A Real Opportunity for Change
What Young Offenders Need and How Probation Officers Respond

A Study in Maharashtra, India
2010

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<table>
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<th>Full Form</th>
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<tr>
<td>CICL</td>
<td>Children in Conflict with Law</td>
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<tr>
<td>CrPC</td>
<td>Criminal Procedure Code</td>
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<td>DCPU</td>
<td>District Child Protection Unit</td>
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<td>DO</td>
<td>District Officer</td>
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<td>DWCD</td>
<td>Department of Women and Child Development, Maharashtra</td>
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<td>FIR</td>
<td>First Information Report</td>
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<td>IPC</td>
<td>Indian Penal Code</td>
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<td>JJB</td>
<td>Juvenile Justice Board</td>
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<td>JJ Act</td>
<td>Juvenile Justice (Care and Protection of Children) Act, 2000</td>
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<td>NGO</td>
<td>Non-Government Organization</td>
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<td>OH</td>
<td>Observation Home</td>
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<td>PO</td>
<td>Probation Officer</td>
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<td>SIR</td>
<td>Social Investigation Report</td>
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<td>SLL</td>
<td>Special and Local Laws</td>
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<td>UNCRC</td>
<td>United Nations Convention on the Rights of the Child</td>
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<td>VPO</td>
<td>Voluntary Probation Officer</td>
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Introduction

Article 40.1 of the United Nations Convention on the Rights of the Child (UNCRC) mandates that “States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law 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 the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society”. For countries that are signatories to the UNCRC, this ideal has led to the promotion of a separate or specialized system of justice – Juvenile Justice – that specifically pertains to laws, practices, institutions, and mechanisms that deal with child offenders.

A differential justice system for young offenders is premised on the recognition that they are first and foremost children, and must be treated as such; that childhood is a time of great vulnerability, as well as a time of learning; that children have multi-faceted developmental and emotional needs; and that with guidance, supervision and support young offenders can and do live responsible, crime-free lives in the future.

An effective juvenile justice system goes beyond criminal justice's traditional goals of punishment and deterrence. It aims to make young people learn responsibility and accountability, and helps them to build competencies and the resilience that they might in future make good choices, negotiate pressures and live productively. It does this by creating a protective environment that enables hitherto excluded children to be brought into a network of services – health, education, vocational training, viable employment, etc.

Is our juvenile justice system an effective one?

Finding the answer to this question lies at the heart of this study. In India, a lot of work has gone into getting children in conflict with law out of the adult criminal justice system and to dealing with the most blatant systemic abuses such as police brutality and endless delays. While this is rightly an important priority, there is growing concern about what young offenders who are in the juvenile justice system are getting or learning that might enable them to not re-offend and to instead become constructive members of their community.

Aangan is a Mumbai-based NGO, working with children in conflict with law both in and out of institutions, as well as in the community with children commonly perceived to be "at risk." Through our work, we have met and spoken to hundreds of children in conflict with law across the country. In Maharashtra, we have worked extensively in children's institutions for the last six years and have listened to children and their families talk about the problems they face. Anecdotally we, like other practitioners who work with this population including the authorities, know that most children who enter the juvenile justice system and/or are detained in Observation Homes are reintegrated back into society just as vulnerable and ill–prepared to cope with the harsh challenges of their world as when they arrived. We hear children talk about family and peer pressure, lack of education, drug usage and its consequent criminal
lifestyle, unemployment, hopelessness, anger - all of the classic ingredients that converge to lead to bad decisions, and often criminal actions. Many children are able to reflect and wish that they had more support in helping them make decisions, someone to listen to them, someone to be a mentor to them.

In 2000, India enacted the Juvenile Justice (Care and Protection of Children) Act. This central legislation is intended to be a rehabilitative and protective legislation for children deemed either in conflict with law, or in need of care and protection. It’s intent is to provide children with “… proper care, protection and treatment by catering to their development needs, and by adopting a child-friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation through various institutions…”

Central to the Act is the idea that children who come into its purview must be rehabilitated. The Act envisions a convergence of a broad network of people – the police, the judiciary, social workers, family, community and voluntary workers - to come together to support and participate in the child’s rehabilitation. While the mechanisms by which this convergence is supposed to happen are not clearly laid out, what the Act does do is it empowers the Probation Officer to play a key role in the child’s journey through the juvenile justice system. According to the Act, the Probation Officer is a key agent in the child’s transformation through a process of enquiry, preparation and implementation of a care plan and supervision.

Almost a decade after the Act has been in effect we want to ask – what are children in conflict with law getting from the juvenile justice system? Are they learning any lessons? Are they less likely to repeat their offense behaviour? Are they getting any guidance? Is the system really working towards their rehabilitation? Sadly, there is insufficient data to help us answer these questions. Information about children in conflict with law, their numbers, the rates of recidivism, the types of final orders they are being given, the kind of supervision and care planning that is going into their management are woefully inadequate.

This research study is set against this backdrop. To answer these questions we explore the role and functioning of the Probation Officer (PO), since they are the people entrusted by the Act with the task of guiding children through the Juvenile Justice System and enabling them to come out on the other side more competent to deal with pressures that have in the past led them to criminal behaviour. While the legislation and accompanying Rules have laid down quite clearly what is expected of the PO, the actual implementation of how this is achieved, what manner of person the PO is, what qualifications and attributes they should have in order to perform their job are left to State authorities to work out. The PO cannot work in a vacuum. Infrastructure and support in the community to which the child is returned must be in place for the work of the care plan to be implemented; the Juvenile Justice Board must have faith in the PO’s ability and trust them to carry out the work of enquiry and supervision; and the state must provide them with the training and the power to act in the child’s best interest.

We chose to look only at the state of Maharashtra, not only because this is where we do most of our work, but also because we know this to be a state where there is
more money, more infrastructure and also more support from government authorities put into juvenile justice than in many others.

The key actors in this study are the Probation Officers themselves, the Juvenile Justice Boards they are attached to, and to whom they must submit critical reports regarding the child to help them make decisions, and of course, the child in conflict with law on whose behalf they are supposed to act. We also draw on data from an unpublished study conducted by us, of children in conflict with law and their parents in two Observation Homes in Mumbai and Thane in 2009. Through the eyes of this myriad group of people, and from their experience, this study reaches its conclusions about who the Probation Officer is, what the PO does and does not do, and what needs to happen to ensure that children in conflict with law get a real opportunity for change.
BACKGROUND

That recidivism in young offenders can likely be prevented through timely rehabilitative interventions, and that they should be treated differently than adults is well understood, and is established in law. In India, legislation promoting a differential system of justice as well as opportunities for probationary and rehabilitative sentences for young offenders dates back to the Nineteenth Century. Briefly stated,

- The Apprentice Act (1850), dealt with destitute children and petty offenders between the age of 10-15 by apprenticing them in order that that they may learn a trade or craft and in future be able to earn a livelihood
- The Reformatory Schools Act (1876, 1897), dealt specifically with young offenders and mandated that boys under 15 years of age were to be placed in reformatory schools until they were 18, while boys under 14 were released on license provided they found employment
- The Code of Criminal Procedure (1898), allowed for separate trials for anyone under the age of 15, for their confinement in reformatories rather than prisons as well as providing for probationary sentences
- The landmark Jail Committee Report (1920), recommended setting up children’s courts, Borstal Schools for offenders over 15, remand homes and paved the way for Children’s Acts to be passed across States over the next three decades
- The Probation of Offenders Act (1958) while not dealing only with young offenders elaborated further the recognition that for certain people, a period of guidance and supervision was a more effective way to teach accountability and to ensure a crime free future life than detention in a custodial setting.

Clearly, legislative bodies have for the last century and a half understood the importance of supervision and guidance for young offenders, and have enacted laws to promote such measures.

In this spirit, and guided by constitutional and international obligations under the UNCRC and related instruments, in 2000 India brought into effect the Juvenile Justice (Care and Protection of Children) Act (JJ Act). This central legislation for children lays great emphasis on children’s care and rehabilitation and makes ample provision for the use of rehabilitative dispositions for children in conflict with the law (CICL).

Rehabilitation and Supervision - Critical Features of the JJ Act

- Under the JJ Act, the adjudicating authority in regard to children in conflict with law is the Juvenile Justice Board (JJB) comprised of a Metropolitan Magistrate or a Judicial Magistrate of the first class, and two social workers of whom at least one must be a woman. The three together form a Bench and have the powers conferred by the Code of Criminal Procedure, 1973 (2 of 1974), on a

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1 UN Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules); UN Rules for the Protection of Juveniles Deprived of their Liberty; Prevention of Juvenile Delinquency (The Riyadh Guidelines)
Metropolitan Magistrate. (Section 4 (2)). Further, the Act requires for Magistrates appointed to the Board to have special knowledge or training in child psychology or child welfare, and for social workers to have specific experience in health, education, or welfare activities pertaining to children for at least seven years (Section 4(3)).

The JJ Act in other words has strengthened the role of the social workers and seeks to grant them equal importance as the Magistrate in determining the future of the child. The JJB is therefore to be as much concerned with the welfare of the child as it is with the determination of mere guilt or innocence. In reaching a final disposition, they are encouraged to take a holistic view and focus on the child’s circumstances and needs and not just the actions for which he is accused.

- The JJB can now pass final orders involving a range of community-based alternatives and interventions for children who have been found guilty of committing offences. All of these orders hold the promise of guidance, counsel, support and supervision to children. These orders include:

  Section 15 (1)

  (a) Allow the juvenile to go home after advice or admonition following appropriate inquiry against and counseling to the parent or the guardian and the juvenile;

  (b) Direct the juvenile to participate in group counseling and similar activities;

  (c) Order the juvenile to perform community service;

  (d) Order the parent of the juvenile or the juvenile himself to pay a fine, if he is over fourteen years of age and earns money;

  (e) Direct the juvenile to be released on probation of good conduct and placed under the care of any parent, guardian or other fit person, on such parent, guardian or other fit person executing a bond, with or without surety, as the Board may require, for the good behaviour and well-being of the juvenile for any period not exceeding three years;

  (f) Direct the juvenile to be released on probation of good conduct and placed under the care of any fit institution for the good behaviour and well-being of the juvenile for any period not exceeding three years.

  Section 15 (3)

  … make an order that the juvenile in conflict with law shall remain under the supervision of a probation officer named in the order during such period, not exceeding three years as may be specified therein, and may in such supervision order impose such conditions as it deems necessary for the due supervision of the juvenile in conflict with law.

  Although the JJ Act embodies in spirit the idea of a rehabilitative rather than punitive approach towards children in conflict with law, unfortunately it is
ambiguous on the process by which their rehabilitation must take place. Institutionalization is given a great deal of importance in the Act, although that contravenes the established and stated idea that the deprivation of liberty should be the measure of last resort. Rehabilitation is focused around adoption, foster care and sponsorship, which in reality are not applicable to the needs and specifics of children in conflict with law. It appoints the Probation Officer as the caseworker for the child in conflict with law, and it speaks of establishing linkages with other government departments, non-governmental, corporate and other community agencies for “facilitating the rehabilitation and social reintegration of the child”.

The Central Model Rules of 2007, which form the basis for States to actually implement the JJ Act, add greater clarity to the ideal of rehabilitation for children in conflict with law.

- **Chapter 2 Fundamental Principles: VII. Positive measures**: (a) Provisions must be made to enable positive measures that involve the full mobilization of all possible resources, including the family, volunteers and other community groups, as well as schools and other mainstream community institutions or processes, for the purpose of promoting the well-being of the juvenile or child through individual care plans carefully worked out.

- **Rule 2 (h)**: “individual care plan” is a comprehensive development plan for a juvenile or child based on age specific and gender specific needs and the case history of the juvenile or child, prepared in consultation with the juvenile or child, in order to restore the juvenile’s or child’s self-esteem, dignity and self-worth and nurture him into a responsible citizen and accordingly the plan shall address the following needs of a juvenile or a child:
  i. Health needs
  ii. Emotional and psychological needs
  iii. Educational and training needs
  iv. Leisure, creativity and play
  v. Attachments and relationships
  vi. Protection from all kinds of abuse, neglect and maltreatment
  vii. Social mainstreaming
  viii. Follow-up post release and restoration

- **Rule 15 (3)**: All dispositional orders passed by the Board shall necessarily include an individual care plan for the concerned juvenile in conflict with law, prepared by a probation officer or voluntary organization on the basis of interaction with the juvenile and his family where possible.

“Rehabilitation” is in this way given a more specific form. The ‘care plan’ to be made by the PO, is the road map for the child’s rehabilitation, and its execution must rely on a convergence of a large number of government and community agencies. There
is provision made for follow-up by Probation Officers for a period up to two years after a child is released and restored to his family. Sadly, much of this remains at the level of a nice idea, because there is little clarity on the nuts and bolts issues - who will specifically carry out all these tasks, where, how, with who, with what funds, and for what length of time.

The one person named throughout the JJ Act as a key functionary in the child’s journey through the system from the time of apprehension until his exit is the Probation Officer. Police have to contact the PO as soon as they apprehend a child so that the process of enquiry into the circumstances of the case, as well as into the antecedents of the individual child can begin (Sec. 13). The PO is required to conduct a thorough investigation into the social history of the child and to prepare a report explaining all of the mitigating factors to be presented to the Board to assist them in arriving at a fair disposition (Sec. 15(2)).

During the period of enquiry, children who are released on bail may be placed under the supervision of the PO (Sec 12(1)) who has to ensure that the child engages productively in the community, lives a crime-free life, and is present at every Board hearing. For children who are placed in Observation Homes (OH), the PO acts as the case manager, the person in charge of administering and keeping track of the multiple needs of the child.

Children released on probation may be placed under the supervision of a PO who is supposed to guide the child to seek educational, vocational or employment opportunities, and to assist the child to refrain from repeating the criminal behaviour that brought him into the purview of the juvenile justice system, thereby “rehabilitating” him (Sec. 15 (3); Probation of Offenders Act, 1958).

Finally, when children who have been placed in Special Homes are to be released back into society, the PO may be required to submit a report regarding the necessity or nature of after care and supervision that the individual child may need (Sec. 44(c)).

Recognizing that the care, supervision and rehabilitation of the child in conflict with law is a mammoth task that requires the concerted effort of more than just a single Probation Officer and the functionaries of the Juvenile Justice System alone, the rules also lay out provisions for involving civil society and voluntary organizations in this endeavor.

Rule 85: Honorary or Voluntary Welfare Officers and Probation Officers: To augment the existing probation service, honorary or voluntary welfare officers and probation officers may be appointed from the voluntary organization and social workers found fit for the purpose by the competent authority and their services may also be co-opted into the implementation machinery by the orders of the competent authority.

Rule 39 (4): The State Government with the help of State or District Child Protection Unit shall develop effective networking and linkages with local non-governmental organizations for specialized services and technical assistance like vocational training, education, health care, nutrition, mental health intervention, drug de-addition and legal aid services.
The Situation of Children in Conflict with Law in Maharashtra

According to the Maharashtra State Criminal Records Bureau’s annual publication – *Crime in Maharashtra, 2009*, in that year 6,972 children were deemed in conflict with law, apprehended, and brought before the Court (it is assumed this means the JJBs). Of this number, 2,468 cases are still pending disposal, which means 4,504 cases have been resolved. A full 60% of dispositions involve children being returned to their families. While this is good news for the children, it begs the question, but what about their rehabilitation? Are we to assume that they will never offend again? That they have learned whatever it is a child is supposed to learn in order to know how to make better choices in future? That these children are now safe?

*Maharashtra State Crime Records Bureau: Crime in Maharashtra 2009*

**Status of Disposition of Cases of CICL Charged with Violation of IPC and SLL**

<table>
<thead>
<tr>
<th>Status</th>
<th>Number of CICL</th>
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<tbody>
<tr>
<td>Apprehended and Sent to Court</td>
<td>6,972</td>
</tr>
<tr>
<td>Pending Disposal</td>
<td>2,468</td>
</tr>
<tr>
<td>Cases Disposed</td>
<td>4,504</td>
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</tbody>
</table>

Of the 4,504 cases that arrived at a disposition, the following table describes the types of orders that were passed

<table>
<thead>
<tr>
<th>Nature of Order Passed</th>
<th>Number of CICL</th>
<th>Percentage of Total Disposals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sent Home After Advice or Admonition</td>
<td>979</td>
<td>21.7%</td>
</tr>
<tr>
<td>Released on Probation Placed Under Care of Parent/Guardian</td>
<td>1,768</td>
<td>39.2%</td>
</tr>
<tr>
<td>Released on Probation Placed Under Care of Fit Institution</td>
<td>404</td>
<td>8.9%</td>
</tr>
<tr>
<td>Sent to Special Home</td>
<td>1,173</td>
<td>26%</td>
</tr>
<tr>
<td>Dealt With Fine</td>
<td>71</td>
<td>1.5%</td>
</tr>
<tr>
<td>Acquitted or Otherwise Disposed</td>
<td>109</td>
<td>2.4%</td>
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Clearly, it is up to states to make good on the promise of the JJ Act to protect and rehabilitate its children. State Governments have to become proactive in setting up apparatuses that can effectively guarantee children their due process rights as well as provide for guidance, supervision, support to families and basic access to essential services.
A SNAPSHOT OF MAHARASHTRA

Districts: **34**

Juvenile Justice Boards: **32**

CICL Apprehended in 2009: **6,972**
(Source: Crime in Maharashtra 2009, State Crime Records Bureau)

Functional Observation Homes: **51**

Children Residing in Observation Homes in 2006: **4,323**
(Source: Lok Sabha Unstarred Question No.917, dated 28.11.2006)

Designated Probation Officers (actual): **33**

Acting Probation Officers (actual): **17**

Child (in Conflict with Law) to PO ratio: **139:1**
(Crime in Maharashtra data divided by existing POs)

Prescribed ratio (Model Rule 68(9)) for CICL to PO in institutions: **33:1**
METHODOLOGY

Objectives

- To look at the statutory role and responsibility of the Probation Officer (PO), and compare it to the reality of what they do
- To understand the challenges POs face and possible solutions
- To understand the effectiveness of the PO’s work in the current system through the perspective of a) The PO’s themselves; b) Members of the Juvenile Justice Boards; and c) The children
- To understand the needs of Children in Conflict with Law (CICL) when they return to the community
- To develop practical recommendations with operational guidelines to increase and improve the delivery of rehabilitative final orders for Juvenile Justice Boards (JJB)

Sources of Data

- Individual interviews with Probation Officers and acting Probation Officers in Observation Homes (and one Special Home which functions as an OH)
- Individual interviews with Juvenile Justice Boards (members and principal magistrates)
- Focus-group discussions with institutionalized CICL in 18 districts
- Individual Interviews with institutionalized CICL in OHs in Mumbai and Thane
- Focus-group discussions with parents of CICL detained in OHs in Mumbai and Thane
- Journals, articles, newspapers
- Maharashtra State Crime Records Bureau

Sample Identification and Criteria:

A list of Observation Homes and a list of relevant personnel appointed to work as Probation Officers with CICL were obtained from the Department of Women and Child Development, Maharashtra (Pune). No other criteria were used in their selection.

Letters of request for interviews were sent to all 32 Juvenile Justice Boards, and researchers interviewed magistrates as well as members who showed willingness and availability to participate in the study. Willingness and availability were therefore the only criteria for selection.

Focus-group discussions were held with randomly selected groups of CICL residing in Observation Homes in 18 districts. These districts were identified on the basis of
the fact that they had a PO, and that there were children present in the Home at the
time of the researcher’s visit.

Sample Size

Number of Observation Homes covered across Maharashtra: 51

In-depth interviews with Probation Officers: 33

In-depth interviews with Acting Probation Officers: 17

Focus-Group Discussions with Children in Conflict with Law: 86 from 18 districts
(Mumbai, Thane, Pune, Solapur, Sangli, Amravati, Akola, Raigad, Aurangabad, Jalna, Nanded, Satara, Nagpur, Wardha, Gadchiroli, Bhandara, Jalgaon, Nashik.)

In depth interviews with Children in Conflict with Law: 106 (Observation Home for Boys, Dongri, Mumbai and District Probation and After Care Observation Home for Boys, Bhiwandi, and Thane)

Focus Group Discussions with parents of CICL: 30 (Mumbai, Thane)

In-depth interviews with JJB Members from 11 districts: 20 (7 magistrates and 13
members from Thane, Mumbai Suburban, Mumbai City, Pune, Nasik, Solapur, Satara, Ahmednagar, Bhandara and Nagpur).

Tools for Data Collection:

A semi-structured interview schedule with quantitative and qualitative (open-ended)
questions was used. The open-ended questions were later categorized according to
a cluster of similar responses.

SPSS (Statistical Package for the Social Sciences) was used to analyze data.

Scope and Limitations of the Study

This study seeks to understand the effectiveness of the Juvenile Justice System in its
stated goal of rehabilitating children in conflict with law. It does this by providing
information about the functions of the Probation Officer in their statutory role as key
agent in helping a child in conflict with law to be reintegrated back into society. The
PO’s role as prescribed by the law is compared with what they actually do, and the
impact of their work. Through this comparison, the shortcomings of the system are
revealed. This will prove useful in creating new protocols for POs, and ultimately in
improving the State’s response to the rehabilitation and care needs of children in
conflict with law.

There are several limitations to this study that need to be considered. First, the
Maharashtra Department of Women and Child Welfare provided the list of
Observation Homes and Probation Officers or Acting Probation Officers. This has
been treated as official data. The data provided by the State Government is the only
available source of such information and there is no other way to check if it is
accurate. Second, only 20 representatives from JJBs were interviewed, that is, less
than half of all the JJB members across the state either agreed or were available to
participate in this study. This may have resulted in under-reporting the JJB point of
view. In addition, in-depth interviews with children to understand their needs and preparedness for reintegration were conducted only with children detained in Observation Homes. Children in the community (such as children released on bail pending enquiry) were not interviewed for the purpose of this study.
KEY FINDINGS AND RECOMMENDATIONS

The findings from this study are relevant to developing policy and protocols for the management and rehabilitation of children in conflict with law under the Juvenile Justice (Care and Protection) Act. Broadly, they can be described in three ways:

A. Probation Officers Lack Legal and Child Welfare Training and Expertise:

There is no set criteria or qualification for the position of a PO. A quarter of existing POs are OH staff originally hired for a different purpose (nurse, clerk, teacher, etc.) who have been assigned the additional charge of performing the PO’s functions. As a result, they have little to none of the required expertise. A large number of POs have been appointed through promotions from within the system, chiefly from the ICDS where they were either aanganwadi sevikas or supervisors. Their prior work experience with children under the age of six, or as administrators is irrelevant to the work they are now required to do.

**Recommendation:** A structured orientation and training program highlighting three specific components: legal codes and conduct; counseling; and report writing. This must be mandatory for all POs including those in NGO run Homes. It could also be compulsory for Voluntary and Honorary Probation Officers. The counseling component must include targeted interventions for parenting, handling peer pressure, and structuring a routine for the child.

B. PO Workloads are Different in Each District:

There is a huge disparity in caseloads between districts. POs were asked to estimate their caseloads. In 22 districts, POs claimed to manage about 2 cases a year, while in 3 districts each PO purportedly handles about 550 cases annually. In the remaining 7 districts, POs said they handle an annual average of 117 cases.

**Recommendation:** Creating a three-tiered scale – high, medium and low – based on PO caseload. Additional support in the form of increasing sanctioned posts, appointing Voluntary POs, infrastructure and community networks can be planned according to the actual needs of the district.

C. The Social Investigation Report is Under-Valued

Although POs consider writing the SIR to be their most important function, there is little clarity about its purpose, with almost 1/4 (12) thinking it is to determine the child’s guilt. More than half the POs claim their recommendations are ignored by the JJB. More than half do not even start their enquiry unless specifically asked to do so. JJB members claim the SIRs are of poor quality and so cannot be given any weight. The formats followed, although prescribed by the Rules make for very non-specific reports that are not considered useful.
**D. Unmet Rehabilitation Needs of Young Offenders:**

Data from children revealed that although 72% were first time offenders, more than half of them reported that they had engaged in prior illegal behaviour for which they had not been apprehended (self-reported offending).

It was also found that POs rarely or never made care plans as required by the Act (Rule 15 (3)), or that these were not implemented and thus not followed up by POs. Data from children and parents also points to a high prevalence of vulnerability and risk factors within the community that are not addressed prior to reintegration.

**Recommendation:** Creating structured protocols to assess factors that put children at risk of offending and to develop and implement care plans for children in institutions and the community by:

- Reviewing the individual care plan Form XXI
- Developing a *Community Support Team* to implement community plans and supervision. The team can comprise existing community resources appointed under provisions for Honorary POs (Section 2(g), with rule 85) or fit institutions (Rule 69 (4)) or as case workers (Rule 50 (2))
- Reporting back to Juvenile Justice Board social worker and to the PO

<table>
<thead>
<tr>
<th>DISTRICT NAME</th>
<th>CHALLENGES FACED</th>
<th>STRATEGY TO OVERCOME CHALLENGES</th>
<th>DISTRICT LEVEL RESOURCE REQUIRED</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. HIGH PRIORITY</strong></td>
<td></td>
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</tr>
<tr>
<td>Mumbai Thane Pune</td>
<td>1. Unmanageable caseloads</td>
<td>Appointment of Voluntary POs. State and JJB to have a pre-approved list of at least 5 VPOs per District that is updated annually. Training on SIR protocol to be given to all VPOs. Section 15 (2)</td>
<td>NGOs who work with children Trainer from DCPU or District Probation Officer</td>
</tr>
<tr>
<td></td>
<td>2. Tracing families who live outside the district is very</td>
<td>Analysis of districts across India where most children come from. Based on this state/district network created</td>
<td>Local agencies such as CHILDLINE</td>
</tr>
<tr>
<td>MEDIUM PRIORITY</td>
<td>1. Rehabilitation, supervision and community based follow up neglected</td>
<td>Form a Community Support Team assigned to work with every PO. (Rule 69 (4)). Team to include: education vocation, de-addiction, health, recreation and counseling partners. They ensure linkages with NGOs and volunteers to facilitate rehabilitation and ensure necessary follow up (Rule 87 (1)).</td>
<td>DCPU could form or appoint this team and train (Under Section 62 A Primary Duty of DCPU)</td>
</tr>
<tr>
<td>Nasik</td>
<td>Wardha</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Districts</td>
<td>NGOs and volunteers to facilitate rehabilitation and ensure necessary follow up (Rule 87 (1)).</td>
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<tr>
<td></td>
<td>Community Support Team will use pre-approved, standardized formats, such as a risk assessment in order to make a plan.</td>
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<tr>
<td></td>
<td>They will assist PO to approve and present plan to JJB.</td>
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<tr>
<td></td>
<td>The JJB social worker to okay all plans.</td>
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<tr>
<td></td>
<td>The Community Support Team to implement and follow up in the community.</td>
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</tr>
<tr>
<td></td>
<td>Report back to JJB social worker.</td>
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</tbody>
</table>

2. JJB members/POs not confident about VPO track record and thus rarely/never give final orders like community service, group counseling, etc.

Community Support Team will use pre-approved, standardized formats, such as a risk assessment in order to make a plan.

They will assist PO to approve and present plan to JJB.

The JJB social worker to okay all plans.

The Community Support Team to implement and follow up in the community.

Report back to JJB social worker.

3. **Low Priority Remaining 22 districts**

   1. Home staff is not accustomed to dealing with CICL and with what they call uncontrollable behaviour, so they tend to lock up and discriminate against them. CICL are usually detained in these Homes for a very short period.

   Protocols and orientations created for these Homes to include:

   Crisis Management and Behaviour Management so that there is a short-term protocol for how staff should conduct themselves and manage the children.

   Head of institution must orient entire staff on these procedures.

   One full-time staff member must be assigned for this orientation.

   If Home is very short staffed, a VPO can be identified by the DO/DCPU and be oriented with the understanding that he will be available when CICL comes.

Note: Caseload intensity in the above table is based on *estimated* numbers reported by POs during their interviews.
Chapter 1

The Pivotal Role of the Probation Officer

Of the 50 people working as Probation Officers in the state, very few said that they took this job because they wanted to work with children.

According to the JJ Act, the PO is a critical functionary of the juvenile justice system. His job begins at the time the child is apprehended by the police and continues until the child is reintegrated productively into the community.

Who is a Probation Officer?

A Probation Officer is an officer appointed by the State Government under the Probation of Offenders Act, 1958. A Probation Officer is a full-time staff member of an Observation Home or a Special Home.

In Maharashtra, all POs are attached to Observation Homes – the institutions established to house children in conflict with law pending the adjudication of their case. There are 51 functioning Observation Homes across the state, of which 50 have a staff member appointed “in charge of CICL” – i.e. a person designated to carry out the functions of the Probation Officer.

Of the 50 designated POs in the state, 33 are appointed POs, while 17 are “Acting” POs. Acting POs are OH staff who have a different primary responsibility in addition to which they must also perform the PO’s job on a temporary basis.

Acting POs include:

- 6 Superintendents
- 1 Deputy Superintendent
- 3 Teachers
- 4 Clerks
- 1 Nurse

The findings show that the appointment or designation of a PO does not follow any standardized norm. More than half the Acting POs received written notification from the DWCD instructing them to take on this charge, others were informed by a district official, and a few had to take on the task because they were appointed as superintendents and in the absence of a PO “had to” assume that responsibility as well. In other words, there was no formal process by which POs were selected and entrusted with this job. Sometimes, administrative clerks working in an OH are given the superintendent’s responsibilities. Over time in these Homes, this clerk, who has no training, and likely no inclination to actually work with children, could end up being both Superintendent and PO. In some Homes, Superintendents simply take on the duties of any staff position that is being neglected, including that of the PO since they are responsible for the Home’s performance and believe “somebody has to do it.” As a result, no duties can be completed satisfactorily.
Many Acting POs were not entirely clear about what exactly they were supposed to do. When asked about a PO’s responsibilities, Acting POs reported that their job entailed “home inquiry” and “filling in case sheets.”

How does this compare with the role envisioned for the PO by the JJ Act?

**Roles and Responsibilities of the Probation Officer**

The role of the PO as articulated in the JJ Act is an extensive, complex and demanding one, requiring them to address the multiple needs of this difficult population.

<table>
<thead>
<tr>
<th>Statutory Authority</th>
<th>Section</th>
<th>Content</th>
<th>Function</th>
</tr>
</thead>
<tbody>
<tr>
<td>JJ Act 2000</td>
<td>12(1)</td>
<td>When released on bail the JJB may place the child under a PO’s supervision</td>
<td>Supervision</td>
</tr>
<tr>
<td>JJ Act 2000</td>
<td>13 (b)</td>
<td>When informed of a child’s apprehension the PO will gather background and family information</td>
<td>Inquiry</td>
</tr>
<tr>
<td>JJ Act 2000</td>
<td>15 (2)</td>
<td>PO will prepare and submit a Social Investigation Report regarding the child to the JJB (Form IV)</td>
<td>Inquiry</td>
</tr>
<tr>
<td>JJ Act 2000</td>
<td>15(3)</td>
<td>JJB’s final order can provide for a child to be placed under a PO’s supervision</td>
<td>Supervision</td>
</tr>
<tr>
<td>JJ Act 2000</td>
<td>59(1)</td>
<td>PO may submit a report to JJB recommending options for children exiting Special Homes (to live with a parent, guardian, or authorized person)</td>
<td>Inquiry</td>
</tr>
<tr>
<td>Central Model Rules, 2007</td>
<td>11(1)(c)</td>
<td>When informed of a child’s apprehension the PO will gather background and family information</td>
<td>Inquiry</td>
</tr>
<tr>
<td>Central Model Rules, 2007</td>
<td>15(2)</td>
<td>PO will prepare and submit a Social Investigation Report regarding the child to the JJB</td>
<td>Inquiry</td>
</tr>
<tr>
<td>Central Model Rules, 2007</td>
<td>15(3)</td>
<td>PO will make an individual care plan for the child</td>
<td>Supervision</td>
</tr>
<tr>
<td>Central Model Rules, 2007</td>
<td>15(8)</td>
<td>JJB’s final order can provide for a child to be placed under a PO’s supervision</td>
<td>Supervision</td>
</tr>
<tr>
<td>Rule</td>
<td>Paragraph</td>
<td>Description</td>
<td>Category</td>
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<td>------</td>
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</tr>
<tr>
<td>Central Model Rules, 2007</td>
<td>17(2)</td>
<td>PO will present each child’s case before the Management Committee to ensure proper release and reintegration</td>
<td>Supervision</td>
</tr>
<tr>
<td>Central Model Rules, 2007</td>
<td>50(2)</td>
<td>Every newly admitted child will be allotted a caseworker who may be a PO</td>
<td>Supervision</td>
</tr>
<tr>
<td>Central Model Rules, 2007</td>
<td>65(8)</td>
<td>PO will prepare a restoration and follow up plan for the child to be submitted to the Board</td>
<td>Supervision</td>
</tr>
<tr>
<td>Central Model Rules, 2007</td>
<td>79(1)</td>
<td>Prior to sending a child outside its jurisdiction, the Board may direct PO to find out about fitness and willingness of the person receiving the child</td>
<td>Inquiry</td>
</tr>
<tr>
<td>Central Model Rules, 2007</td>
<td>87</td>
<td>Duties, functions and responsibilities of Probation Officer (Social Investigation Report, care plan, release plan, guide and orient, solve problems, mediate with family and institutional authorities, follow up, make linkages with voluntary orgs, rehabilitation, inter alia)</td>
<td>Inquiry and Supervision</td>
</tr>
</tbody>
</table>

A PO’s job is clearly defined in the JJ Act and accompanying Rules. Broadly, it can be categorized as being either a function of inquiry, or of supervision. Here, supervision broadly implies rehabilitation work since it includes the preparation of a care plan, whose objective is to provide children with the guidelines and services they need in order to facilitate effective reintegration.

A. Inquiry:

- Gathering background and family information for every CICL
- Preparing for every CICL and submitting to the Board a Social Investigation Report (SIR) that details out the child’s social history including his relationships, education, employment, mental health, family structure, economic situation; circumstances of the offense behaviour including case analysis and probable causes; and a recommendation regarding treatment and a rehabilitation plan

B. Supervision:

- Of the child released on bail
- Of the child throughout his stay in the OH
• Preparing a Care Plan for every child
• Preparing an exit and restoration plan for every child in an OH or Special Home
• Of the child who is released on probation (final order) under certain terms

Based on this role definition, clearly the PO must have expertise in two completely divergent areas: Inquiry, which requires POs to be familiar with juvenile justice and criminal law and procedures as well as the ability to conduct social history investigations; and Supervision, which requires the same PO to also understand social work, human and child psychology, and have the ability to be a community worker. Since this is a difficult adolescent population, the PO also needs to be an effective mentor and guide, someone the child will look up to.

Not surprisingly, it is difficult to find any single individual with the right combination of skills that go to making a PO.

What Qualifications and Work Experience do POs have?

“How much legal expertise do POs have?”

• 22 of 50 POs interviewed said that they had knowledge of the Juvenile Justice Act since this was relevant to their work
• 12 POs had also “heard of” the Probation of Offenders Act
• 13 POs knew about the JJA Act the PO Act as well as some others such as the Immoral Trafficking (Prevention) Act (1956) and Prevention Of Child Labor Act (1986)
• 3 Acting POs did not know about any laws

“What kind of academic qualifications do POs have?”

• 30 have Masters degrees in Social Work
• 7 have Masters degrees in other subjects
• 11 have Bachelors degrees
• 2 are not graduates

“What previous work experience do POs have?”

• Child Related Experience: Technically, 34 POs had “child-related” jobs before this. However, since most were promoted from the ranks of ICDS aanganwadi sevikas, their experience is with children under the age of six, whose needs are very different from the adolescents they have to deal with now. Aanganwadi Supervisors who have become POs report that their prior work was primarily administrative so they admit to feeling unconfident about coping with adolescent behaviour problems that arise on a daily basis in their current work.
• **Other Work Experience:** Of the remaining 16 POs, most do not have child-related experience although they may have worked in proximity to CICL in another function in the Home. Those that have done administrative work in other positions in the Department said that at least they were familiar with systems and procedures required by the Department.

• **No experience:** For 4 POs, this is their first job and they have been required to learn while on the job.

### A PO’s Interest and Passion for the Job

**Why did these 50 men and women decide to work with CICL?**

It is unclear how many POs actually wanted to work with this particular and highly troubled population. In fact, more than a quarter of them did not even specifically opt to work with children (of any category) at all. When asked, their reasons for taking this job included:

• It’s just another job: “I went for the interview because I got a call from the employment exchange. Nothing particular about my choice. I just wanted to work.”

• They simply wanted a government job no matter what it specifically was – “I applied because there was pressure from family to get a government job.” Or, “I just wanted to be a Class 1 Officer and cleared MPSC 5 times but always had problems in the oral stage, so this is where I ended up.”

• Some categorically did not want to be a PO:
  
  “I never wanted to become a PO as it required me to transfer residence.”

  “My real choice was to be a teacher”

  “There is too much documentation and no freedom to work as a PO”

  “I wanted further promotion within ICDS but was promoted to the PO post”

  “I was selected for the Forest Department but later opted for WCD instead.”

### Challenges POs Face

**Challenge 1: WORK LOAD**

When POs were asked, which of their many duties they ended up neglecting, it turned out to be interaction with children and their parents, despite their claim that this is the part of the job they enjoy the most.

60% of POs complain that they are overworked and report that they end up neglecting a good part of their responsibilities. Across 4-5 districts, this overload is in terms of sheer numbers of cases. Some POs also felt the breadth of their work made their task very difficult.
When Probation Officers were asked to approximate the average number of children who came into their Observation Homes during the year, we found a huge disparity in caseloads between districts. This is very relevant to addressing the issue of workloads:

Based on PO estimates of their annual caseload, it appears that in most districts POs tend to have a very low number of cases. Across 22 districts, the average estimated caseload per PO is as low as 0-3 cases a year; Aurangabad and Osmanabad POs have a moderate number of 44 and 25 cases respectively; while in 10 districts POs had drastically higher numbers, averaging at about 256 cases a year.

<table>
<thead>
<tr>
<th>High Caseload Districts</th>
<th>PO’s Estimate of their Average Annual Caseload</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Mumbai</td>
<td>800</td>
</tr>
<tr>
<td>2 Thane</td>
<td>500</td>
</tr>
<tr>
<td>3 Pune</td>
<td>359</td>
</tr>
<tr>
<td>4 Nasik</td>
<td>172</td>
</tr>
<tr>
<td>5 Nagpur</td>
<td>150</td>
</tr>
<tr>
<td>6 Bhandara</td>
<td>150</td>
</tr>
<tr>
<td>7 Wardha</td>
<td>100</td>
</tr>
<tr>
<td>8 Ahmednagar</td>
<td>90</td>
</tr>
<tr>
<td>9 Jalna</td>
<td>90</td>
</tr>
<tr>
<td>10 Solapur</td>
<td>80</td>
</tr>
</tbody>
</table>

To augment the existing probation service, Honorary or Voluntary Probation Officers (VPOs) may be appointed from voluntary organizations and social workers found fit for the purpose by the Board (Section 2 (g), with Rule 85). Many POs agreed that having the state appoint VPOs would help, especially to do the home and community components of the work – for which almost all POs acknowledge they have little or no time.

However, almost half of all POs and half the JJB members interviewed did not feel there was a need for VPOs as coordination and reporting mechanisms do not exist.

**Challenge 2: LOW MORALE**

“My transfer was an injustice to me”

“If a person is working devotedly then he should not be transferred mid-way”
One of the biggest factors affecting PO morale seems to be transfers that are made without consultation or without warning. There is a feeling that transfers are made in an “unfair” manner and many POs felt that when they were transferred hurriedly and not given enough time in a particular post, they did not do justice to their work and this did not help them with their own development as professionals either. Arbitrariness in transfers leads to feelings of job insecurity and resentment. Rather than concentrating on their jobs, POs find themselves jockeying to find favor with authorities so that they can attempt to control their transfers.

POs are not against transfers per se, in fact, almost half of them believe that transfers should be ordered routinely every 3-5 years. What rankles POs is the manner in which they happen, and most believe that transfers should follow a fixed protocol. Some suggestions from POs include:

- “A specified time period clarified at the time of appointment"
- “Rules and promotion criteria clarified to avoid ad hoc transfers”
- “Transfers should be on rotation and free from biases and political influences”

POs talked extensively of the numerous issues that affect their morale, these include:

- “Pressure from higher authorities”
- “Department treats honest people badly”
- “Honest work is not appreciated”
- “Honesty and hard work are less important than who you know”
- “Non-cooperation from the rest of the Home staff, no support from anyone”
- “No financial assistance for vehicle for home visits”
- “Lack of resources so cannot arrange programs for children to keep them busy”
- “Additional work in the Home” (Dual responsibilities)

**Challenge 3: Lack of Specialized Training**

When JJB members were asked whether they believe the PO was adequately qualified, most expressed skepticism.

“Yes they may be qualified, but they are not trained”…. even if they are qualified on paper, “practical knowledge is what counts”

POs are required to work closely with JJBs providing them with critical information about the child, including a recommendation for disposition. In order for this relationship to work as envisaged, it is imperative for the JJB to trust that POs know what they are doing. All JJB respondents believed that POs need training and need to be much more sensitive to child rights and child psychology. Most believe that there are special skills needed to work with this population, and add that they don’t
think POs necessarily have those skills. One member said that POs should have better time management so that they can spend more time talking with children. Some talked of the need for the PO to be able to understand and deal with adolescent issues and the vulnerability of this population.

When POs were asked what would make them more effective in their work, their top five issues were:

- Training workshops
- Infrastructure and resources
- Better salary and appreciation
- No additional duties
- Better qualified support staff

A Probation Officer who has worked in an NGO-managed institution for over twenty years told us, "In all these years, I have never attended any training for any subject… We learn on the job." As many as 7 POs from NGO-managed Homes reported to have attended no trainings at all, neither as part of orientation nor to refresh their knowledge.

There is a need for PO training to go beyond mere familiarity with the JJ Act. POs need to understand the Criminal Procedure Code (CrPC) so that they understand due process and know how to conduct themselves during the enquiry and so that they can explain JJB proceedings to the CICL in their charge. An understanding of other child-related laws will also help POs gain a broader understanding of the issues that this population confronts. Only 2 POS told us that they had attended an in-depth training organized by the DWCD on fourteen laws relevant for people working in the Department.

A few POs also expressed the need for specialized trainings, particularly in the area of behaviour management.

- "I want training on counseling and correctional work"
- "I'm not confident about working with children in conflict with law"
- "Handling violent and difficult adolescents is difficult"

The need for training on child-rights and counseling is highlighted by the fact that more than half the POs claimed to be doing a fair amount of counseling already. These trainings will help staff to use appropriate and non-stigmatizing language with and about children, understand children's rights including constitutional provisions and due process rights, and learn to speak to and mentor children in a non-judgmental way, skills that are sadly lacking. Negative attitudes towards CICL, and a lack of understanding of children's needs, behaviour and rehabilitation were clearly expressed when POs were asked to talk about why and how they counsel children. Their responses include:

- "Counseling will not make a difference if they are repeat offenders"
• “Counseling is used to change the bad attitude of these children”
• “I just spend time with the boys”
• “Making the child aware of the evil effects of his wrong deeds”
• “I tell the child about the importance of being a social person”
• “Dealing with arrogant children and getting them to open up in order to find facts”
• “They tell lies and do not open up easily when we have to make the report”
• “Making children understand the legal procedure and safety measures”
• “Build rapport with the child, talk to him and then convince him to plead guilty once the child is more relaxed”

ANALYSIS AND RECOMMENDATIONS:

Review Recruitment Guidelines to Specify Special Skills

There appears to be no requirement for the PO to be particularly interested in, or experienced with working with children. There are no real criteria or qualification for who becomes a PO. A wide range of people, ranging from those primarily qualified to being senior clerks or an ICDS Mukhya Sevika whose work experience is exclusively with the well being of children under 6 and pregnant and nursing mothers, to someone with a degree in Agriculture, could potentially become a PO.

Structured Training Program or Manual

There seems to be inadequate knowledge of the law, of child psychology, of case management, or counseling, all of which are crucial aspects of the job. Additionally, there is vagueness about what the job of the PO actually entails. JJBs believe POs lack practical experience, and generally do not have the qualities and skills they would expect in a PO.

Supervision of POs

When asked if they or their work was ever evaluated or supervised, most POs said NO. The quality of the work is rarely questioned.

Review Staffing Distribution across High Density Districts with Large Case Loads

POs complain about being overworked. This is particularly true in approximately 10 districts where the caseload is high. Detailing out clear written protocols on appointment, application, functioning and reporting of VPOs.
Chapter 2
The Social Investigation Report

The Need for the Social Investigation Report

The JJ Act mandates that prior to disposition in any case involving a child, the Probation Officer must provide the JJB with a Social Investigation Report (Section 15(2)). The PO is supposed to be informed as soon a child is apprehended, and is required to start the enquiry through interviews with the child, interviews with the parent or guardian and by gathering relevant information from other sources such as the child’s school, workplace, neighborhood, etc. The PO’s enquiry is conducted in order to find out details of the antecedents and family background of a child, and any other material circumstances that will assist the Board in arriving at a fair outcome (Section 13(b)).

The Social Investigation Report (Central Model Rule Form IV) typically includes:

- Family history
- Antecedents of the child
- Mental and physical health
- Expert opinions
- Analysis and recommendations
- Plan

Why is the Social Investigation Report (SIR) an Important Document?

It is the one formalized way that a child’s perspective can be heard by the JJB. It offers the opportunity for a child’s life circumstances to be looked at, that they might mitigate or explain the actions of which he is accused. The attempt of the JJ Act is to shift the focus of judicial intervention from merely enquiring about guilt, to trying to find and then alleviate the causes behind the child’s behaviour and actions. SIR’s also provide the scope for PO’s to make recommendations about rehabilitation plans based on an assessment that is made about the child’s problems and needs. Does this really happen?

SIR: The PO’s Top Priority

An overwhelming 93% of POs believe that the most important part of their job is “getting primary information.”

By “primary information,” POs mean the information required for the SIR and for any other JJB related procedures that may arise (filling in intake sheets, writing reports, attending JJB sittings). In this it is critical to understand that with regard to the SIR, a major chunk of the PO’s time is spent in tracing and tracking down the families of children. So, when POs talk about SIR related work, frequently it means just trying to
find people rather than actually getting to know the details of the child’s life and the circumstances of the offence.

Children also believe that the PO’s work has a lot to do with conducting an inquiry and asking them questions.

However, no children were able to articulate why this process of enquiry was relevant to them, or for what actual purpose it was conducted. According to children, the PO’s job is to ask them questions because:

- He has to write in a file and make a report to the JJB – 35%
- It will help him to trace us if we run away – 35%
- He has to correct and discipline us – 8% (For example, he will ask us “why do you run away from the OH?”)
- It is his duty as he is a “sahabji” and so he can - 6%

Evidently, nothing in the PO’s interaction with the child is helping the child understand the process he is undergoing. The SIR is intended as a means to present the circumstances of children’s lives in order to understand the specific rehabilitative need of that child, and also to provide the mitigating circumstances in which offense behaviour occurred. Do these responses indicate that this was in fact the tenor of the child’s interaction with the PO?

**How is the SIR written?**

32 of 50 POs merely use the SIR format provided in the Model Rules (Form IV). While others either use formats developed in their respective Homes, use “no format” or don’t really know.

Children face all sorts of pressures and traumas – economic hardship, social exclusion. They are frequently witness to and victims of violence and neglect. If the JJB is to understand the specific issues that a child faced that might have contributed or led to his participation in an offense, they need to know the details of a child’s life, beyond his economic and caste status, or his family’s employment and education history. To find out this deeply personal information from a child takes great skill.

Not a single PO has received any specific training on how to actually conduct an investigation, nor on drafting and writing reports. 5 POs said that these topics had been briefly mentioned in Department trainings (that were conducted on other issues), but could not specifically remember what the content was.

In trying to understand what POs thought was important in the SIR, we found that 15 POs believed that the main reason for the SIR was to help the JJB determine guilt or innocence and verify the “child’s version” of circumstances of the offence; 7 POs emphasized family background; and the remaining 26 believed that their recommendation and helping the JJB to make a decision was of most significance.

Does the PO’s recommendation really have any impact?
Making Recommendations to the JJB

According to JJ Act Section 15 (2) and Model Rule Section 87 (1) (a) and Form IV, the SIR presented to the JJB should include the PO’s own recommendation to the Board regarding an appropriate outcome for the child, along with a plan to support this. Although more than half the POs believed the recommendation was an important part of the SIR, almost half of them simultaneously acknowledged that JJBs do not consider their recommendations. In fact, many POs said that they only made a recommendation if the JJB specifically asked for it. What is worse, 23 POs shared that they do not even start doing inquiry work unless specifically instructed by the JJB, despite the fact that JJ Act Section 13 (2) require them to start the process immediately.

Of 50 POs, approximately half believe that their SIRs are considered by the JJB, with only 7 believing that the JJB always considers it.

- “The JJB accepts my report sometimes. If they find that recommendations are appropriate”
- “I write what I can but it is not always considered.
- “The JJB is totally non-cooperative. I merely sit there in JJB sessions, but reports that I have taken a lot of time over, are not considered. I am not asked anything”
- “I give recommendations only if JJB asks”
- “I do not provide recommendations or plans, I only provide factual information”

Does the JJB consider your recommendation at the time of the final order?

- Depends on the Magistrate: 8
- Usually: 13
- Don’t know if they do: 14
- Yes/Always: 7
- Sometimes: 5
- Not at all: 3

Unfortunately, this lack of interest in the SIR is not just the POs’ perception, but was also echoed by a number of JJB representatives who seemed unfamiliar with the JJ Act’s requirement of a recommendation from the PO. Showing a lack of regard for the SIR, JJB members made comments such as:

- “We do not need the opinions of the Probation Officer”
- “He dare not make any recommendation”
- “We ask for the PO’s opinion in a few cases, only if we have the time”
• “We don’t always ask for the SIR, it is always favorable to the child”
• “No we don’t consider their recommendation”
• “POs need interrogation training to get real information out of the child otherwise the SIR is of no use”

POs obviously cannot work in a vacuum. They can only be effective if the entire JJ system is made child friendly and focused on the rehabilitation of the child. In districts where there are no social workers on the Board, or where there are inexperienced magistrates for instance, POs often find themselves alone in the task of advocating for the child’s best interest.

A PO with over fourteen years of experience talked about the need to sensitize Magistrates new to the JJ System - not just to familiarize them with the law, but also with the population:

“We used to have a Magistrate who never considered what we said. One day two of us POs invited him to be part of a Diwali celebration in the Home. Here he interacted with the boys and understood that at the end of the day they are just young children. Since that day he took our recommendations very seriously”

The Quality of the SIR

The JJ Act mandates that a JJB can only pass final orders in a case after the submission of the SIR. The legislative intent of this is we assume to ensure that the JJB receives information about the background and circumstances of the child alleged to have committed the crime. The law seeks to look at a child’s needs and not just the wrong deeds that got him into trouble. The means for the JJB to get this information is via the SIR. It is therefore crucial for the SIR to be a quality document that can assist the JJB to make an informed decision regarding the final order they should pass.

While most JJB members we spoke to were aware of how important the PO input was in theory, they hardly found them useful because of the poor quality. One JJB member said SIRs were “rarely usable” while others said:

• “Quality of the report is not at all satisfactory”
• “Since the PO is neither qualified nor trained I can’t take the report seriously”
• “Content is not in depth”
• “PO does it as a mere formality”

In trying to understand what would make the SIR more useful, JJB respondents were asked what they expected in an SIR. For the most part, both POs and JJBs stuck to the format that the POs are expected to follow in the forms that are made for this purpose. This format includes basic information about name, caste, family background, peer influences, and the extent of involvement in the offense. Only one JJB respondent spoke about wanting information about a child’s “talents and
strengths” and about wanting to understand family dynamics with the parents and the atmosphere of the child’s home.

JJBs are ambivalent about the SIR and its import in their decision-making. Although they claim that this is because of the poor quality of SIRs, they themselves do not appear to think it should contain much more than basic information and an analysis of the offense, nor do they appreciate the PO’s input.

Meeting the Child and Starting the SIR

Many POs told us that they preferred to wait until the child settled down a little before starting the inquiry process. Although the intention of waiting is a good one, the focus on inquiry often causes POs to skip their duty of assisting an institutionalized child during the crucial first few days. According to the JJ Act, as soon as a PO is allotted a case, he must help the child to get in touch with family (Model Rule 87 (1)(f); attend Board meetings; and most significantly, clarify any doubts the child may have about present circumstances, and support the child to deal with institutional life.

Between assisting the child to settle down and become acquainted with his environment, and inquiry or supervision, logic dictates that the PO needs to spend a significant amount of time with children, interacting with them, asking questions, finding out their needs. We asked POs how soon after admission they met with children. In response, 74% said they met children on the day they arrived; while 6% said they met on the second day, and another 6% claimed to meet children on the third day.

Children said the exact opposite. In fact, 74% of children said they did not meet the PO on their first day in the Home and had to find out about the Home from caretakers and peers.

6% of children claimed that the PO only came and spoke to them if there was a fight, otherwise there were no meetings either individually or in groups; 15% of children claimed that they are kept locked up, and the PO comes sometimes and just asks them a few general questions from outside; some children also said that POs would ask them if they got enough food, and would tell them to behave and be good.

“We don’t know what POs do all day,” say 74% of the children. The rest guess that it could be related to running the Home, filing reports and “writing something.”

SIR Challenge: Tracing Families of Children

One of the most challenging aspects of the POs work related to the SIR is tracing families. According to POs this is because:

- They are given incomplete addresses and unreachable telephone numbers
- Parents and other family members are reluctant to get involved with the children once they are in trouble. POs often have to convince parents to come and bail their children out.
- Many children’s parents live in different states, tracking these distant families can easily take a PO 2-3 months
An experienced PO tells us that one way to manage the tracing aspect of the job is to ensure that community networks are in place. She uses social work students, and emphasizes the importance of agencies like CHILDLINE who have a presence in every state and can therefore be of tremendous value for out-of-state children.

ANALYSIS AND RECOMMENDATIONS:

**Conduct Training on Social History Investigation and Writing the SIR**

POs and JJBs agree that preparing the SIR is the PO’s main job. In theory, the SIR is supposed to provide a thorough picture of the child and the circumstances of the offence. Considering this is the only aspect of their role that the PO is handling, why is the quality so poor? Children resoundingly state that they barely interact with the PO, and when they do, it is cursory. So, what inquiry is the PO doing? What is the source of his information if it is not the child?

**Periodic Orientation for JJB Members on the Importance of the SIR and the PO’s Recommendation**

JJB’s complain that the SIR is of poor quality and cannot be taken seriously. They also doubt the ability of the PO in general. While this may be true in many instances, the reality is that JJB members are resistant to the PO’s input and by and large ignore them.

**Create Tracing Networks with the Help of Childline Partners and District-Level VPOs**

POs spend a lot of time tracing children’s families for the purpose of investigation. This is both time consuming, as well as a drain on resources. This leads to delays in the Inquiry stage, and compromises the time POs that might be better spent interacting with the child.
Chapter 3
Rehabilitation and Reintegration

Care Plans and Supervision in the Community

The JJ Act emphasizes the importance of care, treatment, development and rehabilitation of children in conflict with law. It seeks to reform rather than merely punish, and encourages the speedy repatriation of children to their families and communities. It gives the JJB several opportunities to pass final orders that are community-based, and rehabilitative, such as, advice and admonition, group counseling, community service, and release on probation. The Model Rules necessitate the preparation of an Individual Care Plan for each child that outlines the plan for rehabilitation and follow up. The JJ Act and the Model Rules that accompany it enumerate in some detail the role that the PO must play in the rehabilitation and social reintegration of the child. These include:

a) Preparing an individual care plan for the child (Model Rule Sec. 15 (3))

b) Placing the child under supervision of the Probation Officer (Model Rule Sec. 15 (8))

c) Placing each case before the Management Committee for ensuring proper: release and social mainstreaming of the child post release (Model Rule Sec. 17 (2))

d) Preparing and submitting restoration plan to the Board (Model Rule Sec 65 (8))

e) Making enquiries about the fitness and willingness of the family or other person who will receive the child (Model Rule Sec 65(1))

Individual Care Plans

Within one month of a child's admission to an Observation Home, the PO must prepare an individual care plan.

The Juvenile Justice Care and Protection Rules at Section 2(h) describe and define the content of this care plan. According to this definition, the Probation Officer has the mammoth responsibility of making an individual care plan for the child (Form XXI). The care plan is designed to restore the child's dignity, self-worth, and self-esteem and to nurture him into becoming a responsible citizen. It must be made after a process of enquiry with the child and his family as to his specific needs. Care plans are meant to address a variety of needs - health, education, vocational training, emotional and psychological well-being, leisure, play, attachments and relationships, protection from neglect and abuse and mainstreaming. When the Juvenile Justice Board passes a final order, the individual care plan must be made a part of it (Rule 15 (3)).

The care plan is therefore the backbone of the state's attempt to rehabilitate the child. It helps direct JJBs in passing need-based final orders, that will determine the type of assistance and intervention the child needs to reduce the likelihood of recidivism.
More than half of all POs said that they either never or only sometimes prepared a care plan for children.

Only 18 POs reported that they did prepare care plans. When asked what the components of the plans were, about half said that their plans generally emphasized vocational training and job placements. A few POs also mentioned the need for counseling when the child returns home. Two POs said they did not know about these plans, and that they needed more training on social reintegration.

None of the POs mentioned doing any kind of community based follow up on the plans. Not a single child was able to corroborate POs’ claims to making rehabilitative care plans.

When children were asked if the PO ever spoke to them about a rehabilitation plan, many did not have an answer. According to children, the PO's communication with them in regard to behaviour and to changing themselves is limited to cursory statements such as:

“He told us to be good”
“Don’t commit an offence again”
“Go to school”

The goal of rehabilitation is to ensure that children learn about the consequences of their actions, learn to make better decisions for themselves and do not re-offend. In general, POs agreed that re-offending could be prevented if children’s problems are addressed. The majority believes that better parental control and supervision would greatly benefit children. However, how parents should do this, what support they might need are not issues that are addressed by the PO or anyone.

Despite the fact that POs claim to spend a fair amount of time with parents, most parents we spoke to were unable name their child’s Probation Officer or articulate what exactly POs were supposed to do. Five parents said that the PO could possibly help their child by “giving a good report and ensuring that his case was finished promptly.” Most parents reported that when POs did interact with them, it was limited to questions for the SIR or to convince them to put up bail.

A constructive and well thought out care plan is likely to influence a JJB’s decision when passing a final order. The JJB is empowered to make several community based orders:

- Allow the child to go home after advice or admonition following appropriate inquiry and counseling to parents or guardian or the Child
- Direct the child to participate in group counseling or similar activities
- Order the child to do community service

Sadly, JJBs rarely exercise these options. One Magistrate says- “I do not believe such things work”.

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A PO with over twenty years experience told us, “I have not heard of even one child being given an order of counseling or community service.”

In 2008-2009, more than 1300 cases appeared before the Juvenile Justice Boards in Mumbai and Thane. Here POs estimate no more than five final orders included a community component.

A PO who claims he has handled more than 4000 cases over fourteen years claims that he has seen at most 10-15 community supervision orders, 1 community service order, and no orders for counseling. He said that the community service order was difficult to monitor and follow up.

It’s quite likely that this is what prevents JJBs from passing such orders, and might even cause POs to not prepare plans that require too much coordination and follow up. Additionally, there is an absence of viable community support and infrastructure to implement these orders.

If community based orders are not being passed, if POs are doing no follow up work in the community, and if there are no community based support networks, how are young offenders being rehabilitated? Has their brush with the juvenile justice system changed anything for them?

**How Prepared do Children feel to return to the Community?**

*What according to children are the risks they face as they return to the community? What coping skills do they have?*

We asked children and parents to share their thoughts.

The mother of a seventeen year old boy, who has been in an OH repeatedly, resignedly says, “he will come home and when he does something wrong the police will harass us, calling us to the police station repeatedly... So nothing will change, things will only get worse.”

69.8% of children feel deeply angry and frustrated as they prepare to leave the Observation Home. Most believe that their punishment has been “unduly harsh” in proportion to the offence they are alleged to have committed. Close to 37% of children believe that the problems that got them in trouble in the first place still exist outside, making it likely that they will re-offend.

Echoing this thought, most parents also reported that they felt “frustrated” with the system, disconnected and unsupported. Many parents also said that they did not feel confident that they would be able to control their child’s behaviour when he came home. At a loss for what to do, and with no community support structures in place, many parents talked about sending the child “back to the village” to keep them out of trouble in the future.

More than half the children (54%) we spoke to reported that they had been involved in offending behaviour more than once prior to their current apprehension. However, only 18% of them actually had prior cases and were known to be re-offenders.
Half of the children who reported to have offended without being caught were charged with the violation of IPC Sec. 379 (petty thefts) and spoke about multiple other offences, often part of their daily survival strategy.

72% of the children we spoke to were first time offenders, (that is, they had never been apprehended before, not necessarily that they had never offended before) and thus were likely to be released quickly with an order of advice, admonition, and counseling for the parent and child (JJ Act Sec. 15 (1) a). However, at least half the children admitted that the self-reported persistent offending behaviour was likely to continue.

The JJ Act emphasizes that children should not be branded criminals, should not live with the stigma and signs of incarceration, and should be able to get back to “normal life” as smoothly and quickly as possible. We found that an overwhelming majority of children in conflict with law believe that life after an Observation Home is not going to be “back to normal.”

71% of CICL interviewed believe that their lives will be considerably worse when they return home. Some say this is because the police will harass them now that they have been established as “troublemakers” while others say it will be extremely difficult to get a job. No matter what the reason they leave the OH with trepidation and report that they feel unsupported.

When asked who could improve their life as they return to the community, 40% of children did not believe the JJB could do anything to help them and were unsure whether JJBs or POs actually worked for the “best interest of the child.” 24.5% saw the JJB’s role as being limited to merely releasing them.

We found that most children in conflict with law are indeed keen to bring about some change in their lives. However, they are not certain about how they will do this or where to start or whom they can turn to for this kind of support. When asked what steps they would take in order to cope better with the stressors they face at home and in the community, they expressed interest in making changes, but were able to speak only in general terms. “I will do whatever it takes to try and make sure I do not return to the Observation Home.” Thus without any kind of plans, goals or new coping skills we have to wonder how successful they can be.
ANALYSIS AND RECOMMENDATIONS

Focusing on the Preparation, Submission and Implementation of the Care Plan

The care plan is the backbone of the State’s efforts to rehabilitate the child in conflict with law. A recommended strategy for achieving this would be:

A. Enforcing the Submission and Implementation of the Individual Care Plan

In the absence of a care plan, there is no planned intervention for the child’s re-entry back into the community, and no preparation is made to facilitate this. Training JJB members and POs on the relevance and mandatory nature of the Care Plan must be conducted

B. Form Community Support Teams to Implement and Follow-up on Care Plans

POs lack the time and resources to implement and follow up on care plans in the community. The Community Support Team can comprise VPOs to act as caseworkers for the child in the community as well as state approved NGOs who can provide other services. JJB social workers can work with the PO and this team to implement education, vocation, counseling, de-addiction needs of children. This team could include volunteers in the form of peer mentors. This will encourage JJBs to pass more community based and rehabilitative orders.

C. Training on the Preparation and Execution of a Care Plan

Current practice does not consider the risks and real challenges children and their families face. The Care Plan must include a standardized risk assessment, and a protocol must be developed for the Community Support Team that includes planning, follow-up and reporting back to the PO and JJB.

D. Reviewing and Amending the Format of the Individual Care Plan (Form XXI)

Neither children nor their families believe that the JJ System has any understanding of the circumstances in which they live. The Care Plan must be amended to include information regarding risk factors, as well as the means and strategies to overcome these. Specific outcomes based on each child’s needs must be identified and met. The child and his family must be made to understand the relevance of the plan by the JJB at the time of the final order.
Chapter 4
Understanding Children in Conflict with Law

The Problems Children Face

In order to meet the needs of children in conflict with law and to prevent re-offending and risk taking behavior, it is necessary to understand the population and the specific challenges and issues that youth face. To do this we conducted a more focused study of CICL by speaking to youth detained in Observation Homes in Mumbai and Thane. Researchers conducted in-depth interviews with 106 CICL at the Observation Home for Boys, Dongri, Mumbai and the District Probation and After Care Observation Home for Boys, Bhiwandi, Thane, and in addition spoke to 30 parents.

The children in conflict with law we met ranged from 12 to 18 years, with most (83%) of the boys being between the ages of 15-18 years. Almost half of those who self-report to having engaged in prior offending behaviour said that it started around about the age of fourteen.

THE CRITICAL FACTORS – WORK AND EDUCATION

Of the children we spoke to, 10% have never been to school while the rest report that once they turned 14, they faced a great deal of pressure to drop out of school and start earning a living. What is clear is that by the age of fourteen most young boys are expected to contribute significantly to the household income. At this vulnerable age, and with little education and no other skills, children are often unable to find appropriate options to earn within their community. As a result, these young boys frequently become victims of exploitative and hazardous work situations, including the enticement to engage in illegal activity.

Closely related to the pressure to work, is the feeling among children that school is no longer relevant.

“There is no need to go to school now, we have reached working age.”

Only 14.28% of children believe that education can have any impact on their lives in terms of keeping them away from crime. Not a single child expressed the need or desire to go back to school upon being released from the Observation Home.

This learning supports what POs told us - that vocational support and career guidance is a top priority because it helps children find appropriate and less risky alternatives to earn money. If POs are to make individual care plans that emphasize education or vocational training over employment, parental commitment and participation is crucial. Without support at home, the child is not going to be able to get time off from work to engage in any other programs. However, parents indicate that POs rarely engage them in any discussion about their child’s future. POs also admit, that other than mentioning the importance of these options they do not have the time or opportunity to work extensively with parents to change their mindsets, or to put them in contact with community resources who can help to achieve this.
FAMILY LIFE AND PROTECTION:

Contrary to what we had believed, more than 59% of children in the JJ System lived with either one or both parents. What's more, at the time of release from the OH, 93% reported that they had a home to return to. Given this, identifying the safety and protective factors within the home must also be given importance by POs while making care plans and recommending restoration.

Who do you live with outside the OH?

- One parent 24%
- Both parents 35%
- A close relative (uncles, aunts, grandparents) 19%
- Older sibling 14%
- Distant relative 3%
- No one 5%

According to the JJ Act, the PO’s supervision duties include working with family and facilitating contacts between them and the child, as well as supporting family
members (Rule 87 (1) (f). It is the duty of the PO to communicate with the family or guardian, to ensure that they participate in mentoring education and vocation programs. A home visit with parents will help the PO determine whether the parent or guardian is fit to receive the child (Section 51). These guidelines are in place to determine if the family home is a suitable place for the child to return to, where he will be safe, and will get the guidance and care he needs. POs report that even when they have doubts about the parents’ fitness, they often have to recommend the child be returned home, because, despite the risks, that may still be the best option available to the child. In instances such as this, early identification of the potential problems, and family counseling and mentoring by the PO becomes critical.

Many children report that their parents simply ignore the fact that they are constantly in trouble and are engaged in offending behaviour. 31% of children said that their parents were aware of offending behaviour even before they are caught, but did not do anything about it. POs need to be alert to the fact that guardians may be aware of, and might even support the child in offending behaviour. This could take many forms - tacit approval, simply apathy or even active involvement. Only a quarter of the children reported that their parents had tried to get them to stop their illegal activities.

**Parent approves, guides, and encourages offending behaviour: 34%**

**Parent disapproves and discourages offending behaviour: 27%**

**Parent knows about offending behaviour but does not take action: 21%**

We examined the role of the parent in monitoring and supervising the child further. A very high percentage of children (close to 60%) characterize their relationship with parents, as very close, while 30% of both parents and children said the relationship is strained and troubled. Close to half of the children claimed they felt “okay and happy at home,” Less than 9% of children felt “well looked after” or “cared for.”

Despite claims of being close, most children said that when it came to making important decisions, they tended to make these independently, with few of them consulting their parents. This includes important decisions about education, training, career choices, changing jobs and so on.

**Who do you go to for advice or help when you have to make a decision about education or work or something that is important to you?**

- Decide independently: 62%
- Discuss with parents or guardians: 29.2%
- Discuss with peers: 2.8%
- Discuss with other relatives: 4.7%
- Other means (such as talking to another adult in the community): 4.7%

Of the children we spoke to, 74% felt the need for more adult guidance in their lives when it comes to making big decisions. The issues they wanted to talk about include:

**Seek more Advice on all sorts of issues: 34%**
Talk about work and study plans: 29%
Talk about relationships and family: 16.5%

**PEER PRESSURE:**

Being in the “wrong company” is commonly understood to be a risk factor for young offenders. This seems to hold true with the children we interviewed. 40% of them have friends who have either been in jail or in an OH. 43% of children also said that it is when they are roaming around in groups that they tend to get into violent situations and fights “for the fun of it.” 30% of children also reported that they had run-ins with local police while hanging around with friends late at night, either getting in fights or engaging in petty theft.

According to children, the most significant reasons for their offense behaviour are:

- Friends: 49.5%
- Their own bad decision making: 15.09%
- Poverty: 12.26%
- Targeted by police: 12.26%
- Family: 15.09%

Both parents and children attribute involvement in offending behaviour primarily to the influence of peers. Almost half of the children held their friend(s) responsible for their current state and many reported to having been “framed” by their friends. Parents agreed with this perception. Many parents also admitted that they did not really know their children’s friends – they might recognize some by face, but nothing more than that. A few parents spoke apprehensively about the influence that much older men had on the youngsters and said they were worried because their children had some friends who were much older (over the age of 30) who were a bad influence.

When we asked children what might prevent them from offending – a large majority, almost 40% talked about staying away from their peer group and from the “wrong kind of friends.” Approximately 12% thought they would have stayed away from offending if they had been involved in school or in a constructive work environment. Other factors children talked about were poverty and family influence.

Although this seems to be an emotive issue with both children and parent groups, only one PO talked about peer pressure, and the need to teach CICL how to cope with it. It seems prudent to make peer relationships a component of the SIR investigation, as well as a component of risk-assessment and care plans.

Linked closely to peer pressure is leisure. What does this group of youngsters do for fun? Which brings us to the question, how do children spend their days?

**NEIGHBORHOODS: LACK OF SPACES AND ACTIVITIES**
“Sometimes we hang around outside the school waiting for the girls to come out, then we follow them home. Sometimes we sit in the garden, everyone knows that “druggies” like us sit in that garden, so nobody disturbs us. Or we just stand at any street corner. If we are there too late at night, the police come and pick us up.”

When talking about prior offenses, and about offending in general, young people frequently brought up boredom. Unconstructive use of free time has long been highlighted as a risk factor linked to young people’s offending behaviour. The children we spoke to come from backgrounds where leisure and recreation are not given a great deal of attention. Nor are there safe public spaces, play and recreational areas or activities for them to engage in constructively.

Most children we spoke to (55%) had committed their offence in their own neighborhood, while 31% committed their offence very close to home. Often, this type of offending behaviour is linked to the peer group’s choice of recreation. In neighborhoods where both space and choice of recreational activity are limited, or absent, young people tend to just hang out, get bored, and plan some illegal activity because there is not much else to occupy their minds.

No POs or parents mentioned recreational/leisure or lifestyle related work as a risk factor. Linked to sessions on dealing with peer pressure, helping peers identify and plan stimulating but appropriate activities could be effective. It is also helpful for the PO to help link the child to appropriate activities in the community.

VARHAD is an NGO that works in Amravati, a district known to have high rates of adult crime in Maharashtra. They run a volunteer based youth program geared to the prevention of offending behaviour. They have identified 100 young college students as peer leaders who plan and implement various activities for youth in the community (working in over 35 urban settlements across the town). From sports events, photography, camps, youth are engaged in something stimulating on a regular bases.

A Mumbai NGO, Magic Bus, runs a sports-based program across four high-risk communities in Mumbai. Using peer “Community Coordinators” they help children from these neighborhoods to form football teams, identify local spaces and play regularly. This has been a very effective way of engaging young children all the way up to adolescence. A recent assessment showed that 48 boys stayed in the program from the age of 7 to 15 years.

Mumbai based Aangan, runs drop-in centers for adolescent boys in Govandi, Dongri, Dharavi and Wadala. Here, adolescent boys have a safe space, peer leaders help to figure out activities for the boys to be involved in – including “useful” activities such as organizing English-speaking classes. The boys are now forming themselves in to community groups called “Ready Force” through which they intend to address community issues that they face, including simple activities like painting public spaces and spreading messages about sanitation.

Children need routine and discipline. That is a common sense statement. However, fixing a daily routine for children is a huge challenge that many parents face. Parents say it is almost impossible to enforce rules or routine at home, especially considering
children spend most of the day out of the house working (an average of eight hours a day) and then roaming the streets with friends (an average of about 5 hours a day).

When asked whether parents monitor children’s activities at all, 42% of CICL said they did not have a fixed curfew time at night. While many reported that they were required to inform their parents and come home by a certain time, 60% of children reported to having stayed away from home for at least a day without informing anybody. 41% reported that they had stayed away from home for 2-15 days. Another 12% had stayed away for a fortnight to a year.

Most parents admit that they have not stipulated any particular rule about what time their children should come home by and reported that they “never”, “rarely” or “sometimes” may be informed by children about their whereabouts. In general, parents did not feel that their children abided by any kind of rules. Barring a handful, all parents said that they had a difficult time monitoring and controlling their child’s activities.

More than 70% of parents reported that they have taken their children to the local police station to “scare” them into staying away from anti social activities. One mother said she took her son to the police station numerous times and asked the police to warn him. “They did nothing then. What do they expect me to do now?”

The lack of consistency and routine affects other areas of a child’s life. For instance the child’s ability to keep a job or stay in an educational or vocational training program is often compromised simply because he is unable to attend regularly.

This is demonstrated by the fact that 70% of the boys we spoke to were unable to last even one year in a job or education program with 43% lasting less than five months. The reasons they gave for quitting or being asked to leave were: Dissatisfaction, boredom, unpunctuality, not coming regularly to work, long hours of work, and loss of interest.

About 15% of the children did believe that studying or being gainfully employed would help them to stay away from anti-social/dangerous behaviour, but admitted that they would not last for more than a couple of months in an education program.

As part of the care plan, meeting parents and children to jointly create a daily or weekly routine that has a good mix of work, study and recreational time can be a good starting point for POs and families.

LIVING WITH TURBULENCE: PARENTAL ADDICTION, VIOLENCE AND STRESS

Amongst CICL we spoke to, we found addiction in the family is extremely common. 85% of children reported to have at least one male member who is substance dependent; most children report to being exposed to substance abuse on a daily basis; and more than 70% have a parent (mainly father) or male sibling who is a user.

More than half the children we spoke to have been regularly exposed to domestic violence, with 42% personally experiencing violence as often as 3-4 times a month. Many others are regular witnesses to violence between their parents. The violence
children are exposed to does not stop at home – half the children said they witness violence in the community regularly, while a third have themselves been victims.

33.01% of children have experienced major disruptions: the unnatural death of a family member or close friend; a family member who went missing or was kidnapped; abandonment by parents; running away from home; fighting with parents; a parent’s remarriage, etc.

Living within intensely stressful conditions takes its toll on children. As many as 37.73% of children claim to have harmed themselves at some time or other. Of this number, 25.12% have tried cutting or burning themselves. Self-injurious behaviour in teenagers is commonly understood to be a sign of extreme distress and is a means for the adolescent to release emotional pain and to gain a sense of control. As many as 12% of children claim that they have seriously attempted suicide by throwing themselves off moving trains or trying to immolate themselves.

This vulnerable population has higher than average mental health needs and thus the PO’s knowledge and training on emotional/behavioural needs of children in conflict with law needs to be strengthened considerably. However, a key area of concern is the lack of professional mental health services across districts of Maharashtra. For a PO’s job to be effective, he needs to have networks that ensure an effective mental health referral process.

Outside of professional mental health services, it has also been found that the PO can ensure informal emotional support in the community for non-acute mental health needs. Mandatory mental health awareness and basic counseling skills training to staff working with young offenders and those at risk of offending is one way of reducing the likelihood of offending behaviour.

UNDERSTANDING SITUATIONS, THINKING ABOUT CONSEQUENCES:

Of all the children we spoke to, almost half were involved in “serious crimes.” By this we mean some degree of physical harm was caused to the victim. Yet, 64% of children tell us that they have never thought about the victim or about the harm they may have caused. Understanding consequences and taking responsibility for the harm that is caused is an important learning for young offenders. It is after all by this means that they will learn about making choices, and about developing alternate codes of conduct, thereby being “reformed.” Who is supposed to do this work with children, and when and by what means is it supposed to happen?

While the child is inside the Observation Home, the effort of parents, the PO, and the child are focused on the legal procedures and on getting the child released, and when the child is out in the community, we know that there is little or no rehabilitation work being done. A very important part of the process, teaching children accountability, is therefore left unaddressed.

The time spent in the OH is often a traumatic time for children. This is because they don’t know what is happening to them, and sometimes are not even told of the offenses with which they are charged. JJBs routinely ignore children, or at best are patronizing. Ohs are rife with their own problems and children have only each other to rely on for information. As a result, children who have committed offenses end up
feeling as though they are the victims. Children overwhelmingly report that the system feels harsh, incomprehensible and alienating. If children do not understand what goes on at their own hearings, they have no framework in which to analyze the wrongs they are purported to have done. The Juvenile Justice System is supposed to provide a supportive structure for children to be rehabilitated, however, the child’s experience of it is just the opposite.

Did you understand what was happening at your JJB hearings?

- I understood nothing: 59%
- I understood everything: 7.5%
- I understood very little: 14%
- I understood some things: 13%
- Not applicable: 6.5%

Half the children said that they had not been addressed even once by any member of the Juvenile Justice Board. Over 47% of children said although they were anxious to know what was going on, they had nobody to ask. Children end up getting piecemeal, and often, erroneous information from the “carcoon” who escorts them to JJB hearings, or more typically from other more experienced peers in the OH.

Very few children have thought about how they will cope when situations, similar to the ones that led to their involvement in offending behaviour, come up in the future. When asked if they knew of any services, NGOs or agencies in the community that they could approach for education, vocational training, de-addiction or counseling, 85% said they had no idea. Half of them said that if these services were available, they would be keen to make use of them. Parents were just as clueless about the presence of support services in their neighborhoods, and not a single PO talked about supporting children when they returned outside. Only 2 POs talked about the necessity of involving community-based NGOs in preparing and implementing care plans, however, they had no ideas about how they would monitor, follow-up or coordinate such work.

THE UNMET NEEDS OF CHILDREN

JJ Act Section 45 and Model Rule 39 mandate that State Government must develop effective networks and linkages for specialized services and technical assistance like vocational training, education, health care, mental health interventions and legal aid services. It would be useful to identify and engage voluntary organizations for this work, in order to have specialized intervention in areas of health, de-addiction, mental health, education and so on.

The perspective of CICL and their parents makes clear that children have many
needs as they return to the community that remain unmet. In order for rehabilitation
to take place, and the ends of juvenile justice to be met, specific interventions need
to be planned to cater to this population. The most pressing rehabilitation needs that
must be addressed include:

- Support programs for parents and guardians: to help strategize around
effective ways for them to supervise children’s routines, to plan and achieve
educational and vocational goals and to learn about behaviour management.

- Mental health interventions: specifically aimed at support and assistance with
the disruptions and trauma caused by the breakdown of family, loss and
bereavement, violence and abuse. Additionally, to provide interventions to
ensure overall emotional wellbeing.

- Identifying specific risk factors based on children’s perceptions and planning
interventions around them: for instance, children perceive peer pressure as a
primary cause for offending behaviour, while POs appear to have not
considered this a problem.

It is all very well to make a plan and find the community resources to implement it. A
big stumbling block is also the cynicism that young people and their family’s feel
about the efforts of the state’s interventions. As a result, once they are out of the OH
and back in the community it is difficult to engage either the child or their family. In
Aangan’s own experience of tracing and working with CICL once they leave the
Observation Home (2008-2010), we see that parents and children are difficult to
trace and engage beyond 2-3 meetings. This is a problem that we must overcome
because is quite clear that young offenders and their families need a great deal of
support in the community.
CONCLUSION

It is evident that there is a great disparity between what children in conflict with law need, what they have been promised by law, and what the reality of their situation is. Urgent and decisive action is needed in order for the crisis that the Juvenile Justice system faces to be ameliorated. What has emerged from this study are key areas in which action can be taken in both policy as well as practice. In summary these are:

- A Departmental review of recruitment guidelines for POs, to ensure appropriate personnel are hired for this position. This should include determining requisite qualifications, experience and skills as well as detailing a job description according to the JJ Act and Rules.

- Planning a structured training program for POs that includes training on key functions such as interview skills, writing the SIR, making a care plan, supervision and mentoring. Trainings should be ongoing, and POs should be required to undergo periodic refresher trainings. The State can seek assistance for this from the National Institute for Public Cooperation and Child Development (NIPCCD), as well as from social work colleges.

- Regular supervision of POs by the Department to ensure standards of work, as well as to oversee the relationship between the PO and other significant stakeholders, most especially the JJB. POs must be supported in order that they may assert themselves to act in the best interest of the child.

- A review of caseload distribution and the corresponding staffing pattern across the State with the view to provide high-density districts with additional support through the help of VPOs and other partnerships. In this regard, the amendment to Rule 6 (33C)(3) of the Maharashtra Amended JJ Rules 2011 wherein JJBs can appoint NGO partners to provide paralegal and other services provides the necessary framework. In Mumbai, JJBs are already using this provision to get assistance from NGO partners with the work of writing SIRs, counseling, tracing families and supervision.

- Periodic orientation for JJB members about the importance of the SIR and how it can be used to determine the child’s future, on the mandatory nature of the care plan, and to emphasize the role of the PO’s recommendation. Additionally, there must be advocacy with the state’s higher judiciary about the need to regularize the rehabilitation of children appearing before the JJB.

- Creating tracing networks with the help of partners such as Childline, district-level NGOs and VPOs.

- Enforcing the submission and implementation of the individual care plan.

- Forming Community Support Teams to implement and follow-up on care plans. These teams can comprise of VPOs, state-approved NGOs and partners who will be case managers as well as will provide or link children with essential services such as education, vocational training, de-addiction, counseling, etc.
Bibliography


