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Redirecting Paths: A Diversion Program for Children in Conflict with the Law

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ABSTRACT

This study was conducted using descriptive qualitative approach, where the researcher re-told the stories or narratives of 5 Children in Conflict with the Law (CICLs) who underwent and finished the Diversion Program to describe how the said diversion program helped with the development and transformation of each CICL. The informants of the study were CICLs who had finished their diversion programs within six months or two years. Other informants were the family or guardian of the CICL and the Barangay Women's Desk Officers who were in charge of monitoring the development of the CICL and their families at the barangay level. The study concluded that the experiences and learnings gained by the CICLs during their Diversion Program helped them to change their perspective, develop a positive outlook in life, and regain their self-trust and confidence which contributed to their positive development and transformation into good and functional members of society. The child's environment is one of the major contributing factors to the behavior and development of the child, together with the child's relationship to his/her family and community. With the help of the diversion program, every CICL had a chance to redirect his path for a better and brighter future. However, despite the effectiveness of the diversion program, there were still some issues encountered during the implementation like the lack of preparedness of the barangay and the community to plan and conduct preventive and rehabilitation programs for the youth. The lack of social workers in the City to handle CICL cases, which made it challenging to monitor the development of every child especially during the pandemic. Furthermore, it is recommended that the government in collaboration with Non-Governmental Organizations must strengthen the advocacy in the protection of children's rights ensuring that they are protected and their needs are being met and provided for, to prevent these children from becoming CICLs in the future. The researcher also recommends the conduct of future study on CICLs inside reformation facilities or Bahay Pag-asa to also give light to their stories and journey towards transformation and development,

and to give compare the effectiveness of diversion programs inside the facility and community-based diversion programs.

KEYWORDS – Children in Conflict with the Law, Diversion Program, Barangay Women's Desk Officers, Children's Rights, Transformation and Development, Barangay Council for the Protection of Children (BCPC)

INTRODUCTION

The protection and upholding of children's rights in the Philippines is one of the major issues being talked about in the country and yet not being given the amount of attention and solution, it needed. Children who live within the poverty line are at great risk as they are exposed to various dangerous activities such as child prostitution, illegal substance use, sexual exploitation and other petty crimes. Due to poverty and lack of money; parents may not be able to send their children to school or even provide them with an ideal or desirable life. Instead, these children become exposed to the harsh reality of working at a young age in order to survive. Some even resort to committing crimes and being involved in illegal activities for survival.

Very often children who lack proper care, guidance and protection from their parents are most likely to become children in conflict with the law. Being denied their right to proper education, health, shelter, care and protection makes them susceptible to doing bad things that would put them in danger (Save the Children, n.d).

Children In Conflict with the Law (CICL) is anyone under the age of 18 who comes into contact with the justice system as a result of being suspected or accused of committing an offense. Said offense can range from petty crimes such as begging, use of alcohol, and stealing to grave offenses like illegal use of drugs, rape, homicide and murder. Children who engage in such criminal behaviours are often being influenced or coerced by adults. (UNICEF, n.d). Children who entered the justice system for committing alleged crimes are often held in detention for long periods of the awaiting trial. This makes them vulnerable to further violence and abuse (Save the Children, n.d). Which is why organizations like UNICEF, advocates for diversion, restorative justice and alternative to custodial sentencing for CICLs.

Articles 37 and 40 of the Convention on the Rights of the Child (1989) state that, children in conflict with the law have the right to treatment that promotes their sense of dignity and worth,

takes into account their age and aims at their reintegration into society. In addition, Republic Act 9344 or the Juvenile Justice and Welfare Act of 2006 was put into act to make sure that the rights of children in conflict with the law (CICL) are being protected at any time. This Act also sets guidelines on how to handle cases concerning CICLs.

Chapter 2, SEC. 23. xxx "pushes for CICLs to undergo diversion programs without undergoing court proceedings." For crimes that have imposable penalty not more than six (6) years imprisonment, the law enforcement officer or Punong Barangay with the assistance of the local social welfare and development officer or other members of the Local Council for the Protection of Children (LCPC) shall conduct mediation, family conferencing and conciliation and, appropriate intervention or diversion program. For crimes where the imposable penalty exceeds six (6) years imprisonment, diversion measures may be resorted to only by the court. Diversion programs are being conducted to direct children away from judicial proceedings and towards community solutions. Said program is created to help empower these children and give them the opportunity to know and use their abilities to further prosper in life. This is why such programs must be designed carefully because it has the power to change someone's life.

SEC. 30 Formulation of Diversion Program of RA 9344 states that, in formulating a diversion program, the individual characteristics and the peculiar circumstances of the child in conflict with the law shall be used to formulate an individualized treatment. The following factors shall be considered in formulating a diversion program for the child: (a) The child's feelings of remorse for the offense he/she committed; (b) The parents' or legal guardians' ability to guide and supervise the child; (c) The victim's view about the propriety of the measures to be imposed; and (d) The availability of community-based programs for rehabilitation and reintegration of the child.

The City of Malolos is no exemption to the presence of Children in Conflict with the Law (CICLs) in their city. Several programs are being implemented to rehabilitate CICLs and their families and prevent Children at Risk (CARs) from becoming CICLs. Children at Risk or CAR are those children who have committed an alleged offense with age below 15 years old, or those with no criminal liability. According to the data of the City Social Welfare and Development Office and Philippine National Police, there has been an increase in the number of CICLs every year, which is why there is a great need for proper intervention and rehabilitation for said children. Some of the programs being implemented for CICLs and CAR are: Diversion Program

for CICLs, intervention programs for CAR which is implemented through the barangay, Parenting Capability Seminars for the parents and guardians of both CAR and CICLs, Skills training seminar for CICLs and their families, Livelihood assistance, Financial assistance, Scholarship Program, Individual and Group Counseling etc. Currently, there are 29 CICLs in the City of Malolos where 10 of them are undergoing diversion programs. The implementation of the Diversion Program in the City of Malolos started back in 2008 when the DSWD released an Administrative Order regarding the Guidelines in the Conduct of Diversion for Children in Conflict with the Law as mandated by the RA 9344 or the Juvenile Justice and Welfare Act of 2006. Since the beginning of the implementation up to present, there has been no assessment of the diversion program itself. There has been an increasing number of CICLs in the City of Malolos, where in 2017, there are only 7 CICLs, in 2018 there has been 21 CICLs, in 2019, it increased to 39 and then 41 in 2020, hence the need for the diversion program and other programs for prevention.

This diversion program is a holistic approach that requires effort not only from the child, but also from the child's family and even the community including the government and the private sector. Oftentimes, CICLs are seen as criminals, but the truth is, they too are victims. Being denied protection and their basic rights forced them to take matters into their own hands, which only led them to further danger.

There have been previous studies conducted regarding Children in Conflict with the Law (CICLs): reasons why they became CICLs, laws and policies created to protect the rights of CICLs, programs being implemented in other cities/municipalities in relation to treatment and rehabilitation of CICLs one being the diversion program. However, said studies focused more on the description and implementation part of the program; on how there are so many policies and programs being created and the lack of monitoring and proper evaluation of said policies and programs. Among the previous studies written about CICLs there is not much to be said about the effect of said program to CICLs, which is why the researcher chose to do this study to see what happens to these CICLs after the implementation of the diversion program and its effect to their transformation and lives.

The researcher who was previously part of the CSWDO working alongside the Social Worker handling the case and diversion of CICLs in the City of Malolos, aimed to study the effectiveness and significance of the diversion program in the development of these children in conflict with

the law by documenting their lived experiences in the diversion program. The findings of the study will be important inputs in enhancing the Diversion Program.

METHODOLOGY

This is a qualitative research where the research design used for this study is Case Study. The researcher was able to re-tell the stories or narratives of the CICLs who underwent the diversion program. This was done with the help of the case files of CICLs which was only used with the approval of the Case Manager. On said case files are important documents which provided information regarding the CICL's case and development. Furthermore, the researcher also conducted in-depth interviews with the primary respondents and key informants to gather first hand data and which helped the researcher assess the diversion program and determine whether the programs significantly affect the development of CICLs. This also gave the researcher an opportunity to learn more about the personal and socio-economic background of the CICLs, gained more understanding about their lives and experiences that contributed to their current situation.

In this study, the researcher first revisited previous literatures related to the research topic which is the Diversion Program for Children in Conflict with the Law. Said literature consist of books, journals, articles, Executive and Administrative Orders, theses, and related theories.

Aside from literature, the researcher also revisited the case files of the CICLs with the permission and supervision of their case manager and gathered information about the background and the profile of the CICLs which was only used for this study and not for anything else.

In addition to this, the researcher also made use of guide questions in conducting in-depth interviews with the primary respondents and key informants. The interview guide questions were based on the Donald Kirkpatrick's Four-Level Evaluation to gather information. This tool is being used to analyze the effectiveness and impact of a certain program or training, considering the following four levels of evaluation: Reaction, Learning, Behavior and Results. First, the reaction. The researcher first observed the reaction of the informants towards the diversion program they were put through. According to Kirkpatrick, it is important to measure reaction because it helps the researcher to see how the program was received by the informants. It helps the researcher make some adjustments to the program for it to improve and become more appealing and effective to the informants (Kirkpatrick, 1993). Second is the Learning. It is also important to measure the learning because it is the main goal of the diversion program. For a program to be considered effective, the informants must have gained some learning. Through

this, the researcher was able to see what they have learned and what they find difficult to understand. This determined the gaps of the program which will help further improve future programs. Third is Behavior, according to Kirkpatrick, learnings must be put into action for it to become valuable and effective. It is also very important to measure if there is any change in the behavior after applying the learnings. However, just because there is no change in behavior, doesn't mean there is no learning. In some cases, people weren't able to apply their learning because of some constraints. Last is Results. After measuring the reaction, learnings and behavior of the informants, the researcher analyzed the final results of the program and determine the effect of the program to the development of the informants, were they able to gain something from it? Is there a change in their perspective? Did they gain confidence? These are some points to look at in analyzing results. With the help of this tool, the researcher was able to see the effect of the diversion program to the CICLs.

Since the study was descriptive and utilized very few key informants, purposive sampling was adapted by identifying people who have first-hand knowledge and experience about the Diversion Program for the CICL. The researcher interviewed 5 CICLs as primary respondents, these CICLs were those who finished their diversion programs when this research was conducted. The researcher also interviewed their families represented by the parents or guardians of the CICL, communities represented by the Barangay Women's Desk Officers that monitors them in the barangay level and the Social Worker who is in charge in the implementation of the diversion program and case management of the CICLs as additional key informants for this study. Through this interview, the researcher was able to learn about the development or improvement in the CICL's behavior, attitude, and outlook in life which helped identify the extent of effectiveness of the diversion program.

For the data collection, the researcher first reviewed the CICL's case files with the permission of the case manager, for the background regarding the CICL's case and current situation. The researcher then prepared guide questions to help with the smooth flow of the interview. Data were collected through interviews in a semi-structured approach, wherein the author of this research interviewed 5 CICLs following a script with different follow-up questions depending on the previous answer of the informant. Through a semi-structured approach, it gave the researcher a chance to gather narratives or stories from the informants and was able to gain a deeper understanding of the informant's situation. This also served as a basis of information for measuring the effectiveness of the said intervention program to their development.

The researcher originally planned to conduct personal and face-to-face interviews with the primary respondents and key informants, however due to the COVID-19 pandemic, the researcher had to resort to a safer alternative which is to conduct interviews through video calls using Facebook messenger. The researcher also recorded the entire interview, with the informant's permission.

RESULTS AND DISCUSSION

Based on the results of the interviews and analysis of documents, it was found that: All CICLS who participated in this study are aged between 19-20 years old, all male, 4 of them are Roman Catholics while the other 1 is Christian. 2 CICLS recently graduated from Senior High School and is currently working while 1 is currently enrolled in formal education and the other 1 is enrolled in ALS. Out of 5 CICLS, 3 has separated parents. 3 CICLS belonged to big families with 6-9 members while 2 CICLS belonged to smaller families with 4-5 family members. 3 CICLS belonged to indigent families while the other two belonged in low income families. The CICLS offenses incurred were homicide, theft and drug related offenses. 1 CICL finished the diversion program in 2 years, 1 finished after 6 months, 2 finished after 1 year and 6 months while the other 1 finished after 8 months. Among 5 CICLS 4 of them had their diversion through Court while the other one was through the City Prosecutor's office.

The venue on where the Diversion Program of CICLS will be implemented is based on the offense they have committed. Only 1 out of 5 CICLS underwent Diversion Program with the City Prosecutor's Office given that the offense he committed has an imposable penalty of not more than six (6) years of imprisonment. While the other 4 CICLS underwent their diversion programs through the Court because the offenses they committed has an imposable penalty of more than six (6) years but not exceeding twelve (12) years of imprisonment.

The standard Diversion Program is used as basis for the implementation of the said program. However, said Diversion Program is modified by the social worker or case manager based on the CICL's current situation and needs, for it to become more effective and for it to have a deeper, wider impact in the transformation and life of the child and its family.

Upon hearing the stories of these CICLs in the beginning of their diversion program, it was learned that not every CICL had the same initial thoughts and reactions about the said Diversion Program. Some saw it as an opportunity while some saw it as a challenge which they thought they could not overcome. But given the proper explanation and guidance, they soon realized that it was both a challenge and an opportunity to turn their lives around and redirect their paths, their Fear of Failure then turned into A Silver Lining.

The said Diversion Program was also seen to really be a holistic approach, given that not only was it able to change the lives of the children but their parents and guardians as well. As per the narratives of the parents and guardians of CICLs, they saw the Diversion Program as a way to mend their relationship with their children. They have learned to identify and acknowledge the love language of their children which is an important part of creating a stronger bond. Parents must learn how to provide or satisfy their child's love language for their child to feel loved and appreciated. Furthermore, parents and guardians have also come to realize that their children need love, care, time, attention and proper guidance other than the physical things or needs they were providing. Since then, they were able to have a good and stronger relationship with their children which gave them a chance to live happily and harmoniously with their families and communities.

It is said that the Family is the smallest unit of society, and that whatever happens within one's family can also have an effect on the entire community. Based on the responds given by the Barangay Women's Desk Officers, the Diversion Program has a great effect and impact to society. Not only because families learned to live happily and harmoniously together but also because some CICLs turned out to become leaders and volunteers giving hope and inspiration to children and youth who might have been in similar situations. The Diversion Program has shown a chain reaction from the CICLs to their families and then to their communities.

Towards the end of the Diversion Program, every CICL has shown positive behavioral changes towards their families, their community and their dreams. The Diversion Program was able to transform these CICLs into good role models and functional members of society. Most CICLs used their families as inspiration to change for the better. Said Diversion Program did not only have an effect on the CICLs but also their families and communities as well.

In other words, CICLs saw the Diversion Program as a chance for them to redeem themselves and turn their lives around. Although some of them feared that they might not complete the program, they all still managed to follow and finish their programs. With the help of the Diversion Program, the CICLs gained a new perspective and a positive outlook in life. They were also able to realize the importance of maintaining a good and relationship with their parents and other members of their family.

Although said program is deemed to be effective, based on the observation of implementers and stories of the informants, there is still a need for further improvement in the implementation and monitoring part of the Diversion Program. Some of the problems that came with the implementation and monitoring of the said program are, first is the involvement of the Barangay Council for the Protection of Children (BCPC) in creating intervention programs for CICLs in the barangay level; second is the monitoring of CICLs undergoing said programs during the pandemic.

To further improve the implementation and monitoring process of the diversion program, there should be re-orientation and re-activation seminars to Barangays specifically, the Barangay Council for the Protection of Children (BCPC) to remind them of their duties and help them create an effective intervention program not only for existing CICLs but also for the children in their communities to prevent them from becoming CICLs.

CONCLUSIONS/RECOMMENDATIONS

Based on the findings of the study it is concluded that the experiences and learnings gained by the CICLs during their Diversion Program helped them changed their perspectives, developed a positive and responsible behavior and outlook in life, and regained their self-trust and confidence which contributed to their positive development and transformation. It is also concluded that family and community in partnership with the government played major roles in the implementation of the Diversion Program for CICL. It is further concluded that despite some challenges in the implementation of the Diversion Program, the local government of the City of Malolos can further enhance this Program to continue its mandate of protecting the rights and ensuring the development of its young population through collaboration with stakeholders.

In light of the findings and conclusions derived from the results of the study, the following recommendations are hereby put forward: The re-activation and orientation of the Barangay Council for the Protection of Children in every barangay to ensure that they are aware of their duties and functions, and that they create programs which will help the rehabilitation of Children at Risk and CICLs.

Hiring of five (5) Social Workers and Case Managers in the City level to ensure quality service and that every case is being handled and monitored properly. Stronger monitoring system and coordination among the barangay, the CSWDO, PNP, and other government agencies and sectors involved in the implementation of the Diversion Program

The continuous conduct of Counselling and Values Formation Seminars for children and youth to prevent the increasing number of Child at Risk and Children in Conflict with the Law in the City. Also, the continuous conduct of Parenting Capability Seminars for their parents and guardians for them to be able to create a strong, happy and healthy relationship with their children. The City must also continue to conduct skills and livelihood training for CICLs and their parents to gain new knowledge and skills which will be useful for future employment and own income generating opportunities.

The implementation of the Diversion Program for the CICLs must be continuous, especially the counseling services being provided to the CICLs because it really helped them express their feelings and re-gain their self-trust and confidence. This also includes encouraging CICLs to participate in church or religious activities because it plays a huge part in their path to self-discovery and moral compass. The local churches should be encouraged to participate in these endeavors through their youth development programs.

The local government and barangay should continue to engage actively the youth in community development activities and projects to prevent them from engaging in risky and dangerous activities.

Research studies related to CICLs who are currently undergoing diversion programs inside Youth Facilities and Bahay Pag-asa must be conducted to explore the extent of effectiveness of

the diversion program inside the facility and its difference to community-based diversion programs.

REFERENCES

- Abella JL (2016) Extent of the Factors Influencing the Delinquent Acts among Children in Conflict with the Law. *J Child Adolesc Behav* 4:288. doi:10.4172/2375-4494.1000288
- Albert, J. R. G., Santos, A. G. F., & Vizmanos, J. F. V. (2018). Profile and Determinants of the Middle-Income Class in the Philippines (thesis).
- Children in Conflict with the Law (Rep.). (n.d.). Retrieved August 11, 2020, from UNICEF website: https://www.unicef.org/chinese/protection/files/Conflict_with_the_Law.pdf
- DSWD Administrative Order No. 10, 3 C.F.R. 1 (2007).
- Elemia, C. (2019, February 16). Children in conflict with the law: On finding hope and fighting fate. Retrieved August 11, 2020, from <https://rappler.com/newsbreak/in-depth/lives-children-conflict-law-finding-hope-fighting-fate>
- Erikson, E. (1982). *The Life Cycle completed*. New York, NY: Norton.
- Felisa U. Etemadi. (2005). Community-Based Diversion for Children in Conflict with the Law: The Cebu City Experience. *Children, Youth and Environments*, 15(2), 319-341. Retrieved January 26, 2020, from www.jstor.org/stable/10.7721/chilyoutenvi.15.2.0319
- Kirkpatrick, D. (n.d.). Kirkpatrick's Four-Level Training Evaluation Model. Retrieved July 17, 2018, from <https://www.mindtools.com/pages/article/kirkpatrick.htm>
- PH.Cong. (2006, March 22). Republic Act No 9344AN ACT ESTABLISHING A COMPREHENSIVE JUVENILE JUSTICE AND WELFARE SYSTEM, CREATING THE JUVENILE JUSTICE AND WELFARE COUNCIL UNDER THE DEPARTMENT OF JUSTICE, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES [Cong. Bill from 13 Cong., 2nd sess.]. Retrieved August 11, 2020, from https://www.lawphil.net/statutes/repacts/ra2006/ra_9344_2006.html
- Save the Children. (n.d.). Children in conflict with the law. Retrieved August 11, 2020, from <https://resourcecentre.savethechildren.net/keyword/children-conflict-law>
- Stinus-Cabugon, M. (2017, May 15). Children in conflict with the law. Retrieved August 12, 2020, from <https://www.manilatimes.net/2017/05/15/opinion/analysis/children-conflictlaw/327250>
- United Nations. (n.d.). VIOLENCE AGAINST CHILDREN IN CONFLICT WITH THE LAW (Rep.). Retrieved August 11, 2020, from United Nations website: https://www1.essex.ac.uk/armedcon/story_id/000280.pdf
- U.S. Agency for International Development. (1996). CONDUCTING KEY INFORMANT INTERVIEWS. Retrieved July 17, 2018, from https://pdf.usaid.gov/pdf_docs/PNABS541.pdf.

Vicencio, L. P. (2017, November 8). Diversion programs for CICL needed [Web log post]. Retrieved August 12, 2020, from <https://varsitarian.net/opinion/20171108/diversion-programs-for-cicl-needed>

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