

KENYA PROBATION SERVICE: LEADING THE WAY IN AFRICA AND GLOBALLY

A publication of Probation and Aftercare Service

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FOREWORD



This book on was borne out of the need to inform and create an understanding of Probation and Aftercare Service (PACS) for audiences who desire to learn about Probation Practice in Kenya and beyond. Probation practice in Kenya has come a long journey dating from the colonial era to the age of constitutionalism in Kenya 2010. This book is a reflection of Probation practice in Kenya and provides the readership a tour of various facets of probation work underpinning the contribution of PACS not only as an agency in the criminal justice system but also as a pivotal player in the administration of justice in Kenya.

This is a rare collection of aspects of Probation Service a presentation of Kenya, in perspective scaling from the fundamentals of probation practice, programmes, and the role of PACS in child, and youth justice to leveraging on collaboration and partnerships to sustain gains towards creating effective and pragmatic community corrections. The book presents thematic issues such as addressing the diversity of offenders and creating effective links with other criminal justice agencies, and it includes perspectives from both probation service staff, offenders, and victims.

The development of this book represents a significant breakthrough in securing broad acceptance of the value of effective probation practice that harnessed the contribution of individual authors drawn from academicians and practitioners, drawing upon the best expertise and experience. As Probation work surges ahead, this book is a demonstration of the journey of transformation eliciting the thought of where it was and where it envisions to sojourn.

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ABSTRACT

This book provides a comprehensive and positive reimagining of the probation practice in Kenya and the new practices that respond to emerging needs and trends within the criminal justice system. Bringing together the Chapters that have been co-authored by practitioners from Probation and Aftercare Service (PACS), the book offers an overall conceptualisation of the rehabilitative endeavour within the realities of the Probation Service in Kenya.

The book has been organised into different Chapters that cover various probation practices in Kenya. The first chapter focuses on the historical background which elucidates the evolutionary path undertaken by the department from an administrative and functional perspective. The second chapter highlights the legal, policy and international instruments that guide the department's operations as well as its contribution to government policies and agendas. Probation orders is one of the most commonly used alternative modes of punishment. This has been extensively elaborated in chapter three which spells out the conditions of probation orders in Kenya. The Chapter also discusses the mode of assessment of offenders using the Risk, Needs and Responsivity model when preparing different kinds of reports which inform the supervision, rehabilitation and resettlement processes.

Chapter four focuses on the Community Service Order (CSO) programme as an alternative to imprisonment that is used by the Kenyan courts. The Chapter covers the various facets of the CSO programme including the modes of supervision, the benefits, and the statutory organs established under the law to govern its implementation. Chapter five looks at the Aftercare program, which

is a key function of the Probation department in Kenya. The Chapter covers issues of reintegration, resettlement and re-entry of offenders into the community using the Aftercare Model and the role of probation officers in enhancing the effective implementation of the program.

Chapter six delves into discussing the concept of crime prevention from a theoretical and practical perspective. The Chapter enumerates the proactive approaches used by the PACS including the probation institutions to promote a crime-free society in tandem with the department's vision. Children in conflict with the law form a huge chunk of work for the judicial system. Chapter seven of the book addresses the issues relating to child justice by exploring the national and international legal provisions and the rehabilitation process of child offenders in Probation Institutions and in the community. Chapter eight dwells on issues of youth justice with a major focus on the issues affecting the youths in conflict with the criminal justice system, the role of Youth Corrective Training Centres and the possible intervention strategies for dealing with youth issues.

The milestones and successes gained by the Probation Department in Kenya are largely associated with collaboration and partnerships. Chapter nine of the book outlines the various victim support services provided by PACS in Kenya which are backed by different legal and policy instruments.

Chapter ten documents the different modes of Alternative Justice Systems (AJS) utilised in Kenya. Further, the Chapter highlights the role of probation officers in facilitating the AJS to promote alternative means of obtaining justice. Chapter eleven discusses emerging crimes and practices globally including cybercrime, drug trafficking and terrorism-related offences and the role of the department

in the management of these crimes, especially through advisory reports to the courts and other penal institutions. Dealing with foreign offender's forms part of the daily work for Probation Officers. Chapter twelve explains the role of the Probation Department in handling foreign offenders through the use of various advisory reports to the criminal justice system to explore various sentencing options.

Chapters thirteen and Fourteen discuss the function of quality control in the department communication and reporting unit as well as the monitoring and evaluation sections within the PACS. Further, the Chapters expound on the different frameworks used by the department in communication, monitoring, evaluation and ensuring the quality control of its operations. Financial management is a key component for the successful implementation of an organisation's programmes and activities. Chapter fifteen of the book elaborates on the issues related to the planning, budgeting and management of finances within the department. Further, the Chapter breaks down the role of the different sections and units within the department in ensuring the efficient utilisation of finances as well as meeting the strategic objectives of the department. covers issues relating to human resource management and development in line with the Probation practice in Kenya. The Chapter also incorporates various issues relating to recruitment, code of conduct and capacity building for probation office.

The last Chapter seventeen of this book offers an understanding of the critical role of the participation of the different stakeholders including the development partners, and state and non-state actors in strengthening the capacity of the department in implementing its strategic objective and delivering on its

mandate. The Probation Department undertakes the critical role of providing victim services

CHAPTER ONE

HISTORICAL BACKGROUND OF PROBATION PRACTICE

Dr. Ng'ang'a (KSG), Abraham Diedo (PACS) and Cynthia Siambe (PACS)

The concept of 'probation' is borrowed from the Latin word 'probation' which means testing and derives its historical roots from the practice of "judicial reprieve". Before the advent of democratic rule under the English common law, the courts were mandated and had the authority to temporarily suspend the execution of a sentence to allow the criminal the opportunity to appeal to the Monarch for absolution (Baker, 2019). This chapter provides a historical background of the probation practice among selected countries around the globe with much emphasis on the Kenyan context.

Definition

Probation is a non-custodial supervised court order by a probation officer for offenders found guilty of criminal offences. In most jurisdictions, the offenders on probation are required to adhere to certain conditions as stipulated by the court under the supervision of a probation officer, failure to which they risk the threat of incarceration. In countries such as the UK, the probation practice involves the supervision of offenders conditionally released from prison on parole. In other jurisdictions such as the United States, the probation practice also applies to community sentences such as suspended sentences which are perceived as alternatives to imprisonment (U.S. Department of Justice, 2014).

Adoption of Probation Practice Globally

i) The United States

in the United States, the Probation practice as an alternative to prison began in 1841 when John Augustus a cobbler, and a member of the Washington Total Abstinence Society, attended court to bail out a drunkard who became the first probationer. Members of the said society were convinced that abusers of alcohol could be rehabilitated through understanding, kindness, and sustained moral suasion, rather than through conviction and jail sentences. The offender was ordered to appear in court three weeks later for sentencing. He returned to court a sober man, accompanied by Augustus. To the astonishment of all in attendance, his appearance and demeanour had dramatically changed (NYC Probation, 2008).

Augustus then began an 18-year career as a volunteer probation officer. Not all of the offenders helped by Augustus were alcohol abusers, nor were all probationers taken him. Close attention was paid to evaluating whether or not a candidate would likely prove to be a successful subject for probation. The offender's character, age, and the people, places, and things apt to influence their behaviour were all considered, and these are currently still the main considerations when assessing a potential probationer. There's no universally accepted standard of operation and therefore probation practice is subject to statutes enacted in different countries.

ii) Japan

Probation Services in Japan dates back to the late 19th Century whereby a private company was established to help the discharged offenders in resettling down back in their communities. This gave birth to the establishment of Halfway

Houses as is the case in Kenya and the involvement of Volunteer Probation Officers. The program justice system in Japan comprises five key elements; the police, prosecution, courts, corrections (Institutional corrections) and Rehabilitation (Community Corrections). Japanese rehabilitation services are unique because of the extensive participation and cooperation of citizens, more so the Community Probation Volunteers (CPVs) who play a key role in the supervision and assistance of offenders. Generally, probation officers and VPOs work together by sharing roles in the implementation of probation and parole supervision (Akashi, 2018).

iii) England

The origins of probation in England dates back to the middle ages as a result of the harsh penalties that were being handed down for petty offences, This harshness eventually led to discontent in certain progressive segments of the English society that were concerned with the evolution of the justice system. Eventually, the courts began releasing offenders after they have entered into a recognizance to keep peace and be of good behaviour as a form of temporary release or lesser sentences (Tidmarsh, 2020). Controversially, certain courts even began suspending sentences. By the year 1886, the Probation of First Time Offenders Act was enacted and courts were allowed to appoint missionaries who followed up and report on the progress of offenders on the condition that the offenders will accept guidance from the missionaries (Nellis, 2013). The emphasis at that time was on religious mission and temperance. From England, probation services spread throughout the English-speaking colonies worldwide including Kenya and South Africa.

Adoption of Probation Practice in Africa

iv) South Africa

Probation services in South Africa began in 1906. The first Act which contributed to the development of probation services in South Africa was the First Offenders Act, 1906, of the Cape Colony. This Act did not make provision for the appointment of probation officers, but the courts were given the option of alternative sentencing in the form of offenders being placed on probation on condition of good behaviour. The regulations issued in terms of the Prisons and Reformatories Act, 1911, explicitly provided for the appointment of probation officers. These regulations, published in 1913, spelt out the duties of probation officers and the conditions of supervision for offenders. The provisions were aimed at adult offenders, but this opened the path for probation services for child offenders.

v) Kenya

In the Kenyan context, probation derives its beginnings under the British colony, resulting from a British colonial government commission of 1939. The commission observed overcrowding in prisons and consequently recommended the use of non-custodial options. Probation as a service owes its origin from Britain and the Probation Ordinance passed in 1943 with the actual implementation beginning in 1946. The commissioner of prisons was appointed as the Chief Probation officer and its functions were under Prisons Department. There were no trained probation officers and therefore the colonial government imported manpower from Britain, who later trained locals to become assistant probation officers. The service operated in urban towns and dealt with women and children. The government then established a systemic procedure on the recruitment, training and deployment of probation officers. By 1980, probation

was viewed as a profession and officers were required to have attended a two-year training in the field of sociology and social work. Currently, all officers are graduates who are specialized in the field of social sciences. The department has expanded tremendously over the years and currently operates in all courts and has offices in all the 47 counties in the country (PACS, Strategic Plan 2018-2022).

From humble beginnings, the Probation Department was confined to the then Nairobi Municipality. However, over the years as the services of the department tremendously expanded, the department operations are found in all courts countrywide. Administratively, the department has over the years been under different ministries, the latest being under the State Department of Correctional Services (SDCS) within the Ministry of Interior and Coordination of National Government. Additionally, the department is a member of the National Council on the Administration of Justice (NCAJ) and conducts its duties through a collaborative approach to contribute and enhance the administration of justice to all Kenyans (Probation Service & Aftercare Service Strategic Plan 2018-2022). Previously, the department was domiciled under the Vice President's Office and Ministry of Home Affairs; under the Public Safety, Law and Order Sector Review of the Government constituted to enhance and promote security in the Country (PACS, Strategic Plan 2008-2012). Currently, it is commonly known as Probation and After Care Service which is abbreviated as PACS.

Over time the Probation service grew to over 1000 officers, who offer a variety of services including the core probation and rehabilitation service. The duties of probation officers include the preparation of Probation officer's reports, bail assessment reports, Community Service reports, Sentence Review Reports,

Victim Impact statement reports, Pre-release reports to the power of Mercy Advisory Committee, Environmental Adjustment Reports to probation Hostels/borstal institutions/Rehabilitation School and Committal to Probation Hostels.

CHAPTER TWO

THE FUNDAMENTALS OF PROBATION PRACTICE IN KENYA

Mary Mbau HSC (PACS), Jarred Nyachae (PACS) and James Mwanza (PACS)

Introduction

This chapter enumerates the vision, mission, objectives, core values and mandates that guide probation practice in Kenya. Additionally, the chapter highlights the key legal and policy documents, and international instruments through which the department derives its operational mandates and the department's contribution to government policies and agendas.

For effective and efficient service delivery Probation Practice in Kenya embraces the following:

a) VISION

"A just, secure and crime-free society"

b) MISSION

"To promote and enhance the administration of justice, community safety and public protection through the provision of social inquiry reports, supervision, rehabilitation and reintegration of non-custodial offenders, victim support and crime prevention"

c) CORE VALUES

i) **Integrity:** upholding transparency and accountability ii)

Fairness: impartial and just without favouritism or discrimination iii)

Confidentiality: maintaining a high level of confidentiality in performing our duties

iv) **Reliability:** trustworthy and performing consistently well

v) **Professionalism:** being competency oriented

vi) **Respect for human dignity:** a high regard for each and every person

d) OBJECTIVES

As a member of the National Council on Administration of Justice (NCAJ), the key objectives of PACS include:

- i) To generate information for the dispensation of criminal justice
- ii) To supervise court orders, penal sanctions and rehabilitate offenders and ex-offenders
- iii) To reintegrate and resettle offenders
- iv) To participate in crime prevention and public safety
- v) To promote, encourage and participate in the protection of victims' rights and welfare

The Department ensures that these objectives are achieved by executing the following functions:

- i) Conducting social inquiries of accused persons, offenders and petitioners for preparation of pre-bail, pre-trial, pre-sentence or pre-release reports
- ii) Preparing and presenting reports to courts and other penal organs for decision making and dispensation of justice
- iii) Supervising offenders on presidential pardon orders, non-custodial orders and release licenses

- iv) Promoting crime prevention activities to enhance public safety
- v) Providing services for the protection and promotion of human rights and welfare of victims and offenders
- vi) Developing and implementing correctional programs for offenders serving various non-custodial measures
- vii) Reintegrating and resettling non-custodial offenders and those leaving correctional institutions back to the community
- viii) Facilitating alternative dispute resolution mechanisms
- ix) Providing temporary accommodation to needy and deserving offenders in probation hostels and transitional houses

PACS has a statement of purpose that helps in pursuing the mandate and it states: "We are committed to the administration of justice, national security and public safety" (PACS, Strategic Plan 2018-2022)

e) MANDATE

The department's mandate is derived from Executive Order No. 1 of June 2018. The core mandate of the department is derived from a number of statutes which include the following:

- i) The Probation of Offenders Act, Cap. 64
- ii) Community Services Orders Act, Cap 93
- iii) The Power of Mercy Act, No. 21 of 2011
- iv) Prisons Act, Cap 90
- v) The Borstal Institutions Act, Cap 92
- vi) Children's Act, No.8 of 2006
- vii) The Sexual Offences Act, No.3 of 2006

- viii) Prevention of Terrorism Act, No. 30 of 2012
- ix) Victim Protection Act, No.17 of 2014
- x) The Criminal Procedure Code, Cap 75
- xi) The Penal Code, Cap 63

f) POLICY/LEGAL DOCUMENTS AND INTERNATIONAL INSTRUMENTS

A solid and comprehensive legal framework is a prerequisite for establishing legal mandates, functions and allocation of resources and the strengthening of service delivery. As a department, PACS has endeavoured to uphold, respect and defend the Constitution of Kenya through the various programmes and services offered to stakeholders. The mandate of PACS is derived from Executive Order No. 1 of June 2018 which outlines the different functions of the department. To aid this, PACS utilizes various legal instruments (both domestic and international), as well as policies, and regulations that are relevant to its functions. Kenya is a signatory to international instruments thus the same will apply.

1) LEGAL INSTRUMENTS

Probation and After Care Service derives its mandate from two primary legal instruments:

The Probation of offenders Act Chapter 64 laws of Kenya. This law was enacted in 1943 and empowers the department to provide advisory reports to court for sentencing and making a probation order, supervision of offenders placed on probation and other procedural issues. The Act prescribes for the appointment of Probation Officers, makes rules for the committees it establishes, the establishment of Probation Institutions, the powers of the Cabinet Secretary and the functions of the Director of Probation.

On January 18th 2019, the specific amendments made to the Probation of offenders Act chapter 64 took effect following the Statute Law Miscellaneous Amendment Act no. 18/2018 that was assented to by the President. The specific amendments to the Act include:

- i. Definition of the Director of Probation Services replaced by the 'Head' of Probation and Aftercare Services with the office being situated in the Public Service;
- ii. Making it mandatory for the presentence reports to be prepared by a Probation Officer before the making of a probation order;
- iii. Replacing the term 'youth' at definition with 'age' as a key factor for courts to consider before making a probation order;
- iv. Grants the court the discretionary power to consider the view of the victim as contained in the presentence reports before making a probation order;
- v. Allows Probation Officers the 'right' to access all records and information held by any person or authority for the purpose of preparing presentence reports;
- vi. The law demand for the presentence reports to include a recommendation on the suitable period of supervision, rehabilitation programmes and the necessary mechanisms that will reduce the risk of re-offending

The Community Service Orders Act Cap 93 Laws of Kenya. This act was established in 1998 to establish Community Service Orders. The Act makes provision for the court to make a Community Service Order (CSO) as an alternative to imprisonment. The CSO also serves as a pay-back mechanism for the community for a category of offenders. The Act established committees and the CSO secretariat responsible for running CSO affairs and prescribes the rules that govern the implementation of the Act and the operational and procedural issues. The Act also provides for the appointment of supervisors and community

service officers as well as prescribes the kind of work that offenders should undertake and the category of work agencies that can utilize CSO offenders. On January 18th 2019, compelling insertions/amendments were made to the Community Service Orders to include:

- i) The courts must get a Probation Officer's report before making a Community Service Order;
- ii) A requirement that those placed on the order should not be deemed convicted in the first instance unless they recidivate;
- iii) Exceptions are provided for a category of offenders that cannot be placed on CSO by a court including those who have committed serious crimes such as corruption, terrorism and sexual violence;
- iv) Further adjustments were also made to the functions of the National Community Services Orders Committee.

2) SUPPORTIVE LEGISLATIONS GOVERNING PACS FUNCTIONS

1. Children's Act no.8 of 2001 laws of Kenya: The act provides for the treatment of all children in need of care and protection and those in conflict with the law. Sec 52 of the Act provides for the supervision of children leaving rehabilitation schools back to the community for a period of two years. The role of Probation Officers entails the provision of social inquiry reports relating to the committal of children offenders to rehabilitation institutions and the aftercare provided in the form of supervision after they leave the institution.

2. The Sexual Offences Act No.3 of 2006 laws of Kenya: This law mandates the Probation Officers to generate pre-sentence advisory reports on the accused persons that are declared as dangerous sex offenders. The PACS department is mandated to undertake a post-penal five-year rehabilitation and

supervision period on the sex offenders that have been declared as dangerous upon exit from prison.

3. Prevention of Terrorism Act N. 30 of 2012 laws of Kenya: The PACS department is concertededly expected to undertake the role of protecting the commission of terrorism acts. The role of Probation Officers is to conduct social inquiries to inform reintegration, supervision and offer support services to aid in the reintegration of returnees.

4. Prevention of Domestic Violence Act No.2 of 2015: This Act mentions Probation Officers and accords them with several roles but without clear regulations to guide the practice. The applicable sections include:

Sec **2(h)** has provided for a Probation Officer as one of the “applicant’s representative” who may make an application for a protection order on behalf of an applicant.

Sec **9(2) (e)** also provides for a Probation Officer as one of the persons through whom a child may make the application for a protection order. Sec **6 (1)** which provides for duties of a person to whom a complainant of domestic violence is made is applicable when a Probation Officer receives complaints

5. Prohibition of Female Genital Mutilation Act No. 32 of 2011: The Act provides for Probation Officers in: Sec **2** of the law enforcement officers alongside the police and others. Therefore, by implication, Probation Officers are required to implement the provisions of the Act by enforcing sections 19-20 which have created offences under the Act that if a person commits is liable for legal action.

Sec **26** grants law enforcement officers under the Act the right of entry into premises without a warrant, to enter any premises for the purposes of ascertaining whether there is or has been, on or in connection with such premises any contravention of this Act.

6. The Criminal Procedure Code Cap 75 laws of Kenya: The relevant sections implemented by the Probation Services include: The provision of pre-bail reports in bail decision making pursuant to Sec **123 & 123 A**, preparation of presentence reports relating to procedures on Plea Bargaining Agreements and sentence review reports by the High Court and the production of victim impact statements. Sec **166** also mandates the Department to undertake the role of supervision of psychiatric offenders in the community as well as overseeing restitution measures as costs and compensation.

7. The Penal Code Cap 63 laws of Kenya: in relation to the prescribed penal sanctions under Sec 24 which specifies the penalties that may be meted out to accused persons including CSO, fines, compensation, conditional discharge, suspended sentences and imprisonment among others.

8. Victim Protection Act No. 17 of 2014 laws of Kenya: in relation to victim support services offered to offenders and other routine work carried out to Probation Officers in court. The role of Probation Officers is to provide bail information reports, and victim impact statements, where required undertake reconciliation and mediation, provision of victim support services and protection at the pre-release stage.

9. The Borstal Institution Act Cap 92 laws of Kenya: The Act provides for the committal of youthful offenders to institutions which is done upon the recommendation of a Probation Officer as well as. It also includes providing supervision and empowerment support to the youthful offenders during the post-penal supervision period.

10. The Power of Mercy Act No. 21 of 2011 laws of Kenya: Sec 22(2) of the law concerns the release of long-term prisoners including those serving life imprisonment, on death row and psychiatric or special category offenders. The role of Probation Officers includes conducting social inquiries both at the prison levels (PMR1) and undertaking home inquiries (PMR2) and generating the POMAC reports to relevant authorities.

11. Prisons Act Cap 90: This is the primary Act governing the Prison Service where Sec 74(K) makes provisions for the 'aftercare' of offenders in existing prisons for the purposes of reintegration and resettlement back to the community which is a key function of the Probation and Aftercare Services Department. Also, Sec **31(2)** of the Act allows access for Probation Officers to prisons for the purpose of conducting social inquiries.

3) POLICIES AND REGULATIONS GOVERNING PACS FUNCTIONS

1. National Bail and Bond Policy guidelines

In Kenya, the National Council on the Administration of Justice (NCAJ) developed the Bail and Bond policy guidelines in 2015 to guide the police and judicial officers in the application of laws that provide for bail and bond.

The Constitution of Kenya under Article 49(1) (h) provides an arrested person with the right "to be released on bond or bail, on reasonable conditions, pending

a charge or trial, unless there are compelling reasons not to be released.” Further, the Constitution under Article 49(2) provides that “A person shall not be remanded in custody for an offence if the offence is punishable by a fine only or by imprisonment for not more than six months.”

Sec 4.11 mandates the court to seek independent information if they are to make fair and appropriate bail decisions. Further sec. **4.12** mandates the Probation and Aftercare Service to prepare bail reports at the request of the court. A follow up on Sec **4.26 (d)** on the procedures for bail hearing, officers of the Probation and Aftercare Service are required to prepare bail reports as soon as practicable but not later than two weeks from the time of the request. Under the supervision of bail and bond terms and conditions, Sec **5(1)** Probation Officers may be tasked to supervise an accused person who has been released on bail, with the goal of ensuring that the accused person complies with bail conditions and attends court as and when required. However, the lack of a bail supervision system in Kenya Sec **5(2)** presently makes it difficult to enforce the bail conditions and is responsible for the high absconding rates among persons granted bail or bond, particularly free bonds and cash bail (Migai Akech & Sarah Kinyanjui, 2011).

On inter-agency coordination, Sec **6 (32)** of the policy guidelines mandates the NCAJ to collaborate with the PACS to create awareness among the public that the grant of bail to an accused person does not amount to an acquittal.

2. Sentencing Policy guidelines: In Kenya, the sentencing policy guidelines for judges and magistrates were developed by a Task Force that was appointed in 2014 through a Gazette Notice No. 4087 led by Hon. Justice Musagha Mbogoli.

The guidelines were adopted in 2006 after being launched by then Chief Justice Dr Willy Mutunga. The mandate of the policy guidelines is to review past sentencing patterns and policies and provide recommendations on how to reduce the unwarranted disparity and promote proportionality in passing judgment.

Part IV of the sentencing policy guidelines recognizes the contribution of the different agencies in the criminal justice system towards meeting the objectives of the sentencing regime. It points out the roles of courts and other key players, that is, the Court Users Committees, Kenya Prisons Service, **Probation and Aftercare Services**, Kenya Police Service and the Children's Department. In particular, it emphasizes the exercise of judges' and magistrates' authority to provide oversight over sentences imposed.

Sec **22.8** recognizes that probation officers bear the duty to provide accurate, objective and reliable information about the offender, victim and the community which would assist the court in reaching the most appropriate sentence. This requires the probation officer to gather information from all the parties involved to avoid biased information and/or conclusions. Further Sec **22.13** stipulates that in obtaining information, probation/children officers should ensure that they conduct balanced interviews (interview both opposing sides) to avoid bias.

Part V of the sentencing policy guidelines on Inter-agency coordination and oversight of sentences imposed, Sec **26.1** recognizes that; where a court is of the opinion that an offender needs to be rehabilitated and imposes a noncustodial probation order, the realization of this objective is dependent upon the Department of Probation and Aftercare Services.

3) PACS CONTRIBUTION TO GOVERNMENT POLICIES AND AGENDAS

1. Universal Sustainable Development Goals (SDGs)

The Sustainable Development Goals (SDGs) were developed in 2015 by the United Nations General Assembly and are intended to be accomplished by the year 2030. The SDGs comprise or are a collection of seventeen interconnected global goals that are designed to be a 'blueprint' for achieving a better and sustainable future for humanity (UNDP, 2018).

Goal **16** seeks to “promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels”. PACS undertakes a major contribution towards the attainment of SDG 16 through the effective management of noncustodial offenders and ensuring that the offenders placed under the department’s custody are effectively supervised, rehabilitated and reintegrated back into the community.

PACS also contributes toward creating peaceful societies in its role in the administration of justice by promoting the rule of law and the national and international levels. This is achieved through the generation of social inquiry reports in prescribed formats and standards to the courts, statutory penal review and government organs in a timely manner to enable speedy access to justice.

2. Big Four Agenda

The Kenya Government has prioritised the policy objectives under the four pillars of the agenda to accelerate the growth of the economy. These include manufacturing and job creation, universal health care, food security and affordable housing (The Presidency).

As a key agency in the criminal justice system, PACS acts as an enable in the achievement of the big four agenda in different ways:

Manufacturing and job creation: the department provides apprenticeships, attachments and internships to youths in various learning institutions. Also, the department provides skills transfer to offenders as a form of empowerment in probation institutions by providing them with requisite skills, knowledge and tools. The department is actively engaged in the decongestion exercise by recommending alternative measures to imprisonment during sentence reviews, and through the bail information and supervision programme that encourages accused persons to be productive and contribute toward national development.

Universal healthcare coverage: PACS undertakes the role of creating awareness among all the offenders under the non-custodial supervision on the importance of universal healthcare services and how they can access it. The department lays emphasis on the enrolment of the offenders under the NHIF scheme as well as seeking medical cover groups for the offenders in the probation institutions.

Affordable housing: PACS undertakes the vital role of transfer of vocational skills such as masonry, carpentry, plumbing and electric wiring to enable the offenders to contribute towards the attainment of this pillar.

Food security: The department contributes towards the achievement of this pillar by sensitizing and empowering offenders under the non-custodial supervision on the importance of sustainable agricultural practices by increasing agricultural productivity within Kimumu Probation Hostel in line with the

government aspirations of tapping the knowledge of small-scale farmers to increase the country's food production.

3. Kenya Vision 2030

The Kenya Vision 2030 is the country's development programme from 2008 to 2030 that was launched on 10th June 2008 by then-President Mwai Kibaki with the intention of transforming the country into a newly-industrializing and middle-income country. The vision 20230 is anchored in three main pillars namely the economic (achieve a 10% growth rate annually), social (promote just, cohesive and equitable social development) and political pillars (promote issue-based, people-centred, and accountable political system).

PACS undertakes a major role in promoting the social pillar through the Community Service programmes undertaken at the community levels to promote safety. The department is also an enabler of the economic pillar through the empowerment of offenders under the different programmes to ensure they are rehabilitated and reduce recidivism; thereby promoting community safety.

4. Medium III Plan (2018-2022)

The theme of the MTP III is "transforming lives and advancing the socioeconomic development through the big four" where priority is accorded to governance and the rule of law. The contribution of PACS involves actively participating in the criminal justice system in the Governance, Justice, Law and Order Sector (GJLOS) as well as the Peace, Conflict and Security Sector.

4) International Instruments relevant to PACS

1. The United Nations Standard Minimum Rules for Non-Custodial Measures (Tokyo Rules)

These were adopted by the General Assembly resolution 45/110 of December 1990 with the fundamental aims of providing a set of basic principles to promote the use of non-custodial measures as well as minimum safeguards for persons subject to alternatives of imprisonment. The rules are also intended to promote greater community involvement in the management of criminal justice in the treatment of offenders and promote among the offenders a sense of responsibility towards the society.

Sec. 7 provides for the generation of social inquiry reports where the judicial authority may avail itself of a report prepared by a competent, authorized official or agency. The role of Probation Officers is to prepare social inquiry reports that contain the social information of the offender that is relevant to the person's pattern of offending and current offences. Further **Sec 7(1)** stipulates that the social inquiry reports should contain information and recommendations that are relevant to the sentencing procedure. The role of Probation Officers is also captured in **Sec 10** on supervision to reduce reoffending and assist the reintegration of the offender and promote community safety.

2. The United Nations Rules on the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules)

These were adopted by the General Assembly resolution 2010/16 of 22 July 2010 on the treatment of women prisoners and non-custodial offenders.

Rule 61 states “when sentencing women offenders, the courts shall have the power to consider the mitigating factors such as the lack of criminal history and the relative non-severity and nature of the criminal conduct, in the light of the women’s caregiving responsibilities and typical backgrounds”.

PACS plays a major role in the treatment of women offenders as captured in **Rule 61** on the generation of social inquiry reports that helps in the sentencing process. **Rule 63** provides for the use of various sentencing dispositions for women offenders where they can be considered for early release. Probation Officers contribute towards this rule through the generation of different reports such as POAMC and sentence reviews for long-term women prisoners that can be released and reintegrated back into the community while being supervised to cater for their specific needs.

3. The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)

These were adopted by the General Assembly resolution 40/33 of 29 November December 1985 with the fundamental objective of fostering the well-being of the juvenile by reducing the need for intervention under the law. For those in conflict with the law, the rules endeavour to promote fair and humane treatment during the trial process, reducing delinquency levels and maintenance of a peaceful order in society **(1.4)**

Rule **16.1** states “in all cases involving minor offences, before a 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” Probation Officers contribute towards promoting juvenile justice as contained in Rule 16 by social inquiry reports that aid in most legal proceedings involving juveniles.

Rule 18 highlights various disposition measures that shall be made available to the component authority while dealing with juveniles as much as possible to avoid institutionalization. Those relevant to PACS include probation, community service orders, orders to participate in group counselling and similar activities, and supervision orders among others.

CHAPTER THREE

PROBATION ORDERS

Joe Mwendwa(PACS), Edwin Kigen (PACS) and Jenevive Akinyi (PACS)

Punishment of offenders is one of the societal forms of reaction to crime. Probation Order is among the most commonly used alternatives to imprisonment. It is a form of community-based judicial penalty meant for minor and first-time offender.

The term 'probation' is derived from the latin word 'probare' which means 'to test' or 'to prove'. Etymologically, probation means 'I prove my worth'. Probation has been widely accepted as one of the non-institutional methods of dealing with corrigible offenders, particularly the young offenders and the first offenders.

Probation is a period of supervision over an offender, ordered by the court instead of serving time in prison. It can be understood as the conditional release of an offender on the promise of good behaviour. It aims at rehabilitation of offenders by returning them to society during the period of supervision rather than sending them into an unnatural and socially unhealthy atmosphere of prisons.

According to Don M Gottfredson – "Probation is a procedure by which a convicted person is released by the Court without imprisonment subject to conditions imposed by the Court. Thus, Probation is part of the decision –making process of judges at the time of sentencing". According to Donald Taft- "Probation is the postponement of final judgement or sentence in a criminal

case, giving the offender an opportunity to improve his conduct and to readjust himself to the community, often on condition imposed by the court and under the guidance or supervision of an officer of the court.

The philosophy underlying probation assumes that most persons who become criminals do so because of their environment and special circumstances and that in suitable cases it is possible to change the conditions which led to a person's fall from proper standards and reclaim him as a sound normal citizen.

Probation orders programme in Kenya was introduced by the British colonial administration in 1941 with the main aim of curbing the increasing prison and detention camp population in the colony. In 1943 the first probation ordinance was published and it commenced work in 1946. The main function of the body was to supervise women and children granted non-custodial sentences for minor offences within the scope of Nairobi region. In time, the scope of probation work expanded beyond just women and children offenders to include offenders of all demographics and it endeavoured to cover all the regions of country. Probation orders provide the embodiment of the department's supervision and rehabilitation programme.

The programme involves placement of an offender under the supervision of a probation officer for compliance with the conditions of the order to ensure the offender lives a law-abiding life and does not revert back to crime.

Social Inquiries

Social inquiry and pre-sentence reports form one of the key features of probation work. A social inquiry or investigation is a process of generating data

and information on a specific subject matter or an offender for the purpose of documenting and understanding the attendant causes of behaviour and events. Pre-sentence reports provide advisory information to the courts with a view to the court making sentencing verdicts, including decisions on alternative measures to imprisonment. The investigations are conducted with the aim of collating verifiable information and for writing various assessment reports including pre-sentence reports.

Mandate

Various constitutional and legislative mandates influence the generation of inquiries and the pre-sentence reports. These include the constitutions under Art 49(1h) and (2), section 4(1) and (2) of the Probation of Offenders Act, section 3(1) of the Community Service Orders Act, section 37 (I) of the CPC, section 39 of the Sexual Offences Act, section 38, the Penal Code, and part XIII of the Children's Act of 2001. Rule 7.1 of the United Nations Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules) provide for the preparation of a social inquiry report to the judicial authority by a competent authorized official or agency whose content would detail a person's pattern of offending and current offence. The report should be factual, objective and unbiased.

The UN Rules on the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (The Bangkok Rules) supplement the Tokyo Rules and provide standards tailored to the gender-specific² background and needs of women offenders (see Rules 57-66 on sentencing and non-custodial measures and sanctions).

The UN Convention on the Rights of the Child (to which Kenya is a State Party) demands that courts must consider the best interests of the child when making

a decision that concerns children. This means that the best interests of the child of an offender must be considered when sentencing.

The African Charter on the Rights and Welfare of the Child (to which Kenya is a signatory) provides that 'States Parties shall undertake to provide special treatment to expectant mothers and to mothers of infants and young children who have been accused or found guilty of infringing the penal law and shall in particular: (a) ensure that a non-custodial sentence will always be first considered when sentencing such mothers.'³

Furthermore, the Sentencing Policy Guidelines 2016⁴ for judges and magistrates include guidance relevant for probation officers, notably with regard to sentencing options (Part II), categories of offenders requiring particular attention (Part III) and with regard to the duties of probation officers (Part IV, paras. 22.8 – 22.16). The process of making a probation order is preceded by the court calling for a presentence report.

Presentence Report

Pre-sentence Report (PSR) is a report prepared by a probation officer on request by the court. It is a report of the social inquiry conducted to find out the history including the educational, criminal, family, and social background of a person convicted of a crime and where applicable the impact of the offence on the victim. It summarizes for a court the background information needed to determine if there are extenuating circumstances which should influence the severity or leniency of the sentence to be imposed.

In the context of pre-sentence investigations, the aim of social inquiries is to produce information that forms the basis for assessing offenders and advising the courts on the suitability for a particular mode of sentence. Specifically, the aim of social investigations in the light of a pre-sentence report is to (1), appraise the background, personality and conduct of the offenders in the light of the offence committed and what they think of their ill action, (2) identify the criminogenic factors at play (the offender's risk and needs factors), (3) evaluate the seriousness of the offence and the impact on victims in order to determine a proportionate sanction, (4) identify the likely impact of a sentence on any dependents, (5) engage families, employers, partnership organizations and significant others in the community about the offender.

Considerations when compiling presentence reports

The report prepared must be objective, impartial and factually accurate. This can be realized through social inquiries, assessment instruments (where applicable) and verifiable documents. The report must be based on a one-tone interview with the offender and be verified with other sources, which can include family members/ significant others where admissible. It must provide an understanding of the nature of the offence and circumstances of the offender, the causes of the deviant behaviour and the attendant risk that may be created on the public. The report must be free from discriminatory language and stereotypes. The report should be gender-sensitive, taking into account the specific background of women offenders and the impact of sentencing on both them and their children and families, in line with the UN Bangkok Rules.

If the offender has any care-giving responsibilities for children, the report must provide the court with sufficient information to allow the court to take the best

interests of the children into account when sentencing (see Article 3 of the Convention on the Rights of the Child).

The report needs to state explicitly whether the offender is suitable for a community sentence. This may highlight the purpose of the community order preferred, desired outcomes and the envisaged interventions to be undertaken, including supervision levels.

It may also include any special condition that the court may consider appropriate for the offender, including residential orders and restriction of movement, if such orders deemed are prudent in securing the offenders abidance with a community sentence.

The report should encapsulate the opinion of the victim, where admissible, with a view to providing protection to the victim and the offender and also for the promotion of desired reconciliation. The conclusion of the report must provide an evaluation of the offender's motivations, needs, ability to change and action to be taken to reduce re-offending. Professional judgment is required to weigh up the needs of each case and assess, on balance, which recommendation is suitable.

Conditions of Probation Order in Kenya

The probation order requires an offender to be placed under the supervision of a probation officer in lieu of imprisonment. The supervision is can be between six months (6) and three (3) years as may be pronounced by the court. The order may also include compensation orders. The court retains the residual powers to sentence the offender a fresh in case of breach of order. The following

are the provisions of the probation orders which the offender is ordered to obey (1) be of good behaviour during the period of probation, (2) report to the Probation Officer once a month or more frequently if required, (3) not associate with anyone with whom the offender is forbidden to associate with, (4) subject to visits from the Probation Officer, at your home or place of residence, (5) be honest and truthful to the Probation Officer with regard residence, conduct or employment, (6) report to the Probation Officer any change of your employment or residence. (7) abstain from over-indulgence in intoxicating liquor, (8) endeavor to obtain and remain in regular employment and follow any directions or advice given by the Probation Officer, (9) the offender may also be directed to reside at a given place including a probation hostel, (10) there may be additional condition ordered by the Court and (11) the offender may also be ordered to enter into a recognizance with or without a surety of a specified amount.

ASSESSMENT AND REHABILITATION OF OFFENDERS

Building a Working Alliance

Working with offenders on probation is “Relational Business” (Geiran & Durnescu, 2019). Evidence shows that offenders who have a positive and supportive relationship with their supervisors are less likely to re-offend. It is therefore imperative that probation officers are able to develop positive professional relationships with offenders in furtherance of this process.

Geiran and Durnescu (2019) state that it is important for Probation officers to recognize that offenders placed to serve community sentences are involuntary clients. This alludes to the fact that they do not choose to seek help or guidance from the probation service. They are instead obliged by a court of law to seek such services where failure to adhere to the orders come with a risk of a

custodial sanction. It is therefore to be expected that this nature of clients will present with a degree of resistance.

Probation officers therefore play an important role in influencing the offender's motivation to participate in their rehabilitation by working on the quality of the professional relationship or applying other motivational techniques.

To enhance the working relationship with the probation clients it is important that the probation officer such qualities as integrity and trustworthiness; the ability to show empathy and concern for the clients; ability to listen without passing judgement; and the ability to assist in practical ways to help the clients to solve the problems that they may experience from time to time.

Further, Newman (1997) proposed several factors that were shown to work in psychotherapeutic setting but are relevant in the probation context including speaking directly, simply and honestly with the clients and taking enough time to ask about the client's thoughts and feelings about being on supervision. Newman further suggested that the therapeutic relationship would be fostered by focusing on the client's distress; acknowledging the client's ambivalence while appreciating that having to serve a probation order can be difficult; appealing to the client's area of positive self-esteem; asking open-ended questions and maintaining confidentiality at all times.

Additionally, Trotter (2006) proposed four strategies can aid in developing a strong professional relationship which include, role clarification, empathy, optimism and finally, the cautious use of humour and self-disclosure. He emphasizes that proper clarification of the probation officer's role is particularly

key in developing a working and professional relationship with the clients. He states that probation officers should be keen to cover six key areas in the initial sessions with the client. First, the dual role of probation supervision (support and supervision). The supervision role alludes to the requirement (of the probation officer) to aid in enforcing the orders put in place by the courts including revoking the probation order or reporting the client to the authorities in cases of breach. The support role on the other hand pertains to the rehabilitative duty of the probation officer including equipping the clients with better strategies and helping them deal with problems that they may be experiencing at the time so as to help the clients avoid recidivation. Second, the officer should discuss with the client what factors or requirements are negotiable and which ones are not. Third, the officer should be keen to discuss the concept of confidentiality and to assure the client that their issues will be held in confidence. The officer should then spend sufficient time to discuss the limits of the said confidentiality including the requirement to report their progress to the referring authority as well as such factors and suicidality or homicidality. Four, the officer should take time to learn what expectations of the probation officer and of the duration spent on probation. Five, the officer should in turn discuss the limits of the relationship between the two parties and finally the officer should enumerate and discuss the rules, regulations and requirements of the organization.

ASSESSMENT IN PROBATION

Assessment of offenders is the process where a Probation Officer evaluates a person to inform decision making. It involves considering multiple factors that surround a person and weighing them to determine their risks or needs. Probation Officers carry out assessment when preparing Bail Information

Reports, Pre-Sentence Reports, Community Service Order Report, Power of Mercy Pre-release Reports, Victim Impact Assessment Reports, and Environmental Adjustments Reports. They also conduct assessments to inform supervision, rehabilitation, and resettlement processes.

When conducting a risk assessment with probation clients it is important for the assessing officer to prepare a guiding tool or structure to gather possible information as well as guiding questions before going for an interview to help to understand risk factors. Further, the officer should develop a conducive environment for assessment to ensure comfort, privacy, and confidentiality and endeavour to draw on the skills of building a working alliance.

RISK, NEEDS AND RESPONSIVITY (RNR)

Risk, Needs, and Responsivity (RNR) is one of the main models used in the assessment of probationers in Kenya. This model is based on the theory of Risk, Need and Responsivity propounded by Andrews and Bonta (2017). It is based on structured tools and scientifically proven methods to help in gathering relevant information and making decisions regarding classification on where to “place” the offenders with respect to their risks, needs, and interventions, and to assist them to achieve their desired change.

The RNR Model underpins how we assess the risk, needs, and responsivity of an offender early in our contact in order to inform reports to court and supervision plans. The model is grounded in three principles i.e, The Risk Principle, The needs Principle, The responsivity Principle.

a. The Risk principle

The risk principle helps in matching the level of service to the client's risk of reoffending. It matches the level of risks to the level of resources which are deployed to work with them. As such, officers will dedicate most time, effort and resources to the clients with the highest risk of reoffending and less resources and time to clients with lower risk of reoffending. This is particularly because such resources are often limited and need to be used as effectively as possible and secondly because research shows that more intervention with lower risk offenders can in fact increase risk of reoffending.

Risk factors are divided into two categories including; Static Risk Factors ie the factors that cannot be changed by way of intervention and Dynamic Risk Factors which are the factors that can be changed by intervention. The Static risk factors denote the historical and fixed data such as age of first conviction, gender and such fixed factors while the Dynamic factors allude to those factors that are open to change such as employment status, problem solving skills, drug use among others. Dynamic factors help to identify individual needs related to offending that can be targeted for change in supervision

b. The Needs Principle

The need principle helps to answer the question What? i.e. what to do to help in reducing further reoffending during rehabilitation. They highlight necessities and requirements to be considered in order to reduce the risk of reoffending. The need principle is divided into two categories i.e. Criminogenic Needs which are needs that are directly linked to the offence and/or the offender's general pattern of offending. These relate to the dynamic "risk" factors which translate to criminogenic needs and can be changed with the intervention and Non-criminogenic needs are not directly linked to the offence but can also be catered

for in intervention of a client, example is physical disability of a client modify the interview environment, sickness, lack of place of abode among others.

The RNR Model is comprised of eight areas (“the central eight”) the first of which is a static factor while the other seven are dynamic factors and can therefore be viewed as criminogenic needs as listed below

1. History of antisocial behaviour/criminal history (static factor)
2. Antisocial personality pattern
3. Pro-criminal attitudes
4. Associates
5. Alcohol/drug abuse
6. Family/relationships
7. Education/employment and economy
8. Recreational/free time

c. The Responsivity Principle

Responsivity refers to the probation officer’s conscious efforts to maximizing the client’s ability to benefit from interventions by tailoring the interventions to the clients’ unique traits and circumstances. It helps to answer the question How? The responsivity principle helps in identifying how we can help the client learn and benefit from the interventions.

The officer will first identify the risk factors, then we look at the needs, and then create a learning environment for treatment.

Responsivity is divided into two, general responsivity and specific responsivity.

General responsivity - derives from cognitive behavioural theory. It defines intervention strategies that are suitable to our clients and may be applicable to all clients (and indeed people).

Specific responsivity - focuses on the individual client. The characteristics of an individual such as their strengths, motivations, preferences, personality, age, gender, ethnicity, cultural identifications, inter-personal maturity, level of understanding, literacy, attachment style, learning style and more.

PROBATION KENYA-RISK ASSESSMENT FOR VIOLENT EXTREMISM TOOL (PK-RAVET)

PK-RAVET is a structured professional judgment (SPJ) risk assessment and risk management tool developed by the Kenyan Government for use with Violent Extremist Offenders (VEOs). It is based on previous risk assessment tools, including VERA2 (Pressman, 2009), EGR22+ (Lloyd and Dean, 2015) and SAVRY (Borum et al, 2006). It is also based on the existing literature on the profile of extremists in Kenya including Speckhard and Shajkovci, 2019; and Christensen and Bjorgo, (2018). The tool is also based on other operational tools developed for Countering Violent Extremism coordinated by the National Counter Terrorism Centre (NCTC)

In developing the tool, field visits were conducted in Nairobi, Mombasa, Kwale and the surrounding areas at the beginning of 2020. During these visits several informants were consulted in relation to the features of radicalization and terrorism in this country. These include; probation officers, volunteers, families

of those victims of terrorism, community leaders among others. The information drawn from the field visits was used in development of the tool.

The specific objectives of this tool are threefold: first, it helps to identify the level of risk of reoffending with a violent extremism related crime and is therefore indicative of the necessary level of supervision and control to prevent reoffending. Secondly, identifies the criminogenic needs that demand addressing to facilitate deradicalization and disengagement from the extremist network. Thirdly, informs the probation officer on the other types of risks, such as risk for self and risk for the staff.

By using this tool, the probation officer is able to collect and analyze relevant information in a systematic manner. Conclusion regarding the level and type of risk as well as areas for intervention are drawn by the professional staff. The tool complements the data analysis and decision-making process. When assessing the level of risk, probation staff need to corroborate the information collected with the tool with other reports and information provided by police, prosecution, intelligence and prison staff.

The tool can be used for young adults as well as adult offenders: female and male, while it can be indicative for juvenile offenders. The tool has six sections:

- i) Demographics
- ii) Context
- iii) Motivation
- iv) Capacity
- v) Current perspectives
- vi) Risk analysis & Conclusions

The logic behind it is to start from the general and more distal factors towards the particular and current influences. For example, the context speaks about the predisposing factors. The motivation section includes factors that are directly relevant to the client while the capacity covers factors that suggest that the client is able to not act in a violent manner.

PK-RAVET can be utilized by probation officers who have been trained in the use of the tool. A minimum of five days training should be availed for those intending to use the tool. The tool can be used in various contexts including; preparing the bail report; informing bail supervision, preparing pre-sentence report, preparing social inquiry report, preparing other types of reports, in community supervision, in community prevention work, in Borstal and other custodial institutions and during post-institutional supervision.

REHABILITATION OF OFFENDERS

Rehabilitation of an offender involves assisting an offender who has committed a crime to correct their behaviour and live harmoniously with members of the community.

Once a court decides to place an offender on a non-custodial sentence, the supervising officer considers the risks of reoffending and the specific needs of the client (as drawn from the assessment tool) and categorizes the offender according to risk level. In consideration of the client's unique characteristics and circumstances (e.g. level; of education, economic background, age, gender, and personality factors) and in collaboration with the client, the officer comes up with a sentence plan/ individual treatment plan which includes, among others, the frequency of reporting, the objective, the rehabilitation models to be used,

the duty bearers (e.g. client, spouse, family members, employer etc) as well the duration. (PACS, Practice Guidelines, 2022)

Individualized Treatment Plan

An Individualized Treatment Plan (ITP) – also sometimes referred to as Treatment Plan or Individual Supervision Plan – is a comprehensive, progressive, personalized framework that informs the probationer, service provider, family and others of the goals of rehabilitation. The ITP details the type of services to be offered and strategies and methodologies to be used to offer the services. Further, an ITP should include the methods with which to monitor the progress.

An ITP is person-centred with set goals expected to be achieved at the end of a particular period. It is designed to reflect the probationer's specific risk-need responsivity issues. The ITP will identify problems that require interventions with goals followed by rewards (incentives and sanctions) depending on the way a probationer responds to the set conditions of the ITP. As much as possible, development of the ITP should include the probationer, the probationer's family and probation officer and any other relevant parties to ensure compliance and accountability and to make sure that the treatment considers the expectations of the various parties, reflects their priorities and incorporates their strengths.

Components of an ITP

An ideal ITP will have the following components:

- i) Definition of the particular problem(s)/issue(s) for attention that are evidenced in that particular client. This entails a detailed gathering of

social and psychological information on the criminal behaviour and how it has developed over time.

- ii) The actors in the intervention- these are the persons to be involved in the interventions – probationer, PO, family members, specialist and professionals e.g. mental health specialists, Alcohol and addiction specialists, teachers, psychologists, psychiatrists, law enforcers e.g. chiefs. Different goals/action points in the ITP will of necessity involve different actors.
- iii) Gender, sex and age of the probationer.
- iv) Developmental and personality traits of the probationer which include his/her weaknesses, strengths and opportunities.
- v) Budget where finances are required for treatment and legal services.
- vi) Probationers own consent to accept and engage in treatment plan.
- vii) Modes of treatment or interventions to be utilized.
- viii) Time frame: The duration required for each intervention/treatment component
- ix) Treatment goals.
- x) Progress monitoring indicators for planned activities and objectives, including changes in treatment.
- xi) Assessment at the end of the set period.

Sample of a basic ITP framework

Sample of a basic ITP framework

Name of client:		Serial No.				
Age:						
Sex:						
Address:						
Contact person:						
Objective (s)	Needs/risk	Theoretical Approach	Intervention (s)	Timelines	Responsible (Actors)	Achievements
	The factors in the offender that explain his/her criminal behaviour					
Client's signature.....						
Probation Officer's/Case manager's signature.....						
Date.....						

Activity: Distribute examples of the ITP template. Distribute a case study (it may be appropriate to use the same study used in work on SIRs). In small groups inductees should complete an ITP. If the group size allows, work as necessary with groups to support and respond to questions.

Ask a number of inductees to respond on behalf of their groups to describe their completed ITP. Discuss and allow time for Q&A.

Preferably provide example(s) of well-completed ITP(s).

The treatment goals must be specific, measurable, achievable and realistic. The supervising officer aims to implement the interventions in the individual treatment plan during the rehabilitation period in line with the Rehabilitation and Supervision Guidelines (2012).

APPROACHES TO OFFENDER REHABILITATION

1. Professional counselling

Counselling is the skilled and principled use of a professional relationship to facilitate self-knowledge, emotional acceptance and growth and optimal development of personal resources.

The overall aim of counselling is to provide an opportunity for persons to work towards living more satisfyingly and resourcefully. Counselling relationships will vary according to need but may be concerned with developmental issues, addressing and resolving specific problems, making decisions, coping with crisis,

developing personal insights and knowledge, working through feelings of inner conflict or improving relationships with others.

Counselling aims to help individuals, groups and organizations function optimally by assessing and changing personal and interpersonal dysfunctions that occur in many areas such as emotional adjustments, relationship problems, career planning, vocational and educational issues and/or health problems.

Counselling uses specific skills and techniques in the relationship to help people become more competent, more contented, and more creative. It does not deal primarily with mentally ill people but individuals facing all difficulties involved in domestic oriented and social life. It is about helping people grow in emotional fitness and health (McGuinness John, 1998).

The goal of correctional counselling is usually based on two positions:

Counselling in the probation setting aims to reduce recidivism. The success or failure of counselling in our setting is defined primarily by the recidivism/reoffending experiences of clients. Although desistance/deterrence is an ultimate aim, probation counselling is intended to help offenders understand and overcome a range of issues that have a bearing on desistance and other relevant aspects of their well-being and functioning. These include addressing their internal and external conflicts through developing more accurate social cognitions about themselves and others and the patterns governing their interactions.

More specific aims of Counselling include helping people to: understand their situation more clearly; identify a range of options for improving their situation;

make choices which fit their values, feelings and needs; make their own informed decisions and act on them; cope better with a problem; develop life skills and provide support for others whilst preserving their own strength.

Counselling is a both an approach in its own right and a “linking” process in work with offenders. It encompasses other approaches such as problem solving or cognitive- behavioural therapy, and may include aspects of coaching. The following sections will explore some of the more specific therapeutic approaches.

2. Motivational Interviewing

Motivational Interviewing was founded by William Miller PhD. Professor of Psychology and Psychiatry at University of New Mexico and Stephen Rollnick PhD at The University of Wales College of Medicine. Miller and Rollnick defined MI as “person-centred, goal-directed counselling method for resolving ambivalence and promoting positive change by eliciting and strengthening the person’s own motivation for change”.

Motivational Interviewing consists of a set of skills to help a person move step by step through the “Motivational Cycle of Change” in order to achieve changes desired to reduce needs and risks, and to improve the individual’s life experience in general.

MI is a collaborative conversation style for strengthening a person’s own motivation and commitment to change. It provides a means for working with ambivalence, keeping the conversation about change focused and places the responsibility for change with the client as well as providing a way working with clients who might otherwise be viewed as unmotivated or resistant.

Miller and Rollnick explain that Motivational Interviewing is “person-centred, goal-directed counselling method for resolving ambivalence and promoting positive change by eliciting and strengthening the person’s own motivation for change”.

They explain the various attributes of the model including; Person-centredness which alludes to the non-directiveness where the counsellor is not the expert and holds that human beings can find their own solutions and their personal potentials. The second attribute is Goal directedness which holds that in MI it is necessary to have a well-defined behaviour that the client want to change. The attribute of Ambivalence relates to the hesitancy and lack of certainty and drive to want to change behaviour that the client know they should change. Rollnick and Miller state that ambivalence id natural and should be expected by any therapist working with MI. They further discuss that the component of positive change which alludes to changing behaviours should focus on small goals and should be orientated in the present in order to reach long term goals. Finally, they posit that practitioners should seek to tap on client’s own motivation for change stating that motivation is within the person and the practitioner’s task therefore is to help the client to find it.

The “MI Spirit”

Miller and Rollnick (2012) further discuss the MI Spirit which they state that is not a set of techniques, but rather a ‘way of being’ with people. At the core of this ‘way of being’ is the ‘spirit’ of MI. Without this spirit, MI is not being practiced and the results are not as likely to be effective. The spirit of MI forms the acronym PACE and includes the following components;

- i) **Partnership:** MI is a shared journey between the offender and practitioner. The MI practitioner in the corrections setting has MI skills and relevant knowledge regarding reducing offending and the offender has his or her own strengths and knowledge. This combination provides the possibility for change.
- ii) **Acceptance:** It includes recognizing and valuing the absolute worth of the offender; and honouring their autonomy in making decisions towards making their desired changes.
- iii) **Compassion:** MI is practiced with the best interests of the offender at heart. Note that, compassion is not the same as a personal feeling or sympathy for the other. It is possible to practice compassion without feeling sympathy.
- iv) **Evocation:** To evoke is to 'bring forth'. The intention is for the practitioner to assist the offender to reach their potential by drawing out their underlying motivations for wanting things to change.

Micro Skills/Techniques in MI (OARS)

MI comprises specific techniques or micro-skills which are used to achieve the aim of motivating clients for change. The specific techniques/skills form the acronym of OARS as explained below:

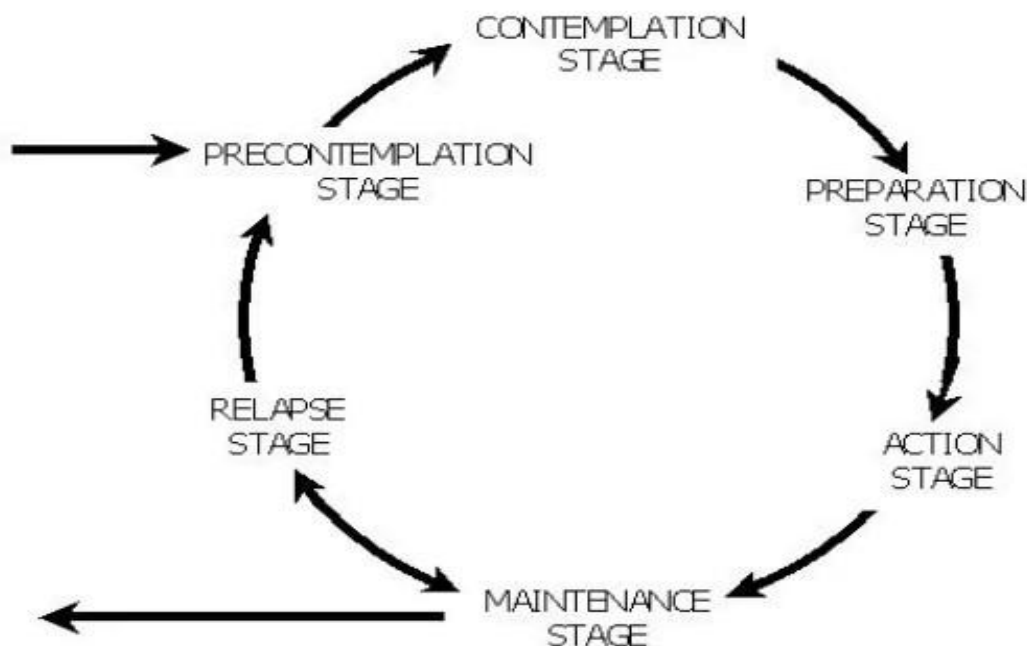
- i) **Open questions** – used to gather sufficient information and to evoke change talk.
- ii) **Affirmations** – they help to provide support and express respect to the client.
- iii) R -Using **reflections** that convey an understanding of client's words and meaning

iv) **Summarizing** the information in a concise and comprehensive fashion.

Motivational Cycle of Change

The motivational cycle of change helps to understand motivation and the part that POs can play in creating and sustaining change. It consists of 5 stages, plus (on occasion) relapse:

- i) Pre-contemplation (the need to change is not recognized or contemplated)
- ii) Contemplation (the person is beginning to think about change)
- iii) Preparation (the person wants to change and is preparing)
- iv) Action (steps are being taken) Maintenance (the person has achieved change and it is important the change is maintained (and relapse prevented)
- v) (Relapse) (the person has relapsed. Likely to feel disappointed, they will need help and encouragement to re-enter the cycle).



Source: Elizabeth Hartney, 2011

3. Cognitive Behavioural Therapy

Cognitive behavioural therapy (CBT) is a form of psychological treatment founded by Dr. Aaron Beck in 1961. The methodology has been demonstrated to be effective for a range of problems including depression, anxiety disorders, alcohol and drug use problems, marital problems, eating disorders, and severe mental illness. Numerous research studies suggest that CBT leads to significant improvement in functioning and quality of life and is very effective in reducing reoffending.

CBT is based on several core principles primarily the position that psychological problems are based, in part, on faulty or unhelpful ways of thinking and further states that psychological problems are based, in part, on learned patterns of unhelpful behaviour. CBT also holds that people suffering from psychological problems can learn better ways of coping with them, thereby relieving their symptoms and becoming more effective in their lives.

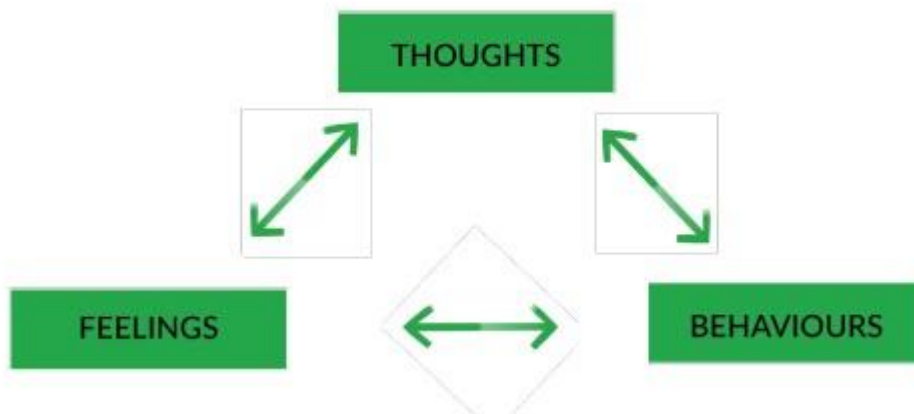
CBT treatment usually involves efforts to change thinking patterns. These strategies might include: Learning to recognize one's distortions in thinking that are creating problems, and then to reevaluate them in light of reality; gaining a better understanding of the behaviour and motivation of others; using problem solving skills to cope with difficult situations and learning to develop a greater sense of confidence in one's own abilities.

Further, CBT treatment also usually involves efforts to change behavioral patterns using strategies such as facing one's fears instead of avoiding them; using role playing to prepare for potentially problematic interactions with others and learning to calm one's mind and relax one's body. Not all CBT will use all of

these strategies. Rather, the officer and client work together, in a collaborative fashion, to develop an understanding of the problem and to develop a treatment strategy.

CBT places an emphasis on helping individuals learn to be their own therapists. Through exercises in the session as well as "homework" exercises outside of sessions, patients/clients are helped to develop coping skills, whereby they can learn to change their own thinking, problematic emotions, and behavior. CBT therapists emphasize what is going on in the person's current life, rather than what has led up to their difficulties. A certain amount of information about one's history is needed, but the focus is primarily on moving forward in time to develop more effective ways of coping with life.

Cognitive Behaviour Therapy emphasizes the centrality of the thinking process in feelings, perceptions, attitudes, self-regulation and behaviour.



The officer therefore should engage with the client with a focus on influencing the thoughts and feelings in a positive direction in order to achieve positive behaviour change. This can be achieved by skilled challenging of thinking and behaviour, including helping probationers to develop understanding of their

thinking, and its influence on their feelings/emotions and behaviour, in order to support change in their behaviour.

4. Pro-Social Modelling

Pro-Social Modelling (PSM) is based on BF Skinner's theory of Operant Conditioning. It is a method in which POs, or others who work with involuntary clients, model pro-social values and behaviours in their interactions with clients. Most of the pro-social strategies are based on learning theories. Indeed, rewarding or encouraging prosocial behaviours or discouraging anti-social or undesirable behaviours are the most critical elements in pro-social modelling. Research evidence tells us that PSM can be an effective tool in influencing change. The PO should follow the following steps;

- i) Identify the pro-social attitudes and behaviour that need to be reinforced
- ii) Reinforce the positive attitude and behaviour (remember that praising is often more effective at encouraging and producing change than criticism. Therefore, we should use it more!
- iii) Challenge the anti-social attitudes or behaviour, discuss, and suggest alternative ways of thinking and behaving.
- iv) Act yourself as a role model - Probationers are influenced by our behaviour as PO's. Relate to them in ways which demonstrate pro-social attitudes and behaviour (ways society would like the offender to behave, e.g. demonstrate respect, calmness, consideration of other people and their perspectives).

5. Problem Solving Techniques

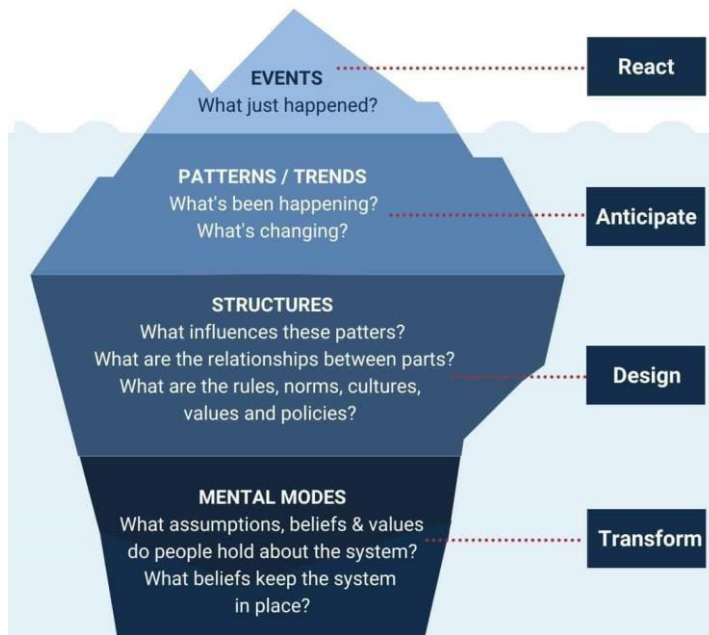
This rehabilitation method is based on the premise that offenders engage in crime because of poor choices arising from inadequate problem-solving skills. A problem is defined as a dilemma or an undesirable situation with no solution. It is usually relative in that a problem for one person may not be so for another. Problem-solving techniques refers to our ability to resolve problems in an effective and timely manner without any impediments. It involves being able to identify and define the problem, generating alternative solutions, evaluating and selecting the best alternative and implementing the selected solution.

Effective rehabilitation takes place when the clients' root problems are solved, rather than treating the symptoms or giving first aid. Systematic problem solving and decision-making can prevent problems from recurring and prevent reoffending.

Steps in problem solving: The Iceberg Model

The anthropologist Edward T. Hall developed the Iceberg Model of culture in 1976. This analogy of the model has been applied by researchers since, to create a model for understanding and solving problems. The model holds that there four level to a problem which include; Events, Patterns/trends, structures and mental models.

WHAT IS THE ROOT CAUSE OF THE PROBLEM?



Source, Iceberg Model of culture in 1976

- i) Events: First, observe and describe what has happened or what is happening. You'll have better results if you are able to duplicate the steps that led to the discovery of the problem.
- ii) Patterns & Trends: Then, determine if this event or similar events have happened before? What are the patterns of occurrences? What trends have you seen? Is there a particular situation, environment or role that experiences this problem?
- iii) Structures & Systems: Then, identify the things, procedures or behaviours that contributed to this event. Why is this happening?
- iv) Mental Models: Finally, what are the beliefs and assumptions that created and shaped the system/triggers that caused this problem?

Addressing the issues that occur below the surface (structures, systems, mental models) will get you closer to discovering the **real** problem and to identifying long term, sustainable solutions.

6. Anger Management

Anger is defined as a strong feeling of displeasure or annoyance and often of active opposition to a perceived insult, injury, or injustice. Anger is a normal feeling but when it is not managed it can get out of control and cause destruction like domestic violence, assault, grievous harm, arson, manslaughter or murder: all of which are contrary to the laws of Kenya.

Some common anger triggers include: Personal problems, such as missing a promotion at work or relationship difficulties; problems caused by another person such as cancelling plans; event like bad traffic or getting in a car accident; memories of a traumatic or enraging event and certain mental disorders.

Unmanaged anger can have far-reaching consequences including; Physiological reactions such as headaches, digestion problems, insomnia, increased anxiety, high blood pressure or heart attack. The social effects include negative relationships at home, school or workplace; crime, stigma, children of angry parents are likely to be aggressive and less empathic; crime and stigma. Some helpful anger management techniques include;

i) Relaxation techniques

These include breathing deeply and picturing relaxing scenes in your mind. When trying to relax, breathe from deep within your lungs, inhaling and exhaling slowly in a controlled way. Repeat a calming word or phrase, such as "relax" or "take it easy." visualizing a relaxing experience, either from your memory or imagination. Slow, yoga-like exercises may also help relax your body and make you feel calmer.

ii) Cognitive restructuring

Changing the way one think. This can change the way he/she expresses his/her anger. When a person feels angry, it's often easy for them to think dramatically. It's important to focus on expressing rational, rather than irrational, thoughts. Avoid using the words "always" and "never" in ones' thoughts and speech. Such terms are inaccurate and can make you feel like your anger is justified, which makes it worse. These words can also hurt others who may be trying to help you arrive at a solution to your problem.

iii) Problem solving

Anger can be caused by very real problems. While some anger is justified when something doesn't go as planned, it's not the anger that will help one fix the problem. The best way to approach a situation that's making you angry is to not focus on the solution but to figure out how to address the problem.

iv) Communication

When people feel angry, they tend to jump to conclusions, which can be inaccurate. When having an angry argument, it is important to slow down and think through ones' responses before lashing out. Good communication can help one resolve problems before your anger escalates.

7. Change Intervention Programme for Probation (CHIPP) Change Intervention Programme for Probation (CHIPP), 2022 is a Kenyan based intervention strategy, developed by the Swedish Expert on offender treatment programmes Ms. Ann- Christine – Henriksson for the Kenyan context. It is an adaptation of core correction practice which is a Canadian evidence-based

strategy of handling offenders based on risk and needs assessment that provides quality support to offenders and creates a conducive environment for rehabilitation. It utilizes the CBT concepts, pro-social modeling, problems solving and includes role clarification and use of “colors” to address issues of neutralization and attitudes in the rehabilitation process.

CHIPP was introduced so as to address the dearth of evidence-based rehabilitation models within the department and to introduce structure into the rehabilitation process for standardization and effectiveness. In essence, CHIPP is an umbrella model that comprises various evidence based rehabilitation strategies which are tailored to meet the need of the offenders in the Kenya Context.

To learn CHIPP officers should have a strong background in Risk Needs Assessment (RNR) and knowledge in Motivational Interviewing Skills (MI). This is because the interventions should be based on the criminogenic needs identified during assessment. To Practice CHIPP, probation officers have to undertake a week-long training.

8. Family Group Conferencing

Family group conferencing (FGC) is a mediated formal meeting between family members and other officials such the probation officer in regard to the care and protection or the offending character of a client. It is where the whole family and extended family members can help make decision about the best way to support the client.

It can also be a restorative justice programme that provides a forum for the victims of the crimes to meet with offenders in a safe and respectful environment to talk about the incident and to develop a restitution plan.

Family group conferencing involves the community of people most affected by the crime, the victim, the offender, and the family, friends, and key supporters of both in deciding the resolution of a criminal or delinquent incident. The affected parties are brought together by a trained facilitator to discuss how they and others have been harmed by the offense and how that harm might be repaired.

9. Empowerment

This is a deliberate intervention process of enabling offenders to become self sufficient through imparting marketable skills and/or provision of finances and materials. Such support is needs-driven as per the aspirations of individual offender. Empowerment committee: These are the committees mandated to implement empowerment policy at the national and county levels. The overall responsibility of the national committee is to approve cases vetted and recommended by the county empowerment committees.

OFFENDER SUPERVISION

Supervision of offenders within the community/ non-custodial measures is an alternative to imprisonment/ custodial. It gives the offender a chance to provide for the emotional, social and financial needs of their family at the same time undergo rehabilitation and reconciliation with the victims. This is done in liaison with the Probation Officer.

Council of Europe has defined this as [those sanctions and measures] which maintain the offender in the community and involve some restriction of his liberty through the imposition of conditions and/or obligations, and which are implemented by bodies designated in law for that purpose. The term designates any sanction imposed by a court or a judge, and any measure taken before or instead of a decision on a sanction as well as ways of enforcing a sentence of imprisonment outside a prison establishment. (Council of Europe ,1992)

Offender Supervision in Europe

Offender supervision within the community has grown rapidly in both numbers and practice in the recent decades. In jurisdictions in and beyond Europe, offenders under supervision (whether as an alternative to prosecution or sentence, as a community sentence in its own right, or as part of a post-custody license) largely outnumber those in custody. In Germany, for instance, whereas the number of prisoners has decreased in recent years, the number of offenders under probation supervision has increased, such that by 2011 there were about 190,000 people under supervision as opposed to 55,000 sentenced prisoners (Federal Statistics Office, 2013 a, 2013b). In March 2013 in England and Wales the prison population was 83,769, while the population of offenders under statutory supervision in the community at the end of 2012 was 224,823 (Ministry of Justice, 2013).

Supervision in context

The objectives of supervision have been observed to vary from one jurisdiction to the other. In Ireland for example the traditional ethos of 'advise, assist and support', applies while in many other cases the organisational mission has become more complex and has extended beyond the traditional focus on

rehabilitation. In countries such as England and Wales and the Netherlands 'public safety' or 'protecting the public' have become prioritised ideals of the probation practice. The supervision apparatus in many states has also become more and sophisticated to reflect the versatility of community supervision. At inception, supervision in the community was most often used to replace or shorten the prison experience. Currently, supervision may be configured as a measure or sanction before imprisonment, instead of imprisonment, as an interlude during imprisonment (temporary release) and after imprisonment.

The sanctioning systems in Europe now comprise a wide variety of community sanctions and measures. The main categories of community sanctions and measures have remained the same i.e (suspended sentence, conditional sentence or alternative sentence). The obligations that may be attached to them are quite broad in scope and number, and include rehabilitative obligations (e.g. to attend education or work, to undertake medical treatment), measures of control and surveillance (e.g. curfews, electronic monitoring) and reparative requirements (e.g. victim–offender reparation, compensation).

In the majority of European Union (EU) countries, the organisations that undertake supervision for offenders are called probation services. Sometimes their name also reflects other important services they provide, such as the Probation and Mediation Service (in Slovakia) and the Houses of Justice (in Belgium). In some cases, the name reflects an amalgamated structure comprising prison and probation (as in Denmark and France). In some countries, the name of the supervision organisation is more neutral (the National Offender Management Service in England and Wales, and the Department for Executing External Punishment in Italy). In some countries, supervision is delivered by

NGOs with a special status. This is the case in the Netherlands, where three NGOs are responsible for delivering services to offenders (Reclassering Nederland, SVG/Verślavings reclassering and Leger des Heils reclassering), and in Austria (Neustart). Although they are NGOs, they are almost wholly financed by the state through the Ministry of Justice.

Offender Supervision, Kenyan context

The supervision of offenders within the community/ non-custodial measures is an alternative to imprisonment. It brings on board a wide range of actors, interventions geared towards rehabilitation of the offender, their reintegration, support of victims and maintaining public peace and security. In Kenya the Probation and Aftercare Service (PACS) implements the non-custodial measures. PACS has a pool of qualified officers that execute among others supervision of offenders. This entails doing a risk, needs assessment upon which an individual treatment plan is prepared. This assists in ensuring adherence with the Probation Orders, Community Service Orders, Penal Release Licenses and Executive Orders.

For the duration the offender is under the supervision of a Probation Officer they are expected to adhere with the conditions spelt out in the court order, release license or release warrant issued.

The following legal mandates inform supervision of offenders within the community;

- i) The Constitution of Kenya (2010)
- ii) The Probation of Offenders Act (Cap 64)
- iii) Community Service Orders Act (Cap 93)
- iv) Prisons Act (Cap 90)

- v) Borstal Institutions Act (Cap 92)
- vi) Children's Act (Cap 141)
- vii) Penal Code (Cap 63)
- viii) Mental Health Act (Cap 248)
- ix) Power of Mercy Act (2011)
- x) Criminal Procedure Code (Cap 75)
- xi) The Sexual Offences Act No. 6 of 2006 Laws of Kenya

The international instruments include:

- i) The Tokyo Rules on treatment of non - custodial offenders
- ii) Beijing Rules on treatment of juvenile offenders
- iii) Bangkok rules on treatment of women prisoner and non- custodial measures for female offenders.

Core skills required in Offender Supervision

These have been described to be a combination of both interpersonal and intellectual abilities as listed;

- i) The effective use of authority
- ii) Pro-social modelling and reinforcement skills
- iii) Problem-solving techniques
- iv) Effective communication
- v) Role clarification

Categories of offenders supervised by Probation Officers

- i) Probationers released under Probation of Offenders Act CAP 64

- ii) Community Service Orders supervisees released under Community Service Orders Act CAP 93
- iii) Ex-borstal institutions inmates released on license or upon the completion of their sentences under Borstal Institutions Act CAP 92
- iv) Ex-rehabilitation School inmates released for after care services as provided in the Children's Act, 2001.
- v) Sex-offenders
- vi) Ex long-term prisoners released under executive orders
- vii) Special category offenders/ psychiatric offenders released from maximum security unit.

Goal of Offender Supervision

Offender supervision is geared towards;

- i) Ensuring safety of the public/community
- ii) Promoting change of attitude and behaviour of offenders
- iii) Reduce recidivism
- iv) Promoting victim and offender reconciliation

Benefits of Effective Offender Supervision

- i) Aids in keeping non-serious offenders out of prison
- ii) Decongestion of prisons
- iii) Reduces the cost of maintaining the prisoner
- iv) The offender is economically and socially productive
- v) Reconciliation of offender with victim and community.

Offender supervision entails;

- i) Sentence planning which includes amongst others setting goals, interventions, setting 26
- ii) lines from entry to exit etc
- iii) Continuous assessments and categorization
- iv) Addressing the ITP
- v) Monitoring adherence to orders
- vi) Continuous case conferences and reviews
- vii) Documentation and record keeping
- viii) Accountability including nature of case closure

Supervision Process

Supervision of offenders starts at the time supervision order or release license is made by a competent authority.

Supervision order or license contains;

- i) Period of supervision
- ii) Special conditions to be adhered to
- iii) Elaboration of the supervision of the offender

The Order is signed by the President, Judge, Magistrate or Penal Superintendent or Manager. Copies of the supervision orders are served to the client; respective offices and one is filed in the client's file.

Supervision Documents

Probation officers are expected to have supervision documents in place for the process to be smooth. These include;

- i) Charge sheet
- ii) Interview notes
- iii) Social Inquiry Report
- iv) Supervision order or license
- v) Assessment reports (Risk, Needs assessment, any other assessment)
- vi) Individual supervision plan, treatment/intervention plans
- vii) Contact list and home direction
- viii) Case progress entries
- ix) Referral notes
- x) Case review reports

In supervision, it is paramount to have an Individual Supervision Plan/ITP.

Components of ITP

- i) Definition of the particular problematic areas for attention. This entails a detailed history of social and psychological criminal behaviour.
- ii) Actors to be involved in the interventions – probationer, significant others, professionals e.g. mental health specialists, Alcohol and addiction specialists, teachers, psychologists, psychiatrists, law enforcers.
- iii) Budget where finances are required for treatment and legal services.
- iv) Personality traits of the probationer which include his/her weaknesses, strengths and opportunities.
- v) Treatment or change interventions.
- vi) Treatment goals/ objectives based on the recent assessment. These goals must be specific, measurable, achievable and realistic (SMART).
- vii) Schedule of activities and tasks to achieve the goals.

- viii) Progress monitoring indicators for planned activities and objectives, including changes in treatment and to ensure the probation realize the treatment.
- ix) Time frame: The duration required for each intervention/treatment component.
- x) Budget where finances are involved
- xi) Assessment at the end of the set period.

Case Review

The supervision plan is constantly reviewed to determine its effectiveness in addressing the client's issues. Reviews are conducted through the following;

i) Case conference

This can be convened at any time upon request. It is a way of monitoring the progress of the client as per the ISP. The supervising officer makes a summary of the issues, the progress achieved in the case and states the challenges if any. The members brainstorm on ways geared towards achievement of the ISP.

ii) Statutory review organs

These are statutory organs established by the laws governing community offender supervision.

They are established by various laws. In probation service, the review organs are referred to as Committees. They take the following forms;

Probation case committee whose membership is drawn from all the criminal justice actors such as the Judiciary, ODPP, Police, Prisons, Department of

Children Services, other state actors and non-state actors which are instrumental in offender supervision and rehabilitation not forgetting religious groups. The committee sits periodically.

The committee;

- i) Examines and advises on cases under supervision in probation and after care programmes
- ii) Examine and review the work of probation officers
- iii) Receive and consider reports from probation officers,
- iv) Advise and assist probation officers in the execution of their duties and
- v) Ensure probation officers perform their duties in a satisfactory manner.

Community Service Case Committee

Here, we have the National and Sub-County Committees. Focus here is the Sub-County Committee whose functions are;

- i) Examining and reviewing the work of CSO programme in its area
- ii) Implementing the policies and decisions of the National Committee
- iii) Submitting statistical returns to the National Committee
- iv) Creating awareness and sensitization of the local community on matters CSO
- v) Reviewing the progress of individual CSO supervisees
- vi) Give feedback and recommendation on matters CSO to the National Committee
- vii) Ensuring the CSO officers perform their duties as expected.

Case Closure

This is the process of ending a relationship between the supervising officer and the client. The supervising officer holds a meeting with the client with a view of reviewing the progress made during the supervision period.

Types of case closure;

- Termination

This is done after a satisfactory completion of the supervision order or where the client dies before expiry of the order.

- Unsatisfactory completion when an offender absconds, is arrested and the supervision order revoked, or where one is arrested, charged and convicted of subsequent offence before the expiry of the supervision order.

- Transfer

This occurs when the client moves changes residence for instance when a probationer is transferred from a probation field station to a hostel, or from one probation office to the other.

CONCLUSION

The assessment and rehabilitation approaches discussed in this segment comprise some of the most effective and most widely used models in probation work. It is however important to note that these models are not in any way exhaustive to meet the myriad needs that probation clients present with.

Therefore, probation officers are called to be keen to the issues of the clients and to their own limitation in handling these issues as they may arise. Probation officers are in such occasions called to refer the clients to other officers or indeed

external practitioners who may be in better position to address the clients' needs.

CHAPTER FOUR

COMMUNITY SERVICE ORDERS

Mary Abima (PACS) and Joy Riungu (PACS)

The pursuit for effective measures in the rehabilitation of offenders has led the criminal justice system to look beyond the walls of prisons for programmes that are effective in complementing the rehabilitative efforts of the penal institutions (Turner & Trotter, 2013). Community service orders has been preponed as an alternative to imprisonment. According to Kilicoms (2014) interventions delivered in a community setting are more effective than those that are delivered in Prisons. When utilized appropriately and efficiently they have the potential to decrease overcrowded prisons, be more cost effective than incarceration and more importantly reduce reoffending rates. Anderson (2012) adds voice that Community Service Orders unlike imprisonment promote integration back into the community as well as rehabilitation. Barebere (2008) opines that CSO represents a shift from traditional methods of dealing with offenders towards a more restorative form of justice that considers the interest of both society and the victim. McLaughlin and Muncie (2006) posits that the main objective of Community Service Orders is to integrate offenders with society and change the content or form of punishments ascribed to offenders, in order to achieve this.

Through several combinations of treatment, education and training, offenders may return to the society as useful individuals and live a more productive way of life compared to situations that pushed them toward criminal acts (Miethe & Hong, 2005). According to McNeill (2009) contemporary community service first emerged as a form of punishment in the United States of America in

the 1960s. Described as sanctions that required convicted, adjudicated, or diverted offenders to work (usually unpaid) for a specified number of hours for governmental or non-profit agencies. Service programs vary in the forms of work required from offenders, as well as the duration of service obligations. Common forms of service work include physical labour as well as semiskilled and skilled work performed for public or non-profit agencies. Since their initial use as alternative programs for traffic offenders in the 1960s, community service orders (often referred to as "community service") have become one of the most frequently used types of sanctions in both juvenile and adult justice. Legislators believed that the programme was an opportunity or a way to address the problem of prison overcrowding and as a means of reducing criminal behaviour (Cullen, 2012).

In the United Kingdom, it came into being following a 1970 recommendation of the Advisory Council on the Penal System, enabling legislation was passed in 1972 and pilot programs were initiated in 1973 in six probation districts. By the late seventies, community service programs were in place throughout the United Kingdom. Community service was introduced in the Netherlands in 1981 in an effort to reduce the use of short-term imprisonment. Sentencing people to perform unpaid work rather than spend time in prison was supposed to lower the pressure on prison capacity, save money, and have a negative effect on reoffending.

Regionally, Community Service was first adopted in Zimbabwe in 1992. The primary rationale for a community service programme was to decongest prisons. Other impetuses of CSO in Africa according to PRI (2012) were initiated at various forums to address and strengthen legalization regarding the

protection of prisoners' rights and improvement of prison conditions. The first was a conference on 'Prison Conditions in Africa', which was held in Kampala, Uganda in 1996. The 'Kampala Declaration' recommended that CSO and other non-custodial measures should be preferred to imprisonment where possible. Thereafter a conference 'International Conference on Community Service Orders in Africa' was held in Kadoma, Zimbabwe in 1997. It recommended that overcrowding in Africa's prisons required positive action through, inter alia, the more widespread introduction of community service which it described as a positive and cost-effective measure to be preferred whenever possible to a sentence of imprisonment. It also noted community service as being International Academic Journal of Law and Society | Volume 1, Issue 2, pp. 58-77 61 | P a g e in conformity with African traditions of dealing with offenders and with healing the damage caused by crime within the community (PRI, 2012). In 2002, a conference was held in Ouagadougou, Burkina Faso on 'Accelerating Penal and Prison Reform.' This declaration called for the development of community service as way to rehabilitate offenders. It also recommended that the public should be educated about the objectives of CSO and how they work (PRI, 2012).

In Kenya Community Service Orders traces its origin to the Extra Mural Penal Employment (EMPE) Programme commonly referred to as 'kifungo cha nje' which was run by the prison service. It operated on the basis that a non-serious offender would be sentenced to work in a public institution under the supervision of a prison officer. Provincial administrators, especially the chiefs were tasked to oversee offenders in their regions. This arrangement developed challenges in its implementation, supervision and coordination. It was later

moved to the Department of Probation and Aftercare Services as CSO (UNODC, 2012).

In July 1999 following the successful enactment of the Community Service Act No 10 of 1998 the CSO sentence in Kenya became operational. The Act refers to Community Service Orders as a court order requiring an offender to perform unpaid public work in the Community. It is an alternative to a custodial sentence and is a way for the offender to pay back to the community at the same time ensure rehabilitation of the offender. Judicial Officers issue the Orders whilst Probation Officers who also double up as Community Service Officers supervise them. The duration ranges from a few hours to three years depending on the offence or circumstances of its commission.

Since its inception, the sentence has been utilized variedly by Kenyan courts. (Probation Department, 2014). The conceived benefits of CSO according to UNAFRI (2011) include: rehabilitation of petty offenders within the community; individual offenders pay back to the community for the wrong they committed; prevention of hardening of petty and first offenders by the hardened ones in prison; enabling the offender to maintain familial ties while at the same time serving the sentence. Other benefits include promoting reconciliation between the offender, the actual victim of the offence and the community at large for harmonious existence; acquisition of useful survival and/or life skills and linking offenders to potential employers which improves the socio-economic status of community members (UNAFRI, 2011).

For smooth implementation of the CSO Programme, the Act provides for an executive committee which shall consist of; the chairman of the National

Committee in this case a Judge of the High Court of Kenya, the vice-chairman of the National Committee, the Director of Probation, National Co-ordinator appointed under section 10 who shall be the secretary, and one other member appointed by the National Committee.

The secretariat is the main administrative unit of the Community Service Orders. It is the implementing organ of the decisions made by either the National Committee or the Executive Committee. The Secretariat is vested with the following roles; To take follow-up actions on decisions reached in meetings of both National and Executive Committees, to work closely with the Chairperson in organizing the National and Executive Committee meetings, to plan, organize and co-ordinate training activities such as seminars, workshops geared towards community service, to initiate and develop proposals for consideration by both National and Executive Committees so as to meet the programme's objectives, to work hand in hand with the office of the Secretary PACS in coming up with a budget for the Secretariat and field stations for presentation to the Ministry of Interior and Co-ordination of Government with the aim of seeking funding from Treasury, to prepare annual work plan of the Secretariat's activities and submitting it to the National and or Executive Committee for approval, act as a link between the National Committee and the Committee at Sub-County level, ensure all statistical data in CSO from the stations is collected and forwarded to the Secretariat, carry out public awareness and sensitization through print and electronic media, open days etc, to generally supervise and co-ordinate all CSO activities both at the National and Sub-County levels for and on behalf of the national Committee. The Subcounty Committees are established through a gazette notice in the Kenya Gazette. The chairperson is the Magistrate in charge of the area of jurisdiction

and the secretary is the Sub-County CSO Officer of the area. The functions of Sub-County Committee include; examining and reviewing the work of CSO programme in its area, implementing the policies and decisions of the National Committee, submitting statistical returns to the National Committee, creating awareness and sensitization of the local community on matters CSO, reviewing the progress of individual CSO supervisees, give feedback and recommendation on matters CSO to the National Committee and ensuring the CSO officers perform their duties as expected.

The community service officer is appointed under the Probation of offenders Act Cap 64 and the CSO Act no.10 1998 Sec 12 (2). The CSO officers are integral in execution of the CSO Programme as they provide advisory CSO reports to court, identify work agencies, work agencies' placements of offenders, rehabilitation and treatment of offenders, supervise the Community Service Orders as well as act as a link between the court, community and offender. The duties of Community Service Officers are to; identify suitable work placements by having in place a register of placement agencies and work profiles as well as identify new placement agencies and work profiles, oversee the work and progress of offenders. This is done through regular visits to placement agencies, ensure the Community Service orders are complied with by maintaining updated registers indicating the placements made, any absconding and action taken thereof and apply to court for review of orders. For instance, initiate court action against a client who fails to adhere with the conditions of the order.

The Act defines who can benefit from the programme as any person convicted of an offence punishable with imprisonment for a term not exceeding three

years. The duration varies from one day to three years. CSO Supervisees are placed in work areas otherwise referred to agencies which benefit the general populace and never an individual or private owned property.

The nature of work to be performed by the CSO supervisees may include construction or maintenance of public roads or roads of access, afforestation works, environmental conservation and enhancement works, projects for water conservation, management or distribution and supply, maintenance work in public schools, hospitals and other public social service amenities, work of any nature in a foster home or orphanage, rendering specialist or professional services in the community and for the benefit of the community.

SUPERVISION

Supervisors are appointed under Sec 13 of the CSO Act. The CSO Act provides that a Community Service Officer shall be a Probation Officer appointed under the Probation of Offenders Act CAP 64 Laws of Kenya. On the other hand, CSO supervisors are strewn in all the public areas where CSO supervisees are placed to perform work. Such supervisors are taken through sensitization to equip them with skills to effectively oversee the work performed for the benefit of the community and the supervisee. As with Probation Orders, offender supervision is geared towards; ensuring safety of the public/community, promoting change of attitude and behaviour of offenders, reduce recidivism, and promoting victim and offender reconciliation. It entails sentence planning which includes amongst others setting goals, interventions, setting timelines from entry to exit etc., continuous assessments and categorization, addressing the ITP, monitoring adherence to orders, continuous case conferences and reviews,

documentation and record keeping, accountability including nature of case closure.

The supervision process starts at the time supervision order is made by a competent authority. In supervision, it is paramount to have an Individual Supervision Plan/ITP. This has been discussed in Probation programme elsewhere in this book. The same components apply to Community Service Orders. The supervision plan is constantly reviewed to determine its effectiveness in addressing the client's issues. Reviews are conducted through the following Case conferences which are convened at in the office on need basis and statutory review organs in this matter case Community Service Case Conference.

The statutory organs established by the laws governing community offender supervision. Here, we have the National and Sub-County Committees. Focus here is the Sub-County Committee whose functions are; examining and reviewing the work of CSO programme in its area, implementing the policies and decisions of the National Committee, submitting statistical returns to the National Committee, creating awareness and sensitization of the local community on matters CSO, reviewing the progress of individual CSO supervisees, give feedback and recommendation on matters CSO to the National Committee, ensuring the CSO officers perform their duties as expected.

The CSO programme has gained traction since its inception and has faced a number of challenges amongst the following challenges; inadequate resources for implementation of the programme, lack of adequate training and

sensitization of stakeholders and the public, the programme seems to work better in rural set-up as opposed to the urban set-up.

CHAPTER FIVE

AFTERCARE SERVICES

Lilian Maore (PACS) And Veronica Obonyo (KSG)

Reintegration, resettlement and re-entry also known as Aftercare. Aftercare of offenders is both an event and a process. It is a systematic and evidence-based process by which actions are taken to work with the offender in custody and on release, so that communities are better protected from harm and reoffending is significantly reduced. It encompasses the totality of work with prisoners, their families and significant others in partnership with statutory and voluntary organizations (Morgan and Owers 2001).

Charles Manson the notorious America criminal while being released from San Quentin Prison into San Francisco bay area, hitched a ride just outside the gates of the prison from a delivery truck driver who almost immediately offered him a Marijuana cigarette. Manson, was startled at how readily the drugs were available so close to the prison and wondered what had happened to the society that had placed him on confinement for such a long duration of time (Maruna.S, Immagron R, 2004). Such stories are told by so many ex-convicts who are released from incarceration facilities with no bus fare, nowhere to go and no one waiting for them. This therefore calls for a paradigm shift in criminal justice system to rethink and work towards a national reintegration strategy.

Aftercare is the process of resettling and incorporating offenders who are released from various penal institutions and corrective facilities back to the community under the supervision of a Probation Officer. It is the care, treatment, help and supervision accorded to persons discharged from a penal

institution such as a prison. Also referred to as re-integrative services that prepare ex-offenders for re-entry into the community by establishing the necessary collaborative arrangements to ensure delivery of a prescribed service and supervision.

Aftercare therefore seeks to reintegrate those returning from correctional facilities back to their communities. After care therefore embraces all the rehabilitative services given to offenders, ex offender and their families by the aftercare service providers and other non-state actors.

However, it is important to note that Aftercare, reintegration and resettlement are currently working in theoretical vacuum with no clear explanation of how the process is supposed to work.

Background of Aftercare Programme in Kenya

In Kenya probation work dates back to the pre-colonial period in 1946 when the first probation function was put into practice. It is believed that Probation sentence was recommended as a means of reducing the ever-growing prison population. With the introduction of Probation program came the introduction of other programs such as community service program and Aftercare service.

In Kenya the department of Probation and Aftercare services (PACS) is the one of the government agencies that administers and implements the aftercare program by providing supervision and support to former offenders as a means for re-entry into society. The Aftercare program views the offenders as not only disadvantaged and needing assistance but also as having a responsibility to

avoid recidivism. The aftercare support program combines an opportunity deficit Model and offender responsibility model during its implementation.

The Aftercare program recognizes that offenders are human beings, community members and family members who have failed in one way or the other to conform to the societal norms and values. It also recognizes that offenders are deviants who manifest the social problems through commission of crimes thus requiring various interventions.

Most of the offenders face significant social adaptation issues, which can include family and community stigmatization and ostracism and the ensuing negative impact on their ability to find jobs or housing, return to formal education, build or rebuild individual and social capital, unless they receive help to face these issues, they risk getting caught up in the vicious cycle of failed integration, reoffending, reconviction and social rejection.

In this regard, Successful rehabilitation and reintegration requires efforts of;

- i) Offender
- ii) Victim of crime
- iii) Community where the offence was committed
- iv) Criminal justice system
- v) Public

Over the years the criminal justice system has concentrated its efforts in the custodial rehabilitation and punishments which are prescribed by the Courts with less emphasis on post penal services. Some of the aftercare services have

been in Kenyan justice system but without significant expansion to check on reintegration and check on reoffending. The scope of aftercare is currently limited to post penal supervision mostly of youthful offenders on license and institutionalized adult offenders who are termed as Long termers mostly those released under the power of Mercy.

Factors that contribute to the need of resettlement and reintegration of offenders back to the community

The factors below therefore explain why there should be an urgent call for complete implementation of aftercare in the Kenyan criminal justice system.

- a. Changes occurring in the circumstances of the offender during incarceration e.g. denial of freedoms, lack of communication with significant others, separation with the family and significant others.
- b. Disintegration of the family unit, loss of livelihood and personal standing in the community.
- c. Restrictive policies on employment of offenders and ex-offenders by both the public and private sector.
- d. Inability to access start- up capital from financial institutions owing to previous conviction and social rejection arising from imprisonment.
- e. Lack of accommodation upon release
- f. Stress, depression, mental illness, self defeating attitudes and habits.
- g. Lack of offender responsibility to embrace change

Role of a probation officer as the Aftercare Officer

- a. Probation officer in the linkage and coordinator between the institutions, family and community in order to enhance a seamless transfer from the institution and back to the community.
- b. Probation officers collect data and compile social risk assessment reports to criminal justice agencies, penal institutions for purposes of accessing offender rehabilitation and reintegration requirements.
- c. Provision of offender initial profile, needs and risk assessments to the prison authorities to aid in the offender rehabilitation.
- d. Probation officers initiate and participate in peace building and restorative justice.
- e. Supervision and reintegration of offenders to enhance public safety and curtail reoffending
- f. Enforcement of specific sanctions and orders as given by different criminal justice agencies, release boards in relation to rehabilitation and supervision of offenders.
- g. Monitoring and evaluation of aftercare clients to gauge the responses to various aftercare interventions.

Skills required for effective resettlement and reintegration of offenders Assessment

This is the evaluation by a Probation officer on the risks and needs of an offender before they are released back to their communities. This skill enables a probation officer gain a picture of the hierarchical needs of an offender thus helping in coming up with an individual treatment plan.

Case Management

Case management is the process in which aftercare officers provide care to ex-offenders. It is the collaborative process of assessment, planning and implementation of individual treatment plans.

Listening

This is the ability of an aftercare officer to pay attention to what is being said by the offenders, their significant others and the community. Through this skill an aftercare officer is able to pick verbal and non-verbal communication which help in enhancing decision making when dealing with offenders.

Reintegration planning

This is the identification of the objectives and goals that need to be achieved in the reintegration of offenders and coming up with the necessary plans. A reintegration plan can be viewed as the means of addressing the needs of an individual.

Advocacy

Advocacy is the lobbying that Aftercare officers use in order to influence decisions in regard to resettlement and reintegration of offenders. Through this the institutionalized offenders stand a better chance of gaining acceptance in the community and enhances a collaborative approach in the implementation of various reintegration interventions.

Negotiation

Aftercare officers hold discussions with the offender, the family and the community in an endeavour to reach an agreement on reconciliation, reparation

and restitution. The negotiations foster acceptance of the offender back to the community and enhance support of the offender.

Resource Mapping

This is the process of identifying and analysing available resources in community that may aid in the resettlement and reintegration of offenders back to the community. The resources can be people, programs and services that are available at the community level.

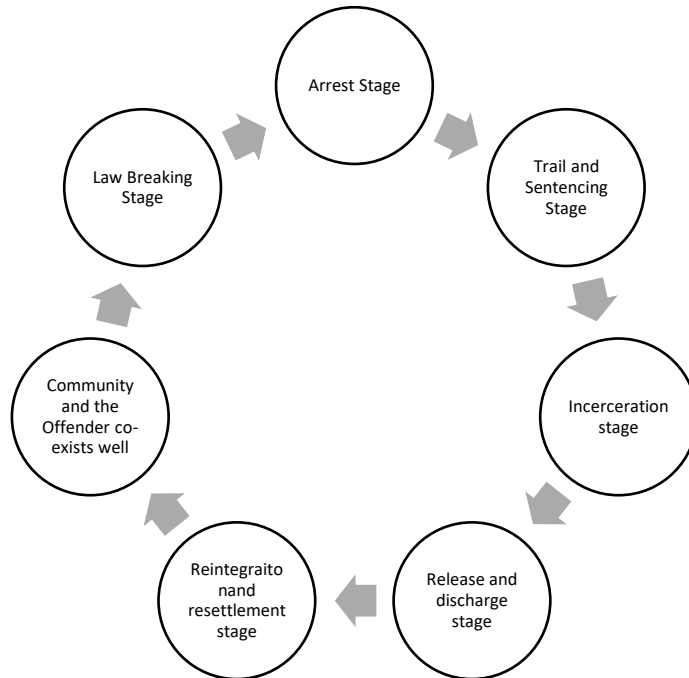
Mobilization

Aftercare officers aim to engage the community towards a common purpose through enhancing community participation in the reintegration process and prevention of recidivism.

The Aftercare Process

Aftercare is a holistic process which requires coordination between different agencies in the criminal justice system (CJS) and allows participation at different entry points. It is a process which begins in the community upon arrest through to custody in the event that the suspect is not able to meet bail terms, continues to the sentence and ends when the license is complete or needs lapse. For psychiatric offenders, it begins upon confinement, through the treatment stage and eventual supervision and support in the community and ends when the need for the AC services is no longer manifest (Draft Aftercare policy, 2009)

The six stage Care Model



Source: PACS, 2023

Law breaking stage

The offenders commit crime against the community

Arrest stage

The community members make complains to the local authorities and the suspect is apprehended, put in police custody, diverted from the criminal justice system or released on bail.

Trial and sentencing stage

This is the stage whereby the offenders appear before a court of law, are prosecuted and undergo the criminal justice process. The aftercare officers prepare social inquiry reports to inform the sentence.

Incarceration stage

At this stage the offender is sentenced to prison or psychiatric facility, for treatment. The Aftercare officers provide linkage between the offender's family, community and also provide social inquiry reports to aid in rehabilitation.

Release or discharge stage

The offender is discharged after completion of the sentence or through the exercise of prerogative of mercy. The aftercare officer provides social inquiry reports to aid in the rehabilitation and resettlement. The reports are sent to the various review and discharge boards whereby the probation officers are members.

Re-integration/resettlement

The ex offender returns home to a receptive and sensitive community ready to support in his resettlement and reintegration. The aftercare office offers supervisory role and coordination role and participate in the reintegration and resettlement of offenders.

Community reintegration and resettlement models Risk model and need based model

Risk-based strategies operate on the premise that offenders are dangerous and need to be controlled and closely monitored. This control "suggests the need

for an 'electronic panopticon' or the 'pee 'em and see 'em' approach to supervising offenders" (Gordon, 1991; Maruna and LeBel, 2002; p. 164). Needs based supervision strategies focus on offenders' criminogenic needs, which means that aftercare supervisors help offenders get appropriate treatment in programs such as cognitive skills training and addictions counselling (Burnett and Maruna, 2006). The body of evidence supporting this parole supervision strategy is stronger than that for the risk-based strategy, as recidivism rates have been found to decrease slightly when offenders and treatment programs are correctly matched (Maruna and LeBel, 2002).

Middle Ground Model

The middle ground model is a combination of the risk and need model. In this model the needs and the risks of offenders are addressed by aftercare supervisors. The problem with this dual approach is that parole officers tend to experience uncertainty about which model should be used and when (Maruna and LeBel, 2002).

Strength based model

This model views offenders as assets to be managed rather than liabilities to be supervised (Maruna and LeBel, 2002). This model makes an assumption that offenders are stigmatized and that it is this stigma that makes them prone to the commission of crimes or recidivism, then the notion that they are dangerous. The proponents of this model believe that the process of rehabilitation and reintegration is facilitated by having the offenders make amends with the community by displaying and demonstrating their value and strengths. The aim of this approach is to transform the ex-prisoner from being a consumer of assistance to a provider of assistance which, in turn, results in the offender's

de-stigmatization by the community, as the offender is perceived as having something to offer (Maruna and LeBel, 2002).

The Aftercare Policy in Kenya

There is no clear legal policy framework for the implementation of the aftercare program. This situation has hindered the growth and effectiveness of the aftercare program. Aftercare supervision has been limited to ex-borstal inmates and psychiatric offenders both of whom are released on license and require social support. Majority of the ex long-term prisoners are offered the services on voluntary through a need basis process.

Relevant international standards, rules and Norms on the Aftercare of Offenders.

1. United Nations standard minimum rules for the treatment of prisoners (the Nelson Mandela Rules)

The Mandela rules contains a very strong remainder that the role of the society does not end with the release of the prisoner back to the community (rule 90). It emphasizes the efficient administration of aftercare services by the government and non-governmental entities.

2. United Nations standard minimum rules for non-custodial measures (Tokyo rules)

The Tokyo rules strongly calls for the early consideration of a wide range of post sentencing alternatives, including the various forms of parole, remission and pardon. (Tokyo rules, rule 17)

Both the Mandela rules and Tokyo rules encourage the public participation in the social reintegration of ex- offenders and the use of community-based

intervention, which should be regarded as a way of the community members ensuring public safety

Categories of offenders under Post Release supervision Ex-Borstal

Borstal institutions are facilities for incarcerated minors in conflict with the law. The juvenile offenders are placed in the institutions for a period of three years whereby they serve one year in the institution and are released on licence for the remaining two years and placed under the supervision of a probation officer, thus making them aftercare clients. The probation officer's role in the management of this category of offenders is derived in the Borstal institutions Act, Cap. 92.

Power of Mercy clients (POMAC)

The president has the sole discretion to exercise the power of mercy through the Power of Mercy Advisory Committee, to offer relief to long term convicts. The powers are derived from the constitution and the Power of Mercy Act no. 21 of 2011. A probation officer prepares a power of mercy post sentence report to the advisory committee. Once the president offers the relief to these clients, they are placed under the supervision of the Probation Officer and are termed as Aftercare clients.

Ex-Rehabilitation Centre clients

Once offenders referred to government rehabilitation centres leave the institutions it's the mandate of probation officers to reintegrate them back to the community and ensure their basic needs are met, including education. Such a rehabilitation centre in Kenya is Kamiti Youth Correctional and Training Centre (KYCTC)

Ex-Hostel Clients

Ex hostel clients are those exiting from the probation run hostels. They are also termed as aftercare since they need to be reintegrated back to the community after a separation of one year.

Special Needs Offenders

Special categories, who are often amongst the most vulnerable of offenders, include women, juveniles, mentally ill persons, physically challenged persons and persons with chronic illnesses as well as critically ill patients, foreigners, elderly and intersex. These offenders require aftercare services because of the level of stigmatization they may face upon return to the community.

Communal referrals

These are clients referred from institutions other than penal institutions. They are specifically referred for the purposes of helping in behavioural change. Such clients are referred to probation officer by community members, children officers, teachers, parent's etc.

Intervention Programs for reintegration and resettlement of Offenders.

Accommodation

A large majority of people leaving prison do not have access to housing. This is generally as a result of change in the circumstances of the offender owing to the period spent behind bars. This factor possesses a high risk of recidivism. Pre-release planning should therefore include securing a suitable housing for

ex- prisoners. Working with community-based organizations is probably the best way to access housing for prison returnees owing to the limited finances allocated to PACS. Various options for securing accommodation include;

- i) Renting/ building a house for ex-prisoners
- ii) Liaising with family members and friends who are willing to help
- iii) Organizing for public or subsidized housing e.g. probation hostels
- iv) Halfway Houses or transition centres
- v) Construction of houses for the ex offenders.

It is important to note that the provision of this services should be offered while reintegration and resettlement efforts are ongoing. A comprehensive community strategy to address the challenge of housing for ex prisoners, may require development of affordable housing, maximizing the use of existing housing resources and eliminating barriers that prevent offenders and their families from having access to affordable decent housing (UN, 2018)



The dilapidated House of an ex-convict In Makueni county VS the Newly built house by Probation in partnership with other stakeholders in an effort to resettle an offender.

Assistance in securing employment

Being employed can substantially reduce the chances of reoffending. In Kenya ex-prisoners face discrimination due to active criminal records at the director of criminal Investigations. The requirement by most employers, for the job seekers to present a certificate of good conduct is a limiting factor for the ex-prison returnees, who are not in those circumstances able to secure employment. Aftercare officers should therefore be proactive in assisting the ex-offenders in job search process, including advising them on their specific rights and responsibilities when disclosing criminal records.

Access to Healthcare and social security- continuity of of treatment and care

The Nelson Mandela rules highlight the importance of ensuring that the former prisoners can continue to any health treatment and care that they may require and that they may have received in the course of their imprisonment (Mandela rule 24, para.2)

Family support

The families of offenders are a potential source of support for those exiting prison and re-entering back to their communities. Evidence shows that former offenders with great family support, have low reoffending rates and are well able to obtain employment. This support programme should begin while prisoners are still in custody and measures are geared towards preparing the families towards the impending release. The programme thus focuses on exploring ways in which the family members can support their kin upon leaving prison.

In conclusion probation officers typically develop programs on the basis of the current understanding of the dynamic risk factors associated with recidivism, the typical needs of offenders, and the challenges the offenders encounter upon their release from prison. These Programs may vary according to the recidivism risk factors and the type of social integration challenges they are designed to address. Many programs focus on specific challenges confronting offenders, such as addiction, drug abuse, or unemployment and many offender reintegration programs have been designed to deal with specific categories of offenders, such as chronic offenders, drug addicted offenders, young offenders, mentally ill offenders, or dangerous sexual offenders. (Griffiths, et al, 2007)

Substance Abuse Interventions

Drug dependent offenders are caught in a vicious circle. Unless the treatment they receive in prison for their addiction is maintained on their return to the community, the chances are that they will relapse and begin offending again to

support their drug use. Failure to access appropriate support services in the community can result in offenders returning to prison time and time again, as the cycle of offending is perpetuated (Burrows, et al., 2001: 1). In Kenya, most of the drug addict offenders are put on arm reduction drugs program while in Prison. This has to be continued even when they return to their communities in order to break the vicious cycle that they may face.

A successful aftercare case done in Makueni Kenya

Mzee Mulwa Matheka was charged before the Makueni law court in July 2009 (criminal case number 402 of 2009) with the offence of defilement. On the 17th

of November 2009 he was found guilty and sentenced to 20 years imprisonment and was committed to the Kamiti Maximum Prison. He lodged his appeal before the High Court in Machakos within the stipulated time with the assistance of Legal Resource Foundation. The hearing took place on 25th November 2010 and on 10th December 2010 judgment was delivered and Mzee Matheka was acquitted. The acquittal was received with great joy and Mzee Matheka was excited that he would now go home and join his family. However, there was one challenge, Mzee Matheka had to return to continue living with his step son who had accused him of such a serious crime and also the Chief who had colluded with his step son hence the reason for his woes. There was need to initiate a re-integration process for Mzee Matheka back to his community. This called for the involvement of Aftercare officers based in Makueni. The officers upon carrying out A needs assessment and identified the following issues; The home environment was volatile for his immediate resettlement, the ex-convict required counselling therapy, the ex convict house was dilapidated and his children who had conspired against him were not happy with his return.

The following interventions were recommended and implemented by the Makueni Probation and Aftercare office;

- a. Place the ex convict in a halfway home.

Mr. Matheka was placed at the Makadara Probation Hostel for a period of six months. During this period, efforts were put in place to resettle and reintegrate the ex convict back to the society.

- b. Provide counselling services to Mr. Matheka.

The probation Officer organised for a counsellor to help Mr. Matheka deal with anger and bitterness towards his step son, who was responsible for his predicament.

- c. Organised the first meeting to be able to sensitize the community and local administration on Matheka's imminent return.
- d. Second meeting was organised at Mr. Matheka's homestead to help in the reconciliation process with his step son and other family members. The meeting was successful and the community and family members were receptive of him.
- e. Construct a decent house for Mr. Matheka.

Through the help of Probation and Aftercare services, legal resource foundation and other stakeholders, a decent house was put up for Mr. Matheka.

The Prison department helped in the provision of furniture

Faraja Foundation assisted Mr. Matheka with food provision that lasted him one year.

- f. Help in cultivation of Mr. Matheka's Land and planting in order to sustain him with food Provisions.

This was done with the help of Makueni prison authorities who with their help of convicts at the prison helped to cultivate and plant the ex convict's land.

The re-entry of Mr. Matheka back to the community was finally done at a function conducted at his homestead in Makueni. The function was attended by local administration officials, family members, community members and all the reintegration stakeholders.

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Multi-agency resettlement and reintegration event held at Mr. Matheka's homestead.



The Official Handover of the house constructed by different stakeholders to Mr. Matheka



An elated Matheka at his new house

CHAPTER SIX

CRIME PREVENTION

Albert Jaoko (PACS) and Kennedy Odipo (PACS)

Crime prevention comprises strategies and measures that seek to reduce the risk of crimes occurring, and their potential harmful effects on individuals and society, including fear of crime, by intervening to influence their multiple causes. (Economic and Social Council, 2002-2013)

It involves any activity by an individual or group, public or private, which attempts to eliminate crime prior to it occurring. It is the anticipation, recognition and the appraisal of crime risk and the action to reduce it. It can reduce the long-term cost associated with criminal justice system and can achieve a significant return on investment.

The focus of crime prevention is on the cause of crime rather than its effects and to significantly reduce or eliminate the factors that can lead to crime. It is any action that can cause a reduction in the level of criminal activity and the harms involved.

Concept of crime prevention

It is about stopping crime from happening rather than waiting to respond once offences have been committed. The Guidelines for the Prevention of Crime developed by ECOSOC suggest that evidence has shown that well-planned crime prevention strategies not only prevent crime and victimization, but also promote community safety and contribute to sustainable development of countries.

Effective, responsible crime prevention enhances the quality of life of all citizens. It has long-term benefits in terms of reducing the costs associated with the

formal criminal justice system, as well as other social costs that result from crime." (Economic and Social Council resolution 2002/13).

The International Centre for the Prevention of Crime (2008), posit that over the past few decades, there has been a major shift from the traditional view that crime prevention is the responsibility of the police to the view that it is a collective responsibility. It has been argued that it is more effective, and cost efficient and beneficial, to take a collective and proactive approach to preventing crime. Since the factors that cause crime and violence to increase or decline are closely linked to many social, economic and environmental issues, governments at all levels cannot rely solely on the criminal law and justice system to ensure safety. Multisector partnerships between ministries such as those responsible for housing, health, education and employment, recreation, social services and the environment, as well as the police and justice sector, can all make a significant difference to crime levels by establishing proactive rather than reactive strategies to prevent crime and victimization.

PACS (Kenya) Vision is to have "A just, Safe, secure and crime free society". The Mission of probation service in Kenya also seeks to promote and enhance the administration of justice, community safety and public protection through supervision, rehabilitation and reintegration of non-custodial offenders, victim support and crime prevention.

The PACS Strategic Plan 2018-2022 considers Crime Prevention as a key Strategic Focus Area with a view to develop and implement an integrated crime prevention programme.

According to KIPPRA, (2019), the current approach to crime prevention focuses more on rudimentary traditional methods such as enforcement, arrests, “operations” as a way of tackling security challenges. Also policing agencies rely more on arrests, prosecutions and convictions as opposed to prevention. The annual police crime reports rarely touch on crime prevention which local communities have a bigger role to play if there is a proper framework of partnership between policing agencies and civilians. On the other hand, ECOSOC’S view is that crime prevention should be viewed as a multi-sectoral, multi-disciplinary, and integrated endeavour.

To properly be in a position to prevent crime in the Country PACS derives its key mandates from Probation of offenders Act Cap 64 and Community service orders Act No 10 of 1998 laws of Kenya among aforementioned legislations which PACS derives its mandates.

Proactive approaches that PACS (Kenya) has engaged in with a view to crime prevention include:

Participation in public forums like Chief’s baraza’s called by local administrators with an aim to educate the public on matters of crime prevention. Holding open days in various jurisdictions where members of the public are invited to have conversations geared towards understanding their role in crime prevention. They also have opportunity to ask questions on matters related to the justice process, sentencing and any matter needing demystification. The open days are held in collaboration with other players in the justice sector and local administrators.

Media- PACS has been hosted by some media outlets to articulate crime prevention issues Court User Committees (CUC) Provide a platform for actors in the justice sector at the local or regional level to consider improvements in the operations of the courts, coordinate functions of all agencies within the justice system and improve the interaction of these stakeholders thus fighting crime Publications which include Newspapers, calendars and the PACS Newsletter Outreach to schools and children centres Religious forums Community Resource Centres – These equip the youth with relevant vocational and life skills which prepares them for employment and other income generating ideas.

Art exhibition- The first of this kind was held in 2020 with participants drawn from the whole country for juvenile offenders and took the form of an Art competition themed:” Probation: “A New Beginning”. The Art Exhibition featured drawings, paintings and collages of 42 children. The Exhibition gave children a chance to have their voices heard through their creative arts. It provided a platform through which the public can learn about the children’s experiences of the justice system, as well as create awareness on probation, offender rehabilitation and the importance of giving young offenders a second chance in life.

PACS as a justice sector therefore has over the years esteemed crime prevention as one of its key roles in addition to other strategic areas of focus. PACS envisions the development of a departmental crime prevention strategy. (PACS, Strategic Plan 2018-2022)

Crime prevention strategies are done at multiple levels depending on the agency that is carrying out the exercise. These levels are analysed here below:

- i) Primary prevention addresses individual and family-level factors correlated with later criminal participation. Individual level factors such as attachment to school and involvement in pro-social activities decrease the probability of criminal involvement.
- ii) Family-level factors such as consistent parenting skills similarly reduce individual level risk. Risk factors are additive in nature. The greater the number of risk factors present the greater the risk of criminal involvement. In addition, there are initiatives which seek to alter rates of crime at the community or aggregate level.
- iii) Secondary prevention uses intervention techniques that are directed at youth who are at high risk to commit crime, and especially focus on youth who drop out of school or get involved in gangs. It targets social programs and law enforcement at neighborhoods where crime rates are high. Much of the crime that is happening in neighbourhoods with high crime rates is related to social and physical problems. The use of secondary crime prevention in cities such as Birmingham and Bogotá has achieved large reductions in crime and violence. Programs, such as, general social services, educational institutions and the police, are focused on youth who are at risk and have been shown to significantly reduce crime.
- iv) Tertiary prevention is used after a crime has occurred in order to prevent successive incidents. Such measures can be seen in the implementation of rehabilitation programs serving non-custodial orders under the supervision of PACS. The department runs community resource centres whose main objective is to equip youth offenders and non-offenders with marketable skills thus alleviating their involvement in offending or reoffending.

v) Situational crime prevention (SCP) is a relatively new concept that employs a preventive approach by focusing on methods to reduce the opportunities for crime. SCP focuses on the criminal setting and is different from most criminology as it begins with an examination of the circumstances that allow particular types of crime. By gaining an understanding of these circumstances, mechanisms are then introduced to change the relevant environments with the aim of reducing the opportunities for particular crimes. Thus, SCP focuses on crime prevention rather than the punishment or detection of criminals and its intention is to make criminal activities less appealing to offenders (Clarke,R 1997).

Situational Crime Prevention focuses on opportunity-reducing processes that:

- i) Are aimed at particular forms of crime;
- ii) Entail the management, creation or manipulation of the immediate environment in as organised and permanent a manner as possible; and
- iii) Result in crime being more difficult and riskier or less rewarding and justifiable. The theory behind SCP concentrates on the creation of safety mechanisms that assist in protecting people by making criminals feel they may be unable to commit crimes or would be in a situation where they may be caught or detected, which will result in them being unwilling to commit crimes where such mechanisms are in place. The logic behind this is based on the concept of rational choice - that every criminal will assess the situation of a potential crime, weigh up how much they may gain, balance it against how much they may lose and the probability of failing, and then act accordingly.

KEY MODELS OF CRIME PREVENTION

Cornish & Clarke (2003) have posited that there are four key models of crime prevention. Each model employs different approaches to prevent crime. Some methods of crime prevention bring about quick results, while others can take many years to result in lower crime. Each model has strengths and weaknesses. Ideally, the best way to prevent crime is to use a combination of strategies from each model.

Developmental: Often known as early intervention, developmental crime prevention seeks to address the early causes of criminality. Reducing community and individual risk factors and increasing protective factors, help to prevent crime later in life. The most celebrated examples of developmental crime prevention include parenting programs, school enrichment initiatives, preschool regimes and improvements in transition to school arrangements.

Social: Strengthening neighbourhoods helps prevent crime. Local communities that have strong bonds and where people know each other are less prone to experience crime. Enhancing 'social capital' or the relationships between people can be beneficial in protecting people from crime. Effective social crime prevention is difficult to achieve because it can involve so many different aspects. Community building activities, provision of welfare services and increasing community support groups all help to enhance the sense of community and prevent crime.

Situational: Stopping the opportunities for crime is an effective way of preventing crime. Increasing the risks of detection, reducing the rewards for offending and increasing the difficulty of offending are all ways to prevent crime.

Situational crime prevention can be as simple as installing locks and alarms, increasing surveillance through lighting and making buildings harder to enter, damage or hide near.

Criminal Justice: The form of crime prevention most commonly understood is associated with the criminal justice system: police, courts and prisons. Research tends to suggest that these measures are only partially successful. These measures work best when accompanied by the other models. More police, improved arrest rates, harsher penalties and prison are some of the common strategies associated with the criminal justice system. Increasingly there is recognition that there are smarter ways to stop crime – these rely on all models of crime prevention working together. The causes of crime are complex. Preventing crime will work best when these complex causes are understood and addressed. Using strategies from each of these models will generally be the most effective way to tackle crime, because all aspects of the particular crime will be considered.

Some of PACS crime prevention programmes are encapsulated in re-integration and resettlement programmes for offenders returning to the community. According to paragraph 6 (d) of the Guidelines for the Prevention of Crime, it is important to “Prevent recidivism by assisting in the social reintegration of offenders and other preventive mechanisms.”

Those convicted of offences run the greatest risk of re-offending, given that they have already broken the law, have few opportunities and skills to pursue legitimate non-criminal lifestyles, and may have strong links with other offenders and offending lifestyles. Providing them with life and job skills,

training, education, alternative lifestyles and role models and good support and housing in the community are all ways to assist with their reintegration. Programmes may take place in the community, or in halfway houses or sheltered homes that provide safe accommodation and in-house support and advice, and may include apprenticeship programmes, job-creation schemes, life-skills training, microcredit facilities and long-term support. Programmes that teach conflict resolution skills or use restorative justice approaches, such as victim-offender mediation or family or community group conferencing, are other examples of ways in which offenders can be assisted in returning to civil society. These are all examples of crime prevention focusing on re-integration, with the overall aim of preventing re-offending.

Causes of crime

There are various causes of crime, these includes; firstly, Biological or personality factors; these are inborn or developed traits which when they interact further with outside factors may influence both in a criminal way example personality disorder, antisocial outlook, hyper activity, impulsivity. Secondly, Social factors; Limitations in society example poor education, peer pressure, dysfunctional family, availability of drugs. Thirdly, Cultural factors; This may include societal practices or expectations for example rites such as FGM. Fourthly, Economic factors; This includes difficulty in accessing means of survival for example poverty, unemployment, inequitable distribution of resources. Fifthly, Environmental factors; Actual design of the environment can lead to (or potentially reduce) criminal acts for example poor governance, pollution or environmental degradation, poor housing.

Cycles of crime

It refers to those repeated criminal acts associated with factors in the socialization process. Socialization is the process through which we learn from, each other. It is a process that begins from birth and continues till the death of a person. Studies have shown that there is a correlation between the socialization process and crime- hence the cycle of crime.

The process of socialization is a lifelong process and has two phases; the primary socialization which takes place from birth to puberty and has several stages, oral, and oedipal. Secondary socialization takes place from puberty onwards and may include anticipatory socialization, re-socialization and reverse socialization.

Socialization mainly occurs in the following places.

Primary socialization

- i) Home
- ii) Day care
- iii) School

Secondary socialization

- i) School
- ii) Work
- iii) Institution
- iv) Community
- v) Media

Failure to satisfy the above stages may lead to negative learning including aggressiveness, influencing criminal behaviour at a later stage.

Types of crimes

We have many different types of crimes, from crimes against person to crimes without victims and violent crimes to white collar crimes, crimes against property, hate crimes, crime against morality and organized crime.

Serious crimes-any felony or crime of violence for example murder, robbery, burglary, rape, kidnapping, rape defilement, treason and arson.

Non-serious crimes-misdemeanours e.g petty theft, assault, stealing domestic animals, shoplifting, drunk and disorderly, failing to adhere to ministry of health protocols during COVID-19 pandemic.

Impact of crime on society

When we experience crime in the society, it affects us in many different ways namely:

Social effect

- i) Insecurity
- ii) Loss of lives
- iii) Unemployment
- iv) Poverty

Economic effects

- i) Affected business environment due to insecurity.
- ii) Property prices are affected-inflation
- iii) Reduction in investment-businesses avoid insecure area
- iv) Closing of existing businesses
- v) Loss of Government revenue-less tax

Crime mapping

It's the process through which crime researchers use location information about crime events to detect the position, size, space of patterns in criminal activity. Crime mapping is often associated with the simple display and querying of crime data using a Geographic information system (GIS).

Crime mapping is a general term that encompasses the technical aspects of visualization and statistical techniques as well as practical aspects of geographical principles and criminological theories. (Encyclopedia of Geographical information Systems Springar 2008).

Crime mapping process

The process of crime mapping involves:

- i) Analysing the offender statistics
- ii) Talking to the community and stakeholders within a region
- iii) Regarding point media
- iv) Listening to radio and television networks

Ogeto, (2017) posits that Crime mapping is a tool used to identify and highlight suspicious incidents and events that may require further investigation. In addition, crime mapping helps individuals to understand events and dynamics in a neighbourhood including person, events, and hazards. Maps increase the knowledge of existing problems present in a territory (Patricio Tudala, 2004). They allow the identification of hot spots and the destination of resources to areas with more needs and not to the ones with low priority.

Crime mapping helps practitioners be able to reveal and identify pattern and trend analysis across multiple jurisdictions and in addition help to uncover difference between the rural and urban environment in terms of criminality (Schultz and Tabanico, 2007). It is believed that different places experience different types of crimes. Through crime mapping analysis practitioners are able to understand the local criminal trend and can be able to link the two or even differentiate them.

Crime mapping has enhanced the implementation of programs of crime prevention thus reducing overall criminal activities.

Perspectives of Human Nature in Theories of Crime

All psychological theories of crime and many sociological ones as well have underlying assumptions about or perspectives on human nature. Three major ones can be identified.

The conformity perspective

Views humans as creatures of conformity who want to do the right thing. To a large extent, this assumption represents the foundation of the humanistic perspective in psychology. Human beings are basically "good people" trying to live to their fullest potential.

An excellent example of the conformity perspective in criminology is the strain theory of Robert K Morton. Morton's strain theory argues that humans are fundamentally conforming beings who are strongly influenced by the values and attitudes of the society in which they live. In short most members of a given society desire what the other members of the society desire. The "right" thing,

therefore, is what a society or a group within a society say is the “right” thing. In the society according to strain theorists, advocates that the accumulation of wealth or status is all important and represents the symbolic that all members should strive for. Strain theorists contend that humans, being fundamentally conformists, readily buy into these notions. However, access and the means for reaching these well-advertised goals are not equally available to everyone. Some have the education, the social network, personal contacts and family influence to attaining material wealth and economic or political power. Thus, the strain theory predicts that crime and delinquency occur when there is a perceived discrepancy between the materialistic values and goals cherished and held in high esteem by a society and the availability of the legitimate means for reaching these goals. Under these conditions, a strain between the goals of wealth and power and the means for reaching them develop. Groups and individuals experiencing a high level of this strain are forced to decide whether to violate norms and laws to attain some of this sought-after wealth or power, or give up and go through the motions, withdraw or rebel.

In more recent years, strain theorists have emphasized that crimes of the rich and powerful also can be explained by strain theory. Even though these individuals have greater access to the legitimate means of reaching goals, they have a continuing need to accumulate even greater wealth and power and maintain their privileged state in society (Messner and Rosenfeld 1994).

Nonconformist perspective

Assumes that human beings are basically undisciplined creatures who without the constraints of the rules and regulations of a given society, would flout society’s conventions and commit crime indiscriminately. This perspective sees

humans as fundamentally “unruly” and deviant if allowed to do what they feel like doing.

Social control theory contends that crime and delinquency occur when an individual has to the conventional order or normative standards are weak or largely non-existent. In other words, the socialization that normally holds one’s basic human nature in check is incomplete or faulty. This position perceives human nature as fundamentally “bad” or “antisocial” an innate tendency that must be controlled by society.

Learning Perspective

Sees human beings as born neutrals (neither inherently conforming nor unruly). This perspective argues that humans learn virtually all their behaviour, beliefs and tendencies from the social environment. The learning perspective is exemplified most comprehensively by social learning theory and differential association theory by Edwin H. Sutherland, 2009. According to differential association theory, criminal behaviour is learned, as is all social behaviour through social interactions with other people. It is not the result of emotional disturbance, mental illness or innate qualities of “goodness” or “badness”. Rather people learn to be criminal as a result of messages they got from others who were also taught to be criminals. The conventional wisdom that bad company promotes bad behaviour therefore finds validity in differential association theory.

Psychological theories governing probation practice

When examining psychological theories of crime, one must be cognizant of the three major theories. The first is psychodynamic theory which is centred on the

notion that an individual's childhood experience influences his or her likelihood for committing future crimes. The second is behavioural theory. Behavioural theorists have expanded the work of Gabriel Tarde through behaviour modelling and social learning. The third is cognitive theory, the major promise of which suggests that an individual's perception and how it is manifested affects his or her potential to commit crime. (Jacosy 2004).

Cognitive Behavioural Therapy (CBT)

Cognitive Behavioural Therapy (CBT) is a type of talk therapy or psychotherapy that can help with many emotional and mental conditions or issues. It is a group of different techniques that psychologists, therapists and counsellors use to modify thoughts, behaviours, feelings and emotions.

It is a short-term psychotherapy treatment that uses a practical and intensive approach to solving issues such as depression, anxiety, addiction and other behavioural or emotional concerns. It is based on the cognitive model of emotional responses and is more of a brief type of treatment in which then patient learns to challenge and change their unhealthy or unhelpful attitudes, beliefs, thoughts and emotions to improve behaviour and emotional regulation. (Benjamin ct.al, 2011) defines CBT as the intentional combination of demonstrated readiness and methodological vigour of behavioural procedures with the cognitive behavioural process that influence adjustment.

Psychoanalysis (Sigmund Freud's Theory)

Sigmund Freud (1856 to 1939) was the founding father of psychoanalysis, a method for treating mental illness and also a theory which explains human behaviour.

Freud believed that events in our childhood have a great influence on our adult lives, shaping our personality. For example, anxiety originating from traumatic experiences in a person's past hidden from consciousness, and may cause problems during adulthood also called the psychodynamic tradition or approach, which explain behaviour in terms of motives and drives. It views human nature as innately antisocial. Humans are biologically driven to get what they want when they want it unless they are held in check by internal (conscience) and external (society) forces. Without an organized society with rules and laws humans would aggress, plunder, steal and even kill at will. Psychoanalytic theory divided the psyche into three functions: the ID-Unconscious source of primitive sexual, dependency and aggressive impulses; the superego subconsciously interjects societal morals, setting standards to live by: and the ego- represents a sense of self and mediates between realities of the moment and psychic needs and conflicts. (De Sousa A, 2011).

Person-Centred Therapy (Rogerian Theory)

Was developed by Carl Rogers in the 1940's. This type of therapy diverged from traditional model of the therapist as expert and moved instead forward a nondirective, empathic approach that empowers and motivates the client in the therapeutic process. The therapy is based on Roger's belief that every human being strives for and has the capacity to fulfil his or her own potential.

Rather than viewing people as inherently flawed with problematic behaviours and thoughts that require treatment, person centred therapy identifies that each person has the capacity and desire for personal growth and change. Rogers termed this natural human inclination "actualizing tendency" or self actualization. The person-centred therapist learns to recognize and trust human

potential, providing clients with empathy and unconditional positive regard to help facilitate change.

Six factors Necessary for Growth in Rogerian Theory

- i) Therapist-Client psychological contact: Relationship between therapist and client must exist in order for client to achieve positive personal change.
- ii) Client incongruence or vulnerability: A discrepancy between the client's self-image and actual experience leaves him or her vulnerable to fears and anxieties. The client is often unaware of the incongruence.
- iii) Therapist congruence or genuineness. The therapist should be self-aware, genuine and congruent. He or she should be true to him or herself within the therapeutic relationship.
- iv) Therapist Unconditional Positive Regard (UPR) The client's experiences, Positive or Negative, should be accepted by the therapist without fear of being judged.
- v) Therapist Empathy: The therapist demonstrates empathic understanding of the client's experiences and recognizes emotional experiences without getting emotionally involved.
- vi) Client Perception: To some degree, the client perceives the therapist's unconditional positive regard and empathic understanding. This is communicated through the words and behaviours of the therapist.

Confrontational Theory

Confrontational therapy is the act of directly facing or being encouraged to face a person's difficult situation. Confrontation can be a therapeutic technique when

a conflict arise between how the client feels and what the client does. This technique can also prove helpful when the client needs to come to a difficult realization or discrepancy that they are unwilling to confront on their own, the goal is to move the client from being unstuck in their actions.

Confrontational therapy was introduced in 1978 and began as a direct technique used by counsellors to challenge clients to face their challenges and evolved to become a minor form of that concept over a period of time. Additionally, this therapy was primarily used in Gestalt therapy, a form of psychoanalytic therapy that focuses on the patient's present challenges instead of their past actions.

Confrontational therapy can be abrasive and ineffective when it is not done in an empathetic way. It is often used to help clients seek a healthier life and is beneficial to clients at risk of a crisis scenario. It has proven effective for clients suffering from drug abuse, it has also been applied to clients at risk of suicide and self-harm. This therapy also helps with complicated relationship by fostering open channels of empathetic communication.

Gestalt therapy

Gestalt therapy is a humanistic, holistic, person-centred form of psychotherapy that is focused on a person's present life and challenges rather than delivering into past experiences. This approach stresses the importance of understanding the context of a person's life and taking responsibility rather than placing blame. It refers to the form or shape of something and suggests that the whole is greater than the sum of its parts. There is an emphasis on perception in this particular theory of counselling. It gives attention to how we place meaning and make sense of our world and our experiences. (Brownell,p, 2016).

Gestalt therapy was developed by Fritz Perls, with the help of his wife at the time, Laura Perls and introduced in the 1940's as an alternative to more traditional psychoanalysis. Along with others, such as Paul Goodman, they worked together to develop a style of therapy that was humanistic in nature. In other words, the approach focused on the person and the uniqueness of their experience.

There are a variety of conditions that Gestalt therapy may be used to treat including anxiety, depression, low self-esteem, low self-efficacy, relationship problems.

Benefits of Gestalt therapy

- i) An improved sense of self control.
- ii) Better ability to monitor and regulate mental states.
- iii) Better awareness of your needs.
- iv) Better tolerance for negative emotions.
- v) Improved communication skills.
- vi) Improved mindfulness
- vii) Increased emotional understanding.

Gestalt therapy has both some pluses and minuses. Two potential weaknesses of gestalt therapy are that It requires a therapist to have a high degree of personal development and knowledge and it only focuses on the present. Therapists who don't have a deep understanding of the theory behind gestalt therapy may be tempted to utilize its techniques and exercises haphazardly,

which is not likely to serve the client's needs. The focus on the present can feel limiting. Although revisiting the past is an important part of identifying what needs to be healed. Gestalt therapy is an approach that focuses more on the here and now experience of the client.

Biological theories

Biological theories attempt to explain behaviour contrary to societal expectations through examination of individual characteristics. These theories are categorized within a paradigm called positivism (also known as determinism), which asserts that behaviours, including law-violating behaviours are determined by factors largely beyond individual control.

Positivist theories contrast with classical theories, which argue that people generally choose their behaviours in rational processes of logical decision making, and with critical theories, which critique law making, social stratification and the unequal distribution of power and wealth. Positivism evolved as instrumental in explaining law violating behaviours during the latter part of the 19th century as a response to the perceived harshness of classical school philosophies. Classical thought asserted that man operated on the basis of free will and rational thought, choosing which courses of action to take. Punishment of the right type and in the right amounts would deter an individual from committing an act if that punishment resulted in pain that outweighed the pleasure.

Positivist criminology is distinguished by three main elements:

- i) The search for the causes of crime, whether biological, psychological or sociological.
- ii) The use of the scientific method to test theories against observations of the world.
- iii) The rejection of punishment as a response to law violating or deviant behaviour, replaced with treatment based on medical rehabilitation model. Positivism rejects free will and replaces it with determinism. It rejects focus on criminal law and replaces it with a study of the individual.

The scientific method is important to positivism and to biological theories of crime because it provides a systematic way to examine a particular problem or issue, rather than relying on spiritual or mystical explanation. The development of the modern scientific method is credited to Ibn al Haytham (965-1039) an Iraqi-born scientist who wrote the book of optics between 1011 and 1021.

Biological theories have evolved significantly with advances in our theoretical understanding of human behaviour and in our technological capabilities of measuring human biological characteristic and processes.

Psychological Theories

In psychology, theories are used to provide a model for understanding human thoughts, emotions and behaviours. A psychological theory has two key components;

- i) It must describe a behaviour
- ii) It must make predictions about future behaviour.

There are numerous psychological theories that are used to explain and predict a wide variety of behaviours. The theories serve a number of important purposes, they provide a framework for understanding human behaviour, thought and development.

Theories tend to fall into one of a few different types.

Grand theories: attempt to describe many aspects of the human experience. Examples include Freud's psychoanalytic theory and Erikson's psychosocial theory.

Mini theories: Focus on describing just a narrow range of behaviours.

Emergent theories: are those that are newer and often involve combining different aspects of various mini-theories. Vygotsky's sociocultural theory is an example of an emergent theory.

THE ROLE OF PROBATION INSTITUTIONS

Probation residential institutions in Kenya are run by the Department of Probation and After Care Service currently under the State Department for Correctional Services within the Ministry of Interior and Coordination of National Government.

They were established around 1953 when the first gazette notice that specified various institutions as premises for use by probationers was published and subsequently put into effect. This was followed by similar notices in 1954, 1958 and 1961 which saw the establishment of hostels in Nairobi, Mombasa, Nakuru and Eldoret. Initially the hostels served as centres of refuge for the displaced and criminalized youth during and after the state of emergency.

Probation and aftercare service operate two categories of institutions namely Probation Hostels and Probation Community Resource and Training Centres (Day Care Centres). Both categories are client based and they admit clients.

The department also has one training institute which serves as a capacity development centre for serving probation staff and induction of newly employed probation staff. (PACS, 2022).

Probation Hostels

Probation hostels are temporary homes for needy and deserving probationers run by the probation and aftercare services department. Hostels provide abode for probationers who cannot be adequately rehabilitated while in their home settings due to various problems that are provided for by section 5(2) in the Probation of Offenders Act Cap 64 Laws of Kenya.

The Act provides for the establishment of Probation Hostels enabling the court to make an order committing an offender to the Hostel for a period not exceeding one (1) year. It is expected that the Committing probation officer prepares the home environment in preparation for the probationer's return upon completion of one year. However, where need be, the Order can be extended by the Court, upon application by the Committing PO, for a period of up to twelve months (Section 5(4) CAP 64 LOK).

Upon release from a probation hostel, where the probationer was initially committed to a Probation term of more than one-year, further supervision is provided by the PO in the field stations, as the client continues to serve their sentence in the community.

The overall objective of hostels is to provide temporary accommodation and empower the offender to ensure smooth reintegration in the community and forestall re-offending.

The probation hostels manual addresses specific objectives of probation hostels as follows: to provide temporary accommodation for needy probationers, to rehabilitate and empower offenders, to prepare the offender for smooth reintegration in the community and forestall re-offending.

In order to fulfil the above objectives, certain processes and protocols are engaged as guided by the throughcare and after-care procedures and protocols which essentially provide guidelines for standardized treatment and rehabilitation of children in statutory institutions in Kenya. These guidelines and protocols are owned and used by the five Juvenile Justice Agencies (JJAS). The guidelines ensure that there is information sharing and feedback, and a multisystemic approach to treatment and rehabilitation of children in the juvenile justice system. The protocols also ensure a seamless and robust throughcare system in Kenya.

Ideally, any offender who is initially found suitable to be placed on Probation is a potential candidate for the Hostels. However, the suitability of each potential hostel inmate needs to be assessed so as to ensure that the hostels receive clients who merit committal. This is verified through a case conference for such candidates in each of the respective stations before an officer writes a recommendation for hostel institutionalization.

While making consideration for hostel residence for a probationer, section 4(1) and (2) of the probation of offenders Act should provide guidance and the case should meet some of the under-mentioned criteria: One who has threatened to take his own life, one whose home environment is not conducive for immediate return and rehabilitation, one who needs intensive counselling that cannot effectively be achieved by the field stations, one who comes from a crime prevalent area and needs to be separated it while undergoing rehabilitation to avoid recidivism, one who comes from a dysfunctional family to the extent that parental guidance is inadequate and must have committed a criminal offence. Other considerations for hostel suitability may include the probationer's consent to reside in the Hostel, relatives or significant others consent to the probationer being committed, confirmation of vacancy in the identified hostel, which is done through writing or telephone calls.

Upon committal to a probation hostel by the court, the probationer is escorted to the hostel by the probation officer while accompanied by mandatory committal documents which are specified in the throughcare guidelines. The time frame for escorting to the hostel after committal is within seven days. The throughcare procedure begins from the time of admission to the time of resettlement. In throughcare, the institution keeps in constant touch with the committing office and the family through reports such as summary assessments compiled within three months of admission, progress reports written after every three months detailing the progress of the probationer in the institution and environmental adjustment report from the field office detailing the condition and readiness of the home/family and community where the probationer will ultimately settle.

During the residency of the probationer at the hostel, certain vocational and life skills are taught which include but are not limited to carpentry, masonry, tailoring, electrical wiring, barberry, plumbing, farming, cookery etc. The type of vocational skill may differ from one institution to another.

Group sessions for counselling, psychoeducation and life skills coaching are done during the probationers' residency. Personal therapies are also programmed for each probationer with the aim to foster personal awareness and growth. This is complimented with a mentorship programme which can be carried out through partner organizations. Recreation is also an activity which serves as an avenue for the probationers expend their youthful energy.

Family group conferences are organized between the probationer and the parents/ guardians and any other person of significance to the probationer's resettlement. Upon release from the hostel, the probationer is escorted back home and handed over to the field officer and the parent/guardian by the manager of the hostel. The period of post institution supervision is determined by the period of the probation sentence. Aftercare service is also given to those who have already completed their probation sentence while at the institution to ensure they effectively settle in the community. Probationers leaving the institution and have been empowered through vocational skills are also provided with basic tools related to their line of vocation.

Currently the department operates five hostels which are categorized according to age and gender as follows:

- i) Shanzu boys' hostel (Mombasa) for juveniles below 17 years old.

- ii) Nairobi probation hostel for males of 18 years and above.
- iii) Kimumu junior and senior probation hostel (Eldoret) for males under 17 years and over 17 years and above.
- iv) Nakuru probation girls' hostel for females aged 10 years and above
- v) Siaya female hostel which has a unique provision for accommodation for pregnant girls and women with small children

Summary of Probation Hostels

Hostel	Criteria	Capacity	Location
Shanzu (Mombasa)	Boys 8-16	54	North Coast off Malindi, Next to Shanzu teacher's college
Nairobi	Males 17 & above	30	Nairobi – Makadara off Jogoo road
Nakuru	Females 10-21	50	Nakuru-along Kabarak road opposite showground
Kimumu junior (Eldoret)	Boys 8-16	40	Kimumu area next to University of Eldoret
Kimumu senior (Eldoret)	Males 17 & above	40	Kimumu area next to University of Eldoret
Siaya	Females 16 to adulthood mothers & pregnant women	60	Next to Siaya County headquarters

Source, PACS 2019

Probation Community Resource and Training Centres- PCRTC

Probation Community Resource and Training Centres (PCRTC) or formerly Day Care Centres are non- residential community-based institutions whose target population are ex-offenders and youth at risk. They are designed with a broad objective of crime prevention largely with the aim of diverting this category of people from recidivism and criminal behaviour.

To achieve the aforementioned objective, various activities are carried out in the centres which include empowerment through vocational courses, supervision and rehabilitation of offenders, providing access to IEC materials, provision of psychosocial support and enhance crime prevention through diverse interventions.

PACS operates two Probation Community Resource Training Centres namely Likoni Probation Community Resource and Training Centre and Webuye Probation Community Resource and Training Centre.

The Probation Community Resource and Training Centres offer training services to the community, at a nominal fee, as well as probationers. Courses offered include dressmaking, culinary arts and ICT courses. Life skills programmes designed to impact positive values are taught. The Centres also mentor peer counsellors who are best placed to influence their peers. Being located within the community, the Centres provide platforms for crime prevention. Unlike adhoc programmes, through the Resource Centre, PACS is able to forge relationships with the community which is critical for crime prevention programmes to succeed.

Admission to the centres is open to all except where courses require some minimum level of education. The targeted population are: Needy and deserving non-custodial offenders and ex-offenders, those who cannot be admitted at the probation hostel due to factors such as family commitments or pregnancy, members of the community who cannot afford fees for trainings in private and other public institutions, members of the immediate community who need library services or other such services offered by the institution.

Rehabilitation programmes in Probation Community Resource Training Centres include guidance, counselling, life skills training (Decision making, critical thinking, communication skills, peer resistance skills etc.), vocational training – (Tailoring and dress making, Computer and mobile phone repair), computer packages, hairdressing and beauty therapy, training in cottage industry or any other course as may be decided by the Management Community Resource and Training Centres, referral services. Other programmes offered include entrepreneurship skills training, library services, crime Prevention, supervision and rehabilitation. Certification is offered after successful completion of the course undertaken.

Admission to the centres are subject to referral incase of offenders /ex-offenders and application in cases of other category of clients drawn from the community. The minimum age of admission to the centres is 15 years. There are conditions that must be met by a person seeking admission such as: Willingness to adhere to the conditions of supervision during the stay in the institution, have a fixed abode satisfactory to the Probation Officer, no history of absconding from a training centre or an addiction treatment centre, is physically, mentally and medically fit as may be appropriate to be in a PCRTC, commitment in writing of

the parents/guardians of persons under the age of 18 years is a requirement with regard to the latter's conduct while at the institution.

Disqualification may occur if the applicant is an escapee from any penal and rehabilitation institutions, an absconder from Probation and CSO sentence or is a client who has been assessed as being able. Upon admission, a client is required to be subject to certain rules of conduct applicable to all trainees. There are also certain prescribed penalties for breach of rules of conduct.

The clients undergoing training are examined both internally and with external examinations administered by KNEC, Directorate of Industrial Training (DIT), City and Guilds (C&G) and any other accredited examining body.

The resource centres have management committees who serve as a link between the institution and the community and whose functions include: Help in initiating training programs at the PCRTC, mobilize the youth within the community for training purposes, sensitize the public on the activities going on at the PCRTC, make recommendations for the extremely needy cases in the community to get trainings in the PCRTC, mobilize resources/partners to support the PCRTC, attend meetings, deliberate and make recommendations on matters affecting the activities at the PCRTC, act as a link between the community and the PCRTC, participate in PCRTC open days, promote crime prevention initiatives in the community, seek attachments/practicums for the trainees of PCRTC.

The presence of the PCRTC'S helps to serve the broad objective to empower the offenders, ex-offenders and the youth through trainings so that they can be self-reliant and have a positive view towards life.

CHAPTER SEVEN

CHILD JUSTICE

Peter Macharia (PACS) And Dr. Mwanzia (KSG)

According to the Kenyan Constitution, a child is a person who is below 18 years of age. A Child ought not to be treated as an adult. Treatment of child offenders as they go through the justice system ought to be humane in accordance with uttermost consideration of child's best interest. A child is entitled to all rights and freedom as enshrined in diverse accepted national and international instruments and for this reason, probation has well laid out procedures and principals that guide in handling of child offenders as they go through the justice system. Therefore, any child found to have infringed penal laws is treated with dignity for he is presumed to be innocent until duly tried and found guilty.

The unique background circumstances of each child are considered when recommendations are made concerning the continuation or exit from the justice system. Probation has made tremendous progress in matters of child justice starting from the time the child gets in contact with the justice system to the time of exit. PACS has professionally trained probation officers who handle child matters at the time of referral from courts walking with the child in a friendly way during the time of rehabilitation and reintegration. During this time the principal of child interest is considered for the benefit interest of juvenile offenders.

Previously child offenders were associated with commission of petty crimes. A trend is emerging showing child offenders engaging in serious crimes such as robbery with violence, rape, defilement, cyber crimes and murder. These child

offender dynamism calls for a concerted effort by all child justice actors for successful child rehabilitation.

The process of criminal justice system for child offenders the world over is rife with conflict between efforts to uphold justice by meting out harsh punishment while at the same time priority is on the best interest of the child which is sometimes wrongly construed to mean lighter judicial orders.

NATIONAL AND INTERNATIONAL CONVENTIONS AND INSTRUMENTS GOVERNING THE CHILD JUSTICE

The Children Act No. 20 of 2022

The Children Act advances the concept of the best interest of the child as the primary consideration in every decision touching on children. Further, it has elaborated and expounded on a myriad of aspects such as prioritization of children's matters being diverted to community-based systems. On this breath, the following are the highlights of the amendments in relation to the role of Probation: a) Section 54(2) (h), on the membership of probation officers in the county children advisory committee; b) Section 83(2), on the supervision of child offenders exiting rehabilitation schools for the purposes of reintegration; c) Section 228 (3a), on the function of monitoring the child offender on compliance to the diversion options ordered by the court; d) Section 231, on the function of conducting preliminary social inquiry on child offenders for courts; e) Section 232(2c), on the attendance of a probation officer in family group conferencing of the child offender; f) Section 239 (1) on methods of dealing with children in conflict with the law. Where Probation Service assist courts in making decisions on disposal of child offender cases and in the supervision, rehabilitation and

reintegration of child offenders.

The Power of Mercy Act No. 21 OF 2011

The Power of Mercy is a prerogative power conferred upon the President by the Constitution and it entails granting pardon to reformed and rehabilitated convicted criminal offenders including juvenile offenders serving under presidential pleasure deserving early release from prison.

Probation of offenders Act Cap. 64

The Probation Orders Programme draws its mandate from the Probation of Offender's Act Cap 64, Laws of Kenya. This sentencing option concerns the rehabilitation of offenders (adults and juveniles) in the community through supervision, rehabilitation and treatment of offenders for a period ranging between six (6) months and three (3) years. The Act aim to keep children out of custodial measures putting into consideration the best interest of the child.

African Charter on The Rights and Welfare Of The Child

These were adopted by the assembly of the heads of states and government of the OAU on July 1990. They take cognizance that a child, due to the needs of physical, mental and social development requires among other things, legal protection. The charter discourages promotion and use of any custom, law, tradition, cultural and religious practice that is inconsistent with spirit of this charter. The charter advocates for the best interests of the child as a primary consideration in all matters involving children and that in case where a child is capable of speaking his/her own views, an opportunity shall be provided for the child's views to be heard and such views will be put into consideration in dispensation of justice. It also categorically states that a child shall have the

right to education and a mentally or physically handicapped child will be accorded special treatment to promote their self reliance and active participation.

UN Standard Minimum rules for Administration of Juvenile Justice: (The Beijing Rules)

These are commonly known as the Beijing rules. These Rules emphasizes the need to systematically develop and improve coordinated methods and approaches in the juvenile justice system. It was Adopted by the United Nations in resolution 40/33 of the 29 November, 1985. The rule empower probation officers to carry out inquiries and dully inform the courts on the best treatment of a juvenile offender. The rules outline that effective rehabilitation of a juvenile offender is based on the level of training of a probation officer.

The Rules put emphasis that the post institutional treatment of juveniles should include such matters as halfway houses, educational homes, day time training centres and other such appropriate arrangements that may assist juveniles in their proper reintegration into society.

UN Guidelines for the Prevention of Juvenile Delinquency: The Riyadh Guidelines (1990)

This lay emphasis on crime prevention measures and policies that can be undertaken within the society to divert potential youth offenders from engaging in juvenile delinquency.

Adopted and proclaimed by the UN General Assembly Resolution 45/112 of 14th December, 1990 per the title to guidelines spells out what member state

governments should do to avoid Juvenile Delinquency: The Rules envisage that youth delinquency is usually associated with a child's growth and that young people should not be labelled as deviant or delinquents.

UN Convention of the Rights of the Child (CRC)

It was adopted by the UN General Assembly Resolution 44/25 of the 20th November, 1989. Notable of this instrument is that Governments are required to set a minimum age below which children cannot be held criminally responsible and to provide minimum guarantees for the fairness and quick resolution of judicial or alternative proceedings.

Rehabilitation of Child Offenders in the community

Child perpetrated offenses has gained global recognition as significant problem in the society that requires immediate action from child justice systems. Diverse studies have revealed that child offenders are not only denied their constitutional rights but also fail to receive proper rehabilitation in the criminal justice system as envisaged by the founding philosophy of the child justice system.

In this view, PACS has synthesized potential timely and relevant child offender treatment system that targets the pettiest and the most serious child offender in the community. PACS Community based child rehabilitation process enables the child offender to receive counselling, vocational training, better education, drug-rehabilitation program and any other proven scientific methods that can reduce recidivism.

Prior to placement of the child offender in the society, a comprehensive risk assessment is made which is accompanied by a detailed Individual treatment plan with an over view of the best interest of the child.

Rehabilitation of Child Offenders in PACS Institutions.

Errant juvenile delinquent coupled with unfavourable home environment may require institutional rehabilitation in a contained environment. PACS has a number of institutions where child offenders are placed as a matter of a last resort and in consideration of their best interest. Unlike punitive adult prisons, PACS juvenile institutions offer an alternative home care with tailored child friendly programs for rehabilitation of the child offender. The idea is to make primary education, secondary and post secondary education accessible to all the child offenders serving noncustodial sentences or those on aftercare. Education given in these institutions conform to the standard education offered in the community.

In these institutions every child who is mentally or physically handicapped are given specialized attention that takes care the extent of their disability. They also take into consideration Development of the child in all spheres of life: physical health, nutrition, shelter and clothing in accordance for the child to get the fullest social integration and individual development. They also attends to provisional of necessary medical assistance and health care in accordance with the national healthcare policy. They also ensure spiritual or moral education of the child in a manner that matches the capacity of an individual child. In the institutions, the child is separated from adults with separate male and female institutions. Institutional discipline is administered with humanity without interfering with the dignity of the child. Alternative family care is provided for

children in institutions who have been separated from their parents as they target reformation, reintegration and social rehabilitation of child offender.

Borstal

Borstal Institutions are under administration of Kenyan Prison. These institutions are designed for juvenile offenders aged between 15 and 17 years who are committed for a period of 3 years with waiver of up to 2 years based on good conduct. To cover up the period waived, the juvenile offender is placed on aftercare under supervision of a probation officer. Currently we have three Borstal institutions: Shimo la Tewa in Mombasa Shanzu, Shikusa in Kakamega both for boys and Kamae in Kamiti, Kiambu for girls.

Child offenders held in borstal institutions will only be released on license after pre-release environment adjustment report has been filed by the Probation Service. Post Penal supervision is accorded to each offender by probation officers for a period determined by the Board of visitors that releases the youthful offenders on License after having spent a certain period in the institutions. (SDCS, Strategic Plan 2018-2022, 2020).

Children in these institutions are offered an opportunity to pursue formal education or vocational training. Also, intense institutional rehabilitation therapy is employed to prepare the child for integration back into the community.

Rehabilitation School

The rehabilitation schools were renamed according to the children act of 2001. These schools are under the management of the DCS (Department of Children Services). The schools are empowered to receive, maintain, train and

rehabilitate children in conflict with the law as well as those requiring care and protection.

Children in Remand Homes

Children remand homes are run by the department of children services. Committing to and release from these facilities can only be done through the court. Children remand homes in Kenya accommodate children in conflict with the law and those in need of care and protection

Youth Corrective Training Centre (YCTC)

The Youth Corrective Training Centre (YCTC) cater for boys who were deemed to be unruly and needing short-sharp-shock treatment. It was thought to fit those who were considered to be defiant to authority and could not be supervised under probation and yet did not warrant long-term confinement like the Borstal institution. They are committed to this institution through a recommendation of a probation officer for a period of hundred and twenty (120) days

Partnership with Stakeholders

PACS has partnered with non-statutory institutions for the placement of juvenile offenders whose immediate home environment is not conducive for their return. PACS has also nurtured a friendly relationship with a number of stakeholders who assist in the empowerment of child offenders in such areas as payment of school fees for those in formal education, payment of vocational training charges, provision of tools after successful completion of these training.

Rehabilitation Strategies for Child Offenders

The child is given a chance to pursue formal education for children who had dropped out of school. They also Offer vocational training in consideration of marketable courses. The child is assisted for attachment, apprenticeship and possible work placement. Also, there are counselling programs for child offenders hooked in chemical dependency. Officers' employment the 12 steps of healthy living as a counselling a model, they also partner with rehabs for in depth institutional rehabilitation. They also instil positive leisure activity such as sport events, music and artwork. And finally, officers are trained on clinical assessment and how to deal with radicalized children.

CHAPTER EIGHT

YOUTH JUSTICE IN KENYA

Caroline Tare (PACS) and Prof. Nura (KSG)

Definitions of youth have changed continuously in response to fluctuating political, economic and socio-cultural circumstances, (UN World Program of Action for Youth, 2010). The African youth charter for instance defines a youth as being every person between the ages of 15-35 years

The Kenya Constitution classify the youth as anyone who has attained the age of 18 and not 35 years. The Kenya national youth policy (2006) defines youth as persons resident in Kenya in the age bracket 15-30 years. Needless to say, many other definitions of youth do exist in Kenya, depending on the purpose and goal.

These classifications are an indication that young persons within this age group are not homogenous but fall within a conglomeration of sub groups with differing developmental needs and requirements.

Youth offending has morphed in Kenya as it has globally. Not only are the nature of crimes committed by this category of offenders changing, but the age bracket of offenders is also widening. While youthful offenders were previously associated with petty offending, they are increasingly engaging in serious crime such as murder, robbery with violence, sexual offences, drug trafficking and violent extremism. Research reveals that their vulnerability and ability to commit crime undetected, makes them key targets for recruitment into criminal gangs. Other factors such as the increased breakdown of the family unit, absence of nurturing communities, erosion of communities' value systems, poverty,

technological advancement and increased exposure to crime related activities have also contributed to the changing trends. The dynamism of child and youth offending requires an equally dynamic as well as responsive justice system. Young people are an invaluable resource for any country's development. They are not only a vital source of the state but also change agents. According to the UNHABITAT State of Urban Youth Report (2012-2013), there are more people under the age of 25 years today. This total to nearly three billion which is half of humankind. About 1.3 billion of this number is between ages 12 and 24 years. Most of them are said to be living in urban areas.

In Kenya, 75% of the total Kenyan population is below 30 years of age. Those between 15 years and 30 years old account for 32% of the population. (The National Youth Policy 2006)

Youth crime and delinquency are serious problems all over the world; their intensity, gravity and depth vary mostly on social economic and cultural conditions in each country. There is evidence however, of an apparent worldwide increase in youthful criminality with economic recession, especially in marginal sectors of urban centres (UN World Program for Action, 2010)

According to the Kenya National Bureau of statistics, in the period 2001-2009, 56% of crimes in Kenya were committed by young persons aged between 16-25 years (Kenya youth fact book (2010). In Kenya Over 50% of all convicted criminals are young men aged between 16 years and 25 years.

UN World Programme for Action on Youth

The program gives prominence to youth problems by identifying priority areas for action to be taken in the fields of: education, employment, hunger and poverty, health, environment, drug abuse, juvenile delinquency, leisure-time activities, girls and youth women, and the full and effective participation of youth in the life of society and in decision-making.

African Youth Charter of the AU

The Charter elucidates the rights and duties of member states in developing a political, social and economic environment that is conducive for youth participation and development, in promoting an integrated governance culture.

National Youth Policy

This policy recognizes the importance of the youth to enjoy their youthfulness irrespective of social standing and more specifically underscores the following rights; right to life ,meaningful education, good health ,protection from sexual exploitation and abuse, protection from harmful and repugnant cultural practices, adequate food, shelter and clothing, freedom of speech ,expression and association, inclusion in decision making, protection from social, economic and political manipulation and ownership and protection of property.

The policy also recognizes that rights have attendant responsibilities such as; patriotisms and loyalty to Kenya, contribution to social-economic development at all levels, respect for humanity, sustainable peaceful co-existence, environmental protection, protection and assistance to the disadvantaged and the vulnerable, promotion of democracy and the rule of law, development of

positive attitude towards education, upholding good morals and to take responsibility for their own lives and destiny.

The Probation of offenders Act CAP 64 does acknowledge youth as one of the considerations the court may have regard to while passing sentence. Section 4(1) (2)

Education and skills development

The transition from education to employment for young people is a fundamental step that lays the foundation for future earnings. The Kenyan Constitution obligates the government to take measures, including affirmative action programmes, to ensure that the youth access relevant education and training. The country has various policy responses, including making skills training and entrepreneurship development as one of the priority areas in the national youth policy. Data from the World Bank highlights a high literacy rate of 86% in 2015, among Kenyan youth aged 15-24 years, while the 2015/16 Kenya Integrated Household Budget Survey (KIHBS) shows a higher literacy rate among the youth of 94.4%.²¹ The net enrolment ratio in primary schools is high at 82.4%, but this drops down to slightly more than one third (37.5%) of secondary school age students actually enrolled in school. Another challenge is gender inequality. Contrary to popular concerns that girls were disadvantaged over boys in school attainment, the 2015/16 KIHBS report revealed that proportionally more girls than boys of the expected school ages were attending school both in primary and secondary level (82% for boys and 83% for girls in primary and 35% for boys and 40% for girls at secondary level). At tertiary level however, female enrolment lags behind that of men at 5% and 3%, respectively. Kenya's labour market requires skilled and well-trained workers, but there is a concern in the

country that the secondary and university school curricula are not aligned to the needs of the labour market and does not emphasize transferrable skills.

Employment and job creation

Kenya's economic growth has been generally positive over the last decade. The annual Gross Domestic Product (GDP) growth was 5.6% in 2015 and 5.9% in 2016, and was estimated at 6.2% in 2017. This expansion has been the result of significant growth in some key sectors among them agriculture; construction; food services, housing and finance. However, growth in other sectors decelerated during the same period leading to insufficient growth and unemployment. Based on the preliminary National Adolescents and Youth Survey (NAYS) report published in 2015, the recurrent issues hindering access of young people to employment and income opportunities were corruption, lack of capital and lack of knowledge and relevant skills. It is estimated that annually, over 750,000 Kenyan youth attempts to enter the labour market but only 15% are able to get formal jobs. Unemployment rates – driven by inequality and discrimination - vary based on age and sex. Specifically, about 23% of youth aged 15-24-years are unemployed (17% among males and 21% among females). Further, most of the young people who are employed are engaged in the vulnerable and low-paying informal Jua Kali sector. Concerns over the high youth unemployment have led the government to implement a series of programmes in recent years including the nationwide programme Kazi Kwa Vijana (KKV) that aimed at employing between 200,000-300,000 youths annually in the rural and urban areas and the revamped National Youth Service programme. Fast-tracking the legislative approval of the 2014 draft National Employment Policy that among others targeted tackling youth unemployment

will provide a legal backing to the need for urgently addressing the plight of young people in accessing employment.

Migration and Urbanization

The rapid increase in Africa's urban population has largely been driven by natural increase (i.e. the difference between births and deaths) within urban populations, which accounts for about 75% of the urban growth in Africa with rural-to-urban migration contributing the rest. In contrast, natural increase accounts for only 50% of urban growth in Asia.

Kenya is urbanizing very rapidly with an annual urban growth rate of 4.3% in 2014, and although only 26% lived in urban areas in 2015, the urban population is projected to increase to 44% by 2050. Urbanization offers important opportunities for economic and social development, but challenges still exist. In particular, cities and urban centres are struggling to provide infrastructure and an enabling environment for innovation, due to rapid urbanization. As such, about 56% of urban dwellers in Kenya live in slum areas in abject poverty where they do not have access to basic social services, lack stable livelihoods and have high unemployment rates thus high rate of criminality among the youth.

Decades to come

The large youthful population has created population momentum, implying that the population will continue to grow for several decades even if the country were to achieve replacement fertility of 2.1 in the next 30 - 50 years. To assess the future demand for schools, family planning services, and jobs, the United Nations population scenarios was used to generate population projections for 2030, 2050, and 2065, starting from 2015 as the baseline year. The UN Medium

variant scenario assumes that increases in contraceptive use will result in fertility patterns similar to the experience of other countries that have gone through the demographic transition. The UN Low variant scenario, assumes that for most of the projection period, fertility is half a birth lower than the Medium variant. The UN model makes allowance for high mortality due to HIV/AIDS in high prevalence countries and migration in countries where there is significant people movement.

Youth population not in education, employment or training

The share of the young people not in education, employment or training (NEET) provides a broad measure of the untapped potential of young people who could contribute to national development through work. The International Labour Organization (ILO) points out that this group is also important since they are neither improving their future employability through investments in skills nor gaining experience through employment. As a result, the group is particularly at risk of both labour market and social exclusion. The 2013 Kenya Steps Skills Survey showed that the 15-34 age group NEET was 29% and much higher for females (42%) than for males (14%). Assuming that these NEET rates remain constant over the next forty years, the absolute number of the 15-34 years NEET is expected to rise alarmingly (see Table 1). From a baseline of 4.9 million in 2015, the numbers could rise to 7 million, 8.7 million and 8.6 million in 2030, 2050 and 2065 respectively under the Accelerated model. Alternatively, the number of NEETs in this age group could rise as high as 10 million by 2065 under the UN Medium variant scenario. Apart from these socially excluded young people being at a high risk of falling into the poverty trap, they are also a potential destabilizing force that can cause civil disturbance and be a potential

recruiting pool for radical forces (including rebel groups and terrorists). They also form a pool of desperate potential labour migrants.

What is the risk of “business as usual”? The projected growth of the youth population in Kenya will place significant strain on the country since these youths will have to be educated, housed, and be provided with healthcare.

As the population grows in rural areas and land for growing food becomes scarce, there is likely to be increased migration from rural to urban areas in search of livelihoods. International migration is also likely to increase as young people seek livelihood opportunities in neighbouring countries and beyond. Estimates from the United Nations migration statistics suggest that roughly 2.5 million inhabitants from Kenya, Tanzania, Rwanda, and Uganda emigrated in 2015 alone and about 35% were youth between 15-34 years. Men and women were equally likely to migrate. Finally, inactivity in addressing youth demographics may threaten the country’s security since unemployed and disenfranchised youth can cause civil unrest.

Youth offending has been associated with poverty, drug abuse, poor parenting, dysfunctional families, high levels of unemployment, poor wages, among other factors. The Kenya national youth policy notes that only 25% of the youth are able to be absorbed into the labour market rendering 75% unemployed. This scenario puts more youth at risk of engaging in crime.

Studies have indicated that with proper programmes, guidance and support, most youthful offenders can overcome their anti-social tendencies and develop into law abiding citizens.

Successful rehabilitation and reintegration are important because of the obvious fact that young people sentenced into custody return to their communities at some point and if not assisted to adjust may revert to criminality.

Similarly, offenders placed on community-based sentences are beset with various challenges and concerns which if not addressed during rehabilitation and supervision could easily result to relapse to criminality. It is therefore critical that appropriate policy strategy be put in place to mitigate on factors that may propel them to criminality.

Youth Corrective Training Centre (YCTC)

The Youth Corrective Training Centre (YCTC) was established in 1962 to cater for boys who were deemed to be unruly and needing short-sharp-shock treatment. It was thought to fit those who were considered to be defiant to authority and could not be supervised under probation and yet did not warrant long-term confinement like the Borstal institution. It is established under the Prison Act. There is only one YCTC at Kamiti for boys and none for girls. Children and youth admitted to the centre must be aged between 17-21 years for a duration of four months. This institution provides an environment that facilitates short term institutional supervision.

ISSUES AFFECTING YOUTH IN THE CRIMINAL JUSTICE SYSTEM

- i) School/ college dropout
- ii) Lack /inadequate skills

- iii) Unemployment and under employment mostly arising from stigma and criminal records
- iv) Drugs and substance abuse and related crimes e.g. peddling,
- v) Health related issues e.g HIV/AIDS, mental illness, teenage pregnancies,
- vi) Retrogressive cultural practices e.g. female genital mutilation, early marriages,
- vii) Dysfunctional family- lack of social support
- viii) Limited sports and recreational facilities
- ix) Limited Leadership and mentorship programmes
- x) Extremism and radicalization

Possible Intervention Strategies

- i) Educational support – school and college fees from govt and partners; adult education
- ii) Skills training: Vocational trainings- increase Number of marketable courses in the institutions; apprenticeship and internship; partnership with business community, farms;
- iii) Empowerment with tools, start up capital. Pedagogical training for instructors;
- iv) Drugs: Introduce counselling programmes (secular and pastoral) that address ADA in our treatment programmes; train officers on 12 steps psychosocial education and others programmes to support the youth ; partnership with drug rehab institutions and doctors (conventional and alternative medicines);
- v) Health: screening programmes, VCT programmes; reproductive health programmes

- vi) Retrogressive culture and Dysfunctional family (lack of social support): hostel accommodation, set aside a rescue centre requiring longer time in institutions; FDM Model, aftercare support
- vii) Limited sports and recreational facilities; introduce sporting activities and encourage healthy competition
- viii) Limited Leadership and mentorship programmes – introduce life skills and mentorship programmes
- ix) Extremism and radicalization – clinical assessments, talks, mentorship

RECOMMENDATIONS

The government can take advantage of the youthful population to realize a demographic dividend by adopting the following:

- i) Creating an enabling environment for foreign and domestic investments. This can be done by increasing the ease of doing business, improving economic infrastructure including electricity, transport and communication systems. This will bring in investors and new industries which would increase the number and quality of jobs.
- ii) Improving quality of education and skills training: Ensure equitable access to quality education at all levels, with specific focus on skills development both for those in school and out of school youth to increase their employability, and scaling up internship, mentorship and apprenticeship programmes.
- iii) Improving governance and accountability: Create trust in public bodies and the private sector to encourage investments and economic growth by

promoting rule of law, effectiveness in delivery of services and openness in government services.

iv) Empower women and girls: Address gender disparities in access to education and labour employment and remove barriers that limit women's participation in all spheres.

v) Universal access to contraception and other sexual health services: Fulfil commitments made through the Maputo Plan of Action, FP2020 and SDGs by making SRH services and modern methods of contraception available to all including sexually active young people. Development partners can support the government in the formulation and implementation of policies that emphasize:

vi) Fertility and child mortality decline to enable the country to achieve a favourable support ratio.

vii) Fund programmes that develop young people human capital development through high-quality basic and tertiary education and technical and vocational training.

viii) Fund innovation hubs for inventions, manufacturing, and development of young entrepreneurs.

ix) Promote an evidence-based culture in policymaking and encourage the development of robust monitoring and accountability frameworks.

Acknowledgements

CHAPTER NINE

VICTIM SUPPORT SERVICES

Prof. Ludeki Chweya CBS, (KSG), Mary Mbau HSC (PACS) and Abraham Diedo (PACS)

Crime is not only a violation of the law but also a violation of people and relationships. The core of the criminal justice system, has often been how to punish violators of the law but in recent times a shift has been established that gives attention to the needs of offender, needs of the victims of crime and community with strong emphasis on offender accountability and repairing the harm. This has been addressed through restorative justice processes. The aftermaths of crime may cut across physical, psychological, political and economical spheres of the respective victim(s) self and others or property attached to a specified criminal offence. Therefore, the study of crime victims remains the main emphasis of mainstream victimology within the modern criminal justice systems. This focus has given rise to great awareness and understanding to not only crime victims, but also the ways in which crime is analyzed and the wholesome role that victims play. In addition, society bares the moral responsibility as crime is in essence a product of certain undesirable social conditions. Most Research Papers therefore attempt to clarify the concept of criminology along different approaches of victimology, constructive extension and severe differences. Victimology is a sub-set of criminology viewed as a study of crime victims by examining the psychological effects of crime on victims, the interaction between victims and the criminal justice system besides the relationship between victims and offenders. These will cut across victim precipitation; lifestyle and deviant place theories to crime. Although the fields initially focused on varied degrees of victim blameworthiness, this changed by

the late 20th to improving treatment of complainants by the criminal justice agencies.

Review of related literature by Classical Scholars in both Victimology and Criminology held that victims were often neglected thereby shared reservations with the criminal justice system. In this regards, Criminologists and international research bodies have analysed on what lowers rates of interpersonal crime, thereby agreeing that governments need to go beyond law enforcement with GJLOS tackling the risks factors to crime besides designing mechanisms for victim support and community rehabilitation from impacts of crime. In handling the later research and statistics in victims of crime come in very handy in designing jurisdictional victim support services and programmes.

Policy Instruments in support for victim services in Kenya

Kenya domesticates its legal policy instruments from two United Nations Declarations adopted General Assembly resolutions dealing with the rights of victims: *the 1985 Declaration of Basic Principles of Justice for Victims of Crime; and Abuse of Power and the 2006 Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*. The focus of the former was on victims of domestic crimes, while that of the latter is on victims of international crimes; more particularly, gross violations of international human rights law and serious violations of international humanitarian law. The 2006 Principles are, for all practical purposes, an international bill of rights of victims. This declaration was the most fundamental instrument adopted by the United Nations in relation to the

improvement of treatment of victims in the crime prevention and criminal justice field. The declaration recommends the following measures to be taken on behalf of victims of crime at the International, Regional, and National levels where the country is expected to incorporate in its criminal justice system:-That

- a) Victims of crime are entitled to access to the mechanisms of justice and fair treatment, (Declaration 4-7)
- b) Fair restitution to victims by offenders responsible for their behaviour should be realized,
(Declaration 8-11)
- c) States should endeavour to provide financial compensation to victims when compensation is not fully available from the offender, (Declaration 12,13) and
- d) Victims should receive necessary material, psychological and social assistance, (Declaration 14-17).

The declaration affirmed the necessity of adopting international and national measures to secure the universal and effective recognition of, and respect for, the rights of victims of crime and abuse of power. Further, the declaration called for UN member states to take necessary steps to give effect to the provisions contained in the declaration. Their adoption has been hard-fought, but their implementation both at the national and international levels is sure to still face many obstacles.

The Constitution of Kenya, 2010

The Kenyan legal tradition on its part is largely influenced by the common Law of England and other commonwealth jurisdictions which to a large extent

adopted dualist and adversarial system. Former Acts and constitution didn't make adequate provisions for the protection, rights and welfare of victims of offences, hence the need for further legislation to this end.

The Constitution of Kenya promulgated on 27th August 2010 recognized the need for the provision on protection of the rights of victims of offences. Section 50 (9) empowers parliament to enact legislation providing for the protection, rights, and welfare of victims of offences, which was lacking previously.

The constitution thus provides for all administrative bodies or agencies performing victim support services uphold the values and principles in the Constitution as per provisions of articles 10, 27(4), 47,48 and 49 of the Constitution. On this regard, there is no discrimination of victims on the basis of race, colour, gender, age, language, creed, religion, nationality, political or other opinions, cultural belief or practices, property, birth or family status, ethnic or social origin, disability, or any other grounds. Furthermore, every victim is as much as possible to be given an opportunity to be heard and to respond before any decision affecting them is made; addressed appropriately according to their age and understanding; and protected from further revictimization.

PACS through its Departmental Strategic Plan 2018-2022 points out that the department needs to domesticate both international instruments on noncustodial sentence and while at the same time implement fully its mandates.

Victim Protection Act

The Act was gazetted on 14th September 2014 (Kenya Gazette Supplementary No.143, Acts No.17) which provides a framework to coordinating of victim

support programmes, services, structures, and agencies. It is the main statute that lends its plight to the needs of the victim.

Article 3 of this Act empowers the Witness and Victim Protection Agency through its board as established under the Witness Protection Act, 2006, to provide state protection and safety to victims, if there is sufficient reason to believe that a victim is likely to suffer intimidation or retaliation from the accused, offender, or any agent of the accused/offender.

Section 19(4) of the Act provides for the Victim Protection Board to develop victims rights charter, besides how to relate with offenders convicted to serve on the non-custodial sentence under the Community Services Orders Act, 10, 1998 or the Probation of offenders Act, Cap 64.

The Criminal Procedure Code (Cap 75, Laws of Kenya)

Section 177(a) provides for the court to return stolen property held as exhibit to the owner; Section 175 provides for the compensation of the victim; Section 176 provides for reconciliation between victims and offenders; Article 329 of the CPC (cap 75) provides for victims of a criminal offence to make a victim impact statement to the court sentencing the person convicted of the offence, either directly or through any enforcement agency, where the statement will be put into consideration while meting out the sentence to the offender.

The CPC also provides for sentencing Procedure to be used by judicial officer, where the court requires a pre-sentence report from the PACS before the

sentence. In practice all cases with victims must contain the victim's sentiments, impact statement views regarding the offender's punishment.

Penal Code (Cap 63 Laws of Kenya)

Section 29(1) provides for any person convicted of an offence under any of the following sections namely, sections 118 and 119, the court may, in addition to or in lieu of any penalty which may be imposed, order the forfeiture of any property which has passed in connection with the commission of the offence or, if the property cannot be forfeited or cannot be found, of such sum as the court shall assess as the value of the property; and any property or sum so forfeited shall be dealt with in such manner as the Attorney-General may direct. The probation of offenders, Cap 64 places similar weight in reconciliation and rehabilitation of offenders with their victims' restorative practice.

The Sexual Offences Act (No. 3 of 2006 laws of Kenya)

Section 33 provides for the evidence of surrounding circumstances in criminal proceedings and impact of a sexual offence on a complainant. Section 35(2) further provides for the Court at any time in criminal proceedings to make an order for the treatment of a victim of a sexual offence.

Section 39 (7) & (8) provides that where there are review proceedings in the supervision of dangerous sexual offenders the victim including the next of kin of a deceased victim have a right to make representation. The interpretation of the word complainant encompasses the victim or an intermediary which is also given consideration by probation practice through application of risk assessment tool to dangerous sexual offenders on probation sentence, as further stipulated by section 39 of the same act.

Probation of Offenders Act (Cap 64 laws of Kenya)

The Act that provides for inclusivity of victim sentiments, concerns, views and or impact statements in all reports that have victims as per respective reports. Furthermore, Section 6 of the Probation of Offenders Act provides for payment of cost for injuries or compensation for loss to victims of crime, which is captured in as recommendation to courts for execution or inclusion in final court outcomes, which stipulates specifications to court as found necessary regarding an offender as captured by section 5(1).

National Cohesion and Integration Act (No. 12 of 2008 laws of Kenya)

Section 4 of the act gives definition of victimization as an act that is injurious to the wellbeing and esteem of the person. Further, Section 49 provided mechanisms for conciliation between victims and the other party without resorting to civil proceedings.

Witness Protection Act (No. 16 of 2006 laws of Kenya)

Section 3 (1) (c) defines a witness as a person who has made a statement to the police department or any law enforcement agency in relation to an offence against a law of Kenya. In this regard a victim of any criminal offence qualifies as the primary witness in the matter.

Section 3 (1) (e) further defines witness protection as a person who for any other reason may require protection or other assistance under this Act". The PACS is therefore tasked with the duty to inform relevant personnel of which

victim may require witness protection and of what kind of protection in such instance.

Truth Justice and Reconciliation Act (No. 6 of 2008 laws of Kenya)

The Act defines a victim as any person or group of persons who has occasion or human rights violation, has suffered any individual or collective damage by acts or commission that violate the rights established in the constitution, international law of human rights, international humanitarian law and international law, and that is considered a crime in a Kenyan legislation. PACS therefore shares a mandate in providing honest and correct information after carrying out thorough social enquiries and serving courts with informative information regarding a particular matter. In doing so the PACS assist judicial officers get the real picture of the community and essentially the victim's percepts and demands.

1.1.9. The Counter Trafficking in Persons Act (no 8 of 2010 laws of Kenya)

The provisions of the Act that relate to Victimology are: The act establishes a national assistance trust fund for victims of trafficking in persons in section 22. The purpose of this fund is to assist victims of trafficking in persons. Section 5(1) of Probation of offenders Act specifies residence and other conditions that the court may require or place before granting of a probation sentence.

Evidence Act (Cap 80, laws of Kenya)

This act provides for how courts should receive evidence from witnesses and especially protect the victims of the offence. Section 12 further provides for suits in which damages are claimed, any fact which will enable the court to determine

the amount of damages which ought to be awarded is relevant. PACS bears the duty of packaging this evidence into an informed summary in the form of a report, that gives the dual objective to justice, in matters where offender plead guilty without going into full trial.

TYPES OF VICTIM SUPPORT UNDER PACS

When dealing with convicted or accused persons correctional psychologist and professionals need to regularly address the relationships of the accused or convicted persons and their victim(s). This tends to give the professionals a better understanding of the shared interests, relationships and incurred impacts of the crime, which in turn help in providing effective feedback to reducing revictimization and recidivism rates. In this light, Victim welfare and support becomes an integral part in the Correctional Department forming one of the PACS objectives, and thus forming part of Probation Officers performance contracting targets. here probation Officers are expected to interact with victims at various stages of litigation offerings a variety of services which include:

□ Information dissemination

Victims carry the first-hand information regarding any incidence in question. PACS therefore interacts with victims while gathering information as regarding matters before court, and thus plays a dual role of informing the victim(s) of crime at what stage the matter is, the court's processes and pleas by the offender relatives if any, besides disseminating the final court's outcome.

□ **Psycho-Social Support** while gathering information from the victims during social enquiries PACS end up offering Counselling sessions to victims so as to

boost traumatized victim return to their adaptive functional level. Psycho-social support cuts across assistances of social, economic and mental health. PACS has often facilitated rescued child victims of probationers to places of safety which include relatives, and guardians not forgetting institutions such as children rescue centres and Probation Hostels. For instance, the Siaya Female Probation Hostel was specially designed to accommodate and vocationally empower female probationers with child victims below 4 years and who are experiencing hostile home environment.

□ **Assessment, monitoring and supervision**

probation officers are often invited by courts to carry out victim impact reports which details an assessment of the victims' overall impacts from the crime besides their sentiments regarding the offence. this reports therefore informs court on the level of nevertheless, in matters where victims are minors or where children are in conflict with the law, probation officers may be engaged in conjunction the Children's Department to supervise and monitor child victims in lue of the best interest of the child. in instances where an offender had close interaction or relationship with the victim. PACS often remain in contact with the victim(s) so as to reinforce restrain and monitor offender reformation journey within the community. victims being members of the community help PACS monitor supervision of offender.

Paralegal aid

Probation officers give legal advice to victims of crime who aren't aware of their rights or don't have clue of how to deal with certain matters such as

compensation or restraining orders. PACS also gives room for victims to understand how to participate and express their needs before court.

Safety and Protection

In gathering the information during social enquiries, Probation officers employ lots of confidentiality to the victim's sensitive details such as contacts, family members, current place of residence or employment, names (for child victims of sexual offences), to ensure their privacy, safety and security. Probation Officers while preparing Bail Information Reports do consider several factors especial the risk to harm or interfere with witnesses to cases before court. Where deemed appropriate such reports may recommend restraining orders and or warning to the accused persons and in dire situations invite the Prosecutors to consider witness protections to the victims.

On the other hand, PACS has a duty to safeguard the victim and community at large, by declining high risk offenders to non-custodial sentences. This outcome is dictated by a comprehensive report submitted to court. in few instances, PACS has help curb revictimization by advising court to commit subjects identified as minors being held in adult correctional facilities to desired places of safety.

Referral to specialized agencies

Dealing with victims of crime requires special skills as they are often delicate and need to be handled consciously. As a result, either before or after interacting with victims especially of violent crimes, probation officers refer such victim's further assistance to other professional agencies such as the police, hospital counsellors or lawyers depending on the victim needs.

Reconciliation

Non-custodial sentences offer an opportunity for the victim and the offender to reconcile as rehabilitation is set to take place within the community. Probation officers thus have a task to initiate victim-offender reconciliation and the community at large. In this regard courts often refer cases that involve family members and neighbours to PACS in view of reconciling the parties.

Dispute Resolution

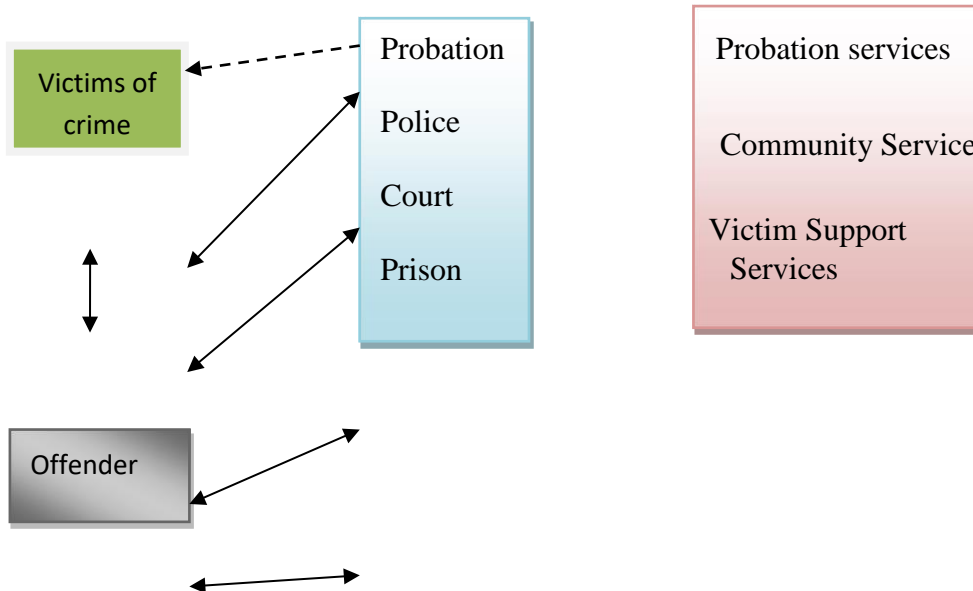
At times cases before court may appear as misdemeanour yet they are as a result of continuous unresolved conflicts. By occurrence of a crime, victims are more often than not emotionally fractured. When such matters are referred to PACS victims end up having existing underlying conflict resolved and their self-worth reinstated as PACS ends up playing the role of mediators and offer alternative dispute resolution. at the end of the day, it saves the victim and the offender costs and time in future litigations.

Restitution/Financial Reinstatement

offenders of all description would appreciate the gravity of their offences if they were made to pay back to the victims a sum of money they stole equivalent to what they stole. Stealing can be likened to taking a loan but without the consent of the owner of the money or the stolen item and by restitution the offender is doing no more than paying it back, plus costs. Even in such non-economic offences as malicious damage or grievous assault, the offender can be made to pay damages to the victims/dependents, plus costs or fined for the involvement of the law-enforcement agencies. Creative restitution can also be employed where the offender enters into an agreement for restitution to be carried out in

agreed instalment, the objective being directing the offender to social responsibility and acquisition of constructive attitudes.

For restitution of victims to be effectively undertaken by PACS, Probation Officers engage the adversaries in a conference where such decision to compensate the victim if arrived at is presented to court for adoption. If adopted by court include as part of the conditions in the probation order. Probation Officers often recommend periodic mention of probationer files for the court to monitor the restitution. Also, worth noting is that restitution can be performed as individualized service restitution, where through the victim's consent the offender directly performs services, such as repairs to damages property or collecting of litter.



Future opportunities in victim support services.

1. Undertaking of capacity building, awareness and sensitization programmes to criminal justice players. and

2. Coordinated mechanism to victim participation mechanisms in the criminal justice system through promotion of reconciliation, compensation and other support programmes which allow victim participation.
3. establishment of further legislation and capacitation to enforcement of existing legislations to entrench restorative justice and other alternative dispute resolution mechanism in probation practice.
4. prioritization of victims concerns in any decisions that revolve around the victim.
5. a paradigm shift to foster victimological research and practise. -Victims Victimology as recommended by David (2000)

CHAPTER TEN

ALTERNATIVE JUSTICE SYSTEMS (AJS) /TRADITIONAL DISPUTE RESOLUTION (TDR)

Samson Gore (PACS) and Kennedy Odipo (PACS)

Arbitration is not novel in Kenya. It has existed since antique times as a method of solving disputes albeit with few formal regulations. In 1914, Kenya had the first attempt at formalizing arbitration by the enactment of the Arbitration Ordinance. The Ordinance was a complete replica of the English Arbitration Act of 1889. It had a multiplicity of loopholes and key among them being the frequent interventions of courts in arbitral proceedings.

The Ordinance accorded courts in Kenya ultimate control over the Arbitration process and given the reluctance from the courts to inculcate alternative dispute resolution mechanisms especially TDRMs in dispute resolution, there has been a very sluggish growth of ADR in Kenya.

In 1968 Kenya acquired her first Arbitration Act which just like its predecessor had several similarities with the United Kingdom Arbitration Act of 1950. In 1985, the United Nations Commission on International Trade Law (UNCITRAL) was adopted with a view to encouraging arbitration globally and nationally. In Kenya, the Model Law led to the repeal of the 1968 Act and subsequent enactment of the current 1995 Act. (Nairobi Law Monthly April 2018 Article: Arbitration and the Constitution: Emerging jurisprudence by Fernados Ombaso Mang'ate

Plea Bargaining and Bail History

The history of plea bargaining is rather obscure, partly because of the fact that in most venues and jurisdictions bargaining was considered inappropriate until the late 1960s. Some of the earliest plea bargains took place in the colonial era during the 1692 Salem witch trials, when accused witches were told that they would live if they confessed but would be executed if they did not. The Salem magistrates wanted to encourage confessions, and, in an attempt to uncover more witches, they wanted the confessed witches to testify against others. Pleading guilty saved many accused witches from execution.

Later the Salem witch trials were used to illustrate one of the strongest arguments against plea bargaining: that the practice sometimes induces innocent defendants to plead guilty. (Encyclopedia Britannica by Jon'a F Meyer) While the notion of bail has been traced to ancient Rome,² the American understanding of bail is derived from 1,000-year-old English roots.

A study of this "modern" history of bail reveals two fundamental themes. First, as noted in June Carbone's comprehensive study of the topic, "reflected the judicial officer's prediction of trial outcome." In fact, bail bond decisions are all about prediction, albeit today about the prediction of a defendant's probability of making all court appearances and not committing any new crimes. The science of accurately predicting a defendant's pretrial conduct, and misconduct, has only emerged over the past few decades, and it continues to improve. Second, the concept of cases alleging abuses in the pretrial release or detention decision-making process. These abuses were originally often linked to the inability to predict trial outcome, and later to the inability to adequately predict

court appearance and the commission of new crimes. This, in turn, led to an over-reliance on judicial discretion to grant or deny a bail bond and the fixing of some money amount (or other condition of pretrial release) that presumably helped mitigate a defendant's pretrial misconduct. Accordingly, the following history of bail suggests that as the ability to predict a defendant's pretrial conduct becomes more accurate, the need for reforming how bail is administered will be important, then diminish over time. (The History of Bail and Pre-Trial Release Timothy R. Schanke, Micheal R. Jones, Claire M.B. Brooker September 2010).

DEFINITIONS WITHIN THE KENYAN JUSTICE SYSTEM

The probation and after care service in Kenya have had to incorporate several new types of reports and services, that have been required by the criminal justice system. These reports and services include: Pre-bail and plea bargain reports as well as alternative dispute resolution as a service.

Bail

Bail may be defined as an agreement between an accused person or his/her sureties and the court that the accused person will attend court when required, and that should the accused person abscond, in addition to the court issuing warrants of arrest, a sum of money or property directed by the court to be deposited, will be forfeited to the court. While a bail report is a social inquiry report based on information generated about the background and community ties of an accused person, and its purposes are to verify information provided to the court by the accused person, to assess the likelihood that the accused person will appear for trial, and enable the court to impose reasonable bail terms and conditions. (Bail and Bond Policy guidelines 2015)

Plea bargain

A plea bargain is a negotiated agreement between a criminally accused person and a prosecutor where the accused person agrees to voluntarily plead guilty or no contest in return for a concession from a prosecutor. (Plea bargaining fact sheet: Office of the Director of Public Prosecutions).

Alternative Dispute Resolution

Alternative Dispute Resolution may be defined as various substitute means and processes other than the court process through which legal matters may be resolved. This includes plea bargaining, mediation and arbitration

JUSTIFICATIONS FOR THE UTILIZATION OF ALTERNATIVE JUSTICE SYSTEMS

The implementation of the new constitution in the year 2010 made the right to bail available to all arrested persons as stipulated in article 49(1)(h) of the constitution of Kenya gives an arrested person the right "to be released on bond or bail, on reasonable conditions, pending a charge or trial, unless there are compelling reasons not to be released" as well as other acts dealing with bail including the Criminal Procedure Code which provides that "The amount of bail shall be fixed with due regard to the circumstances of the case, and shall not be excessive." It also gives the high court the power to "direct that an accused person be admitted to bail or that bail required by a subordinate court or police officer be reduced. Finally, it provides that "before a person is released on bail or on his own recognizance, a bond for such sum as the court or police officer thinks sufficient shall be executed by that person, and by one or more sufficient sureties." These legal provisions necessitated the development of means suitable for the court to assess the most suitable bail terms considering factors

such as presumption of innocence, the history and circumstances of the accused, while considering the gravity of the charge, the security and safety of the victim and/or community, of which a pre-bail report was considered a useful means of assessment.

Alternative dispute resolution under which plea bargaining can be considered may be defined as being expressed in the 2010 constitution, beginning at Article 1 with the delegation of the sovereign power of the people to the courts and independent tribunals (including arbitral tribunals), which are supposed to exercise the power in accordance with the Constitution and proceeds to Article 159 which vests in the courts and tribunals (including arbitral tribunals) the judicial authority that is derived from the people. This authority is supposed to be exercised in a manner that promotes alternative mechanisms to dispute resolution. Even though arbitration is not affected by the consistency clause under Article 159, Article 2 comes in as a check to the processes of arbitration to ensure that they are conducted in accordance with laws that are consistent with the Constitution.

The aforementioned provisions, read together with other various provisions of the Constitution lay down what could be termed the basis of arbitration in Kenya and technically there are two bodies vested with the responsibility to provide alternative dispute resolution, they are: The Chartered Institute of Arbitrators and the Dispute Resolution Centre and Mediation Training Institute. However, probation officers have utilized by the courts to mediate cases between accused persons, offenders and victims of crime. This is particularly the case where, as officers engage both parties in the course of generating other types of social inquiry reports and one or both parties express the desire to resolve the matter

out of court through the probation officer who has established rapport between both parties.

In the particular case of plea bargaining, as a particular form of alternative justice, it is guided by Section 137 (A – O) of the Criminal Procedure Code and the Criminal Procedure (Plea Bargaining) Rules, 2018' A plea bargain can be defined as to a negotiated agreement between a criminal accused and a prosecutor, where the accused agrees to voluntarily plead 'guilty' or 'no contest' for a concession from a prosecutor on exchange for a plea.

This process has multiple beneficial outcomes that include: reducing the court case backlog, granting both the offender and victim more expedient justice and restitution which then allows for restorative justice to occur, while boosting confidence in the justice system.

The probation service comes into play particularly where the prosecution may be considering reducing the charge against an offender and where considering the lesser charge the offender may be considered for a non-custodial sentence. Thus, a social inquiry report can be ordered by the court to determine the suitability of the offender to enter into and adhere to the terms of the plea bargain agreement based on his or her history, attitude, relationships and other relevant findings within the inquiry.

IMPLEMENTATION, IMPACT AND CHALLENGES

The concept of bail within the service has enjoyed the longest period of implementation and as such definitive policies such as Bail and Bond Policy guidelines 2015, bail and bonds charter as well as a specific standardized report

has been developed to address the assessment of accused persons and the likelihood of court attendance.

Each of these emerging issues have had significant impacts within the service and the society within which these types social inquiries are conducted and the attendant impacts. For instance, the increase of bail able offences directly decongested prisons as well as increasing the likelihood of out of court settlements as accused persons and victims could negotiate directly.

However as regards the use of probation within such as the processes of plea bargaining and other forms of alternative dispute resolution these can be said to be largely “informal” as there is no defined process so far that can be said is implemented across probation practice.

A CASE STUDY OF ALTERNATIVE JUSTICE IMPLEMENTATION IN NYERI

AJS Commenced in the year 2012 as self-referral by parties who sought assistance of probation office to settle their disputes without going through rigorous court process. The intervention was referred to then as the Alternative Dispute Resolution. (ADR).

The trend was noted and appreciated by the then senior principle magistrate (as she was) Hon. Florence Macharia in Othaya who got interested in it. She organised for a meeting between Judiciary, probation, police and National Government Administrators (NGAO) at Gitandara Hotel in Othaya to brief them on a new committee called Court Users Committee (C.U.C.) A CUC executive

committee was formed to take an active role in helping the probation officers initiate the program.

The committee comprised of the then OCPD- Adiel Nyange; The then Assistant County Commissioner –Carol Imapa; chinga chief Mr.Wahira and the entire othaya probation team led by then Mrs. Mathu.

Their first task was to Sensitise the chiefs on their roles and the importance of ADR. This was done on 2nd July 2013. Sensitisation of the chiefs was followed by nomination of village elders which was presided over by the chiefs, the deputy county commissioner, the magistrates and the probation officers in the sub county.

Having laid the groundwork Alternative Justice System referrals from the courts commenced. The chiefs were trained on the importance of observing gender equity in formation of ADR committees. They were further reminded that they shall only deal with those cases referred to them by the law courts for the purpose of this committee.

Besides, the probation officers would work with them in the ADR committees to offer guidance and relevant legal advice. The probation officers would also act as the secretaries of the committees so as to report to the court on the deliberations.

Sensitisation of the chiefs was followed by nomination of village elders which was presided over by the chiefs, the deputy county commissioner, the magistrates and the probation officers in the sub county. Having laid the groundwork, AJS referrals from the courts commenced.

The process starts with the referral of the cases to the probation office by the magistrate. The referrals could be initiated by the parties themselves or the magistrate discretion after reviewing the matter and deciding that the matter could best be dealt with by the council of elders.

The court order is typed and served to the Sub county probation officer and the chief of the area where the parties come from. The sub county probation officer notes the court file and allocates the matter to a probation officer, who then calls the chief for a brainstorming meeting.

In court the magistrate goes through the report and reads out the resolutions of the Parties and the council of elders to the parties to determine whether any of them has any objection. Since they are as a result of negotiation and a “win, win” process there has never been any objection. After that the report is adopted and the matter is withdrawn from court. After leaving court, it’s now the duty of the council of elders to ensure that long term resolutions are implemented without fail and the court is advised accordingly.

The probation officer occasionally makes visits to ensure the parties have kept their promise. Once in a while the parties also visit the probation office on their own volition to update the officer on the progress.

The AJS advantages far outweigh its challenges. They include the following; Presence AJS teams in the villages is a protective factor in mitigation against formation of youthful criminal gangs. AJS teams can also create peace/truce between youthful gangs which would slowly neutralize the desire to belong to a gang.

Long court process disorients the youths. AJS is a quick process managed by people they are familiar with. AJS equally engenders a community social connection when parties are satisfied when peace and tranquillity is maintained it reduces future conflicts that may arise.

CHAPTER ELEVEN

EMERGING CRIMES AND PRACTICES

Kevin Obonyo (PACS) and Jarred Nyachae (PACS)

Crime trends in East Africa, particularly Kenya, are constantly changing, making it difficult for law enforcement to stay on top of them. Globally, the escalation of emerging crimes has been attributed to the advancements and developments in technology, terrorism, absorbent borders and the lack of inter-governmental coordination in tackling the crimes. In the Kenyan context, terrorism, trafficking (human, wildlife and drugs), and cyber-crimes comprise some of the greatest threat to security.

HUMAN TRAFFICKING

According to the United Nations, human trafficking is defined as the recruitment, transportation, transfer, harbouring, or reception of persons for the purpose of profit by force, fraud, or deception. This crime, which occurs in every corner of the world, can affect men, women, and children of all ages and backgrounds. To deceive and manipulate their victims, traffickers frequently utilize violence, dubious employment agencies, and false promises of school and work possibilities (Smith *et al.* 2011).

Human trafficking, often known as modern-day slavery, is considered a security risk. Human trafficking is traditionally viewed as a threat to Kenya's state and control of its borders, according to traditional security measures. Border security, migratory regulations, and international law enforcement collaboration are all highlighted in traditional security evaluations of human trafficking

The present legislative framework in place to prohibit human trafficking includes the constitution. Kenya's Counter-Trafficking Act of 2010 was enacted to strengthen the country's battle against human trafficking on its borders. The East African Counter-Trafficking Protocol, as well as the United Nations Palermo Protocol, has been adopted by the government. Kenya has been at the forefront of taking measures to combat human trafficking in an effort to combat the crime. This offence is prosecuted by the Director of Public Prosecutions. The nature of the crime in question, on the other hand, necessitates specialized training and abilities that most prosecutors and investigators are unfamiliar with. Intensive specific training is required to obtain this level of proficiency (Munira, 2021).

Victims and survivors of human trafficking

Services that help victims and survivors of human trafficking prepare for reintegration into society, such as forming collaborative community structures to assure the delivery of prescribed services and oversight (Cilliers, 2003). However, the estimated number of trafficked women and girls is the greatest of all trafficked people. Kenya is a springboard, a destination, and a transit country for women, children, and men trafficked. According to the trafficking in persons report, Kenya has made improvements in recent years, including increased prosecution and conviction of traffickers, investigations of officials implicated in trafficking offenses, and money for victims' assistance. Kenya continues to treat some victims as criminals while providing protection to victims of human trafficking.

Kenya now has a statute in place to prevent human trafficking. Kenya approved the Counter-Trafficking in Persons Bill in 2010, which went into effect in October

2012, the law has been adequately executed, with many prosecutions. This is due to the fact that law enforcement professionals such as judges, cops, and prosecutors have been educated to enforce it. The Act would impose harsh penalties on convicted traffickers, including a 30-year prison sentence or a fine of 30 million Kenyan shillings. The Act emphasizes that children and women are the most vulnerable groups, with a high risk of becoming victims of human traffickers (Cilliers, 2003).

Counter-Trafficking in Persons Act of 2010

Kenya passed the Counter-Trafficking in Persons Act in response to the United Nations' Palermo Protocol, which identified Kenya as a source of origin, transit, and destination for human trafficking. This Act was enacted to fulfill Kenya's commitments under the United Nations Convention against Transnational Organized Crime, namely its Protocol to Prevent, Suppress, and Punish Persons Trafficking.

It focuses on women and children in particular, and it aims to prosecute crimes involving human trafficking and related activities. The Act calls for the formation of an Advisory Committee near the end of implementation. The Committee's principal responsibility is to provide advice to appropriate government agencies on efforts aimed at fighting human trafficking and the development of preventive, protective, and rehabilitative programs for trafficked individuals. The advisory group is responsible of developing and carrying out the national action plan.

As a result of the Counter Trafficking in Persons Act, provisions of the Penal Code, the Sexual Offences Act 2006, and the Children Act 2001 that deal with

trafficking have been amended. In 2012, the Act went into effect (Aziz TC., 2015).

Kenya's National Plan of Action (NPA) for Combating Human Trafficking 2013-2017

This was created with the primary goal of carrying out Kenya's obligations under the United Nations Convention against Transnational Organized Crime, particularly its Protocol to Prevent, Suppress, and Punish Trafficking in Persons, particularly women and children. (The Palermo Protocol of the United Nations.) The primary goal of this action plan was to foster a national climate of cooperation among national, regional, and international stakeholders (Odhiambo TA., 2017).

DRUG TRAFFICKING

A drug is any chemical that, when ingested, alters the body's normal biological and psychological functions, particularly the central nervous system. (Escandon and Galvez, 2006).

Drug trafficking is a worldwide illegal trade that involves the cultivation, production, distribution, and sale of controlled narcotics. The United Nations Office on Drugs and Crime (UNODC) is constantly monitoring and researching worldwide illicit drug markets in order to get a better knowledge of their dynamics. The body's physical need for, or addiction to, a certain agent is referred to as drug dependence. Physical harm, behaviour difficulties, and affiliation with people who also take drugs are all consequences of drug dependence over time. When you stop using the drug, you may experience withdrawal symptoms. (van Nuijs, A.L *et al.*, 2011)

Kenya Narcotic Drugs and Psychotropic Substances Control Act of 1994

The Kenya Narcotic Drugs and Psychotropic Substances Control Act of 1994 makes illegal drug possession and trafficking. The implementation of this law has resulted in an increase in the number of women imprisoned in Kenya for drug-related offenses, as well as (and primarily) alcohol-related offenses. This goes against the UN Commission on Narcotic Drugs' 2005 recommendation that states develop innovative policies and procedures that prioritise treatment and rehabilitation above incarceration. The Mandela and Bangkok Rules have been implemented by Kenyan prisons, allowing for a paradigm shift in the provision of correctional services for women offenders, including remote parenting, family open days, and links to aftercare services. These policies, however, must be grounded in the legal framework, with sufficient resources to expedite the achievement of goals for the treatment and care of female drug and criminal offenders (Chepkonga, M.C., 2020).

Probation and Aftercare Care Services

Those arrested for drug-related offenses in Kenya's criminal justice system are frequently held in pre-trial detention with costly or harsh bail terms (Heard & Fair, 2019; Muntingh & Redpath, 2016). This is despite the fact that the Kenyan Constitution mandates that anybody apprehended be arraigned in court within 24 hours, regardless of the nature of the offense, and granted bail (Government of Kenya, 2010). The Kenya Prisons Service is responsible for providing secure custody for inmates, as well as providing access to rehabilitation services and carrying out other court mandates.

The institution is at the very end of the criminal justice system, with minimal capacity to sway the court's decision on punitive or rehabilitative measures, as well as alternative, non-custodial penalties for those convicted of drug-related offences. According to the Community Service Order (CSO) Act and the Probation Act, alternatives to jail must be applied at all levels of the criminal justice system. These suggest that sentences of less than three years be converted to probation or community service orders. Although the Narcotic Act of 1994 includes recommendations for PWD rehabilitation, this alternative is not implemented.

TERRORISM

Terrorism, according to the United Nations, is defined as any act "designed to cause death or serious bodily harm to civilians or non-combatants with the intent of intimidating a community or pressuring a government or an international organization to conduct or refrain from doing any act." Terrorism and TOC are linked, posing a severe danger to peace, security, and development in the Eastern African region. This threat was recognized by the United Nations Security Council (UNSC) in resolutions 2195 (2014) and 2482.

(2015). (2019). The United Nations Security Council recently urged Member States to "collect relevant information and to further identify, analyze, and counter any existing, growing, or potential links, in some cases, between organized crime, whether domestic or transnational, illicit drug-related activities, money laundering, and terrorism financing." The UNSC also asked UNODC to assist Member States in improving their criminal justice responses to these crimes if they requested it (Paulussen, C. and Clarke, C.P., 2022.). UNODC continues to emphasize that Member States must prioritise enhancing their

national investigation and intelligence capacity to prevent and counter illicit financial transactions funding terrorism at the regional and international levels in order to effectively respond to the threat of terrorism and its links to Terrorism Organized Crime (TOC). UNODC has also aided in the development of national, bilateral, and regional intelligence and law enforcement information exchange mechanisms.

Terrorist groups have been known to use illegal firearms and ammunition trafficking, trafficking in persons (TIP), illicit drug trafficking, illicit trade in cultural property and artefacts, and illegal trade in natural resources such as precious minerals, wildlife, charcoal, and oil as a source of funding.

In the Declaration on Terrorism (1978) the Committee of Ministers of the Council of Europe stated that “the prevention and suppression of terrorism is indispensable to the maintenance of the democratic structure of member states”. Over the past forty years, the Council of Europe has addressed in numerous documents and instruments the issue of terrorism and radicalisation, among them, the Declaration on the Fight against International Terrorism (2001), the Guidelines on Human Rights and the Fight against Terrorism (2002); the Convention on the Prevention of Terrorism (2005) and the Guidelines on the Protection of Victims of Terrorist Acts (2005) (Greenwood, C., 2002).

The high political impact of the terrorist acts of the recent years has pushed governments across the continent to substantially modify their approach to the issue. To a set of policies primarily based on law enforcement and policing borders, the focus has moved towards addressing the domestic drivers that might cause individuals to embrace violent views. The objective, therefore, is not only to prevent terrorist acts, but to prevent individuals from becoming terrorists in the first place. In order to turn such a perspective into practice, in

several European countries' schools, universities, hospitals, social and youth institutions and finally prison and probation services have been asked to participate in the effort (Mincheva, L. and Gurr, T.R., 2013.).

Prison and Probation Services

Prison and Probation have come to the attention of governments in at least three ways. First, failed or successful terrorist plots in the recent years have pointed out that several of the perpetrators have passed through prison and probation services. Such institutions have therefore been pointed out as specific "places of radicalisation" (Beraud C et al., 2013).

Secondly, and relatedly, prison and probation services have been identified by governments as places in which individuals might be susceptible to benefit from programmes and interventions helping them to become resilient to joining violent movements and ideologies. Finally, many prison and probation staff have expressed their concern and their lack of training to help them identify and deal with such matters. These are some of the main reasons that have led the Committee of Ministers of the Council of Europe to entrust in January 2015 (Bossong R, 2013) the European Committee on Crime Problems (CDPC) to draft Guidelines on how to prevent radicalisation in prisons. Its subordinate body, the Council for Penological Cooperation (PC-CP) drafted between February and November 2015 Guidelines for prison and probation services regarding radicalisation and violent extremism. Their aim is providing a legal and ethical framework for national member states based on the Council of Europe values and principles to devise appropriate policies and actions to be taken by the prison and probation services in order to tackle radicalisation and prevent violent extremism.

National Counter Terrorism Centre (NCTC)

The Kenya National Counter Terrorism Centre is a multi-agency institution established by the Prevention of Terrorism Act (POTA – 24th October, 2012) to coordinate national counter-terrorism measures in order to prevent, detect, deter and disrupt terrorism acts. The National Security Council appoints the Director and agrees to the amending of MDAs seconding/attaching officers to the NCTC. Its mandate is further articulated in the President's Executive Order No.1 of 2018 (Organisation of the Government of the Republic of Kenya) with the coordination of counter terrorism strategy and policy implementation; the coordination of counter radicalisation, disengagement and rehabilitation; and as a focal point for bilateral and multilateral partnerships in counter terrorism. The Cabinet created the NCTC in 2004 with a mandate to coordinate national counter terrorism. It works under the Executive Office of the President where it briefs and tasked by the National Security Advisory Committee. The NCTC head quartered is in Nairobi (Ogada, M., 2017).

Role of Probation and Aftercare Service in NCTC

The State Department bears overall policy mandate on correctional services in the country. Through the Kenya Prison Service, the Department is charged with the responsibility of containing offenders in humane and safe conditions with a view to facilitating responsive administration of justice. As an important player in the administration of criminal justice, it provides advisory reports to courts and other penal release organs.

Through Probation and Aftercare Service, the State Department also oversees the administration of non-custodial sentencing options. In this regard, it supervises, rehabilitates and re-integrates offenders and ex-offenders into the

community. This responsibility extends to the promotion of social crime prevention and victim support services.

Above all, care, rehabilitation, and social reintegration of incarcerated juvenile offenders in Borstal Institutions and Youth Corrective Training Centres has been placed under this Department (Ogada, M., 2017).

The Kenya Government embraced the idea of CVE after the Westgate Mall attack in Nairobi in September 2013. In 2014, NCTC launched a process to develop the National Strategy on Countering Violent Extremism. The Strategy was launched in 2016. It sets out priorities and interventions to prevent and address violent extremism. It maps out how the public, civil society and private sector will partner with security agencies to carry out CVE interventions, and envisions collaboration between the national and county-level governments. It underscores the importance of bilateral and multilateral partnerships, and the important role that research and monitoring and evaluation will play in improving the effectiveness of interventions. It also acknowledges that security agencies need to respect the rights during counterterrorism operations (Williams, M.J., 2017).

Returnees and Rehabilitation

In 2015, the Government announced it would offer amnesty to returnees who voluntarily renounced extremism, rehabilitate them and facilitate their reintegration into society. Rehabilitation of returnees was listed as a priority in the National Strategy on Countering Violent Extremism, which provides that NCTC will lead in coordinating the provision of "counselling, critical tools, and knowledge to shift their mind-sets and enable them to be peaceful and law-

abiding citizens.” Besides this reference to rehabilitation, there is still no policy and legislative framework explaining what rehabilitation entails how it is to be carried out, which non-state actors will be involved, and how success will be measured. Currently, there are no reliable statistics on how many youths have been taken to Somalia by Al Shabaab for terrorist training, or how many have returned. Some of youth who have returned escaped because of disillusionment with difficult conditions in Somalia. This category has been labelled “deserters” by Al Shabaab, and the group has reportedly ordered their elimination. This category is also viewed with suspicion by security agencies, and human rights groups have claimed that security agencies are involved in “disappearing” them (CHRISP, 2016).

Therefore, in Kenya, violent extremism is behaviour motivated by factors beyond the individual benefit and challenges the democratic values and principles, by instilling fear, intimidation and terror in the general public.

Due to their job description, probation officers may encounter VEOs in many circumstances in the course of their work. For example, while writing the bail report, providing bail supervision, working in the community, writing presentence reports, and providing supervision in the community. Although the phenomenon of radicalization and violent extremism in Kenya started in Nairobi and the Coastal area, it has widely spread to other geographical areas. It is therefore of utmost importance that all probation officers have the capacity to detect, engage and work with this special group of clients.

Violent Extremist Offenders in Kenya and International Connections The priorities of the NSCVE will only be able to attain the

outcomes by prioritizing its work. The top priorities relevant to PACS are as follows:

1. Develop radicalization early warning and early intervention measures: Radicalization is a phased process that allows for opportunities of intervention to mitigate it or redirect the individual to a safer, more empowering path. It is important for the parents, teachers, friends and colleagues of those being radicalized to be able to recognize the signs and know where to turn to for help.
2. Rehabilitation and reintegration support for individuals who disengage from violent extremism. Develop and implement a coordinated GoK and community-based approach to ensuring effective demobilization and reintegration of violent extremists who have disengaged or responded to amnesty offers, including psychosocial support, education and training.
3. Effective utilization of law enforcement to deter and investigate radicalized individuals and networks. In a targeted fashion, reduce the time, space and opportunity for organized efforts at radicalizing Kenyan citizens by enforcing the legal boundaries against radicalization, incitement and intimidation.
4. Research and knowledge sharing: Ensure that Kenya's CVE actors have the benefit of relevant and accurate information. It is important for the parents, teachers, friends and colleagues of those being radicalized to be able to recognize the signs and know where to turn to for help. CVE actors need to be action-ready and share a research-informed understanding of the evolution of violent extremist ideologies, organizational models and radicalization methodologies.
5. Stakeholder Action: Offer clear pathways and guidelines for citizens, communities, civil society, the private sector, media, multilateral and bilateral partners to effectively and productively engage in CVE.

Introduction of PACS functions in the context of countering violent extremism

PACS engagement with VEOs takes place within its mandates and also within its daily routines. Of great importance are the questions around the service contact points that may facilitate probation officers and the violent extremist offenders' procedural interactions. These interactions can provide an opportunity for the promotion of countering violent extremism work. The unit looks at PACS roles across the justice chain from pre-trial, through sentencing and to post-incarceration.

Risk Assessment

Why is risk assessment important for probation work?

Andrews et al (2000) suggest that there are four principles of effective practice in probation

1. Needs principle – programmes should focus on criminogenic needs – e.g. the big four and the moderate four. In the CVE work, other criminogenic needs are to be considered as well: e.g. belonging, access to a radical network, ideology etc.
2. Responsivity principle – programmes should be delivered according to the learning style of the beneficiaries / adult learning.
3. Risk principle – offenders with high risk of reoffending should be included in very intensive programmes and offenders with low risk of reoffending should be included in less intensive programmes.

Kenyan Risk Assessment for Violent Extremism Tool – K-RAVET

K-RAVET is a risk assessment and risk management tool belonging to the

structured professional judgment category of tools (SPJ). By using this tool, the probation officer is able to collect and analyse relevant information in a systematic manner. Conclusion regarding the level and type of risk as well as areas for intervention is to be drawn by the professional staff. The tool complements the data analysis and decision-making process **Characteristics:**

K-RAVET is a risk assessment and risk management tool that belongs to the Structured

Professional judgment category of tools (SPJ).

The specific objectives of this tool are three-fold:

1. First, the tool will help identify the level of risk of reoffending with a violent extremism related crime and therefore, will indicate the level of supervision intensity and also the level of control needed to prevent reoffending.
2. Secondly, the tool will assist in identifying the criminogenic needs that require addressing to deradicalize and disengage the person from the extremist network.
3. Thirdly, it will make the probation officer aware of other types of risks such as the risk for self and risk for the staff.

The tool can be used for adult offenders. It can be indicative for juvenile or youth offenders as well but special tools should be developed for them. By using this tool, the probation officer will be able to collect and analyse the relevant information in a systematic manner. The conclusion regarding the level of risk, areas for intervention and other types of risks belongs to the professional staff. The tool is only an adjuvant in the data analysis and decision-making process. When deciding on the level of risk, probation staff needs to corroborate the information collected using this tool with other reports and information provided

by the police, prosecution, intelligence and prison staff. This tool is not supposed to be completed based only on the information provided by the offender. The tool must be filled after collecting information on the offenders using various means, including social inquiry methods, information from the police file, etc. The information collected will then be filtered and structured using this tool.

Who can use it and when?

The tool can be applied by the probation officers who have been trained on using it. At least two days of training should be available to those who intend to use the tool. Ideally, five days of training should be provided for this subject.

The tool can be used in the following contexts:

1. For probation officer's security before, during engaging etc. with a client
2. For the bail report
3. For bail supervision
4. For pre-sentence reports
5. For social inquiry report
6. For other types of reports
7. For community supervision
8. For community prevention work
9. For borstals
10. For other institutions
11. For post-borstal supervision

Through the provision of social inquiry reports, supervision and reintegration of non-custodial offenders, victim support, and social crime prevention, probation and aftercare services attempt to promote and enhance the administration of

justice, community safety, and public protection. Because of its essential role in criminal justice delivery, the Department of Probation and Aftercare Service's responsibility has been quickly expanding. The majority of this body's responsibilities are related to bail, sentencing, and pre-release decision-making in the criminal justice system.

Aftercare services are designed to provide support to people who have been incarcerated in the past in order to prevent recidivism, boost meaningful community involvement, social integration, and improve recovery from drug addiction and crime. These aftercare services, on the other hand, fail to successfully prevent high levels of recidivism in resource-constrained communities.

Women confront the combined stigma of their gender and status as exoffenders when they are released. They also encounter difficulties in gaining community acceptability, which can result in social isolation and financial deprivation. Others who have had their children placed in foster care find difficulties in reuniting with them. Remote parenting, family open days, and home reception escorts and reunions are among the pre-release mitigation measures implemented. If their children are placed in foster care, women frequently experience issues with them, especially because they face hurdles to employment (Penal Reform International and Thailand Institute of Justice, 2019).

International instrument tools

The Bangkok Rules establish thorough guidelines for the treatment of women who are detained. Prior victimization and its links to incarceration are among the topics addressed in the rules, as are alternatives to incarceration, mental

and physical health care, safety and security, contact with family members, staff training, pregnant women and mothers with children in prison, and prisoner rehabilitation and reintegration. The UN General Assembly adopted the Mandela Rules, or the Standard Minimum Rules for the Treatment of Inmates, in 2015. They set forth broad criteria for the treatment of prisoners and best practices in prison management that are based on human rights.

By establishing a coordinating division at the Prisons Headquarters as well as a human rights desk and point person at each station, the Kenya Prisons Service has cascaded the application of the Bangkok and Mandela Rules across its 118 prison institutions (Odhiambo, 2017; United Nations Office on Drugs and Crime (UNODC), 2017). Prison staff were trained and sensitized on these norms, which increased acceptance and ownership. Kenyan officials were able to use Kenya as a model for other countries, and Kenyan officials were able to support other International Correctional Systems through capacity building and system strengthening, embedding international best practices in their own systems (Kimani Ndung'u, 2017; Odhiambo, 2017).

Approximately 90% of special-needs criminals, including female convicts, are discovered during the initial screening process utilizing a prison-specific medical screening method. This connects inmates, particularly those with substance addiction issues, to various rehabilitation and intervention programs as well as continuous care. Many others, on the other hand, are detected later, either as a result of late onset withdrawal symptoms or through prison monitoring and internal identification systems.

Regardless of whether best practice recommendations are implemented, incarceration does not always result in the cessation of drug use or the provision of treatment and rehabilitation services. Despite strict precautions aimed at reducing supply, drugs are frequently more accessible within prisons (MOH, 2017).

People Who Use Drugs (PWUD) may find it easier to obtain drugs inside jail than outside, complicating rehabilitative initiatives aimed at ending drug dependence while incarcerated.

CYBER CRIME

Cybercrime is defined as a criminal activity carried out by means of computers or internet. The internet, more than any other example to date, has revolutionized the computing and communications world. The introduction of computers, as well as the development of new telecommunications technology that connects computers, mobile phone handsets, and tiny communicators to the internet, has increased the importance of information and promoted the collecting and use of personal data. The dangers of processing personal data include the possibility that the data will be inaccurate, incomplete, or irrelevant, that it will be accessed or released without consent, that it will be used for a purpose other than that for which it was acquired, and that it will be deleted. The processing of personal data puts one's right to privacy at risk (Gumbi, D., 2018).

The fact that the Kenyan Constitution recognizes and protects the right to privacy as a fundamental human right shows how important it is. It is, however, not an absolute right, and competing interests such as maintaining law and

order and protecting the rights, freedoms, and interests of others should be taken into account while protecting a person's personal information. The issue of reconciling these competing objectives in information security is a delicate concern that has grown in importance globally as a result of the rising usage of computer and telecommunications technology in cyberspace.

Role of PACS in dealing with cyber crimes

Similar to the other criminal offences and the offenders, cyber security related offences and their perpetrators are subjected to the trial process in Courts'.

Consequently PACS as one of the key agencies in the Criminal Justice System (CJS) plays the role of generation of various reports such as bail information reports, Pre-sentence reports, etc which assists the Courts in the dispensation of cases for offenders charged with such cyber –related offences.

In addition to the above Law on Cybercrimes, **PACS have developed its own SOPS Procedures Manual** which strives to minimize cyber related offences.

These procedures include the following;

1. Procedure Number 17; Security procedure

The purpose of this procedure is to ensure effective protection and preservation of departmental documents/information, equipment and property.

2. Procedure Number 18; ICT User Support Services

The purpose of this procedure is to ensure effective, efficient and reliable provision of ICT User support services within the department.

3. Procedure Number 19; Maintenance of ICT Equipment

The purpose of this procedure is to ensure effectiveness, efficiency and suitability of the ICT equipment within the department.

4. Procedure Number 20; Website maintenance

The purpose of this procedure is to ensure the departmental website is up and running, effective and updated.

5. Procedure Number 21; System Administration

The purpose of this procedure is to ensure effective and proper administration of the ICT systems in the department.

In a bid to implement the above Procedures, PACS have established 2 distinct Units namely; **IT Unit and Communication Unit** which are under the Section of M&E, Reporting and Quality Assurance/Control. The IT and Communication Units are tasked with the responsibilities of providing ICT Support Services to the Users as well as handling official communication within the department respectively.

Conclusion

Following the 1998 bombings of the US embassies in Nairobi, Kenya's capital, and Dar es Salaam, Tanzania, and the subsequent massive September 2001 attacks in the US, Kenya has been identified as a vulnerable location due to the growing link between drug trafficking, money laundering, and international terrorism. Indeed, the US has issued travel advisories on Kenya on a regular basis, preventing US people from freely visiting the country for business or tourism. Kenya is on the United States' regular watch list for money laundering and terrorism financing stemming from drug trafficking and corruption (Magutu, P.O et al., 2011).

The international community, led by the United States, has repeatedly pressed Kenya to enact specific anti-money laundering and anti-terrorism financing laws with heavy penalties for offenders. Kenya has made various initiatives to create an enabling environment for countering money laundering in order to comply with FATF guidelines. The legal structure, in particular, should be enhanced if the recommended money-saving measures are implemented. Money laundering legislation becomes law, and the institutions proposed as a result of it become operative.

CHAPTER TWELVE

WORKING WITH FOREIGN OFFENDERS

Kevin Obonyo (PACS) and Nathan Karanja (KSG)

Various countries around the world are dealing with the issue of illegal immigration. Between January and August 2015, there were 350,000 illegal immigrants in Europe (Manby, B., 2015). Over 240,000 illegal immigrants migrate to various parts of Africa. Every year, a number of countries around the world are added to the list (Emerson 2010). Kenya is likewise dealing with the issue. Those immigrants who have broken the law every year, Kenya returns 1200 unlawful immigrants (Mbuthia S.K., 2016).

The problem of immigration offenders is of great concern to the whole world Kenya included. Countries all over the world are struggling with the problems of illegal immigration, undocumented people, and asylum seekers, huge number of refugees and forgery of travel documents. Kenya is now dealing with a slew of security issues. Terrorism, human trafficking, drug trafficking, money laundering, poaching, and a general increase in illegal activities and criminal groups are among them (Mbuthia S.K., 2016). The flood of illegal immigrants into the country is responsible for all of these issues.

Kenya's government enacted the Kenya Citizenship and Immigration Act, 2011 as one approach of combating the threat of illegal immigrants, in response to a spike in immigration offenders. If an immigration offender was apprehended, the Act mandated steep fines and additional fees (Cheruiyot, R.K., 2018).

Global Problem of Immigration Offenders

The world today has grown into a very big village and people are moving in unprecedented numbers in search for better living conditions. Some move legally across national borders while others move without due regard to the laws. Some are properly documented while others are undocumented. Those who have no regard of the existing laws form the group of immigration offenders. It is estimated there are 214 million immigrants in the world with 20% of these being illegal immigrants (Gonzalez., 2014).

USA has about 11.1 million undocumented persons, EU has 103,000 undocumented people entering every year, Australia has about 7million illegal immigrants, Asia 8millions and Africa has 3 million undocumented people. Despite these huge figures of undocumented immigrants, no country or nation has devised a perfect solution to this problem. The problem remains one of the world complex problems to solve and the solution is universally elusive. The challenge to the world is to find ways to manage illegal immigrations in a way that benefits all countries. Illegal immigration will always be there because people will always find a way to get in no matter how hard countries try to close their borders (Gonzalez., 2014).

Africa Immigration Problem

Africa as a continent has not been spared the problems of immigration offenders. Huge populations move within the African states while others move outside the continent (Solomon., 2003). These movements are caused by push and pull factors which include a variety of hardships and challenges that are faced by the individuals and states in Africa alike. The push and pull factors

include labour, conflicts, economic prospects, trade, demographic pressure, poverty, human rights abuses and human trafficking (Normand., 2007).

In 2005 there were 16 million immigrants in Africa 8.8 million being internal migration while 7.2 million being emigrants to other countries (Normand L., 2021). Africa's immigration problem comprises of illegal immigrants, human trafficking and economic tourists (Emerson., 2010). These in turn results in a number of challenges within the continent like crime, terrorism, conflicts, security challenges, refugee problem and 14 asylum seekers. Despite these challenges Africa has not been able to develop a lasting solution to the problem of illegal immigration.

Kenya Immigration Problem

Kenya as a country has been faced with a myriad of immigration challenges even before its independence in 1963. Before independence Africans were given Identity Card (ID) which was very huge and discriminative on gender and race (Rutten, M. and Muli, K., 2008). These documents were easy to manipulate which resulted in illegal registration of aliens, forgery and theft as well as photo substitution. After independence the size and purpose of ID and passport changed. Discrimination between genders was abolished and age limit was raised from 16years to 18 years. During this period the main challenges of immigration included illegal registration of aliens, forgery of documents, photo substitution in passports and identity theft (Rutten, and Muli, K, 2008). Today with technological advances the immigration challenges facing the country are enormous and complex. They include forced migration, transit of irregular immigrants, labour migration, internal rural to urban migration, document forgery, identity theft and outright violation of immigration laws (Ghosh, J., 2009). Other challenges include human trafficking, terrorism, cybercrime,

money laundering, and drug trafficking and refugee problem. The current state of affairs has been aggravated by laxity in implementation of immigration law, political instability in neighbouring countries, international criminal syndicates, corruption, technological advances and economic hardships (Georgi, F. and Schatral, S., 2012). Currently there are 533,267 Somali refugees in Dadaab, 92,317 South Sudan refugees and 20,000 children trafficked every year which complicate immigration problem further (Georgi, F. and Schatral, S., 2012). 15 Despite all these challenges there has not been a perfect solution to the problem of immigration offenders in Kenya hence the enactment of the Kenya citizenship and Immigration Act 2011, to address these challenges.

Foreign offenders and the principle of rehabilitation

Bail

Remand prisoners are frequently overlooked in talks of prison populations. There is a presumption of bail in the law, which means that people should not be held in custody pending their trial unless there are particular reasons (specified by law) for doing so. One such reason is the risk of absconding. In many cases, remand and custody may be the default option because foreign nationals lack the necessary antecedents and offending history to enable accurate risk assessment.

This combined with the belief that they pose a greater risk of absconding than Kenyan nationals, may result in remand and custody being the default option. Homelessness or unresolved housing can be other and arguably fairer grounds for anxiety that defendants would flee and be far more difficult to arrest later.

Pre-sentence reports (PSR)

When a court is considering a prison or community sentence, pre-sentence reports (PSRs) are typically prepared. However, the Court has the discretion to request a PSR or sentence immediately, and they may do so if a custodial sentence is deemed unavoidable and the court requires no information or risk assessment from a probation officer. In some cases, probation officers may propose that a PSR would be beneficial to the Court; in others, they may not. The degree to which court probation officers are proactive in this regard is determined by their knowledge, confidence, and competency, as well as the court's culture.

When the defendant is a foreign national, there is anecdotal evidence that probation officials regard these concerns differently, and a PSR is less likely to be requested, especially when the foreign national defendant is known or suspected to have irregular immigration status. In practice, the decision to order a PSR is tightly tied to a provisional opinion of the appropriateness of a community sentence, and it appears that foreign persons are less likely to be considered fit for community punishment. The reasons for this are complicated and contentious; it could be because courts assume that foreign individuals with irregular immigration status will be unable to access public finances or work legally, making them unlikely to fulfil a community term. For instance, will they be able to complete a community penalty or will they flee the nation and violate their order?

It's also possible that some Courts will take a harsher stance against foreign national defendants in order to encourage them to comply with immigration requirements and leave the country: it's possible that time in prison will make

deportation easier for the Kenyan agency in charge of enforcing immigration regulations. Again, some Courts may believe that the hazards posed by foreign nationals cannot be addressed through community sentencing and may choose to emphasize deterrence in such circumstances even if the chances of the message reaching those who need to be discouraged are slim.

Community Service Order

Court practice is based on the premise that foreign nationals and irregular migrants will not or will not be able to comply with the terms of a community order, while the political climate prioritizes removal and assumes that jail will ease deportation.

There's a chance that inconsistent conduct will foster the belief among judges and probation officers that foreign nationals are unfit for community sanctions. A comprehensive rehabilitation paradigm recognizes the value of social capital in overcoming adversity. But how will this be accomplished when many foreign nationals and irregular migrants are unable to work legally, are excluded from and ineligible for education or training services, are difficult to engage and work with using traditional methods, and may have limited access to drug and alcohol treatment programs due to funding issues and a lack of general health care? Again, legitimacy is important for compliance, and failing to provide relevant and accessible services can lead to dissatisfaction, non-compliance, and breach.

Conclusion

In recent years, the number of young people forced to quit their homes and dwell in the outskirts of foreign towns has skyrocketed. Amnesty, a pardon for political offenders by the government in lieu of criminal prosecution is not a new

phenomenon, but nonetheless rare in Kenya. After Operation Linda Nchi began in Somalia in 2011, Kenya granted al Shabaab amnesty, but the launch of ARP on April 14, 2015 was surprising. To put the amnesty into context, it was announced at a time when the country was still processing the aftermath of the terrible Garissa University College attack and the Westgate Mall siege, both of which resulted in the deaths of a large number of innocent people. The government, on the other hand, was at a loss as to how to deal with the growing number of returnees, estimated at 1,500, who had already arrived in the country.

Radicalized youths were offered Amnesty Reintegration Program (ARP) on the condition that they willingly submit to national security agencies, such as County Commissioners and Police, for reintegration reasons. Youths are given training, psychological counselling, and social services in exchange for their submission, which will help them stay away from Violent Extremism (VE).

The National Counter-Terrorism Centre, a multi-agency of the national security forces, is in charge of implementing the program, which involves non-state players such as philanthropists and community/religious leaders pulling levers. NCTC subjects' returnees to a vetting process and ongoing surveillance before and after reintegration to prevent recidivism and infiltration of the program by insincere returnees. Returnees who have been reformed are also given "reintegration kits," which include items such as sowing machines to help with the reintegration process. There is no such thing as an amnesty law. Nearly 300 returnees surrendered for the reintegration process, according to the Government of Kenya.

CHAPTER THIRTEEN MONITORING, EVALUATION AND QUALITY CONTROL

Wachira Makau (PACS) and Dr. Ng'ang'a (KSG)

Monitoring can be defined as the process of continually tracking the implementation of planned programmes or activities to assess their progress and performance. It entails supervising activities in progress to ensure they are on track in meeting the objectives and performance targets.

Evaluation is the determination of the extent to which the set objectives have successfully being met. Monitoring, evaluation and reporting forms a critical component for the successful implementation of PACS Strategic Plan period 2018-2022. M&E is meant to examine the link between the set priorities, corresponding budgetary provisions and the resultant outputs, outcomes and impacts over the plan period. The overall goal of M&E is to provide quality performance information and the necessary feedback that will enable the management to make evidence-based decisions.

M&E forms part of PACS Key Result Areas (KRAs), also referred to as Strategic Focus Areas, thus M&E is KRA No. 7 whose Strategic Objective is to strengthen M&E of Departmental Programmes.

ROLE OF M & E IN PACS

The Section is charged with the responsibility of coordinating Monitoring, Evaluation and Quality Control in carrying out the following functions:

- i. Appraise the data management and information system.
- ii. Develop an appropriate case management system.

- iii. Conduct appraisals, surveys and research on programme performance
- iv. Strengthen M&E and reporting and implementation of recommendations
- v. Review departmental operational guidelines and policies
- vi. Prepare quarterly and annual reports based on outcome indicators
- vii. Monitor whether strategic objectives are being met
- viii. Monitor and evaluate PACS five-year Strategic plan 2018- 2022 which is anchored to Vision 2030
- ix. Developing Monitoring and evaluation framework for the Strategic plan and departmental activities and programmes
- x. Develop recommendations for institutional strengthening
- xi. Develop a learning agenda under the Strategic Plan
- xii. Undertake Business Process Re- engineering
- xiii. Monitoring implementation of PACS Programmes in all the Regions in the Country
- xiv. Provide feedback to the Secretary on the level of projects implementation
- xv. Monitor, evaluate and report on the levels of implementation
- xvi. Provide the department information for decision making at all level
- xvii. Develop recommendations for improving efficiency, enhancing transparency of all players and strengthening accountability in the implementation of the department's projects
- xviii. Undertake continuous Monitoring of implementation of annual work plans and long-term development plans

PACS uses the National Integrated Monitoring and Evaluation System (NIMES) whose objective is to improve the effectiveness and quality of tracking of the

implementation of various development programmes and projects. Also, the department ensures that there is a clear way of measuring performance by instituting a performance management plan which shows the performance reporting framework on the set indicators and annual targets. This ensures that all commitments made in the strategic plan are translated to service delivery to beneficiaries through performance contracting and annual work planning, both at the departmental and individual levels.

The Annual Work Plans are the key basis for the execution of Strategic plan. Thus each Division and Section derives their activities in the Annual Work Plan which is cascaded downward to Individual Work Plans. Ultimately, the Individual Work Plan is the basis for Performance Appraisal.

This is depicted in the diagram below:

Fig. 14.1: Monitoring Framework



1.2 EVALUATION

Evaluation of the implementation of PACS Strategic Plan is undertaken Annually using the log frame annexed herein below;

Monitoring and Evaluation Reporting Framework

Key Result Area (KRA)	Outcome	Key Performance Indicator	Baseline	Target	Achievement	Variance	Comments
KRA 1: Social inquiries and generation of reports	Quality and timely reports prepared and presented to Courts and other Penal organs	No. of social inquiries and reports generated					
KRA 2: Supervision of non-custodial orders	All non-custodial offenders successfully supervised	No. of non-custodial offenders supervised					
KRA 3: Rehabilitation of offenders serving non-cu	Non-custodial offenders effectively rehabilitated.	No. of non-custodial offenders rehabilitated					

<p>KRA 4: Reintegration and resettlement of exoffenders.</p>	<p>Exoffenders effectively reintegrated and resettled within the community</p>	<p>No. of exoffenders reintegrated and resettled within the community</p>					
<p>KRA 5: Support services to victims of offences</p>	<p>Victims of crime offered requisite support.</p>	<p>% of victims of crime supported</p>					
<p>KRA 6: Administrative Services</p>	<p>Policies, legal mandates reviewed and logistical support provided.</p>	<p>No. of policies and legal mandates</p>					
<p>KRA 7: Monitoring and Evaluation</p>	<p>Accurate, timely and reliable data and information generated.</p>	<p>% of reliable and accurate data generated</p>					

<p>KRA 8: Communi- cation and Reporting</p>	<p>Departme- ntal brand visualized , communi- cation and reporting provided, partnersh- ip and stakehold- ers and developm- ent partners strengthe- ned.</p>	<p>% level of branding, communi- cation and reporting prepared, stakehold- er and developm- ent partners forums held.</p>					
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Source; PACS Strategic Plan 2018-2022

REPORTING

Reporting in PACS is done in accordance with guidelines in the Standard Operating Procedures (SOPS) Manual (2014) while embracing appropriate feedback mechanisms. Hence there is an established system which covers Inputs (both financial and human resource), Outputs and Outcomes.

The Table below depicts the system for tracking and assessing the performance of projects on a continuous basis.

Reporting Framework

Type of Reports	Purpose	Frequency	Responsibility
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<p>Monthly activities Reports</p>	<p>These will provide information with regard to activities undertaken during the month as per the work plan e.g. status reports. It should highlight the time lines met, challenges and possible recommendations.</p>	<p>Monthly</p>	<p>Section Heads Deputy Directors</p>
<p>Quarterly Reports</p>	<p>Detail work plans with regard to achievement of the outputs providing opportunity for amendment and recommendations based on evaluation.</p>	<p>Quarterly</p>	<p>Section Heads Deputy Directors</p>
<p>Semi-Annual Reports</p>	<p>Provide mid-year evaluation of the department's programme.</p>	<p>Bi-Annual</p>	<p>Section Heads Director</p>
<p>Annual Reports</p>	<p>Detail annual achievements of the Biennial Department vis-à-vis End-Term the outcome/outputs; outlining the targets met, challenges faced and lessons learnt for the subsequent planning cycle.</p>	<p>Annual</p>	<p>Section Heads Director</p>

Biennial Reports	targets met, challenges faced and lessons learnt for the subsequent planning cycle. Share the report with key stakeholders.		Section Heads Director
End-Term Reports	Detail annual achievements of the Department vis-à-vis the outcome/outputs; outlining the targets met, challenges faced and lessons learnt for the subsequent planning cycle. Share the report with key stakeholders.		Section Heads Director

QUALITY ASSURANCE UNIT

A Quality Assurance programme is defined as “the sum total of the activities aimed at achieving that required standard” (ISO, 1994).

Quality Assurance (QA) is a management method that is defined as “all those planned and systematic actions needed to provide adequate confidence that a service or result will satisfy given requirements for quality and be fit for use”. Any monitoring programme or assessment must aim to produce information that is accurate, reliable and adequate for the intended purpose. This means that a clear idea of the type and specifications of the information sought must be known before the Programme starts, i.e. there must be a data quality objective.

Data quality objectives are qualitative and quantitative specifications that are used to design the system that will limit the uncertainty to an acceptable level within the constraints allowed. These objectives are often set by the end users of the data (usually those funding the programme, in this case PACS).

Components of Quality Assurance

The components of a QA programme are often grouped into three levels:

- i. Strategic or Organizational level (dealing with the quality policy, objectives and management and usually produced as the Quality Manual);
- ii. Tactical or functional level (dealing with general practices such as training, facilities, operation of QA);
- iii. Operational level (dealing with the Standard Operating Procedures (SOPs) worksheets and other aspects of day to day operations).

Functions of the Q.A Unit

The quality Assurance Unit which is part and parcel of Monitoring and Evaluation is performs the following functions;

- i. Monitoring programmes using appropriate QA which does not infringe on confidentiality and safety and which covers the integrity of all observation, interviews, field sampling and quality analyses as well as data input, analysis and reporting.
- ii. Auditing all aspects of the operation regularly with special regard to procedures, traceability of the data and reporting.
- iii. Implementation of PACS Quality Manual and SOPs. To review SOPs regularly and update as necessary, report any deficiencies and

recommend appropriate remedial action. (The Quality Manual is composed of the management documents needed to implement the QA programme and includes (ISO, 1990)

- iv. Implementation of SOPs in the maintenance and updating of inventories and catalogues; methodologies for all major equipment; sample receipt, screening and storage; and reporting.
- v. Evaluating PACS programmes periodically, as well as whenever the general situation or any particular influence on the environment is changed.
- vi. Synchronizing operations between management, technical operations, support services and the quality system. (Implementation of Procedures for control and maintenance of documentation)
- vii. Inspecting all aspects of the system regularly to ensure compliance, for reporting on such inspections and audits to management and for recommending improvements. These activities involve inspecting facilities and procedures regularly, tracing samples and documents back through the system and ensuring that all appropriate records have been kept.
- viii. Sensitizing PACS staff on Quality Assurance for purposes of effective implementation. To ensure the Supervisory staff are involved and trained to take responsibility for the development and implementation of the QA programme and the technical staff to provide expertise and advice.

CHAPTER FOURTEEN

PACS COMMUNICATION AND REPORTING

Edwin Kigen (PACS) and Joy Riungu (PACS)

Probation and Aftercare Service (PACS) has been in operation since 1946. PACS renders an array of valuable services in the field of community corrections. The delivery of our mandates depends on our staff members carrying out their duties efficiently and responsibly. We rely on information in provision of services. Communication is key in effective delivery of services as the department links the criminal justice system and an array of stakeholders in the community and Mwananchi.

Communication is an important part of any organization the world over. In the simplest of terms, communication is the process of conveying information from a sender to a receiver. To this end, effective internal communication is essential to ensure that staff members understand what is expected of them in their jobs and that they have the support they need to carry out their role.

Corporate communication plays a key role in determining how staff, stakeholders and the general public perceive a government organization. When it is well structured, corporate communication provides an enabling environment to convey and receive timely and accurate information for efficient and effective delivery of services.

There are two main types of communication for an organization such as the Probation and Aftercare Service:

- Internal communication – between our offices and employees across Kenya; and
- External communication – between us and our external audiences, such as our clients and partner agencies.

PACS uses phone communication, social media and e-mail communications. The government promotes use of email in certain circumstances to speed up delivery of information. The use of official emails in the service has been well embraced.

At PACS we recognize that effective internal and external communication underpins our organization's performance by providing inter-linkages and information flows with our diverse audiences and by supporting the accountability of our operations.

PACS has undertaken various initiatives to create awareness by installing a Customer Service Charter, publishing the Probation website, publishing periodic Probation newsletters and magazines, creating brochures for various programmes and services, publishing various reports including annual reports, participating in radio and television (TV) talk shows, organizing public lectures, barazas, open days at all levels, and participating in local and international conferences,

The importance of the organizational communication cannot be underscored as witnessed by the Job Evaluation Exercise conducted by the Salaries and Remuneration Commission between 2015 and 2016, which assigned this function to the office of the Director in the Job Description Manual for Probation Officers.

A baseline survey conducted by the Department in 2009 on the knowledge, attitudes and practices indicated that only 4.7% of the respondents knew the Government Department responsible for managing non-custodial offenders. When asked whether they had ever heard of Probation and Aftercare Service, 81% of the respondents indicated that they have not heard of Probation and Aftercare Service. Of the 11% that claimed to have heard of the Service 26%, which was the highest concentration, said Probation and Aftercare Service was in charge of individuals who commit minor offences and therefore showing lack of visibility.

The Organization structure of Probation and After Care Service allows communication to flow up, down and across the organization. Vertical communication is the principal channel for routing directives, instructions and policies from senior management, while lateral communication is the most frequent and routine communication between officers operating at the same/similar levels e.g. sharing information on the supervision of a client.

PACS recognizes the vital role communication plays in bolstering solutions towards tackling multifaceted challenges in community-based corrections. Studies on the role of communication in the society tends to come to one conclusion. In the context of offenders serving supervised community-based measures and victims of offending behavior, the conclusion reached is that communication is central to their social, psychological and emotional well-being. It is also believed to contributing towards reduced recidivism and increasing the capacity of offenders to successfully reintegrate into their families and communities.

Also, of importance in the transformative environment in the context of offending and an aspect that is transversal to most public service is the growing need for re-engineering government processes. To adapt digitalization/technology, where the demand for online public services is increasing, while at the same time being able to support the offender's supervision and resettlement, is an essential part of their rehabilitation.

In addition, integrated multimedia systems also enable better decision-making and interventions in the offender supervision context. The complexity of the challenges involving communication in community corrections is increasing, embracing the use of technology in communication is envisaged as an aid to overcoming those challenges but also enable more informed and efficient management practices, therefore contributing to a safer society.

In conclusion PACS endeavours to increase departmental visibility and reporting. This is achieved by implementing departmental communication policy and guidelines, departmental communication strategy, implementation of branding guidelines and strengthening departmental reporting systems.

CHAPTER FIFTEEN

PACS FINANCE, BUDGETING AND PLANNING

Mary Mbau (PACS) and Wachira Makau (PACS)

This chapter entails the objectives of finance, budgeting, planning as well as staff performance appraisal and transport units in the Probation Service. Further, the chapter also highlights key responsibilities, achievements, challenges and expectations of the said units.

The objectives of Finance and Planning Section in PACS;

- i. Ensure timely utilization of allocated funds
- ii. Comply with set budgetary levels.
- iii. Timely release of AIE's upon their funding and undertakes financial monitoring and inspection.
- iv. Report on Level of Absorption
- v. Report on Financial Monitoring and Inspection

Finance and Planning Section Consists of 3 Key Units namely:

1. Finance Unit
2. Planning Unit
3. Performance Appraisal Unit

1. **Finance Unit** – This Unit undertakes the following responsibilities;
 - i) Coordinates departmental budgeting

- ii) Receives and analyze Forward budgets from Regions
- iii) Coordinates management of expenditures
- iv) Coordinates Resource allocation
- v) Oversees Accounts operations
- vi) Coordinates Procurement and disposal of goods and services
- vii) Coordinates budgetary allocation and disaggregation
- viii) Disaggregation of the budget
- ix) Preparation of AIEs and ensure disbursement of AIEs
- x) Undertake follow-Ups, receive and provide feedback on expenditure

2. **Planning Unit** – This Unit undertakes the following responsibilities;

- i) Coordinate development of departmental Strategic Planning and Annual Work plan
- ii) Coordinate the planning and implementation of Kenya’s Big (4) Four Agenda, Vision 2030, Africa Agenda 2063 and Sustainable Development Goals (SDGs)
- iii) Coordinate the departmental Performance Contracting (PC)
- iv) Coordinate government Resource mobilization
- v) Coordinate Project development and monitoring
- vi) Undertake collaboration and partnership

3. **Staff Performance Appraisal and Transport Unit** – This Unit undertakes the following responsibilities;

- i) Management of the Staff Performance Appraisal System (SPAS)
- ii) Security of government property and assets
- iii) Disposal of departmental idle assets
- iv) Evidence building and compiling
- v) Inventory of departmental assets
- vi) Uploading Departmental projects onto EPROMIS
- vii) Transport fleet management

FINANCE AND PLANNING SECTION ACHIEVEMENTS

- i) Development of Departmental Strategic Plans and Implementing
- ii) Developing Procurement Plans and Implementing
- iii) Projects implementation
- iv) Performance Appraisal System Monitoring and Evaluation

CHALLENGES

- i) Under funding
- ii) Austerity measures
- iii) Delay in disbursement of funds

CHAPTER SIXTEEN

HUMAN RESOURCE MANAGEMENT AND DEVELOPMENT

Kennedy, Odipo (PACS), Teresa Oloo (PACS), Peter Macharia (PACS) and Christine Njagi (PACS)

The efficiency and effectiveness of any organization is dependent on the type and nature of its human, financial and material resource. Human resource, however, overrides the financial and material resources as people are the backbone of an organization. Effective human resource management and development thus becomes the key to achieving organizational success.

This chapter will look into the various aspects of human resource management and development in line with the Probation Practice in Kenya. The process of recruitment as per the Public Service Commission guidelines, the qualifications and duties of a Probation Office, their code of conduct as public servants and performance contracting will be discussed as part of human resource management. Additionally, the area of human resource development will cover training or capacity building of practicing Probation Officers.

Human Resource Management

Human resource management is defined as “a strategic approach to acquiring, developing, managing, motivating and gaining the commitment of the organization’s key resource – the people who work in and for it,” Armstrong (1997). A more recent definition is by Boxall and Purcell (2003), who define human resource management as “all those activities associated with the management of employment relationships in the firm”. The definitions are backed by various human resource theories that are based on the belief that

people desire to be part of a supportive team that facilitates development, growth and productivity. For instance, the Resource-Based Theory assumes an employee is a rare resource, unchallengeable, and valuable. In order to gain from competitive advantage, there should be creation and support for effective training and performance. Of a similar assumption, is the Human Capital Theory which takes an economic approach that people are valuable assets, and the best investment is to invest in people.

Human resource management has four basic functions namely staffing, training and development, motivation, and maintenance. Staffing involves recruitment and selection of potential employees that meet the organization's requirements and hiring resources as guided by the company's recruitment strategies, needs and plans. Training and development is a continuous process of ensuring that employees acquire the right skills for the job and prepare them for future roles in the organization. Motivation is seen as key to keeping employees highly productive through employee benefits, performance appraisals, and rewards. Maintenance is about caring for employee's well-being which builds on their commitment and loyalty to the organization.

In relation to the Probation practice in Kenya, the discussion will be on the areas indicated in the introduction which fall under the functions of human resource management.

Recruitment

Probation Service in Kenya just like other Probation Services in the world, is a government agency. Employees of Probation Service in Sweden, Japan or Croatia are full time civil servants and the same applies to the Probation Service

in Kenya. Although the service is under the umbrella of the Ministry of Interior and Coordination of National Government in the State Department for Corrections, recruitment of Probation Officers is carried out by the Public Service Commission. The Public Service Commission draws its mandate from Articles 234, 155(3)(a), 158(2)(3) and (4), 171(2), 230(2)(b) and 236 of the Constitution. Its functions include establishment and abolition of offices, provision of competent human resource, promotion of good governance and ensuring efficiency and effectiveness in the provision of quality services in the public service. Every Ministry/State Department is expected to prepare human resource plans to support achievement of goals and objectives in their strategic plans after which annual recruitment plans are developed and forwarded to the Public Service Commission at the beginning of each financial year to enable it plan to fill the vacancies.

In line with this, the Probation Service develops its annual recruitment plans guided by its strategic plan and more recently the findings of Capacity Assessment and Rationalization of the Public Service Programme report that identified the variances in the total staff establishment. The advertisement of vacant posts, recruitment, appointment, remuneration, promotion and termination of employment is solely a function of the Public Service Commission. The scheme of service for Probation Officers clearly indicates the qualifications required for appointment to the post.

Given that Probation Officers are government employees, from the time of recruitment through to termination of service they are expected to carry themselves as per the public service code of conduct. This is done by complying

with the provisions of Chapter Six of the Constitution on Leadership and Integrity and Articles 10 and 232 of the Constitution; Leadership and Integrity Act, 2012; Public Officer Ethics Act, 2003; Anti-corruption and Economic Crimes Act, 2003; Labour Relations Act, 2007 and the Employment Act, 2007. Additionally, the officers are required to adhere to their respective professional codes of conduct. To this end, the Probation Service has its own set of regulations that officers should adhere to as they carry out their duties. This will be discussed in detail in the section on the duties, character and qualifications of a Probation Officer.

Qualifications of a Probation Officer

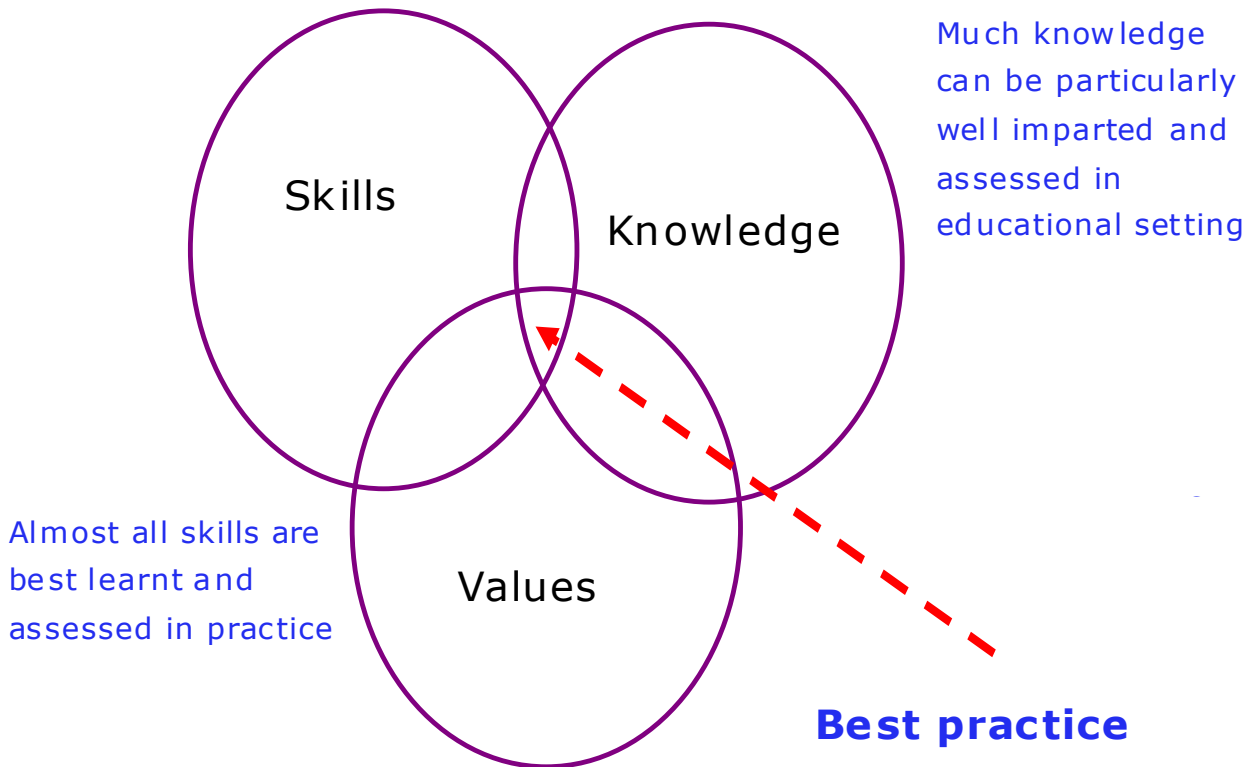
A Probation Officer is an Officer of the Court appointed under the Probation of Offenders Act Cap 64 (Laws of Kenya) to provide advisory information on offenders to court and other penal authorities and to supervise and/or rehabilitate offenders placed under his/ her charge for a given period of time. For appointment to be probation officers in Kenya, the aspiring candidates, are required to have completed degree course in any of the following fields from recognized universities: Areas of specifications in social sciences: social work, criminal justice, psychology, criminology, sociology, economics, counselling and Anthropology, areas of specifications in Humanities: Law, philosophy and history, Pursuance of any of the above degrees with a diploma in probation practice offered by Egerton university.

In addition, those aspiring to be probation officers are expected to have the following co-competences, values and skills prior to their engagement in probation work as during the course of their service: excellent communication and listening skills: listening and interviewing skills, report writing skills, team

work, mentoring, networking and collaboration: Must be able to collaborating effectively with other agencies in the criminal justice system, such as the police, local authorities, courts, health services, substance misuse services, voluntary agencies and youth offending teams, be able to carry out research, confidentiality and trustworthiness, Good interpersonal and decision-making skills. Be able to carry out effective risk assessments and reviews on offenders in order to protect the public from further possible offending, Be able to manage and enforce community orders made by the courts be able to motivate offenders to change their attitudes and behaviour in order to help reduce further offending, be able to work with victims of violent or sexual crime to ensure their well-being and to make sure that their voices are heard, manage approved premises, which provide accommodation for people on bail or probation or offenders on parole, attend court, sometimes to testify about written recommendations in reports, a knowledge and understanding of the work of the criminal justice system and the probation service, report-writing skills, planning and organizational skills, effective decision-making skills and problem-solving ability, motivation and commitment, resilience, good judgement, be able to employ victim support services, be able to work with youth offenders, Substance abuse treatment knowledge. Counselling techniques. work well under pressure or in a heated situation.

An illustration of values, skills and co-competencies

Competencies...



Adapted from CJSW

Duties and Responsibilities of a Probation Officer

Newly employed probation officers as well as those already serving are expected to be conversant with their duties and responsibilities as laid out in the policies and guidelines. A newly employed officer at entry will work under the supervision and guidance of a senior and experienced officer. The roles and responsibilities of a probation officer are well laid out and include the following: Noting cases that have been referred by the court's other penal institutions, Conducting social inquiries of accused persons, offenders, petitioners and significant others for preparation of pre-bail, pre-trial, pre-sentence or post sentence reports, Compiling and submitting pre-trial and post-trial social enquiry reports to courts, Correctional Institutions, Discharge Boards and other penal

organs for decision making and dispensation of justice, Preparing, Keeping and maintaining updated case files, records including and progress reports of the offenders and to track progress of those under his supervision.

After an offender has been placed to serve a noncustodial sentence, the officer will open an individual file of that offender. There after the process of supervision, rehabilitation, reintegration and resettlement of offenders in the community begins.

Supervising entails: supervision of offenders on presidential pardon orders, noncustodial orders and release licenses. The officer will then be developing and implementing correctional programs for offenders serving various non-custodial measures; the officer is mandated to facilitate alternative dispute resolution mechanisms he/she will also providing services for the protection and promotion of rights and welfare of victims and offenders; it is during the initial stages of supervision that he will be providing temporary accommodation to needy and deserving offenders in probation hostels.

Code of Conduct for Probation Officers

All Probation Officers are expected to comply with the Code of Conduct provided for by the PCS. The Code act as a guideline to POs as to what is expected of them from an ethical point of view, both in their individual conduct and in their relationship with others. Compliance with the Code can be expected to enhance professionalism and help to ensure confidence in the Public Service. The department of probation in pursuit of efficient

management and administration of their departments and the maintenance of discipline, and without derogating from the PCS code of conduct in view of their unique circumstances makes sure that all POs are acquainted with these measures, and that they accept and abide by them.

It should be borne in mind that each PO occupies a special position within the Probation Service and ought to be proud of that position and ensure that his conduct both in public and in private life does not bring the Service into disrepute. It is, therefore, imperative that every civil servant adheres to these rules of conduct, and such other rules which may be promulgated from time to time. It is therefore imperative that every PO adheres to the rules of conduct and ethics as laid out in it.

Performance Management

To ensure continued efficiency and effectiveness in service delivery, the PSC has in place a performance management, appraisal and rewards and sanctions frame work system. The system provides all civil servants with a clear understanding of job expectations, gives regular feedback about performance, ways improving performance and lastly rewards and sanctions for good and poor performance respectively. A summary of performance management is depicted in the diagram below.



The process begins with performance contracting which is a negotiated process in which State Departments set their performance targets based on their mandates, functions and strategic objectives anchored on national development goals. The targets are then cascaded to all departments, sections, levels and cadres of employees. Once the targets are cascaded to all employees, the achievement of the same is monitored through the staff performance appraisal system. The purpose of the staff appraisal system is to link individual performance targets with organizational strategic objectives and set the basis on which an officer's performance is monitored and evaluated as stipulated in the individual work plan. The system also helps promote communication between appraisee and supervisor with continuous feedback on work progress. It is also through staff performance appraisal the staff development needs are identified and decisions made concerning training, promotions, deployment, and rewards and sanctions.

The State Department of Corrections overall objectives anchored on national objectives and related to Probation Practice in Kenya are as follows; Generate

information for dispensation of justice, enhance non-custodial offender supervision, improve on offender non-custodial rehabilitation, Develop victim of offences support programme, Enhance the level of offender reintegration and resettlement, Develop and implement integrated crime prevention Programme

The Probation Service then cascades its negotiated objectives to be implemented by its staff. The Probation Officers come up with a workplan of activities to meet the following departmental objectives that inform the daily probation practice, to generate information for dispensation of the criminal justice; to supervise court and penal sanctions and rehabilitate offenders and ex-offenders: to reintegrate and resettle offenders and ex-offenders: To participate in crime prevention and public safety, To promote, encourage and participate in the protection of victims' rights and welfare.

Over the years, the Probation Service has had remarkable achievements in implementing performance contracting and received commendation from the Performance Contracting Secretariat. Several Probation Officers who have been exemplary in implementing the Probation Service objectives have been nominated and received several awards. Among the awards received are the Public Servant of the Year Awards by the Public Service Commission and Head of State Awards namely Head of State Commendation and Elder of the Burning Spear.

Human Resource Development

According to Armstrong, M., 2003, the objective of an organization's policies and programmes for the delivery of training and learning is to achieve its human resource development strategies. The main objective is to ensure that the

organization has skilled, knowledgeable and competent people required to meet its present and future needs. Training and capacity development is one of the fundamental management functions of any organization.

General Objectives of Training

In order to ensure relevance of the training and development strategy, policy and practice, it is imperative that periodical PESTEL (Political, Economic, Social Technological Environmental and legal) analyses are carried out by every organization. In planning to train, appraisal of the existing Training Needs Assessments (TNA) is conducted while necessary changes are made to existing ones to enhance their effectiveness. The broad objectives of training for probation practice are as follows; to ensure alignment between the training and development offered and the organizational needs, to assess the relevance and impact of the current training and development practices; to compare processes for ensuring learning effectiveness against other countries and benchmark good practices; to critically examine the training and development policy, modifying it in the light of changes in the service direction based on internal and external influences, to evaluate effectiveness of trainings and skills acquisition on performance of staff.

TYPES OF TRAINING

Probation officers undergo the following types of in-service trainings:

Induction training for newly appointed staff

According to the PACS induction training manual for probation officers,2022 the Induction Training Course is intended for Probation Officers (POs) who have been newly recruited to the Probation and After Care Service (PACS). The content is designed to prepare them for probation work in Kenya and to provide

insight into the range of work they will encounter and deliver during their careers as probation officers. Induction course does not require any prior knowledge except that inductees must be in possession of a Bachelor's Degree as specified in the Scheme of Service for Probation Officers. The induction course content is based on TNA that also identifies all needs for training for newly appointed officers.

Training for progression as per the public service requirement

The public service training programme requires that all public servants be exposed to various trainings for career development that is not restrained to specific field of their careers. These trainings are geared towards producing a work force that is well versed in public affairs and public management. The trainings are also used as benchmark for career progression. **Skill improvement trainings (refresher courses)**

The Refresher training has been designed in such a way that it will also serve as second stage training for new staff. It has been renamed "Enhanced Skills" in order to express the suitability of its application with the two different cohorts of staff, that is as both second-stage induction as well as refresher.

PO induction, PO enhanced skills and Community Probation Volunteers (CPV) training – share some similarities in structure, content, and the competencies they address (although competencies are set at appropriately different levels) in order to support understanding and work between new and more established POs, and between POs and CPVs.

News skills acquisition training based on emerging trends

The technological changes that are taking place world over are also impacting the social fabrics of societies and bringing with it advancement in criminal

activities and disconnectedness in the communities hence several courses are designed to meet the challenges brought in by emerging trends. **Training of trainers (TOTs) in various skills**

Officers who have shown abilities to train others are also trained in courses known as training of trainers (TOTs) in various skills.

Training for community volunteer officers (CPV)

Community Probation Volunteers (CPV) -The Community Probation Volunteers (CPV) Programme, formally known as Volunteer Probation Officers (VPO) Programme, begun 16 years ago to provide support to Probation Officers by addressing gaps in the management of offenders. The programme, during its formative years targeted the felt needs of offenders and the community in the arid and semi-arid regions and in urban areas with densely populated slums. The CPV programme which borrowed from the Japanese Volunteer Probation Officers model, was domesticated to fit into the Kenyan context but was limited in its scope. The programme provides a critical link between the Probation officer and the community in terms of providing and verifying information about accused persons, supervision of offenders, and sensitization of the community about probation work. The programme has provided various supportive services to offenders to enable them resettle in the community. Their influence in the community was found to be a key turning point in the lives of many offenders who had managed to reintegrate back to community life with the joint help of CPVs and Probation Officers. TNA, training curriculum and manuals are depended upon to focus on the training of Community Probation Volunteers (CPVs).

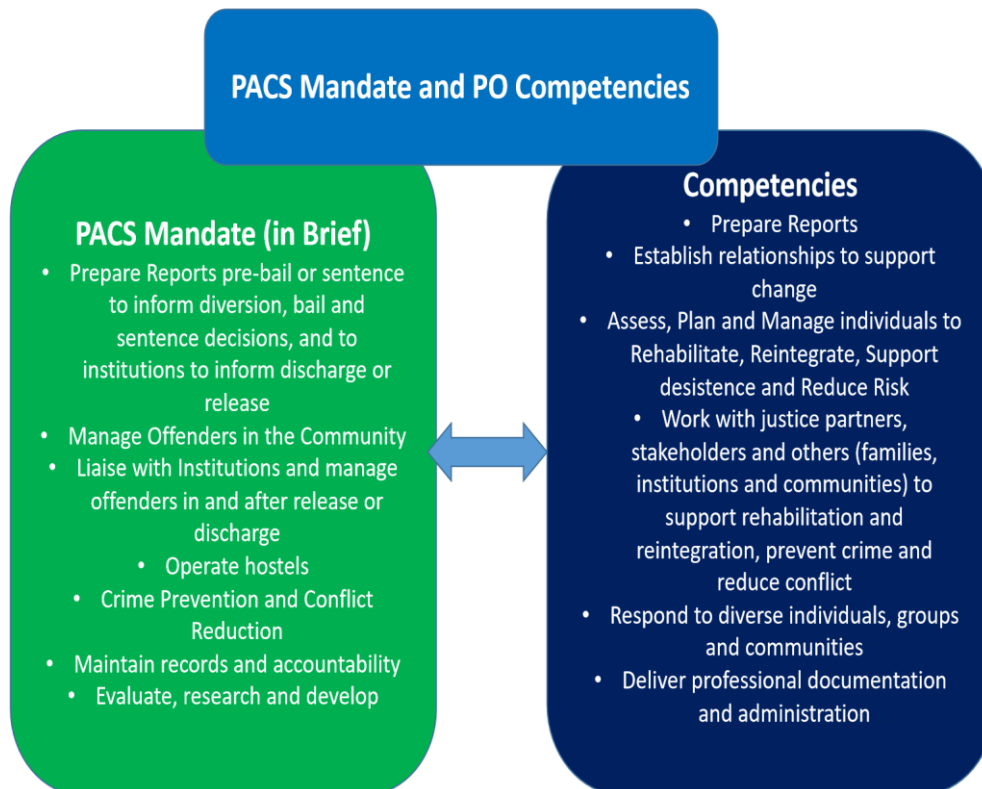
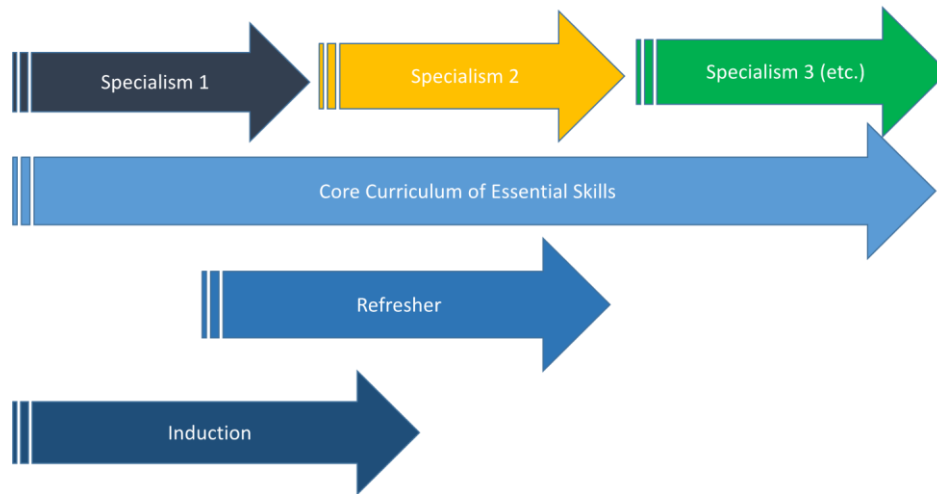
Severance of service training.

This is also a public service training programme requirement. Probation officers are also therefore trained in preparation for retirement from public service to be able to negotiate a major turning in their lives where they will no longer perform the duties that they have performed for the better part of their lives. Between year 2016 and 2021, PACS in collaboration with United Nations Office on Drugs and Crime conducted a training needs assessment, held workshops to develop the draft Probation Officers Induction and Enhanced Curriculums and Training Manuals. These are aimed at building competencies and addressing the training gaps amongst Probation Officers.

Proposed Diploma, Certification or “Accreditation” Level

In future, a **Diploma, certification, or “accreditation”** level could sit above these, ideally developed and delivered in conjunction with academia to assist in technical aspects of training design and delivery and in ensuring incorporation of national and international evidence and practice (both probation and training), the whole forming a training “matrix” of need and delivery supporting the professionalization of staff.

Course structure(s) and audience(s)?



In summary, the four proposed groups of training and the target staff are as follows:

Training Course	Intended Audience	When Delivered (Provisional)
Induction (10 days)	All new POs	Within first 1-2 months of appointment
Enhanced Skills (10 days)	All new POs	New POs - within 3- 6 (maximum of 9 months) of appointment
	All POs in post	POs in Post – by end of year 1 of programme
Core Curriculum (Modular)	All POs	From Year 2 onwards
Specialised Training	As required	From Years 1-2 onwards

The mode of training

Various modes of training are employed such as e-learning, in person learning, blended courses, and on the job training, example mentoring and coaching. Elearning has been adopted as a mode of delivering training courses more in the recent times. This is learning that is delivered by electronic technology by use of the internet and the World Wide Web and intranets within the organization and aim at reaching greater numbers of probation officers at

affordable costs. It supplements the face-to-face learning rather than replacing it.

Training and courses attended by probation officers between 2017-2022

TRAINING
Human Rights leadership /basic Human rights training
Risks and Needs Responsivity
Motivational Interviewing
Counseling
Senior management course
Child care protection officers training
Strategic Leadership Development Programme
Induction training
Crime Prevention
<ol style="list-style-type: none"> 1) Community Probation volunteers Trained/Sensitized 2) Officers trained under Community Probation Volunteers” programme
Probation officers trained on Community Service Orders

Counter Violence Extremism Training
Performance Improvement Trainings

Summary

Human resource management and development is an integral part of the probation practice. The importance of recruiting the right persons for the practice is evidenced by the qualifications required which in turn ensures that the Probation Officers carry out their duties effectively. Training keeps the officers abreast with what is happening in the probation practice the world over and equips them with the necessary skills or competencies that are core in correctional services.

CHAPTER SEVENTEEN

COLLABORATION AND PARTNERSHIPS

Rahab Kyengo (PACS) and Dr. Wanyama (KSG)

Saltiel, 1998 defines collaboration and partnerships as agreements and actions made by consenting organizations to share resources to accomplish a mutual goal. Such partnerships rely on participation by at least two parties who agree to share resources, such as finances, knowledge, and people. Organizations in a collaborative partnership share common goals. The essence of collaborative partnership is for all parties to mutually benefit from working together. Vision 2030 pays particular cognizance to the need for strong partnerships between the government and private sector for the country to achieve its developmental goals. The private sector undeniably plays a key role in contributing towards the attainment of Kenya's developmental objectives (GOK, 2007).

The big four agenda which is made up of the resource thirsty priority areas of manufacturing, affordable housing, food security and universal health care will also rely heavily on private sector resources for its success.

Public Private Partnership Act No. 15, 2013 is the principal legislation guiding public and private partnerships in Kenya. It was enacted in 2013 with the objective of paving way for the participation of the private sector in the financing, construction, development operation, or maintenance of infrastructure or development projects of the Kenya Government through concession or other contractual arrangements (PPP Act NO. 15, 2013).

The law was adopted in line with the Kenya Vision 2030 whose implementation includes key projects that require substantial funding which in practice cannot be supported by the Government (Getumo,2015).

PACS Strategic Plan for 2018-2022 recognizes the critical and integral role played by stakeholders who help to bolster important strategic objectives and other areas where the department may have little or no capacity.

The strategic plan envisions to interact and engage stakeholders on a broader base while positively identifying and examining the significant position of each stakeholder.

Within the last five years, PACS has worked in collaboration and partnership with both State actors, Non-state actors and development partners.

State Actors affiliated to the Criminal Justice Sector These

are professionals of other criminal justice agencies;

- i) Police - In execution of warrants of arrest, providing escort services for probationers sentenced to serve in statutory institutions, and providing security where necessary for officers conducting interviews in hostile conditions.
- ii) Office of the public prosecutor (ODPP) - For matters related to bail information, plea agreements and victim impact statements, plea taking, availing of police files
- iii) The courts- By giving referrals to generate reports which assist in sentencing.

- iv) The prisons department - In matters related to prison decongestion, remanded referrals
- v) Children's department - in rehabilitation of children in conflict with the law through use of their rehabilitation centres.
- vi) National Council on Administration of Justice (NCAJ) –It brings all the players in the justice sector together and ensures seamless service delivery and access to justice. It also firms up policy decisions in the justice sector.
- vii) Court User Committees (CUCS) – Who are implementers of the NCAJ decisions/activities with PACS taking the post of secretary to these committees.

Other State Actors

Probation Officers work with other government Ministries, Departments and Agencies not affiliated with the justice sector such as: □ Land offices - in verification of land documents:

- i) Schools and colleges as community services work agencies and in finding admission for well performing probation clients.
- ii) Hospitals in verifying the age of children and in conducting medical tests required before admission to institutions
- iii) Kenya Forest Service officers in management of CSO projects like the tree nurseries.
- iv) Chiefs, Assistant Chiefs and Village elders who are a source of information when doing community inquiry and also help with supervision at community level, rehabilitation and reconciliation within the community,

they also help in understanding cultural issues relating to crimes committed and verification of information obtained during enquiries. Chiefs' Barazas have proved to be good avenues to create awareness on Crime Prevention issues.

- v) County Governments in community service projects and other crime prevention activities. The State Department for Correctional Services signed an MoU with County Governments to support alternatives to imprisonment.

NON - STATE ACTORS

Above comprises of the community members, Non-Governmental Organizations (NGOS), Faith Based Organizations (FBOS), Community-based organizations (CBOS) and Associations.

- i) Community Probation Volunteers (CPV) -The Community Probation Volunteers (CPV) Programme, formally known as Volunteer Probation Officers (VPO) Programme, begun 16 years ago to provide support to Probation Officers by addressing gaps in the management of offenders. The programme, during its formative years targeted the felt needs of offenders and the community in the arid and semi-arid regions and in urban areas with densely populated slums. The CPV programme which borrowed from the Japanese Volunteer Probation Officers model, was domesticated to fit into the Kenyan context but was limited in its scope. The programme provides a critical link between the Department and the community in terms of providing and verifying information about accused persons, supervision of offenders, and sensitization of the community about probation work. Through the programme, volunteers have provided various supportive services to offenders to enable them resettle in the

community. Their influence in the community was found to be a key turning point in the lives of many offenders who had managed to reintegrate back to community life with the joint help of CPV's and Probation Officers.

- ii) Faraja Foundation – The mission of this partner NGO is to rehabilitate and re-integrate offenders and children in conflict with the law in a rights-based approach through capacity development, advocacy, and community adaptation interventions. The foundation offered socio-economic empowerment through business start-ups, skills training and giving start up support to ex-prisoners and offenders serving community sentences. They also train on life skills and on behaviour change in an attempt to reduce and prevent crime. Other areas of support include: payment of school fees for offenders attending school, and participation in events organized by the Department.
- iii) Legal Resources Foundation (LRF). – Providing linkages with paralegal personnel where necessary, reintegration of offenders at the community, participation in case committees, trainings, empowerment of clients, and research.
- iv) Resources Oriented Development Initiatives (Rodi Kenya) – This is a Nongovernmental Organization which has partnered with PACS in empowerment of ex-long term prisoners, through their Restorative Exprisoner Reintegration programme, life skills development, youth empowerment and skills transformation.
- v) Collective Community Action (CCA) – This is a child friendly, community focused and rights-based organization which works in the juvenile justice sector in Kenya under the PLEAD project. They specialize in child protection, consultancy, life skills empowerment, juvenile justice,

psychosocial support, youth empowerment, community engagement, advocacy, alternative dispute resolution, diversion, reintegration and toolkit provision. CCA has had its volunteer social workers and counsellors positioned in various probation institutions from 2018 up until 2021 when the project life ended.

- vi) *Comitato Europeo per la Formazione e L'Agri-coltura* (European Committee for Training and Agriculture – CEFA) -It is A PLEAD project focusing on juvenile justice against child labour, capacity building in Probation Institutions, equipment such as water tanks, facilitation of resettlement of youthful female offenders, empowerment through provision of sewing machines and hair dressing equipment in the female and girl's probation institutions.
- vii) Philemon Trust – This is a charitable foundation started by Kelvin Mwikya in Nairobi. The charity provides food, shelter, counselling, community training and employment to ex-prisoners. It partners with PACS in offering clients tools and school going one's school fees. Its facilities have also served as halfway homes for offenders leaving borstal institutions and prisons and are having resettlement challenges.
- viii) Pendekezo Letu - Works with the department to help clients escape economic poverty and lead more fulfilling live away from streets and slums in Nairobi
- ix) The Kenya National Association of Probation Officers (KNAPO). This is the professional and welfare association for all Probation Officers. KNAPO supports some of the training for officers, assists officers with special needs and provides support for families of deceased colleagues.

DEVELOPMENT PARTNERS

i) United Nations Office on Drugs (UNODC) –

The government of Kenya European Union commissioned a five-year development assistance program dubbed Project for legal empowerment and Aid Delivery in Kenya (PLEAD).

The project aims to strengthen access to justice, improve on expeditious delivery of justice and foster a joint justice system that communicates the need to address the sector challenge. These challenges include the ever-growing pre-trial and post-trial prison population, overutilization of custodial sentences at the expense of alternative measures, and limited access to justice in marginalized counties (PACS Newsletter issue 14, 2020). UNODC East Africa Regional office is implementing the PLEAD project component focusing on strengthening the administration of justice and operationalizing alternatives to imprisonment in Kenya.

The partnership between PACS and UNODC PLEAD project commenced in 2018. Some of the achievements within the framework of 2018-2021 include the publication and dissemination of PACS 2018-2022 Strategic Plan, publication and dissemination of IEC materials, purchase of various equipment for PACS institutions and stations, capacity building of officers through training, procurement and handing over of motor vehicles, development of training curriculum, hosting of Children Art Exhibition. It is envisioned that this partnership will continue through 2022 during which it is anticipated that 600 new probation officers will be inducted and conversion of their training manuals to e-learning following the Covid-19 outbreak and adjustments that it demands.

ii) Japan International Cooperation Agency (JICA) - Sends volunteers to work in various capacities at the Probation Institutions, facilitation of UNAFEI

trainings, multi-agency support to the Child Care and Protection Officers (CCPO) Project, development of the Throughcare Guidelines.

- iii) United Nations Asia and Far East Institute (UNAFEI) – Offers training opportunities for Probation Officers on various courses related to treatment of offenders at international level and in study tours.
- iv) Penal Reform International (PRI) - CSO support in Kenya and in Africa through trainings of CSO supervisors and magistrates, empowerment, entrepreneurship training, research; facilitation to attend conferences such as ICPA, ACCPA, APCT Network, Probation Congress; and connecting the Department with Thailand Institute of Justice (TIJ).
- v) Swedish Prison and Probation Service (SPPS)- A three (3) year program on strengthening correctional services in Kenya between the State Department for Correctional Services and Swedish Prison and Probation services commenced in June 2015. The program "Capacity Building Project for Strengthening Prison and Probation Practices in Kenya" is a bilateral agreement between the Kenyan and Swedish Government aimed at enhancing the capacity and efficiency of the KPS and PACS for an improved functioning of the rule of law in the Kenyan Correctional System. The Program is funded by the Swedish International Development Agency (SIDA) while the technical support is offered by the Swedish Prison and Probation Service (SPPS). The goal of the program was to support Kenya Prisons Service (KPS) and Probation and Aftercare Service (PACS) to incorporate correctional best practices in their operations (GOK-PACS, 2016)
- vi) Raul Wallenberg Institute for Human Rights (RWI) - On the 22nd June 2018, a memorandum of understanding (MOU) was signed between Raul Warren Berg Institute (RWI) and the State Department of Correctional Services in Lund, Sweden whose overall objective was to create sustainable capacity within the

correctional services of Kenya to meet relevant international human rights standards in particular the UN rules for treatment of women prisoners and non-custodial measures for women offenders. RWI has previously worked with the PACS in the development of assessment and classification tools and subsequent trainings of officers under the assessment and classification project (ACP). RWI focuses on developing capacity of P.OS to meet international human rights standards through practical training (PACS Newsletter issue 14, 2019)

vii) Italian Agency for Development Cooperation (APRIRE PROJECT) - This partnership came through the "Aprire" project whose focus is on Foster Care, Prevention, Rehabilitation and Reintegration for a Future to Vulnerable Children in Kenya. It has its presence in 38 Government Statutory Institutions, Probation Hostels and Borstals in Kenya. The general objective of this project is to Contribute to the promotion and protection of vulnerable children's rights and/or rights of children in conflict with the law in Kenya, as per SDG 16 and as per the United Nations Convention on the Rights of the Child (UNCRC). This was to be done through Strengthening of the Juvenile Justice System in Kenya, in line with relevant International standards, through Government Institutions, Civil Society Organizations and private sector participation. Two other partner agencies under the "Aprire" project who have worked with PACS are CCA and CEFA as listed above.

viii) CESVI - The department partnered with CESVI in psychosocial support of child offenders in terms of reintegration, identification of needs of child offenders and their families and meeting them, empowerment in school fees, provision of vocational tools to families in need, and provision of support to Probation Officers for follow-up of child offenders.

REGIONAL COOPERATION

- i) The East African Community (EAC). Kenya is a signatory to the East African Community Peace and Security Protocol. This puts obligations on Kenya in relation to Probation work that entails: harmonization of laws and management structures; development of common standards of treatment of prisoners/ offenders, establishment of mechanisms to transfer prisoners/ offenders; designing common approaches to participation in corrections; and sharing expertise among practitioners, which requires development of policy guidelines, development of training curriculum of corrections for member countries.
- ii) Northern Corridor Integration Projects (NCIP). Kenya is a member of NCIP which is an initiative aimed at fast tracking regional development namely East African Community projects through regional infrastructure, trade, political and economic integration. The obligations of Kenya regarding probation work entail: harmonization of legal framework for the transfer of prisoners; development of modalities to address effects of transnational organized crimes on prisons/ correctional systems; sharing of information and best practice on con-temporary rehabilitation programs and reintegration of prisoners while considering modern security measures in prisons; conducting joint research on various themes affecting effective management of prisons; and training and capacity building of staff.
- iii) Africa-Network for Probation and Community Service – A forum where the heads of Probation and or Community Service meet and assist each other with regard to broad community corrections ideas. Member countries are Tanzania, Kenya, Uganda, Malawi, Namibia, Lesotho, South Sudan and Zimbabwe. The network aims at promoting Non-custodial practices,

organizations of events, workshops and conferences, sharing of information and resource materials and research results, arrangement of study visits and exchanges and developing a Network website as a platform for communication and exchange. Kenya is the Secretariat to the Network, Uganda the Chair while Malawi the treasurer.

INTER-GOVERNMENTAL CO-OPERATION

i) The people's Republic of China

This was done through a bilateral exchange programme to expose probation and prisons officers in the management of offenders as practiced in China. The Peoples Republic of China through the Ministry of Public Security, the Ministry of Commerce of the People's republic of china, co-organizer, Shandong Public Security Department of Shandong Province extended a warm invitation to the Probation and Prisons officers from Kenya in this bilateral exchange in order to expose them to the management of offenders as practiced in China. Kenyan Government through the Ministry of Interior and Coordination of National Government allowed 25 participants through their respective departments attended this bilateral exchange program 2017 in China. The Chinese Bilateral Program 2017 for Penitentiary and Parole officers from Kenya got an opportunity to learn from the Chinese Government on how they manage offenders within the community and in prison. The officers from Kenya were taken through various lectures on offender management as practiced by the Chinese and also exposed them to the rich Chinese culture and cuisine by visiting various cultural sites. The objectives of the seminar were as follows;

1. To explore the criminal justice system in China and specifically that of Shandong Province.
2. To learn best practices of custodial and non-custodial sentences from china.
3. To acquire knowledge and new skills
4. To gain exposure to the Chinese culture and values

CONCLUSION

The success of Collaboration and Networking that is currently ongoing will entail will entail continuous exploration of areas and opportunities for collaboration. The general public and stake holders need sensitization and education on mandates and programmes of the department in order to enlist their support. For success in areas of rehabilitation, CSO, crime prevention, ADA and youth and crime, the department needs to extend partnership to the county governments. All engagement areas are guided by the departmental strategic objectives, mandates, functions and government directives and policies. The engagements range from short, medium or long term and are based on agreed priority areas and project cycles.

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