

# Trends & Policies in Criminal Justice

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## Current Status of Child Delinquency in Criminal Justice Proceedings and Cooperation with the Community

### Necessity and Purpose

- Effective early intervention for juvenile delinquents is critical to their healthy development and prevention of repeated acts of delinquency. To this end, the 2007 amendment to the Juvenile Act lowered the minimum age of child delinquents from 12 to 10 (international age).
- Although more than 10 years have passed since the Juvenile Act amendment was initially ratified, the current status of treatment of child delinquents at public implementation level has yet to be fully explored in research literature. One potential reason for this gap in understanding may originate from the common public preconception that acts of child delinquency are far less common and less severe in magnitude than juvenile delinquency (committed by individuals in their mid-to-late teens).
- Compared to delinquents in other age groups, child delinquents who belong to the elementary school student age group may be more vulnerable in the treatment and rehabilitation process, as they are in earlier developmental stages and thus are more susceptible to harm from a negative environment or influence. Therefore when developing treatment programs for the rehabilitation of child delinquents, the inherent characteristics and complex needs of individuals in this early developmental stage should be taken into consideration. Accordingly, cooperation with the community is crucial in the creation of rehabilitation programs and policies.

- This study examines the current status of child delinquency in criminal justice proceedings and the current circumstances regarding the status of cooperation with the community in prevention and rehabilitation of child delinquency. Based on the current study's findings, the authors present policy suggestions for developing effective treatment methods that can aid in assisting the healthy development of child delinquents and prevent re- delinquency.

## Research Methods

### Reviewing the Treatment for Child Delinquents in Various Countries and the Role of the Community

- A review was conducted on the treatment of child delinquents and the role of the community in the prevention and rehabilitation of child delinquency in several major countries, including the United States, the United Kingdom, Sweden, and Japan.

### Review on Official Statistical Data

- By analyzing the data produced at the arrest stage, trends and patterns in the treatment of child delinquents were identified.
- By analyzing the data produced at the prosecution stage, trends in assigning protective dispositions for child delinquents were identified.
- By analyzing data from the Ministry of Justice, characteristics of the current status of probation sentencing and assignment to juvenile reformatories for child delinquents was assessed. Grasping the current status of probation and dispositions to juvenile reformatories for child delinquents with data from the Ministry of Justice

### Advice from Staff Members

- Advisory opinions on the current status of the treatment of child delinquents, community cooperation, and suggestions for methods of improvement were collected from experts at each stage of criminal justice proceedings, including the

police stage, the prosecution stage (judges, juvenile investigators, juvenile delinquency prevention centers workers, and classification and examination centers), and the disposition stage (probation officers, child welfare facility workers, and teachers at juvenile reformatories) Advisory opinions from workers in local communities about potential improvement methods of treatment processes of child delinquents in local communities were collected.

### In-Depth Interviews with Juveniles and Their Guardians

- By conducting in-depth interviews of child delinquents in probation and their guardians, the characteristics of child delinquents and conditions of their treatment were surveyed.
- Conditions of and individuals' opinions about experiences with interacting with the criminal justice system at a young age were assessed by conducting in-depth interviews with juveniles and their guardians.

## Highlights of the Study

### Current Status of Child Delinquents at the Police Stage

- The current study conducted a survey concerning the same items assessed in background examination reports of other juvenile delinquents. After receiving consent from juveniles and their guardians, delinquency prediction examinations of juveniles were also conducted. When conducting such examinations, it is necessary to implement a supplemental examination assessing relevant environmental factors unique to child delinquents, including the comprehensive faculty and vocabulary of child delinquents.
- Currently, guidance programs for child delinquents are typically conducted by adding them to group programs with juveniles in middle or high school, or alternatively by providing individual counseling services, although such programs are not frequently conducted. Therefore, providing earlier education and counseling (including counseling for guardians) more specifically targeted to children at the police stage is necessary.

## Current Status of Treatment for Child Delinquents at the Prosecution Stage

- The examination consists of predisposition education, education conducted by juvenile examiners, examination and interview by specialists, and examinations at a juvenile delinquency prevention center (Kumkium Center) and a probation facility. The processes of predisposition education and examination are conducted mainly for child delinquents by juvenile examiners. Unlike the examinations conducted at the police stage, the primary purpose of the examinations at the prosecution stage is to grasp an understanding of the environmental factors that may have caused the child to commit the act of delinquency in question. This examination process is advantageous as it allows for counseling and education to be concurrently conducted. However, the examination process at this stage presents some limitations, mainly because these opportunities are provided only to a small number of child delinquents.
- In cases in which a child delinquent does not have a regular source of housing, is in an unstable or dangerous home environment, or is a repeated offender of delinquent behavior, as a temporary measure, the child is entrusted to a classification and examination center or a shelter, although such cases are extremely rare. When child delinquents are entrusted to these facilities, it is necessary to provide temporary residential care facilities and resources appropriate for them, especially considering that they may become distressed because their freedom is restricted, distance from their home may make them psychologically unstable, and other difficulties may arise when they are not separately accommodated from older delinquents.

## Current Status of Dispositions for Child Delinquents

- The subparagraph 1 disposition has been imposed on child delinquents more often than any other juvenile protection dispositions. The order to attend an educational program has been rarely used because its use is reserved for juveniles at or above the age of 12. Nineteen child delinquents were under probation at the time of the survey.

The number of elementary school students entrusted to a child protection and treatment facility under the subparagraph 6 disposition was 27 at the end of 2019. Meanwhile, at the time of the survey, four child delinquents were entrusted to a juvenile reformatory for medical treatment and rehabilitation under the disposition to transfer to a juvenile reformatory. Two child delinquents were under the subparagraph 8 disposition, three under the subparagraph 9 disposition, and one under the subparagraph 10 disposition during the period between the beginning of 2015 and September 2020.

- As shown above, protection dispositions, except the subparagraph 1 disposition, have been seldom utilized for child delinquents. To promote the healthy development of child delinquents and re delinquency prevention, it is necessary to prepare more various treatment methods and make improvements to currently applicable juvenile protection dispositions in consideration of the unique characteristics of child delinquents.
- In regards to the providing education opportunities to guardians of child delinquents, education can be provided to a guardian prior to making a disposition to his/her child if the child deserves a non- disposition or becomes subject to the subparagraph 1 disposition. In many cases where a juvenile becomes subject to any other disposition, his/her guardian is required to receive education together with the child at the institution executing the disposition. Results of interviews with judges reveal that the younger juveniles were, the more orders were issued for the education of their guardians.
- Juveniles and their guardians commented that dispositions were helpful to child delinquents and their guardians. However, juveniles who could not understand the consequence (disposition) of their conduct at a younger age were hurt during the criminal judicial proceedings. Concerning the education of guardians, some respondents commented that the education was helpful in raising and understanding children. However, more in-depth consideration of the characteristics of child delinquents is needed in providing such education.

## **Current Status of Coordination and Cooperation with the Community for Treatment of Child Delinquents, Etc.**

- At the police stage, resources are systematically merged in connection with reexamination with the participation of specialists, guidance programs, etc. If child abuse is suspected, the case is often referred to a competent authority for assistance, regardless of whether financial support or counseling is necessary. However, referrals have not been made in a systematic and active manner. At the prosecution stage, community resources are merged in the examination process (examination or counseling by specialists), and efforts have been made to search for resources for which temporary measures can be implemented and merge these resources with prosecution processes. Meanwhile, resources have not been actively implemented by the courts for cases in which the intervention of welfare services is deemed necessary. At the disposition stage, under the subparagraph 1 disposition, custodians and facilities entrusted with the custody of a juvenile are held responsible for supervision. When child delinquents are given orders to attend educational programs, relevant community institutions are located and utilized as educational sites. Probation cases are referred to members of a special crime prevention committee or counselors.
- Integrated community assistance is provided to child delinquents through DreamStart (for juveniles aged 12 or less from disadvantaged classes) and the Youth Safety Network (for juveniles aged 9–24). However, assistance from the former is provided mainly to those who meet the criteria for disadvantaged classes, while the applicability of the latter program is quite limited because its target recipient population consists of adolescents rather than child delinquents. Moreover, the community also performs an important role in administering services by providing care, mental health, and counseling services. However, adequate administration of community resources is uncommon. Furthermore, it is uncommon to refer to criminal justice authorities for assistance in locating relevant resources.

## **Policy Proposals**

### **▣ Methods for Improvement in Criminal Justice Proceedings**

#### **Methods for Improvement at the Police Stage**

- At the examination stage, it is necessary to develop targeted examination tools that take into consideration and evaluate the unique developmental characteristics of child delinquents, refer specific cases to relevant specialists to conduct examinations, develop a delinquency prediction examination form which is sensitive to the vocabulary and comprehensive faculties of child delinquents, and require the assessment of whether a juvenile has suffered abuse, and intervene in cases deemed to be abusive.
- In regards to developing methods to improve treatment programs for child delinquents, it is necessary to develop a response manual that puts into consideration the characteristics of child delinquents (as both victims and perpetrators, encourage the administrations of guidance programs and counseling services for child delinquents and their guardians, promote rehabilitative judicial programs, actively optimize resources through by cooperating with school police officers, and conduct informed educational and training programs for police officers, establish systematic connections between the police and related agencies, and promote inter-agency cooperation.

#### **Methods for Improvement at the Prosecution Stage**

- In regards to improving processes at the prosecution stage, the current study recommends the promotion of the utilization of visiting examinations for younger juveniles, facilitating the communication of information to guardians by providing opportunities to participate in predisposition educational programs, training juvenile examiners, increasing human resources for examinations, and utilizing case meetings among specialists.

- Concerning measures to improve treatment methods for child delinquents, the current study recommends the active and thorough search of relevant resources within local communities which can provide temporary rehabilitation services, and protecting the welfare of child delinquents by utilizing assistants at the trial stage of prosecution.

## **Methods for Improvement at the Disposition Stage**

- Where a juvenile is entrusted to his/her guardian under the subparagraph 1 disposition, it is necessary to provide the guardian with extensive information about nearby available community resources that the guardian can enlist the assistance of during the entrustment period and facilitate the search for resources and communication of information between custodians and resources to reinforce avenues of protection for child delinquents.
- In light of the reduction of the minimum age requirement to order a child delinquent to attend an educational program, providing earlier and more appropriate education measures is highly necessary.
  - When the reduction of the minimum age requirement for educational programs is implemented, authorization to execute orders for child delinquents to attend these programs should be granted to community institutions. Furthermore, community institutions should conduct these programs on an individual basis.
  - It is necessary to develop programs appropriate for the characteristics of child delinquents, and subsequently it is also necessary to secure institutions and human resources that will facilitate these programs.
- Probation methods that take into consideration the characteristics and the developmental stage of child delinquents should be developed.
  - Providing increased avenues for receiving psychological and emotional support, site visits, etc. are of high importance for child delinquents.
- The size of subparagraph 6 facilities should be reduced in order to better accommodate for child delinquents entrusted to residential facilities located nearby their homes, and at these facilities programs appropriate for child delinquents' developmental stages should be operated.

- When child delinquents are entrusted to a reformatory for medical treatment and rehabilitation, they should be accommodated separately from regular residents, and environmental accommodations and educational programs suitable for them should be provided.
- Accessibility and quality of educational opportunities for guardians of child delinquents should be improved.
  - Education to help guardians of child delinquents' understanding of children and adolescents, as well as teach appropriate methods to raise children should be provided. In addition, it is necessary to concurrently provide individual counseling services to guardians.
  - It is also necessary to develop various programs customized to meet the needs of each guardian and provide education in consideration of the individual characteristics of guardians.

## **Method for Coordination and Cooperation with the Community**

- Police Stage
  - It is necessary to screen for and identify potential developmental disorders in child delinquents and swiftly provide necessary intervention measures as needed by enlisting the cooperation of specialists on child development, developmental disorders, etc.
  - Moreover, it is necessary to develop and administer guidance programs for child delinquents and actively integrate community resources for more efficient rehabilitative police activities.
- Prosecution Stage
  - It is necessary to bolster cooperation between courts and local governments (including encouragement of participation of local governments in juvenile protection councils, etc.)
  - Resources for psychological examination and counseling for child delinquents should be increased.

## Methods for Improvement at the Prosecution Stage

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  - The cooperation of counselors, social workers, etc. who can provide psychological and emotional support to child delinquents as state appointed assistants should be further advocated.
  - It is necessary to identify and integrate resources for temporary residential facilities for child delinquents, which should be of relatively small size and suitable for children. (cooperation of courts to assign residence to these facilities will be necessary in the future).
- Disposition Stage
  - It is necessary for institutions to work toward providing education to guardians under the subparagraph 1 disposition.
  - Moreover, when the minimum age requirement to order a child delinquent to attend an educational program is reduced, it will be necessary to identify and utilize institutions and specialists specializing in child delinquents.
  - It is necessary to locate facilities and resources appropriate for child delinquents within local communities.
- Local communities should work together to manage cases.
  - The current process in which custody and management of the child delinquent is transferred from the police and prosecution stages to the disposition stage is not adequately integrated.
  - It is necessary to grant authorization to local institutions to monitor and support child delinquents in the juvenile judicial system from the stage of investigation to the stages of disposition and follow up management (following the example of institutions such as the US Administrative for Children's Services).

## Expected Effects of Policies

- Implementing the suggested policies will contribute to developing effective treatment methods that take into consideration the age, developmental characteristics, and other qualities of child delinquents.
- Implementing the suggested policies will contribute to developing improved treatment methods for child delinquents and more integrated measures to incorporate the cooperation with community resources at each stage of the criminal justice proceedings.
- Implementing the suggested policies will contribute to increasing awareness in local communities about issues surrounding child delinquents and strengthen the capabilities of the community for preventing child delinquency
- Implementing the suggested policies will provide the basic data from which policies to promote the healthy development and prevention of delinquency in children can be developed.