



# JUVENILE JUSTICE IN

## Overview of Juvenile Justice Reforms

Today 20th of November 2006 marks the Universal Children's Day in Papua New Guinea. On this Day PNG as a nation gives special recognition to the Rights of children as proclaimed under the United Nations Convention on the Rights of the Child (1989)

PNG ratified the CRC in 1993. Having made that commitment, PNG is bound by the terms of the Convention, that is, to implement the requirements and directives spelled out in the articles of the Convention.

Article 40 of the CRC refers to the "Administration of Juvenile Justice" that states that 'a Child in conflict with the law has the right to treatment which promotes the child's sense of dignity and worth, take the child's age into account and aims at his or her reintegration into society. This child is entitled to basic guarantees as well as legal or other assistance for his or her defense. Judicial proceedings and institutional placement shall be avoided wherever possible'.

The Convention further defines children to be those under the age of 18 and recognizes a vast range of rights and protection for children. These rights and protection under the Convention equally apply to any Papua New Guinean child in conflict with the law. Article 40 (3) of the CRC states that "All countries shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of or recognized as having infringed the penal law"

In 2000, the NEC approved the National Law & Justice Policy which signaled the government's commitment to carry out a comprehensive reform of the Juvenile Justice Reform (JJR) system. The NL & JS Policy embraces restorative justice as the foundation for PNG's future law and justice programs and further identified juvenile justice as a priority for juvenile justice reforms.

On or about 2002, the Inter-agency National Juvenile Justice Working Group was established to oversee juvenile justice reforms throughout the country. The primary objective of the NJJWG was to ensure there was cooperation within the agencies in the Law & Justice Sector, Non government agencies and Church Organizations in the development of a comprehensive juvenile justice system in PNG.

The NJJWG consists of representatives from all justice sector agencies, relevant stakeholders, Non Government organizations and Church groups working with youths and juveniles. The NJJWG is chaired by the Department of Justice and Attorney General (DJAG) as lead agency in coordinating juvenile justice reforms throughout the country.

The Juvenile Court Act 1991, is administered by the Office of Community Based Corrections, DJAG and, provides for the establishment of Juvenile Courts and the overall Juvenile Court Services. Under the JCA, Juvenile Court Officers and Volunteer Juvenile Court Officers are appointed to assist juveniles who come into conflict with the law, on first contact with the police and when they progress through the Criminal Justice System.

A juvenile under the JCA is defined as anyone not less than 7 years and not more than 18 years-old. Under this Act, juveniles are dealt with separately in the CJS. This is by the virtue of the fact that they are children, their needs and therefore their rights will be different to those of the adults.

Since the enactment of all sections of the JCA in 2003, the NJJWG has identified major challenges in the area of juvenile justice reforms and has indeed made significant progress in addressing these challenges. One major activity of the reforms has been the development of the now proposed National Juvenile Justice Policy.

The main objective of this policy is to establish a set of agreed principles and guidelines to guide justice sector officials in exercising their discretion under the JCA, and to act as a point of reference in the development of a comprehensive juvenile justice system.

It is anticipated that each justice sector agency will develop its own policies, protocols and guidelines based on the general principles established by the Policy.

The Royal Papua New Guinea Constabulary during the month of October 2006 launched the Police Juvenile Justice Policy and Protocols (JJPP). In a nutshell, the JJPP sets out the duties of the policeman/woman, and their obligations under the JCA 1991, the National Law & Justice Policy and the Convention on the Rights of the Child (amongst other documents).

As part of implementing the JJPP, the RPNGC at present are able to implement the diversion of juvenile offenders who come into conflict with the law. Through the diversion process juveniles who come into contact with the law (for trivial and minor offences) are able to be diverted away from the formal court system. There are eight (8) options available to the police to divert children away from entering the formal court system.

Shift Supervisors at all Police Stations should be made aware of the diversion processes. It is important to note that, at no stage of the juveniles contact with any police officer, is any physical harm or force to be exerted on the juvenile except where the juvenile may be of high risk or the likelihood of the juvenile escaping is very high.

## 4 GOLDEN RULES FOR DIVERSION

### DIVERT YOUNG PEOPLE RATHER THAN ARREST



In keeping with *The Law and Justice Sector Policy and Plan of Action (2000)*, a young offender of trivial, minor and less serious offences will be diverted away from the formal justice sector, applying the principles of restorative justice.

### DO NOT USE FORCE



Physical force will not be used on a young person, except when the danger of risk of harm or escape is unacceptably high. Such force can only be used:-

- to prevent escape, where there is strong evidence that the young person may try to escape;
- to protect the young person from his or her own actions or from the actions of others; or
- to protect others from the actions of the young person.

### DO NOT DETAIN



A young person will not be detained in a police cell - at any station, other than the designated cell, except when the danger of risk of harm or escape is unacceptably high.

- A young person may only be detained in a police cell:-
- to prevent escape, where there is strong evidence that the young person may try to escape;
  - to protect the young person from his or her own actions or from the actions of others; or
  - to protect others from the actions of the young person.

### REMAND IS A LAST RESORT



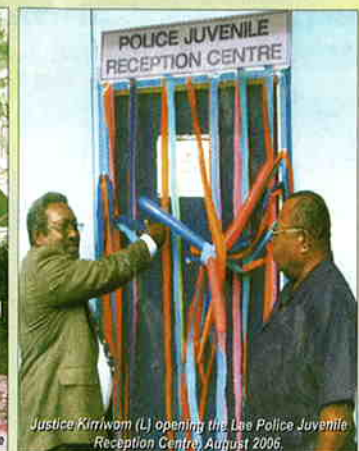
Remand pending trial will be used only as a measure of last resort and for the shortest possible period of time.

Under 14s will never be detained in a police cell or other institution, except for the most serious of crimes. A young person will, where possible, be released into the care of their families or other responsible adults (such as Juvenile Court Officers) to await trial in their own communities.

Also, in keeping with the requirements of the CRC (in keeping the best interests of the child paramount), juveniles are to be processed and detained (where necessary) in facilities separately from adults. With separate rooms and facilities for female juveniles. In line with this requirement, Port Moresby and Lae now have such facilities for juveniles called Police Juvenile Reception Centres. All juveniles for NCD and Lae should be processed only at these facilities and not at the general police counters. Where there are no separate facilities, great effort needs to be made to process, hold and detain juveniles separately to adults and females to again have separate facilities to male juveniles.



Above-front of Port Moresby Juvenile Reception Centre



Justice Kiriwam (L) opening the Lae Police Juvenile Reception Centre, August 2006.