

4 ALTERNATIVES TO DETENTION FOR JUVENILE OFFENDERS MANUAL OF GOOD PRACTICES IN EUROPE

The following excerpt summarises key findings about alternatives to detention for juvenile offenders and their key benefits for the parties involved in the procedures. The categorisation utilised within is non-exhaustive, and other types can be used, however, these measures include some of the most common examples.

- **Probation, community service and the imposition of fines**

The **imposition of fines** as an alternative is possible under the legislation of many jurisdictions at the sentencing stage. The juvenile offender may be obliged to make restitution or pay some form of compensation to the victim. This is also often an element within many restorative justice processes. In imposing a fine as an alternative sanction, the sentencing judge or decision-maker will have to take into account the means of the young person and his or her ability to pay.

Probation is one of the most common types of alternative measure, whereby the young offender is placed under the supervision of probation officers in the community. Certain requirements such as curfews and behaviour requirements might have to be met by the young person. In addition, other education, training, or other type of programme which is considered beneficial might be required. Probation services may also act as an access point for a young person to counselling or mentoring services. Often, specialised divisions of the probation service will be dedicated particularly to the supervision of young offenders under the age of eighteen. A probation or supervision order will be imposed by the court and will last for a fixed period of time.

Benefits

- can help ensure that there is a level of accountability of the young person, through requiring some element of community service.
- allows the young person the opportunity to repair some of the damage to the community caused by his or her offending
- If this type of task also involves a benefit to the victim of the offending, it can also be said to incorporate a restorative element
- they are implemented within the young offender's own community, thus providing an opportunity to the young person for rehabilitation and reintegration

- **Educational measures and mentoring**

Mentoring orders involve pairing the young person with an adult volunteer in the community. Mentors may work with both the young person and his or her family, and meet with them on a regular basis. They thus provide support, advice and guidance to young people, and listen to the young person and any concerns that they may have.

Educational interventions: the European rules for juveniles subject to sanctions or measures stress that sanctions or measures should be based on principles of social integration, education and the prevention of re-offending. When considering community sanctions, particular priority should be given to those which may have an educational impact as well as constituting a restorative response. Orders may require young people to attend specified educational or vocational training programmes, or attend youth groups or other programmes. Educational measures can often be delivered at day centres and allow the young person to remain in their family home, however, in some jurisdictions it is also possible to order a child's residential placement in an educational home or group for a certain period of time.

Benefits:

- can be delivered either while the young person remains in his or her community, or while the young person is placed in an educational home, foster placement, or other situation
- often involve working closely with the young person's family, as well as with the young person him or herself
- aftercare support services are also often in place if the young person is in an out-of-home placement, in order to assist them in transition back into their family and community situation
- allow for specific interventions to be targeted at particular problem behaviours, and allow for the social and psychological development of the young person
- strongly endorsed by the international guidelines, particularly the European Rules for juveniles subject to sanctions or measures

- **Care-based and therapeutic measures**

Alternative measures **based on providing care** and looking after the welfare needs of the child are used in a number of jurisdictions. A common type of measure in this category would include an order for foster care. Such care-based orders may be particularly useful if it is considered that the child's family environment is contributing to his or her offending behaviour. Orders may also be made for cohabitation with another person, family or educational group. The aim is to provide care for a young person outside of their family group for a period of time, during which their offending behaviour can also be addressed. These care-based measures can also be combined either with educational measures or therapeutic measures.

Measures with a therapeutic aim or component are also utilised in many jurisdictions. Access to counselling services, in particular, are often used as a component of another measure (for example, an offender under probation may be given access to counselling through this route), or as a measure in and of itself. Participation in anger management or to addiction programmes are also used as alternative measures, where these are appropriate for the particular young person. Interventions involving multi-systemic therapy (MST) are also becoming common as types of therapeutic interventions as alternative measures.

Benefits:

- allows for the incorporation of such measures into different legal frameworks and different legal and social contexts;
- possible to deliver a care-based intervention either while the young person remains in his or her family environment or while the child is cohabiting with another person, family or group
- particularly beneficial if it is considered that the family environment is contributing to the offending behaviour
- can be used to target specific problem behaviours, or particularly problematic groups of young people, including those who are considered to be at high risk
- to be used for young people who may not otherwise benefit from the use of alternatives
- the specific targeting of programmes at particular types of problem behaviour can allow the causes of offending behaviour to be directly addressed
- provides a mechanism for psychological techniques such as cognitive behavioural therapy to be incorporated into interventions
- the indications of positive effects on young people

- **Restorative Approaches**

Restorative justice (RJ) has become a central aspect of practice in many juvenile justice systems. RJ aims to repair the harm caused by a criminal offence by bringing together the offender, the victim, and members of the community. It is frequently used in juvenile justice systems, and often takes the form of family group conferencing. In this type of restorative justice, the child, his or her parents or guardian or another appropriate adult meet with the victim, and other members of the community, such as a teacher of the child, can also be included if it is thought to be beneficial. The process provides a space for the victim to voice how the offence has impacted on them. It is hoped that the offender will come to a greater appreciation of how their actions have caused harm, and will take responsibility for their actions. The young person will make an apology to the victim, and will undertake to make some sort of reparation or pay compensation to the victim.

Benefits:

- allows a final opportunity for the young person to avoid detention on remand
- allows a judge an important alternative and an avenue to avoid detaining the young person, wherever possible
- that very different approaches are possible to address this common problem
- provide a valuable opportunity to the young person to avoid detention at the pre-trial stage, where this would otherwise be considered necessary

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