

Crime & Punishment - A Juvenile Justice Perspective

A Singapore Paper

This paper seeks to study the treatment of recalcitrant juvenile offenders in Singapore. Any opinions expressed are personal and in no way represents the official view of the Singapore Judiciary.

I. Introduction

In his keynote address at the Introduction of the Subordinate Courts Workplan 1997/98 on 1 March 1997, The Honourable The Chief Justice of Singapore, Yong Pung How said,

“The complexity of juvenile crime today requires a multi-prong approach. It has to incorporate elements of deterrence, incapacitation and rehabilitation. A balance will have to be struck between the need for rehabilitation and accountability for the offending behaviour. Restorative justice seeks to achieve this. We recognise that we can never rely alone on laws and punishment to meet the challenge of juvenile crime. Preventative measure are needed just as much. Effective family support and control can help to keep our juveniles out of crime in the first place and equip them to lead a law-abiding life. Already, this is being done by the Government through the Inter-Ministry Committee on Dysfunctional Families, Juvenile Delinquency and Drug Abuse. Similarly, on the Court’s part, there is a communitarian approach to the treatment of juvenile offenders. Through family conferencing, boot camps, peer group advisors, family care conferencing, we enlist the support and assistance of the community in reforming and rehabilitating the juvenile offender. We build upon this approach through a blend of measures focusing not just on the offender but the victim and the community as well.”

Unlike the adult criminal justice system, where deterrence and retribution play a major role when sentencing the offender, the juvenile justice system is underpinned by notions of the “welfare” of the offender. This is made clear in the broad “welfare” undertones of section 28 of the Children and Young Persons Act, Cap 38 (“CYPA”) which requires the juvenile court, where appropriate, to take steps to remove the offender from his undesirable surroundings as well as secure proper provision for his education and training¹. In line with this broad legislative injunction, the reformation and rehabilitation of the offender remains

the paramount concern of the juvenile court. However, one cannot ignore an important fact, namely, that when dealing with an offender, the juvenile court acts as a court of law and not as a provider of social services for whom the sole criteria for assistance is to commit a crime. In the exercise of the benevolent *parens patriae* doctrine, the court has to be mindful of the more classical justice issues, like public protection and personal accountability. In my view, personal accountability for the offending act is a crucial step toward rehabilitation. Seen in this light, personal responsibility and welfare are not antagonistic concepts. Where serious offences are committed by juveniles, it is neither in the public interest nor in the welfare of the juvenile to minimise the gravity of the offending act.

Having made this proposition, I feel it prudent to clarify it to dispel any misunderstanding over its scope. Whilst advocating responsibility for the offending behaviour, I am not advocating retributive justice for young offenders. Ours is still a Juvenile Justice system whose sanction is based on the character of the criminal and not the crime. The measures to have the offender take personal responsibility for the crime, like Family Conferencing, Community Service Orders and reparation conditions to probation are not intended to inflict retribution on behalf of society but to instil a sense of accountability to the people most directly affected by the crime and hopefully to society at large. In recognition of the young offender's potential for change, a restorative model of juvenile justice is adopted.

A restorative model of juvenile justice seeks to re-integrate the juvenile offender back into society by the following means;

- a) holding the offender accountable for his behaviour and having him take responsibility for the consequences of his offending act by way of reparation to the victim and society. This is achieved in appropriate cases by voluntary community work, restitution, compensation or an apology,
- b) allowing the victim, where appropriate, to confront the offender to make him aware of the harm caused by his offending act,
- c) having the offender's parents (who may have abrogated their parental responsibility to nurture and discipline the offender)

take responsibility for their child's behaviour and empowering them to play a greater role in the rehabilitation of the offender.

Within the concept of re-integration, there is an increasing recognition of the rights of the victim and society as legitimate and relevant factors to be considered by the court.

II. The Singapore Juvenile Justice System

Criminal Jurisdiction of the Juvenile Court

The juvenile court may only assume jurisdiction over children and young persons. Section 2 CYP A defines a "child" and "young person" as follows:

"child" as being a person who is below the age of 14 years.

"young person" as being a person who, is 14 years of age or above and below the age of 16.

The Penal Code provides that a child under 7 cannot commit an offence whilst a child between 7 and 12 needs to attain sufficient maturity of understanding to judge the nature and consequence of his conduct at the time of the offence before he can be convicted of the offence².

All offences committed by a child or young person are heard before the juvenile court, save for the following exceptions³:-

a) where the offender is charged with an offence which is triable only by the High Court⁴, in which case the High Court shall try his case,

b) where the offender is jointly charged with an offender who has attained the age of 16 years, in which case the court of appropriate jurisdiction may try his case, and

c) where in the course of proceedings before a court of appropriate jurisdiction, it appears that the offender is a child or young person.

Rehabilitative options

Restrictions

There are certain restrictions on a Court's power to deal with young offenders. These restrictions are tabulated as follows:-

	Restriction	Section of the CYPA
1.	A court shall not send a child below the age of 10 years of age to an approved school, remand home or place of detention unless the court is satisfied that he cannot be suitably dealt with otherwise.	28(2)
2.	A child shall not be sentenced to prison for an offence or be committed to prison in default of payment of a fine or costs.	37(1)
3.	A young person shall not be sentenced to prison for an offence or be committed to prison in default of payment of a fine, damages or costs unless the court certifies that he is of so unruly a character that he cannot be detained in a place of detention or an approved school.	37(2)
4.	No child or young person shall be sentenced by any court other than the High Court to corporal punishment.	37(3)
5.	Where a child or young person is convicted of murder, culpable homicide not amounting to murder, attempted murder or voluntarily causing grievous hurt and the court is of the opinion that none of the other methods of dealing with the offender is suitable, the court may order that the offender be detained in such place and on such conditions	38

	as the Minister may direct.	
6	Where a child is convicted of an offence for which a fine, damages or costs may be imposed and the court sees fit to so sentence the child, it shall order that the fine imposed or damages or costs awarded be paid by the parent or guardian of the child.	39(1)
7.	Where a young person is convicted of an offence for which a fine, damages or costs may be imposed and the court sees fit to so sentence the young person, it shall order that the fine imposed or damages or costs awarded be paid by the parent or guardian of the young person unless the court is satisfied that the parent or guardian cannot be found or had not conducted to the commission of the offence by neglecting to exercise due care of the young person.	39(1)

Orders available to the juvenile court

The juvenile court is empowered by s.44 (CYPA) to make the following orders:

1. *Discharge the offender, with or without him entering into bond to be of good behaviour;*
2. *Committal to the care of a relative or other fit person;*
3. *Order the offender's parent or guardian to execute a bond to exercise proper care and guardianship;*
4. *Probation order*

A probation order may be made in addition to personal bond, committal to the care of a relative or fit person, bonding of the offender's parents or guardians, an order for payment of a fine, costs or damages or an order for residence in an approved institution.

A probation order places the offender under the supervision of a probation officer or volunteer probation officer for a period of not less than 6 months and not more than 3 years. the probation officer is duty bound⁵ to keep in close touch with the probationer and to visit

the probationer's residence from time to time as well as have him report to him at stated intervals, provided that the meeting for the first month of probation is not less than once a week. The probation officer where appropriate, will make use of any statutory or voluntary agency which might contribute to the probationer's welfare as well as take advantage of any available social, recreational, religious or educational facilities suited to the probationer's age, ability and temperament and where appropriate, ensure that the probationer is in suitable and regular employment.

The Court may attach conditions to the probation order which it thinks necessary for securing the good conduct of the offender or preventing him from re-offending⁶.

An additional requirement for residence is normally made for juveniles who have an unsatisfactory home environment but who otherwise satisfy the usual requirements for probation. The maximum duration of residence at an approved institution is 12 months.

Before the Court makes a probation order, it must explain the effects of the order to the offender in ordinary language (including the fact that he will be dealt with for the original offence if he does not comply with the order or re-offends) and, if the offender is above 14 years old, the court must ascertain his willingness to comply with the order.

5. Detention at a place of detention for a period not exceeding 6 months.

6. Approved School Order

The majority of offenders who do not satisfy the requirements for probation are committed to an Approved School. This measure is usually adopted for juveniles with pronounced delinquency. Juveniles who commit serious offences, exhibit a cavalier attitude towards community-based supervision or have strong associations with undesirable peers or who are active members of secret societies are normally sent to an approved school for a period of not less than 2 years, and not more than 3 years.

7. Payment of a fine, damages or costs

8. Committal to the Young Offenders' Section, Prisons

The juvenile court may order the offender to be sent to a Young Offenders Section of Prison for such length of time as could be awarded by a District Court in respect of a term of imprisonment⁷, if in the opinion of the Court the offender is of so unruly a character that he cannot be detained in a remanded home, a place of detention, an approved school or an

approved school or an approved home. The court rarely sends an offender to the Young Offender's Section at the first instance.

9. Reformatory Training Centre

Where the offender is male and between the ages of 16 and 21 and the Court is satisfied that it is expedient with a view to his reformation that he should undergo a period of training in a reformatory training centre, it may order him to be brought before a District Court to be considered for reformatory training.⁸ The juvenile offender is rarely transferred to the District Court for such a purpose at the first instance.

III. BootCamp

In line with what seems like a world-wide trend, the juvenile court is faced with increasingly violent young offenders. Save for limited exceptions, a violent young offender cannot be transferred for trial in an adult court in Singapore. To deal with this challenge, the juvenile court has chosen to strengthen its existing sentencing option, even as legislative change is in the books to enhance the effectiveness of probation as a rehabilitative tool. In his address at the opening of the Legal Year on 4 January 1997, The Honourable The Chief Justice of Singapore, Yong Pung How said,

“Although the total number of juveniles arrested in 1996 did not register any significant increase over the previous year, the profile of offences committed by juveniles is a source of concern. Juveniles are now involved in the more serious offences such as unlawful assembly, housebreaking and outraging of modesty. Clearly, some of them have progressed beyond petty theft and related property offences. To deal with this changing profile of offences and offenders, the Juvenile Court has in place a blend of corrective treatments, counselling, and instruction in useful skills, to rehabilitate and reform these juvenile offenders.”

In 1996, when juvenile court experimented with its first boot camp for recalcitrant and violent offenders, the concept was not new⁹. However, not all the features of the US boot camps were adopted, although it relied on a tough 10 day military-like regime, verbal abuse or derogatory treatment of the offenders were strictly prohibited. The Singapore model also incorporated an intensive post-camp follow-up regime where the offenders were assigned

counsellors in addition to the probation officer and subjected to regular reviews at the juvenile court to ensure that the offenders, who were all released on probation, were afforded a safe transition from boot camp into the community at large.

In his address at the opening of the Legal Year on 4 January 1997, The Honourable The Chief Justice of Singapore, Yong Pung How succinctly described the main features of the Singapore boot camp when he said,

“The programme is premised on a short, sharp and shock regime, with equal emphasis on discipline training and personal development. A unique feature is the participation of the juveniles' parents in certain workshops and camp activities, together with the juveniles. Through all this, the juvenile offenders can re-learn social behaviour. Together with their parents, they can work out an effective framework and foundation for their future behaviour. To ensure that the lessons learnt are not quickly forgotten, the participants are required to attend post-camp follow-up counselling sessions.

Unlike the boot camps in other jurisdictions, where it is a form of sentencing, the Singapore model is intended as a pre-sentence evaluation tool. All participants are juveniles who had been found by the probation officers to be unsuitable for probation and had volunteered for the programme.”

Twenty-seven male offenders aged between 12 and 16 participated in the programme. They had been convicted of a wide range of offences, from possession of an offensive weapon, to robbery, extortion, rioting, theft and mischief. Seven of them had been placed on probation but had breached the conditions of probation. All participants had been assessed by the probation service not to have been suitable for probation and, save for six offenders, all had previous records of offences. Eighteen offenders came from complete family units, six from families whose parents were either divorced or separated and three had one deceased parent.

An 18- item questionnaire measuring the offender's attitude towards his family, school, society and self was administered before and after the camp. The items were scored on a 9-point Likert-scale with the larger number indicating a more positive attitude. The mean scores before and after the camp was 6.59 and 7.27 respectively. These scores were

evaluated by the Wilcoxon Matched Pairs Signed Ranks Test which showed that the improvement was, statistically, highly significant ($z = 3.54$, $p = 0.0004$).

In order to evaluate whether attitudinal change had translated itself into observable behavioural change, a structured questionnaire was administered to the offender's parents and school teacher two months after their release from boot camp. Most parents reported that the offenders and them had benefited from the camp. 17% reported better behaviour at home, 21% reported an improved relationship with the offender. Out of the eleven offenders who were attending school, only 5 teachers were successfully contacted. All the teachers reported that the offender's behaviour had improved although they raised the concern that their studies had not followed suit.

A review of the offender's progress was conducted by the juvenile court on 31 August 96. From the feedback extracted from the probation officer's review report, 51.9% probationers showed an improvement in their behaviour while 22.2% reported no improvement in the offender's behaviour.

At the time of writing this paper 7 campers have successfully completed their term of probation representing 25.9% of the original intake. 12 are still probation. Of the original cohort, 8 had their probation order revoked, 6 for breaching their curfew conditions, failing to report to the probation officer and general poor progress under supervision; two for re-offending whilst on probation (one for theft and another for extortion).

As to the running of future boot camps, in his address at the opening of the Legal Year on 4 January 1997, The Honourable The Chief Justice of Singapore, Yong Pung How said;

“I must, however, caution that, if this programme is to be institutionalised, it will have to be done by the body which is responsible for pre-sentence reporting and for making recommendations to the Juvenile Court. This function entails casework investigations which cannot be undertaken by the Juvenile Court, whose duty is not to investigate but to sentence the offender.”

The Probation Service, Ministry of Community Development, is in the process of organising the next boot camp sometime this year.

IV. Conclusion

The youthful offenders who pass through the juvenile court are in various stages of transition from childhood into adulthood. It is therefore imperative that the juvenile court develops a variety of options to rehabilitate the offender at his stage of development and to apply the appropriate rehabilitative option that will most efficaciously help the offender.

Even for adult offenders, imprisonment is reserved as a last resort. All the more so when we are dealing with young offenders, for the closer the juvenile court moves to a retributive model, the further it moves from its rehabilitative and restorative ideals which make the juvenile court distinctive.

¹ *The winds of change are blowing in many jurisdiction, as society, faced with increasingly heinous crimes by young offenders grow disenchanted with the rehabilitative ideal and clamour for more punitive sanctions for appropriate young offenders; see FORST, Martin, and BLOMQUIST, Martha-Elin, 1992 Punishment, Accountability, and the New Juvenile Justice, 2 Juvenile & Family Court Journal 1.*

² *Sections 82 and 83 Penal Code, Cap 223.*

³ *S. 33(1) CYPA.*

⁴ *For example, offences like murder, rape, gang robbery, trafficking of drugs exceeding certain scheduled weights.*

⁵ *Rule 21 Probation of Offenders Rules, Cap 252, R1.*

⁶ *Section 5(2) Probation of Offenders Act, Cap 252.*

⁷ *Depending on the offence the juvenile was convicted for, this term could extend to a maximum of 7 years.*

⁸ *Section 13(4) Criminal Procedure Code, Cap 68.*

⁹ *Bootcamps have been in existence in the United States since 1983.*