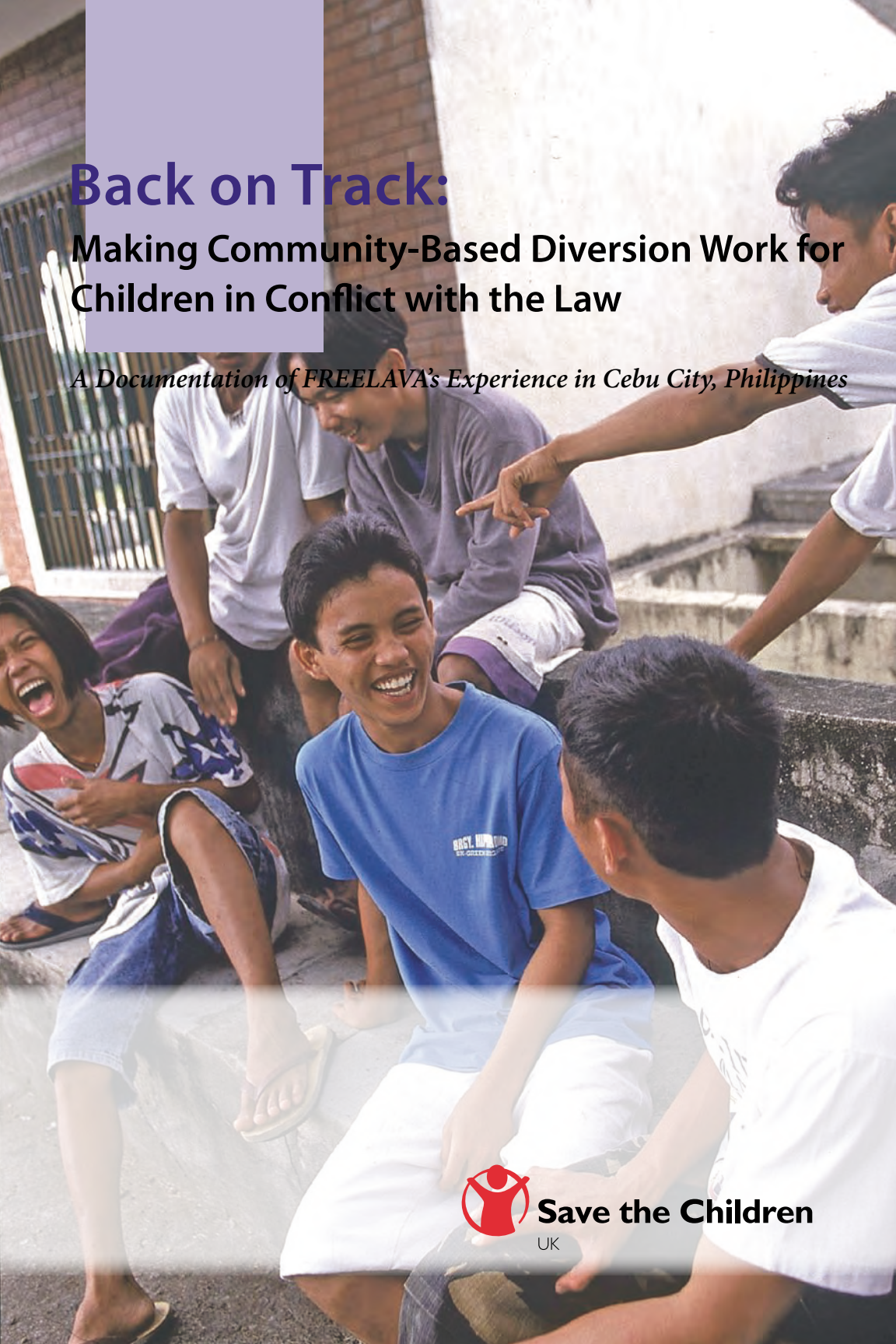


Back on Track:

Making Community-Based Diversion Work for Children in Conflict with the Law

A Documentation of FREELAVA's Experience in Cebu City, Philippines



Save the Children

UK

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Save the Children

UK

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Acronyms

BCPC	Barangay Council for the Protection of Children
Beijing Rules	United Nations Standard Minimum Rules for the Administration of Juvenile Justice
BP	Batas Pambansa (National Law)
CCPO-PNP	Cebu City Police Office- Philippine National Police
CCTFSC	Cebu City Task Force on Street Children
CCCWPC	Cebu City Commission for the Welfare and Protection of Children
CCUP	Cebu City Commission on the Urban Poor
CICL	Children in Conflict with the Law
CJC	Children's Justice Committee
CV	Community Volunteer
CYRS	Children and Youth Relations Section
DBM	Department of Budget and Management
DILG	Department of Interior and Local Government
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
HIV	Human Immunodeficiency Virus
JDL Rules	United Nations Rules for the Protection of Juveniles Deprived of their Liberty
LGU	Local Government Unit
NCRFW	National Commission on the Role of Filipino Women
NEDA	National Economic and Development Authority
NGO	Non-Government Organisation
PD	Presidential Decree
PE	Peer Educator
PNP	Philippine National Police
RA	Republic Act
RTC	Regional Trial Court

Riyadh Guidelines	United Nations Guidelines for the Prevention of Juvenile Delinquency
SC UK	Save the Children - United Kingdom
SK	<i>Sangguniang Kabataan</i> (Youth Council)
STD	Sexually Transmitted Diseases
UNCRC	United Nations Convention on the Rights of the Child
WCPD	Women and Children's Protection Desk

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
PD 603	Presidential Decree 603: The Child and Youth Welfare Code
<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
RA 7610	Republic Act 7610: Anti-Child Abuse Law
<i>Sangguniang Kabataan</i>	Youth Council
<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.

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Foreword

More than ten years have passed since the United Nations Convention on the Rights of the Child has come into force. Despite this and the elaborate international framework that exists on the administration of justice and support to children who come in conflict with the law, there is still a huge gap in applying these frameworks in national and local policies and programmes. The experiences that children go through attest to this.

Since 2002, Save the Children-UK along with its partner organisations in the Philippines has been contributing to the bridging of this gap through its Facilitating Justice for Children Programme. One of the main components of this programme is the piloting of a community-based diversion programme for children in 12 barangays in Cebu City that is being implemented by the Free Rehabilitation Economic, Education and Legal Assistance Volunteers' Association or FREELAVA, Inc.

The community-based diversion programme seeks to prevent children who commit minor offences or violate local ordinances from entering the formal justice system through mediation. The programme brings together a wide range of stakeholders which includes children, parents, community volunteers, local government officials, NGOs and other duty bearers. The idea is to build and develop a community network that will help prevent children from offending and, facilitate their reintegration into family and community life. Embedded in the process are children's rights and restorative justice principles.

In 2004, we started the process of looking at the implementation of the community-based diversion programme in 4 of the 12 barangays. Being a pilot programme, it is important to start identifying aspects of the work which are working well and those which need further improvement. This will allow us to reflect on and initially assess the programme, and consequently feed into planning and further programme development. Apart from documenting the overall experience, we wanted to: (1) Identify the strengths, weaknesses, gaps and limitations of the diversion programme; (2) Draw concrete recommendations on how to improve the practice of diversion at the community level; and (3) Develop an initial set of guidelines on implementing community mediation and diversion.

This book, "Back on Track: Making Community-Based Diversion Work for Children in Conflict with the Law" and the accompanying booklet on the

diversion guidelines are the results of the first-round of a reflection and assessment process participated in by the children, community volunteers, local officials and staff of FREELAVA, Inc. They present the initial effects and successes of the programme, and at the same time, openly share the difficulties the stakeholders encountered as they faced the challenge of piloting a new programme.

We ask the readers to bear in mind that these documents take a second look at the processes that happened during the earlier phase of programme implementation. It is also important to remember that these took place within a specific context and a geographic setting. The programme itself is evolving and has undergone changes since then. The same can be said of the context.

Despite the particularity of this experience, we, our partners and stakeholders believe that it is important to enhance and strengthen support systems and structures for children at the community level, and to develop the awareness and capacities of duty bearers in upholding, protecting and fulfilling children's rights. This should be complemented by efforts at the city, regional and national levels that are directed at resource mobilisation and institutionalisation of rights-oriented policies and programmes for children who have come in conflict with the law and those who are at risk of doing so.

Justice for children is not just about justice administration. It is about recognising the importance of preventing children from experiencing another round of abuse and victimisation as they go through the formal justice system. It is about developing healthy and safe environments for children to grow up and live in. It is about government fulfilling its obligations. It is essentially about all groups of children enjoying and realising their rights.

As duty bearers, it is our responsibility to take steps in making this happen.

Rowena D. Cordero
Programme Director

The Philippines



1 Introduction

From 1999 to 2001, close to 6,000 child offenders were recorded in police blotters in the cities of Cebu, Mandaue, Lapu-lapu, Talisay and the town of Consolacion. Of these five highly urbanised localities, the Cebu City Police Office had the highest incidence of apprehended child offenders at 77 percent with an average intake of 128 per month. In a recent study on children in conflict with the law (CICL) in Cebu, the typical child offender is male, 15-16 years old, reached elementary school level and come from big families with an average of seven members. Eight out of ten CICL are members of a peer group or *barkada*, who loiter and engage in drinking, *shabu*¹ sessions and snatching (Etemadi *et al.* 2002:1). Throughout the country, the factors contributing to child offending are multi-faceted and enormous. Foremost among these is the worsening economic crisis and the concomitant increasing poverty incidence especially among the urban poor, which creates dysfunctions or a breakdown in family systems. The lack of free and accessible educational and recreational facilities for children has aggravated this increasing phenomenon of CICL.

Etemadi *et al.* (2002) found that the most common offences committed by male child offenders in Metro Cebu are theft, robbery and rugby² sniffing while females committed theft and *shabu* use. Most of these CICL are first-time offenders arrested by the police, house detectives or security guards of establishments, or *barangay tanods* (village sentinels). These children experienced jail detention for an average of five months. In 2001, court records from three Regional Trial Courts in Cebu City revealed that 447 CICL were detained pending arraignment or trial (Etemadi *et al.* 2002:2); seven out of ten cases were sentenced; and three to four (3-4) CICL, whose cases have been decided, were serving term in jail for up to three months (Etemadi *et al.* 2002:3). Because of the lack of detention facilities specifically for children, these CICL are confined in congested prisons with very poor conditions. Imprisoned with adult offenders who are hardened criminals, these children also suffer from physical and sexual abuse, and exploitation. These are the harsh realities faced by children in conflict with the law in Metro Cebu.

1 Metamphetamine Hydrochloride

2 Rugby is a brand name of a popular adhesive or contact cement commonly used in the Philippines by street children as a cheap substitute for stimulants. Rugby reportedly contains toluene, a controlled substance used in the manufacture of the illegal substance shabu (methamphetamine hydrochloride). Inhaling it produces a "high" similar to the effect of taking shabu. Rugby can be readily bought from hardware stores by anyone regardless of age.

Article 37(b) of the UN Convention on the Rights of the Child (UN CRC) states that:

“No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest possible period of time (United Nations 1989 in CLB³ 1999a:49).”

The same call is echoed in Article 13.1 of the Beijing Rules or the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, which states that “... detention pending trial shall only be used as a measure of last resort (United Nations 1985 in CLB 1999b: 62).”

Sadly, children who come into conflict with the law are dealt with through the adult criminal justice system and not through a justice system that deals solely with children. The only difference between these two systems is the after-court decision treatment of children and adults (e.g. suspended sentence for first child offenders). Appendix 1 presents a comparison between the adult and children’s justice systems in the country.

Article 40(3) of the UN CRC obliges state parties “to seek and promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, recognised as having infringed the penal law (United Nations 1989 in CLB 1999a: 51).” However, the experiences of CICL serving detention sentences manifest a clear violation of the UNCRC, and in essence, a violation of the human rights of the child. This is because there is still no comprehensive law in the country that specifically deals with children in conflict with the law. Despite the provision on Diversion under Article 11 of the Beijing Rules for competent authority to give consideration in dealing with juvenile offenders without resorting to formal trial (United Nations 1985 in CLB 1999b: 61), still diversion in the Philippines is not maximised and remains unpopular (See Appendix 1).

If there are alternative procedures such as diversion through the police and in the family courts these have yet to be promoted and advocated. The common practice is that the child offender still has to suffer the rigours and harshness of apprehension, interrogation, litigation and detention under the adult criminal justice system.

3 Children’s Legal Bureau (CLB)

For three years now, the Cebu-based NGO Free Rehabilitation, Economic, Education and Legal Assistance Volunteers Association, Inc. (FREELAVA) has been piloting a community-based diversion and prevention programme for CICL in 12 *barangays* of Cebu City to prevent these children from entering the formal justice system and from eventual detention. FREELAVA aims to promote the diversion and prevention programme for CICL at the community level by setting up a functional community-based model of diversion through the formation of the Children's Justice Committee (CJC) within the structure of the Barangay Council for the Protection of Children (BCPC) under the auspices of the local justice institution or the *Lupong Tagapamayapa*. This has been supported by Save the Children-UK whose programme on children's justice seeks to introduce changes or reforms in the administration of justice for CICL at the local and national levels using the principles of children's rights and restorative justice.

In implementing the community-based diversion and prevention programme, positive indicators have shown that the community-based diversion model works and have yielded positive results. The increasing number of children who have undergone diversion indicates the growing recognition and acceptance of the process among community members. The low rate of re-offending among diverted child offenders is another milestone.

Much has to be learned from the FREELAVA experience on community-based diversion and prevention from re-offending for the programme to be popularised, replicated and mainstreamed in other areas of Cebu City, Metro Cebu and the rest of the country. A more detailed and thorough study has to be undertaken for SC-UK and FREELAVA to be able to firmly advocate for policy changes in the current administration of justice for CICL within the four pillars of the justice system using the potentials and merits of community diversion. This commissioned documentation work therefore intends to capture the rich and deep experience of FREELAVA in working on community-based diversion and prevention.

Objectives of the Study

This documentation research has two main objectives: (1) To document the experience of FREELAVA in implementing the community-based diversion project for CICL by documenting the processes and dynamics involved (diversion, reintegration and prevention from re-offending); and (2) To develop a set of guidelines for possible expansion and replication of community diversion for CICL to other communities.

Specifically, the study aims to: (1) Identify the strengths, weaknesses, gaps and limitations of the entire process; and (2) Come up with conclusions and recommendations on how to improve the practice of diversion at the community level.

Methodology

Documenting a programme experience on the administration of children's justice down at the community level entailed a participatory and qualitative approach to actively engage programme actors and other stakeholders to reflect on what they did, how things were done, what issues and problems they confronted, and what more can be done towards improving the entire diversion and reintegration process.

This documentation research mainly employed the following methodologies: focus group discussions (FGDs), case studies, key informant interviews and document review and analysis. At least three sets of respondents were targeted in the documentation work: (1) Programme actors at the community level particularly the Children's Justice Committees (CJCs), Community Volunteers (CVs), and Peer Educators (PEs); (2) Programme actors at the implementing NGO level, that is, the programme staff; and (3) Other key stakeholders from local government units and government agencies.

- **Focus Group Discussion (FGD).** Maximum participation from community actors had to be ensured in the study to capture the breadth of scope, the richness of actual experiences and the balance of perspectives. Using a guide, focus group discussions were conducted with the following programme actors: CJC members (three sessions), CJC members and CVs combined (one session), CVs (three sessions), PEs (two sessions) and FREELAVA Programme Staff (one session). Through the FGDs, the following were accomplished: (1) Roles and responsibilities of the various actors and stakeholders were identified and clarified; (2) Structures and mechanisms of collaboration were probed; (3) Community-based diversion procedures, processes and dynamics were described; and (4) Strengths, gains, weaknesses, problems, limitations, and recommendations were surfaced.
- **Case Study.** Using a semi-structured interview guide, five case studies of community-based diverted CICL and their families were undertaken. From the narrative and descriptive accounts

of diverted CICL and their families, the case studies intended to explore the doability of the community diversion process and the concomitant effects of the process to the diverted CICL and their families. Essentially, the case studies looked at the effectiveness of the programme and how this affected the lives of CICL who have undergone community diversion.

- The case studies were also supposed to include the effects of community diversion on victims but this could not be done because of time constraints. Together with FREELAVA, case study samples were purposively drawn based on a simple classification of CICL offences — common and particular cases from the 12 pilot areas. Common offences are those typically committed by CICL or those that ranked the highest in frequency in a particular *barangay* based on FREELAVA programme records. In contrast, particular offences⁴ refer to CICL offences that are not common or atypical to a particular *barangay* based on the same programme records of FREELAVA. Table 1.1 shows the offences committed by case study sample respondents.

Table 1.1 Offences of Case Study Sample Respondents

Sample <i>Barangays</i>	Case of Diverted CICL	Classification of Offence
Duljo-Fatima	Theft	Common
Ermita	Violation of Curfew Ordinance/ Violation of PD 1619 (Rugby Sniffing)	Common
San Roque	Simple Theft	Common
Suba	Theft/Grave Threat	Common
Tejero	Physical Injuries/Maltreatment and Damage to Properties	Common
Tejero	Shoplifting*	Common

* This fourteen-year-old boy was first diverted at the Community Scouts Rehabilitation and Youth Guidance Centre of the Cebu City Police Office after his arrest by the security agents of Colonnade Mall. He was referred back to the local Children's Justice Committee in Barangay Tejero.

4 The author intended to document CICL cases involving *shabu* trade/peddling. *Shabu* trade is rampant in most of the pilot *barangays*. It would be worth noting how community diversion makes an impact on these particular CICL cases and how it works in this specific context given its highly sensitive and risky nature. However, because of time constraints in locating these diverted CICL and the lack of proper contacts/channels, this plan was called-off.

- **Key Informants Interview.** Information and insights from other programme stakeholders were highly considered in this study. Using an interview guide, data were drawn from key informants on their roles and responsibilities in the programme, the extent of collaboration and contribution to programme implementation as well as their assessment and recommendations on how to improve the programme. Agencies interviewed include the Cebu City Commission for the Welfare and Protection of Children (CCCWPC), Department of Social Welfare and Services (DSWS) of the Cebu City government, and the Community Scouts Rehabilitation and Youth Guidance Centre (CSRYGC).
- **Review and Analysis of Programme Documents and Secondary Data-Gathering.** Vital programme documents of FREELAVA were reviewed and analysed. These include the concept and/or project proposal; annual accomplishment reports; assessment and planning documents; documentation and conference reports; training plan, modules and reports; and other pertinent documents of complementary programmes/projects. Other secondary data collected served as backgrounder for the study. These include the demographic, social, political, economic and cultural data of Cebu City including profiles of sample *barangays* from government sources, academe and NGOs.

Scope and Sampling

The study attempted to be as comprehensive and inclusive as possible. However, because of time and resource constraints, the sampling of respondents set was reduced to five *barangays* (42% of the total 12 pilot *barangays*) for greater manageability. These sample *barangays* were purposively chosen based on the following criteria: volume of cases under community-based diversion; phase of programme implementation; and typicality of offences⁵ committed by diverted CICL vis-à-vis the socio-economic and cultural significance of the *barangay*⁶ (See Table 1.2).

5 The highest number of CICL cases based on FREELAVA records.

6 There was an attempt to correlate the volume of CICL cases with the prominent socio-economic and cultural characteristics of a particular *barangay*. Thus, considering it as a criterion in the purposive sampling. However, FREELAVA records of CICL cases proved that this is not the case. Rugby sniffing remains rampant in all *barangays* regardless of their socio-economic and cultural importance to the city.

Table 1.2 List of Sample *Barangays* and their Characteristics Based on the Sampling Criteria

Sample Barangays	Volume of Diverted CICL Cases	Implementation Phase	CICL offences vis-à-vis Socio-economic and cultural significance of barangays
Ermita	Highest	1 st Phase	Snatching &rugby sniffing (Carbon market and shabu haven)
Duljo-Fatima	2 nd highest	1 st Phase	gang wars/substance abuse (Go Thong Memorial High School and shabu haven)
Suba		2 nd phase	Theft/substance abuse (Pasil fish port and landing area)
Tejero	3 rd highest	4 th Phase	Snatching (seaport area)
San Roque	Lowest	3 rd Phase	Simple theft & rugby sniffing(seaport area)

Focus group discussion (FGD) participants were also limited to three CJC members, three CVs and two PEs from each of the five sample *barangays*. To fill-in the data gaps relative to the peer education approach, a follow-up FGD was undertaken among eight selected PEs from the same sample *barangays*.⁷ Overall data were collected from 70 respondents through the different data-gathering methodologies identified (See Table 1.3).

Table 1.3 Total Respondents Involved in the Study

Aspects of the Study	Research Method Used	No. of Sample Respondents
Documentation of Programme Experience	Focus Group Discussions	
	A) CJs and CVs	31
	B) Peer Educators	15
	C) FREELAVA Programme Staff	5
	D) FREELAVA Executive Director	1
Case Studies on Programme Effectiveness to CICL and their Families	Case Study using Semi-Structured Interviews - CICL cases with their families, victims and community members	6 CICL; 6 parents/guardian; 1 Victim; 1 Tanod
Secondary Stakeholder Participation	Key Informant Interviewing	4
Total Respondents		70

⁷ With the exception of one PE who comes from Barangay Lorega-San Miguel.

2 Cebu City: Poverty Amidst Plenty

Located at the heart of the Philippine archipelago, Cebu City is the capital of the province of Cebu and is considered the capital of the Central Visayas region. Of the four provinces in the region, Cebu, particularly Cebu City, is also considered as the leading growth centre of Central Visayas and plays a paramount role in the regional and national economy. In over a decade, Cebu City has transformed itself into a major transshipment point and centre for commerce, industry, finance, education, recreation, transportation, government and other service facilities largely because of its central location and excellent harbours (Etemadi 2000: 1). However, the question remains on how this economic growth has affected the broadest sectors of society particularly the children of Cebu City.

Physical and Demographic Characteristics

Cebu City's total land area is 326.10 square kilometres⁸ or roughly six percent of the entire province (SCHEMA Konsult 2000:4). It is politically divided into 80 *barangays* clustered in two congressional districts — the north and the south. Fifty (50) *barangays* are considered urban and developed covering an area of 78.09 sq. km. This is about 24 percent of the city's total land area, which is composed of a small strip of flatland along the coast where human settlements, industrial and commercial activities are concentrated (Etemadi 2000:1-2). The other 30 *barangays* — considered rural, upland and undeveloped — cover 248.01 sq. km. or 76 percent of the city's total land area and is mostly mountainous and physically rugged. These *barangays* are classified as rural “due to relatively low population densities and little or no amenities or agglomeration economies” (Etemadi 2000:1) (See Appendix 2).

Based on the 2000 National Statistics Office (NSO) Census, Cebu City's total population now stands at 718,821 with a total of 147,600 households (NSO 2001:55). See Appendix 3 for the detailed account of Cebu City's latest population per *barangay*. Table 2.1 suggests that the intercensal count of the

8 Various sources have different estimates. One other source used in this study is that of Etemadi (2000). She estimated Cebu City's total land area at 330.19 square kilometers based on NSO Census data (2000: 1). For consistency of data presented in this study, SCHEMA Konsult demographic data were mostly used.

city's average annual population growth rate has declined from 2.2 (1980-90) to 1.65 (1990-2000) percent. In the last decade, however, the city's population density has increased by 713 persons/sq. km. (28 percent) from 1,849 individuals/sq. km. in 1990 and 2,006 in 1995 to 2,562 individuals in 2000.

Table 2.1 Cebu City Population and Density: 1980, 1990 and 2000

Year	Total Population	Average Annual Growth Rate (%)	Density Per Sq. Km.
1970	348,163	-	1,054
1980	490,281	2.8	1,485
1990	610,417	2.2	1,938*
1995	662,299	1.54*	2,103*
2000	718,821	1.77*	2,282*

* Data used from NSO 2004.

Sources: Data based on NSO 1980, 1990 and 1995 Census of Population cited in Etemadi, F., 2000. *Urban Governance, Partnership and Poverty in Cebu*, University of Birmingham, Birmingham:129; NSO, 2003. "Central Visayas QUICKSTAT" from <http://www.census.gov.ph> (5/10/04).

While the city's population growth trend is generally declining, comparisons between the populations of the rural and urban *barangays* suggest the opposite. Etemadi noted that population increase in rural *barangays* (4.7%) is much higher than in urban *barangays* (1.4%) (2000:2). From 1990 to 1995, the rural and upland areas had an annual growth rate of 3.99 percent (SCHEMA Konsult 2000:14). This was brought about by the recent development of the hilly *barangays* in terms of real estate business activities, recreational facilities and the opening-up of the Trans-Central Highway in the last decade, which also attracted in-migration.

The city's population distribution is uneven. Census data in 1995 indicates that 88.3 percent or 584,600 of the total population live in the urban *barangays* while 11.7 percent (77,699) reside in the rural *barangays* (Etemadi 2000:2). Hence, urban density, which stands at 10,305 persons/sq. km., is felt more compared to rural density, which is 284 persons/sq. km. in 1995. According to Etemadi, the most densely populated *barangays* — notably *Barangays* Ermita, Duljo-Fatima, Pasil and Suba — are located in foreshore lands and older settlements. These *barangays* are near traditional areas of employment such as the Carbon Market and the port area, which also have relatively huge populations of informal settlers (2000:3). Work and employment was the main reason for urban migration (CCUP 1993 and CCTFSC 1995 cited in Etemadi 2000:3).

Cebu City's population is also predominantly young. In 1995, 33 percent are below 15 years of age while those in the 15-64 years old range comprised 62 percent (Etemadi 2000:3) of the population. This young population increased in year 2000 with children numbering approximately 43.5 percent of the total population. Fifty-three (53) percent of the population belongs to the "productive age" (18-59) while senior citizens (60 and over) account for 3.3 percent (Etemadi *et al.* 2001:9). The average household size decreased slightly from 5.3 in 1990 to 4.84 in 2000⁹ FORGE 2001:2).

Cebu City's Political Economy

Cebu indeed experienced an unprecedented economic growth from the late 1980s towards the late 1990s.¹⁰ From being a traditional centre of trade and commerce in the south, Cebu City's economy expanded to become an industrial and service centre during its "boom" years. "It served as a 'growth pole' ushering other 'growth centres' in nearby cities and municipalities (Etemadi 2000:5)." Cebu City's economy became highly diversified, consisting of a large number of cottage, and small and medium industries as well as a few large multinational corporations engaged in various economic activities. In 1993, 79 percent of all establishments in the region were based in Cebu (2000:6).

However, what propelled the so-called economic growth of Cebu are not improvements in productivity of the highly productive sectors of industry and manufacturing but the robust and dominant performance of its service sector especially trade, services and tourism. Post-boom (1997-2001) indicators in Figure 2.1 continue to show the services sector as the top-leading performer in the regional economy, which is largely attributed to Metro Cebu.

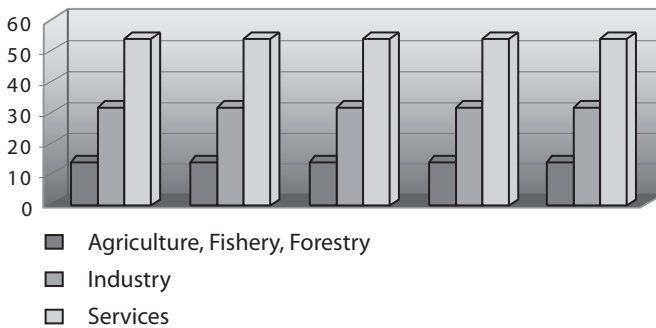
As seen in Figure 2.2, the services sector posted an average of 70 percent of the total employment generated from 1997 to 2002, making it the largest employer in the city. Census data in 1995 also reflected the same employment pattern in Cebu City. Seventy-three percent (73%) of the

9 This is based on the 2000 NSO Census although survey data from Etemadi *et al.* (2001:9) posted a bigger average household size of 5.4.

10 It is more appropriate to attribute this economic growth to Metro Cebu rather than the entire Cebu Province as claimed by local politicians and political leaders. Economic development during this period was highly concentrated on the rapidly urbanizing and industrializing cities and municipalities within a 25-kilometer radius from Cebu City including Toledo City and Balamban town.

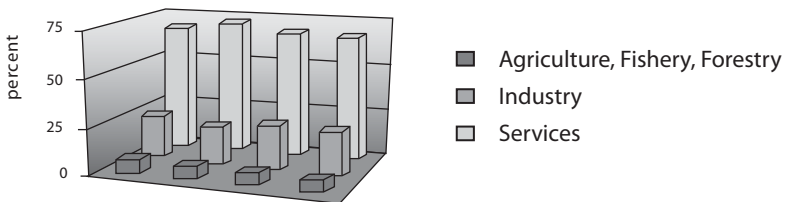
city's employed labour force are in trade and other related services such as banking, real estate and insurance, and community and personal services. Only 18.8 percent and 7.8 percent were employed in industry and agriculture and related activities, respectively, a phenomenon that differs from the provincial and national trend where more than 40 percent of the employed labour force are still engaged in agriculture and related activities (SCHEMA Konsult 2000:18).

Figure 2.1 Percent Distribution of GRDP by Industrial Origin, Central Visayas, 1997-2001, at constant 1985 prices



Source: NEDA Region 7, 2003. Central Visayas 2002 Statistical Compendium, NEDA Region 7, Cebu City: I-20-21.

Figure 2.2 Employment by Sector, Cebu City, 1997-2002



	1997	1998	2001	2002
Agriculture	7.1	7.1	6.8	7.4
Industry	23.8	20.4	23.6	22.2
Service	69	72.5	69.5	70.3

Source: NSO, 1997, 1998, 2001, and 2002. Quarterly Labour Force Survey, NSO. Manila

This prominence in trade and service activities is largely due to the city's strategic location in the province and in the country as well as the availability of good seaports. Cebu City serves as a commercial hub and transshipment point in the Visayas of goods/products for export, processing or redistribution to other parts of the country. Because of the city's vibrant trading activities, financial institutions, property investments and real estate, other supporting businesses mushroomed in the area. Tourism also grew in Metro Cebu because of the rapidly developing entertainment, shopping, recreational and other service facilities in Cebu City (SCHEMA Konsult 2000:18).

The "Ceboom" Phenomenon

The country was on the verge of an economic bankruptcy before the EDSA People Power Revolution in 1986, registering a series of negative growth rates in the mid-1980s. Nevertheless, Cebu stood its ground and led the entire country to economic recovery until the end of the decade. Consequently, the Central Visayas region posted high positive economic growths at 19.9 percent in 1988 compared to the previous year of 12.8 percent. With an annual growth rate of 17.4 percent from 1987 to 1991 during the peak years of the Cebu boom, the region continued to showcase a robust economy until the period of sustained economic growth from 1992 to 1997 with an average growth rate of 11.5 percent (Etemadi 2000:9) (See Appendix 4).

Though this regional economic growth during the boom years is lopsided and unbalanced, Metro Cebu was still estimated to account for 70 percent of Central Visayas' industrial output. Cebu City's output, in particular, constituted 20 percent of the Gross Regional Domestic Product (at constant 1985 prices) in 1993 and 1994 respectively (2000:9).

Unfortunately, the much publicised "Ceboom" bursted towards the end of the 1990s. After all, Cebu can never be insulated from destabilising forces, both foreign and local. The 1997 East Asian Financial Crisis that weakened almost all of the East Asian tiger economies also debilitated Cebu's economic boom.

The "Ceboom" phenomenon is a classic example of the boom-bust-cycle type of economic growth. It was driven more by growth in employment and other productive factors such as capital and labour supply (RDC 1998:12) and not by the improvement in productivity through increased investments in more efficient physical and human capital and the assimilation of appropriate advance technologies.



Photo by Glenn Labrado, 2004

The Cebu City South Coastal Road Reclamation Project 1 is one of the biggest Japanese Official Development Assistance (ODA)-funded infrastructure projects under the Cebu Integrated Master Development Plan.

Meanwhile, such economic growth has been criticised for its inability to uplift the condition of majority of the people as prosperity was largely confined to major urban centres in Metro Cebu. The massive infrastructure construction for Cebu's modernisation meant skyrocketing costs of land, land conversions, displacements in terms of residence and livelihood, increasing unemployment, and worsening urban poverty (Bucoy 2003 cited in Rodriguez *et al.* 2004:134).

Urban Poverty: The Social Cost of the Economic Boom

Cebu's economic growth created a surge in rural to urban migration because of the increasing employment demands of investment firms. However, in Cebu City newly-created job opportunities cannot accommodate the rapidly growing labour force¹¹. The unemployment rate in 1993 placed at nine percent increased to 14.5 percent in 2002 (RDC 1998:11). Employment rate declined from 88 percent to 85.5 percent in the same period. See Appendix 6.

11 Labour force refers to the population 15 years and over who contribute to the production of goods and services in the country, whether employed or unemployed. Those employed are persons in the labour force who, at the time of the survey, were reported to be either at work or with a job or business but temporarily not at work because of illness or injury, vacation or other reasons. Unemployed are persons in the labour force who, at the time of the survey, have no job/business and are either looking for a job or not (NSO cited in Etemadi 2000: 133).

Since not enough jobs were generated by both public and private sectors, intra and inter-provincial migrants ended up working in the informal sector. Etemadi contends that there were about 73,000 self-employed and 12,000 unemployed family workers who earned their income in the informal sector (2000:6). Most people in the informal sector engage in vending or selling food¹² and non-food items be it wholesale or retail, full-time or seasonal, stationary or ambulant. Vendors are mostly found in areas where people come together like market places, commercial strips, churches, schools, public offices, factories, ports and bus terminals (2000:7).

The informal sector is also composed of export subcontractors that are often household-based, unregistered and single-proprietorship enterprises. Workers of these informal enterprises are often paid on a piece-rate basis (Quesada 1991 cited in Etemadi 2000:8). This arrangement is common in the export industry such as furnitures, fashion accessories and garments.

In 1994, Etemadi came up with socio-economic groupings for Cebu City by triangulating different sources of data towards estimating the magnitude of the city's urban poor population. Table 2.2 shows that in 1994, 66.8 percent of the families joined the ranks of the urban poor with 16.2 percent considered as "poorest of the poor". The urban poor earned 35 percent share of the city's total family income in the same year (Etemadi 2000:29).

The rapid influx of migrants and high population growth has created huge demands for land and housing. Slums and informal settlements have spread out in the city since the 1980s. An informal land survey conducted by the City Commission for the Urban Poor in 1992 identified 570 informal settlements/communities occupied by 62,926 families or 58 percent of the estimated household population in urban Cebu City (Thirkell 1992:Table 2). In 1998, about two-thirds of the total number of households in the city's urban *barangays* live in neglected areas with substandard housing.

Most of the City's urban poor live in danger zones or are informal settlers in both government and privately-owned lands. Many survive in small shanties of 6-10 square metres where family members are packed

12 Food items include prepared snacks and meals for students, workers and low-income families while non-food items include flowers, candles, religious articles, fuel, accessories, magazines (Etemadi 2000:7).

Table 2.2 Classification of Families by Income Groups: Cebu City, 1994*

	Description	Average Monthly Income	Percent of Families	Percent of Income Share
"Poorest of the Poor"	Total annual income below Php 39,999.00 (US\$ 1,503.72) which is below NEDA Poverty Threshold of Php 2,971.00 (US\$ 111.69) for urban areas in Region 7.	Php 984.00 37.84 - Php 2,929.00 112.65	16.2 (21,117 families)	4.3
"Very Poor"	Total annual income from Php 40,000.00 (US\$ 1,503.75) - Php 59,999.00 (US\$ 2,255.60) and more or less within the PCUP (Philippine Commission for the Urban Poor) Poverty Threshold of Php 4,297.00 (US\$ 161.54).	Php 4,098.00 157.61	19.6 (25,435 families)	8.8
"Poor"	Total annual income from Php 60,000.00 (US\$ 2,255.63) – Php 99,999.00 (US\$ 3,759.36) and within the IBON Poverty Threshold of Php 6,325.80 (US\$ 237.81).	Php 6,847.00 263.34	31.0 (40,312 families)	22.1
"Middle"	Total annual income from Php 100,000.00 (US\$ 3,759.39) – Php 245,000.00 (US\$ 9,210.52)	Php 12,103.00 465.50	28.0 (36,472 families)	37.4
"High Income"	Total income from Php 250,000.00 (US\$ 9,398.49) and above.	Php 48,133.00 1,851.26	5.2 (6,719 families)	27.4

Source: Etemadi, F., 2000. Urban Governance, Partnership and Poverty in Cebu, University of Birmingham, Birmingham: 30.

* Conversion based on average 1994 exchange rate: US\$1=Php26 (Reference Exchange Rate Bulletin. Retrieved May 3, 2005 from http://www.bsp.gov.ph/statistics/stats_exarchive.htm)

like sardines. Most of these shanties are located in the port areas and in other *barangays* such as Pasil, Ermita, Lorega, Duljo-Fatima, Tejero and the settlements fronting the SM Mall in a reclaimed area (Cebu City Government 2003: Attachment 33). These informal settlements do not have access to basic services like water, sanitation, electricity and drainage. In general, the informal settlers are poor, do not have their own land and/or houses, and/or live below the poverty threshold. The high cost of land is largely contributory to the rise in the number of informal settlers in the city (SCHEMA Konsult 2000:31). Due to population growth, the housing backlog of Cebu City is estimated at around 102,536 new units for the next nine years (Cebu City Government, 2003.)

The following points summarise the surge of urban poor families in Cebu City (Etemadi 2000:31):

- Only a few sectors (mostly big business and exporters) actually benefited from the so-called economic boom;
- Many migrants were attracted by the boom but employment opportunities were inadequate to absorb the increasing labour force;
- Those unemployed ended up being self-employed with a high percentage of the unskilled joining the informal sector where they earn meagre income; and
- Companies cut down on labour costs by using subcontracting and other labour market flexibility measures such as the “feminisation of labour”.



Photo by Glenn Labrado, 2004

Barangay Suba in Cebu City hosts urban poor settlements where housing conditions are appalling, and drainage and domestic wastes are common problems.

The Impact on Children

Cebu City's economic boom has led to a loosening of the city's social and moral fabric. Family structures and support systems have disintegrated and became dysfunctional partly because of poverty conditions that entrapped the urban poor and other rural migrants in perennial powerlessness and incapacity to access entitlements. Both women and children have become vulnerable to the marginalising effect of the so-called economic boom.



Photo by Michael Amendolia, 2003

The rapidly increasing urban poor population pushes the city government to its limits in the provision of social services. In 1998, the ratio of medical personnel to the city's population has reached deplorable proportions at 1 government physician for every 11,216 persons; 1 public health nurse for every 9,464 persons; 1 public health midwife for every 6,309 persons; and 1 public health dentist per 20,886 persons. While there are 75 health centres strategically located throughout the city, one centre caters to a population of 8,297 (CCCWPC 2000:3). In the same year, infant death rate was recorded at 25 percent or 25 per 1,000 live births (SCHEMA Konsult 2000:28). In 1999, pneumonia was the leading cause of death among 1-4 year olds (CCCWPC 2000:3). In terms of education, the classroom-pupil and teacher-pupil ratios at the elementary public elementary schools are 1:58 and 1:45, respectively. Meanwhile, in public high schools, the classroom-student and teacher-student ratios are 1:50 and 1:26, respectively (CCCWPC 2000:5).

As husbands become perennially unemployed or underemployed, women in urban poor communities become increasingly burdened with household chores and at the same time engaging in income-generating activities such as becoming subcontractors. Women, thus, work for as long as 17 hours a day. Children also are increasingly involved in paid work in household-based cottage industries or in subcontracting work (Etemadi 2000:19). The UNICEF Multi-Indicator Cluster Survey conducted in the City in 2000 revealed that 14 percent of children 5-17 years old are working. Sixty-eight percent of these children are working in family-operated activities while 22 percent are being paid to work by other persons (UNICEF 2001:26). In 1999, some 1,000 children were also recorded to be working in hazardous conditions such as scavenging, fetching water and others (CCCWPC 2000:6-7).

The lure of easy money vis-à-vis the captivating consumerist ethics prevalent in the city has also captured the fancy of both urban and rural poor. The rapid influx of foreign tourists has led to the proliferation of entertainment joints such as clubs and *karaoke* bars, and the sex industry in general. In effect, child prostitution and child sex tourism has become pervasive in the city. It is estimated that 50 percent of the 3,000 women and young people, who are in prostitution are not connected with any establishment in the city, are minors. In a behaviour survey conducted in the city in 1995, 16 percent of the total 701 respondents who are sexually exploited commercially were found to be minors (Etemadi 2000:22). Of the 117 exposed to sexually transmitted infections, 12 percent were minors (Etemadi 1996 cited in Etemadi 2000:22). Wenceslao and Mongaya (1994 cited in Etemadi 2000:22) revealed that there is a high incidence of drug addiction and of HIV infection among those who are in prostitution in the city.

Moreover, *Belen sa Cebu*, a drop-in centre for people in prostitution in Cebu City, recorded some 2,504 girl-children and 637 adult women who dropped in at the centre since 1999. Seventy percent (70%) of the girls served by the centre were between 11-17 years old (Villarama 2004:7). In Cebu City, there are at least eight publicly known categories of female in prostitution today as described in Table 2.3.

An ILO study on working children in Cebu conducted in 2003 by the Social Science Research Centre of the University of San Carlos (USC-SSRC) revealed that 149 of 151 respondents were children who are sexually exploited commercially. Of these, 101 were out of school and 66 were girls (USC-SSRC 2003).

Table 2.3 Categories of Females in Prostitution

Category	Description
Freelancers	They work with pimps and managers or are on their own.
Dancers	They work inside bars. Some dance in their underwear while dancing in the nude.
Guest Relations Officers or GRO	They entertainer customers. Most of them join the tables of customers inside the bars.
Taxi girls	They engage in paid sex with taxi drivers, mostly inside taxis.
Call girls	They wait to be called on by their pimps. They are not seen in the areas where other women in prostitution are.
<i>Antok*</i> girls	Steal from their sleeping customers.
<i>Akyat barko**</i>	They work in the ports and engage in paid sex inside the ships and vessels.
<i>Salsa***</i> girls	Most of them are entertainers in restaurants. They masturbate customers while they sing but they do not engage in sex.

Source: Villarama, M.R., 2004. A Research on Child Sex Tourism in Cebu, A project supported by ECPAT and Terre des Hommes, Cebu City: 6.

* Antok means sleepy in the Filipino language.

** Literally, climb ship.

*** Filipino slang term for masturbation.

Violence against children has grown rampant especially in urban communities because of the breakdown of the family's moral fibre and the pressures brought about by congestion and miserable living conditions. In 1999, the Women and Children's Protection Desk (WCPD) of the city police office recorded 49 cases of rape of children, 21 cases of child abuse and 18 acts of lasciviousness involving children (CCCWPC 2000:7). Though declining, rape cases involving children posted an alarming 38 cases in 2000 and 39 cases until October 2001 (CCPO-PNP cited in STRIDES and CYFP 2001: 10). The *Bantay Banay* Cebu City Inter-agency Council has reported 374 and 307 cases of child abuse (unspecified) in 2001 and 2002, respectively (Cebu City Government 2003: Attachment 2A).

Poverty conditions at home have forced children to survive in the streets. In Cebu City, there is a continued increase in the number of street children, many of whom are victims of sexual abuse and addiction to prohibited substances (SCHEMA Konsult 2000:31). These children engage in scavenging, begging, watch-your-car services, recruited by crime syndicates as snatchers or drug dealers, or placed in prostitution (CCCWPC 2000:6-7). In 1999, the Cebu City Task Force on Street Children served 7,584 street children compared to 5,765 in 1994.

A Look at Children in Conflict with the Law

The so-called economic boom of Cebu City has placed an enormous pressure on its urban poor families. The rapid increase of in-migrants brought about by the boom lead to increased competition for the already limited social and economic services offered by the city government. The increasing rate of unemployment has largely contributed to the rising phenomena of children in conflict with the law (CICL). Child offending has resulted from different interrelated factors such as parental neglect, child abuse and family violence, poor housing conditions and lack of other basic necessities (that led children to the streets) and negative peer influence. The recent comprehensive study on CICL in Cebu City conducted by Etemadi *et al.* (2002; cited in SC UK 2004) presents a deplorable situation of children in conflict with the law and their encounters with the juvenile justice process.

- From 1999 to 2001, 5,976 child offenders were apprehended by the police in Metro Cebu while 4,594 minors were diverted to the Children and Youth Relations Section (CYRS) during the same period, 90 percent of whom are from Cebu City. Majority of these children were alleged to have committed offences against property. Police records showed that incidences of shoplifting were the highest followed by substance abuse.



Photo by Glenn Labrado, 2004

Children at the Pasil Fish Port

- Ninety-four percent (94%) of 5,233 children arrested by the police in the same period were charged or arrested for the first time.
- Sixty percent (60%) of the CICL interviewed declared that they offended because of their own misconduct and the temptations around them as they lived on the streets.
- During these apprehensions, most CICL interviewed said they were roughly treated by the police. They were either hit on the head or collared while 75 percent were handcuffed. More than half (61%) of the CICL interviewed said they experienced violence at the police station. They were mauled, punched, whipped, slapped and their heads dunked in water.
- Almost all cases brought to the Family Courts resulted in children serving sentences in custody. Thirty percent (30%) of the total cases filed at the family courts were still pending. Majority (1,295 or 71%) of these children who are serving their sentences spent less than four months in custody. The average length of time a child is detained was five months but a number of children (91) spent longer than 12 months in detention.
- Beddings and utensils are lacking in many of the jails in Cebu. Most jails have a daily food budget of only Php 30.00 (US\$ 0.56) per inmate. Thus, hunger and petty theft are common in prison. Inside the Bagong Buhay Rehabilitation Center (BBRC), children are sexually abused by adult inmates as they are sometimes “adopted” as sleeping partners.
- Majority of the 93 detained CICL interviewed in the study declared that their lives were affected negatively by their experiences in jail. “They were concerned about finding work, afraid they would be teased if they return to school or afraid simply of the general prejudice from society” (Etemadi *et al.* 2002 cited in SC UK 2004:48). Meanwhile, 15 percent claimed that they were hardened by imprisonment, are no longer afraid of jail, and of committing further offences.
- Eighty-six percent (86%) of the 1,421 children detained in the five custodial centres in Cebu were first time offenders and have not been diverted from arrest, court and custody.

The plight of CICL in Cebu City has to be addressed if both local and national governments are serious in working for the best interests of children. Part of the government's accountability to its citizens especially to children is to ensure access to basic social services, economic opportunities and other safety nets that would help them live decent lives and protect them from the negative impact of development. Only then can economic growth become meaningful to Filipino children and the rest of the marginalised sectors.

3 FREELAVA: Trailblazing Programmes for Children’s Rights and Children’s Justice in Cebu

This section presents a brief profile of FREELAVA and its work on children’s rights and justice for the past two decades. It also provides the context for its most recent work on community-based diversion for children in conflict with the law.

Humble Beginnings

In 1983, the Free Legal Assistance Volunteers Association or FreeLAVA was conceived as a human rights-based organisation as a response to the many human rights abuses and violations (HRVs) in Cebu committed by former President Ferdinand Marcos and his allies. Through its Pardon and Parole Programme, FreeLAVA provided legal aid to facilitate the restoration of justice to victims of HRVs and injustices who were incarcerated in detention centres all over Cebu Province. FreeLAVA’s clients then were mainly indigent adult prisoners.

In the course of jail work with adult prisoners, catering to children prisoners became inevitable as the latter’s numbers rapidly grew in Cebu City’s detention centres. In 1985, child offenders who were confined together with adult prisoners reached around 40 to 50 in number (Interview with Antonio Auditor, 6 February 2004). These children were mostly incarcerated due to statutory crimes committed against the state. According to Auditor, highway robbery or snatching was the highest in the crime index during this period, followed by the youth’s addiction to marijuana, cough syrups and *shabu*. Rugby-sniffing was not predominant then as it is now.

Despite the voluminous work on parole for adult prisoners (i.e., working for the release of sentenced national prisoners), FreeLAVA responded to the needs of child offenders by undertaking rehabilitative services which complemented their continuing free legal assistance work. For four years (1983-1987), FreeLAVA engaged in a scouting programme with male children in jails with the objective of developing the life and social skills of child prisoners in preparation for their eventual re-entry to their respective communities. The Boy Scouting Programme engaged these children in

campings and jamborees, which involved various competitions, fun and games, and *Sinulog (local Mardi Gras)* participation, among others. This started FreeLAVA's passion for children's rights and justice work.

In 1988, community-based projects were started on top of jail work. FreeLAVA embarked on community-based crime prevention activities in eight (8) urban *barangays* in Cebu City. The organisation recognised that to minimise the influx of both adult and child prisoners in detention centres, crime prevention interventions had to start at the community level. Under its Crime Prevention Programme, FreeLAVA organised the target communities and provided livelihood projects to parents as well as educational assistance to out-of-school youths and children who are at risk of dropping out from school because of poverty (Interview with Antonio Auditor, 6 February 2004).

FreeLAVA's work with children — advocating for their rights and administering justice to those in conflict with the law — has expanded since the 1990s through various projects and approaches. Eventually, FreeLAVA's work found a niche in children rights and children's justice.

Philosophy and Programmes

Established and registered with the Securities and Exchange Commission (SEC) in 1983 as a non-stock, non-profit organisation, FreeLAVA acts as an umbrella organisation of community-based organisations, government agencies, academe and civic-minded individuals pooling their resources together to achieve a common **mission — to help the oppressed, the underprivileged and the victims of discrimination** (Auditor 1999:3). FreeLAVA's forebears believe in the primacy of human agency in bringing about development towards improving the quality of life of the people. To carry this out, the organization believes that the underprivileged and marginalised must have maximum access to justice and to social services for them to invoke their rights and their basic needs met (See Box 3.1).

As an organisation, FreeLAVA defines its objectives as follows (1999:3):

- To help, assist indigent litigants, accused, detainees and to represent them and their cases in courts;
- To conduct rehabilitation programmes of detainees from various jails, hand-in-hand with free legal aid;
- To provide legal education and training for paralegal work from the grassroots level living in depressed communities;

- To carry-out crime prevention activities in the communities so as to minimise the increasing population of offenders in jails;
- To provide opportunities for depressed families to engage in various self-help projects;
- To provide educational assistance to out-of-school children and youth in depressed communities;
- To provide education, information and training on issues which affect the lives of poor and uneducated citizens living in depressed communities as they have the right to their own personal development and advancement; and
- To network and link up with other government and non-government organisations in the furtherance of the above-mentioned objectives.

Box 3.1 FREELAVA'S VISION STATEMENT

A just and human society in which the oppressed, the underprivileged individuals, families and communities and those victims of discrimination have maximum access to justice and social services in order to invoke their rights and meet their basic needs and attain their own development as human beings and institutions, ultimately leading towards an improved quality of life for all segments in the community.

Source: FREELAVA Brochure 2002

According to these organisational objectives, FreeLAVA implements three main programmes and services (1999:3-4):

- **Free Legal Assistance** involves litigation, case follow-up in courts, interviews and documentation, legal counselling and paralegal training and seminars.
- **Rehabilitation of Offenders** is done through socio-cultural activities, value formation seminars, skills development training and livelihood programmes, formal and non-formal education and tutorials and operating a temporary shelter for youthful offenders.

- **Crime Prevention Programme** comprises community organising as its prime strategy complemented with skills development training and livelihood programmes, educational assistance and value formation seminars.

As these programmes were implemented over the years, FreeLAVA inevitably had to undertake **policy advocacy** in different government agencies at the local and national levels and embark on **post-release care and reintegration services for child offenders** such as providing medical services. Largely because of its track-record in community organising and established rapport with urban poor communities and barangay officials, FREELAVA was supported by Program for Appropriate Technology in Health/United States Agency for International Development (PATH/USAID) for 10 years in providing **STD/HIV/AIDS education** through the AIDS Surveillance and Education Project (ASEP). FreeLAVA then started treading on new social developmental ventures through the community volunteering approach. These concerns are now considered special programmes of the organisation (1999:4).

In a strategic planning conducted in 2002, FreeLAVA redefined its organisational identity to encompass other streams of development work aside from human rights advocacy and legal assistance. Since then, the organisation has changed its name into FREELAVA, Inc. or Free Rehabilitation, Economic, Education and Legal Assistance Volunteers Association. This means that FREELAVA is not only concerned about human and children's rights, justice and peace but also about development, empowerment and poverty alleviation.

At present, FREELAVA provides services to children and youth including street children, CICL and former CICL mainly in Cebu City and Cebu Province, which includes the urbanised and component cities of Danao, Lapu-lapu, Mandaue, Talisay and Toledo. The organization also caters to women and the urban poor in general (1999:4).

Staff and Partners

FREELAVA is composed of competent and well-trained staff, headed by an experienced and well-accomplished Executive Director. The organisational human resource is composed of four (4) programme managers, seven (7) community outreach workers, eight (8) health outreach workers and ten (10) centre staff for its temporary shelter operations. FREELAVA's staff have been trained on human rights advocacy especially on children's

rights, paralegal work and education, restorative justice and diversion, psychosocial interventions for CICL, gender and child sensitivity, and programme management, among others. See Appendix 8 for a complete list of training and seminars undertaken by the programme staff.



The staff of the Community-Based Prevention and Diversion Programme

FREELAVA boasts of its 150 able and committed community volunteers (CVs) across 22 *barangays* in Cebu City where most of its programmes operate. These CVs mobilise the community, handle information and implement different programmes.

To facilitate smooth programme implementation and maximise resources, FREELAVA links with various government and non-government organisations in Cebu City and the province. It maintains close coordination and collaboration with the following government line agencies: Department of Social Welfare and Development (DSWD); Department of Education (DepEd); Department of Interior and Local Government (DILG); Department of Health (DOH); Parole and Probation Office, Regional Prosecutors' Office, Public Attorney's Office (PAO), the Regional Trial Courts (RTCs) and the Municipal Trial Courts (MTCs), all of the Department of Justice (DOJ); the Philippine National Police (PNP) and the Commission on Human Rights (CHR). One of FREELAVA's notable collaborative efforts is their partnership with PAO in expediting the administration of cases of child offenders. FREELAVA forged a Memorandum of Agreement with

PAO that the former will undertake jail casework and documentation which includes interviews, data gathering and related paper works in order to assist public lawyers in the litigation of court cases.

For children's programmes and concerns, FREELAVA also collaborates with the Cebu City Government through the Cebu City Commission for the Welfare and Protection of Children (CCWPC), the Cebu City Task Force on Street Children (CCTFSC) and the Department of Social Welfare and Services (DSWS). Now, FREELAVA has been afforded an official participating agency status in the CCWPC having equal regular-member-privileges with the commissioners. Recognised as a formidable lobby group in the city, FREELAVA was instrumental in the passage of the Cebu City Children's Code.

For training and other programme concerns, FREELAVA links with local and Metro Manila-based NGOs such as the *Sentro ng Alternatibong Lingap Panlegal* (SALIGAN), Stop Abuse of Minors' Association (SAMA), Nazareth Children's Centre, Bidlisiw Foundation, and University of Southern Philippines Foundation.

Track Record, Milestones and Challenges

From 1986 to 1989, FREELAVA implemented a pardon and parole programme supported by the Asia Foundation. Under this programme, FREELAVA facilitated the release of more than 500 sentenced prisoners from Cebu City primarily through the provision of free legal assistance. FREELAVA's actions also caused the eventual reorganisation and decentralisation of functions of the Board of Pardons and Parole of the Department of Justice (DOJ), the operations of which used to be based in Metro Manila (Auditor 1999:1). Before this, FREELAVA was chosen as one of the awardees of the Right Livelihood Award Foundation based in Sweden in 1984 for its efforts to promote peace in the country.

For three years (1990-1993), the Ford Foundation has also supported FREELAVA's legal aid programme. FREELAVA assisted almost 2,000 prisoners from the major jail centres of Cebu Province and organised volunteer students from various universities in Cebu City. Thirteen (13) communities in Cebu Province have also been reached by its human rights education campaigns. The Cowell Foundation also supported FREELAVA's community projects, which resulted in the formation of various community out-of-school youth organisations (Auditor 1999:1).

Dutch non-government organisations followed suit in assisting FREELAVA's work with children. In 1993, Terre des Hommes (TdH) - Netherlands granted FREELAVA a three-year project on formal education and development that assisted some 300 indigent children in Cebu City annually. Through this project, FREELAVA was able to send more than 2,000 school children to both elementary and secondary levels as of school year 2001-2002 (1999:2).

Through Terre des Hommes, FREELAVA was also able to establish the *Balay Pasilungan* Project in 1997. Considered a flagship project of the organisation (Auditor 1995:9), *Balay Pasilungan* (House of Shelter) is a temporary shelter or a "half-way home" providing rehabilitative and post-release care programmes and services to released juvenile offenders/CICL from detention centres all throughout Cebu Province and its component cities (1995:7). The shelter is operating in its extension phase with at least 140 youth offenders accommodated annually through the support of TdH and the Cebu City government (1995:6). For 2004, FREELAVA was able to source out at least Php 162,000 (US\$ 3,056.60) for *Balay Pasilungan* from the city government's coffers through the CCCWPC for its post-release and reintegration programme for at least 100 former CICL (CCWPC 2004: 11).

FREELAVA was also instrumental in the passage of City Ordinance No. 1952 creating the Cebu City Multi-Sectoral STD/HIV/AIDS Council through policy advocacy under its STD and HIV/AIDS prevention and education projects implemented between 1993 and 2003 (Auditor 1999:2).

Because of this broad experience in various community development projects, the United States Agency for International Development (USAID) awarded FREELAVA a Certificate of Eligibility as a Foreign Private Voluntary Organization (PVO) in 1989 (1999:2). To date, some of the major and long-term partners of FREELAVA are: PATH Foundation, Save the Children – UK, Terre des Hommes-Netherlands, UNICEF, AusAID, and the Cebu City government through the CCCWPC and the CCTFSC chaired by the Cebu City First Lady Margarita Osmeña.

FREELAVA is now faced with the challenge of sustaining and popularising its programmes on children's justice. One such achievement is the recognition of the *Balay Pasilungan* as the "first of its kind existing in the country" by the DSWD and UNICEF (Auditor 1995:9) and the funding it generates from the city government. Several residential centres/shelters exist, at least in Cebu, catering to children in especially difficult circumstances.

However, not a single centre caters to released child offenders or CICL largely because of the difficulty in managing such children.



Photo courtesy of FREELAVA, 2003

FREELAVA Executive Director Antonio Auditor during an Orientation Session with Brgy. Tanods on the Programme on Diversion and Restorative Justice

Simultaneously, FREELAVA is at the forefront of implementing innovative programmes for children such as the Community-Based Diversion and Prevention Programme for CICL initiated in 2000. FREELAVA was admittedly uncertain at the start whether the programme will work in Cebu City given that the concept of diversion was new to them and their would-be partner communities. The programme was indeed the first of its kind in the country (Interview with Antonio Auditor, 6 February 2004). After two years, the programme on community diversion and prevention for CICL has gained ground and has positively effected change among children in conflict with the law in Cebu City.

4 The Community-Based Diversion and Prevention Programme in Cebu City

This section introduces the conceptual scope of community-based diversion. The first two parts discuss the operational definition and the use of community-based strategies in the administration of children's justice and prevention from re-offending distinct to other forms of diversion implemented in other pillars of justice.¹³ This is followed by a discussion of the philosophical underpinnings of community-based diversion or the restorative justice framework and its difference from retributive justice, which still predominates the current criminal justice system in the country. The fifth and sixth parts of this section provide the legal and institutional frameworks of community-based diversion that became the basis of FREELAVA's work with its partner local government units and communities. The last part outlines the programme design as practised and the major strategies and approaches FREELAVA used in programme implementation.

Diversion Defined

In Rule 11 of the Beijing Rules, diversion is defined as any act with the end goal of disposing of the case involving a juvenile offender without resorting to formal trial by any competent authority like courts, tribunal, board, councils and the like (Children's Legal Bureau 1999:46). The Supreme Court of the Philippines further elaborated this definition under the Rules on Juveniles in Conflict with the Law issued in 2002, as "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,

13 The Cebu City Police Office (CCPO) has been implementing a centre-based diversion programme for CICL who are apprehended by city police operatives and in-house security guards of business establishments. Operating since 1981, the Community Scouts Rehabilitation and Youth Guidance Centre which was created under Cebu City Ordinance No. 1087 provides an alternative place for apprehended children for reformatory purposes—to rest, play, bathe, and learn new skills (Community Scouts Rehabilitation and Youth Guidance Center Brochure, pages 1-2). Recently, the Supreme Court issued the Rules on Juveniles in Conflict with the Law which provides diversion proceedings of CICL with cases wherein the law provides maximum penalty of not more than 6 months imprisonment prior to arraignment. Such diversion proceedings will be undertaken by a Diversion Committee to be composed within the designated Family Courts in Regional Trial Courts (Supreme Court 2002:13).

economic, psychological or educational background without resorting to formal court adjudication” (Supreme Court 2002:7). In other words, diversion is 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 Diversion Guidelines).

Diversion programmes, therefore, constitute that which the CICL is required to undergo in lieu of formal court proceedings (Supreme Court 2002:7). Based on the said rules, diversion programmes may include any or a combination of the following: 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 for the juvenile and his/her family; g) training, seminars and lectures on anger management skills, problem-solving and/or conflict resolutions skills, values formation and other skills that will aid the juvenile to properly deal with situations that can lead to a repetition of the offence; h) participation in available community-based programmes; i) institutional care and custody; or j) work-detail programme in the community (2002:14-15).

The same rules stipulate that diversion covers offences where the maximum penalty imposed by law for the offence the child is charged with is imprisonment of not more than six (6) months, regardless of fine. Diversion through the courts only extends to cases where the corresponding complaint or information is filed in Family Courts¹⁴ (Ramirez 2003 as cited in Program on Psychosocial Trauma and Human Rights-UP Center for Integrative and Development Studies 2003: 200).

Save the Children-UK defines diversion as a comprehensive programme that prevents 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. This concept works within the principles of restorative justice.

14 RA 8369 or the Family Courts Act of 1997 established the Family Courts in designated areas of the country granting them exclusive original jurisdiction over child and family cases. They will hear and decide cases where the accused is below 18 or above 9 years old when the crime is committed (Lim-Jardeleza 1999: 327). Diversion at the police and community levels are yet to be replicated in other parts of the country. Apparently, it is only in Cebu City where both diversion mechanisms are implemented.

SC UK believes that jails or any custodial centre do not provide the right environment for the rehabilitation of CICL. It firmly believes that diversion of CICL should be the standard rule and that custodial measures should only be taken as the last resort in addressing crimes committed by children.

Why Community-Based Diversion?

For nearly 20 years of legal aid work with prisoners, FREELAVA was aware of the growing number of child offenders who were incarcerated in the jails of Cebu City and in other parts of the province. Data have shown that of the more than 25,000 child offenders imprisoned all over the country from 1996 to 1997, Cebu City had an estimated average of 500 to 700 child offenders annually. In this period, the *Bagong Buhay* Rehabilitation Center (BBRC) in Cebu City housed more than 200 child offenders. Crimes committed against properties such as highway robbery, theft, shoplifting and picking pockets were the most common offences committed by CICL. Offences involving drug/solvent/rugby use and drug pushing followed, while third in rank were physical injuries, carrying of deadly weapons, illegal gambling, rape, and molestation (Auditor 2000:1).

Incarcerating children is a violation of their rights. The appalling jail conditions that children are subjected to — congested cells with no potable water and toilets; inadequate food and medical assistance, and being incarcerated together with hardened adult criminals further violate their rights. FREELAVA reported that two major jail centres in Cebu City once housed inmates seven (7) times more than its actual capacity. BBRC then was considered the most crowded detention centre in the country with 1,700 inmates, both adult and children, in an area built to accommodate only 250 prisoners. Congestion persisted in jail centres mainly because of the slow disposition of cases of prisoners. Court proceedings in the mainstream adult criminal justice system is too lengthy and time-consuming that children have to languish in jails for long periods of time, which is a violation of their right to a speedy trial.

Within the last three to four years, FREELAVA noted that child offending, especially cases of solvent/rugby use, became rampant in the city. During this period, about 150 child offenders were imprisoned in BBRC with cases involving solvent/rugby use. Auditor pointed out the absurdity of our criminal justice system's persecution of these children instead of the adults who are the dealers and peddlers of illegal substances. CICL are supposed to be rehabilitated (Interview with Antonio Auditor 2 June 2004). However, because there is no comprehensive law on children's justice that will administer justice to CICL separate from adult

criminals, locking-up child offenders in state prisons would more likely continue. Despite its all-out effort in implementing various programmes for children — free legal assistance, rehabilitation of released child offenders, and community crime prevention — FREELAVA recognised that a concrete programme to respond to the plight of CICL at the community level remain wanting. The number of child offenders who kept coming back to prison, released into the Balay Pasilungan under suspended sentence, or released on recognisance (ROR) kept growing.

Hence, FREELAVA decided to institute certain mechanisms right at the community level to dispense justice to CICL without going through the formal processes from law enforcement to the courts and subsequently suffer incarceration in a correction centre once found guilty of a crime (Auditor 2000:4). Through established long-time partnerships with *barangay* officials in the city, FREELAVA was able to acquire support from these officials in implementing community diversion. With the support of Save the Children-Japan, FREELAVA started to pilot a community-based diversion and prevention programme in 12 urban *barangays* in Cebu City in 2001. These included Barangays Carreta, Duljo-Fatima, Ermita, Lorega-San Miguel, Pahina-Central, Pasil, Sambag II, San Roque, Suba, Tejero, T. Padilla and Tinago.

Essentially, the diversion programme managed by the community facilitates the mediation and eventual reintegration and socialisation of children who have come into conflict with the law. It is the set of activities contained in an agreement forged among stakeholders—the child offenders and their parents, the victims, and the communities represented by the CJC—that gives opportunities for CICL to redeem themselves and get on with their lives (Enriquez 2004:1).

Community-based diversion believes in the primacy of the community as an important pillar of justice that has the right to claim responsibility over their own children. This is because jails do not provide a rehabilitative atmosphere for children. When rehabilitation is done at the community level, the chances of reoffending tend to be minimal given adequate skills and resources (2004:1).

Diversion at the community level hopes to achieve the following premiums (Auditor 2000:6):

- Prevent the possible confinement of children in prisons;
- Prevent trauma and stigmatisation from court appearances and custodial sentences among child offenders;

- Help unclog cases of children in courts;
- Bring to the fore the plight of CICL and challenge the insensitivity of local officials and the community towards proper handling and better treatment of CICL;
- Improve collaboration and coordination between the members of the community and local government officials in the administration of children's justice at their levels; and
- Help the government save a great deal of money and resources¹⁵

Restorative Justice: The Philosophical Tenet of Diversion

“Restorative justice is both a way of thinking about crime and a process for responding to crime” (New Zealand Restorative Justice Trust 2000 cited in Ministry of Justice, New Zealand 2003:5). It is an alternative framework for thinking about offending with corresponding values and principles underpinning the framework which suggests new and different ways of responding to offending (Zehr 2002 cited in Ministry of Justice, New Zealand 2003:5).

In the 1990s, the concept of restorative justice surged into the international scene and captured the interests and imagination of those working in government, criminal justice systems, family welfare agencies and community groups. This interest in restorative justice sprang from experiences in the 1970s and 1980s — the growing advocacies of the crime victims’ movement, the positive experience with reparative sanctions for juvenile offenders, the rise of informal neighbourhood justice and dispute resolution processes, and the emerging paradigms on equity and human relationships (Daly and Hayes 2001:1; Bazemore and Umbreit 1997:16). Because of increasing scepticism about the supposed preventive and deterrent effects of the existing criminal system and a general sense of frustration with the retributive paradigm being detached from the real problems of victims, offenders and communities, the movement for restorative justice has gained ground especially in the developed world (Bazemore and Umbreit 1997:16).

15 Between 2002 and 2003, 348 children were diverted in the 12 barangays of Cebu City where community-based diversion is piloted. With a daily food budget of Php 30.00 (US\$ 0.56) per day to cover the children's incarceration for six months, the city government could potentially save some Php 1.879 million or US\$ 35,452.83 (Enriquez 2004:1).

Restorative justice as a framework and philosophy is not without debates. It has been and continues to be significantly informed by practice, thus, the lack of an agreed definition among its theorists and practitioners. Restorative justice as used internationally 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 process definition is however criticised as a necessary but insufficient and restrictive theoretical definition of restorative justice.¹⁶ Zehr has offered a another working definition to restorative justice 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 Ministry of Justice 2003:5).

SC-UK follows a similar paradigm. For SC-UK, restorative justice is an approach in the administration of justice that focuses on repairing the harm done to the victim and to the community. Restorative justice as an approach in the disposition of justice ensures that: (1) Victim, offender, and the community participate fully in the process; (2) Restitution is offered to the victim; (3) Offender has the opportunity to acknowledge the harm that 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.

The following are the fundamental principles of restorative justice that SC-UK abides by: (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.

The victim and the community have been harmed and need restoration.

Crime is fundamentally a violation of people and interpersonal relationships. The crime committed has breached the relationship between the offender, the victim and the community where the crime occurred. The primary victim is the most directly affected by the offence but others, such as the family members of the victim and offender, witnesses, and members of the

¹⁶ Bazemore and Walgrave postulate that the definition is too narrow because it includes face-to-face meetings only 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).

affected community, are also victims. Since crime has created an imbalance in the community (e.g. fear, distrust, anger), there is the need to restore and address the relationship affected by the crime. The victim, offender and the affected community, therefore, became the key stakeholders in justice. A restorative justice process maximises the input and participation of these parties — especially the primary victim as well as the offender — in the search for restoration, healing, responsibility and prevention. The roles of these parties will vary according to the nature of the offence as well as the capacities and preferences of the parties.

Violations create obligations and liabilities. The offender's obligation regarding 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 are not intended for pain, vengeance or revenge. Since the primary obligation is to the victims, the restorative justice process empowers the offenders to participate effectively in defining their obligations. They are provided with opportunities and encouragement to understand the harm they have caused to the victims and to the community and to help them develop plans for taking appropriate responsibility. Voluntary participation by offenders 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, the community is obligated to the victims, offenders and to the general welfare of its members. The community has the responsibility to provide support to integrate offenders into the community, to be actively involved in the definition of offender obligations and to 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 is the starting point of justice. The justice process provides a framework that promotes the work of recovery and healing on the part of the individual 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. 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.

Also in the process, opportunities are provided to offenders for remorse, forgiveness and reconciliation to promote healing and restore the harm done. The 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 making things right. 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 reoccurring.

Community-Based Diversion, Restorative Justice and Retributive Justice

Community-based diversion is anchored on the above-mentioned principles of restorative justice. It intends to provide an alternative way of thinking in the administration of justice to CIJL 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 as a paradigm encourages the rule of law and the administration of sanctions or punishment for the crime in violation of laws enforced by the state. On the contrary, community-based diversion seeks to promote and restore healing of relationships and reparation of the harm inflicted upon the victim and the community through mutually agreed terms among key stakeholders. Community-based diversion encourages accountability, responsibility and remorse in the offender for the harm done and reintegrates him/her back to the community towards further healing, personal change and social acceptance. Community-based diversion as a process of restorative justice challenges the existing paradigm and practice of retributive justice. Table 4.1 differentiates restorative justice as the core principle of diversion from retributive justice.

Legal Frameworks of Community-Based Diversion

This section outlines a number of legal bases invoked in the practice of community-based diversion for CIJL using international protocols/treaties to which the Philippine government is a signatory as well as domestic laws relative to children's welfare and protection. International protocols include the United Nations Convention on the Rights of the Child (UNCRC),

Table 4.1 Restorative Justice and Retributive 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 in the community
Offender accountability 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, on 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 cited in Bazemore, G. and Umbreit, M., 1997. *Balance and Restorative Justice for Juveniles: A Framework for Juvenile Justice in the 21st Century*.

United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), United Nations Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules), United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (The JDL Rules). Among the domestic laws that constitute the legal foundations of community-based diversion are the following: The 1987 Philippine Constitution, RA 8369 and the recent Supreme Court Rules on Juveniles in Conflict with the Law issued in 2002.

Outlined below are the legal foundations of community-based diversion citing pertinent stipulations of the above-mentioned international protocols and domestic statutes.

International Treaties and Protocols for Children

United Nations Convention on the Rights of the Child (UNCRC), Article 40

Adopted by the UN General Assembly, 20 November 1989

UN 1989 cited in Children's Legal Bureau 1999:50-51

- Every child alleged as, accused of, or recognised as having infringed the penal law has the right to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for human rights and fundamental freedoms of others taking into account the child's age and the desirability of promoting the child's reintegration and the child's assumption of a constructive role in society.
- States shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognised as having infringed the penal law, and in particular: "...whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected."
- A variety of disposition, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)

Resolution 40/33, 29 November 1985

UN 1985 cited in Children's Legal Bureau 1999:61

- Positive measures which fully mobilise all possible resources, including the family, volunteers and other community groups, as well as schools and other community institutions shall be given due attention to promote the well-being of the juvenile 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 or his/her parents or guardians reviewable by a competent authority upon application.
- To dispose of juvenile cases under discretion, community programmes shall be undertaken by the juvenile offender 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.

United Nations Standard Minimum Rules for Non-Custodial Measures (Tokyo Rules)

General Assembly Resolution 45/110, 14 December 1990

- The Rules are intended to promote greater community involvement in the management of criminal justice, especially in the treatment of offenders, as well as to promote among offenders a sense of responsibility towards society.
- Non-custodial measures may also take in the form of diversion in dealing with offenders in the community avoiding as far as possible the resort to formal proceedings or trial by a court, in accordance with legal safeguards and the rule of law. **United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines) General Assembly Resolution 45/112, 14 December 1990**
- The prevention of juvenile delinquency is an essential part of crime prevention in society. By engaging in lawful, socially useful activities and adopting a humanistic orientation towards society and outlook on life, young persons can develop non-criminogenic attitudes.
- The well-being of young persons from their early childhood should be the focus of any preventive programme.

- Community-based services and programmes should be developed for the prevention of juvenile delinquency, particularly where no agencies have yet been established. Formal agencies of social control should only be utilised as means of last resort.

United Nations Rules for the Protection of Juveniles Deprived of their Liberty (JDL)

General Assembly Resolution 45/113, 14 December 1990

- The juvenile justice system should uphold the rights and safety and promote the physical and mental well-being of juveniles. Imprisonment should be used as a last resort.
- Deprivation of liberty should be a disposition of last resort and for the minimum period and should be limited to exceptional cases. Juveniles should only be deprived of their liberty in accordance with the principles and the procedures of these Rules and the Beijing Rules.

Philippine Laws Related to Children in Conflict with the Law

One of the fundamental principles of the **1987 Philippine Constitution** is the value for the dignity of every human person and respect for the human rights of all its citizens. The Bill of Rights guarantees the rights of all accused under the country's criminal justice system. However, national laws in the country pertaining to the protection of the rights of CICL are limited. While **PD 603 or The Child and Youth Welfare Code** and its Implementing Rules and Regulations, which was enacted on December 10, 1974 provides a comprehensive legislation on the rights and welfare of children with provisions relative to the protection of the rights of CICL and special procedures in handling their cases. The use of diversion was not established in this law.

It was only recently that newly-approved laws and court rulings relative to juvenile offenders encompassed the concept and use of diversion and these are the following:

- **RA 8369 or The Family Courts Act of 1997**, which was approved on October 28, 1997 established a designated family court in regional trial courts in every province and city nationwide that have jurisdiction over cases involving family, children and child victims including CICL. This is where the concept of diversion for CICL is introduced in national legislation. Section 8 mandates the use of alternatives to detention and institutional care for the accused juvenile offender, which includes counselling, recognisance, bail,

community continuum, or diversion from the justice system (Lim-Jardeleza 1999:328).

- **Rules on Juveniles in Conflict with the Law.** On April 15, 2002 the Supreme Court issued the newest ruling on the treatment of juvenile offenders. It provides for the procedure on diversion proceedings prior to arraignment within the jurisdiction of the designated Family Courts on diversion, the treatment and the rights of juvenile offenders. While the ruling is silent on community-based diversion through certain legal mechanisms, it established precedence on the legality of the use of diversion involving CICL from the formal adjudicatory process involved in the criminal justice system.

Institutional Frameworks of Community-Based Diversion

With the intent of institutionalising diversion work at the community level towards eventual community-ownership, FREELAVA had to rely on the operations and functionality of two important local institutions and structures within the barangay government system – the *Lupong Tagapamayapa* (Peace Committee) under the *Katarungang Pambarangay* or the Barangay Justice System and the Barangay Council for the Protection of Children (BCPC) – to adequately implement its Community-Based Diversion and Prevention Programme. The *Lupong Tagapamayapa* functions as the local mediation and reconciliation body in the Barangay, having jurisdiction over all civil disputes and criminal cases involving petty offences subject to a number of exceptions. While the *Katarungang Pambarangay* is not part of the formal justice system, it plays a significant role in the diversion of cases involving CICL. The Barangay Council for the Protection of Children (BCPC) acts as a policy-making and implementing body concerning programmes and activities for the protection and welfare of children including CICL. Below is a brief discussion of each institution.

The Lupong Tagapamayapa (Peace Council) Under the Katarungang Pambarangay (Barangay Justice System)

RA 7160 or the Local Government Code of 1991 provides for the mechanisms and procedures of conciliation and mediation at the barangay level known as the *Katarungang Pambarangay*. Each *barangay* has to organise the *Lupong Tagapamayapa*, which acts as a reconciliatory board composed of the *Punong Barangay* or Barangay Captain and 10 to 20 members. Except for the *Punong Barangay* who is elective, the rest of the positions are non-elective and held by ordinary community members

appointed by the former on the basis of the following criteria: integrity, impartiality, independence of mind, a sense of fairness, and a reputation of probity (Pimentel 1993:427). The *Lupon* members, while discharging their duties, are considered as persons in authority as defined in the Revised Penal Code (1993:428).

The *Katarungang Pambarangay*, through the *Lupong Tagapamayapa*, is tasked to mediate and reconcile conflicting parties towards resolving differences at the community level and to bring controversies among barangay residents to an amicable settlement. A case must be heard with the *Lupong Tagapamayapa* before it is accepted in the courts. Such process relieves both parties from the inconveniences of a costly and tedious judicial process. (See Appendix 9 for the *Katarungang Pambarangay* mediation process.) The other objective of the barangay justice system is to help relieve the courts of docket congestion.

All disputes are subject to *barangay* mediation and conciliation with the exception of the following (UNICEF and OHCHR 2002: 176):

- One party is government;
- One party is a public officer sued in his/her official capacity;
- Involves real property in different cities/municipality;
- One party is a corporation/partnership;
- Parties reside in different cities/municipalities;
- Involves offence where penalty is over one year imprisonment or Php 5,000.00 (US\$ 94.33) fine;
- Involves offence where there is no private offended party;
- Urgent action is needed such as the accused is under custody, habeas corpus, provisional remedies or actions that may be barred by statute of limitations;
- Disputes as the President may determine;
- Agrarian cases under the CARL;
- Labour disputes; and
- Actions to annul judgment upon a compromise.

Relative to cases of CICAL, the *Lupon* no longer has jurisdiction over offences which involve a penalty of more than one year imprisonment or Php 5,000.00 (US\$ 94.33) in fine. Such offences will no longer be mediated. All barangays in Cebu City have an established *Lupong Tagapamayapa*.

Through dialogues and consultations made by FREELAVA with officials in the pilot barangays, at least two members of the *Lupon* were appointed as Chairperson and Co-Chairperson in the Children's Justice Committee

formed for the sole purpose of mediating and diverting cases of CICL under the Community-Based Diversion and Prevention Programme. Capacity building of *Lupon* members and other CJC members have to be undertaken by FREELAVA at the start of programme implementation as the programme requires proper handling of children in the administration of justice, which is very distinct and different from mediating adult parties.

The Barangay Council for the Protection of Children (BCPC)

The Barangay Council for the Protection of Children (BCPC) is a legally mandated structure at the barangay level¹⁷ tasked to ensure the protection and realisation of the rights of children in the community. Article 87 of PD 603 or the Child and Youth Welfare Code, which was enacted in 1974 provides that “every barangay council shall encourage the organisation of a Local Council for the Protection of Children (LCPC) and shall co-ordinate with the Council for the Welfare of Children (CWC) in drawing and implementing plans for the promotion of child and youth welfare” (Office of the President 1974: 24-25).

Subsequently, this mandate was strengthened through a DILG Memorandum Circular 90-01 dated January 19, 1990 enjoining all Barangay Captains to establish the BCPC within the structure of their respective Barangay Development Council. Through the organisation of the BCPC, the full protection of children’s rights (survival, security, development and empowerment) is given paramount importance. See Box 4.1 for the detailed functions of the BCPC.

The functions of the BCPC can be summarised as follows: (1) Planning, promoting and institutionalising child-friendly policies, programmes, and processes; (2) Responding immediately to issues and concerns affecting children; (3) Optimising and mobilising local resources; (4) Training, educating and mobilising community leaders and families; (5) Empowering and assisting in organising the children sector in the community; (6) Testing and replicating model programmes to protect children; and (7) Systematising development management (Council for the Welfare of Children *et al.* 2001:16).

17 Under the Local Government Code of 1991, the BCPC can be subsumed under an appropriate existing committee of the Barangay Development Council (BDC) which is mandated to prepare barangay development plans based on local requirements and needs and prioritise socio-economic development programs and projects among others (Pimentel 1993: 219-20).

Box 4.1

Functions of the Barangay Council for the Protection of Children (BCPCs)

- Foster education of every child in the barangay;
- Encourage proper performance of duties of parents, and provide learning opportunities for adequate rearing of children on positive parent-child relationship;
- Protect and assist abandoned, maltreated and abused children and monitor cases filed against child abusers and report the same;
- Take steps to prevent juvenile delinquency and assist parents and children with behavioral problems so that they can get expert advice;
- Adopt health measures for the health and nutrition status of children;
- Promote the opening and maintenance of playgrounds, day care centers and other facilities that are necessary for child and youth welfare;
- Coordinate the activities of organizations devoted to the welfare of children and secure their cooperation;
- Promote wholesome entertainment in the community, especially in movie houses;
- Assist parents whenever necessary in securing expert guidance counseling from proper government/private welfare agencies;
- Advocate passage of barangay, city/municipal and provincial ordinances regarding child-related issues and concerns;
- Prepare barangay plans of action for children which address needs of children in the community and ensure their integration into the Barangay Development Plan and implementation by the barangay; and,
- Submit quarterly barangay accomplishment reports on the implementation of the Plan to the City/Municipal Council for the Welfare of Children (C/MCWC).

Source: Council for the Welfare of Children (CWC), Department of Interior and Local Government (DILG), Department of Social Welfare and Development (DSWD) and United Nations Children's Fund (UNICEF), 2001. Manual on Organizing Local Councils for the Protection of Children, Council for the Welfare of Children and Department of Social Welfare and Development, Manila.

Under PD 603, the BCPC may be composed of the: (1) *Punong Barangay* who may act as Chairperson; (2) *Sangguniang Kabataan* Chairperson who may act as Vice-Chair; (3) A representative of the municipality/city government concerned with the welfare of children; (4) NGO representatives concerned with the welfare of children; (5) An active and responsible member of the community; (6) An active member from each of the people's organisations in the barangay; (7) A representative from DECS, DOH and human rights groups; and (8) a child advocate chosen by the barangay officials whose age ranges from 9 to 14 (2001:17).

In Cebu City, all 80 barangays have already established BCPCs at their different stages of functionality (Interview with Sonia Empinado 18 May 2004). The Cebu City council passed Ordinance No. 1726 on September 16, 1998 establishing the Cebu City Commission for the Welfare and Protection of Children. The ordinance also required the *barangays* to establish the BCPC (Council of Cebu City 1998:1).

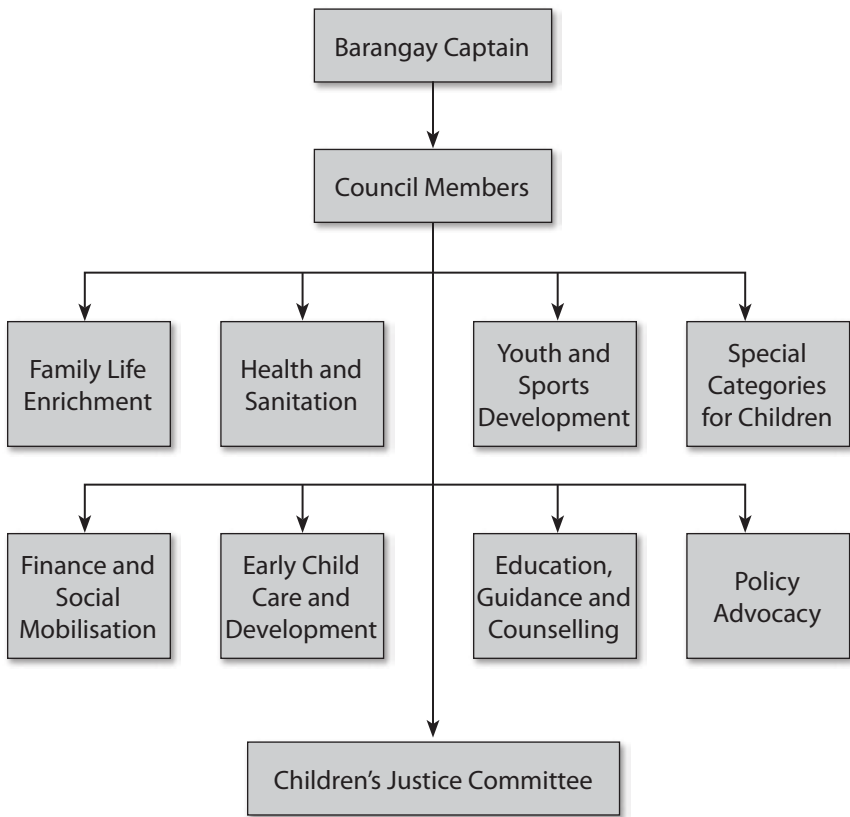
In practice, the BCPC as a council is composed of different committees headed by different barangay councillors, appointed persons or other persons in authority. The *barangay* officials have the discretion as to the number and type of committees formed so long as the goals of promoting and protecting the rights of children in the community will be attained. Figure 4.1 presents a sample of the BCPC structure.¹⁸

Cognisant of the two local institutions described above, FREELAVA utilised the mechanisms of these existing structures in order to operationalise the Community-Based Diversion and Prevention Programme in the pilot barangays. Auditor maintains that it would be beneficial to maximise these local institutions because these are now the most appropriate instruments to handle community diversion work at the *barangay* level (Interview with Antonio Auditor, 6 February 2004). On one hand, it is only through the *Lupong Tagapamayapa* (in the person of the Children's Justice Committee (CJC) Chairperson and Co-Chairperson) where CICL cases can be mediated and diverted and justice dispensed to child

18 The Children's Justice Committee (CJC) is a newly created committee of the BCPC only to the 12 pilot barangays under the Community-Based Diversion Programme. The rest of the city barangays not covered under the pilot programme follow similar BCPC committee compositions, which is usually supplied/suggested by the City Local Government Operations Office.

offenders at the community level. Given all the resources and competency development available, diversion at the community level through the CJC has great potentials. On the other hand, the BCPC plays a vital role in terms of supporting and strengthening community-based diversion. As discussed in the succeeding sections, the other committees of the BCPC can complement programmes and activities with that of the CJs in order to complete the entire community diversion process.

Figure 4.1 Sample BCPC Structure



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

Programme Objectives, Strategies and Approaches

This section discusses the design of the programme — its goals and objectives, strategies and approaches used in programme implementation, activities undertaken, and targets in each component strategy. Because of insufficient data, monitoring and evaluation as components of programme implementation were not given focus.

Goal and Objectives

The programme aims to promote a community-based approach to diversion and mediation work for children in conflict with the law through the formation and operationalisation of Children's Justice Committees (CJCs). In particular, the programme seeks to:

1. Provide a venue for training child rights advocates or community volunteers from communities;
2. Provide a venue and forum for awareness-raising for the following:
 - a) Local government officials so they could develop the capacity to answer the needs of children particularly the proper administration of justice among CICL at the community level; and
 - b) CICL so they could participate in providing support and giving positive influences or values to children of their same level and status.
3. Design, formulate and start an appropriate mechanism in the community that will properly administer the disposition of cases of CICL, preventing them from entering the formal judicial procedures and subsequent jail confinement.

As mentioned earlier, the programme is piloted in 12 selected urban barangays of Cebu City. The following set of criteria was used in the selection of target communities: (1) High criminality rate involving juvenile offenders; (2) Presence of a functional BCPC; (3) Poor and depressed barangay; (4) High population of children; and (5) Presence of receptive local government officials (FREELAVA 2003:5). In the early part of 2000, FREELAVA introduced the entire programme concept to the officials and leaders of the different target barangays.¹⁹ These were mostly participated

19 Despite certain dissonance as to the viability and acceptability of the programme given its innovative and unconventional characteristic (Interview with Antonio Auditor, 2/6/04), FREELAVA, did not encounter difficulties marketing this new programme concept as most of the target barangays were beneficiaries of the NGO's previous programs and projects. Rapport with the communities and local officials were already established largely because of long-time program partnerships with FREELAVA.

in by barangay officials, members of the *Lupong Tagapamayapa*, *Barangay Tanods*, as well as Community Volunteers and Peer Educators. Forty-three (43) presentations were made to 518 programme stakeholders with positive results. A few repeat sessions had to be made because of the turnover of barangay officials and employees in view of the July 2002 local elections (2003:5).

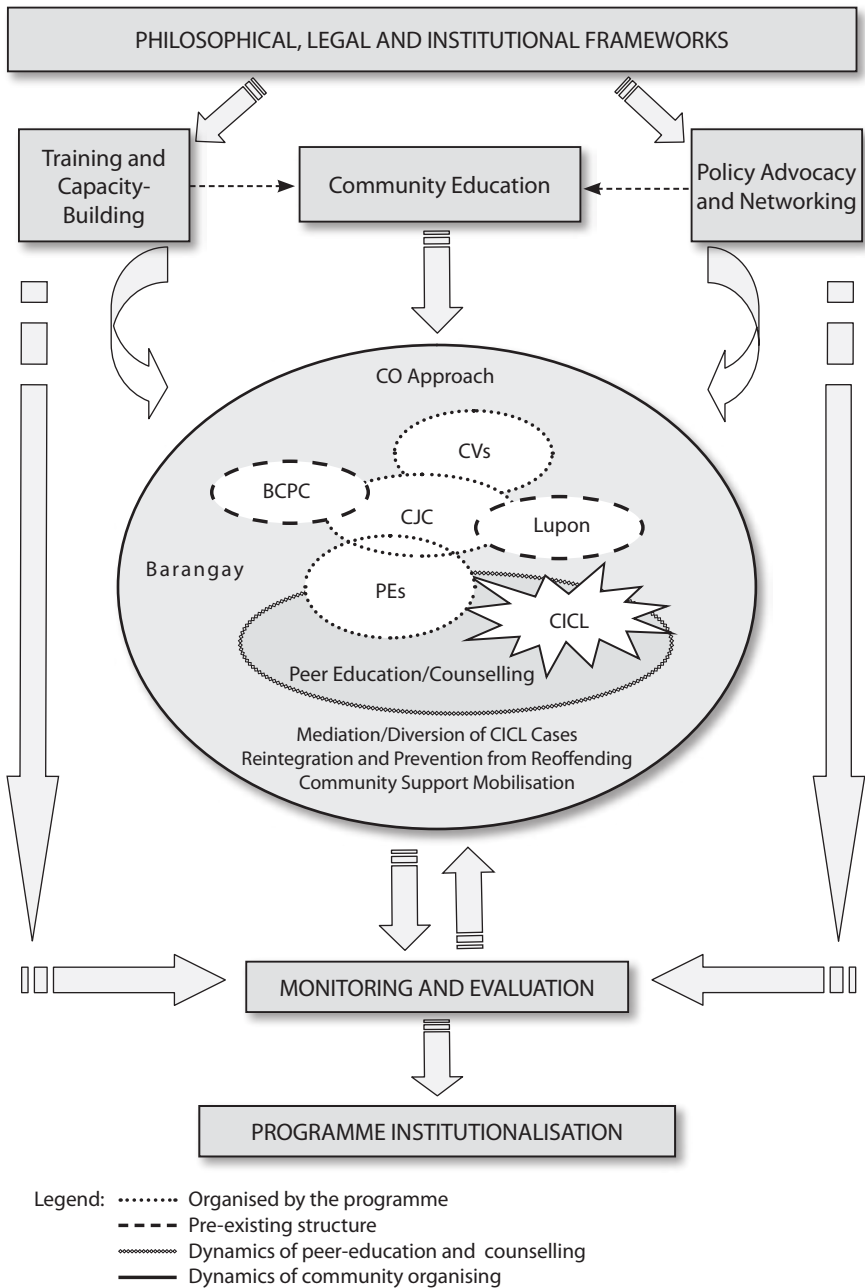
Strategies and Approaches

Utilising its foundations and track record in community development work, human rights education and legal assistance, FREELAVA adopted the community organising (CO) approach as the over-arching strategy in implementing the programme. In essence, community structures and actors had to be organised for the programme to work. This meant the following: (1) Organising and formation of Children's Justice Committees (CJCs); (2) Organising and formation of Community Volunteers (CVs); and (3) Organising and formation of Peer Educators (PEs) who will undertake peer education and counselling among CICL. The PEs were either child offenders released from prisons or diverted CICL. The other components serve as complementary/auxiliary strategies but are very vital to the complete operationalisation of the programme. These strategies are as follows: (1) Training and capacity building; (2) Community education and support mobilisation; (3) policy advocacy and networking; and (4) programme institutionalisation. A conceptual framework covering the different programme strategies is presented in Figure 4.2. followed by a brief discussion of these programme strategies.

1. Organising and Formation of Children's Justice Committees.

Organising local mediators proved to be quite unproblematic for FREELAVA because of the following: (1) Prior consultations made with barangay officials relative to the programme and its benefits; (2) High level of receptivity among barangay officials and leaders on the phenomenon of CICL; and (3) Existence of functional mechanisms of the *Lupong Tagapamayapa* and the BCPC (or at least the presence of organisational structures and the semblance of functionality). Being a pre-conceived programme, the concept of CJCs with the proposed composition was introduced by the FREELAVA staff to programme actors. By definition, a Children's Justice Committee is a group of persons in each of the pilot barangays who have been selected and trained to become part of the programme with the particular task of handling cases of children qualified to pass the diversion programme. Mediation is one of the common strategies used by CJCs in diverting cases of young offenders (FREELAVA 2003:6). Through advocacy

Figure 4.2 Conceptual Framework of the Community-Based Diversion Programme



Source: Auditor, A. 2000. Project Proposal on Community-based Diversion and Prevention Programme for CICL, Cebu

and community education, the CJC also serves as the mechanism in strengthening the legal and political structures of the barangay to promote the welfare and protection of any child who may come in conflict with the law (Auditor 2000:9).

In particular, the CJs are tasked with the following roles and functions: (1) They mainly work for the possible settlement, reconciliation and mediation of reported cases involving juvenile offenders; (2) Recommend appropriate psychosocial interventions and other necessary assistance to diverted CICL; (3) Plan and implement crime prevention activities for children; (4) Act as a permanent committee member of the BCPC thereby; (5) Coordinate with other BCPC committees in addressing the intellectual, physical and moral growth of children; and (6) Submit reports to the BCPC Chairperson relative to the performance of the diversion programme.



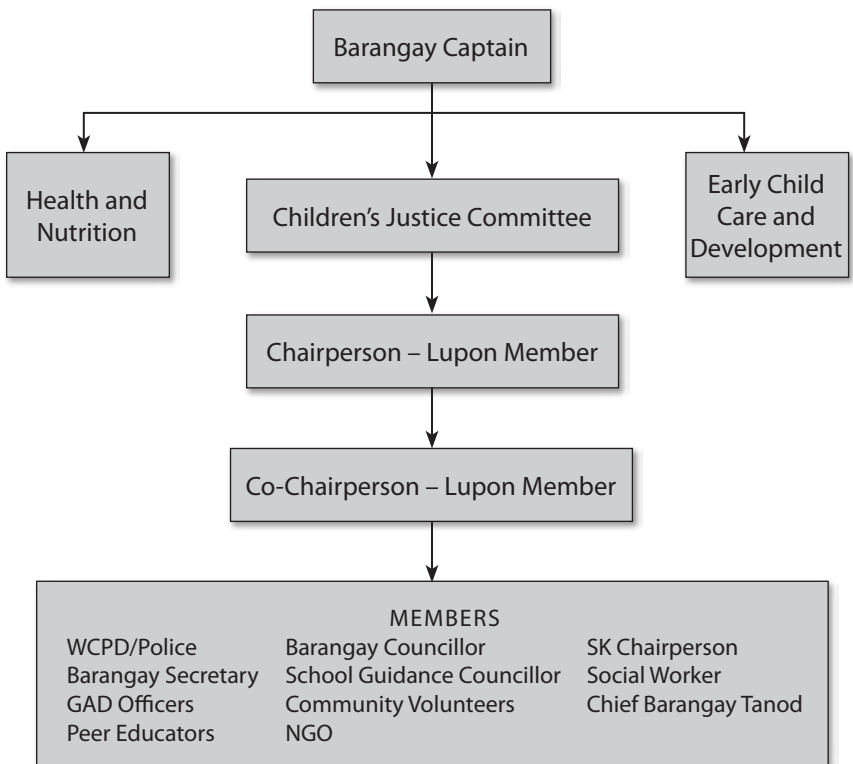
Photo courtesy of FREELAVA, 2003

Members of the Children's Justice Committee (CJC) in Brgy. Lorega during a meeting with FREELAVA's Outreach Worker.

Composition of the Children's Justice Committees. FREELAVA believed it would be beneficial to maximise existing mechanisms and available service professionals of different offices of the city and local government on top of the existing members of the *Lupong Tagapamayapa*, members of the BCPC and the barangay council. Figure 4.3 shows the composition of the CJC within an abridged BCPC structure.

Two members of the *Lupon* who chairs and co-chairs the CJC are automatically designated as prime mediators given their skills and experience in community mediation and conciliation. They were appointed by the Barangay Captain who heads the BCPC. A **Barangay Councillor**, in behalf of the council, sits in the CJC for easy feed backing and conveyance of committee plans and programmes to the local legislative body. The **Barangay Secretary**, being the secretary of the *Lupon*, is tasked to record the minutes of meetings and to keep diversion/mediation records of CICL and other CJC documents. The **Sangguniang Kabataan Chairperson**, being the head of the local youth group, assists the CJC in preparing youth development programmes while the **Chief Barangay Tanod** who heads the local law enforcement body addresses issues relative to apprehensions and the general peace and order.

Figure 4.3 Children’s Justice Committee (CJC) Structure



Police officers assigned in the different **Women and Children's Protection Desk (WCPD)** of police precincts having jurisdiction over the different pilot barangays are also included in the CJC. Involving the police hastens the turnover and diversion of apprehended CICL into the community mediation process rather than filing charges against the latter in court or detains the latter in precinct cells. The membership of assigned **social workers** from the City Welfare and Services Office and the **school guidance counsellors** of nearby public schools in the CJC are also aimed at maximising professional services provided by the city government. Social workers and school guidance counsellors can assist the CJC in counselling sessions, psychosocial interventions, monitoring and facilitation of other after-care interventions of diverted CICL during either mediation or post-mediation phases at the community or in school. Both the newly-organised/reconstituted **Community Volunteers (CVs)** and **Peer Educators (PEs)** are also CJC members because they are the frontliners in post-mediation/reintegration of diverted CICL and in the prevention from reoffending activities.

It was only in mid 2002 that most Gender and Development (GAD) project officers or focal point persons in pilot barangays were recognized and included in the CJC.²⁰ Most chief executives in the pilot barangays including FREELAVA saw the significant role of barangay **GAD project officers/focal point persons** in community diversion work, hence their membership in the CJC. GAD concerns are not just about women's rights and domestic violence issues but encompass children's protection and welfare programmes at the community level. More importantly, this unit or structure has a legally mandated fund appropriation,²¹ which can be tapped for CJC activities such as reintegration.

20 Executive Order No. 348 mandates the creation of GAD Focal Points in government agencies and local government units. This is in compliance with the provisions of RA 7192 or the Women in Development and Nation Building Act of 1992. This law was enacted by Phils. as part of our commitment to international treaties and protocols on women (such as the Beijing Platform of Action and CEDAW or the Convention on the Elimination of all Forms of Discrimination Against Women (Lopez-Rodriguez *et al.* 2004:15).

21 In 15 August 2001, Memorandum Joint Circular No. 2001-1 was issued by DBM, NEDA and NCRFW directing all heads of departments, agencies, state universities and colleges, other offices of national government owned and/or controlled corporations, and local government units to implement gender mainstreaming and institutionalisation in their existing programme, projects and activities and authorising them to utilise at least five percent (5%) of their total budget appropriations for GAD activities as stipulated in the annual General Appropriations Act (2004:23).

NGOs are also represented in the CJsCs and FREELAVA automatically became a member. Other NGOs operating in the pilot barangays were also invited for membership but only a few were represented.²² At the end of 2003, 12 CJsCs were formed and around 132 programme actors were organised in the process. See Table 4.2 for a numerical count of the different composition of CJsCs in the pilot barangays in Cebu City.

Table 4.2 CJC Composition in 12 Pilot Barangays in Cebu City

Barangay	Children's Justice Committee Composition										Total
	Lupon	Brgy. Councillor	Brgy. Secretary	Social Worker	Police/WCPD	SK	Guidance Counsellor	GAD	Chief Tanod	CV & PE	
Carreta	2	2	1	1	1	1	1	0	1	2	12
Duljo-Fatima	2	1	1	1	1	1	1	0	1	2	11
Ermita	2	1	1	1	2	1	1	0	1	2	12
Lorega	2	1	1	1	1	1	1	1	1	2	12
Pahina-Central	2	2	1	1	1	1	1	0	1	2	12
Pasil	2	1	1	1	1	1	1	0	1	2	11
Sambag2	2	1	1	1	1	1	0	1	1	1	10
San Roque	2	1	1	1	1	1	1	1	1	2	11
Suba	2	1	1	1	1	1	1	2	1	2	13
Tejero	2	1	1	1	1	1	1	1	1	2	12
T. Padilla	2	2	1	1	1	1	1	0	1	2	12
Tinago	2	3	1	1	1	1	1	0	1	2	13
Total	24	17	12	12	13	12	11	6	12	23	142

Source: FREELAVA, 2003. Community-based Prevention and Diversion/Mediation Program for Children in Conflict with the Law - One-Year Narrative Report, A report submitted to the European Union through Save the Children-UK, Cebu City.

22 One such NGO is ERDA or the Educational Research and Development Assistance, which has been considered an active member of the CJC in Barangay Duljo-Fatima. ERDA is an NGO providing educational assistance to children in different parts of the country including Duljo-Fatima. However, there are other NGOs with children's programmes/services operating in other pilot barangays that were not involved in the CJC. Examples are the Fellowship for Organising Endeavors (FORGE) which is present in Barangay San Roque, Nazareth Center in Ermita and Suba; World Vision Philippines Foundation in Ermita; Lihok Pilipina Foundation, Inc, which is also in Ermita, Suba, Duljo-Fatima and Tejero, among others.

Having organised the CJs, FREELAVA lobbied all barangay officials for the passage of a resolution adopting the CJC as a permanent committee of the BCPC with its corresponding composition. The passage of such a resolution, though incomplete,²³ would indicate an initial step towards programme sustainability and institutionalisation of community diversion work as local officials would ensure its functionality and sustenance regardless of leadership and administrative changes in the barangay. A number of the pilot barangays have responded to the call such as Barangays Duljo-Fatima, Ermita, Lorega, Pahina-Central, Pasil, T. Padilla and Tejero.

Case Eligibility in Community-Based Diversion. The main function of the CJC is to mediate cases of juvenile offenders that occurred in the community or those CICL who have been apprehended by the police and were turned-over to the barangay for diversion purposes. By concept, CJC mediators have to observe the following criteria for juvenile cases eligible for diversion:

- The offender must be below 18 years old;
- Cases that fall within the confines/jurisdiction of the *Katarungang Pambarangay* or those cases that have an imposable penalty of below one (1) year imprisonment and a fine of less than Php 5,000.00 (US\$ 94.33);
- Willingness of the private complainant to go through the diversion process;
- Expressed admission of the child offender on the offence complied; and
- First offence is given priority.

The programme targeted to mediate and divert 175 CICL cases. Seventy-five (75) of which will be trained to act as Peer Educators and undertake peer education and counselling training (Auditor 2000:9).

Forms of Diversion Used by CJs. The project was an evolving one largely because of its trailblazing character. At the start of the project, a lot of technical assistance was provided by the programme staff to many CJs especially concerning processes, documentation, and coordination with

23 A barangay ordinance has to be enacted so that budgetary support can be appropriated for whatever CJC programs and needs.

other programme stakeholders. Among the many forms of diversion used, mediation, rendering of hours for community service, counselling and warnings were common. These forms were suggestions from FREELAVA who themselves were also learning at this period. Eventually, other forms of diversion emerged as CJs gained skills and technology through training and seminars provided by FREELAVA.

2. Organising and Formation of Community Volunteers. One important strategy employed in the programme is the organising and formation of community volunteers. Utilising the gains of previous programmes and projects such as established community rapport, it became relatively easy for FREELAVA to regroup and form previous community volunteers²⁴ for the new programme. Through a series of programme orientations and consultations, community volunteers were made aware of the goals and objectives of community diversion work.

Community volunteers are parents, mothers and homemakers, barangay workers and other concerned citizens who volunteer to become child rights advocates in their respective communities. In terms of programme concept, CVs are tasked to assist in the programme through the following functions: 1) Close coordination with barangay officials and members of the Children's Justice Committee; 2) Assistance to programme staff in the selection, identification and organisation of Peer Educators; 3) Assessment and documentation of cases of child offenders undergoing diversion; 4) Assessment and provision of assistance to families of child offenders; 5) Attendance to regular meetings with the staff; and 6) Submission of regular reports (FREELAVA 2003:8). Concretely, they are tasked to assist the CJC in the monitoring and follow-up of diverted CICL in terms of their recovery, reintegration and socialisation back to the community. They also have to monitor and work closely with PEs in the conduct of peer education, socio-civic activities, community service and other activities to divert the attention of PEs who are former CICL. They also have to assist the CJC in the conduct of community education and crime prevention campaigns to make the broader community understand the plight of CICL and eventually be able to draw out support for the community diversion programme.

24 For community-based diversion work, FREELAVA utilised almost the same community volunteers of previous programmes such as the AIDS Surveillance Education Project (ASEP) and the AusAID-sponsored Barangay Legal Action Against Child Prostitution (BLAaCAP) Programme, among others, in the different pilot barangays.



Photo courtesy of FREELAVA, 2002

Community Volunteers (CVs) from Brgy. Tinago in one of their monthly meetings.

FREELAVA did not make the selection criteria stringent to maximise the spirit of community volunteering. A community volunteer must: (1) Be a permanent resident of the community; (2) Be respected by community residents; (3) Possess the qualities of a good leader; (4) Be trainable, child friendly and child sensitive; (5) Be willing to learn; and (6) Be willing to undertake the responsibility of a volunteer. The selection criteria did not even mention minimum educational attainment and previous experience in community volunteering.

The programme aimed to organise 120 community volunteers or an average of 10 from each pilot barangay. At the start of the programme, barangay workers accounted for the bulk of community volunteers (38 %) in 12 pilot barangays. Homemakers and mothers followed with 23 percent. Women volunteers outnumbered the men, 105 to 15. Table 4.3 shows the composition of total community volunteers according to economic/social activities they engaged in at the start of the programme.

3. Optimising the Premiums of Peer Approach. Used in other countries especially in Asia and the Pacific Region, peer approach especially **peer education and counselling** has become popular in Philippine social

Table 4.3 Composition of Community Volunteers in 12 Pilot Barangays by Occupation/Activity Engaged

Barangay	Homemaker	Vendor	Brgy Tanod	Church Volunteer	Labourer	Sitio Leader	Street Educator	Brgy Worker	Dressmaker	Cemetery Caretaker	Taxi Driver	Laundry Woman	Beautician	Student	Total
Carreta	2		2				1	2		1	1				9
Duljo-Fatima	2	1	2					1	2			1		2	11
Ermita	3	3						5							11
Lorega			1					8							9
Pahina Central	4	2						1				3			10
Pasil	1	3		1				4						1	10
Sambag II	2							7							9
San Roque	2	2	2			1		2			1				10
Suba	5	2						2					1		10
T. Padilla	2	3	1		1	2		1							10
Tejero								11							11
Tinago	5		1				1	2						1	10
Total	28	16	9	1	1	3	2	46	2	1	2	4	1	4	120

Source: FREELAVA, 2003. Community-based Prevention and Diversion/Mediation Programme for Children in Conflict with the Law- One Year Narrative Report, A report submitted to the European Union through Save the Children-UK, Cebu City: 9.

development work. The use of peer approach has become extensive in education and sectoral organising — from street education among street children to HIV/AIDS education and organising prostituted individuals. Peer approach has proven its effectiveness in HIV/AIDS awareness and education. FREELAVA, having implemented the AIDS Education and Surveillance Project (ASEP) with PATH-USAID for more than 10 years, optimised the peer approach in children’s justice work.

As conceived, diverted CICL or released child offenders are organised as Peer Educators (PEs) to assist community volunteers and programme staff in reaching out to other children in conflict with the law. These peer educators serve as “role models” of behavioural change to fellow CICL or children at-risk from offending. They create positive influences to peers by conducting various activities such as prevention from offending, peer education and

counselling through small group discussions and meetings at the *sitio*²⁵ or *purok* (district) level with the assistance of CVs. PEs encourage CICL to do away with drug addiction, vices and crime and become productive citizens in the community. Around 10 to 15 children are personally invited by the PEs to participate in these group discussions. One or two PEs facilitate the activity while the others listen. This is then followed by discussions and sharing of experiences.

A peer educator should be: (1) A resident of the pilot barangay; (2) A former CICL; (3) Trainable and willing to help fellow children who are and who have been in conflict with the law; and (4) Open to changing his/her lifestyle (FREELAVA 2003:9).

The programme aimed to train and develop 75 peer educators from among the 12 pilot barangays. In the first year of programme implementation, 88 PEs were recruited, organised and trained by FREELAVA and most of them are 15-18 years old.



Photo courtesy of FREELAVA, 2002

Peer Educators who facilitated a Group Counselling Session in Sitio Crossing, Brgy. Carreta

25 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>).

Training and Capacity Building

Competency development is considered by FREELAVA as one very important strategy used in operationalising the community-based diversion programme. At the start of the programme, FREELAVA undertook a needs assessment of its programme actors, recognising their potential limitations in the proper treatment and handling of CICL. Through training and seminars, improvement of knowledge, skills and attitudes of programme actors have to be undertaken to effectively carry out the tasks and challenges of the programme. Training and seminars were provided to CJC members including Barangay Captains and officials, CVs and PEs and programme staff. FREELAVA is replete with experienced human resources through external linkages; hence, getting trainers did not become a problem. The following training programmes were provided to CJC members (FREELAVA 2003:10-12):

- *Gender and Child Sensitivity Seminar.* This seminar provided CJC members with a better understanding of children and their rights. Specifically, the seminar aimed to improve the members' knowledge on: (1) Children – the different developmental stages of the child and their corresponding needs; and (2) Gender differences and gender needs. The seminar also aimed to develop their skills in identifying and assessing children's needs and in providing basic knowledge on diversion and restorative justice.
- *Psychosocial Intervention Seminar for Children in Conflict with the Law.* Since they are dealing with children in need of special protection, CJC members had to undergo this seminar, which provided them with basic knowledge, developed proper attitudes and enhanced their skills to become effective service providers addressing the needs of CICL. The seminar provided programme actors with: (1) Current situationer of CICL; (2) Understanding of the differences and similarities of the psychodynamics of children; (3) Knowledge on the proper handling of CICL as provided under RA 7610; and (4) Knowledge on the different psychosocial interventions for CICL. Participants formulated a short-term plan relative to the activation of their respective CJsCs.
- *Mediation/Reconciliation and Conflict Management Training.* Though *Lupon* members have undertaken a number of training on mediation and conflict resolution in the exercise of their functions, these actors had to be refreshed and introduced to the peculiarities of mediating and resolving conflicts involving CICL. The training

therefore aimed to enhance their capabilities in mediating CICL cases. Topics discussed in this training include: (1) Understanding the juvenile justice system; (2) Establishing rapport and trust with children; (3) Dealing with conflicts; (4) Principled negotiation; and (5) Code of ethics for CJC mediators or the proper attitudes, values and beliefs CJC members must possess in negotiation and mediation involving CICL.

Two other follow-up seminars were conducted for CJC members. One was on diversion and restorative justice and the other on the Barangay Justice System. These are considered refresher courses especially for CJC mediators.



Photo courtesy of FREELAVA, 2002

Gender and Child Sensitivity Seminar for members of the Children's Justice Committee, November 22, 2002 at the Asilo dela Milagrosa.

Competency development of CVs is also an important component in the training and capacity building strategy of this programme. This is to equip them with knowledge and skills to effectively carry out their tasks and fully participate in programme implementation. Two main training courses were provided to community volunteers – the Paralegal Training and the Psycho-Social Intervention Seminar (FREELAVA 2003: 12-13).

- ***Paralegal Training.*** This four-day training aimed to inform and educate the CVs on the different international and national laws, local ordinances and other statutes pertaining to children; the basics

of paralegal work and community organising; and child development as well as the principles of restorative justice and diversion work. Among the topics discussed were: (1) Basics on paralegal work; (2) Child developmental theories; (3) UNCRC and international laws on CICL; (4) RA 7610; (5) PD 603; (6) Paralegalism and community organising; and (7) Diversion and restorative justice. At the end of the training, the community volunteers drafted a simple plan of activities in preparation for their work.

- ***Psychosocial Intervention Seminar for CICL.*** Similar to CJC members, community volunteers had to be educated on the differences and similarities of the psychodynamics of CICL and street children. As they directly relate with child offenders in the communities, CVs must be trained in the proper handling of CICL and be oriented on the different psychosocial interventions as they respond to the varied needs of the latter.

As an added value to the community-based diversion work, competency development of peer educators had to be undertaken to make it work in this very special but challenging programme context. FREELAVA had to invest in training and capacity building of peer educators for them to become effective in their voluntary tasks. Two sets of training were thus provided to PEs – a basic leadership training and a facilitators training (or advanced leadership training).

- ***Basic Leadership Training*** aimed to develop the competencies of PEs as role models, and leaders of behavioural change among CICL whether at risk or actual. In a three-day live-in training, former CICL were provided with the atmosphere to foster camaraderie among themselves as well as the opportunity to reflect on their roles and responsibilities as productive citizens in their respective communities. The training covered the following topics: (1) Self-awareness; (2) Leadership; (3) Team-building; (4) Conflict management; and (5) Effective communication. A planning session was conducted thereafter to plan the PEs' activities.
- ***Facilitators' Training.*** As a follow-through training, peer educators are trained on the basic skills in facilitation, conducting group discussions and peer counselling. These skills help them prepare in undertaking their tasks especially peer counselling.

Community Education and Support-Building

The role of the community in the implementation of a community-based diversion programme should be emphasized. Under the current criminal justice system, the community's role — being the fifth pillar of justice — is twofold. First, it has the responsibility of participating in law enforcement activities as they team up with peace enforcers in reporting crime incidents and in helping in the arrest of the accused. Second, it is responsible for promoting peace and order through crime prevention or deterrence and in the rehabilitation and reintegration of convicts to society (UNICEF and OHCHR 2003:56-57). Aside from being a victim of the crime committed by the offender, the community, under the restorative justice framework, is also considered as an important stakeholder in restoring the harmony of social relationships harmed by the crime committed by the offender. This means that the community plays a vital role in and is responsible for reforming the offender, preventing them from reoffending, and providing them the atmosphere of reconciliation and social acceptance as they reintegrate back to the community.

FREELAVA emphasises community education in mobilising community members such as parents, residents, officials, *sitio* leaders and the broader public to become aware of and understand the plight of CICL; thereby earning their support for the community-based diversion programme. There are two main approaches used in this programme strategy: the semi-formal barangay legal education on children's rights for community members and parents and the informal group, *sitio* or *purok* level group discussions or *pulong-pulong*.

- ***Barangay Legal Education on the Rights of Children.*** This is a community-based legal education component similar to a symposium/open forum with a minimum of 50 participants who are mostly parents of former CICL and highly at-risk children. It aims to provide parents with basic information on children's rights based on the UNCRC, PD 603, RA 7610, RA 7658 and other local ordinances. Community volunteers and CJC members selected and invited participants from the poorest *sitios* of the pilot barangays where most CICL live.
- ***Informal Group Discussions.*** Complementing the barangay legal education is the conduct of informal group discussions. These discussions focus primarily on children's rights and the proper handling of CICL. Informal group discussions or *pulong-pulong* are conducted in the *sitios* with 15 to 20 participants who are mostly

parents of CICL. In such discussions, participants freely interact on the topics discussed by the CVs, CJC members and programme staff. Other than discussing children's rights, the *pulong-pulong* also aims to circulate information regarding the present situation of CICL, the community-based diversion programme, the roles and responsibilities of parents/guardians in the reintegration of the CICL and ways to eliminate stigmatisation of CICL by community members. This informal discussion can be very specific and particular as it may tackle individual cases allowing participants to raise issues and concerns.



Photo courtesy of FREELAVA, 2002

Informal Group Discussion on the Rights of the Child in Brgy. Carreta.

Policy Advocacy and Network-Building for Institutionalisation and Sustainability

FREELAVA believes that for smooth programme implementation, it has to coordinate and link with various government agencies and NGOs. Moreover, this is to maximise support from other partners and stakeholders for the expansion of FREELAVA's referral system, which would help in meeting the needs of diverted CICL beyond the organisation's capacity and mandates. According to FREELAVA, networking can also popularise community-based diversion and restorative justice among other government agencies and NGOs thereby strengthening programme collaboration.

Nevertheless, the implementation of a community-based diversion programme could fail when certain policy issues are not addressed. FREELAVA thought that a number of policy advocacy measures have to be put forward to both the city and national government agencies for community-based diversion to work. FREELAVA intends to: (1) Lobby the city government for the passage of an ordinance that would institutionalise community-based diversion with appropriate fund allocation including funds for CJC activities at the barangay level; (2) Formalise the inclusion of CJs in the BCPCs in all pilot barangays with necessary barangay ordinances; and (3) Coordinate with the DILG and DOJ to make the CJC a part of the formal system of administering children's justice.

FREELAVA plans to undertake continuous advocacy on the benefits of community-based diversion in order to mobilise local and foreign resources to finance CJC activities and sustain/expand the programme to other barangays in the city. At the same time, advocacy work has to be done for other sectors in the barangays not reached by community education through one-on-one, door-to-door campaigns, and distribution of information materials for them to understand restorative justice and community diversion work and gather support for the programme as one good alternative to incarceration and residential care.

The succeeding section looks at how the above framework, rules and standards as well as programme strategies and approaches were used and adopted in the practice of community-based diversion programme for CICL.

5 Community-Based Diversion in Practice: A Preliminary Assessment of its Implementation

This section focuses on the actual implementation of the community-based diversion programme in 12 pilot barangays. It involves the processes and dynamics of community diversion work, the approaches and strategies used by programme actors in every stage of the diversion process and their strengths, weaknesses and limitations. It also presents some preliminary assessment of the main strategies used in implementing the programme and identifies their limitations and gaps. The findings presented here are based on the results of focus group discussions (FGDs) conducted with CJC members and community volunteers in five sample barangays, focus group discussions with selected peer educators and the programme staff, informal conversations with various programme actors and ocular observations in these pilot barangays.

The Process of Community-Based Diversion

The process of community-based diversion as implemented in the five sample barangays generally comes in six stages in this particular order: (1) Arrest or apprehension of a child offender; (2) Interview and case profiling or intaking; (3) Explanation of the diversion programme; (4) Mediation process; (5) Preparation of the settlement agreement and execution of diversion programme/activities; and (6) The reintegration process. Outside of the community diversion process but complementary to the same is the community-based prevention of offending, which is mostly community education sessions, aimed at preventing children from offending and reoffending. Figure 5.1 illustrates the general process flow of community-based diversion as practised in the sample barangays. However, certain deviations do happen in some barangays depending on particular circumstances. From the experiences of the sample pilot barangays, however, there is no definitive distinction as to the treatment of a female child offender from that of a male child offender be it in policy or in practice.

Stage 1 – Arrest or Apprehension. Generally, the first stage of the process is the arrest or apprehension of an offending child. There are at least three (3) common modes of initial contact between the CICL and the pillars of justice particularly the law enforcers. First, **apprehension** is made either by a *barangay tanod*, by the police from nearby precincts or by any ordinary citizen under citizen's arrest, which is allowed by law when a

CICL is caught in the act of committing a crime (in *flagrante delicto*²⁶) or about to commit a crime. Second is through an **invitation** (synonymous to summons generally applied to offences or disputes involving adults) from the CJC served by a *barangay tanod* or by a community volunteer to the child offender and his/her parents or legal guardian. In most cases, this manner of inviting a respondent CICL involves a complainant or victim who reported the crime. The third mode is **turn-over by** or **“redemption” from** temporary shelters such as the Community Scouts Rehabilitation and Youth Guidance Center. This happens when a CICL is apprehended by police operatives or by in-house security agents of business establishments (e.g. in shoplifting cases) and is diverted to the Community Scouts.²⁷ CJC members redeem their offending children upon the report of these shelters and undertake another round of diversion process at their level.

Theoretically, apprehended CICL are turned over to women²⁸ police officers assigned in the Women and Children’s Protection Desks (WCPD)²⁹ who would then turn the child over to the CJC of the pilot barangay where the

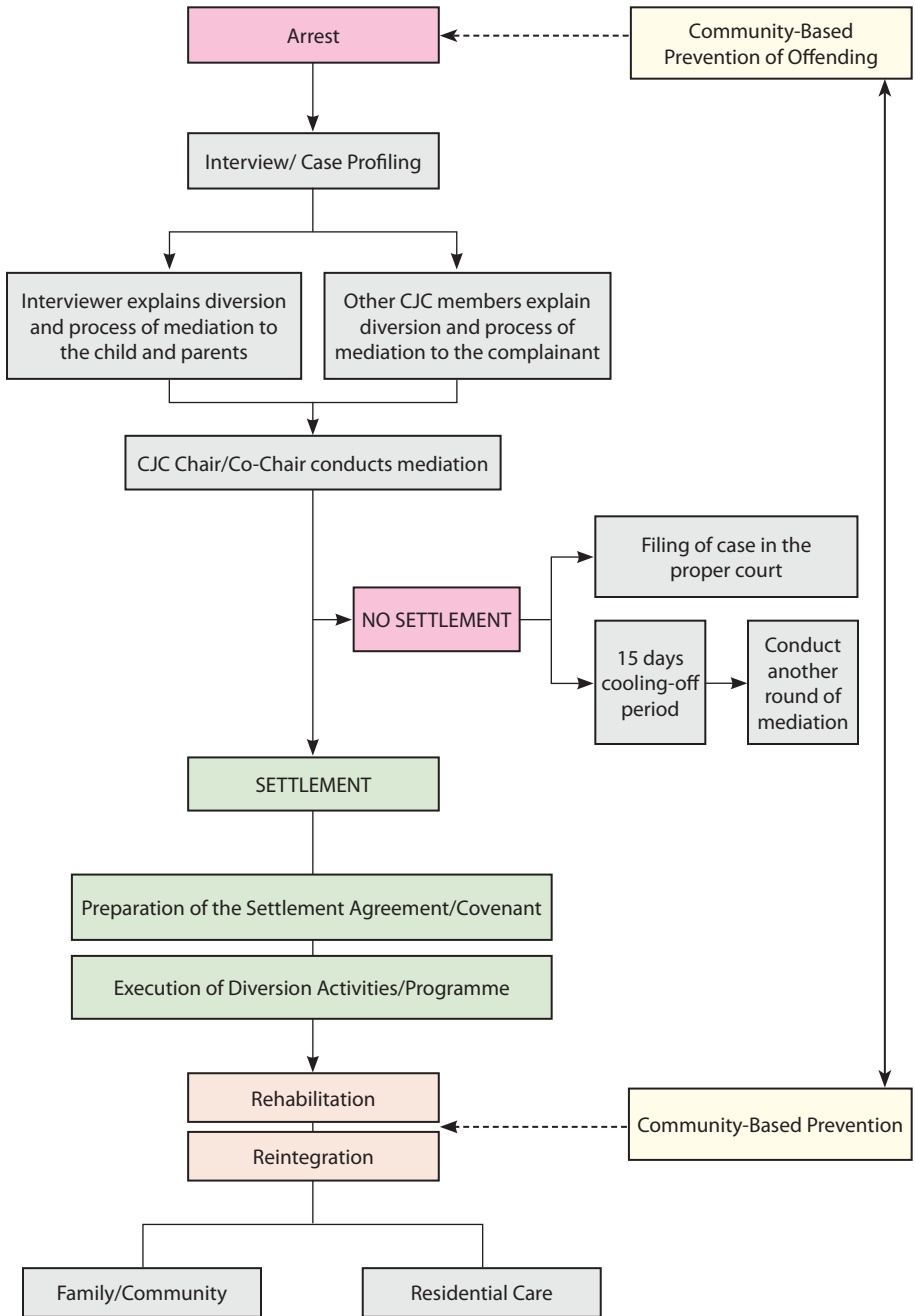
26 FLAGRANTE DELICTO - The act of committing a crime. When a person is arrested in flagrante delicto - while committing a crime - the only evidence required to convict him is to prove that fact.

27 The Cebu City Government forged a Memorandum of Agreement with various business establishments in the city requiring the latter to refer CICL caught by in-house security agents for shoplifting to the Community Scouts Rehabilitation and Youth Guidance Center. Since 1994, this drive continues to gain popular support from the city’s business community. From 23 participating establishments in 1998, this grew to 43 in 2003. Through a series of dialogues between this period, large malls down to small business enterprises participated in this campaign to work out mechanisms and procedures to protect the rights and welfare of children who run in conflict with the law (Interview with PSI Teresita Ayag, 1/6/04).

28 The PNP remains a highly male-dominated organisation. Women police officers are way below in proportion compared to the men despite recent calls for gender equality and gender sensitivity in the workplace.

29 Because of the growing phenomenon of sexual abuse among women, children and youthful offenders, the PNP Memorandum Circular No. 97-001, which took effect on 1 September 1997, called for the establishment of the Women and Children’s Concerns Desk in all police stations. This unit was merged with the previous Child and Youth Relations Section mandated under PD 603. The main function of the Women and Children’s Concerns Desk is to prepare policies, plans and programmes related to the protection of women and children’s rights. This memorandum circular was reinforced by the enactment of the PNP Reform and Reorganization Act of 1998 or RA 8551, which mandated the establishment of the Women and Children’s Desk (WCD) in all police stations throughout the country to address cases involving crimes such as sexual harassment, rape and other abuses committed against women and children. The PNP Memorandum Circular No. 2001-007 issued in August 2001 further strengthened RA 8551 by providing guidelines in the promotion and strengthening of the WCD. The WCD was then renamed as the Women and Children’s Protection Desk (WCPD) and mandated to enforce laws for the protection of women and children, including CICL, from abuse, exploitation, discrimination and neglect. All chiefs of police stations were directed to ensure the existence of the WCPD in their respective areas and to provide a considerable number of police personnel, preferably but not necessarily limited to female police officers in order to carry out the mandated functions (PNP, UNICEF and OHCHR 2002:290-94).

Figure 5.1 Process Flow of Community-Based Diversion for CICL



concerned CICL reside or come from. CICL cases are separately recorded in the blotter in police precincts and records are held confidential. This illustrates the importance of the role of WCPD police officers as a CJC member in pilot barangays in ensuring child-friendly treatment and handling of CICL during apprehensions and their conveyance. In other cases, CJC members redeem or rescue the apprehended CICL in order to have these CICL mediated at their level upon notice from the WCPD.

Apprehensions of CICL made by Barangay Tanods are immediately recorded in the Tanod's blotter. The CICL is held in custody of the arresting officer before being turned over to the CJC. During daytime, CJC members make the effort to undertake the mediation process at the soonest time possible. The parents or guardians are notified of the said apprehension prior to any other action in observance of children's right to be informed of the charges against them through their parents or legal guardians as stipulated under UNCRC Article 40 (UN 1989) and the Beijing Rules Part 2 Section 10.1 (UN 1985). For apprehensions occurring at night when CJC members are off duty, the CICL is released to the custody of the parents and is scheduled for mediation the following day. In other barangays, the CJC members are contacted immediately for the mediation to proceed even during the late hours of the night. Conversely, a few Barangay Tanods detain CICL for the night.

In cases when victims directly file the complaint and register the crime before the Barangay Tanod blotter, the child offender is invited to respond to the report together with the parents or guardian. A member of the Tanod facilitates the conveyance of the child offender to the Barangay Hall.

Arrests or apprehensions can be a very traumatic experience for child offenders. While continuous training relative to the proper handling and arrest of CICL are provided to police officers and Barangay Tanods, maltreatment and abuses still happen. FGD participants reported that a number of police officers and their Barangay Tanods use handcuffs, collar or drag child offenders during arrests. These same authorities detain CICL in precincts or barangay detention cells often with appalling conditions and at long periods. These practices violate the rights of CICL. Araneta de Leon suggests that the anger and resentment that result from these experiences of police brutality may eventually lead some children to commit more crimes (2000 cited in UP CIDS-PST and Consortium for Street Children 2003:88).

Stage 2 – Interviewing and Case Profiling/Intaking. As soon as the CICL is brought to the custody of the Barangay Captain and/or CJC members, interviewing and case profiling commences. Here the child is asked about basic information pertaining to personal circumstance including his/her family, the nature and circumstance of the offence and the problems or harm done as a result of the offence. An interviewer, usually a CJC member (who is often the GAD Project Officer/Focal Person or Barangay Secretary) documents the facts using the CJC Intake Sheet shown in Appendix 10. Case interviews and case intaking are conducted in the most confidential and private manner. Generally, this is done in a place or room of the Barangay Hall where there is privacy and with the least possible number of persons undertaking the interview to ensure confidentiality. In most cases of apprehension, interviews and case intaking are conducted while the parents or legal guardians are being notified by the Barangay Tanod. Once the interview is over, the intake sheet is turned over to the CJC mediator. Some FGD participants declared that an initial counselling of the CICL occurs during this stage, which serves as a prelude to explaining to the child offender and to his/her parents or guardian the community diversion programme.

Stage 3 – Explaining About the Diversion Programme. CJC members explain the diversion programme to the parents together with the respondent CICL. It is usually the CJC Chair, who is also a *Lupon* member, who explains the process of mediation, the benefits of diversion and asks for the consent of the respondent to undergo diversion. This is done separately either before or after meeting the complainant. With the same intent, another attending CJC member, usually the Co-Chair who is a member of the *Lupon* or is the GAD Project Officer/Focal Person, informs the complainant about the process, the benefits of diversion and the consequent accountability of the child offender. This is the procedure in securing the informed consent of the complainant. These activities serve as requisite procedures before the actual mediation takes place.

Stage 4 – Mediation Proper. This is the main substance of the diversion programme — to resolve the conflict or settle the harm done by the child offender to the victim and the community. The mediation, which involves a child offender, occurs under two circumstances: first, when the offence is committed against persons such as but not limited to theft, slander, slight physical injuries, and grave threat, among others; and second, when the offence is done against the community (or in violation of local and national statutes) such as the use of prohibited drugs and other volatile substances,

anti-littering or curfew ordinances. As the CJC anchors on the mechanisms of the *Katarungang Pambarangay*, only the *Lupon* member in the CJC can undertake the mediation process. However, for convenience, among other reasons, delegation of the task occurred in most of the sample barangays. In a few barangays, the GAD Project Officers automatically assume the role of mediators in cases that do not involve complainants. Meanwhile, in other barangays, Barangay Captain, being the figurehead, undertakes the mediation on his/her discretion and whenever the situation warrants.

Generally, during the mediation process, the CJC Chair or Co-Chair asks the offending child about the circumstances of the crime (the motive of the offence, the factors that lead the child to commit the offence) and his/her personal circumstances including his/her parents' whereabouts, the status of his/her schooling, his/her peers and the likes. The child offender is also made to understand the consequences of his/her actions and the corresponding responsibilities he/she has to undertake. The conduct is not undertaken in the manner similar to a "plea bargaining" in inquest proceedings in courts. The CJC Chair, however, ensures that the child understands and realises his/her accountability, is sorry for his/her actions and takes on the responsibility of repairing the harm done in lieu of filing a formal case in court. The key to a successful mediation is when the offending child asks for forgiveness or signifies remorse for his/her action and agrees to undertake reparative actions to restore the damaged condition of the victim. These actions are done in the presence of the complainant (if applicable) who also sits in the mediation conference together with the parents and with one or two other CJC members.

As soon as the child expresses remorse and is willing to ask for forgiveness from the complainant, the CJC mediator then explains to the latter the benefits of forgiveness and diversion, and the need to reform the child within the auspices of the community and not in detention centres. The CJC mediator negotiates with and persuades the complainant to settle the matter at the community level. The mediator also assures the complainant that the CJC will assume the responsibility of reforming and monitoring the child through various diversion and reparative activities.

Within the mediation process, extensive counselling is done by the mediator for both the child offender and the parents or guardians. Most FGD participants expressed that they found counselling children difficult because of the peculiarities of the problems of CIKL. Dysfunctional families, poverty, peer pressure and drug addiction were the common factors that contributed to child offending. Thus, CJC members expressed

that approaching children in a manner that will encourage them to listen, reflect and become remorseful of their illegal acts is a challenge.

In the FGDs, CJC mediators related how they had to exhaust all means to arrive at a settlement. They had to do a lot of convincing just so the complainant eventually agrees to the diversion process. In cases where the complainant is not amenable to settling the case, not satisfied of the mediation process, or does not see the positive consequences of the proposed diversion, a 15 day-cooling off is provided under the *Katarungang Pambarangay*. The mediation process is suspended to “cool down” both parties and reconvenes as soon as the prescribed time lapses. In all the sample barangays, however, this provision is not practised.

In cases where the child 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 filing of proper action in court. In the diversion programme, the mediation process can only prosper when the following ingredients come together: a remorseful CICL and parent and a forgiving and amenable victim. Only then can a fruitful settlement proceed and diversion is possible.

Stage 5 – Preparation of the Settlement Agreement and Execution of Diversion Programme. In the context of the mediation conference, the preparation of the settlement agreement and the execution of diversion are the last stages. However, relative to the entire community-based diversion process, the rehabilitation and reintegration of a diverted CICL is considered the final stage. The CJC mediator facilitates the conditions of the settlement agreement and the diversion programme the CICL has to undergo. This is in consultation with the child offender, the parents or guardian, and the complainant or victim. The settlement agreement is then secured and administered by the mediator using the *Kasabutan* (Covenant) Form as shown in Appendix 11.

In the covenant form, the child offender indicates his/her promise either not to commit the offence again, to discontinue his/her misconduct, or to perform particular actions as reparative measures. This comes after the victim specifies some preconditions for pardon that are spelled out in a duly-signed form. In the case of offences without a complainant/victim, the arresting officer prescribes the conditionality for pardon, which usually comes in the form of a stern warning. The victim must then agree with the suggested manner of restoring the harm done (e.g. replace stolen items) before the offender is forgiven. The case is then settled and the diversion

programme proceeds. Lastly, the parents also participate in restoring the harm by signifying to attend to the needs of the erring child as child offending is often theorised as a product of parental neglect.

An important section in the agreement is the list of obligations and responsibilities that the CICL has to undertake in the diversion process. With the consent of different stakeholders — the child and the parent, the victim and the arresting officer — the CJC mediator proposes and firms up a number of diversion activities commensurate to the crime committed. The CJC mediator explains these to the different stakeholders and ensures that the diversion programme is viewed in the framework of restoring impaired relationships and reforming the life of a child offender without resorting to incarceration but punishing the child offender in the most humane manner.

The knowledge and exposure of CJC mediators to the different approaches in diversion as well as their deep understanding of the psychodynamics of the child offender is a key to the success of the community-based diversion programme.

Stage 6 – Rehabilitation and Reintegration. This is the last stage of the entire community-based diversion programme. However, it is not considered as the termination of community diversion work but the commencement of a much bigger and broader process of restoring the life and self-worth of an offending child. Rehabilitation is the process where the child's negative behaviour and attitudes are rectified. Rehabilitative activities enable the child to change his/her negative behaviour into something positive and acceptable to the community based on its mores, norms and ways of behaving. Rehabilitation is integral to the process of reintegration. Reintegration, on the other hand, is the process that promotes or facilitates the acceptance of the child back to the community. It is the healing of the wounds inflicted on the victim and the community as a result of an offence. One big task of barangay officials is creating a culture of social acceptance and inclusion on the part of the community for the reintegration of diverted CICL to work. It must be emphasised that the reintegration process could also provide the venue for rehabilitating the child offender.

Rehabilitation and reintegration activities expose CJs into the world of social work. To rehabilitate a diverted CICL, CJs perform a number of psychosocial interventions through the CVs such as case monitoring, follow-up and continuous counselling. Peer education and counselling, values formation through catechism, and formal educational assistance through

FREELAVA's direct services and Back-To-School (BTS) programmes form part of the rehabilitative interventions undertaken by both CJC and FREELAVA for the diverted CICL. These psychosocial interventions facilitate the necessary behaviour changes of the diverted child from a life of misconduct and offending towards becoming a productive citizen of the community. These psychosocial interventions should be customised depending on the particular needs of the diverted CICL and the preparedness of the family.

Other forms of psychosocial intervention optimised by the programme actors are reintegrative in nature. These interventions are aimed at bringing the offending child back into the community — a life of “normalcy”, free from stigma and labelling, and where children's rights and welfare are protected and upheld. Other CJC members and CVs facilitate the conduct of socio-civic activities such as barangay cleanliness drive and sports development activities. While it is the role of the barangay to promote and provide reintegration activities under the auspices of the BCPC, CJC members and barangays officials have to contend with limited barangay resources.

Rehabilitation and reintegration activities of most diverted CICL are conducted within the family-community continuum. Both SC-UK and FREELAVA agree that the family-community continuum provides the best venue for an offending child to rectify his/her negative behaviour towards a productive and afterwards an independent life. There are cases, however, when CJC's recommend and ask FREELAVA to place the diverted child in residential care such as the *Balay Pasilungan* and other temporary shelters. This happens when: (1) The parents are not economically and emotionally prepared to accept the diverted child; and (2) The victim is either a member of the family or a 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 offending is essentially composed of community education activities used by FREELAVA, together with different programme actors, as a strategy to prevent child offending and reoffending. 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 of potential and actual CICL and their eventual arrest by law enforcers. Also, these community-based education sessions complement the rehabilitation and reintegration processes of the diverted CICL as these educate the parents/legal guardians and the community members to support the prevention of previous CICL

from reoffending. Parents and community members who are educated about their parental responsibilities and the rights of their children have now recognised the need to improve their parenting roles to guide their children away from offending and reoffending.



Photo courtesy of FREELAVA, 2003

Peer Educators during a Peer Counselling Session

The succeeding discussion attempts to capture and describe the depths and rich experiences of the processes and dynamics involved in actual community-based diversion work. The findings herein attempt to provide duty-bearers and others with an outsider's view of community-based diversion work and should be taken only as recommendatory.

Assessing the Practice of Community-Based Diversion

This section provides a preliminary assessment of the implementation of community-based diversion at the level of the pilot barangays. The discussion focuses on the positive and negative practices in each stage of the diversion process as implemented by the various programme actors — the local law enforcers, the CJsCs and CVs. The role of peer educators also comes into play whenever applicable at certain stages of the diversion process.

Arrest or Apprehension

As mentioned earlier, there are three ways for CICL to have initial contact with the pillars of justice in the context of community-based diversion: (1) Arrest or apprehension; (2) Invitation; and (3) Turnover by or “redemption from” temporary shelters, which took custody of an arrested CICL. Among these three, arrest is the most common and it especially occurs when a child offender is caught in the act of doing a crime. Such arrests usually happen in areas where people in Cebu City congregate such as market places (e.g. Carbon Market, Pasil Fish Port, and Taboan Market), bus terminals (e.g. South Bus Terminal), and port areas like Piers 1 to 4 in Barangays San Roque and Tejero, be it in daytime or at night. These can also happen in conspicuous and inconspicuous places in the pilot barangays such as the streets, pathways, seawalls or rented drug dens.

Trends in Cases of Apprehended CICL. In Cebu City, the police or *barangay tanods* apprehend child offenders regardless of the gravity of offences as long as they violate national laws as well as local ordinances and issuances. In 2003, FREELAVA records showed 218 CICL cases having undergone community diversion. As shown in Table 5.1, the highest number of recorded child offence was theft. Ninety-six (96) cases or 44 percent of total reported cases (218) were recorded in 2003. Barangays Ermita, Lorega, and Suba had 20 cases each while Barangay Tejero recorded 16 cases. The second highest number of recorded child offence involved violation of PD 1619 or the illegal use/abuse of volatile substances with 90 cases (41%). Most of these CICL were apprehended by *barangay tanods*. Arresting child offenders involved in rugby-sniffing is very pervasive in Barangays Suba, Tejero and Ermita. Of the three, Barangay Ermita registered the highest record of 43 cases.

It is also disturbing that street children are arrested by the police and *barangay tanods* because of a local ordinance against vagrancy and curfew. Twelve (12) children in Barangay Ermita were arrested in 2003 for violating the city’s curfew ordinance.

Child offenders who have been apprehended for volatile substance abuse and theft are quite young, belonging to the 11-14 age range. Table 5.2 indicates that under this age range, 66 were arrested in violation of PD 1619 or the illegal use of volatile substances while 47 were apprehended because of reported theft cases. Of the total CICL cases documented in 2003, 207 or 95 percent were males.

Positive Practices in Apprehension. Of the five sample barangays, Barangays Tejero, San Roque and Suba were observed to have proper and child-friendly handling of apprehensions of child offenders. FGD participants from these areas explained that during the arrests, Barangay Tanods take the child offender to the Barangay Hall by the hand or transport them through mobile patrols.

Barangay Tanods are usually calm and soft-spoken in apprehending children. Through the training provided by FREELAVA, the Barangay Tanods have slowly assimilated a child-friendly manner of apprehension. Over a decade ago, the Philippine National Police (PNP) provided guidelines for police officers (which also apply to Barangay Tanods) on the proper handling of apprehensions involving CICL.

Table 5.1 Number of CICL Cases and their Offences by Barangay, 2003

BARANGAYS	OFFENCES											
	RA 9165	PD 1619	CO 1631	BP Blg.6	Theft	Snatching	Vagrancy	Shoplifting	Slight Physical Injuries	Acts of Lasciviousness	Harassment	Total
Carreta	-	1	-	-	3	-	-	-	1	-	-	5
Duljo-Fatima	-	5	3	-	7	-	-	-	1	1	1	18
Ermita	3	43	-	3	20	2	12	-	-	-	-	83
Lorega	-	3	-	-	20	-	-	1	-	-	-	24
Pahina-Central	-	-	-	-	5	-	-	-	-	-	-	5
Pasil	-	3	-	-	3	-	-	-	-	-	-	6
Sambag 2	-	-	-	-	-	-	-	-	-	-	-	-
San Roque	-	-	-	-	2	-	-	-	-	-	-	2
Suba	1	10	-	-	20	-	-	-	-	-	-	31
T. Padilla	-	-	-	-	-	-	-	1	-	1	-	2
Tejero	-	23	-	-	16	-	-	1	-	-	-	40
Tinago	-	2	-	-	-	-	-	-	-	-	-	2
Total	4	90	3	3	96	2	12	3	2	2	1	218

Notes: RA 9165 (Use of Shabu), PD 1619 (Use of Volatile Substances), CO 1631 (Anti-littering), BP Blg. 6 (Possession of deadly weapon)

Source: FREELAVA, 2004. 2ndYear Narrative Report, Community-based Prevention and Diversion/ Mediation Program for Children in Conflict with the Law, Cebu City: 19-20.

Table 5.2 Distribution of CICL Offences by Age and Gender, 2003

Age Range	OFFENCES											
	RA 9165	PD 1619	CO 1631	BP Blg.6	Theft	Snatching	Vagrancy	Shop-lifting	Slight Physical Injury	Acts of Lasciviousness	Haras-sment	Total
<10	-	4	-	-	8	-	2	-	-	-	1	15
11-14	1	66	3	1	47	2	9	3	2	2	0	135
15-17	3	20	-	2	41	-	1	-	-	-	-	67
18>	-	-	-	-	-	-	-	-	-	-	-	-
Total	4	90	3	3	96	2	12	3	2	2	1	218
Male	4	85	3	3	91	2	12	2	2	2	1	207
Female	-	5	-	-	5	-	-	1	-	-	-	11

Source: FREELAVA, 2004. 2ndYear Narrative Report, Community-based Prevention and Diversion/ Mediation Program for Children in Conflict with the Law, Cebu City: 20.

There is now a growing consciousness among CJC members and Barangay Tanods on the concept of inviting a respondent CICL to the Barangay Hall in cases involving a complainant-victim. The concept of invitation is now emphasised in Barangays Tejero and Duljo-Fatima in lieu of apprehensions, which can be very traumatic to CICL. Another practice worth noting in the pilot barangays is the use of a separate blotter or record book exclusively for CICL cases, which ensures confidentiality of information. This practice is highly observed in Barangays Duljo-Fatima and Suba.

In view of the increasing awareness on the community-based diversion programme among FREELAVA networks, the turnover of apprehended CICL from temporary shelters such as the Community Scouts and other city jails is now observed. GAD officers of Barangay Tejero narrated that they have experienced several “redemption” missions from the Community Scouts or the Mandaue City Jail after the latter notified them of apprehended CICL. These child offenders were brought to the Barangay Hall for another round of diversion process.

Box 5.1 How Apprehensions of CICT Should Be?

- Serve the child a warrant of arrest or search warrant in a legal, humane and responsible manner.
- Be in plain clothes and avoid using marked vehicles.
- Avoid using vulgar words and a tone that will attract the attention of people around the child.
- Take the child by the hand instead of collaring or dragging him/her.
- Avoid the use of handcuffs.
- Take the child to any available government medical or health officer in the area for a physical and mental examination immediately after apprehension. The medical papers shall form part of the records of the case.
- For drug users/dependents, the police should facilitate the conduct of a drug test with the dangerous drugs board or any accredited physician in the locality and refer the case to appropriate agencies.
- Inform the senior social worker of the DSWD of the apprehension of the child within eight (8) hours so that immediate intervention can be provided.
- Inform the parents within eight (8) hours about the arrest and ask them to come to the police station.
- If the police officer is not a member of the CYRS/WCPD, he should immediately turn over the apprehended child to the CYRS/WCPD for proper disposition of the case.

Source: PNP, 1992. 'Memorandum Circular 92-010, Police Handbook on the Management of Cases of Children in Especially Difficult Circumstances' in PNP, UNICEF and OHCHR, 2002. Juvenile Justice Training Manual for Law Enforcers, Child Rights Training, Volume 1, UNICEF and OHCHR, Manila: 304-5.

Weaknesses and Limitations. Despite the competency development programmes provided by FREELAVA, a number of Barangay Tanods still lacked child-friendly qualities. In Barangay Ermita, CICL and adult cases are still recorded in the same blotter book despite the consistent reminders of the CJC to ensure confidentiality of information. One reason for this continued malpractice is the additional paperwork entailed in separating the blotter, which is assigned to Barangay Tanods. Pursuant to DILG regulations, the blotter forms are part of the documentary requisites for the release of the Tanods' honoraria.

“Neck-gripping,” collaring, whipping and beating of hands, slapping of the head and other harsh forms of treatment continue unchecked in Barangay Ermita. In Barangays Duljo-Fatima and Ermita, the use of handcuffs is still widely practised among some of the local law enforcers. Worse, Barangay Tanods in Barangay Ermita detain child offenders particularly rugby or shabu users and violators of petty crimes (e.g. curfew and anti-vagrancy ordinances) who are apprehended usually during the night for at least 12 hours without food, beddings and other necessary provisions. The barangay has no funds to provide detained children of their basic needs. Barangay Tanods literally lock up CICL inside a small detention cell, which is approximately 2 x 2 square meters in size, dark, untidy and without a toilet. As barangay offices are closed and CJC officers are hard to contact, detained CICL languish in the barangay jail the whole night to wait for mediation the following day.

Barangay Ermita has 40 regular Barangay Tanods paid with honoraria from the city government funds. Most of them are trained on children's rights and on the proper handling of apprehended CICL. However, 40 voluntary auxiliary Barangay Tanods remain untrained and uneducated on children's laws and according to FGD participants in Barangay Ermita, these voluntary auxiliary law enforcers commit most of the abuses and these practices have remained unchecked by the Barangay Captain.

The same participants suggested that even some of their regular Tanods are not serious about the diversion process despite having undergone training and seminars from FREELAVA. CJC mediators have to ask for clearance or waiver from the arresting officer before a detained CICL is released to undergo mediation and diversion. During the FGD, the CJC Co-Chairperson narrated that in one occasion, he was strongly reprimanded by the arresting officer for releasing a detained child offender without the latter's permission. This indicates that the culture of retribution and

punishment for child offending remains strong and pervasive among the Tanods of Barangay Ermita. This is partly due to the seemingly recidivist character of the offending children as caused by the proliferation of rugby sniffing and *shabu* use in Barangay Ermita. This reflects the lack of political will of local leaders and the city police office in curbing drug addiction and the drug trade in Barangay Ermita to protect the rights and welfare of its children.

There are other issues relative to apprehension that have to be addressed. First, all sample pilot barangays have neither plans nor funds for the training, retraining and reorientation of its newly-hired as well as its regular and auxiliary Barangay Tanods regarding the proper handling of CICL and FREELAVA's project funds could no longer accommodate such activities. Second, the programme staff revealed during the FGD that a number of police precincts in the pilot barangays still do "shortcuts" — either filing charges against the child offender in courts³⁰ or diverting these children to the Community Scouts instead of turning them over to the community in the custody of the CJs. These "shortcuts" are pervasive in Precinct 5 (Carbon Market in Barangay Ermita), Precinct 11 (in Barangay Mambaling, which includes Barangay Duljo-Fatima), Fuente Police Station (in Fuente Osmena, uptown Cebu City, which includes Barangay Sambag II), and Waterfront Police Station (which covers the Port Areas to include Barangays San Roque and Tejero). A number of police officers are still unaware of the community-based diversion process because the Women and Child Protection Desks (WCPD) as CJC members remain weak in popularising the newly-instituted mechanism of dealing with cases against child offenders. In fact, in most of the pilot barangays, WCPD police officers seldom attend CJC meetings and this is because they see this task as an added burden considering the limited number of WCPD personnel in the different police stations.

30 Community Scouts Retired Police Chief Inspector Teresita Ayag strongly disputed this observation. Police officers would rather dismiss the charges against offending children, settle the charges amicably or divert the CICL to the Community Scouts because of procedural constraints and costs entailed in the filing of charges. The Cebu City Police Office (CCPO) does not provide budget in the filing of charges against criminal cases in court. The arresting officer has to spend personally for the necessary documentation and for conveyance of the child to the prosecutor including food provision during such conveyance. Because of the prescribed period in the disposition of cases, time-constraint is always a factor why police officers would want charges to be dropped. The release of medical examination records always takes time aside from the fact that costs incurred are shouldered by the arresting officer (Interview with Retired PCI Teresita Ayag, 1/6/04).

There are at least two factors contributing to this problem of “shortcuts.” First, the culture of *esprit de corps* remains strong among the police. In the FGD, then programme manager Redentor Betito revealed that the police have this unspoken rule of *respetohay* (mutual respect) among themselves especially concerning the disposition of cases of criminals including child offenders. An arresting officer’s decision on what course of action to take regarding a child offender has to be respected by the rest of the police force. The CICL is either detained or held in custody of the arresting officer instead of being immediately turned over to the WCPD. Second, seniority and gender bias are factors why some WCPD female police officers cannot exert authority over cases involving child offenders. During the first year of programme implementation, a WCPD female police officer from Barangay T. Padilla had to first call the FREELAVA office to report on an apprehended CICL before the child was turned over to the CJC for community mediation. The apprehended child was held by the arresting officer and was not immediately placed in the custody of the WCPD personnel. Betito explained that most female police officers in police precincts occupy the lowest ranks, usually with a Police Officer 1 or 2 position.

The distribution of information on and popularisation of the programme is thus imperative. Programme actors in the barangay cannot depend upon the WCPD to do the needed popularisation and negotiation with fellow police officers in view of the above-cited factors. CJC officers, on the other hand, are too preoccupied with mediating and diverting CICL cases that ensuring organisational synergy is left unattended. This organising role should therefore be played substantially by a FREELAVA programme staff.

Interview and Case Intaking

Interview data and intake sheets are part of the case records of an apprehended CICL who will undergo mediation and diversion. Two years have passed and the CJCs are still perfecting the conduct of these.

Strengths and Gains. It is highly commendable that majority of the sample barangays observe confidentiality of information in undertaking interviews and in the intaking of CICL cases. CJC members of Barangays Tejero, San Roque, Suba and Duljo-Fatima do this to protect the child from humiliation and trauma. Given they have ample spaces in their barangay halls, Barangays Tejero, San Roque and Suba have designated “CJC Rooms” or have utilised their GAD workplaces and *Lupon* chambers for case intaking, interviewing, mediation and counselling.

In most sample barangays, only one CJC member is designated as main interviewer with one alternate to ensure confidentiality of information. Interviewing and case intaking is usually done by the Barangay Secretary, the GAD Focal Point Person, a designated Community Volunteer or a designated Barangay Tanod in cases of apprehensions during night time. Their practice is to involve the least number of people in information-gathering. Record-keeping is also properly handled by a designated CJC member who is either the GAD Focal Point Person or the Barangay Secretary. The uniform use of intake sheets (Appendix 5) developed by FREELAVA in all the pilot barangays made data gathering faster and more systematic.

Noteworthy in both Barangays Tejero and Duljo-Fatima is the growing consensus and awareness among CJC members that interviews/case-intaking are mere inquiries or data-gathering techniques and should not be considered preliminary investigation similar to the one in courts, which can traumatise children. These interviews are done to gather information on personal circumstances, life and family history, and the facts of the offence from the child offender.

Weaknesses and Limitations. Of the five pilot barangays, Barangay Ermita has yet to improve in terms of child-friendliness in the handling of CICL cases among its programme actors. It is sad that confidentiality of information is still not properly observed inside the barangay hall. The very limited space in the Barangay Hall prohibits the case interviewer from ensuring confidentiality of the information provided by the child. FGD participants in Barangay Ermita declared that these interviews are done while the arrested CICL is inside the detention cell or in the Barangay Tanod's corner where unauthorised persons inevitably listen because these areas are open and conspicuous to barangay employees and the visiting public. Worse, these people take part in the interviews.

While there is a conference room on the second floor of the Barangay Hall, the Barangay Tanods conduct the interviews in their cubicles at the ground level at their convenience. In cases where the CICL is already detained before the CJC interviewer arrives, it takes a lot of negotiation with the arresting officer to release the former so that case profiling can be properly done inside the conference room. FGD participants in Barangay Ermita admitted that in most cases the arresting officer denies the release of a detained child so that the interview cannot be undertaken in the most confidential manner. Several Barangay Tanods have yet to embrace the essence of community-based diversion. The lack of funds prohibits the

necessary reorientation and retooling of CJC members and especially the Barangay Tanods in terms of the proper conduct of interviews and the handling of confidential information.

It is deplorable that a CICL in Barangay Ermita undergoes multiple interviews before he/she is mediated. Upon apprehension, the Chief Investigator of the Barangay Tanod interviews the CICL and records the facts of the offence in the blotter. As soon as the designated CJC interviewer arrives, another round of interview is conducted, this time using the CJC intake sheet. Thereafter, the GAD Team invites the CICL for another round of data-gathering and recording. Pre or post-mediation “counselling” is also conducted by the GAD Team at their own level. Hence, instead of complementing, the GAD Team duplicates some of the functions of the CJC. During the FGD, the GAD Project Assistants declared that the GAD programme only operated very recently and they admitted that they are still grappling with their functions. In Cebu City, GAD programmes in the barangays include the delivery of services to various sectors — women, children, senior citizens and the differently-abled. With the lack of programme direction and technical assistance, barangay GAD plans and programmes are merely “cut and paste” endeavours.

Making case studies necessary tools and practice for effective case management is also not undertaken by the CJC mediating teams because they lack academic training in social work or psychology. Case management, a basic principle in social work practice, is the interactive process where the client and the service provider work together and resolve the problem. The component data in the case study serves as the foundation of the intervention plan — the after-care services, rehabilitation or reintegration plan that the child, parents and social worker are supposed to develop and implement. In the programme, the use of the CJC intake sheet is a starting point for case study making and case management. However, the principles of social work suggest that it is far from sufficient. CJC members do not undertake problem identification, follow-up interviews, construction of life and family histories, psychological diagnostics, and assessment towards intervention planning. At the very least, records management of CICL intake sheets are not systematised and folders of CICL cases are not individualised. Reintegration plans are not even documented and case records are not updated based on monitoring reports relative to the development of the CICL after diversion.

Based on the programme concept, the model CJC structure relies on the existing mechanisms and machinery of the city government such as the

social workers of the Department of Social Welfare Services (DSWS) to assist the CJs in undertaking case studies, case management and counselling because of their professional expertise. However, this did not occur in all the pilot barangays because the city social workers are already overloaded. The current DSWS workforce is composed of 30 social workers assigned to all the 80 barangays of the city. With a generalist orientation, city social workers deliver at least six programmes and services³¹ to both urban and rural constituents of the city. One social worker caters to at least three (3) barangays (Interview with Anecita Suico, 20 June 2004). The pilot barangays lack the funds to hire additional social workers to meet the needs of the CJs. FREELAVA did not also hire social workers for the programme who can assist the CJs in doing case studies and case management. Not one among the currently and previously hired programme staff is academically trained in psychology or social work as mentioned earlier.

It is also observed that designated interviewers and case intakers vary across the five pilot barangays. While there is consistency in the execution of CJC functions in each of the sample barangays, interviews, case intaking and records-keeping are done by the Barangay Secretary in Barangay Duljo-Fatima, by GAD Focal Point Persons/Project Officers in Barangays San Roque, Suba, and Tejero and by a designated community volunteer in Barangay Ermita after the Barangay Secretary resigned. In most of the pilot barangays, whenever these persons are not available, the CJC Chair or the Co-Chair directly handles the interview/case intaking so that mediation can proceed. Based on the programme concept, these functions fall under the responsibility of the Barangay Secretary being the secretary of the *Lupon*. The GAD Project Team in many barangays was organised only in the second half of 2002 while the CJC was established earlier that year.

These differences in arrangements in the pilot barangays are indications of differences in the exercise of discretion of power and flexibility according to local conditions. Auditor argues that such arrangements should be respected as these reflect local dynamics and realities (Interview with

31 Devolved in 1992, the City Social Welfare and Services Office of the Cebu City government delivers six major programmes and services as follows: (1) Self-Employment Assistance Programme; (2) Community and Family Welfare Programme; (3) Child and Youth Welfare Programme; (4) Women's Welfare Programme; (5) Elderly and Disabled Persons Welfare Programme; and (6) Emergency Assistance Programme. Each programme has at least four to five sub-programme components with various projects. All programmes are equally implemented in all the 80 barangays of the city except perhaps emergency relief assistance which is carried out on a need-be basis (DSWS, 2003).

Antonio Auditor, 2 June 2004). However, there is a need to review these arrangements vis-à-vis the programme concept (i.e., the execution of roles and functions such as interviewing, case intaking and records management). By not following the prescribed roles and their corresponding functions based on the programme concept, these differences could have negative implications on programme implementation and management when scaled up. For one, these differences could hamper the efficient monitoring and evaluation of the programme at the level of FREELAVA. Such differences could also complicate the organisation's capacity building programme for programme actors when undertaken in a programmatic manner. Thus, there is a need to: (1) Review the appropriateness of the two positions vis-à-vis the roles and functions the programme requires, and (2) Standardise such position across all the pilot barangays.

Mediation Proper

Literatures of restorative justice point to mediation as the most common form of restorative justice practice applied worldwide (see McCold, 1999). Under our *Katarungang Pambarangay* system, mediation is the easiest and cheapest way to dispute management/conflict settlement at the community level. It is a quasi-judicial way of disposing cases subject to certain limitations executed far from the rigours of the regular courts. Mediation at the barangay level is also less traumatic and not incriminating to children. In the implementation of the community-based diversion programme, mediation at the barangay level is considered the first logical action to diversion. In fact, FREELAVA considers mediation as already an act of diversion.³² However, mediation should not be considered the be-all and end-all of community-based diversion as the huge task of rehabilitation, reintegration and socialisation of the diverted CICL awaits the programme actors. Below is a discussion of the various strengths and weaknesses, positive as well as negative experiences of the programme actors in the conduct of mediation.

Strengths and Gains. One positive point in the programme is the designation of only one person in authority in the entire sample pilot barangay to carry out the mediation process with the assistance of one

32 During the study presentation and validation on June 29, 2004 held at the Holiday Plaza Hotel in Cebu City, FREELAVA and SC-UK stressed that mediation is already a diversionary strategy to channel the disposition of CICL cases off the formal justice system.

recorder/documenter. Mediation across the sample barangays is conducted primarily by the CJC Chair assisted by the Co-Chair, both of whom are *Lupon* members. In the absence of the CJC Chair, the Co-Chair mediates with the assistance of the GAD Project Officer or the Barangay Secretary. As designated by the Barangay Captain, the GAD Project Officer becomes the second alternate mediator. Particularly in Barangays Suba and Tejero, the GAD Project Officer mediates CICL cases when: (1) there are no complainant-victims involved;³³ (2) the offence is considered minor; (3) the case does not involve difficult³⁴ children; or (4) when the CJC mediators are not available. This often comes as an internal arrangement among the members of the mediating team. The fourth person in authority to handle mediation is the Barangay Captain as practised in Barangays San Roque and Tejero. Barangay Captain Leto Fajardo of Barangay Tejero declared he mediates CICL cases when there is an urgent need for resolution or when it involves difficult child offenders. In other words, several barangay captains actively participate in community mediation work.

In the conduct of mediation, all CJC mediators make the mediation process exclusive to the concerned parties namely, the respondent CICL and the parents, the complainant-victims, the arresting officer and the mediating team. This assures the conflicting parties especially the CICL and his/her parents that the information derived from the mediation proceedings are held confidential and considered private matter. This practice also protects the offending child from humiliation and trauma. It is also a positive practice to call the parents or legal guardian of the CICL before mediation is undertaken. Not only is it the right of children to have their parents informed of any legal action undertaken against them but the presence of the parents during mediation provides the opportunity to educate the latter on children's rights as well as on their parental responsibilities and obligations.

Through practice, CJC mediators have personally observed certain behavioural changes in their handling and treatment of child offenders. Barangay Suba Co-Chair Alfredo Petallar said he became child-friendly—slow to anger, prudent in speech, patient and compassionate. Barangay

33 These cases pertain to statutory offences like violations of the anti-vagrancy law, anti-littering or curfew ordinances or violation of RA 9165, among others.

34 These cases involve CICL who are "high" on drugs when brought to the barangay hall, those who have gone amok and potentially dangerous, those involved in gang wars or those who became recidivists but have no records yet with the CJC.

Ermita CJC Co-Chair Jose Bagano and Barangay Duljo-Fatima CJC Chair Jovita Padilla emphasised that mediators should be pro-child to begin with. Barangay Suba GAD Team members Perlita Baliguat and Melinda Cruz stressed that it is important to let the CICL feel a free and caring environment during the mediation process. They added that it is also necessary to send the message of sympathy of the mediators to the child based on his/her circumstance. According to Tejero Barangay Captain Fajardo and CJC Chair Juanito Tariman, mediators have to befriend the child offender. They agreed that these strategies are very important for the CICL to open up and narrate their life story—their circumstances, problems, fears, anger, hopes and dreams. Only then would CICL admit their offence, apologise and hold themselves accountable to the offence.

Along the mediation process, CJC mediators commonly use positive motivation and counselling to both the offending child and the parents. By “counselling” CJC mediators provide the CICL the scenarios between a life in prison and a reformed and productive life. CJC mediators motivate CICL to stay away from offending, vices and abuse. They remind, guide, and encourage parents to improve their parental care and fulfil their responsibilities to their children. By using child-friendly approaches, CJC mediators deserve commendation as their kind of “counselling” works. Despite the lack of continuous training on counselling, the testimonies of diverted CICL who have undergone mediation indicated signs of remorse—the feeling of being sorry and, to some extent, guilt. Mediation may take long hours.³⁵ Nevertheless, the child offender eventually admits the offence voluntarily, free and without fear or terror. Such type of counselling has even helped in repairing deep-seated hatred in child-parent relationships. The case studies in Chapter 6 attest to these positive indications.

While it is provided in the mediation process under the *Katarungang Pambarangay*, CJC mediators in Barangay Ermita emphasised that they do not practice the provision for a 15-day cooling-off period in cases when the mediation breaks down. They argue that to practice the 15-day cooling-off period would be detrimental to the child offender. The CICL would languish in jail for 15 days because Barangay Tanods have a strong stance favouring the practice of custodial measures such as detention.

35 CJC Co-Chair Jose Bagano of Barangay Ermita and Tejero Barangay Captain Leto Fajardo both agreed that mediation involving CICL is not an easy task. Mediating CICL cases takes not less than one hour.

Weaknesses and Limitations. It is observed that mediation is not practised uniformly across the five pilot barangays. While mediation remains solely under the jurisdiction of the *Lupon* members, other barangays allow the GAD Focal Point Persons/Project Officers to mediate CICL cases in their capacity as CJC members. This question is, again, an issue of discretion of power and a matter of local dynamics and realities. However, the execution of such function by GAD Officers poses a legal question, which needs to be reviewed because GAD Project Officers do not have the legal mandate to mediate under the *Katarungang Pambarangay*. Nevertheless, their participation is highly welcome and commendable such as in the cases of Barangays Suba and Tejero.

Section 388 of RA 7160 or the Local Government Code of 1992 recognises the *Lupong Tagapamayapa*, the *Sangguniang Barangay* and the Barangay Captain as persons of authority as they are vested with jurisdiction. Persons appointed by competent authority such as GAD Project Officers, however, are considered agents of persons in authority (Pimentel 1993: 416-17). Thus, it is legally debatable for GAD Project Officers to exercise the functions of the *Lupon* and this should be reviewed by programme implementers.

In Barangay Ermita, the delay in the mediation process particularly in cases involving transients like traders, suppliers and customers further aggravates the agony of the CICL who is temporarily detained in barangay jails because these complainants, who are frequent victims of theft and snatching, are mobile and thus difficult to locate. These victims often no longer bother to complain before the Barangay Tanod whose office is not very accessible from the Carbon Market. For apprehended stow-away children involved in substance abuse (shabu sessions or rugby-sniffing), locating their parents to be present in the mediation process is a big problem. These children usually come from far-flung towns or neighbouring provinces and live together with their *barkada* in the barangays without attending legal guardians. Delays in mediation also happen when arresting officers arrive late in the morning. As mentioned earlier, apprehensions in Barangay Ermita commonly occur during the night. Arresting officers are required to be around during mediation and sign the covenant form as soon as a settlement agreement is in the offing. These circumstances, which cause the delay of mediation further prolong the illegal detention of the CICL.

What is most alarming in Barangay Ermita is when CJC mediators require a waiver or clearance from arresting officers signifying their intent to file charges against the CICL and allowing mediation and diversion to proceed.

This was after CJC Co-Chair Jose Bagano got the ire of a Barangay Tanod because he released the CICL from the detention cell, mediated the case and diverted the child without the knowledge of the Tanod. This practice blatantly contradicts and defeats the essence of community-based diversion. FGD participants in Barangay Ermita said that some Barangay Tanods remain staunch opponents of community-based diversion programme. Due to lack of training and orientation, these Barangay Tanods could not understand why CICL are released and returned to their parents. They argue that they work hard during apprehension only to find out later that the CICL they have arrested were easily released.

Most of the sample pilot barangays lack the designated and conducive space exclusive for mediation. While some barangays have *Lupon* chambers or GAD corners, these spaces are most often open and accessible to the listening public. Confidentiality of information during mediation is deterred by this physical limitation inside most of the Barangay Halls.

It is observed that the formation of second-line mediators has become the least concern of most CJC's including FREELAVA when it should have been a major concern during the third year of programme implementation. As a sustainability mechanism, competency development of second-line mediators must be given attention by both the barangay officials and FREELAVA. CJC Chair Jovita Padilla of Barangay Duljo-Fatima emphasised that child mediation and children's justice is a new field of work of the *Lupong Tagapamayapa*. She recognised that it requires special training distinct from those undertaken by the *Lupon* members. She was saddened that members of the *Lupon* did not signify interest to participate in the training provided by FREELAVA during the first year of programme implementation because of various occupational and personal reasons. Currently, this special competency revolves only within a few *Lupon* members and GAD Project Officers in all five pilot barangays.

Preparation of Settlement Agreement and Execution of Diversion Programme

There are at least three conditions where mediation can be considered successful. When these scenarios are in the offing, a settlement agreement is ready to be drawn and diversion of the CICL can proceed. The first condition is when the CICL starts to signify remorse and a sense of guilt for his/her offence and asks pardon from the complainant-victim or the CJC mediators (in cases involving status offences). The second is when

the parents of the offending child also apologise to the victims or to CJC members and promise to improve their parental care. The third condition is when the complainant-victim forgives the child offender, drops the charges against him/her and agrees to the proposed diversion programme for the child.

Strengths and Gains. It is highly commendable that in most sample barangays, CJC mediators are one in the resolve to settle the case at the shortest time possible. Barangay Duljo CJC Chair Padilla makes an extra effort to strike a win-win solution during mediation to arrive at an amicable settlement. One purpose of mediation and amicable settlement is to cut the rigorous process of prosecution, litigation and eventual incarceration when the child is found guilty. CJC Chair Padilla emphasised that this is the role CJC mediators play. In most cases, she declared that complainants are satisfied with the results. GAD Project Officers Perlita Baliguat and Melinda Cruz also stressed that they have to repeat the explanations, take extra time and effort to convince the complainant not to file charges in court, believe in the benefits of amicably settling the case, and eventually watching CICL reform. These manifest the growing consciousness and genuine understanding among several CJC mediators of the essence of diversion and restorative justice.

In settling the case and drawing out a settlement agreement, CJC mediators emphasised that they do not release or divert the child offender scot-free. By using the CJC *Kasabutan* (Covenant) Form (Appendix 11), CJC mediators ensure that the CICL will be responsible enough to repair the harm done as a result of the offence. The CJC *Kasabutan* Form was developed by FREELAVA during the first year of programme implementation to document the accountability of the CICL. Positively, the CJs in all the pilot barangays found the form handy and user-friendly and utilised it.

Community diversion is a new practice in children's justice. Yet within two years, a few CJC mediators have already explored different forms of diversion other than those suggested by FREELAVA. In Barangay Duljo-Fatima, we can find innovation and creativity in exploring diversion forms such as restoration of damaged properties, reparation of property, written apology and compliance to literacy assignments given to diverted CICL. These are other forms of diversion aside from the usual reporting obligations of the CICL to the Barangay Hall or rendering community service.

Weaknesses and Limitations. Unlike in other CJs in the four sample barangays, Barangay Ermita CJC mediators are ready to issue a certification to file action (to the courts) when a complainant is not amenable in resolving the case at the barangay level or when the complainants are not satisfied with the settlement results. During the FGD, CJC Co-Chair Bagano and *Lupon* Member Sofio Miral explained that while they exert all efforts to persuade the complainant to forgive a child offender, they could not prevent the same from exercising his/her constitutional right to seek redress in the proper courts. They argue that while the child has rights, the complainant also has the corresponding rights and preventing the latter from seeking redress in the courts would constitute a violation of his/her rights. This practice defeats the entire purpose of community diversion, which is to cut the process of filing charges against children in the courts. However, the issue of balancing the constitutional rights of the complainant and the CICL is worth the discourse.

As they lack training, CJC mediators who often undertake post-mediation counselling (right after settling the agreement) tend to provide prescriptive advises to diverted CICL rather than counselling. While attempts are made to make the counselling facilitative, participatory and empowering to the child, indications suggest that such counselling is often one-sided. For example, most intervention plans or after-care services are more likely to be prescriptions—supposedly exercised “in the best interest of the child”—rather than what the child intends to do depending upon his/her capacities and coping mechanisms. This is also because there are limited options available in the pilot barangays including the lack of financial resources for addressing the rehabilitation and reintegration needs of diverted CICL. The hiring of social workers to handle counselling and case management would have been beneficial to the programme instead of merely relying on existing mechanisms and on the workforce of the city’s DSWS.

Defining the responsibilities and accountabilities of the CICL through diversion remained limited in most of the sample CJs. Diversion strategies used by the CJs come in the form of mediation, oral reprimands and warnings, reporting obligations, rendering community service, and counselling (FGDs 2004 and FREELAVA 2003 and 2004). There is a need for most CJs to further study other forms of diversion designed to meet distinct problems or needs of the CICL. These forms may be integrated into the rehabilitation and reintegration programme or case intervention plan of the offending child.

Rehabilitation and Reintegration

Rehabilitation and reintegration of diverted CICL is the last stage of the entire community-based diversion process. However, the task is enormous. The effectiveness of rehabilitation and reintegration programmes for diverted CICL can be measured by the success rate of reforming diverted CICL. In other words, effective rehabilitation and reintegration programmes are mechanisms to prevent the diverted CICL from reoffending and keep them away from a life of crime.

Strengths and Gains. It is good that FREELAVA has acquired strong support from external donors for formal educational assistance for out-of-school youths (OSYs) including diverted CICL, peer educators and children at risk of offending. As of school year 2003-2004, 124 diverted CICL were enrolled and supported by FREELAVA. Ninety-seven (97) were supported under the direct services component of the programme funded by SC-UK while 27 were assisted under the Back-to-School (BTS) Program funded by TdH Netherlands. Table 5.3 shows the breakdown of these CICL beneficiaries per education level and barangay. Another 66 CICL were re-enrolled in formal education during school year 2004-2005.

Table 5.3 CICL Beneficiaries of the Back-to-School Programme, SY 2003-2004

Barangay	Educational Levels				
	Elementary	High School	College	Vocational Education	Total
Carreta	3	2	1	2	8
Duljo-Fatima	3	11	-	-	14
Ermita	8	2	-	-	10
Lorega	7	4	-	-	11
Pahina Central	4	2	-	-	6
Pasil	8	10	-	-	18
Sambag 2	1	4	-	-	5
San Roque	6	6	-	-	12
Suba	7	10	-	-	17
T. Padilla	4	3	-	-	7
Tejero	4	5	-	-	9
Tinago	6	1	-	-	7
Total	61	60	1	2	124

Source: FREELAVA, 2004. Community-based Prevention and Diversion/Mediation Programme for Children in Conflict with the Law-Second Year Narrative Report, A report submitted to Save the Children-UK, Cebu City.



Photo courtesy of FREELAVA

Weaknesses and Limitations. FGD participants in the five sample pilot barangays admitted that CJs do not have training in social work. Thus, case management was not undertaken by a competent professional. Rehabilitation and reintegration plans were neither properly documented in the case records nor regularly updated to indicate the diverted child’s development. Monitoring and follow-up activities of diverted CICL as undertaken by the CVs were also not documented.

Rehabilitation and reintegration programmes for diverted CICL became prescriptive rather than participative. Diverted CICL were not able to participate in an interactive process of resolving the problem towards formulating rehabilitative programmes and other psychosocial interventions for his/her reintegration. These rehabilitation and reintegration activities did not include a comprehensive psychological assessment of the CICL, the family and the community.

Most CICL are products of parental neglect and dysfunctional families. They also reside in communities where moral values have broken down — where drug abuse and the drug trade proliferate and where housing conditions and the standards of living are very poor. Hence, the psychosocial interventions offered by the CJs, which are often unprogrammatic, follow a “hit-and-miss” pattern.

All CJs in the pilot barangays resort to formal educational assistance through FREELAVA's BTS programme regardless of its appropriateness to the child because it is seen as the only viable option because of the programme's stable funding. For lack of data, however, this argument can not be correlated with the success or drop-out rate of BTS beneficiaries.

The rehabilitation and reintegration programme of CJs are very limited. Other than FREELAVA's formal educational assistance, values formation through catechism, bible studies, worship services and peer education are part of the rehabilitative measures undertaken by diverted CJs under the programme. However, because of the lack of funding and facilities within the barangay, CJs and CVs can only do monitoring and follow-up of diverted CJs with intermittent "counselling" sessions as part of the programme's rehabilitative measures.



Photo courtesy of FREELAVA, 2003

Children doing community service as part of their diversion programme.

To reintegrate the child offender into the community, CJs and CVs resort to socio-civic activities such as cleanliness drives, sports activities and other community services. FREELAVA, the CJs and the barangay officials,

however, have yet to link and collaborate with other government agencies, NGOs and other institutions for the provision of technical and vocational skills development opportunities to diverted CICL. FREELAVA could facilitate networking with such service providers and other related resources.

One reason why it is very hard to eliminate the community's stigmatisation and discrimination of CICL (FREELAVA 2004:22) is the programme's limitation in: (1) Facilitating the child's realisation of the wrongness of his/her actions towards positive behavioural changes; and (2) Developing CICL competencies to make them productive citizens of the community. All pilot barangays lack community programmes to improve the capabilities of previous child offenders as well as the facilities for socio-cultural and recreational purposes that promote social inclusion and acceptance. However, stigmatisation and discrimination stem from the biases and prejudices of people regarding CICL — the general public perception of people committing crimes or offences including children — such that putting facilities and structures will not change this kind of thinking. A strong and effective advocacy work on the plight of CICL and their rights is necessary to correct the public's biases against CICL.

Assessing Programme Strategies and Approaches

This section presents a preliminary evaluation of the different strategies and approaches used in the programme. This assessment looks at the strengths and gains as well as the weaknesses, negative points and limitations of these strategies and approaches as applied in the pilot communities. The analyses presented here are the author's unless otherwise stated as sourced primarily from programme reports and FGDs.

Organising and Formation of Children's Justice Committees (CJCs)

Strengths and Gains. At the start of the programme in 2002, barangay captains and officials were very receptive of the community-based diversion programme except for a few who questioned its legality. To date, all 12 pilot barangays have active and functional CJCs. All pilot barangays have approved barangay resolutions creating the CJC as a permanent committee of the BCPC. These resolutions contain the composition of the committee — the regular or permanent members and their roles and functions.

In all five sample pilot barangays, CJCs remain very active in the mediation and settlement of CICL cases including the conduct of community education and other activities that prevent child offending. Meetings are

held monthly with the assistance of the FREELAVA programme staff. CJs and CVs mobilised local resources to address the lack of funds for the conduct of community education and the prevention of child offending. The barangay officials were usually the ones who financially supported the small group discussions at the *sitio* level.

The mediation process is carried out effectively by CJC mediators. As mentioned earlier, there is a conscious effort to strike a win-win solution in conflict settlement. CJC mediators are able to convince the complainant-victims to divert the CIKL and to forge an agreement/covenant among the CIKL, their parents and the CJs. Despite the lack of training, the counselling sessions during mediation and post-mediation proved effective in gaining the child's remorse and acceptance of guilt and prevent their reoffending. They were also able to instil on the parents their responsibilities and obligations to their children.

To date, both CJs and CVs interviewed had attested to an observable decline of CIKL cases mediated in the barangay halls indicating that diversion worked at the community level. Table 5.4 shows that there is a decline in the number of diverted CIKL cases from 234 in 2002 to 218 in 2003 or a reduction of 6.8 percent. This reduction of cases is more pronounced in Barangays Duljo-Fatima, Pahina-Central and San Roque with 56 percent, 79 percent and 97 percent, respectively. However, in Barangays Ermita and Suba where drug trade and drug abuse are rampant, the figures did not show such reduction contrary to claims or observations by the respective CJC members. This means that an efficient monitoring system is highly wanting for management to effect the necessary improvements in programme interventions.

The multi-stakeholdership structure of the CJC model provides a good mechanism for coordinating the proper dispensation of children's justice at the community level through diversion. It is also a good structure for resource accessing and utilisation as well as for capacity building and technology transfer. For example, the WCPD membership in the CJC provides a very good co-coordinative mechanism for the proper turnover of apprehended CIKL from police precincts back to the community if only police officers are sufficiently aware, educated about and supportive of community diversion. Counselling services and case management assistance can be undertaken by the Department of Social Welfare Services (DSWS) while school guidance counsellors can provide counselling and monitoring assistance of diverted CIKL enrolled in formal schools. Rehabilitation and reintegration

Table 5.4 Number of Diverted CICL Cases, 2002 and 2003

Pilot Barangays	No. of Diverted CICL Cases				Percentage Change (b-a/a)
	Apr02-Mar03 (a)	Percent	Apr03-Mar04 (b)	Percent	
Carreta	8	3.4	5	2.2	- 37.5
Duljo-Fatima	41	17.5	18	8.2	- 56.1
Ermita	82	35.0	83	38.1	1.2
Lorega	-	-	24	11.0	-
Pahina-Central	24	10.3	5	2.3	- 79.2
Pasil	1	0.4	6	2.8	500.0
Sambag 2	-	-	-	-	-
San Roque	74 ^a	31.6	2	0.9	- 97.3
Suba	4	1.7	31	14.2	675.0
T. Padilla	-	-	2	0.9	-
Tejero	-	-	40	18.3	-
Tinago	-	-	2	0.9	-
Total Cases	234	99.9	218	99.8	-6.8

Notes: ^a Programme staff reported that most of these cases were violations of the city curfew ordinance and anti-vagrancy.

Source: FREELAVA 2003. Community-based Prevention and Diversion/Mediation Program for Children in Conflict with the Law- One-Year Narrative Report, A report submitted to the European Union through Save the Children-UK, Cebu City; FREELAVA, 2004. Community-based Prevention and Diversion/Mediation Program for Children in Conflict with the Law- Second Year Narrative Report, A report submitted to Save the Children-UK, Cebu City.

programmes for diverted CICL including prevention activities can be integrated into the programmes and financial plans of GAD Teams and the *Sangguniang Kabataan* or SK (Youth Councils) being members of the CJC. All it takes is active organising, dynamic organisational management and synergy.

By implementing the community-based diversion programme, the administration of children's justice through mediation and diversion by *Lupon* members in the CJC has become a highly specialised task in the community. These experiences reflect the fact that barangay authorities, given ample competency development and funding, can administer and handle the disposition of cases involving CICL right at their own level.

Weaknesses and Limitations. The multi-stakeholdership and sound organisational composition of the CJC is not without problems. In actual practice, such an ideal structure is almost unfruitful. Most CJC members in the sample barangays are inactive and this could be happening in all the pilot barangays. While it is permissible for two to three CJC members to be handling the actual mediation and diversion process, most CJC members are often absent during community education activities and CJC meetings. Often, there is also no collaboration and coordination within the CJC especially between the external members (the WCPD women police officers, DSWS social workers, school guidance counsellors) and internal members (the Barangay Councillor representative, the SK Chairperson), and in some cases, between the Chief Tanod Representative as well as the internal members themselves. The FGDs revealed that only the *Lupon* members, GAD Teams, Barangay Secretaries, Community Volunteers, and the Peer Educators are involved in operating the entire community-based diversion programme and prevention of offending and reoffending.³⁶

Most of the CJC members said during the FGDs that this situation is further aggravated by the lack of clear political support from barangay officials (e.g. Barangay Councillors) if not, the Barangay Captain (in the case of Barangay Duljo-Fatima and Ermita). Most of the sample CJC receive no logistical or financial support for their activities to use as counterpart funds with FREELAVA programme funds. The pilot barangays lack clear policies, plans and programmes, facilities, funds and human resources to support rehabilitation and reintegration and other psychosocial interventions for diverted CIOL. This is why most CJC lack holistic and multi-disciplinary reintegration programmes to effect reforms on the diverted CIOL. Without FREELAVA's formal educational assistance to poor out-of-school youth, the CJC have to maintain their socio-civic activities, values formation and spiritual upliftment activities, counselling, and monitoring.

The CJC is anchored on the functionality of the BCPC as one of its enabling mechanisms. Thus, it has become a committee of the BCPC in all the pilot barangays. In the process, however, the CJC have become the most active committee in the BCPC, more active than the council itself. Ideally, as an enabling mechanism of the CJC, all other BCPC committees can aptly support and complement the operations of the CJC if only the BCPCs in

36 The Barangay Treasurer in Barangay Duljo-Fatima and the Barangay Captains in Barangays San Roque and Tejero actively participate in CJC mediation and prevention activities.

the pilot barangays are active, have plans and programmes and are well-funded. Apparently, this is not the case.

The local government units (LGUs) have been mandated in 1974 to create the Local Council for the Protection of Children (LCPC) under PD 603. A study conducted in 1999 showed that only 38 percent of the 41,944 barangays nationwide complied with this provision (CWC, DILG, DSWD and UNICEF 2001:vii). The Cebu City government reiterated this call in 1998 through Ordinance No. 1726 but the creation of BCPCs remains a compliance measure for the release of local funds and barangay officials' honoraria. In fact, almost all the BCPC organisational structures are "cut-and-paste" initiatives in 80 barangays.³⁷ In an FGD, Tejero Barangay Captain Fajardo declared that he has been warning his councillors to re-activate the BCPC or else they will not receive their honoraria.

The Cebu City Commission for the Welfare and Protection of Children (CCCWPC) recently organised a performance monitoring among the 80 reported BCPCs. A seven-person monitoring committee was tasked to assess the performance and functionality of the BCPCs in Cebu City based on a number of indicators. Interestingly, FREELAVA heads the monitoring committee composed of representatives from the DSWD, City DILG Office, CCCWPC and another child-focused NGO.

Like any other organisational structure in the barangay, the CJC is not invincible to political machinations or to changes in local political leadership. While it is positive that the pilot barangays have adopted barangay resolutions instituting the CJC as a BCPC committee, movements in personnel or changes in appointments is inevitable because of electoral developments. These movements or changes can affect coordination flows; disrupt implementation of plans, programmes and priorities; or divert fiscal and logistical support. In as much as programme actors are part of the entire local political machinery, they become dispensable as the newly-elected administration brings in new employees and appointees.

Community-based diversion as a process of restorative justice has the potential of being corrupted, co-opted or abused by CICAL and their families.

37 Data from the City DILG Director, barangays officials of the 80 barangays copy each other's BCPC organisational structure in compliance with the DILG memo (Interview with Sonia Empinado, 18/5/04).

The CJs lack a systematic and efficient monitoring system to follow-up the CICL and their parents' compliance of accountabilities. For example, a CICL in Barangay Suba was diverted by the CJC by way of reparation of stolen goods. The responding parties agreed to pay the goods on a staggered mode. For lack of a clear monitoring and collection scheme, the stolen goods were never paid. Diverted CICL can re-offend a number of times and are "re-diverted" because the CJs lack case management skills especially in updating case records. This may give the wrong signal to the CICL that pardon can be easily acquired through the CJs. Another case of corruption and abuse was observed by the programme staff in Barangay Ermita. Some scheming CICL actively participated in programme activities after diversion to project a changed behaviour then capitalised on this image to re-offend. It is in such cases that close coordination between the CJC and the CVs is strongly needed to ensure strict monitoring and compliance of CICL accountabilities. Cases of recidivism have to be immediately addressed to prevent misconceptions or misinterpretations of the programme by the general public.

Organising and Formation of Community Volunteers

Strengths and Gains. Community volunteers are important actors in the programme because of their functions. First, CVs deliver after-care services and re-integration activities through: (1) Monitoring and follow-up of diverted CICL and PEs to prevent them from re-offending or relapse through home-visits, and guidance and counselling support to the child and the family; (2) Facilitate the conduct of diversion and re-integration through community service and reporting obligations, socio-civic activities and values formation, among others; and (3) Undertake referrals of CICL to temporary shelters (e.g. *Balay Pasilungan*) and other after-care services such as medical check-ups in the City Health Department. Second, they convey apprehended CICL from the police precincts and the Community Scouts or invite the respondent CICL and the parents to the barangay hall for mediation. Third, a number of CVs undertake profile intaking and interviewing of CICL prior to mediation such as in Barangays Ermita, San Roque, and Tejero. Fourth, they facilitate the conduct of community education (*pulong-pulong*) and prevention activities together with the CJC members. Within the communities, the CVs also monitor, reprimand, and guide children and their parents away from vices, drug abuse and other offences like theft. Fifth, they bring the CICL back to the folds of the law and to the broader community as they provide diverted CICL and the PEs a sense of acceptance and importance to the community. The CVs deserve commendation because the above-mentioned tasks are carried out voluntarily.



Photo courtesy of SC-UK Philippines Programme, 2005

Of the 120 CVs organised in 2002, 66 percent have remained active despite the limited, if not, lack of support from local governments and incentives from FREELAVA. Some of these CVs play multiple roles in the barangay as GAD project assistants, *barangay tanod* or barangay health workers. This arrangement has at least two advantages: (1) Occupying paid positions in the barangay provides credibility and legitimises the roles and functions of CVs; and (2) There is smooth coordination and information flow within the CJC as a result. On the personal level, these CVs have established a deep sense of commitment, dedication and volunteering for the benefit of the children in their locality including their own. Despite the lack of political support and incentives, a number of motivational factors and psychic rewards drive community volunteers to execute their roles. First, volunteering creates a sense of legacy in the community. Second, the CVs are recognised as leaders by the community and by FREELAVA. Third, volunteering affords them a sense of pride as CVs who “work” for the community. Fourth, in the exercise of their functions, the CVs gain respect from diverted CICL, PEs and from other children in the community.

Weaknesses and Problems. The programme is now experiencing an observable decline in the number of CVs in all 12 pilot barangays. Their current number is no longer commensurate to the number of diverted CICL and PEs to be monitored across the 12 pilot areas. The current CV-diverted

CICL ratio is 1:6 on the average or 80 CVs per 442 cases. Meanwhile, the CV-PE ratio is 1:0.74 or 80 CVs per 59 PEs. This decline is brought about by factors such as transfer of residence, health problems and family pressure to seek paid work.

Considering the third factor, there are disparities in the manner of recruitment and economic support to CVs, at least in the sample pilot barangays. The CVs in Barangays Duljo-Fatima, Suba and a few in San Roque are unpaid. However, the CVs in Barangays Ermita, Tejero and some in San Roque receive monthly honoraria as GAD Project Officers or Assistants, health workers or employees of the barangay. Such disparity in practices had a demoralising effect among the CVs. During the FGD, CVs of Barangay Duljo-Fatima and Suba expressed sentiments of disenfranchisement because of the lack of economic incentives provided to them, not to mention the unsupportive barangay officials.

The reason for this is that most, if not all, pilot barangays have no appropriation for the operations of the CJC including the work undertaken by the CVs. There are no funds or logistical support extended to the CVs in undertaking their functions. CVs are forced to use their meagre resources to undertake reintegration activities or facilitate referrals (e.g. transportation and food costs).³⁸ CVs in Barangay Suba have already questioned whether their efforts are recognised by local officials and whether they are assured of assistance when necessary. The divisions and factions that resulted from the last elections largely contributed to this disenfranchising situation. Both FREELAVA and the barangay officials need to address the matter if such community structure has to remain in the programme.

This “lack of support” issue of community volunteers against barangay officials have resulted in a negative and alarming practice. CVs of Barangay Suba admitted they resort to soliciting financial or logistical support from “kind-hearted” drug lords and peddlers who reside in the barangay for community education and crime prevention activities. During the FGD, the CVs revealed that they have tapped resources from “friendly” drug

38 FREELAVA allotted programme funds to reimburse expenses incurred by CVs in undertaking reintegration activities or facilitation of referrals. However, the CVs are embarrassed to have a few pesos worth of receipts reimbursed by FREELAVA and are inconvenienced by the system.

lords “supportive of children’s cause” in order to provide snacks for the participants after the conduct of a Peace Seminar organised by the city government. Such a move directly contradicts the principles and objectives of the community-based diversion and prevention programme.

The lack of a continuous and programmatic capacity-building among the CVs resulted in the practice of “prescriptive advising” as a way of counselling the CICL and their families. Counselling is undertaken informally or as a one-shot deal and is devoid of any case intervention plan for the diverted CICL. Due to limited options, it has become handy among the CVs to advise the child and the parents to enrol the child back to formal schooling under FREELAVA’s Back-to-School Program. This problem of “prescriptive advising” can be attributed to the CVs’ limited competence in properly handling counselling and individualised case management.

If CJC mediators fall into the trap of “advising” when conducting counselling sessions during post-mediation, CVs are more prone to such practice as most of them are not trained counsellors. FREELAVA also did not set a minimum educational attainment as one of the criteria in the recruitment and formation of CVs.³⁹ In the latter part of programme implementation, problems were encountered particularly in terms of case status reporting and documentation because some of the CVs cannot read and write.

As pointed out earlier, diverted CICL and their families have developed the tendency to abuse the “benevolence” of CVs. CV Team Leader Sisinia Alcover of Barangay Duljo-Fatima revealed that they have become the source of almost everything that is needed by these diverted children. A number of BTS child-beneficiaries go to her for fares or money for school projects. They even ask her for food when their parents fail to provide for the day’s meal. Moreover, the parents tend to depend on the CVs in facilitating the enrolment of their children sponsored under the BTS program.

39 FREELAVA believes that commitment and dedication, which ordinary citizens often possess, are more important to community volunteering than educational qualifications. Professionals would find difficulty committing their time because of other priorities (Interview with Antonio Auditor, 2/6/04).

Organising and Formation of Peer Educators



Photo by Michael Amendolia, 2003

Strengths and Gains. Peer educators or PEs are important conduits of CVs in preventing child offending and reoffending. Through peer education/counselling, PEs are able to impart positive reinforcements to diverted CICL and to children at risk of offending. They act as “models” of behaviour change and inspiration to avoid imprisonment, as they themselves are living testimonies of how hard life is inside detention centres. PEs are either released child offenders from detention centres or CICL diverted at the community level. At the start of the programme in 2002, a total of 88 PEs were recruited, organised and trained.

The peer education approach serve a number of purposes. First, the conduct of peer education contributes to the prevention of child offending and reoffending of diverted CICL. As peer teachers and guides, PEs encourage and motivate other CICL or children at risk of offending to stop or veer away from drug abuse, vices and other forms of offending or reoffending; and to reform their lives. Supervised by the CVs, PEs invite and mobilise these children to participate in peer education sessions conducted at least once a month. In these education sessions, PEs counsel other children to become aware of drug abuse, the negative implications of offending as well as of their rights as children. PEs also share their “prison” stories to fellow

children to emphasise how hard life is in jail. As such, they are able to warn and provide lessons to fellow children about incarceration as a potential consequence of offending. Because the PEs act as role models for CICL and other children at risk of offending, they thus encourage other CICL to change and become productive and acceptable to society.

During the FGDs, PE Bryan Rivera of Barangay Tejero explained that as a PE, he teaches and guides other children to a life away from crime and towards becoming acceptable to the community. Aware of the plight of CICL in the city and elsewhere, Bryan continues to carry on his task with a sense of personal “mission”. Despite the difficulty of the work, he strives to utilise his capacities for CICL and other children to veer away from offending.

Second, PEs serve as a mechanism for referral for CICL needing assistance. Because PEs undertake personal, one-on-one peer counselling to CICL, children at risk of offending or those who are diverted, it becomes easy for these children to ask for help from the PEs. CICL would also feel safe and secure enough to confide his/her problems to PEs. Bryan stressed that CICL would feel uncomfortable, embarrassed or afraid when they confide to adults. The PEs also serve as “bridge” for CICL and other children to participate in sports activities organised by the SK and barangay officials or to seek counselling and other forms of assistance from GAD officers or CJC members.

Third, the peer education approach has become an effective means for a former-child-offender-turned-PE to be fully rehabilitated and reformed. Because they are handling small group discussions, PEs are now considered as leaders and role models in their communities. PE Jetry Uy of Barangay Suba stressed that he accepted the role of PE because he wanted to change himself for the better and keep himself busy while helping other children stay away from drug abuse, vices and offending. He is grateful for becoming a PE because he now has the consciousness and capability to change. Most PEs claimed they now have high respect for themselves as fellow children and adult community members regard them as leaders, models and symbols of reformed lives. As PEs, former CICL are able to regain their self-esteem because of the respect they earned from barangay officials and other community members.

A number of positive attributes confirm the PEs’ change in behaviour and these are the following: (1) They learned to show respect to the elderly in the

family and to the rest of the adult community members; (2) They became conscious of staying away from committing offences; (3) They actively participate in community work such as the barangay cleanliness drive; (4) They willingly respond to small errands and requests from neighbours such as in cleaning the streets; and (5) They gained consciousness and have developed a sense of responsibility to help other children stay away from offending and reoffending. Bryan realised that by “being good,” community members are readily willing to help when a child gets into trouble. Conversely, most community members tend to be mean to someone who continuously committing offences.

Fourth, the PEs acknowledged that they have gained some competencies because of the programme, especially in terms of their social skills, which they would need as they move on with their lives. Having undergone training on leadership and team-building, group facilitation and public speaking, PEs narrated that they now have the courage and capability to: (1) Convince or persuade children to stay away from offending; (2) Mobilise children to attend discussion sessions; (3) Counsel CICL and children at risk; and (4) Manage the entire peer education sessions. PE Michael John Avenido of Barangay San Roque said he learned to become child-friendly, which would enable him to reach out to CICL in his barangay and persuade them to change their ways.

Across the pilot barangays, there are pockets of PE initiatives that are worth mentioning. Unlike other PEs, Bryan has initiated various activities to effectively carry out his tasks as a PE team leader in Barangay Tejero. He conducts peer education sessions not less than 20 times a month and monitors intensively the children whom he has counselled. Bryan has also learned to manage his peer education sessions effectively. Identifying the interest of the target CICL/child at risk is his entry point for soliciting the latter’s participation in peer education sessions. By word of mouth, other children would follow so long as their interests are met. Bryan varies the activities or topics he undertakes during these education sessions according to the different interests of his CICL participants—from basketball and sports, Bible sharing and catechism to academic tutorials. Through donations and personally won prizes, this eighteen-year-old boy uses reward systems and incentives such as prizes and snacks in order to sustain the interests of his participants. Bryan said he plans and conducts these activities on his own without the support or supervision of the CVs, CJs or FREELAVA.

Weaknesses and Limitations. Most of the PEs are out-of-school youth and to date, 67 percent or 59 PEs have remained active. Majority of the other 33 percent relapsed or reoffended and are considered recidivists. Several PEs, because of their age, were discouraged to enrol back to either elementary or high school. As mentioned earlier, formal educational assistance is the best rehabilitative measure FREELAVA could provide at the moment. Thus, because of the lack of other rehabilitation and reintegration activities available in the communities, these PEs become less motivated through time. At the backdrop of this situation are other factors that aggravate the pressure of PEs to reoffend. These include the following: (1) The proliferation of drug trade in the communities; (2) Peer pressure; (3) The prevalence of dysfunctional and economically unprepared families; (4) Child abuse, neglect and domestic violence; and (5) The “culture of offending” or culture of violence learned by formerly-detained-peer-educators from hardened criminals during their stay in prison. These situations, which are common in all pilot barangays do not provide the PEs ample environment for them to rectify their negative ways and recover from a life of crime.

In a follow-up FGD that was conducted, a number of issues and problems were raised by some PEs. First, they complained that most of the plans they developed remained only in paper. This is why most of the PEs became inactive and a number of them relapsed or reoffended and eventually imprisoned. PE Team Leader Winston Almoguera of Barangay Suba declared that they now seldom meet because CVs who are supposed to monitor and convene them are themselves inactive and this could be because both FREELAVA and the pilot barangays lack funds to support the PEs’ planned activities. Second, the continuing education for PEs is not undertaken by FREELAVA also because of the lack of programme funds. PEs agreed that they need reorientation and retooling/skills upgrading for them to perfect, if not, improve their capabilities in organising and group facilitation, peer education, peer counselling and referral. Third, the PEs echoed the need for an office inside the barangay hall solely for their use for the conduct of meetings (so they won’t have to meet in the street corners), and to receive and attend to CICL who seek their assistance. Fourth, PEs need some form of identification like an ID card or uniform so CICL and the public can readily recognise them. These two preceding issues indicate that PEs have become conscious of their right to full participation in the programme. Lastly, PEs have not yet reached the level of empowerment where they can voice out their issues and problems to the CJs and to FREELAVA. In the execution of their functions, most PEs are still dependent on the CVs such

as in the conduct of peer education sessions. In the organisational dynamics of CJs, PEs are left at the margins. PEs are still not aware of the scope of their functions or the different roles of other CJC members.

From a programme management perspective, the effectiveness of the peer approach is difficult to measure. First, the programme did not set quantitative targets as to the number of children the PEs have to convince, influence and monitor. Second, there are no corresponding outcome indicators upon which to measure the effectiveness of peer counselling as a strategy. There are also a number of management concerns which need to be addressed. First, can we correlate peer education/counselling with the decline in the volume of CICL cases in the pilot barangays? While peer education and counselling is contributory to such decline, the PEs, during the FGDs, agreed that it could not be directly attributed to the decline of incidence of child offending and re-offending. There are other variables or factors that should be further studied relative to the decline of incidence of child offending in the 12 pilot communities, as follows:

- The impact of mediation on the child (e.g. verbal warning) and the corresponding settlement agreement or undertaking he/she has to comply with;
- The physical and psychological benefits of monitoring and follow-up of diverted CICL undertaken by CVs;
- The tangible and intangible benefits of formal educational assistance provided by FREELAVA under the BTS Program and direct services component of the community-based diversion programme; and
- The effects of community-based prevention activities or the *pulong-pulong* to parents and other community members, among others.

The second management concern that needs to be addressed is about measuring the benefits of the peer approach. There are at least three factors that have to be addressed for PEs to become effective. Continuing education and skills development should be foremost on the list. Unfortunately, this is what is lacking in the programme as mentioned earlier. Second, adequate support and incentives (non-monetary) should be provided so as to keep PEs active especially those former CICL who are out-of-school. Third, PEs need an adequate rehabilitation programme for them to fully change their negative ways for the better and improve their competencies towards productive and independent living.

Training and Capacity Building of Programme Actors

Strengths and Gains. Training and capacity-building is provided to all programme actors. As of 2003, programme actors in all the pilot barangays have undergone at least two to three training courses provided by FREELAVA (See Table 5.5) to equip them with the knowledge, skills and attributes necessary for the exercise of their functions. A comprehensive assessment of the performance of the different programme actors aimed at measuring the effectiveness of training and capacity-building was, however, not undertaken in the study because of time constraints and its exploratory nature. The fact that community-based diversion is gaining ground at the barangay level proves that training and capacity-building reaped some gains such as the following:

- The decline in the number of CICL cases in most barangays suggests that community education and diversion is working;
- The growing consciousness among CJC mediators to strike an amicable settlement with the complainants suggests a deepened understanding of the importance of mediation in community diversion to avoid the process of prosecution, litigation and eventual incarceration;
- “Counselling” sessions undertaken by CJC mediators facilitate a reflective process where the CICL feels remorse, admits his/her offence and asks forgiveness from the victim; and
- The growing child-friendly culture in the pilot barangays and positive behaviour change among CJC mediators and CVs towards CICL also suggests a positive effect of the training provided.

These evidences are, however, inconclusive. A comprehensive study or evaluation concerning training and capacity building has yet to be carried out.

Table 5.5 Total Number of Programme Actors Trained, 2003

Training and Seminars	Programme Actors			Total
	CJCs	CVs	PEs	
1. Gender and Child Sensitivity Seminar	77	-	-	77
2. Psychosocial Intervention Seminar	107	108	-	215
3. Paralegal Training	-	118	-	118
4. Training on Mediation/Negotiation and Conflict Management	61	-	-	61
5. Seminar on Diversion and Restorative Justice	71	-	-	71
6. Seminar on the Barangay Justice System	53	-	-	53
7. Leadership Training	-	-	58	58
8. Facilitators Training	-	-	56	56

FREELAVA's varied linkages and network provides the programme with a rich pool of trainers as well as cheap training venues. Its trainers come from the City Social Welfare and Services (CSWS); City Department of Interior and Local Government (DILG); Family, Juvenile, Gender and Development Division of the Regional Philippine National Police Office (FJGADD-RPNPO); the Commission on Human Rights (CHR); the Regional Trial Courts (RTCs); and the City Prosecutors Office (CPO).

Weaknesses and Limitations. The absence of certain performance measures such as outcome indicators makes the assessment of the effects or impact of training and capacity-building difficult. This is one weakness of the programme.

The development of competency among programme actors is not programmatic. Training needs of programme actors have to be periodically assessed so that FREELAVA can develop new training modules and other appropriate forms of training interventions. During the FGDs, CJC mediators admitted that much has to be learned on effective counselling, psychological diagnostics and child and family assessment. The application of social work principles and tools (e.g. case study and case management) has to be provided to designated members of the CJC if the barangays or the programme cannot employ social workers. The limited funding and the lack of competent staff who will focus on training and human resource development are factors that contribute to this weakness.

While CJC members, CVs and PEs reiterated that the training and seminars provided by FREELAVA helped them perform their roles and functions satisfactorily, they admitted the need for continued and advanced education — the necessary reorientation, retooling and an introduction to new laws and procedures related to children and CICL such as the latest Supreme Court rules on the administration of juvenile justice. Moreover, PEs admitted the need for additional inputs and skills development relative to their work on top of the limited training they have undergone. Continuing reorientation and retooling is needed as a number of PEs remain incapable of handling and leading peer education sessions.

Community Education and Support Building

Strengths and Gains. Community education sessions or *pulong-pulong* became an important means for consciousness-raising among parents, residents and community members on the importance of community-based diversion and the prevention of child offending. These education

sessions have stimulated the interest of a number of receptive parents (e.g. in Barangay Carreta) to become volunteers because of perceived broader community benefits. The programme staff also reported that some sectors of the different communities are now collaborating with CJC members and CVs in prodding former CICL to participate in some activities in the pilot barangays (FREELAVA 2004:15).

Weaknesses, Issues and Limitations. It is observed that most pilot barangays lack measures to prevent child offending or programmes that can help divert the attention of children at risk and those who have been diverted from offending. The Peace and Order Committees of some pilot barangays are inactive in crime prevention and barangay councillors are uncooperative for fear of reprisal by armed drug traders. This was the reaction made by CJC members in Barangays Duljo-Fatima during the FGD on the rampant problem of drug trade and gang wars involving children. CJC members revealed that *shabu* trading in Barangay Duljo is like “NFA rice” sold in long queues and are selling like “hot cakes”. No less than 36 *shabu* dealers operate in Barangay Duljo-Fatima. Despite the anti-drug campaign all over Cebu City through the PNP’s *Oplan Pakigsandurot*, *shabu* drug trade simply comes and goes. While there are arrests by the police from time to time, these *shabu* traders have a very effective, systematic and intricate web of protective networks both at the barangay and the police precincts. The CJC members reported that in Barangay Duljo arrests seldom happen because drug traders pull out before the police sets foot in the community. Weak law enforcement is also the case in Barangays Ermita and Suba and thus, drug trade and selling of volatile substances like rugby are not completely eradicated.

This strategy of educating the community about diversion and prevention of CICL becomes ineffective if the problem of rampant drug trade is not curbed because of weak law enforcement. At the very least, programme staff have observed that this strategy of community education has not raised the level of consciousness among parents and other community members. Most CJC members agreed that their education drive has not saturated the sample barangays. This is, again, because of the limited funds to conduct community education sessions. All BCPCs in the sample barangays are inactive and have no funds to intensify programmes for the prevention of child offending and the general protection and welfare of children. It was also observed by the staff that the current communication and education strategy used is very limited to counter or at least stabilise a very well-entrenched, deeply-rooted problem such as drug abuse and drug trade.

In all sample pilot barangays, the factors are common. Most CICL are children of poor and dysfunctional families. According to most CJC members, these families are uncooperative with the programme. These parents compel the CICL to commit offences or deter diverted CICL from full rehabilitation and reintegration because they are indulged in vices like *shabu* or gambling. Some parents lease their houses as drug dens to earn and this is common in Barangays Ermita, Suba and Duljo-Fatima.

Most CICL are also victims of parental neglect. These parents force their children to labour to earn or to look for food. They are children either of mothers who are victims of domestic violence, of separated parents or of dysfunctional families. They are also neglected by parents who are too preoccupied with their livelihoods. Barangay Ermita CJC Co-Chair Bagano declared that only those parents of CICL who have undergone diversion are supportive of the programme. Despite repeated sessions of community education, Bagano is wary if their audiences participate only for the snacks, as support from most community members of the programme is almost nil.

Policy Advocacy and Network-Building

Strengths and Gains. FREELAVA has earned a stature of being a recognised lobby group in the City of Cebu. It sits in the Cebu City Commission for the Welfare and Protection of Children (CCCWPC) with an official participating agency status, having a similar function and level of a commissioner (Interview with Sonia Empinado, 18 May 2004). Currently, FREELAVA is lobbying for the inclusion of community-based diversion in the Cebu City Children's Code. If successful, the pilot barangays will have the legal basis to pass ordinances instituting the CJC and the allocation of local appropriation for its plans and programmes⁴⁰ (Interview with Antonio Auditor, 2/6/04).

As an official participating agency of the CCCWPC, FREELAVA was able to mobilise city government resources as reflected in the 2004 CCCWPC Work and Financial Plan as follows:

- Php 162,000 (US\$ 2,987.28) for Post-Release and Reintegration Program for CICL involving 100 former CICL in *Balay Pasilungan*;

⁴⁰ In LGU legislation, an ordinance has a stronger force in terms of execution as compared to a resolution.

- Php 90,000 (US\$ 1,659.60) for Paralegal Aid Program for CICL presently detained in Operation Second Chance to involve 200 former CICL; and
- Php 260,000 (US\$ 4,794.39) for Child Rights Advocacy Program for Street Families in Barangays Sto. Nino and Kamagayan involving 100 parents of street children and 100 street children.

FREELAVA was also appointed by the CCCWPC (Cebu City Commission for the Welfare and Protection of Children), to head in monitoring the performance of the BCPCs citywide. Activating the BCPCs provides a strong advantage for the CJC as it complements and integrates the programmes of the CJC such as rehabilitation and reintegration of former CICL. Through the years, FREELAVA has gained a solid network for children's concerns and child rights advocacy through the CCTFSC (Cebu City Task Force on Street Children) with at least 16 NGOs and 13 coordinating government agencies (Etemadi 2000:74-75). With FREELAVA's vast network of resources for training, referrals, technical assistance and partnerships for its community diversion programme, it is able to proactively lobby for local legislation and build networks and linkages for the improvement and complementation of its children's programmes.

Weaknesses and Limitations. FREELAVA has not been able to fully maximise the resources of its network especially for referrals and programme partnerships for possible rehabilitation and reintegration of CICL. Skills and technical training programmes of the Technical Education and Skills Development Authority (TESDA) and the Don Bosco Technical School, among others were not explored. FREELAVA admitted that the enormous tasks involved in the rehabilitation and reintegration of diverted CICL vis-à-vis the volume of cases were not considered very well during the conceptualisation of the programme (Interview with Antonio Auditor, 2/6/04).

The inactivity of the BCPCs in most pilot barangays hinders the implementation of reintegration plans of CJC for CICL undergoing diversion including prevention activities. Policy advocacy at the barangay level remain weak in terms of mobilising local officials to activate the BCPCs and to lobby for the passage of local ordinances for fund appropriation for the BCPC if not for the CJC.

In terms of issue advocacy especially on the plight of CICL and its programme on community diversion, FREELAVA needs to improve its

communication and social marketing strategies in order to popularise the issue and include it as an agenda in children's rights advocacy aimed at generating broader support.

Gaps in Programme Implementation

Based on the FGDs with CJsCs and CVs, Peer Educators, and the Programme Staff, the following are the identified gaps in programme implementation:

Community-Diversion Process

1. In the implementation of the programme, nothing has been done to the victims and complainants. Literatures on restorative justice point to the concept of restoring the harm done through the offence, i.e., developing the competencies not just of the offender but of the victims' and the community's as well. This is one area, which the programme has overlooked or was silent about.

Programme Strategies and Approaches

2. There is a need to intensify the popularisation of the issue of children's justice at the barangay as well as in government agencies, NGOs, and the broader civil society. This could be done through community education on the plight of CICL and the community diversion programme. This is to widen support for referrals, rehabilitation and reintegration activities, legislative lobbying, budget allocation from the city government, and other forms of resource mobilisation.
3. Resource mobilisation from local sources has to be maximised. It is observed that the 5 percent GAD Fund, the 20 percent Barangay Development Fund, and the 10 percent SK Funds were neither properly tapped nor utilised for CJC operations or for reintegration and socialisation programmes of diverted CICL. Most of the CJC members and supportive barangay officials do not have the capacity or knowledge of how to tap this fund for CJC use. CJC members admitted that they are discouraged to plan out activities for the programme because of the lack of funding and political support. According to its 2004 Annual Investment Plan (AIP), Barangay Duljo-Fatima, for example, allocates 20 percent of its Barangay Development Fund, which is Php 625,758 (US\$ 11,538.96), for "Clean and Green" Projects and the purchase of furniture and office fixtures. In Barangay Suba, the GAD Fund was only accessed in 2004 for a leadership training for diverted CICL. This reflects the lack of priority given to the entire diversion programme.

4. Corporate philanthropy has not been fully explored by many NGOs including FREELAVA. Funding always comes from Northern NGOs or from multilateral/bilateral aid agencies. There is a need to source out funding from corporate endowments and foundations (e.g. Consuelo Foundation) and other international human rights and peace institutes (e.g. Sasakawa Foundation) not only for direct programme services but also for human resource development, technology development (e.g. counselling, psychological diagnostics), and scaling up concerns (e.g. programme expansion and policy advocacy).
5. To strengthen and sustain the programme, skills transfer and continuing competency development especially among the duty-bearers have to be intensified within the pilot barangays. Knowledge on children's justice and mediation of CICL currently revolve only around a few members of the *Lupon* or the GAD officers.
6. FREELAVA needs to embark on a programmatic competency development among the programme actors. It is already proven that a one-shot deal training and capacity building programme is not effective especially with this kind of programme where the results are highly intangible. Continuous and tight monitoring on the effectiveness of training modules have to be undertaken so that appropriate, customised and timely interventions can be delivered to programme implementers.

Programme Management

7. The issue of targeting vis-à-vis absorptive capacity of programme actors and staff and the efficacy of performance is very crucial. Discussions with CJsCs, CVs and programme staff indicate the difficulty in monitoring the status of different CICL after diversion. Rehabilitation and reintegration programmes are not provided comprehensively based on the need of the CICL and the conditions of their families because of limited resources both in FREELAVA and the barangay. All actors agree that the process of community-based diversion does not end on mediation and preparation of the settlement agreement. As emphasised in previous chapters, reintegration, rehabilitation and other psychosocial interventions comprise the bulk of the work on children's justice if only to minimise reoffending of children. Quantitative targets in diverting CICL cases need to be set to allow intensive follow-up, quality case management and personalised psychosocial interventions. This is particularly aimed at effecting positive behaviour changes among CICL.

8. The programme lacks sound monitoring and evaluation system especially clear monitoring indicators that measure the qualitative success of programme performance, the effectiveness of strategies and approaches as well as the overall impact of the programme. The following examples point to this argument:
- How has community education or the *pulong-pulong* sessions been able to raise people’s consciousness for children’s rights, parental responsibilities, and prevention of child offending? At this point, its direct effect on the growing consciousness of community members about community diversion and the plight of CICL could not be measured.
 - Is there a correlation between the decrease of CICL cases/ apprehension and peer education/counselling? How effective is this strategy to prevent child offending and re-offending? What is the premium of the peer approach?
 - If one of the aims of community diversion is to effect behavioural change among diverted CICL, how is this measured?
9. The formulation of sustainability plans to further strengthen and institutionalise the programme at the barangay level is still to be worked out by FREELAVA and its partner barangays. For example, it is observed that much of the CJs still depend upon FREELAVA in conducting meetings, planning and assessments. The passage of a local ordinance to provide budgetary allocation to CJC operations remains lacking.
10. The competencies of FREELAVA programme staff also need to be enhanced.⁴¹ The current staff has no academic background in social work, psychology or other related fields. They were hired because of their previous experiences from other similar programmes of FREELAVA either as paid staff or as volunteers. The only training they acquired were those provided by the programme. Competency development should also include a “wellness” programme for the entire FREELAVA staff to deal with issues of work overload, morale boosting and job satisfaction, and to help prevent burnout of personnel.

41 Refers to the programme staff during the time of documentation. Since 2001, the programme has already experienced three waves of staff turnover for various reasons.

11. The need to include documentation work in the plan of FREELAVA programme staff. This should be done regularly and be consolidated monthly. It should also be part of the learning process where the programme staff gathers insights from their experiences in the 12 pilot barangays.

6 Remorse and Reformation: Coming to Terms with Themselves and Their Families Through Community Diversion

This chapter presents five case studies of children in conflict with the law describing their family and community contexts, their personal circumstances and their experiences of contact with the children's justice process at the community level through the implementation of the community-based diversion and prevention programme. This chapter describes in detail the overall process of community-based diversion work – apprehension/detention, mediation and diversion as well as reintegration from the experiences of interviewed child offenders. This chapter also provides a first-hand account of the effects of community diversion work from the perspective of former CICL, their families and programme actors who were involved in the process. The places, time frame, events and circumstances described in this part are authentic. However, in the interest of confidentiality of information and protecting the integrity and rights of children and other persons involved, the names which appear in this part are all fictitious.

JONATHAN

“Di man mi love sa among Mama. Kay kung love pa mi niya, di unta siya mohawa. Nya tarong unta siya nga ginikanan. Di ‘ta niya bunalan akong Manoy ug ingon ato. Kanang mga inahan, ila ra unta nang sultihan ang mga anak kay dagko na god... dili bunalan (Our mother does not love us. She shouldn’t have left us if she does. She should have been a responsible parent. She shouldn’t have beaten up my elder brother like what she did. Parents should only reprimand their children, not beat them up!).”

Victim of Difficult Circumstances

Jonathan was apprehended by the security agents of a department store in downtown Cebu City. He was brought and detained for a night in a holding cell of a youth centre. It was a dreadful experience for him — trying to sleep alone on the floor on a cold and dark night while mosquitoes kept him awake the whole night. The place is infested with cockroaches and the toilet was appalling. His case – shoplifting two sachets of bath soap at the Colonnade Mall to pay off the Php21.50 (US\$0.40) he borrowed from his peers who were already “seasoned” shoplifters.

Born on 8 June 1989, 14-year old Jonathan is not the stereotypical untidy street child wearing tattered shirt or short pants. During the interview, he was very neat and was wearing a branded shirt. He is intelligent, responsible and serious in life. His answers to the interview questions were, in fact, impressive.

Jonathan is a victim of difficult circumstances. He was born to parents who cohabitated from 1978 until their separation in 2003. Jonathan is the third of five children. His father and mother are both in their late 30s now. Jonathan and three of his siblings live with their father in Barangay Tejero while one brother's twin is in Manila with their grandfather. His mother now lives with a relative in another barangay and is said to have been dating someone else for quite sometime. While still together, Jonathan's parents frequently fought over his mother's irresponsibility and abusive character.



Photo courtesy of SC-UK Philippines Programme, 2005

Barangay Tejero

Poverty Forced Him to Quit School

There was a tinge of sadness in Jonathan's voice when he talked about having to quit school in the middle of the school year in 2003 because his parents could no longer support him. His father, who only finished the sixth grade, works as a labourer/carpenter earning Php150 a day (US\$2.77). However, the work was irregular and the meagre income was only enough for the family's subsistence. Hence, his mother could no longer extend the family budget

to cover the children's education. Even in public schools where education is supposedly free, students are still required to pay miscellaneous fees as well as to shoulder the expenses for course projects.

Jonathan's mother used to work as a junior supervisor in one of the appliance centres in the downtown area but she also earned very little. Presumably, she is better off than other rank and file employees but Jonathan complained that he never saw his mother's money ("*Wa gyud ko kakita ana iyang sweldo.*"). He said that despite her earnings, she always asks his father for money.

Jonathan was enrolled at the Florencio Urot Memorial High School in Barangay Mabolo, some 1.5 kilometres away from their home in Barangay Tejero. He walked to school early in the morning and sometimes without having breakfast. Then he walks back home for lunch under the scorching sun. Once, he said he blacked out because of hunger and became temporarily deaf. On rainy days, he goes home dripping wet. He is not given money for food or for transportation. Despite this miserable condition, Jonathan still hopes to continue his studies.

He has always been proud of his brother, Mike, who was an honour student in elementary school. Even if Jonathan did not make it to Grade 6, he was an honour student in Grades 4 and 5. His favourite subject is science and he loves school because he believes he can learn so many things in school.

An Abusive Mother

"Our mother used to hit us very often," Jonathan said. "She beats us badly and nags us all the time. She is loud." These are some of the reasons why his father asked her to leave the house.

One evening in May 2002, Jonathan and Mike strolled around the neighbourhood. It was about 9:00 PM when they got back home. Their father was at work that night in Casino Filipino in uptown Cebu City and they were left with their mother. For no clear reasons, their mother did not allow them to have supper. Jonathan and Mike had to go to their grandmother's house to ask for food. When they went back home, the house was locked and their mother wasn't there. Jonathan said their mother frequently leaves the house when their father is not around.

Jonathan returned to his grandmother's house with the viand she gave them and he was crying because they did not have any rice. To be able to eat that

night, he and his brother went to a wake in the neighbourhood chapel. Jonathan and Mike spent the whole night in the wake.

The following morning, their mother hit him with a clothes hanger for not sleeping at home. “It was an alibi,” Jonathan said. She had to appear before their father and blame the fault on them instead. “She hit us when in fact she did not feed us nor let us in. We only had biscuits and coffee for dinner,” Jonathan contended.

Every morning, their mother wakes them up with a broomstick soon after splashing water on them. She used to beat them up everyday. Sometimes, Jonathan would hide under the table to escape her beatings. She always makes the children do the household chores while she wanders around the neighbourhood. The children eventually stopped telling their father about the abuse because he never believed them. Their mother always put the blame on them. When the abuse worsened in late 2003, the couple separated.

At that time, their mother hit Mike in the leg with a thick broomstick, injuring him. The boy could hardly stand after the beating and there were marks all over his body. Mike’s boss gave them some cash for medical check-up but the family did not have the money for hospitalisation. Instead, they gave him Lactopafi, a liquid dietary supplement, hoping it would cure him but to no avail.

Jonathan’s father became so angry that he finally asked his wife to leave the house. “*Hawa diri! Sige kag pamunal diri, saba-an pa ka* (Leave at once! You are not content with nagging the kids you beat them like animals!)” His father also complained that she easily runs out of money. Jonathan explained that his mother has no peers, no vices, no drug habit and she was also not seeing anyone. She was just a difficult mother and they could not understand her. Even after Mike recovered, she still attempted to hit him every time she was angry with him.

Financial Problems

Until early 2003, Jonathan worked for the manager of Casino Filipino as a bodyguard and personal assistant. Though this job was permanent, he continued his carpentry work during the weekends. His work for the casino paid well and he also received tips. Despite this, the family remained cash-strapped.

Often, their father comes home either very late at night or very early in the morning and immediately remits his income to his wife. The next morning, this money would already be spent and Jonathan's mother would usually say that the money was used to pay their debts or to buy some things. Jonathan said they do not have a television, refrigerator or even a radio. They only have a cheap ceiling fan, kitchen utensils and a mini-burner. Jonathan and his siblings often did not have enough to eat and their parents frequently quarrelled over this matter. Eventually, their father stopped working at the casino so he could watch over the children.

Jonathan confessed that he was not happy with his mother and that he doesn't miss her. Jonathan pointed out that to miss her would mean missing the beating, nagging and empty stomach.

Peer Pressure, Shoplifting and Detention

One afternoon in September 2003, two of Jonathan's friends, Boy (16 yrs old) and James (15 yrs old) asked him to go with them after school to wander around downtown Colon St. Boy sniffs rugby and steals to maintain this vice. James is not into rugby-sniffing but he also shoplifts.⁴² "Seasoned shoplifters and pickpockets, these two boys steal items from shops and then sell these afterwards. They operate in department stores like Metro Gaisano, one of the busiest department stores in downtown Cebu City.

Jonathan has been previously warned by his father not to go out with these two boys because he knew their gimmicks and vices. Besides, Jonathan himself did not like hanging out with them. That afternoon, however, he was persuaded by the two to hang out with them. To pay the Php21.50 (US\$0.39) that he owed them, Boy and James instructed him to shoplift, assuring him that he would not get caught owing to their own shoplifting experiences. Jonathan once borrowed Php21.50 (US\$0.39) from the two boys to buy some viand because their mother left them only with cooked rice and his father was not around.

Persuaded by his peers to steal at the Colonnade Mall in downtown Colon St., Jonathan was left alone inside the mall while the two waited outside. He took two sachets of bath soaps as instructed by the two boys. Unfortunately, the in-house security agents caught him. He was bodily-searched and then

42 Locally, to shoplift is referred to as "mangabog."

silently brought to one of their offices. According to Jonathan, there were plenty of photos of shoplifters inside the office.

The two arresting agents and the store manager asked him why he shoplifted. Then, the arresting officer took his statement and recorded his case. Jonathan said he cried and felt so dispirited. He prayed to God that he would be released but the store manager instead ordered him to pay for the goods he stole. He had no money to pay so he was held inside the room for three hours. Nevertheless, he was not harmed by the mall security.

At around 6:00 P.M., he was brought by the arresting officers to a youth centre. He was received by the centre's personnel, interviewed and detained in a holding cell. The city government has forged an agreement with business establishments to turn over to the centre any child caught shoplifting inside their premises to divert the case instead of filing charges against the child offender in court.

Jonathan said he cried when he was all alone in the dark holding cell with plenty of mosquitoes. He said it was like a small jail with no iron bars but with concrete flooring and interlinked barbed wires all over. He was temporarily held for a day and spent the night in the holding cell from 6:30 PM until the following afternoon at 2:30 PM. He said it was dreadful and that there were so many mosquitoes that he worried about the possibility of catching Dengue Fever. He cried all night because he could not stand the itch of mosquito bites. He said there were also cockroaches all over the place and the toilet smelled bad. There was no bed and no blankets so he slept on a discarded carton box on the floor.

Though he was provided food — fish and *kan-ong dukot* (burnt rice) for supper, Jonathan could not eat well. He complained that the food was limited, unsanitary and was a joke. He said there were nails, roaches and lizard in the food. He pointed out that the lizard was probably an accident but he vowed that the nails were intentionally included in the food. He said he and other child residents had these in their plates. "*Kita ko'g lansang sa akong kauban. Daghan man sad nisulti sad diha* (I saw a nail in my seatmate's plate. Many child residents also told me about it.)" Jonathan said either the server or the cook put those in the food.

The following morning, he just slept inside the cell waiting for his aunt to claim him. He was not transferred to a decent room. Other friendly child residents gave him a blanket as the cell has plenty of mosquitoes even during the day. He did not eat breakfast and lunch very well because he did

not like the food. For breakfast, they were given fried *dilis* (small dried fish) and rice while stir-fried vegetables with a little pork and rice were served for lunch. No snacks were served at the centre. Jonathan also complained that water in the centre seemed to be unclean.

At around 2:00 PM the second day, his aunt arrived to claim him. Upon the instructions of his father who was then at work, his aunt settled Jonathan's obligations at the Colonnade Mall. She paid about Php 40 (US\$ 0.73) for the shoplifted items based on the original price of the items at about Php20 (US\$0.37) each. Pursuant to the agreement between the city government and the business establishments, settlement of obligations on shoplifted items are to be paid according to its original value instead of ten-times worth its price as practiced by most business establishments prior to the agreement. Jonathan was finally released at around 2:30 PM the following day.

Diversion at the Barangay Level

It was almost 4:00 PM when Jonathan was brought by her aunt to the barangay hall for another round of diversion and counselling sessions. CJC member and GAD Focal Point Person Mary Jane Mondejar handled the diversion and counselling session along with Jonathan's grandmother, who is also a Community Volunteer of the community-based diversion programme. They took his personal profile using the CJC Intake Sheet and asked him about his offence. They warned him that if he commits the same offence, he could be detained at the Operation Second Chance, a residential facility for juvenile offenders established by the city government in 2003. He learned that the facility is far from the city and houses several notorious boys (*maldito*). Jonathan asked forgiveness from his grandmother and the attending CJC members.

The mediation process did not take long. After the verbal warning, the CJC made Jonathan sign the covenant form. "It was a promise not to do the same offence," he said. For his diversion programme, he was given the obligation of cleaning the barangay hall building for two hours once a week for five weeks. This was also stated in the agreement and Jonathan considered it punishment for the harm he did. Right after mediation, the CJC instructed him to clean the hall. His grandmother and her colleagues in the CJC were so happy that they celebrated his release from the centre by giving him snacks after he cleaned the hall.

This experience made Jonathan realise the wrong he has done and he vowed not to do this again. His detention at the centre partly traumatised

him. Without these experiences — detention, mediation and diversion, Jonathan could have been tempted again by his peers to shoplift.

The evening after the mediation, Jonathan asked forgiveness from his family especially from his father and grandparents and promised not to commit the same offence. He said he felt ashamed of what he has done especially before his family and relatives. His father became so angry he almost grabbed Jonathan's neck when they saw each other. His father warned him that he would break his neck the moment he shoplifts again. "*Uwaw lagi* (It was so embarrassing!)" Eventually, Jonathan was forgiven by his family and he had a decent meal that evening.

Lessons and Realisations

Jonathan does not want to think about his experience anymore. He admitted his mistakes and promised to not commit another offence. When asked if his mother's neglect pushed him to do such misconduct, Jonathan said that he blames neither his parents nor his experiences with his mother. He said it was entirely his fault. His problems came one after another during that time — he was not eating well, his father had no permanent job and his mother was not there for them.

Jonathan regretted his actions, saying that it is better to stay away from crime and that every misconduct always has a consequence. He is now careful not to reoffend knowing his father would be very angry and could be cruel if he loses control (His father beat them up with a belt buckle once). Jonathan also realised that he has to stay away from reoffending or he will suffer the contempt of and be despised by his grandmother and relatives.

He now stays at home and helps in the household chores. He accompanies his grandmother and helps her in the barangay hall when asked. Jonathan is also not allowed to stay outside whenever his father is at home and can only get out on certain occasions. He now hangs out with well-behaved and trustworthy classmates, playing with computer/video games in the neighbourhood at Php1 (US\$0.02) a game. His former peers, Boy and James, were already taken by their own families and relatives and brought to Australia and Canada, respectively.

From these experiences, Jonathan said that he learned the following: (1) The importance of reforming; (2) That regret comes in the end if one does not change; and (3) Reflection and prognosis are very important before doing something.

According to Jonathan, when he starts his own family in the future, he would guide his children so they would stay away from drugs and other vices. As a parent, he would warn his children not to get used to staying out in the streets, as children would be exposed to vices easily and get addicted to these. Once into it, he said children would take their studies for granted and their attention would be diverted away from it. They would become envious of the things they would see outside and develop greed for money.

Dreams and Ambitions

Jonathan dreams of being a nautical engineer. In the next school year, he will be enrolling at the Tejero Night High School where his other siblings are also enrolled. After leaving school in November 2003, Jonathan spent time assisting in carpentry work, sometimes earning Php100 (US\$ 1.83) for a day's work.

Jonathan argued that nobody is stupid and that all it takes to succeed is diligence and determination as well as heeding what is good and right. He strongly denied being a troublemaker. He is neither into vices nor into substance abuse. To become a nautical engineer, Jonathan said, he has to take his studies seriously and make this his first priority. However, this would depend on his ability and on how lucky he would be. He is sad that his father could no longer afford to send all five of them to college. His grandfather is already financing one of his brother's education in Manila.

Jonathan is Now Happy

Jonathan's father is currently engaged in odd jobs, mostly carpentry. He and three other siblings are currently staying with their father. One of his brothers will be enrolling in 1st year high school while their only sister will be in 3rd year in high school in the coming school year. Meanwhile, their brother in Manila will also be entering 1st year high school.

Mike, Jonathan's eldest brother and best friend, has to go back to 2nd year high school. He quit school after that injury his mother caused him. Mike, however, can now walk and has worked already for two weeks at the Tejero Elementary School under the summer job programme of the city government. He cleans and assists in the library and earns Php200 (US\$ 3.66) a day. He also does errands and other menial jobs at the barangay hall.

When his father goes to work, they are left on their own in the house. Mike or their sister take care of the other siblings. Jonathan admitted that he can eat a decent meal now. "It is nice to be with our father. I am happy with him," Jonathan confided.

RONALD

At age 17 in 2001, Ronald dropped out of first year at the Don Carlos A. Go Thong Memorial High School, a public high school in Barangay Duljo-Fatima in Cebu City. His family was then in a very tight situation and his parents could no longer afford to finance his studies.

His mother said they tried their best to send him to school but Ronald often drops out of school. Eventually, his father did not want to send him to school anymore. Ronald is disheartened by his parents' inability to provide money for his expenses in school. Ronald explained that without money, he could not comply with the required school projects. A school project usually costs around Php200 (US\$3.66) and not having this meant failing a subject. Even if the Don Carlos Go Thong Memorial High School is a public high school, there are still some fees that parents have to pay for the enrolment of their children.

Family Conditions

Born on 4 December 1986, Ronald is the third of five children, two of whom are married and one eloped. Three of the children remained with the couple but two of them actually do not sleep in their parents' house.

Ronald's family survives on his father's meagre income of Php100 (US\$1.83) a day from selling spices at the Carbon Market. Ronald's father consigns (*angkat*) goods from various traders and sells these to customers. At other times, he does carpentry jobs in the neighbourhood and earns a maximum of Php200 (US\$3.66) a day. His mother attends to the children and does all the housework such as cooking, cleaning and washing the laundry.

Stretching a minimal budget is a very difficult task. Ronald's mother explained that her husband's income is good only for basic subsistence. His additional income from his carpentry jobs could barely last for a week. If he gets lucky and earns big during the week, the money is usually used to pay-off the family's loans. This means always cutting down on the budget for food. As carpentry jobs are irregular, the family goes hungry most of the time. Ronald's mother admitted that food is very scarce in the family. "*Tagsa ra mi mokaon sa usa ka adlaw* (We eat only once a day)." Without any savings, the couple often resorts to asking for help from relatively stable relatives whenever one of the family members gets sick.

Fire hit Barangay Ermita for the second time on 28 April 2002. The family's home at the second floor of a two-storey house that is owned by a relative was burned down during that incident. At the moment, Ronald's family is staying with his father's brother in Ermita Proper because the couple has no resources to construct a new house. Ronald's parents built a makeshift room beside the house of Ronald's uncle. His mother laments that the room is so small it could not accommodate all her children at one time. Hence, Ronald and his younger sister have to sleep in their grandmother's house, which is quite a distance from their makeshift abode, while the youngest sleeps with the couple. The two practically live away from their parents and so they could not check on them especially at night. Ronald and his sister are free to merrily wander around the streets till early dawn with their respective peers.

Street life and Peer Pressure

Ronald started going out with friends at age eight and considered it play. At 14, he began hanging out with peers and eventually engaged in rugby-sniffing and other acts of misconduct. The first time he was invited to sniff rugby, he refused but on the second time, he tried it out of curiosity. Ronald liked it and was eventually hooked on it.

After quitting school, Ronald started to wander around a lot. Together with his peers who are also out of school, Ronald delights in wandering at night sniffing rugby or taking shabu when finances allow. Ronald admits to rugby sniffing but says this is not frequent. Peer pressure is the main reason why he is into it. He said he was tempted by his peers.

His mother recounts that Ronald used to be meek. He became different when he started hanging out with bad company. They come to the house and invite him to go out. She said she nags them but Ronald is so hooked with his peers and their vices that he no longer listens to his parents. His father often gets angry with him and even beat him up once.

When asked what he gets from being with his peers, Ronald became momentarily silent then he smiled and laughed. What motivates these young people to sniff rugby is the "trip" or the high they get. "Trip-trip' *sad ba*," Ronald quipped. "Trip" is an old drug addict jargon which means "to travel" mentally as an effect of hallucinogens, stimulants or sedatives. The word has now evolved to mean liking, gimmick, revelry or anything pleasurable especially for the group. Often, such sessions are done along the seaside area of Barangay Ermita.

“There is ‘power’ in rugby sniffing,” Ronald said, explaining that power is anything that comes into the mind. The chemicals contained in rugby release toxic vapours or fumes, which when sniffed or inhaled could induce various conditions ranging from slight stimulation or excitement to loss of consciousness, intoxication and eventually harming the central nervous system. The immediate effects of these chemicals are distortion of perception of time and distance, aggressive behaviour or violence, confusion or disorientation, nausea and vomiting, hallucination and illusions (Rilloma 2003:29). Aggressive behaviour, distortion of perception and hallucination more likely constitute the rugby-abusers’ concept of the “power” they experience.

Ronald’s mother compared her son’s experience with that of a young neighbour who is also into sniffing rugby. According to her, this boy once called his mother “Mama Rosalinda” when he was high on drugs when she’s named Berta. At that time, “Rosalinda” was the main character in a popular Mexican soap shown in the country. Ronald’s mother stressed that this is the kind of “power” that rugby-users refer to. She denied that she could no longer take care of her children and said that it is Ronald who defies them and enjoys going out with his peers.

Ronald and his peers indulge in at least one rugby-sniffing session a day and to complete one session, they need many “doses of rugby. In Barangay Ermita, Rugby is sold in 12” x 7” plastic bags with approximately one tablespoonful of the substance for Php1 (US\$0.02). According to Ronald, they need at least two to three plastic bags of rugby to acquire good “power”.

The evils of rugby, however, do not end there. Ronald said that he and his peers sniff rugby before going out to steal. During the day, Ronald and his peers spend most of their time wandering inside the Carbon Market. Often, they strike at the *ukay-ukay* (second-hand clothing) shops or at the fruit stands. “*Morag kabuang lang god!* (It is just for fun.)” Ronald claimed. One of them poses as a dummy customer who pays for whatever he gets while the other one shoplifts. Another trick is to pay less than the price of the item taken. Stealing is their way of maintaining their vice but Ronald never admitted to having stolen anything by himself despite the probing.

Ronald’s peer group is composed of 10 members, which includes a boy named Diego who was shot by an enemy in retaliation for their mauling of a young person in a disco. Ronald claimed his group split-up since then and other members moved to Lapu-Lapu City.

Offending, Apprehension and Detention

In 2002, when Ronald was 15, he and his peers were apprehended by the Barangay Tanods for violating PD 1619 or the illegal use of volatile substances. There were 20 of them who were caught in a rugby session. Though they were mediated by the CJC, they were locked in the barangay hall detention cell for five days. It was Ronald's first offence and according to him, he wept inside the cell. They were not given food and had to beg the Barangay Tanod to release them. Yet, weeks after their release, his peers returned to their vice. Ronald boasted that he no longer got caught afterwards.

Other factors that drove Ronald to a life of misconduct were boredom and idleness. Without recreational facilities in the community, young people are easily tempted to engage in vices and mischief. Since Ronald's family does not own a television, he goes to their next door neighbour to watch the television. Most of his time is spent by simply hanging around. Sometimes, Ronald spends time singing at the videoke⁴³ or gambling. At other times, he washes his clothes.

Enjoying the night with his peers, Ronald's group deliberately annoys the roving Barangay Tanods by shouting at them, "*Barangay Tanod pisot!*" *Pisot* is the local term for uncircumcised, which is also used to mean cowardly. Ronald said they love to hang around at night, talking to each other. They purposely wait for the curfew hour to strike and when it does they shout at the roving Tanods, infuriate the poor fellows and make them run after them. To the group, this is fun. Whenever they are caught, they resist and push the Tanods away.

One night in 2003, Ronald, together with four other peers, was again caught by the *tanods* for violating the city curfew ordinance. Barangay Ermita strongly enforces the city curfew ordinance because of the rampant drug trade. Curfew hours start at 10:00 PM and end at 5:00 AM the following day. They were locked and detained for the night inside the barangay's detention cell. This was Ronald's second offence.

43 A device that plays instrumental accompaniments for a selection of songs and displays the lyrics of the song on a television, to which the user sings along.

The apprehension was friendly and humane. As soon as they were caught, Ronald and his peers were held by the hand. No one resisted. They were transported by the tanod's mobile car to the barangay hall. Immediately, their cases were recorded in the blotter. They forced the Tanods to release them but the latter held them tighter. Ronald said the group remained calm and no one cried.

They were detained in the cell like packed sardines. Ronald said that it was so hot inside the cell they could not sleep. Ronald's mother was looking for him that night when he did not show up at home. When she found out that he was detained in the barangay hall, she brought him food. She was angry with her son but was happy about his imprisonment saying it was time to teach him a lesson.

Diversion and Remorse

The following morning, Ronald and his friends were released for mediation by the CJC. During the mediation process, they promised not to reoffend while the CJC warned them not to commit another offence lest they be detained again. In response, they promised to stay away from committing other offences and from reoffending. Ronald signed the covenant form formalising his promises. He asserted that his signing was an honest and faithful act. He was proud that he was no longer detained after this.

Ronald continues to hang out with peers but no longer mocks the barangay tanods. He is now aware that such an act is embarrassing. He realised that mocking persons in authority would not do him any good. He said he no longer sniffs rugby following his diversion but when probed further, he admitted to doing so at most once a month.

Ronald argued that the mediation/diversion process helped him. During the mediation, he was counselled by the CJC not to commit the same offence and was pardoned. Ronald's case was so slight he was not even made to do community service. Nobody from among the CJC though was able to check on him or visit him after the diversion process. Ronald showed remorse for what he has done but he is faced again with his old problem-idleness.

Plans, Dreams and Ambitions

At 17, Ronald is now planning to apply for work. He thinks he can now be hired in a dried mango factory like the one in Lapu-Lapu City for a daily wage of Php160 (US\$2.93). He is also thinking of going back to school if he finds financial support. "*Kung paeskwelahon ko, moeskwela ko* (If I'm sent to school, I will go to school.)" Otherwise, he will go on working.

He was reminded of CJC Member Marichu Matas' offer for educational assistance under the Back-to-School Program of FREELAVA. He actually wanted to know at the time of the interview if the offer still stands. His mother supports his intention of re-enrolling so he can stay away from his peers. Ronald has already participated in FREELAVA activities because he is being groomed to become a peer educator/facilitator. He was recently invited to a children's summit, which he gladly accepted. According to him, several CICAL shared about their struggle with vices. They had drama sessions as well as lectures. Ronald said he enjoyed the activity because many children came to participate. He said the activity helped him cope with his boredom.

Ronald's only dream is for his family is to eat well, at least more often than their usual once-a-day meal. He said he would be content with being a bagger in a department store to earn. After his diversion, Ronald worked as an errand boy for a neighbour in Barangay Ermita. He now earns Php100 to Php150 (US\$1.83-2.74) but not on a regular basis.

Lessons, Realisations and Challenges

Ronald learned many valuable lessons in life but the change in him did not come easy. He seldom goes out with his peers now. He is now aware of the effects of rugby sniffing to his brain. Ronald is proud to say that now he could say "No" to his friends. Whenever his friends indulge in rugby-sniffing, he just watches them and waits.

More importantly, Ronald admitted his guilt about offending. Based on the interview, he has realised that his actions were wrong and unjust. He has seen his parents struggle to earn a living so they could eat while he revels in vices. He realised that it was wrong to spend what his parents gave him on rugby.

Shame also manifested in Ronald's words. When told that with the first two siblings in the family getting married, he is now the eldest among the three remaining siblings and should therefore be the most responsible, Ronald said such realisation is also the reason he now longs for a regular job. At the same time, he is hopeful about the offer for educational assistance from FREELAVA. Ronald knows that by going to school, a better future awaits him.

Ronald recognises the benefits of the diversion process. Without it, he could have been detained in BBRC or in Operation Second Chance. Ronald now wants to change. He has been good to the Tanods and has

been observing curfew hours. He realised that there is always uncertainty in the life of a child offender. “*Ambot lang kung unsa na kahay nahitabo kung wala na* (I have no idea what would have become of me without the diversion process).” The challenge Ronald currently faces is taking on the process of healing and eradicating the community’s stigma on CICL. While he did not hear adversarial stories about the diversion process around the neighbourhood, the fact remains that he has been labelled as a child offender who experienced detention. “*Ay napriso na bataa* (That kid has been detained)!”

Wanting to effect change in his life, Ronald also faces the challenge of helping his 15-year old younger sister to reform. His sister hangs out with male peers, drinks alcohol and is also into rugby-sniffing. Their father frequently beats her up because of her vices. Ronald once punched his younger sister after she refused to go to bed one evening as it was already past bedtime. She has no record of offences yet in the barangay hall.

Like his younger sister, Ronald was beaten by their father because of vices and misconduct. Ronald, however, does not hate his father because he knows he was at fault then.

RICHARD

Richard is street-smart, mature in his thinking, mischievous in the way he talks but acts kind-heartedly. He arrived half an hour earlier than the scheduled interview. Two hours later, he was already in a hurry because he still has to cook the pork intestines he got for helping prepare the *lechon* (roasted pork) for the annual fiesta of their *sitio*.

The Family’s Living Condition

Richard lives with his parents and five other siblings in the house of his 68 year-old maternal grandmother. His maternal grandfather passed away the year before the interview due to heart and kidney complications. Their house is already old, dilapidated and in need of repairs. It stands on a lot owned by an absentee landowner who is not asking for any rent from the family.

Born on 19 March 1988, Richard was 16 years old at the time of the interview. He is dark, thin, and stands 5’ 7”. Richard is the second of six children, the eldest of which is of a different father.

Richard's father has been a labourer even before marrying his mother. Until after a month before the interview, his father worked as a labourer at the Ludo and Luym Corporation, which is the biggest coconut oil mill in Cebu and in the Visayas. He lifts heavy loads of goods — sacks of flour and large tin cans of cooking oil — on his head or back from Ludo's private port to the delivery trucks. He is paid on a piece rate basis (*pakyaw*) with no benefits — Php1 (US\$0.02) for a sack of flour and Php60 (US\$1.10) per 100 tin cans of cooking oil. His daily earnings depend on the number of delivery trucks they are able to fill. On the average, he earns Php90 to Php100 (US\$1.65-1.83) a day, paid on a weekly basis. Richard's father said he could earn as much as Php1,600 (US\$29.26) a week during peak seasons but this could also dive to as low as Php300 (US\$5.49) when deliveries are slow.

However, the Ludo and Luym Corporation shut down its operations to pre-empt the labour union's announcement for a general strike scheduled earlier. The regular plant workers, drivers and machine operators asked for a Php 20 (US\$ 0.37) salary increase from the management. The Ludo and Luym Corporation, however, is no longer at its prime. It used to export coconut oil and copra meal to different parts of the world but now, it buys coconut oil from other milling companies in the province and refines it for the local retail market instead of milling its own coconut. It has diversified its business — importing flour from China, Korea and Thailand and repacking it for the local retail market. Ludo and Luym has lost its once lucrative coconut milling business and this is the major reason why the company could not give the salary increase the labour union demanded. When the company shut down its operations, Richard's father lost his work.

Meanwhile, Richard's mother earns a little through providing manicure, pedicure, haircutting and other beauty care services. She learned the skill from a beauty salon in Manila and in Cebu City where she used to work before getting married. Since she does not have a beauty parlour, her customers from around the neighbourhood usually go to their house for the services. She asks for Php25 to Php30 (US\$0.46-0.55) for a haircut, Php50 (US\$0.91) for hair dyeing, and Php80 (US\$1.46) for hair dyeing with haircut. Beverly has one regular customer in Barangay Labangon who calls on her for home service at least once a month and she's happy about this because she is assured of food for the family. Her earnings are, however, so irregular that Richard said there are days when they go hungry.

Nevertheless, without any assurance that her husband will get back to work and also encouraged by her previous workmates, Richard's mother is already thinking of applying as a beautician in a recently opened beauty

and massage outlet in the City. She laughed when she was talking about not having money to pay for identification pictures and to use for transportation during the training period if ever she gets hired.

Like any other urban poor family in the area, Richard's family is always financially hard-up. Now that his father is out of work, his mother said it is difficult to even meet the family's most basic of needs such as food. In fact, their eldest brother cannot enrol in his second year in college in the coming school year because they could no longer afford it. They are hopeful for him though because he is intelligent. "He got two gold medal awards in a chess tournament when he was high school, one from the Don Carlos A. Go Thong Memorial High School and another in a Milo⁴⁴-sponsored chess competition. He also got a gold medal award in men's basketball also from high school. I wanted Richard to follow the footsteps of his eldest brother but it seems he has no interest in chess," his mother proudly said.

Richard's mother candidly admitted her family's dependence on her mother especially when she starts receiving her pension. She said they have acquired a huge loan and the pension may not be enough to pay for all of it.

Going to School, Peer Pressure and Shoplifting

In 2002, Richard finished Grade 6 at the nearby San Nicholas Elementary School at the age of 14, two years later than usual. He said he was already into a *barkada* or peer group then but was not yet into vices. For him, peers are simply for companionship.

In June 2002, Richard entered first year high school at the Don Carlos A. Gothong Memorial High School some few meters away from home. Unlike in elementary, Richard found it difficult to handle the peer pressure in high school, which were mostly negative influences. He said his classmates tempted him to cut classes to hang out in the city. He said he was led to believe that it would be better to quit school so he did quit in October of 2002.

"My parents did not reprimand me after I quit schooling. I left home without notice and went to my uncle in Sitio Nazareth, Barangay Tungkop, Minglanilla."⁴⁵ Richard's parents searched for him and were only informed

44 A chocolate energy drink product of a multinational corporation, which sponsors local sports training and competitions.

45 A coastal community in a rapidly urbanising town some 15 kilometres south of Cebu City.

of his whereabouts by a relative. Richard admitted that he shoplifted food items at the Gaisano Metro but did not admit to being arrested.

Richard used to be a good boy according to his parents. They think he started to become mischievous when he was 10 years old and in the fifth grade in elementary. Richard learned to hang around the downtown area with his peers until he learned to shoplift. His shoplifting spree intensified when he entered high school. His mother said Richard attends “school” together with his classmates at the Gaisano Metro Mall in downtown Colon St. Every now and then they would be surprised to discover that Richard has plenty of briefs, a new wallet, a compact disk, and plenty of money. “He was so mischievous and it upset me (*Bugoy ba. Makalagot.*). He was just so fortunate he was not caught by the security guards inside Gaisano Metro,” his mother said laughing.

Shoplifting is not just what Richard learned from the streets. According to his mother, he also learned to snatch from a peer, a noted snatcher in the barangay who already died. During school hours, Richard and this friend would hang-out at N. Bacalso Avenue snatching caps from passengers inside public utility jeepneys. “He could even tell which is original and which is not. He can easily get hooked with peers and enjoys going to places,” she added.

From October 2002 to March 2003, Richard stayed with his uncle in Minglanilla, helping in their slaughter business. He also fetched water and did errands. He accompanies his uncle in the latter’s frequent trips to Bohol to slaughter hogs especially during Christmas and fiestas. For this, Richard receives about Php50 to Php70 (US\$0.91-1.28) from his uncle depending on how good are the transactions.

After five months, Richard decided to go back home. “I missed my family very much.” However, because he had nothing to do at home, Richard found new peers again from the neighbourhood. This time his vice worsened.

***Shabu* and Theft: A Deadly Combination**

Right after Richard went back home in April 2003, he started taking *shabu* out of curiosity and peer pressure. “I just wanted to taste it,” he said. *Shabu* is so rampant in Barangay Duljo-Fatima, it sells like hot cakes. “I was tempted by a friend,” he said.

The friend he referred to is 21 years old and is also from the same community. This friend is now detained at the BBRC after being arrested in 2003 for *shabu* use. This is in violation of RA 9165 or the Comprehensive Dangerous

Drugs Act of 2002. Whenever this friend has money, he invites Richard to a *shabu* session. “I have no idea how it would affect me but it surely made me feel good,” he added. “Taking *shabu* makes you feel physically alert and awake. It conditions the body and gives you stamina.” Richard kept on giggling as he continued narrating this story.

In Duljo-Fatima, a one-and-a-half deck of *shabu* costs Php150 (US\$2.75). For a non-earning youth such as Richard such money could not be found easily. With Php75 (US\$1.28) in his pocket, Richard has to find someone to share half of the cost of one session. “It would be annoying if there would be many (participants). It would be also boring to do it alone,” he said. *Shabu* is usually sold by decks or packets each worth Php100 (US\$1.83).

“You will not feel hungry! (*Dili gyud ka ganahan mokaon!*),” Richard said. *Shabu* users are thin because they don’t feel like eating. Their bodies are very active and they stay wide awake even at night. Richard further explained that by taking a deck and a half of *shabu*, he can stay awake for 20 hours. “That is why I was so thin before,” he said.

Like any other drug abuser, “trip” is the main motivation. There is nothing much to do in the community except to wander around — spend the whole night hanging out in the neighbourhood, watching people staying up late and playing *video karera*, an illegal gambling machine similar to slot machines. As *shabu* inhibits the body from longing for food, *shabu* use could also be Richard’s way of escaping hunger.

After his 21-year-old friend was arrested, Richard had to fend for himself to maintain his vice. His parents learned that Richard found a job in the world of drug trading as a “runner” or one who accepts orders from and delivers the goods to customers waiting in street corners outside the community where most drug lords reside. They literally run to bring the cash to the trader and the goods to the buyer. For each deck of *shabu* they deliver, they are paid Php10 to Php20 (US\$0.18-0.37). Tips from customers add up to his daily “income”.

His parents often scold and beat him because of this but Richard never listened. Instead of being monitored, he monitors his parents during the night. According to his father, Richard went out of the house once at 3:00 AM while all the family members were asleep and attended to some customers in the street.

Because of his vice, Richard took on a more daunting but riskier offence. He eventually moved from shoplifting at the malls, snatching caps in the highways or being a *shabu* runner to engaging in theft and robbery.

At around 1:00 AM in October 2003, Richard stole an LPG tank and school shoes from an aunt's house, which was three houses away from theirs. A widow in her 40s, this aunt is the wife of one of his mother's cousins. Richard confessed that he needed a good shot that night so together with an older man he just met at the *video karera* stand, Richard climbed up the fence and took the LPG tank worth not less than Php2,000 (US\$36.65) and a pair of his cousin's sports shoes. Richard, however, insisted that he was on his own. "It was good enough that I did not bring a partner or else my partner would also have ended up in big trouble," he said.

Richard sold both items for Php500 (US\$9.16) to a drug lord who lives in the community. He then bought two decks of *shabu* worth Php100 (US\$1.83) each and took the remaining Php300 (US\$5.50) cash. "I craved for *shabu* that night. I had to steal. That is how it is to be in a vice." He said he also wanted to stay awake that night to play *video karera* until 5:00 o'clock the next morning. This was Richard's first theft case since he indulged in *shabu* he emphasized that it was merely for fun.

At a young age, Richard has learned the corrupt culture of the underworld. When asked to reveal the identity of the drug dealer, he said, "I do not know the drug dealer. It is up to the barangay officials or the police to arrest him."

Invitation, Mediation and Diversion

The morning after the incident, relatives were already looking for Richard because of the information pointing to him as the suspect. Another of his mother's cousins reported the incident to the barangay hall and had it recorded in the blotter. Richard was then invited by the *tanods* to the barangay hall to respond to the filed complaint. The invitation was very friendly — he was simply brought to the barangay hall for questioning.

"Nang Delia (his aunt) cooks early and eventually found out she already lost her LPG tank. The tank was still half full," Richard said giggling. "Nang Delia was so angry with me, she beat me up and I got bruised. I told them the truth that I took the LPG tank and the shoes. It would be difficult to lie when they have witnesses."

Meanwhile, his father feared that it was Richard who stole the items, knowing that he did not sleep in the house that evening. When he learned that

morning that it was indeed Richard, he gave up on his son. He wanted the boy imprisoned as punishment and for him to reform. Both his parents were so angry with him and so embarrassed that he victimized his own relatives.

At around 9:00 AM, the mediation was called by Lupon member and CJC Chair Jovita Padilla but the mediation started late because Richard's mother was hesitant to come and his father has already gone to work. Richard's parents wanted him to be imprisoned right away but CJC Chair Jovita Padilla, who handled the mediation, explained that the suspect is a child and should not be incarcerated at once.

Eventually, his mother came to the mediation process after several invitations by the Barangay Tanod that day. His aunt was also present together with her brother-in-law. Richard said the witness was around during the mediation and pointed to him as the thief who lifted the tank to the other side of the fence.

Admitting his fault, Richard said, "I knew the guy. He was our neighbour. I confessed to have stolen the items. I told them to stay calm and sober because we can still recover the LPG tank." He said he had to admit that he was into *shabu*. He said stealing is not impossible when one is into drugs. "It became part of my 'trip'. I had to steal." Richard laughed when he said this. His story infuriated his aunt. "You could have stolen from the others but not from us!" she exclaimed.

He had to ask for forgiveness from his relatives particularly from his uncle in recognition of his authority as one of the owners of the ancestral house that he stole from. He said, "Forgive me uncle. I will not do it again (*Pasayloa lang ko Tiyo uy, dili na lagi ko mousab*)." His relatives forgave him but not without a slap in the face. The victims were convinced by the CJC not to file charges at the police station because Richard is a minor. Instead, he would undergo the diversion process. The victims, however, insisted that the stolen items be returned.

Richard was relieved that he was forgiven by his relatives. "It is okay now. They have forgiven me. I really felt bad after all that I have done. Honestly, my parents told me that I already stole things when I was still small. I was mischievous in a way. I grew up with it. I realised it is wrong. I would not do it anymore."

That day police officers from Precinct 11 came over to recover the stolen goods from the drug dealer. The Barangay Tanod escorted Richard as he watched the police confiscating the items.

As part of his diversion programme, Richard was instructed to attend the Peer Education sessions and FREELAVA meetings with the community volunteers and CJC; and to do errands for them. During the 2004 Sinulog Festival, a Mardi Gras celebration in Cebu City honouring the feast of its patron saint, Richard was one of the barangay's contingent to the dance contest. "Those activities helped me reform. These people guided and facilitated my rehabilitation. They told me that these things could help put my life back in order, which will benefit my family as well. As I listened to the discussions, it made me realise my wrongdoings. It (referring to the diversion programme) was good because it has helped me a lot. I am fine now."

Richard is hoping that he could be enlisted in FREELAVA's Back-to-School Program, which will commence in June 2004. He is always present whenever there are meetings conducted and is always excited to listen to new things during these meetings.

Fearing for His Life

"I have changed now since the mediation. I have no more record with the Barangay Tanod and people in the barangay hall now believe in me. I do not have to brag about it. What is important is that I have changed for the better (*Ang akoa mag-usab man gyud ko*)."

Richard, however, was forced to stay out of the neighbourhood and live with his uncle in the province because he fears for his life. The drug lord who bought the stolen good was arrested and imprisoned because of possession of *shabu* and firearms. "They were very mad at me. I cannot go back to the community's interior because the drug lord's men would kill me. I am afraid now to wander inside the community's interior. Sometimes, I just stayed at home." Richard learned that the neighbours of the arrested drug dealer got angry with him after he brought in the police during the recovery operations.

His father said they also fear for their son's life. He warned Richard the drug lord's men might try to get even with him. Richard promised his father that he would no longer not to wander in the interior area of the community.

It is common in the depressed areas of Cebu City, especially where pockets of drug syndicates operate, for community members to "support" and take part in the information network of drug lords and traders as well as in its protection. In situations of abject poverty, some families in dire need yield

to distorted concepts of goodness or kindness of persons involved in illegal activities (e.g. giving commissions or tips to *shabu* runners). In Duljo-Fatima, CJC members declared that drug lords and dealers can easily escape from their homes whenever search operations and drug raids are undertaken by the police. Before the police can even set foot in the barangay's exterior, suspected drug traders have already slipped out of the barangay because of an intricate and established information and communication network among "supportive" community members.

During the interview, Richard revealed how drug lords could easily cut the throats of those who squeal information to the police or shoot them at gun point. "This is also the reason I have to leave for Minglanilla. There I can stay away from vices."

Plans, Dreams and Ambitions

Richard wants to go back to school in the coming school year and is hoping to attend school in Tungkop, Minglanilla where his uncle lives so he could stay away from vices and his peers. "The school is near and there are lots of things to do and enjoy. After school, I could go swimming in the sea, do fishing and pick up sea urchins during low tides. There are a lot of girls also to befriend," he said laughing.

"The problem, however, is that we lack resources to finance my studies. I do not think my uncle would finance my schooling. Perhaps I can only stay with them," Richard said. Although his parents would like to support him, they could no longer afford it because his father is out of work.

When asked about his ambitions in life, Richard was silent for a while and then said that he would like to be a doctor. "I would love to be a doctor because I can help the sick... but that is if I can finish schooling."

After the incident, Richard is in a crossroad. His mother narrated that her boy wants to have a job so he can earn and help meet the family's needs. "Richard is generous and kind. He is not greedy. Of all my kids, he is the most thoughtful. He gives whenever he has the money. Unwittingly, we were kept blinded one time when he told us the money he bought for food was his lucky pot in the *video karera*. I would not condone had I known that what he gave us was from stealing or was *shabu* money." In praise of Richard, his grandmother said that whenever they do not have something to eat, he finds a way for them to have food. She said he usually comes home bringing *puso* (boiled rice wrapped in coconut leaves).

Richard continues to visit his family whenever there are occasions. One day, he brought them seashells and gave his mother money to buy rice.

Realisations and Learnings

“I could be in the BBRC now if I was not mediated by the CJC. I am thankful that I was not imprisoned.” Richard is bent on not committing the same offence and vice. His uncle in Minglanilla convinced him not to indulge in drugs anymore because it can damage his brain. Unwittingly, Richard now learned to smoke and drink after his uncle told him these are fine. He said he only smokes after meals and only drinks socially. He also observed that his health improved when he stopped taking drugs.

“I have to be good now. That is why I had to stay in Minglanilla with my uncle so I can stay away from drugs and peers. I now resist whenever I am tempted to take *shabu*. I indulge in fishing instead. The place seemed like a medicine to me. It cured me. My parents are happy that I stay there because I am fine now.”

Richard confided that he now has a girlfriend who lives near Taboan Market in Barangay San Nicolas Proper but marriage is not yet in his plans. He wants to settle down at 25. When asked what he would teach his children from his experiences, he said, “I will tell them not to take the path I took during my youth. I will not forsake them whenever they get lost.”

TERESA

When the researchers first came to interview Teresa, she was washing the family’s clothes. It was her grandfather’s way of disciplining her for taking five-peso coins in his pocket the night before. Her grandfather was also very angry that morning at Teresa’s mother who left the children to the care of her sister to visit her youngest child who lives in Davao City with her in-laws. The grandfather complained that Teresa’s mother is depending on him too much because she knows that he will always attend to her children.

When asked about the incident that brought her to the barangay hall for mediation, Teresa said, “I was just called. I was asked questions. I told them just about anything.” Upon further probing, Teresa related little by little that she was with her little brother, Henry, who opened up the cabinet of Tiya Ana, took a look inside and closed it back without taking anything.

Teresa: Hungry and Neglected

Teresa is eight (8) years old and resides in Barangay San Roque, Cebu City. She attended school at the Cebu City Central Elementary School but was not able to finish her first grade. Teresa had to quit school because her mother could no longer accompany her to and from school. Her mother goes to Davao every now and then to visit her one-year-old son. Teresa, however, recently went back to Grade 1.

Teresa is the eldest in the family. Her mother is in her early 20s while her father is 35. Her parents cohabitated for years but eventually separated in 2001. According to her grandfather, Teresa's father was an irresponsible man. According to Teresa, her father now lives with another woman and has two children. Meanwhile, her mother now lives-in with another man from Davao City who works as a seafarer in the domestic maritime industry. The couple's first born lives with her in-laws and this is why she frequently goes to Davao City. Teresa's stepfather plies the Manila-Cebu-Davao route, which could also be the reason he makes Davao City his permanent home base.

Despite having a family, Teresa's mother takes part in *shabu* sessions with some peers in the neighbourhood. According to Teresa, she saw her father banging her mother's forehead against the wall because he caught her taking *shabu*. She said this happened before their youngest was born. She believes, however, that her mother still cares for them.

Her grandfather is very mad at her mother particularly because during her recent visit to Davao, she only left Php100 (US\$1.83) for the consumption of her two children for two weeks. "She is so lax in taking care of her children," the grandfather added. Hence, he sent her a message on his mobile phone that morning that said, "With Php100, it's just like you're feeding chickens. Does this mean that your love for your children is only worth that?" He declared that with her current set-up, she is somehow abandoning her responsibilities to her children. Teresa admitted there are times they could not eat. "We have no more money. We were left with Php100 and that is not enough for food."

Plain Mischief but Alarming

At age seven, Teresa has already performed a number of mischievous acts within the neighbourhood, which are alarming and indicative of her misguided conduct. According to her grandmother, Ana, Teresa already committed numerous offences against them. Because they live in the same compound, their houses stand very close to each other. Ana narrated that

Teresa took a potted cactus plant from their garden outside the house and hid it in their house. According to Teresa, however, she just placed it inside their house and watered it.

Ana also complained that Teresa often does naughty things in her kitchen. One morning, a neighbour saw Teresa take her bottle of catsup. She also added that Teresa deliberately spilled her flour and salt and took items from her bathroom. Once, when asked why she took a shampoo bottle from the bathroom, Teresa replied that they used it.

At first, Ana did not mind Teresa's misbehaviours but later on they took the offences as a consequence of their continued negligence. However, Ana was disheartened that Teresa's mother somehow tolerated the girl's misbehaviour.

Teresa also victimised their neighbour, Milagros, who is also a relative of her grandfather. Milagros left 16 bottles of soft drinks in a cooler. One night, Teresa took several bottles, which she and her little brother drank. Her grandfather also had a drink, having been told by Teresa that she bought the drinks from the remaining money her mother gave her. Teresa, at her young age, has already developed a very scheming mind.

In another instance, Teresa was again caught inside a parked public utility jeep at around 2:00 AM looking for coins left inside the jeep. Everyone was surprised to find Teresa still wide-awake at this hour. The fare collector who slept inside the jeep caught her but Teresa was able to slip out easily.

These incidences made the people around Teresa conclude that the girl is a kleptomaniac. These occurrences alarmed the neighbourhood but Teresa was left to her own devices. Her parents, especially her mother, have practically abandoned them. As of this interview, Teresa has not yet been referred for professional help.

These incidences of stealing may partly be due to their always being hungry and to being traumatised by their aunt's frequent nagging. Teresa told Serafin Britania Jr., the Barangay Tanod who invited and interviewed her prior to the mediation, of her aunt's frequent scolding. Serafin said, "Their aunt calls them voracious eaters. She sometimes steals because she needs money to buy food."

Mediated at the Barangay Level

Sometime in April 2004 at around 4:00 o'clock in the morning, Teresa and her younger brother was caught opening up Ana's locked cabinet using a

screw driver. Ana's son-in-law places his car tools in that cabinet. "Perhaps she was looking for toys inside the cabinet. I did not think Teresa knew the contents of the cabinet but it was not her first time to steal from us," Ana said. Her son-in-law told her about the incident the following morning. Ana finally decided to complain of Teresa's offences at the barangay hall so she can be disciplined. "I wanted them to give her some sort of a disciplinary action because her actions have already gone overboard. I wanted her to be changed so she would no longer reoffend." Ana was angry at the child.

Both Barangay Tanod Serafin and community volunteer Luz Sumampong invited Teresa to the barangay hall. Teresa's mother was around the house at that time but responded to the invitation passively. Luz narrated that Teresa's mother still had to put on make up and dress up before she went to the barangay hall. Unknowingly, San Roque Barangay Captain Rogelio Ruizo who wanted to mediate the case was also hurrying up for an urgent meeting called outside the barangay. Hence, he was not able to talk to Tess during the mediation process.

Teresa was terrified, thinking that she will get imprisoned in the barangay hall so she cried hard and would not go outside their house. When Serafin and Luz returned to invite her to come over, Teresa begged them for forgiveness. According to Henry, Teresa said, "Forgive me. We are hungry. Our mother left us."

Serafin and Luz were bent on bringing Teresa to the Barangay Hall so the child can respond to the complaint filed against her. For whatever reasons, her mother did not come to the hall anymore. Instead, she requested Teresa's uncle to accompany the child to the hall with the two CJC members. The uncle and Serafin assured Teresa that she will be safe with them. Calmly, Serafin told Teresa they would help her if she wanted to go back to school. Eventually, Serafin acquired Teresa's trust and she stopped crying. She was then persuaded to go to the hall together with her uncle.

Barangay Captain Ruizo personally mediated Teresa's case. At her age, Teresa's motivation to conform to external rules is based on avoidance of punishment.⁴⁶ Barangay Captain Ruizo considered her offence as purely a mischievous act of a young child. To warn her about reoffending, Ruizo

46 For further discussion see Kohlberg's stages of moral development (UNICEF and OHCHR 2002:207).

frightened Teresa by telling her that he will place her in a big boiling pot if she offends again. Teresa was then brought downstairs where a big cooking pot, used by Barangay Health Workers (BHWs) in preparing food for supplemental feeding sessions for malnourished children, was placed. This caused her to ask if the Barangay Captain is a sorcerer because he feasts on children.

Teresa was not made to sign any covenant form to indicate her offences and obligation. It was enough for the CJC to frighten Teresa to ward her off from committing mischievous acts again. “Do not do it again, or else I will place you in the boiling pot.’ Teresa answered, ‘Yes,’” Ana narrated Captain Ruizo’s warning to Teresa. According to Ana, it was difficult to determine the obligations and accountabilities according to Teresa’s offences because of her stage of psychological development. “Let it be. It would be difficult to put sanctions on her. She is still a kid.”

No Remorse

Nevertheless, Teresa did not show remorse to the neighbours she has offended. When asked if she ever said “Sorry” to Ana or Milagros whom she offended, Teresa simply shook her head in the negative and eventually said that she did not.

At eight years old, it is important for Teresa to develop the capacity to follow rules. Proper parental guidance is highly imperative during this stage of the child’s intellectual development to help her grow with self-confidence in agreement with values such as respect and kindness to others. Due to the lack of proper guidance from, if not, the apparent negligence of her parents, it is sad that Teresa has started to show stubbornness in misbehaving although during the mediation process, Teresa promised Barangay Captain Ruizo and Serafin several times that she will stay away from stealing and other mischievous acts.

Interestingly, Teresa exhibited some signs of progress after the mediation. Both Ana and her grandfather attested that unlike before, Teresa now sleeps early at night. Teresa’s relationship with Ana and Milagros also improved unlike before the mediation when she was so evasive perhaps because she was afraid to be punished. Teresa said, “I can freely play around the compound now. They would not harm me.

Sometimes they ask me to do some errands.” She added that she no longer steals.

The eight-year-old-girl now freely asks for bread from Ana, who told her to ask for food whenever she gets hungry rather than steal anything from her. Serafin, during his interview with the child, offered to give Teresa food the moment she gets hungry. “I told the child to come to the barangay hall and ask for food from my wife whenever she gets hungry. I can see that we can still change the child for the better.”

Justice was Served

“It was just right,’ I thought at that time. I pitied Teresa as she is neglected and needs care. She is my granddaughter. I would have felt guilty if I insisted on imprisoning her.” Ana could not picture out the kind of disciplinary action she wanted Teresa to have from the barangay hall. All she wanted to happen was just to frighten Teresa so that eventually she would reform. Ana could only hope that the parents would make the necessary follow-up guidance on Teresa. The 65-year-old complainant also wanted that Teresa would have a record at the barangay hall of her mischievous act.

“As her grandmother, I wanted to help her while she is still young. That was precisely the reason I filed the complaint in the barangay hall.” The moment Teresa commits the second offence, Ana wanted to see the parents at the mediation process, hold them liable and ask the barangay hall the necessary sanctions against the parents. “The parents must be subpoenaed so they would also be demanded of their responsibility to their children and be made to promise to fulfil their parental obligations.” Ana said she is content with the CJC procedures of pardoning minors who are first time offenders.

Plans and Dreams

Upon learning that FREELAVA can help her go back to school, Teresa became excited. She is hoping to re-enrol in Grade 1 in the coming school year as promised by the CJC members during the mediation. She misses school very much especially the swing and her playmates. Teresa also dreams of becoming a nurse someday.

RENATO

“I am so disappointed with my father. I hated him so much. He indulges in shabu with his peers even if he does not have a job. He keeps on asking money from my mother who earns for the family from vending fish. My mother works very hard so we can eat while he wastes money on shabu. I get angry with my mother every time she nags me but does not reprimand my father.”

“They always reprimand me each time I commit an offence. But I do not listen to them. I am old enough. My father tells me to change my naughty ways but I hate him. We sometimes fight.”

An Irresponsible Father

Renato found out about his father’s *shabu* habit when he was 13 years old but he suspects that he’s been at it long before he was born. “At one time, I was pretending to be asleep in our room upstairs and I saw him take *shabu*. I heard stories from the neighbours that my father was into it but I did not believe them until I saw him. My father’s peers are also *shabu* users.”

At 16, Renato is 5’6” tall, dark-skinned and thin. He wears earrings in both ears, a common fashion statement among the youth in this city. Born on 12 October 1987 Renato is the eldest of four children aged 13, 12 and 2 years old.

The family lives in a makeshift two-storey house at the tip of Sitio Missionaries of Charity, Barangay Suba, Cebu City right beside the seawall. They live there with his mother’s sister and her family, separated only by a piece of plywood. During high tide, salt water flows underneath the bamboo flooring of the house, bringing in the stench of domestic wastes disposed into the sea. The family had to contend with this housing condition after being hit by one of the worst fires that struck Barangay Suba in 18 April 2003.

Renato’s father comes from Bohol. He used to frequent Barangay Suba to deliver and haul fish at the Pasil Fish Market until he eventually moved to Barangay Suba to live there. He had no education and did not even finish Grade 1. Gil scavenged for scrap iron to survive and sometimes had to manually break the ruins of demolished structures (e.g., concrete columns and floors) and cut iron bars for selling. Renato still remembers how he sometimes joined his father in scavenging at the downtown area when he was 10 years old. “After he sold the scrap iron bars, Papa used to give me Php30 (US\$0.55) at the most.



Photo by Glenn Labrado, 2004

Renato's mother grew up in Barangay Sta. Rosa, a coastal community in Olango Island, Lapu-Lapu City. At 12 years old, she started vending fish together with her parents in the Pasil Fish Market. She was only able to finish Grade 4. "I never thought we would meet here and end up getting married. Life in Sta. Rosa was not that hard (as compared to Barangay Suba). Food and water were not a problem. My parents have lands there. Perhaps, destiny brought us here. My only problem with him is his being overly jealous especially when he gets drunk." Renato's mother cried as she poured out her frustrations with her husband.

Renato's father does not have a regular source of income. Except for occasional odd jobs in the neighbourhood such as doing house repairs, he practically depends on his wife to provide for the family's daily subsistence.

Renato's mother continues to work as a fish vendor. Everyday, she leaves the house around 3:30 or 4:00 A.M. in the morning to buy fresh fish at the Pasil Fish Market and then she sells these in the nearby barangays of the city. With only Php900 (US\$16.56) as revolving capital, his mother does not earn much from fish vending. Whenever she lacks capital, she consigns (*angkat*) the fish from the trader and earns a meagre profit after returning

the capital of the sold produce. According to her, it would be hard to calculate the daily profit because most of the transactions in the informal market are done in the form of debts. Payment of sold goods is often done on a fortnightly basis during paydays of employees or workers. With Renato's mother as the sole breadwinner of the entire family, coping with the family's growing needs is getting harder and harder. To supplement her meagre income from fish vending, she does other people's laundry three times a week. Altogether, she earns about Php500 (US\$9.16) in 15 days. This meagre sum, however, is just enough for food and other household expenses including payment for debts they incur from time to time.

What frustrates Renato's mother so much is her husband's irresponsibility especially now that their children have already grown up. Her husband indulges in drinking and in *shabu* sessions with his peers. When he's busy with his peers, he does not even care to cook for the children whenever his wife is out working.

"I always have rashes on my hands because of the endless washing of clothes. My husband is not working and he engages in *shabu*. I kept on praying that God would enlighten him. His children have already grown up and he still depends on me." Renato's mother cried while narrating her ordeal.

Recently, however, Renato's father became interested in helping his wife sell fish. He said he wanted to drive her in a *trisikad* (a bicycle with an assembled sidecar) loaded with buckets full of fish all the way to Barangay Sambag I and Sambag II where most private residences are located. Hence, Renato's mother bought him a *trisikad*, which he never used to her dismay. Instead of driving her to places where she could sell fish, her husband sulked at home and was irritable most of the time. To the family's surprise, he even pawned the *trisikad* for only Php 1,000 (US\$ 18.32), explaining that he wanted a new one because he intends to engage in *trisikad* driving this time. Aside from being erratic, irresponsible and lazy, Renato's father also beats up their mother because of jealousy especially when he is drunk. His father often accuses his mother of having an affair.

"He gets very rude and violent whenever he is drunk. He yells at me asking if I had sex with my lover. If killing is not a sin, I would have stabbed him right away. Renato saw his father beat me when he was small. That was in 1998. Gil still beats me today and threatens to kill me but now I have learned to fight back. I warned him that he could be imprisoned once he does it," she said. According to her, her husband also breaks household wares and other things in the house.

Studying and Peer Life

Renato who turns 17 in October 2004 is no longer in school. After finishing Grade 6 at age 14 from Pasil Elementary School in March 2001, Renato is no longer interested to go to high school. “I got into trouble several times. I was afraid my enemies would take revenge. I was already into gang wars since Grade 6. I had an encounter with our enemies that led me to decide to quit schooling. My mother told me to continue so I can graduate from elementary but I was really afraid my enemies might get back at me one day.”

As early as Grade 3 (11 years old), Renato was mauled by members of another gang. “I did not get the chance to fight back. My eyes swelled really badly. It was so unfortunate. I could not forget him. I will take revenge when I see that guy again.”

A young man from a gang called *Barumbado* or Troublemakers stabbed Renato in the chest with an ice pick. Renato was playing near the community chapel together with his friends while waiting for his girlfriend when suddenly this young man and one of his peers set upon and mauled Renato. Two of Renato’s friends ran away leaving him and another friend to defend themselves. Renato tumbled down after the young man’s fist hit him. When he stood up to fight back, he felt pain in his upper abdomen. Later on, he found out that he was stabbed with an ice pick.

In Grade 5 (13 years old), Renato got into a permanent peer group named USSR or *Utol Sama-Sama sa Rumble* (Brotherhood Together in Rumble/Riot) composed mostly of about 20 out-of-school youths who are into different vices, offences and other acts of violence. His neighbours also call it *Utol Sama-Sama sa Rugby* (Brotherhood Together in Rugby) as all of the peer members also indulge in rugby sniffing, which they often do in the barangay seawall.

Gang wars erupt from simple acts of misconduct. One day, Renato’s peers went swimming in the large column of the South Coastal Road in front of Barangay Suba, which they call Titanic. From afar, Renato’s friends saw other young people in Barangay Sawang Calero and shouted provocative words at them like “fuck you” and “chickens, come here,” which ended in a riot. Asked what pleasure gang riots bring them, Renato said it boosts his ego to be part of a gang. He and his peers were always in encounters with other gangs from neighbouring barangays.

The peer group, however, disbanded after a short while following the death of their 22-year-old leader who was known to be a thief. He was shot by

members of another gang from a neighbouring barangay on the day he scheduled to formalise the gang's brotherhood. Renato said, "I regretted having entered into trouble. I should not have participated into gang wars."

Aside from being in riots and rumbles, Renato's group was also into rugby sniffing, marijuana smoking and *shabu* sessions. A small amount of rugby wrapped in a small plastic bag, which costs Php2 (US\$0.037), is easily available in Barangay Suba. In other areas, it is even sold cheaper at three plastic bags for Php5 (US\$0.09). When one sniffs, the rest of the members follow. Rugby sniffing is usually done near the seawall or underneath the huge columns of South Coastal Road where not many people can see them. Renato claims they indulged in rugby sessions at least four to five times a month. Describing the effects of rugby-sniffing, Renato said, "At first, my nose gets irritated and my head aches. I get teary-eyed. Upon frequent sniffing, my mind gets dull. I often get sleepy." According to him, he is no longer into it. Nevertheless, he has been into *shabu* for two years until the time of the interview. Renato took marijuana and *shabu* at age 14 out of curiosity. Both marijuana and *shabu* are also widely sold in the community. A jumbo stick of marijuana costs Php5 (US\$0.09) while a deck of *shabu* usually costs Php100 (US\$1.83).

On smoking marijuana, he said, "I had a terrible headache the first time I tried smoking marijuana. Food is usually the 'trip' with marijuana. Without food, you end up with a terrible headache." *Shabu*, according to Renato, is good for "physical conditioning". It stimulates the mind and makes the body fully awake and alert. "Like in basketball, *shabu* will make you move faster and be alert."

Like other *shabu* users who are low in cash, Renato shares a deck of *shabu* with another peer and splits the cost for it at Php50 (US\$0.92). Sometimes, when they are given a discount, they could buy a deck of *shabu* for Php80 or Php 90 (US\$1.47 or 1.66) and the remaining Php10 (US\$0.18) is used for renting the house where they would conduct their session. When he sometimes helps his mother in selling fish, Renato gets around Php50 to Php 80 (US\$0.92 to 1.47) from her.

Renato, however, became very cautious in taking *shabu*. While drug dens are rampant within Barangay Suba, Renato and his peers now go to other areas such as Barangay Pahina-Central or Sambag II after being searched by the police in Sitio Magsaysay. "That was terrifying! We were fortunate they only found money on us." Renato admitted his peers steal things to

sustain their *shabu* vice. He claimed though that he has finally stopped from stealing or paying for *shabu*. He said he only takes it when it is offered by his peers for free.

Renato's parents, especially his mother, want him to go back to school but he is no longer interested in going back to school.

First Offence: Accomplice to a Shoplifting Spree

Renato started committing offences against persons and private properties when he became seriously involved in drug abuse. He and his peers needed money to maintain their vices.

One afternoon in 2002, he hanged out with two of his peers because he had nothing to do. They planned a shoplifting spree — stealing bath soaps and shampoos — and did it for fun. Renato watched the incoming customers while the other two did the actual shoplifting, passing the items to Renato for safekeeping. Renato managed to hide two dozens of shampoo sachets in the exhaust of a parked car. Unfortunately, a customer inside the store caught and turned them over to the owner. Renato returned the bath soap while his companions managed to get out of the store with the shampoo sachets. His peers sold all the stolen items for Php 75 (US\$1.38) and then had a drinking and *shabu* session without Renato.

The following day, the store owner filed a complaint at the barangay hall accusing Renato as the perpetrator. Renato denied stealing the items, claiming that he was just a fall guy. At around 8 a.m., a Barangay Tanod came to Renato's house and invited him to respond to the complaint. Upon learning that the complaint came from the store owner, Renato was forced to respond. Renato's mother became so angry with the complainant for accusing his son of an offence he did not commit but she also scolded Renato.

During the mediation process, the store owner asked Renato to pay Php95 (US\$1.75) for the stolen items. According to Renato, he did not want to pay as he did not steal the items. "If she wanted to imprison me, I am not afraid."

CJC mediator, Perlita Baligat, found merit in Renato's defence because a witness testified to seeing Renato being just an accomplice to the crime. Eventually, the store owner was persuaded that Renato be mediated and diverted but insisted that he should pay the stolen items before he can be forgiven.

“I had to ask her apology from Eve (the store owner). I told her, ‘If ever I have the money, I will pay. Please forgive me but honestly I did not steal the items. I just hid the items in the car exhaust. My peers did it.’” Renato promised the CJC mediator to pay when he has then money. Eventually, the complainant agreed and pardoned Renato after the boy asked for forgiveness. One year has passed but Renato has not yet paid the victim even a single centavo.

Second Offence: Grave Threat

Early in 2005, Renato got into trouble again after being suspected of stealing three gas burners from three neighbours — multiple crimes, which Renato claimed he did not commit. He said he slept at around 10:00 P.M. on the evening that the crime was committed.

At around 8:30 the following morning, a young neighbour, who is one of the victims, punched and kicked Renato while the latter was taking a rest from playing basketball. “Immediately, I went home to grab a knife. I ran to his house and saw his father standing. I shouted at him, ‘What have I done wrong to your son? Do not blame me when something wrong happens to him!’” Renato was so furious, he threatened to kill his young neighbour.

Outraged that he was not able to fight back, Renato searched for the young man within the neighbourhood that evening. When he saw him with his friends, Renato threw empty bottles at them and challenged him to a fight. Upon hearing what could have been a potential rumble between the two, a community leader, asked them to settle the matter amicably. They were then brought to the house of the young man whose father happens to be one of the *Lupon* members of the barangay. Danny, the community leader who talked to them, wanted the two to reconcile that night. It has been a practice in the different sitios/blocks to amicably settle conflict at their level to maintain peace and harmony among community members without necessarily bringing the matter to the *Lupon* at the barangay level.

At around 10:00 P.M., both were brought to the barangay hall for another round of mediation. Renato’s second offence was filed at the CJC record book and his case was mediated. “I was afraid then when they brought us to the barangay hall. I had to ask help from Ate Perlita (the one who mediated).” In the mediation chamber, Renato strongly denied that he stole the gas burners but his case was no longer about stealing. Renato was charged with grave threat for threatening to kill his young neighbour.

Perlita counselled both of them. She reminded them that as young men, they have to be well behaved, polite and to keep away from trouble to win the hearts of their loved-ones. Perlita was able to convince the complainant to drop the charges against Renato and to reconcile with him. She also warned Renato not to commit the same offence or he would be brought to jail the next time he reoffends. Renato signed the covenant form and promised not to reoffend anymore.

“I was thankful that Ate Perlita was able to convince him to reconcile with me and drop his charges against me. I was very happy that we reconciled but I still felt that I was at the losing end because I was not able to hit him back. I want to take revenge but I think it is better to make peace after all.” Renato said that he and his young neighbour are now close friends.

Nevertheless, because of the several offences Renato committed against his neighbours, the community now thinks of him as a thief. His mother revealed that whenever something is lost in the neighbourhood, Renato is the constant and immediate suspect.

Third Offence: Renato Threatened to Kill his Father

Renato reached the peak of his violent and dangerous behaviour on March 11, 2004. He threatened to kill his father that night after a very bad altercation between them. Renato became very violent. He admitted he was high on *shabu* that day but refused to further talk about the incident. “Let’s not talk about it anymore. I have already forgotten it.”

Eventually, Renato did talk about the altercation with his father. He said his father asked him to leave the house because he is useless. In response to this, he said “Why, are you important? You did not build this house. Mama did. Did you feed us? No, Mama did. It is her who attends to all our needs and now you want me to leave? Only Mama can decide when she wants me to. Who are you to tell me to leave?” According to Renato, his father replied “And why do you say that? Who are you to tell me that?” Their argument became so heated that Renato’s father told his son, “I wish you dead. Leave!” This so outraged Renato that he threatened to kill his father. He said, “Good. We’ll see who’ll die first!

Renato trembled in anger. “I wanted to kill him but I have to control myself because of Mama,” he said. At that time, Renato was surprised that the house knife suddenly could not be found. He later learned that his mother

hid it. Immediately, his father reported the incident to a certain Barangay Councillor Delos Santos who is also their neighbour. Both parents went to the Barangay Hall to report the incident and to ask help from the CJC.

Moments later, a *Barangay Tanod* invited Renato to respond to the complaint. Renato's parents wanted him to be imprisoned for 10 days in the barangay detention cell to give him a lesson.

Coming to Terms with his Family

During the mediation, the CJC mediator tried her best to reconcile the parents with their son. According to Perlita, the parents kept on asking what she could do to help them. "I told them that I would not meddle in their family affairs but I will try to find ways what could be best for them and their son."

Perlita started the mediation by talking to the parents separately and facilitating their reflection on how they have contributed to Renato's problems. "I told them that a family would not be complete without children. I had to remind them of their joy the moment Renato came into their life. They did not think of killing Renato then so why are they thinking now of rejecting him?" Perlita reminded them that abandoning their responsibilities by putting Renato in prison would not be helpful.

According to Perlita, Renato has needs and problems that he never shares with his parents so she reminded them of their parental responsibilities, which includes finding out about such needs and giving him the kind of attention he deserves. Nevertheless, they still could not understand why he keeps on making trouble in the neighbourhood.

In a separate interview, Renato told Perlita that his parents, especially his father, no longer defend him whenever he is accused of an offence he did not commit. He believes that his parents have given up on him.

"I told the parents that they have to always be open and ready to listen to Renato. Just because the community has stigmatized him, it does not mean he will be judged forever as such," Perlita explained.

The mediation process made Renato's father realise how he neglected all his children. That night the process became a lovely and touching reconciliatory event between the parents and their son. They embraced and cried. Renato admitted that he cried out of remorse and said it was good he was able to

express his frustrations and hatred. “I realised that parents do care and love their children no matter how stubborn and how much of a troublemaker their children are,” Perlita said. Renato’s parents were grateful with the CJC for such a wonderful reconciliation brought about by the mediation.

After the mediation, Renato said he is now at peace with his father. He said, “I am now able to get over with my frustrations with my father. I have drawn closer to him.” Renato’s father has somehow improved on his treatment of Renato. He now looks for him every night and tells him to sleep early. As of the interview, however, Renato was anxious that his father will get drunk again.

Realisations, Reflections and Learnings

“I have to change. It is difficult to always be in trouble. I am tired of it now. It is embarrassing because everybody in the community backbites. They could not understand me. It is embarrassing. I do not want to steal anymore.”

Renato said he has changed. Since his last mediation, he no longer hangs out with his peers and has been slowly veering away from taking *shabu*. “It is like spending my money on nothing. I have to spend at least Php 50 (US\$0.92) for every session. I’d rather save my money,” he said. Renato now smokes cigarettes instead of marijuana or sniffing rugby.

He is very thankful of the CJC. “If not for Ate Perlita, I wonder where I could be right now. Without this mediation process, perhaps, you would have seen me in jail today. Perhaps, I could have been detained at the BBRC. They could have arrested me and immediately sent me to prison. I am very thankful of the Lupon. They find ways to reconcile us and make peace with each other. That’s what they do. I am very thankful because they forgave me despite having been brought here for three times.”

Renato emphasised that he has to stand by what he promised or he will face imprisonment. He has signed the covenant form the third time promising to stay away from reoffending.

Plans and Dreams

Renato does not want to be like his father especially in terms of not having an income and in using drugs. To augment the family income, he plans to drive their *trisykad* (bicycle with a sidecar) as soon as the sidecar is repaired. However, he remains unconcerned about going back to school and prefers

to just drive their *trisikad*. Renato is also afraid that his enemies might take revenge on him the moment they see him in school. He said they might hire other people whom he does not know to maul or murder him.

Renato said he has ambitions but did not want to share it. He just said that once he saves up enough money, he plans to buy a *trisikad*. “It would be better to earn so as not to depend upon Mama. It would be nice to have my own income. By then, I would no longer be nagged by my parents.”

Should he have a family, Renato said he would not want his children to follow in his footsteps. “I would guide them to take the correct path,” he said.

7 Conclusion and Ways Forward: Making Community-Based Diversion Work for Children in Conflict with the Law

The phenomenon of children in conflict with the law in Cebu City is growing primarily because of worsening poverty conditions. As parents become increasingly consumed with making both ends meet or despondent and hooked on vices, parental neglect and domestic violence become more and more common in many poor communities. Etemadi *et al.* (2002) argued that children in conflict with the law (CICL) in Cebu are by-products of dysfunctional families, peer pressure, early exposure to drugs, criminality, and pornography in the communities.

In the absence of a comprehensive and humane children's justice system in the country, CICL are similarly treated with adult criminals under the formal criminal justice system whether at the level of the barangay or the police. They often have to go through the rigours and the harshness of apprehension, investigation, litigation and eventual detention. It is in these processes where the rights of CICL are often violated because duty-bearers are either unaware of or refuses to recognise these rights. Most child offenders also do not know their rights as CICL.

FREELAVA intends to cut such processes by instituting a mechanism that administers the disposition of CICL cases and prevents them from entering the formal judicial procedures and eventual detention. Community-based diversion is the process where CICL cases are administered by the barangay justice system with the end goal of settling the case amicably, restore the harm done as a result of the crime, and provide the CICL with programmes that will help them rehabilitate and reintegrate into the community and make them productive citizens of society.

For the past two years of implementation in 12 pilot barangays in Cebu City, community-based diversion has been gaining ground in the reduction of CICL cases, proving that it can really work. There is now an emerging culture of child rights sensitivity and a generally supportive policy environment for children's rights in the pilot barangays. Data from Focus Group Discussions (FGDs) and case studies suggest that there is also a growing understanding among child offenders and their parents of the benefits of the process. Following mediation and pardon from the victims,

first offenders are forewarned against reoffending, counselled and closely monitored by programme actors. Child offenders feel the accountability of their actions because of the diversion programmes they went through. CICL are also supported through various programmes as they reintegrate into the community. Nevertheless, there is still much to be done to improve the practice of community-based diversion.

What Makes Community-Based Diversion Work

Based on FREELAVA's experiences, the following factors are important for community-based diversion to work:

- **A shift in ideology and paradigm among barangay leaders and actors towards a rights-based administration of justice.** A right-based conception of justice must rest on the frameworks provided by the UN CRC, The Beijing Rules and international protocols for CICL and restorative justice. Through continuous orientation, training and capacity building, old mindsets and frameworks of justice can be changed towards adopting a more humane and compassionate conception of justice based on human rights and children's rights in particular;
- **A culture that respects and promotes children's rights.** Without this paradigm shift in the community itself, duty-bearers would find it difficult to understand, forgive and support child offenders;
- **Having committed people working for the welfare, protection and development of children.** These individuals should have the minds and the hearts to administer justice to CICL taking into account the rights of these children and protecting them from the stigma and trauma brought about by the process;
- **Functional structures and mechanisms for the adjudication of CICL cases at the barangay level outside the regular courts.** The *Lupong Tagapamayapa*, which has the legal basis to adjudicate local disputes is one example;
- **Working knowledge of mediation, dispute management, diversion and psychosocial interventions among duty-bearers;** and
- **Continuous, consistent and broad-based community education and policy advocacy activities** to prevent child offending and reoffending as well as to draw support from community members for the programme.

Recommendations

To improve the practice of community-based diversion in Cebu City, the following recommendations are put forth for FREELAVA and its pilot barangays:

At the Level of the Pilot Barangays

- **Strengthen the negotiating and lobbying capacity and initiatives of the Children's Justice Committees (CJCs)** to push barangay officials to support their operations, plans and activities, and the entire community-based diversion process. This support entails the necessary policy, funding, logistical and training assistance to the CJC. More concretely, local ordinances need to be approved at the barangay and the city government levels to effect this change. The activation of the BCPCs and the allocation of budget for its plans and programmes is a good way to complement and support the efforts of the CJCs in the administration of children's justice.
- **Push for the amendment of the *Katarungang Pambarangay Law*** to institutionalise the CJC as a permanent committee of the *Lupong Tagapamayapa*, which has principal jurisdiction over it, instead of making it a permanent committee of the BCPC. Such amendment shall include the necessary appropriation for recruitment, training and operating costs of its personnel.
- **Improve and hasten the development of reintegration programmes or strategies to prevent former CICL from reoffending.** Points of agreement among CICL, victim and CJC must be monitored to arrest corruption and abuse of the diversion process.
- **Map and enhance local resource mobilisation for community diversion and reintegration programmes.** Negotiation and lobbying must be carried out to maximise the use of the GAD Fund, SK Fund, and the Local Development Fund.
- **Embark on local development planning with emphasis on children's welfare and protection programmes.** The pilot barangays can source out technical assistance from the City Local Government Operations Office and other NGOs focusing on local governance.

- **CJCs and barangay officials should explore or strengthen collaborative efforts with government agencies, the business sector, academe, NGOs, and civil society** to broaden psychosocial interventions, socialisation and reintegration programmes that would benefit diverted CICL and children at-risk of offending. They can explore additional vocational training, trades and livelihood projects; literacy and non-formal education, or other recreational activities that promote social inclusion and acceptance. The academe can be tapped for their expertise in counselling and other psychosocial interventions such as art and play therapy. Through internships, social work, psychology, mass communications, or fine arts students could perhaps assist the pilot barangays in case study preparations/case management; development of information, education and communication (IEC) materials; and the conduct of art lessons. CJCs of pilot barangays can explore the possibility of tying-up with the business sector for technical training and livelihood projects for diverted CICL through their corporate foundations such as the San Miguel Corporation (SMC) Foundation and the Aboitiz Group Foundation.
- **The city government should be pushed to beef up the personnel of the Department of Social Welfare and Services (DSWS).** There should be at least one social worker per barangay. As pointed out earlier, DSWS social workers can help meet the counselling and case management needs of the CJCs. Together with FREELAVA, the barangays should also lobby the city government to provide additional temporary shelters to diverted CICL whose parents are not prepared for their reintegration. This is to supplement the efforts of *Balay Pasilungan* and Community Scouts whose capacity and resources are very limited.
- **Upgrade and professionalise the competencies of local programme actors.** A programmatic capacity-building programme must be undertaken to customise the conduct of reorientation, retraining and continuing education among duty-bearers (*Lupon* members, GAD Officers, Barangay Tanods, Councillors) and other programme actors (CVs and PEs). It is imperative to improve the competence of programme actors in mediation, counselling, psychological diagnostics, and other psychosocial interventions. Exposure to other similar programmes and cross visits within pilot barangays should be encouraged to engage duty-bearers in learning best practices.

- **Hasten the recruitment of new community volunteers.** Their number is gradually declining while the number of diverted CICL cases to be monitored and followed-up continues to increase.
- **Scan, study, stir discussion and share learnings** especially concerning other diversion strategies, rehabilitation and reintegration programmes, and psychosocial interventions wherever appropriate or applicable. FREELAVA should engage all the CJs, key barangay officials, CVs and PEs to a periodic and continuing forum where best practices are shared, discussed and studied, and their performances, evaluated.

At the Level of FREELAVA

- **Explore the possibility of the *Lupon Tagapamayapa* taking on the task of mediation and negotiation of cases involving CICL in their respective jurisdictions.** This would entail a clear programme for orientation, training, and more in-depth discussions with members of the *Lupon* in dealing with cases of CICL.
- **Appreciate social work practice.** For the next programme term when budget is available, FREELAVA must hire competent social workers for the programme. Trained and registered social workers can help the CJs in the conduct of case studies, family assessment and case conferences when needed during post-diversion interventions. At the very least, social workers can train and transfer skills to CJC members, through job-coaching, the processes of case management, and case documentation. They can also help the CJs in actual counselling, psychological diagnostics and other psychosocial interventions.
- **Strengthen the organisation's policy advocacy agenda and improve social marketing/communication strategies to broaden public education on children's justice and community diversion work.**
 - *Push for the approval of the amendment to the Cebu City Children's Code incorporating provisions on community-based diversion with corresponding appropriation.* The amendment of the code can provide the legal basis for the passage of local ordinances to institutionalise and strengthen the operations of the CJs in the pilot barangays.

- *Lobby for a barangay ordinance in all pilot barangays to institute the community level diversion processes for CICL with corresponding fund allocation for its operation.*
 - *Draft a concrete and effective intervention plan for the activation of the BCPCs especially in all the pilot barangays, as head of the BCPC performance monitoring team recently organised by the CCCWPC.*
 - Develop an effective social marketing and communication strategy to popularise the issue of CICL in Cebu City, educate the general public on the benefits and positive experiences of community-based diversion, and generate broader support. FREELAVA can utilise the premiums of both broadcast and print media — such as producing a radio programme over DYLA (a local radio station), linking up with the children's radio programme managed by the Children's Legal Bureau (CLB), or developing IEC materials such as posters and leaflets for community education. The use of creative arts (theatre or entertainment) utilising the Peer Educators could also be an effective communication strategy for community education as well as public advocacy.
- **Develop an IEC/Advocacy Unit within the organisation** as soon as the programme expands to other barangays and sufficient funding is available. This unit shall handle the necessary production of IEC materials, devise communication strategies for community education and advocacy, and define other advocacy agenda for programme institutionalisation and strengthening.
 - **Enhance the competencies of the programme staff.** By deepening and broadening their knowledge, skills and capabilities on restorative justice practices and children's justice work, the staff can effectively assist, guide and strategise with local programme actors in the execution of their functions.
 - In the meantime, FREELAVA has to develop the competencies of its existing staff particularly on community organising, policy advocacy, lobbying and negotiations, local governance and development planning, programme planning and strategy formulation, monitoring and evaluation, and training management.
 - On the medium term, FREELAVA needs to review its staff recruitment policy and compensation package. The tasks and

functions involved in the programme are highly demanding and need competent professionals. Thus, it is necessary for the organisation to improve the competitiveness of its compensation package. Establishing a Human Resource Development Unit can address the needs of recruitment, training and capacity-building, job satisfaction and “staff wellness” programmes.

- **Develop an effective monitoring and evaluation system emphasising outcome and impact indicators in preparation for programme expansion.**

Appendices

Appendix 1. Comparison Between the Philippine Adult and Juvenile Justice Systems

Areas of Concern	Adult Justice System	Juvenile Justice System	Problems and Issues
Purpose	Punishment or retribution	Rehabilitation	No specific programmes, laws and procedures on how to rehabilitate the juvenile.
Procedural law applicable	Revised Rules of Criminal Procedure	Revised Rules of Criminal Procedure	Violates the Convention on the Rights of the Child, Art. 40 (3) because the Philippine did not establish laws, procedures, authorities and institutions specifically applicable to children in conflict with the law.
Substantive law applicable	Revised Penal Code and other Special Laws	Child and Youth Welfare Code, Revised Penal Code and other Special laws	The Child and Youth Welfare Code added the concept of suspension of sentence in the treatment of juvenile offenders. Other than that, the same judicial system is applied to the youthful offender and the adult offender.
Penalty imposed	Imposable penalty is that provided by law. Death penalty can be imposed.	Can exempt from criminal liability or lowered by one or two degrees because of minority. Death penalty and life imprisonment cannot be imposed.	Minor is not entitled to diversion
Jurisdiction of the Court	Determined by the imposable penalty	Determined by age	Under the new Family Courts Act of 1997, all offence involving a minor fall within its exclusive jurisdiction. However, the Family Courts are not yet functioning.
Openness and formality of procedure	Hearings are open to the public and are governed by formal rules of procedure.	Hearings are open to the public and are governed by formal rules of procedure.	The public should be excluded and the hearings conducted in the chamber of the judge to afford confidentiality of records and privacy to the youthful offender.
Release of Information	Open	Confidential	While the records of the case are supposed to be confidential, the hearings are still conducted in open court and, consequently, open to the public.
Involvement of Parents	Parents are not involved.	Parents or guardians should be informed from the time the youth is apprehended	Parents are treated as mere observer of the juvenile justice system and are not required to take an active role in the administration of justice and/or subsequent rehabilitation of the juvenile offender.
Detention facilities available	Penal institutions	Rehabilitation centres, detention homes and separate quarters in penal institutions	Diversion is not recognised. Institutional detention is seen as the only mode for rehabilitation of a juvenile offender.

Source: Children's Legal Bureau, 1999b. *Justice for Juveniles: the agenda*, Children's Legal Bureau, United States Agency for International Development, The Asia Foundation, Children and Youth Foundation of the Philippines, Terre des Hommes Netherlands, Albert Schweitzer Association Philippines, Inc., Cebu City: 6.

Appendix 2. Total Land Area of Cebu City in Square Kilometres by District, Urban and Rural

	No of Barangays	Percent Distribution	Land Area	Percent Distribution
Cebu City	80	100.0	326.10	100.0
Urban	50	62.5	78.09	23.95
Rural	30	37.5	248.01	76.05
North District	46	100.0	156.28	100.0
Urban	30	65.22	53.52	34.25
Rural	16	34.78	102.76	65.75
South District	34	100.0	169.82	100.0
Urban	20	58.82	24.57	14.47
Rural	14	41.18	145.25	85.53

Source: SCHEMA Konsult, Inc., 2000. *Cebu City Strategic Master Plan Study, Draft Final Report*, SCHEMA Konsult, Inc., Cebu City: 4.

Appendix 3. Cebu City's Total Population, Household Population and Number of Households by Barangay, 2000

City and Barangay	Total Population	Household Population	Number of Households
Cebu City (Capital)	718,821	714,388	147,600
Adlaon	2,847	2,847	598
Agsungot	1,746	1,746	352
Apas	15,492	15,417	3,069
Babag	3,526	3,485	663
Basak Pardo	13,925	13,861	2,765
Bacayan	8,604	8,604	1,881
Banilad	5,220	5,174	1,059
Basak Pardo Nicolas	31,840	31,754	6,412
Binaliw	2,518	2,518	515
Bonbon	4,343	4,263	844
Budlaan (Pop.)	2,397	2,397	465
Buhisan	9,159	9,144	1,736
Bulacao	19,887	19,874	4,052
Buok-Taup Pardo	1,678	1,678	335

Appendix 3 continued on next page...

Appendix 3 Continuation...

City and Barangay	Total Population	Household Population	Number of Households
Busay (Pob.)	7,244	7,244	1,448
Calamba	10,534	10,529	2,308
Cambinocot	2,271	2,271	483
Capitol Site (Pob.)	12,477	12,278	2,670
Carreta	7,106	6,944	1,526
Central (Pob.)	1,334	1,314	342
Cogon Ramos (Pob.)	3,282	3,242	689
Cogon Pardo	9,170	9,160	1,933
Day-as	3,174	3,174	707
Duljo-Fatima (Pob.)	15,223	15,223	3,221
Ermita (Pob.)	7,995	7,957	1,677
Guadalupe	45,012	44,780	8,947
Guba	4,149	4,149	840
Hippodromo	9,408	9,387	1,857
Inayawan	16,148	16,148	3,247
Kalubihan (Pob.)	611	611	171
Kalunasan	10,168	10,168	2,021
Kamagayan (Pob.)	1,898	1,846	413
Camputhaw (Pob.)	17,867	17,617	3,621
Kasambagan	6,199	6,132	1,215
Kinasang-an Pardo	10,145	10,145	1,998
Labangon	27,266	27,075	5,498
Lahug (Pob.)	35,275	34,937	7,137
Lorega (Lorega San Miguel)	10,616	10,515	2,204
Lusaran	2,060	2,060	406
Luz	13,062	13,010	2,605
Mabini	1,435	1,435	301
Mabolo	27,498	27,336	5,754
Malubog	1,881	1,881	381
Mambaling	26,417	26,272	5,377
Pahina-Central (Pob.)	6,416	6,324	1,361
Pahina San Nicholas	3,482	3,445	794
Pamutan	1,373	1,373	261
Pardo (Pob.)	15,151	15,151	3,089
Parian	1,727	1,710	490

Appendix 3 continued on next page...

Appendix 3 Continuation...

City and Barangay	Total Population	Household Population	Number of Households
Paril	1,148	1,148	229
Pasil	7,783	7,773	1,537
Pit-os	3,248	3,248	718
Pulangbato	3,617	3,617	733
Pung-ol Sibugay	1,241	1,241	273
Punta Princesa	22,482	22,441	4,352
Quiot Pardo	13,342	13,342	2,732
Sambag 1 (Pob.)	14,860	14,787	3,527
Sambag 2 (Pob.)	12,992	12,796	3,037
San Antonio (Pob.)	1,919	1,868	454
San Jose	2,782	2,782	493
San Nicholas Central	5,296	5,270	1,319
San Roque (Ciudad)	4,847	4,823	1,059
Santa Cruz (Pob.)	2,479	2,284	535
Sawang Calero (Pob.)	7,077	6,995	1,404
Sinsin	2,230	2,230	468
Sirao	3,000	3,000	637
Suba Pob. (Suba San Nicholas)	8,286	8,245	1,766
Sudlon 1	1,959	1,959	403
Sudlon 2	2,541	2,541	521
Sapangdaku	4,572	4,538	909
T. Padilla	9,988	9,907	2,090
Tabunan	987	987	212
Tagbao	1,464	1,464	288
Talamban	17,844	17,746	3,649
Taptap	1,714	1,714	370
Tejero (Villa Gonzalo)	16,178	15,532	3,239
Tinago	8,190	8,156	1,724
Tisa	29,549	29,480	5,846
Toong Pardo	3,079	3,079	565
Zapatera	3,871	3,790	773

Source: National Statistics Office, 2001. *2000 Census of Population and Housing, Report No. 1-G (Region VII-Central Visayas) - Population by Province, City/Municipality and Barangay*, National Statistics Office, Manila.

Appendix 4. Gross Domestic Product: Philippines and Central Visayas, 1988-1996, in Php Millions

	1988	1989	1990	1991	1992	1993	1994	1995	1996
Philippines									
At current prices	799,183	925,444	1,077,237	1,248,011	1,351,559	1,474,457	1,692,932	1,906,326	2,196,595
At constant 1985 prices	658,583	699,451	720,691	716,523	718,942	733,097	766,368	802,866	849,121
Annual real growth rate	-	6.2	3.0	(0.6)	0.3	2.0	4.5	4.8	5.8
Per capita GDP at current prices	13,640	15,339	17,522	19,852	21,032	22,013	24,670	27,130	30,551
Region VII									
At current prices	51,872	61,737	70,540	83,028	87,715	94,296	108,492	124,335	141,400
At constant 1985 prices	43,107	45,813	47,080	47,238	46,684	47,551	49,663	52,679	56,100
Annual real growth rate	-	6.3	2.8	0.3	(1.2)	1.9	4.4	6.1	6.5
Per capita GDP at current prices	11,667	13,625	15,331	17,662	18,561	19,363	21,018	23,126	23,223

Source: National Economic and Development Authority (NEDA)-7 and National Statistics Office (NSO) cited in Etemadi, F., 2000. *Urban Governance, Partnership and Poverty in Cebu*, University of Birmingham, Birmingham.

Appendix 5. Cebu's Exports, Imports and Balance of Trade, 1995-1999, in US\$ Millions

	1992	1993	1994	1995	1996	1997	1998	1999
Value of Exports	747.99	965.78	1242.00	1,382.23	1,632.74	1,887.00	2,036.00	2,407.57
Value of Imports	435.11	461.01	896.50	1,191.12	967.88	866.00	707.58	986.10
Total Trade	n.d	n.d.	n.d.	2,573.35	2,600.62	2,753.00	2,743.58	3,393.67
Balance of Trade	312.88	504.77	345.50	228.31	664.86	1,021.00	1,328.42	1,421.47

n.d. - no data

Source: DTI Region 7 cited in SCHEMA Konsult, Inc., 2000. *Cebu City Strategic Master Plan Study, Draft Final Report*, SCHEMA Konsult, Inc., Cebu City: 23.

Appendix 6. Gross Domestic Product: Philippines and Central Visayas, 1997-2001, in Php Thousands

	1997	1998	1999	2000	2001
<i>Philippines</i>					
At constant 1985 prices	893,151,480	888,000,798	918,160,712	958,411,483	989,258,525
Annual real growth rate	5.2	(0.6)	3.4	4.4	3.2
Per Capita GDP at current prices	12,147	11,816	11,958	12,178	12,353
<i>Central Visayas</i>					
At constant 1985 prices	59,926,374	61,174,230	63,340,554	67,352,827	70,346,773
Annual real growth rate	5.8	2.1	3.5	6.3	4.4
Per Capita GDP at current prices	10,884	10,885	11,046	11,515	11,777

Source: NEDA Region 7, 2003. Central Visayas 2002 Statistical Compendium, NEDA Region 7, Cebu City: Table 1.9; NEDA Region 7, 2003. Central Visayas Regional Development Report 2002, NEDA Region 7, Cebu City: I-2-4.

Appendix 7. Population 15 years and Over by Employment Status, Cebu City, 1997-2002

	1997	1998	1999	2000	2001	2002
Working Age Population, (000)	478	491	503	464	476	495
Labour Force Participation Rate, %	64.0	66.0	65.5	62.8	67.6	65.5
Employment Rate, %	88.0	90.0	85.8	87.1	84.2	85.5
Unemployment Rate, %	12.0	10.0	14.2	12.9	15.8	14.5
Visible Underemployment Rate, %	2.1	2.1	1.7	6.4	2.6	3.3

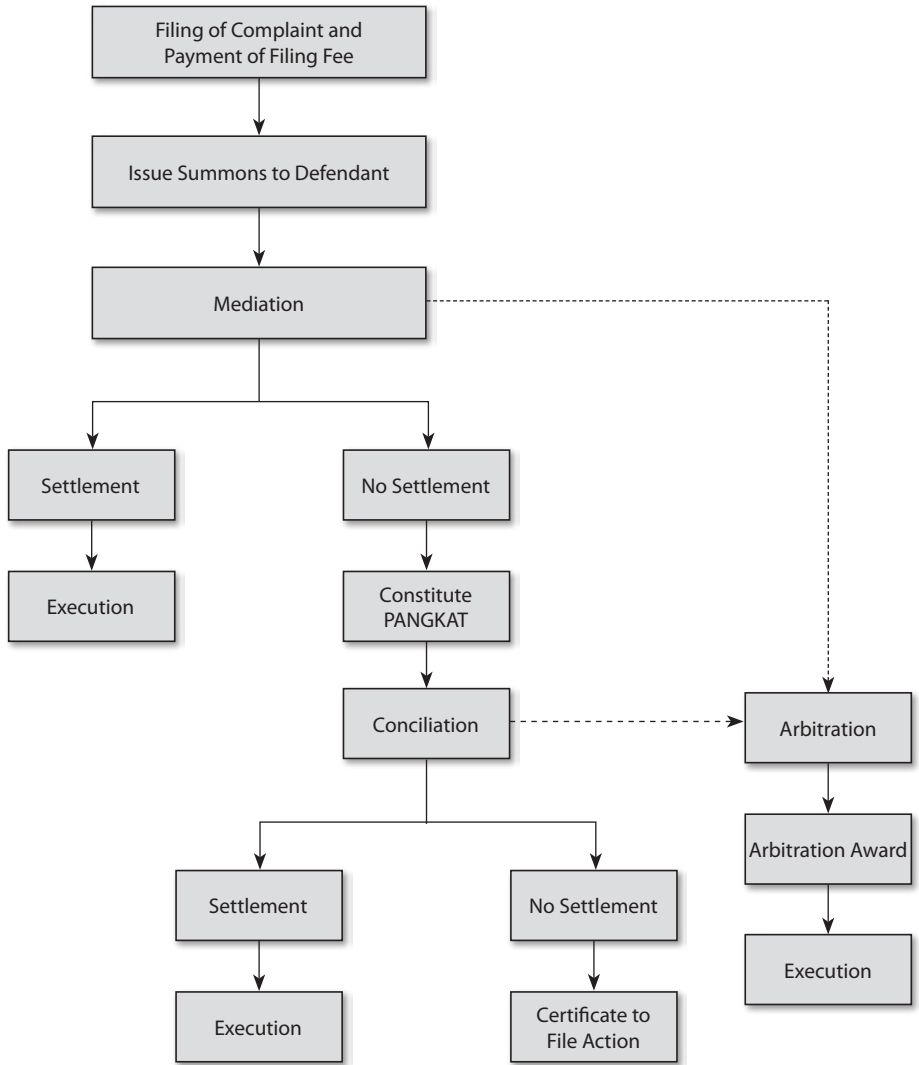
Source: NSO cited in NEDA Region 7 2003. Central Visayas 2002 Statistical Compendium, NEDA Region, Cebu City: I- 42-44.

Appendix 8. Seminars/Workshops and Training Undertaken by FREELAVA Programme Staff as of August 2004

Name of Staff	Position	Seminars/Workshop & Training Attended
1. Adlaon, Ramel	Programme Manager	<ul style="list-style-type: none"> • Paralegal Training on Children's Rights • Psychosocial Intervention for CICL • Gender and Child Sensitivity Seminar • Seminar on Diversion and Restorative Justice • Training on Monitoring and Evaluation • Trainers' Training on Juvenile Justice System • Training on Mediation / Negotiation and Conflict Management • Training Seminar on Ethics, Accountability and Action Planning • Trainers Training on Environment • Gender Mainstreaming Seminar
2. Bachiller, Ruben	Community Outreach Worker	<ul style="list-style-type: none"> • Legal Training / Workshop on the Rights of Children and Women • Training Seminar on Ethics, Accountability and Action Planning • Paralegal Training on the Rights of Children • Psychosocial Intervention for CICL • Training on Muro Ami "Nets that Ensnare Children, Fisheries and Justice • Seminar on Diversion and Restorative Justice
3. Bersabal, Edward	Community Outreach Worker	<ul style="list-style-type: none"> • Paralegal Training on Children's Rights • Psychosocial Intervention for CICL • Training on Mediation / Negotiation and Conflict Management • Trainer's Training on Environment • Seminar on Diversion and Restorative Justice • Gender and Child Sensitivity Seminar • Children's Justice Forum and Workshop • Training Workshop on Result Monitoring and Evaluation
4. Toliao, Dave	Community Outreach Worker	<ul style="list-style-type: none"> • Training on Mediation / Negotiation and Conflict Management • Seminar on Diversion and Restorative Justice • Gender and Child Sensitivity Seminar • Paralegal Training on Children's Rights • Training Workshop in result Monitoring and Evaluation • Drug Awareness Seminar
5. Batucan, Joel M.	Child Development Coordinator	<ul style="list-style-type: none"> • Behavioural Monitoring Survey, Education Components • Integrating Harm Reduction Program to Community Outreach and Peer Education • Paralegal Training on Children's Rights • Seminar on Diversion and Restorative Justice

Source: FREELAVA, 2004. FREELAVA 201 Files, Cebu City.

Appendix 9. The Katarungang Pambarangay Process



Source: United Nations Children’s Fund (UNICEF) and Office of the High Commissioner on Human Rights (OHCHR), 2002. Multi-Sectoral Juvenile Justice Training Manual, Child Rights Training Volume 7, UNICEF and OHCHR, Manila: 177.

Appendix 10. CJC Intake Sheet

Appendix 11. CJC Mediation Agreement (Kasabutan) Form

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