



ASSESSMENT OF JUVENILE JUSTICE
IN
BELIZE
NOVEMBER 2010

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INTRODUCTION

Through almost 40 interviews of many different actors and material gathered from all over Belize, we have tried to assess the needs of the juvenile justice system. We did our best to gather information from all stakeholders involved in one way or another with juvenile offenders, from the prevention and detention stages to imprisonment and release. This allowed us to learn the opinions and points of view of a significant sample of professionals involved in this area. We interviewed judges, prosecutors, police officers, community rehabilitation officers, social workers from nongovernmental organizations (NGOs), and even former offenders themselves with the objective to avoid imposing one single point of view, but to use the variety of different answers to the same question to inform the results. The questions involved legal but also practical considerations that will make it possible to analyze the weaknesses and peculiarities of the system at all levels. Interviews are one of the most efficient ways to gather information because they are fast, the participants add valuable opinions, and those interviewed know they will remain anonymous. Another source of information is the material we have gathered at the centers and institutions as well as the material participants were willing to share.

However, this evaluation uses inductive and deductive reasoning that does not allow us to know with certainty how generalized specific bad practices are or if the illegal procedures, sometimes described, really happened. The main objective of the assessment is to create a critical analytical analysis, and not to condemn but to improve the juvenile justice system in Belize, thanks to the input of all the actors involved. We strongly believe that in Belize, as in other countries, any improvement in the system will bear medium term fruits by helping to decrease the adult crime rate, since some studies have concluded that working properly with juvenile offenders can reduce recidivism as much as 50%. Some stakeholders may disagree, wholly or in part, with the findings, but the aim is to create a debate where the same actors involved will be able to discuss ways to improve the juvenile justice system. We also wanted to make this assessment accessible to those unfamiliar with the Belizean justice system. The American Bar Association will convene and facilitate working groups beginning in November 2010, but most of the reform effort falls on the shoulders of the Belizean actors who will be asked to draft guidelines and recommendations for the benefit of the juvenile justice system and the whole society. The reality is that most justice systems in the world are not able to move forward without an internal, self-critical approach.

Acknowledgments

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The conclusions and analysis contained within this report are based on interviews conducted in Belize in August 2010 and relevant materials reviewed through that time. Records of relevant authorities and a confidential list of interviewees are on file with ABA ROLI. ABA ROLI greatly appreciates the time and assistance rendered by those who were interviewed for this assessment.



List of Acronyms

ABA	American Bar Association
ABA ROLI	American Bar Association Rule of Law Initiative
BPD	Belize Police Department
BZD	Belize Dollars
CRD	Community Rehabilitation Department
CRO	Community Rehabilitation Officer
CSO	Community Service Order
CYDP	Conscious Youth Development Programme
CRC	Convention on the Rights of the Child
DHS	Department of Human Services
DPP	Department of Public Prosecutions
FACA	Families and Children Act
SIR	Social Inquiry Report

I – LEGAL FRAMEWORK

A - INTERNATIONAL CONVENTIONS. In Belize, the main conventions that apply to the juvenile justice system are:

1 - THE CONVENTION ON THE RIGHTS OF THE CHILD (CRC). The Convention establishes the standard of care for children who have come into conflict with the law. Article 37 requires measures be taken to adequately rehabilitate juveniles in conflict with the law. Article 39 requires protection of the rights of children and juveniles who have been deprived of liberty to ensure they are separated from adults, and have access to legal assistance and the right to challenge the legality of proceedings that have deprived them of their liberty. Article 40 provides that the principles of natural justice are to be applied in cases where juveniles and children are brought before the legal system for committing offences, and that, where appropriate, children should be managed *without* resorting to the formal justice system.

2 - THE UN STANDARD MINIMUM RULES. The rules are guidelines that should be taken into consideration when implementing measures concerning juveniles in conflict with the law at any stage.

- The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules). These rules seek to provide a minimum standard for the care and treatment of juveniles who appear before courts accused of committing crimes or violating penal codes.

- The United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines). These guidelines impose certain minimum measures that governments must incorporate in legislation, policy, and the provision of social services to address the issues that cause juveniles to come in conflict with the law. This provides a basis for developing prevention programs so that juveniles are kept out of the justice system.

- The United Nations Rules for the Protection of Juveniles Deprived of Their Liberty (the Havana Rules). These rules seek to ensure that the rights of children who are convicted of crimes and given custodial sentences or who are remanded in institutions awaiting trial, or who are otherwise deprived of their liberty are protected.

- The United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules). These rules aim to provide a set of basic principles to promote the use of non-custodial measures, as well as minimum safeguards for persons subject to alternatives to imprisonment.

3 – OTHER INTERNATIONAL CONVENTIONS ON HUMAN RIGHTS. Minors also benefit from other human rights conventions that apply to adults, including The United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment signed and ratified by Belize.

4 – THE INTER-AMERICAN SYSTEM OF HUMAN RIGHTS OF THE ORGANIZATION OF AMERICAN STATES. Belize became a member of this organization in 1991 and several of its conventions and institutions affect the justice system in Belize. However, the fact that Belize did not ratify the American Convention on Human Rights (also known as the Pact of San José) of 1969 strongly limits the positive influence this system can have on Belizean justice, in particular the lack jurisdiction of the Inter-American Court of Human Rights. Nevertheless, Belize is covered by the Inter-American Commission on Human Rights and its Special Rapporteur on the Rights of the Child.

B - NATIONAL LEGISLATION.

Most of the laws applicable to juveniles in conflict with the law are national. Belize lacks a unified juvenile justice code that deals with all elements to be considered at the time of adjudication. In fact, more than 15 separate laws can be used in the process, something that can create confusion especially when the age of criminal responsibility differs. The main laws are the following:

1 - THE JUVENILE OFFENDERS ACT is one of the most important laws, though it is subject to some controversy. The Act sets out how child offenders should be dealt with under the law and establishes the

Juvenile Court to hear and adjudicate issues concerning persons under the age of 18 (although the CRC mandates that the age be 18). Areas of concern with the Act are:

Section 8 gives a child the right to be heard and to conduct his own defense, but should be amended to mandate legal representation if requested.

Section 3 (2) requires the Juvenile Court to proceed if it appears the person is under 18. This Section should be amended to require the court to inquire about the age of the person and to receive evidence of the same before proceeding with any trial.

The provision in Section 3 (6) and (7) protecting the privacy of juveniles must be brought in line with Section 153 of the Families and Children Act (FACA). Under FACA, the penalty for violation is up to \$5,000 or 12 months imprisonment. Under Section 3 (6) and (7), the penalty is merely \$100.00. This is not a deterrent.

Section 12 (1) (a) must be amended to state that the Act applies to children 12 years and older, since children under ten years of age can no longer be convicted of any offence.

Section 12 (4) and Section 13 conflict: the former indicates that the provisions for custodial sentences under the Act do not change the provisions for mandatory minimum sentences under other acts. The latter indicates that where the juvenile is liable to be imprisoned under any act, the maximum imprisonment is six months. This confusion must be clarified so magistrates understand that the maximum period for which a juvenile can be sentenced to a custodial institution is six months. Exceptions allowing longer sentences for homicide and repetition of grave offences, sexual offences, or firearms offences may be necessary.

Where the juvenile chooses to pay a fine instead of receiving a custodial sentence, it should be conditional on completion of a Community Service Order (CSO) for fewer hours, e.g. 40 hours. It is intended to ensure that juveniles understand they are responsible for the consequences of an offence, since in most cases the parent will pay the fine.

Section 14 criminalizes actions or situations for juveniles for which an adult cannot be convicted, contrary to the Beijing Rules (these offences are detailed in factor 1 below).

Section 14 (8), giving the Minister power to discharge a child, should require a report from the Community Rehabilitation Officer (CRO) assigned to the child, supporting the suitability of the discharge. The power to discharge a child from the Hostel should be exercised by the Court and not the Minister, since the court made the order to institutionalize the child.

Section 16 (4) requiring the police officer to assess the suitability of a placement for a juvenile under the Act should require a pre-placement assessment from the CRO in the same way that social services practitioners undertake assessments of family and institutions prior to placements.

2 - PENAL SYSTEM REFORM (ALTERNATIVE SENTENCES) ACT. This Act sets out alternative sentences for first time offenders, juvenile offenders, and persons convicted of the offence of failure to maintain and support their children. The Act establishes the Community Rehabilitation Department (CRD) staffed with CRO's who are responsible for rehabilitation of persons given alternative sentences under the Act. The CSO's are a welcome addition to the powers of the court in dealing with first time offenders and those who default on maintenance and support. The application of the Act has kept many juveniles out of penal institutions and has facilitated their rehabilitation. The legal amendments suggested are:

Section 4 of the Act stating the functions of the CRD should be amended to add that the Department will provide general social work services to juveniles and families in the juvenile justice system since that is their role.

Section 6 should be amended to indicate that where the court discharges the juvenile, there will be no record of a conviction and that for conditional discharges after the condition is fulfilled, the record will be expunged.

A provision should be added to seal the record of all juveniles upon attaining 18 years of age.

A further provision should be added to delete the record of all juveniles who are not convicted of any further offences for a period of five years after attaining the age of majority.

Section 12 (3), indicating the list of offences for which a CSO can be made, must be amended in light of the provision in the Juvenile Offenders Act allowing a magistrate to give a non-custodial sentence. The Penal System Reform Act should be amended to contain this provision as well. There should be a provision in this Section providing that, with respect to juvenile offenders, the court may impose a non-custodial sentence for any other offence where it is authorized to do so under any other act.

Section 16 (4), indicating the type of work that should be performed under the CSO, also needs to be amended with respect to juveniles to give magistrates more flexibility. A formula such as “or other suitable work recommended by the CRO and approved by the court” could be added.

A provision should be added that the rehabilitation of persons under the Penal System Reform Act shall include counseling, as needed.

3 - CERTIFIED INSTITUTIONS (CHILDREN’S REFORMATION) ACT. This Act sets up a system to deal with children who are deemed uncontrollable by placing them at the Youth Hostel under the care and control of the Department of Human Services (DHS) in the person of the manager of the institution. Juveniles in remand or even sentenced can also be sent to a certified institution under this Act. The suggested legal reforms are:

- A definition of “child” and what constitutes “uncontrollable behavior” must be included.
- The Act must provide for mandatory counseling for children as a way to promote behavioral change, requiring parents to seek parental training, and enforcement of payment to the institution.
- Provision should be made in the Act to address the situations where parents do not commit to parental training and rehabilitation by mandating that the CRD will develop permanent placement plans for those children who can be rehabilitated and removed from institutional care and referred to DHS for placement in foster care programs.
- Provision should be made for parents to be consulted on all medical and legal decisions concerning their children, except in an emergency where prior contact is not possible.

4 - CRIME CONTROL AND CRIMINAL JUSTICE ACT. This Act empowers police to arrest persons suspected of gang association. The main concerns about the Act are:

Section 3 must be amended with respect to juveniles who have tattoos. There is evidence that police are profiling juveniles solely because of tattoos and sometimes for wearing gang emblems that might not actually be reflective of such. This Section should require the court to find additional evidence of current gang association.

Section 7 must be amended to change the age of criminal responsibility from 10 years to 12 years old.

Section 7(b) needs to be revised with respect to juveniles, particularly for first time offenders. As under the Juvenile Offenders Act, the court should have power to impose a CSO if it is more appropriate. The period of a custodial sentence should be reduced from five years to one year.

In Section 8, provisions in respect of sex offenders should be revised in the case of juveniles who are convicted of carnal knowledge of other juveniles and to treat it as an area for the provision of social work services.

Section 16, limiting the right to grant bail, should be extended to include certain types of sexual offences.

Section 20, requiring mandatory life imprisonment, should not apply to robbery or burglary, and should state that the imposition of a life sentence be used only in crimes involving severe violence.

5 - CRIMINAL CODE. The Criminal Code sets out the offences for which juvenile and adult offenders can be arrested and charged. Suggested reforms are:

The code must provide for legal assistance or advice to be provided to juveniles charged with grave offences. The code must outlaw the use of corporal punishment on juveniles in custodial institutions. No juvenile should receive a life sentence. Provision should be made in the criminal code to criminalize the act of publicizing the names and addresses of juveniles who are charged with crimes. There should also be provision for witness protection in some cases, especially in situations where juveniles are charged with gang related violence and where there may be reprisals from rival gangs, or when juveniles are charged jointly with adults.

6 - SUMMARY JURISDICTION PROCEDURE ACT AND THE SUMMARY JURISDICTION OFFENCES ACT. Summary offences are those tried in the Magistrate Court, including petty offences, firearm offences, burglary, robbery, and other serious offences. The Summary Jurisdiction Procedure Act governs the procedures in the Magistrate Court where the majority of cases against juveniles are heard.

Section 6 of the Summary Jurisdiction Procedure Act should be amended to restrict the use of corporal punishment on children in custodial institutions; an amendment is needed to define 'child' as a person under 18 years of age.

7- INDICTABLE PROCEDURES ACT sets out indictable offences. These offences are tried in the Supreme Court where the prosecutor is an attorney-at-law attached to the Office of the Director of Public Prosecution.

An amendment is required to provide for legal representation of all juveniles appearing before the Supreme Court, and also to provide that, where juveniles are charged jointly with adults, they have the option of being tried alone where feasible.

The Indictable Procedures Act also mandates that juveniles convicted of murder be sentenced to life imprisonment. This should be repealed to be in compliance with international standards.

8 - EVIDENCE ACT. This Act sets out the general procedures for taking evidence in court proceedings in both civil and criminal cases and some provisions concerning children giving evidence in court.

Two concerns for amendment were mentioned. It must provide that cases involving juvenile offenders be heard *in camera* and that, where juveniles are charged jointly with adults, they have the option of giving their evidence in the absence of the adult accused.

9 - FAMILIES AND CHILDREN ACT (FACA). This Act sets out the legal framework in which children are protected and cared for in Belize. The Act defines the rights of children and the responsibilities of parents, guardians, and the state representatives in charge of residential institutions for children. The Act also seeks to protect the privacy of juveniles. Some of the areas that might be reformed are:

- The provisions protecting privacy of children have been ineffective in preventing the news media from revealing the identity of juveniles involved in high profile criminal cases, especially cases where juveniles are charged with carnal knowledge and other sexual offences involving other juveniles.
- The Convention on the Rights of the Child (CRC) was incorporated into Belize domestic law through FACA (Chapter 173, first schedule, Sections 3 and 4) which specifically adopts the CRC (with modifications suitable to conditions in Belize). Government lawyers argued in at least one case that, since the FACA is not related to children in conflict with the law, articles 37 and 40 of the CRC are not applicable in Belize. This is a very restrictive interpretation.

10 - FAMILIES AND CHILDREN (PROTECTION OF CHILDREN) REGULATIONS. These regulations set out provisions to prevent children from being left unsupervised on the road for long periods, especially at night. The Act establishes a curfew for children and a system of housing children when they are taken off the streets at night. Though on the statute books, this Act is no longer being enforced. The facilities necessary to give effect to the Act, such as a place to house the children, were never provided. Consequently, children taken off the road were housed in the police station. This was not supported by the public and has been discontinued. The Act, though it has fallen into disuse, has not been repealed and remains an area of vulnerability for juveniles. It creates status offences which would not attract police intervention or any punitive response if committed by adults. This is contrary to the Riyadh Guidelines.

11 - FAMILIES AND CHILDREN (CHILD ABUSE) REPORTING REGULATIONS. These regulations provide for the appointment of a friend of the court – the *amicus curiae*. It is intended that in all proceedings involving children, the court will be informed of the social work issues connected to the child before any orders are made concerning that child. This is an important step in ensuring that the rights of children coming in contact with the legal system are protected. Nonetheless, more still remains to be done in the following areas:

- The provisions, though not restricted to the Family Court, are never used in cases involving juvenile offenders, though they are in need of the same assistance.

- The amicus curiae is not mandated to be a social worker. If the person appointed amicus curiae has no knowledge of social work, they cannot effectively address or assist the court in making an order that secures the welfare of the child.

- The role and purpose of the amicus curiae is not defined. This has caused social workers appointed as amicus curiae to confuse their responsibilities with those of a guardian. An amicus curiae assists the court by providing social information that the court will not normally have access to. The amicus curiae does not provide a legal defense for the child. The amicus curiae must be mandated to be a social worker and this mandate should apply to juvenile cases in the Supreme Court, since it is only the CRO who has authority to speak to sentencing. It would be a step forward to define the role and purpose of the amicus curiae more clearly in the act.

- The regulations do not adequately address the issue of what recourse is available to juveniles who suffer abuse while in institutions by virtue of an order of the court, or who are otherwise under the authority of the juvenile justice system.

12 - SOCIAL SERVICES AGENCIES ACT AND REGULATIONS. The Social Services Agencies Act and Regulations require all facilities housing children to become registered and prescribe minimum standards that must be met to maintain the institution to ensure the proper care of resident children. The major deficiency of the Act is that it does not require social services institutions to have persons trained in social work on staff. This creates problems where institutions undertake the care of children who have committed crimes and are in need of specialized rehabilitative services. Also, the lack of social work training prevents the institution's operators from being alert to and addressing issues arising within the institution that can put children at risk. Further, there is no adequate recourse for juveniles who are abused while in institutions on remand or who are serving a sentence there. There is one major problem with the Wagner Youth Facility system. Though the facility provides residential care and services for juveniles and children, it is outside the jurisdiction of the Act, and its inspectors and regulations. Therefore, these children are given fewer rights than other juveniles in other residential institutions. It was suggested that an amendment requiring such institutions to have a social worker on staff is necessary.

13 - EDUCATION ACT AND RULES. While it seeks to guarantee education for every child up to the age of 14, this Act still has a number of loopholes:

- The right of juveniles over 14 years of age to an education is not protected. Access to education and the ability to socialize with children of their own age are recognized internationally as two of the most important rehabilitative services for juveniles who have come into conflict with the law. A loophole is created since juveniles over 14 may be denied an education. Their parents are unlikely to insist that they further their education. Thus, when they most need an education, it may be denied.

- The fact that they do not have to be in school has caused large numbers of juveniles over 14 to be on the streets, especially in villages and the districts outside of the Belize District. This makes them susceptible to gang influence and involvement and causes them to be targeted by the police for status offences under the Juvenile Offenders Act.

- Schools are not mandated to allow children who have been in the juvenile justice system to continue with their education if they so desire. There is a practice in many secondary schools that once a juvenile has been arrested, he is automatically expelled from school or suspended and given so many demerits that he can no longer remain at the school according to school policy. This clearly infringes on the rights of juveniles, since an arrest does not mean that he or she is guilty of the offence for which they are charged. More needs to be done in this area to ensure that schools do not impose penalties on juveniles since the schools are not a judicial institution. School policies should address the conduct of juveniles in school and not their conduct outside the school, unless there is clear evidence that the juvenile will not respect school authority or will put teachers or other students at risk of suffering harm.

The suggested amendments are:

The law must protect the right of juveniles arrested or convicted of offences to return to school. Schools should not be allowed to automatically expel or suspend such children.

The law must provide for alternative placements for juveniles who cannot return to the formal school system after release.



The law must provide that all children in custodial institutions should receive appropriate educational instruction.

14 – OTHER LAWS. At one stage or another, additional laws can apply. Some of them will be reviewed in the factors:

- FIREARMS ACT
- PRISONS ACT
- INFERIOR COURTS ACT
- FAMILY COURT ACT
- PROBATION OF OFFENDERS ACT
- SUPREME COURT OF JUDICATURE ACT
- CARIBBEAN COURT OF JUSTICE ACT

C – NON LEGAL REFERENCE DOCUMENTS.

1 - The Family Court Handbook. This handbook is currently used by the magistrates in the Family Court to provide guidance on the operation of the Family Court according to the Family Court Act and provides information about some of the applications under the Families and Children Act. The handbook, though a useful administrative resource for magistrates, is not law and the procedures set out in it are not binding on persons utilizing the Family Court. As such, the handbook should not serve as a substitute for the law.

2 - CRC Periodic Reports. These reports are prepared by the government to fulfill its commitment to implement the provisions of the CRC, to review its progress in that regard, and to identify opportunities for further action. The reports have identified a number of improvements made legislatively, especially the introduction of the FACA, but recognized the need for further legislative endeavors to ensure that the treatment of children envisioned by the CRC and the FACA is enjoyed in practice. The reports have also identified shortcomings in the juvenile justice system, including the fact that the juvenile court exists only in the Belize District, the district based courts continue to fall short of being sensitive to the welfare of children before them, and there are needs for further training and safeguards to prevent deficiencies in the implementation of the provisions of the acts comprising the juvenile justice system.

3 - Committee on the Rights of the Child Observations for Belize. This document represents the Committee's response to the Periodic Reports submitted by Belize. A number of recommendations were made to improve the juvenile justice system including the need to establish juvenile justice courts in all districts, to remove provisions for life imprisonment of children without the possibility of parole, to ensure that detainees under 18 are always separated from adults and that deprivation of liberty is a last resort, to improve procedures of arrest and conditions of detention, to establish special units within the police department to handle cases of juveniles, etc.

4 - The United Nations Human Rights Council – Universal Periodic Review. This review took place for Belize the 5th of May 2009. Twenty Council members and observers raised a number of issues pertaining to the human rights situation in the country. Regarding juveniles it was noted that Belize was encouraged to implement the recommendation of the Committee on the Rights of the Child to prioritize effective measures to reduce poverty amongst indigenous and minority children; to seek technical assistance to fully implement the Plan of Action for Children and Adolescents 2004-2015; to review legislation with a view to prohibit all forms of corporal punishment of children; to abolish corporal punishment for children; to change legislation concerning the age of criminal responsibility of children and to raise the age limit to 18 years; and to rectify the possible shortcomings in the registration procedure of all new born children.

D – THE BELIZEAN CONSULTATION PAPER ON CRIMINAL JUSTICE REFORM. At the ceremonial opening of the Supreme Court in 2004, the Attorney General, the Honorable Francis Fonseca, promised that his Ministry would, during the course of the year, produce a Discussion Paper on Criminal Justice

Reform, in the form of a White Paper. This White Paper¹ was released in 2005 and offers certain interesting debates on juvenile justice. However, the paper does not cover most of the issues of juvenile justice reform. Some of the most interesting points of this White Paper concerning juveniles are:

1 - Remove the system of Preliminary Inquiries, so that criminal cases can move expeditiously through the system to trial. One of the major complaints against the criminal justice system is that indictable offences generally take too long to come to trial. This is compounded by the requirements of Sections 32 to 44 of the Indictable Procedure Act; and Chapter 96 of the Substantive Laws of Belize, Revised Edition 2000 – 2003, requiring preliminary inquiries to be conducted by magistrates in respect of certain offences, with a view to either committing the accused for trial where there is sufficient evidence for so doing or discharging him. In 1998, a dual system of conducting preliminary inquiries was instituted. Under this dual system, a preliminary inquiry can be based purely on the documents produced by the prosecution to the magistrate and the defense prior to the inquiry (“the Paper Committal System”), if the defense did not object to this method. Under this system, the magistrate is not required to consider the evidence in the documents put before him unless requested to do so by the accused, but is simply required to certify that the accused was committed for trial without consideration of evidence. This has, logically, led to criticisms that the system of preliminary inquiries is archaic, detrimentally automatic, uses up scarce judicial resources with no corresponding legal benefits to the criminal justice system as a whole, and, in fact, delays the conduct of trials. In this way, the system is seen as a double-edged sword, which can prejudice the interests of both the prosecution and the defense to an early trial. Some opponents of the Preliminary Inquiry system point to the fact that very few cases are dismissed by magistrates at Preliminary Inquiries, yet the bulk of the unfiltered cases go to trial at the Supreme Court, only to be dismissed after a full trial. In such cases, preliminary inquiries are viewed as serving no useful purpose.

- It is recommended that the system of preliminary inquiries be abolished in order to utilize scarce judicial time and resources at the Magistrate Courts for the hearing and conclusion of trials, and to enable cases to be brought expeditiously to trial at the Supreme Court.

2 - Legal Aid in Criminal Cases. Section 194 of the Indictable Procedure Act provides that an indigent person charged with a capital offence may be assigned counsel by the court under the legal aid scheme. The Act does not provide for legal representation of defendants charged with non-capital crimes. In practice, this means that, due to a lack of resources, a huge number of persons are being processed and tried for non-capital but serious offences in Belize’s criminal justice system (at the Magistrates Court, the Supreme Court, and the Court of Appeal) without adequate legal representation. In those situations, the playing field between the prosecution and the defense is not level, and the constitutional guarantee of equality before the law loses most of its substantive meaning. It was in this context that a Legal Aid and Advice Centre Bill was drafted in 2000 by the Attorney General’s Ministry to ensure adequate representation of all persons charged with serious offences, based on a “means” test conducted by the Legal Aid and Advice Centre. The Bill was never passed. Recently, the Court of Appeals expressed concern that accused persons charged with serious crimes usually appear before that court without counsel, and recommended that measures, both administrative and legislative, should be taken to address this situation.

3 - It is recommended that the Legal Aid and Advice Centre Bill should be revisited by the Attorney General’s Ministry and the Bar Association of Belize for redrafting. This would ensure that expenses for the provision of legal aid are borne equally by the Attorney General’s Ministry and the Bar Association of Belize, that “serious offences” are defined and specified. It would also ensure that when a defendant charged with a serious offence is unrepresented by counsel, judicial officers are required to direct the Registrar General to designate counsel for the defendant. The fees of such counsel should be paid from an account jointly funded by the Bar Association of Belize and the Attorney General’s Ministry.

¹ http://www.belize law.org/e_library/WPOCJ_REFORM.pdf

4 - Minors should be allowed to give unsworn and uncorroborated evidence. Under the Evidence Act, any unsworn statement by a minor who is a prosecution witness must be corroborated in order for the prosecution to obtain a conviction (Section 103). It is axiomatic to those who deal with minors that the court milieu frightens them. At the Supreme Court level, for example, judges wear wigs and gowns, and counsel are not dressed in everyday attire. Requiring minors to enter this environment and to swear to an oath is onerous for minors and may ultimately be counter-productive to the due administration of justice. The reality is that most minors are reluctant to attend court and swear to oaths. It is recommended that the requirement of corroboration be removed in the case of unsworn statements by minors, and, in a trial by jury, the court should simply give the jury a warning to attach whatever weight they feel is appropriate to the unsworn evidence of minors.

5 - Evidence of Vulnerable Witnesses (that can be applied to minor witnesses). In present day Belize, there is some truth to the belief that most people who see crimes being committed are afraid to give evidence at trial because of the real likelihood of victimization by defendants or persons instructed by, or acting at the behest of, defendants. To protect themselves from victimization, some witnesses change their testimony at trial from the evidence they gave the police. Such witnesses who are afraid of giving evidence for fear of reprisals by defendants are called “vulnerable witnesses.” It is recommended that the law be amended to allow the Director of Public Prosecutions, in cases where a vulnerable witness has a real apprehension of suffering bodily injury at the hands of a defendant, or where a vulnerable witness has been threatened by a defendant or on behalf of a defendant, to make application, *ex parte*, and *in camera*, to a Supreme Court judge for an order allowing the statement of the vulnerable witness to be used at trial in lieu of appearing and testifying. The weight to be given the statement of a vulnerable witness will be determined by the jury, or the magistrate in a summary trial, since it will not have been tested in cross-examination. It will require judicial officers to give appropriate directions to juries in this respect, or, in summary trials, apply the rule themselves.

6 - To increase the rights of the prosecution. There is also a debate about increasing certain rights of prosecutors. It is recommended that defense counsel have a statutory obligation to disclose their defense, witness statements, and evidence, in circumstances similar to the obligation currently placed only on the prosecution. It is also recommended that the prosecution be given the right to summarize the evidence they have presented at the close of trial, even in cases where the defendant is unrepresented.

7 - Certain recommendations for domestic violence cases could also apply to juveniles. Certain reforms of the Domestic Violence Act could be applied to reform the Juvenile Offenders Act. For instance:

- **Social workers assigned to each case.** This would encourage people to pursue their case and would also provide a follow up service so the outcomes of cases can be recorded.
- **Counseling and rehabilitation:** Chapter 178, Section 5(2) of the Domestic Violence Act allows for the court to order counseling from Family Services, the Family Court, or another approved service provider. Despite this provision, counseling is rarely used, and, due to a lack of counseling services, it is unavailable in the districts. The lack of counseling services is of great concern. Counseling should be considered in all cases for all members of a family. Specialized counseling programs to deal with the issues surrounding domestic violence are generally appropriate. They are particularly beneficial in the case of children. Providing counseling to children who have been victims of domestic violence and who have lived in an abusive home would not only provide them with some much needed support, but it would also help to decrease the next generation of abusers and victims. Research has shown that boys who witness abuse are more likely to become abusers later in life, and girls who witness abuse have a greater chance of becoming victims. Intervention programs have been proven beneficial in such cases by helping children to focus on positive areas in their lives in order to counter-balance the negative feelings the abuse has caused. Not all children who have witnessed or experienced abuse will become victims or abusers as adults, and often children who are apparently well-adjusted and are from loving homes will become abusers and victims. It is recommended that children be targeted in order to have a proactive approach towards stopping violence before it starts.

The Women’s Department currently runs a Safe School Program which includes addressing domestic violence within primary and secondary schools. While this is beneficial it does not provide counseling to individual children who are in need. An alternative, but far more costly and extensive program, is for



schools to have counselors on staff who see each child on a rotating basis, but who can also see children who require additional counseling. For this to be implemented throughout Belize in all schools would be phenomenal and expensive. While an initial outlay would be costly, the benefits of this service would be aimed at reducing crime, thereby saving money in the long term. To reduce the initial cost, schools could share counselors.

To ensure that counseling services are used in cases of domestic violence, it should be mandated by the court where appropriate. This will be a problem in the districts where counseling services are not readily available. The establishment of a counseling service in all districts is essential. Counseling in some cases may be necessary before an order is given or instead of an order. In such cases, a follow up report to the court is of extreme importance. The Community Rehabilitation Department in the Ministry of Human Development is best able to manage the provision of counselors. Follow-up reports which do not violate the privacy rights of the individual being counseled should be provided to the Court. The implementation of counseling services in schools is a long term project that could be piloted in one district and then expanded depending on its success. Failing this, the provision of mandatory counseling should include all household members to ensure that children and dependants receive support.

Needless to say, counseling and social work assistance is one of the most effective ways to prevent crimes by juveniles and to rehabilitate first offender juveniles in conflict with the law.

II – INSTITUTIONAL FRAMEWORK

In Belize, the juvenile justice system is comprised of the following stakeholders whose responsibility is to protect the rights and make decisions in the best interests of children and youths who enter the system:

1 - THE COMMUNITY REHABILITATION DEPARTMENT. The Community Rehabilitation Department (CRD) is a part of the Ministry of Human Development and the central agency in the juvenile justice system. The CRD is the department responsible for preparing reports for the court and making recommendations to the court on the suitability of alternative sentencing for a particular juvenile offender. In addition, the CRD must supervise alternative sentences ordered by the court and find placements where juvenile offenders can serve Community Service Orders (CSO). The CRD is involved in pre- and post-sentencing reports, supervision of probation, counseling for the juvenile offender and his family, and reporting to the court violations of the terms and conditions of sentences. Effective functioning of the juvenile justice system is dependent on the CRD. The CRD is equipped with Community Rehabilitation Officers (CRO) who have received specialized training in social work and areas of law that affect the juvenile justice system and the rights of juveniles appearing before a court in criminal cases. At present, there is one CRO in each district. The Belize District has two CRO's stationed in Belize City. The CRO's in the districts are supervised from the Belize District Office which is located in Belize City. The Belize City staff have the benefit of closer consultation with supervisors in preparing reports for the court and provide more consistent reports on cases for which CRO's are responsible. The CRO's in the districts file reports with the Belize City office but often do not have the benefit of consultations with supervisors on their cases.

Each CRO is responsible for providing services or referrals for service as needed by the juvenile client. This includes appearances at the police station to secure bail for juvenile offenders where appropriate, preparation of court reports, appearances in court to speak on behalf of the juvenile concerning alternative sentences, selection of appropriate service opportunities where CSO's can be served in each district, and supervising the CSO.

Currently the CRD in the juvenile justice system is the most important intervention mechanism to prevent juveniles passing through the system from becoming hardened criminals. The objective is to give juveniles the opportunity to start over.

2 – THE POLICE DEPARTMENT. At present, there is no specific unit within the Belize Police Department (BPD) that deals exclusively with juveniles. In Belize City, cases involving alleged juvenile offenders are not handled by the domestic violence unit which handles other cases involving children. Instead, these cases are dealt with in the normal course of police investigations and handled in the same way as cases of adult offenders. The Police Department is the point of entry for juveniles to the juvenile justice system. After police arrest a juvenile, they are required to contact a CRO so the statement of the juvenile can be taken in the presence of the CRO. The police are responsible for the investigation of criminal cases including cases involving juvenile offenders. The Police Department's involvement in the system is derived from its primary responsibility to protect the community and bring offenders to justice. In addition, under certain acts such as the Crime Control and Criminal Justice Act, police have the responsibility to prevent criminal activity by identifying and curbing potential gang activity. It was reported that in the Belize District and in Belmopan, the senior ranks of the Police Department are better trained than other police officers in the country. That could be the reason most reports of improper use of police power come from the districts.

Police view juvenile crime as an area of growing concern. Members of the senior rank in the districts indicated that they have seen an increase in the number of gang related crimes and more organization in the crimes being committed by juveniles, suggesting emergence of gang related crime. They often stated that the United States policy of deporting young criminals from the U.S. is seriously contributing to the quantitative and qualitative increase of criminality among minors. Certain methods of criminality were unknown a few years ago, such as committing a crime far from a juvenile's hometown and immediately fleeing. This practice makes the investigation and apprehension of the criminal difficult if police methods are not upgraded.

3 - THE JUDICIAL/LEGAL SECTOR. The judicial/legal sector consists of the court system (the Supreme Court; Magistrate and Juvenile Courts); the Department of Public Prosecutions (DPP), and the



prosecutors at the magistrate level. The legal sector is the enforcement end of the juvenile justice system. It is this sector that identifies juveniles for rehabilitation and imposes alternative sentences. At the Supreme Court level, DPP is responsible to review and, where appropriate, file and conduct all criminal proceedings initiated on behalf of the BPD. In the context of the juvenile justice system, the cases that come to the Supreme Court under its criminal jurisdiction are indictable matters or summary matters to be tried on indictment or summarily. Criminal cases heard in the Magistrate or Juvenile Court are summary jurisdiction offences or offences to be tried at the summary level with the consent of the accused.

The Juvenile Court was established by the Juvenile Offenders Act to hear cases involving charges against children. Interestingly, the original reading of the Section establishing the court deemed any court hearing a charge against children to be a juvenile court. This provision of the Juvenile Offenders Act was overridden by the Probation of Offenders Act and Section 3 of the Family Court Act, which gives the family courts jurisdiction over juvenile offenders. Further, the Probation of Offenders Act deemed the magistrate courts in the rural districts to be family courts when hearing matters arising under the Family Court Act. Thus, every magistrate court is a juvenile court when hearing cases involving charges against children. Under the Juvenile Offenders Act, hearings convened by the Juvenile Court must be at different times, on a different day, or in a different room from the regular sitting of the Magistrate Court.

Technically, juvenile courts can hear any charge except for murder, whether it is a summary jurisdiction offence or an indictable offence, with the proviso that for indictable offences, the juvenile may choose to have the matter tried at the magistrate court level instead of in the Supreme Court.

In the Juvenile Court, the CRO appears to represent the interests of the juvenile offender and to assist the court in deciding whether the juvenile offender is a suitable candidate for a sentence under the Alternative Sentences Act when the juvenile has been found guilty of an offence.

It is the prosecutor, on the advice of the DPP, who decides which cases will proceed under the criminal jurisdiction of the Magistrate Court. The DPP decides which cases will proceed under the criminal jurisdiction of the Supreme Court.

Other judicial institutions might be involved in one stage or another of the procedure. The Appellate Court exercises appellate jurisdiction over both the High Court and Magistracy and has jurisdiction and powers to hear and determine appeals in civil and criminal matters. The Caribbean Court of Justice took over the responsibilities of the Privy Council as a court of last resort. The Privy Council that sits in London, consisting primarily of members of the United Kingdom's House of Lords, formerly received appeals from the Court of Appeal. However, the Caribbean Court of Justice is now the court of last resort in Belize for criminal matters.

4 - THE CUSTODIAL INSTITUTIONS - THE YOUTH HOSTEL AND THE WAGNER YOUTH FACILITY:

Under Articles 14 through 18 of the Certified Institutions Act, where a juvenile is to be remanded prior to trial and an order is made for his detention, or where a juvenile has been convicted and a custodial sentence has been ordered, the court may order him to be placed at the Youth Hostel. The Hostel is situated in the Belize District at Mile 21 on the Western Highway. When juveniles arrive at the Hostel, and depending on instructions from the CRD, they are assessed to see if they can be assimilated into the regular educational system and if they are a flight risk. If they can be assimilated, they are enrolled in regular secondary schools. If they cannot be admitted to secondary schools, they are either admitted to the YWCA or receive remedial reading, math, science, social studies, life skills, and arts and crafts at the Hostel. Most of the children who are remanded to the Youth Hostel are there for short periods of time, on average two to three months. The children who are at the Hostel because of uncontrollable behavior remain until they are 18 years old. Many have had no contact with parents and family since they were placed at the Hostel.

Juveniles who have committed more serious crimes and are on remand or who have been convicted of grave offences and given a custodial sentence are sent to Wagner Youth Facility, located within the prison compound adjacent but outside to the adult prison. The Wagner Youth Facility does not come under the supervision of the CRD but is regulated under the Prison Act. The location of the Wagner Youth Facility contravenes the provisions of the CRC that require facilities for housing juveniles to be outside of the regular prison system.



As with the Youth Hostel, juveniles have little or no contact with their families, though there are regular visiting days at the prison and more interaction between the prison and the community from church groups and other NGOs.

Wagner Youth Facility is managed by the Kolbe Foundation. Juveniles have a regular schedule of activity similar to that in the regular prison system. Some of the persons who work with children at Wagner Youth Facility are adult prisoners in the regular prison system. Another important problem is related to the lack of space for girl offenders who must stay in the female facilities of the prison, a clear violation of international standards.

5 – LEGAL AID OF BELIZE. In 1981, the Legal Aid Center was opened in Belize City to serve the legal needs of the poor. The Center administers legal aid and provides legal advice, assistance, referral, and representation for those who are eligible. It is geared towards low-income persons who meet eligibility guidelines and handles a full range of case types and services. General cases include family, land, civil and estate matters. Murder, civil matters that exceed \$20,000, and company and other commercial matters are excluded from the Center's jurisdiction. This institution is unable to assist minors in conflict with the law since only murder is covered under its penal jurisdiction. Not even individuals charged with attempted murder or manslaughter are eligible for legal aid. Only an office manager is on staff at the Center to cover the whole country. Legal aid is not completely free, since there is a \$20 consultation fee.

6 - EDUCATION DEPARTMENT. In Belize most schools are owned and operated by churches. Nonetheless, these schools must be in full compliance with the rules and regulations of the Education Act of 1991, its subsequent 1996 amendments, and the Education Rules Act of 2002. This is achieved through a church/state partnership, with the Ministry of Education responsible for the management of the national education system and ensuring compliance with the Act and its Rules, while churches are responsible for recruitment and management of staff within their schools and for administering education to children. Schools are important places of rehabilitation for juvenile offenders: they offer academic training to give juveniles positive outlets for their talent and energies; they offer opportunities for proper socialization so that juveniles can re-enter society as normal citizens; they promote stability and continuity in the lives of juvenile offenders when everything else is chaotic; they also provide a safe haven from the streets. The Education Act and Rules protect the right of children to an education and make it mandatory for children under 15 to receive education. However, many of the schools have their own internal procedures for dealing with juvenile offenders, and some of these are quite punitive. Some schools are not willing to admit or re-admit former juvenile offenders for fear of damaging their reputation.

III – SOCIAL BACKGROUND

Though the level of criminality in Belize, including juveniles, is lower than in many Western developed countries and certainly far lower than neighboring countries (such as Mexico or Guatemala), the general perception of society is that juvenile offenders are troublemakers who should be incarcerated. As in most societies, the debate between punishment and rehabilitation is ongoing. Nevertheless, many citizens, NGOs, and community groups, such as churches and volunteer associations, still prioritize the need to rehabilitate juveniles so they do not become hardened criminals. The general perception is that most of the juvenile offenders come from poor families and belong to ethnic minorities. This conclusion, though not always true, is valid for boys in the Wagner Youth Facility.

The part of Belizean society that has these misconceptions should be addressed through awareness campaigns explaining the benefits to society in general of rehabilitation and reintegration of juvenile offenders. Statistics prove that the level of recidivism is much lower among juveniles who receive a rehabilitative approach than those who experience a punitive system. The so-called “Mayflower Street grenade attack” on May 21, 2008, awakened Belizean society to its lack of knowledge about social violence and the lack of training in advanced research tools needed to study the problem of juvenile crime.

Regarding the police/youth relationship, some statistics, such as those contained in Herbert Gayle’s Report² on male social participation and violence in urban Belize, shows that according to youth, law enforcement is the institution that fails them the most. Almost all youth (88%) described their relationship with the police as ‘poor,’ ‘horrible,’ ‘bad,’ ‘nonexistent,’ and said they could not trust them. They believe police are corrupt and have associations with gangs. The Southside youth reported that many times police do not treat youth of the Northside in the same manner as they would the youth of the Southside. It is important to note that the socially ‘better offs’ are far more easily aggravated by bad treatment (which they rarely experience) than the poor of the Southside who have grown accustomed to ill treatment. Approximately 60% of respondents reported knowing of or witnessing police brutality directly. Thirty five of 80 youth (44%) reported knowing of or witnessing police harassment either directly or indirectly. In other areas, the analysis of school violence data by geo-social zones shows the effects of the North-South divide where the marginalized youth of the neglected and socially deficient Southside are more prone to turn to violence. Forty eight or 60% of the respondents stated that they had dropped out of school or knew of a peer who had.

Some common perceptions held by civil society actors are:

- The CRD is not doing enough to prevent juveniles from committing crimes.
- The CRD is enabling juvenile offenders by assisting them to avoid responsibility for the offences they commit. Members of the community display insufficient knowledge of agencies involved in the juvenile justice system and what their roles are. This demonstrates confusion as to the role of the CRD.
- The best way to protect property and provide security is to keep juvenile offenders in prison, especially those who are gang members and those involved with drugs.

² http://ambergiscaye.com/art/pdfs/Gayle_Report_Belize.pdf

IV – FACTOR ANALYSIS

Section I. Considerations at All Stages of Detention

Factor 1: Due Process

Persons who have been deprived of liberty, including persons who have been remanded into custody, are entitled to full due process rights, including a right to review by a competent tribunal, a right to counsel, and a right to participate effectively in their own defense.

Conclusion	Correlation: Negative
There are many flaws in Belizean laws concerning juvenile offenders that might seriously compromise due process rights, most critically the lack of consistent provision of legal representation.	

The Constitution of Belize is the supreme law of the state. It was signed and became effective in September 1981. Most of the articles related to due process rights can be found in Part II, Article II (articles 2 to 22) regarding the Protection of Fundamental Rights and Freedoms. Articles 5 to 10 outline the core due process rights.

Article 5.1 states clearly when a juvenile (or any person) can be deprived of personal liberty:

- he is unfit to plead to a criminal charge or in execution of the sentence or order of a court;
- in execution of an order of the Supreme Court or the Court of Appeal punishing him for contempt;
- in execution of an order of a court made to secure the fulfillment of any obligation imposed on him by law;
- for the purpose of bringing him before a court in execution of the order of a court upon a reasonable suspicion of his having committed, or being about to commit, a criminal offence under any law;
- under order of a court or with the consent of his parent or guardian for his education or welfare during any period ending not later than the date when he attains the age of 18 years;
- for the purpose of preventing the spread of an infectious or contagious disease;
- in the case of a person who is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant, for the purpose of his care or treatment or the protection of the community;
- for the purpose of preventing his unlawful entry into Belize, effecting his expulsion, extradition or other lawful removal from Belize, or executing a lawful order requiring him to remain in a specified area within Belize.

The point most subject to controversy is the abuse of discretion by police officers in interpreting what, in fact, is a criminal offense, and whether there is a reasonable suspicion that a particular juvenile has or is about to commit a criminal offence under any law. Police must be properly trained to deal with juveniles, since legislative mandates and international standards for juveniles are very different from adults at any point of detention, and they must be capable of conducting a proper and efficient investigation. According to the interviews, this is not always the case and there is certainly room for improvement at the investigatory level (as noted in other factors). The success of any criminal case depends on the quality of the police investigation.

Article 5.2 states that a juvenile (or any person) facing detention has the right:

- to be informed promptly, and in any case no later than forty-eight hours after such arrest or detention, in a language he understands, of the reasons for his arrest or detention;
- to communicate without delay and in private with a legal practitioner of his choice and, in the case of a minor, with his parents or guardian, and to have adequate opportunity to give instructions to a legal practitioner of his choice;



- to be informed of his rights immediately upon arrest;
- to a remedy by way of habeas corpus for determining the validity of his detention;
- to be brought before a court without undue delay and in any case not later than seventy-two hours after such arrest or detention.

Where any juvenile (or any person) is brought before a court in execution of the order of a court in any proceeding or upon suspicion of his having committed or being about to commit an offence, he shall not be thereafter further held in custody in connection with those proceedings or that offence save upon the order of a court.

If any person arrested or detained upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under any law is not tried within a reasonable time, then without prejudice to any further proceedings that may be brought against him, he shall, unless he is released, be entitled to bail on reasonable conditions.

Other laws and regulations are applicable to juveniles, mainly under the Juvenile Offenders Act which sets out how child offenders should be dealt with and establishes the Juvenile Court to hear and adjudicate issues concerning persons under the age of 18.

The Certified Institutions (Children's Reformation) Act sets up a system for dealing with children considered uncontrollable by placing them at the Youth Hostel under the care of the Department of Human Services.

The Criminal Code sets out the offences for which juvenile offenders can be arrested and charged.

The Penal System Reform (Alternative Sentences) Act sets out alternative sentences for first time offenders, including juvenile offenders. This Act empowers the Community Rehabilitation Department (CRD) and the Community Rehabilitation Officers (CRO) responsible for rehabilitation of juveniles given alternative sentences under this Act.

The Probation of Offenders Act and the Summary Jurisdiction Procedure Act govern the procedure in the Magistrate Court in which the majority of the cases against juveniles are charged. The Summary Jurisdiction Offences Act also sets out offences for which juveniles may be arrested.

Regarding the Juvenile Offenders Act:

- While the act gives the child the right to be heard in the presence of an adult, there is no mandate for legal representation of children brought before criminal courts where they may face sentences of up to life imprisonment. This is contrary to natural law, international human rights standards, and the various conventions and guidelines that the government is a party to as set forth herein. In other words, a minor charged with manslaughter can face trial at all court levels without any defense counsel. As a matter of fact and law, only juveniles charged with murder have the right to public legal assistance and juveniles charged with manslaughter can face life imprisonment without ever seeing a lawyer.
- Children who are co-accused of crimes and charged with adults are not always brought before juvenile courts but are often tried together with adults. This is not the trend internationally. It exposes children to violations of natural law and affords them less protection than the Beijing Rules articulate since there is no requirement in Belize that such children be represented.
- Though mentioned in Article 5.2 of the Belizean Constitution, the Juvenile Offenders Act does not give children deprived of their liberty the right to have contact with their families and to ensure that social work practice is followed in the care of these children. The Act should therefore set out and develop this right through a mandatory procedure.
- The Act creates certain offences that should be decriminalized: begging, wandering, being under the care of a criminal or drunk parent, being the daughter of a father convicted of an offence involving gross indecency, frequenting the company of a thief, or lodging in a house used by prostitutes. While these situations deserve to be taken seriously by the Belizean Administration at a social care level, it seems overreaching that the Act allows police to take a juvenile into custody to appear before the Magistrate Court for any of these "offences." The better procedure is for the juvenile to be taken to the Department of Human Services and not into police custody or to court. If it is not legally permitted for an adult to be

arrested for any of these so called “offences,” neither should a juvenile be exposed to arrest for them either.

Regarding the Penal System Reform (Alternative Sentences) Act, interviewees stated that some rights of juveniles are not respected during detention. There are reports of cases where juveniles are arrested and charged on the basis of statements taken without a CRO being present and often in the absence of their parents. There are also reports of cases of first time offenders coming before the court without a CRO being notified to prepare a report outlining considerations for alternative sentencing. In certain districts where adequate rehabilitation support services are lacking, an alternative sentencing option is not available.

Regarding the Certified Institutions (Children’s Reformation) Act, some flaws were identified. In addition to the failure to define “child,” other issues are:

- The only rehabilitation offered to children is manual labor.
- Implementation of the Act has increased the number of children who are institutionalized, since most parents use it as an easy alternative to rid themselves of troublesome children instead of committing to training and counseling to work out issues with their children, especially teenagers. Placement in the Youth Hostel should be the last resort when school and families cannot realistically handle a child. Psychological assessments of children to determine if they are truly uncontrollable should be performed. The parents should be mandated to maintain contact, and there should be specific care plans that provide for adequate review so that if the child’s behavior improves, he can be reconciled with parents and guardians and sent home.
- The broad powers given to institution managers over the children have also caused concern, especially when it overrides parental rights.
- The Act does not provide for mandatory counseling of children as a way to promote behavioral change and deal with issues causing the uncontrollable behavior.
- The definition of uncontrollable children should be more specific. There is a need to make provision for children and juveniles who are out of control, and who, if left unsupervised, will commit serious crimes, but many of the children who are convicted of being uncontrollable are not in this category.
- Uncontrollable behavior should be decriminalized and treated as a social issue. These children should not be handled by the police and court, and should be brought to social workers when there is no crime involved.
- Since no standard exists to measure uncontrollable behavior, it becomes a subjective and discretionary matter to be determined by criminal justice actors.

Issues to note in the existing Criminal Code:

- While the age of criminal responsibility has been raised to comply with standards within the Caribbean, there is no provision for young persons to receive legal assistance when brought before the courts, even when they are charged with serious crimes. This is the same issue mentioned above regarding the Juvenile Offenders Act. If legal aid is important for an adult, it is absolutely imperative for a minor, since children might not understand the implications of entering a guilty plea or the procedures of the criminal justice system. Since the burden of proof is on the prosecution, adult offenders do not automatically plead guilty, even if they committed the offence. Child offenders are often not as informed but are simply told that if they committed the offence, they should plead guilty. This is particularly problematic since many juveniles are convicted on weak and often conflicting evidence based on a lesser standard of proof than is applied in the adult criminal justice system. Even worse, it was reported that cases exist where a juvenile actually thought the prosecutor was his defense lawyer. While a prosecutor may have the best interests of the child in mind, this is inappropriate and violates international norms and standards. One judge told me she could not remember when a minor in conflict with the law has actually been represented by a defense lawyer in her district.
- The appointment of amicus curiae in such a situation would not be sufficient, particularly if the child is charged jointly with an adult or another child who is legally represented, because the amicus assists the court, not the child.

- The Code does not prohibit the use of corporal punishment or the use of violence on juveniles in custodial institutions. In fact, Section 39(1) allows physical blows to be used to correct a juvenile under 16 for misconduct or disobedience. This provision and practice is flagrantly misused by the police in arresting juveniles and provides carte blanche for brutality against juveniles. If this behavior were permitted against an adult, it would be deemed police brutality and the adult could cause an action to be brought by the Ombudsman.

The Crime Control Act also has flaws that should be noted. This law has an important impact in the number of juvenile offenders who are tried simply because they were a member of a gang. Other issues include:

- Police should be mandated to provide positive evidence of gang association before being allowed to arrest a juvenile for gang related crimes.
- Considerations for bail should be provided, particularly for first time offenders, so courts are not bound to detain them, especially with more hardened criminals, if the nature of the offence they are charged with typically requires that bail be denied.

The Evidence Act has been interpreted to not provide the option of having juveniles testify in closed session. This means that the privacy of juveniles is not protected and also that juveniles can be charged with adults for offences committed jointly and tried together. In these situations, juveniles are not protected from undue influence from the adult offenders. Since these adult offenders are often formally represented by counsel, the possibility exists that adult offenders will blame the crimes on their juvenile counterpart in order to exonerate themselves. These juveniles should not be required to give evidence in front of these adults, first, because their own security will be at risk and second, because the presence of an adult accused might inhibit a minor from making accusations against the adult co-defendant or from being completely truthful because of the high level of intimidation.

Factor 2: Consistency and Fairness

The circumstances in which deprivation of liberty occurs and the procedures under which it is authorized are established in law. Discretionary decisions relating to deprivation of liberty are made by comparing the facts of the case to established criteria.

Conclusion	Correlation: Negative
Legal representation is not consistently provided as a matter of practice for juvenile offenders, nor is assistance provided by Community Rehabilitation Officers at the detention stage.	

Magistrates generally emphasized the fact that juveniles are appearing before them without having received legal advice and without any legal representation on offences where jail time is mandatory upon conviction, sometimes even in cases where long sentences must be imposed. The evidence in many cases rests solely on a confession made without a lawyer at the police station when the minor does not fully understand the rights he has waived by pleading guilty. CRO's tend to be the only potential ally of the juvenile in court.

CRO's are often not aware that it is the responsibility of the prosecutor to prove the case against the juvenile offender, and that, if the case cannot be proven, the juvenile must be acquitted and left with no record of a conviction. While it is helpful for the CRO, the police, and public prosecutor to have a good working relationship, there are cases where the CRO advised the juvenile to plead guilty to an offence, including status offences, when the CRO should have asked the prosecutor not to prosecute at all or at least have evaluated the available evidence to determine if the prosecutor could have proven the case in court. A premature and ill informed guilty plea takes away important legal rights from the juvenile offender and eliminates his chance of being acquitted. An adult offender advised of the possibility of acquittal and apprised of the evidence against him would not plead guilty in some of the situations where juveniles have been advised to plead guilty. The CRO's should require the prosecutor to reveal all evidence in their possession and if they refuse, the CRO should ask the court for a disclosure order so they can properly



evaluate the evidence and report to the court that they have thoroughly advised the juvenile whether or not he should plead guilty. In the best case, the juvenile should have legal representation, but in the absence of that, CRO's should do all they can to protect the legal rights of juveniles. When CRO's are used as a substitute for a proper lawyer, the rights of juveniles remain vulnerable.

Under the Juvenile Offenders Act, juveniles who are charged with crimes are allowed to question witnesses and to conduct their own defense. Since most juveniles do not understand the nature of court proceedings and have no assistance from a defense lawyer these provisions fail to protect their rights.

Because the police department is often the first point of contact between juveniles and the juvenile justice system, the police are supposed to contact the CRO as soon as possible so the CRO can be present when the juvenile is questioned and any statement is taken. However, some police believe that if they can get the juvenile to talk with them alone, they have a better chance of getting a confession. This drive to obtain a confession often causes the police to delay notifying the CRO. They proceed to question the juvenile before the CRO arrives and sometimes even in the absence of the juvenile's parents or guardians. This is a clear violation of the rights of the juvenile.

Juveniles have reported police beatings during or after arrests. Some CRO's stated they have observed juveniles with bruises while visiting them at the police stations.

Most magistrates will adjourn cases until the CRD is notified where a juvenile appears before them without a CRO being present. However, there are reports of magistrates continuing with trials where juveniles have not received legal representation, the CRO is not present, and the court has received no report from the CRO. In some instances, juveniles have pleaded guilty and the court has proceeded to impose Community Service Orders, informing the CRO later.

The Family Court at present uses its own handbook. It is not disseminated to the Magistrate Courts in the district, where the courts follow the same procedures as for adult criminal offenders. This creates problems such as the need to ensure that juveniles do not plead in the absence of the CRO and that juveniles understand the purpose and effect of entering a plea. The problem arises when the court treats juveniles as adults and expects them to have the same understanding of the criminal process and the same level of responsibility for the consequences of their actions.

It was also emphasized that more needs to be done to ensure that the identity of juveniles is protected and that their privacy is protected during trial as well as at detention and in the pre-trial period.

It has been estimated that more than three-quarters of the convictions obtained by police in cases involving juvenile offenders result from confessions either while in police custody or in court. These confessions are obtained without any legal representation or any legal advice being made available to juveniles and often in the absence of the CRO. There are reports of confessions obtained after juveniles have been arrested and held for up to 24 hours without seeing their parents, who were not contacted and notified of the arrest, and also of confessions obtained after juveniles were told by the police that if they did not confess they would face lengthy jail time. For adults, the court must make a finding on whether the confession was voluntarily given or induced. If the court finds that the confession was induced, it is inadmissible against the accused. Yet this right is not extended to juveniles. Juveniles regularly complained of being punched or slapped by the police and told to tell the truth or they would be beaten. They also indicated that police told them to confess to crimes for which they had been arrested. Juveniles should not face less protection of their rights than adults. As more vulnerable persons, they should receive more protection.

There are still cases where juveniles are held with adult offenders in flagrant breach of the provisions of the CRC and the Juvenile Offenders Act. Indeed, some of the police stations in the districts have only one holding cell. Consequently, the police have no choice but to place juveniles with adults. Other stations utilize an office within the station so that the juvenile is not placed in a cell unless he is violent.

Some magistrates complain that police do not do enough to verify the ages of young persons. There are reports of persons brought to court and arraigned as adults, who are found on examination to be 17 years old. Proceedings must be adjourned until a CRO can be assigned to the case, while the juvenile is placed on further remand, spending an extended time in custody without trial. The provisions of the Crime Control Act have contributed to this by giving police the power to arrest persons wearing gang insignia.

This power has been inappropriately extended in some areas to permit police to arrest any young person wearing tattoos or certain colors. It is submitted that the burden of proof should depend on actual association with known gang members rather than on a juvenile's appearance.

The Juvenile Offenders Act requires the notification of parents or guardians when juveniles are arrested. This is rarely done. There are reports of juveniles having to ask persons visiting the police station to notify their parents, as the police had not yet done so. The Act also provides that when a juvenile is arrested and cannot be brought before the court immediately, he must be released on bail unless he is charged with homicide or other grave crime. He may also be held to remove him from the company of undesirable persons, if release would defeat the course of justice. This provision is rarely implemented. Most juveniles held on holidays or weekends for even petty offences are not released on bail but held until the next court date.

It seems police work harder to obtain confessions than to obtain evidence, since it is obviously easier in terms of time and resources. There were reports of technical flaws within the investigative process such as an improperly conducted identification parade, improper collection of evidence or failure to investigate a lead given by the juvenile that could have provided an alibi or led to his exoneration.

In Belize City, the Family Court has its own building, cadre of magistrates, social workers, counselling services, clerk, and bailiffs. Elsewhere, this is not the case. The Magistrate Court, when it sits as a Juvenile Court in the other districts, shares the same staff, office space, and location as the Magistrate Court. This has important implications. For example, juvenile cases can be heard every day in the Belize District, while in the other districts, the Magistrate Court sits as a Juvenile Court only once per week. The result is increased adjournments and delays in finalising cases involving juvenile offenders.

As the Magistrate Courts do not have adequate time to hear trials and investigate cases of alleged mistreatment by police, they are often too willing to accept confessions. Not enough is done by the Magistracy to ensure that the burden of proving the offence remains on the prosecution, and that confessions obtained by duress, in the absence of legal advice and in the absence of CRO's, should not be considered. Prosecutors also state that police files in cases where juveniles are charged with offences are incomplete. The current emphasis on obtaining confessions is a cause for concern.

Long delays before trial and too many adjournments during trial are causing long periods of detention for juveniles, according to interviewees. This problem is more prevalent in the districts than in the Juvenile Court in Belize City where there are continuous sittings. In the districts, the inability to hear cases on a continuous basis causes inevitable adjournments in the trials of juveniles. The usual practice is to take the plea on one date and set the date of trial for a future time. Other adjournments are taken to locate and produce witnesses or other evidence, assemble police files, secure medical treatment, or for other reasons. In addition, there are adjournments after conviction to allow for the preparation and submission of reports by the CRO. In some cases, five to six adjournments occur before the case is finally concluded. During these adjournments and even before the trial has begun, the juvenile is held on remand and placed either in the youth hostel, if he is young, or in the Wagner Youth Facility, if he is nearer to 18 or charged with a grave offence for which bail is not available.

Certain magistrates report that police will sometimes bring offenders to court that are arrested and charged as adults, but during trial the court discovers they are juveniles. These proceedings must be aborted so they can be tried as juveniles. An adjournment follows during which the juvenile will be subject to another period of remand before trial. In addition, magistrates complained about police bringing juveniles through the streets and into court in handcuffs. These practices violate international standards.

Some magistrates complain that parents are not always involved or cooperative on behalf of the juvenile during trial, though the Juvenile Offenders Act states it is their duty to do so. Magistrates have the right to impose fines but hesitate to put more financial hardship on the parents.

The magistrates were accused of a lack of sensitivity to complaints of police brutality. A juvenile indicated that when he told the magistrate that police beat him, the magistrate replied that the court would not deal with it.

Magistrates also reported experiencing delays waiting for the CRO to produce reports the court requested. Delays may result from the CRO's inability to visit or contact family and other persons to

obtain information, especially where the juvenile lives in a village and lacks adequate transportation. Nevertheless, any delay that results in unnecessary adjournments and further remand of juveniles must be eliminated. Some magistrates requested that a CRO be appointed to the court so that cases involving juveniles can proceed without adjournment, eliminating further remand of the juvenile before trial.

Sources mentioned that police records of juvenile offenders are kept in violation of Article 21 of the Beijing Rules which state: "Records of juvenile offenders shall be kept strictly confidential and closed to third parties. Access to such records shall be limited to persons directly concerned with the disposition of the case at hand or other duly authorized persons. Records of juvenile offenders shall not be used in adult proceedings in subsequent cases involving the same offender."

Factor 3: Resources

Adequate resources, whether financial, infrastructure, personnel, or other, are allotted to both individuals and institutions involved in detention and sentencing, including alternatives thereto.

Conclusion	Correlation: Negative
A systematic lack of resources available to all actors involved in juvenile justice leads to insufficient personnel, lack of facilities, poor services, and inefficient operational activities.	

According to the results of the interviews and looking at the stakeholders involved at one stage or another in juvenile justice procedure, we note the following needs:

A - Regarding Police.

- **Police do not have basic and continuous training on conducting investigations** and do not have access to research materials to educate themselves. This impedes accurate, effective, and complete investigations and causes improper evidence to be put before the court. It also results in juveniles not receiving a fair trial since the trial is most often based on evidence gathered by police. When viewed in light of the prevalent practice to encourage confessions rather than conduct full investigations and the lack of legal representation for juveniles, it is evident that juveniles are often convicted on evidence that would not be accepted to convict adults.

- **Lack of adequate facilities to hold juveniles; inadequate phone and fuel budget.** The Juvenile Offenders Act provides that juveniles who have been apprehended are not to be held with adult prisoners. This mandate is often not followed due to lack of adequate facilities. In addition, police stations use prepaid phones. When credit is exhausted juveniles have no way to call their parents or anybody else. In the districts, police have one vehicle and are on a strict fuel allowance, so they usually transport juveniles with adults to the hearing or to receive bail. Police officers were not even aware that they cannot transport adults and juveniles together. Police stations must be equipped with adequate facilities and resources to carry out their obligations under the law.

- **Lack of written policies and procedures on treatment of juveniles.** The Police Department has no written policies and procedures on treatment of juveniles in police custody. Standardization of juvenile treatment in custody is a necessity. It was reported that children were brought before magistrates without a CRO being appointed to represent their interests. This impugns the provisions and intent of the Juvenile Offenders Act and is an express violation of the CRC. Certain police officers believe they can hold offenders for 48 hours as a regular practice, when the law establishes 48 hours as a maximum and provides that it is preferable for the judge to see the juvenile within a few hours.

- **Lack of sensitivity training on juvenile issues.** - Police who handle juvenile cases often are ignorant of the provisions of the CRC and the issues connected to the protection of the rights of juveniles and treat juveniles as they would adults. Police have not received any specialized training to sensitize them to the issues related to juvenile offenders and, therefore, tend to take a punitive approach to the treatment of juveniles, despite the fact that the Juvenile Offenders Act, Crime Control Act, Penal Reform Act, Certified Institutions Act, and Probation of Offenders Act all indicate that a more rehabilitative approach is to be taken. No protocols exist for determining which unit of the police will handle juvenile offenders.

Police often perceive juvenile offenders in the same way they perceive adult offenders. They do not understand developmental limitations of juveniles and that a juvenile may not have appreciated the consequences of his actions. Juveniles are viewed in terms of the offences they commit. Male juveniles in particular are seen more often than not as potential perpetrators of crime. This perception is fed by the fact that most of the cases involving juveniles involve males and by the increase in gang related crimes involving juveniles.

- Profiling of juveniles. In response to increased gang activity among young persons, profiling in the apprehension of suspects, many of whom are juveniles, is reported. This practice has caused widespread violations of the rights of juveniles, especially those perceived by the police to be agitators. The criminalization of these juveniles contributes to the perception by some police officers of juvenile offenders. As one interviewee stated, "They are troublemakers and the longer they can be kept off the street, the better."

The police need to be tough on gang activity, but the result should not be victimization of innocent juveniles. This causes hostility to develop between juveniles and the police and prevents cooperation from juveniles on crimes where information is needed to identify gang agitators and other criminal elements. Most juveniles are distrustful of the police. More needs to be done to ease tensions and build positive relationships between juveniles and police. Initiatives in some towns, such as police youth groups and sports camps, need to be continuous and extended to the districts.

- Lack of mediation or diversion capacities. The Conscious Youth Development Programme (CYDP) has some mediation programs. Some police officers are trained to talk to parents. Some even go to schools to try to connect with youth. These initiatives are absolutely necessary, but they are not systematic. Many times their implementation depends on the mood and ability of the superior officer in charge. Systematic protocols preferring diversion whenever possible must be established and police must receive specific training on the protocols.

B - Regarding the Judicial Sector.

The issues the system faces are the following:

- Inadequate facilities for Juvenile Courts in the districts and lack of support staff. In the Belize District, the Family Court which functions as the Juvenile Court has its own set of magistrates, social workers, counselors, and interpreters. It also has offices for meetings, but there is no proper holding area for juveniles attending court, though they can be placed under guard.

The districts lack any support staff for the juvenile courts. The clerk of court who services the Magistrate Court acts as the clerk for the Juvenile Court. In most cases, the clerk is not even aware that the court is also a juvenile court and sees juvenile hearings as an extension of Magistrate Court hearings. Magistrate clerks have little familiarity with legislation on the juvenile justice system and no training in social work or issues relating to young persons and children. Districts experience a number of other difficulties, including lack of a designated location or building for the Juvenile Court. It must share facilities and staff with the Magistrate Court which also functions as the Family Court for the district.

- Lack of magistrates in the districts. The magistrate in the districts must hear all criminal cases at the summary jurisdiction level, all civil cases at the Magistrate Court level, including traffic and land matters, all Family Court matters, all matters under the Registry of Births and Deaths Act, and all trafficking and child labor cases. This not only prevents specialization and the development of techniques and procedures that are truly child oriented, but it forces magistrates to speed up the trial, sometimes to no more than a few minutes, in order to comply with the court's busy agenda. This problem can be solved by having more magistrates.

- Long delays before trial and too many adjournments during trial causing long periods of remand. This is a problem that is more prevalent in the districts than in the Juvenile Court in Belize City where sittings are continuous. In the districts, the inability to hear cases on a continuous basis means there are inevitable adjournments in the trials of juveniles. If the hearing cannot take place for any reason, it must be postponed to the following week to prevent cases taking several sessions for completion. During the time that the court is in session, it must hear the evidence against the accused, hear his witnesses, make a determination as to guilt, announce the decision, and then hear the CRO in mitigation and the

recommendations for sentencing if the juvenile is found guilty. The court is not capable of doing that efficiently during one afternoon session, but requires several sessions for completion of the case. As a result, frequent adjournments are the norm. During these adjournments, and even before the trial has begun, the juvenile is held on remand and placed either in the youth hostel, if he is young, or in the Wagner Youth Facility, if he is nearer to 18 or if he is charged with a grave offence for which bail is not available. These delays, adjournments, and remand of juveniles create hardship and are a denial of justice. If the juvenile is later convicted of the offence, his sentence is reduced by the time he has spent in remand as is done with adult offenders. If he is not convicted, he receives no recompense for the time spent in detention.

- Inflexibility and inadequacy of legislative provisions. Magistrates indicate that they sometimes find they are unable to recommend rehabilitative services for juvenile offenders who are brought before them because of legislative restrictions concerning the type of crime committed. Restrictions can be found in the provision listing the types of offences for which the court can discharge the accused juvenile.

Another area of concern is the treatment of some offences. Utilizing the provisions of the Juvenile Offenders Act, police will not grant station bail to a juvenile arrested for a grave offence. Grave offences are considered to be robbery, attempted robbery, aggravated assault or assault with intent to rob, burglary, and attempted burglary. Police will instead arrest and hold the juveniles until the next sitting of the Magistrate Court. However, the Magistrate Court cannot grant bail for some of these offences. The Crime Control Act prevents the Magistrate Court from granting bail for robbery and aggravated assault with a gun. The juvenile must be remanded to a custodial institution to await trial. If he desires bail, he may make an application for bail to the Supreme Court. In some cases, there is the punishment option of a fine. Yet these fines are often too costly for juveniles whose only choice is to serve a jail sentence. Further problems are encountered with limitations on imposition of Community Service Orders (CSO). Under the Juvenile Offenders Act, a CSO can only be imposed for certain offences stated in the schedule. This list does not include possession of firearms, robbery, status offences, or repeat offences. Moreover, the Crime Control Act provides for the Magistrate Court to make corrective training orders for persons who are convicted of certain petty crimes such as loitering. However, placements for such corrective training do not exist in the districts outside the Belize District.

- Lack of detention facilities in the districts and the lack of social work support for juveniles on remand. The only detention facilities available for remanding juveniles are located in the Belize District. Neither of these two facilities is a true detention facility—one is actually a prison and the other is a residential facility. Facilities in the districts are desperately needed to enable the juvenile to maintain family contact and for his CRO to maintain contact with him and conduct reviews of his case. Magistrates have indicated there is no follow up for juveniles who have been remanded or who have received custodial sentences. No one checks to see how they are doing or if they are being rehabilitated, nor is there a report of their progress or any way to track the juveniles through the system. One magistrate indicated that “Juveniles in Custody Forms” were formerly available but are no longer in use.

- Parents should be a part of the rehabilitative effort. Magistrates in every district express dissatisfaction with the lack of parental involvement in raising their children and in the rehabilitative process where involvement would require them to bear some of the responsibility. There are provisions under the Juvenile Offenders Act for parents to pay and contribute maintenance to juveniles committed for status offences under that Act. However, magistrates indicate that in most cases imposing a fine would place undue hardship on the parent and other children in the home.

- Lack of legal training of magistrates and prosecutors. There have been significant improvements in the legal training of magistrates in the last five years with all magistrates receiving additional training in legal procedures and evidentiary rules, but more needs to be done. The Attorney General’s Ministry has undertaken these efforts to strengthen the magistracy by providing opportunities for legal training. In addition, a system of introducing civilian prosecutors, under the supervision of the DPP office, in the magistrate courts throughout Belize has increased the legal efficacy of criminal prosecutions. However, juveniles in the juvenile justice system do not often experience the benefit of this. Juvenile cases are generally not given the same standard of care and preparation given to adult cases, as there is a perception that juvenile cases are easier to dispense with by civilian prosecutors.



- **Lack of sensitization training for magistrates and prosecutors.** It was reported that prosecutors and magistrates did not show sufficient sensitivity to juveniles to the point that juveniles are afraid of the court and the magistrates.

C - Regarding the Community Rehabilitation Department (CRD).

The main weaknesses of the CRD are the following:

- **Lack of inter-departmental cooperation.** The juvenile justice system as set out by law presumes a multi-sectoral approach. At present, each sector pursues its own objectives based on its departmental protocols if they have them. In some cases, there are no written protocols or written policies and procedures setting out the procedure to be followed in dealing with juveniles who enter the juvenile justice system. The absence of inter-sectoral protocols indicating what each sector should do and establishing the contact between departments creates loopholes and vulnerability in the juvenile justice system.

- **Unavailability of services.** One of the primary services needed by juveniles within the juvenile justice system and their families is counseling to address the issues that led to their conflict with the law, such as poor anger management and conflict resolution skills, and inability to resist peer group pressure. Parents also need counseling and training skills to raise and discipline juveniles with behavioral issues. In addition, specialized counseling is needed to assist those who have been victimized by violence in gang activities, in custodial institutions, or in remand. In the Belize District, the counseling center offers some of these services, though the facilities are not adequate as the center also counsels clients and families from the Department of Human Services. In the villages, no such facilities exist. The only access to counseling services is the Rural Health Nurses who have no specialized training in issues affecting juveniles in the juvenile justice system. The lack of specialist training for nurses results in rural district juveniles receiving a lower standard of care. Other services, such as legal aid and the ready access to NGOs to supplement services offered by the CRD, are also lacking in rural districts.

- **Inadequate budgets for telephone, transportation, etc.** In the districts, the CRD shares office space, telephone and other utilities with the Department of Human Services. The lack of CRO's prevents the CRD from networking with the community to advocate for expanded community service possibilities because their workloads exceed their capacity. It also results in delays submitting reports to the court and following up with juvenile clients. The cases of clients in custodial institutions are not regularly reviewed, and often much time elapses between CRO visits. Transport and phone budgets need to be revised to improve services. Without an adequate number of visits to juveniles, parents, judges, prosecutors, police stations, and detention centers and an adequate phone budget, the CRO's duties cannot be done. Pamphlets and materials to address issues such as legal rights, sexual and reproductive health, drug and alcohol abuse, and information on education and job training are not available to juveniles.

- **There are insufficient CRO's throughout Belize** to address the needs of juveniles within the juvenile justice system. For instance, there are no CRO's in certain districts where a police station exists, and juveniles are in need of CRD services. This prevents adequate reporting to courts, impedes proper investigations, and causes inadequate supervision of orders by courts. The CRO cannot be in two places at the same time, so if incidents happen at the same time but two hours' drive from each other, the CRO cannot be present, and one of the juveniles is left without representation and assistance. In addition, the practice of having only one CRO in each district leaves no one to cover if the CRO falls sick or goes on vacation. It is important to remember that CRO's are expected to be at the police station when juveniles are arrested, appear in court at each appearance of the juvenile, investigate the juvenile's statement about what happened to include in reports prepared for the court, prepare reports for the court, meet with and set up CSO placements, contact and supervise juveniles while they are serving the CSO, report back to the court on the CSO, meet with educational institutions to ensure that the juvenile is able to continue with their education or to enroll them in an educational institution, meet with family members, and provide counseling to juveniles and their parents and guardians. It is not possible for one person covering several villages to efficiently perform all these tasks. Since CRO's are such an important part of the system, especially due to the lack of legal aid, additional CRO's should be considered in preparing the national budget.

- **Lack of training.** It was reported that CRD training is not adequate to enhance the capacity of CRO's to perform all duties required of them. Regarding juvenile justice, a minimum amount of legal training is

imperative. CRO's tend too often to accept a guilty plea when a defense lawyer would not. A guilty plea results in a criminal conviction for the juvenile and gives him a criminal record, which affects access to education, ability to travel, and sentencing for any other crime committed in the future. The CRO's must be prepared to deal with other issues that may arise, such as alcohol abuse, drug addiction, prostitution, pregnancy, and gang membership.

- **Lack of policy and procedures manual.** The CRD does not have a comprehensive policies and procedures manual. Procedures are developed as situations arise. Because the CRD's workload has increased and will continue to increase, they are not able to provide hands on guidance to the CRO's working under them. The effects of this deficiency are most evident in the districts. Lack of policies and procedures often causes delays in the delivery of services or absence of contact with client's altogether. Everything must be relearned when a new CRO is hired. Staff often implement procedures which work best for them which may not be consistent with the practices of the previous officer, thereby interrupting the continuum of care given to juveniles. Many juveniles brought into the juvenile justice system also present issues such as sexually transmitted diseases, teenage pregnancy, prostitution, child abuse, child labor, trafficking, and other issues not specifically under the mandate of the CRO. The CRO do their best to assist, but written policy manuals and established referral systems would ensure that the juvenile justice system is able to do rehabilitative work that complements the work of other agencies in offering services to juveniles and children.

- **One pillar of any juvenile justice system should be prevention.** The general perception is that the CRD is in charge of counseling parents to address the issues that can trigger a juvenile to enter into conflict with the law. However, this is not one of the official duties of the CRD, which is already facing a heavy workload. It is the responsibility of the Department of Human Services (DHS). The DHS has a counseling center in Belize City but not in the district. It has been suggested that this is the duty of the Rural Health Nurses of the DHS, but it is unclear whether it would be appropriate for the nurses to counsel on juvenile justice prevention.

- **There are no follow up services available to juveniles once they are released.** The need for a rehabilitative follow up is necessary to avoid recidivism.

D - Regarding custodial institutions.

The main points in any reform discussion are the following:

- **Inadequate staff and lack of staff training in counseling.** It was reported there is currently a ratio of two staff for every 40 juveniles. This is not sufficient to provide adequate supervision or rehabilitative care for juveniles at the Hostel. The current staff does not have enough training in managing children with bad behavior and psychological problems. Counseling juveniles with serious emotional issues from years of abuse and exposure to violence and trauma merits special attention and training. The situation in the Wagner Youth Facility improved exponentially after the Kolbe Foundation took over. Improvement was noted in management, staffing, and rehabilitative programs, follow up, and in general allocation of resources. Additional resources will improve the quality and quantity of services even more. Counseling and psychological assistance are the weakest points in Belize institutions. One interviewee stated that there is no good psychologist in the entire country. At one time, there was an expatriate expert, but "she was too advanced in her methods [for them] to be properly implemented by the institutions." Words of encouragement from staff or CRO's cannot substitute for professional psychological counseling. More resources and teachers are particularly needed. International standards encourage good and efficient vocational, educational, and recreational activities where inmates can grow emotionally, professionally, academically, and physically. This can only be done by providing quality services.

- **Lack of an effective rehabilitation plan.** We were also told that the Hostel has no comprehensive plans for rehabilitation of juvenile offenders and no way of evaluating rehabilitative efforts. Current programs tend to be short term and designed only for the period the child is at the juvenile facility. When the juvenile returns home, he receives no further education, since juvenile offenders cannot normally enroll in the formal school system right away. The Wagner Youth Facility does not fall under the Certified Institutions Act, and is consequently beyond CRD responsibilities. However, the Juvenile Offenders Act requires inspection of places of detention for juveniles. It further requires the Minister for Human Development to make rules for the treatment and control of children who are detained there. Thus far, the



Ministry has not played an active role, relying instead on the Kolbe foundation. Since this foundation emphasizes skills training, detained juveniles receive academic training and can leave with increased skills.

- **Lack of Security.** While escape from Wagner Youth Facility is almost impossible, that is not the case at the Youth Hostel from which an increasing number of juveniles run away every year. In addition, Hostel staff is concerned over the lack of security on the premises. The staff is particularly concerned since juveniles arrested for violent crimes and firearms offences are sometimes sent to the Hostel. In contrast, Wagner Youth Facility is secured in the same way the adult prison is secured. Wagner is a much stricter institution where violent incidents are dealt with as in the adult prison -- through inmate isolation for a certain period of time. The disadvantage is that Wagner Youth Facility is a real prison experience for juveniles

- **Lack of follow up services.** It has been said that the high rate of recidivism is due to the lack of follow up with released inmates. A typical path for some recidivist children is to attend first the youth hostel, then the Wagner Youth facilities, and, as soon as they reach the age of majority, the adult prison. Follow up services are urgently needed to end this progression.

- **Lack of family and community contact.** One of the main ingredients of rehabilitation is connecting the juvenile with the outside world, particularly family. The fact that the two existing facilities are in Belize City District, makes it very difficult for this to be accomplished with inmates from other districts. Some inmates may experience abandonment, since it can be very expensive for families to travel from remote places to visit their sons. Another consequence is the lack of restorative work with families to prepare them for the juvenile's return. The community is generally ignorant of the Hostel's programs and needs. They no longer perceive juvenile offenders as part of the community. The Kolbe Foundation had some successful initiatives to engage the community to participate in the prison system.

- **Lack of facilities for juvenile offenders with serious mental problems.** Our contacts related that magistrates sometimes face cases where a juvenile offender might be suffering from a serious mental disorder. The magistrate is confronted with the fact that there are no facilities in Belize for the juvenile to receive proper treatment. One option to send him to the Youth Hostel where he can be a danger to himself, the staff, and other inmates, or to release him, placing him under the responsibility of parents or guardians which can have negative consequences to a victim who lives nearby. The most logical way to deal with juvenile offenders who have serious mental disorders is to place them in special facilities for underage persons where they can receive appropriate treatment.

- **Lack of resources.** The Hostel is in need of facilities, equipment, and teachers, particularly for those juveniles who will not be able to return to the formal education system or those nearing adulthood. Computer equipment, better facilities for homework, sports, or social activities are needed. Wagner Youth Facility is in urgent need of its own facility outside of and separate from the adult prison system.

- **Monitoring rights of juveniles in custodial institutions.** The CRD must have written protocols to ensure that standards for protecting children are maintained. Currently, there is no complaint procedure if abuse happens at the institutions. This creates further vulnerability for juveniles and a lack of accountability in addressing problems created by staff.

E - Regarding Legal Aid of Belize

The Legal Aid Center will not be useful to poor juvenile offenders and their families until it is better staffed with people specialized in penal matters, and the Center is required to provide assistance in all offences and crimes juveniles may commit under the law. This institution is the least expensive way to solve the problem of the lack of legal representation for juvenile offenders in Belize. Any reform should follow from reform of this institution. The alternative is to create a line item in the justice system budget to fund defense lawyers for juveniles. Considering there are more than 1000 juvenile cases tried each year, a significant number involving low income juveniles & families, the most efficient and economic way to address the problem is to pay the salary of legal aid lawyers specialized in juvenile offenders.

F - Regarding NGO assistance

Belize has far less domestic and especially international NGO assistance for juveniles than other countries in the region. Some Belizean NGOs, like SPEAR, are doing a great job. Others, like REMAR,



assist in the rehabilitation of drug addicts in San Ignacio but do not deal with minors. There is so little awareness of the work done by REMAR that a police station one mile away from the center did not know about it and needed to ask a juvenile inmate for directions. Funding local NGOs could be a way to improve services and to reach the goal of rehabilitation more efficiently. NGO involvement is particularly beneficial because the juvenile offender must reintegrate into society and NGOs are part of civil society. No other institution is better suited to help juveniles make reintegration smoother. NGOs should be involved from arrest (helping to mediate and divert the case from the judicial system) to detention alternatives (as an invaluable tool for the magistrates and CRO) to the detention process (assisting with services such as vocational training, recreational activities, literacy, etc.), and finally to follow up after release (providing ongoing help for the juvenile's reintegration).

The contribution of experienced international NGOs should be seriously considered at least until national NGOs are capable of taking full responsibility. ABA ROLI, Terre des Hommes, Children in Crisis, or Save the Children, to name a few, are highly specialized in this area. Their contribution has helped improve services and build the capacity of judges, prosecutors, police officers, and other officials involved in the penal system through workshops and the dissemination of material. Their experience in advocacy is also invaluable for any legal reform that might be undertaken and for securing public funds.

Factor 4: External and Undue Influence

Actors in the criminal justice system, including police, investigators, prosecutors, defense counsel, judges, court personnel, and corrections staff, pursue their functions free from undue influence.

Conclusion	Correlation: Neutral
Juvenile cases are normally exempt from any political influence. Since a significant number of juvenile offenders are from families with few resources, corruption and bribery tend to be nonexistent.	

As is sometimes the case in other countries, juvenile cases tend to be free from undue influence. Political power may have no interest in influencing the outcome of case involving juveniles, simply because they cannot benefit from it. Juveniles in conflict with the law are often from poor and disintegrated families. The fact that some hardliners in the justice system are willing to maintain tough laws and attitudes regarding juvenile offenders does not mean they are corrupt. The parliament is primarily responsible for the tough system and needs to show a more lenient attitude in accord with international standards. A reformed and comprehensive legal system for juveniles should restrict the power of hard line judges and prosecutors.

In reality, public opinion is more often the source of undue influence. Some stakeholders involved with juveniles may take harsher positions because of media attention and public attitudes, particularly when sensitive crimes such as rape or murder are committed.

Three issues are of primary concern. First, confessions obtained by police use of force or threats and even forged confessions have been reported. Some police find it easier to force a minor to confess than to conduct an efficient investigation. Sources also report that the system of giving awards to police officers based on the number of arrests can increase illegal practices. Second, inadequate witness protection has the potential to influence the investigation and court testimonies. While at times this might favor the juvenile, very often it is detrimental to his interests, especially where an adult is involved in the crime and nobody is willing to accuse a dangerous adult. Moreover, the fact that juveniles and adults involved in a crime are judged together may have a serious impact on the juvenile's testimony, especially if he intends to accuse the adult. Third, parole commissions may arbitrarily refuse to grant parole to juveniles who deserve it.

The fact that sometimes the court has no interpreter to translate the proceedings into the juvenile's language is an indirect undue influence. In Belize, English is the language used in court, though today more than 50% of the population speaks Spanish and some minorities speak their own indigenous language such as Kek'chi, Mopan, or Yucateco. The fact that everyone in Belize has some knowledge of English does not mean everyone fully understands English.

Factor 5: Victim Involvement

Victims are kept adequately informed of the progress and outcome of detention and sentencing decisions. The impact on victims of the offense and the detainee’s release are considered when making decisions regarding detention and sentencing.

Conclusion	Correlation: Negative
Victims are a forgotten actor in the Belizean criminal process in general but particularly regarding juvenile justice, where no initiatives to involve the victim have been considered.	

In juvenile justice, victim involvement is crucial for the application of any restorative measure as an alternative to detention. The needs of victims and offenders can be satisfied if certain measures, such as indemnifying the victim, restitution of objects stolen, apologizing, and compensating victims through settlement programs, can be done.

Restorative justice is missing both at the police and court level. In some countries, the restorative approach takes place even at the detention level.

It would be advisable to introduce legislation and practices that move towards restorative justice which can benefit the victim as well as the juvenile who is given an opportunity to avoid a criminal record.

Factor 6: Special Considerations of the Law of Customary Law

Certain communities, usually indigenous, have a certain amount of autonomy in their justice system to judge and execute a decision.

Conclusion	Correlation: Positive
Subject to certain improvements, the Alcalde’s Jurisdiction is beneficial for juvenile offenders despite the weaknesses discussed herein.	

According to the Central Statistics Office, Belize is a country with numerous cultures, languages, and ethnic groups. It is composed of the following minorities: Mayas (11%), Garifunas (8%), Blacks, East Indians, and a significant community of Mennonites, while Kriols (25%), white descendants of Spanish/British origin (15%), and Mestizos (35%) tend to be considered part of the majority. The 20th Century saw the arrival of Asian settlers from mainland China, Taiwan, South Korea, Syria, and Lebanon, but they do not constitute any significant percent of the population.

In Belize, it is necessary to differentiate between customary law the law of custom, applicable to most minorities, and the Maya community’s legal power under the Alcalde Jurisdiction. The Mayas are the only community with a recognized, separate legal system.

Regarding the law of custom, some magistrates say they respect customs within the limits of Section 6.b of the Evidence Act that states: "Every judge shall take judicial notice of all general customs which have been held to have the force of law in the Supreme Court." As an example, the law states that juveniles are not to be arrested under Section 4.1.XL of the Summary Jurisdiction Offences Act that considers it an offense to "...shout or vociferate or make any other loud or unseemly noise near any inhabited house after being required to depart..." when it is due to the celebration of any event linked to the juvenile’s cultural activities.

Only Maya communities can benefit from the system of Alcaldes, not other old communities, such as the Garifunas. This is discriminatory and results in missing a chance to use social institutions to rehabilitate juvenile offenders.

The concept of a Maya ethnic group is a generalization that includes different indigenous Indian tribes living in the rainforest of south Belize. In the strictest sense, many of these tribes do not belong to the ancient Maya ethnic group. The term "Maya" is a convenient collective designation for the peoples of the

region who share some degree of cultural and linguistic heritage. However, the term embraces many distinct populations, societies, and ethnic groups, who each have their own particular traditions, cultures, and historical identities.

The Alcalde jurisdiction is recognized in the Crime Control and Criminal Justice Act, Chapter 10, Section 11, the Supreme Court Act, Section 125, but especially in Sections 67 to 88 of the Inferior Court Act.

In fact, the term “Maya” is not used by the law at all. The Minister designates the territory where the Alcalde Jurisdiction applies by order published in the Gazette (Section 68, Inferior Court Act (ICA)). Each district must have an “Alcalde Jurisdiction Court” to deal with both civil and penal matters (Section 69 ICA). Section 73.1 sets out the areas within the penal code over which the Alcalde courts have authority: riotous and disorderly conduct and breaches of the peace; common assaults; trespass and malicious injury to property where damage does not exceed twenty-five dollars; larceny or theft of agricultural livestock or produce where the value of the goods or articles does not exceed twenty-five dollars; threatening and abusive language; fraudulent evasion or attempted evasion of customs duties where the value of the goods or articles does not exceed twenty-five dollars; the commission of any wanton or mischievous act causing damage or annoyance to any person. Obviously, many offences committed by juveniles fall under the jurisdiction of the Alcalde but all other crimes and offences fall under the authority of the nearest summary jurisdiction court.

The maximum punishment an Alcalde Court can order is 50 BZD or two months imprisonment (Section 73.2 ICA), and the causes and matters in the court are heard and determined in a summary manner (Section 74 ICA). The Alcalde Court can decide to order community service instead of a fine or imprisonment. The Alcalde Court can have at its disposal a prison cell in the village (Section 86 ICA). If there is no cell in the village, the offender can be transferred to a cell of the Cabildo (Court of the Alcalde). The central government has sent police constables to certain villages to liaise with the National Police.

The main issues are:

- **Poor education and poor capacity to handle the cases** by the Alcaldes and the deputy Alcaldes. While trainings take place from time to time to increase Alcaldes’ ability to deal with criminal cases, the low educational level of the Alcaldes impedes the process.

- **Illegal acts and arbitrary procedures:**

It was reported that corporal punishment, more than 24 hours pretrial detention and failure to involve parents during the trial can occur without an avenue for complaint, since it happens in the middle of the rainforest.

Certain practices can make the life of a juvenile very difficult. For instance, if he is not socially accepted in one village for whatever reason and he wants to move to another village, he needs both a recommendation from his present village and Alcalde permission to live in the chosen village. Some juveniles cannot get the recommendation or Alcalde permission to settle where they wish. This is a violation of the freedom of residence Section 10.1 of the Belizean Constitution that states, “A person shall not be deprived of his freedom of movement, that is to say, the right to move freely throughout Belize and the right to reside in any part of Belize....” A juvenile offender can be forced to move to the capital of the District, Punta Gorda, where integration is difficult.

Sources report that the majority of these communities have turned to Protestant religious denominations. Most of the villages have several churches and most of the villagers are fully involved in church activities. Churches can speed the process of reintegration and repentance of juveniles. However, the church’s standard of conduct and behavior is usually more demanding than the laws and regulations of the country. Moreover, Section 11 of the Constitution of Belize clearly states that “the person shall not be hindered in the enjoyment of his freedom of conscience, including freedom of thought and of religion, freedom to change his religion or belief....” A juvenile offender might face social stigmatization even by the Alcaldes themselves (most of whom are not only Alcaldes but also religious ministers). If the juvenile offender does not fit within the religious views of the Alcalde community, he faces rejection and may wish to leave the community and move to Punta Gorda. According to some, certain practices considered to be sorcery may constitute an offence punishable with imprisonment or fines. Some aspects of Maya religion survive today among most of the Maya of Central America, who practice a combination of traditional

religion and Roman Catholicism. Reports indicate that a minority still worship at mountain and cave shrines, making offerings of chickens, candles, and incense with a ritual alcoholic drink. Therefore, no minor should be charged for practicing or believing something different from Christianity.

- **There is no Social Inquiry Report (SIR).** Some offences are deeply rooted in a mental health problem that cannot be treated because there is no compulsory SIR or assistance from a CRO.

- **The Alcaldes tend to be elected because of charisma and strong religious beliefs.** Though Section 75 states that the Attorney General by order published in the Gazette appoints a fit and proper person as an Alcalde in each district, in practice the Alcaldes are elected every two years during the 1st of November Day of the Dead when most villagers are in the villages for the occasion. This creates the possibility for democratic election of an unqualified “communal judge,” or someone elected with the support of a bare majority might turn out to be a disaster for the peaceful life of the village. Judges must be impartial and seen as such because of their ability to know and apply the law in a fair way. While the decentralized system of community election of judges in public elections has certain advantages, criteria should be established for candidates to qualify (e.g. literacy level, knowledge of the law, no conflict of interest with other villagers).

- **The Alcaldes are extremely poorly paid** (100 BZD for the Alcalde and 50 BZD³ for his deputy). Most of the time Alcaldes need additional income as religious leaders and farmers, so the Alcalde’s duties become more of a part time job. Improving the Alcaldes’ salary might improve the efficiency of his job at least in the largest communities such as Colombia where full time Alcaldes should be considered.

- **Poor records.** Section 81.1 states, “The Alcalde may require the attendance of witnesses, and the production of books, papers or documents in the possession, power and custody of any person...” Section 83.1 obliges the Alcalde to have a “Minute Book” and Section 84 requires him to keep an accounting of fines. It has been said that the bureaucratic part of the Alcaldes’ duties is sometimes neglected.

Despite the weakness of the system, the Alcalde’s Jurisdiction cannot be considered a negative institution because the Belizean ordinary system is often much harder on and more insensitive to indigenous juvenile offenders, and bringing them to Punta Gorda may cause more harm than good. The institution can be improved, certainly, but it is generally beneficial for minors in conflict with the law. More districts in Belize should be added under the Alcaldes Jurisdiction.

³ 110 BZD is approximately \$51.

Section II. Imposition of Detention at the Pretrial Stage

Factor 7: Initial Deprivation of Liberty

The taking into custody of a juvenile suspected of a crime is based upon an arrest warrant issued by a detached and neutral judicial officer, except in extraordinary circumstances where obtaining an arrest warrant is not feasible and there are reasonable grounds to believe the arrestee has committed an offense. Arrests are made for the purpose of bringing the arrestee before a competent legal authority, and due consideration is given to alternatives to arrest.

Conclusion	Correlation: Negative
The legal procedure to make an arrest of a juvenile is not always respected.	

Most of the time initial deprivation of liberty is based on the Summary Jurisdiction (Procedure) Act, Chapter 99 and the Juvenile Offenders Act, Chapter 119. Anything not covered by the Juvenile Offenders Act must be done according to other laws including the Summary Jurisdiction Act.

Section 95 of the Summary Jurisdiction Act clearly sets out who has power to arrest, stating that every person who is found committing an offence punishable on summary conviction may be apprehended and taken into custody without a warrant by any police officer, or may be apprehended by the owner of property on or with respect to which the offence is committed, or by his servant or any other person authorized by him, and shall in the latter case be delivered as soon as possible into the custody of a police officer to be dealt with according to law.

Section 96 states that a person taken into custody without a warrant for a summary conviction offence shall be brought before a magistrate as soon as practicable, and, in the meantime, any police officer not below the rank of corporal may inquire into the matter and, except where the offence appears to that officer to be of a serious nature, shall discharge the prisoner upon his entering into a recognizance, with or without sureties, for a reasonable amount to appear before the court at the time and place specified in the recognizance.

The Juvenile Offenders Act regarding bail of children and youth states in Section 4 that where a person apparently under the age of sixteen years is apprehended with or without a warrant and cannot be brought forthwith before a court, the senior member of the police department present shall inquire into the case, and may release the juvenile on a recognizance with or without sureties to secure the attendance of such person at the hearing of the charge, except where:

- the charge is one of homicide or other grave crime;
- it is necessary in the interest of such juvenile to remove him from association with any undesirable person;
- the officer has reason to believe that the release of such person would defeat the ends of justice.

The main problem with initial detention in Belize stems from the discretionary powers police officers have to make an arrest, particularly based on the argument that the officer has reasons to believe that the release of the juvenile would defeat the ends of justice. In many cases, police know where the juvenile lives, the identity of his parents, and which school he attends. In these circumstances, the chance the juvenile will evade justice is very small.

Regarding suppression of criminal gangs, police arrest juveniles based on appearance. Article 3 of the Juvenile Offenders Act states that any person who, in a public place, wears any item of dress or wears, carries, or displays any badge, label, insignia, or article, with the intention of displaying his membership of, or support for, a criminal gang, is guilty of an offence and liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment. The law clearly requires that a necessary element of the offence is the intent to display membership in a gang. Juveniles may wear certain colors or badges as part of a trend or fashion without being a member of a criminal gang or supporting one.

As previously discussed, any crimes, petty or not, justify an arrest under the Juvenile Offenders Act (e.g., begging, wandering, having an inebriated parent, being the daughter of a father convicted of an offence involving gross indecency, being in the company of a thief, lodging in a house used by prostitutes, etc.). Juveniles may be arrested under the Summary Offenders Act (offences applicable to juveniles and adults, such as drunkenness, dancing after midnight, obscene printing, allowing a kite to become entangled with any telephone or electric wire, bathing in public insufficiently clothed, trespass, being a vagabond, professing to tell fortunes, throwing rubbish in the streets or into a canal, washing an animal in the street, etc.), and under the Criminal Code (fraud, threats, rape, assault, stealing a child under 12, robbery, obtaining property by deception, handling stolen goods, provocation to fight, causing public terror, destruction of evidence, disobedience of authority, refusal to aid officers, making a false declaration, cruelty to animals, selling unwholesome food, disturbing markets with false news, etc.). A police officer with any animosity for a particular juvenile has a multitude of opportunities to find grounds for detention, which highlights the need for police integrity. Capacity building to provide measures for diversion are essential to avoid the criminalization of many juveniles charged with small offences or petty crimes.

Section 56 of the Riyadh Guidelines urges that: “In order to prevent further stigmatization, victimization and criminalization of young persons, legislation should be enacted to ensure that any conduct not considered an offence or not penalized if committed by an adult should not be considered an offence if committed by a young person.” In Belize, there is nothing in the Juvenile Offenders Act which states that any act not considered an offense if done by an adult, will not be considered an offense if committed by a juvenile.

Factor 8: Detention Prior to Initial Review

Following initial deprivation of liberty, an arrestee is brought promptly before a judicial authority to determine whether detention should continue. Prior to being brought before the judicial authority, an arrestee has the right to be notified of the nature of the charges or accusations against him, as well as of his rights to counsel, against self-incrimination, and to notify family members or, in the case of a foreign national, his consulate, of his arrest.

Conclusion	Correlation: Negative
While police generally respect the 48 hour deadline to bring a juvenile before the magistrate, they tend to wait until the deadline, even when they can bring a juvenile to court sooner. Parents are not always contacted by police. Police have been known to use the 48 hour period as a two day punishment before releasing the juvenile without the filing of charges.	

The Belizean Constitution sets forth the provisions applicable to the initial detention period. Section 5.2 of the Belize Constitution states that any person who is arrested or detained shall be entitled to be informed promptly, and in any case no later than 48 hours after such arrest or detention, in a language he understands, of the reasons for his arrest or detention; to communicate without delay and in private with a legal practitioner of his choice and, in the case of a minor, with his parents or guardian, and to have adequate opportunity to give instructions to a legal practitioner of his choice and to be informed of his rights immediately upon his arrest.

Section 5.3 adds that any person who is arrested or detained for the purpose of bringing him before a court in execution of the order of a court, or upon reasonable suspicion of his having committed, or being about to commit a criminal offence under any law, and who is not released, shall be brought before a court without undue delay and in any case not later than 48 hours after such arrest or detention.

However, it was reported that police do not always inform the parents or guardian that the juvenile is in custody, nor do they make it a priority. Police often use the 48 hour limit on detention as a punishment period or simply a deadline that allows them to relax for a few days. While the law sets 48 hours as an ultimate deadline, it is also true that the Constitution uses the words “without undue delay,” meaning “as soon as possible.” In other words, many juveniles could be brought before a court a few hours after arrest, but juveniles are systematically held for closer to 48 hours before seeing a magistrate.

According to reports, the 48 hour limit is generally respected but police re-arrest the juvenile after a few hours to start a new 48 hour period of detention. A CRO said that sometimes he advises the juvenile to run fast as soon as he is released from the police station and to stay in a different location for a certain period of time to avoid police who might be waiting for him to start a new 48 hour period of detention.

Violence and intimidation in police stations were also reported, but lack of sensitivity towards juveniles and the creation of a hostile environment are more common. According to sources, sometimes when physical violence causes bruising, the juvenile is released and any documentation about the arrest is erased to avoid exposure of police misconduct to a judge.

The Constitution of Belize states in Section 6.3 that every person who is charged with a criminal offence shall be presumed to be innocent until he is proved or has pleaded guilty; informed as soon as reasonably practicable, in a language that he understands, of the nature and particulars of the offence charged; given adequate time and facilities for the preparation of his defense; permitted to defend himself before the court in person or, at his own expense, by a legal practitioner of his own choice; permitted to have the assistance of an interpreter without payment if he cannot understand the language used at the trial. Except with his consent, the trial shall not take place in his absence unless he so conducts himself as to render the continuance of the proceedings in his presence impracticable and the court orders him to be removed and the trial to proceed in his absence.

These Constitutional rights are diminished since the lack of legal assistance is the norm. The CRO is the juvenile's only advocate. The CRO is responsible for providing services or referrals, including appearances at the police station to secure bail for juveniles where appropriate, preparation of court reports, appearances in court to speak on behalf of the juvenile concerning alternative sentences, selecting appropriate service opportunities where CSO's can be served in each district, and supervising the CSO.

Sections 4-6 of the Juvenile Offenders Act provides that when a juvenile is arrested and cannot be brought before the court forthwith, he is to be released on bail unless he is charged with homicide or other grave crime, or to remove him from undesirable persons, or if to release him would defeat the course of justice. This provision is rarely implemented. Most juveniles held on holidays or on weekends for even petty offences are not released on bail but are held until the next court date, up to a maximum 48 hours. If bail is not granted, this Act requires the senior officer to prepare a certificate outlining the reason. The court should be required to request this certificate where evidence shows that the juvenile was held without bail. If the certificate is not forthcoming, it should prejudice the prosecution.

Factor 9: Oversight of Initial and Investigative Detention

A judicial authority determines whether detention should continue pending trial. A full record of the circumstances of detention is taken and made available to the arrestee, his counsel, and the competent authorities. A competent authority adequately supervises the detention practices of actors in the criminal justice system.

Conclusion	Correlation: Negative
Poor police investigations, circumstantial evidence, illegal detention procedures, and abuse in police stations cannot be properly challenged without defense assistance. Pretrial detention is imposed too often.	

Section 5.4 of the Constitution of Belize states that when a juvenile (or any person) is brought before a court in execution of the order of a court in any proceedings or upon suspicion of his having committed or being about to commit an offence, he shall not be thereafter further held in custody in connection with those proceedings or that offence save upon the order of a court. Section 5.5 adds that if any person who has been arrested or detained is not tried within a reasonable time, then, without prejudice to any further proceedings that may be brought against him, he shall, unless he is released, be entitled to bail on reasonable conditions. In other words, a magistrate will determine whether or not detention should

continue pending trial. The practice and procedure of the courts is most commonly regulated by the Summary Jurisdiction Procedure Act.

A common problem at this stage is the lack of a proper police investigation that can influence both the magistrate and prosecutor to drop charges. Too often, the juvenile has spent almost 48 hours in a police cell and gone through a stressful hearing only to learn there is no serious evidence against him.

On the other hand, the magistrate and prosecutor may not be so lenient and systematic where the circumstances of detention are not explained from a defense lawyer’s point of view. The magistrate can hear the juvenile complain about the treatment he received at the police station or the juvenile can disclose new facts about the circumstances of his arrest, but it is the magistrate who ultimately decides whether to order an investigation, charge the juvenile, or accept as valid the juvenile’s testimony. The juvenile cannot make his statement clearer and more persuasive through assistance from a competent defense lawyer. In many cases, the inability of a juvenile to express himself in intelligible English, to articulate rational and logical ideas, or even to face the stress of a court undermines his ability to defend himself. He might have the assistance of a CRO and a prosecutor at some point, but these two actors tend to be incredibly busy and can give only limited attention to any particular case. Reports state these actors too often ask the juvenile to plead guilty.

Another duty of the court is to decide whether to impose pretrial detention within 48 hours of apprehension. According to many interviewed, pretrial detention is imposed too often. Bail and other noncustodial preventive measures are available, but in practice are not regularly ordered.

Legal limitations on bail should be revised to ensure that the court is not bound to detain juveniles with more hardened criminals, if the nature of the offence they have committed requires that bail be denied. This is particularly true in the case of first time offenders and younger juveniles. According to the Juvenile Offenders Act, police cannot grant station bail to a juvenile arrested for a grave offence. The following are considered grave offence: robbery, attempted robbery, aggravated assault or assault with intent to rob, burglary, and attempted burglary. Instead, police must arrest and hold the juveniles until the next sitting of the Magistrate Court. Yet even the Magistrate Court cannot grant bail for robbery and aggravated assault with a gun under the Crime Control Act. The juvenile must be remanded to a custodial institution to await trial. If he desires bail, he may make an application to the Supreme Court. The ability to pay the cost of an application to the Supreme Court is out of the reach of most juveniles. If the juvenile is convicted of a grave offence, he cannot receive Community Service Orders even if it is his first offence, as there are mandatory jail times for most of these offences. In some cases, the option of a fine exists, but these fines may be several thousand dollars and out of the reach of most juveniles who then have no choice but to serve jail sentences.

Factor 10: Detention During the Adjudicative Process

Pretrial detention is used only when necessary in the interests of justice and after consideration of other options for ensuring the accused’s appearance at trial. Individuals detained during the adjudicative process are tried within a reasonable time or released pending trial. Reasons are given for judicial decisions resulting in or continuing detention.

Conclusion	Correlation: Negative
The juvenile must be remanded to a custodial institution to await trial if no bail has been granted or cannot be granted because of the nature of the offence. Bail is not typically granted.	

The juvenile must be remanded to a custodial institution to await trial if no bail has been granted or cannot be granted because of the nature of the offence. Section 5.5 of the Constitution of Belize states that if any person arrested or detained is not tried within a reasonable time, then without prejudice to any further proceedings that may be brought against him, he shall, unless he is released, be entitled to bail on reasonable conditions. However, what is considered a “reasonable time” is subject to interpretation and frequently months pass before the start of trial.



The Beijing Rules clearly state that detention pending trial shall be used only as a measure of last resort and for the shortest possible period of time. Whenever possible, detention pending trial should be replaced by alternative measures. However, magistrates often state that they are bound by the limitation of the Belizean law which does not allow another course of action.

Based on this interpretation, and if the Supreme Court does not grant bail, only minor offences are subject to bail.

Section III. Mechanisms for Challenging Pretrial Detention

Factor 11: Extraordinary Remedies

Legal mechanisms are available for a person who has been deprived of liberty prior to conviction of a crime, including a person who has been remanded into custody, to speedily challenge the lawfulness of his confinement before a judicial authority competent to order his release.

Conclusion	Correlation: Neutral
Belize law provides habeas corpus and judicial review for a juvenile deprived of liberty, but the lack of legal representation and resources make it difficult to implement.	

Section 5.1.d of the Constitution of Belize opens the door to a remedy by way of habeas corpus for determining the validity of detention. However, habeas corpus is not used. Several magistrates said they could not remember if the habeas corpus procedure has ever been applied to a juvenile. A writ of habeas corpus is a summons with the force of a court order, addressed to the custodian, demanding that a prisoner be brought before the court, and that the custodian present proof of authority to detain the person. But a juvenile cannot do it himself and his family has little knowledge of how this procedure works, nor typically have the resources to retain a lawyer. A lawyer is most qualified to bring the action. In most cases, the juvenile and parents prefer to wait 48 hours to see the judge rather than pay a lawyer to see him immediately.

It is technically possible to ask for and receive judicial review by the Belize Supreme Court for any breach of Constitutional rights occurring through legislative or executive actions. However, without proper legal assistance this possibility is limited in fact.

Factor 12: Appeal of a Decision Imposing Pretrial Detention

Detainees have the right to have a decision imposing pretrial detention reviewed by a higher tribunal.

Conclusion	Correlation: Neutral
There are standard procedures to challenge an initial detention but, again, the lack of legal representation and the cost to appeal prevent them from being widely used by juveniles.	

The Procedure of Appeal to the Supreme Court: Section 17 of the Family Courts Act, Chapter 93 provides: “Any person dissatisfied with any decision of a Family Court may appeal to the Supreme Court subject to the conditions prescribed by the Supreme Court of Judicature Act.” The Crime Control and Criminal Justice Act, Chapter 102, Section 10 states that an appeal shall lie to the Supreme Court against the making by a Magistrate’s Court of an anti-social behavior order. Section 62 of the FACA Act states that any person against whom an order has been made under this Act may appeal from that order to the Supreme Court.

A case can be referred from the Supreme Court to a Court of Appeal, which meets an average of four times a year. In the past, final appeals were made to the Judicial Committee of the Privy Council in London in cases involving interpretation of the Constitution, but the Caribbean Court of Justice is now designated the final appeal jurisdiction.

Though the legal procedure exists and is respected, it does not make a real impact in juvenile cases for many reasons:

- First, any decision from the Supreme Court takes several months.
- Second, the ability to pay the cost of an application to the Supreme Court is out of reach for most juveniles and their families. They are effectively denied justice because they lack resources.

Section 40 of the Convention on the Rights of the Child seeks to ensure that children and youths who are accused of, being held for or charged with a crime are extended the same rights of representation and appeal as any adult in Belize, from arrest to sentencing. It also requires that a distinct juvenile justice system be established for juveniles that stresses positive rather than punitive motivation.

It violates the principles of natural law and common sense that a juvenile is expected to appear before the Supreme Court, with all its formal procedures and pleadings, without legal advice or legal representation. If convicted of these crimes, the juvenile faces a custodial sentence. It is not sufficient for a CRO or an amicus curiae to be appointed in such a case, since neither has sufficient legal training to adequately defend the rights and welfare of the juvenile in such circumstance. The law also does not provide for proceedings involving juveniles to be held *in camera*. Therefore, it does nothing to protect the privacy of children as required by the Families and Children Act.

Factor 13: Guaranteed Periodic Review of Detention

Decisions imposing pretrial detention are periodically reviewed by a judicial authority.

Conclusion	Correlation: Negative
Under the Certified Institutions Act a juvenile cannot be discharged once a detention order has been issued. Since the Prison Act does not provide for court review, juveniles held at the Wagner Youth Facility cannot receive shortened sentences.	

A juvenile can face two kinds of detention, which basically means that two different laws can apply to him.

Under the Certified Institutions Act, where a juvenile is remanded prior to trial and an order is made for his detention, or where a juvenile is convicted and a custodial sentence is ordered, the court may order him to be placed at the Youth Hostel.

Juveniles who have committed more serious crimes and are on remand or who have been convicted of grave offences and a custodial sentence is imposed are sent to the Wagner Youth Facility. The Wagner Youth Facility does not come under the supervision of the CRD but comes under the Prison Act. At present, the Wagner Youth Facility is governed by its own rules which do not include collaboration with CRO's or the provision of social work services. Those at the Wagner Youth Facility cannot receive shortened sentences as there is no court review. Those who are on remand or held for failure to make bail are released when the case goes to trial or they are able to make bail. There is no right of periodic review of detention under the Prison Act at the pretrial stage.

Under the Certified Institutions Act, a juvenile cannot be discharged once he begins to comply with the detention order. There are no plans or provisions for the juvenile's stay to be shortened when review shows that the child can be rehabilitated with family or that another arrangement may be suitable for him, such as placement with a family member or other person. On the contrary, according to this Act, and regarding offences and penalties accrued by the juvenile in detention, Section 34 states that if any child detained in a certified institution is guilty of certain crimes, he shall be brought before a court of summary jurisdiction upon a complaint by the manager and be liable on summary conviction to have the period of his detention in the institution increased by any period not exceeding six months.

Magistrates have indicated in general that there is no follow up of juveniles who have been remanded or who have received custodial sentences. No one checks to see how they are doing or if they are being rehabilitated, and there is no report on their progress, nor any way to track the juveniles through the system.

More worrying is the fact that in some instances remand is automatic. It is also the case for certain types of offences. If the juvenile is later convicted of the offence, his sentence is not decreased by the time he has spent in remand as occurs with adult offenders. This serves as an additional and extrajudicial sentence imposed on the juvenile and is a violation of his Constitutional rights and the principles of natural justice.

Section IV. Imposition of a Sentence of Incarceration

Factor 14: Procedures at the Penalty Phase

Persons convicted of a crime are sentenced by a judge and have the opportunity to present additional evidence and arguments regarding sentencing. In determining the sentence, the judge takes account of relevant information on the convicted person's background as well as the nature of his crime. Sentences are imposed in open court with the convicted person present and the judge clearly states the reasons for and terms of the sentence.

Conclusion	Correlation: Negative
<p>The juvenile is allowed to give evidence or to make any statement directly to the court but the general absence of defense lawyers significantly hurts his ability to effectively advocate for a lesser penalty. Also, the use of mandatory sentencing prevents judges and magistrates from considering the individual situations of each juvenile.</p>	

Most CRO's do not understand the implications of a juvenile pleading guilty to an offence. Some have the perception that a CSO does not result in a conviction for a crime because the offender does not serve a custodial sentence. This is incorrect. A conviction occurs when a guilty plea is entered or the offender is found guilty after trial. A guilty plea results in the juvenile's criminal conviction and gives him a criminal record, which negatively impacts access to education, ability to travel, and sentencing for any future crime. The fact of a CSO only affects whether he will do jail time or not. Training is needed in this area. The goal should be to protect the juvenile from any criminal record and, if that is impossible, then to protect him from having to do jail time by recommending a CSO.

Chapter 95 of the Evidence Act regulates the introduction of evidence at trial. The Act does not provide *in camera* hearings for juveniles. Therefore, the privacy of juveniles is not protected. And, where juveniles are charged with adults for offences committed jointly and they are tried together, juveniles are not protected from undue influence by the adult offenders. Since these adult offenders often have legal representation, the possibility arises that adult offenders can pin crimes on their juvenile counterparts. Juveniles should not be allowed to give evidence in front of these adults who have often instigated their participation in the criminal enterprise in the first place.

The main problem with evidence is, once again, the lack of defense lawyers. A standard strategy of any defense is to wait and see if the prosecutor discloses evidence that could prove his case in court. Without a defense lawyer, both the prosecutor and CRO can pressure the juvenile to plead guilty. A premature guilty plea removes an important legal right from a juvenile and his chance of being acquitted. A good defense lawyer would require the prosecution to reveal all evidence in its possession. If the prosecutor refuses, the defense lawyer will ask for a disclosure order from the court requiring the prosecutor to reveal the evidence so she can properly advise the juvenile and prepare her report for the court. If juveniles had legal representation, all evidence in the possession of the police would be disclosed. These responsibilities presently fall on the shoulders of the CRO who is not a lawyer. Nor is there any protocol between police & CRO's requiring disclosure of evidence.

Another matter of concern at this stage occurs when an accused appears before the court and claims his confession was induced by force, torture, or other improper means. Where adults are concerned, the court must hold a hearing to receive evidence to substantiate or disprove the allegation. The court must then make a finding on whether the confession was coerced. If the court finds that it was, the confession is inadmissible against the accused. Yet this right is not extended to juveniles, who complain that the court does not consider their allegations.

Problems also include technical flaws within the police investigative process, such as an improperly conducted line-up, improper collection of evidence, or failure to investigate a lead given by the juvenile that could provide an alibi or lead to his exoneration. All this makes the task of refuting the evidence difficult. And, as noted above, the system tends to overly rely on the juvenile's confession rather than investigation.

Regarding what judges consider when determining what sentence to impose, Section 16 of the Beijing Rules clearly states that a social inquiry report must be made for each juvenile: "In all cases except those involving minor offences, before the competent authority renders a final disposition prior to sentencing, the background and circumstances in which the juvenile is living or the conditions under which the offence has been committed shall be properly investigated so as to facilitate judicious adjudication of the case by the competent authority." . The FACA Act addresses this in Section 99: "A court considering any question with respect to a child under this Act may ask the Department to arrange for a social services practitioner or such other person as the court considers appropriate, to report to the court...."

Social inquiry reports (social reports or pre-sentence reports) are an indispensable aid in most legal proceedings involving juveniles. For this purpose, special social services practitioners or personnel attached to the court or board are necessary. One of the CRO's many tasks is to provide this information. The good news is that stakeholders acknowledge these reports are absolutely necessary and they are commonly used by magistrates.

The procedure to sentence juveniles is clearly stated in the Juvenile Offenders Act Section 8: "If the child or young person admits the offence or the court is satisfied that it is proved, he shall then be asked if he desires to say anything in extenuation or mitigation of the penalty or otherwise. Before deciding how to deal with him, the court shall obtain such information as to his general conduct, home surroundings, school record and medical history, as may enable it to deal with the case in the best interests of the child or young person, and may put to him any question arising out of such information...."

Factor 15: Factors Considered in Imposing a Penalty

Deprivation of liberty is regarded as a sanction of last resort. The sentencing authority takes into account the rehabilitation of the offender, the protection of society, the interests of the victim, the time the offender spent on remand, and any aggravating or mitigating factors in imposing a penalty. Similarly situated defendants receive similar sanctions.

Conclusion	Correlation: Negative
In imposing a penalty, the court generally considers the seriousness of the offence, the age of the offender, the circumstance of the case, the prevalence of the crime, and the Social Inquiry Report. However, the Supreme Court does not consider the age of the offender at the <i>time</i> of the crime but the current age of the offender at the time of the review, and fails to consider any psychological assessment.	

Most magistrates interviewed said they consider the following factors to decide on an appropriate sentence: seriousness of the offence, age of the offender, circumstance of the case, prevalence of the crime, if he is a first time offender, and the SIR from the CRO. These factors are scattered in different laws (Section 80 of the Summary Jurisdiction Procedure Act, Section 147 of the Criminal Code Act on robbery, etc.). However, the Juvenile Offenders Act directly addresses this issue in Section 12.3: "An offender qualifies for a custodial sentence... if he has a history of failure to respond to non-custodial penalties and is unable or unwilling to respond to them; only a custodial sentence would be adequate to protect the public from serious harm or damage from him; or the nature, gravity or prevalence of the offence of which he has been convicted or found guilty was such that a noncustodial sentence would not be appropriate...." In addition, one of the main factors to be considered when judging a juvenile offender is the SIR (Social Inquiry Report) referred to in the FACA Sections 9 and 99. The SIR is mandatory under rule 16 of the Beijing Rules: "In all cases except those involving minor offences, before the competent authority renders a final disposition prior to sentencing, the background and circumstances in which the juvenile is living or the conditions under which the offence has been committed shall be properly investigated so as to facilitate judicious adjudication of the case by the competent authority."

The interviews confirm that the SIR's are systematically completed when the offences are not minor, which is positive. It was sometimes argued that the quality of the SIR might not contribute significantly to giving the judge information, especially at the health and psychological level. It is important to know if the

minor is using drugs or if he has a mental illness or psychological problem that makes him uncontrollable or prone to commit crimes. Aside from serious illnesses such as bipolar disorder, borderline personality disorder, schizophrenia, obsessive compulsive disorder, or major depression, some juveniles might be experiencing dysthymia or PTSD (post-traumatic stress disorder), a severe anxiety disorder that can develop after exposure to an event that results in psychological trauma. Convicting a juvenile without a proper health and psychological assessment is not only a breach of the spirit of the law, but it endangers the juvenile and the entire society, since the chances of recidivism increase without treatment. Even simple inability to manage anger can be considered a pathology that should be treated. In some countries, courses in anger management may be mandated by the legal system. In this case, psychologists recommend a balanced approach to anger that both control the emotion and allows for expression of the emotion in a healthy way. Pathology may underlie many serious offences, such as fighting, attempted murder, murder, robbery, and rape. If left untreated, the illness could endanger the community and the juvenile himself.

Another worrying element in the Belizean laws is the absence of key words common in most advanced countries. The word “rehabilitation” does not appear in the Belizean Constitution or any of the acts or subsidiary regulations that might apply to a juvenile offender under Factor 15. The word “rehabilitation” is not often used, except in reference to the CRO (Community Rehabilitation Officers). There are few mentions in the Prison Act, one mention in the Certified Institutions Act. The word “reintegration” is mentioned only once in the Prison Act. These terms should be widely used in the regulations and not just under the Prison Act. It must be stressed that the entire procedure from police detention to the end of trial has to be seen through the objective of rehabilitation and the peaceful reintegration of the juvenile into society.

A common practice in Belize violates the core of international juvenile justice standards. Section 37 of the Convention on the Rights of the Child (CRC) provides: “Every child shall be protected from... life imprisonment without the possibility of parole....” Under the Crime Control Act, a juvenile may be sentenced to life imprisonment where he has two prior convictions for robbery (three strikes law).

Finally, the magistrates reported a practice that is another serious violation of international standards. The Supreme Court does not consistently consider the age of the offender at the time of the crime. In some cases, the court’s decision is based on the offender’s age at the time of review. In other words, a 16 year old offender may be punished as an adult by the Supreme Court if he is more than 18 years old at the time of review. That he committed the crime when he was younger than 18 will not always serve as a mitigating factor to obtain a more lenient sentence.

Factor 16: Alternatives to Immediate Incarceration

There exist a range of non-incarcerative measures prescribed by law and imposed based on an assessment of established criteria concerning the nature and gravity of the offense, the personality and background of the offender, the purposes of sentencing, and the interests of victims.

Conclusion	Correlation: Neutral
The Belizean Juvenile system does not lack alternatives to detention. Providing options to the court is positive, but the legal requirements of some alternatives reduce the benefits of their diversity.	

The Crime Control and Criminal Justice Act, Chapter 102 in Sections 21 to 24 empowers the courts in Belize to sentence juvenile offenders to do community service. Due to administrative problems and lack of co-ordination, staff training, and public sensitization, this option is under-utilized.

Regarding restrictions on the punishment of children and young persons, Section 11 of the Juvenile Offenders Act states that no child shall be sentenced to imprisonment if he can be suitably dealt with in any other way, whether by probation, fine, commitment to restrictions in a place of detention or certified institution, or otherwise.

This Section provides a number of measures that can be applied as punishment for a juvenile at the discretion of the magistrate. Community Service Orders provide an additional option.

Section 15 of the Juvenile Offenders Act sets out several more options that can be considered when a juvenile is convicted. The Crime Control Act contains a provision for the Magistrate Court to make corrective training orders for persons convicted of certain crimes. However, corrective training is only available in the Belize District. Note that the Penal System Reform (alternative sentences act) defines a community order as a combination of community service order, conditional discharge, probation order, and court order directing that a juvenile be detained in a certified institution.

Altogether, the court has the following options:

- 1 - dismiss the charge;
- 2 - discharge on recognizance;
- 3 - release to the care of a relative or other fit person;
- 4 - ordering the parent or guardian to give security for the offender's good behavior;
- 5 – probation;
- 6 - fine (damages or costs to be paid by the juvenile himself or his parent or guardian);
- 7 - commitment to restrictions in a place of detention, certified institution, or otherwise;
- 8 - Community Service Order;
- 9 - imprisonment.

The first four (dismiss the charge, discharge on recognizance, release to the care of a relative or other fit person, or ordering the parent or guardian to give security for good behavior) are good measures but are almost always used for minor offences, when they are appropriate for certain medium offences, as well. The remaining options are discussed further:

- Probation. The Probation of Offenders Act, Chapter 120 clearly states in Section 3 that probation measures are limited to offences punishable on summary conviction, which tend to be minor offenses. Offences under the Criminal Code are not always subject to probation. This limits the options of the court. Section 17 of the Beijing Rules states that probation should be granted to the greatest extent possible via suspended sentences, conditional sentences, board orders, and other dispositions. Legislation should be amended to make more offences subject to probation.

- Fines. The main problem is linked with lack of resources. It was reported that large numbers of juveniles are incarcerated in situations where the ability to pay a fine would have prevented it. Fines can sometimes reach hundreds of BZD's. For example, Chapter 98, Section 3.4 of the Summary Jurisdiction (Offences) Act states, "A person guilty of a petty misdemeanor shall be liable as follows: for the first offence, to a fine not exceeding three hundred dollars or to imprisonment for a term not exceeding six months; for a second or subsequent offence (whether it be the same or any other petty misdemeanor), to a fine not exceeding six hundred dollars or to imprisonment for a term not exceeding one year."

- Community Service Order. Community Service Orders are a welcome addition to the powers of the court in dealing with first time offenders and maintenance defaulters. The application of the Penal System Reform Act has kept many juveniles out of penal institutions and has facilitated their rehabilitation. Implementation of the Act is uneven in the districts. The CRD must supervise an alternative sentence imposed by the court and must find places where Community Service Orders (CSO) can be served by juvenile offenders when such orders are made. The main problem with Community Service Orders, even in first offence cases, is that mandatory jail times are established by law for many common offences (e.g., Section 16 of the Crime Control Act prevents the Magistrate Court from granting bail for crimes such as drug trafficking or drug involvement, offences under the Firearms Act, robbery, aggravated assault with deadly weapons, etc.). Service organizations, NGOs, and other social partners should be made aware of CRD needs for mentorship of juvenile offenders and for placements where CSO's can be served. Civil society should take a measure of responsibility for this. Funds need to be provided for food, transportation, and allowances for juveniles serving CSO's.

- Certified institutions. Under the Certified Institutions Act, where a juvenile has been convicted and a custodial sentence has been ordered, the court may order him to be placed at the Youth Hostel. The Hostel is situated in the Belize District at Mile 21 on the Western Highway. The Hostel houses children between 12 and 17 years old. Most of the inmates are not serving a sentence but have been placed into custody. Presently, it is the only institution that falls under the Certified Institutions Act. The Hostel's lack of resources was noted above, but the fact that there is only one such institution in the whole country results in juveniles from remote districts losing the physical support of their families and friends.

- Imprisonment. This should be used as a last resort, but that is not the case in Belize. A juvenile is liable to be imprisoned under any act and can be sentenced to life imprisonment. One of the most troubling aspects of the law is the requirement under the Crime Control Act to impose a sentence of life imprisonment where the offender has been convicted of two previous robbery offences.

Factor 17: Implementation and Monitoring of Non Incarcerative Dispositions

Non-incarcerative dispositions are effectively implemented and monitored by supervisory authorities established in law. The sentencing authority is notified of significant failures to comply with the conditions of non-incarcerative dispositions.

Conclusion	Correlation: Neutral
The Community Rehabilitation Department (CRD) implements and monitors non-incarcerative dispositions, but a lack of resources, as noted in factor 3, seriously compromises the effectiveness of the CRD in doing so.	

The Community Rehabilitation Department (CRD) established in 2001 with the passing of the Penal System Reform (Alternative Sentences) Act is the main actor for implementing and monitoring non-incarcerative measures. *Grosso Modo*, this Act empowers the CRD to compile reports for the consideration of the courts at the pre-sentencing or post-sentencing stage, counsel offenders and their parents, and supervise offenders sentenced to do community service.

Section 3 of the Alternative Sentences Act sets out the duties of the CRD under the Ministry for Human Development to provide the following: information to the court on children and youth in conflict with the law, supervision of non-custodial sentences, facilities for those serving custodial sentences, and support services to offenders and their families. The CRD is headquartered in the Belize District with offices in each of the other districts.

The CRD prepares reports for the court and makes recommendations to the court on the suitability of alternative sentencing for a particular juvenile offender. In addition, the CRD must supervise an alternative sentence given by the court and find places where Community Service Orders (CSO) can be served by juvenile offenders when such orders are made. The effective functioning of the juvenile justice system is dependent on the CRD. The CRD is equipped with Community Rehabilitation Officers (CRO) who have received specialized training in social work and in the areas of law that affect the juvenile justice system and the rights of juveniles appearing before the court in criminal cases. CRO's contact and supervise juveniles serving CSO's and report back to the court.

Each CRO is responsible for providing services or referrals for service as needed by the juvenile client. This includes appearances at the police station to secure bail for juvenile offenders where appropriate, preparation of court reports, appearances in court to speak on behalf of the juvenile concerning alternative sentences, selection of appropriate service opportunities where CSO's can be served in each district, and supervision of the CSO.

The current workload of each CRO makes it difficult for them to offer quality services to juvenile offenders brought to their attention. This point was developed in factor 3.

Factor 18: Revocation of Non-Incarcerative Dispositions

Non-incarcerative dispositions are only revoked and replaced by incarceration by the sentencing authority for significant violations, in the absence of suitable alternatives, and after affording the offender his due process rights.

Conclusion	Correlation: Neutral
<p>The failure to comply with a non-incarcerative measure does not mean the minor will be incarcerated automatically, but the excessive use of fines and the tendency to impose incarceration for failure to comply with approved measures limit the extent of alternatives to detention.</p>	

The three main non-incarcerative measures are fine, probation, and Community Service Order.

- Fine. Section 54 of the Summary Jurisdiction (Procedure) Act regulates the court’s power to impose a fine in lieu of imprisonment “if it thinks that the justice of the case will be better met by a fine than by imprisonment.” Section 55 creates a gradual scale of imprisonment for nonpayment of money ordered by the court. For example, the inability to pay 2,5 BZD results in seven days imprisonment and failure to pay any amount exceeding 250 BZD results in more than six months imprisonment. Juveniles often have far fewer resources than adults. Therefore, lower fines or use of probation or a CSO is recommended.

- Probation. The Probation of Offenders Act, Chapter 120 states in Section 7: “Where it appears to a judge or any magistrate that a probationer has failed to comply with any of the provisions of the probation order, he may issue a summons to the probationer requiring him to appear at the place and time specified therein or may issue a warrant for his arrest.” However, the magistrate has two options: one, the continuance in force of the probation order, but imposing a fine not exceeding fifty dollars; or conviction and sentence (in other words, the court can order incarceration).

- Community Service Order. The Penal System Reform Act in Section 18 states that when an offender fails to comply with the obligations of Section 16, the court may issue a summons requiring the offender to appear before a summary jurisdiction court or issue a warrant for his arrest. If there is no reasonable excuse for the failure of the CSO, the court may impose a fine up to 2000 BZD and maintain the CSO or impose any sanction, depending on the reasons the CSO was ordered initially.

There is no automatic incarceration for failing to comply with any of these alternatives to detention which to some extent are in accord with rule 14 of the Tokyo Rules (UN Minimum Standards Rules for Non-custodial Measures), stating that the failure of a non-custodial measure should not automatically lead to the imposition of a custodial measure, and that another suitable non-custodial measure must be considered, imprisonment being a last resort.

The main problem expressed in the interviews is lack of resources if a fine is imposed for failure to comply with a CSO or probation. In many cases, the juvenile prefers the custodial measure to paying a fine. Moreover, some judges tend to over rely on custodial measures in case of failure.

Lastly, juveniles should have the assistance of legal counsel if they so choose, where incarceration is a possibility.

Section V. Mechanisms for Challenging a Sentence of Incarceration

Factor 19: Extraordinary Remedies

Legal mechanisms are available for a person sentenced to incarceration or otherwise deprived of liberty following conviction of a crime to challenge the lawfulness of his confinement before a judicial authority, either within the conviction and appeals process itself or as a separate legal action.

Conclusion	Correlation: Neutral
Belize law provides habeas corpus and judicial review for a juvenile deprived of liberty, but the lack of legal representation and resources make it difficult to implement. The law also provides an administrative remedy to release an incarcerated juvenile.	

Section 27 of the Certified Institutions Act empowers the Minister to order any child at any time to be discharged from an institution, either absolutely or on such conditions as the Minister may approve, and the child shall be discharged accordingly.

Section 5.1.d of the Constitution of Belize opens the door to a remedy by way of habeas corpus for determining the validity of detention. However, habeas corpus is not used. Several magistrates said they could not remember if the habeas corpus procedure has ever been applied to a juvenile. The reason is of an economic nature. A writ of habeas corpus is a summons with the force of a court order, addressed to the custodian, demanding that a prisoner be brought before the court, and that the custodian present proof of authority to detain the person. But a juvenile cannot do it himself and his family has little knowledge of how this procedure works. Another person acting on his behalf must do it. A lawyer is most qualified to bring the action. In most cases, the juvenile and parents prefer to wait 48 hours to see the judge rather than pay a lawyer to see him immediately.

It is technically possible to ask for and receive judicial review by the Belize Supreme Court for any breach of Constitutional rights occurring through legislative or executive actions. However, without proper legal assistance this possibility is *de facto* limited.

Factor 20: Appeal of a Sentence of Incarceration

Persons sentenced to incarceration have a right to review of the factual and legal basis for the imposition of a sentence, including the revocation of non-incarcerative measures, before a higher judicial body.

Conclusion	Correlation: Neutral
There are several avenues for appeal, but their use is seriously limited by the juvenile offender's lack of resources and access to a defense lawyer.	

There are two appeal procedures:

- The procedure of appeal to the Supreme Court (see factor 12).
- The referral system of appeal to the Supreme Court.

The Supreme Court is the main actor on appeal but the Court of Appeal can review decisions of the Supreme Court, and the **Caribbean Court of Justice (CCJ)** exercises an appellate jurisdiction as a final court of appeal for CARICOM member states, replacing the obsolete British-based Court Judicial Committee of the **Privy Council**. However, the Privy Council did not allow capital punishment for persons convicted of murder. How the CCJ will rule on this is unknown.

The Supreme Court has unlimited jurisdiction to hear and determine any civil or criminal proceeding under any law. In its criminal jurisdiction, a judge sits with a jury of 12 members for capital offence cases and nine members for non-capital cases. The court in its criminal jurisdiction holds four sessions in a calendar year in each of the three judicial districts: Northern, Southern, and Central districts. The division



into districts is for convenience and to enable citizens throughout the country to participate as jurors. In this way, accused persons can be tried by their peers, a fundamental principle in the jury trial system.

The Referral System of Appeal to the Supreme Court: Chapter 94, Section 56 of the Inferior Courts Act states that every return from the Inferior Court shall, unless a formal appeal against conviction is entered by the defendant, operate as an appeal on behalf of every convicted person whose name is included therein, and a judge may order a magistrate to state a case for the consideration of the Supreme Court, and thereupon the Supreme Court shall have the power to decide the case in all respects as if an appeal had been entered by the person convicted under the provisions of Part VIII of the Supreme Court of Judicature Act. In other words, if the juvenile does not appeal himself, the return from the Inferior Court works as an appeal. The referral system of appeal to the Supreme Court is more of an administrative procedure than an effective way of appealing, since the juvenile cannot directly state his case, introduce new evidence, or offer a legal argument in his favor.

The Court of Appeal exercises an appellate jurisdiction over both the Supreme Court and Magistrate Courts and has jurisdiction and power to hear and determine appeals in civil and criminal matters. While this court is established with a president and three justices of appeal, a panel of three justices sits at any onetime. The Court of Appeal may sit in Belize four times a year; however, in practice, it usually sits three times.

The ability to pay for a lawyer and the cost of an application to the Supreme Court / Court of Appeal is out of the reach of most juveniles and their families. They are effectively denied justice because of lack of resources.

Factor 21: Executive Clemency

Persons convicted of a crime have the opportunity to request clemency, pardon, amnesty, or commutation of sentence. Executive clemency is not used as a substitute for parole, probation, or other alternatives to confinement.

Conclusion	Correlation: Negative
The executive clemency procedure is not commonly used and when it is, it almost always involves adults, not juveniles.	

Section 52 of the Constitution of Belize clearly creates a procedure of mercy at the hand of the tandem Governor General - Belize Advisory Council. "The Governor-General may (a) grant a pardon, either free or subject to lawful conditions, to any person convicted of any offence; (b) grant to any person a respite, either indefinite or for a specified period, of the execution of any punishment imposed on that person for any offence; (c) substitute a less severe form of punishment for any punishment imposed on any person for any offence; or (d) remit the whole or any part of any punishment imposed." This prerogative is also considered in the Supreme Court Act, Section 126 and the Indictable Act, Section 7.

The pardon to accomplices in Section 95 of the Evidence Act is a different matter. It provides, "A judge of the Supreme Court, with the written consent of the Director of Public Prosecutions, may order that a pardon be granted to any person accused or suspected of, or committed for trial for, any crime on condition of his giving full and true evidence upon any preliminary inquiry or trial...."

At the trial stage, there is a special plea of pardon under Section 92 of the Indictable Act. Section 159 of this Act also allows the commutation of a death sentence to life imprisonment, involving the Governor General. Sections 188 to 193 are directly related to pardons, involving the Governor-General, in the name and on behalf of Her Majesty the Queen, stating that royal mercy can be extended "to any person convicted of any felony." A complete or conditional pardon can be granted in this case. These Sections also regulate the power of the Governor-General to remit fines and to release offenders imprisoned for nonpayment of any sum.



Most procedures for mercy and pardon are not commonly used, even less with juveniles. When the case draws media attention and substantial public concern, the chance that one of these procedures will be used increases (e.g. murder cases where investigation is inadequate and evidence is poor or lacking).

Section VI. Detention Practices

Factor 22: Procedures During Confinement

Different categories of persons deprived of liberty are kept in separate institutions or parts thereof. Solitary confinement is forbidden or its use is extremely limited.

Conclusion	Correlation: Negative
<p>Corporal punishment remains an option and it is used on juveniles in all detention facilities in Belize. Other disciplinary measures do not always comply with international standards. Uncontrollable behavior is criminalized and severely punished when it might be caused by a mental or emotional disorder that should be medically treated. Many of the Havana Rules are not respected. The law allows “temporary” confinement in a cell without any time limit.</p>	

As noted herein, there are two different kinds of detention, regulated by two different laws.

The court may order that a convicted juvenile given a custodial sentence be placed at the Youth Hostel under the Certified Institutions Act. This Act and its regulations establish the authority and limits of the Institution. The Certified Institutions Act regulation on discipline states that no resident shall be placed in mechanical restraints; corporal punishment may only be applied across the buttocks with a light cane to a maximum of four strokes; no resident shall be placed in close confinement, and no resident shall be punished for any alleged offence until such complaint has been fully investigated by the manager or his assistant. Section 13 of the same regulations provides that for a punishment for misbehavior “the Manager or his assistant may order: extra work for up to seven days (not to exceed two hours in any one day), loss of privileges for up to two months, or four strokes with a light cane.” However, Section 14 regulates the punishment for running away from the institution: strokes with a light cane up to a maximum of four, loss of privileges for up to 28 days, or extra work for up to 28 days. Section 26 of the Act provides that running away from training outside the Center constitutes running away under the Act.

According to Section 34 of this Act, the procedure for running away, or any serious breach of the rules of the institution, or inciting other inmates to break the rules, or becoming uncontrollable is for the juvenile to be brought before a court of summary jurisdiction upon a complaint by the manager and be liable on summary conviction to have the period of his detention in the institution increased by any period not exceeding six months. However, if the minor is more than 16 years old, he will be liable to be imprisoned for a term not exceeding six months. In other words, the maximum penalty is in fact to be transferred from the Youth Hostel to the Wagner Youth Facility (the prison)

The main complaint concerns the concept of “uncontrollable behavior.” It is a difficult concept to measure without a scale of reference. Absence of this scale allows for arbitrary use of power by the manager or his assistant. More troubling is the fact that uncontrollable behavior is criminalized and severely punished when it might be caused by a mental or emotional disorder that should be medically treated. A juvenile might be suffering from some disorder, yet, in spite of seeking treatment, he may be confined to an isolation cell or beaten with a stick.

Corporal punishment remains an option at all of the detention centers in Belize -- a violation of Section 67 of the Havana Rules. The 1991 Ordinance abolishing judicial corporal punishment in Belize was a step in the right direction, but more needs to be done. The legal rationale for corporal punishment is highly questionable. Section 37 of the CRC states that “no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment.” The United Nations Rules for the Protection of Juveniles Deprived of their Liberty (The Havana Rules) adopted by General Assembly resolution 45/113 of 14 December 1990 states in Section 67: “All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned.”

Corporal punishment is deeply rooted in Belizean laws and culture. In the home, corporal punishment is legal under provisions for “justifiable force” in the Criminal Code (1981) and at schools, under Sections 24 and 27 of the Education Act (1991). Interviews with a group of seven 12-16 year old children revealed

that children are beaten by parents, teachers, siblings, classmates, and policemen. Beatings take place in the home, in school, on the street. They involve all parts of the body but especially children’s backs, buttocks, head, hands, and legs, and they occur almost every day. Beatings are carried out using a variety of instruments, including broomsticks, belts, electric cords, paddles, and shoes. (Hunt, H., 2003, Corporal Punishment in Belize – the legal framework for violence against children, Belize: National Organization for the Prevention of Child Abuse and Neglect).

On the other hand, juveniles who have committed more serious crimes may be convicted of grave offences, given a custodial sentence, and sent to the Wagner Youth Facility, regulated by the Prison Act. The subsidiary law of this Act establishes prison rules that must be followed by juveniles, as well. The Prison Act and its regulations have a stricter, more punitive approach. For example, Section 52 states that for particularly serious offences (mutiny, gross violence, escape, possession of deadly weapons), Visiting Justices can open an investigation and, if considered fair, order corporal punishment, subject to any limitation the court imposes on number of strokes and the instrument to be used by the Minister. Section 54 allows confinement in a cell, corporal punishment, or even dietary restriction with agreement of a medical officer. Section 58 allows an unmanageable or violent prisoner to be temporarily confined in a special cell without any time limit. The decision to take a more lenient approach with juvenile prisoners than with adults is at the discretion of the prison authorities.

Section 7 orders prisoners under sixteen years of age to be placed in the Junior Prisoners’ Class and Section 150 requires that junior prisoners be kept separate from all other prisoners. While adults and minors are separated, they are still in the same compound. To comply with international standards, a separate building should be constructed.

The Kolbe Foundation has done an excellent job providing services to minor inmates, which has made a substantial improvement. However, neither prison regulations nor the Kolbe foundation deal with punishment procedures. To meet international standards, parliament must amend the law to prohibit corporal punishment and closed or solitary confinement in juvenile institutions.

Factor 23: Mechanisms for Complaints

Mechanisms exist for persons deprived of liberty to seek remedies for mistreatment and other abuses, both within the institution where they are confined and through the judicial system.

Conclusion	Correlation: Neutral
While subsidiary regulations for imprisoned juveniles under the Prison Act satisfy international standard, juveniles in detention in the youth hostel have no adequate mechanism for complaint.	

The International Standard on complaints is established in Sections 68 & 69 and especially Sections 75 & 76 of the Havana Rules. This standard is satisfied by the Prison Act subsidiary regulations for juveniles imprisoned but not by the Certified Institutions Act for juveniles in detention in the youth hostel.

The Certified Institutions Act and regulations do not provide any mechanism for juveniles at the Youth Hostel to complain about abuse or violation of their rights. The only mechanism available to them is the procedure to complain through ordinary courts. This procedure is unrealistic for juveniles who could not afford a defense lawyer during their trials. They continue to lack resources to hire counsel to present charges against the authorities or civil servants of the center. In such cases, the only one who can assist the juvenile is the CRO who can report the abuse to the prosecutor who might decide to investigate. In many cases, lack of evidence will end the case.

Paradoxically, the Prison Act subsidiary regulations create an efficient mechanism of complaint available to incarcerated juveniles that satisfy some of the Havana Rules. Section 24.1 states: “Arrangements shall be made to ensure that every prisoner on reception is provided with full information about the rules governing the treatment of prisoners of his class ... and the proper methods of submitting petitions to the Governor-General, and of making complaints, to food, clothing, bedding, and other necessaries...” Section 59 creates a system for recording complaints: “Arrangements shall be made that every request



by a prisoner to see the Superintendent or a Visiting Justice shall be recorded.... The Superintendent shall, at a convenient hour on every day other than Sundays and public holidays, hear the applications of all prisoners who have made a request to see him, and shall inform the next Visiting Justice.” Section 61 imposes on the Superintendent the obligation to forward the petitions of the prisoners to Visiting Justices. Section 120 creates a specific complaint mechanism regarding the amount of food provided. Section 171 again refers to the complaint mechanism and Section 203 declares that “every officer shall inform the Superintendent of any prisoner who desires to see him or to make any complaint” Section 261 orders the Visiting Justices to hear and investigate any complaint which a prisoner may make to them. A former inmate pointed out, however, that juveniles are often afraid to report any abuse due to the risk of reprisals.

Section VII. Parole and Early Release

Factor 24: Structure of the Parole System

A legal framework for conditional release or parole exists, including mechanisms for the supervision of parolees, and is used to move incarcerated persons to a noncustodial environment at the earliest possible stage.

Conclusion	Correlation: Negative
A parole system exists, but the composition of the Parole Board reflects a lack of professional expertise and its decisions tend to be arbitrary. Moreover, a juvenile can be sentenced to life imprisonment without the possibility of parole.	

The parole system is based on the Prison Act, Chapter 139 Subsidiary Law. Being the highest authority, the Parole Board is composed of seven members appointed by the Minister: the chief executive officer to the Ministry responsible for prisons; a person who holds or has held a judicial office; a registered medical practitioner, preferably a psychiatrist; a representative of the Ministry responsible for Human Resources; the Superintendent of Prisons, and finally two other persons appearing to the Minister to have knowledge and experience of the supervision or after care of discharged prisoners.

The composition of the Parole Board indicates that team members might lack experience and knowledge on relevant criminal justice issues, and that the view of the administration will decide parole outcomes. Given that the Minister appoints Board members, interviewees noted that the Parole Board is easily affected by public opinion and its decisions tend to be arbitrary. Interviewees also reported that certain people who objectively should be paroled are not, and others might be paroled through the use of undue influence. It was reported that a juvenile charged and sentenced for rape was paroled and committed another rape after being released. The public was outraged and the percentage of paroles since has decreased more than 50%. Several potentially successful stories may have been compromised because of this one case.

Apart from the extraordinary powers of discharge granted to the Minister (Section 43, Prison Act), the Prison Act provides that juveniles who do not qualify for parole under the parole system become eligible for discharge after the expiration of half their sentences. Often, this is far too late to make a significant impact on the juvenile's reintegration process. It is a well known fact that for juveniles, more than for adults, spending time in prison influences the offender's life for a long time, perhaps forever. The rule of Beijing 28.1 states clearly that "conditional release from an institution shall be used to the greatest possible extent, and shall be granted at the earliest possible time." Prison Act provisions designed for adults have been applied to juveniles without the positive discrimination young offenders deserve according to international standards.

The Committee on the Rights of the Child in its Concluding Observations for Belize criticized the fact that in Belize a juvenile can be sentenced to life imprisonment without the possibility of parole, a violation of the Beijing Rules.

Factor 25: Decision to Grant or Deny Parole

Decisions granting or denying parole, as well as imposing or modifying conditions and measures attached to it, are made by authorities established by law in accordance with procedural safeguards.

Conclusion	Correlation: Neutral
The procedure is respected but decisions do not always meet international standards.	

The Parole Board can decide not only on releasing any offender eligible for parole but also the remission, suspension, or variation of any condition of parole already granted.

Under the Prison Act, the Parole Board must consider the safety of the public or any person, the welfare of the offender and his reformation, the sentence imposed by the court, comments by the court, any comment by the Superintendent of Prisons, the Commissioner of Police, or the offender himself, and the chances for successful reintegration into society. Though the Parole Board can request assistance from any person to reach a decision, it tends to be a very closed institution with little or no contact with experts, civil society, or any other bodies. In other words, the views of the administration will likely take precedence over any other factor. Since the administration is especially sensitive to the mood of the public, it is inclined to be restrictive, particularly after someone paroled commits a grave offence.

Parole has certain limits such as excluding those sentenced to death, requiring those with a life sentence to wait ten years, and requiring others to wait half the term of their sentence of imprisonment.

The normal procedure is for the Superintendent of Prisons to refer the cases automatically to the Board, highlighting eligible inmates. Inmates themselves can also refer their cases to the Board. If parole is denied, the offender may, at any time within six months after his denial, ask the Board to reconsider its decision. The Parole Board is not bound by this deadline and can revise its decision at any time. The offender can be brought before the Board for this purpose at any time. However, there is no right of appeal to any authority against the Board's decision denying parole.

The Parole Board does not normally reverse its decision denying parole. Formally, the Board respects the procedure, but it shows little interest in revising its decisions.

Factor 26: Implementation and Monitoring of Parole

Parole is effectively implemented and monitored by competent agencies specified in law with the nature, duration, and intensity of supervision adaptable to each individual case. Parolees are notified of the conditions of parole and the consequences of noncompliance. Monitoring agencies notify the competent authority of significant failures to comply with the conditions of parole.

Conclusion	Correlation: Negative
Parole officers have arbitrary power in the supervision and implementation of parole. Parole officers tend to be policemen with little knowledge of how to handle juveniles. Moreover, there are no follow up services to lead toward reintegration.	

Parole lasts from the time of release to the time the sentence of imprisonment expires. The Parole Board is at liberty to impose conditions. However, certain conditions are required, such as:

- reporting to his supervising parole officer,
- notice of intention to move,
- the nature and place of employment,
- prohibition to reside at an address not approved by the parole officer,
- prohibition to continue in any employment not approved by the parole officer,
- prohibition to associate with any person proscribed by the parole officer.

Implementation of parole relies on the parole officer to control the parolee, a usual practice. However, parole officers show little flexibility in the requirement that the parolee report at a specific time, refusing to make adjustments for special circumstances. Frequently, reporting is scheduled early in the morning on a daily basis including weekends, which is a hardship for many parolees.

Though the parolee may at any time apply to the Board for the remission, suspension, or variation of any general or special condition of parole, he has little chance of success without his parole officer's approval. Parole officers tend to be policemen with little knowledge of how to handle juveniles. One solution to this problem is to create a "juge de l'execution des peines" (judge to supervise the implementation of the sentences) who can be the same or a different judge from the one who sentenced the juvenile. This



would result in improved follow-up of reintegration and an opportunity to appeal when the parole officer abuses his power.

Factor 27: Revocation of Parole

Parole is only revoked by the competent authority in the absence of suitable alternatives and only while affording the convicted person procedural safeguards.

Conclusion	Correlation: Negative
The parolee cannot challenge the parole officer’s discretionary powers to revoke or recall parole. The parolee is dependent on the integrity and professional capacity of the parole officer.	

Section 272 of the Prison Act Subsidiary Laws grants the parole officer discretionary power to revoke or recall parole, providing that the Board may for any reasonable cause at any time recall or revoke the granted parole. In addition, the parolee may be arrested without a warrant by any police officer, prison officer, or parole officer and shall continue to serve his sentence.

According to the law, the parole officer merely needs “to believe on reasonable grounds” that the parolee has violated any condition in order to arrest the parolee without a warrant. The parole officer can request the Board to add conditions which the parolee must respect. As a result, the parolee is dependent on the moods, beliefs, and attitudes of the parole officer. If the parole officer has integrity, is well trained, has professional capacity, and a certain degree of flexibility, arrest for violation of a condition of parole can assist in reintegration, but, if not, the officer can be an obstacle to the reeducation of the parolee.

Failing to comply with any condition of parole subjects the parolee to a possible fine, imprisonment, or both. On the other hand, a parolee can be discharged by a probation/parole officer, a social services officer, or any person the Board has designated to undertake supervision and control of the offender while on parole. However, discharging a parolee is extremely rare.

Most parolees see these discretionary powers as a sword of Damocles adding extra stress to their already difficult reintegration process. A more gentle and sensitive approach is necessary to increase the chances of successful reintegration into society.