



THE PHILIPPINES

Expert Consultation on Restorative Justice for Children

Bali, Indonesia

June 26-28, 2013



MACR in RA 9344

- 15 years old or younger
 - No criminal responsibility but shall be subjected to intervention program
- Above 15 & below 18 years old
 - Conditional exemption:
 - If found with discernment child shall undergo diversion or prosecution
 - If no discernment: no criminal responsibility but shall be subjected to intervention program



Situation of children involved in the Justice System

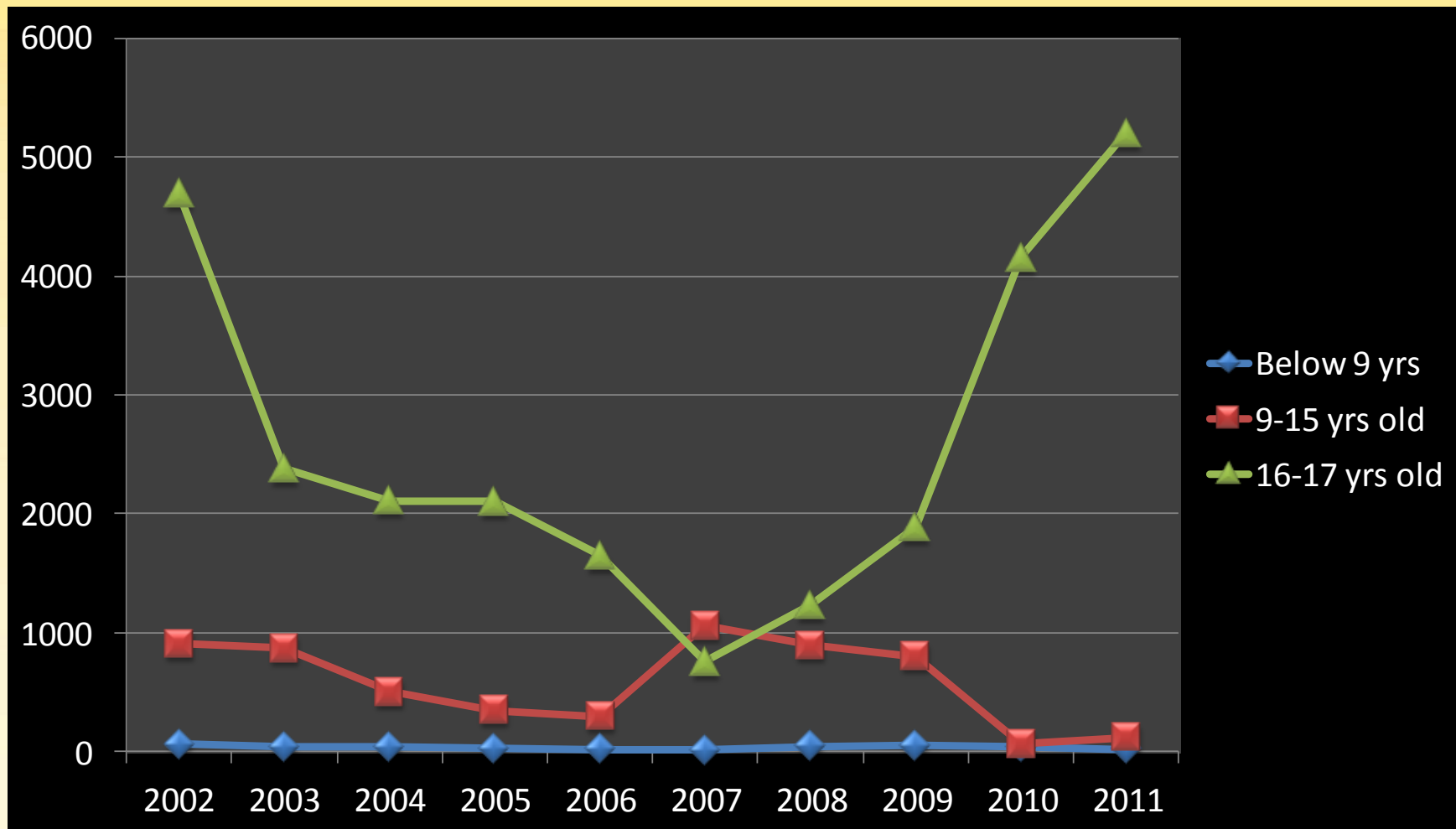


PNP Data: patterns in the data

- Nationwide Statistics from Philippine National Police (PNP)
- Covering January 2002 to December 2012 of offenses allegedly committed by children
- Does not represent the actual number of CICL
 - crimes have not yet been proven at this stage
 - incident report and not headcount
- Includes children age 0-17 years old
- Report illustrates the patterns in the data

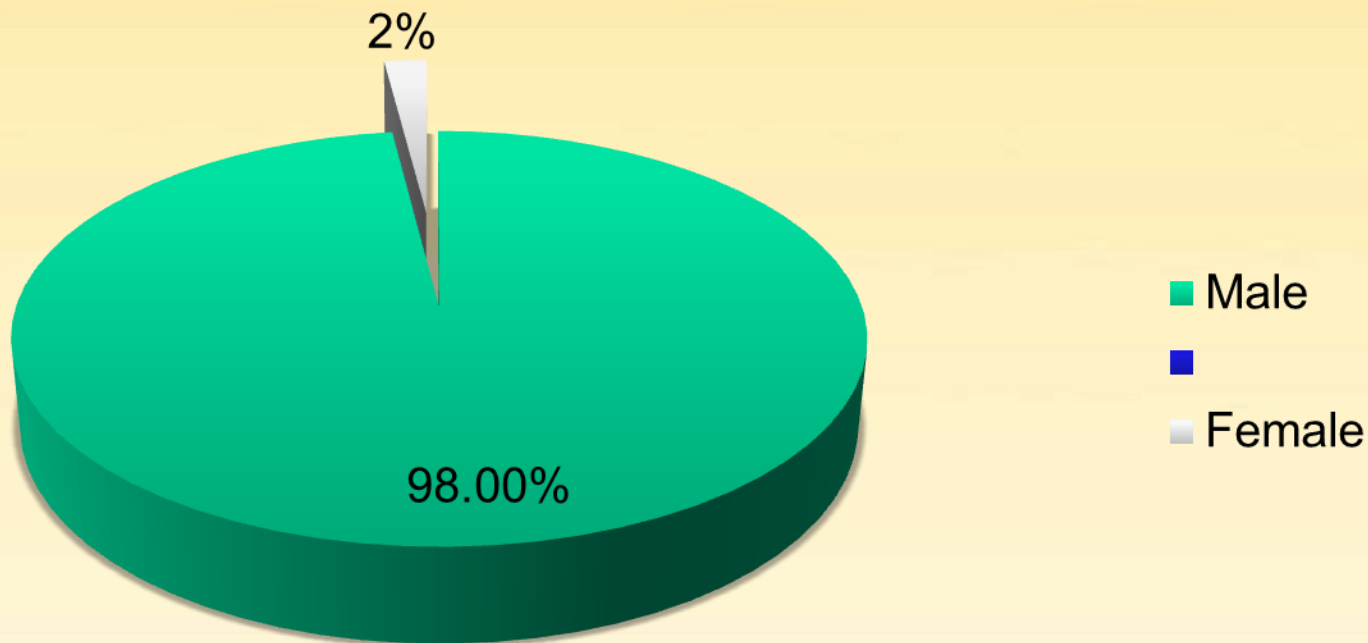
By age bracket

January 2002 – December 2012 (PNP)

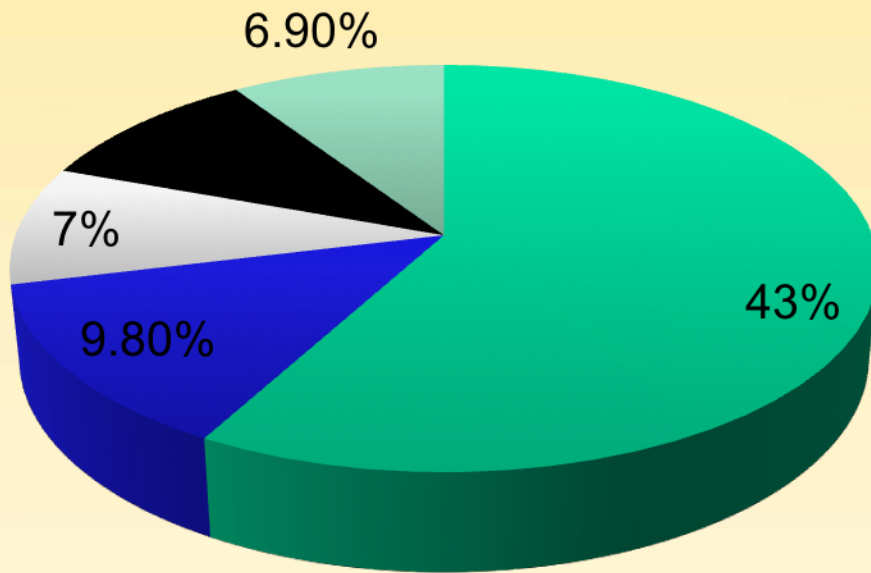


By gender PNP Data

2002 to 2012



Most common alleged crimes reported by PNP



**Top 5 alleged offences
2002 to 2012**

- 1st Theft
- 2nd Physical injuries
- 3rd solvent use
- 4th Robbery
- 5th Rape

Note Children are exempt from criminal liability
For solvent use



Stereotyping in Media

Children committing offences are prevalent phenomenon since MACR was increased to 15 years old

More children are committing serious crimes

More children are being used in drug activities

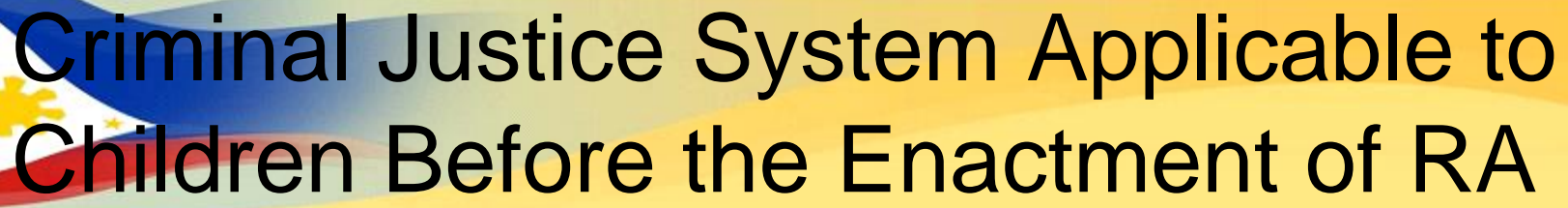
Syndicates are using children because of the higher MACR

Children have become bold because of the higher MACR

Note: so far no evidence can be obtained to back these perceptions



Development of Restorative Justice for children involved with justice system



Criminal Justice System Applicable to Children Before the Enactment of RA 9344

Adult-oriented system – the age and distinct circumstances of CICL are not taken into account

No diversion: children can be detained even for petty and light offenses

Perpetuated the stigma of criminality because children as young as 9 years old can be detained and tried even for petty crimes and status offenses (i.e. curfew)

Children were vulnerable to all forms of abuse during arrest and detention



The Juvenile Justice and Welfare Act of 2006 (RA 9344)

RA 9344 took effect in May 2006

The law is a landmark child protection law that seeks to remedy the significant problems of the plight of children in conflict with the law in the Philippines

This was an effort of over 59 government agencies, non-government organizations and international organizations and spearheading the lobbying for the passage of the law



JJWA Salient Features

Expressly stated that the framework of the law is restorative justice

Increased the MACR from 9 years old to 15 years old

Disallowed detention of children in jail

Established diversion at all levels of the criminal justice system

Required the comprehensive management of CICL from prevention to rehabilitation and reintegration through the development of a Comprehensive Juvenile Intervention Program at the national and local levels



JJWA salient features

Decriminalized status offences

Exempt children from prosecution for the following offences


- Vagrancy
- Prostitution
- Solvent use

Stiff sanctions for those who do not implement or violate the law

Created the Juvenile Justice and Welfare Council with a secretariat and corresponding budget to oversee the implementation of the law and the coordination of concerned government agencies



RESTORATIVE JUSTICE IN THE FORMAL AND INFORMAL JUSTICE SYSTEM



Diversion (at different levels of the justice system)

Court


If offense committed is punishable by over 6 years but not more than 12 years (Supreme Court Rule on CICL + establishment of a diversion committee)

Prosecution

Police

Barangay

- **Using the village justice system**



If offense is punishable by imprisonment of 6 yrs or below



Restorative Justice Initiatives

Policy and guidelines issuances based on RA 9344

Issuance of guidelines by concerned agencies for conduct of diversion within restorative justice framework:

Administrative Order No. 1 of 2008 by DSWD re Guidelines in the Conduct of diversion at the barangay, police and prosecution level

On-going development of manual on Barangay for handling CICL

On going DepEd Guidelines and Procedures in the Management of CICL Cases in School (Child Protection Committee acts as the JJ committee in schools and has the duty to constitute a Restorative Justice Panel in cases where wrong doer and offender are both in schools and parties agreed to a restorative justice plan



Restorative Justice Initiatives

Policy and guidelines issuances

Police Manual on the Management of Cases of CICL: Simplified Rules in the Apprehension and Investigation of Children in Conflict with the Law

Self-Instructional Manual for Social Workers in Assessing Discernment of CICL

Development of Guidelines in the Conduct of Jail, Youth Home and Police Stations and Inspection

Guidelines for Social Workers in Handling Children in Conflict with the Law

Guidelines for Public Attorney's Office in Handling CICL cases

Guidelines for the Local Council for the Protection of Children in Handling CICL cases

Guidelines for Prosecutors in Handling CICL cases

Guidelines for the personnel of the Bureau of Jail Management and Penology in handling CICL cases

Guidelines in the Conduct of Diversion Proceedings at all Levels

Philippine National Police Rules and Guidelines for the Proper Handling and Treatment of CICL



Restorative Justice Initiatives

Program establishments and implementation

Establishment of the Comprehensive Juvenile Intervention Program (CJIP) at the national and local level

Framework has been drafted and approved by the JJWC

Localization project is on-going and is considered top priority



Localization of CNJIP

CJIP is founded on the **principles of restorative justice** which gives emphasis on the **rehabilitation** and **reintegration** of the child in conflict with the law rather **than retribution**

The program shall consist of three levels:

Primary intervention includes general measures to promote social justice and equal opportunity, which tackle perceived root causes of offending e.g. poverty and other forms of marginalization;

Secondary intervention includes measures to assist children at risk e.g. parents are in themselves in special difficulty or are not caring appropriately for the children; and

Tertiary intervention includes measures to avoid unnecessary contact with the formal justice system and other measures to prevent re-offending.



Localization of CNJIP

- **Comprehensive National Juvenile Intervention Framework** developed by the DSWD and adopted by the JJWC- used to guide the Council, as well as their counterparts within the local government systems, in developing juvenile intervention programs
- **Under the law, the LGUs are mandated to institute a Local Comprehensive Juvenile Intervention Program (CJIP) every three years through the Local Council for the Protection of Children**
- Six years after the enactment of the law, the full implementation of RA 9344 in the LGUs remains to be seen.
- Lack of a comprehensive community-based intervention and diversion programs at the local government level is apparent



Localization of CNJIP

- The JJWC recognizes the need now to assist the local government units in utilizing the Comprehensive National Juvenile Intervention Program Framework as a basis in developing their local juvenile intervention programs
- **CHALLENGE: TRANSLATE** the **FRAMEWORK** into practical **MODELS of juvenile intervention programs** that local government units can adopt and replicate based on their distinct needs and resources.



Localization CJIP

Objective is for JJWC to collaborate with the LGUs in institutionalizing a process of developing a local comprehensive juvenile intervention program utilizing the Comprehensive National Juvenile Intervention Program Framework.



CHALLENGES AND RECOMMENDATIONS/ EFFORTS



Challenges

Proposed amendment on lowering the MACR from 15 to 12 years old

Note that only 4 years after RA 9344 took effect, some representatives from the lower house were already proposing to lower the age to 9 years old

Recommendations/ Efforts

Constant dialogue with legislators, tapping key persons in their offices, providing them materials and studies (especially on scientific studies on brain development)

Collective efforts from Member Agencies and Civil Society (including support of a group psychiatrists and psychologists who oppose the lowering of MACR)

Campaigns through internet and radio (note JJWC even put up an online poll)

Legislators decided not to lower the age and instead adopted the proposed provisions of JJWC strengthening the law

Proposed Bill is ratified by the Congress and will be submitted to the President for approval



Challenges

The need to address gaps in the implementation of the law at the national and local level (LGU compliance)

Lack of programs, structures (Bahay PagAsa)

Recommendations /Efforts

Capacity-building, technical assistance and partnership with national agencies and local government units

Localization of the comprehensive juvenile intervention program



Challenges

Lack of data as basis for policy and program decisions of the implementing agencies

Lack of an Interoperable Information Management System

Recommendations/ Efforts

Short term: Nation-wide data matching and profiling is currently being conducted to harmonize and match the data of police and local government

Establishment of an Information Management System is now a priority project (on-going)



Challenges

Attitude

- misconception and misinformation about the law
- viewed the law as not appropriate to the local context

Main hindrance in the effective implementation of the law as local government units are key to successful implementation

Recommendations/ Efforts

The implementation of a more aggressive Communications Plan both at the national and local levels to address the resistance/misconception about the principle of restorative juvenile justice system vis-à-vis the punitive criminal justice system

Through efforts of JJWC the President declared the 4th week of October of every year as the Juvenile Justice and Welfare Consciousness week.

JJWC and the children celebrated in 2012 its first JJ Consciousness week

Documentation of success stories