



# SAVE MONEY, PROTECT SOCIETY AND REALISE YOUTH POTENTIAL

IMPROVING YOUTH JUSTICE SYSTEMS DURING  
A TIME OF ECONOMIC CRISIS





THE EUROPEAN COUNCIL  
FOR JUVENILE JUSTICE WHITE PAPER

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The International Juvenile Justice Observatory (IJJO) is an inter-disciplinary forum for sharing information, communication, debates, analysis and proposals focused on juvenile justice in the world. The IJJO created in 2009, the European Council for Juvenile Justice as a European think-tank on juvenile justice. This is composed of European experts in the field, who work for the development of initiatives and standards of good practice in relation to the education and inclusion of young people in conflict with the law in Europe. It also aims to develop corresponding strategies and recommendations, such as those set out in this white paper.

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However the responsibility for arguments and conclusions rests solely with the author.

Within the document, all references to expert consultation has been kept anonymous.

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## EXECUTIVE SUMMARY

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In 1978 the Council of Europe published a resolution on juvenile delinquency and social change calling for ‘the prevention of juvenile delinquency and the social integration of the young’.<sup>1</sup> Since then, despite over ten recommendations relating to youth justice being released by the Council of Europe, few concerted attempts have been made by governments to meet them. Thirty years after this first resolution, in 2008, an economic crisis took hold of Europe that has challenged governments and society. When we consider that youth justice policies are often led by emotion rather than reason, times of economic calamity have the potential to further undermine progress. However, conversely, times of economic restraint could provide a good incentive to really think about what works in youth justice. We all want to stop children offending. We need to be working towards this goal in times of prosperity and austerity. This European Council of Juvenile Justice (ECJJ) white paper will show you how.

### Cut where it hurts the most

Youth crime is the concern of all European countries; however, the issue is frequently addressed with repressive approaches. The global financial crisis that instigated a great recession has the potential to make this situation worse. The crisis hit real wages and employment levels, and increased inequality and poverty. The most vulnerable households were affected the most, and, within them, the most vulnerable children. Cuts have taken place across all sectors, including to youth justice services.

Reductions in household income and vast rises in unemployment have the potential to have huge social consequences. Young people in conflict with the law are already the victims of a number of interconnected problems, such as abuse, neglect, low educational attainment, chaotic family backgrounds, and being raised in deprived neighbourhoods. Economic crises can exacerbate stress, depression and violence in the home, meaning that potential increases in risk factors which lead children to commit crime. Although there is no concrete causal link, it appears that worsening economic conditions have an impact on youth crime, although this can only be seen within the context of children’s existing risk factors and is not an indication in itself. Maybe as a result of this, it appears that many young people view their move into crime as almost inevitable.

Public and governmental fear of youth crime continues to influence policy regardless of crime levels. In their reporting of crime, the media exacerbate a fear of youth crime, and authorities consequently turn to punitive responses even more during an economic crisis. Thus, instead of instigating innovative and positive changes in youth justice policy, governments cling to punishment over progress.

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<sup>1</sup> Council of Europe Committee of Ministers Resolution (1978)62 on Juvenile Delinquency and Social Change.



## Evidenced-based practice

The majority of European countries do not have a clear picture of how well they are adhering to international and European standards, or, indeed, whether or not any of their practices in the sphere of youth justice are actually working, because they do not have sufficient data collection, monitoring and evaluation systems. This is in spite of the fact that evaluation and research has been consistently recommended by the Council of Europe since 1978. It still appears that interventions are not based on ‘evidence on what works, with whom and under what circumstances.’<sup>2</sup>

Nevertheless, where it has been possible to evaluate progress, our ECJJ green papers have highlighted the fact that the United Nations Committee on the Rights of the Child frequently expresses concern that international standards on youth justice have not been fully implemented by European countries. They are still not sufficiently using diversion or alternatives to detention, and are instead demonstrating worryingly high imprisonment rates for children.<sup>3</sup> When we acknowledge the fact that many countries are generally ignoring the youth justice standards, it is even more of a concern during a time of economic turmoil when even more basic services to protect children’s economic, social and cultural rights are at risk.<sup>4</sup>

## Greater efficiency, positive professionals

European countries need to have a clear vision of the desired outcomes of youth justice policies in order to effectively strategise. Justice systems should be ‘child-friendly’, and aim to improve outcomes for young people and make society safer. Elements of effective youth justice systems are that they are based on individualised assessment and planning for children, have a speedy and efficient court system and can guarantee value for money.

What is also crucial is having a motivated and inspiring workforce committed to the goals of the youth justice system. As such, even in times of economic crisis, governments need to think about how they can best motivate their workforce by creating a vision for their services and improving training for existing staff. It is also necessary to ensure inter-agency working with all the professionals involved in helping young people, and involving key partners, such as the young people’s parents and the community. Restorative justice practices are also key in helping young people to understand the consequences of their behaviour and helping victims to heal. Finally, modern youth justice systems should be taking note of the movement to focus more positively

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2 Article 5 Council of Europe Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

3 Kilkelly, U. (2011). Measures of deprivation of liberty for young offenders: How to enrich international standards in juvenile justice and promote alternatives to detention in Europe: IJJO Green Paper on Child-Friendly Justice (European Council for Juvenile Justice, Academic Section), IJJO.

4 Ruxton, S. (2012). How the economic and financial crisis is affecting children & young people in Europe. Eurochild.

on young people's attributes in order to help inspire them to change and to improve their self-confidence. By promoting protective factors and using tools such as motivational interviewing and life coaching, young people can be helped to realise that they can contribute positively to society.

## Focused policies

By simply concentrating on four key policies, youth justice systems will save money, better protect society and also begin to realise the potential of their youth population. As children enter and move further and further into the criminal justice system, they become more damaged and cost society more money. Ultimately, detention is the most expensive youth justice service one can provide, and it is the most harmful thing to do to a child, increasing the likelihood of him or her committing further offences. In contrast, diverting young offenders, and utilising community-based programmes when they do enter the juvenile justice system, has been proven to be the most effective way to reduce youth crime.<sup>5</sup>

- **Prevention:** It is always better to try to prevent youth crime than to attempt to tackle it after the crime has been committed. With fewer children committing crime, societies are safer and less money needs to be spent on rectifying the negative effects of crime on both the young person and the victim. Prevention of crime is synonymous with promoting the positive socialisation of all children in society. It also has a proven record of reducing youth crime. Further, concentrating resources on prevention yields considerable long-lasting savings to society in terms of reduced welfare, criminal justice expenditure and higher tax revenues.
- **Diversion:** The majority of children who commit an offence will only ever do so once. Of children who come into conflict with the law worldwide, 90% are first-time offenders and 80% of these children will never offend again.<sup>6</sup> Therefore, diversion is a valid way of ensuring that even when a child commits an offence, he or she does not have to go through a gruelling court process, but can be given a second chance. Diversion policies are aimed at re-building family and community ties, and therefore have a much more positive impact on the child, the victim and the community. In terms of efficiency, diversion ensures that fewer cases are sent to court, meaning judges are able to concentrate on serious cases. Diversion is cost-effective and is also better at reducing the likelihood of children reoffending, as it is non-stigmatising.
- **Utilising community sanctions:** It is clear from the findings of research that it is better to rehabilitate a child in the community than in detention. Interventions delivered in the community are more effective at reducing reoffending than those delivered in custodial or institutional

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<sup>5</sup> Murphy et al. (2010). Review of Effective Practice in Juvenile Justice. Report for the Minister for Juvenile Justice. Noetic Solutions Pty Limited.

<sup>6</sup> AIHRC & UNICEF (2008). Justice for children: The situation of children in conflict with the law in Afghanistan.



settings. This is likely to be because interventions carried out closer to a young person's home environment are more likely to be meaningful to the young person, can confront family problems in their existing context, enable them to integrate into education and society more easily, and allow them to maintain existing positive networks. Community sanctions have been proven to work even on serious and violent offenders, reducing recidivism by as much as 50%.<sup>7</sup> Community sanctions are also cost-effective. For example, 'aggression replacement training' was estimated to yield almost \$45 in total benefits per US dollar spent.

- **Reducing the number of children in pre- and post-trial detention:** The number of children in pre-trial detention and other forms of detention in Europe is excessive. Not only is detention harmful to children, it does not prevent reoffending and is the most expensive way of dealing with children in conflict with the law. In the UK it can cost as much as £212,000 per child per year to keep them in custody.<sup>8</sup> There is also compelling evidence to suggest that detaining young people makes them more, rather than less, likely to commit further offences. This is because children who enter the prison system are more likely to be damaged in the short term through the trauma of the experience, and in the long term will find it more difficult to return to school or obtain employment or vocational training, and are therefore more likely to be a burden on the economy and society at large, rather than being able to contribute to its advancement and healing in times of economic crisis.<sup>9</sup>

## Realising youth potential

Economic crisis should be a opportunity for societies to move forward. This involves having the confidence to implement a youth justice system that is based on what works, and young people must be involved in any solution through close consultation. The majority of young people in the criminal justice system have aspirations to work, and they must be helped to do so.

Governments must first take the time to reflect on their current practices and understand why they have operated the way they have, then consolidate their tools and resources and take considered action to improve outcomes. With solid building blocks of evidence-based practice and initiatives that work, innovation will flourish.

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<sup>7</sup> Sexton, T. L. & Alexander, J. F. (2000). Functional family therapy. DC.

<sup>8</sup> Ministry of Justice (2013). Green Paper: Transforming youth custody Putting education at the heart of detention. HM Government.

<sup>9</sup> Holman, B. & Ziedenbuerg, J. (2006). The Dangers of detention: The impact of incarcerating youth in detention and other secure facilities. Justice Policy Institute.

In summary, the most important recommendations for governments are:

- 1.** Collect and monitor data from the youth justice system so that practice can be based on evidence and evaluated for success against outcomes, and specifically comply with the European Commission's Study to collect data on children's involvement in judicial proceedings in the EU.<sup>10</sup>
- 2.** Review the youth justice system in order to understand where it can be made more efficient and more child-friendly, in order to better implement the Guidelines of the Committee of Ministers of the Council of Europe on Child Friendly Justice.
- 3.** Review spending on youth criminal justice systems, and target resources away from detention and towards policies of prevention and diversion.
- 4.** Reduce the number of children in pre- and post-trial detention by at least half of the current rate within the next five years, making use of community sanctions instead.
- 5.** Ensure that training programmes for young people in conflict with the law are established within the community for children to acquire technical skills, foster social networks and enhance behavioural and social skills.<sup>11</sup>
- 6.** Nurture the capacity of youth justice staff by ensuring that they are motivated and given the necessary training and advancement.
- 7.** Comply with the 2003 Council of Europe recommendation that states should ensure that 'young adult offenders under the age of 21 should not be required to disclose their criminal record to prospective employment' unless the nature of employment dictates otherwise.<sup>12</sup>

The implementation of these recommendations will help countries to save money, protect society and benefit the young people that the youth justice system is supposed to serve.

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<sup>10</sup> European Commission (2013). COMMISSION RECOMMENDATION of 20.2.2013. Investing in children: Breaking the cycle of disadvantage.

<sup>11</sup> Lundberg, M. & Wuermli, A. (Eds) (2012). Children and youth in crisis: Protecting and promoting human development in times of economic shocks. The World Bank. Washington.

<sup>12</sup> Article 12, Council of Europe Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

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# 1. INTRODUCTION

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In 1978, the Council of Europe published a resolution on juvenile delinquency and social change. It called for ‘the prevention of juvenile delinquency and the social integration of the young’. Since then, over ten recommendations relating to youth justice have been released by the Council of Europe, yet there have been sadly few concerted attempts to ensure that youth justice policy and practice really adhere to them. Thirty years after this first resolution, in 2008, an economic crisis took hold of Europe. This economic turmoil has challenged governments and society even further. The last five years of economic instability has made it all the more pertinent to remember young offenders: those most excluded from society. This is why the European Council for Juvenile Justice (ECJJ) has launched this white paper.

Fear prevents people and governments from acting rationally. This fear is something that has motivated youth justice policies for too long. Had youth justice policies been rooted in anything rational in the last 35 years then they would have already made much greater steps towards preventing children coming into the criminal justice system, diverting those who do commit offences, and giving community sentences to children who have seriously broken the law, rather than placing them in detention. Indeed, as this ECJJ white paper shows, all of these policies save society money, reduce the level of crime and community fear, and help keep children away from the stagnating influences of the criminal justice system. Evidence has shown that these policies work – so why aren’t all European governments implementing them?

When we consider that youth justice policies are often led by emotion rather than reason, times of economic calamity have the potential to further undermine positive moves towards progressive policies. This ECJJ white paper argues that we should prevent this from happening. Instead, it has been shown that times of economic restraint provide a good incentive to really think about what works in youth justice. Now, more than ever, is the time to look at the many resolutions, recommendations, guidelines and conventions that show us what good youth justice practice is, and to implement them. Youth justice systems need to be better at saving money and protecting the community, but above all, they need to provide real outcomes for the children experiencing them. Young people need to be helped to flourish rather than to fail. They need to be helped to reach their full potential.

There have been, and will continue to be, difficult times in Europe. Indeed ‘over the past 800 years a major crisis has happened roughly once every 20 years’. The following pages outline the dire situation that youth justice in many countries has been reduced to in the last five years. EU countries are currently facing many problems in terms of austerity measures and financial cut-backs, which are directly impacting vulnerable families, and particularly vulnerable children. However, after over 30 years of recommendations from the Council of Europe setting out good

practice, this paper challenges readers to finally take stock of what is happening in youth justice and decide once and for all to improve it. Indeed, it asserts that we should directly follow the European Commission in its statement that European countries should ‘tackle child poverty and social exclusion through integrated strategies that go beyond ensuring children’s material security and promote equal opportunities so that all children can realise their full potential’.<sup>13</sup> Whether in public administration, academia, non-governmental organisations or other professions working with young people, we all want the same thing: to stop children offending. We need to be working towards this goal in times of both prosperity and austerity. This ECJJ paper will show you how.

### **A note on methodology**

In order to put together this white paper, the author undertook an extensive literature review and consulted with a variety of stakeholders. The greatest contribution came from ECJJ members, who comprise policy makers, officials, academics, project managers, practitioners, researchers, consultants, and professors and researchers in the field of youth justice. First interviews were undertaken with a selection of professionals from Belgium, Ireland, Greece, Poland, Cyprus and the UK. Following these consultations, all ECJJ members and collaborators were surveyed in order to understand the situation in each of their countries. A total of 35 experts from 24 countries responded. These countries were Austria, Belgium, Bulgaria., Cyprus, Czech Republic, England and Wales, Estonia, Finland, France, Greece, Hungary, Ireland, Italy, Lithuania, Luxembourg, Malta, The Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden. Finally, focus groups were held with young people in conflict with the law in France, Italy, Poland, Spain and Sweden by ECJJ partner NGOs. The children in the focus groups were aged between 14 and 18 years, were both male and female and had committed a variety of offences.

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<sup>13</sup> European Commission (2013). COMMISSION RECOMMENDATION of 20.2.2013. Investing in children: Breaking the cycle of disadvantage.

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## 2. CUT WHERE IT HURTS THE MOST

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*“If they committed a crime it is due to the fact that they hadn’t any other chances.”*

(Young person in conflict with the law, Italy)

### 2.1. The youth justice climate in Europe

Youth crime is the concern of all European countries. Since 1978, the Council of Europe has published a range of resolutions and recommendations about preventing and tackling youth crime.<sup>14</sup> It has issued best practice and recommendations on how to improve youth justice systems. In 2003, the Council of Europe issued a recommendation on ‘new ways of dealing with juvenile delinquency and the role of juvenile justice’. In the commentary to this, the Council gave a detailed overview of the situation of youth justice in its countries. It was noted that since the 1980s, a number of factors indicated that there was an increased risk of children in Europe becoming involved in violent and criminal behaviour, and that this was particularly a concern for the rapidly changing societies of central and Eastern Europe. The factors they noted were:

- The rise in child poverty and income inequality, especially in central and eastern Europe
- The greater incidence of divorce and family breakdown and the impact this has on parenting
- The growth of experimentation, at an increasingly young age, with psychoactive substances including alcohol
- The decline of the youth labour market and the rise in unemployment among young adults, particularly young men and those with low skill levels
- The increasing concentration of social and economic problems and related crime and violence in specific areas, often inner cities or housing estates on the periphery or urban conglomerations
- The mass migration of ethnic minorities into and within Europe, and
- The increased risk of psycho-social disorders among young people, especially young men.<sup>15</sup>

It was felt that ‘as traditional sources of informal social control – schools, families and the workplace – have weakened, the expectations placed on the criminal justice system to regulate behaviour have increased’. As a result of this, ‘a popular response for a more repressive approach

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<sup>14</sup> Council of Europe Committee of Ministers Resolution (1978)62 on Juvenile Delinquency and Social Change.

<sup>15</sup> The Council of Europe Commentary on Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

towards youth crime was being articulated which in some countries led to a shift from a needs-led (or 'welfare') model to a punishment-led (or 'just desserts') model'.<sup>16</sup>

## 2.2. The economic situation in Europe

In 2008, a global financial crisis instigated a great recession, the likes of which had not been seen since the 1930s. Instability in the banking system led to a prolonged credit crunch, a trade collapse in the northern part of the globe and a sharp contraction of economic output in most of the Organisation for Economic Co-operation and Development (OECD) countries.<sup>17</sup> The crisis hit real wages and employment levels, and increased inequality and poverty. The most vulnerable households were affected the most, and within them, the most vulnerable children.

Although improvements in the effectiveness of government interventions and welfare systems in the post-war period partly cushioned the social impact of the economic decline, the condition of public finance deteriorated sharply between 2005 and 2011 in most OECD countries. Sharp reductions in deficits and government debts, with a peak for Ireland of -30% and for Greece of -15% in 2010, caused large output losses. In 2008 and 2009, gross domestic product (GDP) fell by an average of 5% in the OECD area, with peaks in Italy and Sweden of about -6%, Finland of about -7%, and Ireland of -10%. Countries in which budgetary cuts due to fiscal consolidation were smaller fared better. However, in countries such as Greece, Portugal, Spain and Italy, the economic crisis was more acutely felt.

### 2.2.1. Cuts to public services

Although the crisis has affected all European countries, Greece, Ireland and Portugal have seen a starker change, and had to accept large loan packages with the troika of the European Commission, European Central Bank, and International Monetary Fund, conditional on delivering huge cuts in social expenditure.<sup>18</sup> This has meant that essential health and social services have worsened during the crisis. For example, in Portugal, the price of a medical consultation in Lisbon's main hospital, Santa Maria, has doubled.<sup>19</sup> Indeed, EU-SILC data in 2007 shows that in EU countries, 21% of individuals have revealed that they cannot afford to pay hospital expenses, and 35% cannot afford medical or surgical specialists. The problem is felt especially strongly in eastern European countries, Ireland, Greece and Portugal, which have also been deeply affected by the recession.

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16 The Council of Europe Commentary on Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

17 The 34 member countries are: Australia, Austria, Belgium, Canada, Chile, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States.

18 Ruxton, S. (2012). How the economic and financial crisis is affecting children & young people in Europe. Eurochild.

19 Ruxton, S. (2012). How the economic and financial crisis is affecting children & young people in Europe. Eurochild.



Children feel these cuts more than most. As a report by Eurochild confirms, expenditure cuts in health, education and welfare ‘are directly felt by children and their families... and restrict opportunities for children to participate fully in family and social life.’ The report found that government cuts have undermined particular statutory services providing support for children and families, such as education services, school meals, school transport and services for hard-to-reach children. This is particularly the case in Greece, Spain, Ireland and the UK.<sup>20</sup> Variations across Europe already means that children are differently affected, yet the crisis situation exacerbates such differences and makes the situation worse for them.

### 2.2.2. The effect on youth justice services

Members and collaborators of the ECJJ were surveyed in order to gain an understanding of the situation in each of their countries. Among our experts, opinion was divided as to whether austerity measures have been directly introduced in youth justice (50%:50%) and whether this has affected the youth justice workforce. However, there have clearly been noticeable changes which have affected youth justice practitioners and their work. For example, Portugal has experienced cuts which have ‘already been particularly felt in the juvenile justice system in the last 4-5 years’.<sup>21</sup> A Lithuanian respondent noted that there was a ‘Juvenile Justice Program in Lithuania but unfortunately the finances for different measures of the program were cut without any additional injection.’<sup>22</sup> In Italy, it appears that there has been a freeze on the hiring of new staff, ‘particularly educators, social workers, translators, accountancy personnel and so on.’ The government also defaulted on payments to the private sector.<sup>23</sup>

The main effect of austerity on youth justice services is a reduction in services provided by community non-governmental organisations (NGOs). Services are being reduced to a minimum and NGOs appear to be suffering the most. Indeed, in the UK, ‘any service that is not a bedrock service is being cut. For example youth work – which is the stuff that most kids need – that’s being cut – county by county. Mental health services are now static when before they were expanding.’<sup>24</sup> Our experts from Ireland and Greece agreed. Indeed, it seems that there are particular pressures on the NGO sector in terms of the lack of financial support. Our expert from Belgium stated how, ‘where before we had to fight to get new rights, now we have to fight to keep the existing rights. So we feel as if we are going back further’.<sup>25</sup>

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20 Ruxton, S. (2012). How the economic and financial crisis is affecting children & young people in Europe. Eurochild.

21 Survey respondent from Portugal.

22 Survey respondent from Lithuania.

23 Interview with ECJJ expert from Italy.

24 Interview with ECJJ expert from the UK.

25 Interview with ECJJ expert from Belgium.

### 2.2.3. Household income and poverty

The economic crisis has affected most households in Europe in some way, although socioeconomic circumstances play an important role in how this manifests. For example, 'Wealthy households will weather economic crises in different ways and with presumably greater success than poorer households.' However, it appears that the 2008-09 recession had the greatest impact on middle to high income countries and households.<sup>26</sup> Indeed, although the distribution of income following the initial slump at the end of 2007 was relatively modest, this was expected to deteriorate with the medium and long term effects of prolonged stagnation and fiscal consolidation, accompanied by sustained high levels of unemployment. The effect is already being felt in households. Increases in tax rates on income from financial assets, blocks to cost of living adjustments for public sector wages and pensions, income and health levies, increases in VAT and excise taxes are all taking their toll. All 35 of our ECJJ members and collaborators believed that the number of poor families in their country had increased, and 60% of them felt that the number of people on benefits had increased. Because of this, in Greece, 'taxes have increased, prices have stayed the same or increased, businesses have collapsed. People have lost their jobs and there have been no balancing measures by the State'.<sup>27</sup> In Sweden, 'the feeling of alienation and xenophobia has increased in society'.<sup>28</sup>

Household poverty affects children more than the rest of the population. The recession reversed a previous downward trend in the number of children living in families below the poverty line. Analysis of the European Union Statistics on Income and Living Conditions (EU-SILC) 2009 data (SSO 2012) reveals that the average proportion of children at risk of poverty in the 27 EU Member States is 18.3%, 19.5% and 21.7% for the 0-5, 6-11 and 12-17 year age classes, respectively. For the total population the proportion is 16.3%. In addition, almost 10% of children across the EU are identified as living in severely deprived households, compared to 8.5% of the total population.<sup>29</sup> In the EU-12 countries, the proportion is over 22%, a significantly higher level than for the population as a whole. In Estonia, Ireland, Greece, Latvia and Hungary, and to a lesser extent in Spain and Lithuania, there were significant increases in the proportion of materially deprived children between 2008 and 2009. The proportion rose to over 40% in Bulgaria and Romania.

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26 Lundberg, M. & Wuermli, A. (Eds) (2012). *Children and youth in crisis: Protecting and promoting human development in times of economic shocks*. The World Bank. Washington.

27 Survey respondent from Greece.

28 Survey respondent from Sweden.

29 Severely deprived means that the household has at least 4 out of 9 of the following housing items: a leaking roof, damp walls, no bath and indoor toilet, too dark a house plus a shortage of space as measured by the number of rooms relative to the number of people, inadequate electrical installation, inadequate plumbing/water installations, dwelling not comfortably warm during winter, dwelling not comfortably cool during summer, shortage of space in dwelling.

#### 2.2.4. Unemployment

Unemployment has dramatically increased, especially for the young in European societies. 91% of the 35 members and collaborators of the ECJJ felt that the levels of unemployment had increased in their country. In turn, the unemployment rates for young people aged between 15 and 24 years are higher than those for adults over 25. The report by Eurochild shows that between April 2011 and April 2013, the number of unemployed in the European Union member states rose by more than 2 million, to reach over 25 million overall. The highest increases were in Greece, Spain, Italy, Cyprus, Portugal and Bulgaria. The unemployment rate for young people aged between 15 and 24 years was 22%, which was high compared to the average in April 2012. In fact, the youth unemployment rate was over 15% in all but four countries: Austria, Germany, Malta and the Netherlands.<sup>30</sup> The consequences of unemployment for young people can be great. A recent report by the World Bank has shown that 'prolonged unemployment in the transition to work can have serious long-term implications, resulting in lower earnings, higher job turnover, higher rates of unemployment, and worse physical and mental health later in life' for children.<sup>31</sup>

#### 2.3. The social consequences

Young people in conflict with the law are the victims of a number of inter-connected problems. As the Council of Europe highlight, young people in detention often have backgrounds which consist of:

- Chronic educational deficits, with significant periods – often years – of being out of education altogether
- Very low levels of literacy and numeracy, poor social and life skills and low employability
- Highly disrupted family backgrounds, including, for some, a history of neglect and abuse (physical, sexual and emotional)
- Highly unstable living conditions, including periods of homelessness and movements in and out of state care
- Living in neighbourhoods characterised by high levels of deprivation, unemployment and crime
- Behavioural and mental health problems, typically anxiety, depression, hyperactivity and dependency on opiates, such as heroin, and alcohol problems
- A family history of involvement in offending, drug misuse and other forms of anti-social behaviour.<sup>32</sup>

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30 Ruxton, S. (2012). How the economic and financial crisis is affecting children & young people in Europe. Eurochild.

31 Lundberg, M. & Wuermli, A. (Eds) (2012). Children and youth in crisis: Protecting and promoting human development in times of economic shocks. The World Bank. Washington.

32 The Council of Europe Commentary on Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

These vulnerabilities appear likely to be exacerbated by economic crises if we understand the human developmental process as ‘the result of continuous interactions among various levels of functioning, from the genetic, physiological, and neurological to the behavioral and environmental.’<sup>33</sup> Children who are already suffering from the above characteristics are likely to be even more vulnerable to economic shocks. The World Bank has shown that the effects can be even more damaging to children’s behavioural and socio-emotional development in the first 24 months of life.<sup>34</sup> Indeed, it seems that the ‘long-term effects of job losses, insecurity and deteriorating working conditions, both on parents and on their children’s well-being, can be severe’, and that ‘children growing up in poverty and social exclusion are less likely than their better-off peers to do well at school, enjoy good health and realise their full potential later in life, as the risk of becoming unemployed and poor and socially excluded is higher for them.’<sup>35</sup>

### 2.3.1. Stress, depression and violence in the home

We know that secure attachments to care-givers protect children from the risks of committing crime. It is possible that increased stress and depression in parents brought on by economic crisis may inhibit the child from establishing a safe attachment to them. The World Bank has shown that parents might find it difficult to cope with the stress of insufficient income, or worry more about income loss or the inadequacy of household resources. Parents might have an increased risk of emotional problems such as depression and anxiety, or behavioural problems such as substance abuse. Indeed, ‘parents who experience severe conflict or emotional distress may be more likely to withdraw from, or become hostile toward, their children’. The consequences for the child can be dire, and could include ‘early school leaving, early abandonment of the parental household, or adoption of self-destructive or costly antisocial behaviours that may last a lifetime.’ This can in turn hamper several developmental outcomes, such as self-efficacy, conscientiousness and memory processing, which can in turn hinder the ability to form healthy relationships with peers and other non family people.<sup>36</sup> In families where children are more likely to be neglected or deprived in good economic conditions, this situation is likely to increase during times of crisis. If there are problems related to the presence of chronic diseases or addiction in parents, then children’s needs are more likely to be ignored.<sup>37</sup> Children with already weak attachments to parents and lower education opportunities are exposed to greater risks

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33 Lundberg, M. & Wuermli, A (Eds) (2012). Children and youth in crisis: Protecting and promoting human development in times of economic shocks. The World Bank. Washington.

34 Lundberg, M. & Wuermli, A. (Eds) (2012). Children and youth in crisis: Protecting and promoting human development in times of economic shocks. The World Bank. Washington.

35 Ruxton, S. (2012) How the economic and financial crisis is affecting children & young people in Europe. Eurochild.

36 Lundberg, M. Wuermli, A. (Eds) (2012). Children and youth in crisis: Protecting and promoting human development in times of economic shocks. The World Bank. Washington.

37 Perali, F. (2013). “A Causal Analysis of Juvenile Crime comparing Veneto and Sicily,” Department of Economics, University of Verona, Working Paper 5-2013.

of both material and relational poverty in an economic crisis.<sup>38</sup>

In extreme cases of stress and depression, economic crises can exacerbate tensions to a violent extreme. Eurochild shows that there has been an increase in violence against children and domestic violence in EU Member States since the recession. Carlson estimated that 10 to 20% of children are at risk of exposure to domestic violence, either as victims or witnesses; however, it is likely that the true figure is even higher.<sup>39</sup> Children who are exposed suffer behavioural, social and emotional problems. Many young people in conflict with the law have experienced or witnessed domestic violence. Perhaps as a consequence of these factors, there appears to be a rising demand for child protection services from the councils in countries such as the UK, Ireland and Slovenia.<sup>40</sup> 1% of children, approximately one million children, are taken into public care services across the EU every year. The number of children in institutions has also risen in several EU countries, partly as a result of the crisis.<sup>41</sup>

### 2.3.2. Difficulties in school and the community

Economic crisis appears to enhance school enrolment on the one hand and reduce it on the other. This may be because wide disparities already exist among young people in Europe. Early school-leaving rates are more frequent among young people from disadvantaged backgrounds, among migrants and ethnic minorities and among boys. It could also be the case that economic crises limit the resources and time that parents have to invest in their children, and culminate in lower academic achievement and higher rates of internalising and externalising behaviour.<sup>42</sup> As we have seen above, across the EU, more than half of young people who drop out of school are unemployed, and the proportion of young people who are neither in employment, education or training (NEET) continues to increase.<sup>43</sup> The World Bank emphasises that the period during which a child goes to school – the middle childhood – can have lasting consequences. For example, ‘trouble at home can lead to behavioural problems in school, complicating teacher-child and peer relationships, and can negatively affect the learning process. And vice versa, problems in school may affect the child’s behaviour at home and his relationship with his parents.’<sup>44</sup>

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38 Lundberg, M. & Wuermli, A. (Eds) (2012). *Children and youth in crisis: Protecting and promoting human development in times of economic shocks*. The World Bank. Washington.

39 Carlson, B. E. (2000). “Children exposed to intimate partner violence: Research findings and implications for intervention.” *Trauma, Violence and Abuse*, 1-4:321-340.

40 Ruxton, S. (2012). *How the economic and financial crisis is affecting children & young people in Europe*. Eurochild.

41 Ruxton, S. (2012). *How the economic and financial crisis is affecting children & young people in Europe*. Eurochild.

42 Lundberg, M. & Wuermli, A. Eds. (2012). *Children and youth in crisis: Protecting and promoting human development in times of economic shocks*. The World Bank. Washington.

43 Ruxton, S. (2012). *How the economic and financial crisis is affecting children & young people in Europe*. Eurochild.

44 Lundberg, M. & Wuermli, A. (Eds) (2012). *Children and youth in crisis: Protecting and promoting human development in times of economic shocks*. The World Bank. Washington.

## Greece – How the youth justice system has suffered

Our Greek ECJJ expert outlined the many problems facing Greece, with particular regard to youth justice services. These can be felt in a decrease in services and partners to work with, a freeze in salaries and consequently a de-motivated workforce.

For example, she stated that: 'what is not working anymore is all the additional activities, psychological support, organisational specific activities dedicated to that particular child... The work we are doing is that we are trying to keep alive the most essential services and all the other services that are related to individualised treatment for children.' In turn, 'there is a distinct lack of partners in the workforce for the public administration to collaborate with... We used to have other agencies to collaborate with and refer children to. We had community solutions that we don't have anymore.' In addition, 'there is a reduction in human resources and they have to deal with more actual cases. There are two elements that have an impact on this. Shorter contracts and being paid less, as well as having an increase in case loads.' Indeed, there have been 'very very serious cuts in all the salaries – prosecutors, judges, clerks – our lives are very much affected by the cuts.' These cuts are having a direct impact on the morale of professionals who are working with children in conflict with the law. 'If our morale is low then how do we help young people to change?... Indeed in a country like Greece where the issues are acute it is important to realise the effect of a low motivated workforce on the ability to achieve outcomes for young people and help them not to reoffend. Our expert described what it was like attempting to work in this situation: 'my biggest pressure is ethical – how to continue to provide a professional service. To try and convince people to make changes in a world which doesn't promise anything? How do you tell someone to go to school if they come from a Roma or immigrant family when they are struggling to make ends meet as their parents are unemployed? The teenager has to drop out of school and get a job to contribute to the family. Going to school seems minor in comparison to earning money. How do we convince them to comply? You are trying to help people to have stability in their lives when the whole environment is unstable and everybody is emigrating. There are similar pressures from above me. There is a sense of injustice and a lack of trust regarding what is happening in parliament. We feel like it is not our fault and we have to do the same job – or more – because crime is rising in Greece – and there is a lot of bitterness and unfairness. We feel it every day.'

### 2.4. Crime and the economic climate

Although there is no concrete causal link, it appears that worsening economic conditions have an impact on crime in general across Europe. There appear to be rises in crimes against property. The most recent Eurostat report on crime and criminal justice in the period 2006-2009 shows that towards the end of this period, the police recorded more crimes, especially in the member states most affected by the recession, mainly property crimes (domestic burglary in particular) and drug trafficking. Domestic burglary increased by an average of 3% in the EU in the period from 2006 to 2009. The majority of the EU member states recorded changes between 5% and 10%. Denmark, Greece, Portugal, Romania and Sweden reported very large increases of over 20%. Drug



trafficking (including illegal possession) has also been increasing consistently in the EU since 2002. The trend continued in 2006-2009, with the majority of member states showing increases of over 10% with respect to the 2006 base year. The southern European countries and the other states mostly involved in the great recession show relatively higher figures. It is possible that there is a direct link between recession and a rise in crime. Based on Italian data referring to the period 2008-2009 at the beginning of the economic crisis, De Blasio and Menon (2012) estimated that a reduction of 10% in economic activities would induce an increase of property crimes of between 3 and 6%. However, the same authors found no evidence of an association between an increase in job uncertainty and crimes against the person.<sup>45</sup>

In 2003, it was reported that police statistics from some western countries suggest that juvenile crime is generally stable but that violent crime is rising. Nevertheless, others questioned this view.<sup>46</sup> Statistics for youth crime are not collected at EU level, however. A recent study by Perali, conducted in Veneto and Sicily, examined whether the economic recession and multiple dimensions of poverty exacerbated youth crime.<sup>47</sup> He found that economic factors had a minor impact on youth crime, but that family factors, such as violent or criminal family characteristics, lack of family trust, and un-healthy relationships between the child and the parent, were more likely to impact potential moves into crime by young people.

Sadly, many young people view their move into crime as almost inevitable. Focus groups were held with young people in conflict with the law in France, Italy, Poland, Spain and Sweden. When asked whether they knew they would end up committing a crime, the majority felt that they were always bound to commit a crime. As stated in the French focus group, the mediator observed that 'one needs to make a living and in their neighbourhood, stealing and trafficking remains the most common model. As a result, they did not know they will break the law one day but were unconsciously convinced of it.'<sup>48</sup> The majority of the children from Poland also felt it was inevitable. One child from Sweden said that he felt he was going to commit a crime 'since I was about 9 or so. I'm raised in a family of criminals and I wanted that as well.'<sup>49</sup> One boy from Sweden felt it was inevitable 'because I grew up in a dysfunctional family with a criminal way of thinking'; another from Sweden felt that 'I knew that I would commit an offence from the beginning. It was my only way to get an identity.' He felt that: 'I get a harder sentence because of my background

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45 De Blasio, G. & Menon, C. (2012). "Down and Out in Italian Towns: A Measure of the Impact of Economic Downturns on Crime." Working Paper, Bank of Italy, Rome.

46 The Council of Europe Commentary on Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

47 Perali, F. (2013). "A Causal Analysis of Juvenile Crime comparing Veneto and Sicily," Department of Economics, University of Verona, Working Paper 5-2013.

48 Focus group, France.

49 Boy B, Sweden.

as a refugee. I can only do one mistake while a Nordic person gets more chances.’<sup>50</sup> Children from Spain similarly believed that they would commit a crime. One migrant from Bolivia stated that: ‘when I was a child I used to see people committing crimes and I wanted to have the same experiences’, while another migrant from Morocco said: ‘I used to stay for a long time on the street and didn’t go to school so I got used to getting involved in trouble’.<sup>51</sup>

#### 2.4.1. Perceptions of youth crime

Regardless of whether or not youth crime is increasing, public and governmental fear of youth crime continues to influence policy. Indeed, the perceived level of youth crime is frequently at odds with actual crime statistics. In our survey of ECJJ experts, the majority of the 34 respondents felt that youth crime had stayed stable (40% said it had stayed stable, 27% believed it had risen and 26% believed it had fallen). However, out of 33 responses, the majority felt that the public perception was that youth crime had increased (64%). Some experts maintained that youth crime was remaining at the same level but increasing in seriousness, while others thought that the perception of seriousness was simply that: a perception and not the reality.

The media play a key role in influencing fear of youth crime. As one participant mentioned, in Poland, ‘the average level of youth crime it has stayed stable according with the numbers in police statistics but... As the media publicise the most shocking cases of youth offending, the public fear of youth crime has increased.’<sup>52</sup> In the same way, it was felt that in Spain, ‘youth crime hasn’t increased, it has stayed stable, but society has a feeling that crime has increased, and this is due to the mass media. There have been some crimes in which there has been much violence and the mass media have hinted that these crimes happen every day.’<sup>53</sup>

#### 2.4.2. Punitive responses

As the Council of Europe noted in 2003, popular responses to youth crime in Europe are repressive.<sup>54</sup> In times of economic crisis, this has the potential to become even more marked, as there is increased instability and insecurity. Indeed, the majority of our surveyed experts (58%) felt that governments had introduced more punitive policies in youth crime in recent years (58%). A respondent from the Czech Republic stated that ‘some severe measures have been introduced in the Czech Act on Juvenile Justice from 2003.’ For example, ‘secure detention is now applied

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50 Boy C, Sweden.

51 Focus group in Spain.

52 Survey respondent from Poland.

53 Survey respondent from Spain.

54 The Council of Europe Commentary on Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

to children and compulsory medical treatment is being given to children below the age of criminal responsibility (15 years of age).<sup>55</sup> In Spain, two experts noted that young people are receiving harsher sentences and that there is currently a legislative amendment in process, which will mean that young offenders will be tried as adults if they commit a serious crime with adults. In Hungary, it was noted that the age of criminal responsibility has been lowered from 14 to 12, and that deprivation of liberty can now be used for less serious offences. In addition, our expert from Belgium outlined how ‘the legal response to children in conflict with the law is tougher and more severe and with a punitive approach instead.’ Belgium has witnessed the introduction of laws against anti-social behaviour which result in children receiving a fine and a response which is much more punitive than educational. There is also a draft bill being discussed in the Belgian parliament to lower the age at which a child can receive a fine from 16 to 14, which effectively widens the net of the justice system to more children. Finally, it appears that there are more situations in which children who have committed serious crimes are being tried as adults. As such, ‘the juvenile justice system becomes smaller and smaller: it is more punitive and severe.’<sup>56</sup>

### 2.4.3. Stagnation

Despite the clear issues that administrations are facing in these times of austerity, there seems to be a distinct lack of clarity and understanding about how to tackle these problems. In our survey, there was a distinct feeling among the majority of respondents (70%) that governments were not introducing innovative practice in youth justice. Nor did the majority of respondents (66%) feel that governments had launched any inquiry into youth justice. There was a feeling among the experts that although governments have the opportunity to be innovative and make big changes in youth justice, they are simply not choosing to do so.

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55 Survey respondent from Czech Republic.

56 Interview with Belgium expert.

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## 3. UNDERSTANDING YOUR SITUATION

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*“Every young person has a different crime experience and we should work on the different aspects for everyone to solve the particular problems that led them to commit a crime”.*

(Young people in conflict with the law, Spain)

How can you improve your practice if you are not aware of what your current practice is? Sadly, the majority of European countries do not have a clear picture of how well they are adhering to international and European standards and, indeed, whether or not any of their practice in the sphere of youth justice is actually working.

The Council of Europe in 2003 noted that there is little empirical data to aid understanding of youth justice practice, and that many European countries ‘lack the infrastructure and means to produce reliable crime data over a reasonable period of time to allow for valid conclusions to be drawn on trends and developments.’<sup>57</sup>

There is concern that criminal justice systems are inefficient, ‘slow, ineffective and overburdened’, and unable to reduce reoffending.<sup>58</sup>

Therefore, it was recommended that countries should continue to build better evidence of effective interventions with young offenders, and that resources need to be dedicated to scientific evaluations and findings which do not support certain interventions or reactions. Indeed, ‘knowledge banks, which are continuously updated to reflect the best and latest evidence on what works and what does not, should improve the work of policy makers and practitioners and minimise the tendency to continue to rely on ineffective interventions ‘because we have always done it this way’.<sup>59</sup>

### 3.1. Compliance with European and United Nations standards

There is no shortage of material on best practice in youth justice. The European Union, the Council of Europe (CoE), the European Commission (EC) and the United Nations (UN) have all outlined standards and recommendations which aim to help member states improve their

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<sup>57</sup> The Council of Europe Commentary on Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

<sup>58</sup> The Council of Europe Commentary on Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

<sup>59</sup> The Council of Europe Commentary on Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

practice towards children in conflict with the law. All of these standards and recommendations are based on years of expert experience of what works.

Youth justice is a key European concern. For example, one of the key commitments of the European Union's Agenda for the Rights of the Child (2011) was to make the justice system more child-friendly, and the Council of Europe launched its 'Building a Europe for and with Children' programme in 2006. From 1978 to the present day, the European Council Committee of Ministers has made over 10 recommendations to member states about how to improve youth justice practice. These include:

- Recommendation CM/Rec (2009)10 on policy guidelines on integrated national strategies for the protection of children from violence
- Recommendation CM/Rec(2008)11 of the Committee of Ministers to member states on the European Rules for juvenile offenders subject to sanctions or measures
- Recommendation Rec(2006)2 on the European Prison Rules
- Recommendation Rec(2005)5 on the rights of children living in residential institutions
- Recommendation Rec(2004)10 concerning the protection of the human rights and dignity of persons with mental disorders
- Recommendation Rec(2003)20 concerning new ways of dealing with juvenile delinquency and the role of juvenile justice
- Recommendation Rec(2000)20 on the role of early psychosocial intervention in the prevention of criminality
- Recommendation No. R(1992)16 on the European rules on community sanctions and measures
- Recommendation No. R(1987)20 on social reactions to juvenile delinquency, and
- Resolution (1978)62 on Juvenile Delinquency and Social Change.

In addition, the Council of Europe has produced a Framework Decision on the standing of victims in criminal proceedings (2001) and the extensive Guidelines on Child Friendly Justice in 2010, which were based on consultation with children and young people across Europe. The European Commission also released the EU Agenda of the Rights of the Child (2011), and has this year released the Commission Recommendation of 20.2.2013, called 'Investing in children: breaking the cycle of disadvantage.'

The recommendations usually ask member states to monitor their compliance; however, there are also a few monitoring bodies that aid compliance. There are three institutions that observe the promotion of human rights in the area of youth justice:

- The European Court of Human Rights receives complaints from individuals under the European Convention on Human Rights (ECHR)
- The Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment (CPT) inspects places of detention at a national level, and
- The Commissioner for Human Rights, an independent non-judicial body, promotes awareness and respect for human rights.

For example, in 2009, the then Commissioner, Thomas Hammarberg, published an issue paper on Children and Juvenile Justice which focused on the use of conditions of detention and the need for alternatives.<sup>60</sup> Of the EU member states that are party to the Convention for the Prevention of Torture, monitored by the CPT, none has entered a reservation to the provision dealing with alternatives to detention, Article 40(4), and we can therefore assume that EU states are committed to the implementation of these provisions at national level.<sup>61</sup>

The United Nations have invested a great deal of effort in collating and disseminating best practice in youth justice and recommending how to best tackle the problem of child criminality. The basis for most of these standards is the 1989 Convention on the Rights of the Child (CRC). The principles within the CRC have been given more detail in relation to how member states should administer youth justice through the:

- UN Standard Minimum Rules for the Administration of Juvenile Justice 1985 ('Beijing Rules')
- UN Guidelines for the Prevention of Juvenile Delinquency 1990 ('Riyadh Guidelines')
- UN Rules for the Protection of Juveniles Deprived of their Liberty 1990 ('Havana Rules')
- UN Standard Minimum Rules for Non-custodial Measures 1990 ('Tokyo Rules')
- UN Basic Principles on the Use of Restorative Justice Programmes in
- Criminal Matters 2002
- UN Rules for the Treatment of Women Prisoners and Non-custodial
- Measures for Women Offenders 2010 ('Bangkok Rules')
- UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime 2005
- Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power 1988.
- In turn, the CRC Committee has published a number of general comments that expand on these principles, such as:

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60 Kilkelly, U. (2011). Measures of deprivation of liberty for young offenders: How to enrich international standards in juvenile justice and promote alternatives to detention in Europe: IJJO Green Paper on Child Friendly Justice (European Council for Juvenile Justice, Academic Section), IJJO.

61 Kilkelly, U. (2011). Measures of deprivation of liberty for young offenders: How to enrich international standards in juvenile justice and promote alternatives to detention in Europe: IJJO Green Paper on Child-Friendly Justice (European Council for Juvenile Justice, Academic Section), IJJO.



- General Comment No. 8: The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (2006)
- General Comment No. 10: Children's Rights in Juvenile Justice (2007)
- General Comment No. 12: The right of children to be heard (2009)
- General Comment No. 13: The right of children to freedom from all forms of violence (2011)

The Office of the United Nations High Commission for Human Rights (OHCHR) also produced Guidelines for Action on Children in the Criminal Justice System in 1997.

However, with all these resources available on best practice in youth justice, our ECJJ green papers have highlighted that many simply remain unutilised.<sup>62</sup> All EU member states have ratified the Convention on the Rights of the Child, and the standards and principles of the UNCRC should continue to guide EU policies and actions that have an impact on the rights of the child.<sup>63</sup> However, bearing in mind that European countries are bound to respect, protect and fulfil the above recommendations of the CRC, it is surprising that in fact there is still much criticism from the CRC monitoring committee regarding implementation, despite the fact that they come from 'internationally respected organs and bodies of the UN and the Council of Europe, agreed on by a community of meaningful and significant state representatives' and that 'these regulations are an expression of the behaviour which the respective Member States expect from each other'.<sup>64</sup> Further, these rules and guidelines contain valuable knowledge of best practice, which is there to assist member states rather than to impose burdens upon them.

The CRC reports frequently express concern that international standards on youth justice have not been fully implemented. For example, the CRC has consistently had to recommend to member states that they establish a youth justice system which is more compliant with the provisions of the CRC by asking for more specialised youth justice institutions and the full application of the juvenile justice protections to those under 18 years of age. Recently, it has specifically recommended the greater use of diversion and alternatives to detention in Germany, Austria, Ireland, Greece, Hungary, Latvia and Romania. Indeed, in general, Europe demonstrates worryingly high rates of imprisonment of children. This is something that the Committee on the CRC has expressed concern about in the UK, Austria

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62 Kilkelly, U. (2011). Measures of deprivation of liberty for young offenders: How to enrich international standards in juvenile justice and promote alternatives to detention in Europe: IJJO Green Paper on Child-Friendly Justice (European Council for Juvenile Justice, Academic Section), IJJO; and Pruin, I. (2011). The evaluation of the implementation of international standards in European juvenile justice systems (European Council on Juvenile Justice, Administration Section), IJJO.

63 European Commission (2013) COMMISSION RECOMMENDATION of 20.2.2013. Investing in children: Breaking the cycle of disadvantage.

64 Pruin, I. (2011). The evaluation of the implementation of international standards in European juvenile justice systems (European Council on Juvenile Justice, Administration Section), IJJO.

and France. In Bulgaria, Greece and Lithuania, questions have been asked about the extent to which the deprivation of liberty is genuinely used as a measure of last resort.<sup>65</sup> The Committee has also expressed concern about the number of children in pre-trial detention, for example in Greece and Luxembourg.<sup>66</sup>

When we acknowledge the fact that many countries are ignoring the youth justice standards generally, this is even more of a concern during a time of economic turmoil, when even more basic services to protect children's economic, social and cultural rights are at risk.<sup>67</sup>

### 3.1.1. Lack of data

Although the CRC has been critical of practice, in many instances, it is not possible to undertake any real evaluation due to the lack of existing data on youth justice in each country. European youth justice systems differ greatly from one another. As the Administrative green paper highlighted, there are differences between countries in terms of their theoretical underpinning, the age groups that they encompass, the sanctions and measures that they employ and the types of detention they impose.<sup>68</sup> However, in many cases, even basic data is not being collected. For example, not all states record each incidence of a child's deprivation of liberty, nor do they register each individual child placed in a secure facility. Data on the use of detention is thus incomplete, making it impossible to compare trends across states, or to monitor or track changes within states over time.<sup>69</sup> Indeed, as our green papers have shown, 'the collection of data on juvenile justice in particular, where it is even collected at all, is totally deficient.'<sup>70</sup>

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65 Kil Kelly, U. (2011). Measures of deprivation of liberty for young offenders: How to enrich international standards in juvenile justice and promote alternatives to detention in Europe: IJJO Green Paper on Child-Friendly Justice (European Council for Juvenile Justice, Academic Section), IJJO.

66 Kil Kelly, U. (2011). Measures of deprivation of liberty for young offenders: How to enrich international standards in juvenile justice and promote alternatives to detention in Europe: IJJO Green Paper on Child-Friendly Justice (European Council for Juvenile Justice, Academic Section), IJJO.

67 Ruxton, S. (2012). How the economic and financial crisis is affecting children & young people in Europe. Eurochild.

68 Pruin, I. (2011). The evaluation of the implementation of international standards in European Juvenile Justice Systems (European Council on Juvenile Justice, Administration Section), IJJO.

69 Kil Kelly, U. (2011). Measures of deprivation of liberty for young offenders: How to enrich international standards in juvenile justice and promote alternatives to detention in Europe: IJJO Green Paper on Child-Friendly Justice (European Council for Juvenile Justice, Academic Section), IJJO.

70 Pruin, I. (2011). The evaluation of the implementation of international standards in European Juvenile Justice Systems (European Council on Juvenile Justice, Administration Section), IJJO.

## 3.2. Embracing evidence-based practice

Data collection, monitoring and evaluation and research are key to achieving evidence-based practice. Indeed, the Council of Europe has been advocating the need to adopt measures to build the basis for evidence-based policy, including improving the lack of reliable, comparable and official data across Europe, since 1978.<sup>71</sup>

### 3.2.1. Collecting robust data

It is crucial to collect robust data in order to understand what your current system looks like in practice, and to understand the baseline point from which you need to move forward. How else do you measure the improvements that you will make for the children in your country, and to the level of security felt by your population and the level of youth crime? Understanding what baseline practice looks like is also crucial in order to establish where you want to concentrate your resources. It may be that you are performing well in one area and less well in another. Without data, it is impossible to know. This is an oversight, particularly in times of economic restraint where resources are scarce.

It is wise to collect as much data as possible in as many ways as possible. Quantitative and qualitative data both have a part to play. Quantitative indicators are numerical, and can be achieved through the collection of statistics and by calculating the percentages of such statistics. Qualitative data is more descriptive and can be collected through observations, questionnaires, interviews and focus groups, or by looking at legislation, policies, procedures, plans and strategies, inspecting children's files or reports and making judgements. As such, youth justice data could include:

- The offences committed by children, broken down by age, gender, type of offence, town or region they occurred in, and who the victims are.
- Knowledge of your youth population. Are they mostly male or female, of ethnic minority or of foreign national status – if so, which?
- What happens to children once they are in the justice system, such as being arrested, given a diversionary measure, sent to pre-trial detention, seen by the court, or given a community sanction or detention, and what help do they receive in terms of reintegration?
- The extent to which children re-offend in terms of reconviction, frequency of reconviction and longitudinal recidivism rates.
- The impact of the justice system on children and any violations of their rights that occur, including trial delays, lack of legal aid and/or the availability of lawyers, and

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<sup>71</sup> Pruin, I. (2011). The evaluation of the implementation of international standards in European Juvenile Justice Systems (European Council on Juvenile Justice, Administration Section), IJJO.

abuse by professionals.

- The structures that affect justice systems, including poverty, education systems, social policies, legislation and economic crises.

Effective data collection requires a commitment from all agencies, such as the police, social workers, courts and government departments. Nevertheless, this data is useful in aiding everyone to understand what their practice is and how best to direct their resources. Without this data it is very difficult to improve practice, as you have no idea of what you need to improve.

The European Commission is currently running an initiative to create a contextual legal overview of children's rights and to compile statistics on children involved in criminal, civil and administrative judicial proceedings for the years 2008-2010 for all 27 EU member states and Croatia. This is because when children are involved in judicial proceedings, whether as victims, defendants, witnesses or asylum-seekers, their rights can be limited or overlooked in a variety of ways. The current lack of reliable, comparable and official data is a serious obstacle for the further development and implementation of genuine evidence-based policies on child-friendly justice.<sup>72</sup>

### 3.2.2. Monitoring

Data is only useful if it is used to start asking questions about the system. The reason you collect data is to understand what is happening and how you can improve the situation. Monitoring your system therefore allows you to periodically review it to see how your practice is changing. Setting indicators is key to monitoring progress. The 2011 EU Agenda for the Rights of the Child highlighted that no internationally agreed indicators for the level of implementation of juvenile justice standards exist. Nevertheless, different instruments and tools for the evaluation of the implementation of international youth justice standards can be found both at the international and the national level.<sup>73</sup>

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<sup>72</sup> For more information visit <http://www.oijj.org/en/news/ijjo-day-by-day/european-union-initiative-on-childrens-rights-data-collection-on-children-invol>.

<sup>73</sup> Pruin, I. (2011). The evaluation of the implementation of international standards in European Juvenile Justice Systems (European Council on Juvenile Justice, Administration Section), IJJO.

For example, UNICEF and UNODC have devised a set of fifteen juvenile justice core indicators which allow for evaluation. These are shown in the box below.<sup>74</sup>

## UNODC/UNICEF JUVENILE JUSTICE INDICATORS

### Quantitative indicators

- Children in conflict with the law. Number of children arrested during a 12-month period per 100,000 child population.
- Children in detention. Number of children in detention per 100,000 child population.
- Children in pre-sentence detention. Number of children in pre-sentence detention per 100,000 child population.
- Duration of pre-sentence detention. Time spent in detention by children before sentencing.
- Duration of sentenced detention. Time spent in detention by children after sentencing.
- Child deaths in detention. Number of child deaths in detention during a 12-month period, per 1,000 children detained.
- Separation from adults. Percentage of children in detention not wholly separated from adults.
- Contact with parents and family. Percentage of children in detention who have been visited by, or who visited, parents, guardian or an adult family member in the last three months
- Custodial sentencing. Percentage of children sentenced receiving a custodial sentence.
- Pre-sentence diversion. Percentage of children diverted or sentenced who enter a pre-sentence diversion scheme.
- Aftercare. Percentage of children released from detention receiving aftercare.

### Policy Indicators

- Regular independent inspections. a) Existence of a system guaranteeing regular independent inspection of places of detention. b) Percentage of places of detention that have received an independent inspection visit in the last 12 months.
- Complaints mechanism. a) Existence of a complaints system for children in detention. b) Percentage of places of detention operating a complaints system.
- Specialised juvenile justice system. Existence of a specialised juvenile justice system.
- Prevention. Existence of a national plan for the prevention of child involvement in crime.

For EU member states, it is important to recognise that these indicators allow an examination of whether a youth justice system is in line with the Convention of the Rights of the Child and other UN instruments. However, they do not encompass the youth justice standards at the European level

<sup>74</sup> UNICEF and the United Nations Office on Drugs and Crimes (2007).

in terms of, for instance, the Recommendations of the Council of Europe.<sup>75</sup> This is something that the IJJO have begun to address in their evaluation of juvenile justice indicators across Europe.<sup>76</sup> The Transformative Monitoring for Enhanced Equity (TransMonEE) initiative, begun by the UNICEF Innocenti Research Centre, is a tool to aid governments, civil society organisations, funding institutions and academia in considering their decisions, policies, programmes and agendas. The database, found at [www.transmonee.org](http://www.transmonee.org), captures data on 400 indicators relevant to the situation and wellbeing of children, young people and women in countries of Central-Eastern Europe and the Commonwealth of Independent States (CEE/CIS). The database is updated every year thanks to the collaboration of National Statistical Offices (NSOs) in the countries of CEE/CIS. The published database contains only a selection of the larger amount of indicators collected annually. The 2013 version of the database contains indicators divided into 11 topics: Population, Marriage and Divorce, Fertility, Mortality, Health, Education, Child Protection, Crime, Social Protection, Child-wellbeing, and Economics. TransMonEE 2013 contains data for the following countries: Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Estonia, the former Yugoslav Republic of Macedonia, Georgia, Hungary, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Montenegro, Republic of Moldova, Poland, Romania, Russian Federation, Serbia (not including Kosovo and Metohija), Slovakia, Slovenia, Tajikistan, Turkmenistan, Ukraine and Uzbekistan.

### 3.2.3. Evaluation and research

Instead of halting research and development in times of economic crisis, countries should actually increase planned investments in education and research in order ‘to stimulate growth and productivity’.<sup>77</sup> The European Economic Recovery Plan warns that the squeeze on financial resources:

*may tempt some to delay, or substantially cut, planned [research and development] and educational investments, as happened in the past when Europe was hit by a downturn. With hindsight, such decisions amounted to a major capital and knowledge destruction with very negative effects for Europe’s growth and employment prospects in the medium to longer term. However there have also been examples of countries, both inside and outside Europe, which had the foresight to increase [research and development] and education expenditure in difficult economic times by which they laid the basis for their strong position in innovation.*<sup>78</sup>

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75 Pruin, I. (2011). The evaluation of the implementation of international standards in European Juvenile Justice Systems (European Council on Juvenile Justice, Administration Section), IJJO.

76 <http://www.oijj.org/en/activities/projects/juvenile-justice-indicators-for-europe-how-to-measure-juvenile-justice>.

77 Commission of the European Communities (2008). Communication from the Commission to the European Council: A European Economic Recovery Plan. COM(2008)800. Brussels.

78 Commission of the European Communities (2008). Communication from the Commission to the European Council: A European Economic Recovery Plan. COM(2008)800. Brussels.



Nowhere is research more crucial than in youth justice practice. Already an under-researched field, researching youth justice will help to ensure that countries are actually directing their resources to what really works. The green papers pointed out that countries run youth justice projects only for a limited period of time, that these (or other) projects are not evaluated, and that therefore the knowledge base on the effectiveness of youth justice sanctions and measures remains limited. Where they are evaluated, the results are often not comparable, as there are no unified evaluation-standards for juvenile justice projects.<sup>79</sup> To be robust, all projects and services should have some form of evaluation. As such, ‘more action needs to be taken to address the serious shortcomings in the available data on juvenile justice across the EU.’<sup>80</sup>

Evaluation and research is something that has been consistently recommended by the Council of Europe. As far back as 1978, the Council recommended that ‘to increase the knowledge base as to what interventions work, funds should be allocated to the independent scientific evaluation of such interventions and the dissemination of findings to practitioners.’<sup>81</sup> Then, in 1987, it encouraged the use of comparative research in the field of juvenile delinquency.<sup>82</sup> In 1992, it encouraged research on community sanctions and measures, and advised that they should be regularly evaluated so as to ensure that they contribute to a reduction in the rates of imprisonment, enable the offence-related needs of offenders to be met, are cost effective, and contribute to the reduction of crime in the community.<sup>83</sup> In 2000, they again recommended that all interventions should be based on measures which have been ‘scientifically proven to be effective’, and that there should be ‘specific research on the nature and scale of the problem of criminality, the risk and protective factors associated with criminality, and scientific evaluations of the cost-effectiveness of interventions to prevent criminality, including the process of implementation and the co-ordination of interventions across agencies and over time.’<sup>84</sup> Further, in 2003, states were encouraged to ‘invest in the development of programmes of high-quality research and evaluation that builds on what is known, tests what appears to be effective in other countries, but also focuses on their specific problems.’<sup>85</sup>

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79 Pruin, I. (2011). The evaluation of the implementation of international standards in European juvenile justice systems (European Council on Juvenile Justice, Administration Section), IJJO.

80 Pruin, I. (2011). The evaluation of the implementation of international standards in European juvenile justice systems (European Council on Juvenile Justice, Administration Section), IJJO.

81 Article 23, Council of Europe Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

82 Council of Europe Committee of Ministers Resolution (1987)20 on social reactions to juvenile delinquency.

83 Rules 89 and 90, Council of Europe Recommendation No. R(92)16 of the Committee of Ministers to member states on the European rules on community sanctions and measures.

84 Council of Europe Recommendation Rec(2000)20 of the Committee of ministers to member states on the role of early psychosocial intervention in the prevention of criminality.

85 The Council of Europe Commentary on Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.



The UN bodies also highlight the importance of research. The Beijing Rules state that ‘efforts shall be made to establish regular evaluative research mechanisms built in to the juvenile justice system to collect and analyse relevant data and information for the assessment and future improvement and reform of the administration.’<sup>86</sup> General Comment No.10 recommends that states should conduct regular evaluations of their youth justice practices; in particular of the effectiveness of the measures taken, including those concerning discrimination, reintegration and recidivism, preferably carried out by academic institutions. Children should be involved in this evaluation and research, in particular those who have been in contact with parts of the justice system.<sup>87</sup>

#### 3.2.4. Taking account of diversity

Young people in the criminal justice system are diverse. Although the majority are male, young women make up an increasing part of the overall population. In turn, as the Council of Europe pointed out in 2003, in some countries there is a ‘disproportionate representation of offenders from minority ethnic communities at each stage of the criminal justice system, from arrest through to custody.’ As such, ‘member states should develop new methods for collecting accurate information on the ethnicity of those in contact with the criminal justice system’ in order to ensure that their needs are met and that discrimination is not taking place.<sup>88</sup>

Programmes should be tested to ensure that they work for particular minority groups, such as young women and certain ethnic minority groups, Roma, or migrant young people. Indeed, as the Council of Europe states, interventions should be based on ‘evidence on what works, with whom and under what circumstances.’<sup>89</sup> They recommend impact assessments to understand the possible ramifications of policies on particular groups of people and to prevent discrimination.<sup>90</sup> Indeed, so as ‘to prevent discrimination on ethnic grounds within the juvenile justice system and to identify cases where culturally specific interventions are required, information should be collected and/or research undertaken on the involvement and treatment of ethnic minorities at each and every stage of the juvenile justice process.’<sup>91</sup>

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86 UN Standard Minimum Rules for the Administration of Juvenile Justice 1985 (“Beijing Rules”).

87 General Comment No. 10: Children’s Rights in Juvenile Justice (2007).

88 The Council of Europe Commentary on Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

89 Article 5, Council of Europe Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

90 Article 6, Council of Europe Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

91 Article 24, Council of Europe Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

The European Commission has also recently asked member states to ensure that they take account of ‘Roma children, some migrant or ethnic minority children, children with special needs or disabilities, children in alternative care and street children, children of imprisoned parents, as well as children within households at particular risk of poverty, such as single parent or large families’ in their policies in general, in order to ‘assess how policy reforms affect the most disadvantaged and take steps to mitigate any adverse effects’.<sup>92</sup>

The IJJO has recently conducted a study in order to take into account the specific needs of children who have mental health issues and disorders. This comprises strategies for action based on research in a number of European countries. Continuing to conduct pan-European research into previously little researched areas helps us to be able to address the needs of all young people, especially the most vulnerable.<sup>93</sup>

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<sup>92</sup> European Commission (2013). COMMISSION RECOMMENDATION of 20.2.2013. Investing in children: Breaking the cycle of disadvantage.

<sup>93</sup> [http://www.oijj.org/en/mhyoen\\_project](http://www.oijj.org/en/mhyoen_project).

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## 4. GREATER EFFICIENCY, POSITIVE PROFESSIONALS

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*“To make us feel better about the future the professionals should have a positive attitude first.”*

(Young person in conflict with the law, Poland)

Once you understand which elements of practice are doing well and which are not doing as well, you can direct your resources to ensuring that you have a more efficient youth justice system. Greater efficiency ensures that you:

- Have a more productive and more motivated youth justice workforce
- Provide value for money to the taxpayer
- Improve the situation of more children in your country
- Spend less money achieving the same outcomes for children in your country.

What we are talking about here are structural reforms that will help countries to improve their resilience against the costs of youth crime. Indeed, as laid out in the European Economic Recovery Plan (2008), a comprehensive recovery plan begins with an agenda of structural reform that addresses root causes and strengthens the capacity needed for rapid recovery.<sup>94</sup>

The Council of Europe has consistently called for youth justice systems to become more efficient. In 1987, and again in 2003, their recommendations pointed out the principles by which youth justice systems should be run:

- The response to juvenile offending should be swift, early and consistent
- The responsibility for offending behaviour should be widened to include a young offender’s parents(s)
- As far as possible and where appropriate, interventions with young offenders should include reparation to victims and their communities
- Interventions should directly address offending behaviour and be informed, as far as possible, by scientific evidence on effectiveness.<sup>95</sup>

Overall, justice systems should be ‘child-friendly’. That is, a justice system that

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<sup>94</sup> Commission of the European Communities (2008). Communication from the Commission to the European Council: A European Economic Recovery Plan. COM(2008)800. Brussels.

<sup>95</sup> The Council of Europe Commentary on Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

‘guarantees the respect and the effective implementation of all children’s rights at the highest attainable level’. It is ‘justice that is accessible, age appropriate, speedy, diligent, adapted to and focused on the needs and rights of the child, respecting the rights of the child including the rights to due process, to participate in and to understand the proceedings, to respect private and family life and to integrity and dignity.’<sup>96</sup> The following basic improvements help youth justice systems to run more efficiently.

#### 4.1. Strategise

Youth justice systems must have a clear vision of the outcomes they are trying to achieve for children and society. Without a clear picture in mind of what they want to accomplish, youth justice policies are vulnerable to emotion and knee-jerk reactions that end up having a very negative impact. In 2003, the Council of Europe called for a more strategic approach to youth justice, stating that the principle aims should be:

- To prevent offending and re-offending
- To (re)socialise and (re)integrate offenders
- To address the needs and interests of victims.

Indeed, ‘the juvenile justice system should be seen as one component in a broader, community-based strategy for preventing juvenile delinquency, that takes account of the wider family, school, neighbourhood and peer group context within which offending occurs.’<sup>97</sup>

Being aware that it is usually a minority of young people who commit the majority of crime in a society is also key. Targeting resources at ‘serious, violent, persistent and drug and alcohol related offending’<sup>98</sup> can be one of the most efficient ways of reducing crime and addressing the needs of the most prolific and troubled young people in the system.

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<sup>96</sup> Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice (Adopted by the Committee of Ministers on 17th November 2010 at the 1098th meeting of Ministers deputies).

<sup>97</sup> Articles 1 and 2, Council of Europe Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

<sup>98</sup> Article 1 and 2, Council of Europe Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

## 4.2. Individualised assessment and planning

In order to ensure that you are directing the right help towards the right young people, all youth justice systems should be based on a watertight assessment process that uncovers all of the necessary information regarding the child. Assessment systems should ensure that they are child-friendly by ensuring that young people are not asked the same questions over and over again by different agencies. This is both harmful to the child, because they feel as if no-one is listening to them, and unnecessarily resource-intensive.

Assessments should be used as a tool for planning meaningful interventions with young people which address the core factors that led to their offending in the first place. They should be revisited periodically in order to assess whether progress has been made, and take explicit account of, and plan to reduce, risk and vulnerability factors. Indeed, the Council of Europe states that ‘the nature, intensity and duration of interventions can be closely matched to the risk of reoffending, as well as to the needs of the offender, always bearing in mind the principle of proportionality.’<sup>99</sup>

Planning needs to be tailored to the individual needs of each young person so that any interventions actually work. In 2004, the Council of Europe stated that, particularly with children who have mental health problems, the child should be ‘individually evaluated and receive an individualised educational or training programme.’<sup>100</sup> In 2003, the Council of Europe outlined that effective interventions are those which:

- Address the criminogenic factors which caused or directly contributed to the offending behaviours (e.g. antisocial attitudes, drug misuse, poor cognitive skills, educational failure and poor parenting) and would continue to place the offender at risk of re-offending in the future
- Ensure a close match between the risk of re-offending and the nature, intensity and duration of the intervention
- Employ practitioners whose teaching approach best matches the learning approach of the offender (i.e. structured participatory styles rather than unstructured didactic styles) and uses material specifically tailored to the offender’s needs and abilities
- Are based in the community and are closely connected to the offender’s home environment rather than based in institutions, and
- Draw on a range of methods (e.g. social skills training, anger management, problem

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<sup>99</sup> Article 13, Council of Europe Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

<sup>100</sup> The Council of Europe Recommendation Rec(2004)10 of the Committee of Ministers to member states concerning the protection of the human rights and dignity of persons with mental disorder.

solving etc) often referred to as a cognitive behavioural approach (which addresses perceptions, thinking, feeling and behaviour).<sup>101</sup>

### 4.3. Reduce court bottlenecks

The court process is usually the most cumbersome, lengthy and expensive aspect of any youth justice system. Ensuring that the court process is administrated as quickly as possible is both cost-effective and in the best interests of the child. The Beijing Rules state that the speedy conduct of formal procedures in children's cases is of paramount concern. This is particularly important because as time passes, the young person may find it increasingly difficult to relate the court procedure and disposition to the offence they committed.<sup>102</sup>

In 1987, the Council of Europe recommended that states should ensure that children 'are tried more rapidly, avoiding undue delay, so as to ensure effective educational action.'<sup>103</sup> Again, in 2003, it recommended that 'short time periods for each stage of criminal proceedings should be set to reduce delays and ensure the swiftest possible response to juvenile offending.'<sup>104</sup> Indeed, 'justice delayed is justice denied. Neither young offenders nor victims benefit from delays in court proceedings, which can also seriously undermine public confidence in the law... Different juvenile justice systems will have different weak points, but explicitly setting targets to reduce delays should form a key part of an overall strategy.'<sup>105</sup> This is reflected in the European Convention on the exercise of children's rights, which states that 'in proceedings affecting a child the judicial authority shall act speedily to avoid any unnecessary delay and procedures shall be available to ensure that its decisions are rapidly enforced.'<sup>106</sup> The Council of Europe's Guidelines on Child-friendly Justice advise that children's cases should be classed as urgent, and that judicial authorities could consider the possibility of making preliminary judgments to be monitored for a certain period of time in order to be reviewed later, so as to speed up the process. Implementing diversion policies is a key way to reduce the number of children going through the court system and thereby to ensure that it is only used for serious cases. For more information on diversion see section 5.2 below.

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101 The Council of Europe Commentary on Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

102 UN Standard Minimum Rules for the Administration of Juvenile Justice 1985 ("Beijing Rules").

103 Council of Europe Committee of Ministers Resolution (1987)20 on Social Reactions to Juvenile Delinquency.

104 Article 14, Council of Europe Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

105 The Council of Europe Commentary on Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

106 Article 7 – Duty to act speedily. Council of Europe (1996). European Convention on the Exercise of Children's Rights.

In addition, providing the court with good, clear information at the beginning of the hearing can speed up the process. Judges often lack information on young people's character, criminal record, family, home and school circumstances, which hampers their capacity to make quick decisions and also makes it more likely that they may commit a child to pre-trial detention. The more information at their disposal, and the better it is, the more easily they can reach a decision in which they have confidence and which best reflects the interests of the young person, the victim (if there is one) and the public.'

## Scotland – Children's Hearings System

Scotland's Children's Hearings System arose from a concern in the late 1950s and early 1960s that change was needed in the way society dealt with children and young people in trouble or at risk. Therefore, a committee was set up in 1961 under the chairmanship of Lord Kilbrandon, a senior Scottish judge. The remit of the committee was: 'to consider the provisions of the law of Scotland relating to the treatment of juvenile delinquents and juveniles in need of care or protection or beyond parental control and, in particular, the constitution, powers and procedure of the courts dealing with such juveniles, and to report'.

The Kilbrandon Committee suggested that entirely new arrangements were required to deal with all children in need. The overriding and paramount principle was that the needs of an individual child had to be assessed so that appropriate treatment could be applied. This could only be achieved by objective examination of all surrounding facts and circumstances. It was inappropriate to expect a single agency to determine disputed facts and establish what an individual child's needs were in the light of the fullest information about the child's personal and family circumstances. Therefore, it was recommended that a special treatment agency or panel was necessary, which would be neither a court of law nor a local authority committee. The panel would be a lay body, comprising people with the knowledge and experience necessary to consider children's problems. The driver for action would be the child's need for special measures of education, training or support. The panel's jurisdiction would be founded on grounds where the basic facts were agreed or accepted, with disputed matters being referred to a sheriff for adjudication.

The Kilbrandon Committee's report was presented to Parliament by the Secretary of State for Scotland in April 1964. On 15<sup>th</sup> April 1971, children's hearings took over most of the responsibility from the courts for dealing with children and young people under 16 years, and in some cases under 18, who commit offences or who are in need of care and protection.



#### 4.4. Ensure value for money

Ensuring value for money is key for any modern justice system. The European Commission suggests that growing fiscal constraints in a number of countries mean that the countries find it increasingly difficult to make ends meet. These lack of resources 'present significant challenges to ensure that social policies remain adequate and effective in the short as well as the long run'.<sup>107</sup> Therefore, countries need to be able to test their services in order to ensure that they are delivering value for money to the public.

Value for money is the demonstration of economy, efficiency and effectiveness:

- Economy is ensuring that you are doing the most you possibly can with the money you are given
- Efficiency is ensuring that you are providing a high-quality service to as many children as possible
- Effectiveness is ensuring that you are improving children's outcomes in a tangible way.

In times of economic crisis, ensuring that all the elements of the youth justice system are achieving value for money is crucial.

#### 4.5. Inspire your workforce

Our research among youth justice professionals in the ECJJ revealed that staff morale appeared to be at a dangerous low. In a context where youth crime is escalating and staffing is reducing, fewer staff are having to deal with more cases. As explained by our Italian youth justice expert: 'the staff are working in very difficult conditions: they have to deal with more people and they don't have the resources to deal with them.'<sup>108</sup> Youth justice practitioners such as social workers, police, prosecutors, probation officers and judges are aware of the cuts in their profession and feel de-motivated. As one young person from Poland told us, 'to make us feel better about the future the professionals should have a positive attitude first.'<sup>109</sup> It is crucial that in times of economic crisis, youth justice professionals are inspired to continue to help young people to make effective changes in their lives.

Overall, in order to provide a good service to young people, staff need to feel valued. If it is not possible to make them feel valued financially then there are other ways to do so; for example, by

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<sup>107</sup> European Commission (2013). COMMISSION RECOMMENDATION of 20.2.2013. Investing in children: Breaking the cycle of disadvantage.

<sup>108</sup> Interview with ECJJ expert from Italy.

<sup>109</sup> Focus group with young people from Poland.

creating a sense of a vision among the workforce and emphasising and supporting the emotional reward achieved by staff from working with young people. As our expert from Greece stated, ‘we are not in these jobs because of the money - it’s because of the emotional reward, having a mission.’ In addition, there was an overwhelming opinion that having more accredited training not only serves to up-skill the workforce, but also helps staff to feel motivated and valued. This is something that is recommended by the international guidelines. The Beijing Rules require that professional education, in service training, refresher courses and other appropriate modes of instruction must be used to ensure the professional competence of all personnel dealing with children’s cases<sup>110</sup>

#### 4.6. Inter-agency working

There are many different professionals who work with young people. All of them see the child from a different perspective, and all have a great deal of input to give in terms of helping young people to achieve the desired outcomes. Multi-disciplinary working is therefore essential:

- To ensure that there is a full utilisation of efforts to help the child
- To ensure that there is a thorough understanding of the different needs that the child has
- To discuss and evaluate solutions and ways of working with the child, and
- To ensure that there is no duplication of effort.

It is important that there is inter-governmental collaboration with key actors, such as the courts, probation and police, and also actors outside of the justice system, such as schools and mental health services.<sup>111</sup> Indeed:

The complexity and scope of an effective response to juvenile crime requires a whole-of-community approach involving coordination between government, the non-government sector and the community. This is because youth offending is often related to other problems that the juvenile justice system cannot address in isolation (e.g. mental illness, substance abuse etc.). Therefore, juvenile justice systems need to be coordinated and cover the full spectrum of required services including early intervention, family and school-based therapies, drug and alcohol rehabilitation services, mental health services, foster care services, specialist Indigenous services, housing and employment services and detention services etc.<sup>112</sup>

The Council of Europe’s Child-friendly Guidelines emphasise the need for a multi- disciplinary

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110 UN Standard Minimum Rules for the Administration of Juvenile Justice 1985 (“Beijing Rules”).

111 Holman, B. & Ziedenbuerg, J. (2006). The dangers of detention: The impact of incarcerating youth in detention and other secure facilities. Justice Policy Institute.

112 Murphy et al. (2010). Review of effective practice in juvenile justice. Report for the Minister for Juvenile Justice. Noetic Solutions Pty Limited.

approach to ensure that children's best interests are met. The Council of Europe also recommends that 'The response to juvenile delinquency should be planned, co-ordinated and delivered by local partnerships comprising the key public agencies – police, probation, youth and social welfare, judicial, education, employment, health and housing authorities and the voluntary and private sector.'

In these partnerships, information sharing is key. For example, effective inter- agency collaboration should guarantee that children get full access to the services or assistance they require, do not have continuous (or different, or contradictory) assessments taken or have more interventions than their situation requires. Therefore, while establishing an inter-agency approach to working with children, it is important to ensure that a robust information sharing policy is in place so that confidentiality relating to children and their circumstances is upheld. This information sharing must 'take account of the legal requirements of data protection and professional secrecy and taking into consideration the specific duties of the agencies concerned.'

### **Florida, USA – Evidence-based policies and inter-agency working reducing costs**

The Miami-Dade County, Florida Juvenile Services Department (JSD) has been reforming its youth justice system over the last ten years. The department decided to create an evidence-based, community supported juvenile justice model. By first employing a variety of gender and age specific evidence based screening and assessment tools, it achieved a system that can organise and manage the population and ensure that a child and his/her family can be treated as individuals. Further, through the recent implementation of the Civil Citation Initiative, troubled young people have the opportunity to attain complete treatment services outside of the systems that currently exist and without the shame of a criminal record. The Miami-Dade County Juvenile Justice Model has been so successful that the White House (ONDCP) and the US Department of Justice (OJJDP) hosted a national summit in May 2008 to recognise this national model. After ten years, they are able to demonstrate that juvenile arrests have decreased by 41%, re-offences declined by 78%, and the detention population dropped by 66%. Since opening, over \$50 million in system savings have been generated through efficiencies. In May 2008, an economic study concluded that the reformed system saves the community over \$30 million each year, and even after funding JSD, the community sees a net saving of over \$17 million.

These impressive results have been achieved through a collaborative effort of juvenile justice partners and national researchers who have assisted in the development of a benchmark continuum of care, including five innovative, targeted, and customised diversion programmes. Now, the Miami-Dade County, Florida is moving into a new era in the field of juvenile justice. With the creation of the Juvenile Services Department (JSD), the nationally recognised work in assessment and casework developed in Miami at the Juvenile Assessment Center (JAC) for arrested juveniles is now being used for children who are in need in the community, in order to implement a systemic prevention model.

## 4.7. Involve others in the solution

### 4.7.1. Involving parents

The parents of a young person in conflict with the law are crucial partners in any intervention with a young person. Indeed, as the Council of Europe stated in 2003, 'it is widely known that parents are both an important part of the cause and an essential part of the solution to the problem of juvenile delinquency.' As such, 'parents (or legal guardians) should be encouraged to become aware of and accept their responsibilities in relation to the offending behaviour of young children' and 'should be required, where appropriate, to attend counselling or parent training courses'.<sup>113</sup> Research shows that family-based interventions in the form of parental support and training and improving parent-child relationships substantially reduce re-offending rates. It is, therefore, important that juvenile justice policy takes into account the responsibility of parents by placing them at the centre of the strategy to prevent future offending.<sup>114</sup>

### 4.7.2. Involving the community

Community involvement is a crucial way of ensuring that young people are not further alienated or socially excluded once they have committed a crime. Since 1978, the Council of Europe have recommended that governments 'develop community's participation in the implementation of measures aimed at young people in danger', and that they 'co-ordinate the activities of all bodies concerned with assisting young people (social and educational services, police, courts, etc)', and that it is possible to 'involve families and volunteers in the work of the relevant professional teams'.<sup>115</sup> In 1992, they then recommended that maximum use should be made of 'participation by organisations and individuals drawn from the community, and that 'community participation shall be used to assist offenders to develop meaningful ties in the community, to become aware of the community's interest in them and to broaden their possibilities for contact and support.'<sup>116</sup> Indeed, the Council of Europe in 2003 stated that 'directly involving the public in the youth justice system is another way of reducing the gap between rhetoric and reality and increasing public confidence.'<sup>117</sup> The Beijing Rules also promote the use of volunteers, voluntary organisations, local institutions and other community resources for the rehabilitation of young people. They point out

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113 The Council of Europe Commentary on Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

114 Article 10, Council of Europe Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

115 Council of Europe Committee of Ministers Resolution (1978) 62 on Juvenile Delinquency and Social Change.

116 Rules 45 and 46, Council of Europe Recommendation No. R (92)16 of the Committee of Ministers to member states on the European Rules on Community sanctions and measures.

117 The Council of Europe Commentary on Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

that the use of ex-offenders can be of considerable assistance in enhancing the skills and empathy of a workforce.

The European Juvenile Justice Observatory (EJJO) worked on an awareness campaign emphasising the benefits brought by volunteering. The campaign stressed the benefits that children and young adults get from being involved in voluntary activities through giving the young people a sense of belonging, helping them develop more social skills and enhancing their employability; it also highlighted the good practices of key NGOs throughout Europe. More information on the campaign can be found at: [www.eyvcampaign.ejjo.org](http://www.eyvcampaign.ejjo.org).

#### 4.8. Restorative justice

Restorative justice is the best way of serving the interests of victims and helping young people to understand the consequences of their behaviour. The UN describes restorative justice as ‘any process in which the victim and the offender and, where appropriate, any other individuals or community members affected by a crime participate together actively in the resolution of matters arising from the crime, generally with the help of a facilitator.’<sup>118</sup>

Restorative Justice is an inexpensive way of delivering justice, and can be used at any point within the youth justice system: as part of diversion (see section 5.2 below), a community sanction (see section 5.3 below) and work undertaken with children in detention. The Council of Europe, in 2003, recommended restorative justice, stating that ‘in several countries providing opportunities for offenders to apologise to their victims and make amends for the harm they have caused is now increasingly used to help offenders see and understand the impact their behaviour has on others and to modify their behaviour in the future. This fosters respect not only for the legal system, but also for the underlying social values.’<sup>119</sup> In addition, the UN Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters 2002 discusses the use and principle of restorative justice programmes, how and when they should be used in the criminal justice system, how they operate and who should be involved. Finally, in Peru, in 2009, the First World Congress on Restorative Juvenile Justice was organised by the Foundation Terre des Hommes (Lausanne), in cooperation with the Public Prosecutor of Peru, the Pontificia Universidad Católica of Perú and the Association Encuentros-Casa de la Juventud. The resulting Lima declaration called for the integration of restorative processes as a possibility for dealing with children in conflict with the law at all stages of the administration of juvenile justice.<sup>120</sup> The European

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118 UNODC (2006) Handbook on Restorative Justice Programmes.

119 The Council of Europe Commentary on Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

120 Lima Declaration on Restorative Juvenile Justice, November 2009.

Form for Restorative Justice has a range of helpful literature on implementing restorative justice in youth justice.<sup>121</sup>

#### 4.9. Focus on the positives

Being positive works. Interventions should be based on the idea that young people are able to complete and comply with them rather than being set up to fail. The Council of Europe recommended in 2000 that the prevention of criminality should be achieved by ‘promoting protective factors such as certain socio-economic and cultural factors as well as individual characteristics which help to protect children against the likelihood of engaging in future persistent criminal behaviour’. They argued that ‘programmes should include measures to support and strengthen families, promote attachment to school, encourage responsible, pro-social behaviour and develop safer and more cohesive neighbourhoods.’ For example, measures aimed at protective factors should encourage:

- Social and cognitive skills, pro-social values and attitudes and coping skills
- Strong attachment to parents and siblings, and clear, consistent and non- authoritarian rules and sanctions at home
- Inclusive and caring school environments with opportunities for all children to achieve success
- Strong attachments to pro-social peers and adults outside the home, and
- Attachment to the local community.<sup>122</sup>

Other positive ways of engaging young people include motivational interviewing and life coaching.

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121 “Conferencing: A way forward for Restorative Justice in Europe”. [http://www.euforumrj.org/assets/upload/Final\\_report\\_conferencing\\_revised\\_version\\_June\\_2012.pdf](http://www.euforumrj.org/assets/upload/Final_report_conferencing_revised_version_June_2012.pdf) and “Restorative Justice and Crime Prevention. Presenting a theoretical exploration, an empirical analysis and the policy perspective”. [http://www.euforumrj.org/assets/upload/Restorative\\_Justice\\_and\\_Crime\\_Prevention\\_Final\\_report.pdf](http://www.euforumrj.org/assets/upload/Restorative_Justice_and_Crime_Prevention_Final_report.pdf).

122 Council of Europe Recommendation Rec(2000)20 of the Committee of ministers to member states on the role of early psychosocial intervention in the prevention of criminality.

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## 5. FOCUSED POLICES

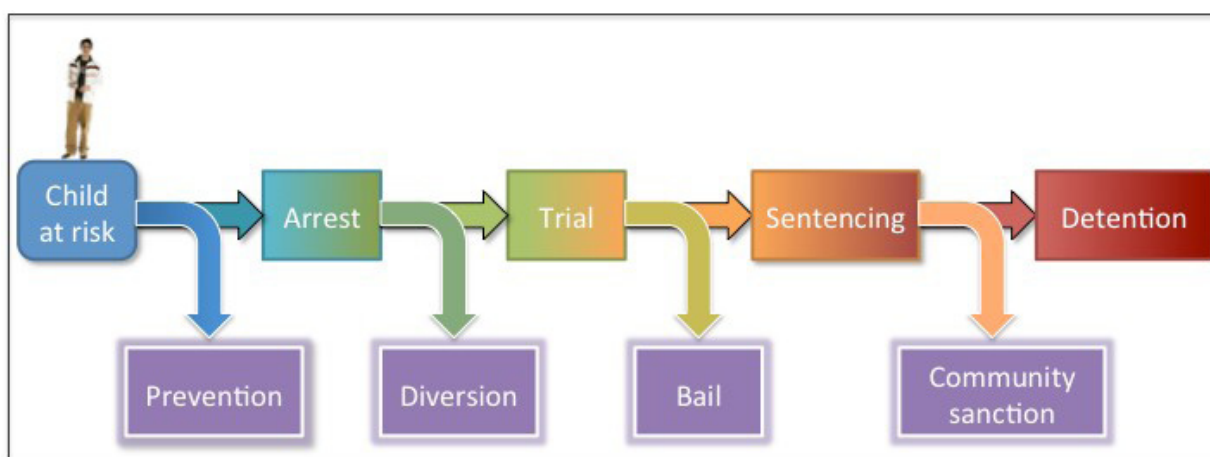
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*“Children should never be detained, isolated.  
Such problems should be solved in some other way.”*  
(Young person in conflict with the law, Poland)

The previous chapter outlined how to make youth justice systems more efficient. This chapter picks out four main policies that can reduce youth offending. The advantages of all of these policies are that they are cheaper for the public purse and they are more rehabilitative for young people; they therefore protect society more effectively. They are:

- Prevention: reducing child arrests
- Diversion: reducing the number of children coming into the criminal justice system
- Utilising community sanctions, and
- Reducing the number of children in pre- and post-trial detention.

In contrast to the traditionally more attractive ‘tough’ policies of ‘scared straight’ programmes, strict bail legislation, trying children in adult courts and increasing imprisonment, these policies have been proven to work.<sup>123</sup> They tend towards a policy of non-stigmatisation and are better able to help young people realise their potential rather than being caught up in a destructive cycle of involvement with the criminal justice system. Indeed, by steering away from detention and other extremely costly and destructive ways of dealing with young people, and implementing prevention, diversion and community sanctions instead, governments and civil society actors will benefit as much as the children themselves. It is a simple case of making the right decision at each point that they reach in the youth justice system, as the diagram below shows:



<sup>123</sup> Murphy et al. (2010). Review of effective practice in juvenile justice. Report for the Minister for Juvenile Justice. Noetic Solutions Pty Limited.



As children enter and move further and further into the criminal justice system, they become more damaged and cost society more money. Ultimately, detention is the most expensive youth justice service one can provide, and it is the most harmful thing to do to children, making them more likely to commit further offences. In contrast, diverting young offenders and utilising community based programmes when they do enter the juvenile justice system has been proven to be the most effective way to reduce juvenile crime.<sup>124</sup>

### 5.1. Prevention: Reduce child arrests

It is always better to try and prevent youth crime than to attempt to tackle it after the child has committed a crime. Investing in prevention means that more children have a wholesome and nurturing upbringing, and a fewer number of children turn to crime as they get older. With fewer children committing crime, societies are safer, and less money needs to be spent on rectifying the negative effects of crime on the young person and the victim. Indeed, the European Commission recently stated that ‘early intervention and prevention are essential for developing more effective and efficient policies, as public expenditure addressing the consequences of child poverty and social exclusion tends to be greater than that needed for intervening at an early age.’<sup>125</sup>

Prevention has been recommended by the Council of Europe since 1978 because it works. In 1987, the Council of Europe specifically detailed its expectations around prevention. It calls on member states to undertake ‘continuing particular efforts for the prevention of juvenile maladjustment and delinquency’ through policies on ‘social integration, special assistance and specialised programmes and technical and situational measures to reduce opportunities for children to reoffend’.<sup>126</sup> In 2000, the Council recommended that governments ‘introduce and, where they exist, promote national strategies of early psycho-social intervention for the prevention of criminality’, that ‘adequate resources are provided for early intervention to prevent criminality’, that ‘statutory as well as other arrangements should be developed for the provision of a wide range of programmes for early intervention to prevent criminality’, and that ‘an inter-ministerial group or other interdisciplinary official/public body should be entrusted with stimulating and overseeing the development of an early intervention strategy.’<sup>127</sup> In 2005, prevention was again emphasised by the Council

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<sup>124</sup> Murphy et al. (2010). Review of effective practice in juvenile justice. Report for the Minister for Juvenile Justice. Noetic Solutions Pty Limited.

<sup>125</sup> European Commission (2013). COMMISSION RECOMMENDATION of 20.2.2013. Investing in children: Breaking the cycle of disadvantage.

<sup>126</sup> Council of Europe Committee of Ministers Resolution (1987)20 on Social Reactions to Juvenile Delinquency.

<sup>127</sup> Council of Europe Recommendation Rec(2000)20 of the Committee of ministers to member states on the role of early psychosocial intervention in the prevention of criminality.

of Europe, who stated that ‘preventive measures of support for children and families in accordance with their special needs should be provided as far as possible.’<sup>128</sup>

The United Nations has also championed the need for prevention. The UN Guidelines for the Prevention of Juvenile Delinquency 1990, the ‘Riyadh Guidelines’, are solely concentrated on strategies to increase the use of prevention. In addition, the UN Standard Minimum Rules for the Administration of Juvenile Justice 1985 (the ‘Beijing Rules’) and General Comment No. 10: Children’s Rights in Juvenile Justice (2007) promote the important role that prevention should have in youth justice practice. They state that ‘a juvenile justice policy without a set of measures aimed at preventing juvenile delinquency suffers from serious shortcomings’. This is because preventing crime is better for the children, their families, their communities and society as a whole. UNODC has published helpful guidelines on implementing prevention policies.<sup>129</sup>

#### **5.1.1. Prevention of crime is synonymous with promoting the positive socialisation of all children in society**

Prevention of crime should really be considered as the promotion of the wellbeing of children. The prevention of crime is the added benefit of ensuring that children are given the best start possible in life. As the Council of Europe set out in their 1978 Resolution, there are a number of measures that societies need to set out in order to ensure that children are properly ‘socialised’. These include:

- ‘Improving housing conditions
- Ensuring there are opportunities for vocational training
- Ensuring young people are not out of work for long periods
- Increasing measures of financial and social support for families with children
- Ensuring schools are meeting children’s needs and detecting any early signs of psychological and social difficulties
- Encouraging youth associations and organisations to provide positive leisure activities for children, and
- Encouraging the mass media to take a greater and more constructive interest in the problems of young people by not perpetrating prejudices and stereotyped reactions in their respect’.<sup>130</sup>

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128 The Council of Europe Recommendation Rec(2005)5 of the Committee of Ministers to member states on the rights of children living in residential institutions.

129 [http://www.unodc.org/documents/justice-and-prison-reform/crimeprevention/10-52410\\_Guidelines\\_eBook.pdf](http://www.unodc.org/documents/justice-and-prison-reform/crimeprevention/10-52410_Guidelines_eBook.pdf).

130 Council of Europe Committee of Ministers Resolution (1978)62 on Juvenile Delinquency and Social Change.

### 5.1.2. It has been proven to have an impact on youth crime

There are numerous prevention activities, yet research shows us what types of programmes work in terms of preventing children from committing crime. Effective youth justice programmes focus on addressing the underlying factors behind the offending behaviour of young people.<sup>131</sup> Emphasis for prevention should therefore be placed on early-age intervention through school, family and community-based prevention programs.<sup>132</sup>

Programmes or measures which are not effective in preventing child crime include child curfews and ‘scared straight’ programmes, where ‘at-risk’ children are shown round adult prison facilities and given the opportunity to interact with some adult inmates with the purpose of deterring them from future offending behaviour.<sup>133</sup> Instead, research published in 2006 by the European Union found that the following types of prevention programmes were showing ‘a promising impact’:

- School safety initiatives
- After-school activities
- Situational crime prevention programmes
- Therapeutic interventions, including multi-systemic therapy, family functional therapy and aggression replacement training
- Mentoring, and
- Restorative justice.<sup>134</sup>

Early intervention programmes which provide parenting training and support for children of preschool age from disadvantaged households are among the most effective prevention programmes in terms of their ability to reduce the number of juvenile crime outcomes and deliver substantial long-term savings to taxpayers.<sup>135</sup> In devising prevention policies, the most important element is that they should be non-stigmatising interventions, which should not ‘blame or shame children, their families and communities.’ Programmes should be planned, co-ordinated and delivered by local partnerships with a clear indication

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131 Murphy et al. (2010). Review of effective practice in juvenile justice. Report for the Minister for Juvenile Justice. Noetic Solutions Pty Limited.

132 Murphy et al. (2010). Review of effective practice in juvenile justice. Report for the Minister for Juvenile Justice. Noetic Solutions Pty Limited.

133 European Crime Prevention Network 2006. A review of good practices in prevention juvenile crime in the European Union.

134 European Crime Prevention Network 2006. A review of good practices in prevention juvenile crime in the European Union.

135 Murphy et al. (2010). Review of effective practice in juvenile justice. Report for the Minister for Juvenile Justice. Noetic Solutions Pty Limited.

of who is in charge'.<sup>136</sup> Indeed, when designing prevention programmes, one should always be careful not to label vulnerable children and families as criminal. As such, work with 'at risk' children and families needs to be based on careful ethical questions about who to target, and with what measures.<sup>137</sup>

Young people have the answer to how best they could have been prevented from committing crime. When we asked the young people in our focus groups in France, Poland, Spain and Sweden how they could have been helped out of crime, the majority of children were pessimistic. One young person from Poland, for example, said 'Nobody could stop me, I was alone.' One boy from Sweden felt that if he were to be prevented it would have had to have been something that helped his whole family, not just himself: 'I don't think that I needed the help alone. My whole family needed help.'<sup>138</sup> However, two were quite clear that an opportunity to have mixed with 'ordinary' or 'normal', by which they meant non-criminal, other children could have helped them. As one Swedish boy said, 'maybe if I would have met more "ordinary" people when I was a child and could have seen an alternative from criminality.' He said that if he was Prime Minister of Sweden he would reduce crime by 'mixing younger who are in trouble with "normal" kids'.<sup>139</sup> This thought was echoed by another boy from Sweden, who said 'I would work on integration, make sure different kinds of people meet and live amongst each other.'<sup>140</sup> In a similar vein, one young person from France suggested 'a gap year break to volunteer in a humanitarian NGO to open up to the rest of the world and be confronted with young people from developing countries.'

### 5.1.3. It saves society money in the long run

Prevention is the most cost-effective way of tackling youth crime. Not only is it cheaper to spend money on prevention in the short term, but spending money on prevention services saves money in the longer term as well. Eurochild point out that 'access to preventive support services, health care and education that are affordable, available and of good quality is an investment in the future, not a cost. The denial to children of access to these universal rights ultimately results in their recourse to intensive, specialised rehabilitation

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<sup>136</sup> Council of Europe Recommendation Rec(2000)20 of the Committee of ministers to member states on the role of early psychosocial intervention in the prevention of criminality.

<sup>137</sup> How To Turn A Child Offender Into An Adult Criminal – In 10 Easy Steps. Children and the Law International Conference, September 2009. Prato, Tuscany, Italy. Judge Andrew Becroft. [http://www.rethinking.org.nz/assets/Young\\_People\\_and\\_Crime/10\\_Easy\\_Steps.pdf](http://www.rethinking.org.nz/assets/Young_People_and_Crime/10_Easy_Steps.pdf).

<sup>138</sup> Boy D, Sweden.

<sup>139</sup> Boy B, Sweden.

<sup>140</sup> Boy A, Sweden.

services.’<sup>141</sup> In addition, a recent UK report stated that even ‘studies based on highly conservative estimates of the impact of Early Intervention policies have suggested that they can generate excellent returns on the investments required to establish them.’<sup>142</sup> For example:

- The Nurse Family Partnership is a programme targeted to support ‘at-risk’ families by supporting parental behaviour to foster emotional attunement and confident, non-violent parenting. An evaluation of its work found that it provided savings for high-risk families by the time children were aged 15 years which were five times greater than the original cost of the programme. The savings came in reduced welfare and criminal justice expenditures and higher tax revenues, and improved physical and mental health.
- Early education programmes for low-income three and four-year olds can save close to two and a half times the initial investment. The benefits include improved educational attainment, reduced crime and fewer instances of child abuse and neglect.
- The City of Westminster Family Recovery programme, which assists persistent problem families, costs around £19,500 per family; however, early estimates suggested that costs of just over £40,000 per family are avoided in the year during which the family participates in the programme.<sup>143</sup>

In addition, studies in the USA show that:

- The US Nurse-Family Partnership (NFP), where home healthcare nurses make weekly visits to at-risk, low-income, first-time-pregnant women whose unborn child is already recognised as having multiple risk factors for delinquency. The cost of nurse home visitation is \$7,733 per participant; however, the measured outcomes in terms of reduced victim costs and reduced criminal justice costs mean that the programme can demonstrate a benefit of \$15,918 per unit cost. This means that every dollar invested in nurse home visitation is estimated to yield more than \$2 in total benefits, as well as significant improvements in child behavioural outcomes.
- The Perry Preschool Programs (PPP), which targets the social, intellectual, and physical development of children aged 3-4 years living in poverty, and involves 2.5 hours of highly supervised and supportive learning each weekday for 30 weeks a year and 90-minute weekly home visits with parents to discuss developmental, behavioural,

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141 Ruxton, S. (2012). How the economic and financial crisis is affecting children & young people in Europe. Eurochild.

142 Allen, G. (2011). Early intervention: The next steps: An independent report to Her Majesty’s Government . UK Government.

143 Allen, G. (2011). Early intervention: The next steps: An independent report to Her Majesty’s Government . UK Government.

and educational issues of the children, brought average benefits of more than \$105,000 (in 2001) per participant in terms of estimated economic benefits for both taxpayers and potential crime victims.<sup>144</sup> As the average cost of the programme was \$14,716 per participant, the estimated benefit-cost ratio was 7.16 to 1.

- The Seattle Social Development Project (SOAR): This project aimed at increasing opportunities for active involvement in family and school, skills for successful participation in family, school, peer groups and community, and consistent recognition for effort and improvement of the children. It was found that the estimated net cost of the Seattle Social Development Project is \$4,355 per participant. Using outcome data from one study meeting the criteria for inclusion in its cost-benefit analysis, WSIPP found that the program cost exceeded the estimated value of reduced criminal justice costs by \$456 per participant. However, when the estimated value of reduced victim costs were considered along with that of reduced criminal justice costs, benefits exceeded program costs by \$14,169. With a benefit-cost ratio of \$3.25, every dollar invested in the Seattle Social Development Project yields more than \$3 in total benefits.<sup>145</sup>

In addition, it was found that juvenile boot camps and ‘scared straight’ programmes cost more money and were not preventative. The ‘scared straight’ programmes had an estimated net cost of \$51 per participant, but as a result of higher recidivism among participants, they yielded an estimated loss of -\$24,531 because of increased criminal justice and victim costs. Similarly, child boot camps, which had an estimated net cost of \$15,424, yielded an estimated loss of -\$3,587.<sup>146</sup>

## 5.2. Diversion: Reduce the number of children sent to court

The majority of children who commit an offence will never offend again. Diversion is a way of minimising children’s contact with the criminal justice system by ensuring that once they have committed an offence they do not proceed to trial and sentencing. 90% of the children who come into conflict with the law worldwide are first-time offenders, and 80% of these children will never offend again.<sup>147</sup> Therefore, diversion is a valid way of ensuring that even when children commit an offence, they do not have to go through a gruelling court process, but can be given a second chance. It is based on the principle that although children may have committed a wrongdoing, forcing them through the court

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144 Schweinhart. (2003).

145 Aos, S., Phipps, P., Barnoski, R. & Lieb, R. (2001). The comparative costs and benefits of programs to reduce crime. Olympia, WA: Washington State Institute for Public Policy (WSIPP).

146 Aos, S., Phipps, P., Barnoski, R. & Lieb, R. (2001). The comparative costs and benefits of programs to reduce crime. Olympia, WA: Washington State Institute for Public Policy (WSIPP).

147 AIHRC & UNICEF (2008). Justice for children: The situation of children in conflict with the law in Afghanistan.



process does them and their community more harm than good. As such, the children do not suffer any further victimisation in a court process or the stigma of a criminal sanction. Indeed, 'diversion from the criminal justice system reflects the fact that the majority of young offenders only ever commit one or two relatively minor offences and that a caution or a warning is often enough to deter them from further offending. It is simply considered disproportional, expensive and potentially counter-productive to use the criminal justice system in these cases.'<sup>148</sup>

Diversion has long been recognised as a policy of best practice in the Council of Europe. In 1987, the Council made a particular recommendation to encourage 'the development of diversion and mediation procedures at public prosecutor level (discontinuation of proceedings) or at police level, in countries where the police has prosecuting functions, in order to prevent minors from entering the criminal justice system and suffering the ensuing consequences.'<sup>149</sup> Indeed, the Council of Europe were still recommending the continued expansion of diversion practices<sup>150</sup> because 'the prevailing view is that petty and first time offenders should continue to be diverted from formal prosecution.'<sup>151</sup> The European Child Friendly Guidelines also emphasise the use of diversion.

The United Nations also ask that consideration should be given to dealing with young people without resorting to the formal trial system.<sup>152</sup> For example, the Convention on the Rights of the Child clearly outlines that 'states shall promote and establish laws and procedures for measures for dealing with children who have infringed the penal law, without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.'<sup>153</sup> The UN guidelines require that the police, prosecution and other agencies dealing with young people's cases shall be empowered to dispose of such cases, at their discretion, without recourse to formal hearings,<sup>154</sup> thereby avoiding 'a first or early contact with the criminal justice system by directing children away from the formal justice system and prosecution towards community support and appropriate services or interventions.'<sup>155</sup>

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148 The Council of Europe Commentary on Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

149 Council of Europe Committee of Ministers Resolution (1987)20 on Social Reactions to Juvenile Delinquency.

150 Article 7, Council of Europe Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

151 The Council of Europe Commentary on Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

152 Council of Europe Guidelines on Child-friendly Justice; Beijing Rules, No.11.

153 Convention on the Rights of the Child, Article 40.

154 Beijing Rules, No.11; Riyadh Guide-lines, No.58.

155 Commentary to the Beijing Rules (1985), Section 11.



### 5.2.1. It is better for the child, the family and the victim

Diversion programmes can include cautions or verbal warnings, referrals to social services, family interventions, restorative justice programmes or mediation. As such, these kinds of policies, aimed at re-building family and community ties, have a much more positive impact on the child, the victim and the community.

The benefits for the **child** are that they:

- Understand the force of the law through contact with the police and prosecutors without being caught up in the wider criminal justice system
- Are given a second chance to reassess their behaviour without acquiring a criminal record
- Can begin to understand and make amends for the harm that they have caused to the victim and/or the community
- Can receive help if they need protection, without being criminalised
- Can continue their education
- Are not separated from their family, and
- Are less likely to re-offend.

The benefits for the **victim** are that:

- They are involved in the process of redress and informed of the outcome by the police and prosecutors, and
- They can explain to the child how they feel about the offence and hear the child's reasons for committing the offence.

The benefits for the **community** are that:

- There are less children criminally stigmatised or labelled
- Children are integrated and are given the opportunity to make reparations to their communities, and
- Children will be able to contribute to their local economies.

### 5.2.2. It makes the criminal justice system more efficient

In terms of efficiency, diversion is a very useful way of ensuring that the criminal justice system is not clogged up with petty or minor offences, and that the criminal justice professionals can concentrate their resources on more serious cases. The benefits for the

police and prosecutors are that it reduces their workload at the pre-trial stage so they can better focus on the needs of children who do end up in the formal justice system. In turn, the benefits for the judges are that fewer cases are sent to court, reducing the amount of cases they have to see and therefore their workload, thus enabling them to concentrate on serious cases. Further, diverting cases helps to reduce court caseloads, and ‘with smaller caseloads, the courts can begin to harness their resources more effectively and tailor their sentencing decisions to the whole circumstances of these more serious cases.’<sup>156</sup> This therefore contributes to ensuring that there are shorter waiting times in the courts, which helps increase the efficiency of the system (see section 4.3 above).

### 5.2.3. It saves money

Diversion is also a cost-effective way of improving the youth justice system. There are a number of benefits to diverting children away from the criminal justice system. It is far cheaper to divert a child away from this system than to have to go through the whole formal justice process. This is because:

- It is quicker
- It takes up less police, prosecutor, lawyer and judge time, and
- It reduces the number of cases going to trial and court, which is one of the most expensive elements of the youth justice system.

It is also most likely to provide cost savings in the future because it means that children are allowed back to their communities and are not being given any further criminal sanctions, which would be expensive. It is also flexible enough to allow children to make reparations to their communities and to remain in their community, better enabling them to contribute to their local economies.

### 5.2.4. It prevents re-offending

Because diversion aims to reduce the stigmatisation, violence, humiliation and rupturing of social relationships that can be caused by children being in conflict with the law, it is more likely to stop children from re-offending. It prevents them from getting a criminal record, giving them a better chance of rehabilitation. It is also flexible, so that it can be easier to identify the root cause of the offending behaviour and target this through support services. Indeed, research clearly reveals that it reduces reoffending rates. A study

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<sup>156</sup> The Council of Europe Commentary on Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

by the European Crime Prevention Network showed that the recidivism rates were lower when cases were diverted from the criminal justice system compared with offenders who had committed similar crimes but were sentenced to custody or other formal sanctions.<sup>157</sup>

### 5.3. Use community sanctions

Once a child has committed an offence that warrants a court sanction, a community sanction is best for the vast majority of children. Research clearly shows that community sanctions are the best way of dealing with children who offend.<sup>158</sup>

The European and international standards recommend a broad variety of community dispositions, such as care, guidance and supervision orders, counselling, probation, foster care, education and vocational training, mediation and restorative justice measures.<sup>159</sup> In 1987, the Council of Europe asked member states to abandon recourse to detention, and instead to give preference to those sanctions ‘which allow greater opportunities for social integration through education, vocational training as well as through the use of leisure or other activities.’ This also includes probationary supervision and assistance, reparation for the damage caused, and community work.<sup>160</sup> In 1992, the Council of Europe then laid down specific measures for community sanctions and measures. This recommendation stated that:

*‘It cannot be too strongly emphasised that community sanctions and measures applied within the framework of the present rules are of value for the offender as well as the community since the offender is in a position to continue to exercise choice and assume his social responsibilities. And the implementation of penal sanctions within the community itself rather than through a process of isolation from it may well offer in the long term better protection for society including, of course, the safeguarding of the interests of the victim or victims.’<sup>161</sup>*

It recommended that ‘the definition, adoption and application of community sanctions and measures shall be laid down in law’, and that ‘no provisions shall be made in law for the automatic conversion to imprisonment of a community sanction or measure in the case of

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157 Dunkel, F. (2005). in European Crime Prevention Network.

158 Murphy et al. (2010). Review of effective practice in juvenile justice. Report for the Minister for Juvenile Justice. Noetic Solutions Pty Limited; and European Crime Prevention Network (2006), A review of good practices in prevention juvenile crime in the European Union.

159 Council of Europe Guidelines on Child-friendly Justice; Convention on the Rights of the Child, Article 40; Guidance Note of the Secretary- General: UN Approach to Justice for Children).

160 Council of Europe Committee of Ministers Resolution (1987)20 on Social Reactions to Juvenile Delinquency.

161 Council of Europe Recommendation No. R(92)16 of the Committee of Ministers to member states on the European Rules on Community sanctions and measures.

failure to follow any condition or obligation attached to such a sanction or measure'.<sup>162</sup> In 2008, the Council recommended that community sanctions should be implemented in a way that makes them as meaningful as possible to children, and that 'contributes to their educational development and the enhancement of their social skills.' Indeed, the implementation of community sanctions should 'be based on individualised assessments and methods of intervention that are consistent with proven professional standards', and 'these methods shall be developed in the light of research findings and best practices in social work, youth welfare and allied fields of activity.'<sup>163</sup>

In the minority of cases, because of law, the best interest of the child or for public safety, deprivation of liberty may be necessary. However, in these cases its administration should always follow international standards, respecting the well-being of the child, and with rehabilitation and reintegration as the founding principles. It is clear that it is better to rehabilitate a child in the community than in detention. Indeed, European and UN guidelines agree that community sentences are more beneficial than detention to young people. They recommend that a large variety of disposition measures shall be made available to the competent authority, allowing for flexibility so as to avoid institutionalisation to the greatest extent possible.<sup>164</sup>

### 5.3.1. They reduce reoffending

Interventions delivered in the community are more effective at reducing reoffending than those delivered in custodial or institutional settings. This is probably because interventions carried out closer to a young person's home environment are more likely to be meaningful to the young person and to be able to deal with any difficulties in the community as they arise. If the child faces challenges via their family or friends to commit offences, it is easier to deal with this in the community setting and to establish realistic ways of avoiding these difficulties than to isolate the child in detention and work with them there, then send them back to a chaotic environment. Indeed, it is easier to continue achievements on a community sanction after they have ended because the contexts are similar, and their learning is more transferable. It appears to be very difficult to enable learning that is easily transferable between very different environments. Indeed, 'given that young people will ultimately have to return to mainstream environments such as further education colleges or employment

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<sup>162</sup> Rules 3 and 10, Council of Europe Recommendation No. R(92)16 of the Committee of Ministers to member states on the European Rules on Community sanctions and measures.

<sup>163</sup> Article 31.1 and 39, The Council of Europe C/MRec(2008)11 of the Committee of Ministers to member states on the European Rules for juvenile offenders subject to sanctions or measures.

<sup>164</sup> Convention on the Rights of the Child, Article 40; Beijing Rules, Rule 18; Tokyo Rules, Rule 2.

then, arguably, segregated education or training could create more problems than it solves.’<sup>165</sup>

As such, the Washington State Institute for Public Policy has shown that common elements in proven programmes include:

- Treatment occurs with the child’s family, or in a family-like setting
- Treatment occurs at home, or close to home
- Services are delivered in a culturally respectful and competent manner, and
- Treatment is built around the youth’s and family’s strengths.<sup>166</sup>

An evaluation in the USA of three home-based Intensive Probation Programs (IPPs) over five years in Wayne County compared young people randomly assigned to the home-based programmes with similar groups of youths committed to state institutions. It found that the young people on an IPP committed fewer serious crimes than the institutional youths, performed better on self-report tests, and were less likely to commit violent crimes, measured both by court records and self-reported data.<sup>167</sup>

### 5.3.2. They are effective with serious offenders

Community sanctions are often considered to be soft options or responses that are not appropriate for serious offenders. However, the Council of Europe recommends that ‘to address serious, violent and persistent juvenile offending, member states should develop a broader spectrum of innovative and more effective (but still proportional) community sanctions and measures. They should directly address offending behaviour as well as the needs of the offender. They should also involve the offender’s parents or other legal guardian (unless this is considered counterproductive) and, where possible and appropriate, deliver mediation, restoration and reparation to the victim.’<sup>168</sup> Indeed sentences within the community build connections and respect between the child and the community. Programmes which emphasise repairing the harm done to the victim are more likely than custody to be meaningful for many children.

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165 Stephenson, M., Giller, H. & Brown, S. (2011). *Effective practice in youth justice: Second Edition*. Routledge. London.

166 Holman, B. and Ziedenbuerg, J. (2006). *The Dangers of detention: The impact of incarcerating youth in detention and other secure facilities*. Justice Policy Institute.

167 Barton, W. and Butts, J. (1990). Viable options: Intense supervision programs for juvenile delinquents. *Crime & Delinquency*, 36 (2), 238-256.

168 Article 8, Council of Europe Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

A number of community sanctions have been proven to work for young people who commit serious offences or have high risk factors:

- **Multi-systemic therapy (MST):** MST provides intensive treatment that focuses on the multiple factors related to delinquency in various settings or systems (e.g. school, family, peers) in the young person's life. It provides this treatment in the home and community of the child. It has a well-defined and empirically grounded theory of treatment and emphasises the accountability of service providers, effective implementation of the treatment model and long-term change. Young people who received MST had significantly fewer arrests and reported fewer criminal offences.<sup>169</sup> It has proven to be effective for young sex offenders, substance abusers and violent and chronic young offenders living in rural areas.
- **Functional family therapy (FFT):** FFT is a family-focused programme which aims to reduce risk factors and enhance protective factors. The programme consists of three general phases: engagement and motivation (building the perception that positive outcomes can result from programme participation), behaviour change (developing and implementing plans that are intended to change delinquent behaviour), and generalisation (helping the family maintain change and prevent recurrence of the delinquent behaviour). Clinical research shows that FFT 'significantly reduces recidivism for a wide range of juvenile offense patterns.'<sup>170</sup> FFT also reduces potential delinquency for the siblings of programme participants. The effectiveness of FFT was recently examined in the Family Project in Las Vegas, USA. Over two years, FFT staff contacted 231 families referred to the project by probation officers, of whom 80% completed FFT programmes. The evaluation suggests that FFT reduced recidivism by roughly 50%, a figure consistent with previous FFT randomised clinical trials and replication studies.<sup>171</sup>

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169 Henggeler, S. W., Schoenwald, S. K., Borduin, C. M., Rowland, M. D. & Cunningham, P. B. (1998). *Multisystemic treatment of antisocial behavior in children and adolescents*. New York: The Guilford Press.

170 Henggeler, S. W., Schoenwald, S. K., Borduin, C. M., Rowland, M. D. & Cunningham, P. B. (1998). *Multisystemic treatment of antisocial behavior in children and adolescents*. New York: The Guilford Press.

171 Henggeler, S. W., Schoenwald, S. K., Borduin, C. M., Rowland, M. D. & Cunningham, P. B. (1998). *Multisystemic treatment of antisocial behavior in children and adolescents*. New York: The Guilford Press.

## Canada – Community responses to serious offenders

PACT (Participation, Acknowledgement, Commitment and Transformation) in Toronto, Canada is a LifePlan Coaching Programme. It was developed and designed to specifically address the needs of a small group of habitual young offenders between the ages of 12 and 18 years who were ultimately responsible for the majority of youth crime committed in communities, and by extension made up the majority of the charges before youth courts. This is a group who are destined to become revolving-door career criminals, going in and out of jail and costing the justice system, and society as a whole, millions of dollars in direct and indirect costs (including victimisation and lost productivity costs) over their lifetimes. Since 2002, the programme has worked with 10,000 young people, usually referred directly from a judge as part of a probation order or bail conditions. Eight life-skills-based community service projects provide at-risk young people with safe spaces to complete required community service hours, obtain practical skills, build self-esteem and explore potential career paths, while also giving back to their communities in meaningful ways. The coaching is geared toward building capacity and empowering young people to create personalised plans and positive paths to move forward. It is designed to give youth the confidence and vision to put their plans into action as well as the support, structure and acknowledgement to help realise their vision of a better life. The programme has found that for an investment of \$5,000 (Canadian) for turning around the life of one habitual offender it can save society \$2 million (Canadian) over the course of the offender's lifetime.

### 5.3.3. It saves you money now and in the future

Rehabilitating a young person in the community is much cheaper than sending them to prison. In the USA, WSIPP found that:

- Aggression replacement training (ART), which was estimated to have a net cost of \$738 per participant, yielded benefits to taxpayers of approximately \$33,143. With a benefit-cost ratio of \$44.91, this meant every dollar invested in aggression replacement training was estimated to yield almost \$45 in total benefits.
- Multi-systemic therapy (MST), which was estimated to have a net cost of \$4,743 per participant, saved \$131,918 in criminal justice costs and reduced victim costs. With a benefit-cost ratio of \$27.81, this means that every dollar invested in multi-systemic therapy is estimated to yield almost \$28 in total benefits.
- Functional family therapy (FFT), which was estimated to have a net cost of \$2,161 per participant, yielded benefits of \$59,067 per participant, meaning every dollar invested in FFT was estimated to yield approximately \$27 in total benefits.
- Multidimensional treatment foster care (MTFC), which was estimated to have a net cost of \$2,052 per participant, yielded benefits of \$87,622, meaning that every dollar



invested in multidimensional treatment foster care is estimated to yield almost \$43 in total benefits.

Indeed, probation is much less costly than imprisonment. In Estonia, the cost of probation supervision is €30 per month, while the cost of a prisoner is about €300 per month. In Romania, the cost for one probation client is estimated at €143 per year, while the average cost of one prisoner is €1,685 per year, meaning that probation is at least ten times cheaper than prison.

### **USA – Cost-effectiveness efforts in the United States**

The United States has developed a range of strategies to produce juvenile justice programmes that are both cost-effective and of high quality. Given the high costs associated with incarceration, several states have provided financial incentives to keep children in local, community-based programmes as opposed to more expensive state facilities. For example, a legislative initiative titled RECLAIM Ohio encourages juvenile courts to develop and fund a range of community-based options for juvenile offenders. By charging localities more for the placement of a youth in a state-run correctional institution, as opposed to a community-based option, the Ohio Department of Youth Services institutions saw a 42.7% decrease in commitments within the first year of programme implementation. The funding incentive is structured in a way that does not penalise localities for the placement of particularly serious or violent offenders in secure, state-run facilities.

While reinvesting funds in community-based programmes provides significant financial benefits, it is also important to ensure that the locally funded programmes are of high quality. Many efforts are underway in the U.S. to promote the use of high-quality services for juvenile offenders. For example, the Washington State Institute for Public Policy (WSIPP), an institute created by the Washington State legislature, conducts research to identify evidence-based programmes that reduce crime and generate significant returns on investment. This information is generated for the state's legislators and public agency leaders so they are able to make informed decisions about the allocation of limited resources. The Standardized Program Evaluation Protocol (SPEP) is another example of an instrument developed to identify high-quality programmes. The SPEP, developed by Dr. Mark Lipsey of Vanderbilt University's Peabody Research Institute, is based on a meta-analysis made up of over 600 controlled studies of interventions with juvenile offenders. Use of the SPEP provides specific research-based profiles of programme characteristics that can be used both as a standard against which to evaluate juvenile justice programmes and as a roadmap for improving them.

Ideally, efforts to redirect funds to less costly community-based programming and to improve the effectiveness of those programmes should be merged to produce the maximum effect on reducing costs and improving outcomes. In addition to providing financial incentives to keep youth in high-quality, community-based programmes, jurisdictions need to build the capacity to maintain these efforts. For instance, the EPIS Center at Pennsylvania State University works with communities in the state to advance the use of evidence-based programmes by providing technical assistance to facilitate programme implementation, conducting and disseminating relevant research and advocating on behalf of proven prevention and intervention programmes. By ensuring that jurisdictions have the capacity to implement evidence-based programmes, strategies based on directing funds away from costly juvenile incarceration to more effective community-based programmes will experience higher returns on investment and greater chances of success.

#### 5.4. Reduce the number of children in pre-trial detention and in prison

The number of children in pre-trial detention and other forms of detention in Europe is excessive. Not only is detention harmful to children, it does not prevent reoffending and is the most expensive way of dealing with children in conflict with the law. Children who enter prison are more likely to be damaged in the short term through the trauma of it, and in the long term will find it more difficult to return to school or obtain employment or vocational training, and are therefore more likely to be a burden on the economies of society rather than being able to contribute to their advancement and healing in a time of economic crisis. Indeed, in 2006, Justice Policy showed that ‘Detention has a profoundly negative impact on young people’s mental and physical well-being, their education and their employment.’<sup>172</sup>

Europe locks up a considerable number of children who should be presumed innocent until proven guilty. To counter this, in 2003, the Council of Europe specifically recommended that alternatives for remand in custody should be sought, such as ‘placement with relatives, foster families or other forms of supportive accommodation’.<sup>173</sup> In 2008, it was reiterated again that ‘deprivation of liberty of a juvenile shall be a measure of last resort and imposed and implemented for the shortest period possible. Special efforts should be taken to avoid pre-trial detention.’<sup>174</sup> Indeed, ‘all detained juvenile offenders whose guilt has not been determined by a court shall be presumed innocent of an offence and the regime to which they are subject shall

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172 Holman, B. & Ziedenbuerg, J. (2006). The dangers of detention: The impact of incarcerating youth in detention and other secure facilities. Justice Policy Institute.

173 Article 17, Council of Europe Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

174 Article 10, The Council of Europe C/MRec(2008)11 of the Committee of Ministers to member states on the European Rules for juvenile offenders subject to sanctions or measures.

not be influenced by the possibility that they may be convicted of an offence in the future.<sup>175</sup> The United Nations Havana Rules and the Beijing Rules also emphasise that children who are detained under arrest or awaiting trial ('untried') must be presumed innocent and treated as such. Detention before trial should be avoided in all but exceptional circumstances.

The phrase 'deprivation of liberty as a disposition of last resort' is reiterated again and again by European and international standards, but little actual attempt to put this policy into practice can be evidenced. The Council of Europe has been arguing since 1978 that governments should be keeping 'to a minimum the sanctions and other measures which entail deprivation of liberty and to develop alternative methods of treatment' for young people, as well as recommending the 'abolition of large isolating institutions and their replacement by smaller establishments supported by the community.'<sup>176</sup> However, little has been done in this regard. The UN Havana Rules and the Beijing Rules also clearly argue that only children who pose a real danger to the public should be detained, and these children make up a very small minority of the overall child offender population. Indeed, the Beijing Rules state that 'deprivation of personal liberty shall not be imposed unless the juvenile is convicted of a serious act involving violence against another person or of persistence in committing other serious offences and unless there is no other appropriate response.'<sup>177</sup>

The United Nations Special Representative on Violence against Children is also concerned with reducing the level of pre-trial detention.<sup>178</sup> At the 23<sup>rd</sup> session of the United Nations Commission on Crime Prevention and Criminal Justice, a resolution was adopted which called for model strategies and practical measures on the elimination of violence against children in the field of crime prevention and criminal justice.<sup>179</sup> In 2012, the Special Representative on Violence against Children, together with the United Nations Office on Drugs and Crime (UNODC) and the Office of the High Commissioner for Human Rights (OHCHR), published a paper on the prevention of and responses to violence against children within the juvenile justice system.<sup>180</sup> These initiatives are being brought forward by organisations such as the Children's Rights Alliance for England in a project to end violence against

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175 Article 108, The Council of Europe C/MRec(2008)11 of the Committee of Ministers to member states on the European Rules for juvenile offenders subject to sanctions or measures.

176 Council of Europe Committee of Ministers Resolution (1978)62 on Juvenile Delinquency and Social Change.

177 UN Standard Minimum Rules for the Administration of Juvenile Justice 1985 ("Beijing Rules").

178 Sérgio Pinheiro, P. (2006). World report on violence against children. United nations secretary-general on violence against children <http://www.unicef.org/violencestudy/I.%20World%20Report%20on%20Violence%20against%20Children.pdf>.

179 [http://srsg.violenceagainstchildren.org/story/2013-04-29\\_855](http://srsg.violenceagainstchildren.org/story/2013-04-29_855).

180 UNHCR, UNODC and SRSGVAC (2012). Prevention of and responses to violence against children within the juvenile justice system, [http://srsg.violenceagainstchildren.org/sites/default/files/publications\\_final/web\\_juvenile\\_justice\\_final.pdf](http://srsg.violenceagainstchildren.org/sites/default/files/publications_final/web_juvenile_justice_final.pdf).

children in custody.<sup>181</sup> In addition, Open Society Foundations and UNODC have produced a comprehensive research study into the problem of pre-trial detention.<sup>182</sup>

#### 5.4.1. Detention is harmful to children

Detention is a trauma. The Council of Europe 2003 recommendation states that ‘the high prevalence and incidence of suicide, attempted suicide, bullying, self-harm and mental health problems amongst children and young people held in custodial establishments suggests that the experience of custody for a young person, particularly pre-trial detention, is considerably more traumatic than it is for adults.’<sup>183</sup> Indeed, studies from the USA have shown that incarcerated young people experience from double to four times the suicide rate of youth in the community.<sup>184</sup> For example, a report by Justice Policy found that for one-third of incarcerated young people diagnosed with depression, the onset of the depression occurred after they began their incarceration, and that poor mental health and the conditions of confinement together conspire to make it more likely that incarcerated teens will engage in suicide and self-harm.<sup>185</sup>

The Council of Europe in 2003 recognised that pre-trial detention can be even more harmful for children, as children ‘deprived of their liberty up to the commencement of their trial experience all the negative aspects of imprisonment without having yet been found guilty of committing an offence.’ In turn, the conditions under which children are held in pre-trial detention is, ‘in many countries, worse than for offenders serving custodial sentences. They are often locked up for long periods of time, exposed to overcrowding, bullying and intimidation and suffer long periods of boredom without any access to constructive activities. The risk of suicide, self-harm and other health problems, is also higher and compared with adults, young defendants lack the resilience of older defendants to deal with the trauma of being imprisoned.’<sup>186</sup>

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181 <http://www.violencefreecustody.org.uk>.

182 Open Society Foundations and UNODC (2011). The Socioeconomic Impact of Pretrial Detention: A Global Campaign for Pretrial Justice Report, <http://www.opensocietyfoundations.org/sites/default/files/socioeconomic-impact-pretrial-detention-02012011.pdf>.

183 The Council of Europe Commentary on Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

184 Holman, B. & Ziedenbuerg, J. (2006). The dangers of detention: The impact of incarcerating youth in detention and other secure facilities. Justice Policy Institute.

185 Holman, B. & Ziedenbuerg, J. (2006). The dangers of detention: The impact of incarcerating youth in detention and other secure facilities. Justice Policy Institute.

186 The Council of Europe Commentary on Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

#### 5.4.2. It makes young people more likely to commit another crime

Putting young people through more trauma is more likely to harm them and make them less likely to be able to live a law-abiding life in the future. There is compelling evidence to suggest that detaining young people makes them more, rather than less, likely to commit further offences. Justice Policy, in their 2006 study in the USA, found that ‘when controlling for other factors – including severity of offence – youths who are detained are three times more likely to end up being committed to a juvenile facility than similar youths who are not detained.’ Similar research which they quote from Texas suggests that young people in community-based placements are 14% less likely to commit future crimes than youth who have been incarcerated.<sup>187</sup> In England and Wales, the reoffending rates for children in custody are high: youth offending institutions have a reoffending rate of 73%, secure training centres have a reoffending rate of 70% and secure children’s homes have a reoffending rate of 76%.<sup>188</sup> These statistics and other research indicate that the experience of detention may actually make it more likely that young people will ‘continue to engage in delinquent behaviour, and that the detention experience may increase the odds that youth will recidivate, further compromising public safety.’<sup>189</sup>

#### 5.4.3. It saves you money

Detention is the most expensive way of dealing with a child who has committed a crime across the world:

- In the USA the annual average cost per year of a detention bed – depending on geography and cost of living – could range from \$32,000 (\$87 per day) to as high as \$65,000 a year (\$178 per day), with some big cities paying far more.
- In England and Wales, youth offending institutions cost £65,000 per child per year, secure training centres cost £178,000 per child per year and secure children’s homes cost £212,000 per child per year.<sup>190</sup>

The Washington State Institute for Public Policy (WSIPP) found that for every dollar spent on county juvenile detention systems, \$1.98 of ‘benefits’ in terms of reduced crime

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187 Holman, B. & Ziedenbuerg, J. (2006). The dangers of detention: The impact of incarcerating youth in detention and other secure facilities. Justice Policy Institute.

188 Ministry of Justice (2013). Green Paper: Transforming youth custody: Putting education at the heart of detention. HM Government.

189 Holman, B. & Ziedenbuerg, J. (2006). The dangers of detention: The impact of incarcerating youth in detention and other secure facilities. Justice Policy Institute.

190 Ministry of Justice, (2013). Green Paper: Transforming youth custody: Putting education at the heart of detention. HM Government.

and costs of crime to taxpayers was achieved. By sharp contrast, diversion and mentoring programs produced \$3.36 of benefits for every dollar spent, aggression replacement training produced \$10 of benefits for every dollar spent, and multi-systemic therapy produced \$13 of benefits for every dollar spent. It seems clear that effective youth justice systems should set guidelines to reduce the population of young people in custody.

### **Ireland – Reducing the number of children in detention.**

Our ECJJ expert from Ireland explained how since the onset of the economic crisis, Ireland has reduced the number of children in detention. The authorities decided to spend less money on building detention facilities; for example, a detention centre in Oberstan that was being commissioned for €100,000 in 2009 is now going to cost €40,000 because it is going to hold less children.

In turn, ‘there has been a re-structuring of the youth justice system to make it more evidence-based and more efficient. The economic crisis was part of the motivation, but there was a need to make the whole system more evidence-based anyway. There was no policy on youth justice until 2008. There was a law from 2001, but there had been no attempt to provide direction to this or to organise the different programmes in youth justice that had come about. Therefore, work started in 2009 and 2010 to reform the system, and this is on-going. There are positive results. The government published the National Youth Justice Strategy 2008–2010, and numbers in detention are falling. Detention and court are both hugely expensive. As our expert from Ireland noted, ‘We need to make more strategic steps to ensure that people are taken out of court and out of detention because these are the things that are both damaging and hugely expensive.’

#### **5.4.4. Children who have been detained are less able to contribute to the national economy**

The European Economic Recovery Plan recommends that member states support employment, promote entrepreneurship and provide ‘adequate social protection that provides incentives to work’. However, young people who are detained are unable to be as productive and entrepreneurial as those who are making amends for their crime in the community. Indeed, economists have shown that the process of imprisoning young people reduces their future earnings and their ability to remain in the workforce, and could change formerly detained young people into less stable employees. Educational researchers have found that upwards of 40% of incarcerated youth have a learning disability, and they will face significant challenges returning to school after they leave detention.<sup>191</sup>

Young people who leave detention and are not able to rejoin schooling face collateral risks: high school dropouts face higher unemployment, poorer health (and a shorter life), and earn substantially less

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<sup>191</sup> Holman, B. & Ziedenbuerg, J. (2006). The dangers of detention: The impact of incarcerating youth in detention and other secure facilities. Justice Policy Institute.

than young people who do successfully return and complete school. The U.S. Department of Education reports that dropouts are 3.5 times more likely than high school graduates to be arrested, meaning ‘the process of incarceration could actually change an individual into a less stable employee.’<sup>192</sup> This can lead to negative effects on the community as well as the young person. A monograph published by the National Bureau of Economic Research showed that imprisoning large numbers of young people has a negative effect on the economic well-being of their communities in terms of the loss of potentially stable employees and workers, and therefore taxpayers.<sup>193</sup>

In 2003, the Council of Europe was clear in its recommendation that in order to ensure that young people can obtain a job and contribute to society, ‘every effort should be made to ensure that young adult offenders under the age of 21 should not be required to disclose their criminal record to prospective employers’. This would be unless the nature of employment dictates otherwise; for example, if a young person has committed a sexual offence against children and is applying to work with children.<sup>194</sup> This is because:

*It is well known (and indeed evidenced by research) that obtaining stable employment is one of the most powerful ways of preventing re-offending and keeping offenders away from a life of crime. At the same time, somewhat paradoxically, one of the greatest barriers to accessing employment is the legal requirement, in some countries, to disclose previous criminal convictions to potential employers... To ensure therefore that they are given as much chance as possible when starting out on their employment career and to provide an additional incentive to refrain from future offending, the requirement to disclose criminal convictions to prospective employers should not apply to young adult offenders. Even the existence of a custodial sentence should not, on its own, lead to a requirement for disclosure, since young offenders who have spent periods of time in custody face even greater hurdles to finding employment... Where possible every chance should be given to a young offender to access the labour market unencumbered by the burden of a criminal record.’<sup>195</sup>*

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192 Holman, B. & Ziedenbuerg, J. (2006). The dangers of detention: The impact of incarcerating youth in detention and other secure facilities. Justice Policy Institute.

193 Holman, B. & Ziedenbuerg, J. (2006). The dangers of detention: The impact of incarcerating youth in detention and other secure facilities. Justice Policy Institute.

194 Article 12, Council of Europe Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

195 The Council of Europe Commentary on Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.



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## 6. REALISING YOUTH POTENTIAL

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*“Give us more free choice, more independent thinking.”*

(Young person in conflict with the law, Poland)

### 6.1. Achieving outcomes for young people

Economic crisis should be a time for moving forward. As J. M. D. Barroso stated in the preface to the European Economic Recovery Plan in November 2008, ‘the real test for European governments and institutions comes when faced with the most difficult of circumstances. At such times, they need to show imagination; they need to show determination; and they need to show flexibility.’<sup>196</sup> This involves having confidence to implement a youth justice system that is based on what works.

In times of economic depression or banking crisis, what is at stake is ‘nothing less than the development of healthy, productive, and effective citizens. The attainment of good health, the skills needed to find and prosper in employment, and the ability to form nurturing and sustaining relationships are essential for shared growth and welfare.’<sup>197</sup> Indeed, we have seen that economic crises can ‘alter the context within which young people develop their identity, set goals, plan strategically, and work to achieve them’. All young people will have a harder time finding and keeping a job during economic downturns, and this is even more difficult for those who have experience of the criminal justice system. Governments need to ensure that they are helping young people to develop secure identities and strong models that can help them weather and adapt to changing environments.<sup>198</sup> Therefore, it is important to ‘break the transmission of the shock to children’ by minimising the consequences to households through a social safety net programme. Families ‘should be supported and encouraged to maintain effective and positive parenting behaviours and to sustain good relationships with their children in order to foster better socio-emotional and cognitive outcomes.’<sup>199</sup>

Young people must be involved in any solution through close consultation. The majority of

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<sup>196</sup> Commission of the European Communities (2008). Communication from the Commission to the European Council: A European Economic Recovery Plan. COM(2008)800. Brussels.

<sup>197</sup> Lundberg, M. & Wuermli, A. (Eds) (2012). Children and youth in Crisis: Protecting and promoting human development in times of economic shocks. The World Bank. Washington.

<sup>198</sup> Lundberg, M. & Wuermli, A. (Eds) (2012). Children and youth in crisis: Protecting and promoting human development in times of economic shocks. The World Bank. Washington.

<sup>199</sup> Lundberg, M. & Wuermli, A. (Eds) (2012). Children and youth in crisis: Protecting and promoting human development in times of economic shocks. The World Bank. Washington.

young people in the criminal justice system have aspirations to work. We asked young people in the criminal justice system in France, Poland, Spain and Sweden what they would like to be when they were adults. Many had clear aspirations, hopes and dreams for their continued work and education. One, from Sweden, had an aspiration to ‘work with young people placed in treatment centres. I want to educate myself to treat alcohol and drug addicts.’<sup>200</sup> Indeed, the European Commission has also advised that states need to ‘use and further develop existing tools to involve children in the running of services such as care, healthcare and education, as well as to consult them on relevant policy planning through mechanisms adapted to their age’.<sup>201</sup> Young people need to be helped to achieve outcomes that will work for them. For example, tools such as the ‘outcomes star’ are a good way of measuring change and progress for young people, and put them in the centre of the solution.<sup>202</sup> It is crucial that young people should be able to make decisions about their lives. The criminal justice system too often infantilises them, which makes it difficult for them to be productive and innovative members of society.

## 6.2. Beginning a plan of action

### 6.2.1. Step one: pause to reflect

As has been shown in this paper, international and European institutions have been highlighting best practice in youth justice for a number of years. Therefore it seems clear that rather than ‘What do we do about youth justice?’ the question should be ‘Why have we not begun to implement the advice that has been given about youth justice?’

The most common argument against reforming youth justice systems is that the public does not support this, instead demanding punitive responses to youth crime. This is true when they are asked leading questions. However, as the commentary to the Council of Europe recommendation concerning new ways of dealing with juvenile delinquency states:

*‘Public attitude surveys consistently tend to underestimate the extent to which custody is used (particularly relative to adults), overestimate the involvement of juveniles in crime and perceive youth crime as perpetually increasing, even when it is not... Research shows that there is a close relationship between punitive public attitudes and the use of custodial sanctions for young offenders across different countries. Countries where public attitudes are punitive tend to have the highest youth custody rates and vice versa... The media are the filter through which the*

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200 Boy D, Sweden.

201 European Commission (2013). COMMISSION RECOMMENDATION of 20.2.2013. Investing in children: Breaking the cycle of disadvantage.

202 see <http://www.outcomesstar.org.uk/children-and-young-people/>.

public learn most of what they know about young offenders, but research shows that when members of the public are given more detailed and specific information about the causes of crime, the circumstances of young offenders and their offences, they tend to be less punitive. So since public attitudes constitute a serious obstacle to reducing the excessive use of custody, it is important to widely publicise and disseminate objective knowledge about the realities of juvenile crime and justice. The public needs to know some of the key facts about youth crime; for example that it is fairly common and mostly petty, that most young people grow out of it and that there are alternatives to prosecution and custody which, on balance, are more cost-effective. And it may help to counteract the largely negative coverage of youth crime if some of the successful stories were also given publicity.<sup>203</sup>

### **6.2.2. Step two: consolidate your tools and resources**

You cannot fight fear of crime and moral panics without tools. The best way to convince the public that what you are doing is preventing youth crime and ensuring that it ceases rather than proliferates is by being sure of this yourself. Instead of being swayed by emotional moral panics, youth justice policy needs to re-stabilise by ensuring that there is a bedrock of data being collected, projects and reoffending rates being monitored and evaluated, and good-quality research proving that the outcomes for children are improving. The public need to be aware that their countries are delivering justice and keeping them safe even during an economic crisis.

In order to understand what works and what does not, listen to the children who are in the youth justice system and the professionals who are working with them. They can see first hand what works, and have a vested interest in a country having a successful youth justice policy.

### **6.2.3. Step three: take considered action to improve outcomes**

The European bodies have already created a number of recommendations and guidelines on how best to tackle youth justice. Now what is needed is for these bodies to help countries to ensure that they are implementing them.

All professionals working in youth justice must remember that the end result is not a more efficient court system, more diversion, or fewer children in custody. The end result, the outcome, is the difference that this makes to the child, and the difference that is then

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<sup>203</sup> Commentary on the Council of Europe Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

passed on to the community. Increased use of diversion and community sanctions are not ends in themselves, but rather ensure that children in every community are treated in a humane manner which is likely to help them to thrive rather than fail. In turn, this means that society is more likely to flourish, particularly in times of economic crisis.

#### **6.2.4. Final steps: feel free to innovate**

Innovation is about taking something and making it better. It is about building on what works and adapting it to changing times and demands. Innovation without the solid building blocks of understanding what works and what does not, however, means that you are likely to end up faltering and falling over rather than moving ahead. Therefore, innovation is the final and on-going step in reforming youth justice practice. The problem of youth crime may never go away, but with the knowledge of what works and a commitment to improving outcomes for children, countries can continue to weather whatever economic, moral or social storms are thrown at them.

### **6.3. Specific recommendations to governments**

This ECJJ white paper has outlined simple steps to tackling youth justice while in an economic crisis. In summary, the most important recommendations for governments are:

- 1.** Collect and monitor data from the youth justice system so that practice can be based on evidence and evaluated for success against outcomes, and specifically comply with the European Commission's study to collect data on children's involvement in judicial proceedings in the EU.<sup>204</sup>
- 2.** Review their youth justice system in order to understand where it can be made more efficient and more child-friendly, in order to better implement the guidelines of the Committee of Ministers of the Council of Europe on Child Friendly Justice.
- 3.** Review spending on youth criminal justice systems, and target resources away from detention and towards policies of prevention and diversion.
- 4.** Reduce the number of children in pre- and post-trial detention by at least half of the current rate within the next five years, making use of community sanctions instead.

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<sup>204</sup> European Commission. (2013). COMMISSION RECOMMENDATION of 20.2.2013. Investing in children: Breaking the cycle of disadvantage.

5. Ensure that training programmes for young people in conflict with the law are established within the community to help children to acquire technical skills, foster social networks and enhance their behavioural and social skills.<sup>205</sup>

6. Nurture the capacity of youth justice staff by ensuring that they are motivated and given the necessary training and advancement.

7. Comply with the 2003 Council of Europe recommendation that states should ensure that 'young adult offenders under the age of 21 should not be required to disclose their criminal record to prospective employment' unless the nature of employment dictates otherwise.<sup>206</sup>

Implementing these recommendations will help countries to save money, protect society and finally realise the potential of the young people that the youth justice system is supposed to serve.

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<sup>205</sup> Lundberg, M. & Wuermli, A. (Eds) (2012). *Children and youth in crisis: Protecting and promoting human development in times of economic shocks*. The World Bank. Washington.

<sup>206</sup> Article 12, Council of Europe Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

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## 8. APPENDIX 1: ECJJ MEMBERS

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Among members of the European Council for Juvenile Justice are policy makers, academics, civil society representatives and in general national juvenile justice stakeholders. These are all professionals with expertise and commitment to improve the situation and treatment of children in situations of social exclusion and in conflict with the law. We appreciate their great support and cooperation for this white paper.

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## 9. APPENDIX 2: THE EUROPEAN COUNCIL FOR JUVENILE JUSTICE 2011 GREEN PAPERS

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Defending the principle of juvenile justice without borders, the International Juvenile Justice Observatory (IJJO) aims to enhance youth justice throughout the world. Thus, this not-for-profit organisation, created in 2003 and based in Brussels, promotes a multidisciplinary and multi-institutional approach in its pursuit of fairer and improved juvenile justice systems. The latter results in an organisation which gathers professionals, experts and institutions promoting the development of international policies, programmes, research and resources especially oriented towards inclusion of the younger ones; this aims to guarantee the integration of minors and young people in conflict with the law, and wishes to prevent others from any negative encounter with their respective justice systems.

Also based in Brussels, the European Juvenile Justice Observatory (EJJO) is the European branch of the International Juvenile Justice Observatory. It consequently supports the IJJO's ideals and aims to create a European space for reflection, to develop ambitious initiatives in the field of juvenile justice and to establish codes and standards of good practice, serving the education and integration of young Europeans at risk or in situations of conflict with the law and/or social exclusion.

With this in mind, both observatories favour programmes and research that could enhance juvenile justice systems in every possible way. Recently, relying on the experts sitting on the European Council for Juvenile Justice, the International and European Juvenile Justice Observatories supported the preparation and drafting of three green papers, all aiming to improve juvenile justice systems throughout the world. Although focusing on three different issues, they all agree on the need for fairer and improved youth justice systems, not only in underdeveloped countries but overall throughout the entire world.

Thus, each green paper focuses on a particular issue – the reintegration of young offenders, the implementation of international standards or the promotion of alternatives to detention – and was drafted by a specific division of the European Council for Juvenile Justice.

### **The NGO section's green paper: The social reintegration of young offenders as a key factor to prevent recidivism**

The European Council for Juvenile Justice NGO section, for instance, worked on “The social reintegration of young offenders as a key factor to prevent recidivism”, and consequently produced a green paper under the aegis of Séverine Jacomy-Vité, a child-protection specialist at UNICEF.



This green paper explores the usefulness of social reintegration in preventing young offenders from recidivism. To that end, it examines the orientations and scopes of young offenders' reintegration efforts across Europe so as to highlight perceived challenges and good practices developed by NGOs in each member state. The aim was to emphasise the importance of reintegration and the need for well-planned stays, even when notably short, in order to guarantee the positive impact of each sanction. Even though detention should always remain the ultima ratio, when such measures are unavoidable, positive inputs in closed facilities can be especially fostered by offering education or training. The latter indeed ensures a better and brighter future for youngsters, giving them the tools to pursue their education, get a job and overall turn their life around. This additionally greatly helps to prevent any stays in closed facilities from becoming a springboard for more socially excluded lives.

On top of underlining the utility of reintegration as a continuous and often long-term objective, in which education and training play an important role, at its end, this green paper issues a series of recommendations to the member states. This advice represents a response to the needs and gaps highlighted throughout the paper, and, if implemented, it is hoped that it will positively influence the development of standards and programmes at European level.

### **The Public Administration section's green paper: Evaluation and implementation of international standards in national juvenile justice systems**

The European Council for Juvenile Justice Public Administration section decided to focus on the different but equally important topic of 'Evaluation and implementation of International standards in national Juvenile Justice systems'.

This green paper, written with the help of Dr. Ineke Pruin, a lawyer and research associate at Greifswald University (Germany), starts with an overview of the basic principles of the international juvenile justice standards, before discussing the question of their binding character. It is indeed a question of crucial importance, insofar as it determines whether or not member states have to comply with such or such standard, and explains why international juvenile justice standards are not equally implemented throughout the world, and to a lesser extent, throughout the European Union.

As a matter of fact, within the European Union, the UN Convention on the Rights of the Child (CRC), the European Convention on Human Rights and the EU Charter of Fundamental Rights are the only binding juvenile justice standards. Thus, every other standard, from the UN General Comments, to CRC numbers 10 and 13, to the Council of Europe's Guidelines on child-friendly justice, is respected by the member states according to their goodwill.

Unfortunately, in the field of juvenile justice, the will to guarantee young people the best juvenile justice system available varies greatly from one member state to another. In this regard, the present green paper presents an EU-wide snapshot of compliance of international standards focusing on the proper implementation of relevant topics, such as the minimum age of criminal responsibility, the introduction and use of alternative sanctions and measures to detention, or the nature of prison regimes dedicated to young people.

Moreover, this research identifies existing tools and instruments efficiently used for the evaluation of juvenile justice systems, both at an international and national level, thus underlining the great value and utility of mechanisms such as the UN Committee on the Rights of the Child, UNICEF's set of fifteen juvenile justice core indicators, or national evaluation systems such as the Finnish, Hungarian and Maltese ones.

Finally, in its last paragraphs, the green paper, developed under the aegis of the Public Administration section of the European Council for Juvenile Justice, introduces conclusions and recommendations in the hope that they might be subject to further discussion and developments, with the aim of improving European juvenile justice systems.

### **The Academic section's green paper: Measures of deprivation of liberty for young offenders: How to enrich international standards in juvenile justice and promote alternatives to detention?**

With the help of Dr. Ursula Kilkelly, senior Law Lecturer at University College Cork, the Academic section of the European Council for Juvenile Justice studied the 'measures of deprivation of liberty for young offenders' and decided to pay special attention to ways of enriching international standards in juvenile justice, which would ensure the promotion of alternatives to detention.

This particular green paper thus first focuses on the international standards, and especially on their reference to detention and its alternatives, in order to provide a baseline of information, as well as the commonly used legal framework in these two related and yet distinct areas. It also sheds light on each member state's level of compliance when it comes to these international standards. In order to examine the extent to which these standards are being implemented by the member states of the European Union, the focus is on the development and outreach of specific measures and topics – separation of children from adults in detention, rights, conditions and treatments in detention, training and specialisation, etc – instead of on the situation in each member state.

Secondly, this research identifies what support or assistance the EU might provide to further

the implementation of the aforementioned international standards. Thus, this paper ends with a series of recommendations that aim to narrow the gap between the theory of the international standards and the practice observed in member states, including actions that could be undertaken by the European Commission itself.

Ultimately, the three sections of the European Council for Juvenile Justice all tried to propose changes in the field of youth justice, and made recommendations to the European institutions as well as to the member states.

They often produced very specific advice directly linked to the topic they decided to pay attention to. Thus, in its green paper, the NGO section advocates in favour of the development of an EU directive that would guarantee the individualisation of education, work options and outcomes for young offenders during and after custody. By the same token, in its recommendations, the Public Administration section calls for the existence of, at governmental level, identifiable persons in charge of and responsible for the monitoring of the juvenile justice system. Eventually, the academics, unlike any other section, consider that attention should be paid to the possible setting up of a juvenile justice agency at EU level that would ensure the implementation, quality control and independent evaluation of international standards at national level. According to them, this could play a particularly important role in drawing together the inspection reports on the detention of children, and would make it easier to track progress and to disseminate evidence of best practice where it exists. Furthermore, they maintain that it would drive other beneficial changes, and would overall constitute a driving tool for the improvement of youth justice throughout the European Union.

On the other hand, despite having worked on very different issues, the three sections of the European Council for Juvenile Justice also sometimes draw the same conclusions and advocate in favour of the same changes and improvements. Thus, in their respective green papers, both the NGO and Academic sections advocate in favour of a more interdisciplinary approach; the NGO section wants the creation of a European platform responsible for the social reintegration of young offenders, and which will encourage a more systematic share of good practices throughout the European Union, whereas the Academic section is in favour of a network gathering specialist judiciary, probation officers, lawyers, social workers, police officers, academics etc. in order to better share information, disseminate best practice and exchange ideas.

By the same token, in their respective green papers, both the Academic and Public Administration sections agreed that there is a lack of data when it comes to youth justice, and that measures should be taken in order to resolve this issue. In its green paper, the Public Administration section especially emphasises the need for a better analysis of the existing

data, and the uselessness of setting up new ways of gathering information if the existing ones are not properly examined and discussed in the first place. Nevertheless, the absence of up-to-date data on the operation of youth justice systems is often frustrating insofar as it prevents meaningful analysis and makes it difficult, if not impossible, to track trends and compare jurisdictions. Thus, the existing data must be better used but also actualised more often.

Moreover, what can be concluded regarding data collection can also be applied to international standards; according to the green paper of the Academic section, the problem is not so much the lack of juvenile justice international standards than the lack of implementation of the existing ones. Therefore, the academics sitting at the European Council for Juvenile Justice advocate in favour of member states' wider compliance with existing standards, even though they are not legally bound to comply. Eventually, the Public Administration and the Academic sections also agreed in their respective green papers that more attention should be paid to training. As a matter of fact, the Public Administration section calls for the provision of training for all practitioners working in the field of juvenile justice, and for an improved consciousness-raising of the general public in the very same field. As for the Academic section recommendations, one also deals with the burning issue of practitioners' training; in their green paper, the academics suggested that the Commission actively support EU-wide training on international standards, best practice, children's rights and child development for all those working for and with children in juvenile justice.

Thus, despite working on different topics of youth justice, the members of the European Council for Juvenile Justice are able to find common ground when it comes to the changes and improvements that could be undertaken at EU or national level in order to ameliorate youth justice throughout the European Union.



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