

Guidelines

for a Community-Based Diversion and Prevention Programme for Children in Conflict with the Law



Free Rehabilitation, Economic, Education and
Legal Assistance Volunteers Association, Inc.
(FREELAVA)

in collaboration with



Save the Children
UK

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European Union



Save the Children
SWEDEN

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

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

Guidelines for a Community-Based Diversion and Prevention Programme for Children in Conflict with the Law

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Glossary

<i>Barangay</i>	It is the basic political unit of the country and is considered the primary planning and implementing unit of government policies, plans, programmes, projects and activities in the community. It is also considered to be a forum wherein the collective views of the people may be expressed, crystallized and considered, and where disputes may be amicably settled. It is normally composed of 1,000 households in a small contiguous area within a city or a municipality.
<i>Barangay Tanod</i>	Community law enforcers under the Barangay Justice System
<i>Lupong Tagapamayapa</i>	Barangay Justice Committee under the Barangay Justice System
<i>Pulong-Pulong</i>	A local system of spreading information or educating community members on an issue where everyone in the community is invited. It is a public forum often conducted outdoors
<i>Purok</i>	District
<i>Sitio</i>	A congregation of community dwellers situated in a particular geographic location within the Barangay, designed either for political or social mobilisation purposes

Acronyms

BCPC	Barangay Council for the Protection of Children
Beijing Rules	United Nations Standard Minimum Rules for the Administration of Juvenile Justice
CICL	Children in Conflict with the Law
CJC	Children’s Justice Committee
CV	Community Volunteer
DSWS	Department of Social Welfare and Services
DSWD	Department of Social Welfare and Development
FREELAVA	Free Rehabilitation, Economic, Education and Legal Assistance Volunteers Association, Inc.
GAD	Gender and Development
JDL Rules	United Nations Rules for the Protection of Juveniles Deprived of their Liberty
NGO	Non-Government Organisation
PD	Presidential Decree
PE	Peer Educator
PNP	Philippine National Police
RA	Republic Act
Riyadh Guidelines	United Nations Guidelines for the Prevention of Juvenile Delinquency
SC-UK	Save the Children - United Kingdom
SK	<i>Sangguniang Kabataan</i>
UNCRC Child	United Nations Convention on the Rights of the Child
WCPD	Women and Children’s Protection Desk

1 Introduction

Save the Children fights for children in the UK and around the world who suffer from poverty, disease, injustice and violence, and works with them to find lifelong answers to the problems they face. Save the Children UK is a member of the International Save the Children Alliance, the world's leading independent children's rights organisation, with members in 27 countries and operational programmes in more than 100.

Save the Children-UK's (SC-UK) operations in the Philippines started in 1991 in response to the emergency situation brought about by the Mt. Pinatubo eruption. Eventually, SC-UK's programme in the Philippines expanded to include other issues such as early childhood care and development, protection from abuse and exploitation and children's justice. The programme has also developed an approach that maximised the potentials of civil society by working through partnerships with NGOs as well as with government agencies to initiate changes in the lives and uphold the rights of Filipino children. As a child-rights organization, SC-UK adheres to the child rights principles embodied in the United Nations Convention of the Rights of the Child (UNCRC) in its programmes and practices.

From 1997 to 2002, SC-UK has worked along the thrust of child protection through its core programme on Social Protection, Welfare and Inclusion (SPWI). Two sub-programmes evolved under SPWI namely the Programme for Abused and Exploited Children (PAEC) and the Children's Justice Programme (CJP), which are implemented in partnership with both government and non-government organisations.

The focus of the Children's Justice Programme (CJP) is to protect children in conflict with the law (CICL) through the prevention and advancement of diversion in the administration of justice at the levels of the community, police and prosecution. This focus is anchored primarily on children's rights as embodied under the United Nations Convention on the Rights of the Child (UNCRC) and the principles of restorative justice. One goal of the CJP is to minimise the entry of children into the formal criminal justice system.

In the Philippines, Cebu is one of the project sites of the Children's Justice Programme. The Community-Based Diversion and Prevention Programme

implemented by a local NGO, FREELAVA (Free Rehabilitation, Economic, Education and Legal Assistance Volunteers Association), is one concrete translation of SC-UK’s commitment to protect the rights of child offenders in the country. The implementation of the programme started in October 2001 with an initial funding from Save the Children Japan. Eventually, SC-UK supported the programme in April 2002 with a three-year funding until 2005.

The Community-Based Diversion and Prevention Programme is implemented in 12 pilot barangays¹ in Cebu City. In the last two years, the programme has been gaining ground as evidenced by these positive results:

- A declining trend in the incidence of CICL cases in the 12 pilot barangays;
- A decline in cases of reoffending of previous CICL who have undergone the diversion process;
- A growing consciousness among programme actors and persons in authority of the importance of community diversion in the administration of children’s justice and of establishing a child-friendly culture within the community especially for CICL; and
- A growing awareness among community members on children’s rights particularly of CICL and the need to ensure their protection and welfare.

These suggest that diversion — handling cases of child offenders outside formal court proceedings — can really work at the community level. Nevertheless, much has to be done in terms of improving the theory and practice of community diversion as a model in the administration and dispensation of children’s justice in the 12 pilot barangays. While the programme has demonstrated positive results and strengths in its implementation, it was also beset with several weaknesses, limitations, problems, and gaps that need to be addressed or mitigated. These are

1 The Barangay is the basic political unit in the Philippines. It serves as the primary planning and implementing unit of government policies, plans, programs, projects, and activities in the community, and as a forum wherein the collective views of the people may be expressed, crystallized and considered, and where disputes may be amicably settled (1991 Local Government Code of the Philippines.).

highly understandable considering the programme entails the adoption of new concepts and procedures, which are “experimental” to some extent to FREELAVA and to the programme actors in the communities and unconventional to the members of the five pillars of justice and the broader public.

This set of guidelines is the first step towards improving the theory and practice of community-based diversion. It is a basic guide for programme actors at the community level and for would-be implementers who would want to replicate the programme in other communities. Defining the terms and concepts would help us understand the framework and the importance of the programme as well as unify implementers in one common direction, mindset and work conduct. This set of guidelines hopes to clarify and rectify wrong notions or inconsistencies in the conduct of the community-based diversion process across all the pilot barangays while it provides other readers with valuable ideas, insights and lessons on operationalising and implementing the programme. The improvement of this set of guidelines would need the conscious and continuous efforts of different stakeholders in documenting the lessons they are learning from their day-to-day experiences in community-based diversion.

2 Restorative Justice, the Beijing Rules and Diversion

The Philosophy of Restorative Justice

Restorative justice is defined as “a process whereby all the parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future (Marshall 1996 cited in McCold 1999:1).” This definition is, however, criticised as a necessary but insufficient and restrictive theoretical definition of restorative justice.² A working definition of restorative justice is offered by Zehr (1990; as cited in Bazemore, G. and Umbreit, M., 1997) as “a process to involve, to the extent possible, those who have a stake in a specific offence and to collectively identify and address harms, needs and obligations, in order to heal and put things as right as possible (2002 cited in Government of New Zealand, Ministry of Justice 2003: 5).”

For SC-UK, restorative justice is an approach in administering justice that focuses on repairing the harm done to the victim and the community. It ensures that: (1) The victim, offender, and the community fully participate in the process; (2) Restitution is offered to the victim; (3) The offender has the opportunity to acknowledge the harm he or she has caused; and (4) A sense of community is restored. The offender also needs to do community work and be given the opportunity to be reintegrated in society as a valued and contributing member.

SC-UK identifies the fundamental principles of restorative justice as follows: (1) Victims and the community have been harmed and need restoration; (2) Violations create obligations and liabilities; (3) Restorative justice seeks to heal and put right the wrong; and (4) Restorative justice belongs to the community.

Victims and the community have been harmed and need restoration. Crime is fundamentally a violation of people and interpersonal relationships.

² Bazemore and Walgrave postulate that the definition is too narrow because it only includes face-to-face meetings and discounts any action that “repairs the harm caused by crime” including, for example, services to victims even when an offender has not been caught (1999 cited in Daly and Hayes 2001: 2).

The commission of a crime breaches the relationships of the offender, the victim and the community where the crime occurs. The primary victims are those most directly affected by the offence but others, such as family members of victims and offenders, witnesses, and members of the affected community, are also victims. Since crime has created an imbalance in the community with fear, distrust and anger, there is the need to restore and address the relationship that was harmed by the crime. Victims, offenders and the affected communities, therefore, become the key stakeholders in the restorative justice process. The restorative justice process maximises the input and participation of these parties — especially the primary victims and the offenders— in the search for restoration, healing, responsibility and prevention. The role of these parties will vary according to the nature of the offence as well as the capacities and preferences of the parties. The state has limited roles, such as investigating facts, facilitating processes and ensuring safety, but the state is not a primary victim.

Violations create obligations and liabilities. The offender’s obligation, which corresponds to the harm inflicted by the crime, is to make things right as much as possible. Such an obligation may be difficult and even painful but is not intended for vengeance or revenge. The restorative justice process empowers the victims by allowing them to effectively participate in defining the obligations of the offenders. The offenders, on the other hand, are given the opportunity and the encouragement to understand the harm they have caused the victims and the community. They are also helped in developing plans for taking appropriate responsibility. The voluntary participation of the offenders in the process is maximised while coercion and exclusion are minimised. However, offenders may be required to accept their obligations if they do not do so voluntarily.

Since harmony and social relationships in the community are affected by the crimes committed, the community has the responsibility to support efforts to integrate offenders into the community, be actively involved in the definition of offender obligations and ensure opportunities for offenders to make amends.

Restorative justice seeks to heal and put right the wrong. The need of the victims for information, validation, vindication, restitution, testimony, safety and support are the starting points of justice. The restorative justice process provides a framework that promotes the work of recovery and healing on the part of the victim. The process maximises opportunities for exchange of information, participation, dialogue and mutual consent between victim and offender. Face-to-face encounters are appropriate for

some instances while alternative forms of exchange are more appropriate in others. The victims have the principal role in defining, and directing the terms and conditions of the exchange as well as the outcomes. Mutual agreement takes precedence over imposed outcomes.

In addition, opportunities are provided in the process to offenders for remorse, forgiveness and reconciliation to promote healing and restore the harm done. Offender's needs and competencies are addressed, supported and treated respectfully in the process such that removal from the community and severe restriction of offender is limited to the necessary minimum. Restorative justice values personal change above compliant behaviour.

The process of justice is a community affair. Crime disrupts peace and harmony in the community. Thus, community members need to be actively involved in working for justice. The justice process draws from community resources and contributes to the building and strengthening of community and solidarity. The justice process attempts to promote changes in the community to prevent similar harms from recurring.

The Beijing Rules and Diversion

The concept and practice of diversion is clearly set in the United Nations Standard Minimum Rules for the Administration of Juvenile Justice or the Beijing Rules (Resolution 40/33, 29 November 1985). Here are some of the rules related to the concept of diversion:

- Positive measures that fully mobilise all possible resources – the family, volunteers, schools, and other community institutions – shall be given due attention to promote the well-being of and to effectively, fairly and humanely deal with the juvenile in conflict with the law using the minimum intervention of the law.
- The use of diversion to deal with juvenile offenders without resorting to formal trial by competent authorities such as courts, tribunals, boards, and councils, among others, shall be given due consideration wherever appropriate.
- The police, prosecution or other agencies dealing with juvenile cases may, at their discretion without recourse to formal hearings, dispose of cases in accordance with the criteria laid down in the respective legal system and the principles contained in the Rules.

- A pre-condition to diversion will be the free consent of the juvenile, his/her parents or guardians reviewable by a competent authority upon application.
- To dispose of juvenile cases under discretion, juvenile offenders shall undertake community programmes such as temporary supervision and guidance, restitution, and compensation of victims.
- Where diversion is not appropriate, detention of the juvenile should be used as a measure of last resort, for the shortest period of time possible and separate from adult detention.

Based on these rules, diversion can be defined as:

- Any act with the end goal of disposing of the case involving a child offender without resorting to formal trial by any competent authority like courts, tribunals, boards, councils and the like (The Beijing Rules, 1985);
- An alternative child-appropriate process of determining the responsibility and treatment of a juvenile in conflict with the law on the basis of his social, cultural, economic, psychological or educational background without resorting to formal court adjudication (Government of the Philippines, Supreme Court 2002:7).
- The channelling of cases from the mainstream justice system of courts and prisons into programmes that aim to improve the child's life-skills and self-esteem and guide them away from a life of crime (FREELAVA 2003:18).

SC-UK defines **diversion** as a comprehensive programme that prevents children in conflict with the law (CICL) from entering the formal justice system and provides opportunities to effect positive changes in their lives. It aims to establish community-based mechanisms and programmes to prevent CICL from offending and re-offending.

Diversion is anchored on the above international legal framework set under the Beijing Rules and on the principles of restorative justice. It intends to provide an alternative way of thinking in the administration of justice to CICL separate and different from the punitive tendencies of the current criminal justice system in the country, which is built on the foundations of retributive justice. Retributive justice encourages the rule of law and the administration of sanctions or punishment to the crime in violation of laws enforced by the state (*See Appendix 1 for a brief comparison between*

retributive justice and restorative justice). Diversion wants to promote and restore healing of relationships and reparation of the harm inflicted upon the victim and the community through mutually agreed terms between complainants/victims and the child offender, with the help of other key stakeholders. It encourages the accountability and responsibility of the offender and reintegrates him or her back to the community towards healing, rehabilitation and social acceptance. Because jails or custodial centres do not provide a conducive environment for the rehabilitation of CICL, diversion should be the standard rule and custodial measures should only be taken as the last resort in addressing crimes committed by children. Diversion is a legally prescribed procedure based on international instruments and as a process adhering to restorative justice principles, it challenges the existing paradigm and practice of retributive justice.

3 Implementing a Community-Based Diversion and Prevention Programme for Children in Conflict with the Law

Organisational Design and Requisites

The Children’s Justice Committee

The Children’s Justice Committee (CJC) is a group of trained persons who handle cases of child offenders qualified to pass the diversion programme. In the community-based diversion programme, mediation is the most common strategy used by CJs to divert the cases of young offenders.

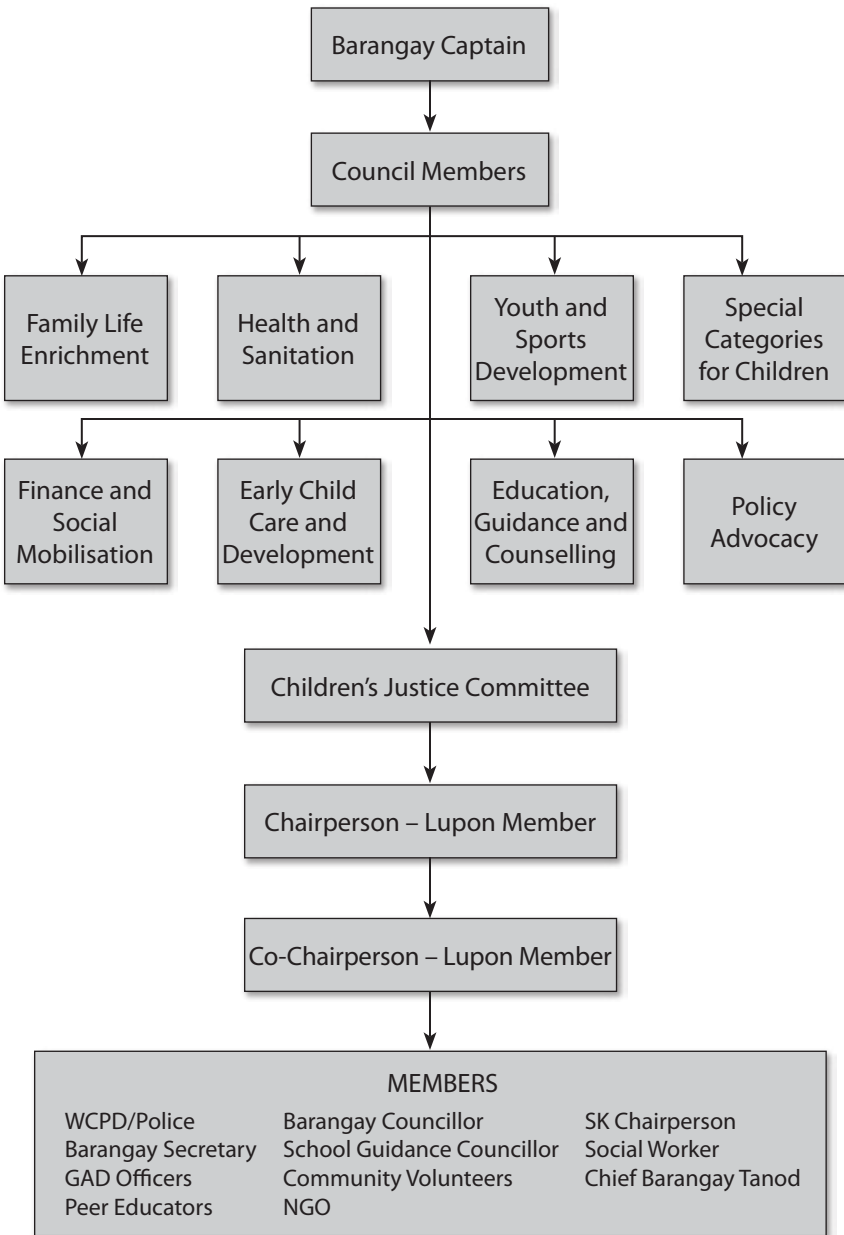
The CJC is tasked with the following roles and functions:

- Work for the possible settlement, reconciliation and mediation of reported cases involving child offenders;
- Recommend appropriate psychosocial interventions and other necessary assistance to the diverted CICL;
- Plan and implement activities for children to prevent offending and re-offending;
- Act as a permanent committee member of the Barangay Council for the Protection of Children (BCPC);
- Coordinate with other BCPC committees in addressing the intellectual, physical and moral growth of children; and
- Submit report to the BCPC chairperson relative to the performance of the diversion programme.

Composition of the Children’s Justice Committee

The CJC is headed by two members of the *Lupong Tagapamayapa (Village Justice Committee)* who acts as the Chairperson and Co-Chairperson. Other members are the following: a Barangay Councillor, the Barangay Secretary, the Gender and Development (GAD) Project Officer/Focal Point Person, the *Sanggunian Kabataan (SK or Youth Council)* Chairperson, the *Chief Barangay Tanod (Village Sentinels)*, the Community Volunteers represented by their Team Leader, the Peer Educators, and the duly-

Figure 1 Sample BCPC Structure



Source: Office of the Sangguniang Barangay, Barangay Duljo-Fatima, Cebu City

accredited NGO. To maximise existing mechanisms and the different services provided by the local government, the CJC should also involve the Women and Children Protection Desk (WCPD) Police Officer, the nearest School Guidance Counsellor and the assigned Department of Social Welfare and Services (DSWS) Social Worker in the community (*Figure 1 shows the composition of the CJC within a typical BCPC structure*).

The composition of the CJC and their corresponding roles and functions are as follows:

- Two **members of the *Lupong Tagapamayapa*** serve as Chair and Co-Chair of the CJC and are designated as mediators in view of their skills and experiences in community mediation and conciliation. The *Barangay* Captain who heads the BCPC appoints the Chair and the Co-Chair of the CJC.
- A ***Barangay* Councillor** who represents the council sits in the CJC to facilitate the smooth coordination, feedback giving and conveyance of committee plans and programmes to the local legislative body and vice versa. Under the Local Government Code, the *Barangay* Council appropriates and approves the budget of the *barangay*.
- The ***Barangay* Secretary**, being the secretary of the *Lupon*, handles the profiling and intaking of cases and the interview of CICL, keeps mediation and diversion records of CICL and other CJC documents, and records the minutes of CJC meetings.
- The ***Sangguniang Kabataan* Chairperson**, being the head of the *barangay* youth council, assists the CJC in the preparation of youth development programmes vital to the diversion activities of CICL and their eventual community reintegration and socialisation.
- The **Chief *Barangay* Tanod** who heads the local law enforcement body ensures that apprehensions of CICL are properly treated/handled by members of the *Barangay Tanod* and that guidelines and procedures of community diversion are properly observed at all times in relation to CICL cases. The Chief *Barangay Tanod* facilitates the smooth communication and coordination of the CJC and the *Barangay Tanod* in dealing with CICL cases, the community diversion process and crime prevention activities.
- The **GAD Project Officer or Focal Point Person** is also a member of the CJC since GAD concerns encompass children’s protection and welfare programmes at the community level. Because of this function, GAD Project Officers assist the CJC in interviewing, case profiling,

and intaking; and in the preparation of diversion, rehabilitation and reintegration programmes. As a legally mandated programme structure of the *barangay*, the GAD unit has a regular fund appropriation, which could be tapped for CJC activities especially for community reintegration and prevention of child offending.

- **Community Volunteers and Peer Educators** serve as frontliners in post-mediation/reintegration activities for diverted CICL and the prevention of child offending and reoffending at the community level. Community volunteers monitor and follow-up diverted CICL to prevent them from reoffending. Together with Community Volunteers, Peer Educators, who are diverted CICL, conduct crime prevention activities through peer counselling/education sessions with fellow CICL and children at risk of offending.
- **WCPD Police Officer** assigned in the police precinct that has jurisdiction over the *barangays* concerned should also be part of the CJC. Involving the WCPD police officers hastens the turnover and diversion of apprehended CICL at the police level into the community mediation process instead of filing cases in court or temporarily detaining the CICL in precinct cells.
- **DSWS Social Worker** assigned in the concerned *barangays* are tapped to assist the CJC in the conduct of counselling sessions, the preparation of case studies of CICL and their families, the preparation and implementation of psychosocial interventions, and other rehabilitative measures for the diverted CICL. Whenever possible, DSWS Social Workers shall undertake the needed case management process to secure programme effectiveness.
- **School Guidance Counsellors** from nearby public schools are tapped to assist the CJC in continuous monitoring and follow-up of diverted CICL who have gone back to school to prevent the latter from reoffending. Whenever necessary, they may undertake counselling sessions with the diverted CICL. **NGOs** with programs operating in the community are invited to be part of the CJC. FREELAVA becomes an automatic member of the CJC representing the **NGOs**.

The Community Volunteers

Community volunteers are ordinary parents, *barangay* workers and other concerned citizens who volunteer to become child rights advocates in their respective communities. They are tasked to assist the CJC through the following functions:

- Closely coordinate with *barangay* officials and CJC members;
- Assist programme staff in the selection, identification and organisation of Peer Educators;
- Assess and document cases of child offenders undergoing diversion;
- Assess and assist families of child offenders;
- Attend regular meetings with the staff; and
- Submit regular reports to the same.

Community volunteers assist the CJC in monitoring and follow-up of diverted CI/CL in their rehabilitation and reintegration into the community. They monitor Peer Educators and work with them closely in the conduct of peer education, socio-civic activities, community service and other activities to divert their attention from reoffending. They also assist the CJC in the conduct of community education and crime prevention campaigns to raise the community's awareness on the plight of CI/CL in their community and draw out their support in response to child offending.

Recruitment of community volunteers shall be based on the following criteria:

- A permanent resident of the community;
- Well-respected by community residents;
- Possess the qualities of a good leader;
- Trainable, child friendly and child sensitive;
- Willing to learn; and
- Willing to undertake the responsibility of a volunteer.

The selection criteria are not stringent to maximise the spirit of community volunteering from among the broader public.

The Peer Educators/Counsellors

Former CI/CL or released youthful offenders are organised as peer educators (PEs) to assist community volunteers and programme staff in reaching-out to other children who may have been in conflict with the law. These PEs serve as "role models" of behaviour change to fellow children who are in conflict with the law or those at risk of offending.

Peer educators create positive influences on their peers by conducting crime prevention, education and counselling activities through small group discussions and meetings at the *sitio*³ level with the assistance of community volunteers. The PEs invite 10 to 15 children to participate in these group discussions. During these sessions, peer educators encourage CICAL to become productive citizens in the community and to do away with drug addiction, vices and crimes. One or two PEs facilitate the activity while the others listen. Informal sharing and conversations related to the topic and the children's experiences comprise the entire peer education session.

Recruitment of peer educators/counsellors is based on the following criteria:

- Resident of the pilot barangay;
- A former CICAL;
- Trainable and willingness to help fellow children who are and who have been in conflict with the law; and
- Open to lifestyle changes.

The Community-Based Diversion Process

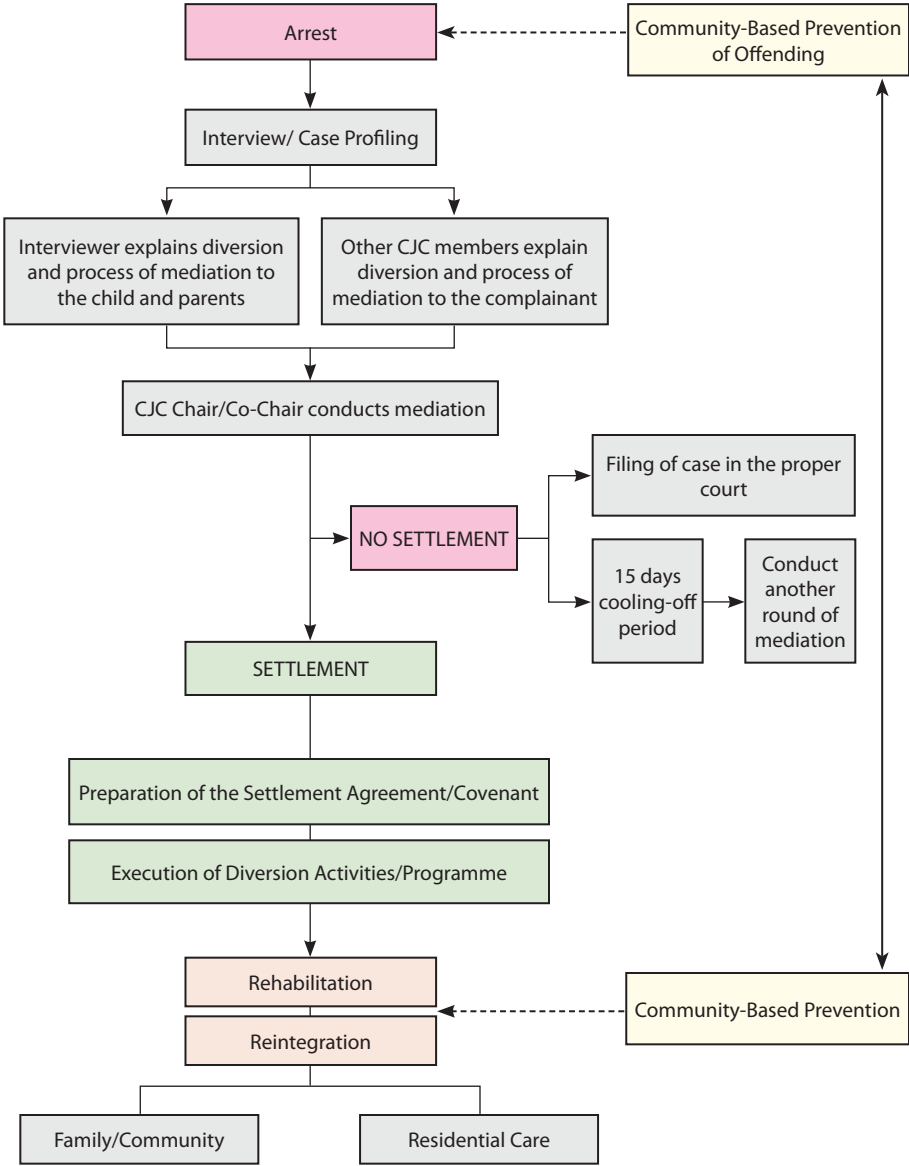
The process of community-based diversion generally come in six stages in this particular order: (1) Arrest or apprehension of a child offender; (2) Interview and case profiling or intaking; (3) Provision of information and discussion of the diversion programme; (4) Mediation; (5) Preparation of the settlement agreement and execution of diversion activities; and (6) Rehabilitation and reintegration. Community-based prevention of child offending and reoffending is a continuing process. Hence, it cuts across the entire process of the community-based diversion work. *Figure 2 presents the process flow of community-based diversion.*

Stage 1: Arrest or Apprehension

Generally, the first stage of the process involves the arrest or apprehension of the offending child. There are at least three common modes of initial contact between the CICAL and the pillars of justice particularly the law enforcers and these are the following:

3 Physically, a barangay normally consists of two or more sitios, or hamlets; but although sitio divisions often are important in village life, they are not officially-prescribed political subdivisions and do not have separate governments (<http://www.anthro.ucdavis.edu/courses/w03/ant143b/protect/03lec19.htm>).

Figure 2 Process Flow of Community-Based Diversion and Prevention of Offending



- **Apprehension** is made by either a member of the *Barangay Tanod*, the police from nearby precincts or any ordinary citizen under citizen’s arrest, which is allowed when a CICL is caught in the act of committing a crime or is about to commit a crime. The apprehension or arrest follows stringent guidelines to protect the apprehended child from any form of abuse or harm.
- **Invitation** (synonymous to summons generally applied to offences or disputes involving adults) from the Children’s Justice Committee facilitated by a *Barangay Tanod* or a community volunteer is handed over to the child offender and the parents or legal guardian. In most cases, this manner of inviting a respondent CICL involves a complainant or victim who reported the crime.
- **Turnover to or “redemption” from** temporary shelters such as the Community Scouts Rehabilitation and Youth Guidance Centre (Community Scouts) happens when a CICL is apprehended by police operatives or by in-house security agents of business establishments (e.g. for shoplifting) and diverted. Members of the CJC redeem their offending children upon the report of these shelters and another round of diversion process is undertaken at their level.

Stage 2: Interviewing and Case-Profiling/Intaking

As soon as the CICL is brought to the custody of the CJC or the Barangay Captain, interviewing and case profiling commences. At this stage, the child is asked about basic information pertaining to his/her personal circumstance such as his/her family, the nature and circumstance of the offence and the problems or harm done because of the offence. A designated CJC member, either the Barangay Secretary or the GAD Project Officer/ Focal Point Person, documents the facts using the CJC Intake Sheet as shown in Appendix 2. This form is then turned-over to the CJC Chair or to other mediators as soon as the case profiling/intaking is completed. Guidelines for a child-friendly interview should be established for the use of any CJC member designated to take information from the CICL. This is to ensure that the interviewer observes utmost confidentiality of information and that the interview is done in the presence of the child’s parents or legal guardian, a social worker, or any responsible person in the community close to or appointed by the child.

Stage 3: Information and Discussion of Diversion Programme

The CJC Chair discusses the community-based diversion programme — the process of mediation, the different diversionary options and their benefits — to the respondent CICL and the parents or the legal guardian. The CJC

Chair also asks the consent of the offender and the parents to undergo diversion. This preliminary activity should be done separately either before or after meeting the complainant. In the same manner, other members of the CJC mediating team talks to the complainant regarding the process and benefits of diversion, and the subsequent responsibilities of the diverted child offender. This is also the procedure in securing the informed consent of the complainant on the proposed diversion programme the respondent would undertake. These activities serve as requisite procedures before the actual mediation takes place.

Stage 4: Mediation Proper

The act of mediation is the fourth stage of the diversion process. This is the main substance of the diversion programme, that is, to resolve the conflict or settle the harm done by the child offender to the victim and the community. During the mediation process, the CJC Chair or Co-Chair shall undertake the following:

1. Ask the offending child of the circumstances of the crime — the motives or purpose of the offence and the factors that led the child to commit the offence;
2. Ask the same of his/her personal circumstance including his/her parents and family, his/her peers and educational status;
3. Make the CICL understand the consequences of his/her actions and the corresponding responsibilities;
4. Ensure that the child understands and realises his/her accountability, be remorseful of his/her actions and takes on the responsibility in repairing the harm done in lieu of filing a formal case in the court;
5. Explain to the complainant the benefits of forgiveness and diversion, and the need to reform the child within the auspices of the community instead of detention centres or rehabilitation institutions once the child expresses remorse and a willingness to ask for forgiveness from the complainant.

The CJC mediator shall also undertake the following:

1. Negotiate and persuade the complainant to settle the matter at the community level; and
2. Assure the same that the CJC will take custody of reforming and monitoring the child through various diversion and reparative activities.

The CJC mediators should exhaust all means to arrive at a settlement and this includes relentlessly convincing the complainant to eventually agree to the diversion process. If the complainant is not amenable to settling the case, not satisfied of the mediation process or does not see any positive consequences of the proposed diversion, a fifteen-day cooling off is enforced under the *Katarungang Pambarangay* or Village Justice System. The mediation process is suspended to “cool down” both parties and reconvened as soon as the prescribed time lapses.

In cases where the child offender has committed offences beyond the case eligibility criteria of diversion or has committed the offence for the third time and has become a recidivist, the case is automatically forwarded to the police for the filing of case in court.

The key to a successful mediation is when the offending child asks for forgiveness or signifies remorse of his/her action, agrees to repair the harm done, and restores the damaged condition of the victim. These actions should be done in the presence of the complainant (if applicable) who would sit in the mediation conference together with the offenders’ parents and other CJC members. On the other side of the equation is the forgiving and amenable victim. Only then could the mediation process prosper, a settlement agreement be reached and diversion programme/activities be possible.

The CJC has to institute rules and guidelines that should be followed during the mediation process to protect the child from coercion, intimidation, harm, abuse, or other actions detrimental to the child. Such guidelines should also ensure that the child understands the entire mediation process in which he/she is involved.

Stage 5: Settlement Agreement Preparation and Execution of Diversion Programme/Activities

Preparing the settlement agreement and execution of diversion programme/activities are the consequent stage of the mediation process. At this stage, the CJC mediator facilitates the conditions of the settlement agreement and the diversion programme/activities the CIJL has to undergo subject to his/her consent and that of, the parents or guardian and the complaining victim. The establishment of the settlement agreement is administered by the mediator using the *Kasabutan* (Covenant) Form shown in Appendix 3.

The following elements constitute the covenant form:

- The child offender indicates his/her pledge not to reoffend and to perform particular actions as reparative measures to restore the harm done brought about by the crime committed.
- This shall come after the complainant/victim specifies certain pre-conditions for pardon, which shall be spelled out in the form duly signed by the same. The CJC must seek the victim's consent on the proposed manner of restoring the harm done before the offender is forgiven, the case settled and diversion process to proceed.
- In cases of offences without a complainant, the arresting officer may prescribe the conditionality for pardon, which may come in the form of a stern warning.
- Lastly, the parents also participate in restoring the harm done by pledging to attend to the needs of the erring child to arrest the possibility of reoffending.

An important section in the agreement is the listing of obligations and responsibilities that the CICL shall undertake in the diversion process. With the consent of different stakeholders — the child, the parents, the victim, and the arresting officer — the CJC mediator proposes a number of diversion activities commensurate to the crime committed. The CJC mediator then explains to the different stakeholders that the diversion programme is aimed at restoring impaired relationships and reforming the life of a child offender without resorting to incarceration. The execution of the different diversion programme/activities, which the CICL has to undergo, is facilitated by the CJC mediating team and monitored by the assigned community volunteer/s.

The CJC mediators' knowledge of and exposure to the different approaches in diversion as well as the deep understanding of the psychodynamics of the child offender are important to the success of the community-based diversion programme.

It is important for stakeholders of the programme — the CJC members, community volunteers, peer educators, barangay officials, parents or legal guardians, the social worker, and other groups or persons involved in the diversion programme — to properly delineate their roles and functions in assisting the child in complying to the settlement agreement and in going through the entire process of reparation and rectification.

Stage 6: Rehabilitation and Reintegration

Although this is the last stage of the entire diversion process, it is also the beginning of a much bigger and broader process of restoring the life and self-worth of a child offender. Rehabilitation is the process wherein the child's negative behaviour and attitudes are rectified. It enables the child to change his/her negative behaviour into something positive and acceptable to the community. Rehabilitation is integral to the process of reintegration. Reintegration, on the other hand, is the process, which promotes or facilitates the acceptance of the child back to the community. It is the healing of the victim's and the community's wounds that was inflicted on them by the offence. Creating a culture of social acceptance and inclusion on the part of the community is another big task of barangay officials for the reintegration of diverted CICTL to work. In the process, reintegration could also be the venue for rehabilitating the child offender.

To rehabilitate a diverted CICTL, the CJC undertakes various psychosocial interventions such as, but not limited to, case monitoring, follow-up and continuous counselling, peer education, values formation, and formal educational assistance. These psychosocial interventions facilitate the necessary behaviour change of the diverted child from a life of misconduct and offending towards becoming a productive citizen in the community. Such interventions should be customised depending on the particular need of the diverted CICTL and the preparedness of the family.

The reintegration process, through other forms of psychosocial interventions facilitated by the CJC, aims to bring the offending child back into the community — to a life of “normalcy” and social acceptance, and where children's rights and welfare are protected and upheld. Depending on the availability of resources and opportunities in the barangay, reintegration activities include, but are not limited to, socio-civic activities such as cleanliness drives, community service endeavours, sports development activities, fun and games, music and entertainment, vocational training and livelihood skills development, and functional literacy, among others.

Rehabilitation and reintegration activities are best conducted in the family-community continuum for an offending child to rectify his/her negative behaviour towards a productive and independent life later on. However, if the circumstances of the child do not permit placing him/her back to the community, residential care shall be considered an option for the child's rehabilitation and reintegration. These circumstances could include the following: 1) Parents are not economically and emotionally prepared to

accept the diverted child; or 2) The victim is either a member of the family or a nearby neighbour who may have the propensity to perform violent acts detrimental to the child’s rehabilitation and reintegration.

Community-Based Prevention of Offending. Community-based prevention of child offending, which is essentially community education activities, as a strategy complements the rehabilitation and reintegration process of diverted CICL. Community-based prevention of offending cuts across the different stages of the community-based diversion work as it is an ongoing process. These prevention activities intend to minimise the commission of offences by potential and actual CICL and their eventual arrest by law enforcers. These community-based education sessions shall conscientise and educate parents or legal guardians and community members to support the prevention of previous CICL from reoffending. To improve parenting roles and to guide their children away from offending, parents and community members should be made aware and educated about their parental responsibilities and the rights of their children.

Guidelines for Implementing the Community-Based Diversion Programme

This section provides guidelines for programme actors and other implementers of community-based diversion and prevention of child offending programmes. This set of guidelines partly applies to persons in authority and community members who are involved in law enforcement and prevention of child offending. These guidelines are divided into eight parts, which are as follows: (1) Handling apprehension or invitation of the CICL; (2) Interviewing and case profiling; (3) Arranging and conducting the mediation process; (4) Arranging and conducting post-mediation diversion activities; (5) Monitoring and follow-up; (6) Undertaking rehabilitation and reintegration programmes/activities; (7) Prevention of offending and reoffending; and (8) Capacity-building of stakeholders and other actors.

Handling Apprehension or Invitation

1. The *Barangay Tanod*, the police, any other arresting officer, or a private citizen should identify himself/herself and present proper identification to the child offender.
2. The arresting officer or private citizen shall inform the child of the reason of such arrest or invitation and advise the child of his/her

constitutional rights in a language or dialect understandable to him/her. The child offender has the right to be presumed innocent.

3. In apprehending or inviting the child, vulgar words should be avoided. The arresting officer or private citizen should avoid the use of a tone that will attract the attention of people around the child so as not to humiliate, demean or harm the child. Initial contacts with law enforcers and the child offender should be managed in a manner that the legal status of the child is respected and his/her well-being promoted with due regard to the circumstances of the case.
4. Upon apprehension, the child offender shall be taken by the hand instead of collaring or dragging him/her.
5. The use or display of firearm, weapons, handcuffs or other instruments of force or restraint must be avoided unless necessary and only after all other methods of control have been exhausted and have failed.
6. Violence or unnecessary force shall not be used nor tolerated.
7. Immediately upon arrest, the arresting officer — either the police, the *Barangay Tanod*, or a private citizen — regardless of the nature of the offence, must refer the child to the Children’s Justice Committee (CJC) or to any member of the Barangay Justice System/*Katarungang Pambarangay* for proper disposition of the case at the community level and for further assistance. It has been the practice of a number of police precincts in the pilot *barangays* that police officers take custody of, investigate, detain and even file charges against the apprehended child in courts despite the presence of the WCPD Police Officer.
8. There shall be a separate blotter or record book for children’s cases. This blotter should be in the custody of a designated CJC member — the Barangay Secretary, GAD Focal Person/Programme Officer or a member of the *Barangay Tanod*, who is a regular member of the CJC, whichever is applicable.
9. The parents or nearest relative or legal guardian of the child and the local social worker should be notified immediately after the apprehension is made. It would also be helpful to notify the peer educators, as members of the CJC, so they can provide comfort, counselling and assistance in the provision of basic needs to the child offender during the time of arrest.
10. Detention should be avoided. The arresting officer, community leader or the CJC Chair should ensure that all options are taken into consideration so that the child will not stay long in the custodial centre. Detention or custodial measures should be the last resort and only

for the shortest time possible. The detention of child offenders is one of the many issues in the implementation of the community-based diversion programme in a number of the pilot *barangays* because *Barangay Tanods* impose their authority over the CJC in matters pertaining to apprehensions. Reorientation and continuing education on the principles of diversion and restorative justice including the UNCRC and other international protocols pertaining to CICL must be provided to *Barangay Tanods* for them to respect and protect the rights of child offenders.

11. If arrest occurs in the evening, the child must be released under the custody of the parents or legal guardian. However, the parents or legal guardian should immediately bring the child to the CJC on the following day for proper disposition of the case.

Interviewing and Case Profiling

1. In the best interest of the child, the CJC must handle the child's case with utmost confidentiality.
2. The CJC team shall appoint one of its competent members to conduct the initial interview with the child to hear the side of the child in question and to determine any probable cause of the offence. The interview could be done by the Barangay Secretary, GAD Focal Person/Program Officer or a *Barangay Tanod*.
3. Confidentiality of information should be observed in the conduct of interviews and case intaking/profiling.
4. In interviewing the child, there should be enough privacy to avoid unnecessary interruptions, distractions and/or participation from non-parties that could humiliate or make the child uncomfortable.
5. Interviews should be conducted in a separate interview room to make the child feel comfortable and free to express himself/herself. Barangays should establish a private interview and mediation room designated solely for CJC purposes.
6. The child should be given the opportunity to have his/her parents or legal guardian present during the interview and case profiling. In the absence of the parents or legal guardian, a social worker must be present. Interviews undertaken with the child without an accompanying adult whom he/she respects or knows must be strictly avoided.
7. In no case should intimidation, coercion or harsh treatment be employed against the child during the interview process.

8. Interviewing and case profiling should be conducted only once to prevent the child from being traumatised. Multiple interviewing should be avoided. Guidelines for a child-friendly interview should be formulated and strictly followed to ensure that information acquired from the child are valid and true.
9. The interview and case profiling should be conducted with the least number of designated persons possible. Either the Barangay Secretary or the GAD Focal Person/Program Officer may undertake the interview. In cases where apprehensions occur at night, a designated member of the *Barangay Tanod* who is a permanent member of the CJC may conduct the interview and case profiling in the absence of the Barangay Secretary or GAD Focal Point Person/Project Officer.
10. The CJC interviewer should use the CJC Intake Sheet to document the case profile of the child.

Arranging and Conducting the Mediation Process

1. The CJC should be guided with a set of case eligibility criteria in the conduct of the community mediation and diversion process. The criteria are as follows:
 - The offender must be below 18 years old;
 - Cases that fall within the confines/jurisdiction of the *Katarungang Pambarangay* or those cases that have imposable penalty of below one (1) year imprisonment and fine of less than Php 5,000.00 (US\$ 91.39);
 - Willingness of the complainant to go through the diversion process;
 - Expressed admission of the offence by the child offender; and
 - First-time offender is given priority.
2. The CJC and other programme implementers should ensure that the application of these eligibility criteria is child-friendly and sensitive to the needs, welfare and the protection of the rights of the child in conflict with the law.
3. These eligibility criteria emphasises that mediation and diversion applies to the child offender who has committed one to two offences. However, whenever the child commits succeeding offences, depending upon the circumstance/s and the gravity of the offence committed, the child, upon the discretion of the CJC, may undergo another round of mediation but has to undertake a heavier form of

diversionary and reparative activities commensurate to the offence. The CJC and other programme actors are encouraged to devise a table of accountabilities/penalties (diversion measures) corresponding to the number of offences committed by the child. Moreover, intense monitoring and follow-up activities must be conducted by the CJC for multiple offenders to arrest the potential abuse of the diversion programme and prevent recidivism.

4. The CJC mediating team should ensure that all parties, the child offender and his/her parents or legal guardian, the victim/complainant and the arresting officer — involved in the mediation process are present during the mediation process. Any mediation taking place without the presence of the parents or legal guardian should be avoided as much as possible. In cases where the parents or legal guardians are not available, the presence of a social worker or any responsible and credible person in the community whom the child knows is necessary.
5. A member of the CJC mediating team (usually the CJC Chair, Co-Chair and the GAD Focal Person) should explain to the child and the parents the process of mediation and the benefits of community diversion. The child should be made to realise the effects of his/her offence to other people and the community. He/she should be made to understand what is happening around him/her, and be convinced to participate in the community diversion process before any mediation conference could take place. Coercion, intimidation, harassment, or abuse should not be done during the entire mediation process.
6. Other member/s of the CJC mediating team should also explain the mechanics of the mediation process and the concept of community-based diversion to the complainant/victim. The CJC mediating team has to persuade the victim to enable the CIKL to undergo a community-based diversion process before the mediation conference can proceed.
7. There shall be three maximum number of CJC members allowed to participate in the mediation process. One would act as the presiding officer; the second should assist the presiding officer while the third member should take charge of documentation. A community volunteer, preferably the team leader, may be allowed to observe the process for him/her to understand the case for post-mediation monitoring and follow-up activities.
8. In the interest of the right of children to participate in programmes and activities that affect them, at least one Peer Educator should

be allowed to participate in the conduct of mediation. Because PEs have undergone the mediation process, they know how it feels to be interviewed and mediated in front of several people together with the complainant. The mere physical presence of the PE could provide the child undergoing mediation a sense of security and safety.

9. Based on the principles of restorative justice, the CJC mediator must explain to the child the effects of his/her action to the victim and the community and the corresponding responsibility and accountability he/she has to take to repair the harm done. In the same manner, the CJC mediator must convince the victim/complainant to pardon the child offender emphasising that community-diversion is a better option to reform the child than incarceration. Any agreement reached for the reparation of harm should be made in the form of a written settlement agreement. The CJC Covenant Form (*Kasabutan*) should be used for proper documentation.
10. In the best interest of the child, the CJC mediating team must exert their capabilities to the fullest to strike a win-win solution to the case at hand. As much as possible, the offence must be mediated and resolved amicably for the benefit of the two conflicting parties.
11. In case the two parties could not be settled, the CJC has two options:
 - If the offence of the child is a petty/minor one, the CJC could apply the “15 days cooling-off period” and conduct another round of mediation after the prescribed period lapses.
 - If the offence of the child is beyond the diversion eligibility criteria, the CJC should turn over the child to the police or to the DSWD for custody and for the filing of the case in the proper court. Through referrals, the CJC will provide legal assistance to the child.
12. Any written agreement must stipulate the rights, responsibilities or accountabilities of the following parties: the child, the parents/legal guardian and the victim. The community diversion programme considers as the responsibility or accountability of the child to restore the harm done in view of the offence committed.
13. During the conduct of mediation, the CJC, with the participation of the child and the parents and in consultation with the attending PE, may recommend or come up with appropriate psychosocial interventions for the child, and if necessary, for the family. Such recommendation should be considered initial and must be written in the settlement agreement.

Conducting Post-Mediation Diversion Programmes or Activities

1. Diversion refers to an alternative child-appropriate process of determining the responsibility and treatment of a CICL based on his social, cultural, economic, psychological, or educational background without resorting to formal court adjudication. Diversion programmes refer to programmes that the CICL is required to undergo in lieu of formal court proceedings (Government of the Philippines, Supreme Court 2002: 7).
2. In implementing the community-based diversion process, the act of mediation undertaken by the CJC constitutes the initial process of diverting the CICL in the disposition of the case, in lieu of formal court proceedings.
3. Diversion activities or programmes may include any or a combination of the following (2002:14-15):
 - a. Written or oral reprimand or citation;
 - b. Return of property;
 - c. Payment of the damage caused;
 - d. Written or oral apology;
 - e. Guidance and supervision orders;
 - f. Counselling of the child and his/her family;
 - g. Training, seminars and lectures on:
 - Anger management skills;
 - Problem-solving and/or conflict resolution skills;
 - Values formation; and
 - Other skills that will aid the child in properly dealing with situations that can lead to reoffending
 - h. Detailed work programme in the community;
 - i. Participation in available community-based programmes; and
 - j. Institutional care and custody.
4. The CJC must clearly stipulate in the *Kasabutan* Form (Covenant) the diversion programme that the CICL has to undergo as part of his/her responsibility and accountability to restore the harm done in view of the offence committed.
5. The CJC should facilitate the applicable diversion activities the child has to undergo. The community volunteers may assist the child in

undertaking and in complying with the diversion programme he/she will undergo.

6. All CJs are encouraged to study, test and share other forms of diversion programmes or activities not mentioned in this section. Experimental or innovative forms of diversion should not be in any way inimical, exploitative, destructive or contrary to the rights of the child and his/her total development and welfare.

Monitoring and Follow-up of Mediated Cases

1. In general, the CJC has to devise a monitoring and follow-up mechanism to ensure compliance with the settlement agreement particularly of the child and his/her parents or legal guardian, and to determine the progress of the rehabilitation, reintegration and the entire diversion programme. This will ensure that re-offending will be prevented.
2. As a form of monitoring, community volunteers designated by the CJC Chair or Co-Chair may conduct house-to-house visits with the child and his/her parents/legal guardian to track the child's compliance with the settlement agreement and the child's performance of the diversion programme. The CJC Chair or the Co-Chair should supervise and require reports from the community volunteers to assess the child and his/her parents' or legal guardian's compliance with the settlement agreement and the overall performance of the diversion programme undertaken by the child.
3. The CJC, with the assistance of the social worker, should conduct a periodic case conference with the child and the parents/legal guardian to assess the progress of the child undergoing diversion. The case conference should address cases of non-compliance by the child and/or the parents/legal guardian with the settlement agreement. Continuous counselling may be undertaken during the case conference when necessary or appropriate.
4. Cases of reoffending must be dealt with accordingly depending on the gravity of the offence committed. The CJC has the discretion whether or not to let the child pass through another diversion process. In no way, however, should the child offender be mediated and diverted for more than two offences formally recorded by the CJC. In case of recidivism, the child offender should be turned-over to the police or the DSWD for proper disposition of the case.

Case Management and Documentation

1. Each child offender undergoing mediation and diversion should be treated as a separate case and has to be properly managed. Case records of child offenders should be filed individually, and should be separated and secured from the rest of the barangay records.
2. Interview data and case profile, which constitutes the case record of the child, should be kept in the custody of the Barangay Secretary or GAD Focal Person/Programme Officer, whoever is applicable. This information should be treated with utmost confidentiality. Only a licensed social worker and other authorised members of the CJC may have access to these records. Any information about a child or a case should not be given out to anyone unless ordered by a competent court.
3. After the mediation process, a formal case study of the child offender must be undertaken by the social worker or by a trained member of the CJC to deepen their knowledge about the child. The case study is a report about the social, cultural, economic and legal status or condition of the CICL. It includes, among others, the child's:
 - Developmental age;
 - Educational attainment;
 - Family and social relationships;
 - The quality of his/her peer group;
 - The strengths and weaknesses of the family;
 - Parental control over the child;
 - Attitude towards the offence;
 - The harm or damage done to others resulting from the offence;
 - Record of prior offences, if any; and
 - The attitude of the parents towards the child's responsibility for the offence.
4. Simultaneous with the conduct of the diversion programme, the social worker, with the help of the CJC, the child and his/her parents or legal guardian, should develop a case intervention plan for the child and if necessary, for the family. The case intervention plan is an individualised reintegration and socialisation programme that helps the child enhance his/her competency to become a productive citizen of the community. The plan will form part of the case records of the child offender.

5. The case management of each diverted CICAL should be handled by a competent social worker with the assistance of other CJC members.
6. The CJC should collate gender disaggregated data and make reports to the BCPC and the *barangay* for documentation purposes. The CJC should assign one or two members to document the whole process for future reference.
7. All persons involved in mediation and post-mediation should ensure that confidentiality of information be strictly adhered to throughout the processes. There shall be no discussions of case/s outside of the CJC meetings.

Implementing Rehabilitation and Reintegration Programmes

1. Rehabilitation programmes are psychosocial interventions that enable the child offender to change his/her negative behaviour into something positive, productive and acceptable in the community he/she lives in. Reintegration programmes are also psychosocial interventions that promote the personal healing of the diverted child and his/her social acceptance back into the mainstream of society and to become productive citizens. Rehabilitation and reintegration programmes may include, among others:
 - Formal education;
 - Literacy and other non-formal education;
 - Vocational training and education;
 - Supervised employment schemes in trades and livelihood projects;
 - Sports, recreational and other youth development programmes;
 - Socio-civic and other community development programmes;
 - Play therapy, arts (visual and musical) and entertainment, community theatre;
 - Values formation;
 - Religious and spiritual enhancement programmes; and
 - Peer counselling/education sessions.
2. As a member of the BCPC, the CJC should proactively lobby and negotiate with the other committees to plan and implement rehabilitation and reintegration programmes or activities that will support, supplement or complement the entire community-diversion and prevention programme for CICAL.

3. The CJC should actively lobby for a specific fund for programmes and services for children and/or access existing sources of funds (e.g., the Barangay Development Fund and the *Sangguniang Kabataan* Fund) to support the rehabilitation and reintegration programmes of previous child offenders.
4. The CJC should network and link with government, academe, NGOs and other civil society organisations to generate support or tap existing resources to establish or strengthen reintegration and socialisation programmes within the community.

Prevention of Offending/Reoffending and Community Support-Building

1. Equally important in the community-based diversion programme is the prevention of children from offending and reoffending. The community-based mediation and diversion programme would fail if diverted children reoffend and would not show signs of any behaviour change.
2. The CJC shall, therefore, conduct community education and other activities to prevent mediated CICL from reoffending and those at risk from offending. Through community education, parents shall become aware of the rights of children as well as their responsibilities to their children. Community members shall also become conscious of the rights of CICL and of the need to uphold and protect their rights as well as to secure their welfare. These community education activities may come in the form of, but are not limited to, community forum or *pulong-pulong*, small group discussions and house-to-house visitations.
3. The CJC shall emphasise the building of community support for community-based diversion through the conduct of various community education activities. It is necessary to intensify the popularisation of the plight of CICL and the need to ensure their protection and welfare. It is also necessary to intensify the advocacy and promotion of the concept, procedures and the benefits of community-based diversion through these community education activities.
4. Peer education and counselling are considered effective strategies to prevent actual and potential CICL, including those who have undergone mediation/diversion, from offending and reoffending. CJsCs and other stakeholders are encouraged to form, organise and train peer educators (PEs). The PEs will be tasked to encourage, motivate, guide, and teach CICL and other children the positive ways

of behaving to veer away from drug abuse, vices and a life of crime. PEs may either be formerly detained child offenders or diverted CICL. In the conduct of peer education, PEs may share their experiences of how hard life is in prison. As such, they are able to warn and provide lessons to fellow children about incarceration as a potential consequence of offending and reoffending. Peer education sessions may be conducted on a monthly basis depending on the availability of community resources.

5. Community volunteers (CVs), as members of CJC, play a vital role in the prevention of child offending and reoffending. Through intensive monitoring and follow-up of diverted CICL as well as those children who are at risk of offending, community volunteers can encourage, motivate, and guide diverted CICL to stay away from reoffending towards a reformed and productive life in the community. CVs are encouraged to conduct other forms of community education activities appropriate to their individual contexts.
6. CJC shall recommend plans and programmes to the BCPC or to the Barangay Council to intensify crime prevention and anti-drug abuse campaigns, which greatly involves children and the youth. The Barangay Chief Executives shall activate and/or strengthen the Peace and Order Committees and the BCPCs in their localities to address the issues of drug abuse, drug trade, gang wars and other forms of crimes involving children.
7. The proliferation of the drug trade especially in urban barangays is considered one of the major problems contributing to the growing incidence of children in conflict with the law, at least in Cebu City. The community-based diversion and prevention programme for CICL could be futile if drug trade remains unabated. It is necessary that the Philippine National Police (PNP) strengthens law enforcement against drug trade and drug abuse. It is important that the CJC, local governments and the broader civil society embark on a concerted effort to lobby before the PNP to strengthen its law enforcement efforts and anti-drug abuse/drug trade campaigns to make the above-mentioned community prevention of child offending more meaningful.

Capacity Building of Programme Actors and other Key Stakeholders

1. All programme actors of the community-based diversion and prevention programme must be capacitated with the necessary knowledge, orientation and skills for them to perform their functions effectively and efficiently.

2. CJC mediators and other members, Barangay Captains, Barangay Councillors, GAD Officers and other *Lupon* members must be equipped with the following competencies:
 - Knowledge on international and local laws and agreements regarding children such as, but not limited to the UN CRC, the Beijing Rules, JDL⁴ Rules, Tokyo Rules and Riyadh Guidelines, RA 7610 or Special Protection of Children Against Child Abuse, Exploitation and Discrimination, RA 8369 or the Family Courts Act, The *Katarungang Pambarangay* that was strengthened by RA 7160 or the Local Government Code of 1991, PD 603 or The Child and Youth Welfare Code, Rule on Juveniles in Conflict with the Law, Supreme Court Administrative Circular No. 14-93, and Rules on the Commitment of Children, among others. They should also have the knowledge on the different forms of diversion programmes/activities and psychosocial interventions/rehabilitative measures for CICL.
 - Orientation on the Philippine Judicial System, the Five Pillars of Justice, Juvenile Justice System, Restorative Justice principles, and Community Diversion, among others.
 - Skills on mediation, negotiation and conflict resolution involving CICL, counselling, child and family assessment and other psychosocial interventions, programme planning, strategising, monitoring and evaluation, community education, advocacy, gender and child sensitivity, and referrals and networking.
2. Community volunteers must be equipped with the basic knowledge on UNCRC and other international legal instruments pertaining to CICL including the country's judicial system and the five pillars of justice. They must also possess basic knowledge on community-based diversion and restorative justice and be trained on effective counselling, monitoring and follow-up, paralegal education and case documentation, child and family assessment, referrals and networking, community education and advocacy as well as on the gender-sensitive handling and treatment of children.
3. Peer educators should be equipped with basic knowledge on the UNCRC and be oriented with pertinent international legal instruments pertaining to CICL. They must have a basic orientation

⁴ United Nations Rules for the Protection of Juveniles Deprived of their Liberty

on community-based diversion including its processes and benefits and a training on effective counselling, leadership and organising, facilitating group discussions, public speaking and other forms of peer education strategies.

4. *Barangay Tanods* also need adequate training and capability building. They must be knowledgeable on the UNCRC and the other international instruments related to children mentioned above, local laws and rules on children, community-based diversion and restorative justice principles. *Barangay Tanods* must be oriented with and trained in the proper handling of apprehensions, gender and child sensitivity, conducting child-friendly interviews and handling confidential information.
5. The barangay, either through the Barangay Council, BCPC or the CJC shall embark on the continuing education of different programme actors and key stakeholders. The barangay should allocate ample appropriation for the continuing education of programme actors to reorient, retool, or introduce new laws or procedures pertaining to children and CICL. There is a need for continuing education because of the constant turn-over of barangay officials and personnel particularly after elections. Continuing education may come in the form of training, seminars, workshops, internships, exposures and cross-visits, among others.
6. The Barangay Captain, the Barangay Council and the CJC shall embark on continuing dialogues and advocacy with the PNP, especially the police precinct, which has jurisdiction over their community; for the adoption of the community-based diversion process and to hand-over apprehended CICL to the custody of the CJC.

References

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Appendices

Appendix 1 Retributive Justice and Restorative Justice Compared

Retributive Justice	Restorative Justice
Crime is an act against the state, a violation of a law, an abstract idea	Crime is an act against another person and the community
The criminal justice system controls crime	Crime control lies primarily on the community
Offender accountability is defined as taking punishment	Accountability defined as assuming responsibility and taking action to repair harm
Crime is an individual act with individual responsibility	Crime has both individual and social dimensions of responsibility
Punishment is effective a. Threat of punishment deters crime b. Punishment changes behaviour	Punishment alone is not effective in changing behaviour and is disruptive to community harmony and good relationships
Victims are peripheral to the process	Victims are central to the process of resolving a crime
The offender is defined by deficits	The offender is defined by capacity to make reparation
Focus on establishing blame or guilt in the past (did s/he do it?)	Focus on problem solving, on liabilities/ obligations, on the future (what should be done?)
Emphasis on adversarial relationship	Emphasis on dialogue and negotiation
Imposition of pain to punish and deter/ prevent	Restitution as a means of restoring both parties; goal of reconciliation/restoration
Community on sideline, represented abstractly by state	Community as facilitator in restorative process
Response focused on offender's past behaviour	Response focused on harmful consequences of offender's behaviour; emphasis on the future
Dependence upon proxy professionals	Direct involvement by participants

Source: Zehr (1990; as cited in Bazemore, G. and Umbreit, M., 1997, 15)

Appendix 2 CJC Intake Sheet

Appendix 3 CJC Covenant (Kasabutan) Form

Guidelines

for a Community-based Diversion and
Prevention Programme
for Children in Conflict with the Law

with the support of



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