

# THE ROLE OF PROBATION IN TREATMENT OF CHILD OFFENDERS



# **Kenya's Youth: The facts**

- 75% of the total Kenyan population is below 30 years
- Those between 15 and 30 years old account for 32% of the population
- Over 50% of all convicted criminals are young people aged between 16 and 25 years.

# PROBATION SERVICE IN KENYA

**Coverage - 117 Stations**

**Personnel - 450 probation officers**

**Qualification - University Graduates**

Social work, Criminology

psychology, Sociology, Law,

Counselling.

# PROBATION DEPARTMENT

In the office of the VP and ministry of Home Affairs and has been in existence since 1946.

## OBJECTIVES

- a) Generation of social reports offences for the criminal justice system.
- b) Supervision and rehabilitation of offenders within the community.
- c) Reconciliation, resettlement and reintegration of offenders.

# Operational Mandates

1. Probation of Offenders Act Cap 64  
Laws of Kenya.
2. Community Service Orders Act  
No.10 of 1998 of the Laws of Kenya.

# Operational Mandates

3. Aftercare Programme. It deals with the supervision of offenders who are released from various penal institutions either on license or upon completion of their sentence for reintegration and resettlement.

# Operational Mandates

- Probation implements aftercare Programmes as per the:
  - a) Borstal Institution Act Cap 92 Laws of Kenya (for youthful offenders).
  - b) Prisons Act Cap 90 Laws of Kenya.
  - c) Mental Health Act Cap 248 Laws of Kenya.

# The Child in conflict with the law

- This is a child who commits an offence that is against the laws of Kenya. This child is above 8 years and below 18 years as prescribed in the Penal Code of the Laws of Kenya.



# The Child in conflict with the law

- Under the Penal Code, section 14 Cap 64 Laws of Kenya, a person under 8 years is not responsible for any act or omission.

# The Child in conflict with the law

- And a person under the age of 12 years is not criminally responsible for any act or omission unless it is proven that at the time of doing the act, he had the capacity to know that he ought not to have committed the act.

# Children on probation orders 2006-2009

Year	Court Referrals	No of Girls on Probation	No of Boys on Probation
2006	1998	337	1405
2007	3077	546	2363
2008	1841	483	2288
2009	817	495	2420

# Children on Community Service Orders 2006-2009

Year	No of Court Referrals	No of Boys on CSO	No of Girls on CSO
2006	604	208	42
2007	746	206	42
2008	610	172	38
2009	34	137	25

# **OFFENCES COMMITTED BY** **CHILDREN**

Stealing farm produce.

Pick pocketing.

Assault.

Arson.

Defilement.

Substance abuse.

Possession of illicit brew.

# **OFFENCES COMMITTED BY** **CHILDREN**

- Smoking bhang.
- Concealing birth.
- Infanticide.
- Touting.
- Manslaughter etc.

# PROBATION AS A SERVICE FOR CHILDREN

- As part of the juvenile justice system, the department is charged with the responsibility of generation of social reports to courts for effective and appropriate sentencing of offenders.
- It is also mandated to rehabilitate and reintegrate Child offenders who exit correction facilities back into the community

# What makes children offend?

## **1. Family factors**

- Poor parenting- permissive style, uninvolved, resistant parenting
- Dysfunctional families ( Alcoholism, marital tension, domestic violence, communication problems, family influence to crime etc)
- Parent-child conflicts



# What makes children offend?

## 2. Stress & Trauma Factors

Chronic Abuse- Exploitation, physical, sexual abuse, parental neglect . Some children move to the streets to escape the pain of the abuse and instead are initiated to a life of crime.

- Loss of parents which means the child becomes a child in need of special care and protection
- Child headed families

# What makes children offend?

## **3.Environmental Factors**

- Stress-Societal pressure to excel academically, developmental stress, the child hits back at society, by displacing their anger, stress, through antisocial behaviour like setting fire to schools, joining gangs.
- Lack of support systems in the society

# What makes children offend?

## **3.Environmental Factors**

- Poverty- the child steals to get money for food, engages in commercial sex for self support.
- Social learning- exposure to Community violence, drug abuse, commercial sex.
- Peer pressure- to join gangs, engage in commercial sex work, to abuse drugs, wear certain clothes etc

# What makes children offend?

- Exploitation by adults- According to ILO adults influencing children to commit offences is the one of the worst forms of child labour.
- Children are used as accomplices, or look out for the adult, conduits for drug trafficking, and showing children the rewards of crime so as to attract them to this life.

# What makes children offend?

## **4. Developmental Factors**

- Developmental milestones- The child is pushed out of the school system because of failure to fit in. Children with ADHD etc
- Mental health- disorders

# Child's Experience of the Justice System

- Has little or no idea of the juvenile justice process
- No one explains to the child about the role of different players/ court proceedings
- The child has to repeat their story to different strangers
- No privacy

# Child's Experience of the Justice System

- Labelled and stigmatised,
- Anxious 'What will happen to me'
- Confused
- Suspicious
- The JJ system makes the child feel helpless

# Child's Experience of the Justice System

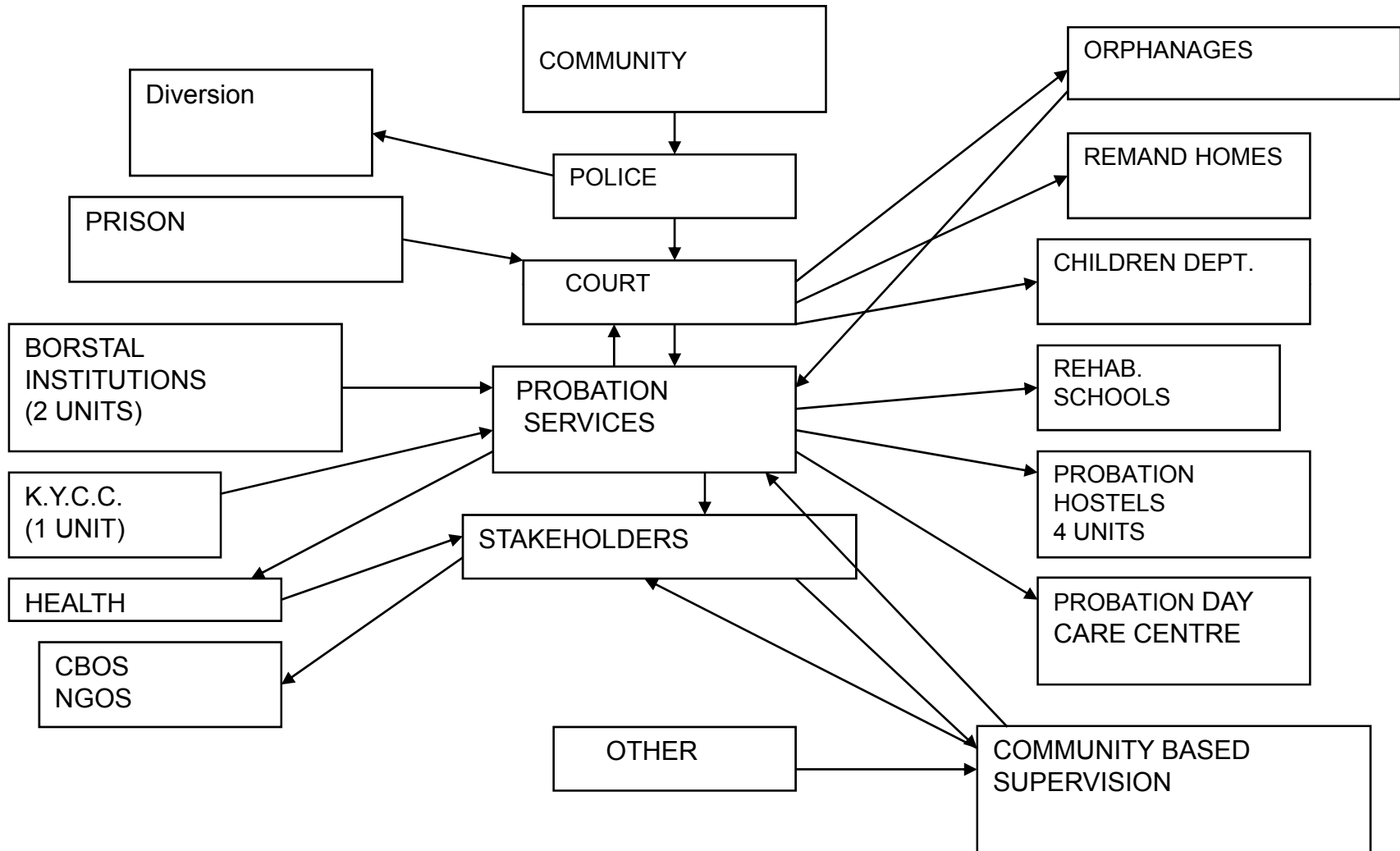
- Nervous
- Embarrassed
- Sad
- Shamed
- No Confidence
- Low Self worth
- Helpless
- Totally dependant on others to see him through the justice process



# Child's Experience of the Justice System

- Angry
- Sense of Guilt
- Intimidated by the system
- His privacy has been taken away by professionals 'out to help him/her'
- Helpless- No control over his/her fate

# The JJ Care pathway



# The Role of the Probation Officer

- The Probation officer is a social worker/ counsellor/friend.
- Entrusted with the responsibility of providing the court with detailed information about the child and their circumstances.
- Helps the court reach a most appropriate decision, which is in the best interests of the child

# The Probation Officer's Report

- This information is contained in a court document known as the Probation Officers Report ( POR) and includes:
- **The age of the child-** To identify developmental crises involved and age appropriate treatment.
- **The family background-** To establish degree of dysfunction in the family as well as prepare the family to assist in the rehabilitation of the child.

# The Probation Officer's Report

- **Parents' character** and their level of concern and the level of control they have over the offender.
- Assess effectiveness of the training and discipline the parents have given the offender.
- **The offender's growth and development history**, noting any social, economic and psychological impact they could have.
- The offender's relationship with his family.

# The Probation Officer's Report

- **The School related details-** To establish the possibility of returning the child to the school or identify another school so as to protect the child from stigma.
- **Child's known behavior-** From significant others so as to draw up a behavior modification treatment plan.

# The Probation Officer's Report

- The wishes of the child
- The wishes of the parent-guardian
- The best interest of the child
- The health of the minor including special needs.
- What made the child commit the offence
- The attitude of the child towards the offence'  
Their moral/ cognitive stage.
- The child's ability to understand effect of their behaviour on self and others
- Degree of motivation to change

# The Probation Officer's Report

- What is the most appropriate way of dealing with the offender
- Is the offender a suitable person to be supervised and rehabilitated in the community.
- What measures/resources that can be employed to divert him from crime.
- Is the offenders family/community willing to assist the offender resettle.
- What sentencing options befits the offenders needs..



# Treatment/Rehabilitation of child offenders

- Diversion
- Counselling
- School re-enrolment
- Supervision of Probation orders
- Community Service
- Commitment to correction facilities
- Vocational training/empowerment
- Referral to psychiatric care
- Job placements

# Committal to institutions





# Challenges

- Fragmented system with ineffective multi-agency approach
- Lack of appropriate training on child offenders among players
- Long delays in the court
- Community's punitive attitude
- Parents pushing children to the system

OFFENDERS CAN CHANGE.

END

THANK YOU.