the principle of protection by “socio-administrative” proceedings, that is to say, not judicial proceedings, through the protection boards. The procedure was very simple and little formal, which often meant a lack of guarantees and rights.

**From 1999 to the current day.** There was a change towards a model of restorative justice, which takes into account the particularity of the minors in danger and of the minors’ offenders. This

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<sup>22</sup> “Le système de justice des mineurs au Portugal”, Djamel Ouezmadi, 2009, [www.ijjo.org](http://www.ijjo.org)

reform is especially related to the need of guaranteeing the protection of society and of installing procedural safeguards for young people.

Nowadays, the Portuguese Justice for Minors is specialised. There are **16 Family and Minors Courts**, with a mixed competence: protection and assistance provided to children in danger and solutions for young offenders until the age of 16.

From the age of 16, **regular criminal courts** act, applying attenuations according to the age.

If an institutional measure would be passed, boys and girls offenders aged between **12 and 16 years would enter the services and institutions of the Directorate-General of Social Rehabilitation**, under the Ministry of Justice. These centres have had an exclusively public ownership until 2010, but with the amendment of the Educational Guardianship Law introduced in early 2010, there is a possibility of management on the part of non-profit social entities.

Finally, children under the age of 12 (considered in danger) would stay under the field of action of municipal administrative boards of protection for children and adolescents.

Young offenders	Body in charge of it
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Children under the age of 12	Municipal administrative boards of protection for children and adolescents.
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Up to 16 years old	<b>16 Family and Children Courts</b> , with a mixed competence: protection and assistance to children in danger and answers for juvenile offenders up to 16 years of age.
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From 16 years old onwards	The <b>regular criminal courts</b> act, applying attenuations according to the age.
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## 2.2 Typified causes and protocols for the entry, reception and exit from minor rehabilitation services.

### 2.2.1 How can minors enter and exit the judicial system?

Juvenile offenders **enter** the juvenile justice system through a process, the educational guardianship process, which has many similarities with criminal proceedings; in this way, it assures

that the minor has all guarantees. The young offender has the right, throughout the whole process, to be accompanied by a technician that provides him/her with psychological support and to be assisted by a legal advocate, who has to possess a specialised training in juvenile justice. The minor also has the right to be spoken in an understandable language for him/her and that the necessary mechanisms are adopted in order to minimise the effects that court proceedings may exercise upon him/her.

This educational guardianship process is divided in two phases:

**Investigation stage**, led by the Public Ministry, with the help of the police and the social rehabilitation services. This stage begins with the announcement of the act that has been committed by the minor. It consists in investigating the act that has been committed and deciding the need for rehabilitation of the young person, to help in the decision-making about the implementation of guardianship measures. It lasts for a maximum period of three months, and it may be extendable to another three month-period in cases of particular complexity. The stage ends, on the part of the Public Ministry, with the close of the case or with the request for opening the jurisdictional stage.

**Jurisdictional stage**, led by a judge. It includes the judicial finding of the acts, the assessment about the need to apply a guardianship measure and the decision about the measure itself and its implementation.

This stage may be shortened in those cases that the measure proposed by the Public Ministry is a non-institutional measure; in this way, the process could be resolved with a preliminary hearing, which aims at a consensual justice, hearing the young person and the offended person. In these cases, there is also the possibility to resort to mediation services.

In those cases that the Public Ministry has proposed an institutional measure, a hearing is carried out. The latter can be also carried out when the judge considers that a shortened procedure is not appropriate, or when a consensus has not been reached through it. In the hearing, the judge sets forth the relevant issues and afterwards, both the Public Ministry and the young person's advocate provide the means of evidence they deem suitable. Finally, the court proposes the guardianship measure that is to be applied. If it is an internment measure, the Court will have to indicate the corresponding enforcement regime.

Furthermore, the educational guardianship process may incorporate an **appeal stage**, which can be lodged by the young person him/herself, by the Public Ministry or by any person that has

been affected by the verdict. The appeal has to be resolved within a very quick term, a maximum of 15 days' period.

### **Implementation of the educational guardianship measure.**

If the measure is an internment with close regime, it is demanded that the social rehabilitation services carry out an examination about the young person's personality. And if it is an open or semi-open regime, what is required is a social report with a psychological assessment of the minor.

When the young person enters the guardianship institution, a single file is opened, with all the information about the process provided by the court, including the reports of the examinations and assessments carried out; this file goes with the minor if s/he has to move to another centre.

The social rehabilitation services are the ones that decide which educational centre the minor will attend, taking into account his/her educational needs and the vicinity to his/her home.

If it is a close regime, the offender is accompanied to the centre by the police. If it is an open or semi-open regime, s/he can be accompanied by his/her parents or legal guardian to the centre and police is only called if the young person does not go voluntarily.

After the young person has been admitted in the centre, within a maximum period of 30 days, **a personalised educational project** is carried out, which has to specify the objectives that have to be reached during the treatment process, its length, the stages, the deadlines and the means for its carrying out.

The law enshrines the need to encourage the involvement of the young person in the preparation and evaluation of his/her own educational project. This personalised educational project has to be referred to the Court for its homologation.

During the implementation of the measure, the Court has to be periodically notified about the evaluation of the educational process. 15 days before the deadline for the implementation of the measure finishes, a final assessment report has to be sent to the Court.

### **Review of measures.**

The Educational Guardianship Law enshrines that the measures can be reviewed, among other reasons, when the educational progress achieved by the young person shows that there is no longer a need to maintain such measures. The Court may reduce its length, modify the enforcement regime, replace them by non-institutional measures, or even suspend their implementation or declare them extinct.

The review of the measure can also be carried out when the young person does not comply on a repeated basis with the duties that have been assigned to him/her within the framework of the measure or if s/he has committed new criminal acts. In these cases, among other things, the judge may extend the measure or change the enforcement regime by another one that is more restrictive.

#### 2.2.2 Which are the reasons for a minor to enter in a rehabilitation service?

According to data from the Institute for Social rehabilitation referring to the year 2002<sup>23</sup>, in Portugal, the most common infringements are the offences against property, such as thefts or robberies, which make up 72.5% of the cases. A much smaller percentage, 8.1%, refers to the cases of young people that have committed crimes related to drugs, principally drug abuse. We also find crimes against the physical integrity of persons, with 5.8%. Offences against sexual freedom make up 3.6% and offences against life 3.1%.

Another interesting piece of information is that a high percentage of young people (about 60%), both in Lisbon and in Coimbra, had already gone through other educational guardianship processes before, or by promotion or protection processes.

In the urban area, most of the educational guardianship processes initiate as a result of police action, and secondly, as a result of the report on the part of the offended party; whereas in the case of the rural area, the relation turns around and most of the processes initiate after the report on the part of the offended party.

Another interesting piece of information has to do with the presence of lawyers during the process. It is noteworthy that in 97% of the cases, minors did not count on the help of a lawyer and the latter had to be designated by the court, the lawyer acting as a public defender. In this type of situations, despite the provisions of the law, they were not specialised in child law. What is even more incomprehensible is the fact that almost 35% of these public defence lawyers were articled clerks and not fully practicing lawyers. There are even many cases where minors have had several lawyers throughout the process.

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<sup>23</sup> Data cited in "Os Caminhos Díficeis da 'Nova' Justiça Tutelar Educativa, Uma avaliação de dois anos de aplicação da Lei Tutelar Educativa", Boaventura de Sousa Santos, Conceição Gomes y otros, Observatório Permanente da Justiça Portuguesa, Centro de Estudos Sociais, Faculdade de Economia, Universidade de Coimbra, 2004.

It is also noteworthy that the average of criminal acts committed by these young people is of 2.1 crimes per young person in Lisbon, and 1.4 in Coimbra. In Lisbon, 60% of young people had committed a single crime, 30% had committed between 2 and 4 crimes and 10% had committed 5 or more crimes.

Which are the general procedures since the minor enters the institution until s/he exits the system?

According to Portuguese legislation, **the intervention in Educational Institutions** is carried out through progressive stages, which are defined in the Educational Intervention Project of each centre, and according to the degree of compliance of their own personalised educational project, they make possible for young people to achieve more freedom and autonomy.

Furthermore, the failure to meet the objectives that have been set for a certain stage may imply the turn to a more restrictive regime or the review of the measure by the court.

Another fundamental instrument for the functioning of the Educational Institutions is made up by **the Internal Regulations**, which enumerate the procedural rules and the obligations, under the existing legislation. These Regulations are considered a code of conduct for all people living, working or visiting an Educational Institution. They have to be based on the General Regulation established by the Law, carrying it out and adapting it to the specific situation of each Centre. It describes the organisational system, the facilities, the rules on prevention and internal security, the schedules and the general operating rules of the centre.

One of the aspects that is described in the Internal Regulations **is the preparation, reception, welcome and integration of the minors in the centre**. Another issue that is also addressed is the relationship of young people with the external environment, describing, among other aspects, visiting rules and rules in the case they have to go out from the centre. Another aspect that is described in the regulations is the functioning of the various training areas and of other specific programmes. Finally, the implementation of disciplinary actions is regulated.

Thanks to the Internal Regulations, an annual work plan is designed, which sets forth the general and specific objectives that have to be accomplished by each sector and the planning of activities that have to be carried out by the various services.

The third instrument that is used in Educational Institutions in order to carry out the work with the minors is the **Personalised Educational Project**, about which we have stated some aspects in previous paragraphs. According to the Institute for Social Rehabilitation, the Personalised

Educational Project has to include “a work of effective and constant dialogue with the social rehabilitation team of the social environment the minor comes from, in order to better know his/her socio-family context and try to involve him/her, as soon as possible, in the implementation of the measure, anticipating the preparation of the conditions as for the return to life in freedom”.

Other intervention instruments are **the support models of the technical intervention** and **the particular individual file of minors**. The first one is used for guaranteeing the quality and the standardisation of the technical intervention, facilitating the tasks of information registration and processing. It is used for having standard formats for the carrying out of reports, cards, authorisations, work diaries, notifications, etc. The second one, about which we have also talked, is used for collecting all the information concerning the young person, the court decisions and the technical documents.

#### **Educational Centre dos Olivais, in Coimbra<sup>24</sup>**

Given the absence of unified procedures for all the Educational Centres, we are going to use as an example the design of intervention stages of the **Educational Centre dos Olivais, in Coimbra<sup>25</sup>**, in order to illustrate how people work in this type of places.

4 intervention stages have been established in this centre:

##### **1st Stage, Reception:**

This stage comprises the physical and relational reception of the minor. It is divided into two sub-stages: a Regressive and Entry stage. The first period, which lasts for one month, aims at bringing face to face the young person with what is unsuitable in his/her behaviour with respect to what is expected in the following stage. No reward is achieved during this stage. The Entry Stage lasts for three months and its goals are the reception and the contact of the young person with the judicial system so that s/he starts complying with the rules and the routines that have been established, starts getting used to the lack of contact with the external environment and starts being

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<sup>24</sup> Description obtained from “Os Caminhos Difíceis da ‘Nova’ Justiça Tutelar Educativa, Uma avaliação de dois anos de aplicação da Lei Tutelar Educativa”, Boaventura de Sousa Santos, Conceição Gomes y otros, Observatório Permanente da Justiça Portuguesa, Centro de Estudos Sociais, Faculdade de Economia, Universidade de Coimbra, 2004.

<sup>25</sup> Description obtained from “Os Caminhos Difíceis da ‘Nova’ Justiça Tutelar Educativa, Uma avaliação de dois anos de aplicação da Lei Tutelar Educativa”, Boaventura de Sousa Santos, Conceição Gomes y otros, Observatório Permanente da Justiça Portuguesa, Centro de Estudos Sociais, Faculdade de Economia, Universidade de Coimbra, 2004.

interested in the activities that are proposed. There are some rewards in this stage, such as having photos in the bedroom, using games or taking part in unscheduled recreational activities.

### **2nd Stage, Progressive stage 1:**

This stage means one sixth of the duration of the measure and, among others, it aims at consolidating the achievements of the Entry Stage, developing the young person's means to fight daily problems and negative emotions, recognising the positive feelings about oneself and about the others, developing the ability to recognise the existence of other ways of thinking and acting, and reaching the acknowledgement of the existence of the damage caused. There are also rewards in this stage, such as the possibility to have belongings inside the bedroom or use watches, rings, bracelets or colognes. If minors are in a semi-open regime, they can go out with their relatives during the visiting period.

### **3rd Stage, Progressive stage 2:**

This stage is carried out during the three-quarters of the measure. It aims at developing the autonomy and the sense of responsibility, encouraging the increase of skills and self-confidence for the change, creating the need of rehabilitation and strengthening family ties. In this stage, there might be a proposal for the review of the measure in favour of the minor. As for the rewards, they can take part in the organisation of parties and events, collaborate with the reception of other young people, use the internet and send emails. If it is a semi-open regime, they can also obtain weekend permissions and go out accompanied by someone for the carrying out of sports activities or other type of activities.

### **4th Stage, Exit stage:**

The preparation for the exit can be divided into two sub-stages, if the young person is in a close detention regime. It is carried out during the last quarter of the duration of the measure and it aims at allowing the minor to make use of the personal and social skills achieved in the external environment, experiencing autonomy, preparing the return to the family and social environment of origin and encouraging the involvement in activities and resources that exist in the community. As for the rewards, if it is a close regime, the young person has more autonomy and s/he has casting vote in the meetings with other minors; s/he can also obtain weekend permission or permissions for holidays. If it is a semi-open regime, in addition to the above rewards, they can go out without accompaniment, stay at home on holidays and take up a job.

Inside the Educational Centres, various educational and therapeutic programmes are carried out:

- School education
- Vocational guidance and pre-employment training
- Psychotherapeutic intervention
- Health education

Furthermore, the centres organise collaboration with other bodies of the territory in order to minimise the negative effects of the internment and encourage social ties, the contact with relatives and friends and the collaboration and involvement of the public and private entities in the educational process and social rehabilitation process. Among other bodies, the centres coordinate with educational institutions, general health institutions and especially mental health institutions, with the bodies in charge of vocational training and with non-profit entities, both social and cultural ones.

Specialists of the rehabilitation system

### 2.3.1. Which type of specialists work in the rehabilitation system or in the various programmes?

Educational centres have a clearly defined organisation chart that covers both the administrative and technical work. The highest hierarchy of the organisation chart is led by the management that is made up of one person that serves as Director and another one as Assistant Director. The Management' roles are coordination, management and guidance of all the activities carried out in the centre. On the other hand, there is a "Pedagogical Council" in each centre, which is in charge of pronouncing itself about all the issues related to the educational intervention of the centre.

The organisation chart continues with the administrative staff, the security staff, the accounting staff and the technical-pedagogical staff of the centre. The role of the technical-pedagogical staff (according to Article 132 of the General and Disciplinary Regulation of Educational Centres) is to "guarantee all areas related to the reception and the residential, educational, training and therapeutic management of the people being educated, through the management of the residential units and the units of development of programmes and actions related

to the educational intervention project of the centre, taking into account the implementation of the court decisions and the social rehabilitation of the people being educated”.<sup>26</sup>

The technical-pedagogical staff consists of all the specialists that are directly linked to the educational intervention and, in order to differentiate their tasks, it is subdivided into two teams: Programmes’ Team and Technical and Residential Team.

The functions of the Programmes’ Team are “guaranteeing the planning, the implementation and the evaluation of the educational programmes that are provided in the intervention projects of the centre”<sup>27</sup> and it can be organised in a Pedagogical Sub-team and a Clinical/Therapeutic Sub-team. The Pedagogical Sub-team will be in charge of school education, socio-cultural animation, sports activities, vocational guidance and vocational training of the student body; whereas the Clinical/Therapeutic Sub-team will be in charge of the reduction of criminal behaviour and the psychological support.

The Technical Residential Team will be in charge of “all the areas related to the reception and the residential framework of the young people, and also of the preparation, accompaniment and evaluation of the necessary actions for the implementation of the court decisions”.<sup>28</sup> It is organised into several Sub-teams, according to the number of residential units each educational centre has. Each sub-team is in charge of the management and organisation of its respective unit, the daily and weekly planning of the activities and the individual accompaniment of the young people that stay there. Each one of the young persons “counts on a technician responsible for his/her accompaniment, who plays the role of guardian, supporting, guiding and supervising the whole educational process, establishing the relationship with the family and the social environment of origin and preparing the reports and plans that are necessary for the compliance of the court decision that led to the internment”.<sup>29</sup>

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<sup>26</sup> Quote from: “Os Caminhos Díficeis da ‘Nova’ Justiça Tutelar Educativa, Uma avaliação de dois anos de aplicação da Lei Tutelar Educativa”, Boaventura de Sousa Santos, Conceição Gomes y otros, Observatório Permanente da Justiça Portuguesa, Centro de Estudos Sociais, Faculdade de Economia, Universidade de Coimbra, 2004.

<sup>27</sup> Quote from *idem*, Article 134.1, 4 and 6 of the General and Disciplinary Regulation of Educational Centres

<sup>28</sup> Quote from *idem*, Article 133 of the General and Disciplinary Regulation of Educational Centres

<sup>29</sup> Quote from *idem*, Article 133.4 of the General and Disciplinary Regulation of Educational Centres

### 2.3.2. General statistics about these specialists (age, sex and other socio-demographic characteristics, ratio of specialists per minor, etc.)

To begin with this section, we have to clarify that we have not obtained specific data relative to statistics of the juvenile justice system; but the data provided by the General-Directorate for Social Rehabilitation corresponds to the total of services offered by this body, including not only the specialists of the Educational Centres or the Rehabilitation Teams for minors, but also those people that work in the Rehabilitation and Monitoring Teams of the adult criminal system. It is also important to clarify that the obtained data refer to the year 2012. More up-to-date data has not been found.

After having clarified these aspects, we turn now to explain in detail the available data. As regards the specialists' age and sex, the data provided by the General-Directorate for Social Rehabilitation<sup>30</sup> shows the following: Of the total number of workers assigned to this General-Directorate (1,113), 349 are males (31.36%) and 764 are females (68.64%). The main age range is between 45 and 49 years of age (20.58%); secondly we find the age range from 50 to 54 years with 19.68%; thirdly we find the age range between 40 and 44 years of age, with 17.79%, and fourthly, with 15.72%, we find the people aged between 55 and 59 years. Grouping together these four age ranges, we can conclude that 73.76% of the total number of workers of the General-Directorate for Social Rehabilitation is aged between 40 and 59 years.

As for the seniority in their incorporation to the General-Directorate, it is observed that the main percentage (24.62 %) has been working in this body between 15 and 19 years, followed by those that have been working there between 20 and 24 years (16.71 %) and those that have been working there from 10 up to 14 years (13.21 %). There is also a significant percentage of people that have been working there for less than 5 years, as in 2011 there was an incorporation of new personnel, through open competition, for the categories of high-level technician and professional technician for social rehabilitation.

Most of the people that work in the General-Directorate have a university education, as it is the level of training demanded for the posts of high-level technician for social rehabilitation, where most of the specialists work. A bachelor degree is also needed for the post of teaching staff at Educational Centres.

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<sup>30</sup> "Balanço Social 2012", Direção-Geral de Reinserção Social, Ministério da Justiça, Governo de Portugal

Other data of interest:

- As for nationality, 100% of the workers of the General-Directorate in the year 2012 had Portuguese nationality.
- There are 33 disabled workers.

2.3.4. Which is their educational background? Is there any type of specific degree?

As for the occupational group, the technical – pedagogical staff is made up of Professional Technicians for Social Rehabilitation or High-level Technicians for Social Rehabilitation. The high-level technician has a university education (Psychology, Social Work, Law, Special Education or Sociology). No data has been found at this regard, but it can be assumed that the professional technicians do not have a university education, but vocational training. It seems there is not any type of specific degree.

2.3.5. How is the staff selection process?

As we are talking about centres of public ownership and management, the incorporation of new staff has been always carried out through the call to a competition or public examination. It is true that due to the recent legislative changes that open the possibility for a private management of Educational Centres, this situation is starting to change, but there is no data at this respect yet. An aspect to bear in mind is the situation of the teaching staff that teaches in the Educational Centres, as these people do not have a permanent job, but they are hired at the beginning of the school year and their employment contract finishes when it ends. These types of incorporations are called “internal modality”.

More specific data has not been obtained about the carrying out of the competitions or public examinations to work in the General-Directorate for Social Rehabilitation, we have not been able to get to know what type of tests the candidates have to pass or which are the contents they have to study.

2.3.6. Average profits, salary, social security and other issues related to the working sector in comparison with other occupations

According to the data provided by the General-Directorate for Social Rehabilitation<sup>31</sup>, the gross salary of the workers of this body ranges from less than 500Euros and 40,000Euros, but almost the 50% of the workers earn a gross salary between 1,000 and 2,000Euros.

The total budget in terms of staff of the General-Directorate for Social Rehabilitation for the year 2012 was almost 25 million Euros. If this budget is itemised, we find that most of the expenses correspond to the base salary, but there are also parts destined to supplements and social benefits. The benefits that are considered are the following: allowances within the area of protection of parenthood (motherhood, fatherhood and adoption), family season ticket, funeral allowance, food allowance and other not defined social benefits.

Workers are entitled to sick leaves, according to the existing labour legislation of the country. In 2012, 15 accidents at work were recorded, but they did not entail the permanent disability of the workers, but simply medical leaves until they recovered.

It is worth noting that, due to the budgetary adjustments that the Portuguese Government has had to carry out in recent years, as a result of the situation of economic crisis, some benefits and important measures concerning the employment policy of the General-Directorate for Social Rehabilitation have been eliminated. For instance, the incentives of performance and the social benefits have been eliminated (such as for example subsidies for nursery school and pre-primary education or education grants). Training measures about health and security at work as well as staff's medical examinations have been also eliminated.

#### 2.3.7. Are there any training programmes (both basic training and training for employment or specialised training programmes) for the specialists?

No data has been found about training programmes, but some statistics have been found relating to the involvement of the workers in training measures, as well as about the expenditure on training.

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<sup>31</sup> "Balanço Social 2012", Direção-Geral de Reinserção Social, Ministério da Justiça, Governo de Portugal

In 2012<sup>32</sup>, 195 involvements in training activities were recorded, of which 163 were internal activities, with duration of less than 30 hours. The professional group made up of the high-level technicians is the one with the greater level of involvement in these training activities.

The expenditure on training during 2012 amounted to almost 13,000Euros. This means a great reduction of the budget intended for training in comparison with the previous year, when almost 100,000Euros were spent. It is also noteworthy that, in 2011, most of the expenditure on training was intended for internal training activities, whereas in 2012 it has been the other way round, and that despite the observed fact that the majority of involvements in training are internal ones.

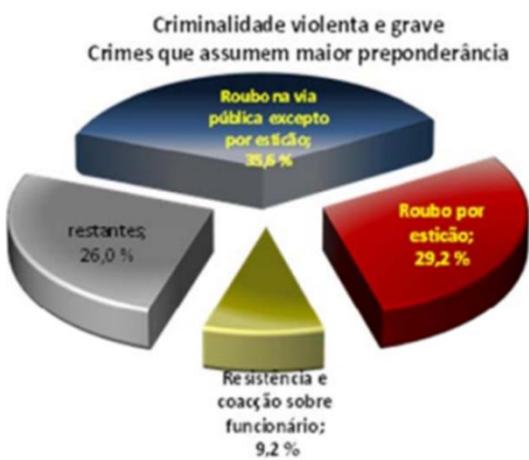
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<sup>32</sup> “Balanço Social 2012”, Direção-Geral de Reinserção Social, Ministério da Justiça, Governo de Portugal

### 3. Violent Crimes

The following crimes are listed within this category:

Consummated homicide	Robbery at a fuel service station
Serious offence against physical integrity	Robbery in public transport
Kidnapping, unlawful detention and hostage-taking	Street robbery, except for pickpockets
Rape	Pickpockets
Bank robbery or at another credit establishment	Other robberies
Robbery from pharmacies	Extortion
Robbery from jewellers	Air piracy, other crimes against aviation security
Robbery at other commercial or industrial buildings	Riots, instigation or public defence of delinquency
Robbery in residences	Criminal associations
Robbery in electronic commerces	Resistance to authority
Robbery in transportation of valuables	Terrorist organisations and national terrorism
Car theft	Other terrorist organisations and international terrorism
Robbery in educational establishments	



### Serious offences and misdemeanours.

In order to illustrate this section we refer to the programme carried out by the Portuguese security forces called “safe school”. It consists in a monitoring and intervention device within the school environment.

It has allowed, among other matters, the possibility of systematising the data concerning the number and characteristics of the crimes committed in this area.

During the academic year 2012/2013, within the framework of the "Safe School", interventions in 6,356 cases have been carried out in the schools (inside, in the vicinity of the educational institutions and in the way from home to school and vice versa).

Among these incidents, 4,489 were criminal in nature.

In comparison with the previous school year (2011/2012), there was an increase of the number of interventions (632), what means a variation of +11.04%.

GNR / PSP Data	2011/12	2012/13	Difference in No. of cases	Percentage of increase
Total of registered cases	5,724	6,353	+632	+11.04%
Cases Inside the educational establishment	2,790	2,999	+209	+7.49%
Criminal nature Outside the educational establishment	1,401	1,490	+89	+6.35%
Criminal nature (total)	4,191	4,489	+298	+7.11%

### GNR: Republican National Guard; PSP: Polícia de Segurança Pública

Likewise, during the previous school year, about 2/3 of the cases were penal in nature; they took place inside the schools.

As for the type of criminal cases inside educational establishments, the most committed crimes were those of attack against physical integrity (292) and robbery (256). On the other hand, appropriation / use of weapons (26) and bomb threat (7) are the ones that take place less frequently.

As regards incidents outside schools (the perimeter that surrounds the centre equal or less than 50 metres), the offence to physical integrity was the most repeated crime (50).

In the way from home to school and vice versa, the crime of attack on physical integrity was the most frequent one (31), followed by sexual offences (17).

Analysing the cases by district, by security forces, it turns out that, as a whole, Lisbon (2,595) and Oporto (1,143) make up more than half of the disputes registered under the programme “Safe School”.

## **PROFESSIONAL TRAINING**

We have not found specific training programmes for this section.

### Programme # 1: EDUCATIONAL CENTRE OF MADEIRA<sup>33</sup>

A brief description of the programme

It is a centre for the rehabilitation of minors that takes in young people complying with the guardianship measure of internment in semi-open and open regime and it has a maximum capacity planned for 24 young people.

It is located in the autonomous region of Madeira, in Santo António da Serra and it has a surface area of 1,573m<sup>2</sup>.

The project of the educational centre has as its main objective the rehabilitation of juvenile offenders through pioneering and innovative programmes as well as to improve and generate a positive change as for the behaviour and the ways of these young people’s lives. To achieve this, the Educational Centre of Madeira develops training programmes in the fields of cuisine and gardening / Green Spaces, as well as internships and volunteer programmes.

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<sup>33</sup> information extracted <https://uniaomericanos.pt/accao-com-os-jovens/centro-madeira>

In order to put into practice the educational intervention Project, the Educational Centre of Madeira counts on a multidisciplinary and interdisciplinary team that develops and applies the daily programmes.

Internment in semi-open regime: Minors under this measure live in a centre and are subjected to a programme and an internal regime, carrying out, outside the centre, training, educational, labour and recreational activities within their educational projects, encouraging the contact with people and institutions of the community.

Open Regime: Minors under this measure carry out all the measures of their educational project in the institutions of the environment that surrounds them; the centre is their habitual residence and they are subjected to its internal regime programme.

*When did the programme start?* **The Educational Centre of Madeira** began in June 2010.

*Which was the policy / specific reason to initiate this programme?* Public educational centres are big residences that are not meeting rehabilitation needs.

*Was it a public or private initiative?* It was the first centre with a shared management in Portugal; the implemented and developed project of educational intervention is the responsibility of the non-governmental organisation, Meridian Unión Portugal

*Is it a national, regional or local programme?* Regional (Madeira)

Evaluation

*Are there evaluations about the programme?* No evaluations have been found and the centre has not answered them.

Why the programmes / models presented are the best practice?

- A centre with few posts
- Educational project focused on measurable results of rehabilitation into the society
- Interdisciplinary team

Which are its advantages and disadvantages in comparison with other similar/previous programmes?

Training of specialists:

Advanced coaching: It selects good specialists that constitute the image and the model for young people and constantly trains them to reach a distinctive educational model. Thanks to

Meridianos, there are several continuous improvement processes for its team in order to reach the most positive strategies for the education of young people in our centres.

Plan for hosting specialists: it helps them to follow the high levels of our Organisation from the moment they enter the centre. Permanent tutorial is added to basic training in order to reach an increased efficiency in the educational process of young people, directing it towards rehabilitation.

Family therapy: it is a participatory and dynamic space that supports mothers with the great challenge of educating their children, especially children at social risk. The course of action is participatory, dynamic and adapted to the needs and characteristics of each group. The theoretical and practical content of the sessions creates a group work context where experiences and attitudes are shared.

#### 4. Sexual Offence

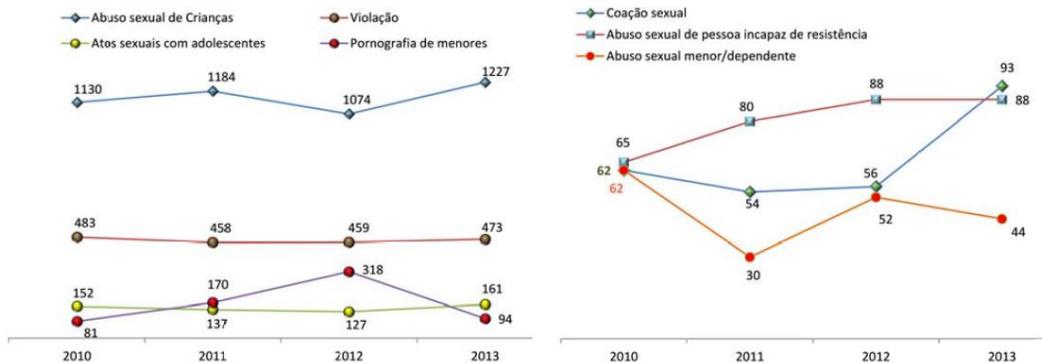
*Sexual assault, of any kind, is considered a serious violation of human rights. The Portuguese criminal law provides for various types of situations of sexual assault (typified in the criminal code as crimes against sexual freedom, addressed in sections 1 and 2 of chapter V of the criminal code). The typified crimes are “sexual coercion”, “rape”, “sexual abuse on people unable to put up resistance”, “sexual abuse on hospitalised people”, “sexual harassment”, “sexual abuse on children”, “sexual abuse on disabled minors” and “sexual acts with adolescents”.*

The following table shows data from 2013 concerning people that have been arrested, charged and people accused (under investigation) in the Portuguese population in general, for those sexual offences with highest incidence.

	Arrested	Preventive custody	Accused
- Child sexual abuse;	67	34	369
- Rape;	53	23	186
- Sexual acts with adolescents;	1	1	45
- Pornography of underage children;	11	3	17
- Sexual abuse on people unable to put up resistance.	5	2	22

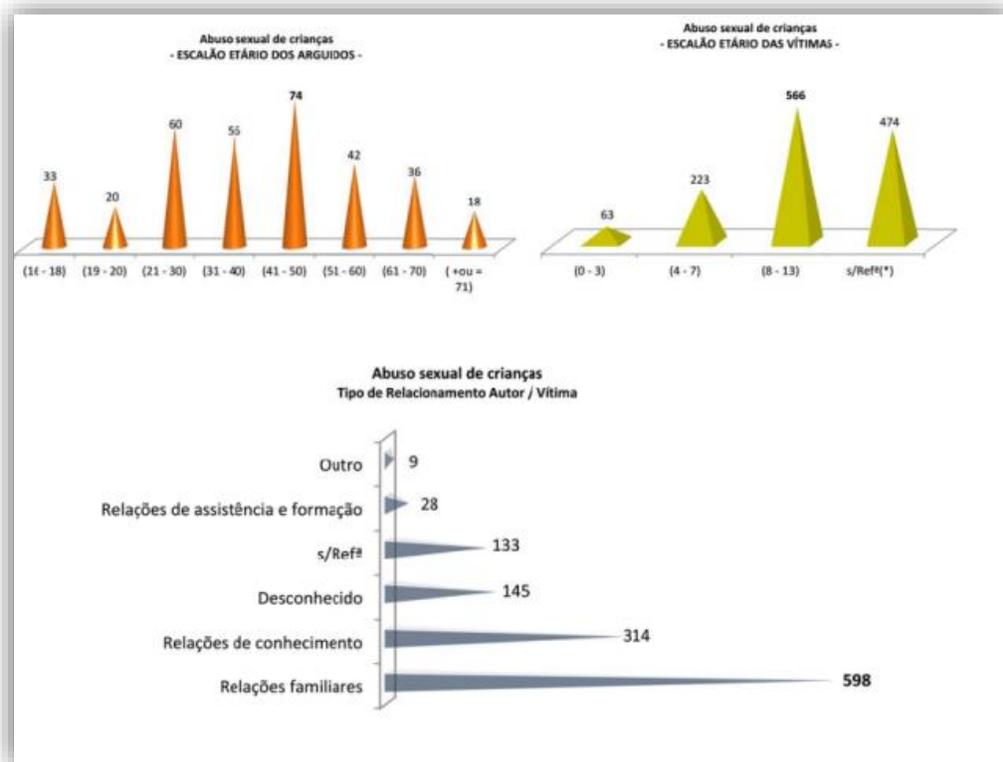
It is observed that the most numerous crimes are those whose victims are minors, children and adolescents.

The following graphics represent values of 2010-2013, and it can be observed an evolutionary trend in this type of crimes in the same period of time:



### Sexual abuse on boys and girls

Taking into account the data recorded, the strong tendency by which women are victims and men are accused was kept.





As for sexual abuse on girls, it takes place mainly between 8 and 13 years of age and it is committed within family relationships.

As regards rapes, women are also the victims, and men the attackers, as shown in the graphic. The attacker is a member of the family and, secondly, a well-known person.

Children and young people are also victims of the trafficking in human beings. In 2013, 49 minors were registered as possible victims of human trafficking in Portugal.

## PROFESSIONAL TRAINING

No programmes of specific professional training have been found, but there are numerous guides to illustrate the treatment in this area.

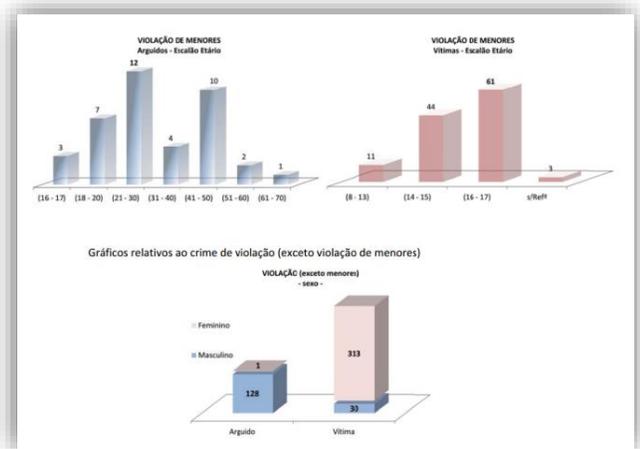
Programme # 1:

Crimes and sexual assault. Contribution for the study of the Portuguese reality in the region of da Cova da Beira.<sup>34</sup>

A brief description of the programme:

It is a study of the Medical-Legal Office of da Covilhã Centro Hospitalar da Cova da Beira Quinta do Alvito 6200-251

This study aims at using analyses of situations related with sexual offences observed at the GML (Medical-Legal Office) of Covilha between 2002 and



<sup>34</sup> Autora: Cátia Daniela Aguiar Cabral.

Careers adviser: Professor Doutor Duarte Nuno Vieira Dissertation to obtain the master's degree in Medicine (cycle of integrated studies).

2010, as a result of the report by the alleged victims, providing a greater knowledge of the reality in this field in the region of Cova da Beira.

Objectives: To know the crime under the violence of sexual nature in the region of Cova da Beira, with a documentary retrospective study based on the cases that are observed in the Medical-Legal Office of Covilha, between 2002 and 2010, where the victims that are attended are registered, and, specially, in order to know:

- the type of assaults and their characteristics (time, place, weekday, etc.).
- the profiles of the victims and the perpetrators, as well as
- the quality of the intervention of the health professionals highly qualified in each situation and the influence of these elements in the subsequent political, legal and health interventions:

In the case of the victims (that is to say, the time between the assault and the moment they turn to the healthcare system, the behaviour after the injury, etc.),

In the case of the experts themselves (For instance, the absence of obtaining relevant information, the interview and the inappropriate and incomplete physical examination, no request for additional testing, the incomplete report, etc.).

UNDERAGE MINORS: The study, although it is not exclusively addressed to minors' reality. Most of the victims were underage, namely:

- Of the cases studied, approximately 83% of women are victims involved and about 17% are male victims.
- Only nine women victims were over 18 years old, making up about 50% at the age of 14. Five of them were related to victims aged 8 years or younger.
- In the case of male victims, two of them were over 18 years old and the oldest one was 34, and four of them were aged 14, and the youngest victim was four years old, also a male.

The study showed that despite the substantial improvements carried out as for the support and medical and legal notification to the victims of sexual assault in the region of Cova da Beira since the creation of the GML of Covilha, there are still serious deficiencies and deficiencies as for implemented medical-legal matters, which are still far away from the quality standards stipulated by INML, I.P., and those that are applied in other of its services.

It has also highlighted the urgent need for using a complete way of guidance of these reviews of experts.

- *When did the programme start?* It is a study that was presented in 2011

- *Which was the policy / specific reason to initiate this programme?* Two main reasons:

1. In Portugal, the incidence of this crime in many parts of the country is still substantially unknown.

2. On the other hand, the health service denotes serious deficiencies as for the expert reviews and their legal implications, which generates defencelessness for the victim.



3. *Was it a public or private initiative?* It is a public initiative as it is carried out with the aim of an investigation carried out within the framework of the obtaining of the Bachelor degree in Medicine.

4. *Is it a national, regional or local programme?* It is carried out in the region of Cova de Beira. It is a Portuguese statistical sub region, part of the Central Region and of the Castelo Branco District. It borders the Serra da Estrela and the Beira Interior Norte on the North; the Beira Interior Sul on the East; the Beira Interior Sul and the Pinhal Interior Sul on the South; and the Pinhal Interior Norte on the West. Surface: 1,373 km<sup>2</sup>. Population (2001): 93,580.

It is a local programme but with a significance in the national programmes of evaluation of victims of harassment within the health system of Portugal.

#### Evaluation

**Which are the results?** The results of this study immediately allow us to draw two main conclusions:

A. Despite the substantial improvements carried out for the support of the city experts with the launching of the GML of Covilha, forensic skills still have serious feebleness and deficiencies.

B. with the cases observed in the GML, in order to have a more thorough idea about the crime of sexual nature in the region of Cova da Beira.

However, and even so and with the limitations, we can make a study, finding out that:

1. Most sexual abuses in the region we are dealing with specially take place in private domestic spaces.

2. Minors of age are the main victims of this type of abuse.

3. Threats and violence are the most habitual cases with a frequent restriction to commit the assault.

4. Most of the cases of sexual abuse take place several times and within an extended period of time.

5. As for the criminal, there is a significant number of cases but those related with the family and of parental nature are the ones that prevail over others.

6. Vaginal penetration was the most prevailing type of sexual delinquency.

7. The pregnancy sequence abuse is not significant.

8. Most of the expert reviews have not provided the elements of relative importance valid for court proceedings. The lack of an adequate interview, complete forensic examination tests and adequate laboratory test, the conditions in most of the situations of the conclusions of the examination and the perception of the measures that have to be urgently taken.

9. The use of a complete way of carrying out this type of expert reviews, namely, the Protocol by the INML, IP.

10. In compliance with what is provided for by law, we have to carry out a more strict technical-scientific monitoring of the forensic activity that is being developed in the GML Covilhã. Why the programmes/models presented are the best practice?

The study has allowed increasing sensitivity towards the victims of sexual offence specially having an impact on the need of quantified and systematised information that helps the precaution, intervention and judicial system of Portugal.

## 5. Drug Offence

Offences against the legislation as regards drugs:

Law No. 30/2000

This law distinguishes the consumption and the possession as for drug trafficking, the consumption being penalised (fines and other measures, as the substance is still illegal) and the traffic criminalised. The law establishes that “the purchase and possession, for personal use, of the substances referred to in the previous paragraph, will not exceed the amount necessary for the average individual consumption during a 10-day period”.

### **What does it depend on if someone faces a misdemeanour or a serious offence?**

The main factor to be taken into account when distinguishing one type of crime from another is the quantity of illegal substance the person possesses.

The reference quantities are stipulated in the equivalent to 10 days' consumption, for all the substances. Below these quantities, it is generally considered an administrative infraction; over these quantities, the possibility of being considered a drug trafficking offence increases.

In addition to the quantity, there are other signs that may contribute when distinguishing between a minor offence and a serious crime, including money, the presentation of the substance in small doses, the background, among others...

In the case of a minor offence, what does it happen?

The police identify the individual, take over the substance and carry out a report. The individual has to appear before the Commission of Deterrence for Drug Addiction (CDT) within the 72 hours after the arrest. During the appearance, it is determined if it is an occasional drug use or an addiction.

In the cases of occasional drug use, without previous registration proceedings, the hearing is suspended. If the individual is repeating a drug use, s/he will be subjected to a fine, warning or community work.

In the cases of regular consumption, if the individual is willing to be subjected to a treatment the hearing is suspended; otherwise, health and accompaniment (prohibitions) measures will be imposed.

## **Drug trafficking:**

Portugal is a country with an Atlantic orientation, an important geostrategic centre in connection with the Atlantic Ocean and maritime and air corridors, with emphasis on the control of the intercontinental routes that connect Europe to Africa and South America and the North Atlantic to the Mediterranean Sea. In the context of the international drug trafficking, the country continues being a potential platform for the introduction of cocaine and hash, making use of the national area to orchestrate logistical structures, using individuals of Portuguese nationality, as well as in other countries. The service organisations, as a rule, are placed outside Portugal. This implies the implementation of a strategic plan to combat drug trafficking that gains a great importance in the country.

Programme # 1: Projecto Hombre. Programme for adolescents and young people<sup>35</sup>

A brief description of the programme

**Target population:** Minors of age and adolescents of both sexes aged between 11 and 17 year, whose substance consumption is considered inhibiting for a harmonious development / growth.

**Regime:** Outpatients / inpatients

**Length:** Variable

### **Objectives:**

I. Making young people develop personal and social skills for the prevention of maladaptive behaviours;

II. Developing skills as for interpersonal communication, troubleshooting and conflict management, the assertiveness and the management of emotions;

III. Developing skills as for interpersonal relationships;

IV. Developing labour skills and support among peers and young people;

V. Encouraging vocational guidance and the preparation / incentive to enter again the school environment;

VI. Working together with the family or other legal guardians with a view to a satisfactory social and family integration.

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<sup>35</sup> Information extracted from the website <http://projectohomem-braga.com/>

### **Other services:**

- Medical Supervision
- Psychiatry Monitoring
- Social and Legal Monitoring
- Support for the users' families through individual monitoring or the carrying out of self-help groups.

*Which was the policy / specific reason to initiate this programme?* **Facing the problem of addiction**, general rehabilitation consists in the detoxification of the substance; Diocesan Caritas proposes an alternative treatment: giving meaning to one's own existence is more important than physical detoxification for the abandonment of dependency.

*Is it a public or private initiative?* It is a private initiative (of the NGO Diocesan Caritas that is funded with public funds and donations).

*Is it a national, regional or local programme?* It is a State programme but it helps the population of two specific regions: Braga and Abrantes.

*Evaluation.* An international congress that aims at assessing the current situation and the challenges of young people and adolescents' addiction is being planned.

Despite the efforts of the last decades as for addiction prevention, consumer standards change, new substances or combinations of known substances proliferate, which generates the need to deepen into the knowledge and share the effective practices as for treatment and prevention.

This international congress is placed within this context. It is organised by the Solidarity Centre / Braga Proyecto Hombre in collaboration with the Catholic University of Braga, it will deal with "Dependencies and risks in Childhood and Adolescence: going from the prevention to the treatment".

Integrating knowledge, from medicine to anthropology, from university to the therapeutic communities; this interdisciplinary approach aims at encouraging reflection and debate about consumption trends, exchange of experiences for an effective intervention.

The congress will take place on the 25 and 26 June in the main hall of philosophy. Portuguese Catholic University.

Why the programmes / models presented are the best practice? Proyecto Hombre's philosophy has shown success over its years of development. Generally speaking, it consists in:

**It is defined as a “Drug Free Programme”.** It is an “Anti-drugs” programme, so total abstinence is an essential value. The lack of consumption of any substance is a precondition so that the individual develops his/her potential and can carry out a restructuring of the work at a personal, family and social level.

**Inside the centre: the person:** For “Proyecto Hombre”, the problem is the person that consumes and the reasons that lead him/her to do it (and not the type of substance s/he consumes). The experience proves that after drug dependency, there is a profound annoyance as for life and a profound disenchantment of oneself; thus, it is important to make the individual active and the protagonist of his/her recovery. Proyecto Hombre is based on the individual’s ability to resolve his/her problems and it provides the tools so that, little by little, s/he feels s/he is taking control of his/her own process.

## 6. Neglect and Abuse

In Portugal, it is still high the number of children and young people for whom the placement in an institution is considered the ultimate guarantor of protection and promotion of their rights.

In accordance with the provisions of the treaties and international conventions, when the relationship between the family of origin and the children and young people is broken temporarily or permanently, the latter are entitled to protection by the State.

The special protection of children and young people is based on the principles and rules in several International events ratified by the Portuguese State; highlighting the Convention on the Rights of the Child, as well as key national rules, such as the Portuguese Constitutions, the Portuguese Civil Code and the **Law on Protection of Children and Youth in Danger**.

The promotion and protection of the guardianship intervention set forth in the Law for Children and Youth in Danger Protection (LPCJP) is developed in relation to the cases where there is a threat to the fundamental rights (civil, social, economic and cultural rights) of the child or of a young person under 18 years of age, as such, and that finds him/herself in a situation of danger for his/her safety, health, training, education or development and that require State action.

### **The concepts of risk and danger**

With the restructuring of the legislative structure on childhood and youth that took place in Portugal over the past decade and a half, an important concept has gained a greater visibility, “danger”. The initial concept of “children at risk” changed to adopt another one, with a more restrictive nature, which is defined as “children in danger” (Gersão, 2000; Guerra, 2004). The concept of risk refers to a wider and more comprehensive range than the concept of danger, the latter typified by the law.

The main difference between one concept and the other is that “danger” implies the potential risk in terms of implementation of children’s rights, whereas in the application of the concept of danger, it is added to the high probability of occurrence.

As defined in the Law on Protection of Children and Youth in Danger, “not all risks for the development of children legitimise the intervention of the State and the society, in his/her life, in his/her autonomy and of his/her family”.

Under this legislation (paragraph 2 of Article 3, LPCJP) it is considered that the child or young person is in danger when one of the following situations occurs:

a) they have been abandoned or the family itself gives up minors to the protection system as they cannot take care of them.

b) they suffer situations of physical or psychological abuse or sexual abuse;

c) they do not receive the adequate care or affection for their age and personal situation;

d) they are forced to carry out tasks or jobs that are inappropriate for their age, their dignity and their personal situation or that are damaging for their education and development;

e) they are directly or indirectly submitted to behaviours that are seriously harmful for their safety or emotional balance;

f) they accept behaviours or give themselves up to activities of consumption or that are seriously detrimental for their health, safety, training, education, without the appropriate action on the part of the parents to eliminate this situation.

When a situation of danger is identified, the state has to intervene in order to eradicate that dangerous situation and keep the minor safe.

### **Guiding principles of the promotion of the guardianship intervention and protection**

*a.* The best interests of the Child and Young People

*b.* Privacy

*c.* Early intervention

*d.* Minimum Intervention

*e.* Proportionality and appropriateness

*f.* Parents' responsibility

*g.* Prevalence of the family

*h.* Requirements for obtaining information

*i.* Obligatory audience and involvement

*j.* Subsidiarity

### Young people victim of violence

Despite the limitations that exist as for the statistical indicators at a national level in this matter, according to the latest official data of the services of the Social Security Institute, IP, it shows in the report CASA: Characterisation of Children and Young People in Situation OF FOSTERING

CARE in 2012 (April, 2013), the evolution in the National health care system for Children and Youth is characterised, since 2006, by a decrease as for the number of individuals that enter the system (about 30.1% in 2012); this trend also shows a decrease as for the country's birth rate, which shows that there is an “almost constant volume of entries, and in 2012 we find the highest value since 2006” (ISS et al, 2013: 15), an indicator that merits a special reflection and analysis of the interested parties and the policy makers.

**Tabela 5 – Respostas sociais para crianças e jovens em perigo no sistema nacional de acolhimento**

ANO	2006	2007	2008	2009	2010	2011	2012
N.º de crianças/jovens em acolhimento familiar e institucional caracterizados (acolhidos e com cessação do acolhimento)	15.016	14.380	13.910	12.579	12.025	11.572	11.147
N.º de crianças/jovens em acolhimento familiar e institucional <sup>(*)</sup>	12.245	11.362	9.956	9.563	9.136	8.938	8.557
N.º de crianças/jovens com início de acolhimento no ano	2.084	2.184	2.155	2.187	1.945	2.112	2.289
N.º de crianças/jovens com início de acolhimento anterior ao ano	10.134	9.120	7.801	7.376	7.191	6.826	6.268
N.º de crianças/jovens que cessaram o acolhimento no ano	2.771	3.017	3.954	3.016	2.889	2.634	2.590
N.º de crianças/jovens cessaram o acolhimento iniciado no ano	410	428	194	472	600	837	872
N.º de crianças/jovens que cessaram o acolhimento iniciado em anos anteriores	2.361	2.578	3.760	2.544	2.289	1.797	1.718

(\*) (dados reportados ao n.º de crianças e jovens em acolhimento a 31 de Dezembro de cada ano)

Fonte: CASA 2012 Relatório de Caracterização Anual da Situação de Acolhimento das Crianças e Jovens (2013).

<sup>33</sup> Parte dos processos judiciais reportam-se a intervenções iniciadas pelas Comissões às quais “não foi dado” ou “foi retirado o consentimento” para a sua intervenção. São também abrangidos neste âmbito, os casos reportados aos “procedimentos de urgência” previstos nos Art.ºs 91.º e 92.º da referida lei.

<sup>34</sup> No CASA 2012, os problemas de comportamento são identificados em três dimensões, consoante o grau de gravidade. Incluem-se nesta categoria “os problemas de comportamento, que pressupõem a existência de um padrão persistente de comportamentos em que são violados os direitos básicos de terceiros ou importantes normas sociais próprias da idade do sujeito (...) os comportamentos ligeiros que dizem respeito a comportamentos como o uso da mentira para evitar obrigações/responsabilidades, fugas breves e intimidações; os comportamentos médios referem-se a pequenos furtos, a destruição de propriedade sem grandes prejuízos e agressões físicas. Por fim, os comportamentos graves referem-se a roubos com confrontação com a vítima, utilização de armas brancas e destruição de propriedade com prejuízos consideráveis.” (ISS et al, 2013: 18-20)

**Tabela 6 – Crianças e jovens por resposta de acolhimento, em Portugal, entre 2004 e 2011**

TIPOLOGIA DA RESPOSTA DE ACOLHIMENTO	2004	2005	2006	2007	2008	2009	2010	2011	2012
Lar de Infância e Juventude	6.088	7.671	7.267	7.079	6.799	6.395	5.954	5.834	5.513
Centro de Acolhimento Temporário	1.361	1.868	1.674	1.843	1.867	2.105	2.209	2.144	2.092
Família de Acolhimento	3.128	3.396	2.698	1.829	918	658	553	485	419
Centros de Apoio à Vida	--	53	45	80	83	92	92	75	112
Apartamento/Lar Autonomização	--	46	46	56	40	44	42	41	40
Lar Residencial	--	92	105	205	193	164	155	127	83
Unidade de Emergência	--	55	171	33	8	5	9	53	74
Casa de Acolhimento de Emergência	--	--	--	37	36	55	47	44	
Comunidade Terapêutica	--	--	--	--	12	45	30	75	109
Lar de Apoio	--	--	--	--	--	--	45	11	18
Colégio de Ensino Especial	--	--	--	--	--	--	--	--	65
Comunidade de Inserção	--	--	--	--	--	--	--	--	32
N/R	137	652	239	200	0	0	0	0	0
Total	10.714	13.833	12.245	11.362	9.956	9.563	9.136	8.938	8.557

(\*) (dados reportados ao n.º de crianças e jovens em acolhimento a 31 de Dezembro de cada ano)  
 Fonte: CASA 2012 Relatório de Caracterização Anual da Situação de Acolhimento das Crianças e Jovens (2013).

**Tabela 7 – Crianças e jovens no sistema nacional de acolhimento, por escalão etário**

ESCALÃO ETÁRIO DAS C/J ACOLHIDAS	2004	2005	2006	2007	2008	2009	2010	2011	2012
0-3 anos	853	1.218	927	974	790	861	858	817	790
4-5 anos	615	785	587	547	439	490	441	411	403
6-9 anos	1.918	2.217	1.946	1.715	1.435	1.339	1.185	1.077	954
10-11 anos	1.374	1.545	1.416	1.216	1.116	1.057	953	883	774
12-14 anos	2.494	3.029	2.788	2.522	2.204	2.233	2.183	2.070	1.948
15-17 anos	2.381	3.216	3.183	2.876	2.650	2.589	2.606	2.703	2.744
18-21 anos	904	1.456	1.391	1.414	1.186	994	910	977	944
Mais de 21 anos	175	185	--	--	--	--	--	--	
N/R	--	182	7	98	136	--	--	--	
Total (*)	10.714	13.833	12.245	11.362	9.956	9.563	9.136	8.938	8.557

(\*) (dados reportados ao n.º de crianças e jovens em acolhimento a 31 de Dezembro de cada ano)  
 Fonte: CASA 2012 Relatório de Caracterização Anual da Situação de Acolhimento das Crianças e Jovens (2013).

The national system: Foster care for children and young people

The Constitution of the Portuguese Republic (Articles 67, 69 and 70) assigns to the society and the State the duty to protect the family. The national system of care to children and young people in danger is organised in a structure that includes, under the law, three different levels:

**1) Emergency reception:** it has to be carried out in the emergency units or vacancies, follows in the urgent reception and transition of children and young people in situations of danger, and whose length, variable, must not exceed 48 hours;

**2) Temporary foster care:** it refers to the cases of children and young people whose de away from the family environment are temporary for a six-month period, although this period can be exceed in certain circumstances. It can work with two types of resources:

Temporary Welcome Centres (CAT) or Family Welcome Centres  
Host (FA);

**3) Prolonged foster care:** when all the resources and possibilities of social intervention with the family of origin have been used up, the host of the child or young person may take a final character, in compliance with Lares Children and Youth (LIJ).

**Family placement of children and young people** at risk, always in Article 46 of LPCJP, is a measure that is carried out through the “conferring of the child or young person’s confidence to a person, individual or a family, empowered for that purpose, aiming at his/her integration within the family and the appropriate care of his/her needs and well-being and the necessary education for his/her development”. The host family is a social response that requires a technical framework of the person or family that has been selected. This measure can be carried out at the family’s home or at the professional home.

Social Responses Of Fostering Covered By The Programme “Children and Youth At Risk”

	RECEPTION CENTRE OF BEGINNING OF Y	APARTMENT INFANCY TEMPORARY	YOUTH empowerment
TYPOLOGY	Social response, carried out in teams, intended to urgent and temporary reception of children and young people in danger, for a period of less than six months, based on the implementation of the promotion and protection measure.	Social response, carried out in teams, intended to the care of children and youth in difficulties, a duration of up to 6 months, based on the implementation of the promotion and protection measure.	Social response, carried out in teams – apartment inserted in the local community – in order to support the transition to adulthood on the part of young people that have specific personal skills, by the streamlining services with the resources that articulate and strengthen the existing ones in the territorial spaces.
OBJECTIVES	<ul style="list-style-type: none"> <li>- Allowing the carrying out of a diagnosis for each child and young person and the definition of their respective life assignments, in view of the family relationships and social referral or another one that better adapts to the situation to be studied;</li> <li>- Providing temporary accommodation;</li> <li>- Guaranteeing that children and young people’s basic needs will be met;</li> <li>- Providing appropriate support according to the age and the characteristics of each child or young person;</li> <li>- Encouraging family intervention, together with the authorities and institutions whose action is essential for an effective promotion of children and young people’s rights.</li> </ul>	<ul style="list-style-type: none"> <li>- Warranting accommodation;</li> <li>- Guaranteeing that children and young people’s basic needs are met as well as the promotion of their overall development, in such conditions that they are as close as possible to a family structure;</li> <li>- Guaranteeing the necessary means for their personal development and school education and professional training, in cooperation with the family, the school, the facilities of professional training and the community;</li> <li>- Encouraging, when possible, their integration into the family and community of origin or in another natural habit, in conjunction with the relevant bodies for childhood and youth and the protection commissions on children and youth, with a view to a gradual empowerment.</li> </ul>	<ul style="list-style-type: none"> <li>- Introducing processes of autonomy of life and an active involvement on the part of young people, minimising the risk of social exclusion;</li> <li>- The development of individual processes of monitoring and support, the psycho-social level, the materials and the inclusion of social and labour information;</li> <li>- Rationalising the programmes of specific training for the personal, social, educational and professional development, of young people;</li> <li>- Sharing experiences with other services and encouraging common fields of knowledge and practices with the objective of establishing a coordinated and integrated intervention in order to facilitate young people’s transition to adulthood. Young people of age</li> </ul>

ADDRESSED TO	Children and young people of both sexes up to the age of 18 years in a situation of Hazard, whose promotion and protection measure will be determined by a host with a duration of less than six months.	Children and young people of both sexes, up to the age of 18 years in a situation of danger, whose promotion and protection measure so determines.	Young people older than 15 years. As well as with the promotion and establishing the protection.
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Fostering Centres: Host institutions necessarily possess a technical team that has the responsibility and the competency for the carrying out of the diagnosis of the situation of the child or young person that has entered the centre and for the definition and implementation of the promotion and protection project (paragraph 1 of Article 54, LPCJP). This team must have a multidisciplinary constitution, the integration of psychological skills, social service and education (paragraph 2 Article 54, LPCJP) and for counting on the collaboration of other elements with degrees in other fields (medicine, law, nursing and, in the case of the Children and Youth's Homes, the arrangement of free time), so it can meet the demands of its educational intervention and social requirements.

The framework proposed by the social security services for the functioning of a temporary foster or a home for children and young people that takes in 30 children or young people is: a Social Work Technician; a psychologist; two social educators; 18 assistants of Action for the Education; a Cook; three assistants for General Services.

## **GOOD PRACTICE**

### Programme # 1: ESCOLHAS PROGRAMME

A brief description of the programme<sup>36</sup>

“Escolhas” is a Government’s national programme that was created in 2001. It is promoted by the Presidency of the Council of Ministers and it is included within the High Commissioner for Immigration and Intercultural Dialogue - ACIDI, IP, which aims at promoting social inclusion of children and the socio-economic contexts of vulnerable young people, directed towards equal opportunities and the strengthening of social cohesion. At present it is in its fifth generation, which will be extended until the 31th December 2015.

The Escolhas Programme has agreements with consortia of 110 local projects about social inclusion in vulnerable communities, with the option of funding another 30 projects, many of which are located in areas where descendants of immigrants and ethnic minorities predominate.

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<sup>36</sup> All documentation related to the present programme is available on the official website: <http://www.programaescolhas.pt/apresentacao>

The Escolhas Programme is funded by the Social Security Institute, the Directorate-General for Education and the European Social Fund through the Human Potential Operational Programme - POPH / MENR.

The first phase of implementation was carried out from January 2001 to December 2003. It was a Programme for the Prevention of Juvenile Crimes. 50 projects were implemented and 6,712 recipients were reached. With the acquired learning and in order to respond to new challenges, a second stage was launched with the programme “Options – second generation (E2G)”. It was conducted at national level from May 2004 to September 2006 and 87 projects distributed throughout the country were funded. E2G’s preferential target audience was the group composed of children and young people from 6 to 18 years of age coming from disadvantaged and problematic socioeconomic contexts. During this stage, the transition from a centralised programme model to a model based on local projects on the basis of local institutions (schools, training centres, associations, IPSS, among others) was carried out. Thanks to consortia, 412 institutions and 394 technicians are involved; the E2G covers about 43,200 beneficiaries residing in 54 municipalities.

In 2007, the “Escolhas” Programme broadened its action and it was renewed until 2009 aiming at promoting social inclusion of children and young people aged between 6 and 24 years coming from socially and financially vulnerable contexts in order to strengthen social cohesion. It took place during the third stage.

121 projects in 71 municipalities of the national territory. Implemented by 780 institutions and 480 technicians that cover approximately 81,695 recipients.

The Escolhas Programme was renewed for a three-year period between 2010 and 2012, its overall funding being strengthened. 130 new projects were developed during this stage, among which 10 were pilot projects. The priority areas for intervention were established at: school inclusion and nonformal learning, vocational training and employability, citizenry, digital inclusion, entrepreneurial spirit training. It keeps implementing the local consortia model by promoting the joint responsibility of all the community members in order to ensure sustainability. During this stage, the figure of the “Community Facilitator” was introduced: a young person coming from the community and expert on the technical equipment of the Projects. The options for its profile of positive leadership become a reference model and it contributes to mobilise children, young people and the community in general.

The fourth Programme of Generation Options has as its main scopes of actions: (Measure I) School inclusion and nonformal learning; (Measure II) Vocational training and employability; (Measure III) Promotion of the Community and the citizenry; (Measure IV) Digital inclusion; and (Measure V) Entrepreneurial spirit training.

**Which was the policy / specific reason to initiate this programme?** It arose from the need to involve civil society in the solution of problems related to social integration that exist among the young population, fundamentally of foreign origin and ethnic minorities and facing the gradual increase of violent forms of intervention.

**Is it a public or private initiative?** Public initiative. All public and private institutions may implement the projects at the local level, having previously assembled in consortia.

**Is it a national, regional or local programme?** National.

#### **Assesment.**

Global Impacts the fourth generation

- 89,232 people involved.



- 759,819 working sessions.
  - 9,776 reintegrations into school, the training and employability of unemployed young people.
  - 86.7% of academic success in general during the school year 2011/2012.
  - 13,949 certifications as for the ICT (Information and Communications Technology).
  - 87% of the funding directed at the projects.
- Daily per capita cost €0.42.

#### **Why the programmes / models presented are the best practice?**

The creation of local consortia has generated social co-responsibility to intervene in the area of prevention of violence and the generation of inclusion among young people.

Generating positive measures of inclusion that eliminate the forms of juvenile delinquency thanks to prevention and intervention.

Economic and technical government commitment prolonged in time. Systematisation of results.



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## SPAIN

### Introduction

#### 1.1 Population characteristics.

Spain is a sovereign country, a Member State of the European Union, constituted as a social and democratic State ruled by Law. Its territory is made up of seventeenth autonomous communities and two autonomous cities; furthermore, it is organized in fifty provinces. Madrid is the capital. It is a transcontinental country located in Western Europe that comprises a part of the Iberian Peninsula and the Balearic Islands archipelago (in the Western Mediterranean sea); and North Africa where we find the cities of Ceuta (in the Tingitana Peninsula) and Melilla (in the Cape Three Forks), the Canary Islands (in the North-eastern Atlantic Ocean), the Chafarinas Islands (in the Mediterranean Sea), the Peñon de Velez de la Gomera (Mediterranean Sea), the Alhucemas Islands (Alhucemas Islands Gulf), and the Alboran Island (Alboran Sea). The town of Llívia is located in the Pyrenees and it constitutes an enclave that is totally surrounded by French territory.

Spain has a territorial extension of 504, 645 km<sup>2</sup> with an average altitude of 650 metres. According to data from the Spanish National Institute of Statistics (INE) as of the 1st January 2015, its population amounts to a total of 46,600,949 residents:

<b>Data</b>	<b>1<sup>st</sup> January 2015</b>	<b>1<sup>st</sup> January 2014</b>	<b>Annual Variation (%)</b>
<b>Total Population</b>	46,600,949	46,771,341	-0.4
<b>Foreign Population</b>	4,718,864	5,023,487	-6.1

The 49.1% of the total of people registered in the Register of Inhabitants are men, making a total of 22,880,878 men, of which 2,405,598 are foreigners; and the 50.9% are women, making a total of 23,720,071, of which 2,313,266 are foreigners.

Spain's economy, as well as its population, is the fifth largest one of the European Union, and the thirteenth one of the world in absolute terms. Spain's GDP per capita was €22,780 in 2014, €262 higher than the one of 2013, €22,518.

Spain occupies the 27th place in the world in terms of Human Development Index (HDI) with a value of 0.869; it loses four positions with respect to 2013.

The following table shows these and other interesting social indicators about the country:

<b>Indicator</b>	<b>Value</b>
<b>HDI</b>	0.869
<b>Per Capita Income (PPP)</b>	€22,780
<b>2014 Unemployment rate</b>	23.7%
<b>Life expectancy (data from 2014)</b>	82.5 (85.5 women and 79.5 men)

## 1.2 State's structure, the government.

The Parliamentary Monarchy is the political form of Spain.

The Government of Spain is the constitutional body that heads the state executive branch and manages the General Administration of the State. It politically depends on the Congress of Deputies through the investiture or censure of the President of the Government, in accord with the parliamentary form of government established by the Spanish Constitution of 1978.

Its fundamental regulation is found in the "Title IV" of the Constitution (also in the "Title V" with respect to its relation with the "General Courts" and in the Government Regulation (LG Law 50/1997 of November 27 of the Government)).

In accordance with Article 97 of the Constitution and Article 1.1 of the Government Regulation, "the Government directs domestic and foreign policy, civil and military administration and the defence of the State, besides the 'executive authority' and the law making power".

### 1.3 The reality of the country's delinquency

#### Source?



Datos pendientes de consolidar

NACIONAL			
Tipología Penal	2013	2014	Var. % 14/13
1.-DELITOS Y FALTAS (EU)	537.223	515.315	-4,1
2.-HOMICIDIOS DOLOSOS Y ASESINATOS CONSUMADOS (EU)	79	86	8,9
3.-DELINCUENCIA VIOLENTA (EU)	27.235	23.398	-14,1
3.1.-ROBO CON VIOLENCIA E INTIMIDACIÓN (EU)	22.708	18.906	-16,7
4.-ROBOS CON FUERZA	101.874	92.773	-8,9
4.1.-ROBOS CON FUERZA EN DOMICILIOS (EU)	33.812	32.812	-3,0
5.-SUSTRACCIÓN VEHÍCULOS A MOTOR (EU)	12.938	11.073	-14,4
6.-TRÁFICO DE DROGAS (EU)	3.218	2.994	-7,0
7.-DAÑOS	59.000	56.537	-4,2
8.-HURTOS	182.997	174.548	-4,6

During the first quarter of the year 2014, a total of 515,315 crimes and offences have been recorded in Spain, what represents a decrease of 4.1% with respect to the same period of the year 2013, when 537,223 infractions were registered. These figures result in a crime rate of 45.6 criminal offences for every 1,000 inhabitants. This rate has gone down in 0.5 points compared with the rate of December 2013 as a result of the decrease of recorded criminal offences.

Even if the number of consummated homicides has increased compared to the same period last year –from 79 to 86–, violent crime in general has suffered a severe setback (-14.1%), reaching a reduction of 16.7% as for the robberies with violence and intimidation. The rest of security indicators go down, reaching a fall of up to 14.4%, as it is the case of theft of motor vehicles.

Taking into account the data of 2014, the reality of the delinquency in Spain shows the following prototype in this country: male, 35 years on average, Spanish and convicted mainly of traffic, injury and theft crimes. Thus, the 75% of the convicts are Spanish people and the 25% are foreigners. Geographically, the place in Spain where there is the greatest number of convicts is Ceuta followed by Melilla; and the places with the lowest number of convicts are Aragon, Castile and Leon and the Basque Country.

Regarding the criminal's profile, it has changed over the last years as for the age and type of offence as crimes related to drugs were more common before. Delinquency is clearly male chauvinist; nevertheless, it has to be stressed that, since 2007, sentences

of women have doubled going from 13,778 to 25,180 whereas sentences of men have two subsequent downward years and it stands at 194,595.

1.4 Brief history about the development of the criminal justice system in Spain  
Criminal law was born in Spain, as well as in the rest of Europe, at the end of the 13<sup>th</sup> century and beginning of the 19<sup>th</sup> century, under the ideas of the Enlightenment.

The Constitution of Cadiz of 1812 established the nature of punishments and with the return of Fernando VII the first Spanish Criminal (Penal) Code was born in 1822, what marked a new stage in the evolution of the Spanish historic Criminal Law.

In 1930, the Bar Association of Madrid requested the repeal of the Criminal Code of 1928 so that the Criminal Code of 1870 could return to validity. This was carried out two years later, when the Second Republic was proclaimed and the interim government prepared the Code of 1932 taking the Code of 1870 as the starting point. The tripartite classification was replaced by the bipartite one. The humanitarian stance of the new document is shown by the abolition of the death penalty, the reduction of the number of aggravations and some establishments such as the conditional sentence and the probation. Adjunct of the new Code Vagrancy Act of 1933.

The Civil War (1936-1939) led to a special, authoritarian criminal law that was in accordance with the new conditions. This situation delayed the reform of the Code of 1932 until 1944, and a new code was enacted in accordance with the authoritarian Criminal Law that was rising in Europe. Death penalty was restored, with more severe sentences and a greater protection to the State, the family and the social interests.

The Criminal Code of 1944 underwent numerous reforms over the years, and even a revised text was published in 1963 and another one was rewritten in 1973; there were also modifications inspired by the new democratic system, provided by the Moncloa Pacts, and a copious legislation in matters of terrorism. These reforms culminate with the Organic Law 8/1983, of 25 June, on urgent and partial reform of the Criminal Code.

The organic Law 3/1989 for updating the Criminal Code meant a reform of the Book III that complies with the principle of minimum intervention, and the injury offence, offences against sexual liberty and trafficking crimes were also modified, and new type of criminal offences were introduced such as the habitual ill-treatment offences, defaulting payment of pensions or the exploitation of minors begging.

This reform was considered a “temporary remedy that dilated the compliance of the duty to legislate a new Criminal Code that had to be appropriate to the Democratic and Social State”. This came true in 1995.

The following relevant reform the Criminal Code underwent was in 2010, and the following laws are included within it:

- Organic Law 2/2010, of 3 March, on sexual and reproductive health and voluntary termination of pregnancy. This regulation eliminates the system of assumptions in order to decriminalise abortion and introduces a time-limit system.

- Organic Law 5/2010, of 22 June, amending the Organic Law 10/1995, of 23 November, of the Criminal Code (Spanish Official State Bulletin of 23). This regulation amends a significant part of the Criminal Code of the year 1995. It is carried out through an only article and it is considered the most important reform of our penal law since 1995.

- Organic Law 3/2011, of 28 January, amending the Organic Law 5/1985, of 19 June, of the General Electoral System. The writing of the law 5/2010 was mended and the prescription within one year of the slander and calumny offences was introduced.

The last reform is fairly recent as it is the Organic Law 1/2015, of 30 March, amending the Organic Law 10/1995, of 23 November of the Criminal Code.

## 1. Juvenile Justice System in the Country

2.1 Introduction to the Juvenile Justice System and the juvenile crime in the country

### a. Evolution of the Juvenile Justice System in Spain

The **Guardianship of Minors Court Act of 1948** established a system that did without procedural safeguards as it did not include among its articles the principles of legality, authenticity and proportionality typical of the Criminal Law. The Judge was the one who had all responsibilities on the decisions about male and female minors assuming the role of a person that defends, judges and even charges and thus, violating all legal guarantees.

The promulgation of the Spanish Constitution of 1978 and the international agreements were an important shift for the judicial treatment of minors, inspiring in this way a new model of Juvenile Justice.

On the basis of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (“Beijing Rules”); the Recommendations of the Council of Europe on Social reactions to juvenile delinquency, 1987 and the Convention of the Rights of the Child of 1989, with the objective of protecting minors even in the legal field, a new legislation aiming at giving a guarantee of protection is being created.

It is within this context that the Juvenile Courts on the basis of the **Judiciary Organic Law /1985 of 1 July**, as a precursor of the **Organic Law 4/92** regulating the powers and proceedings of the Juvenile Courts, are created.

After this Law, a more flexible legal framework was created in order to serve the superior interest of minors (constitutional and procedural safeguards). The creation of interdisciplinary technical equipment was regulated and besides punitive action, educational measures were mentioned for the first time.

Afterwards, the **Organic Law 5/2000, of 12 January** appeared to regulate the **Criminal Liability for Minors (Children Act)**. It is based on the superior interest of minors differentiating age groups in procedural and corrective terms, considering that actions carried out by minors under the age of 14 are irrelevant and that they can find an educational response in the family or in the child protection system under the provisions of the Civil Code.

The **Organic Law 7/2000, of 22 December**, introduces some changes in respect of the criminal liability for minors in relation to terrorist offences. However, the most important modifications were added to the **Organic Law 6/2006, of 4 December**, showing a more repressive and punitive orientation, especially about the offences that are considered as most serious crimes, and in these cases, increasing internment measures and opening up the possibility of finishing its compliance in a correctional facility if during that period of time s/he attains the age of majority in detriment of the offender as his/her educational work is lost. This tightening is explained by the statement of reasons of a supposed social demand on the part of certain groups caused by the social unrest created by offences considered as serious when they are communicated through the media.

On a positive note, the rights and the protection to victims and injured parties (these ones have a minor role within the adult criminal justice system) are recognised.

The criminal liability for minors is required for people over fourteen years of age and below eighteen years of age by the commission of incidents classified as crimes or offences in the Criminal Code or in the special penal laws.

It is not applied to minors below fourteen years of age, for whom there are other **norms of protection and education for minors laid down in the Civil Code and in the Organic Law 1/1996, of 15 January on legal protection for children**, informing the Public Authority appointed with the responsibility about minors in the correspondent

Autonomous Community so that it takes measures designed to re-educate and protect the minor under the age of 14 that had shown a reproachable behaviour.

#### b. Current Juvenile Justice System

The general principles that direct the running of the juvenile justice system are the ones taken from the legislation set out above. They refer to the following aspects:

- A formally legal nature, but materially corrective-educational of the procedure and of the measures applicable to juvenile offenders. This corrective nature is materialised in the demand of a real legal liability for young offenders, although it is referred to the commission of incidents classified as crimes or offences by the Criminal Code and the rest of specific penal laws.
- It is an intervention of educational nature, what means that measures cannot be repressive but have a preventive character geared towards social rehabilitation.
- The minor's supreme interest is recognised, both in the procedure and in the measures taken. S/he has to be assessed with technical criteria and by professional teams specialised in the field of non-legal sciences.
- Differentiation of diverse age groups: 14-16 and 16-18 years of age. The limit is established at 14 years of age to request criminal liability to minors under legal age and there is a distinction as for the law enforcement and the severity of the consequences of the offences committed.
- Flexibility with the adoption and execution of the measures advised by the circumstances of the specific case.
- From the corrective-educational perspective, a wide catalogue of applicable measures is established.
- The execution of the legal steps is the responsibility of the public entities of minors' protection and rehabilitation of the Autonomous Communities, under the control of the Juvenile Judge.

This aspect about the powers of the Autonomous Communities for the execution of the measures taken by Juvenile Judges is explained in the Organic Law that regulates the Criminal Liability for Minors in its article 45 where it is specified that: "such public entities will carry out, in accordance with their respective rules of organisation, the establishment, running, organisation and management of the services, institutions and programmes that are adequate to ensure that the measures are correctly implemented" and "they will be able to establish the necessary conventions or cooperation agreements with other entities, whether public bodies, of the State or Local Administration, or of other

Autonomous Communities, or private non-profit bodies, for the execution of the measures of their competency, under their direct supervision, under no circumstances supposing this the cession of the ownership and responsibility resulting from such execution”.

As regards victims, the Organic Law that regulates the Criminal Liability for Minors and its subsequent reforms or the decrees that integrate it, establish a framework for the protection of victims, preserving its active presence in the process in suitable terms, to exercise the functions of participation (having sight of the people involved, informing about the actions, to take part in the taking of evidence and be heard in all procedures), and the functions of revision (filing of appeals). In this way, it is aimed at ensuring that the procedure is an institutional space for the reception of victims. Most of these procedures are carried out in the pre-trial stage and thus the habitual relationship of the victim with the juvenile justice system is established through the Prosecutors, in some cases with the Juvenile Court, and only in certain cases with the Educational Team of Open Means.

#### 2.1.1. Minimum age of criminal responsibility

The Legal Order that concerns young people establishes the age group between 14 and 18 years old as the age range in which minors are declared criminally responsible. Article 19 of the current Penal Code, approved by the Organic Law 10/1995, of 23 November, indeed sets the age of criminal responsibility at eighteen years of age and requires the express regulation of criminal liability of minors under legal age in a separate Law.

#### 2.1.2. Statistics on juvenile victims and offenders

The data collected belongs to all police forces, except for the Mossos d’Esquadra. Added to this, we have that the Ertzaintza does not disperse data relating to arrests for intentional homicides and accomplished murders, therefore some data may vary.

The statistics reported here refer to two fundamental sections:

- The first part of the table includes a summary of the data linked to **arrests and imputations** for criminal infraction (crimes and offences).
- The second part includes data concerning the **victimization**; in this case, this concept is referred to the number of facts denounced by people in which they state to be a victim or harmed person for a criminal offence (figures on minors are detailed in this table). It is different from the concept of victim, as the latter refers

to individuals. This is the concept that has been used in all previous yearbooks of the Ministry of the Interior.

<b>ARRESTS AND IMPUTATIONS ON A CRIMINAL CHARGE</b>			
<b>Males (from 14 to 17 years of age)</b>			
	2012	2013	% variation
<b>CRIMES</b>	14,877	14,715	-1.1
<b>OFFENCES</b>	3,540	3,574	1
<b>TOTAL</b>	18,417	18,289	-0.7
<b>Females (from 14 to 17 years of age)</b>			
	2012	2013	% variation
<b>CRIMES</b>	2,093	2,100	0.3
<b>OFFENCES</b>	1,693	1,549	-8.5
<b>TOTAL</b>	3,786	3,649	-3.6
<b>VICTIMIZATIONS</b>			
<b>Males (from 0 to 13 years of age)</b>			
	2012	2013	% variation
<b>CRIMES</b>	3,412	3,235	-5.2
<b>OFFENCES</b>	3,398	3,467	2
<b>TOTAL</b>	6,810	6,702	-1.6
<b>Males (from 14 to 17 years of age)</b>			
	2012	2013	% variation
<b>CRIMES</b>	6,420	5,789	-9.8

<b>OFFENCES</b>	7,333	7,004	-4.5
<b>TOTAL</b>	13,753	12,793	-7
<b>Females (from 0 to 13 years of age)</b>			
	2012	2013	% variation
<b>CRIMES</b>	2,951	3,160	7.1
<b>OFFENCES</b>	2,409	2,471	2.6
<b>TOTAL</b>	5,360	5,631	5.1
<b>Females (from 14 to 17 years of age)</b>			
	2012	2013	% variación
<b>CRIMES</b>	5,917	5,796	-2
<b>OFFENCES</b>	7,821	7,545	-3.5
<b>TOTAL</b>	13,738	13,341	-2.9

2.1.3 Juvenile justice system in the country, institutions, the running of the system, etc.

**Jurisdiction bodies for minors and their power:**

Juvenile Courts

Functions:

- To rule on the criminal liability derived from offences committed by people aged between 14 and 18 years.
- To rule on their public liability for liquidated damages caused by the minor with the commission of the crime or offence.
- To ensure compliance and enforcement of the passed sentences.

Minors' Prosecuting Office

**Prosecutor of Minors:** his/her responsibilities are the defence of the minors' rights, the oversight on actions that have to be carried out in the interest of the minor and the compliance with the procedural guarantees for the minor, personally running the investigation of the facts and initiating proceedings.

The investigating intervention of the Public Prosecutors is aimed both at valuing the minor's involvement in the incident and proposing the specific measures of educational and corrective content that are appropriate to the circumstances of the act and to the perpetrator and especially, in the own interest of the minor.

The private prosecution: It may be possible that the person sustaining damage in the criminal proceedings for minors appears as well as additional parties subjected to this person with bonds of kinship in order to exercise criminal action. In any case, the victim that does not appear shall have the right to obtain communication of all rulings adopted by both the Public Prosecutors and the Juvenile Judge that may affect his/her interests.

The Defence, as a right; the minor shall have the right to « be informed by the Judge, the Public Prosecutors or police officer about his/her rights» and to «appoint a Lawyer to defend him/her, or to be assigned with a legal aid lawyer and to meet with him/her in confidence, even before giving evidence»

Criminal pre-trial proceedings urged by the Lawyer of the minor:

- The investigating interventions of the defence are aimed at proving the nonexistence of the fact, its lack of actus reus or involvement in it of the material part or the concurrence of a cause of exemption of the criminal liability or, where appropriate, at proving the concurrence of psychological, educational, social or family circumstances that may deem it advisable to withdraw proceedings or reach an out-of-court settlement.
- Special cases: minor's testimony is subjected to a special regime, any time that his/her proposal has a binding effect for the Public Prosecutor.
- If the proceedings proposed by the Lawyer of the minor affect the fundamental rights of the child or of other people, Public Prosecutors continue being the intermediaries of such a request, who, in the case they deem the request as relevant, will address the Juvenile Judge, as one of his/her functions, among others, is to adopt the limiting resolutions of fundamental rights.
- **Complementary judicial inquiry:** Against the resolution of the Public Prosecutor by denying the practice of a criminal pre-trial proceeding requested by the Lawyer of the minor, no appeal may be brought.
- However, the Lawyer of the minor, after the order of conclusion of the investigation file, can still demand the dismissal of the case and base such a complaint on the practice of those proceedings that the Public Prosecutor refused

in the course of the reform of the investigation file, despite turning out to be relevant and useful, thus ensuring the right of defence and equality of arms during the process. If the Juvenile Judge considers the appropriateness of the proceedings requested, s/he can then initiate a brief procedure during which s/he will practice them “by him/herself”.

The judicial practice of the proceedings must be verified with a subpoena of all appearing parties.

Inception of the investigation file

### **Arrest of the minors**

Obligations of the authorities and civil servants:

- To carry out the arrest in the least detrimental way for the minor.
- To immediately inform him/her, with a clear and understandable language, about the acts s/he is charged with, about the reasons for his/her arrest and about his/her rights.
- To immediately notify the legal representatives of the minor and the Public Prosecutors about the arrest and the guard place.

#### **A possible waiver of the investigation file**

The Public Prosecutor may withdraw, that is to say, s/he may not give room to the opening of the investigation file when the following circumstances are met:

- if the alleged facts are less serious crimes committed without violence or intimidation or offences provided that the minor has not previously committed similar facts.
- if s/he has reconciled with the victim (when s/he has recognised the damage s/he has caused and apologised before the victim and if the latter accepts such apology), or
- if s/he has made the commitment to correct the damage s/he has caused, that is to say, to take on with the victim or damaged person the commitment to carry out certain actions for the benefit of the victims or of the community and to accomplish them, or
- if s/he has committed to comply with the educational activity that the technical team may have proposed (made up of psychologists, forensic doctors and social educators).

In the case the minor does not comply with the reparation or the agreed educational activity, the Public Prosecutors will continue with the investigation file processing.

### **Minor's rights from the moment of his/her arrest:**

- To be informed by the Judge, the Public Prosecutors or the police officer about his/her rights.
- To appoint a Lawyer that defends him/her, or to be assigned with a legal aid lawyer.
- To take part in the proceedings that are practiced during the preliminary inquiry and in the court proceedings, and to propose and request the practice of the proceedings.
- To be heard by the Judge or Court before they adopt any resolution that personally concerns him/her.
- Emotional and psychological care in any stage and phase of the proceedings.
- Assistance of the services of the technical team assigned to the Juvenile Court.

**About precautionary measures:** If there are reasonable indications of the commission of a crime or if there is a risk of circumvent or obstruct the course of justice on the part of the minor, the Public Prosecutors may request the Juvenile Court, at any time, to adopt precautionary measures for the guardianship and defence of the minor being proceed or for the proper protection of the victim.

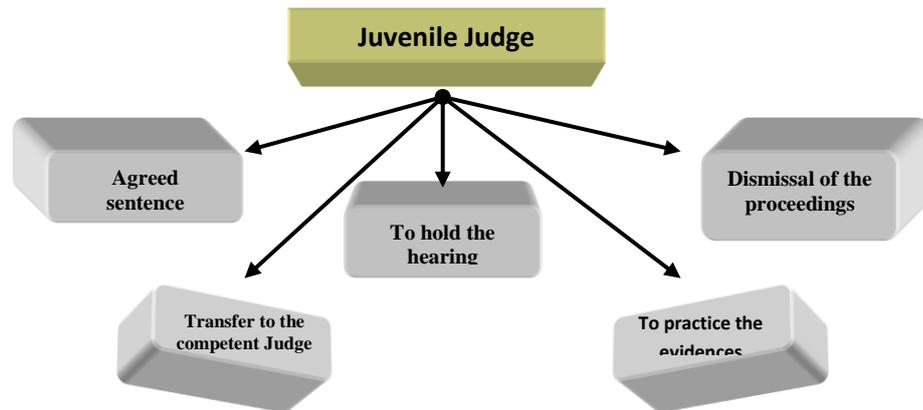
### About the conclusion of the Preliminary investigation

Public Prosecutors having sent the investigation file to the Juvenile Court, the latter will notify the Lawyer of the minor about the allegations of the Public Prosecutor and the actions carried out so that s/he may also carry out the allegations s/he considers advisable and propose the evidences s/he deems opportune.

### About the hearing stage

Once the previous procedures have been carried out, the Juvenile Judge may:

- Pass agreed sentence if the requirements set forth by the Law are met.
- Arrange the hearing.
- The dismissal of the proceedings by way of reasoned order.
- Close the file on due to dismissal of the proceedings.
- The transfer of proceedings to the competent Judge when the Juvenile Judge considers that the knowledge of the case is not for him/her.
- Practice by him/herself the evidences proposed by the parties and that have been denied by the Public Prosecutor during the preliminary investigation and that cannot take place in the course of the hearing.

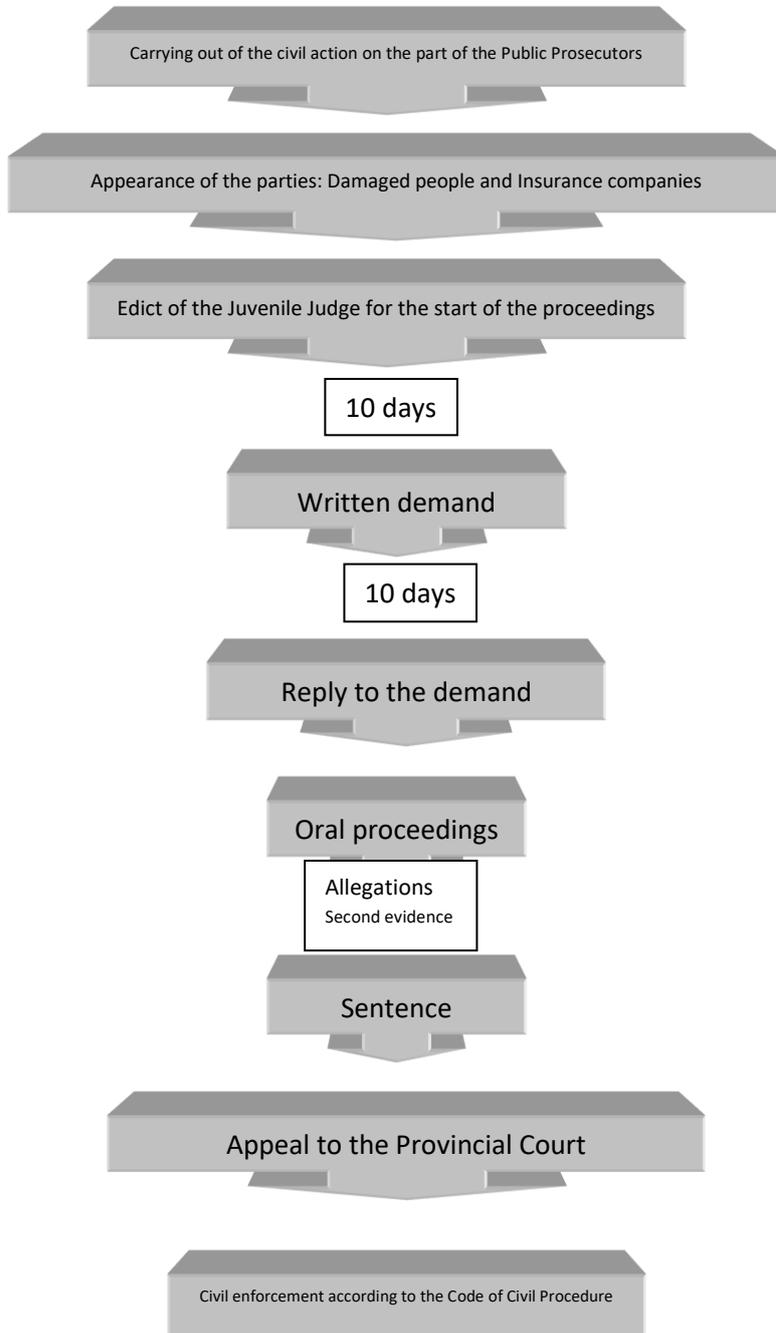


#### About the sentence

Once the hearing is over, the Juvenile Judge will pass sentence within a maximum period of **five days**. In the same judgement, the public liability derived from the crime or offence will be resolved.

The sentence issued by the Juvenile Judge may be appealed to the Provincial Court.

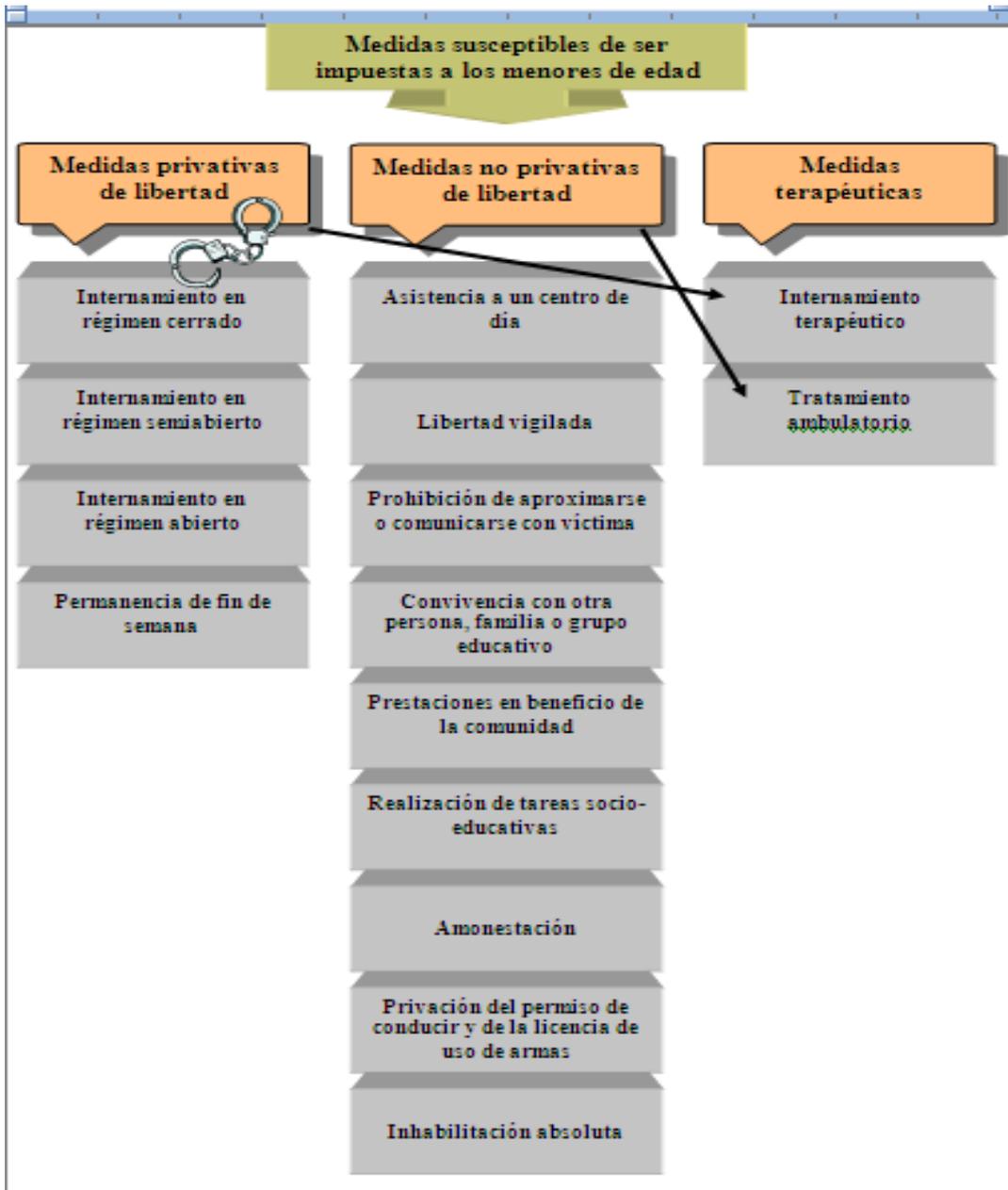
## Separate part of public liability (Articles 61 to 64)



### 2.1.4 Rehabilitation system of the institutions for juvenile offenders and victims

Once the hearing is over, the Juvenile Judge will pass sentence about the facts submitted for debate within a maximum period of five days.

Measures imposed by Juvenile Judges to young people under legal age in the case of the offenders and ordered according to the restriction of rights:



**Closed detention centre.** People subjected to this measure will reside in the centre and they will carry out training, educational, working and leisure activities there.

**Semi-open regime detention centre.** Minors reside in the centre but they will carry out training, educational, and leisure activities outside the institution.

**Open regime detention centre.** Minors will carry out all activities of the educational project in the standardized services of the surroundings and they will reside in the centre as the habitual residence, subjected to its programme and internal regime.

**Therapeutic care centre.** In this type of centres, there will be a specialised educational care or a specific treatment geared towards people that suffer from defects or mental disorders, alcohol, toxic drugs or psychotropic substances dependence, or a perception disturbance that determines a serious disturbance of the reality awareness. This measure may be applied in itself or as a complement of another measure provided in this Article. When the interested party refuses the treatment for addiction, the Judge will apply another measure that is more adequate to his/her circumstances.

Internment measures will consist of two periods: the first one will be carried out in the corresponding centre, according to the description stated in the previous section of this Article; the second one will be carried out in a placement on probation, in the modality chosen by the Judge. The total duration will not exceed the time set forth in Article 9. The technical team will have to notify about the content of both periods, and the Judge will arrange the duration of each one of them in the sentence.

**Outpatient treatment.** People subjected to this measure will have to attend the assigned centre with the periodicity required by the doctors that will treat them and follow the guidelines laid down for the proper treatment of the defect or mental disorder, alcohol, toxic drugs or psychotropic substances dependence, or perception disturbance they might suffer from. This measure may be applied in itself or as a complement of another measure provided in this Article. When the interested party refuses a treatment for addiction, the Judge will apply another measure that is adequate to his/her circumstances.

**Attendance to a day centre.** Minors will reside in their habitual home and they will attend a centre that is fully integrated within the community in order to carry out support, educational, training, working or leisure activities.

**Weekend stay.** Minors will stay in their home address or in a centre up to a maximum of thirty-six hours from Friday evening or night to Sunday night, with the exception of the time they have to spend doing socio-educational activities assigned by the Judge.

**Probation.** This measure includes a monitoring of the activity of the person being subjected to it and of his/her attendance to school, to the centre of vocational training or workplace. Likewise, this measure obliges, where appropriate, to follow the socio-educational guidelines decided by the public authority or the specialist in charge of his/her monitoring, in accordance with the intervention programme prepared for this purpose and approved by the Juvenile Judge. The person subjected to the measure is also obliged to hold with that specialist the interviews established in the programme and to comply, where appropriate, with the rules of conduct imposed by the Judge: to regularly attend the educational institution, to take part in training, cultural, educational, professional, working, sexual education, traffic education and other similar programmes, prohibition of attending certain places, etc.

**Cohabitation with another person, family or educational group** to guide him/her in the socialization process.

**Services for the benefit of the community.** S/he has to carry out the unpaid activities that are assigned to him/her, of social interest, or for the benefit of persons in precarious situations.

**Execution of socio-educational tasks.** Specific activities of educational content aimed at making it easier for him/her to develop his/her social competence.

**Reprimand.** In order to make him/her understand the seriousness of the acts committed and the consequences they have had or could have had, urging him/her not to commit again such offences in the future.

**Deprivation of the driving** license of mopeds to motor vehicles, or the right to obtain it, or the administrative licences for hunting or for the use of any other type of weapon. This measure may be imposed as an accessory one in the case that the crime or offence has been committed using a moped or a motor vehicle, or a weapon, respectively.

2.2 Typified causes and protocols for admission, reception and exit from the rehabilitations services for minors.

2.2.1 How can minors enter and exit the judicial system?

Protocols are carried out within the different institutions: Public Prosecutor's office, State Law Enforcement, Health Service, Social Services. Besides these general protocols, each Community and each Town Council can have, or not, its own protocol for action. This makes it complicated to explain in detail a general functioning.

Entry and exit:

Juvenile Judges are the ones in charge of pronouncing themselves about the criminal liability and public liability of minors aged between 14 and 18 years. Public Prosecutors shall ensure the respect of the rights that are legally recognised for minors under legal age.

### 2.2.2 Reasons for the entry of a minor in a rehabilitation facility.

Offence: imprudent actions or defaults

Type of measures	Duration of the measures
Probation	Up to a maximum of six months
Reprimand, weekend stay	Up to a maximum of four weekends
Services for the benefit of the community	Up to fifty hours
Deprivation of the driving licence or other administrative licences	Up to a year
Prohibition on approaching or talk with the victim or the relatives or other people determined by the Judge	Up to six months,
Execution of socio-educational tasks	Up to six months
<b>Close detention centre</b>	

Offence: Serious crimes

An order of close detention may be considered in the case of serious crimes. It should be considered when:

- The acts are typified as a serious offence by the Criminal Code or the special penal laws.
- Acts typified as a less serious offence, if they have been committed with violence or intimidation for people or if they put their life or physical integrity at a serious risk.
- The acts typified as crimes are committed in a group or when the minor belongs to or acts at the service of a gang, organization or association, even if it has a transitional nature, which is dedicated to carry out such activities.

Type of measures	Duration of the measures	Special rules	
		A minor aged 14/15 years	A minor aged 16/17 years
Probation			
Reprimand, weekend stay	It cannot exceed eight weekends.	12	16
Services for the benefit of the community	One hundred hours at most	150	200

Deprivation of the driving licence or other administrative licences			
Prohibition on approaching or talk with the victim or the relatives other people determined by the Judge			
Execution of socio-educational tasks			
<b>Close detention centre</b>	It cannot exceed two years, computing to these effects, where appropriate, the time that has been already served by the minor in a precautionary measure.	Last up to 3 years	Up to six years.*

Offence: crimes typified in Articles 138, 139, 179, 180 and 571 to 580 \*\*of the criminal code

Type of measures	Duration of the measures	
Type of measures	A minor aged 14/15 years	A minor aged 16/17 years
<b>Close detention centre</b>	From 1 to 5 years, complemented when appropriate with another measure of probation up to three years.	From 1 to 8 years, complemented when appropriate with another one of probation with educational assistance up to five years.

\*\* In the case that the crime committed is included among one of the crimes stated in Articles 571 to 580 of the Criminal Code, the Judge, without prejudice to the rest measures that correspond under this Law, will also impose a measure of absolute disqualification to the minor for a longer period between four and fifteen years than the duration of the imposed measure of close detention, proportionally paying attention to the seriousness of the crime, the number of offences committed and the circumstances surrounding the minor.

### 2.2.3 How was the welcome of the people entering the rehabilitation process?

Only protocols for minors under the age of 14 have been found. Minors are moved to preliminary reception centres where an evaluative study of the situation is carried out and where the most adequate measure is proposed to the Guardianship Commission.

Besides the educational and residential care that they provide, they count on a team of the Area of Child Protection located in the same Reception Centre in order to carry out the whole process of study and processing of the cases dealt with.

2.2.4 General procedures from the acceptance of the minor to the liberation of the rehabilitation system/institution.

a. For the stay of execution of the measure.

The Judge competent for the execution, with a reasoned argument, may agree on the stay of execution of the verdict set forth in the sentence when the measure imposed does not exceed two years, for a certain period of time and up to a maximum of two years.

The conditions to which the stay of the execution of the verdict set forth in the sentence passed by the Juvenile Judge will be submitted to will be as follows:

a) Not to be sentenced by definitive judgement for a crime committed during the time of the stay, if s/he has reached the age of majority, or not to apply him/her a measure by definitive judgement in a procedure covered by this Law during the time of the stay.

b) The minor has to make a commitment to show an attitude and willingness to reintegrate into society, not incurring in further infringements.

c) Moreover, the Judge may establish the implementation of a probation regime during the period of stay or the obligation to carry out a socio-educational activity.

In the case that the stated conditions are not complied with, the Judge will elevate the stay and the judgement will be executed in every respect.

b. For the prescription of the crime:

The acts constituting crimes that have been committed by minors are limited:

- To 5 years since they were committed in the case of serious crimes that have been sanctioned by law with a sentence exceeding 10 years; to 3 years in the case of any other serious crime.
- To a year after they were committed in the case of less serious crimes.
- To 3 months after they were committed in the case of offences.
- As for the measures, they are limited to:
- 3 years in the case of measures that are imposed for a longer period than 2 years.
- A year in the case of reprimands, services for the benefit of the community and arrests with weekend tasks.

The rest of the measures are limited to 2 years.

## 2.3. Detection of the risk

### 2.3.1 Do screening tests exist in the services and other stages in order to guide the minor to more specialised programmes?

There are care services organised into different levels in every Autonomous Community. As a rule, there are Primary Care Services that correspond to the first level and that assume the general care of the population. At the second level, we find the Specialised Social Care Services that include a care resource for minors. Many times this second level responds to the demands that surround the situation of minors at risk; other times and given the seriousness of the situation, they are redirected to specific Services that can give them a more specific care.

If we take the Community of Madrid as an example, we find Centres for Child Care (CAI) in the City Council of Madrid. It is a resource that was created 25 years ago, regulated by the Social Services Act of the Community of Madrid, which together with the Primary Care Social Services aims at establishing in the capital a municipal network for the protection of minors.

Over these years, this resource strengthened and it currently counts on 8 centres that are distributed in the different districts of the city. One of its fundamental functions is to know and coordinate all cases of serious risk, vulnerability, presumed abandonment and follow-up and cases with protective measures. Within the scheme of Social Care Services they are second level mechanisms, that is to say, Specialised Social Care Services that offer psychological, social and educational care to minors up to 18 years of age in a situation of vulnerability (risk or abandonment) and to their families.

In 2013, the Service Charter of the Centres for Child Care (CAI) was approved in response to the need to homogenise and systematise the care provided by these centres. These services are summarised as follows:

1. Initial assessment of the risk situations of the minors.
2. Assessment of the family situation and of the possible vulnerability of the minors.
3. Specialised family treatment.
4. Accompaniment and supervision of the families that are not in treatment.
5. Solution of family conflicts.
6. Technical support to the specialists and resources that cooperate with the minors.
7. Child maltreatment prevention.
8. Family monitoring once the care is finished.

### 2.3.2 Which are the risks assessments?

Continuing with the example of the Centres for Child Care (CAI), in their protocol for action, this aspect makes up a specific Service described in their Service Charter and it is defined as follows:

- In light of the communication of a probable situation in which a minor is at risk, the following actions will be initiated:
- To meet the demands detected in other educational, social, health, judicial, social and private initiative services.
- To study and analyse the information received.
- To study and analyse the risks indicators that have been detected.
- To verify the information (in coordination with the protection network, request for reports to the relevant institutions)
- To determine the courses of action by establishing the degree of urgency depending on the seriousness of the situation and differentiating among urgent cases, priority cases and non-urgent cases.

### 2.4. Specialists in the Rehabilitation system.

#### 2.4.1 What type of specialists work in the rehabilitation system /programmes

Regarding judges, public prosecutors and lawyers.

The General Council of the Judiciary and the Ministry of Justice, within their respective competences, will proceed to the training of members of the Judiciary and Attorney career that are specialised in matters of Minors in accordance with what is established in the regulations. Such specialists shall be given preference in performing the corresponding posts in the Minors' Sections of the High Courts of Justice and in the Tribunals and Minors' Prosecuting Offices, in agreement with what is set forth in the laws and regulations.

There will be a Section for Minors in all Public Prosecutors' offices made up of members of Legal Profession, specialists, with the necessary staff of administrative officials, as may be determined by regulation.

The General Bar Council shall adopt the appropriate provisions so that approved courses are taught in the Associations where it is necessary for the training of those attorneys that want to become specialists in matters of minors with the purpose of intervening before the bodies of this Jurisdiction.

As for the specialists of the different Care Centres, depending on the type of Centre and their specialisation, they will exercise the work of one authority or another. Needs are determined by each care Centre taking into account the conditions set by the Administration they are subordinated to. In this regard, several issues have to be noted:

- Even if the state legislation regarding juvenile justice and regarding labour legislation determines minimum conditions needed, each Autonomous Community may modify or improve those minimum conditions.
- The different management modalities will determine many of the conditions of the specialists that work in these Centres, not only specialities, but also the ratio, the salary, etc. It will be totally different if the Centre is directly managed by the Administration, if the Service is outsourced by signing an Agreement with a Non-Profit Organisation or with a Private Company, or if the Service is outsourced but a person of the Administration is appointed to run and manage it. Each one of these modalities determines many of the aspects that have to be taken into account in the general management and the conditions of the people working there.

Account taken of all the above and after examining some of the Collective Agreements (those of some autonomous communities as well as the state ones) that regulate the labour circumstances of the different types of Care Centres for Minors, we can determine some professions as habitual ones: Lawyer; Doctor of Medicine (often specialised in Psychiatry); Psychology; Social Work; Care Assistant; Social Education; Trainer of different specialities; Instructors of Workshops; administrative staff, etc., this is just a sample of the type of specialists we can find in a Care Centre for Minors.

#### 2.4.2 What type of specialists work in the rehabilitation system/programmes

No statistics have been found about the professionals of the sector so the impressions about the experiences that have been observed both in person and through documentation are going to be highlighted.

In general, the professional staff includes different age groups, but there are often more young people, aged between 25 and 35 years; nevertheless, in the experiences observed there are older professionals with a broad professional experience. Mainly women work in this sector; however, in the experiences observed, management is often performed by a man.

2.4.3 Which is his/her educational background? Is there a programme of higher education specific for this work in particular?

The habitual educational background is the basic and necessary education to fill each one of the workstations. A specialised education in the care of minors is not stipulated as necessary. Depending on each Autonomous Community and the sheet of conditions applied to the private management, a minimum amount of professional experience or a further education that can be proved and that is related to the post can be demanded, but it has not been standardised.

The exception to this rule is when the management of the Centre continues being carried out directly by the Public Administration, in this case, the professionals have had to pass a public examination or a competition to access the post and this implies the study of a given syllabus whose contents are adjusted to the type of post the person seeks to access to.

There is not a higher specific training regulated for this sector except for the given degree for each one of the posts.

#### **Instructor in Juvenile Facilities. Non-formal training education.**

In Spain, a free training reimbursed by the Vocational Training system and by the public employment system is available and called:

It has no minimum training requirements for the entry; people can access to the classroom-based or online training

The objectives of the course focus on knowing the childhood current situation, identifying problems of social character and developing skills for the intervention to know the courses of action of the local and specialised social services, identifying the different types of child maltreatment for a proper detection, as well as the distinction between mistreatments and abuses; to learn the current regulations regarding minors' penalties, to know the action of the Minors' Prosecuting Office in relation to the protection of minors and young offenders and to know the psychologists' working methods in the cases of young offenders.

Other formative offers from private training centres and that are not free stress the idea of a specific training for the work in residences of juvenile offenders, under the name of EDUCATORS OF JUVENILE FACILITIES, and they contain the following themes:

1. Socio-educational intervention with residential care
2. Antisocial behaviour in juvenile facilities
3. Social skills for socio-educational intervention

#### 2.4.4 How is the staff selected?

As well as in previous aspects, it depends on the private management. There is not a specific recruitment process regulated in the outsourced or private services. As a rule, if it is a Service that is directly managed by the Administration, people may access through a public examination or an open competition.

#### 2.4.5 Average benefits, income, social security and other issues related to the work if compared.

In this case, the difference in management of each Service is also applicable, despite having the same objective. Here we also add the singularity of the Collective Agreements that are negotiated with the workers' representatives. We can find a State Agreement as a reference that may be applied, but each Autonomous Community may apply its own agreement. Then, we have the possibility of valuing different agreements of the same sector if there are several of them. Therefore, we have different salary conditions, as well as different working conditions.

A significant example: Within a public service that is directly managed by the Public Administration, a psychologist that fills a post of 1<sup>st</sup> category can have an estimated annual salary of €45,000. This same post, with the same functions and also filling a work that is defended from the Public Administration but with an external management by an entity contracted for such purpose, can have a salary that varies from €22,000 to €26,000.

#### 2.5.5 Is there a job rotation system/a place of obligatory switch? (Assignment of the specialist to different places or or institutions).

In principle, this possibility does not exist except in the Services that continue being hundred per cent managed by the Public Administration, and in such case, the person may request a transfer to another Centre; even if it is a state management, one may apply for a change to another Centre and Autonomous Community. Nevertheless, this is not a habitual circumstance in this sector and it is becoming extinct as some of the services are being increasingly privatised or outsourced and the management is carried out through different private entities or non-profit entities.

### 2.5.6 Rights and responsibilities of the specialists

The rights and responsibilities of the specialists of this employment sector are defined in the Collective Labour Agreements. As stated above, while there is a State Agreement of reference that regulates this aspect, each Autonomous Community usually establishes its own agreement and specifically defines this section. Within the State Agreement, one can find a disciplinary regime that has to be followed as a reference and with which the Internal Regulations of the Centre are going to be prepared; these regulations have to be displayed in an accessible place for everyone requiring them, both users and specialists and other people visiting the Centre.

### 2.5.7 Basic education, job-training, specialised training programmes for these specialists?

There are not specific training programmes that have been recognised by academic institutions and that are considered necessary to fill a workstation, apart from the required degrees for each one of the posts.

Nonetheless, there are private training options that can be acceded and contemplated as a valuable further training depending on the private or public Centre (even if it processes public vacancies). Notwithstanding, the cost of this training is usually covered by the specialists and at the most, they may opt for using hours of their working day for their training.

The workers' ongoing training in the workstation is convened with the Public Administration and its content is not pre-established.

Juvenile facilities that comply with Quality Registered standards have to promote, among the compulsory measures, further training for their specialists.

## 2. Violent crimes

A violent felony is the felony defined in the Criminal Code by which a criminal intentionally deprives a victim of his/her life, intentionally causes a serious or less serious damage to his/her health or infringes upon his/her freedom or sexual integrities.

As a consequence, intentional homicide, painful bodily injury, rape and sexual abuse are violent felonies. Involuntary manslaughter, reckless bodily injury, less serious bodily injuries, robbery and other crimes against property are not violent felonies.

According to the LAW 35/1995, of 11 December on aid and assistance to the victims of violent felonies and against sexual freedom, serious injuries are those that may lessen the physical integrity or the physical or mental health and that may temporarily or eternally incapacitate the person that has suffered them. Only in the case of a degree of disability of at least 33 per cent the incapacity will be considered as a permanent disability.

Bodily injuries or damages to the physical or mental health will have to possess a sufficient importance so as according to the legislation of the Social Security, a declaration of permanent disability in any of its degrees or of a situation of temporary disability longer than six months can take place.

### PROFESSIONAL TRAINING

No prior specific training has been found; only a general training.

Most of the private entities process the further training of their specialists according to the specific needs of each annual occurrence. To that end, they count on a training department that centralises all training activities (teachers' portfolio, request form to public authorities, etc.)

Training activities may be varied:

- Conferences and seminars for the understanding and analysis of specific aspects that have to do with violence.
- Workshops to train or practice certain skills that may improve interaction with minors.
- Long-term theoretical courses to improve specific competences related to work environment.

Further training plan is usually a requirement of the quality systems the private management centres are submitted to and coordinated with the public administration.

## BEST PRACTICE

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### PROGRAMME # 1: TERESA DE CALCUTA INTERNMENT FACILITY

In the case of violent crimes committed by minors aged between 14 and 16 years, as acts defined as serious felonies by the criminal code or special penal laws, the rehabilitation measure is usually the close detention centre: (precautionary or resolute).

#### Description of the programme

The Teresa de Calcuta Centre, -with a capacity for 157 posts for minors in closed/semi-open regime in addition to 20 posts more of therapeutic regime- is the result of the conviction that with the development of a qualified professional project, social inclusion of young offenders that are sent to this centres is possible to reach.

The establishment offers an environment that provides the adequate educational conditions so that minors can reorient those dispositions or deficiencies that have characterised their antisocial behaviour with specialised staff, developing specific, specialised and programmed interventions.

The programme was launched on 30 September 2006 situated in the locality of Brea de Tajo of the Autonomous Community of Madrid.

It is a public initiative of private management.

One of the general courses of action is the approach to the problems of minors through specific treatment programmes adjusted to the disease or deficiencies that have been detected, working in coordination with the Court and the Minors' Prosecuting Office that the minor is assigned to, Associations or specialised professionals. In this area, the intervention is adjusted to the underlying pathologies in the case of minors that have committed violent crimes. We highlight two of the programmes that are being carried out in this regard:

#### **TREATMENT INTERVENTION PROGRAMME FOR MINORS SUBJECTED TO LONG-TERM MEASURES DUE TO THE COMMISSION OF SERIOUS CRIMES AND OF SOCIAL UNREST**

To establish a realistic project that involves all specialists of the Centre, of continual compliance of objectives that insist on the personal deficiencies of the Minors/Young people, getting them and their relatives or legal guardians involved, in order to set an effective Specific Intervention Programme that entails the prevention of commissions of criminal acts; and at its various stages, dealing with the respect towards

the victim and the carrying out of a free upright life as the only way of making a future all this with the acknowledgement of the crime.

With the start-up of the Intervention Programme, the anguish and anxiety of the Minors/Young people and their families is reduced, what allows these Minors/Young people to have the hope of progressively achieving and establishing a therapeutic commitment, a future both at the institutional context and in the free environment.

### **PROGRAMME ON TREATMENT OF MALTREATMENT WITHIN THE FAMILY CIRCLE**

The main objective of this Intervention Programme is to promote an harmonious coexistence free of violence, founded on the establishment of proper socio-educational and social guidelines based on the existence of an inter-family communication that favours adequate family dynamics ensuring the continuation of this commitment on the part of all the members of the system until the completion of the Judicial Measure of Internment of the Minor/Young person.

Family involvement is essential to establish an effective Specific Intervention Programme that entails the solution of family conflicts, dealing with the acceptance of the crime and the rejection of violence, and the intervention of the unspecific feeling of guilt of the parents before this type of problem.

It is a regional programme of the Community of Madrid

The Mental Health Unit of the Execution Centre of Judiciary Measures Teresa de Calcuta was created with the aim of responding to the claim established by the Organic Law which regulates the criminal liability for minors 5/2000 in the sense of being able to appoint posts of internment to look after those minors that have defects or mental disorders or a perception disturbance that determines a serious disturbance of the reality awareness, and that it is considered advisable to be treated as a matter of priority and in line with the rest of plans of the aforementioned Law.

The Mental Health Unit has been operating since 2006 and it currently counts on a total of 20 arranged posts, divided into three stages: Adjustment, Pre-Consolidation and Consolidation, dependant on the achievement of the re-educational and therapeutic objectives that have been individually set.

Minors who are carrying out a Judiciary Measure of Therapeutic Internment firstly benefit from all the sports, recreational, pre-employment, working and training facilities the centre has, when considered necessary according to the treatment programme of each minor, and secondly, the minors taken to this Unit have the opportunity of progressively

sharing activities with other minors, what would mean an intermediate step in their process of social integration, as well as an opportunity to put into practice the skills they have acquired.

The specialists

20 people for posts of management, coordination and responsibility of the work areas.

Managing director, Technical director, Assistant directors, Human Resources Coordinator, Security coordinator, Medical coordinator, Semi-open responsible, Therapeutic responsible. Programme coordinator, Workshop coordinator, Educators' coordinator, Deputy co-ordinator.

Administrative staff: 12 people

1 jurist, 6 social workers,

Health: 2 PSYCHIATRISTS and one doctor 6 Psychologists 6 and 2 DUES and 1 Osteopath 1

Educators and Instructors Tutors: 109

Education: 11 educational technical assistants and workshop teachers

Operating personnel: 40

Assessment

UNE-EN ISO Regulation on Quality Management

### **UNE-EN ISO 9001:2000 Regulation**

In application of the principle of the minor's best interests set out in the Organic Law 5/2000 Regulating the Criminal Liability for Minors, the GINSO (Association for the Management of Social Integration) Association prioritises the optimization of results in all its proceedings. To that end, the Management Team decides the adoption of a quality management system based on the UNE-EN-ISO 9001:2000 Regulation.

A quality policy at all levels of the association is established and it allows a continuous improvement in the provision of services and a better staff training.

In order to achieve this quality level, it has been necessary to come to a total compromise and cooperation among the departments and the people constituting GINSO, facilitating the communication channels and transmitting the wish of internal and external overcoming.

In 2004, Spain's Bureau Veritas Quality International (BVQI) certified that the Management System of the Association for the management of the Social Integration had been audited and it complied with the requirements of standard ISO 9001:2000.

Therefore, in April 2004, GINSO obtains the first annual quality certification

### 3. Sexual Offence

This type of crimes are defined in the criminal code as offences against freedom and sexual integrity.

Over the last years in Spain, social unrest has increased regarding sexual assault committed against girls and boys. The Spanish Criminal Code includes several specific criminal types, and the penalties that penalise the sexual assault committed against underage minors have been recently incremented.

The following sexual offences are classified:

**Sexual assault:** Affront against the sexual freedom of another person, making use of violence or intimidation. Penalties are increased when:

- the violence or intimidation that has been exercised has a particularly humiliating or degrading nature.
- the acts are committed by the joint action of two or more people.
- the victim is particularly vulnerable, on account of his/her age, disease, disability or situation, except as provided in Article 183 .
- for the execution of the crime, the culprit has taken advantage of a relationship of superiority or a blood relation, an ancestor, descendant or sibling, by nature or by adoption, or related relationships with the victim.
- the perpetrator makes use of weapons or other equally dangerous means.

**Sexual abuse:** an act that infringe upon the freedom or sexual integrity of another person.

Non-consensual sexual abuses are those committed upon persons that are deprived of consciousness (mental disorder) and that destroy the victim's will through the use of medicines, drugs or any other substance.

The same penalty will be imposed when the culprit obtains the consent making use of an evident situation of superiority that restricts the freedom of the victim.

The penalty is increased when the assault and/or sexual abuse consists in carnal intercourse through vaginal, anal or oral means.

#### **Assault and sexual abuse to minors under the age of 13**

The criminal code makes a distinction to aggravate penalties to minors under the age of 13 and **the acts committed via the Internet, the telephone or any other information and communication technology** are also included within this category; getting in touch with a minor

under the age of thirteen and proposing to arrange an encounter with him/her in order to commit any of the sexual offences providing that this proposal is accompanied by physical acts aimed at an approach”.

**Sexual harassment:** requests for favours of sexual nature, for oneself or for a third party, in the sphere of a relationship of superiority, continuous or habitual.

**Indecent exposure and sexual provocation:** execution or enforcing the execution to other person of acts of obscene exhibition, selling or distributing pornographic material, among underage minors or disabled people.

**Prostitution and corruption of minors:** Incitement, promotion, favour or facilitation for the prostitution of an underage person or a disabled person, the penalty progressively increasing when:

- the minor is under the age of 13.
- the acts are carried out making use of his/her condition of authority, his/her agent or civil servant.
- the culprit belongs to an organisation or association dedicated to the carrying out of such activities.

Crimes related to **child pornography** are classified in the following cases:

- To capture or use minors of age or disabled people for purposes or in exhibitionistic or pornographic purposes, including those individuals who finance or make profit of such situations.
- To produce, sell, distribute, exhibit, offer or facilitate the production, sale, dissemination or exhibition by any means of pornographic material for whose production minors of age or disabled minors have been used, including the possession for such purposes.
- Possession of pornographic material for own use.

As regards figures:

ARRESTS AND IMPUTATIONS ON A CRIMINAL CHARGE						
	Males (from 14 to 18 years of age)			Females (from 14 to 18 years of age)		
	2012	2013	% variation	2012	2013	% variation
Sexual Freedom	321	396	23.4	10	37	270
Sexual assault with penetration	60	55	-8,3	0	1	100

Corruption of minors or disabled people	14	34	142.9	1	5	400
Child pornography	9	60	566.7	1	19	1800
Other crimes against freedom and sexual integrity	238	247	3.8	8	12	50

## VICTIMIZATION

	Males from 0 to 13 years of age			Males from 14 to 17 years of age			Females from 0 to 13 years of age			Females from 14 to 17 years of age		
	2012	2013	% var	2012	2013	% var	2012	2013	% var	2012	2013	% var
<b>Sexual Freedom</b>	395	491	24.3	213	262	23	1,281	1,397	9.1	1,301	1,214	-6.7
<b>Sexual assault with penetration</b>	15	17	13.3	213	262	61.5	49	69	40.8	171	161	-5.8
<b>Corruption of minors or disabled people</b>	40	55	37.5	41	66	61	83	79	-4.8	93	112	20.4
<b>Child pornography</b>	4	4	0	6	9	50	7	35	400	15	44	193.3
<b>Other crimes against freedom and sexual integrity</b>	336	415	23.5	153	166	8.5	1,142	1,214	6.3	1,022	897	-12.2

What training programmes are there available for the professionals of rehabilitation processes to address the cases of sexual offences? (If it is available)

Pre-service training

In service // on-the-job training

This section responds to each one of the experiences given the absence of a standardised training.

## BEST PRACTICE

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On the basis of the resource assessment carried out, we have verified the existence of five state-level resources and 54 programmes and services that depend on the various Autonomous Communities, in addition to the centres of internment in which attackers and/or victims of sexual offences are treated in a specific or general form.

Within these 60 programmes, there is a great variability and the following aspects have to be highlighted about it:

There are public and private resources of different nature. As for the public Services, some of them are directly managed by the Administration and their workers directly depend on it; in other cases, these public services are outsourced and managed by private entities that can be companies or non-profit entities; in such a case, they have to coordinate with people in charge of supervising that all minimum requirements established by the public Administration are met.

Finally, we have private resources, which sometimes carry out a Service or a part of it with a total independent management of the Administration that offers it as a public resource but exercises a minimal supervision of its running. And lastly, we have resources that are totally private and that are self-financed and many times they have referrals of cases of the Public Services as they cannot meet the existing demand.

There is a great difference as for the number of resources from one community to another. Efforts have been made to be in contact with the greatest number of entities that are registered in that chart. After the response of some of the entities, four experiences considered as significant ones have been selected.

### PROGRAMME 1: UTASI (THERAPEUTIC UNIT ON CHILD SEXUAL ABUSE) MAJORCA

The two Psychologists, therapists of the unit, provide the information.

#### Description of the Programme

The main objective of the Unit is to look after minors and their families when there are suspicions and/or evidences of sexual abuse, with interventions aimed at reducing the victimization and giving a global and conciliatory response.

Another part of our intervention is focused on the specialists dealing with children and adolescents with training measures implemented into three courses of action:

- 1) Abuse prevention workshops

- 2) Involvement in meetings and conferences
- 3) Advise with specific consultations carried out by the specialists

Child Sexual Abuse not always produces a clear symptomatology at clinical level, so for the most part, we are talking about cases that do not access the healthcare system, what does not mean they do not need an intervention.

The Therapeutic Unit on Child Sexual Abuse (UTASI) started operating in 2009. It has a public and autonomous nature; it is a programme that is carried out by the Directorate-General for the Family and Minors of the Family and Social Services Conselleria.

It has its origins in national policies (National Plan for Children and Adolescents of 2006). The Government of the Balearic Islands, addressing this need and framed within the Interdisciplinary Framework Protocol of Child Maltreatment created Units specialising in the Assessment and the Treatment of the Child Sexual Abuse aiming at looking after the minor victim and his/her family when there are suspicions or evidences of abusive situations, with interventions aimed at reducing the secondary victimization and giving a global and conciliatory response.

All minors accessing the Unit are derived by the UVASI (Assessment Unit of Child Sexual Abuse) after having gone through an assessment of testimony credibility and an assessment about the protection on the part of the family system. We deal with protective families. It is not a prerequisite to have made a report or that a testimony is supported; but it is a prerequisite that the families have to be protective families. Otherwise, if Child Protection has to take any protective measure, other teams look after these minors in cases of Child Sexual Abuse.

## SPECIALISTS

They work within the Programme, two therapists specialised in assessment and child maltreatment and with previous experience on therapy and intervention with young people,

Women aged 40 years. Holders of a degree in Psychology. Graduated in University Expert on Assessment and Treatment of Child Maltreatment. Experience in intervention in childhood and/or adolescence and in individual and/or family therapy. Likewise, they possess the Catalanian entitlement that is required to work at the public administration in the Balearic Islands.

The ratio has been changing according to the volume of minor persons and families that are looked after but we estimate a ratio of between 25-30 minors per therapist. On some occasions, there has been a waiting list of several months (3-4) in order to be treated.

The access to this job is carried out through a competition. The personnel is hired through a public Foundation that processes all that has to do with young offenders in internment measures, as well as reception centres for battered women and other various services. Within a direct management, it is not a foundation submitted to competitions. It has been operating since 2003.

Payments. Within the Unit, there is a therapist with a permanent contract and another therapist with contracts on an annual basis. Those are the same specialists since the Unit was created in 2009. The salary is approximately 1900 euro net.

As for the rotations, this possibility does not exist; nevertheless, one of the therapists is linked to another Programme of young offenders for offences of sexual assault (ATURA'T). Given the workload and possible incompatibilities, currently only one young person carries out such programme.

The responsibilities of the specialists are the ones required by this type of posts, stipulated by the legal frameworks our intervention is framed within (civil service, personal data protection law, law of criminal liability for minors, act for legal protection of the minor, ethical code...).

As for the training, there are training programmes established by the Regional Government (EBAP. Training of the Public Administration); in this case, the training is certified. Notwithstanding, there is also the training and the courses for one's own accord that we consider ideal in order to expand competences in this field. Courses given by the Official Association of Psychologists of the Balearic Islands (COPIB), attendance to meetings, conferences, courses taught by the National University of Distance Education (UNED)... As an example, they have carried out four courses with an average duration of 20 hours during this semester of the year. Respectively, the subjects are:

- Mourning (with the integrative therapy framework),
- Long-term cases and how to approach the closure,
- Behavioural disorders in childhood and adolescence
- Brief Therapy

Collaboration with the University for the University Expert was carried out when the Assessment and Treatment (UVASI y UTASI) units were created.

Assessment

Assessments on the programme are carried out through final assessment questionnaires on the part of the parents of the minor when the intervention in the service is finished and through the reports with qualitative assessments.

Qualitative results show a high level of satisfaction on the part of the users and a perception that they feel accompanied during the process as well as an improvement of the minor and the family.

Its main achievements have to do with the attention to a need that was not covered by the public administration. The minor victim is carefully looked after as well as his/her family, in a situation of family crisis with all that abuse revelation implies and all the consequences it produces. They are governed by the good practice protocols at all levels (in terms of child care, data protection, management of the impact it produces to be absorbed in the judicial system...).

In terms of innovation, it is a service that covers a need that was not covered up until that moment. Care is provided throughout the whole process (there are no deadlines or limit for the number of sessions).

One of the interventions we carry out is the accompaniment to the court when the minors are summoned to testify. The family feels that the specialists of the Unit are the only guide throughout the whole process, but not only a therapeutic one but a judicial one.

Another innovation is the repair meetings between minor victims and young offenders when they belong to the same family. They work in coordination with ATURA'T (Assessment and Treatment for adolescent sex offenders) and when both minors (offender and victim) feel prepared, only in the event that the families want it (it usually happens when there is a family tie), the contact between them is re-established. The first meetings in the presence of the therapists are meant to be acts of reparation of the offender towards the victim; the victim being not only the minor but also the family.

We cannot assume that it is a better service than other one as it is a unique, specialised and specific service, with a public nature. Only cases of sexual abuse are treated so the specialists of the Unit are highly specialised and used to work within the areas that a revelation of abuses implies (judicial system, police system, child protection...).

As a disadvantage we can mention that the creation of an Interdisciplinary Framework Protocol of Child Maltreatment was an effort were different fields got involved (the police, judicial, social, educational, health one) as well as institutions (Insular Council, the Balearic

Government and Town Councils). A great effort of coordination is required, agreements, monitorings and a figure and guide that joins and runs the courses of action and the monitoring, assessment of the protocol, etc. is missing), especially when there are issues that exceed the technical management and transcends to a political level that is exposed to reshuffles.

As for the advantage of the Therapeutic Unit on Child Sexual Abuse (UTASI), it largely follows (from the competences that, as a unit, are not their own) the recommendations and manuals about good practice that in terms of abuses are advised by the Federation of Associations for the Child Maltreatment Prevention (FAPMI) and Save the Children, among others.

## PROGRAMME 2.: INFANCY AND FAMILY SERVICE OF THE MAJORCAN INSTITUTE FOR SOCIAL AFFAIRS. COUNCIL OF MAJORCA

(Person filling in the questionnaire: psychotherapist of the centre)

What does the programme consists in?

It is a public psycho-therapeutic service within the Child Protection System that works with boys and girls that are victims of mistreatment, sexual abuse and negligence for the reduction of the psychological and emotional consequences and/or relationships as a result of these situations of violence.

It started in June 1988.

It emerged within the context of transformation and reorganisation of the Children's Home of Majorca and in general of the asylum services for the attention of the infancy of Majorca with protective measures such as a specialised resource on prevention of the internment and on the other hand of family psycho-therapeutic intervention.

It is a public initiative.

It is an Insular programme.

The specialists

11 psycho-therapists psychologists, 1 specialist in psycho-motor skills development-pedagogue, two administrative assistants and one director psychologist; also:

- 7 specialists of more than 50 years of age
- 5 specialists aged between 40 and 50 years
- 7 women and 5 men
- About 30 minors per therapist in process of treatment

- All boys and girls treated in the service have a legal protection measure; they come from violent, abusive and/or negligent family circles with problems of trans-generational maltreatment, various difficulties of the parents with problems of mental health, drug addictions, conflicts with the law or institutionalization records. In general, parents lacking parenting skills.

A degree in Psychology is required (in pedagogy in the case of the specialist in psychomotor skills development).

There are two incorporation procedures: the first one through a public examination and as for the second one, the administration regularly offers an employment exchange program where the specialists that want to work in this service present their professional dossiers that are subjected to a meritocratic selection.

Income of about 45,000 euros per year, the qualified graduates, 1 month of paid holidays. Currently, there is not a rotation system.

The rights that are legally recognised for the workers and civil servants, governed by the Statute of Workers Rights and the Balearic Law of Civil Service.

There is an Annual Training Programme of the institution that includes suggestions about the team's training. On the other hand, there is a training programme of the team itself with its own resources. Anyhow, during these years of economic restriction, there has been a significant reduction of training initiatives and of budgets destined to the training of the specialists.

In 2015, two courses of 10 hours long were organised not only for our therapeutic service but for the full team of specialists of the minors' service on "Assessment of Maltreatment. Balora Programme" and another course of 10 hours long about "Intervention with Protective Families". The team has a clinical session each week and there are periodic monographic sessions about clinical subjects. This week, there has been a session about Eye Movement Desensitization and Reprocessing (EMDR). Each semester, the team carries out a working day outside the service about issues of team functioning, monographic subjects, etc.

**A certificate is issued after the information has been given.**

It is a training programme on its own only oriented to the specialists of the Institution. We have students of undergraduate and postgraduate education within our service. We contribute to the training of this student body.

## Assessment

We have carried out a satisfaction survey with the users about the service. We have incorporated a process evaluation system using resources such as the ORS/SRS (Outcome Rating Scale/Session Rating Scale). There is also an assessment of the therapists regarding the degree of achievement of the objectives that have been set out for the intervention. What has not been used yet is a systematic procedure of process and outcome assessment.

In general, the assessments carried out have shown a high level of satisfaction on the part of the users of the service and in general, a satisfaction with the therapists.

**Achievements:** The creation of a clinical working model oriented to the work on the trauma and the children resilience based on the latest research. A highly accepted model in the restorative work with abusive parents in improving their parental skills. A working model with the professional network service in order to reinforce the resilient aspects of our children so that coherence in the intervention of the whole professional network service can be assured. The commitment of the whole team in the search for solutions to provide gains in efficiency in the work of this guild, an extraordinary sensitivity and empathy towards the suffering of children on the part of our specialists. We are the oldest public clinical-therapeutic team of the Spanish State that works on child protection, and over these 27 years we have been able to create an intervention model that is sufficiently adjusted to the needs of this group of children and young people. We have treated about 4000 boys and girls and more than 2700 families.

**Innovation:** The co-therapy work with the educators and the minors' guardians of resilience. A NETWORK working system of Children Resilience. Self-care of the Specialists that deal with childhood trauma. Ecosystem approach to the work in Child Protection.

It stands out among other services as it is a public, stable and united team that shares a working target-model. The fact that we count on seasoned professionals with an average of 25 years of working experience and the fact that we are a team that has been working 27 years with the same population is what gives us the possibility of gaining clinical experience. It is a team with a high ethical commitment and with an innovative attitude and continuous improvement.

Somehow I have answered with the previous question in relation to the advantages. As for the disadvantages, I think we cannot follow a different staff selection model of the one used in the public administration that does not consider training and specialised experience as a basic criterion

of professional selection process. We do not have budget for an external oversight; we count on the supervision carried out by the team itself.

#### **4. Drug-Related Crimes**

The conducts incriminated within the criminal law are the ones that are exclusively projected over the trafficking of illegal toxic drugs, narcotics and psychotropic substances intended to the transmission of drugs to a third party and that are executed in disconformity with the laws. In the Law of Spain, drug-trafficking offence is defined under Article 368 of the Criminal Code, within the Chapter III of Title XVII, that is to say, as crimes against public health, and in general, within the crimes against collective security.

In Spain, the definition of whatever type of drug-trafficking applies to acts of drug cultivation, production or traffic, or acts that promote, favour or facilitate the illegal consumption of toxic drugs, narcotics or psychotropic substances, or if they are kept for those purposes. The possession or consumption of tobacco or alcohol is not considered a drug-trafficking offence.

On the other hand, the Spanish Observatory of Drugs and Drug Addiction defines the problematic use or drug abuse as the consumption of psychoactive substances with a high risk pattern (for instance in an intensive manner, a consideration that may vary depending on the type of substance) and/or through a high-risk route of administration (for instance, intravenous).

Another important concept is the one of dependency. Basing ourselves on the World Health Organization, we can understand dependency as that behavioural pattern in which the use of a psychoactive substance is prioritised against other conducts that were previously considered as more important ones. Drug consumption, which could have begun as a sporadic experience without an apparent significance, turns out then to be a conduct around which the life of the individual is organised.

#### **TRAINING**

The explanation is based on the experiences given the inexistence of a general guideline within the area of training of professionals.

## BEST PRACTICES

### PRACTICE 1: ENLACE PROJECT

It contains the information of FAM Y LIAS through the document: “Prevention Programme Link Indicated: Intervention Guide”

What does the programme consist in?

THE ENLACE PROJECT was created for the purpose of creating an intervention model for the prevention of psychoactive substances consumption among minors that are sent to Centres of Execution of Judicial Measures of the Community of Madrid and with the aim of implementing a specific and effective programme that allows, through an educational-therapeutic intervention, the maturational development of the minors being treated, thus reducing the risky behaviours associated with substance consumption.

Three general objectives of intervention are pointed out:

- To reduce or eliminate the conducts of use and/or abuse of substances.
- To increment the risk and associated damage perception, encouraging the development of a critical attitude based on the perception of the problem related to drug abuse.
- To develop a healthy lifestyle based on autonomy and responsibility.

Educational-therapeutic intervention

After the first presentation and the reception stage, the adolescent joins one of the two possible itineraries of intervention: individual or mixed (a group in addition to individual sessions). The choice of one itinerary or the other will depend on the Initial Assessment of personal variables of the young person.

This type of intervention is intended for minors that are complying with measures of Therapeutic Internment and/or that have serious problems with regard to substance consumption.

A. Intervention in Educational-Therapeutic Groups.

Group therapy is particularly indicated for adolescents, as it provides them with a place where they can express conflicting feelings, examine their doubts about themselves and understand that they share these worries with equal individuals.

B. Individual Educational-Therapeutic Intervention.

As well as the rest of interventions, individual actions have been developed within the background of the Trans theoretical Model of Change (Prochaska and Diclemente),

C. School for Fathers and Mothers

The main objective of the “Parents’ School” is to establish a space where they are provided with the necessary means to suitably develop their functions. The fact of providing the parents with prior information and training, the fact of sharing concerns, the fact that they get involved in the educational-therapeutic process initiated with their children will guarantee a greater success of the interventions.

#### Intervention Modules

Module 0. Initial assessment. The objective is to demarcate the risk and protection factors for the consumption of substances each minor possesses.

Module 1. Introduction and reception. The general purpose is to explain the intervention programme and the working method to the minor.

Module 2. Motivation to change. The objective is to allow the minor to acquire a detailed knowledge about his/her consumption behaviour.

Module 3. Strategies and abilities for the change. The aim is that the minor learns how to avoid the situations that have increased the consumption probability in the past and, in case they are inevitable, to acquire coping skills.

Module 4. Consolidation of the withdrawal. The main objective will be to strengthen the changes that have been promoted in the minor throughout the intervention and the internment, securing the coping strategies that have been incorporated.

Module 5. Strengthening of the change in regards to the finalization of the measure. By means of relapse preventions, the objective is to try to help minors to anticipate and face relapse problems with the change of behaviors of substance consumption.

Module 6. Closure of the intervention: it will be carried out with the minor through the assessment of the intervention process.

**It starts** in January 2009

The programme was raised given the need to have an intervention method adapted to the specific peculiarities and needs of the young offender, and to that end, it is necessary that s/he acquires the necessary awareness and perception about the problem, what will allow him/her to accept the treatment with a certain voluntary degree.

Public-private initiative: It is an initiative that has been developed jointly between a public administration, the Autonomous Community of Madrid, through its Agency for Re-education and

Reinsertion of Juvenile Offenders (ARRMI) and a private non-profit entity, the Spanish Solidarity Centre Foundation Proyecto Hombre (CES-PH).

An agreement has been signed between the two entities, through which CES-PH provides four technical experts on addictions that work in an itinerant way in all the centres of the Agency for Re-education and Reinsertion of Juvenile Offenders (ARRMI); the personnel of these centres also gets involved in the development of the Programme and what is more, there is a specific centre with a greater specialisation for the treatment of the most serious cases.

It is a national, a regional or a local programme/experience? It is an experience at regional level, of the Community of Madrid.

#### Training for specialists

We have not found information about specific training for the development of this programme, but a manual that makes it easier for specialists of juvenile facilities to put it into practice in the cases needed has been published.

#### Assessment

The assessment of the programme is focused on the description and analysis of the effects that have been produced throughout the intervention and the level of achievement of objectives on the part of each minor.

In order to carry out the assessment of the Programme as well as of the results achieved, two parallel information collection techniques have been used:

1. Pre and post measures to the implementation of the programme of variables related to substance consumption.
2. Subjective assessment of the minors on the achievement of objectives in each one of the programme modules.

The main achievement has to do with the incorporation, in a transversal manner, of drug consumption prevention in all juvenile facilities of the Community of Madrid. In this way, the aim is not only to deal with those cases that suffer an addiction situation that has been already diagnosed before the entry to the centre, but we also offer the possibility of detecting and

intervening in cases that have not been previously diagnosed and even the possibility of working on substance consumption prevention within the intervention lines of the centres.

**Innovations:** The intervention has been adjusted to the basic principles of an educational-therapeutic model. The intervention with minors has as its starting point the individual's specific problems, the evolutionary moment s/he finds her/himself in, taking into account that consumption behaviours are associated with problems of personal maturation and social inclusion, what makes it necessary to bear in mind the consequence this has as well as other risky behaviours.

In this respect, the approach has to focus on the objective of "making" the adolescent "mature", on achieving a positive and healthy development promoting attitudes and skills, as well as the initiative, the critical thinking and the social participation.

It is necessary that the minor feels engaged in his/her educational-therapeutic process recognising the difficulties, identifying his/her strengths, setting the objectives s/he has to achieve and, ultimately, assuming the responsibility of his/her obligation.

Another innovative aspect has to do with the role the specialists of the juvenile facilities play. With each entry to the centre, it is necessary to carry out an initial assessment on the part of the Technical Team in order to detect if the minor has any problem related to substance consumption, and depending on his/her problem, s/he will become a part of the programme.

Once the minor is sent to the programme, the corresponding intervention process is initiated with an itinerary. Within this process, the networking of the various specialists that take part in it is essential, and that encompasses from the first detection of needs, to the valuation, intervention, assessment and monitoring and/or transfer of the case, and the various specialists take part in it - Educators, Social Workers, Therapists, Psychologists...- within the field corresponding to each one of them in order to give a greater unity and coherence to the intervention not only with regard to drug consumption but also to all other areas that affect the minor and the actual implementation of the judicial measures.

**Advantages:** The **Enlace Programme** counts on an organised methodological design that is arranged in sequence, divided into stages and that includes different types of activities with educational and therapeutic content.

It does not only deal with the minors that are placed there, but it also includes activities directed at families. It includes treatment actions, but also detection and prevention actions, so it is a comprehensive programme within the field of addictions.

The main disadvantage is that, since it is a programme that is preferentially applied by the technical team of the centres, with the support of some outside experts, it may suppose a heavy workload for them. Moreover, as no information about any type of training activity about the programme has been found, one may wonder whether these teams are sufficiently prepared so as to carry out the programme.

## PROJECT 2. “LA MARCHENILLA” THERAPEUTIC INTERNMENT CENTRE FOR TOXIC-ADDICTS TREATMENT

(Carried out by FAM Y LIAS. Using information from the entity’s website)

What does the programme consist in?

“La Marchenilla” is an internment facility for juvenile offenders that has a specific module for the treatment of minors that suffer from a state of dependency to alcoholic beverages, toxic drugs or psychotropic substances.

Minors that are part of this specific module benefit from all the educational, training, sports, recreational facilities and other services (cooking, laundry, maintenance, transport, etc.) as well as from the whole centre and from its technical and human resources (Therapist specialised in drug addictions, psychologists, social workers, educators, surveillance personnel, etc.)

In general, the daily life of this Module centres around some series of training and educational activities that are adjusted to the psycho-social and educational profile of the minor and that comprise the assistance in educational rooms, occupational and pre-employment workshops, and depending on the age of the minor and the type of measure, they will be able to carry out productive paid labour activities. Likewise, the measure of therapeutic internment includes those activities that are adjusted to the specific treatment and specialised educational care in order to deal with alcoholic beverages, toxic drugs, narcotics or psychotropic substances dependency that the minor may have.

The general objectives of the treatment are:

1. To provide the minors with a model so that they understand and analyse their drug abuse problem.
2. To learn how to identify those situations, thinking and/or emotional states that may bring them closer to the consumption and how to adequately face them by using certain cognitive-behavioural techniques.
3. To learn how to identify the keys and signs that announce the possibility of a relapse.

4. To learn how to face a relapse before and after consumption starts.

PROGRAMME ON RELAPSE PREVENTION: it consists of three modules that are divided into various sessions:

1. Identification of drug consumption history.
2. Coping strategies.
3. Identification and control of relapse process.

More programmes carried out in the centre:

- Socio-family intervention
- Health education
- Sexual education for young people
- Food education
- Mediation and conflict resolution
- Prosocial thinking
- Orientation, training and job placement

**It starts** in March 2013.

**Specific need:** The GINSO (Association for the Management of Social Integration) Association manages the centre “La Marchenilla” since 2002. This centre already had a Therapeutic Internment Unit for young people with problems related to mental health. As a result of a research carried out between 2011 and 2013 in which the close connection between mental health problems and substance abuse is highlighted, there is a need to give raise to a more specialised intervention within addiction area.

The presence of a mental disorder combined with a regular consumption of toxic substances shows a distinguishing clinical profile that requires a comprehensive intervention, where the progress may lead to diverse psychopathological patterns, to a worse therapeutic compliance of the guidelines that have been set out, to greater difficulties of socio-labour insertion, and to a greater prevalence of impulsive and aggressive behaviours.

It is a public-owned centre (it belongs to the Junta of Andalusia), that is managed by the Association for the Management of Social Integration - GINSO. The management is obtained through public competitions and tenders.

The centre is located in Algeciras, in the province of Cadiz, but it has a regional field of action as it may receive minors coming from the whole Andalusian Autonomous Community.

### Training for specialists

The GINSO Association has a great training activity. As an example, we enumerate below the courses that have been carried out in 2014 and up to now in 2015.

**Drug addictions and young offenders:** Distance learning and on-site course for specialists of the centre itself, with a duration of 10 hours. The main objective was to “train the specialists of the centre in theoretical, methodological and therapeutic tools for the improvement of the daily intervention work with minors that have a problem of toxic substances consumption, as well as to provide them with information about the profile of the adolescent dependent on drugs”.

**Writing of reports/announcements about facts with indications of disciplinary responsibility:** On-site course and distance learning carried out and given by specialists of the centre itself. It lasted for 10 hours, 6 hours in distance learning and 4 hours in on-site course. The objectives were “To update the knowledge about the internal regulations of the centre” and “To learn guidelines for the carrying out of disciplinary reports”.

**Containment means. Limits and guarantees:** On-site course and distance learning carried out and given by a specialist of the centre. The course lasted for 10 hours. The objective was “to provide a proper knowledge from the legal point of view about the cases that require the use of containment means”.

**Educational strategies for the work with young offenders.** On-site course and distance learning carried out and given by specialists of the centre itself. This course had two editions, with

two different groups. It lasted for 10 hours per group, 6 hours in distance learning and 4 hours in on-site course. The objectives were:

- To obtain a real, current and complete view about what the educational staff of La Marchenilla Internment Facility for Young Offenders (CIMI) is and what is expected of them.
- To contribute to the further training of the educational staff that works in the Centre.
- To consolidate a working framework where the various educators that take part in the intervention and the education of the minors may establish coordinated and effective strategies for action.
- To create a meeting point and a space for the exchange of experiences and information.
- To become aware of the personal indicators that denote anxiety, mental workload, frustration, stress, etc.
- To encourage the improvement of competencies and skills of the educational staff.

**Elaboration of genograms through the genopro programme.** On-site course with a duration of 4 hours. The objectives were:

- To get to know how the GENOPRO program works.
- To learn how to elaborate diagrams of family composition (genograms) through the aforementioned programme.
- To incorporate the GENOPRO programme to the tasks typical of the Social Work of the Centre: drafting of reports, etc.

**CPR (Cardiopulmonary resuscitation) and AED (Automated External Defibrillation):** On-site course taught by the Medical Co-ordinator of the Association. It lasts for 16 hours. The objective of the course is “to provide the necessary knowledge and skills to be able to carry out a first assistance in case of a cardiac arrest until the specialised staff arrives”.

Assessment

An assessment has been carried out with the minors that took part in the initial investigation to see the results of the various treatment programmes that were carried out.

In general, the results have been favourable in all the aspects assessed: lack of relapse in the criminal behaviour, substance consumption reduction, aggressiveness reduction and increase

of frustration tolerance, improvement of emotional expression, acquisition of social skills, improvement of the communication within the family circle and improvement of the parent-child relationship.

**Main achievements.** The main achievement has to do with the results forthcoming from the assessment carried out that support the treatment methods that have been used.

**Innovations** The centre opts for an integrated treatment model where all the problems the minors have are looked after by the same specialists at once.

Advantages: The centre counts on modern facilities and equipment for the carrying out of various activities, including a wide range of training and occupational workshops. The centre has the approval for teaching training for employment courses.

It meets the ISO quality system, what makes it to commit to carry out annual quality audits.

## 5. Neglect and Abuse

These concepts are regulated under the laws 2171987 and 1/1996 at state level, and the respective regulations of the autonomous communities, established in terms of child protection in Spain.

It is considered that a minor under legal age has suffered neglect or abuse when the minor finds her/himself in a situation of lack of social protection due to a situation of risk or abandonment:

**Situation of risk:** It is characterised by the existence of a detriment for the personal or social development of the minor that is not serious enough to justify the separation of the minor from his/her parents or nuclear family and therefore s/he does not require the acceptance of custody by operation of law.

Guaranteeing the minor's rights in all cases, the intervention is confined to try to eliminate, within the **family** institution, the risk factors and the social difficulty the minor finds her/himself in and to encourage the factors of his/her personal development and of his/her nuclear family by carrying out a monitoring of the minor's progress within the family.

**Situation of Abandonment:** these situations are the ones that happen as a result of the breach, or the impossibility or the inappropriate exercise of the protection duties established by the laws for the guardianship of minors, when the latter are deprived of the necessary moral or material assistance.

In these situations, where the seriousness of the facts advises the removal of the minor from the family, the intervention is confined to the acceptance of the guardianship of the minor on the part of the public entity, taking the appropriate protective measures and notifying Public Prosecutors.

### **Essential characteristics of the Organic Law 1/1996, of 15 January, on Legal Protection of Children:**

1. **It recognises certain rights of minors for the first time:** the right to freedom of expression, the right to information, the ideological freedom, the freedom of participation, the right to inviolability of the home and the right to correspondence as well as the communication right and other rights that have been already recognised such as the right to honour and the right to self-image are amended by combining the possible exercise of those rights with the necessary protection of minors such as in the event of a data dissemination that goes against his/her interest.

2. Protection of minors is not only a responsibility of their parents and of the public authorities, but it is also a **responsibility of the whole society.**

**3. The courses of action of Public Prosecutors are broadened**, beyond the representation of minors and incapable children that lack a legal representation.

Scope of application: Minors under the age of 18 that are located within the Spanish territory (including foreign underage children); emancipated people and age-enabled people stay out as well as minors over 16 years but under 18 years of age that have become emancipated with the consent of his/her parents.

**Guiding principle: Best interests of the boy or the girl.**

**Objectives driving the action of the protection systems:** family preservation, reunification and integration.

All protective measures are carried out by the relevant public institutions, within each one of the autonomous communities, but always under the supervision and, when applicable, the authorisation on the part of Public Prosecutors.

**The most significant processes of the child protection system in a simplified sequenced are:**

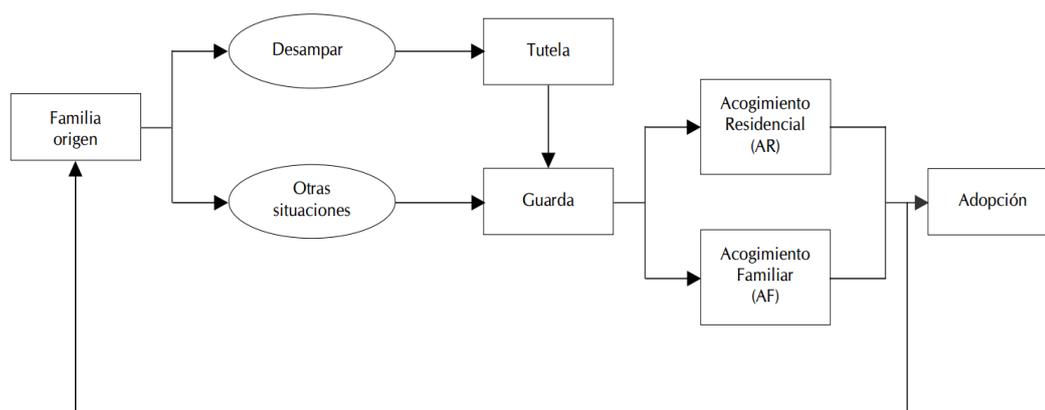


Fig. 1: Procesos más significativos del marco normativo (Leyes 21/1987 y 1/1996)

## PROFESSIONAL TRAINING

The Spanish Protection System incorporates the principle of community integration, that is to say, minors participate in the public services that are at the disposal of the rest of the society:

- Social security healthcare system. (Primary and specialised healthcare including mental health).
- Public education system; thus, protected minors attend the educational institutions of their environment.

- Community Social Services that, as the case may be, attend to the restructuring process of the nuclear family.
- Cultural, sports, leisure and recreational services in the area.

In the **case of a residential-basis reception**, the specialists that look after the minors possess the following qualification:

- Social educators (minimum degree required: certificate of advanced study). They carry out the accompaniment of minors.
- Professionals trained in Psychology: they take part in the drawing and assessment of the rehabilitation project for each one of the minors.

The management of the centre does not require a specific training, apart from the recommended experience as educator or psychologist prior to the management of the centre.

Although specific training in the field of management and child care with protective measures is not an indispensable requisite in Spain, further training is carried out as a kind of postgraduate university studies.

This training is given by private training centres or entities belonging to the tertiary sector. As an example, we point out the following degrees:

- Master's degree in Intervention with Minors at Risk of Social Exclusion.

The general contents have to do with childhood and adolescence history and problems, the knowledge of the legislation, the general strategies and intervention methodologies to work with minors, the socio-educational advice, the attention to children's health and multidisciplinary intervention techniques.

Management of juvenile facilities.

This master's degree aims at:

- Making known the role of the social services in Spain, as well as the child protection field.
- Defining the concepts of risk, abandonment and social conflict in order to differentiate the specific characteristics of each case.
- Knowing the different types of maltreatment and the characteristic signs of each one of them in order to proceed to its prevention and detection.
- Knowing the situation of the juvenile crime, juvenile drug consumption and the particulars of foreign minors for its prevention and detection.
- Knowing the intervention process in the residential care within juvenile facilities in order to carry out the corresponding steps of such intervention.

- Identifying the necessary guidelines for the interaction and communication with the boy or girl and the adolescent in the residential care within juvenile facilities.
- Knowing the most important aspects about workplace management and human resources within juvenile facilities.
- Knowing the essential aspects about account management and prevention of occupational risks within juvenile facilities.
- Providing the student, in a quick and simple way, with all the knowledge, skills and competences that the business world requires in relation to the implementation of quality systems within juvenile facilities.
- Knowing the first principles about project management as well as about its importance.

## BEST PRACTICE

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### PRACTICE 1. “CHILDREN’S RESIDENCE OF PARLA”

#### Description of the programme

Children’s residences are resources of residential care for children and adolescents aged between 3 and 18 years, **with protective measures**, of a specific area (district, municipality or community). In this case, the municipality of Parla and adjoining municipalities (Autonomous Community of Madrid, in Spain) with 125323 inhabitants.

They work as a resource that is integrated within the environment and, as far as possible, they aim at not separating minors from their normalised context of coexistence.

The intervention is carried out with an interdisciplinary and interinstitutional working method, together with the rest of community institutions, and in particular in coordination with the municipal social services.

It is the more common typology of residential facility within the network of children care facilities of the Community of Madrid and the one that represents a greater weight in number of centres and of number of posts.

Daily life within these residences has the objective of offering a structure that meets the needs of the minors and of trying that their experiences are not essentially different from the ones of other minors of their age that continue living together with their parents. This means making an effort as for the organisation of the centre and the daily rhythm in order to be able to accomplish this objective.

The programme started on the 1st day of December 1995.

The reason for its start-up: it aimed at resolving two aspects that were considered as limiting in order to achieve the integration of the minor:

1. Extension of minors clustered in big residences where the depersonalization is inevitable.
2. Uprooting of the environment the minor has lived in until the moment s/he enters the centre, and where the distance from the nuclear family also complicated the intervention with it.

Therefore, the experience presented has two very clear marks of identity:

- 1) It is a mini-residence that has a capacity to accept 20 minors at the most.
- 2) The concept of territoriality is imposed, that is to say, the centre accepts minors coming from the municipality where it is placed as well as from neighbouring municipalities. This allows implementing an intervention that can assure:

1. A significant community integration of the minor: S/he keeps taking part in the communal areas s/he already knows, and where s/he will continue getting on when s/he exits the residence.

2. To bear in mind the nuclear family of the minor. Coordination between the various comprehensive Intervention systems in order to get over the weakness of the family of origin. To serve within the same territory, what favours multilateral intervention (social services, health services and child protection service).

The town council of the municipality arranges with the Community of Madrid, so that the first one makes available a space of residence for the minors and the Community of Madrid hires the specialists that work there. In order to avoid the stigmatization of the minors, the youth residence of Parla is located in a neighbourhood made up of low-rise houses. Two of the houses are connected on the inside, but when looking from the outside, they show no signs to be different from any other home.

This model reaches the cities at the south of Madrid and there are currently 5 mini-residences with the same characteristics.

It is a Public initiative, a regional programme: Community of Madrid.

The specialists

A director, 6 educators and a psychologist of the centre work there. It is the same team that started at the beginning of the programme and back then a task on reflection and action was carried out in order to unite the criteria and action methodology. There is a permanent tension over the personal training but there are not standardised training programmes.

Assessment

- 1) A permanent assessment of the cases: a monitoring and adjustment of each personalised work plan is carried out every three months, where the technical staff of social services

takes part (people in charge of the families' monitoring), as well as the staff of the reception centre that looks after the minor, and the teacher of the educational institutions where the minor studies. The personalised work plan aims at creating in the minor, in the family and in the environment, the minimum and possible behaviours that guarantee the meeting of needs as well as at verifying that these behaviours have been established.

- 2) External oversight not carried out by the team: for the drawing and assessment of the work plans with the minors and their families; a person that does not belong to the team takes part in it and s/he comes from the protection services of the Community of Madrid. S/he participates during 3 hours a month in the team' coordination. This oversight has been requested by the centre itself and it has been carried out since 1996.
- 3) Methodological intervention is much systematised within the team and it tends to permanent self-regulation in order to adapt to the needs the minors have at any given moment.

In this regard, there are two basic resources:

- Centre's yearly plan that governs the intervention within the residence; in 2015, it has to do with the theme of the acknowledgement and expression of emotions.
  - Indicators of achievement that are found in each work plan with the minor and within this assessment, several techniques are applied:
    - The Minors (adapted questionnaires).
    - The specialists of the social services that treat the family.
    - Faculty of the minor.
    - The educators of the centre.
    - The families themselves assess the work they have carried out with their children.
- 4) Assessment of the coexistence and social learning. There are three bodies:
    - a. **Council of the residence:** A representative of the minors, a representative of the educators, residential assistants and the director take part in it. They meet once a month. They agree on improvements for the optimal functioning of the residence.
    - a. **Council of the residents:** made up by educators and minors. They meet every week and they analyse and propose coexistence improvements.
    - b. **Joint meeting.** Once every 15 days; the whole group works on a theme and reflects together. The last session focused on passive, aggressive and assertive behaviours. On the basis of entertaining dynamics, each one of them was staged,

what gave cause for the minors and educators to identify the aspects that have to be improved in their daily life interpersonal behaviours.

The election of representatives takes place every first day of September.

As result, we can highlight that:

- There is a harmonious, conciliatory and friendly functioning of the minors, who feel recognised in their personal identity.
- The members of the nuclear family take part in the family weakness rehabilitation process itself and an active attitude is created towards the positive parenthood.

The practice of the children's residence of Parla is, by far, the best practice found after carrying out several interviews with specialists of other reception centres. As they are all regulated by the same regulation, the working method noticeably differs, and there are significant differences as for the ability to adapt the working method to the meeting of the needs of the minor. The attitudes and the motivation are also noticeably different. Both elements, professionalism and motivation, makes the experience of Parla an example to be emulated. We highlight two elements that are clearly innovative aspects and that have been exhaustively worked on throughout the years of experience:

- Integration of the nuclear family within the work plan since the beginning getting it involved within the whole process.
- Interdisciplinary and much systematised coordination that allows an approach to the situation in a multidimensional manner:
  - The minor: his/her emotional strengthening as well as the strengthening of his/her resilience and his/her progressive autonomy.
  - The nuclear family: overcoming of the weakness in order to receive the minor again.
  - The educational context: as an area of education, learning, coexistence and socialization of the minor.

The main advantage is:

- 1) A very efficient management of the centre that has allowed:
  - A systematization of the work plan and its self-regulation.
  - A highly motivated team as for the carrying out of their tasks.

## PRACTICE 2: CARE FOR VICTIMS OF HUMAN TRAFFICKING “

Person filling in the questionnaire: Person in charge of Human Trafficking in the “Migration Centre Spanish Red Cross”. Puente Genil, Cadiz

### Description of the programme

The Spanish Red Cross, within the framework of intervention with victims of human trade, works from a crosscutting approach with the detection of victims of Human Trafficking. The strategy of the Spanish Red Cross with regard to Human Trafficking is addressed from four main areas:

To improve the professional competence of the teams through an ongoing training.

To establish coordination and cooperation protocols, creating coordination links and processes with the public and private bodies involved in the matter.

Humanitarian Diplomacy: to shed light and raise awareness about the situation of the victims and their protection needs.

To look after the victims, given the serious violation of human rights that Human Trafficking means and as a response to the situation of extreme vulnerability and risks for women, their children, and underage females.

Within the framework of the questionnaire, it is worth pointing out the actions carried out as for the detection, awareness and protection of minors' victims, that while they are not a stand-alone project, they are specific interventions for childhood and minors.

When did the programme start? The projects on care of immigrants, especially those that looked after newcomers in Spain through non-authorized borders (dinghy, fence...) to Andalusia, Ceuta and Melilla, since the end of 2007, are the first teams that detected that a change in profile was happening and they advised about situations of vulnerability that have not been detected so far.

At the same time, the teams that work in humanitarian reception centres for immigrants, specifically those that look after women and daughters and families, show their concern about the situations they are detecting.

This situation is delimited by the following determinants:

- a) Pregnant women and women with minors (babies and infants) arrive.
- b) Very young women that declare to be of legal age although they apparently look like minors arrive.
- c) Married couples with or without children arrive.

All these people are looked after even if they do not possess identity documents, documentation about their civil status or about the family relationship that ties them to the children.

The main reason of its start-up was the aim to give a response to the demands raised by the teams and that were focused on:

- a) Doubts about the blood relation with the minors. These doubts were motivated by the answers to the mothers in relation to the feeding of their daughters, clothing size, diseases and vaccines...
- b) When there were large groups of “mothers” and “children”, there were very worrisome situations as one could see women that doubted about who their children were and devastated children crying without finding figures of reference.
- c) There was not an official documentation, provided by the Ministry of the Interior, with information relating to the children (name, birth date, country...).
- d) When they arrive to the reception centres, some people that have been previously transferred as married couples, now say that they are not a couple and that they have not been a couple before.
- e) There were times when women asked for help to reencounter their children that had allegedly arrived to our country in the hands of other people.
- f) It was observed that most of those women lacked a migration project, and one could also observe signs that they have been victims of human trafficking for purposes of sexual exploitation.

Therefore, and within the lines of intervention in matters of Human Trafficking, the following actions were undertaken:

1. Training of the professionals (hired specialists and volunteers) that get involve in border areas in order to improve their competences in detection of victims of human trade, paying special attention to the minors that accompany these women.
2. Creation of coordination linkages with:
  - a. The FCSE (State Security Forces and Bodies) that facilitates the identification as victims of these girls since their arrival to the territory.
  - b. Public Entity on Child Protection in order to evaluate the risk and establish protective measures.
  - c. Public Prosecutor for Immigration and Minors in order to ensure their rights.

3. Humanitarian diplomacy actions that have favoured the increase awareness, coordination and the development of a legal framework on protection of these minors:
  - a. Verdict 2/2012 and Verdict 5/2014, of Public Prosecutor on Juvenile Section and
  - b. General Commission, Instruction 2/2013
  - c. Mena Protocol (Interministerial)
  - d. Etc.
4. Intervention with victims of human trade (family units). This experience has allowed us to develop tools of detection, communication of cases and, ultimately of detection, communication, identification and protection of women and girls victims of Human Trafficking.

It is a Private – Public initiative: It is a private initiative in the sense that it has been elaborated and carried out by the Spanish Red Cross, although the aim has been to involve the relevant public agents.

The scope of the programme is at national level.

The specialists

The professional team is made up of social workers, social educators, social integrators, psychologists, lawyers, social mediators, instructors and DUEs (University Diploma in Nursing: Nurses).

Training programmes: People that deal with victims of Human Trafficking, apart from trainings on social care, specific trainings on care of migrants, women, etc. carry out training in order to improve their personal and professional competences in this field.

Assessment

Evaluations about the assessment are carried out regularly at different levels and they comprise both the monitoring of the cases that have been detected as well as the implementation of the applicable protocols...

Results: The awareness of these children and their inclusion within the legal framework.

Main achievements:

- To show that one cannot take for granted that these children were with their families and the consideration that they are in a risky situation.
- To facilitate the access to their identity through the review and DNA testing. Registration in an official database of this information.

- To facilitate their protection as minors and/or as victims of Human Trafficking.

Innovation: All the innovations in themselves as any type of specific action with these minors was previously carried out. Programmes or prior experiences had not been carried out before this one so we cannot point out advantages or disadvantages.

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- Curso de la Escuela de Práctica Jurídica. «Justicia penal de menores en España. Aspectos sustantivos y procesales» **Ana I. Luaces Gutiérrez**; Departamento de Derecho Procesal. UNED; Carlos Vázquez González, Departamento de Derecho Penal y Criminología. UNED.

## THE NETHERLANDS

### Introduction

The Netherlands is at the North West of European Continent. The population of The Netherlands is 16,829,289 (January 2014 cbs.nl). The density is 497/km<sup>2</sup> (one of the highest in Europe). The capital city is Amsterdam. The type of government is a Constitutional monarchy - parliamentary democracy. The official language of the country is Dutch. The Netherlands is one of the founder member of the European Union. The type of currency is Euro (Expedia, 2015).

The Dutch government aimed to reduce crime by 25% between 2002 and 2010. For juvenile crime, this meant a reduction by 10%. In The Netherlands, a number of facilities, such as 'Justice to young people' (in Dutch: Jeugd Terecht) and the Halt programme dealt specifically with the implementation of juvenile criminal law, which applies to young people aged 12 to 17 years.

Juvenile sentencing is historically largely pedagogic and corrective in nature. In the Netherlands, juvenile criminal law can also be applied to 18 to 21 year olds if the Court decides that this is appropriate for the particular offender, or if there were special circumstances relating to the crime. By the same rationale, 16 to 17 year olds may be subjected to adult law.

Researching juvenile crime shows different trends:

The report Youth crime in the period 1996-2010 (June 2011) of the Scientific Research and Documentation Centre of the Ministry of Security and Justice and the Central Bureau of Statistics shows a decrease in the number of juvenile delinquents after the number had grown for years. This concerns the number of young people as well as the number of young people that says to have committed a crime in the past year. The decrease is especially noticeable in theft and handling stolen goods.

Another study of the Scientific Research and Documentation Centre 'More juvenile suspects, but why?' (June 2011) sees a growth of the number of juvenile suspects of violent crimes and explains this through less social control on the streets, increase of the number of high school students and selective law enforcement, such as more attention by police and justice for young people and in risk areas.

## 1. Juvenile justice system in the country

The juvenile justice system in The Netherlands functions through Children's Protection Act, The Criminal Code and The Code of Criminal Procedure of Netherlands. We can talk about two kinds of interventions by the juvenile justice system: 1-civil law (social) interventions and/or criminal law interventions (Boev, 2015).

There is not a separate juvenile criminal law in the Netherlands. There is one criminal law for all, however it contains several provisions regarding juvenile offenders (sects. 77a through 77gg CC). (Winterdyk, 2015; Linden, 1999).

The Criminal Procedure Law also has provisions specific to juvenile offenders (sects 486 through 505). For instance, according to Dutch Criminal Procedure Law trials in juvenile court cannot be open to the public.

The minimum age of criminal responsibility is 12 years old. Those under the age of 12 cannot be the subject of a criminal adjudication since they do not have any criminal responsibility. However, they can be referred to a juvenile treatment center. We can mention about two a notable program that deal with children who are under 12 years old and in conflict with the law. STOP is a program where children under the age of 12 and in conflict in law are sent by the police. STOP mostly includes restorative and rehabilitative measures such as apologizing or viewing an educational movie or drawing a picture, or doing handicraft (Wikipedia, 2015).

Children's Protection Act contains provisions on children who have social, psychological, educational, physical or family problems. Thus, the juvenile justice professionals are supposed to take necessary civil measures even if the child committed a crime. Some of these civil measures are court limitations on some parental rights, temporary placement of children in an institution, family supervision, and a revocation of all parental rights. The juvenile court and juvenile justice professionals cooperate with Child protection Board in the implementation of civil measures.

The civil intervention happens if a child commit a crime or shows anti-social or deviant behaviors due to abuse/neglect of his/her parents. First, the signals may come from the police, the school, the relatives or other parties. The situation might be reported to Child protection Board. Then, the Child Protection Board investigates the case and prepares a report to the court. The court may decide to send the case to judge, or to give recommendations, or not to take any

further action. If the case is sent to a judge, then the judge may decide to a temporary supervision, supervision, limitation of parental rights, revocation of parental rights, and placement of the child in an institution (Boev, 2015).

In principle, juveniles between 12-18 years old are considered to be child however In the Netherlands, those who are 18 to 21 year olds can be also subject to juvenile criminal law due to the offender, nature and seriousness of the crime incident. Likewise with the same rationale adult law can be applicable for juveniles who are 16 to 17 years old (Youth Policy, 2015a).

The Criminal Code of The Netherland has provisions for juvenile offenders (age between 12 and 18). According to this juveniles who commit crimes may be faced following sanctions: fine, learning/working sanctions, or imprisonment. The sanction of “learning and working” is composed of unpaid community service, work to compensate for damages caused, and compulsory attendance at specialized courses. In addition to sanctions mentioned above, the juvenile court may decide to some other alternative measures in a disciplinary manner. For instance the juvenile court may impose those disciplinary measures: confiscation of illegally obtained belongings, placement in a juvenile treatment center, compensation for damages, revocation of ill-gotten gains.

The criminal procedure for juvenile offenders works as follows: when a juvenile commits an illegal act the police gives a warning to the juvenile, prepare a report and inform the HALT Bureau and sent the report to the Child Protection Board if the offence is a misdemeanor and committed for the first time. If the offence is a serious one, the police are supposed to inform the prosecutor and prepare a report to be sent both to the prosecutor and the Child Protection Board. The prosecutor may decide not to investigate case, to suspend criminal proceedings by imposing unpaid community services or fines such as confiscation of illegally obtained property, compensation for damages, or to continue investigation and direct the case to a juvenile court. The court may decide to imprisonment, fine or a learning/working sanctions or to dismiss the case. If the juvenile is arrested and put a detention center for a long period of time then he/she may participate various courses organized by the Child Protection Board. The judge may place juvenile detainees in a reform school, a juvenile prison, or a specialized private juvenile detention facility.

The imprisonment can be an option when a crime which is punishable with 4 years of imprisonment or above (for adults) is committed by the juveniles. A psychologist should

prepare a report by meeting with the juvenile in person and sent it to the juvenile court if a punishment of 6 months or above imprisonment will be imposed. The punishment can be executed in a state facility or in a private institution in accordance with the Children and Youth Care Act. The Ministry of Justice is the principle institution in determining where the punishment/measure will be executed however the family members of the juvenile, the Child Protection Board, and the judge may also state their opinions on this issue. There are mainly two types of facilities to execute to punishments/measures: regular prisons and treatment centers.

As a punishment “fine” can be an option according to law when the juvenile offenders get illegal monetary gains or cause a material damage. The amount of fine is determined by the judge in respect to economic conditions of the juvenile offender. 3350 Euros is the maximum amount of money that can be imposed a fine. If the juvenile offender does not pay the fine he/she can be sent to prison by the court in exchange of fine imposed.

The aim of “learning/working” sanctions is to rehabilitate and reintegrate the juvenile with the community. According to the law the length of the sanction of “learning/working” cannot exceed a total number of 200 hours. One of the types of learning/working sanctions is unpaid community services. The Child Protection Board is the main responsible body for determining and finding the appropriate community service activities. Juveniles may work in hospitals, public parks, recycling centers, and homes for elderly as community service activities. In addition, juvenile offenders can work to compensate for damages they caused. For instance, a juvenile who is convicted of tearing down his/her neighbor’s garden’s fence can be sentenced to rebuilding/fixing the fence.

As a form of “learning/working” sanctions specialized courses aim to improve juveniles’ social and practical skills. The courses which are mainly carried out by the municipal youth services may last up to six months. The programs of specialized courses are supposed to be approved by the child protection board. Some of the courses are designed to increase juveniles’ awareness about what he/she has done to the victim. The juvenile offenders may have a better understanding about the consequences of their action as they attend the course. Those who commit crimes such as robbery, theft, and harming may be assigned to a specialized course. Besides, some specialized courses aim to rehabilitate juvenile offenders who committed sexual crimes for the first time. There are also specialized courses to help juveniles in developing

social skills and good habits. These courses teach and train juvenile offenders about building positive relationships with other juveniles and people.

After the completion of the sanctions a reports is prepared and sent to the prosecutor by the Child Protection Board. According to the report the case can be finalized or be directed to the juvenile court to be able to proceed and decide to more serious sanctions (Boev, 2015).

The philosophy of Netherland's juvenile justice system was mainly characterized by deterrence and punishment (imprisonment) however after the modernization of criminal law in 1995 it has moved from retribution to restoration. Now the main objective of the juvenile justice system in The Netherlands is to rehabilitate and ensure the reintegration of juvenile with the rest of the community. Alternatives to imprisonments have been created. Currently, a limited number of juvenile crimes directed to juvenile courts. Most of them are solved out of the juvenile court by either the police or the prosecutors P.J.P.Tak (2008).

Imprisonment is the last resort for juveniles in Netherlands' juvenile justice system. It is only considered when there is a serious offence for which pre-trial detention is allowed. It is also assumed that the safety of others and the juvenile will be in danger if imprisonment is not imposed. Although imprisonment is the harshest way of punishment the main objective is to rehabilitate and support the development of juveniles. Thus the juvenile judge relays on professional reports prepared, detailed and signed by at least two behavioral scientists such as a psychiatrist or a psychologist from different fields.

From a rehabilitative perspective juveniles who have chronic anti-social or criminal behaviors or suffering of serious emotional disorders may be also be placed in a foster family. This measure is called as "Multidimensional Treatment Foster Care" which aims to teach and train the juveniles how to deal with his problems in a family atmosphere. Child Care and Protection Board plays an active role in deciding to a "Multidimensional Treatment Foster Care" measure by submitting a report.

Whenever a child is engaged with the police due to a criminal offence the Child Care and Protection Board is supposed to be involved in to the situation. For the best interest of the child and to the end to rehabilitate the juvenile the board investigates the general situation of the juvenile and his/her family and informs the public prosecutor and the juvenile court. Regarding juvenile's criminal offence, the board gives advices and directions to the officials about possible measures, punishments, and steps from a pedagogical point of view. The board

observes the whole sentencing/rehabilitation process and ensures that the best interest and the rights of the juvenile are protected. If something goes wrong the Child Care and Protection Board can initiate an investigation to protect the child. Besides the board organizes and facilitates the execution of community punishments. In sum the Child Care and Protection Board oversees the whole adjudication and execution process when a child appears as an offender (Youth Policy, 2015b).

### **Rehabilitation Institutions for Juvenile Offenders and Victims**

As it was indicated above the mentality of the Netherlands' Juvenile Justice System have experienced an evolution and moved from punitive to a rehabilitative philosophy (especially after 1995). Both custodial and non-custodial measures in the Netherlands' Juvenile Justice System aims to rehabilitate juveniles and ensure them to be integrated into the community. Many of the non-custodial rehabilitative activities are mainly facilitated and organized by "Bureau HALT". There are two kinds of rehabilitative programs organized by "Bureau HALT": one them is called HALT and the other one is called STOP.

Custodial institutions for juveniles also specialized units that conduct rehabilitative programs for detainees. These rehabilitative programs and departments are Kwartaalkursus (an intensive day program), TBS Clinics, FOBA (Forensic Observation and Counselling Department), LVB (Slightly Mentally Disabled)Department, VIC (Very Intense Care) Department, ESP Division (for those who have serious sexual problems), ITA (Individual Trajectory Department), and Forensic Department Observation. What all these departments and their programs do is named as YOUTURN. It is a methodology which focuses on physical, emotional, and mental development of juveniles.

## **2. Violent Crimes and Sexual Crimes**

Any crime on which the offender used any force against people or goods is considered as violent crimes. Any behavior going beyond the limit or stepped across what is seen as normal sexual behavior, and that has been written about in our book of law (Wetboek van Strafrecht).

The rehabilitation programs which can be grouped as custodial and noncustodial and mentioned below deal with juveniles who commit violence and sexual crimes due to various reason such as mental problems and other criminogenic factors.

## **Non-Custodial Rehabilitative Measures**

### **a. The Halt Program**

The HALT program is a non-custodial measure to rehabilitate juveniles who commit various offenses. The police in The Netherlands are authorized to use discretionary power. Thus if juveniles commit any offence the police can issue a warning and let them to go, direct them to the prosecution and adjudication process, refer them to a support service or place them in the Halt program. Basically, the halt program is a kind of restorative reaction against to juveniles' deviant behavior. It may be more appropriate to describe it as a series of plan and action which help juveniles to understand his/her mistakes and take voluntary steps through correcting his/her mistakes. It also involves the reparation and compensation of the damage that juveniles caused.

One of the objectives of the program is to prevent re-offending and reduce recidivism through rehabilitation. As Restorative Justice Approach asserts the crime itself is a destruction for all parties of the crime namely the victim, the offender and the community. Solely punishment and retribution may not be the best way to rehabilitate the offender and repair damage caused by the crime incident. Thus, the Halt program aims to repair the damages of the crime by utilizing from the restorative justice philosophy and instruments.

In The Netherlands juveniles between 12 to 18 years old and alleged for committing of minor offenses such as theft, vandalism, or nuisance are given chance to make choice between the Halt program and regular adjudication. If the juvenile prefers to be in the halt program the Dutch Public Prosecution Service sets the content and the scope of the program.

It should be kept in mind that the Halt programs requires a complete voluntarily participation. In other words those who will be in the Halt programs should voluntarily accept to participate into the programs and follow the procedures and rules.

The Halt program highly values the juveniles' apology and parental participation as much as possible. The program recognizes that parental involvement significantly influence the learning process of juveniles in a positive way. Thus, parents of juveniles are expected to be involved in the rehabilitation process from the very beginning to the end. It is also considered that capacity of parenthood can be enhanced through these participation. Likewise parents will have a better understanding of their kids and learn how to protect them from committing criminal offense.

Halt program recognizes that one of the best way of repairing juveniles' emotional and moral destruction caused by the crime is to motivate and lead them to accept their responsibilities and offer apology to the victim and the community.

Along with accepting the responsibility and presenting the apology, juveniles are also motivated to offer alternative remedies to compensate the damage they have caused.

Halt program aims to rehabilitate the juveniles and eliminate the risk of re-offending. To this end, targeted learning assignments are developed to tackle with the specific problem that juveniles have. In the course of developing and refining those kind of assignments, Halt officials closely cooperates with the Child Care and Protection Board. Youth Care Agency may be involved into the process if the juveniles show multiple risks factors.

Halt as a programme offers a complete diversion from the formal juvenile justice system. Those who participate to a Halt programme do not have a criminal record regarding specific offence that led them to end up in to the Halt programme. Once juveniles successfully complete the Halt programme the charges are officially dropped.

The first HALT program was initiated in Rotterdam in 1981 for the purpose of tackling with juvenile vandalism in a restorative way. A series of problems led to emerge of HALT programme in The Netherlands. Vandalism was a prevalent offence and there were not an effective way to prevent juveniles from committing it. Formal prosecution and adjudication neither rehabilitated the juvenile nor repaired the damage of the offence. Traditional methods of prosecution was either too soft (like police warnings) or too serious for minor offences such as vandalism. The variety of measures that juvenile judges could be imposed were too limited. In order to overcome all these limitations the Halt program was developed as an alternative to the official juvenile justice system.

Halt bureaus functions under the Public Prosecution Office. The Halt bureau is also linked with local authorities which support various Halt programmes such as advising, education etc. Currently 17 Halt bureaus are connected to each other and functions as a nationwide organization. The ministry of security and Justice provides financial resources for the Halt programmes. Besides, local authorities and organizations such as Association of Netherlands Municipalities, Netherlands Youth Institute (NJI), Centre for Crime Prevention and Security, and Netherlands Centre for Social Development provide support for the Halt Programme.

Currently there are twelve HALT bureaus all over The Netherlands. Children and youngsters (between 12-and 18 years old) who commit minor offense for the first time may be referred to the Halt bureaus by the police. Approximately 17.000 young offenders are referred to a Halt bureau to attend one of the rehabilitative and restorative halt programmes. As the swiftest way of reacting the deviant behavior of juveniles Halt programmes stress that criminal activity is not an acceptable behavior. It creates the most appropriate environment in which the juveniles will confront with their wrongdoings and get chance to correct their mistakes and repair the damage caused by the crime. In opposed to the traditional juvenile justice system.

Halt program does not label the juvenile as a criminal. Training programs of Halt focus on the crime and its consequences rather than the juvenile offender. Halt takes into account various factors such as the age, education level, income level, neighborhood conditions, family conditions, and background of the juveniles while handling the crime problem. Throughout the process responsibilities and roles of others such as parents, family members, community members, public officials etc. in the occurrence of offence are identified. If needed parents involving the process are trained and guided by the Halt bureau in parenting issues.

Halt offers a number of programs which may last from 2 to 20 hours. The content of the program is shaped regarding the nature of the offense, the age of the juvenile, and previous contacts of the juvenile with the Halt bureau. Regardless of what juveniles committed they and their parents are interviewed in one of the Halt bureau once they have chosen to participate into the Halt programme. The juveniles and their parents are informed about how to apologize from the victims and how to repair the damage of crime and compensate the losses. Besides, a learning task may be determined during the interview.

At least three meetings take place following the first interview. In these meetings the juveniles get the opportunity to explain why they committed the offense, and what the reason were which led them to commit such kind of crime. On the other side, juveniles are informed about the Halt programs and their objectives. At the end, juveniles may either prefer to continue to the Halt program or to be referred to the prosecutor with an official report. Besides, parents are informed and motivated about the program and active involvement and participation to the designated programs.

One of the critical steps of the Halt programs is the offer of an apology by the juveniles to the victim of their offense. This is the hardest step which may create an emotional turbulence for both the offender and the victim. Thus Halt bureau helps, motivates and prepares the

juveniles how to offer their apologies. Juveniles are supposed to offer their apologies to the victim in person. If the victim is not ready for such kind of meeting the juveniles can offer their apologies in written. Parents help and support the juveniles in offering their apologies.

In addition to offering the apology juveniles are assigned to several tasks such as learning and and/or work assignments. The goal of these assignments is to ensure a behavioral change. In other words, juveniles are motivated and trained to move from risky behaviors via home works, individual educative punishments or various group activities.

Halt prepares the appropriate ground to achieve a settlement between the victim and the juvenile offender. To this end, the juvenile offender proposes a compensation plan in written to repair that he has caused. It is also possible that parents can help their children who are under the age of legal responsibility to reach a settlement outside the Halt program.

A written agreement on the content of the Halt program and other conditions should be finalized and personally signed by the juvenile. Parents signatures are also required if the juvenile is younger than 16 years old.

It is considered a success if the juvenile follow the rules and completely fulfills the obligations as he/she agreed with the Halt Bureau. Those who successfully complete the program are considered to be rehabilitated. Thus the prosecutor prepares a report and recommend the court not take any further step and dismiss the case without entering any criminal record. It is also possible that the prosecutor prepare a report recommending the court taking judicial steps if the juvenile fails in fulfilling the obligations of the Halt program. In this case, the juvenile may have a criminal record. The information about whether the juvenile participate the Halt program or prefer not to do so are kept in the police records for seven years or until he/she is 21 years old.

Halt also takes necessary steps to prevent reoffending along with ensuring the settlement and rehabilitating the juvenile. To this and Halt officials investigates and identifies if there are further problems at school or the family which may lead juvenile to a re-offense. If it is the case, parents are contacted and invited to the Halt bureaus and directed to an institutions such as Youth Care Agency or a parenting support service to get help and guidance to overcome problems (Halt, 2015).

## **b. Stop**

In The Netherlands one of the growing problems is the delinquent acts of children who are under the age of criminal liability (children below the age of 12). To tackle with this problem the Dutch Government initiated a rehabilitative program for young offenders under 12 years old. The programme is called STOP. The main goal of the program is to train, educate and eventually rehabilitate juvenile offenders under the age of 12 and below.

The STOP initiative functions under the Halt bureaus. Juveniles who commit minor offences such as vandalism, shoplifting, and small thefts may be directed to a Halt bureau to attend to a STOP program by the police. The police contact parents of the child prior taking such kind of measure. If there is a problematic situation the police refer child to the Child Care and Protection Board as well.

Participation to a STOP programme is voluntarily. The parents of child should voluntarily accept and sign a consent form regarding the participation of their child into the STOP activities. The STOP programme offers various activities to rehabilitate juvenile offender who are under the age of criminal liability. Activities includes offering apologies, writing a story, making a drawing, and viewing an educative movie (Junger Tas, 2004).

## **CUSTODIAL REHABILITATIVE MEASURES**

### **a.Kwartaalkursus (An Intensive Day Programme)**

As it is indicated earlier, juveniles who commit offenses are either referred to non-custodial measures such as the Halt and Stop programs or they referred to the court for completing the formal judicial procedures. Depends on the age and the seriousness of the offense juveniles can be subject of various custodial measures. Nevertheless, juveniles can be simultaneously directed to a rehabilitative program while they are serving at a custodial institution.

One these rehabilitative programs is called as Kwartaalkursus. It is an intensive training program for three months. This quarterly course (Kwartaalkursus) was first launched in Amsterdam in 1986. Juveniles who commit serious offences such as armed robbery, use of serious violence against people, repeatedly breaking and entering, and so on can be referred to a quarterly intense day program (Kwartaalkursus) for at least six to eight weeks.

It can be said that a specific group of juveniles who have a criminal past, commit serious crimes, as mentioned above, and wait their turn in the pretrial detention are mostly referred to such kind of programmes. In other words, the most problematic youngsters who have serious problem about their education, family life and pursuing normal daily routines attend quarterly intensive day programs. However, almost one third of the juveniles attending the Kwartaalkursus fail to complete the courses.

The goal of Kwartaalkursus is to help juvenile detainees to be reintegrated with rest of the community as normal people. To this end, juveniles are supposed to participate in various activities such as skills and vocational trainings, educational attention, sport activities, and group works at a non-commercial institution (van der Laan, 1988. Innovations in The Dutch Juvenile Justice System in Josine Junger-Tas and Richard L. Block pp. 203-227; Global Youth Justice BLOG, 2015).

### **b.Tbs Clinics**

In the Dutch Juvenile Justice system TBS order is a special measure along with the prison sentencing. “Tbs” stands for “ter beschikkingstelling” a sentence in Dutch means "being placed at disposal" (of the state). Basically TBS order is a mandatory psychiatric treatment and rehabilitation program for people (juveniles) who are convicted and punished with a sentence of imprisonment. It is considered a rehabilitative measure rather than a punishment. Most of the detainees who are transferred to a TBS clinic have committed serious violence offences. A TBS patient stays in a TBS clinic approximately 50 months to complete the whole treatment and rehabilitation service.

Not every juveniles who were punished with a penalty of imprisonment sent to the TBS clinics. First of all, juveniles must have committed the crime due to a serious [psychiatric disorder](#). [Second, juveniles convicts cannot or only partially be held](#) liable for the crime. Last, likelihood of re offence should be significant. Therefore, juvenile convicts sent to a screening test to identify whether they meet minimum conditions in order to be placed in a TBS clinic. Currently forensic psychiatric detention centers observe the juvenile convict and prepare the necessary reports and sent to the court. However, the judge is not bind with the report in making his/her decision about sending the juvenile to a TBS clinic or not.

There are currently twelve institutions function as TBS clinics in The Netherlands. The number of beds are limited and [TBS services are overloaded](#). Thus many detainees who suffer from serious [psychiatric disorder still wait for their turn and spent their time in a detention](#)

center rather than participating in a treatment program in a TBS. Beyond this, there are not sufficient number of well-trained staff such as psychologists TBS clinics. Other personnel suffer from not having adequate level psychiatric and medical skills.

TBS clinics aims to ensure the socialization of their patients (convicted juveniles and adults) however it is not an easy task to accomplish since patients are highly problematic. Nevertheless, TBS clinics have potential to help patients, rehabilitate them and increase their quality of life. It should be taken into consideration that achieving to success in TBS clinics is highly tight to having well trained and specialized personnel.

As indicated before, treatment programs in TBS clinics are long-run activities. Patients who are decided to send to a TBS clinic by the court may stay there up to 50 months. However, patients may have temporary leave as they have some progress in their programs. It is considered an essential way of socialization of the patient. Having leave is an incremental process. In other words, leaving time is increased gradually. At the first time, patient are allowed to leave the TBS clinic for a couple hours under the control and observation of a therapist. Following the results of an assessment done by TBS therapist, convicts may have a longer leave time, one day at a time, without an escort. During their one day leave time convicts may continue to an educational institution or to a work.

Permanently leaving the TBS clinics is up to the decision made by the judge. However, convicts who properly follow and full fill the obligations of the training and rehabilitation programs may be released from the TBS clinics in one or two years by the court decision (McInerney, 2000; Wikipedia, 2015; International Longstay Knowledge Exchange, 2008; EUPRIS, 2007).

### **c. Psycho-Medical Treatment In Prisons**

In addition to treatment programs at TBS clinics, The Dutch Custodial Services (DJI) provide psycho-medical treatments for convicts serving their time at the Dutch custodial institutions. Convicts can get basic health care services on a regular base like an ordinary Dutch citizen. In addition to this service, Dutch custodial institutions take steps to rehabilitate the convicts and to reduce the risk of re offending through forensic care. Penitentiaries in The Netherlands employ adequate number of medical doctors, physician, psychiatrists, psychologist, nurses, and administrative staff to sustain regular health care and forensic care services.

Medical doctors who work at a penitentiary are required to have additional training and expertise in psychiatry, infectious diseases, and care of addictions. Even though they work at Dutch prisons psychiatrists financed by the Forensic Psychiatric Service (FPD) which functions under the umbrella of The Dutch Custodial Services (DJI). Psychiatrists involve in forensic/mental treatment programmes organized in the penitentiary as well as preparing pre-trial reports to the court about the mental situation of juvenile/adult offenders.

Mental health care treatments in Dutch prisons are mainly organized and coordinated by a team named PMO (psycho-medical team). Prison psychologist leads the PMO. All professionals who deal with the regular and mental care of convicts take place in this team (PMO) and coordinated by the prison psychologist.

Detainees who need psychosocial and psychiatric treatment can be directed to PMO by any penitentiary officials. In addition to providing mental health care PMO also provide consultancy to the prison administration in selection, placement, and isolation of detainees in the prison.

PMOs are organized under different names in different prisons. For instance, 'Start inside, stay outside (Binnen beginnen, buiten blijven) is a PMO programme initiated in Limburg Zuid penitentiary in The Netherlands. On the other hand, not all the PMO programmes do not meet the criteria of American, Canadian or United Kingdom accreditation committees.

Although behavioral and psychological treatment are valued by the Dutch officials the intervention programmes at the prisons are not as qualified as desired. Most of the programmes are too short to deal the specific crime types. For instance there are some PMOs in some prisons specific to sex offenders however not all programmes are designed specific to crime/offence types such as violent crimes, drug abuse etc. Thus, the Dutch Government starts new initiatives such as 'Pushing back criminal recidivism' ('Terugdringen Recidive', TR) to increase the quality of behavioral treatment programs (PMOs) in prisons.

TRs mainly target the detainee groups who have relatively high risk of re-offending. Compared to the PMOs, TRs are can be considered more comprehensive initiatives. They have some strengths; first, TRs employ a standardized intervention strategy which was based on behavioral research. Second, it focuses on long term detainees with a relatively higher risk of recidivism. Third, COVA, a cognitive and behavioral intervention strategy, is the core the program. Fourth, TRs have a screening instrument which is also used by British probation

services. Fifth, criminogenic factors are identified by the program to develop a much more specialized and individualized treatment strategy and method to tackle with the behavioral problem of detainees. Sixth, TRs also compatible with aftercare programmes of the Dutch probation services (EUPRIS, 2007).

#### **d. New Perspectives Aftercare Program (Npap)**

One of the treatment programmes for juvenile offenders is NPAP which is called as “new perspectives aftercare program”. NPAP mainly targets juvenile offenders who have spent some of their times in a Dutch penitentiary. NPAP was first initiated in The Netherlands in 2007 and recognized as one the best practices of behavioral intervention which deals with serious juvenile offenders between the ages of 16 and 24. The main goal of this after care initiative is to rehabilitate juvenile offenders through individualized and specialized behavioral programmes and ease their re integration into the rest of the Dutch community. Besides, NPAP aims to modify cognitive distortion and improve behavioral skills to prevent recidivism.

What makes NPAP distinctive is that it has a very intensive, dynamic, and individualized approach which focuses on juveniles’ reintegration in the school, family, work, and neighborhood settings. To this end, NPAP employs various intervention strategies such as coordinated case management, motivational interviewing, and cognitive behavioral interventions. All of these strategies help juveniles about impulse control, and problem solving.

NPAP generally lasts in 9 months. The program begins at the last 3 months of the detention to enable a smooth transition from a prison environment to an ordinary social life. The remaining 6 months includes a 3 month intense treatment and a 3 month follow up period. The program is implemented by the youth care workers. They have an intense and therapeutic relationship with juvenile offenders. The relationship between the youth care workers and the juvenile offenders goes beyond the limits of the programme. The role of the youth care workers are not limited with the time period of the NPAP. Youth care workers establish strong relationships and networks with juvenile offenders and continue to help and guide them through out their life.

NPAP is an evidence based program since it was inspired from both theoretical approaches and empirical research findings. Accordingly it offers a multifaceted, community based, and offender-focused approach to ensure juvenile offenders’ reentrance to the general community (James et.al., 2013).

### **e. Youturn**

Youturn is not a rehabilitation program but an approach and philosophy that is embraced by all rehabilitation programs initiated in the Dutch juvenile correctional institutions. The main perspective offered by this philosophy is that all innervation programs of correctional institutions should prevent recidivism via correcting juveniles' behavioral distortions, improving life skills, and so get them ready for the re-integration into the community. Since all programs in all correctional facilities follow the same methodology the juveniles can be transferred to another correctional institution without any concern, involve in another rehabilitation program and continue their progress without any risk of interruption.

All rehabilitative activities which adopt Youturn approach focus on the development, physical and mental wellbeing and the future of the youth. In accordance to the approach of Youturn correctional facilities in The Netherlands have their own schools. The juveniles in The Dutch correctional facilities are given screening tests and interviewed within three weeks. According to the results of screening tests and interviews a perspective plan are prepared for each juvenile before attending to the school located in prisons. The perspective plan shows the goals and guides the juvenile to reach them. To this end, juveniles are invited to a weekly coaching session to figure out whether the goals stated in the perspective plan have been achieved and to discuss problems and the progress.

### **f. STPs and Work Wise**

Juveniles who serve their time in a Dutch custodial facility can be subject to Schooling and training Programmes (STPs) during the final period of the penalty (generally the last three months of the punishment). The aim of the STPs is to prepare the juvenile for returning into the general society. To this end, juveniles attend an individualized and specialized programme which includes at least 26 hours of schooling, training or work every week at the end of their prison time.

During the STPs juvenile do not stay at the correctional institution. They let go out and follow the activities of STPs outside the prison environment under the control and supervision of a probation officer or a family supervisor. In terms of STPs juveniles are expected to follow agreed guidelines which is supposed to be approved by the Accreditation Scheme Training and Trainings Programs.

STPs also include a work-wise process which help and guide juvenile offender in finding a suitable job, developing networks, keeping a job, housing and using leisure time. Beyond this, Individual counselors and probation officers jointly prepare an after care and follow-up plan to help the juveniles even after completing the STPs and releasing from the custodial institution (Custodial Institution Agency Brochure, 2015; [VIP Project, 2015](#)).

#### **g. The Psychiatric and Forensic Observation Centre (Foba)**

One of the custodial rehabilitation program is called FOBA, the psychiatric and observation center. It is a special unit where Juveniles (and adults) who have serious mental and behavioral distortions are placed. The program has been operating since 1990s. The main goals of FOBA is both to observe and rehabilitate juvenile offenders who show signs of serious threat to themselves or others.

There are two separate units at a FOBA section: observation unit and treatment unit. Both observation and treatment units have individual cells, exercises areas, and day rooms for patients. FOBA is a kind of facility where patients are placed, observed and treated in a closed environment isolated from the outside world. The treatment unit has a large day room where patients have their meals, watch television and movies, and spend their leisure times. Series of workshops are organized and supervised by the surveillance team in the treatment unit where patients can do manual activities to enhance their capacity to integrate into a group.

Juvenile offenders who seriously suffer from mental and behavioral distortions are sent to FOBA's treatment unit. Following a series of psychiatric treatment juveniles are transferred to FOBA's observation unit where juveniles are observed for 6 to 10 days (in some situations up to one month). Then juvenile patients can be transferred to a normal detention center if they successful complete the observation process. Juvenile patients can be sent back to the treatment unit of FOBA for a maximum of four weeks if they could not successful pass the observation unit.

A group of staff from different backgrounds work at FOBA units. For instance psychiatrists and psychologists work both treatment and observation units of FOBA twenty hours a week. Likewise, social workers and adequate number of specially trained surveillance staff are employed in FOBA units. Surveillance personnel (at least 5 personnel on a shift) work 7/24.

Surveillance staff are supposed to get a basic training and gain adequate experience at a regular prison before to be assigned to a FOBA unit. In terms of the basic training all surveillance staff are supposed to get a nursing assistant training at a psychiatry clinic (Dr Capriles Clinic or the St Elisabeth Hospital) or get a theoretical and practical course. Beyond this, surveillance staff who have completed the basic training have to work for three months at the Amsterdam FOBA before they go to work in another FOBA.

One of the distinct feature of FOBAs is that each FOBA has a team comprised of professionals from different backgrounds. The team members, namely the psychiatrist, psychologist, social workers and surveillance staff develop an individualized and specialized weakly treatment plan for the juvenile patient. The treatment plan includes various activities and surveillance staff are supposed to implement these activities in coordination with other FOBA members. All weakly treatment activities are observed by the team and an up-to-date observation record and psychiatric assessment sheet are kept (Council of Europe, 2015; United Nations, 2015).

#### **h. Other Treatment Programs In The Dutch Juvenile Detention Centers**

In addition to FOBA, Dutch detention centers have some other treatment and rehabilitation programs for juvenile offenders who suffer from psychological and behavioral problems. One of these program is dedicated to slightly mental disabled juvenile offenders. Juveniles who have a low IQ score, between 55 and 80, can be subject to this program. The program which are implemented by LVB unit in the prison, includes various activities to help juvenile offenders to overcome weakness stem from their low IQ level.

Another treatment program is designed for juvenile offenders need extra assistance because of a psychiatric disorder or personality disorder. The program is called as “Very Intense Care” which is implemented by VIC unit of the detention center.

It is the fact that some of the juvenile offenders who are placed in a detention center have serious sexual problems. Regarding this, Dutch detention system developed a program specifically dedicated to those juvenile offenders. The program is implemented by ESP unit of the detention center.

Juvenile detention centers in The Netherland also have treatment and rehabilitation programs for juveniles who have behavioral difficulties in a group setting. Juveniles who don't

get along with other group members and create negative impact on their peers are directed to individual trajectory unit where they are provided an individualized and specialized treatment.

As indicated above juveniles who serve their time in a Dutch detention institution follow certain treatment programs specific to their situations. Forensic observation unit of the detention center is dedicated to observe and follow up juvenile offenders' improvement, make regular assessments and provide recommendations about the treatment investigated (Council of Europe, 2015; Ministry of Justice Brochure, 2015).

### **i. Leaving The Juvenile Detention Centers**

As mentioned earlier juvenile offenders who commit an offense can be subject to a non-custodial or a custodial punishment. Since the goal of the Dutch juvenile justice system is to rehabilitate offenders and prevent recidivism, juvenile offenders are directed to participate various treatments and rehabilitation programs. Especially, juvenile detention centers have very specific and individualized treatment programs for detainees as mentioned above. Although leave during juvenile detention depends on the length of the sentence, in principle juvenile offenders spent the first six months of imprisonment in the detention center as well as participate into rehabilitation programs.

After six months later they are allowed to leave the detention center and follow the rehabilitation program in as less secure treatment unit. The juvenile offender can obtain parole if the treatment process ends with a success. During the parole, juvenile offenders spend their time outside the detention center and regularly supervised by a probation officer from the Youth Probation Service. Juveniles who get parole have to follow an educational or training course or work at least 26 hours a week ([Global Youth Justice Blog, 2015](#)).

### **j. Behavioral Intervention Programs Of The Dutch Probation Services**

The probation service in The Netherlands plays an important role on the execution of various sanctions imposed by the judiciary. Successfully execution of sanctions by the probation service ease the rehabilitation of juvenile offenders and decreases the risk of recidivism. To this end, the probation services of The Netherlands implement a number of

programs and training courses when the juvenile offenders serve their time either in the detention center or in the community.

In The Netherlands the probation service plays an active role in every phase of the judicial process from arrest to the execution of the punishment. Mainly the three sub branches of the probation service implement the programs and execute the punishments. These sub branches are the Dutch Probation Service (Reclassering Nederland), the Social Rehabilitation for Addicted Offenders (Stichting Verslavingsreclassering or SvG), and the Salvation Army Probation Service (Leger des Heils Reclassering). The probation service in The Netherlands estimates the risk of recidivism, level of motivation for behavioral change and responsiveness as well as identifies the criminogenic factors that push juveniles into the crime. Likewise, the Dutch probation service prepare assessment reports on whether further probation activities such as behavioral interventions, guidance and supervision, should be or which specific measures should be taken for the rehabilitation of juvenile offender.

As stated above, the main goal of the Dutch probation service is to execute the punishment and successfully ensure the rehabilitation and reintegration of the juvenile offenders into the community. To this end the probation service in The Netherlands administers a serious of reintegration programs to ensure the behavioral change. In case of a conditional sanction, suspension of pre-trial detention, or conditional release juvenile offenders can be directed to one of these reintegration programs. Some of the rehabilitation and behavioral intervention programs which are implemented by the probation service are as follows: communication: Goldstein training, aggression regulation training, training in aggression control, relapse prevention for aggressive offences, domestic violence, relapse prevention for sexual offences, employment motivation training, facilitating return to work, alcohol delinquency, lifestyle training, relapse prevention for substances, living: housing training, money and debt: course on budgeting. The probation service can give courses/programs in the prison environment as well.

Each program aims to eliminate criminogenic factors that may lead re-offending. Approximately at least 10 hours are dedicated for each of the programmes mentioned above. Nevertheless some of the rehabilitation programs such as “life style” or “enhanced thinking skills” may last much longer. Due to the pre-program evaluation juvenile offenders can be subject to more than one behavioral intervention program.

The probation office in The Netherlands can also organize and administer penitentiary programs as well. The aim of these programs is to let detainees gradually become accustomed

to a return to society. During the program detainees are let to spend some of their times outside the prison. Probation officers are responsible for the supervision of the detainees when they are outside. Detainees are not only spent their time but also participate to an activity such as a work project or treatment for a psychological disorder or addiction when they are out of the prison.

The Dutch probation services have a sub brunch called “Social Rehabilitation for Addicted Offenders” (Stichting Verslavingsreclassering or SvG). This unit deals with juvenile offenders who seriously suffer from addiction. Although there are many other institutions that focus on drug addiction problems of youths SvG specifically targets juvenile offenders who have committed crime due to the addiction problem. In other words, there should be a direct relationship between the juveniles’ dependency problem and the offence committed.

Most of the tasks are done by the probation officers in the Dutch probation services. A total number of 2415 full time probation officers work at the probation services. They are required to get a higher education degree on social case work to enter the probation organization. In addition to this, the Dutch probation institution provides regular and intense in-service training for its employees. Beyond this, probation officers who work at SvGs always get additional training on drug addiction and substance abuse (James et. al. 2013)

## **Victim Support**

Generally speaking, the Dutch juvenile system is not a victim oriented organization. Mainly it focuses on the crime incident and the offender and aims to prevent recidivism via rehabilitating the juvenile offenders. However it is the case that most of the time there are victims of crime that needs to be taken care of. In the Netherlands, this task is accomplished by a non-governmental organization (NGO) called “Stichting Slachtofferhulp Nederland” Victim Netherlands. There are several other local organizations that provide help for certain groups of victims however Stichting Slachtofferhulp Nederland is the only organization that provide nation-wide support services for victims of crimes, traffic accidents and disasters.

Stichting Slachtofferhulp Nederland aims to help victims of crime, traffic accident and disasters. Although it is a non-governmental organization the Ministry of Security and Justice, Municipalities, and The Victim Fund financially supports the Stichting Slachtofferhulp Nederland. The organization helps the victims during and aftermaths of the event and

compensate the material and immaterial losses. For instance, the Stichting Slachtofferhulp Nederland helped more than 156000 victims of a crime or a traffic accident.

Stichting Slachtofferhulp Nederland have five different target groups; victims of violence, victims of traffic accidents, victims of sexual abuse, victims of Burglary&theft, and victims of loss. Violence includes threat, robbery, domestic violence, lover boys, trafficking, mistreatment, murder and manslaughter, raid, stalking, and rape and sexual assault. Sexual abuse includes; domestic violence, lover boys, trafficking, abuse of children, sexual abuse, rape and sexual assault. Burglary&Theft includes; robbery, theft, scams/fraud, raid, and house braking.

In general Stichting Slachtofferhulp Nederland offers legal, psychosocial and practical services for the victims. All services are free of charge. Most of the victims of crime contact with Stichting Slachtofferhulp Nederland via police departments. In addition to this, staff who work at a medical institution can talk to the victim and convince him/her to report the situation to the police and to get assistance from social services and Stichting Slachtofferhulp Nederland.

The police in The Netherlands automatically direct the victims of crime to Stichting Slachtofferhulp Nederland with relevant information about the crime incident and the victim (if there is not an objection by the victim). Thus, the registration system of the Dutch Police is connected with the registration system of Stichting Slachtofferhulp Nederland. After receiving the information Stichting Slachtofferhulp Nederland generally contact the victim with in two working days. After contacting and getting the information about the victim's specific needs, Stichting Slachtofferhulp Nederland may offer services such as emotional support, practical help, legal assistance or referral to specialized forms of help. In case of homicide, and severe violent or sex crimes a case manager or a regular employee (most of the time volunteers) are assigned to follow up the process. While case managers provides long term support regular employees provide basic, and short term assistance (Victim Netherlands, 2015; Victim support services in the Netherlands, 2013 )

### 3. Child Abuse and Neglect

In The Netherlands it is considered to be a neglect if you do not give the person who depends on you (can be a child, but also a person 18+ years that cannot care for himself because of old age or with a limitation of mental or physical ability) what he needs. In the Netherlands, child abuse is defined as every form of threatening or violent behavior towards minors of a physical, psychological or sexual nature.

Physical and psychological neglect which can be defined as withholding care and attention and therefore ignoring basic needs of love, warmth, security and support is also considered as an abuse.

Child abuse can be emerge due to family, medical or psychosocial problems, thus the system in The Netherlands offers various possibilities to initiate the legal proceedings. The Advice and Reporting Centres on Domestic Violence and Child Abuse called Safe at Home (in Dutch: Veilig Thuis) is the principle institution where anyone who suspects domestic violence or child abuse can report the situation. Especially, professionals such as, teachers, medical personnel, social workers, justice officials etc., are required by law to inform the Safe at Home via a reporting code. In case of receiving a report about child abuse or domestic violence, the Safe at Home first starts an investigation and try to figure out if there is indeed a case of child abuse. Then, Safe at Home attempts to ensure that appropriate action is taken if there is a child abuse situation.

The reporting code includes those steps: Identification the signs of the incident, peer consultation or consultation with Safe at Home, Interview with client, evaluation of the nature and severity of the case (child abuse and/or domestic violence), Making a decision either to help or filling a report.

Regarding the seriousness and the importance of the neglect and child abuse, the Dutch government embraces a new approach called RAAK. The objective of the RAAK approach is to develop a fit and joint approach of collaborating professionals in the same region in order to generate a more alert and more effective reaction to suspicions of child abuse and to work on different forms of prevention more specifically.

In accordance with RAAK approach it is stated by the Dutch officials that every professionals should have enough knowledge and skills to recognize and to stop child abuse and neglect. Besides, every professionals should react according to regional action plans and

recognize their roles and functions when an abuse and neglect incident happens. To this end, the Dutch government offers various education and training programs for the professionals who deal with children issues (Youth Policy, 2015c; Youth Policy, 2015d).

#### 4. Drug Abuse

This is a bit odd, because in the Netherlands nothing is allowed. However the government recognizes that they cannot deny that there are people who use drugs (alcohol – and other soft and hard drugs). They also cannot deny that some people are addicted to drugs and it is very difficult to stay away from the drugs for those people. So they allow to have a portion (five grams) for one time for an adult person (nothing is allowed for juveniles until the age of 18 years); don't want criminals to sell soft drugs at very high prices on the street. So there are coffee shops in the city's on certain rules (only entrée for people above 18 years, sell only for one time of use or to smoke inside of the shop,, not in the neighborhood of schools etc.) allow to use at home, not in a public area.

There are a total number of 13 drug addiction treatment centers in the Netherlands. In addition to this, 10 private clinics, municipal public health services, and general psychiatric hospitals offer care for juveniles and adults who suffer from drug addiction. As mentioned earlier, detention centers and probation institution have their own drug treatment programmes as well.

Although it is a big problem most of the drug addicts are treated in outpatient addiction care. In the past decade, however, the number of addiction service providers has reduced considerably due to the many mergers that took place for economic reasons in the Dutch mental healthcare and addiction care services. In 2012, further agreements were reached among main stakeholders and funding institutions in mental health to gradually reduce the number of beds in long-term residential mental healthcare settings, including addiction services, and to expand outpatient services, services through general practitioners and e-health interventions (e.g. Drugsondercontrole). This shift supports an overall vision that puts addiction clients in charge of their own addiction treatment, by shifting the care towards empowerment, reintegration and self-regulation of the clients. Since the start of 2014, addiction care has been provided in a three-stepped approach: with frontline support from a general practitioner or a general practice mental health worker, followed by the primary mental healthcare and secondary mental healthcare.

However, there have been some challenges related to co-payment for the primary mental healthcare services.

In general, funding for drug treatment is mainly provided by health insurance, while the public budget for social support at the national and local levels is mainly provided for special projects, such as heroin-assisted therapy. In 2012 out-of-pocket payments for addiction treatment were increased, which reduced the number of outpatient treatment clients and created resistance from care providers. As a result, in October 2012 the measure was cancelled. Some measures are taken by the Council for Care Insurance and the National Health Care Institute to further determine reimbursement criteria for addiction care.

The options for drug treatment interventions in the Netherlands are diverse. Outpatient opioid substitution treatment (OST) is dominant for opiate dependence. Psychosocial interventions are more frequently provided to complement OST in order to achieve longer-term effectiveness, reduce relapses and promote social reintegration. In recent years, however, new treatment options have been introduced for young cannabis users, people with multiple (addiction and mental health) problems, and crack and GHB users. In addition, new treatment settings for homeless drug users in several municipalities have been opened.

The psychosocial treatments that are frequently used in drug treatment centres include motivational interviewing, relapse prevention techniques, cognitive behavioural therapies, and family, community and home-based treatment therapies.

Methadone has been the most commonly prescribed substitution substance since 1968. Heroin-assisted treatment (HAT, introduced in 1998) and high-dosage buprenorphine treatment (introduced in 1999) are also available. HAT is provided at 18 municipality treatment units and is used with a restricted and controlled group of treatment-resistant opiate users. Methadone, on the other hand, is available via various outpatient treatment providers, including office-based practitioners and mobile units.

According to the latest available data (2013), a total of 8 185 clients were in methadone maintenance treatment. The number of people receiving buprenorphine-based maintenance treatment is not available (Government of The Netherlands, 2015; MCDDA, 2015).

## 10. Conclusion

There are many interventions for juveniles < 18 years. At this moment there are many changes in the system in the Netherlands because as of 01-01-2015 the municipalities are due to take care of all these interventions. It is no longer to the County to take care of it. This means that it may be a (big) difference in which city you live in about the possibilities you have as a rehabilitation officer for example. When a judge or prosecutor has ruled that a criminal offender or a child with behavioral problems must follow a certain program/intervention, the bill will be paid by our department of justice. If it is due to a prevention program (because there is not yet a criminal act) the costs will be paid by the community the juvenile lives in. So it is possible that in your city they do choose to use a less expensive program which is not the very best in your case just because of the money they don't have or do not want to spend).

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## THE UNITED KINGDOM

### Introduction

The United Kingdom is made up of 4 countries: England, Northern Ireland, Scotland and Wales. It has a long history as a major player in international affairs and fulfils an important role in the EU, UN and Nato. According to the 2011 census, the total population of the United Kingdom was around 63,182,000<sup>37</sup> of whom 31.029m were men and 32.153m women<sup>38</sup>. It is the third-largest in the European Union (behind Germany and France) and the 22nd-largest in the world.

The United Kingdom is a sovereign state located off the north-western coast of continental Europe. With a total area of approximately 243,610 square kilometres (94,060 square miles), the UK occupies the major part of the British Isles archipelago and includes the island of Great Britain, the north-eastern one-sixth of the island of Ireland and many smaller surrounding islands.<sup>39</sup> The mainland areas lie between latitudes 49°N and 59°N (the Shetland Islands reach to nearly 61°N), and longitudes 8°W to 2°E. The Royal Greenwich Observatory, in South East London, is the defining point of the Prime Meridian.

The United Kingdom's assumed high literacy rate (99% at age 15 and above)<sup>40</sup> is attributable to universal public education introduced for the primary level in 1870 (Scotland 1872, free 1890<sup>41</sup>) and secondary level in 1900. Parents are obliged to have their children educated from the ages of 5 to 16 (with legislation passed to raise this to 18), and can continue education free of charge in the form of A-Levels, vocational training or apprenticeship to age 18. About 40% of British students go on to post-secondary education (18+). The Church of England and the Church of Scotland function as the national churches in their respective countries, but all the major religions found in the world are represented in the United Kingdom.

The UK's population is predominantly White British. Being located close to continental Europe, the countries that formed the United Kingdom were subject to many invasions and migrations, especially from Scandinavia and the continent, including Roman occupation for

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<sup>37</sup> "2011 Census: Population Estimates for the United Kingdom" (PDF). Office for National Statistics. 27 March 2011. Retrieved 18 December 2012.

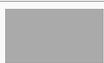
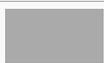
<sup>38</sup> Table 1 2011 Census: Usual resident population by five-year age group and sex, United Kingdom and constituent countries, Accessed 20 December 2012

<sup>39</sup> Oxford English Dictionary: "British Isles: a geographical term for the islands comprising Great Britain and Ireland with all their offshore islands including the Isle of Man and the Channel Islands."

<sup>40</sup> UK Literacy Rate 2003 [CIA] World Book, Retrieved 17 June 2013

<sup>41</sup> Education (Scotland) Act 1872

several centuries. Historically, British people were thought to be descended mainly from the different ethnic stocks that settled there before the 11th century: pre-Celtic, Celtic, Anglo-Saxon, Viking and Norman. Although Celtic languages are partially spoken in Scotland, Cornwall, and Northern Ireland, the predominant language overall is English. In North and West Wales, Welsh is widely spoken as a first language, but much less so in the South East of the country, where English is the predominant language. Based on the 2011 census the population of England was 53.012m (84% of the UK), Scotland was estimated at 5.295m (8.4%), Wales was 3.063m (4.8%) and Northern Ireland 1.811m (2.9%).

<b>Part</b>	<b>Population (2011)</b>	<b>Percentage (2011)</b>		<b>Area<sup>42</sup></b>	<b>Population density</b>
England	53,012,456	83.9		130,427 km <sup>2</sup>	406/km <sup>2</sup>
Northern Ireland	1,810,863	2.9		13,843 km <sup>2</sup>	130/km <sup>2</sup>
Scotland	5,295,000	8.4		78,772 km <sup>2</sup>	67/km <sup>2</sup>
United Kingdom	63,181,775	100		243,820 km <sup>2</sup>	259/km <sup>2</sup>
Wales	3,063,456	4.8		20,778 km <sup>2</sup>	147/km <sup>2</sup>

The key features of the age distribution profile for the UK population, as measured in the 2011 Census, were summarised in December 2012 by the Office for National Statistics in terms of peaks and wide bands of the pyramid reflecting high numbers of births in previous years particularly for people aged 60–64 born following the Second World War and those aged 40–49, born during the 1960s baby boom. There is a smaller number of children aged five to nine years than ten years ago which is a consequence of low numbers of births at the beginning of the 21st century, and the broadening of the pyramid in the 0–4 years category is due to a higher numbers of births in recent years. At higher ages, females outnumber males, reflecting the

<sup>42</sup> Geography of the United Kingdom Area

higher life expectancy of females. At lower ages there are more males than females, reflecting that there are slightly more boys than girls born each year.<sup>43</sup>

In the UK, the Prime Minister leads the government with the support of the Cabinet and ministers. The Prime Minister is head of the UK government. He is ultimately responsible for all policy and decisions. He oversees the operation of the Civil Service and government agencies, appoints members of the government and is the principal government figure in the House of Commons

The Prime Minister is David Cameron and he is based at Number 10 Downing Street in London.<sup>45</sup> Prime Minister David Cameron of the centre-right Conservative Party, headed first a coalition with the Liberal Democrats then a majority Conservative government. Scotland, Wales and Northern Ireland have varying degrees of political autonomy.

The Cabinet is made up of the senior members of government. Every week during Parliament, members of the Cabinet (Secretaries of State from all departments and some other ministers) meet to discuss the most important issues for the government.

Ministers are chosen by the Prime Minister from the members of the House of Commons and House of Lords. They are responsible for the actions, successes and failures of their departments.

Laws go through several stages before they are passed by Parliament. The House of Commons and the House of Lords work together to make them.<sup>46</sup>

They can include:

#### 1. Acts of Parliament

These are bills which have been approved by the Commons, the Lords, and The Queen. The relevant government department is responsible for putting the act into practice.

#### 2. Draft legislation

White papers outline proposals for new laws. Green papers ask for public comments before the white paper is published.

#### 3. Bills

Bills are proposals for new laws or changes to existing ones. Once agreed by Parliament, they have to be approved by The Queen before becoming law.

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<sup>43</sup> 2011 Census: Population Estimates for the United Kingdom, 27 March 2011, Accessed 21 December 2012

<sup>44</sup> Structure of Population by Age Bluenomics

<sup>45</sup> <https://www.gov.uk/government/how-government-works#who-runs-government>

<sup>46</sup> [www.legislation.gov.uk](http://www.legislation.gov.uk)

## 1. Crime in the UK

Crime in the United Kingdom describes acts of violent and non-violent crime that take place within the United Kingdom. Courts and police systems are separated into three sections, based on the different judicial systems of England and Wales, Scotland, and Northern Ireland.

Responsibility for crime in England and Wales is split between the Home Office, the government department responsible for reducing and preventing crime,<sup>47</sup> along with law enforcement in the United Kingdom; and the Ministry of Justice, which runs the Justice system, including its courts and prisons.<sup>48</sup> In Scotland, this responsibility falls on the Crown Office and Procurator Fiscal Service, which acts as the sole public prosecutor in Scotland, and is therefore responsible for the prosecution of crime in Scotland.<sup>49</sup>

Consistent with EU trends,<sup>50</sup> the Crime Survey for England and Wales 2011/2012 figures<sup>51</sup> show that crime in the UK is currently at its lowest level in 30 years, having decreased dramatically from its peak in 1995. For example, 4.2 million violent crimes were counted in 1995 compared to 1.94 million in 2011/2012.

Total all Crimes in England and Wales: last 2 months<sup>52</sup>

<b>Crime</b>	<b>May 2015</b>	<b>Jun 2015</b>
Anti-Social Behaviour	166,041	174,693
Robbery	4,286	4,028
Burglary	33,064	32,319
Vehicle Crime	30,927	30,479

Latest figures from the Crime Survey for England and Wales (CSEW) published by the Office for National Statistics (ONS) showed that, for the offences it covers, there were an estimated 6.8 million incidents of crime against households and resident adults (aged 16 and over). This is a 7% decrease compared with the previous year's survey, and the lowest estimate since the CSEW began in 1981.

The decrease in all CSEW crime was driven by a reduction in the all theft offences category (down 8%). Within this group there were falls in the sub-categories of theft from the

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<sup>47</sup> "Crime and Victims". [homeoffice.gov.uk](http://homeoffice.gov.uk). The Home Office. Retrieved 24 January 2010.

<sup>48</sup> "About Us". Ministry for Justice. 2009. Retrieved 24 January 2010.

<sup>49</sup> "Guide to the Crown Office and Procurator Fiscal Service". Crown Office and Procurator Fiscal Service. 2008. Retrieved 24 January 2010.

<sup>50</sup> "Crime trends in detail". The European Commission. Retrieved 4 March 2013.

<sup>51</sup> "Crime in England and Wales, year" (PDF). Office for National Statistics. Retrieved 4 March 2013.

<sup>52</sup> [www.ukcrimestats.com/](http://www.ukcrimestats.com/)

person (down 21%) and other theft of personal property (down 22%). However, there was no significant change in other sub-categories such as domestic burglary and vehicle-related theft.

In contrast to the CSEW, there was a 3% increase in police recorded crime compared with the previous year, with 3.8 million offences recorded in the year ending March 2015.

The rise in the police figures was driven by increases in violence against the person offences (up by 23% compared with the previous year). However, this increase is thought to reflect changes in recording practices rather than a rise in violent crime. The CSEW estimate for violent crime showed no change compared with the previous year's survey, following decreases over the past 4 years.

Offences involving knives and sharp instruments increased by 2% in the year ending March 2015. This small rise masked more significant changes at offence level with an increase in assaults (up 13%, from 11,911 to 13,488) and a decrease in robberies (down 14%, from 11,927 to 10,270). In addition, the related category of weapon possession offences also rose by 10% (from 9,050 to 9,951). Such serious offences are not thought to be prone to changes in recording practice.

Sexual offences recorded by the police rose by 37% with the numbers of rapes (29,265) and other sexual offences (58,954) being at the highest level since the introduction of the National Crime Recording Standard in 2002/03. As well as improvements in recording, this is also thought to reflect a greater willingness of victims to come forward to report such crimes. In contrast, the latest estimate from the CSEW showed no significant change in the proportion of adults aged 16-59 who reported being a victim of a sexual assault (including attempted assaults) in the last year (1.7%).

While other acquisitive crimes recorded by the police continued to decline there was an increase in the volume of fraud offences recorded by Action Fraud (up 9%) largely driven by increases in non-investment fraud (up 15%) – a category which includes frauds related to online shopping and computer software services. This is the first time a year-on-year comparison can be made on a like for like basis. It is difficult to know whether this means actual levels of fraud rose or simply that a greater proportion of victims reported to Action Fraud. However, other sources also show year on year increases, including data supplied to the National Fraud Investigation Bureau from industry sources (up 17%).<sup>53</sup>

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<sup>53</sup> <http://www.ons.gov.uk/ons/rel/crime-stats/crime-statistics/year-ending-march-2015/stb-crime-march-2015.html>

- **A brief history of the development of the criminal justice system in the UK**

The criminal justice system in England and Wales aims to "reduce crime by bringing more offences to justice, and to raise public confidence that the system is fair and will deliver for the law-abiding citizen."<sup>54</sup>

The Criminal Justice System (CPS) works in partnership with the police, courts, the Home Office, the Ministry of Justice and other agencies throughout the Criminal Justice System.<sup>55</sup>

#### The Law Officers

The Attorney General fulfils the role of chief legal adviser to the government and superintends the principal prosecuting authorities within England and Wales. These are the Crown Prosecution Service and the Serious Fraud Office. The Attorney General also has overall responsibility for the Treasury Solicitor's Department, the National Fraud Authority and Her Majesty's Crown Prosecution Service Inspectorate, and fulfils a number of independent public interest functions. The Attorney General for England and Wales also holds the office of Advocate General for Northern Ireland.

#### The Ministry of Justice

The Ministry of Justice has responsibility for different parts of the justice system – the courts, prisons, probation services and attendance centres. Its work spans criminal, civil and family justice, democracy, rights and the constitution.

#### The Home Office

The Home Office is the lead government department for immigration and passports, drugs policy, crime, counter-terrorism and police.

#### The Serious Fraud Office

The Serious Fraud Office prosecutes serious or complex fraud, and corruption.

#### The Courts

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<sup>54</sup> "Criminal Justice - Aims and Objectives". Scottish Executive Consultations.

<sup>55</sup> <https://www.cps.gov.uk/about/cjs.html>

Provide administration of the civil, family and criminal courts in England and Wales. Advocates representing the CPS prosecute the majority of the criminal cases that are heard within the magistrates' courts and the Crown Courts. Magistrates' courts deal with the less serious criminal offences. Youth courts are special magistrates' courts which deal with all but the most serious charges against people aged between 10 (the age of criminal responsibility) and under 18. Crown Courts deal with the most serious offences, which are triable by judge and jury.

The Police:

There are 43 police forces across England and Wales responsible for the investigation of crime, collection of evidence and the arrest or detention of suspected offenders. Once a suspect is held, in minor cases the police decide whether to caution them, take no further action, issue a fixed penalty notice or refer to the CPS for a conditional caution, or in the more serious cases, send the papers to the CPS to decide upon prosecution.

The National Offender Management Service (NOMS):

The National Offender Management Service provides administration of correctional services in England and Wales through Her Majesty's Prison Service and the Probation Service. Prison and probation services ensure the sentences of the courts are properly carried out and work with offenders to tackle the causes of their offending behaviour

Her Majesty's Crown Prosecution Service Inspectorate (HMCPSI):

HMCPSI is an independent organisation that inspects and reports on the operations of The Crown Prosecution Service.

## 2. The Youth Justice System in the UK

- **A brief introduction of the juvenile justice system and juvenile delinquency in the country**

The aim of The Youth Justice System (YJS) in England and Wales is to prevent children aged under 18 from offending and re-offending and is designed to address the needs of young people. The system itself is smaller than the adult system. The Youth Justice Board (YJB) is a non-departmental public body which was created by the Crime and Disorder Act of 1998. The

board is sponsored by the Ministry of Justice and members of the board are appointed by the Secretary of State for Justice. The YJB also co-ordinates, advises and influences across the youth justice system in order to support the needs of young people to have successful and crime-free lives. It furthermore seeks to protect the public and provide victims with the support they need. The Youth Justice System in England and Wales comprises of a network of organisations that work together to support young people and it consists of:

- 161 Youth Offending Teams (YOTs),
  - the police and the Crown Prosecution Service,
  - the courts and the judiciary and,
  - secure accommodation providers – under-18 young offender institutions (under-18 YOIs), secure training centres (STCs) and secure children’s homes (SCHs)<sup>56</sup>
- Minimum age of criminal responsibility**

The age of criminal responsibility is the point where a child enters the criminal justice system and can be legally prosecuted for a proven offence. In England and Wales the minimum age of criminal responsibility is set to 10. Children under 10 cannot be arrested. Young people between the ages of 10 and 17 can be arrested and taken into court. However, they are treated differently than adult offenders as they are dealt with by youth courts, they are given different sentences and they are not sent to adult prisons but special secure centres. By law, people over 18 are treated as adults however, if they are not over 25, they are sent to a place that holds 18-25 year olds, and not to a full adult prison.<sup>57</sup>

**• Statistics on children as victims and offenders of crime**

There has been a continuous reduction in the number of first time entrants to the youth justice system.<sup>58,59</sup> In the 12 months ending December 2014, there were 21,016 first-time

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<sup>56</sup> Youth Justice Board, 2013a

<sup>57</sup> Youth Justice Board, 2013a; Youth Justice Board, 2014

<sup>58</sup> First-time entrants to the criminal justice system are classified as young people aged 10 to 17 years, resident in England and Wales, who received their first Youth Caution (formerly Reprimands or Warnings) or conviction, based on data recorded by the police on the Police National Computer.

<sup>59</sup> See Criminal Justice Statistics for the year to December 2014, available online at: [www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterlydecember-2014](http://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterlydecember-2014).

entrants, a fall of 11% when compared with the 12-month period ending December 2013. The number of first-time entrants has fallen by 81% since its peak level in the 12 months to December 2006; and by 78% since the 12 months to December 2004.

The rate of first-time entrants per 100,000 population<sup>60</sup> has fallen by 10% from 450 to 405 over the last 12 months. The reduction in the number of first time entrants since the peak in the year to December 2006 reflects both the decrease in the number of young people being issued with a Youth Caution<sup>61</sup> (Reprimand or Warning, prior to 8 April 2013) and the decrease in the number of young people found guilty in all courts. Work by youth offending teams (YOTs) and other partner's – including targeted youth crime prevention schemes and diversion of young people away from the youth justice system through measures such as restorative justice disposals and Triage schemes – is likely to have contributed to this fall in the number of first-time entrants.

In March 2015, the number of young people under the age of 18 in custody was 1,004,<sup>62</sup> down by 13.2% when compared with the number in March 2014 and by 68.6% since the peak custody figure of 3,200 in October 2002. The fall in the number of young people entering the youth justice system will have contributed to this. In addition, the Youth Rehabilitation Order, introduced in November 2009, offers more flexibility around the interventions given to young people as part of a community sentence.

The following areas of YJB work are also likely to have resulted in more young people being diverted from custody:

- focused efforts to raise awareness of different custody rates between local authority areas
- targeted work with YOTs with high levels of custody

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This is the most recent data for the 2014/15 period. Please also see the Youth Justice Statistics 2013/14, available at: [www.gov.uk/government/statistics/youth-justice-annual-statistics-2013-to-2014](http://www.gov.uk/government/statistics/youth-justice-annual-statistics-2013-to-2014).

<sup>60</sup> Population has been based on mid-year population estimates for each age group supplied by the Office for National Statistics. The previous year's estimate has been used for calculating the rate in the subsequent year. For example, the 2003 mid-year estimate has been used for calculating the rate for 2004.

<sup>61</sup> Under the provisions of the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012, Reprimands and Final Warnings have been repealed and replaced by a new out-of-court disposals framework, which offers Youth Cautions and Youth Conditional Cautions as formal disposals. This change took effect on 8 April 2013.

Guidance on out-of-court disposals is available at: [www.gov.uk/government/publications/use-out-of-court-disposals](http://www.gov.uk/government/publications/use-out-of-court-disposals)

<sup>62</sup> See Monthly Data and Analysis Custody Report, January 2015 at: [www.gov.uk/government/publications/youth-custody-data](http://www.gov.uk/government/publications/youth-custody-data). These figures are provisional, and the 2014/15 figures will be finalised in the 2014/15 Youth Justice Statistics.

- development work associated with legislation to transfer the cost of secure remands to local authorities.

The number of custodial disposals per thousand 10 to 17-year-olds (population) was 0.53 in 2013/14. This represents a 14.0% decrease compared with 2012/13, and a 35.6% decrease compared with 2010/11.<sup>63</sup>

In 2013/14 there were 45,893 defendants (aged 10-17) proceeded against in the courts. Of these 33,902 were sentenced for their offences. Those who were not sentenced may have been found not guilty or had the case against them dropped. Of those that were sentenced:

- 9,001 young people were sentenced to first tier (sentences, including fines and discharges);
- A further 22,675 young people were sentenced to community sentences, including youth rehabilitation orders.
- A small number of young people were sentenced to immediate custody (2,226) accounting for 6.6 per cent of all young people with sentences. The average custodial sentence given for indictable only offences was 14.5 months. The most common type of custodial sentence given was a Detention and Training Order (DTO), where half the time is typically served in custody and the remainder in the community on licence and under YOT supervision.<sup>64</sup>

With regards to children as victims of crime, a report entitled “Suffering in Silence: Children and Unreported Crime” (9<sup>th</sup> December 2014) was compiled by the UK charity Victim Support, who provides the secretariat to the All Party Parliamentary Group (APPG) for Victims and Witnesses of Crime, in partnership with the University of Bedfordshire. The Inquiry was commissioned in response to findings from the most recent Crime Survey for England and Wales which indicates that less than one-fifth of children and young people who experience theft or violent crime report this to the police.

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<sup>63</sup> Details of Youth Crime statistics taken from: The Youth Justice Board Annual Report and Accounts for 2014/2015 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/444772/yjb-annual-report-\\_2014-15.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/444772/yjb-annual-report-_2014-15.pdf)

<sup>64</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/399379/youth-justice-annual-stats-13-14.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/399379/youth-justice-annual-stats-13-14.pdf)

Findings include the fact that children and young people experience much higher rates of crime than police data suggests.<sup>65</sup>

- Research shows significant levels of crime and victimisation amongst children and young people. Approximately one-third of 11–17 year olds, for example, report experiencing physical violence within the last year. One-quarter of 11–24 year olds say they experienced some form of abuse or neglect during childhood.<sup>66</sup>
- Evidence indicates that children and young people are at higher risk than adults of experiencing certain forms of crime. Females aged 16 to 19 years, for example, are the age group at highest risk of being a victim of a sexual offence<sup>67</sup>
- Existing vulnerabilities, such as a long-standing illness or disability, appear to significantly compound children and young people’s vulnerability to crime.
- The majority of crimes against children and young people are not reported to the police. Only 13% of violent offences and 15% of thefts are reported by young victims<sup>68</sup>. Similarly, retrospective accounts of childhood sexual abuse show only 5–13% of victims reported this to an adult at the time.
- Whilst existing data offers pertinent insights, determining accurate prevalence levels of children and young people’s victimisation remains challenging due to variable approaches to collecting and categorising data.

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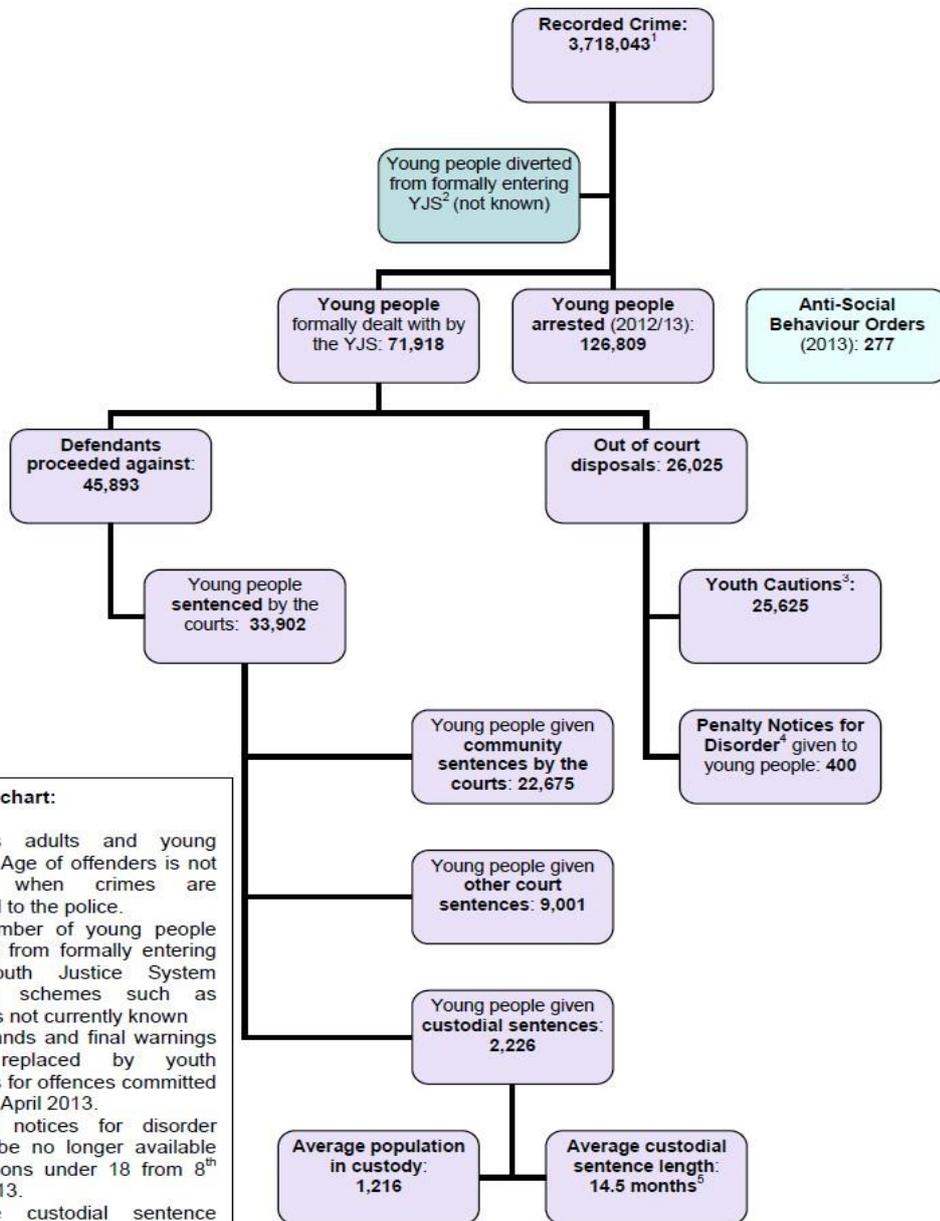
<sup>65</sup>[https://www.victimsupport.org.uk/sites/default/files/Hidden%20Victimisation%20of%20Children\\_low%20res.pdf](https://www.victimsupport.org.uk/sites/default/files/Hidden%20Victimisation%20of%20Children_low%20res.pdf)

<sup>66</sup> Radford, L, Corral, S, Bradley, C, Fisher, H, Bassett, C, Howatt, N and Collishaw, S (2011) Child abuse and neglect in the UK today London: NSPCC

<sup>67</sup> Ministry of Justice, Home Office and ONS (2013) An overview of sexual offending in England and Wales. Statistics bulletin [available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/214970/sexual-offending-overview-jan-2013.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/214970/sexual-offending-overview-jan-2013.pdf)]

<sup>68</sup> ONS (2014a) Chapter 3: Experiences of crime among 10 to 15 year olds [available at: [http://www.ons.gov.uk/ons/dcp171776\\_365203.pdf](http://www.ons.gov.uk/ons/dcp171776_365203.pdf)]

## Flows through the Youth Justice System, 2013/14



### Notes on flow chart:

1. Includes adults and young people. Age of offenders is not known when crimes are reported to the police.
2. The number of young people diverted from formally entering the Youth Justice System through schemes such as Triage is not currently known
3. Reprimands and final warnings were replaced by youth cautions for offences committed from 8<sup>th</sup> April 2013.
4. Penalty notices for disorder should be no longer available for persons under 18 from 8<sup>th</sup> April 2013.
5. Average custodial sentence length is for indictable offences only.

Source: Youth Justice Statistics 2013/2014. Youth Justice Board/Ministry of Justice. Published 29<sup>th</sup> January 2015

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/399379/youth-justice-annual-stats-13-14.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/399379/youth-justice-annual-stats-13-14.pdf)

- **Juvenile justice system in the country, institutions, how the system works, etc**

The Youth Justice Board oversee the youth justice system in England and Wales. They work to prevent children and young people under 18 from offending or re-offending and ensure custody is safe and secure, and addresses the causes of their offending behaviour.

The YJB are an organisation of around 230 people. Their headquarters are in London, and they have regional offices throughout England and Wales. Within England and Wales, the YJB is responsible for:

- overseeing youth justice services
- the placing of children and young people remanded or sentenced to custody
- advising the Secretary of State for Justice on the operation of, and standards for, the youth justice system
- providing a 'secure estate' for children and young people, with young offender institutions, secure training centres and secure children's homes
- making grants to local authorities or other bodies for the development of plans that support our targets
- commissioning and publishing research on preventing youth offending

From 2014 to 2015, the YJB's priorities will be to:

- reduce reoffending by young people
- support the Transforming Youth Custody programme

There are a number of National Standards set by the Secretary of State by which organisations providing youth justice services must comply.<sup>69</sup>

National Standards in Youth Justice must define the minimum required level of service provision consistent with ensuring:

- delivery of effective practice in youth justice services

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<sup>69</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/296274/national-standards-youth-justice-services.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/296274/national-standards-youth-justice-services.pdf)

- safeguarding of children and young people who come into contact with youth justice services
- protection of the public from the harmful activities of children and young people who offend.

In defining these standards the Secretary of State also requires that:

- where possible and appropriate, youth justice services are afforded the maximum freedom and flexibility to adapt their practice to local context
- the public have confidence that children and young people subject to statutory supervision by youth justice services are fairly punished and are supported to reform their lives.

**The first response is to see whether the young people can be diverted into services which are accountable and can meet their needs. This is called the first tier and consists of Prevention and Early Intervention Services**

#### Family Support Services<sup>70</sup>

- The best way to protect children and young people from the factors which increase the risk of becoming involved in anti-social and offending behaviour is to secure access to the right support services capable of meeting their needs. These factors are not only associated with offending but also with vulnerability and exclusion, and if not addressed early have devastating implications for the individual, their families and the wider community.
- The Welsh Government funds and contributes to a number of initiatives designed to help individuals and families receive appropriate help at the earliest possible opportunity and stop families escalating towards crisis. For instance, Families First is designed to improve outcomes for families, particularly those living in poverty. It also promotes the development of new models of integrated working to deliver better support for families.
- Families First has been the driving force of our whole family approach by establishing a Team Around the Family (TAF) and Joint Assessment Family Framework in every Local Authority. Wales has become the sole UK nation to require all Local Authorities to operate a TAF model. This necessitates organisations working together to place

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<sup>70</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/374572/Youth\\_Justice\\_Strategy\\_English.PDF](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/374572/Youth_Justice_Strategy_English.PDF)

families at the centre of their planning and delivery, to support families to build resilience. Families First links and promotes access more widely to services and has strong liaison and partnership working arrangements in place with youth justice, Community Safety Partnerships and Probation-led services.

### **Tier 2 – Targeted YOT Prevention<sup>71</sup>**

There will be young people who risk falling into a ‘service gap’ because their needs are too complex for easy integration into universal services yet who have not met the threshold for statutory intervention. Left unidentified and unsupported these young people are more likely to become dis-engaged and disillusioned with mainstream services. It is in instances like these where targeted multi-agency prevention is appropriate. YOTs are the primary providers of services to identify and prevent children and young people from offending, however this work is often delivered in partnership with others from the voluntary and public sectors.

### **Tier 3 – Alternatives to Police Charging and Diversion<sup>72</sup>**

When a young person does offend for the first time or commits low-level offending there need to be effective ways of dealing with them in the community. At this point, prevention from entering the youth justice system is of the utmost importance as it can help to prevent future re-offending. At the point of arrest, Police-led alternatives to charging<sup>73</sup> exist as a mechanism for diverting children and young people away from the youth justice system and into mainstream services in order to get much needed support.

Often hidden or unidentified needs are only discovered when some children and young people have committed an offence, and come to the attention of the Police. For example, substance misuse or emotional and mental health issues or the fact many young people are also often victims themselves, having witnessed offending behaviour at home from parents or siblings, or being negatively influenced by their peers.

The Bureau and Triage models evolved to formalise the relationship between the Police and YOTs and improve consistency in decision making at the arrest stage. Both these initiatives have demonstrated positive results. In areas which have them, the reduction in first-time

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<sup>71</sup> Children and Young People First

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/374572/Youth\\_Justice\\_Strategy\\_English.PDF](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/374572/Youth_Justice_Strategy_English.PDF) page 13

<sup>72</sup> As above page 14

<sup>73</sup> The approach is an alternative to police charging, and provides opportunities for those directly affected by an offence to communicate and agree how to deal with the offence and its consequences. The young person has the opportunity to apologise for their crime and understand the impact this has had on the victim.

entrants has been accelerated and the rate of reoffending among those entering the early stages of the youth justice system has reduced. The benefits of the new out of court disposal framework will further reinforce the good practice which exists and ensure outcomes are proportionate to the crime committed as well as being effective in reducing the risk of further offending.

An important feature of initiatives such as the Bureau and Triage and the way they work in the new out of court disposal framework is the focus on utilising a Police-led restorative approach to low-level offending. Restorative Justice is an approach which focuses on the needs of victims and those who have committed crime, as well as the wider community. If done successfully it allows the individual to make amends and repair the harm caused by criminal behaviour without suffering the long term stigma and economic exclusion associated with a criminal record.

The main goal in the UK, whenever is possible, is to divert the young offenders from formally entering into the youth justice system. Out-of-court disposals allow the police to deal quickly and proportionately with low-level, often first-time offending which does not merit prosecution at court.

This allows the police to spend more time on frontline duties and tackling serious crime. It is important that out-of-court disposals are used appropriately and that their use is understood by practitioners and the following is a set of revised and strengthened guidance to support this. The proper use of out-of-court disposals has also been the subject of recent publicity<sup>74</sup>.

The following disposals which are available to the police and Crown Prosecution Service (CPS) in the case of young offenders:

**Community Resolutions:** can be used for adults or youths and are a non- statutory disposal. A Community Resolution is a way of dealing with an offender which is proportionate to lower level crime (e.g. trivial thefts, public disorder, and vandalism). Instead of the offence being handled by the justice system, a Community Resolution is issued by the police officer. It is an alternative to a Reprimand, which is the regular legal consequence imposed on young offenders. They can be offered when the offender admits an offence, in most cases where the victim has agreed that they do not want more formal action taken. By encouraging offenders to face up to the impact of their behaviour and take responsibility for making good any harm caused, a Community Resolutions can reduce the likelihood of reoffending. Receiving advice about their behaviour, verbal and written apologies to the victim, reparation or financial

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<sup>74</sup> <http://www.publications.parliament.uk/pa/cm201213/cmselect/cmjust/339/339.pdf> page 20

compensation are all part of community resolutions.<sup>75</sup> A community resolution can be delivered with restorative techniques where appropriate. This can significantly reduce the change of reoffending by encouraging offenders to face up the impact of their behaviour and to take responsibility for making good the harm caused.

**Youth Caution<sup>76</sup>** - A Youth Caution may be given by the police for any offence where the child or young person makes a full admission, there is sufficient evidence for a realistic prospect of conviction but it is not in the public interest to prosecute. Youth Cautions aim to provide a proportionate and effective resolution to offending and support the principle statutory aim of the youth justice system of preventing offending by children and young people.

For a first Youth Caution the police can decide to give a Youth Caution before referring the child or young person to you, although they must notify you that a Youth Caution has been given. Voluntary conditions may then be added, to engage the young person with support to reduce the likelihood of re-offending.

For any second or subsequent Youth Caution the police must refer the child or young person to you for an assessment, which will inform a joint decision between the Police and yourselves that decides on the most appropriate course of action.

The interventions attached to a Youth Caution are not conditional and there is no separate penalty for failing to comply with them, however failing to comply with this intervention can be cited in any future criminal proceedings.

Children and young people must be accompanied by an Appropriate Adult, whenever possible a parent or carer, when the Youth Caution or Youth Conditional Caution is administered. If the child or young person is in the care of the local authority, a representative of the organisation providing the care should attend as Appropriate Adult, and a social worker from the local authority is a suitable alternative.

Children, young people and their parents/carers or other Appropriate Adults should have access to information about the options available, including Youth Cautions, so that they can make an informed decision before the question as to whether they admit the offence is put to them. For instance they should be aware that the explicit consent of the recipient is not required to give a Youth Caution.

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<sup>75</sup> <https://www.gov.uk/government/publications/use-out-of-court-disposals/use-out-of-court-disposals-section-1-case-management-guidance>

<sup>76</sup> <https://www.gov.uk/government/publications/use-out-of-court-disposals/use-out-of-court-disposals-section-1-case-management-guidance>

Under no circumstances should anyone suggest that a child or young person should admit to an offence to guarantee receiving a Youth Caution.

You should also explain the status of Youth Cautions, including:

- that a record of the Youth Caution will be kept by the police
- that under the Rehabilitation of Offenders Act 1974 the Youth Caution will be considered “spent” immediately but that it may be disclosed to employers in certain circumstances
- that it can be cited in criminal proceedings
- that a Youth Caution given in relation to an offence in Schedule 3 to the Sexual Offences Act 2003 will require the child or young person to comply with the notification requirements in that Act
  
- **Youth Conditional Caution** - The eligibility criteria for a Youth Conditional Caution is the same as for a Youth Caution, with a full admission of guilt being required. In the case of Youth Conditional Cautions however, the young person and the police should agree on a compulsory assessment and package of interventions necessary to prevent risk of re-offending. The child or young person must agree to accept both the Youth Conditional Caution and the conditions attached. The police will not agree conditions which are to be delivered by you without prior agreement.
- The police will inform the parent/carer within one working day of arrest, of any child or young person being considered for a Youth Conditional Caution.

## **Youth Offending Teams**

Section 39 (1) of the Crime and Disorder Act 1998 states that a co-operation of statutory partners is needed to form a YOT appropriate to their area. Section 38 (1.2) identifies the partners namely as: the local authority, the police, the probation service, and health. Additional partners can be recruited to support the YOTs. More than one team can be existent in each area, or one team can cover a number of local authorities. The Act does not describe how services have to be delivered but sets out two principal statutory functions of YOTs, namely to “co-ordinate the provision of youth justice services for all those in the authority’s area who need

them and to carry out such functions assigned in the youth justice plan formulated by the local authority”<sup>77</sup>

Youth offending teams work with young people that get into trouble with the law. They look into the background of a young person and try to help them stay away from crime.<sup>78</sup> They also:

- run local crime prevention programmes
- help young people at the police station if they’re arrested
- help young people and their families at court
- supervise young people serving a community sentence
- stay in touch with a young person if they’re sentenced to custody
- Find your local youth offending team.

When you may come into contact with a youth offending team. The youth offending team gets involved if a young person:

- gets into trouble with the police or is arrested
- is charged with a crime and has to go to court
- is convicted of a crime and given a sentence
- Usually, the police are the first people to contact the youth offending team. But family members and friends can also contact them if they’re worried about a young person’s behaviour.

Youth offending teams are part of your local council and are separate from the police and the courts. They work with:

- the police
- probation officers
- health, housing and children’s services
- schools and education authorities
- charities and the local community

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<sup>77</sup> Youth Justice Board, 2013, p. 7

<sup>78</sup> <https://www.gov.uk/youth-offending-team>

- **Rehabilitation system and institutions for juvenile offenders and victims (their history, when they were established, their functions and roles in the jj system, areas of expertise)**

Young people are offenders under the age of 18, or in some cases aged 18 but remaining in the under 18 estate, and will be held in either a Secure Children’s Home (SCH), a Secure Training Centre (STC) or a Young Offender Institution (YOI). The Youth Justice Board is responsible for placing young people in custody and typically those aged under 15 will be held in an SCH and those over 15 will be held in either a YOI or STC. Only 17 year old female young people are normally placed in a YOI.

Young people can be sentenced to either a Detention and Training Order (DTO); imprisonment under section 90 or 91 of the Powers of Criminal Courts (Sentencing) Act 2000 or imprisonment under section 226 or 228 of the Criminal Justice Act 2003.

### **The Secure Estate within the Youth Justice System**

Youth Offender Institutes (YOIs) hold young people (between ages 15-21) and operate with many of the same rules as adult prisons. Young people are subject to YOI Rules whilst sentenced, but are subject to Prison Rules whilst on remand. The ratio of staff to young people in these institutions are generally lower than in Secure Training Centres (STCs) and Secure Children’s Homes (SCHs) and usually accommodate larger numbers of young offenders<sup>79</sup> There are currently 8 YOIs for male young people in England and Wales:

Location of YOIs in England and Wales for male youth offenders

<b>Youth Offending Institutes</b>	<b>Location</b>	<b>National Offender Management Service (NOMS) Region</b>
Ashfield*	Gloucestershire	N/A
Cookham Wood	Kent	Kent and Sussex
Feltham	Greater London	Greater London
Hindley	Greater Manchester	North West
Parc*	Wales	N/A
Warren Hill	Suffolk	East of England

<sup>79</sup> Youth Justice Board, 2008

Werrington	Staffordshire	West Midlands
Wetherby	West Yorkshire	Yorkshire and Humberside

Source: <https://www.justice.gov.uk/offenders/types-of-offender/juveniles>

There are 3 dedicated female youth offenders centers in England. These are:

<b>Establishment</b>	<b>Location</b>	<b>NOMS Region</b>
Downview (Josephine Butler Unit)	Surrey	Greater London
Eastwood Park (Mary Carpenter Unit)	Gloucestershire	South West
New Hall (Rivendell Unit)	West Yorkshire	Yorkshire and Humberside

Source: <https://www.justice.gov.uk/offenders/types-of-offender/juveniles>

### **Secure Children’s Homes (SCHs)**

SCHs are institutions which create a locked environment and restrict young people’s liberty. They provide care and accommodation for children who have been detained or sentenced by the YJB, who have been remanded to secure local authorities and who have been placed there on welfare grounds by local authority accommodation. Support is tailored to each person’s individual need, therefore the ratio of staff to young people is high and facilities are usually quite small. Currently there are 17 SCHs open in England and Wales<sup>80</sup>. Out of this, 7 provide welfare places only and the remainder provide both welfare and youth justice places. Placements for sentenced children are commissioned by the Youth Justice Board (YJB), whereas placements for children requiring detention on welfare grounds under Section 25 of the Children Act 1989 are commissioned by individual local authorities. Children under 12 who commit serious offences will always be sent to a secure children’s home; but for older children the Youth Justice Board will take account of their vulnerability, based on what is known about their mental health, emotional and cognitive development etc... Whilst there is a preference for placing children within travelling distance of their families – the geographical distribution of secure children’s home will often mean that this is not possible. Furthermore, some secure children’s homes have developed expertise in managing certain kinds of behaviour and these

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<sup>80</sup> Youth Justice Board, 2013

specialisms will also need to be taken into account in determining the most appropriate placement for an individual child<sup>81</sup>

### **Secure Training Centres (STCs)**

STCs are for children aged 12-18. There are currently 4 operating STCs in England which are all run by private operators on behalf of the Youth Justice Board. However, one STC will close in April 2015. These centres are purpose-built and the first one opened in 1999. They generally house 50 to 80 young people who are split into units of 5-8 people. Young people in STCs are given 30 hours of education and training a week, following a school day timetable.

The centres in the UK are the following:

1. Medway STC: Opened in April 1998 in Chatham, Kent and is operated by privately-run security company G4S. The centre expanded in 2002 to accommodate a total of 76 young men and young women.
2. Oakhill STC: Oakhill opened in August 2004, originally holding both young men and women. It now holds only young men with a capacity of up to 80. It is located in Milton Keynes and operated by G4S.
3. Rainsbrook STC: Rainsbrook is located near Rugby and is operated by G4S. It opened in July 1999 and was originally designed to accommodate 40 young men. In 2002 the centre expanded to accommodate a total of 76 young men and women. In October 2006, Rainsbrook STC opened Chadlington, a purpose-built mother and baby unit to care for detained young mothers and their babies, as well as those in the final stages of pregnancy<sup>82</sup>.

- **How do juveniles enter and exit from the juvenile justice system?**
- **When juveniles are directed to rehabilitation services?**

### **Youth Rehabilitation Order<sup>83</sup>**

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<sup>81</sup> Department for Education, 2014

<sup>82</sup> <http://www.justiceinspectorates.gov.uk/prisons/wp-content/uploads/sites/4/2014/03/hmip-children-young-people-in-custody-12-13-secure-training-centres.pdf>

<sup>83</sup> <http://www.inbrief.co.uk/court-judgements/youth-rehabilitation-order.htm>

A Youth Rehabilitation Order (YRO) is an order imposed by a Court which is able to be given to young people under the age of 18 years old when they are being sentenced for having committed a criminal offence. It will only apply to criminal offences committed by an individual under the age of 18 years old.

The purpose of the requirements of a Youth Rehabilitation Order are to help that young person think about the following factors:

- Their behaviour
- The harm offending can do the victim
- The harm offending can do to them and the other people involved
- Reparation or other work with the victim or victims
- A plan for the future and a plan on how they will deal with any problems of difficulties which they face
- How they will be supported to access certain services
- The maximum period of time for which a Youth Rehabilitation Order will last is three years.

A Youth Rehabilitation Order will usually contain one or more requirements which must be adhered to by that young offender. These requirements may include the requirement for the young person to meet with a worker from the Youth Offending Team or the young person may be required to comply with other activities examples of which are unpaid work, a curfew or specific conditions on where they can live.

The full list of requirements which can be imposed on a youth offender under a Youth Rehabilitation Order are as follows:

- Supervision
- Activity
- Programme
- Unpaid work
- Curfew
- Attendance centre
- Education
- Mental Health Treatment
- Residence
- Local Authority Residence
- Drug Treatment
- Drug Testing

- Prohibited Activity
- Exclusion
- Intensive Supervision and Surveillance

A Youth Rehabilitation Order will usually be made up of one or more of the above requirements. The number of times a youth offender will be required to be seen by a member of the youth offending team will depend on the level of risk they will be deemed to pose following their assessment under the scaled approach used by youth offending team workers.

For Youth Rehabilitation Orders which include a supervision, activity or programme requirement the Youth Offending Team Worker will work out a plan called a Youth Rehabilitation Order Plan. The main aspects of the plan will be concerned with how many sessions the youth offender must attend each month and for how long the sessions will continue for. Information concerning each separate requirements of the Youth Rehabilitation Order will also be provided for in the plan. The role of the Youth Offending Team Worker in this process will be to enable and help the young person to understand what it is they need to do. Furthermore the Youth Offending Team Worker will talk and collaborate with the other agencies which may be involved in monitoring aspects of the Youth Rehabilitation Order.

If a young person fails to cooperate with the requirements set out in the Youth Rehabilitation Order they will:

- Be asked to explain within 24 hours by telephone or letter the reason they have failed to comply with the requirements
- If the reason they give is deemed unacceptable they will be issued with a warning
- If the same individual receives three warnings they will have breached the Youth Rehabilitation Order and will be returned to court

Depending on the reasons for the breach and the Youth Offending Team Worker's recommendation and the level of risk of the individual the court can decide to amend or revoke the Youth Rehabilitation Order.

The Youth Rehabilitation Order will be a continually evolving process meaning that throughout the supervision the Youth Offending Team Worker will continually assess the individual's risk of re-offending and the risk of serious harm. Therefore if the risk increases the Youth Offending Team Worker can increase the number of monthly visits and if the risk decreases so can the number of monthly visits. If the young person is continually doing well and responding well to the requirements under the order then the Youth Offending Team Worker will be able to discuss early discharge of the order with the court. The Court will be unlikely to agree to the early discharge of the order unless the following can be shown:

- That the requirements have been completed
- That the individual has completed at least half of the order
- That the risk of re-offending and the risk of serious harm has reduced or is deemed to be low
- That the individual has followed all of the instructions which have been given by the Youth Offending Team Worker

- **How are the newcomers welcomed?**

The National Offender Management Service (NOMS), through the small number of establishments holding young people and the Young People's Team, supports the youth justice system by looking after young people in custody and working with youth justice partners to help prevent those young people from reoffending.

PSI 28/2009 provides guidelines and mandatory instructions to Governors of YOIs holding young people, so that they can operate regimes in accordance with their statutory requirements.

The YJB and NOMS provide custodial places for young people under a Service Level Agreement (SLA), which sets out the standards to be delivered in YOIs. The regimes in YOIs holding young people are designed to provide a safe and secure environment for young people, which take account of the responsibilities and child-centred approach reflected in the Children

Act 1989, the Children Act 2004 and the Apprenticeships, Skills, Children and Learning Act 2009.

## **Induction**

All young people undergo an initial assessment, which is designed to identify any urgent physical and mental healthcare, substance misuse and family issues. They will then be provided with a first night pack and offered the opportunity to make family or carer contact. For young women, this assessment will include identifying any childcare or pregnancy issues. After the initial induction, young people will be provided with more detailed information about the regime of the YOI and allocated a personal officer, who can be their first point of contact for any concerns.<sup>84</sup>

## **General procedures from accepting the juvenile to the release from the rehabilitation system/institution(s)?**

- **Any screening tests?**
- **Are there any screening tests at the welcome and further stages to direct the juvenile to more specialized programmes?**
- **Risk assessments?**

It is the responsibility of the secure estate staff to ensure that all young people are assessed as soon as possible on reception into custody by a registered nurse or doctor. Incomers are required to complete the Comprehensive Health Assessment Tool (CHAT), which examines mental health needs and substance abuse. The nurse or doctor must evidence that they have read the young person's youth justice assessment prior to undertaking the assessment. In case of need for withdrawal treatment, the young person must be referred to a specialist doctor or nurse and a drug or alcohol worker who might be based in the secure establishment or the community. There is an interview that has to take place after completing the CHAT that should be concluded within two hours after the arrival. The aim of this interview is to assess the young offender's needs and level of risk of harm to themselves or from others. Cell sharing assessments are also

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<sup>84</sup> <https://www.justice.gov.uk/offenders/types-of-offender/juveniles>

conducted in all relevant cases. A continual review of young people is necessary by using YJB approved assessment tools. All assessment and planning information must be recorded. Special focus should be given to managing risks associated with offending behaviour, risks to the young person, and harm to others.

## **Planning**

### *YOT (Youth Offending Team) practitioner AND secure estate staff responsibilities*

During the custodial period, several meetings are held to plan out a coordinated and holistic way for effective resettlement. First of all, there is an initial planning meeting where key people working together with the young person are brought together to discuss and approve the young person's plan. Before this meeting, in addition to the aforementioned assessments, a full educational assessment (e.g. literacy, numeracy levels, and learning difficulties) and a full substance misuse assessment have to be incorporated. This first initial planning meeting is organised by custodial staff and YOT practitioner and the people who must attend are the young person's parents. The goal of this meeting is to agree a plan which:

- is based on the available youth assessment information
- contains SMART targets which are linked to the identified needs and are reasonable to be completed during the custodial and community parts of the order
- is based on strengths in the young offender's life which takes into consideration the people who will be supporting his/her resettlement into the community
- plans out the review dates and appoints responsible staff who will deliver the plan. These reviews must take the individual circumstances into consideration including the young offender's needs, risks and sentence length.

The following types of review meetings are to be held:

- Sentence plan review meetings must be held at least in every 3 months within custody
- Release preparation meeting must be held one month before the end of the custodial period
- Final release preparation meeting must be two weeks before the end of the custodial period
- Post-release review must be held within the first month following the release from custody
- Includes actions which address resettlement/transfer issues in concert with identified resettlement needs and opportunities

- Contains progress towards suitability for the DTO (Detention and Training Order) early release scheme, home detention curfew, Release on Temporary Licence (ROTL), Parole, and release on licence

Moreover, it is the responsibility of the YOT practitioner AND the secure estate staff to make sure that the resettlement plan takes place from the beginning of the sentence covers arrangements for:

- Education, training and employment (e.g. contact with local careers advisory schemes)
- Offending behaviour work
- Suitable accommodation on release
- Health and mental health provision
- Support in dealing with finances, debts etc.
- Managing risk issues related to victims
- Managing risk of serious harm to others

The YOT and the secure estate staff must plan out together established routes to resolve disputes between YOT and staff regarding the programme of work being designed for the offender.

It is solely the responsibility of the YOT to gather relevant information from key sources external to the secure establishment to inform the initial planning meeting and to invite all relevant parties to the meeting (parents/carers, social worker etc.).

### **Administration and dissemination of the plan**

The YOT practitioner makes sure that the young person understands and signs a hard copy of their sentence plan and that the signed plan is distributed to all relevant parties within and external to the establishment as soon as is practical.

The Secure estate staff makes sure that after the initial planning meeting the plan is distributed to all relevant individuals or agencies.

### **Intervention and delivery**

The YOT practitioner is responsible for the effective implementation of the plan focusing on objectives and targets that will be carried out in the community and the young person's resettlement. The YOT practitioner also is the person who maintains contact with the young person and their parents/carers during the custodial part of the sentence. This level of contact

should not be less than every two months. If there is any change in the circumstances of the young offender the practitioner will be responsible for exchanging information between the relevant parties. If the secure estate identifies the child as being harmful to him/herself or others, the practitioner will attend the secure establishment led meeting to address risk management.

The secure estate staff is responsible for delivering the plan and where there is a risk of self-harm or causing serious harm to others the staff will convene an urgent risk planning. Where mobility/ROTL is being considered, the secure estate staff will carry out a full risk assessment in conjunction with the YOT case manager.

Placement Service staff must send a Placement Confirmation form to the YOT, sending establishment and receiving establishment in the case of all transfers.

**Release preparation** (the following sections do not apply to Civil Detention Orders, where there is no mandatory training element)

The YOT practitioner will organise, in collaboration with the secure establishment, a release preparation meeting.

The secure estate staff makes sure that the young offender's views on the resettlement arrangements are gathered and considered at the meeting. The staff will review progress against the agreed plan and resettlement arrangements.

### **Immediately prior to release**

The YOT practitioner organises, in collaboration with the secure establishment a final release review meeting.

During the final meeting, the practitioner makes sure that all final arrangements for release and resettlement are detailed in the relevant documentation, that these are fully understood by the young person, and that any relevant support is in place.

The secure estate staff ensures that the young person understands all the resettlement arrangements that are in place, including their responsibilities to comply with the terms of their post-release supervision.

The staff is responsible for preparing a Notice of Supervision or licence for staff in YOIs, at least 7 days prior to a young person's release from detention and forwarding the signed document to the Placement Service using a secure electronic means to do so whenever possible.

The placement service staff prepares the Notice of Supervision/Release Licence for young people who are accommodated in secure children's homes and STCs, and forward an electronic copy to the establishment for the young person to sign.

On receipt of the signed Notice of Supervision or Release Licence, forward this to:

- home YOT
- National Identification Service
- local police station where the young person will be released
- electronic monitoring provider.

### **Post-release supervision**

The YOT practitioner ensures that the child/ young person reports to the YOT case manager on the same day as their release to the community. They also chair a post- release review meeting to which all relevant parties are invited. They undertake a home visit (taking into account relevant health and safety considerations) within five working days of transfer, and following that, at least monthly. They provide the secure establishment from which the young person was discharged with any information necessary for them to complete their documentation in relation to the young person (for example, in England, an end of sentence report that incorporates their education, training and employment performance as laid down in Offender's Learning Journey).

Secure estate staff will attend the first post-release review meeting in the community arranged by the supervising YOT officer

- **Professionals working in the rehabilitation system/programmes**

Training in the Juvenile Staff Awareness Programme (JASP) is offered to all staff working in direct and regular contact with young people. JASP is a two part, seven day training programme, which provides staff with a comprehensive understanding of the issues that young people face in custody. JASP includes modules on safeguarding, mental health, and substance misuse and behaviour management.

The programme has been developed in consultation with the YJB, NOMS (Prison Service Women's Team and Juvenile Group), learning consultants and other key stakeholders in youth justice, such as the Trust for the Study of Adolescence. JASP is essential training for all staff working with children and young people in custody and will be delivered to those staff who work for more than 50% of their time with juveniles.

Establishment trainers have been selected by governors and training managers to deliver the JASP programme. Those selected will have attended a five-day ‘training for trainers’ event to equip them with the necessary skills to be able to deliver the package.<sup>85</sup>

- **Which professionals work in the rehabilitation system/programmes?**

An expert group from the Department for Education (DfE), compiled a census on the quality of children’s homes and the workforce that ran them. It then made recommendations for improvements in the homes.<sup>86</sup> Primarily, staff came from and left to work in other children’s homes (29% and 44% respectively) or they worked with young people in other settings in their previous (14%) and subsequent (40%) employment. Alongside the staff that work in the children’s homes are the external partners that are vital to meeting the needs of the young people. Effective partnership working between children’s home staff and the other professionals involved with the children (such as social workers and

Independent Reviewing Officers, Child and Adolescent Mental Health Services

(CAMHS), looked-after children nurses, education professionals, youth offending teams, police, voluntary sector workers etc...) is vital. This wider, multi-agency working can have a significant impact on children’s lives and wider cross-agency understanding of the role of residential care is important.<sup>87</sup>

In terms of recruitment, the Expert Group from the DfE also found that few staff started work in the sector with relevant qualifications and experience. This often made the recruitment process quite protracted as managers had to assess an applicant’s suitability for a job according to whether they had transferable skills and appropriate attributes to do the work.

In Children’s Homes the workforce were typically made up of:

- Registered Managers.
- Senior/Team Leaders.
- Senior Residential Workers.
- Residential Workers.

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<sup>85</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/217362/report-implement-review-restraint-juvenile-secure-settings.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/217362/report-implement-review-restraint-juvenile-secure-settings.pdf)

<sup>86</sup> DfE (2012) Reform of Children’s Residential Care, Report of the Expert Group on the Quality of children’s homes, presented to DfE Ministers – December 2012

<sup>87</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/391495/RR438\\_-\\_Training\\_and\\_developing\\_staff\\_in\\_children\\_s\\_homes.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/391495/RR438_-_Training_and_developing_staff_in_children_s_homes.pdf)

- External specialists and other practitioners who work alongside the core team in children's homes
- **General statistics on these professionals (age, sex, and other social-demographic characteristics of these professionals, the average number of personnel per a certain number of children in the programme, etc)**

Within the Youth Justice Centre, the gender ratios are: on average 59% male and 41% female workers.

Staff in Children's Homes in the UK worked between 37 and 39 hours per week.

### **Staff to children Ratio in Custody for Children**

#### 1. Secure children's homes

There are ten secure children's homes, all of which are run by local authorities. The focus of secure children's homes is on the welfare and rehabilitation of children. They range in size from six to 40 beds and have the highest staff to child ratio in the children's secure estate, ranging from one member of staff to two children to six staff to eight children. Secure children's homes are mixed and hold both boys and girls aged 10-17.

#### **Secure training centres**

There are four secure training centres holding boys and girls aged 12-17. The staff ratio in secure training centres ranges between two staff to five children and three staff to eight children. There is a mother and baby unit at Rainsbrook secure training centre with space for three girls and their babies.

Secure training centres are run by private companies Serco and Rebound (owned by G4S) for profit. They are very different to secure children's homes and have a reputation for the overuse of force on children, leading to the deaths of two 14 year old boys in 2004: Gareth Myatt, who died during a restraint, and Adam Rickwood, who died following a restraint, which the inquest found was one of the factors that led to his suicide.

In 2008 the Court of Appeal found that the use of restraint in secure training centres was in breach of the secure training centre rules and amounted to inhuman and degrading treatment. It criticised the Ministry of Justice's attempt to change the secure training centre rules

retrospectively to justify the use of force against children in circumstances that were not strictly necessary, such as forcing children to do what they were told.

### **Young offender institutions**

There are 12 prisons or parts of prisons in England and Wales holding children, nine for boys aged 15-17 and three for girls aged 17. Prisons holding children or young adults aged 18-20 are called young offender institutions.

10 children's young offender institutions are run by the Prison Service and two are privately run (Parc by G4S and Ashfield by Serco).

Six prisons (Ashfield, Cookham Wood, Hindley, Warren Hill, Werrington and Wetherby) are dedicated children's young offender institutions and only hold boys. At the remaining prisons children share a site with adult prisoners (Eastwood Park, Foston Hall and New Hall for girls and Feltham, Parc and Stoke Heath for boys). In these prisons children are supposed to be accommodated separately from adult prisoners but are held together in particular locations such as segregation and healthcare. The mixing of child and adult prisoners raises child protection issues and amounts to inhuman and degrading treatment.

Young offender institutions have the lowest staff to child ratio in the children's secure estate, from three to six staff to between 40 and 60 children on the wings. They are the biggest establishments and can hold hundreds of children each. HMYOI Hindley is the largest child prison in Europe. Young offender institutions are considered unsuitable for the most vulnerable children and are the cheapest and most basic form of child custody.<sup>88</sup>

- **What is their educational background? Is there a specific higher education programme for this particular job?**

To work in a Youth Offending Team, starting as a YOT Officer the requirements are qualifications and experience gained in a related area of work, such as:

- social work
- youth work
- probation
- police service

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<sup>88</sup> <http://www.howardleague.org/children0/>

Experience of doing paid or voluntary work with young people, for example mentoring is also required, and it would help to have some understanding of how the justice system works.

Opportunities for voluntary work inside the youth justice system could include working as an 'appropriate adult'. In this role, experience of supporting young people aged 17 or under (or people who are mentally vulnerable) who are in police custody would be expected.

Once working in the youth justice system (either paid or volunteering), staff may be encouraged to work towards one or more recognised qualifications that are part of the Youth Justice National Learning and Skills Framework.

These qualifications include:

- a series of short online courses
- Professional Certificate in Effective Practice (Youth Justice) – an Open University course for both new and experienced youth justice workers
- Foundation Degree in Youth Justice – an Open University course.

The National Minimum Standards (NMS) require care staff in Children's Homes to acquire a minimum Level 3 qualification and new staff (from April 2011) to attain the Level 3 Diploma in Children and Young People's Workforce, or work towards it within six months of starting work in a children's home. In 2013, revisions to the Children's Homes Regulations 2001 (as amended)<sup>89</sup> brought the qualification requirements into law and set a time limit of two years from starting work for completion of the Level 3 Diploma in Children and Young People's Workforce. The content of the Level 3 qualification is currently under review.<sup>90</sup>

The NMS expected registered managers to have a social work or other qualification relevant to working with children of at least Level 4, along with a qualification in management of at least Level 4 or the NVQ Level 4 Leadership and Management for Care Services. Those starting after January 2011 were expected to attain the Level 5 Diploma in Leadership for Health and Social Care and Children and Young People's Services. As with the Level 3, this requirement is law and managers should complete the Level 5 qualification within three years of starting their role. Proposals that new managers should obtain their required qualifications

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<sup>89</sup> The Children's Homes and Looked after Children (Miscellaneous Amendments) (England) Regulations 2013

<sup>90</sup> DfE proposed that the Level 3 should be less of a generic qualification and more specifically orientated to building skills for working in a children's home.

before taking on the role were rejected during a consultation process<sup>91</sup> on the grounds that managers need to complete the relevant training and qualifications while in the role. The existing qualifications are competence based and can only be completed while in a role.<sup>92</sup>

- **How they are selected/recruited?**

All staff recruited within Youth Custody will need to pass background checks by the Disclosure and Barring Service checks.

In January 2014, the Ministry of Justice published a paper entitled: Transforming Youth Custody: Government response to the consultations. In this paper was outlined the decision to improve the core skills and competencies of custodial staff by working with Skills for Justice with a view to developing a professional qualifications framework. All future recruitment campaigns for custodial YOI staff will require applicants to demonstrate their clear desire and commitment to working with young people as part of a rigorous assessment process. Current staff will be receiving further training, developed in conjunction with a wide range of organisations including Barnardos, National Children's Bureau and the Department of Health, to enhance their understanding of child protection and safeguarding, adolescent development, emotional and mental wellbeing, and speech, language and communication issues. This training is mapped to a number of relevant National Occupational Standards in working with young people, including those for youth justice.<sup>93</sup>

- **Average benefits, salary, social security, and other work related matters in comparison with other professions?**

For staff starting out in Youth Offending Teams as officers, full-time salaries are between £20,000 and £29,000 a year.

Youth offending team officers on temporary contracts can earn between £14 and £20 an hour. Senior officers could earn up to £24 an hour.

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<sup>91</sup> Consultation on reforming children's homes care: consultation on changes to The Children's Homes Regulations 2001 (as amended) and The Care Standards Act 2000 (Registration) (England) Regulations 2010 - Government Response

<sup>92</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/391495/RR438\\_-\\_Training\\_and\\_developing\\_staff\\_in\\_children\\_s\\_homes.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/391495/RR438_-_Training_and_developing_staff_in_children_s_homes.pdf)

<sup>93</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/273402/transforming-youth-custody-consultation-response.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/273402/transforming-youth-custody-consultation-response.pdf)

- **Is there a compulsory rotation system/work place change? (Assigning the professional to different locations or institutions)**

Not known.

- **Rights and responsibilities of the professionals**

Governors, managers, directors and principals of the following secure establishments are subject to the section 11 duties:

- a secure training centre;
- a young offender institution;
- secure children's homes, namely children's homes approved by the Secretary of State for accommodating children and young people who require the protection of a secure setting; and
- a secure college.

Each centre holding those aged under 18 should have in place an annually reviewed safeguarding children policy. The policy is designed to promote and safeguard the welfare of children and should cover all relevant operational areas as well as key supporting processes, which would include issues such as child protection, risk of harm, restraint, separation, staff recruitment and information sharing. A manager should be appointed and will be responsible for implementation of this policy.<sup>94</sup>

Section 11 duties consist of the following:

These organisations should have in place arrangements that reflect the importance of safeguarding and promoting the welfare of children, including: a clear line of accountability for the commissioning and/or provision of services designed to safeguard and promote the welfare of children; a senior board level lead to take leadership responsibility for the organisation's

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<sup>94</sup> Detailed guidance on the safeguarding children policy, the roles of the safeguarding children manager and the safeguarding children committee, and the role of the establishment in relation to the LSCB can be found in Prison Service Instruction (PSI) 08/2012 'Care and Management of Young People'.

safeguarding arrangements; a culture of listening to children and taking account of their wishes and feelings, both in individual decisions and the development of services; clear whistleblowing procedures, which reflect the principles in Sir Robert Francis's Freedom to Speak Up review and are suitably referenced in staff training and codes of conduct, and a culture that enables issues about safeguarding and promoting the welfare of children to be addressed;<sup>95</sup> arrangements which set out clearly the processes for sharing information, with other professionals and with the Local Safeguarding Children Board (LSCB); a designated professional lead (or, for health provider organisations, named professionals) for safeguarding. Their role is to support other professionals in their agencies to recognise the needs of children, including rescue from possible abuse or neglect. Designated professional roles should always be explicitly defined in job descriptions. Professionals should be given sufficient time, funding, supervision and support to fulfil their child welfare and safeguarding responsibilities effectively; safe recruitment practices for individuals whom the organisation will permit to work regularly with children, including policies on when to obtain a criminal record check; appropriate supervision and support for staff, including undertaking safeguarding training; employers are responsible for ensuring that their staff are competent to carry out their responsibilities for safeguarding and promoting the welfare of children and creating an environment where staff feel able to raise concerns and feel supported in their safeguarding role; staff should be given a mandatory induction, which includes familiarisation with child protection responsibilities and procedures to be followed if anyone has any concerns about a child's safety or welfare; and all professionals should have regular reviews of their own practice to ensure they improve over time.

Clear policies in line with those from the LSCB for dealing with allegations against people who work with children. Such policies should make a clear distinction between an allegation, a concern about the quality of care or practice or a complaint. An allegation may relate to a person who works with children who has:

- behaved in a way that has harmed a child, or may have harmed a child;
- possibly committed a criminal offence against or related to a child; or
- behaved towards a child or children in a way that indicates they may pose a risk of harm to children.

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<sup>95</sup> Sir Robert Francis's Freedom to Speak Up review report.

Also, under section 38 of the Crime and Disorder Act 1998, local authorities must, within the delivery of youth justice services, ensure the 'provision of persons to act as appropriate adults to safeguard the interests of children and young persons detained or questioned by police officers'.<sup>96</sup>

### **Basic training, on the job training, specialized training programmes for these professionals?**

- Detailed information about these training programmes
- Certifications after the trainings?
- Refreshment trainings?
- How these trainings are delivered? Any cooperation with other institutions, universities?

### **An example of workforce development in Children's Homes in the UK**

The census compiled by the Department for Education Expert Group found that most children's homes (75%) had a budget for Continuous Professional Development (CPD) even if they were not clear about the amount that had been allocated. Nearly all children's homes had a formal appraisal system (98%) and CPD process (93%) in place for staff. A variety of training was available for staff:

83% of homes offered to release staff for external training, 79% brought in external trainers to the home and 80% provided internal training.

- Typically, there was an initial induction period of varying duration but often one to two weeks in which staff read through procedures and files and shadowed experienced staff.
- Usually, the probation period lasted six months. During this time, new recruits completed the Children's Workforce Development Council (CWDC) induction pack or equivalent, and undertook core training on safeguarding, health and safety, and behaviour management. They tended to receive considerable guidance, supervision and feedback from home managers and/ or other senior staff during this time.
- Alongside taught or online courses, staff learned from experienced colleagues, and particularly managers, who modelled best practice. Regular, one-to-one supervision

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<sup>96</sup> [http://www.workingtogetheronline.co.uk/chapters/chapter\\_two.html](http://www.workingtogetheronline.co.uk/chapters/chapter_two.html)

was used for discussing performance and development. Team meetings, debriefs and group supervision provided further opportunities for learning and reflection.

- Core training, refreshed at regular intervals, typically covered (at least) the following areas: behaviour management (de-escalation and physical interventions); safeguarding or child protection; health and safety, fire safety, first aid and medication; food and hygiene; and equality and diversity.
- Additional training options included attachment theory, restorative justice, child exploitation and online protection (CEOP).
- Time spent in training or CPD varied according to the career stage or role of a member of staff. New recruits, managers and qualified social workers spent more time in training than others, while relief or bank workers<sup>97</sup> appeared to have limited opportunities beyond basic or mandatory provision.<sup>98</sup>

### **Juvenile Awareness Staff Programme (JASP)**

An enhanced Juvenile Awareness Staff Programme (JASP) has been introduced into the YOI secure estate. It is a programme which ensures that staff working with young people have the necessary skills to carry out their function in a safe and professional manner. The programme was developed by the YJB in conjunction with the National Offender Management Service. The course consists of 6 days: child protection (1 day); understanding and working with children and young people in custody (2 days); substance misuse (half a day); mental health awareness (half a day) vulnerability assessment (1 day); training planning and resettlement (1 day); managing difficult behaviour (half a day) and safeguards (half a day)<sup>99</sup>

## **3. Violent Crimes**

- What is considered a violent crime?

According to the Crime Survey for England and Wales (CSEW), violent crime is referred to as “violence” in which wounding and assault are included. It can be broken down into violence with and without injury. Furthermore, additional breakdowns are based on the

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<sup>97</sup> Bank staff refers to a pool of people an employer can call on as and when work becomes available. The employer is not obligated to provide work for these staff, nor are they obliged to accept it.

<sup>98</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/391495/RR438\\_-\\_Training\\_and\\_developing\\_staff\\_in\\_children\\_s\\_homes.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/391495/RR438_-_Training_and_developing_staff_in_children_s_homes.pdf)

<sup>99</sup> Rose, Jim (2014) Working with Young People in Secure Accommodation: From Chaos to Culture. Routledge.

offender-victim relationship. In police recorded data, violent crime is referred to as “violence against the person” and includes the following offences: homicide, violence with injury, and violence without injury. If the victim is not identifiable it belongs to the type of other offences (e.g. public disorder). In the United Kingdom, assault, sexual violence, alcohol and drug-related violence, gang violence are all considered to be violent offences.<sup>100</sup>

Violent crime belongs to the most serious crimes, and in the case of young offenders, in most cases, it can result in receiving a custodial sentence. Young people may be sentenced to a period of imprisonment under a Detention and Training Order (DTO), or under Sections 90 or 91 of the Powers of the Criminal Courts (Sentencing) Act 2000 for offences of murder or an offence for which an adult could receive at least 14 years in custody. A DTO can last from 4 months up to 2 years spent half in custody and the other half in the community (supervised by Young Offending Teams). According to Section 90 of the Criminal Court Sentencing Act (2000), “...any young person convicted of murder is sentenced under section 90”. Section 91 of the Criminal Court Sentencing Act (2000) is equivalent to a discretionary life sentence. The indeterminate section 91 sentence is for young people convicted of an offence other than murder for which a life sentence may be passed on an adult. The court shall, if appropriate, sentence a young person to detention for life.<sup>101</sup>

- Which training programs are available for rehabilitation professionals to deal with violent crime cases? (If available)
  - Pre-service trainings
  - In-service // on-the-job trainings

Youth Offending Teams must ensure that all staff working with victims have had appropriate training. Relevant modules for the training are on the Youth Justice Interactive Learning Space that is linked to the Open University. This site is not freely available if you are not a student with a relevant account to log in.<sup>102</sup>

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<sup>100</sup> Office for National Statistics, 2015

<sup>101</sup> <http://yjbpublications.justice.gov.uk/Resources/Downloads/Release%20and%20Recall%20-%20Guidance%20for%20youth%20offending%20teams.pdf>

<sup>102</sup> <https://www.gov.uk/work-with-victims-and-restorative-justice-youth-offending-teams>

- Best practices/programmes in rehabilitation of violent criminals and victims in the country

In November 2011 the UK government launched a report called “Ending Gang and Youth Violence” that was precipitated by the riots of that summer. The riots put the importance of ending serious gang and youth violence back to the top of the UK government’s agenda. In London for instance, one in five of those arrested were known gang members. Statistics has also shown that half of the shootings and 22% of all serious violent offences were carried out by gang members in the capital. These statistics were similarly high in other parts of the country. The “Ending Gang and Youth Violence” programme initially started to provide long-term, evidence based solutions to this problem. The government has since published two reports analysing the problem and alongside, have also outlined best practice examples in the 33 areas across the UK that formed part of the programme.<sup>103</sup>

#### Programme #1: MAC-UK

- **A brief description of the programme**

Working together with a group of young people who found themselves involved in gangs, Clinical Psychologist, Dr. Charlie Howard (formerly Alcock), founded MAC-UK in 2008. Charlie wanted to use a youth-led approach to make mental health accessible to excluded young people within their own community. Her aim was to work with young people to find new answers to the complex problem of youth offending.

- **When did the programme start?**

2008

- **What was the specific policy/reason behind developing that programme?**

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<sup>103</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/278779/EndingGangYouthViolence2013.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/278779/EndingGangYouthViolence2013.pdf)

MAC-UK is working with young people involved in gangs across three London pilot sites, using the Integrate© model to put mental health workers at the heart of activities led by young people themselves.

Integrate works with young people aged 16-25 involved in highly anti-social behaviour and/or gang activity. Young people develop and lead their own activities, and the MAC-UK team work collaboratively with them, helping them develop leadership and employment skills. These activities can be anything from decorating the project's base; starting to write a film script or making music. The process of setting up the activities together, allows young people to both develop new skills and to develop trusting relationships with mental health trained staff.

Young people can then access 'streetherapy©' at their own pace and wherever and whenever they feel comfortable. Streetherapy is based on evidence of what works from the mental health field, and delivers mental health promotion and treatment in a highly flexible way. Integrate also seeks to prepare young people for services and services for young people.

Integrate is being piloted via multi-agency partnerships across London. The latest Integrate project started in Southwark in October 2012 as a partnership between Southwark Council, South London and the Maudsley NHS Foundation Trust, and MACUK, funded by Guy's and St Thomas' Charity. The young people in Southwark have called their project Reachout | outReach – RO|OЯ.

- **Was it a public or private initiative?**

MAC-UK is a registered Charity in the UK (private). Charity number: 1126144

- **Is it a national, regional or local programme?**

MAC-UK is now recognised at a local and national level. They have just started their fourth Integrate pilot site, which is funded by the Big Lottery Fund, and are working in partnership with various services in London to place Integrate staff into a range of programmes.

## **Evaluation**

- **Are there any evaluations of the programme?**

The Integrate model is currently undergoing an independent evaluation, led by the Centre for Mental Health, with youth researchers trained and employed to work alongside them.

- **What are the results?**

The results are still to be published as the evaluation is currently underway.

- **Why the given programmes/models are best practices?**

The programme is an example of best practice under the UK Government's Ending Youth Gang and Violence Programme because of the work they carry out around young people and mental health. Gang-associated young people are often exposed to a higher range of traumatic and abusive environments (including domestic violence) than other young people, even those in the youth justice system. These young people may have been involved in violence as a victim, perpetrator or witness. Gang-associated females may have a higher level of exposure to risk than gang-associated males. Such experiences can have a serious impact on mental health. There is strong evidence, for example, that Post Traumatic Stress Disorder is linked to early experiences of violence and abuse. In addition, conduct disorder, antisocial personality disorder, anxiety disorders and psychosis can also be associated with exposure to violence. In turn, exposure to violence and / or mental health issues may also increase the likelihood of joining a gang. Research suggests that poor attachment relationships (i.e. the bond between the primary care giver and a child in the early stages of child development) may cause lasting neurological damage. There is anecdotal evidence (e.g. from voluntary sector organisations) that gang-associated young people often have attachment issues. Young people with such issues may feel a "need to belong", potentially leading to them getting involved in a gang.<sup>104</sup>

- **What makes them good practices?**

The UK's mental health services have traditionally put the onus on people to actively seek help. Many young people do not recognise that they need help or that help is available –

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<sup>104</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/278779/EndingGangYouthViolence2013.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/278779/EndingGangYouthViolence2013.pdf)

approaching mental health services is simply not an option. Consequently their mental health problems are overlooked until it is far too late.

MAC-UK delivers mental health therapies to some of the UK's most excluded and deprived young people who are most in need of mental health support but least likely to access it. They take what we know works in the clinic onto the streets where excluded young people are, where they need it, when they need it – on a bus, in a stairwell or whilst waiting at court. This 'Streetherapy'© is at the core of their Integrate© model. It is a flexible approach led by teams of mental health clinicians. The aim is ultimately to bridge young people into existing services by breaking down the barriers between young people and the services they so desperately need. This innovative approach takes what we know works from the mental health field, and delivers it in a highly adaptive and flexible way.

It is a radical approach. MAC-UK are transforming mental health service delivery to excluded young people across their communities. They believe that by putting mental health at the heart of solutions, we can find new answers to the complex problem of serious youth violence.

- **What are their advantages and disadvantages compared to other similar/previous programmes?**

A new approach, in partnership with local councils, national health services (including mental health) and other local charities to be wider reaching and effective. As a charity, it is reliant on funding for sustainability.

### Programme #2 Identity Matters

- **A brief description of the programme**

The National Offender Management Service (NOMS) has developed an intervention to address gang or group-related violent offending behaviour: the Identity Matters programme. This is specifically targeted at offenders who have previously committed serious violence because of their affiliation or identification with a group or gang.

- **When did the programme start?**

2014

- **What was the specific policy/reason behind developing that programme?**

This is specifically targeted at offenders who have previously committed serious violence because of their affiliation or identification with a group or gang. While interventions already exist to address violent offending, Identity Matters places more emphasis on addressing issues of group affiliation which for some offenders is particularly significant.

- **Was it a public or private initiative?**

Public as it is run by the National Offender Management Service which is sponsored by the Ministry of Justice in the UK.

- **Is it a national, regional or local programme?**

It is currently being piloted in two city regions and two Young Offender Institutions, with a view to further roll out and possible accreditation.

- **Are there any evaluations of the programme?**

If the pilots of the Identity Matters programme are evaluated positively and approved for use within NOMS (via appropriate accreditation processes), the programme will be made available for commissioning services within custody and, if appropriate, community in 2014-15. Arrangements for commissioning Identity Matters in the community will be subject to the restructure of the Probation Service as part of the Transforming Rehabilitation Strategy.

- **What are the results?**

Results not yet available as the evaluation is pending.

- **Why the given programs/models are best practices?**

As it is a public programme, it has the potential to become available on a much wider scale with more reliable research and data surrounding it.

- **What makes them good practices?**

Its approach to finding out why people join gangs and how this can then lead to violent and criminal behaviour.

- **What are their advantages and disadvantages compared to other similar/previous programmes?**

An interesting new take that is more focused on rehabilitation than a more traditional punitive approach.

### Programme #3 **London Youth Reducing Re-offending Programme (Daedalus)**

- **A brief description of the program**

The Greater London Authority (GLA), through the Mayor's Time for Action Programme implemented a work programme with the aim to support young people whilst in custody and on release by bringing stakeholders together to address the complex problems young people in London. The main focus was on improving the employment and skills activities for young people Not in Education, Employment or Training (NEETs) or those at risk of becoming NEET. The London Youth Reducing Reoffending Programme (Daedalus) formed one strand of this programme. The requirement set out by the ESF was the reintegration and sustainment of young people into education, training and employment for 26 weeks, on release from HMYOI Feltham. Daedalus had 2 core elements in place:

1. to place young people onto an enhanced resettlement regime (Heron Unit) at HMYOI Feltham and
2. the provision of consistent support through the appointment of a dedicated Resettlement Broker, assisting young people's reintegration and sustainment in ETE whilst also intensively working with them in accessing the right packages of support.

- **When did the programme start?**

2009

- **What was the specific policy/reason behind developing that programme?**
- **Was it a public or private initiative?**

Public. The programme was a multi-agency initiative with funding from GLA, London Development Agency (LGA) and the Youth Justice Board (YJB), and matched by the European Social Fund (ESF). Other agencies, such as HMYOI Feltham and Local Authorities (LAs) gave additional support.

- **Is it a national, regional or local programme?**

Regional (it is based across London)

## **Evaluation**

- **Are there any evaluations of the programme?**

Yes, IPSOS Mori conducted an evaluation of the programme in 2012.

- **What are the results?**

The programme evaluation aiming at providing both quantitative and qualitative measures. Firstly, a survey design was adopted to measure the experiences and perceptions of young people who participated in the programme (91 young people were surveyed altogether). Altogether six visits to the Heron Unit over a course of a one year period were made – once every two months. All young people surveyed were due for release from the Unit over the next two months (i.e. before the next visit date). Qualitative interviews were also conducted with a number of young people participating in the programme. In total, 13 in-depth interviews have been carried out and 12 young people were additionally interviewed following their release. Supplementary qualitative interviews were made with five parents which helped to gather a more complete picture of the transition from custody to community. Stakeholders (policy stakeholders, staff of the Heron unit, resettlement brokers, and youth offending team workers)

were also interviewed at the beginning and end of the programme. The findings have shown that the general consensus of the programme was a positive one. Both quantitative and qualitative research made it evident that the support of resettlement brokers was essential. The involvement in the programme seemed to have a positive influence on young people's general attitude towards employment. The daily routines in the unit were also mentioned as an advantage as they were able to apply them when they went back to the community. Two of the greatest advantages of the programme in general were the higher staff to offender ratio and the increased time spent by young people in more constructive activities.

- **Why the given programmes/models are best practices?**

Young people were either directly referred to the Heron Unit or moved onto the unit a few months before release (in the case of longer sentences). Initially the programme focused on young people from the six 'Diamond boroughs' but expanded in May 2010 to a pan-London approach. The key factors in determining who could engage in the programme were the young offenders' willingness to participate and the willingness to change their behaviour. The Heron unit had a higher staff to young person ratio than in YOIs in general and offered the followings:

- educational modules: behaviour management, skills for living independently, money management, job readiness, domestic tasks, health and safety, and victim awareness, as well as nationally recognised courses such as Brake, JETS38 and the Duke of Edinburgh's Award;
- tailored group and individual programmes, using established cognitive behavioural models around anger management, offending behaviour, family support, mental health and substance misuse;
- ways to prepare for Education Employment and/or Training (ETE), for example, through the Release on Temporary Licence (ROTL) scheme, allowing young people in custody to attend college or job interviews with the intention that they can move into ETE immediately after being released; and
- strictly structured daily routines – although all YOI units provide this, the Heron Unit had a dedicated multi-disciplinary team who put a high emphasis on building shared responsibilities for any misbehaviour in order to promote teambuilding and an appreciation of consequences. Both staff and resettlement brokers agreed that providing a long, busy day and structured routine pre-empted restlessness and gave the young

people a sense of purpose. Days of each young person were tailored to their individual needs and interests to make them motivated to take part in the activities on offer.

- **What makes them good practices?**

The Victim awareness module on offer helped the offenders to see the offender behaviour from another perspective. The module itself included actual victims of crime as speakers. During the programme, the course has evolved in various ways; for instance the element of deterrent thinking patterns was replaced with a more restorative focus whereby young people were encouraged to write a letter to the victim of their crime(s). The JETS Living Skills Programme was based on the Enhanced Thinking Skills Programme itself which originally consists of 20 sessions and 40 hours of treatment contact. Used within a prison context, it subscribes to a “model of change” approach in which anti-social behaviour is seen as a product of the lack of basic cognitive skills that enable individuals to make pro-social behavioural choices. This programme was tailored to the juvenile age group.

Besides these modules, there was the possibility for young offenders to participate in a scheme called Release on Temporary Licence (ROTL). This temporarily allowed young people to re-enter the community, therefore making it possible to take part in a work-based task, visit colleges to arrange placements after custody, or partake in schemes such as the Duke of Edinburgh Award. The scheme itself was made available across all juvenile custodial establishments. An HMIP study found that ROTL was in use across all YOIs, with variations in use evident across establishments. According to the IPSOS Mori report evaluating the Daedalus Programme in 2012, more than a third (36%) of the 303 young people who had been on the Heron Unit between September 2009 and May 2012 were given ROTL. During the lifetime of the Daedalus Programme ROTL was seen as being beneficial because both it provided young people with something that was enjoyable, and because it exposed them to the structure of a working day. It has also equipped them with improved physical, practical and social skills (including teamwork), while also bringing a restorative element to the process by getting young people to make a contribution to the community.<sup>105</sup>

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<sup>105</sup>[https://www.london.gov.uk/sites/default/files/LYRRP%20\(Daedalus\)\\_Final%20Report\\_CONFIDENTIAL%20UNTIL%20PUBLISHED.pdf](https://www.london.gov.uk/sites/default/files/LYRRP%20(Daedalus)_Final%20Report_CONFIDENTIAL%20UNTIL%20PUBLISHED.pdf)

- **What are their advantages and disadvantages compared to other similar/previous programmes?**

Two key features of Daedalus – the enhanced one-to-one support offered by Resettlement Brokers, and the continuity of additional support from custody to the community – helped distinguish the Programme from the multi-agency support that had already been offered to young people through the original Diamond Initiative and other resettlement initiatives.

#### 4. Sexual Crimes

- **What is considered as sex crime?**

According to the Crown Prosecution Service, in the United Kingdom sexual offences are crimes that are mentioned in the Sexual Offences Act 2003. These are the followings: rape, assault, sexual activity with minors, other sexual offences (e.g. trafficking and exposure to voyeurism). The age of consent is 16. Because children can and do abuse and exploit other children, the Act makes it as an offence for children under 16 to engage in sexual activity, to protect children who are victims. Children of the same or similar age however are unlikely to be prosecuted for engaging in sexual activity, where the activity is mutually agreed and there is no exploitation or abuse. There is guidance for prosecutors that helps in deciding whether or not it is in the public interest to prosecute.<sup>106</sup>

- **Which training programs are available for rehabilitation professionals to deal with sexual crime cases? (If available)**
- **Pre-service trainings**

The Lucy Faithfull Foundation is the only UK-wide charity dedicated solely to preventing child sexual abuse.

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<sup>106</sup> [http://www.cps.gov.uk/news/fact\\_sheets/sexual\\_offences/](http://www.cps.gov.uk/news/fact_sheets/sexual_offences/)

Their training is delivered by experienced and specialist practitioners who are involved in undertaking specialist assessments; they provide clinical judgments for statutory and voluntary agencies and as Expert Witnesses in Court.

The Lucy Faithfull Foundation offer direct therapeutic interventions for children, young people and for adults. They have a wealth of knowledge about the subject, a great deal of insight into the behaviour of those who sexually harm others, and a real understanding of the impact issues on victims, protective carers and other family members.

They also offer conferences, seminars and set one day workshops that participants can access on an individual basis, and their bespoke training programme is available for groups and organisations and is tailored to the needs of the individuals and the needs of their organisations.

- **In-service // on-the-job trainings**

G4S, a private company that runs Secure Training Centres in the UK, offers on going workforce development within its centres.

They state that they provide a comprehensive range of training and development to staff. Beyond pre-entry training, in-house courses include operational team training, refresher training and management development. This is supplemented with a wide range of external training. A key element of this is inter-agency training with local safeguarding boards covering a whole range of safeguarding practice. Many staff also undertake a range of qualifications in areas of professional practice (such as social work degrees) and formal management qualifications. G4S have also stated that they are committed to developing leaders for the future and encourage staff to achieve degree level qualifications in social work. Since 2000 over 30 staff have gained a degree in social work.<sup>107</sup>

- **Best practices/programs in rehabilitation of juvenile sex offenders and victims in the country**

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<sup>107</sup> <http://www.icpr.org.uk/media/34265/young-people-secure-estate.pdf>

## **Programme #1: Lucy Faithful Foundation Training for social workers involved in child protection investigation, assessment and decision-making in cases of child sexual abuse**

- **A brief description of the programme**

Children and young people who display sexually harmful behaviour -

This training can be offered over different lengths of time, and at different levels.

The sexual behaviour of children and young people of all ages can be seen on a continuum from age-expected, mutually agreed sexual behaviours to serious crimes. Many engage in activities through curiosity that forms a normal part of sexual development, whilst others engage in behaviour that is clearly harmful and abusive.

Whilst recognising the seriousness of the impact of their behaviour, the approach at the Lucy Faithfull Foundation to this work recognises their status as children or young people and the need to work with them in a way that is different from adults and recognises their developmental stages. They offer a range of training concerned with assessment and on-going interventions for children of all ages, which includes the key issues relating to identification, assessment, risk management and future care.

- **When did the programme start?**

The Lucy Faithful Foundation has been in operation since the 1980s.

- **What was the specific policy/reason behind developing that programme?**

The Lucy Faithfull Foundation is a pioneering charity whose vision is to create a world in which children's rights to live free from abuse and exploitation become a reality. Their mission is to prevent sexual abuse from happening by working with those perpetrating it, those affected by it and with protective adults who can keep children safe.<sup>108</sup>

- **Was it a public or private initiative?**

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<sup>108</sup> <http://www.lucyfaithfull.org.uk/home.htm>

The Foundation is a registered charity in England and Wales number: 1013025

- **Is it a national, regional or local programme?**

The charity works and offers training across the UK

#### **Evaluation -**

- **Are there any evaluations of the programme and what are the results?**

The Foundation has had a number of evaluations of a range of its programme and helplines, but not specifically its training programme. The evaluations they have had have shown that that service users respond positively to engagement with the Foundation, and agencies and individual referrers comment on the value of their services, the professionalism of our staff and the importance of their specialist role in protecting children from sexual abuse.

- **Why the given programmes/models are best practices?**

Their specific focus on child sexual abuse makes them experts in their field and they can offer specialist, impartial knowledge, training and experience to a range of agencies, organisations and individuals working with young people in the secure estate.

- **What makes them good practices?**

The large number of people they train and the specific and wide ranging topics that they offer. These are accessible and relevant within youth justice.

- **What are their advantages and disadvantages compared to other similar/previous programmes?**

As stated above, their knowledge and experience on a range of topics related specifically to child protection and child sexual abuse. However, centres and institutions within the secure

estate would need to be aware of them to contact them and access the training, rather than it being a mandatory part of their continuous professional development.

## 5. Drug Abuse

- **What is considered as a drug crime?**

The legal restrictions placed on the use of controlled drugs are aimed at preventing drug misuse. The principal offences relating to the misuse of controlled drugs are contained in the Misuse of Drugs Act 1971 ("the Act") and most of the offences dealt with in this guidance are created by the Act. The primary objective of the Act is the control of the use and distribution of dangerous and harmful drugs. The Act classifies the drugs according to their relative degree of overall harm from misuse. Offences include: possession, supply, and importation among others.

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- **Which training programmes are available for rehabilitation professionals to deal with drug abuse cases? (If available)**
- **Pre-service trainings**
- **In-service // on-the-job trainings**

On 31 March 2011 a letter from the Department of Health (DH), the Ministry of Justice (MoJ) and the National Treatment Agency (NTA) (Gateway No 15827) formally announced with immediate effect:

- the transfer of responsibility for funding substance misuse services within the young people's secure estate from MoJ to DH, and the associated transfer of commissioning responsibility to the local partnership areas
- that funding is to be allocated to Primary Care Trusts (PCTs) via the Strategic Health Authority (SHA) bundle but, as with the YP Pooled Treatment Budget allocations, there is an expectation that young people's secure estate substance misuse (SM) funding will be routed at a local authority level to young people's substance misuse commissioning groups.

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<sup>109</sup> [http://www.cps.gov.uk/legal/d\\_to\\_g/drug\\_offences/](http://www.cps.gov.uk/legal/d_to_g/drug_offences/)

This transfer of commissioning responsibility offers the local partnerships an opportunity to review the impact and efficacy of current service provision, and reconfigure on the basis of an understanding of local need, in order to maximise positive outcomes for young people and to reduce the risk of harm or escalation of substance misuse into adult life.

Based on this letter, a series of key principles were outlined in order to support sustainable improvements in the health and wellbeing of children and young people at risk of re-offending and continuing substance misuse. They include the following:

- all substance misuse service delivery should be supported by clear clinical governance systems to ensure clarity about the quality standards underpinning delivery, best practice in the management of risk, the competence of staff, case load management and appropriate clinical supervision, in line with local safeguarding policies and procedures and PCT clinical governance arrangements. Local clinical governance and safeguarding leads should be involved in reviewing and supporting service design and delivery.
- Aligned service delivery can best be supported by clear protocols and communication pathways between services and professions in and outside of the secure setting. Appropriate information sharing arrangements are an essential component of effective delivery.
- The delivery of substance-specific interventions should be firmly embedded in the daily establishment regime, and not seen as standalone services within the secure setting. There is a clear role for all secure estate staff to address substance-related need in their interactions with young people – in particular healthcare, education, reception and transfer staff and offender managers. The views of the young person are of central importance and should always be sought and considered in the planning and commissioning of provision. Service design should reflect the need to support young people in the negotiation of key transitions between childhood and adulthood and between different services and placements.<sup>110</sup>

Young people's substance misuse delivery in the secure estate is reported at a national level to a cross government Offender Health Substance Misuse Board.

This board is jointly accountable to:

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<sup>110</sup> <http://www.nta.nhs.uk/uploads/secureestateguidelinesv1.2.pdf>

- the Health & Criminal Justice Board
- the Drug Strategy Group, which in turn reports to the Inter-Ministerial Group on Drugs.

It includes representatives from the National Offender Management Service (NOMS), DH Offender Health, the NTA, the MoJ, the Home Office (HO) and the Department for Education (DfE).

In March 2005, the Department for Education and Skills and the Home Office published a joint strategy, supported by the Department of Health, linking “Every child matters” and the National Drug Strategy for Young People (DFES 2005). The joint strategy identifies a joint approach to the development of universal, targeted and specialist services, to prevent drug harm and to ensure that all children and young people are able to reach their potential. The approach has three main objectives:

1. Reforming delivery and strengthening accountability. Closer links between the National Drug Strategy and Every child matters. Implementing the Change for Children programme locally, regionally and nationally

2. Ensuring provision is built around the needs of vulnerable children and young people. More focus on prevention and early intervention with those most at risk, with drug misuse considered as part of assessments, care planning and intervention by all agencies providing services for children, including schools

3. Building service and workforce capacity. Developing a range of universal, targeted and specialist provision to meet local needs and ensure delivery of workforce training to support it.

## **Best practices/programmes in rehabilitation of juvenile drug addicts and victims in the country**

### **Programme #1: Kenleigh Choices Programme**

- **A brief description of the programme**

The Keighley Choices was a £4 million national Home Office programme aimed at increasing the involvement of voluntary and community sector in preventing and reducing substance misuse and related offending by vulnerable young people (aged 10-19). 11 national voluntary organisations were given funding who aimed to work with an additional 190 local

voluntary and community organisations between October 2011 and March 2012. These 11 voluntary organisations were asked to use proven approaches but the aim was also to develop new and more innovative ways to deliver solutions for local communities. Another goal of the programme was to avoid duplicate activities locally and to add value to existing local services.

The Keighley area of Bradford was identified as the target location for the Barnardo's run Choices programme. Keighley is characterised by high levels of deprivation, comparatively large proportions of young people not in education, training or employment (NEET), concerning levels of substance misuse amongst school age children, and (like many towns) some complex challenges to face around social isolation, antisocial behaviour, child sexual exploitation and engagement of young people in gangs.

Barnardo's Choices operated a key worker model, using a multi-agency panel (MAP) and employing the Common Assessment Framework (CAF) in referral and assessment. Referral partners included (statutory services) Bradford Youth Offending Team (YOT), West Yorkshire Police, Bradford Connexions, Extended Schools Services, Bradford Youth Service and (voluntary sector partners) including Project 6 and Barnardo's Turnaround project.

- **When did the programme start?**

October 2011 and March 2012

- **What was the specific policy/reason behind developing that programme?**

Young people and families were offered a targeted, tailor-made package of support designed to reduce the risk factors, and promote the counter-risk factors, linked to offending and substance misuse. A support package for a young person or family included one or more of the following: family support, tackling substance misuse, addressing offending behaviour and referral to other appropriate agencies, positive activities, one-to-one support, alternative education and training and enjoyable activities. The core model included a number of evidence-based interventions, including family group conferencing and restorative justice.

- **Was it a public or private initiative?**

It was a Public, Home Office led initiative

- **Is it a national, regional or local programme?**

Regional. It was based in an area designated as having high need in Bradford in the north of England.

## **Evaluation**

- **Are there any evaluations of the programme?**

Barnardo's undertook both an outcomes based and process evaluation of the Choices programme. The outcomes evaluation investigated whether Keighley Choices reduced the risk of occurrence or reoccurrence of substance misuse and/or offending of young people 'on the edge' of statutory intervention, in Keighley. This was done by assessing interim (short term) outcomes; whether young people showed a shift towards safer thinking and behaviour on factors known to correlate with or counter offending and substance misuse. The Teen Star version of the Outcomes Star<sup>111</sup> and detailed, structured case studies were used to measure outcomes on six domains (Drugs and alcohol; Health and wellbeing; Safety and security; Structure and education; Behaviour and citizenship; Family and other key adults).

A process evaluation focused on whether Keighley Choices increased the capacity of local organisations to identify and respond appropriately to children and young people at risk of substance misuse and/or offending. The research questions asked:

- Did the model (set-up and delivery) enable identification, engagement and provision of appropriate support to the relevant young people?
- Did the model increase the use of the Common Assessment Framework (CAF)?
- Did the model increase partnership working and cross-fertilisation of ideas in Keighley?

The process evaluation used semi-structured interviews with 11 stakeholders from Barnardo's, the MAP (Multi Agency Panel), the Strategic Steering Group and partner agencies.

- **What are the results?**

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<sup>111</sup> Developed by Triangle Consulting Ltd.

At the end of the six month Choices programme:

- Positive outcomes overall had been achieved by 15 out of 19 young people.
- Impressive changes were seen in young people's 'Safety & Security' (almost three-quarters of young people reported positive change), in Structure and Education (63% reported positive change) and in Wellbeing (63% reported positive change) which were the areas that the interventions focused most strongly on.
- The high numbers of young people showing a positive change in Safety & Security reflected a real shift in many young people's attitudes to staying safe and avoiding risky situations (particularly with peers).
- For those who had achieved positive outcomes in Education & Structure, the changes were quite dramatic – six out of 12 young people showing a positive outcome had shifted two points or more on the Teen Star – moving from being 'stuck' in their current situation to making real changes in their life.
- Young people also developed characteristics known to counteract the risk of offending and substance misuse; in particular there were reports of some very positive improvements in self-esteem and in family relationships.

Case studies backed up the findings from the Teen Star analysis and also provided evidence of increased understanding and respect for others and some improved ability to control anger. Attitudes and behaviour towards substance misuse and offending themselves changed only marginally, but this was not unexpected. Offending behaviour in particular can be very entrenched and often influenced over a longer period by changes in other aspects of life; it is therefore quite possible that more impressive changes would occur for these young people if the programme had continued longer.

The mix of interventions offered to families was impressive, both in breadth and quality, though there was not enough time for the different services to start to interface as 'one programme'. The different interventions received some very positive feedback from families and stakeholders alike. Of particular note were the Dance United Yorkshire (DUY), Cycle Recycle and Brathay residential activities. Capacity building of smaller local organisations was good; partner agencies benefitting from the Choices funding were Project 6, Dance United Yorkshire, Brathay, Cycle Recycle and Barnardo's Voices. The model built on existing strong

partnership working and seemed to further enhance some relationships between the local voluntary and statutory sector. The Common Assessment Process (CAF) was used to improve assessment and partnership working – seven children and young people had a CAF completed, who would not have done otherwise – and there was evidence of shared training and learning opportunities, particularly in family group conferencing and restorative justice skills.

The evaluation concluded that Barnardo's Choices programme was a very promising pilot – offering an interesting multi-agency, key worker model, good capacity building of smaller, local organisations and some very positive outcomes for young people.<sup>112</sup>

- **Why the given programmes/models are best practices?**

This programme included a broad range of interventions at different levels, from individual, family to multi-partner services and so gave a good example of how a range of services can result in positive outcomes.

- **What makes them good practices?**

The high positive outcomes in only 6 months and the opportunity for a range of stakeholders to work together to meet the needs of young people and work to improve their outcomes for the future.

- **What are their advantages and disadvantages compared to other similar/previous programmes?**

As this is just a pilot programme, it is dependent on being replicated in other areas and being taken on by different services to continue supporting young people in the long term and contributing to long-lasting changes.

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<sup>112</sup> <https://www.barnardos.org.uk/barnardos-and-homeoffice-choices-evaluation-report2012.pdf>

## 6. Neglect and Abuse

- **What is considered to be neglect and abuse?**

The National Society for the Protection Against Cruelty to Children (NSPCC) describes neglect as:

“.....the ongoing failure to meet a child's basic needs. A child may be left hungry or dirty, without adequate clothing, shelter, supervision, medical or health care.

A child may be put in danger or not protected from physical or emotional harm. They may not get the love, care and attention they need from their parents.

A child who's neglected will often suffer from other abuse as well. Neglect is dangerous and can cause serious, long-term damage - even death.”

The NSPCC defines child abuse as:

“.....any action by another person – adult or child – that causes significant harm to a child. It can be physical, sexual or emotional, but can just as often be about a lack of love, care and attention. Neglect, whatever form it takes, can be just as damaging to a child as physical abuse.

An abused child will often experience more than one type of abuse, as well as other difficulties in their lives. It often happens over a period of time, rather than being a one-off event. And it can increasingly happen online.

The NSPCC estimates that over half a million children are abused in the UK each year.”<sup>113</sup>

- Which training programmes are available for rehabilitation professionals to deal with neglect and abuse cases? (If available)
  - Pre-service trainings
- **In-service // on-the-job trainings**

The Juvenile Awareness Staff Programme (**JASP** detailed on page 31 of the report)

- **Best practices/programmes in rehabilitation of juvenile neglect and abuse victims in the country**

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<sup>113</sup> [www.nspcc.org](http://www.nspcc.org)

## Programme #1: **Multi-Systemic Therapy for Child Abuse and Neglect (MST-CAN)**

- **A brief description of the programme**

Multisystemic Therapy for Child Abuse and Neglect (MST-CAN) is an adaptation of Multisystemic Therapy (MST) that has been specifically designed to treat youth ages 6 to 17 and their families who have come to the attention of child protection due to physical abuse and/or neglect.

MST-CAN is administered to families in the home and at times convenient to the family. It is an intensive treatment involving a minimum of 3 sessions per week. All members of the family are involved in the treatment. Common treatment strategies include safety planning, Cognitive Behavioral Therapies for managing anger and addressing the impact of trauma, Reinforcement-Based Therapy for adult substance misuse, family therapy focused on communication and problem solving, and sessions to support the parent in taking responsibility for the events that brought the family to child protection.

MST-CAN is an intensive therapy, lasting six to nine months that addresses the specific problems that brought the family to child protective services plus important risk factors. The major goals of MST-CAN are to keep families together, assure that children are safe, prevent abuse and neglect, reduce mental health difficulties experienced by adults and children, and increase natural social supports.<sup>114</sup>

- **When did the programme start?**

Multi-Systemic services were formed in 1996 in the United States. The subsequent programmes have been adapted for the UK. MST-CAN is currently available in Cambridgeshire, Greenwich and Leeds.

- **What was the specific policy/reason behind developing that programme?**

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<sup>114</sup> <http://www.mstcan.com/>

The Assessment Framework for Children in Need and their Families in England and Wales emphasises the need for professionals to work collaboratively with each other across agencies and disciplines, and this principle applies not only to assessment but also to care planning and delivery of services. The need for such joint working is particularly critical in cases of neglect, given that neglectful families are often experiencing multiple problems. Information sharing between professions is therefore essential to construct a comprehensive picture of risk to the child, as emerged in Lord Laming's enquiry into the death of Victoria Climbié (Laming Report, 2003). Laming also spoke of the need for a comprehensive chronology of past events and this is indeed now a requirement for statutory services in children in need cases. Allied to information sharing and joint assessment is the need for clear lines of accountability between professionals.

- **Was it a public or private initiative?**
- **Is it a national, regional or local programme?**

MST-CAN is recognized an evidence-based (i.e., research supported) by the California Evidence-Based Clearinghouse for Child Welfare and as a promising programme by the Office of Justice Programmes. MST-CAN is currently available in multiple countries around the globe.

### **Evaluation**

- **Are there any evaluations of the programme?**

A randomized effectiveness trial funded by the National Institute of Mental Health, compared MST-CAN to enhanced outpatient therapy.

- **What are the results?**

The known benefits of MST-CAN for Youth include:

Reductions in internalizing problems such as anxiety, dissociation, and post-traumatic stress disorder symptoms

Fewer out-of-home placements

Fewer changes in placements for those who had to be placed

- **Why the given programmes/models are best practices?**

It is a best practice model because MST-CAN has initial evidence of reducing the risks of child maltreatment and the need for going into care from a single randomised controlled trial.

Swenson, C.C., Schaeffer, C.M., Henggeler, S.W., Faldowski, R., & Mayhew, A. (2010). Multisystemic therapy for child abuse and neglect: A randomized effectiveness trial. *Journal of Family Psychology*, 24 , 497 – 507.

- Improvements in young people’s mental health problems (child self-reports)
- Improvements in parents’ mental health problems (parent self-reports)
- Improvements in parenting practices (parent self-report)
- Reductions in abusive and neglectful parenting behaviours (parent self-report)
- Increases in families’ natural support networks (parent self-report)
- Reductions in out-of-home placements (social service records).<sup>115</sup>

- **What makes them good practices?**

The evidence of improvement for both children and families.

- **What are their advantages and disadvantages compared to other similar/previous programmes?**

One of the advantages of the programme is the Quality Assurance around it:

MST-CAN follows a very rigorous training and quality assurance system to assure that the clinical team is following the model in the way it was conducted during the research trials. Doing so increases the likelihood that the family will achieve clinical outcomes.

The training and quality assurance processes include:

- Five days of standard Multisystemic Therapy orientation training
- Four days of MST-CAN training (including 2 days of training in treatment of adult substance misuse)
- Four days of training on trauma treatment for adults and children

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<sup>115</sup> <http://guidebook.eif.org.uk/programmes-library/multisystemic-therapy-for-child-abuse-and-neglect-mst-can>

- Quarterly booster trainings for the team on important clinical topics
- Weekly case supervision
- Weekly case consultation with an MST-CAN expert
- Fully articulated treatment manual
- Monthly interviews with the family to assess therapist adherence to the model
- Measures of supervisor and consultant adherence to the model

## Conclusion

Principles for the secure estate for children and young people

1) The secure estate for children and young people should be distinct from adult provision and specialist in its focus on children and young people.

2) Commissioned services should recognise diversity and promote equality proactively.

3) Commissioned services should maintain the safety and well-being of children and young people placed in custody and actively incorporate the views of young people.

4) Interventions to address offending behaviour should be based on evidence of effectiveness and their delivery informed by thorough assessment and individualised sentence planning processes.

5) Service providers should recognise and promote children and young people's potential, enabling them to lead healthy, crime-free lives on release.

The Youth Justice Board consider the principles to be an essential platform for protecting the rights of children and young people in custody, in line with the government's commitment to have due consideration to the United Nations Convention on the Rights of the Child (UNCRC) – including the presumption that custody should only be used as a last resort. This commitment is reflected in a variety of legislation, including the 1989 and 2004 Children Acts, the European Convention on Human Rights and the Human Rights Act 1998.<sup>116</sup>

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<sup>116</sup> Developing the Secure Estate for Young People in England and Wales (Plans until 2015) Youth Justice Board and Ministry of Justice

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## **TURKEY**

### **Introduction**

Turkey is a country located at the intersection of Europe, Asia and Africa. Because of that, the geographical location of the country is called as the old world and thus it is the cradle of ancient civilizations.

Turkey has a vibrant young population. According to the “2013 Address Based Population Registration System”, the total population of the country is 76 667 864 as of December 31, 2013. The male-female ratio in the country is highly balanced: 50.2% males and 49.2% females. The median age in the country was 30.4 in 2013; it is 29.8 for males and 31 for females (Turkish Statistical Institute, 2014). The vast majority of the population is composed of Turks but there are several ethnic groups in the country, such as Kurds and Arabs, as well.

The country is governed by a parliamentary democracy. Even though there are serious problems with the implementation of democratic principles in the country, at least national elections are held every four years and there is a separation of powers between the parliament, government, and judiciary. The capital city of Turkey is Ankara and the monetary currency in the country is Turkish Lira.

### **1. Juvenile Justice System in Turkey**

Crime statistics are not publicized and there is a lack of trust for the few published sources. Historically, governments do not want to share any information with the public that might make them look bad in the eyes of the citizens. Therefore, there is a huge gap in the literature and there is a lack of statistical knowledge about the crimes in Turkey.

This being said, Turkish Statistical Institute shares crime statistics with EuroStat on a yearly basis and publishes some statistics with the public. However, these figures do not reflect what is happening in the country.

In comparison to the United States and the Europe, initiatives about juvenile justice system in Turkey are quite new. Nevertheless, the concept of juvenile courts was first introduced in 1916 by Necmettin Sadak in the journal “Muallim” (Uluğtekin, 1994). Legislative efforts in establishing juvenile courts began in 1945s however, the law on the establishment of juvenile courts was enacted in 1979 (Akyüz, 2000). Even though the law was enacted in 1979, the establishment of the first juvenile court could be possible in 1987.

Likewise, the police in Turkey have taken necessary steps in order to adopt new approaches in handling juvenile cases as well. In this context, the Division of the Protection of

Minors was established in 26 provinces in 1995 .In addition, the baylaw on the Establishment, Duties and Operational Regulations of Juvenile Police Units was introduced by The Turkish National Police in 2001. Besides, the Child Protection Law which was enacted in 2005 also mandated the police in Turkey to set up specialized units in each province in dealing with juveniles.

The Child Protection Act not only mandated the introduction of juvenile police units but also juvenile prosecutors as well. To this end, prosecutors who had special trainings on child psychology and juvenile related issues were assigned as juvenile prosecutors.

In addition to juvenile courts, juvenile prosecutors and juvenile police, correctional facilities specific to juveniles were established in Turkey as well. For instance, reformatories for the first time were put into service by Mithat Pasha in 1860s (Sevük, 1998). After the foundation of the Republic of Turkey, the first reformatory was opened in Edirne, a mid-sized city in the North West of Turkey, in 1937. Other reformatories opened in other cities adopted Edirne's reformatory system as a model (Sevük, 1998). With the Decree-Law on the Establishment and Administration of Corrections and Remand Prisons reformatories turned into "child training houses" in 1994.

Currently there are two main correctional facilities in Turkish juvenile system: Child prisons and child training centers. The main objective of both institutions is rehabilitation and reintegration rather than punishment.

In addition to these institutional structures, legal regulations in Turkey recognize the concept of juvenile as well. Mainly the Child Protection Act and Turkish Penal Code and other related legislation were designed to uphold the welfare of juveniles. For instance, The Child Protection Act, which was enacted in 2005, aims to protect and support juveniles whether they committed any crime or not. Beyond this, the law includes exclusive procedures and regulations which orders the establishment of specialized police units, prosecutors' office and courts regarding juveniles. Further, Turkish Penal Code distinguishes juveniles from adults in terms of offering punishments.

Turkey is a country located at a geography where different languages, religions, cultures, and civilizations from Europe, Asia, and Africa meet. Thus, Turkey's culture and history reflects interaction of different colors from a wide range of cultural diversity.

The capital city of Turkey is Ankara and the official language is Turkish. Turkey is a considerably large country with a population of 75 millions of people. According recent population projections of Turkish Statistical Institute (2012) the median age of the population is 29.7 as of December 31, 2011. People under the age of 18 are legally defined as children in

Turkey. Approximately 35% percent of the population is comprised of children. These figures mean that Turkey is a very young country compared to its European neighbors. However, just like other developed nations, juvenile delinquency has long been on the raise in Turkey in the last decates due to social, economic and cultural changes in the country.

In this chapter, we will review the legal and practical issues of juvenile delinquency in Turkey. First, we will discuss the criminal liability of children in Turkish Juvenile Justice System. Then, we will present the current situation of juvenile delinquency problem with different figures from police, courts, and corrections.

## **1. Criminal Liability of Children in Turkish Criminal Justice System**

### **1.1. Who is a Child in TJJS?**

In line with the international standards, in Turkish Juvenile Justice System a child is described as “a person under the age of 18” (Turkish Criminal and Penal Code (TPC) Article 6/b), “even though s/he become an adult at an earlier age” (Child Protection Law (CPA Article 3) through other legal means such as marriage. There is number of different scenarios regarding the criminal liability and punishment in TJJS depending on the age of children.

#### **1.1.1. Children under the Age of 12**

*If under 12*, juveniles have no criminal responsibility at all. They cannot be prosecuted, they cannot be tried. However, court can take children- specific security measures. TPC Article 31/1 states that:

*Children who have not reached the age of twelve years at the time of committing the offence shall have no criminal liability. Criminal prosecution may not be initiated against them; however, protective measures specific to children may be implemented.*

*At this point, if a juvenile under the age of 12 commits a crime, no criminal charges can be claimed against the child and none of the criminal justice procedures can be applied.*

#### **1.1.2. Children between the Age of 12 and 15**

*If between 12-15*, juveniles have or have not criminal responsibility depending on some special conditions.

Juveniles between the age of 12 and 15 have *no criminal responsibility* if they cannot perceive the legal significance and consequences of their act or where their faculties of autonomous action are not sufficiently developed. TPC Article 31/2 states that

*Those who have not reached the age of 15 years but are older than 12 years at the time of the offence shall have no criminal liability where they are incapable of perceiving the legal significance and consequences of their act or where their*

*faculties of autonomous action are not sufficiently developed. However, protective measures specific to children shall be applied.*

At this point, in principle, judges send the child who is argued to be incapable of perceiving the legal consequences of their actions to forensic psychologists and psychiatrists to prepare an expertise report on mental and emotional state of the juvenile. Based on the expert testimony the judge can decide whether or not and to what degree the juvenile has criminal liability.

The juvenile between the age of 12 and 15 *has criminal responsibility* if the juvenile is aware of the legal significance and consequences of the offence and has developed the faculties of autonomous action with respect to the offence in question. In this connection, TPC Article 31/2 states that:

*If the offender is aware of the legal significance and consequences of the offence and has developed the faculties of autonomous action with respect to the offence in question, they shall be imprisoned for a term of from 12 to 15 years, where the offence is punishable by aggravated life imprisonment, and a term of from 9 to 11 years where the offence is punishable by life imprisonment. Other penalties shall be decreased by one half and in this case the term of imprisonment for each act shall be not greater than seven years.*

#### 1.1.3. Children between the Age of 15 and 18

*If between 15-18, juveniles have criminal responsibility.* However, their responsibility is considered to be limited because of being underage. As a result, in principle, all punishments that are due to the juveniles at this age group receive a reduction of one third. In TPC Article 31/3 it is stated that:

*Those who have not reached the age of 18 but are over 15 at the time of the offence shall be imprisoned for a term of from 18 to 24 years where the offence is punishable by heavy life imprisonment; and a term of from 12 to 15 years where the offence is punishable by life imprisonment. Other penalties shall be decreased by one third and in this case the term of imprisonment for each act shall be not greater than 12 years.*

#### 1.1.4. Children with Disabilities

##### Mental Illness

According to In TPC Article 32/1, individuals *have no criminal responsibility* in case of severe mental illness which disables the capacity perceiving the legal meaning and consequences of their action. However, courts order security measures for these individuals.

According to In TPC Article 32/2, individuals have limited criminal responsibility if their capacity of perceiving the legal meaning and consequences of their action was negatively affected to the degree less than the disability mentioned in Article 32/1. In principle there is a considerable reduction in punishment for these individuals. In such cases, these individuals *receive 25 years instead of aggravated life sentence, 20 years instead of life sentence. In other cases they might receive a reduction of punishment up to one sixth of the punishment length. While keeping the length of the punishment same, the court can implement punishment in form of partial or complete security measures specific to the mentally ill (in specialized institutions).*

### Hearing and Speaking Disability

TPC Article 33/1 brings some advantages to deaf and mute children in terms of legal rights:

*Children with hearing and speaking disability between the ages of 12-15 at the time of committing crime will be subject to the legal terms and conditions specific to children below the age of 12;*

*Children with hearing and speaking disability between the ages of 15-18 at the time of committing crime will be subject to the legal terms and conditions specific to children between the ages of 12-15;*

*Children with hearing and speaking disability between the ages of 18-21 at the time of committing crime will be subject to the legal terms and conditions specific to children below the ages of 15-18.*

As seen above, the legislator tries to protect the best interest of children with hearing and speaking disabilities because these children are considered to have limited capacity of perceiving the legal meaning and consequences of their action compared to healthy people. A summary of different issues in age and criminal liability of children is presented in Table.1.

**Table.1—Criminal Liability of Children in Turkish Juvenile Justice System**

<b>Age</b>	<b>Liability</b>	<b>Sanction</b>	
<b>Under 12</b>	<i>Doli Incapax</i> No criminal responsibility	No sanctions are applicable but other alternative measures are taken	
<b>Between 12 &amp; 15</b>	<i>Doli Incapax</i> Not liable for criminal acts if the child is mute or deaf.	No sanctions are applicable but other alternative measures are taken	
	<i>Doli Incapax</i> Not liable for criminal acts if the child is not mentally capable of understanding the legal consequences of her acts.	No sanctions are applicable but other alternative measures are taken	
	<i>Doli Capax</i> Liable for criminal acts, but the age is a mitigating circumstance. As a result, sentences are decreased	<i>Regular Sentence</i> Aggravated life-in-prison Regular life-in-prison sentence All other sentences	<i>Decreased Sentence</i> 9 to 12 years of imprisonment 7 to 9 years of imprisonment Decreased by the rate of 2/3 but cannot be over 6 years for each criminal act
<b>Between 15 &amp; 18</b>	Liable for criminal acts, but if the child is mute or deaf she will be treated like she is between ages of 12 & 15.	The same punishment rules for children between the ages of 12 & 15 also apply to children in this group.	
	Liable for criminal acts, but the age is a mitigating circumstance. As a result, sentences are decreased	<i>Regular Sentence</i> Aggravated life-in-prison Regular life-in-prison sentence.  All other sentences	<i>Decreased Sentence</i> 14 to 20 years of imprisonment 9 to 12 years of imprisonment  Decreased by the rate of 1/2 but cannot be over 8 years for each criminal act

<b>Between 18 &amp; 21</b>	Liabile for criminal acts, but if the person is mute or deaf she will be treated like she is between ages of 15 & 18.	The same punishment rules for children between the ages of 12 & 15 also apply to children in this group.
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a. Children in Police Records

Children come to the attention of juvenile police for several reasons. Although offending is the biggest reason among all, and it is not always committing a crime. As seen in Table 4, committing a crime or engaging in illegal activity constitutes more than half of all children brought to juvenile police units. In other words, police records tell us that the amount of juvenile deviance is increasing every year. For instance, a total of 62.430 juveniles who committed a crime in 2008 increased to 68.344 in 2009 and 83.393 in 2010. The total number of drug incidents in 2008 was 163. However, this figure increased more than two times in 2009 and reached 373. In 2010, this figure reached almost 1000, which is more than six times more than the drug incidents in 2008.

The amount of juvenile victimization is also on the raise. The number of child victims was 44.153 in 2008 but this figure increased to 61.645 in 2009 and past well beyond 75.000 in 2010. The number of child victims increase approximately 15.000 each year. It means that we can expect a total of 100.000 or more child victims in 2012.

As might be interpreted another type of victimization, children who witnessed a crime decreased just a little bit from 2436 in 2008 to 2363 in 2009, but increased sharply to 3877 in 2010.

Missing/lost children issue is one of the hot topics in Turkey, just like in any other part of the world, regardless of type of missing (escape from home/institution, lost, etc). Everybody is very sensitive about children in general, but this is particularly true when they are missing. In one of the juvenile police chief's words, "if police cannot find a missing child we cannot talk about our legitimacy. You can't claim your existence as a state if you cannot find a missing child!" Police records show that 426 children escaped from a social service institution (i.e, orphanages) in 2008, but this number increased 827 in 2009 and 868 in 2010. Similarly, the number of children who escaped from home increased from 2412 in 2008 to 1669 in 2009 and reached 1745 in 2010. Both of these escape types (institution or home) look like they are growing steadily.

The number of missing/lost children was 4517 in 2008. However, this number reached 5081 in 2009 and past 8000 in 2010. Combined with the run-away and abandoned cases missing children incidents have been increasing with each and every year.

With different reasons people leave their children in the new millennium more than any other period in history. Thus, foundlings emerge as another important problem that juvenile police units have to deal with. The number of foundlings increased from 1340 in 2008 to 1669 in 2009. In 2010 it reached 1745.

All reasons put together, a total number of 132.592 children brought to juvenile police units in 2008, 151.961 in 2009, and 188.044 in 2010. These figures imply that child issues are increasing like never before. With this increase rate, perhaps total number children to be brought to juvenile police units will be well over 250.000 and close to 300.000 in 2012.

**Table.2—Juveniles in Police Records in Turkey**

Reason for reception	2008			2009			2010		
	Total	Males	Females	Total	Males	Females	Total	Males	Females
Offence	62430	56465	5965	68344	61151	7193	83393	74251	9142
Misdemeanour	1177	575	602	320	275	45	586	517	69
Usage of drug	163	145	18	373	351	22	985	936	49
Illegal work	35	32	3	9	8	1	12	10	2
Escape from the institution	426	177	249	827	462	365	868	420	448
Witness	2436	1759	677	2363	1679	684	3877	2657	1220
Victim	44153	25786	18367	61645	34776	26869	76428	41173	35255
Lost	4517	1996	2521	5081	2018	3063	8081	3189	4892
Abandoned	89	52	37	48	23	25	66	48	18
Escape from home	2412	1060	1352	3195	1381	1814	3205	1414	1791
Foundling	1340	879	461	1669	1162	507	1745	1078	667
Work at street	3632	3129	503	3579	3078	501	2768	2352	416
Living at street	20	19	1	16	16	-	39	33	6
Not sent to school	21	13	8	1190	423	767	1028	385	643
Other	9741	7218	2523	3302	2788	514	4963	3732	1231
TOTAL	132592	99305	33287	151961	109591	42370	188044	132195	55849

*Source: Turkish Statistical Institute (2011a:1)*

## **b. Children in Court Records**

Juvenile delinquency in Turkey has been increasing in the last decades even after controlling for the mechanical increase of population. The percentage of juvenile convicts in total prison population is 1.8% in 2009 (Turkish Statistical Institute, 2011b:15).

The general statistics of juvenile courts as seen in Table.5 indicates that the total number of boys in juvenile courts is ten times more than girls and both figures increases very fast each year. While the number of female juvenile offenders in 2000 increased from 8251 to 13.405, the number of male juvenile offenders in 2000 increased from 80740 to 166.076. If we look at the juvenile offenders per 100.000, the ratio of juvenile delinquents in juvenile courts increased from 869 in 2000 to 2356 in 2009.

Court statistics indicate that 44.6% of the crimes committed by juveniles in 2009 are crimes against property, in particular theft. The second largest category is crimes against persons, particularly physical assault. One out of every five crimes is crimes against persons. Other large categories in Tables 6 and 7 are crimes against freedom (12.8 %), crimes against public health (6.4%), crimes against fame and honor (3.6%), carrying firearms, weapons, and knives (2.7%), sexual crimes (1.7%), crimes against justice (1.3), crimes against public officials (1%), and crimes against public safety (0.9%).

**Table.3—Number of Juvenile Offenders in Juvenile Courts**

Years	Juvenile Offenders Per 100.000 Children in Turkey	Between 12 & 15			Between 15 & 18			Between 12 & 18 (Total)		
		Boys	Girls	Total	Boys	Girls	Total	Boys	Girls	Total
2000	869	16027	1630	17657	64713	6621	71334	80740	8251	88991
2001	847	17228	1665	18893	62113	6200	68313	79341	7865	87206
2002	981	21700	2120	23820	69207	7877	77084	90907	9997	100904
2003	1197	19633	1732	21365	93668	9587	103255	113301	11319	124620
2004	1310	23561	2765	26326	100062	9970	110032	123623	12735	136358
2005	1530	31909	4769	36678	111422	10817	122239	143331	15586	158917
2006	1563	26760	4444	31204	99405	10493	109898	126165	14937	141102
2007	1523	23224	2992	26216	76530	8532	85062	99754	11524	111278
2008	1463	30115	3458	33573	68912	7752	76664	99027	11210	110237
2009	2356	70387	6445	76832	95689	6960	102649	166076	13405	179481

Source: Turkish Ministry of Justice, 2012 ([http://www.adlisicil.adalet.gov.tr/istatistik\\_2009/ist\\_tab.htm](http://www.adlisicil.adalet.gov.tr/istatistik_2009/ist_tab.htm))

**Table.4—Cases in Juvenile Courts and Juvenile Serious Crimes Courts**

Crime	Number of crimes	%	Between 12 & 15			Between 16 & 18			Other (Unclassified, Foreigners, etc.)
			Male	Female	Total	Male	Female	Total	
Crimes against property	37389	44,6	16249	1602	17851	18127	1218	19345	193
Crimes against persons	16723	19,9	5662	738	6400	9402	880	10282	41
Crimes against freedom	10732	12,8	4206	313	4519	5775	408	6183	30
Crimes against public health	5391	6,4	1173	91	1264	4020	98	4118	9
Crimes against fame and hono	3047	3,6	792	251	1043	1675	322	1997	7
Carrying firearms, weapons, knives	2237	2,7	756	11	767	1439	29	1468	2
Sexual crimes	1398	1,7	701	20	721	663	6	669	8
Crimes against justice	1054	1,3	245	141	386	545	111	656	12
Crimes against public officials	866	1,0	246	25	271	563	30	593	2
Crimes against public safety	756	0,9	209	53	262	370	75	445	49
Creating general threat/risks to public	673	0,8	251	3	254	404	11	415	4
Violation of copyright laws	574	0,7	215	0	215	356	3	359	0
Crimes against life	379	0,5	108	6	114	252	13	265	0
Crimes against family members	340	0,4	48	76	124	158	58	216	0
Vice and crimes against public morality	234	0,3	79	7	86	122	26	148	0
Violation of passport law	223	0,3	1	1	2	1	0	1	220
Crimes against public peace	222	0,3	74	7	81	122	17	139	2
Crimes against property	37389	44,6	16249	1602	17851	18127	1218	19345	193

*Source: Turkish Ministry of Justice, 2012 ([http://www.adliscil.adalet.gov.tr/istatistik\\_2009/cocuk/cocuk21.pdf](http://www.adliscil.adalet.gov.tr/istatistik_2009/cocuk/cocuk21.pdf))*

**Table.5—Cases in Juvenile Courts and Juvenile Serious Crimes Courts (Cont.)**

Crime	Number of crimes	%	Between 12 & 15			Between 16 & 18			Other (Unclassified, Foreigners, etc.)
			Male	Female	Total	Male	Female	Total	
Violation of demonstrations law	216	0,3	100	7	107	93	16	109	0
Smuggling	206	0,2	86	1	87	119	0	119	0
Cyber crime	160	0,2	38	6	44	95	21	116	0
Violation of forests law	76	0,1	31	0	31	44	0	44	1
Terrorism	65	0,1	61	4	65	0	0	0	0
Crimes against constitutional order	50	0,1	45	4	49	1	0	1	0
Drug crimes	47	0,1	19	1	20	27	0	27	0
Holiganism	35	0,0	9	0	9	26	0	26	0
Violation of privacy laws	31	0,0	7	2	9	15	7	22	0
Crimes against state	26	0,0	15	1	16	9	1	10	0
Misdemeanors	25	0,0	6	1	7	17	1	18	0
Crimes against Atatürk	25	0,0	15	0	15	10	0	10	0
Torture	24	0,0	9	0	9	15	0	15	0
Violation of the law on trade marks <sup>TM</sup>	21	0,0	8	0	8	13	0	13	0
Damaging cultural and natural entities	20	0,0	12	0	12	8	0	8	0
Other crimes	137	0,2	39	9	48	68	14	82	7
Confiscation demands	516	0,6	196	5	201	296	9	305	10
<b>TOTAL</b>	<b>83918</b>	<b>100</b>	<b>31711</b>	<b>3386</b>	<b>35097</b>	<b>44850</b>	<b>3374</b>	<b>48224</b>	<b>597</b>

Source: Turkish Ministry of Justice, 2012 ([http://www.adlisicil.adalet.gov.tr/istatistik\\_2009/cocuk/cocuk21.pdf](http://www.adlisicil.adalet.gov.tr/istatistik_2009/cocuk/cocuk21.pdf))

### c. Children in Prison/Corrections Records

Juvenile prison and reformatory statistics show a fast increase in almost all of the juvenile delinquency categories. For instance, juvenile incarceration for homicide was 21 in 2007. However, it increased to 39 in 2008 and from there it slightly decreased to 34.

The number of juvenile theft convicts increased from 47 in 2007 to 121 in 2008. In 2009, juvenile incarceration because of theft reached 194. Between 2007 and 2008 it almost tripled, between 2008 and 2009 it almost doubled. The theft imprisonment rate in 2009 is more than four times larger than that of 2007.

Robbery cases show a similar pattern with theft cases. The number of juveniles received into juvenile prisons and reformatories in 2007 was 100. However, it increased to 171 in 2008 and 271 in 2009. Data shows that robbery incarcerations increase by 70 to 100. If it keeps increasing like that the number of juvenile robbery convicts in 2012 might be around 500.

Since we do not have exact figures for all years, we cannot say much about how crime rates changed in the last three years of available prison statistics. The last category, the “other” tells us that there is a rapid increase in different types of crimes, which includes crimes other than listed in Table.8.

All crimes put together, the total number of juvenile convicts received into juvenile prisons and reformatories increases by approximately 200 convicts each and every year. Juvenile incarceration in 2007 was 236. It increased to 429 in 2008 and past 650 in 2009. If we evaluate these figures along with the exponentially increasing juvenile courts’ and juvenile serious crime courts’ work load, juvenile prisons will be receiving a lot more convicts in the coming future.

<b>Table.8—Juvenile Convicts Received into Juvenile Prison and Reformatory by Type of Crime, 2007–2009</b>			
<b>Type of Crime</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>
Homicide	21	39	34
Theft	47	121	194
Rape	30	7	-
Sodomy	5	28	-
Sexual crimes	-	-	42
Physical assault	14	9	13
Robbery	100	171	271
Other	19	54	98
Total	236	429	652

*Source: Turkish Statistical Institute (2011c:35)*

## 2. Violent Crimes

Children in Turkey face the risk or reality of many forms of violence, abuse, exploitation and neglect, depending partly on their age, sex and social background. The Child Protection Law of 2005 introduced a rights-based approach to child protection, and considerable efforts have been made to implement the Law. However, important deficiencies persist in areas like institutional, financial and human resources, coordination and monitoring. Child protection services are mainly geared to intervention when a violation has occurred, while prevention and early warning systems are undeveloped.

Most children encounter some form of violence from adults or other children, whether at home, in and around school, or in the community. Girls in particular face a significant risk of sexual abuse and sexual violence. Honour killings and forced suicides continue to be reported. The development of policies against violence has proceeded slowly, with limited monitoring. A renewed effort is needed to ensure that all forms of violence against children are unacceptable throughout society, to ensure identification, reporting and follow-up with the help of better information-sharing and coordination, to empower children and activate complaints mechanisms, and to expand services for victims.

Turkey has made significant efforts, particularly in recent years, to bring its laws, regulations and practices in the area of justice for children into line with the highest international standards. In terms of implementation, however, the results have been patchy. Many children are still tried in adult courts. A significant number still face very long periods of pre-trial detention. Alternative measures – where used – are not implemented effectively. Conditions in detention still give cause for complaint, and services for child victims require developing further. A greater sense of urgency is required about these issues.

Some 14,000 children without parental care are living in residential institutions. This figure indicates that policies of deinstitutionalisation through support for families, foster parenting and adoption have made some progress in recent years. Meanwhile, standards have been set for residential institutions and children are being moved to smaller, friendlier types of home. The UN Committee on the Rights of the Child has recommended that Turkey: (a) continue its efforts to improve conditions for children deprived of parental care, in particular by providing more qualified professionals and effective monitoring of conditions for such children; (b) consider an impartial evaluation of the child care system and the de-institutionalization process so far, with a view to identifying both good practices and areas where adjustment may be necessary.

8.2 Violence and abuse: Recent global studies have shown that almost all children witness violence at home, in schools and in the community - and that large numbers of children are directly affected by this (UN Study on Violence against Children/World Report on Violence against Children, 2006; UNICEF/Inter-parliamentary union: Eliminating Violence against Children). Violence may be physical, sexual or emotional. Exposure to violence in early childhood can affect the maturing brain, while prolonged exposure in children of all ages can have long-term health effects. Depending on its frequency and severity, violence can also affect children's ability to express themselves, their school performance, their socialisation, their self-esteem and their general emotional well-being. In later life, children exposed to violence are more likely than others to engage in substance abuse and early/risky sexual activity, to suffer from anxiety and depressive disorders, impaired work performance and memory disturbances, and to engage in aggressive behaviour themselves, thereby transferring the human and social costs from one generation to another.

In Turkey, as in other countries, violence against children and young people occurs in many contexts including homes, schools, child care institutions, the policing and justice systems, and public places. It is inflicted by children and young people themselves, by adults with responsibilities to children or by strangers. It takes many forms, ranging from physically and emotionally violent discipline in the home to child abuse and sexual violence. Violence and abuse against children and young people cannot be quantified exactly as only a small proportion of cases – usually incidents leading to death or severe injury - are reported and investigated. The summary report of the Research Study on Child Abuse and Domestic Violence in Turkey conducted under the programme of cooperation between the Government of Turkey and UNICEF and published in 2010 paints a detailed picture of the various levels of violence which ordinary children witness and suffer in their everyday lives, the effects which it has on them and the ways in which they seek to cope (<http://panel.unicef.org.tr/vera/app/var/files/c/o/cocuk-istismari-raporu-eng.pdf>). Aside from violence, child neglect – in some cases linked to factors such as the low level of education of parents and the burden of work on both parents - may be responsible for many accidents and injuries in and around the home and for gaps in the physical, cognitive, social and emotional development of children.

The types of violence encountered vary with age and gender. While boys are more likely to face physical punishments and gang behaviour, for example, girls have a higher risk of sexual abuse and, as they grow older, begin to encounter gender-based domestic violence. Violence against children and young people exists in all parts of society and it is not easy to

define those who are most at risk. However, parents with low levels of education may, on average, be quickest to resort to violence against their children. In addition, factors such as unemployment, income poverty, poor housing, disability, family separation and migration may contribute to pressures which put children and young people at greater risk of violence in the family. The same factors may also cause children and young people to spend more time on the street or in informal employment, where they may be exposed to violence from other children, employers or strangers. According to the results of a survey conducted in 2008, 51% of 7-18 year-olds said that they had been subject to emotional violence, 43% to physical violence, 23% to neglect and 3% to some form of sexual abuse within the past one year. The survey (<http://panel.unicef.org.tr/vera/app/var/files/c/o/cocuk-istismari-raporu-eng.pdf>) paints a detailed picture of the various levels of violence which ordinary children witness and suffer in their everyday lives, the effects which it has on them and the ways in which they seek to cope.

Home and school-based violence: According to the 2006 Family Structure Survey conducted by Turkstat and the Family and Social Research General Directorate (now part of the Ministry for the Family and Social Policies), 17% of fathers and 35% of mothers of children aged 3-17 admitted to beating their children at least occasionally (and in most cases “sometimes”) as a form of punishment. They also resorted to other forms of punishment that may be regarded as violent. Ten percent of mothers, for example, had confined their children in a room within the past year. In a 2008 survey (UNICEF Turkey/Genar: Türkiye Etkili anne Babalık Eğitimi üzerine bilgi/tutum/beceri araştırması kantitatif sonuçları taslak raporu (draft report on quantitative results of Knowledge-Attitude-Practices survey on Effective Parenting Education), 4,200 parents from 12 provinces in all regions were asked how they disciplined their children. Of these, 9.3 percent admitted to giving physical punishments, 7.3 percent to “frightening” them and 31.8 percent to shouting or raising their voices. Physical punishments were less likely to occur where mothers had a university education. Parents explain their use of violence against children in terms of “discipline” and “control”. Turkish proverbs extolling the benefits of violence in disciplining children and apprentices remain in popular use.

Awareness raising and education of parents appears to be one effective way of reducing violence against children in the home. Parents from disadvantaged backgrounds who take part in parenting courses regularly report that they have stopped beating their young children and learned to talk to them.

In schools, corporal punishment is banned but the scope of the ban may need to be made more explicit, and/or its enforcement may need to be improved, since school administrators and teachers are widely believed to resort to varying degrees of violence as a form of discipline,

assertion of control or expression of anger. Teachers are not trained in positive disciplining. Cases of violence by teachers and school officials are sometimes reported in the press, but in many cases children and parents may feel unable to complain.

Violence by children against children, including bullying and gang-like behaviour, takes place most commonly in and around schools. In extreme cases, firearms and other weapons have been used, sometimes fatally. A child's use of violence may be motivated by a desire to prove himself (or herself) or linked to the stealing of pocket money, food or other items. Underlying causes may include low self-esteem or other psychological factors including the psychological impacts of violence, abuse or neglect which the child himself suffers at home or elsewhere. In 2006-7, a parliamentary inquiry held into violent tendencies among children and young people and violence in and around schools found that many children found school environments unsafe (The report is available in Turkish at: [http://www.tbmm.gov.tr/develop/owa/arastirma\\_onergesi\\_gd.onerge\\_bilgileri?kanunlar\\_sira\\_no=491](http://www.tbmm.gov.tr/develop/owa/arastirma_onergesi_gd.onerge_bilgileri?kanunlar_sira_no=491)).

A Strategy and Action Plan for Preventing and Reducing Violence in Educational Environments was adopted by the Ministry of National Education in 2006, covering the period 2006-2011. Various activities were foreseen involving schools, parents, children themselves and members of the local community such as traders and internet café owners. A protocol aimed at ensuring a safer environment in schools was later signed between the Ministry of National Education and the Ministry of the Interior, Directorate General of Security (police). In 2012, the Government of Turkey informed the UN Committee on the Rights of the Child that there had been a 32% decline in incidents of violence since 2006. It is important to ensure effective monitoring of all kinds of violence in and around primary and secondary schools.

### **3. Sexual Crime**

Sexual violence and abuse: In the National Research on Violence against Women in Turkey published in February 2009 by the Directorate General for the Status of Women (now part of the Ministry for the Family and Social Policies), 7% of the women interviewed reported that they had experienced sexual abuse before reaching the age of 15. The nature of the abuse was not specified. The Research Study on Child Abuse and Domestic Violence in Turkey suggests that at least 10% of children between 7 and 18 have been witnesses to some form of sexual abuse, with at least 1% forced to look at pornographic material and at least 0.5% forced to engage in sexual behaviour such as touching or being touched. More and more cases of child abuse – typically perpetrated by fathers or other older relatives – have been reported in recent

years. In 2009, the UNFPA and the Population Association published a report entitled *Understanding the Problem of Incest in Turkey* giving insights into this phenomenon. Incest is probably the most common form of sexual abuse against children and is known to affect girls and boys over long periods and from a very young age. As in other countries, incest and child abuse are abhorred – there have been attempts to lynch suspected abusers – yet they appear to occur not infrequently in all parts of society.

Cases of children – especially but not exclusively adolescent girls - being raped or molested by strangers, or by people they knew and trusted, are reported in the Turkish media from time to time. There have also been allegations and formal complaints of sexual violence and abuse in boarding schools and in detention. The effects of abuse and other forms of sexual violence against children range from temporary distress and sense of guilt to long-term injury and trauma and risky sexual activity or abuse of others later in life. Sexual violence and abuse can also have significant secondary effects. Rape victims may face rejection or even murder by their families (see also section on honour crimes, below). When criminal charges are brought, victims may face disturbing legal proceedings including repeated medical examinations and confrontations with their assailants (see also juvenile justice, below). Babies born as a result of rape or incest may be killed or abandoned or may grow up in very difficult circumstances.

Gender-based violence, honour crimes and forced suicides: Domestic violence against women is widespread. There has been much publicity in recent years about the need for more – and safer - women’s shelters, and about the failure of public authorities to prevent what appears to be a wave of killings by ex-husbands or ex-partners of women who have in many cases left them in order to escape from domestic violence. Girls who marry early, or at a relatively early age, and who lack education and economic independence, may be particularly likely to find themselves affected by domestic violence. A related issue is the custom of honour killings and forced suicides, whereby immediate family members kill women and girls suspected of being unchaste, or force them to commit suicide. Both the victims and the perpetrators of these crimes may be minors. Since 2004, honour killings have been classified by the Penal Code as aggravated murders and higher sentences have been foreseen for those ordering them. It is also a crime to force someone into committing suicide: putting pressure on someone who is unable to grasp the meaning or consequences of his or her actions to commit suicide is characterized as murder. In 2005-2006, a parliamentary inquiry was held into honour killings and violence against women and children. In July 2006, the Prime Minister issued a circular to public bodies calling for the implementation of the report’s recommendations.

Several relevant studies have been conducted. A Population Association/ United Nations Population Fund (UNFPA)/United Nations Development Program (UNDP) study of 2005, although no longer up to date, provides valuable insights into patterns of honour killings. In 2006, Yakın Ertürk, the UN Special Rapporteur on Violence against Women, its Causes and Consequences, travelled to Southeast Turkey to investigate the high suicide level among girls and women, and concluded that these deaths might also be disguised honour killings or forced suicides, or otherwise related to the patriarchal order. Although data on honour crimes and forced suicides is not collected systematically, a report on the issue published by the Prime Ministry Human Rights Presidency in 2008 reported over 1,100 cases of “ethics and honour killings,” broadly defined, between 2003 and 2007, with no sign of any decline over time. Of these, 9% involved children (probably all girls, although this is not specified in the report). The killings took place in all parts of Turkey and were most intensive in Istanbul. A correlation was drawn to low levels of education and migration to large cities. There may be a link between urbanisation and the incidence of honour killings, as young women interact more freely with strangers while men seek to hold onto traditional privileges in the face of new hardships.

In spite of tougher sentencing, increased commitment and greater academic attention, honour killings and crimes continue to be reported, with girls under-eighteen among the victims. Particularly alarming are cases, not infrequently reported, where women and girls under threat of honour killings take refuge with public authorities but cannot be protected or are simply returned to their families. In 2006, the General Directorate for the Status of Women in the Office of the Prime Minister was given responsibility for coordinating the struggle against violence against women. In 2011, the General Directorate later became part of the Ministry for the Family and Social Policies. In March 2012, a new Law on the Protection of the Family and the Prevention of Violence against Women was adopted setting out roles and responsibilities for protecting women applying to the authorities for protection, and envisaging new protection centres, social assistance and detention for men not abiding by protection orders. Women’s NGOs. Considered the law insufficient (For a brief evaluation, see: [http://www.tepav.org.tr/upload/files/1333026809-](http://www.tepav.org.tr/upload/files/1333026809-1.6284_Sayili_Ailenin_Korunmasi_ve_Kadina_Yonelik_Siddetin_Onlenmesine_Dair_Kanun_Ne_Getiriyor.pdf)

1.6284\_Sayili\_Ailenin\_Korunmasi\_ve\_Kadina\_Yonelik\_Siddetin\_Onlenmesine\_Dair\_Kanun\_Ne\_Getiriyor.pdfby). In 2011, Turkey also signed and ratified the new Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.

Overall strategy against violence: The 2006 UN Study on Violence against Children recommended that each state should: explicitly ban all forms of violence against children in all settings and develop a national comprehensive gender-sensitive strategy to prevent and address

all forms of violence against children, in addition to collecting, analysing and disseminating data and conducting research in this area. The Council of Europe programme “Building a Europe for and with Children” ([www.coe.int/children](http://www.coe.int/children)) has drafted guidelines for national strategies in the area of violence against children.

Following a Prime Minister’s directive issued in 2006 on violence against women and children, including honour crimes (Official Gazette No. 26218, July 4 2006), the General Directorate for Social Services and the Child Protection Agency (SHÇEK) was made responsible for coordinating actions to prevent violence against children given the task of developing an action plan for the prevention of violence against children. In 2011, SHÇEK was restructured under the Ministry for the Family and Social Policies.

Recent research conducted for UNICEF on system responsiveness to violence against children in 2012 identified a number of challenges faced by the child protection system in responding to violence against children ranging from the high social acceptance of violence against children to a lack of standard guidelines for identification, reporting and follow-up, and from reactive (rather than strategic) policy-making to a lack of services for victims. The research also points to gaps in coordination, information management, complaints mechanisms and monitoring. It makes a series of recommendations in all these respects.

### **Prevention**

In 2001, with a view to improving police services for minors, Children’s Offices were established in all 81 provinces, attached to Security Directorates, in keeping with the applicable legislation, primarily the UN Convention on the Rights of the Child. All actions relating to child victims, children in need of protection or unaccompanied children are carried out by special staff trained in these fields.

Pursuant to the Law on the Protection of Children, which came into force in 2005, all measures regarding the protection of children under risk, in need of protection or driven into crime; and the securing of their rights and well-being are taken under the coordination of the relevant institutions.

A Circular was issued on 11 November 2014 (no. 2014/33) on this subject, which has been annexed to the present document.

It has been laid down in Article 1 of the Law on the Duties and Powers of the Police that:

“The police force protects public law and order, personal security and inviolability of domicile. It ensures that the life, property and sexual integrity of the people are protected and peace is secured. It helps those who ask for, and who are in need, such as

children, the disabled or incapable; and carries out the duties imposed by laws and ordinances”

Accordingly, the police have especially recognized the protection of family life, of those in need of protection such as the disabled, incapable and children, as a prior duty.

With a view to mitigating the impact of trauma caused to the child by the sexual abuse he/she went through, and to avoid more damage during the investigation stage, “Child Monitoring Centers” have been established, attached to the Ministry of Health, composed of public prosecutors, lawyers, psychologists, social service experts and pedagogues. The Centers, which are operational in 19 provinces, are in charge of recording the accounts of children on the sexual abuse incident they have faced, and carrying out rehabilitation and relevant activities where necessary.

On 6 February 2014, the Law on the Organization and Duties of the Ministry of Family and Social Policies and certain other laws have been amended, as a result of which several organizations which had been in charge of providing care and rehabilitation services to juveniles who have been victims of crime, driven into crime or under risk outside on the streets have been merged under a single institution, namely Child Support Centers.

These centers are in charge of fulfilling the basic needs of children; identifying their physical, emotional, psychological and social needs and taking the necessary steps. It is ensured that these children return to their families and their native environment or are made ready for other social service models. The Regulation on Child Support Centers was put in force on 29 March 2015.

A working group composed of the officials of the Ministry of Family and Social Policies, field staff and academics have developed a psychosocial support and action program to be implemented in Child Support Centers with the financial assistance of the EU and the technical assistance of the UNICEF, which is called the Anka Child Support Program. It is currently being implemented as a psychosocial support and action program addressing children accommodated at Child Support Centers and their families.

Anka Child Support Program serves as a successful practice of rights-based care and recovery system. It has been aimed that every children accommodated at the center is monitored through an effective counselling system. In accordance with the right of participation of the child, a contract is made between the institution and the child. Every Center determines its own rating and grading system. A reward-based approach is being used in the implementation of the system rather than a sanction-based one. An individualized support program is assessed for each child every three months and the outcomes are followed up.

Following the assessment, a decision is made of whether the child should be returned to his/her family, placed in another social service institution or continue attending the program.

The Anka Child Support Program is a good example to assistance and rehabilitation practices which facilitate the rehabilitation and reintegration of child victims of crimes. It is a psychosocial support and action program. The program is aimed at minimizing trauma and eliminating behavioral disorders suffered by children who have been driven into crime, victimized, exposed to social dangers on the streets and thus came to the verge of collapsing; and help them become individuals who think, improve, believe in themselves and success, improve their life skills, intellectual capacity and quality of life and live in peace and harmony thanks to a transition from street life to an orderly life. The Anka Child Support Program, which aims an all-purpose approach and action, consists of the following components: Individual Needs and Risk Assessment Form, Group Works, Individual Counselling, Family Works, Supportive Environment Components, Principles of Approach for Supportive Staff, and Institutional Approach to Crisis Management. The Program has been in use at all centers since December 2014. First results are being taken. Cases in which children left the center without permission and other problems have been in decline. Children's success at school has improved during the same period. Also pertinent to the reply of the third question, no challenges or issues have been experienced in the development of the program.

The "Children and Youth Social Protection and Support Program" (ÇOGEP) has been put in practice for the reintegration into society of children driven into crime and child victims and to keep them away from crime.

Within the context of ensuring the personal and social development of children and youth, the program is aimed at the implementation of measures for the social protection of them, the development of them as socially beneficial individuals through providing social and educational assistance, the integration into urban life of those who have migrated to the city and other disadvantaged groups who were unable to adapt, and the abatement of other hardships which set obstacles to a safe life.

The following articles of the Regulation on Child Support Centers, which came into force on 29 March 2015, are relevant:

Article 4 § 1

a) the services for children shall be provided in accordance with the Convention on the Rights of the Child, human dignity and pride. Privacy shall be protected, personal rights shall not be violated and such violations shall not be allowed, and the interests of the child shall always be sought in any decision or action to be taken in respect of him/her.

b) the opinions of the child shall also be taken into account in any action in respect of him/her.

#### Article 3 § 1

g) The child representative shall mean the representative who has been elected by the children for a term of six months among themselves in order to increase the efficiency of the services provided in the centers and the children's participation in the services and management.

#### Article 18

1. The coordination and evaluation commission shall consist of the director of the center, the deputy director, professionals, nurse, religious official and the child representative. Other staff may also be called to the meetings where necessary.

2. The child representative shall attend the sections of the commission's meetings which relate to children's issues.

The "Child-Friendly Cities Project" is being carried out, of which the Ministry of Interior is among the stakeholders. Information on the project is as follows:

Name of the Project	Child-Friendly Cities
Partners	The Ministry of Interior, United Nations Children's Fund (UNICEF), Turkish Association of Municipalities, United Cities and Local Governments Middle East and West Asia Section, World Academy for Local Government and Democracy
Objectives	Creating cities and local governments which take into consideration the voices and opinions of children and are sensitive towards the realization of children's rights.
Subject	The project is the embodiment of the Convention on the Rights of the Child at the local level. This means the reflection of children's rights to politics, laws, programs and budgets.
Financial Resources	UNICEF and IKEA (An international store based in Sweden)
Cost	500,000 US Dollars
Duration	2 Years
Start Date	2014
Date of Completion	2015
Cities applicable	İzmir (Bornova), Giresun, Adana (Yüreğir), İzmir (Bornova), Bitlis, Ankara (Mamak), Şanlıurfa (Eyyubiye), Kırklareli (Lüleburgaz), Erzurum (İspir)

Works carried out	<p>The Project is currently underway in Manisa and Mersin.</p> <p>By the implementation of the Child-Friendly Cities Project, regarding children living in places where</p> <ul style="list-style-type: none"> <li>- child labor,</li> <li>- children living and working on the streets,</li> <li>- Syrian immigrants, and</li> <li>- Roma people</li> </ul> <p>are common, it has been aimed that cooperation shall be made with selected local governments on designing child-friendly policies and programs with a view to supporting children who lack the opportunities, through educational, social, sportive and cultural means and providing integration opportunities and environments.</p>
Benefits	<p>Situation analysis and needs assessment works will be carried out in every municipality among children, parents, teachers and service providers.</p> <p>In accordance with the results of needs assessment works, the capacity of local administrations will be strengthened and child-friendly places such as libraries, playgrounds and community centers will be established in urban areas and the existing ones will be supported to ensure that children can exercise their right to education, health, participation and development.</p>

According to the information received from the Ministry of Family and Social Policies, any person, families or the child himself can apply to provincial directorates, the Ministry's institutions, or the call center "ALO 183" to report a child in need of protection. The children deemed in need of protection by any state institution or organization may be referred to the Ministry of Family and Social Policies. The news which appear in the press are taken as denunciations and the necessary procedures are carried out by the Ministry with a view to ascertaining whether the child needs protection and ensuring that he/she receives the appropriate services. In respect of those children who are deemed to be in need of protection by social workers, the necessary applications are made to the relevant courts in accordance with Article 5 of the Law on the Protection of Children and the protective and supportive measures are requested. Any or all of the measures relating to health, education, counselling or care can be requested as needed by the child. Among the children in respect of whom a decision of care or protective measure has been taken as a result of his/her having been a victim of or driven into crime or having faced social dangers in the streets, those who are deemed to be in

need of psychosocial support are given services at the Child Support Centers attached to the Ministry, which provide services on a temporary basis.

Child Support Centers are specialized in the determination of protection needs, taking into account the age and gender of the child, as well as the type of crime and victimization. The Centers specialize in providing support services for pregnant girls, child mothers, children addicted to drugs, unaccompanied migrant children, street children, children driven into crime, and child victims of crime.

Supportive programs are provided at Child Support Centers for children driven into crime, child victims of crime, street children and unaccompanied migrant children.

In accordance with the powers set forth in the legislation, Children's Police unit is in charge of returning to the relevant institution or to their legal representative minors who are suspected to be in need of protection, who have reportedly been exposed to negligence and abuse, who fled from home or the institution held, exposed to crime, have a tendency to crime, live or work on the streets, are unable to describe the place they live, are unable to express themselves, cannot be identified, have been found, are refugees or unaccompanied, in accordance with the nature of the decision taken in respect of them by competent administrative and judicial authorities.

#### **4. Drug-Related Crimes**

Drug use is a growing problem in Turkey. During the research on drug use in general population, carried out by TUBİM in 2011, 8,145 households from 25 provinces were interviewed. The study revealed life-long drug use frequency to be 2.7%. According to the results of the study, being in the 15-24 age group, being male, having an income of 500 TL or lower (<200 Euro or <250 USD at the time of research), and using tobacco, alcohol, and medicines without the recommendation of a doctor increased drug use at significant level.

During the Schoolchildren Study, conducted by TUBİM in 2011, 11,812 persons from 32 cities were interviewed, based on common and technical high school distribution. Forty-nine percent of these students were female (5,783 persons), while 51% of them were male (6,029 persons), and their average of age was  $15.23 \pm 0.69$ , with a median of 15.00.

Life-long drug use frequency was determined to be 1.5% in the study of schoolchildren. One point one percent of those schoolchildren had a family member who used a substance apart from tobacco or alcohol, and for 87.4% of them, this person was either a parent or sibling. The average age for first time drug use was  $13.88 \pm 2.39$ , with a median of 14.00.

Forty-two point one percent of those who are still on drugs use such substances once a week, while 36.8% of them uses drugs twice a week. Forty-nine point five percent of drug users shared the names of the substances they use. Even though only approximately half of the group revealed the names of the drugs, cannabis was in first place by a landslide, while the volatiles were the second most frequently mentioned. Despite the scarce number of answers, it was determined that one out of five users used more than one substance. The most common method to use such substances was respiration, while the second most common method was orally. Zero point seven percent of the female students had tried substances, while this number was 2.3% for the male students.

Among the drugs mentioned by the users, cannabis and derivatives are ranked first (84.1%), followed by volatiles (32.9%) and stimulants (22.7%). The percentage of the users indicating their first preference to be cannabis was 61.3%, while this substance was the second reference of 39.1% and the third preference for 25.0% of the users; results indicate that this substance ranks first.

It was concluded that the young people participated in this study intimately. It was also observed that not providing any substance choices was not a problem, and that it even led young people to share their knowledge by providing many names regarding cannabis and derivatives. The results indicated that the tobacco, alcohol, and substance use prevalence in Turkey remains at a certain level, that it cannot be avoided, that drug use should be addressed, and that Turkey should make unique steps for protection and prevention plans in this field.

### **Prevention of drug-related crimes**

Preventive activities constitute an essential element in the fight against drug use and addiction. Prevention refers to all precautionary activities carried out to help individuals avoid developing bad habits and lead healthy lives. The main objective of preventive actions is to ensure that an individual refuses to use drug when offered and minimize his/her addiction risk. The efforts by law enforcement officers to control the sale and trafficking (supply) of drugs can achieve success to the extent that they are supported by preventive activities.

Preventive activities in Turkey basically target youngsters between the ages of 15 and 24 (when most drug abuses start) as well as families, teachers, public officials, and non-governmental organizations. Various institutions and organization conduct activities to prevent drug use and addiction. The Turkish Monitoring Center for Drugs and Drug Addiction (TUBIM) carries out preventive activities through the TUBIM Provincial Contact Point

(ILTEM) staff employed in the Departments for Combatting Drug Use located in all 81 provinces.

The number of preventive activities carried out by 162 specialists employed in the Department for Combatting Drug Use aimed at different groups amounted to 3,848 in 2013. These specialists organized preventive activities such as conferences, seminars, and plays for 673,195 people in total in 2013 – 476,885 students, 62,244 families, 61,080 public officials, 18,756 teachers, and 54,230 individuals from various groups.

#### High-Risk Drug Use

In 2010 and 2011, Problem Drug Use (PDU) criterion was first defined in Turkey with the participation of TUBİM experts along with national and international experts. According to the study carried out in Ankara, Istanbul, and Izmir, the number of problem opium users was estimated to be 5,800 and 25,000 for Ankara and Istanbul, respectively, while the number of problem cannabis users was determined to be 28,500 and 33,400 for Ankara and Izmir, respectively.

According to the estimation made in 2013 with consultation of AMATEM (Alcohol and Substance Addiction Treatment Center) experts, the number of problem drug users (except for cannabis and ecstasy) in Turkey was estimated to be 59,895 (46,087-73,704).

Even though there are different methods in the estimation of high-risk drug use (HRDU), it is observed that more than one method is used in combination in a large number of European Union countries. The basic reason is to make the estimations as real as possible. Nonetheless, the multiplier method that uses only one data set (data on treatments, police data, or data on death) is a significant method that is generally accepted. The multiplier method that is built on the data on mortality has both weak (dependence on only one set of data) and strong aspects (determination of total problem use). Hence, the data on drug-related deaths may show the high risk of the substance and address the estimation more clearly.

For the multiplier method used in the reports issued by Turkey to be sent to the European Monitoring Center for Drugs and Drug Addiction (EMCDDA) in previous years, the study of Bargagli et al. (2006) was adapted for Turkey. In this study, the estimation was based on the data on death pertaining to eight European cities. It was concluded that the estimation to be made by adapting the data of the same research to the data on death in Turkey would indicate the number of high-risk drug users in Turkey.

As a result of the above-mentioned study conducted by Bargagli et al., the death rate was determined to be between 3.09 and 7.37 for approximately each 1000 high-risk drug users

(certain various values were not included). In the study of Bargagli et al. (2006), the average of these eight cities was determined to be approximately 6.44.

Accordingly, when direct (n=232) and indirect (n=416) data on death in Turkey are included in the calculation within the scope of the multiplier method, the approximate number of drug-related deaths in 2013 (direct and indirect) was 648 (232+416). As a result of such calculation, if we assume that approximately 6.44 out of 1000 drug users die in Turkey, we can conclude that there are approximately 100,621 high-risk drug users in Turkey.

#### Drug Addiction Treatment

Public hospitals under the Ministry of Health, psychiatry wards of medical schools under universities, university hospitals in partnership with the Ministry of Health, and several private hospitals provide treatment for drug addiction in Turkey. In total, there are 26 treatment centers designed for drug addiction, where 706 beds are allocated to drug addicts. Four hundred seventy-nine of these beds are in hospitals under the Ministry of Health, and 277 are in the relevant units under university and public hospitals. These are the total number of beds that are allocated both to alcohol and substance addicts.

Two centers for drug addiction treatment opened in 2013. Twenty-five centers that offer inpatient drug addiction treatment throughout Turkey 2013 provided data for the study. In order to provide improved drug addiction treatment services, higher-quality and standardized treatment in addition to more accessible treatment centers with increased capacity should be ensured.

To this end, the Ministry of Health developed a standard training program for the personnel to be employed in these treatment centers. In 2013, 35 individuals received certificates at the end of this six-month training that includes both theoretical and applied modules.

Approximately 95.3% of the patients in Turkey receive treatment in the centers under the Ministry of Health, and their treatment costs are covered to a great extent by the Social Security Institution. According to the official data in 2012, the costs of 80.3% of the patients were covered by the Social Security Institute, 12.3% by universal health insurance, and 4.3% by the patients themselves (Turkish Statistical Institute Health Survey, 2012).

Probation has been implemented for drug-related crimes since 2006 in Turkey. The General Directorate of Prisons and Detention Houses reported 141,454 cases that were put on probation by the competent courts to be treated for drugs and stimulants as per Article 191 of the Turkish Penal Code between 2006 and 2013. Ninety-two percent (130,345) of these cases put on probation were adults, and 8% (11,109) were children.

The Law on Probation was amended in 2014. As per the amendments, drug use was also defined as a crime, and drug possession, which was previously subject to a one-to-two year prison sentence, was redesigned as drug possession/use with a two-to-five year prison sentence. An individual who benefited from probation previously cannot be put on probation for a second time within five years.

The Tobacco, Alcohol, and Drug Addiction (SAMBA) Treatment Program is a standardized, psychosocial program that is implemented in 17 sessions in most of the centers. There are different implementations of this program for adults, adolescents and families. In 2013, 65 individuals attended the training of implementers designed for this program in 25 centers.

Seven thousand eight hundred two forms were manually completed for 7,897 inpatients who sought treatment in these centers in 2013. The database consists of the forms that are annually completed in 24 treatment centers. The identifying details of the patients are kept confidential, as a coding system is used in completing these forms. All 24 centers that were functional in 2013 provided data.

The number of outpatients reached 218,574 in 2013. There is a rise in the number of the patients treated as part of the probation measure. The number of the patients that were on probation and treated increased to 91,486 in 2013. As for inpatients, the number amounted to 7,897 in 2013 with a 35% rise compared to 5,848 inpatients in 2012. This increase can be related to the more regularly collected data and higher reliability in institutional data.

While 51.5% (3738) of the patients placed under treatment in 2013 reported that it was their first treatment, 48.5% (3527) stated that they previously received treatment. There is no missing information related to this aspect among the data from 2013. The number of the patients who were placed under treatment for the first time recorded a 48.4% rise in 2013 compared to 2012, and the number of those who previously received treatment increased by 61.8%.

Classified according to age groups, 30.1% (2,190) of the patients were aged between 20 and 24 years; 26.8% (1,944) were aged between 25 and 29 years; 16.7% (1,233) were aged between 15 and 19 years; 17% (903) were aged between 30 and 34 years; and 7% (502) were aged between 35 and 39. Out of the patients placed under treatment in 2013, 1.8% (132) never went to school; 25.7% (1,870) received 1-to-5 years of education; 43% (3,126) received 6-to-8 years of education; 25% (1,817) received 9-to-12 years of education; and 4.4% (320) attended university.

## Health Correlates and Consequences

Two hundred thirty-two direct drug-related deaths (DRD) occurred in 2013 with a 43.2% rise compared to 162 direct DRDs in 2012. Out of all direct DRD cases in 2013, 97% (n: 225) were male and 3% (n: 7) were female. Two hundred thirty-two DRDs were recorded in 2013. According to general mortality registries provided by the Turkish Statistical Institute, 0.006% of all the deaths (372,094) in 2013 were described as DRD.

The average age of direct DRDs was 31 among males (min: 14; max: 68), 33.3 (min: 16; max: 48) among females, and 31.1 in general. Regarding direct DRD cases classified by age groups, nearly 0.4% were under the age of 15; 11.2% were aged between 15 and 19 years; 19% were aged between 20 and 24 years; 23.3% were aged between 25 and 29 years; 10.8% were aged between 30 and 34 years; 11.6% were aged between 35 and 39 years; 11.2% were aged between 40 and 44 years; 3.4% were aged between 45 and 49 years; 2.6% were aged between 50 and 54 years; 2.2% were aged between 55 and 59 years; 1.3% were aged between 60 and 64 years; and 0.9% were aged 65 and over. Age ranges of 2.2% could not be identified.

In 2013, direct DRDs occurred most frequently in the group aged between 25 and 29 years. The distribution of age among male cases was very similar to the total of both genders. No further assessment could be made on the distribution of age among females due to the limited number of cases. Direct DRDs occurred in 26 provinces in total. Istanbul recorded the highest rate of DRDs (n: 115, 49.6%), followed by Antalya (n:25, 10.8%), Adana (n: 17, 7.3%), Ankara (n: 13, 5.6%), İzmir (n: 11, 4.7%), Mersin (n: 7, 3%), Gaziantep (n: 7, 3%), Kocaeli (n: 5, 2.5%), and Hatay (n: 4, 1.7%), respectively. There were three cases (1.3%) each in Bursa, Konya, and Manisa (1,3%); two cases (0.86%) each in Diyarbakır, Hakkari, Kayseri, Osmaniye, and Şanlıurfa; and one case (0.43%) each in Aydın, Afyon, Muğla, Muş, Kastamonu, Sivas, Tekirdağ, Van, and Yalova.

Four hundred sixteen indirect drug-related deaths were identified in 2013 in Turkey. Ninety-seven point one percent (n: 404) of the cases were male, and 2.9% (n: 12) were female. The average age of male subjects was 32.8 (min: 13; max: 77), that of female subjects was 26.6 (min: 19; max: 35), and that of all the cases was 32.6 (min: 13; max: 77).

Indirect DRDs classified according to age groups were as follows: two cases were under the age of 15 years; 32 cases were aged between 15 and 19 years; 81 cases were aged between 20 and 24 years; 76 cases were aged between 25 and 29 years; 69 cases were aged between 30 and 34 years; 40 cases were aged between 35 and 39 years; 31 cases were aged between 40 and 44 years; 24 cases were aged between 45 and 49 years; 13 cases were aged

between 50 and 54 years; 16 cases were aged between 55 and 59 years; eight cases were aged between 60 and 64 years; and six cases were aged over 65 years.

The ages of 18 cases could not be identified. In 2013, indirect drug-related deaths occurred most frequently in the group aged between 20 and 24 years. Unlike previous years, firearm injuries constituted the most frequent cause of death, followed by traffic accidents, cardiovascular diseases, sharp object injuries, hanging, unknown, falling from a height, drowning, blunt head traumas (of homicide origin), carbon monoxide intoxication, lung infection, and electrical injuries.

Indirect DRDs occurred in 50 provinces in total. Istanbul recorded the highest number of cases with 134 cases (32.2%), followed by 41 cases (10.7) in Izmir; 37 cases (8.9%) in Adana; 28 cases (6.7%) in Ankara; 22 cases (5.3%) in Antalya; 17 cases (4.1%) in Manisa; 12 cases (2.9%) in Mersin; 11 (2.6%) cases in Sakarya; nine cases (2.2%) in Samsun; eight cases (1.9%) in Aydın; eight cases (1.9%) in Muğla; seven cases (1.7%) in Tekirdağ; and five cases (1.2%) each in Düzce and Kayseri. There were four cases (1%) each in Bingöl, Elazığ, Rize, Trabzon, and Uşak; three cases (0.7%) each in Artvin, Kocaeli, Diyarbakır, Urfa, Malatya, Niğde, and Zonguldak; two cases (0.5%) each in Ağrı, Hatay, Kütahya, Osmaniye, Çorum, Gaziantep, and Van; and one case (0.2%) each in Afyonkarahisar, Aksaray, Amasya, Ardahan, Bayburt, Bolu, Bursa, Çanakkale, Çankırı, Hakkari, Iğdır, Karabük, Kırıkkale, Kırklareli, Sinop, Sivas, and Yalova.

### **Social Relations and Social Reintegration of Drug Addicts**

Successful treatment for drug addiction is only possible through rehabilitation activities to be subsequently conducted. The societies where addicts have difficulty with reintegration into social life present the lowest success rates in addiction treatment. Thus, not only medical treatment, but also the activities for social reintegration are essential for a healthy society.

In Turkey, as there is no established countrywide social rehabilitation structure for aftercare services, the rate of success in drug addiction treatment is low, because successful addiction treatment requires fully implemented social reintegration programs. Thus, in order to ensure relapse prevention, certain economic, social, and psychological factors should be redesigned in a way to make life easier for individuals who complete medical treatment programs.

Forty-eight point five percent of the patients that received inpatient treatment in 2013 stated that they were previously treated for addiction at least once. These rates indicate the inadequacy of rehabilitation services provided after medical treatment in Turkey.

Attitude and Behavior Survey on Tobacco, Alcohol and Drug Use in the General Population (Turkey) (TUBİM GPS Survey) was carried out in Turkey by TUBİM in 2011 in 25 provinces determined by the Turkish Statistical Institute (TUIK) using face-to-face interview method. A total of 8,045 persons were interviewed during the survey. When the first substance (including cigarette and alcohol) used by drug users is taken into consideration, it can be concluded that a large portion of drug users (84.06%) began using substances with cigarettes. Hence, cigarettes are deemed to be a step leading to drug use. According to the data gathered from the U-Form, a large portion of the drug users have never been married (66.49%). According to the data of TÜİK (Turkish Statistical Institute), 27.38% of the people above the age of 15 have never been married, while 63.92% are married. Five point forty-four percent were divorced, and 3.26% lost their partners.

Based on these results, it can be claimed that a large portion of the population is married (63.92%), while the large portion of drug users have never been married; this indicates that drug use is more prevalent among single people, compared to those who are married. The TUBİM GPS survey also illustrates a statistically significant relationship between marital status and drug use.

## **5. Neglect and Abuse**

Since ratification of the United Nations Convention on the Rights of the Child in 1995, significant efforts were made in Turkey to improve protection of children from abuse and neglect. The government took steps to amend relevant laws. Several state departments recognized the need for professional in-service training of relevant governmental agency staff. University hospitals established numerous hospital-based multidisciplinary child protection centres. The government established an Interministerial Higher Council, which has been overseeing the foundation of 13 child advocacy centres for a multidisciplinary and interagency response to child sexual abuse. In addition to undertaking research, non-governmental organizations contributed to this process by instituting professional and public education. These ground-breaking developments in the last decade give promise of even further improvement in the national child protection system from investigative, child protective and rehabilitative perspectives.

In recent years, the issue of child abuse has been gaining increasing importance in the world both from medical and social respect. Child abuse is an issue in Turkey as well. Unreported or hidden cases and difficulties in diagnosis aggravate the importance of the problem causes and consequences of family violence. Emotional abuse and neglect: not

reported but considered to be high because domestic violence, poverty and low education level are common problems in our population. One third of the children get corporal punishment for discipline. Professional awareness of child abuse and neglect is very recent in Turkey. Rare case reports of child abuse and neglect appeared in Turkish medical literature in 1990's. Medical schools started developing child abuse programs only in late 1990s.

There are three stages of prevention in child abuse and neglect:

- Primary prevention: strategies designed for all children regardless of the risk of abuse
- Secondary prevention: strategies focused on families who are most at risk
- Tertiary prevention: prevention of re-abuse of victims.

### Child Abuse Prevention Programs in Turkey

#### Home visitation programs

- Not done for prevention of child abuse
- Social services (only for tertiary prevention)
- Home visitation in health system: Nurses, family physicians.

#### Parent training programs:

- Provided mainly by Ministry of National Education and some non-governmental organizations (ACEV, Çağdaş Yaşamı Destekleme Derneği, etc)
- They are not targeted specifically to abuse prevention but improving parenting skills is a well known child abuse prevention strategy.
- Recently: programs provided by Turkish Society for Prevention of Child Abuse and Neglect (TSPCAN)