



THE REPUBLIC OF GHANA



# **PROBATION DESK MANUAL**

Department of Social Welfare  
Ministry of Gender, Children and  
Social Protection





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Ministry of Gender, Children and Social Protection



May 2018



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DEPARTMENT OF SOCIAL WELFARE  
MINISTRY OF GENDER, CHILDREN AND SOCIAL PROTECTION

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# Foreword

Ghana has made significant strides in child protection since becoming the first country to ratify the Convention on the Rights of the Child. A robust legislative framework to protect children and their rights has been developed, most notably through the Children's Act, 1998 (Act 560), the Human Trafficking Act, 2005 (Act 694), the Domestic Violence Act, 2007 (Act 732) and the Juvenile Justice Act, 2003 (Act 653). The Child and Family Welfare Policy (2015) and the Justice for Children Policy (2016) identify key strategies to further child rights and protection, taking into account the specificities of the Ghanaian context. All of this legislation and policy informs the important work of probation officers who work with accused and convicted juvenile offenders and act to protect children at risk and those from families in conflict.

Probation officers have been carrying out their duties under the guidance of an outdated manual, published in 1997, which incorporates none of the child rights incorporated into the legislation and policy mentioned above. The Ministry of Gender, Children and Social Protection is grateful to UNICEF for its tremendous support in reviewing the old manual and developing a new one that reflects the new legislation and policy, as well as best practices of the probation service. Probation officers have worked with limited tools and resources, yet their empathy, commitment and professionalism toward children has not wavered. This Probation Manual provides new guidance and instruction on how probation officers should carry out their work in the best interest of children and youth who come into contact and in conflict with the law. Key probation officers have been trained in the Manual and are prepared to train their colleagues, injecting new energy into the probation service.

The Ministry is equally grateful to the consultants, probation officers and all the staff of the Department of Social Welfare (DSW), who supported in diverse ways to make the review and revision of this manual successful. Staff in many probation units were interviewed about their work and needs; key probation officers from every region and DSW Head Office staff came together in two workshops, one to refine the instruction in the manual and the second to become trainers in the new material; demonstrating their commitment to improving their work and increasing children's access to justice. Stakeholders from formal and informal institutions working on child justice were also interviewed about the needs of children in contact and in conflict with the law and the gaps in probation services. We are appreciative of their collaboration.

With our new Probation Manual, we look forward to continuing the best of our work and enhancing practices that required alignment with legislation and policy.

Hon. Cynthia M. Morrison, MP  
Minister, Ministry of Gender, Children and Social Protection

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# Definitions

|                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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| After care                     | Aftercare is the probationary period following a juvenile’s release from a correctional centre. During this time, the youth’s behaviour will be followed by the juvenile court, through probation, and he or she may be required to meet specific probationary obligations. It starts when the child is committed to a Correctional centre. The the Correctional centre is in contact with the probation officer about the progress of the child till he or she is discharged. Then the other processes mentioned are done.                                                               |
| Care order                     | A care order is a court order to remove a child from a situation in which she or he is suffering or likely to suffer significant harm, temporarily transferring parental rights to the DSW, which will determine the most suitable place for the child at either an approved residential home, with an approved fit person or the home of a parent, guardian or relative.                                                                                                                                                                                                                 |
| Child                          | Pursuant to Ghana’s Constitution (1992), Children’s Act and the CRC, refers to a person below 18 years of age.                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Child-friendly justice         | Refers to justice systems which guarantee the respect and effective implementation of all children’s rights at the highest attainable level, giving due consideration to the child’s level of maturity and understanding and the circumstances of the case. It is, in particular, justice that is accessible, age appropriate, speedy, diligent, adapted to and focused on the needs and rights of the child, respecting the rights of the child to participate in and to understand the proceedings, to respect his or her private and family life and his or her integrity and dignity. |
| Child in conflict with the law | Children alleged to, accused of or recognised as having committed a crime or other law violation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Child victims / witnesses      | Children who are victims of crime or witnesses to crime, and sometimes both, regardless of their role in the offence or in the prosecution of the alleged offender.                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Close relative                 | A person related to a child biologically, by law or according to custom.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

|                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|---------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Customary law</b>            | Rules of law which, by custom or tradition, are applicable to particular communities in Ghana (Article 11 of the Constitution, 1992. They include traditional common rules and practices that have become an intrinsic part of the accepted and expected conduct in some communities in Ghana.                                                                                                                                                                                                                                                                          |
| <b>District Assembly (MMDA)</b> | District Assemblies are second level administrative governments found below the level of region and responsible for planning and the integration of political, administrative and development support to a district. Reference to District Assemblies includes Municipal and Metropolitan Assemblies.                                                                                                                                                                                                                                                                   |
| <b>Diversion</b>                | The referral of cases involving children alleged to have committed offences away from the criminal justice system, with or without conditions.                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>DSW</b>                      | Refers to the Department of Social Welfare under the Ministry of Gender, Children and Social Protection. It also refers to the Department of Social Welfare and Community Development at the Metropolitan, Municipal and District levels.                                                                                                                                                                                                                                                                                                                               |
| <b>Fit person</b>               | An adult who is of high moral character, integrity and with a sound mind, capable of looking after a child who has been registered by a probation or social welfare officer as being able to provide a caring home for a child.                                                                                                                                                                                                                                                                                                                                         |
| <b>Justice for children</b>     | Justice for children takes a broader approach than the traditional focus on juvenile justice and encompasses all aspects of the criminal, civil, and administrative justice system, including customary, religious and alternative dispute resolution mechanisms. It covers all proceedings affecting children, including: children alleged as, accused of, recognised as having infringed the penal law; child victims and witnesses; and children coming into contact with the justice system for other reasons, such as regarding their care, custody or protection. |
| <b>Juvenile</b>                 | A person under the age of 18 years who is in conflict with the law, pursuant to Ghana's Juvenile Justice Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Juvenile offender</b>        | A person under the age of 18 years who has been convicted of an offence for which the court may impose various sentences.                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>MoGCSP</b>                   | Ministry of Gender, Children and Social Protection.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Minor offence</b>            | Criminal matter such as petty theft, petty assault and threatening offences.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

|                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Next friend</b>                 | A person who intervenes to assist a child to bring a legal action.                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Non Custodial sentence</b>      | A criminal sentence served outside of a correctional centre or senior correctional centre, including probation, fines or educational/vocational attendance, among other sentences.                                                                                                                                                                                                                                                                                  |
| <b>Offender</b>                    | Juvenile offender (as above) and may include young persons who are 18 years or older, but under 21 years, who commit offences                                                                                                                                                                                                                                                                                                                                       |
| <b>Place of safety</b>             | Refers to the home of a relative, fit person or other person who is considered fit to take care of a juvenile until he or she can be brought before court or to a home approved by the DSD/W or a remand home.                                                                                                                                                                                                                                                      |
| <b>Probation officer</b>           | Plays a role in the criminal justice system to assess and support juvenile and young offenders in their rehabilitation through pre-sentence assessment, supervision and reintegration. Probation officers in Ghana also conduct assessments of children for civil courts in cases of child maintenance, custody and access.                                                                                                                                         |
| <b>Recognizance</b>                | The communication of an obligation or bond to a juvenile before the juvenile is charged with an offence requiring the juvenile to perform some action such as appear in court at a specified date and time, keep the peace, or be of good behaviour.                                                                                                                                                                                                                |
| <b>Rehabilitation</b>              | The action of restoring to normal life a juvenile offender through training and therapy during and after imprisonment.                                                                                                                                                                                                                                                                                                                                              |
| <b>Reintegration</b>               | Refers to the process of re-entry into society by juvenile offenders who have been incarcerated, including the activities and programming conducted to prepare a juvenile offender to return safely to the community, have his or her freedoms reinstated, and live as a law-abiding citizen.                                                                                                                                                                       |
| <b>Remand</b>                      | Sometimes referred to as pre-trial detention or provisional detention, this signifies keeping a person who has been arrested in custody before conviction. Juveniles charged with serious crimes were routinely held in a <b>remand</b> home until trial or sentencing, however, the Supreme Court ruling in Martin Kpebu vs. the Attorney General has struck down the use of automatic, pre-trial, compulsory detention for some selected (non-bailable) offences. |
| <b>Serious offence</b>             | Includes offences such as robbery, rape, defilement and murder.                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Social Enquiry Report (SER)</b> | Sometimes called a “pre-sentence report”, the Social Enquiry Report is a formal assessment of a child’s welfare and best interest provided to the court to assist Magistrates, Judges or panels to pass the most suitable sentence on the child.                                                                                                                                                                                                                    |
| <b>Young person</b>                | A person who is 18 years or older, but under 21 years, as defined in the Juvenile Justice Act.                                                                                                                                                                                                                                                                                                                                                                      |



# **SECTION A:**

**BACKGROUND TO PROBATION**

# 1. Professional Responsibilities of the Probation Officer

This section of the manual provides an overview of the field of probation and the role of the probation officer in Ghana, as delineated by legislation, custom and good practices. It includes a summary of the various contexts in which a probation officer works, describes the legislative framework for probation activities and sets the stage for more detailed discussion of these elements throughout the manual.

## 1.1 Probation and the Probation Officer in Ghana

Probation is defined as a method used to deal with first time offenders or those guilty of minor offences by **allowing them to remain in the community as long as certain restrictions and conditions are followed**<sup>1</sup>. It is usually an **alternative to a custodial sentence** or a jail term. In Ghana, probation is reserved for **first time juvenile offenders who are guilty of minor offences**. It is also possible that a juvenile offender serving a corrections' sentence who is of good behaviour may be released on probation, under **a licence**. Such a person will be released into the community under specific conditions to serve out the remainder of his or her custodial sentence, under the supervision of a probation officer.

Probationers are required to observe the **conditions** of their probation as specified in a **Probation Order** from the court. Some of the conditions may include: payment of restitution or fines, meeting with a probation officer at scheduled times, avoiding places and people associated with criminals, regular attendance at school or vocational training and participating in programmes as determined by the court, including anger management, life skills and counselling, among others. Additionally, the probation officer develops a **Case Plan** with the juvenile offender and his/her family to address the specific risks that might lead the offender to commit another offence. Breach of the conditions of the probation or the commission of another crime during the period of probation may result in the custodial sentencing of the probationer (*section 31(4) Juvenile Justice Act, 2003 (Act 560)*). The overall aim of probation is to **rehabilitate offenders**.

The probation officer plays an important role in the criminal justice system to **assess and support juvenile and young offenders in their rehabilitation through pre-sentence assessment, supervision and reintegration and/or aftercare**. Probation officers in Ghana also conduct **assessments of children and their family environment for civil courts in cases of child maintenance, custody and access**. Dedicated and specially trained officers provide probation services in Ghana, as delineated under section 60 of the Juvenile Justice Act, 2003 (Act 653), "a probation officer includes a social welfare officer". This implies that other social welfare officers may play the role of probation officers. Perhaps the framers of the law appreciate the fact that, in some districts, specially trained probation officers may not be available to provide probation services, hence there may be the need for other social workers under the Department of Social Welfare to

1 <https://legaldictionary.net/probation>

provide probation services. It is interesting to observe that, in most of the roles that have been assigned to probation officers in the Juvenile Justice Act, the law equally states that social welfare officers could play such roles. This is not necessarily the best practice, since probation requires specialised work that officers must be trained to undertake.

The responsibilities of probation officers are delineated in various national laws, including the Children's (Amendment) Act, 2016 (Act 937), The Children's Act, 1998 (Act 560), Criminal and Other Offences (Procedure) Act, 1960 (Act 30), The Juvenile Justice Act, 2003 (Act 653) and Child Rights Regulations, 2002 (LI 1705). These roles include the **protection of children through rescue and provision of care and protection, support to the police to trace parents/guardians/relatives of juveniles and also sit in when a juvenile is being interviewed in the absence of the juvenile's parents. They also provide support to the Juvenile Court to ensure the best interest of the child through pre-sentence investigations and preparation of Social Enquiry Reports and support to the Family Tribunal and other courts through social investigation.**

Other key activities that probation officers take on include supporting the Court to **determine a juvenile's age when there is doubt, preparation of Probation Orders, supervision of probationers, as well as reintegration of juvenile offenders who have completed their sentences.** Probation officers also supervise juvenile offenders who have completed their sentences and have been discharged when there remain conditions which must be followed by the juvenile offender. This is referred to as *parole* in other jurisdictions and **aftercare** in Ghana.

Ghana's **Justice for Children Policy** was formulated in 2015 in response to the need to close the gap between the formal and informal/community processes for child justice. As noted in the policy, communities prefer to employ community resolutions over the formal justice system. Whereas the formal system tends to be more adversarial in nature, the informal/community system is more restorative, focusing on reconciliation and restoring harmony in the family and the community<sup>2</sup>. Concerns about the need to uphold the best interest of the child must however be addressed. The policy recognises the role of the family and the community in preventing and responding to justice for children issues and seeks to strengthen families and communities to prevent juvenile offending and also enhance protection of children. Its implementation will change the nature of probation work in Ghana with a greater focus on strengthening community structures to respond effectively to justice for children issues through the following: a clear articulation of jurisdiction in relation to children in conflict with the law, child victims, and family and civil disputes; establishing a system of referral to and from the formal justice system; promoting documentation of processes, clarity and certainty of procedures within the community justice system; building the capacities of key stakeholders to improve the handling of children's cases; reforming the Child Panel system to allow community justice for children system to operate at the community level; and operators of the community justice for children system will partner with Community Child Protection Committees/

2 Justice for Children Policy, 2015 p.11

Units and actors from the formal child protection system to address justice for children issues at the community level. In view of the above, **probation and social welfare officers are required to monitor community justice processes and engage in dialogue with community leaders to improve the handling cases involving children.**

The **Child and Family Welfare Policy 2014** is also relevant to probation officers in that it underlines the importance of family and community first when considering care and guardianship of children. Probation officers are directed to **seek guardians for a child or a juvenile offender who come from within the child's family or community instead of relying on formal institutions** and fostering or adoptive families who are not part of the child's community.

The section below summarises the main duties of the probation officer, linking professional responsibilities to the appropriate legislation, policies and procedures which mandate such a role.

## 1.2 Support at the Police Station

The Juvenile Justice Act enjoins police officers to inform probation officers about the arrest of a juvenile when the police are unable to inform the juvenile's parents. Section 11 (3) of the Act places the responsibility of **tracing the parents, guardians and relatives of a juvenile in police custody** on the probation officer in the district. Again, section 13 (2) of the Juvenile Justice Act makes it mandatory for a **probation officer to be present at the interview of a juvenile/young offender when the parents, guardians, relatives or a lawyer is not available or when the police determine that the presence of the juvenile's parents, guardians or relatives at the interview is not in the best interest of the child.** Probation officers must ensure that the juvenile is informed of his/her rights and take all necessary steps to uphold those rights. Probation officers also assist police officers to refer juveniles to other institutions for support. The Ghana Police Service has new Standard Operating Procedures for handling cases involving children that direct the police to contact a probation officer to come to the station when a child or juvenile is unaccompanied. This is expected to increase demand of probation services, especially to ensure the protection of children accused of offences.

## 1.3 Interacting with Juveniles and Children in Court

In court, the probation officer should properly introduce him or herself to the young offender or juvenile and his or her family, if present; describe the role of the probation officer and explain what will happen in court that day. The probation officer should also support the child and his/her family to ensure that their rights are respected, including the child's **right to have a guardian present, the right to have legal representation and legal aid, the right to remain silent and the right to be informed of the charges against him or her in a language that he/she understands, including the right to read the arrest warrant at any time** (*Juvenile Justice Act, 2003 (Act 653) Sect. 3 and 22*).

Children who are **victims, witnesses or affected by court outcomes** in civil and criminal procedures should also be supported by probation officers when a social welfare officer is not present in court for that purpose. This may require **accompaniment of a child, comforting a distressed child, making referrals to agencies that can assist a child with trauma and shelter, as well as responding to court requests to complete an application for a Care Order or a Fit Person Order**, when proper guardianship must be found to care for the child.

Some studies have found the relationship of the probation officer and the probation service to the court to be quite controversial when probation officers feel a sense of “belonging” to the court, which appears to result in greater passivity and a notable reduction in resourcefulness and initiative to prepare juvenile offenders and their families. With the desire to be helpful to the court and maintain good relations within the court, probation officers have sometimes been seen to abrogate their professional responsibilities to clients.<sup>3</sup> It is thus very important for the probation officer to remain mindful and consistent in **protecting the client – the child affected by family violence or conflict or the juvenile/young offender in conflict with the law**.

In some countries, probation officers are also becoming involved in bail assessment, bail information and bail supervision. House arrest and electronic monitoring are also increasingly being used to augment conditions of probation and bail release, although neither of these areas has been developed in Ghana at this point. Some Magistrates have asked probation officers in Ghana for their opinion as to whether a child should be released on bail on his/her own recognizance or secured in a remand facility. If the probation officer has **no knowledge of the child and his or her circumstances, she/he should refrain from providing an opinion**, especially in cases where the probation officer is meeting the child in court for the first time and may have little or no knowledge about the child’s background. This is especially important when a juvenile is unaccompanied by a parent or guardian since the child should not be discriminated against as a result of this omission. Probation officers may be tasked with drafting a **Fit Person Order** for the court, enabling the juvenile to stay out of remand and in the community with an appropriate adult if family and guardians cannot be easily located.

#### 1.4 Investigations and Reports to Court

Probation officers provide information to the courts on **the best interests of children** (*Children’s Act (560) Section 2*), including, in Ghana, children in family disputes, which will be discussed below. Section 20 (3) of the Juvenile Justice Act permits the probation officer to **examine the charge**

<sup>3</sup> Shaw, R. and Haines, K. (1989) *The Criminal Justice System: A Central Role for the Probation Service*. Cambridge: University of Cambridge. p. 136

**sheet of the juvenile<sup>4</sup> at any stage of criminal proceedings.** This enables the probation officer to communicate the charge to the juvenile/young person in a language and words that she or he understands. Through pre-sentence investigations, probation officers also **provide the court with assistance, information and recommendations related to the potential for behavioural and attitudinal change and the rehabilitation of juvenile and young offenders** (*Juvenile Justice Act (653) Section 24*). This information assists the courts in deciding which sentence is best for the offender, as well as allowing for a review of sentencing decisions. The probation officer submits information about a juvenile/young offender and recommendations for rehabilitation through a **Social Enquiry Report (SER)** to the court before sentencing options are decided.

Probation officers actively support the civil courts in Ghana, in particular the Family Tribunals and other courts such as Circuit Courts and the High Court in **cases involving maintenance, custody and access relative to children**. In matrimonial cases, applications for maintenance may be made pursuant to section 48 of the Children’s Act, 1998 (Act 560). When such applications are made, the court may order for a **Social Enquiry Report** under Section 50 of the same Act. This report is prepared by the probation officer or a social welfare officer and subsection 2 of section 50 of the Act states that the court shall consider the report in making its decision. Probation officers also undertake investigations and advise the court on **matters related to custody, maintenance and access to children in divorce proceedings**. In some cases, the court may make an order for alternative care of a child, called a **Care Order**, which transfers parental rights to the Department of Social Welfare, which will find a suitable residence and supervision for the child. A **Supervision Order** may also be applied for when probation officers think it best to supervise parents of children who are at risk or vulnerable, instead of taking away their parental rights.

### 1.5 Supervision of Children and Juvenile Offenders

There are various ways that the criminal court deals with juveniles and young offenders. The court may discharge the juvenile conditionally or unconditionally, discharge the juvenile upon him or her giving an undertaking (promising to fulfill a condition such as paying the complainant for damages), divert the juvenile from the criminal justice system, commit the juvenile to a relative or a fit person or send the offender to a correctional centre. It may also ask the offender or his/her parents to pay a fine, damages or costs.

Under section 34 (1) of the Juvenile Justice Act, when a charge is proved against a juvenile, the court may commit the juvenile offender to the care of a fit person who may or may not be a relative of the

4 The Juvenile Justice Act (653) includes young persons accused of offences, aged 18-20 years, in most of its provisions for juvenile offenders. Where the text of this manual uses “juvenile offender”, young offenders are included, as appropriate. Of note is that young persons are not placed in juvenile correction centres, but rather senior boys’ corrections centres, and certain provisions that apply to minors are no longer relevant in relation to those older than 18 but younger than 21 years.

juvenile offender and who is willing to take care of him or her. This is done through a **Fit Person's Order** prepared by a probation officer. Depending on the circumstance, the probation officer may apply to the court to vary or revoke the order through an **Order Revoking or Varying Fit Person Order**. For instance when the probation officer determines that the juvenile offender's stay with a fit person is no longer necessary or the juvenile is not receiving the appropriate care from the fit person, he or she may apply to the court to revoke the order. The order may be varied when the probation officer applies to the court to vary a fit person's order. An application to vary the order may be made to increase or reduce the duration of stay of the juvenile with the fit person. When such an order is made, subsection 2 of section 34 of the Juvenile Justice Act requires that the court make a **Probation Order** to enable the probation officer supervise the juvenile. By this order, the probation officer routinely visits the juvenile offender and reports to the court regularly on the condition of the juvenile offender. The juvenile is required to give an undertaking (commit) to be under the care of the fit person.

The juvenile offender may also be released on probation (*sect. 29 (c) Juvenile Justice Act, 2003 (Act 653)*). This is usually recommended for first time offenders who have committed minor offences. When a court decides to grant probation, which it considers in the best interest of the child, the probation officer prepares an order of release on probation (**Probation Order**) which is issued by the court. When a probation order is issued by the juvenile court, the juvenile offender remains in the community under the care of parents or guardians, but under the supervision of the probation officer. Depending on the situation, a probation officer may make further applications to the court **Varying or Amending the Probation Order**. This is done when the probation officer advises the court on whether or not such an order is necessary. When the juvenile offender violates the conditions of his or her probation, such as committing another crime during the probation period, the probation order is revoked and the juvenile offender sentenced for the original offence (*section 31(4) Juvenile Justice Act, 2003 (Act 653)*).

The court is required by Section 31 (3) of the Juvenile Justice Act, 2003 (Act 653) to explain to the juvenile in a language that she or he understands the effects of a probation order. Once a probation order is made by the court, a probation officer is assigned to supervise the probationer. The order requires the probationer to submit to the supervision of a probation officer during the period of probation (*sect. 355 Criminal and Other Offences Procedure Act, 1960 (Act 30)*). The probation officer **discusses the Case Plan with the juvenile and his or her family**. The probation officer outlines the **roles and responsibilities** of the juvenile and his or her parents/guardian during the probation period. The probation officer will undertake **regular visits to the home, school or workplaces** where the juvenile is learning, working or learning a trade. Probationers are required to report to the probation officer at least once a month. These visits help the probation officer to **confirm the state of the probationer and to check compliance with the conditions of the probation** order. This is done in collaboration with parents or guardians. Probation officers provide counselling services to probationers and their parents/guardians when the need arises. A probation officer is also tasked with **regularly reporting on the juvenile offender's progress**, once she or he is on probation. These reports are called **Probation Progress Reports**. Sometimes, teachers and master craftsmen

are used by probation officers as probation agents, who also provide regular reports to probation officers, called **Community Probation Reports**. Records are kept on each probationer with reports filed by the probation officer.

**Active supervision is a critical component of probation.** Without effective training or developing effective approaches, the default supervision approach focuses only on enforcing the regulations and “trailing, nailing and jailing” youth who do not comply with conditions in their probation orders<sup>5</sup>. Case plans for probation must be tailored to the needs of each probationer and the probation officer supports the child or youth and his/her family to carry out the plans and activities with the aim of rehabilitation and community reintegration the priority.

The National Council on Crime & Delinquency of the United States observes that there are a variety of supervision strategies needed to meet the wide range of youth who come into conflict with the law. It is important to first undertake effective risk assessment using screening instruments and other tools to help identify low risk offenders who may require minimal supervision or divert them from the system entirely. Probation caseloads vary in intensity based on the risk of re-offending, hence probation officers supervising higher risk probationers require more time and resources for their work. Capacities of probation officers should also be enhanced such that they can respond appropriately to different behaviours to help prevent probationers from re-offending, which may result in revocation of probation and custodial sentencing of the juvenile. Another way of improving supervision is for the probation officer to build closer relations with families of probationers to assist with information sharing and more effective cooperation from families.

The probation officer also **provides several services that offer protection to children**. Under section 19 of the Children’s Act, the probation officer has the power **to investigate child abuse or a child in need of care and protection**. Regulation 2 of the Child Rights Regulations, LI 1705 empowers the probation officer to visit the premises where the child is to determine whether or not the child is in need of care and protection and refer such matters to the Child Panel on the advice of the Department of Social Welfare, which is responsible for determining a temporary place of safety for the child, possibly with a fit person or at the home of a parent, guardian or approved relative (*sect. 2 Children’s (Amendment) Act, 2016 (Act 937)*). The Family Tribunal may make a **Care Order** upon application by a probation officer. The care order removes the child from a situation where she or he is suffering or likely to suffer significant harm and transfers the parental rights to the Department of Social Welfare (*sect. 20*). In this case, the probation officer or social welfare officer takes custody of the child and determines the most suitable place for the child, which may be an approved residential home; an approved fit person; or at the home of a parent, guardian or relative.

5           Antoinette Davis, et al (2014) Supervision Strategies for Justice-Involved Youth. National Council on Crime & Delinquency. p. 1

Under Section 21 of the Children's Act and Regulation 7 of LI 1705, the Family Tribunal may issue a **Supervision Order** to the Department of Social Welfare upon application by a probation officer. A Supervision Order places the child under the supervision of a probation officer or a social welfare officer. The order enables the probation officer or the social welfare officer to **visit the home of the child or where the child is being kept and regularly report to the court on the state of the child**. The order also empowers the probation officer to impose such conditions as may be considered necessary in the best interest of the child (Reg. 7 (2) LI 1705). The Supervision Order seeks to **protect the child from harm** while in the custody of parents, guardians, relatives or a fit person. While the Care Order removes the child from his or her parent or guardian and places the child where he or she may be safe, the Supervision Order, on the other hand, enables the social welfare officer or the probation officer to monitor and supervise the child's welfare by visiting where the child is staying.

Section 22 of the Children's Act outlines the duties of a probation officer and social welfare officer with respect to care and supervision orders to include the following: **advising and helping the child and his or her family; taking responsible steps to ensure the safety of the child and prevent harm to the child; holding regular reviews and planning for the future of the child**. Under section 23 of the Act, parents, guardians or relatives are obliged to permit the probation officer to visit the child at his or her family home.

Per section 25 of the Act, a Care or Supervision Order **may be discharged in the best interest of the child by the Family Tribunal on the application of the child, a probation officer, a social welfare officer; or a parent, guardian or relative of the child**. This implies that, where any of the above mentioned parties considers that such an order is no longer necessary, that party may apply to the Family Tribunal to see that the order cease to have effect.

## 1.6 Aftercare/Reintegration for Juvenile Offenders

Probation officers also **supervise juvenile and young offenders who have been discharged from a correctional facility**. The probation officer visits the juvenile or young offender in a correctional facility three months prior to his day of discharge in order to prepare a **Discharge Plan**. The probation officer then contacts the family of the juvenile offender to prepare them to receive the child. The probation officer works with personnel in the correctional facility to facilitate the transportation of the child back home. The child or youth is assigned a probation officer or an adult of good moral standing in the community who supervises him or her for a period of six months after release from the corrections' centre. The probation officer follows up with the community contact to ensure reintegration is going smoothly.

## 1.7 Prevention

A probation officer does not have a designated function to prevent first time juvenile offending, however, the interaction that a probation officer has with a child once he or she has committed an offence can be critical to **keeping him or her from further and deeper involvement with**

**the justice system.** The probation officer thus has the responsibility of helping children get back on the right track and initiating their transition toward a more productive life. The actions and communication that a probation officer has with a juvenile offender may very well shape the future course of his or her life.

Informally, probation officers **may visit local schools to speak to students in order to deter them from committing offences or take opportunities to interact with vulnerable and at risk children who could use guidance to keep them from coming into contact with the law. Public education** should also extend to mosques, churches, within families, with community child protection committees and other places with which families and children come into contact. Collaborative relationships with police and other child and justice service providers may be developed in order that these service providers **notify the probation unit if there is an at risk or vulnerable child.** Probation officers might then plan interventions with these children and their families to **strengthen protective capacities** and keep children from coming into contact with the law. Probation officers are occasionally asked by families and child service providers to counsel and assist children at risk of coming into conflict with the law. In these cases, a probation officer may undertake a **Voluntary Supervision** contract with the child. Additionally, identifying fit persons within communities and working with extended family contacts help to protect and keep children within their communities and out of institutional care.

## 1.8 Reporting

Probation officers are **responsible for a number of reports to the courts, in addition to maintaining good records of the juveniles and young offenders they supervise through case management systems.** Keeping up to date records is also important for **regular quantitative reporting to their local District Assembly and the Department of Social Welfare's** Justice And Administration Directorate.

Ideally, case management systems would be automated, although at this point in time, most records are still kept manually. The last part of this manual addresses the **importance of reporting and contributing to national data capture on juvenile offenders, children in care and the work activities of the probation unit.**

It is useful for probation officers to keep records of all the documents listed below in the table.

**DOCUMENTS SUBMITTED TO THE COURTS AND OTHER JUSTICE ACTORS BY PROBATION OFFICERS**

| NO | TITLE OF REPORT/ DOCUMENT                         | COMES FROM WHOM   | GOES TO WHOM                                                                                                                        |
|----|---------------------------------------------------|-------------------|-------------------------------------------------------------------------------------------------------------------------------------|
| 1  | Social Enquiry Report for Juveniles               | Probation Officer | Juvenile Court                                                                                                                      |
| 2  | Order of Release on Probation                     | Probation Officer | Juvenile Court and directed at the Probation Unit                                                                                   |
| 3  | Order Varying or Revoking Supervision Order       | Probation Officer | Juvenile Court and directed at the Probation Unit                                                                                   |
| 4  | Order of Discharge/Amendment of Probation Order   | Probation Officer | Juvenile Court and directed at the Probation Unit                                                                                   |
| 5  | Fit Person Order                                  | Probation Officer | The Juvenile Court and directed at the Fit Person and Probation Unit                                                                |
| 6  | Order Revoking or Varying Fit Person Order        | Probation Officer | Juvenile Court and directed at the Fit Person/ Probation Unit                                                                       |
| 7  | Social Enquiry Report for Family Tribunal         | Probation Officer | Family Tribunal                                                                                                                     |
| 8  | Application for Care Order (motion and affidavit) | Probation Officer | Family Tribunal and directed at Probation Unit                                                                                      |
| 9  | Progress Report on Probationer                    | Probation Officer | Juvenile Court                                                                                                                      |
| 10 | Discharge Plan                                    | Probation Officer | Prepared prior to discharge of juvenile offender to facilitate reintegration/ after care – for corrections’ centre and records      |
| 11 | Removal of Child Form                             | Probation Officer | Notice to parents/ guardians of removal of child who needs care and protection into the custody of the Department of Social Welfare |
| 12 | Notice to show interest in child                  | Probation Officer | Notice to parents whose child is in DSW custody to show interest, lack of which means that the child will be put up for adoption    |

## 2. Understanding the System for Child Justice

It is important for probation officers to have a basic understanding of the justice system and their role within. This section describes the main courts and justice actors relevant to the probation officer's duties.

The 1992 Constitution of Ghana entrenches the independence of the judiciary from the legislative and executive branches of government, meaning that the judicial system should not be subject to influence from the President or Cabinet. Ghana has a **pluralist legal system that combines common law, as practiced in the UK, and customary law**. Child protection and children's access to justice are often guided by customary law. At the community level, chiefs continue to play a dominant role in maintaining law and order and resolving disputes. The Ghanaian customary law has not been codified but is recognised under the Constitution as a source of law.

### 2.1 Legal and Policy Framework for Child Justice

Ghana was the first country in the world to ratify the **Convention on the Rights of the Child (CRC)**. It has also ratified most major international instruments relating to child protection, including the **African Charter on the Rights and Welfare of the Child, ILO Convention 182 on the Worst Forms of Child Labour, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights**.

The Laws of Ghana relevant to child justice and protection include the following<sup>6</sup>:

The **1992 Constitution**, which requires the State to be guided by these international human rights instruments in discharging its obligations. In addition, Article 28 of the Constitution is dedicated to children's rights and states that Parliament shall enact laws necessary to ensure children's right to measures of special care and assistance, and to protection from physical and moral hazards, from engaging in work that constitutes a threat to health, education or development, and from torture or other cruel inhumane or degrading punishment.

The **Children's Act, 1998** (Act 560) guarantees children's rights in accordance with the CRC and reinforces that the best interest of the child shall be the primary consideration by any court, person, institution or other body in any matter concerned with a child. The Act outlines principles and procedures for dealing with children in need of care and protection, fostering and adoption, and for addressing disputes with respect to parentage, child custody, access and maintenance.

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<sup>6</sup> The section on legislation has been adapted and reproduced from UNICEF's **Children before the Courts in Ghana: A Move Towards Child-Friendly Justice**.

The **Juvenile Justice Act, 2003** (Act 653) regulates the handling of children in conflict with the law. It outlines special procedures for the arrest, investigation, trial and sentencing of children.

The **Criminal Offences Act, 1960** (Act 29) (amended in 1988 and ) penalises all forms of violence against children, including child-specific offences relating to: causing harm to child at birth; exposing a child to harm and negligently causing harm; kidnapping, abduction, child stealing and abandonment of an infant; and rape, defilement, carnal knowledge, indecent assault and child prostitution. Subsequent amendments strengthened provisions relating to sexual exploitation of children and female genital mutilation.

The **Criminal and Other Offences (Procedure) Act, 1960** (Act 30) outlines detailed procedures for arrest and trial of adults charged with an offence, including procedures for examination and cross-examination of witnesses that apply equally to children and adults.

The **Courts Act, 1993** (Act 459) sets out the structure of the court system in Ghana and defines the respective scope of jurisdiction for the various levels within the court structure.

The **Disability Act, 2006** (Act 715) requires Courts to take into consideration the condition of a person with a disability and provide appropriate facilities.

The **Alternative Dispute Resolution (ADR) Act, 2010** (Act 798) regulate the process of mediating settlements in civil and minor criminal disputes.

The **Human Trafficking Act, 2005** (Act 694) penalises trafficking in persons and makes provision for the rescue, rehabilitation and reintegration of victims, including children.

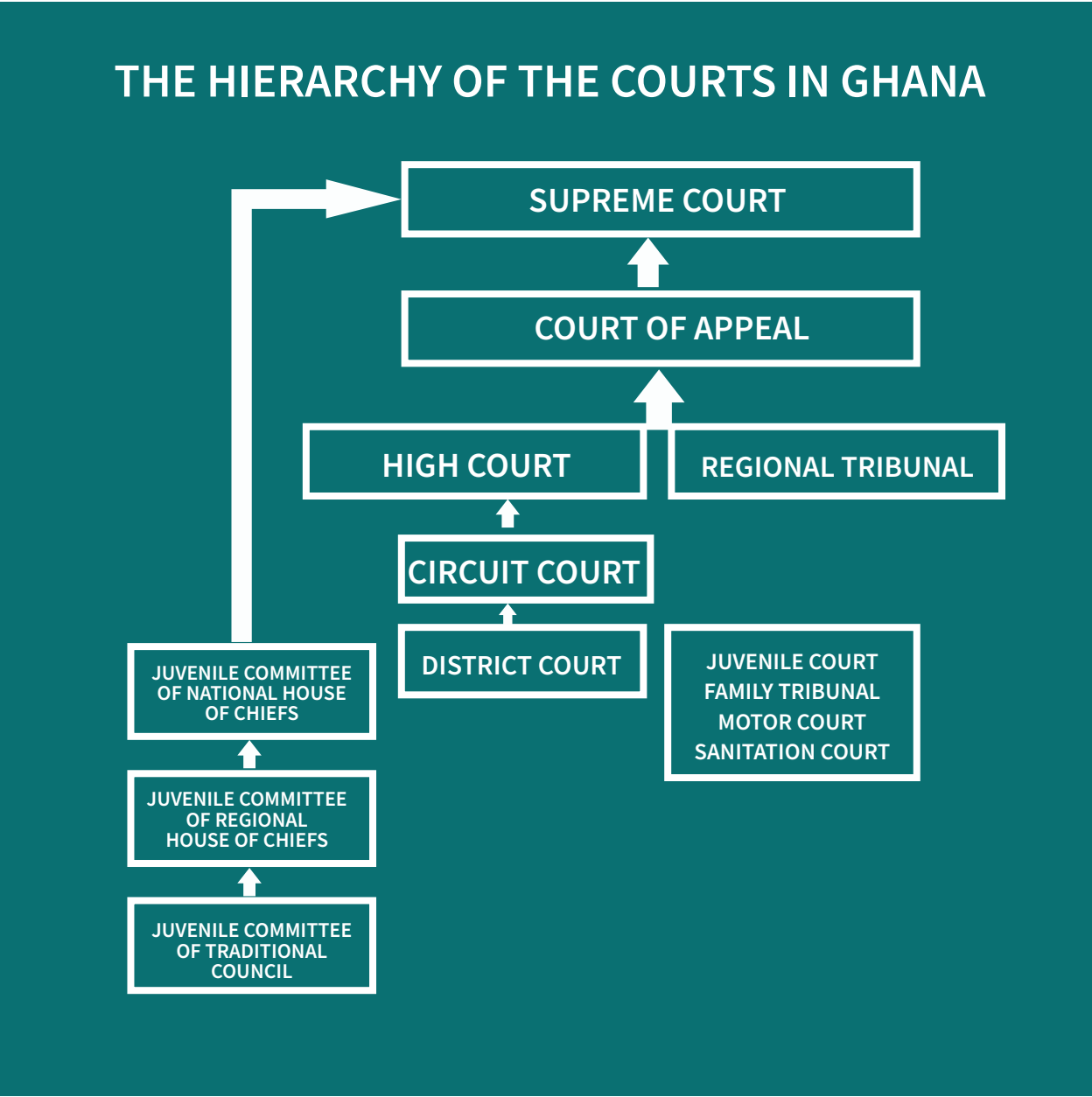
The **Domestic Violence Act, 2007** (Act 732) defines and prohibits domestic violence (including violence against children), authorises the court to issue protection orders and includes special protections for victims during court proceedings.

Ghana has also developed several policies and plans of action relating to children, some of which have a relevance to children coming before the courts, including the **Child and Family Welfare Policy (2014)**, the **Justice for Children Policy (2015)** and the **National Plan of Action on Human Trafficking (2017-2021)**. While not a policy nor a plan of action, the Ghana Police Service has adopted **Standard Operating Procedures (SOPs) for Handling Children in Conflict with the Law and for Investigations Involving Child Victims and Witnesses**. Both of these SOPs guide the police to contact a probation officer when interacting with an unaccompanied juvenile at the station and to seek the support of a social welfare officer when investigating offences involving children.

Thus, a closer professional relationship between the Department of Social Welfare and the police service is expected.

## 2.2 Child Justice and the Courts

The judiciary of Ghana is comprised of the **Superior Courts of Judicature** (Supreme Court of Ghana, Court of Appeal, High Court of Justice and Regional Tribunals), which are established by the 1992 Constitution, and the **lower courts** (Circuit Courts and District Courts, including the Juvenile Courts and Family Tribunal), established by acts of Parliament. The traditional courts are the National House of Chiefs, the regional houses of chiefs and traditional councils. The traditional courts are constituted by the judicial committees of the various houses and councils. All courts, both superior and inferior, with the exception of the traditional courts, are vested with jurisdiction in civil and criminal matters.



The **Supreme Court of Ghana**, comprised of the Chief Justice and not less than nine justices, is the final appellate court of the country with supervisory jurisdiction over all courts in Ghana. It has exclusive original and appellate jurisdiction in all matters relating to the enforcement or interpretation of the Constitution. This means that the Court has the power to hear a case for the first time, as well as to review decisions from lower Courts. The Supreme Court also has sole appellate jurisdiction in cases of high treason, which is tried by a special court within the Supreme Court. It hears appeals from the National House of Chiefs, as well.

The **Court of Appeal** serves as the appellate court for the High Court, Regional Tribunal and civil appeals from the Circuit Court, unless otherwise provided by law. It consists of the Chief Justice and not less than 10 other Justices from the Superior Court as the Chief Justice may request to sit in the Court of Appeal. It has no original jurisdiction (cannot hear new cases) and is only an appellate court (reviews lower Court decisions). Appeals from this Court are heard at the Supreme Court.

The **High Court** sits with a single judge and at times with jurors or assessors. Judges of the High Court must be persons of high moral character and proven integrity with at least ten years' standing as a lawyer. The High Court has original jurisdiction in all civil and criminal matters, unless otherwise stated in the Constitution, and has supervisory jurisdiction over all lower Courts, including the Regional and National House of Chiefs. Pursuant to the Courts Act, 1993, Sect. 18, it also has the power to hear and determine applications relating to guardianship, custody, access and maintenance of children. The High Court additionally serves as the appellate body for criminal judgments of the Circuit Courts and all appeals (civil and criminal) from the District Courts, the Juvenile Courts and the Family Tribunals. The High Court has established specialised divisions, including the Fast Track Court, Criminal Court, Divorce and Matrimonial and Labour Court, which would most frequently deal with cases that involve children, as well as the Land Court, Human Rights Court, Probate and Administration Court, Commercial Court and Financial and Economic Crimes Court.

The **Regional Tribunal** exercises special criminal jurisdiction to try offences against the state and public interest, only in cases as Parliament may prescribe by law. By article 142 of the Constitution, there shall be established in each region a Regional Tribunal, as the Chief Justice may determine. The Tribunal sits with a Chairman and not less than two panel members. Currently, a Regional Tribunal sits in Accra and Tamale.

The **Circuit Court** is staffed with a single Circuit Judge, who must be of high moral character and proven integrity, and have at least five years standing as a lawyer. The Circuit Courts have jurisdiction in all criminal matters other than treason, offences triable on indictment and offences punishable by death. They also have jurisdiction over certain civil actions, including appointment of guardians for children and making orders for the custody of children (Courts Act, 1993 Act 459, sects. 40-44). In Accra, Kumasi, Tema, Koforidua and Sunyani, the Circuit Court has established specialised **Gender-Based Violence Courts** to hear cases relating to family and sexual violence. Appeals from Circuit Court in civil cases are heard in the Court of Appeal and in criminal cases, in the High Court.

The **District Court**, presided over by a Magistrate, make up the largest number of courts in the country and handle the largest number of cases. Each district in the country has at least one District Court. The District Court has two specialist courts dealing with children's cases, the **Juvenile Court**, which hears cases involving children in conflict with the law and the **Family Tribunal**, which deals with disputes relating to parentage, custody, access, maintenance and care and protection of children. Additionally, the Motor Court is a District Court. The jurisdiction of District Courts in criminal cases is limited to summary offences punishable by a fine not exceeding 500 penalty units or imprisonment for a term not exceeding two years, or both. The courts also deal with some civil matters, including divorce and other matrimonial causes and paternity and custody of children.

The **Family Tribunal** is a specialised District Court that hears and determines actions under the Children's Act, 1998 (Act 560). It has jurisdiction in matters concerning parentage, custody of children, access to and maintenance of children and, in cases regarding children in need of special care and protection, it can make care and supervision orders. The Tribunal sits with a panel consisting of a Chairperson and not less than two members, one required to be a Social Welfare Officer.

The **Juvenile Court** hears both criminal and civil cases involving a person under the age of 18 years. The Chief Justice designates a District Court to sit as a Juvenile Court and the court is composed of the District Magistrate and two other persons, one of whom must be a Social Welfare Officer.

**Chieftaincy Tribunals** are judicial committees made up of Traditional Authorities, mandated to hear cases by the 1992 Constitution. They consist of Traditional Councils, Regional House of Chiefs, which hear appeals from the Traditional Councils, and the National House of Chiefs, which hears appeals from the Regional House. The Supreme Court serves as the final court for the Chieftaincy Tribunals.

Probation officers most often attend court at the **District Court level, either in Family Tribunals or the Juvenile Court**. In both courts, the probation officer is expected to actively support the child or children involved and provide recommendations for sentencing in Juvenile Court and for maintenance, custody and access in the Family Tribunal. Probation officers will also attend the Domestic Violence Court to look after the interests of children who may have been victims of violence, witnesses to it or may have parents involved in proceedings. In these cases, probation officers will have responsibility for guardianship and custody investigations and recommendations. Probation officers may attend **Circuit Court** if it is hearing criminal cases involving both adult and juvenile defendants, although sentencing of juveniles should always be determined by a Juvenile Court. When a young person has a hearing in a criminal case and a probation officer has been asked to provide a SER, the officer will usually attend at the Circuit Court.

## 2.3 Agencies involved in the Administration of Justice for Children

In addition to the Judicial Service, there are also a number of other agencies involved in child justice administration<sup>7</sup>:

The **Attorney General** has the Constitutional duty to initiate and conduct criminal prosecutions. The Director of Public Prosecutions and attorneys attached to the Prosecutions Division of the Ministry of Justice and Attorney General directly prosecutes serious criminal cases before the High Court (including crimes committed against children), and advises and supervises police prosecutors in less serious criminal cases.

The Ministry of Justice also operates a **Legal Aid Scheme** which, pursuant to the Legal Aid Act, 1997 (Act 542) provides legal services to the indigent. It undertakes public legal education, provides legal advice and assists clients to resolve disputes without litigation, and provides legal representation in both criminal and civil matters to those who qualify, including children.

The **Ghana Police Service** investigates all crimes and also conducts prosecutions in cases before the District Courts and Circuit Courts, where required, with advice and direction from the Attorney General's Office. It has established a **Domestic Violence and Victim's Support Unit** (DOWVSU), with specialist officers to handle children's cases. Additionally, the service has Standard Operating Procedures for handling cases involving children as victims, witnesses or in conflict with the law.

The **Commission on Human and Administrative Justice (CHRAJ)** investigates complaints of fundamental rights violations, corruption, abuse of power and unfair treatment. It handles many complaints involving children's rights, including maintenance, neglect, abuse, abandonment, labour, paternity, forced marriage, custody, intestate benefits, refusal of medical treatment and inhuman and degrading treatment.

The **Ghana Bar Association** is a professional association of all legal practitioners (barristers and solicitors) in Ghana. There is a group of barristers in Accra who work pro bono to support children in conflict with the law whose families cannot afford legal assistance.

As probations officers know, the **Department of Social Welfare** under the Ministry of Gender, Children and Social Protection has social welfare officers and probation officers who sit as panel members on the Family Tribunals and Juvenile Courts, and also produce social enquiry reports for

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<sup>7</sup> The section on agencies involved in child justice administration has been adapted and reproduced from UNICEF's **Children before the Courts in Ghana: A Move Towards Child-Friendly Justice**

the courts. Probation officers are also active in supporting and protecting children in contact with the law, working in remand homes and correctional centres, providing reintegration support and after care to juvenile offenders and young offenders released from correctional centres and preventing juvenile offending, insofar as possible.

## 2.4 Court Process

Disputes in court are classified as Civil or Criminal. Criminal offences involve the commission of a defined offence by individuals and corporate entities against an individual, the state or the public. According to article 19 (11) of the 1992 Constitution, no person shall be convicted of a criminal offence unless the offence is **defined** and the **penalty for it is prescribed in a written law**. The Attorney General, the police and other agents of the state prosecute such cases in court. In criminal cases, there is a complainant (the victim) and a defendant (the juvenile offender).

Civil cases, on the other hand, are actions brought by a private citizen, family or corporate body on their own, without the involvement of the police or security agencies against another individual, corporate entity, the Republic, the family, or even a stool. In such cases, the victim is called the plaintiff and the respondent is the person alleged to have committed the wrong.

### 2.4.1 Criminal Court Proceedings

In criminal cases, the court proceedings begin when the Court Clerk calls the court to order by having people in the court rise for the judge to take his seat. The clerk proceeds to call the case and the parties announce their presence. Where the accused is absent without any excuse, the court issues a bench warrant for his or her arrest. Where the accused is present, she/he is invited to stand in the *dock* (an enclosure for accused persons). The accused person may represent himself or may be represented by a lawyer. The clerk reads out the charge to the accused first in English and, if needed, interprets and explains same in the language that the accused understands. At this stage, the accused may be granted bail or remanded in police custody.

The case may be adjourned with a new date set for hearing to continue. The accused is allowed to answer (plead) whether he/she is guilty of the offence or not. Where the accused pleads guilty, he/she is convicted on his/her plea and the court proceeds to pass the appropriate sentence. With young offenders (18-20 years), a probation officer will be asked to complete a Social Enquiry Report to assist the judge with determining an appropriate sentence.

Where the accused pleads not guilty, the case goes for a full trial. The prosecution opens its case by calling witnesses to prove all the ingredients of the offence beyond reasonable doubt. The witnesses are required to give evidence under oath by pledging to tell the truth. The lawyer of the accused person is allowed to cross examine the prosecution witnesses. When the prosecution closes its case, the accused person is given the opportunity to also defend him/herself by giving evidence and calling

his or her witnesses to also give evidence. They are also cross examined by the prosecution. The accused then closes his case. Then, the lawyer for the accused and the prosecutor (if s/he is a lawyer) are allowed to address the court. After the address, the court gives its judgment by pronouncing the accused guilty or not guilty. A guilty verdict means the accused will be convicted and sentenced. This may be a fine, imprisonment or both. Where the accused is found not guilty, she/he is acquitted.

### 2.4.2 Civil Court Proceedings

There are many rules that govern civil proceedings. These are referred to as civil procedure rules. These rules can be found in the Constitution, the Statutes creating the courts, the Rules of Court and a body of guidelines from the Superior Courts intended to direct courts and lawyers (Practice Direction). The key rules that guide the courts in Ghana include the Supreme Court Rules (CI 16), the Court of Appeal Rules (CI 19), the High Court (Civil Procedure) Rules (CI 47) and District Court Rules (CI 59).

Civil proceedings are usually held in public, except when the court orders otherwise in the interest of public morality, safety and public order, such as in cases involving juveniles and matrimonial cases. A party who initiates a civil action by writ (a judicial form for commencing civil action) is referred to as the plaintiff and the party against whom the action is taken is the defendant. When a petition is used to commence an action, the one who initiates the action is the petitioner and the party against whom the petition is filed is the respondent. When a party initiates an appeal, she/he is called the appellant and the other party is the respondent.

On the day of the hearing, if the action is called and all the parties are absent, the court may strike out the case (dismiss it without a hearing). If the plaintiff is present and the defendant is absent, the defendant's claims will be dismissed and the plaintiff given the opportunity to prove his or her case. When the defendant attends and the plaintiff fails to be present, the court may dismiss the plaintiff's action and allow the defendant to prove his case, if any. When both parties are present, they are given the opportunity to give evidence to support their claims. There may also be oral examination, which includes the calling of witnesses to give evidence and to be cross examined and re-examined.

Children with an interest in the outcome of the proceedings are required, by law, to be offered the opportunity to participate and state their own concerns and preferences. At the end of the trial, lawyers for both parties are given the opportunity to address the court on the strengths of their respective cases. The court eventually gives judgment.

### 2.4.3 Procedure in the Juvenile Court

The Juvenile Court sits as **a panel composed of the Magistrate of the District Court and two other persons**, one must be a social welfare officer and the other, a person from the community who is above 25 years (*S. 49 (2) Juvenile Justice Act, 2003 (Act 653)*). It is only a Juvenile Court that can adjudicate a juvenile case (*S.17*). Where there is no Juvenile Court available, a court such as the district court may only deal with the bail application, provided it is in the best interest of the child.

The Juvenile Court does **not sit in public**. People who are not members of the court or parties to the case such as lawyers, witnesses and any other person the court may authorise, are excluded from the court proceedings. Section 16 (3) of the Juvenile Justice Act states that the proceedings in the court must be **informal** and **police officers in the court should not be in uniform**. The informal procedure is not clearly defined by the law, hence the procedures may vary from one Juvenile Court to another. Nevertheless, it is expected that informal procedures help to make the court child-friendly and eliminate technicalities that are used in other courts.

Where the **age of the child** is in doubt, the court makes an enquiry to ascertain his or her age before proceeding with the case. Probation and social welfare officers may be asked to investigate the child's age and provide evidence of age determination, where possible. Evidence can include a birth certificate, weighing card or medical record at birth; school records; a baptismal certificate or other religious documents; statements from the child's parents, relatives or community leaders; or a report by a medical officer. Note that medical examinations are costly, time consuming and cannot definitively prove a child's age, so they should be requested only as a last resort when no other reliable information is available to confirm the child's age.

When a juvenile's case is called, she/he and the other parties are invited to the judge's chamber or the place where the court sits, excluding all persons who are in no way associated with the case. At the start of proceedings, the juvenile is advised, in the language she/he understands, **of her/his right to remain silent, the right to have a parent, guardian, relative or probation officer present, the right to legal representation and the right to legal aid**. The allegations in the **charge sheet are read, translated and explained to the juvenile in the language in which she/he understands**. The juvenile is asked whether or not he or she admits to the offence in the charge sheet. The juvenile's lawyer, parent, guardian or a probation officer may examine the charge sheet at any stage of the proceedings.

When the juvenile admits to committing the offence, the implications of the admission are explained to him or her. The court will order a **Social Enquiry Report to be prepared for sentencing**. The juvenile offender may be released to the parents or guardian, a fit person or committed to a remand home, pending sentencing. Since deprivation of liberty is a measure of last resort for juveniles, probation officers must diligently work to find alternatives to keep the child out of remand.

When the Social Enquiry Report (SER) is presented to the court, the content is made known to the child and his/her legal representative, if any. The court considers the SER and makes appropriate orders. Where the offence is not a serious one, the juvenile offender may be diverted from the criminal justice system, with or without conditions. The court may also make orders against the relatives of the juvenile offender for the payment of damages and/or require them to give security for the good behaviour of the juvenile offender. The juvenile may also be discharged unconditionally or the court may release the juvenile on probation. As well, the juvenile offender may be committed to a fit person, made to pay a fine, damages or costs, or sentenced to a correctional facility for serious or repeated offences.

When the juvenile denies the charges against him/her, the panel invites the prosecutor to prove his case and the child, through his/her lawyer, if any, also opens its defence. The lawyer for the juvenile may be allowed to cross examine the prosecution witnesses. The juvenile may also be cross examined by the prosecutor. At the end of the trial, the court gives its verdict and imposes an appropriate sentence on the juvenile offender, after considering the SER. The juvenile may also be acquitted and discharged.

#### 2.4.4 Procedure at the Family Tribunal

As discussed earlier, the family tribunal adjudicates matters concerning paternity, custody, access and maintenance of children. The court is composed of a magistrate plus not less than two and not more than four members, one of whom shall be from the Department of Social Welfare. The Tribunal also sits in camera and excludes persons who are not associated with the case. In effect, only members or officers of the Tribunal, parties to the case before the Tribunal, their lawyers or witnesses and other persons directly concerned with the case, parents or guardians, as well as probation or social welfare officers or any other person the court authorises to be present (S. 36 Children's Act) are entitled to attend. The Tribunal is required to sit in either a different building or a room other than where other court sittings are held or on days different from those which other court sittings are held.

The procedure at the Tribunal is supposed to be as informal as possible. The Tribunal is required to be less adversarial and more inquisitorial is its procedure. Children's rights are guaranteed at the Tribunal. They have the right to legal representation. They equally have the right to express their opinions at the Tribunal during sittings and the child's right to privacy shall be respected throughout proceedings. The court is required to explain the right to appeal to the child, guardians and parents when decisions are made.

All persons present are prohibited from disclosing and publishing information that may lead to the identification of a child in any matter before the Tribunal, a breach of which attracts punishment.

#### **Maintenance Cases**

When a person applies for maintenance, a hearing notice is served on the party involved. The person who applies is referred to as the **Applicant** and the person against whom the application is made is called the **Respondent**. On the day of the hearing, the Court Clerk invites the parties into the chamber where the hearing takes place. She/he informs the panel about the parties who are present.

The magistrate asks the respondent if he or she has received the documents regarding the case. The court also uses its own records to confirm service of the documents on the respondent. The magistrate also asks the respondent if she/he knows why she/he is in court. This is explained to the respondent in the language that she/he understands.

The respondent is allowed to respond orally through an affidavit at a later time. When the respondent provides a response immediately, the panel evaluates the response and makes appropriate orders. Where the respondent offers to respond through an affidavit, the case is adjourned and time given to him/her to respond. The panel then evaluates the response and makes appropriate orders at the next hearing.

Where there is a contention as to whether or not the respondent is adequately maintaining the child, the court evaluates the adequacy or otherwise of the maintenance and makes appropriate orders. When the respondent contends that he or she does not have the wherewithal to maintain the child, the Tribunal orders a Social Enquiry Report to ascertain the economic status of the parties. The Social Enquiry Report is read by the magistrate at the next hearing. A party who seeks to correct any misrepresentation in the report is allowed to do so before the Tribunal considers it in making its orders.

### ***Custody Cases***

Where application is made with respect to custody, a hearing notice, together with the necessary documents, is served on the respondent to appear in court on the stated date. On the day of hearing, the court clerk calls the parties into the magistrate's chamber. The magistrate asks the respondent whether or not she/he has received the documents and if she/he knows why she/he is in court. The reason may be explained to the respondent in the language that she/he understands.

The respondent is given the opportunity to respond orally or by affidavit. Where the respondent makes an oral submission, the Tribunal evaluates it and, where appropriate, orders a Social Enquiry Report. The SER is read by the magistrate at the next hearing. When a party wishes to make any corrections to the SER, she/he is allowed to do so. The Tribunal then proceeds to make appropriate orders.

### ***Access Cases***

When a party applies for access to a child, a hearing notice and relevant documents are served on the respondent. On the day of the hearing, the Clerk invites the parties into the magistrate's chamber. The respondent is asked if she/he has been served with the relevant documents and if she/he understands the reason why she/he is in court. If not, this is explained to the respondent in the language s/he understands. The respondent is then given the opportunity to respond.

Where there are allegations about an unconducive environment or any other reasons why the respondent is denying access to the child, the Tribunal orders a SER. When the SER is submitted to the Tribunal, the magistrate reads the report at the next hearing. Parties are allowed to make corrections to the report that relate to them. Then, the Tribunal makes appropriate orders based on the report.

### ***Determination of Paternity***

When a case requesting determination of paternity comes before the Tribunal, a hearing notice is served on all the parties involved. On the day of the hearing, the parties are invited into the magistrate's chamber by the Court Clerk. The respondent is asked by the magistrate whether or not he has received the necessary documents related to this. The court also confirms the service of the documents on its records. The respondent is asked if he understands why he is in court. This may be explained to the respondent in the language that he understands. He is then asked if he has anything to say in response.

Where the child is unborn, a temporary maintenance order is made and the case is adjourned. The parties may be asked to report to the Tribunal at stated dates in order to confirm whether or not the order is being complied with. Once the child is born, the Tribunal orders a paternity test. When the report is ready, it is brought to the Tribunal, opened and read by the magistrate in the presence of all the parties. The magistrate explains the implication of the report and makes appropriate orders. Parties are asked to get copies of the report from the Registrar.

### ***Care Orders***

The Tribunal also makes care orders to enable the DSW to place the child in the care of an approved fit person, the home of parent, guardian or relative or an approved residential home. Care orders may be made to remove a child from a situation where a child is suffering or likely to suffer a significant harm. In this case, parental rights are transferred to the DSW. An application is made to the Tribunal and supported with an affidavit and a Social Enquiry Report. The Tribunal makes the care order based on the evidence provided in the affidavit and SER.

### ***Supervision Orders***

When the DSW has reasonable grounds to suspect child abuse or the need for care and protection, the Department, with the support of the police, may enter the premises where a child is held to investigate the matter. The child may be removed and placed in the custody of the DSW. The DSW then applies for a Supervision Order to the Family Tribunal through a motion, an affidavit and a Social Enquiry Report. Based on the evidence found therein, the Tribunal makes a Supervision Order by placing the child under the supervision of DSW while having the child remain with the parents. This order empowers the probation officer to visit the home of the child regularly to monitor and prevent any harm from being caused to the child.

Children may be interviewed by the probation officers as part of the investigation to produce a Social Enquiry Report for submission to the Family Tribunal. In matters related to custody and access, the opinions of older children are to be sought before recommendations are made. Nonetheless, the Tribunal makes its ultimate decision in the best interest of the child. Children may also serve as witnesses during proceedings if a matter is within their personal knowledge and they are capable of making coherent expressions as to be understood. They must also understand the duty to tell the truth as witnesses. For instance, when there is a dispute on an issue between their parents, those who have personal knowledge of the issues may be called to testify. It is worth noting that children should not be put in the position of having to choose between one or another parent in front of them, nor should a child be asked to tell which parent is telling the truth while in front of them both. Asking a child to do so can cause significant trauma, guilt and psychosocial problems.

### 3. Understanding the Child

In order for probation officers to carry out their important duties relative to children in contact with the law, they must have a clear understanding of how children develop, what factors in their lives make them vulnerable and what factors protect them. This section should help probation officers understand why children require specialised measures as compared to adults.

#### 3.1 Child Development

##### 3.1.1 Background

It is evident that children “develop” given that they come into the world as small beings who know the world in limited ways, with little or no understanding of other people as separate from them, and no understanding of social relations or morality. They grow larger, learn about the physical and social worlds, join different social groups and cultivate an increasingly complex sense of right and wrong. Those who interact with children regularly, such as teachers, child psychologists, social workers and paediatricians, use the term “development” as a way to understand the child’s status and determine appropriate practices for interacting with them. Child development refers to the progressive stages that children go through in their physical, psychological, social, cognitive and moral growth on their journey to adulthood.

Development may be either qualitative or quantitative. For example, increases in height, weight, creativity, activity level and vocabulary are quantitative changes; that is, they are directly measurable. Progression toward mature thinking and the integration of complex physiological and psychological processes are qualitative changes; in other words, it is more difficult to gain an exact measure of these changes since the changes are not visible, but they are still noticeable. We see both types of change when children’s shoes no longer fit, when they run faster and jump higher, when their increased proficiency in language helps them control their surroundings and their behaviours in a more accomplished manner and when old toys and games lose their fascination in favour of new friendships and increased social contacts.

| Age               | ASPECTS OF CHILD DEVELOPMENT RELEVANT TO PROBATION WORK           |                                                                                                                               |                                                                                                                                                                      |                                                                                                                                                                                                                  |                                                                                                                                                                              |
|-------------------|-------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                   | Physical Development                                              | Cognitive Development                                                                                                         | Social/ Emotional Development                                                                                                                                        | Moral Development                                                                                                                                                                                                | Relevance to Probation Officer                                                                                                                                               |
| 0-17 months       | Must be held                                                      | 20 word vocabulary, mostly nouns                                                                                              | Totally dependent upon caregiver for fulfillment of all needs.<br><br>Does not respond to sharp discipline, scolding or persuasion                                   | No sense of right or wrong                                                                                                                                                                                       | Highest protection needs; must have caregiver                                                                                                                                |
| 18 months – 3 yrs | Can walk<br><br>Bladder and bowel control developing or developed | Speaks phrases and simple sentences                                                                                           | Almost completely dependent on caregiver for needs.<br><br>Imitates caregiver, adults                                                                                | Beginning to learn about wrong and right                                                                                                                                                                         | High protection needs; must have caregiver                                                                                                                                   |
| 3-5 years         | Has refined motor skills                                          | Cause and effective understood relative to own needs, not others<br><br>1500-2000+ word vocabulary<br><br>Asks many questions | Can be physically away from caregiver.<br><br>Imitates adults.<br><br>Easily overwhelmed by feelings.<br><br>Responds to praise.<br><br>Tests authority and resists. | Prefers peers to adults in later stage.<br><br>Relatively unformed conscience.<br><br>Protects self and stands up for own rights.<br><br>Concerned with reward and how to get it.<br><br>Understands punishment. | Child must tell truth and not what she/he thinks the adult wants to hear.<br><br>Do not praise or compliment the child when asking questions since this will skew responses. |

| Age         | Physical Development                                                                                      | Cognitive Development                                                                                                                                                                 | Social/ Emotional Development                                                                                                                                                                                                                                     | Moral Development                                                                                                                                                                                                     | Relevance to Probation Officer                                                                                                                                             |
|-------------|-----------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 6-11 years  | <p>Fine motor coordination is well developed.</p> <p>Can rarely sit still for longer than 15 minutes.</p> | <p>Asks fact-oriented questions: why and how.</p> <p>Speaks fluently.</p> <p>Understands cause and effect relationship.</p> <p>Writes full sentences.</p> <p>Learns to tell time.</p> | <p>Anxious to please others.</p> <p>Very sensitive to praise or blame.</p> <p>Can identify what she/ he is feeling but cannot modulate feelings.</p> <p>Sensitive to criticism, especially in front of others</p>                                                 | <p>Concerned about right and wrong.</p> <p>Begins to experience conflict between values of parents and peers.</p> <p>Has developed strong sense of fairness</p>                                                       | <p>Do not ridicule, tease or make fun of child.</p> <p>Do not show doubt, anger or disappointment.</p> <p>If child has confidence undermined, she or he may shut down.</p> |
| 12-15 years | <p>Begins to develop sexual characteristics.</p> <p>Girls begin puberty.</p> <p>Growth spurts.</p>        | <p>Able to think and reason.</p> <p>Understands things that cannot be seen, heard or touched.</p> <p>By 15 yrs, abstract thought is almost fully developed.</p>                       | <p>Has close friendships and emotional involvements.</p> <p>Develops independence.</p> <p>Often has mood swings.</p> <p>Part child, part adult.</p> <p>Increased conflict with parents, keen for peer acceptance.</p> <p>More stable view of self and others.</p> | <p>Challenges values at home, favouring peer values.</p> <p>Develops personal morality code.</p> <p>Conformity with behaviour of others (peers) more important than inherent rightness or wrongness of behaviour.</p> | <p>Be respectful, patient and understanding as adolescents may challenge authority as a phase of self-assertion.</p> <p>Establish authority firmly but gently.</p>         |

| Age         | Physical Development                                                                                                              | Cognitive Development                                                                                                                                                           | Social/ Emotional Development                                                                                                                                                                         | Moral Development                                            | Relevance to Probation Officer                                                                                                 |
|-------------|-----------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|
| 16-18 years | New personal hygiene needs – razors and menstrual pads.<br><br>Sexual characteristics and drive almost fully developed at 18 yrs. | Advanced reasoning.<br><br>Strong abstraction.<br><br>Can think about feelings and thoughts and how others perceive him/her.<br><br>Makes and follows through on own decisions. | Full self- consciousness.<br><br>Less conflict in family relations.<br><br>Establishing autonomy and independence.<br><br>Identity formation beginning.<br><br>Attention still directed toward peers. | Lives by own principles of what constitutes right and wrong. | Child may be very challenging in seeking separation from adults.<br><br>Maintain patience and understanding, but be assertive. |

3.1.2 Age of Criminal Responsibility in Relation to Child Development

The minimum of age of criminal responsibility refers to the age below which all children are deemed legally incapable of committing a crime. Consequently, they are exempt from criminal liability and cannot be prosecuted or penalised. In Ghana, children are not considered criminally liable for their actions until the age of **12 years**, according to the Juvenile Justice Act. There are circumstances where children between 6 and 11 years have come into conflict with the law and probation officers are asked to intervene. In these situations, the child can be provided with age-appropriate counselling to correct antisocial and inappropriate behaviours. If a Child Panel or community-based justice process is operational, these can be engaged in restorative justice practices with the child and his/her family. Finally, there is “voluntary supervision”, when a probation officer uses an adapted probationary supervision process to guide and monitor the child.

3.1.3 Interrupted or Uneven Child Development

For a child to develop into a fully rounded, confident, responsible and healthy adult, there is a need for a **trusting, caring and stable environment**. Any disruption of the environment will affect the child’s development. Children require stable relationships with their primary caregivers, usually parents. Moreover, all children have basic physiological, social and emotional needs, which must be met to ensure healthy development. Some needs are shared in common with adults, but others are specific to particular ages and stages during childhood. For example, very young children have

a particular need for consistent, secure patterns of care and nurturing, although these needs can be adequately met through a wide range of family and care systems. With regard to physical and cognitive development, children need to be provided with proper levels of feeding/nutrition, care, protection, stimulation and education. Having a supportive family, love, protection from neglect and emotional abuse are preconditions for better emotional development. Regarding proper moral development, children need positive role models, positive and consistent discipline in a loving context and direction provided as to good and bad behaviours. Lack of these conditions leads children to abnormal development. If a child does not grow up in a kind, loving and supportive environment, his/her emotional and moral development will be less advanced than other children, who will have better opportunities.



### 3.1.4 Effects of the Environment on the Child

The **more difficulties a child has to encounter during his or her development, the more risk there is for the child to develop a negative identity in the present and future.** For instance, children who encounter neglect or exploitation, or who have been exposed to violence and abuse may not develop a proper level of self-esteem, tolerance, competence and positive problem solving skills. They are also more likely to develop attitudes and behaviours that could lead them to commit crime and possibly be more prone to further abuse and/or exploitation.

- Without sufficient nutritious food, a child will not develop properly physically.
- Without adequate stimulation or education, a child's cognitive development will be impaired.
- Without a loving, consistent and supportive environment, a child's emotional and moral development will be diminished.

3.1.5 Risk and Protective Factors in Children’s Lives

A **risk factor** is anything that increases the probability that a person will suffer harm. A **protective factor** is something that decreases the potential harmful effect of a risk factor.

In the context of children and youth involved or at risk of involvement with the juvenile justice system, risk factors can be considered to be those conditions or variables associated with a higher likelihood of delinquency and/or juvenile justice system contact; whereas, protective factors are those conditions which lessen this likelihood. Risk and protective factors for juvenile offending have been identified in several domains:

- Individual
- Family
- Peers
- School, neighbourhood, and community

| Category   | Risk Factors                                                                                                                                                                                        | Protective Factors                                                                                                                                                                                |
|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Individual | <ul style="list-style-type: none"><li>• Early antisocial behaviour and emotional factors such as low behavioural inhibitions</li><li>• Poor cognitive development</li><li>• Hyperactivity</li></ul> | <ul style="list-style-type: none"><li>• High intelligence</li><li>• Positive social skills</li><li>• Willingness to please adults<sup>8</sup></li><li>• Religious and club affiliations</li></ul> |

8 It is worth noting that a desire to please adults may also be used against a child by an exploitative adult.

| Category | Risk Factors                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Protective Factors                                                                                                                                                                                                                                                                                                                                                  |
|----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Family   | <ul style="list-style-type: none"><li>• Inadequate or inappropriate child upbringing practices,</li><li>• Home discord</li><li>• Maltreatment and abuse</li><li>• Large family size</li><li>• Parental antisocial history</li><li>• Poverty</li><li>• Exposure to repeated family violence</li><li>• Divorce</li><li>• Parental psychological problems</li><li>• Teenage parenthood</li><li>• A high level of parent-child conflict</li><li>• A low level of positive parental involvement</li></ul> | <ul style="list-style-type: none"><li>• Participation in activities shared by family</li><li>• Providing the forum to discuss problems and issues with parents</li><li>• Availability of economic and other resources to expose youth to multiple experiences</li><li>• The presence of a positive adult (ally) in the family to mentor and be supportive</li></ul> |
| Peer     | <ul style="list-style-type: none"><li>• Spending time with peers who engage in delinquent or risky behaviour</li><li>• Gang involvement</li><li>• Less exposure to positive social opportunities because of bullying and rejection</li></ul>                                                                                                                                                                                                                                                         | <ul style="list-style-type: none"><li>• Positive and healthy friends to associate with</li><li>• Engagement in healthy and safe activities with peers during leisure time (e.g., hobbies, clubs, sports other recreation)</li></ul>                                                                                                                                 |

| Category             | Risk Factors                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Protective Factors                                                                                                                                                                                                                                                                                                                  |
|----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| School/<br>Community | <ul style="list-style-type: none"> <li>• Poor academic performance</li> <li>• Enrollment in schools that are unsafe and fail to address the academic, social and emotional needs of children and youth</li> <li>• Low commitment to school</li> <li>• Low educational aspirations</li> <li>• Poor motivation</li> <li>• Living in an impoverished neighbourhood</li> <li>• Social disorganisation in the child's community</li> <li>• High crime neighbourhoods</li> </ul> | <ul style="list-style-type: none"> <li>• Enrollment in schools that address not only the academic needs of youth but also their social and emotional needs and learning</li> <li>• Schools that provide a safe environment</li> <li>• A community and neighbourhood that promote and foster healthy activities for youth</li> </ul> |

Remember:

- No single risk factor leads a young person to delinquency and even multiple risks may not result in antisocial or criminal behaviour.
- Risk factors do not operate in isolation and typically are cumulative - the more risk factors that a child or youth is exposed to, the greater likelihood that she or he will experience negative outcomes, including delinquency.
- When the risk factors that a youth is exposed to cross multiple domains, the likelihood of offending increases at an even greater rate.
- Different risk factors may also be more likely to influence youth at different points in their development. For example, peer risk factors typically occur later in a youth's development than individual and family factors.
- Because risk and protective factors are dynamic in nature, service providers and agencies should adopt ongoing assessments of these conditions.

While youth may face a number of risk factors, it is important to remember that everyone has strengths and is capable of being resilient. All children and families have individual strengths that can be identified, built on, and employed to prevent future delinquency and justice system involvement. In recent years, studies of juvenile delinquency and justice system involvement have increasingly examined the impact of these strengths (protective factors) on youth's ability to overcome challenges and thrive.

When supervising a child, probation officers will work with children and families, as well as key service providers, to help mitigate the child's risks and strengthen his/her protective factors.

### 3.1.6 Key Principles for Interacting with Children

There are special principles and procedures to be followed when considering and interacting with children. Probation officers should know and strictly apply these principles and procedures. The principles to be followed include five guiding principles from domestic legislation and policy, which are also reflected in international legal norms.

**a. Best interests of the child** - treat each child as unique and special since no two will be alike, since his or her development and understanding will be based on a unique environment. Protection and probation services must be tailored to the specific needs of each child.

**b. Be child-friendly** - remember that children are different from adults. Be patient and understand that the child may not see the situation in the same way as you do. Explain very carefully what is happening at all times. Use simple language and words that the child understands; be age-appropriate. Verify that the child has understood by getting him or her to repeat the information back to you.

**c. Non-discrimination** - do not assume that a child living and working in the street has achieved "adult" levels of emotional and moral development because of the way he or she looks and acts. Treat them the same way you would a middle or upper income child. All children, no matter their background, deserve to be treated in the same way – with respect, kindness and regard for their rights.

**d. Choices** - understand the choices that the child has made within the limits of his or her particular developmental context and work to expand those choices so as to have a positive, rather than a negative, impact on the child's development. Probation services should strengthen a child's protective factors and work to reduce risks and vulnerabilities.

**e. Diversion and restorative justice** - avoid the use of detention and employ a restorative justice approach which offers guidance and opportunities to further a child's moral development and encourages him or her to take responsibility for behaviour and actions. Such an approach is much more likely to result in rehabilitation and reintegration of the child



# **SECTION B:**

## **PROBATION OFFICER DUTIES**

## 4. Interacting with Juveniles and Children in Justice Processes

Probation officers have regular interactions with juveniles who come before the courts, with child victims and witnesses who are party to a juvenile court process and with children who come into conflict with the law and are taken to police stations. Guidelines for probation officers to communicate with children in each of these circumstances are outlined below.

### 4.1 Juveniles in the Courts

When a probation officer is present in either Juvenile Court or the Family Tribunal (or any other court), she or he must consider the **best interest of a child**, taking into account community safety and the needs of the victim when the child is a juvenile offender and considering the health, development, safety and protection of both the juvenile and a child who is affected by a criminal offence or a family dispute. At all times, a probation officer must treat children with **professionalism, care, fairness and respect**. In all interactions and communication with children, probation officers should **adapt their approach and language to the child's stage of development**, including simplifying legal language so that the child understands.

Remember that children **below the age of 12 years at the time of the commission of an offence are deemed incapable of committing a crime and cannot be subject to criminal proceedings.** (1992 Constitution; Children's Act) The court may request the assistance of a probation officer to confirm or determine the age of a child (Sect. 343 (1) Criminal Procedure Code) Evidence to prove a child's age can include:

- a. a birth certificate;
- b. school records;
- c. baptismal certificate or other religious documents;
- d. statements from the child's parents, relatives or community leaders; and
- e. medical examination. Note that medical examinations are costly, time-consuming, and cannot definitely prove a child's age, so they should be requested only as a last resort when no other reliable information is available to confirm the child's age.

There are circumstances where children between 6 and 11 years have come into conflict with the law and probation officers are asked to intervene. In these situations, the child can be provided with age-appropriate counselling to correct antisocial and inappropriate behaviours. If a Child Panel or community-based justice process is operational, these can be engaged in restorative justice practices with the child and his/her family. Finally, there is "voluntary supervision", when a probation officer uses an adapted probationary supervision process to guide and monitor the child, but this is not compulsory and the child and family can opt out anytime.

When a probation officer is in court and a juvenile's case is to be heard, she or he should follow these guidelines:

#### 4.1.1 **Introduce yourself** to the child and parent or guardian, if one is present, and **explain your role**. For example:

*My name is Rasheed and I am a probation officer? Have you heard about probation officers before and do you know what we do? Our job is to help the court/judge make decisions about what is best for you. We could be asked where the best place is for you to stay while you wait for your case to be heard by the court, or we could be asked to help the court understand what would be the best thing to do if you are found guilty of the offence. Do you have any questions?*

4.1.2 If the child is unaccompanied, you should introduce yourself as above and begin **tracing family** or guardians as soon as you are able, by **finding out the name of the child's guardian or parent and how you can contact him or her**. If it is possible to contact a parent/guardian immediately by phone, make every effort to reach them. It is your role to stand in for a parent/guardian who is not present in court with the child. This means that you should stand with the child and follow the guidelines below.

4.1.3 **A child without family or guardian accompaniment should not be discriminated against** when deciding whether to release or hold a child in remand until his or her case can be heard. You may need to identify a **fit person** or extended family member who can care for the child until his or her next court date and/or begin the process of **applying for a care order** if the child is without, or with insufficient, parental care. You may be required to prepare a motion for temporary guardianship of the child. Holding a child in **remand should be a last resort**, as it is rarely in the child's best interest and custody has detrimental consequences for the child's harmonious development and hampers his or her reintegration into society (*Juvenile Justice Act, 2003 (Act 653) sect. 21*). That said, there are rare circumstances where a child would be in danger if he or she were to return to his/her community. In these instances, if a fit person or relative outside of the community cannot be found, remand is an option.

4.1.4 The child and his or her family/guardian must **be informed of the rights of a juvenile** in court (*Juvenile Justice Act, 2003 Act 653 Sect. 3 & 22*). These include the right to:

- a. **Be informed of the charges against him/her in a language he/she understands, including the right to read the arrest warrant at any time;**
- b. **Remain silent;**
- c. **Have a parent, guardian, close relative or probation officer present at the proceedings;**
- d. **Legal representation; and**
- e. **Legal Aid.**

If a child and his or her family need assistance to secure legal representation or legal aid, help them as much as you can. It is well known that some children plead guilty and are sentenced

by the Juvenile Court without the assistance of either a lawyer or a parent/guardian. Because of their limited education and maturity, children are not able to fully defend and protect their rights. **Legal representation ensures that children present their best defence, do not plead guilty in circumstances where they have a valid legal defence and are able to challenge evidence put forward by the prosecutor**, as needed. Early intervention by a legal aid lawyer may also facilitate family tracing and identification of an appropriate family member to take custody of the child pending trial.

The right to **confidentiality and the protection of a child's personal data** must always be upheld by probation officers who should never speak to the media or anyone else outside of the court about the child and his or her case. A child also has the **right to be heard** by prosecutors and judges pre-trial and this continues throughout the stages of adjudication and disposition, including the implementation of the imposed measures (*Justice for Children Policy, 2015*).

4.1.5 If the court finds the juvenile guilty of the offence, through plea or trial, and requests a **Social Enquiry Report, advise the child and family** of what that entails. For example:

*In order that the court makes the best decision possible in helping to set you on a better path, I have been asked to carry out an assessment. What this means is that I will interview you, your parents/guardian and come to your home. I will interview the person most affected by your offence and perhaps your teachers and other members of your community that we will agree upon in advance to collect other information about your interests and things you do well. These interviews and the collection of information will help the court to decide what you will do to atone for the offence you have committed and how you can be helped and supported to make good choices in the future. Do you have any questions?*

4.1.6 The child, if able to read and understand the report, along with his or her family/guardian and his or her legal representation should **receive the Social Enquiry Report in advance of the sentencing**. This protects the rights of the child, his/her family and the lawyer to clarify and refute, if necessary, any components of the report.

4.1.7 Once the court pronounces a sentence, you should **explain the sentence and what it will entail to the child and his or her family/guardian**. Children who are represented may have their lawyer attend to this, but if not, you should explain what **probation** will mean, what an **absolute discharge or discharge without conditions** will mean, what a **custodial sentence** will mean and **any other sentence** determined by the court. Juveniles have the **right to appeal to the High Court** and they, along with their parents/guardian should be routinely informed of this right at the time of judgment.

If the court imposes probation, the probation officer will prepare a **Probation Order**, along with a plan for the juvenile offender and his/her family or guardian for the duration of the order, usually

between six and 18 months. In circumstances where the court orders that the child be committed to a fit person, as opposed to a family member, probation may extend to three years or until the offender reaches the age of 18.

The probation officer will need to **meet as soon as possible with the juvenile offender and his/her family to make sure they understand the contents of the probation order** and agree to the terms, as well as soliciting their input to finalise a case plan for the offender. If convenient, the probation officer should serve the probation order right at court and set a meeting with the juvenile offender and his/her family or guardian for as soon as possible to plan for the supervision.

Ghana's Justice for Children Policy, 2015, establishes that the Child Panels, which have never been fully operational, will give way to community-based justice processes for children as a form of diversion from the courts and the police stations. The District Assembly Social Welfare and Community Development Departments will be responsible for overseeing community-based services to support children's social reintegration. District probation officers and social welfare officers will work closely with local communities in order to increase community involvement in children's rehabilitation and reintegration and to improve the quality of supervision and support services available to children and their families. Once these processes are elaborated and operational, probation officers will be referring, working with and overseeing community justice for juveniles.

If the juvenile offender is sentenced to detention in a corrections centre, the court will prepare a **Detention Order** which will accompany the child to the centre. It is common practice for the probation officer's **Social Enquiry Report** to accompany the Detention Order to the corrections centre.

## 4.2 Children as Victims or Witnesses in the Court

Sometimes, children who have been victimised by and/or witnessed the offence the juvenile committed are also present in court and they **require the attention of a probation officer if no other social welfare officers are present**. Insofar as possible, a probation officer should ensure that child victims and their alleged offenders are **not seated together** so that the victim does not feel threatened, intimidated or re-traumatised by proximity to the juvenile. Use of **child-friendly rooms** to support child victims and witnesses can help to keep them calm before they are called to the court. If no child-friendly room is available, **try to find another holding space** for the child and his or her family so that they do not need to be in court until testimony is required.

A probation officer should ensure that all child victims and/or witnesses are **accompanied by an adult family member or guardian or a next friend**. If a child is alone in the courtroom, immediately contact another probation officer or social welfare officer to be present with the child. If a child victim requires care or support while in court, probation officers should do what they can to assist,

including offering on the spot trauma care, if needed, and referring the child and his/her family or guardians to appropriate follow up care. The Justice for Children Policy, 2015, emphasises the importance of courthouse victim services and it is expected that these will be developed in future to provide court support and infrastructure to all victims, child and adult.

A child also has rights at Family Tribunals when custody and access or other types of family-related cases are being deliberated, including the following:

- (1) **A child shall have a right to legal representation at a Family Tribunal.**
- (2) **A child shall have a right to give an account and express an opinion at a Family Tribunal.**
- (3) **A child's right to privacy shall be respected throughout the proceedings at a Family Tribunal.**
- (4) **The right of appeal shall be explained to the child, guardian and parents.** (sect. 38 Children's Act, 1998 (Act 560))

While child victims and their families have limited access to legal aid, which is available only to persons charged with an offence, a lawyer can defend and protect the child victim's rights in criminal proceedings and assist with claims for compensation. There are some NGOs in Ghana offering pro bono legal services to child victims. Probation officers should prepare a list of organisations in their region that can assist such a child in court.

All child victim cases reported to the police must be referred to the district Social Welfare and Community Development Department for appropriate follow-up in accordance with the Child and Family Welfare Policy, including arrangement of appropriate, temporary safe shelter. A comprehensive set of procedures to support child victims and witnesses in legal processes is outlined in the Justice for Children Policy, 2015, some of which will apply to probation and social welfare officers, but are not yet operational.

Section 39 of the same Act **forbids the release or publication of any information that may lead to the identification of a child** in any matter before a Family Tribunal except with the permission of the Family Tribunal. Probation officers should always maintain the confidentiality of information related to or identifying a child who is an interested party in processes at the Family Tribunal.

#### 4.3 Juveniles at the Police Station

In line with section 13 (2) of the Juvenile Justice Act and the Ghana Police Service's *Standard Operating Procedures for Handling Children in Conflict with the Law*, police officers must ensure that a **probation officer is present for the questioning of a juvenile if she or he is unaccompanied by a parent or guardian or if the police believe it is not in the best interest of a juvenile to have**

**his or her parent/guardian present** for the interview. Probation officers who are called to a police station for this purpose will act to **protect the rights of the juvenile** during the interview, as well as **tracing family** or guardians, as needed, and **identifying fit persons** in the community who might care for and supervise a child without parental care who is arrested by the police.

Remember that a child must be informed of the following rights to which she/he is entitled:

- a. **To be informed of the charges against him/her in a language he/she understands, including the right to read the arrest warrant at any time;**
- b. **To remain silent;**
- c. **To have a parent, guardian, close relative or probation officer present at the proceedings;**
- d. **Legal representation; and**
- e. **Legal Aid.**

Moreover, in all interactions and communication with children in conflict with the law, police officers, like probation officers, must adapt their approach to ensure the child's physical safety and to take into account his or her young age. For police, this includes minimising the use of force, not using handcuffs except in exceptional circumstances, adopting a more friendly tone, using simple language and explanations in words that the child can understand, and not using harsh, coercive

or abusive tactics. The police service will also take measures to ensure that police stations provide privacy to children in conflict with the law, and that a physical space is adapted to accommodate children and create a more welcoming environment, such as using lower furniture and desks and less formality, child-friendly colours, posters, toys and books, for example. Probation officers should monitor the police to ensure that they are following these procedures.

In the **police station**, children are protected by:

- The right to safety at all times;
- The presumption of innocence before trial;
- The right to be treated with respect in all interactions;
- The right to be treated in a manner in accordance with the rule of law;
- The right to participate with the child's views and opinions given due weight on the basis on his or her maturity; and
- The right to confidentiality and the protection of a child's personal data in accordance with law.

Probation officers should **ensure that these rights are upheld** and advocate strongly for the child if police do not respect their legal responsibilities toward children, as well as ensuring that they are meeting their rights obligations with respect to the child. In many respects, a probation officer is acting as the child's advocate when she or he is in police custody, just as a parent or lawyer would do if they were present. Keep this in mind while accompanying the child.

It is also essential that probation officers are aware of the options police officers have to deal with a child who has committed a minor offence and is a first time offender. The Juvenile Justice Act (sect. 12) directs police officers to give an **informal or formal caution instead of arresting a juvenile** when it is in the best interest of the child to do so. Probation officers can help advise police when this is appropriate.

Juveniles under arrest should also be **released by the police on self-recognizance or recognizance** entered into by a parent, guardian, close relative or other responsible person, with few exceptions (*sect. 14, Juvenile Justice Act*). Probation officers may help the police to locate family of the child who can take him or her in. If the police must detain a juvenile at the police station, they must never be placed in cells with adults and males should always be held separately from females. Police detention is an option of last resort and for the minimum period necessary. Child-friendly holding rooms would be a better option than cells. Probation officers need to be informed and hold accountable police in their interactions with children.

## 5. Guidelines and Ethical Considerations in Preparing SERs for the Court

Probation officers are expected to conduct investigations for the court in order to make professional assessments about children's backgrounds, family environment, best interests and, in the case of juvenile offenders, to determine the nature and causes of a person's offending behaviour and what can be done to reduce his or her chances of re-offending. Probation officers conduct investigations to prepare three different reports: one for Family Tribunals entitled, **Social Enquiry Report for Family Tribunal**, another for the Juvenile Court – **Social Enquiry Report for Juveniles** and a third investigation to write a **Social Enquiry Report for a Care Order (or a Supervision Order)**, which may be undertaken for either a juvenile without proper parental care or a child in other circumstances who is in need of protection. Care and Supervision Order applications are most often filed in the Family Tribunal, the Gender-based Violence Court and sometimes, in other courts such as the Juvenile, Circuit or High Courts.

Juvenile, Family and other courts deal with different types of cases that impact on the rights and interests of children, including:

- Disputes between parents relating to custody, access and maintenance of children;
- Proceedings relating to guardianship or adoption;
- Applications for a Care Order or a Supervision Order to ensure proper adult supervision and care;
- Disputes related to property or inheritance; and
- Criminal cases where a juvenile is accused of an offence.

In each of these circumstances, the court's decision has a significant impact on children's daily lives, including where they will live and go to school; their employment if they are working; their relationship with parents, siblings and other family members; long term care; future opportunities and their development.

Because probation officers are **responsible for the protection of children** who come before the courts, they must ensure that they work in conjunction with the courts and other justice actors to uphold the rights of the child in any legal process. **Social Enquiry Reports are statutory requirements** that the court must consider in its deliberations, including providing written reasons when it does not follow the recommendations in the report. It is important that the reports be **thorough, factually accurate and unbiased**. This section provides guidelines for writing reports, as well as delineating some of the ethical standards to which probation officers are held.

## 5.1 Guidelines and Ethical Considerations in Preparing SERs

In addition to upholding and protecting the rights of the child and his/her best interests in legal proceedings, probation officers are guided by legislation and policy in Ghana which requires that:

- In all actions undertaken by the courts, the **best interest of the child** shall be a primary consideration. This means that probation officers must be guided by what is best for the child, both during the investigation for reports and the recommendations therein, and where the interests of the child conflict with that of other parties to the civil proceedings, a larger weight must be attached to what is best for the child.
- Children who are capable of forming their own views must be provided **the opportunity to be heard** in any investigation into proceedings that have an impact on them. This right to be heard applies both to civil cases where the child is a direct party to the proceedings, as well as cases initiated by others which affect the child, such as adoption or disputes relating to children's care or custody. This right equally applies to children in conflict with the law. Probation officers should never complete a report for the court without speaking with the child affected.
- Because of their limited maturity and capacity, children should be **supported and assisted by a parent, guardian and/or other legal representative** to ensure the best outcomes for them in court. Children also have the right to their own lawyer, in their own name, in civil proceedings where there is, or could be, a conflict of interest between the child and his/her parents.<sup>9</sup> Probation officers must never hinder this right and should actively assist children without representation to acquire it.
- In order to exercise their right to participate and express their views, children must be **given information about their rights, the case they are involved in, the options available to them and the possible consequences of those options**. When conducting investigations, probation officers must provide this information in a manner adapted to their age, maturity and circumstances and conveyed in a language they understand.
- Children are **protected against discrimination** on the grounds of gender, race, age, religion, disability, health status, custom, ethnic origin, rural or urban background, socio-economic status or because the child is a refugee. (*sect. 3 Act 560*) This means that probation officers must use a language the child understands and treat all children, no matter their background or

9 UN General Assembly Resolution A/HRC/25/L.10 on Rights of the Child: Access to Justice for Children, para 11; Guidelines of the Committee of Ministers of the Council of Europe on Child Friendly Justice, para 37-40; UN Guidelines and Principles on Access to Legal Aid, Art 53.

circumstance, equally, with compassion, professionalism and respect.

- A child's right to **privacy** shall be respected throughout the proceedings in any court and no information should be offered or published that could lead to the identification of a child in any matter before the courts. Probation officers are accountable for confidentiality and must be careful in what they disclose to other service providers, community members, family members and others when conducting investigations. Records to the courts must also be kept confidential.
- The **right of appeal** exists for the child, guardian and parents and probation officers must ensure that each is informed in a language understood by each of them.

Additionally, probation officers are representatives of the government justice and social service sectors which hold them to **high standards of professional and ethical conduct** to ensure public trust and confidence. As such:

Probation officers shall **uphold and promote the independence, integrity and impartiality** of the justice sector and shall **avoid impropriety** and the appearance of impropriety. In Ghana, it is common in some regions for the probation worker to have multiple roles – acting a social worker, a panel member and a probation officer. In small communities or districts, it is not feasible to avoid relationships, professional or personal, with other community members who the probation officer may have to interview as part of an assessment for a SER at some time or another. The prior relationship, whether the probation officer has acted as a therapist or whether she or he has had a social contact, must be fully disclosed to the parties to the proceedings and their legal counsel. Informed consent must be provided by the parties affected before the probation officer can conduct a SER in these circumstances.

A probation officer shall **conduct personal and other activities in a manner that minimises the risk of conflict with the duties** of the position. Similar to above, in small communities, probation officers are expected to carry out multiple duties and have multiple roles. It must be noted that it is a conflict of interest for a probation officer to complete a SER while sitting as a panel member for the Juvenile Court or Family Tribunal. In these situations, a probation officer from another district or a trained community development officer from the same district could be asked to investigate or write the SERs.

A probation officer shall be **aware of dominant societal views and the need for constant self-reflection**. Both personal and societal biases must be considered by the probation officer and she or he must engage in a non-discriminatory way. Biases are not necessarily negative, but a probation officer does need to explicitly acknowledge these with his or her clients. For example, if being a Christian affects the probation officer's perspective on whether a child should be raised in the mother's Christian home or the father's Muslim home, s/he should recuse her/himself from the assessment if strong values lead to preferring the mother's religion. Recognising that some

communities might value boys more highly than girls means that such societal views do not guide any assessment or recommendations in the probation officer's report.

**A probation officer shall understand the limits of confidentiality and convey this to clients.** A custody/access assessment is an "open" process and information collected cannot be considered confidential. Participants should be informed of the limits of confidentiality. Probation officers must expect that their written report will become part of a court file, which is a public document. Probation officers might consider asking participants to sign a confidentiality statement such as, "I understand that the SER, as requested by the court, is not confidential. Information will be available to the court, solicitors and possibly other parties as it pertains to this case and consent is hereby given for the release of this information." Child protection protocols allow for the exchange of information, however, children should always be informed that some of the information they provide will be written into a report that will be read by the court, the lawyers and the family members directly affected.

### ***Interrupted SER Completion or Filing***

There may be circumstances where a probation officer begins a SER investigation, but is unable to finish it for different, yet compelling, reasons. This is unfortunate, because another probation officer will not be able to use the information already gathered since he or she did not collect it and has no context in which to place the information. The probation officer taking over will need to start the SER investigation over, from the beginning. For this reason, probation officers must be mindful of the consequences of not completing investigations once started and decline cases that she/he knows she will be unable to complete.

It sometimes happens that a probation officer who has completed a SER is unavailable to submit/file the report at court. The filing can be done by another probation officer, however, if the report must be orally defended in court, a request can be made for an adjournment to allow the original author of the report to be present. This is not encouraged in cases where a juvenile is being held in remand and will have to return there until such a time that the hearing can be rescheduled. As part of their ethical and professional standards, probation officers must always be aware of the negative impact their actions can have on children and make every effort to not contribute to investigation and trial delays.

## **5.2 Tips for the writing of SERs**

The report should not be the place for in depth details about the case or used to record the investigation process. The SER is not a detailed record of the work conducted by the probation officer, rather it is a synthesis of the work completed. Details should be collected in case notes and records of conversations and not the report.

It is likely that multiple data sources will be involved in making assessments for the report. These may include reviewing material such as school and medical records, reports from other agency involvement, payslips and bank statements in cases of maintenance and custody, previous records for juveniles, among other documents. Visits to homes, schools, workplaces and other venues will likely be part of the investigation process. Interviewing the parties directly involved in the proceedings and liaising with other professionals who might have or might in the future provide support will be necessary for a comprehensive report with recommendations.

### 5.3 General principles to guide the writing of reports

- Insofar as possible, the **report should be grounded in evidence** and not hearsay, opinion or personal impressions. Separate facts from opinion and distinguish between facts provided through interviews and professional observations. **Do not express opinion as fact. Avoid value judgments. Never make recommendations in a SER having only reviewed legal documents or another professional's assessment.** This is unfair and unethical and does not provide any party in a proceeding his/her right, be it criminal or civil, to give his or her account and perspective.
- Report **contents should be shared with parents and children**, where appropriate, following the investigation. They can verify that the factual content is correct, even if they do not agree with the conclusions. Professional discretion is required if there is a considered view that information may be used negatively. In these rare instances, a summary report may be presented although substantial issues must be included.
- **Limit the use of the first person**, except possibly in the conclusion when you are expressing an opinion of the child's needs. Instead, **keep the report formal**, but not authoritarian in tone.
- **Do not use convoluted or complex sentences, phrases or words** when simple ones would be just as powerful. **Avoid jargon** even when the report is intended for a legal audience, since parents and children will also have access and need to understand the report.
- The extent to which a probation officer should make concluding recommendations has been debated, especially if the issue involves child custody or juvenile offender sentencing. Nevertheless, **recommendations are a legal requirement** within the SER. If you have conducted a comprehensive assessment, an opinion based on professional judgment should be offered. If you are unsure of your recommendations, seek feedback from probation officer colleagues and supervisors. That said, recommendations outside of the probation officer's area of expertise should not be made.

- Reports should be **concise** and no longer than 8 pages in most cases. **Quality is the most important criteria**, not length, although brevity should trump too much detail. Length is dependent on the purpose and complexity of the report.
- When using research, **references should be cited to support claims** and a number of research publications on the same subject should be reviewed to see the different perspectives on the issue.

#### 5.4 Key questions to ask about the report

Is the report written in the style and format required for the intended audience but without too much jargon (legal report)?

Have the requirements for the report contents been met?

Were the necessary facts compiled?

Is fact and opinion or perspective differentiated clearly?

Is there alignment between the conclusions drawn and the information gleaned through the investigation?

Do the facts back up any opinion? Are there other valid conclusions that could have been reached?

Is the conclusion reached clear, adequately argued and supported?

Are arrangements made to share the report contents fully with parents and the child, if appropriate?

#### 5.5 Improving the language of reports

Avoid opinions and conclusions even if they are based on the facts.

**Instead of:** He was drinking before he arrived at the house.

**Write:** When he arrived, he smelled strongly of alcohol and was slurring his words.

OR

**Instead of:** I could tell she was unhappy about going to her dad's house.

**Write:** When her dad came to pick her up, she cried and grabbed her mother. OR She told me she did not want to go to her dad's house.

Avoid descriptions of how interviewees felt or reacted.

**Instead of:** He was shocked to discover her new boyfriend had stayed overnight.

**Write:** Her new boyfriend has stayed at the house overnight.

OR

**Instead of:** His mother was very disappointed in him for exceeding his curfew.

**Write:** His mother noted that he exceeded his curfew one time in the past month.

Avoid argumentative statements and negative judgment

**Instead of:** It is unfair that he gets to see the kids even though he is behind in his child maintenance payments.

**Write:** He is three months behind in his child maintenance payments. He sees the children three times during the week and every other weekend.

OR

**Instead of:** She is just a bad girl who is in denial about her drinking problem.

**Write:** She experienced a recent relapse and is currently receiving substance abuse therapy.

Avoid vague phrases without sufficient detail

**Instead of:** Department of Social Welfare respectfully recommends that the two children be returned to their mother.

**Write:** Department of Social Welfare respectfully recommends that the two children be returned to their mother and Mr. Essa with a detailed family plan. The Department continues to recommend against access for the father, Mr. Yeboah.

***Useful words and phrases for report writing:***

It appears...

It seems...

It was suggested...

It was decided...

In general...

On the whole...

In particular...

In part...

Partly...

Subsequently...

Consequently...

## 5.6 Quality control and review of reports

All SERs written by probation officers must be of high quality and standardised. There should be no discriminatory or judgmental language and advice obtained therein should be relevant, realistic and aligned with Department policies. Prior to submission, all reports should be reviewed by the Head of the Probation Unit or someone she or he has designated to conduct reviews through their substantial experience. SERs must be submitted for review in sufficient time for amendments to be made, if necessary. The reviewer must contact the probation officer to provide feedback and relevant comments in a timely fashion. The reviewer will be checking for the following:

- Is there a clear account of the present offence, including victim impact, and an assessment of the juvenile's offending patterns?
- Is the language professional, unbiased, non-discriminatory and nonjudgmental?
- Is fact differentiated from opinion clearly?
- Are sources of information verified?
- Has public risk been determined and considered?
- Are recommendations clear, aligned with the assessment and in line with Department policy?

## 5.7 Oral Reports in Court

Occasionally, the probation officer may be asked to present his/her report in court. Generally, the officer is asked to swear an oath, provide his/her name, professional address and a summary of qualifications and experience he/she has to carry out the role and functions of a probation officer.

After presenting a brief summary of findings and recommendations, the probation officer may be asked questions from the judge or the solicitor/barrister. Follow these guidelines:

- Listen carefully to each question and take your time responding.
- Address all responses to the judge/panel, not to the solicitor or barrister asking the question. Avoid eye contact with the solicitor/barrister while answering the question. Only turn your eyes toward him or her once you have finished answering the question. This will help if you feel intimidated or nervous.
- Align your feet with the judge and do not move them. This way, you will keep your focus on the judge.

### 5.7.1 What to take when delivering or defending an oral report:

- The case file and your report
- Notes you took while preparing the report
- References if the report is complex and has used them

### 5.7.2 What to wear in court:

The dress code is very conventional and conservative. It is important to remember that you are representing your institution (the Department) and your profession (probation officers and social workers). It is possible that your opinion will carry less weight if your clothing and grooming does not reflect the expected standards of the court.

## 6. Preparing Social Enquiry Reports (SERs) for Custody, Access and Maintenance Hearings

Family law proceedings encompass a broad range of issues, including custody and access, maintenance, support, visitation, relocation and termination of parental rights. They are sometimes termed child custody evaluations, involving disputes over who lives with the children, decision-making, caregiving and access in the wake of marital or other relationship dissolution. SERs are intended to inform the court in order that the best interests of the child are considered in deciding custody, maintenance and access issues. Although the Family Tribunal must consider the social enquiry report, it is a recommendation only and not binding. When the Family Tribunal does not accept the recommendations, reasons must be provided in writing.

Applications for custody and/or access to children can be made by either parent, a family member or any person who is raising and caring for the child(ren). For maintenance orders, the same may apply, and a child can also make an application through a next friend, a probation officer, a social welfare officer or the Commission on Human Rights and Administrative Justice (CHRAJ). (sect. 48 Children's Act (560))

The Social Enquiry Report for custody and access should aim to:

- a. Identify the **developmental needs of the child** or children;
- b. Identify the **strengths, vulnerabilities and needs of all other members of the family**, including financial capabilities;
- c. Identify the **positive and negative family interactions**;
- d. Develop a **plan for custody and access utilising the strengths of each individual that will serve the best interests of the child** or children and, within the interests of the child, also serve the wishes and interests of the parents and, in most situations, provide them with an opportunity to share in the upbringing of their children; and
- e. Through a **written report**, provide the court, parents and legal representatives with these recommendations and supporting data.

For maintenance issues, the SER should also include **financial needs of the child**, as well as **information and evidence of each parent's income**.

SERs must be **completed and submitted to the Family Court on the date requested by the magistrate**. It is worth noting that this can be very challenging, depending upon the complexity of the investigation, and that this is a very comprehensive report in other jurisdictions, requiring the input of child psychologists and experts in family dynamics, and, in these cases, an extended timeline for completion is provided by the court.

## 6.1 Contents of the SER for Custody, Access and Maintenance Hearings

Probation officers should use a consistent format for investigating custody and access disputes to draft reports for the courts. In circumstances involving maintenance issues only, the report should concentrate on the financial costs required to meet the child(ren)'s needs and the parent's and family's financial particulars, unless advised by the court. Following is a list of the elements that should be included in the report.

- Standard cover/front sheet for the report, including a list of information sources used to compile the report and any attachments to the report
- Family composition and living conditions
- The children and their requirements
- Parenting ability and family dynamics
- Extended family
- Finances
- Other information
- Recommendations for a parenting plan

A template to use to complete a SER for Custody, Access and Maintenance Disputes can be found in the Appendices section at the back of this manual.

### 6.1.1 Cover/front sheet for the report

This should be standard and include the following subtitles:

- Court – indicate which court (ie: District Court 1, Family Tribunal)
- Location – indicate where the court is located (ie: Kumasi)
- Court File No. – this can be acquired from the court registrar
- Case Name – if applicable, indicate the applicant vs. the respondent by name
- Date referred – when the court requested the report
- Date required – this should be the date of the hearing
- Nature/purpose of the application
- Name of applicant, along with his or her residential address, contact and occupation
- Name of the respondent, along with his or her residential address, contact and occupation
- Children Involved – each child involved should be listed by name, age, sex and the school he or she attends should also be indicated

- Information Sources – this is a listing of all the sources drawn upon to prepare the report, including documents reviewed, people who were interviewed and any agencies or institutions consulted. If any information provided by family members was subject to verification, indicate how the data was verified or what steps were taken to verify it. All parties to the application should be interviewed individually, including children. If any person refused to attend an interview, indicate this and provide the reason, if one was given.
- Attachments – any payslips, bank information, educational reports, medical reports, etcetera, that provide evidence and information for the report.

It is important that the cover sheet include details regarding the nature/purpose of the application. Some of the different purposes of reports in other jurisdictions include:

- whether it is an interim application or an application for variation;
- the nature of the relief sought (ie. custody, access, a change from supervised to unsupervised visitations, etc.);
- the purpose of the assessment (ie. whether it is for use by the chamber judge and/or at trial);
- the scope of the assessment (ie. whether it is a full custody/access assessment, a focused assessment of finances, for example, a report on the perspectives of the children only, etc.);
- whether the assessment raises some immediate concern relating to the health and/or safety of the children;
- whether the parties agree to the use of the assessment; and
- whether an evidentiary basis has been established for the opinions expressed in the assessment.

The report must be headlined with the clause. **“This report is confidential and is meant for the purpose of this court proceeding only”** in capital letters and underlined.

## 6.2 Collecting Information to Complete the SER

The process of conducting a SER investigation usually requires multiple interviews since each person with an interest in the outcome of the proceedings must be consulted. Home visits are essential to observation of the child’s environment. Observation of children’s interaction with parents and parent-parent relationship observations also form part of the investigation process. Collection of documentation related to the assessment is also undertaken by the probation officer, including collateral information from appropriate outside sources. Finally, objective tests and evaluative measures performed by experts may be helpful to better understand parenting ability and competence, although these are ordered only in very exceptional circumstances and must be ordered by the court.

While there are significant resource limitations for probation officers to be conducting home visits, it is strongly recommended that at least one home visit be undertaken to each parent's residence. If the family lives in another district, cooperative arrangements might be made among the probation units to have officers located in a family's district conduct the visits and interviews. This would be reciprocal if that probation officer required home visits in the other's district. Some interviews may be handled over the phone, but these should not be interviews with the children, who ought to be seen face to face and interacting with family members, parents, especially.

For interviews to be most effective, the probation officer will need to develop a rapport with each of the interview subjects. This includes putting the person at ease, speaking in a way that is clearly understood by the person, being nonjudgmental and impartial, and refraining from asking "leading" questions, instead keeping inquiry curious and open ended. Strong listening skills are essential, as is demonstrating empathy, without taking the side of the party with whom the probation officer is empathising. All individuals should be advised that their responses will be included in a report for the court that will be available to the parents, their legal representation and the children. Consequently, complete confidentiality cannot be assured.

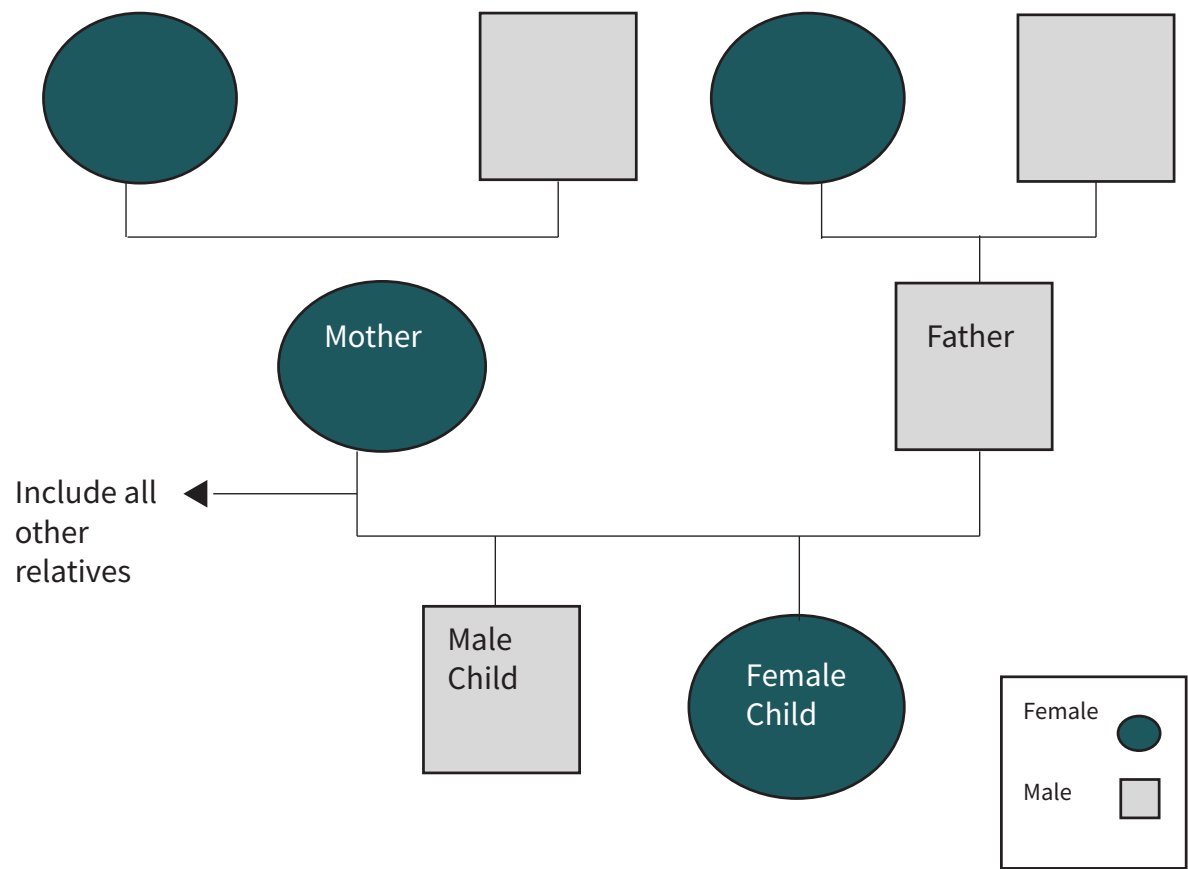
The various sections of the SER for Family Tribunals are outlined below, with descriptions of what should be included in these sections and how to collect the information therein.

### 6.2.1 Family composition and living conditions

Probation officers usually complete this section of the report by visiting the parental homes and interviewing each parent separately. Home visits are important to determine the conditions in which children live when with each parent.

Family Composition - This section should list family members and their relationships to one another, specifying the relationship in respect of each child subject to the application. Set out the family members' full names, sex, dates of birth, current addresses and phone contact. Include their nationality, religion and ethnicity, if relevant to the dispute. If relationships are complicated, it may be helpful to include a genogram, which identifies the relationships that the children have with extended family members. Include step parents/children and half siblings, where appropriate. A sample genogram is found below.

SAMPLE GENOGRAM



Living conditions – This section should include some background, including relevant information as required such as education levels, current employment and work schedules, and a history of the relationship, as well as a detailed examination of the current living conditions of the parents, particularly in relation to the child.

- When did they move in together or get married?
- Where did they live when they were together?
- What were their significant responsibilities/contributions to the household while they were together, for example did the wife work while the husband went back to school to upgrade his skills to be able to improve job prospects or did the mother stay at home with the children while young? Who attended parent-teacher meetings? Who shopped for groceries and prepared meals? Who did the children see most often and have they bonded more with one than other? If parenting responsibilities were lopsided with one person doing most of the work, explain why.
- When did they separate?
- Who lives with each of them now, for example, children, new partner, stepchildren, roommates, other family members?

- What steps have each of them taken (if any) since the separation to reduce disruption in the child's life? For example, did the father move to a smaller home, but stay in the same neighbourhood so that schools, friends and attendance at a house of worship would not change? Have family traditions such as Friday dinners at grandparents been maintained?
- What are the living conditions for the child(ren) when in each parent's home? Is the home clean and tidy? Is the home comfortable for the child(ren), for example, is there sufficient space; does the child have his/her own room; what are the cooking and hygiene arrangements; is the home in a safe and secure location; etc.?
- Which other family members or contacts such as teachers, religious leaders, doctors, babysitters, etc. have a close relationship with the child(ren) and are likely to continue supporting and interacting with the child(ren) in future?

### 6.2.2 The children and their requirements

This information should be provided from official documentation, whenever possible, as well as by both parents, relevant family members (when warranted) and the children themselves, through individual interviews. The report should summarise all the information received by these sources and, where possible, evidence regarding childcare costs should be verified independently. This section should provide some background on the children, a description of the children's daily life and children's experiences of the current arrangements, including:

- Birthdates of the children, their sex, living arrangements (including their address and contact if different from either parent), activities – extra curricular or special interests, daycare/pre-school/school attendance, including class level and successes/problems in school, medical problems or special needs the child(ren) has;
- Financial cost of each child's education, medical or other special expenses (broken down on a monthly basis); and
- Financial costs per month to maintain the general health and welfare of the children.

It is essential that an analysis of the child(ren)'s needs be conducted and that the steps that have been taken to meet these needs or will be taken are enumerated, such as medical services provided, tutoring for a child not faring well in school, enrolling a child in extra curricular activities such as music or sport, if relevant, etcetera. In addition, the monthly cost of maintaining a child – supplying adequate nutrition, shelter, clothing, etc, should also be determined through an examination of monthly bills. If you estimate this, be sure to provide a justification.

All children who are the focus of the assessment should be interviewed and/or observed by the probation officer, depending on the age and the child's receptive and expressive language skills. An assessment should not be completed before the probation officer has met the child(ren). Generally,

the child should be interviewed individually and separately from the parents in a private setting (in addition to any interviews of the child that may occur in the presence of a parent). A probation officer may also choose to interview siblings together, but it is generally advisable to spend some individual interview and/or observation time with each child. Ultimately, it is the judgment of the probation officer that should determine the number of interviews, the setting of these interviews and who is involved in these. The probation officer should inform the child of the limits of confidentiality, indicating that the child's wishes and preferences will be included in a report that his/her parents will see.

In this analysis, consider the following:

- a. The ascertainable wishes and feelings of the child/children concerned (considered in the light of age and capacity for understanding);
- b. Physical, emotional and educational needs;
- c. The likely effect on the child of any change in his/her circumstances;
- d. Any harm which the child has suffered or is at risk of suffering;
- e. The range of powers available to the court under legislation in the proceedings in question.

Very young children incapable of understanding what is going on do not have to be interviewed, but should be observed in their interactions with each parent. Children that can be interviewed should be interviewed without parents present in the room to eliminate influence and pressure on them. Interviews may take place in the probation officer's office, if appropriate, in the parent's home or in a neutral environment such as the school. If a child chooses to make a statement, transcribe it and include in the report verbatim.

This section should also indicate whether or not the child will participate in the proceedings and if so, the appropriate level of participation, according to you, with reasons provided.

### 6.2.3 Parenting ability and family dynamics

Parenting Ability - This section sets out an analysis of each parent's ability to meet each child's needs, including analysis of evidence when there are gaps in some areas (because of work schedules, financial constraints, etc.) and whether or if these can be bridged to best care for the child. While individual interviews with each parent and each child will provide some information for this section, children should also be observed in their interactions with each parent, enabling some analysis of the emotional and physical connection the child has with his/her mother and father. This section should ultimately be an objective consideration of how capable each parent is of meeting the child's needs. Some of the issues to consider include:

- How the current arrangements for the child's care are working for the child;
- How much time the children have spent with each parent since the separation and the reasons;
- The child's relationship with each party, including the child's attachment to each;
- The child's relationship with other significant persons in the parents' lives;
- The effect or likely effect on the child of each's parenting skills; and
- Evidence that the parent wants the child, including a willingness to change work schedule or jobs, adapt residence to accommodate the child's needs, etc.

A custody and access assessment should involve both parents in the process and must include separate interviews with both parents. The purpose of such interviews includes, but is not limited to:

- Determining each parent's perspective on the issues and his/her views regarding a parenting plan;
- Assessing each parent's ability and willingness to cooperate with the other
- Assessing the parent's ability to focus on and meet the child's physical, emotional and developmental needs;
- Exploring issues such as violence, abuse, mental health concerns, addictions; and
- Exploring the parent's willingness to sustain and foster the child's relationship with the other parent and significant others in the child's life.

Family Dynamics - If possible, it is very helpful to observe the parents together with the child(ren), as well as interviewing the parents individually about family dynamics. This is sometimes called an observational visit, when a probation officer brings the child and one parent together in order to observe the nature of the interaction between each parent and the child. Only in rare cases where the probation officer is concerned about the child's emotional wellbeing or safety, the joint observation/interview may not take place.

If a probation officer is able to meet with the parents jointly, this will enable them to observe the parental interaction, discuss the issues relating to the child, provide education relating to the impact of separation and divorce on children, discuss alternatives regarding parenting plans and explore areas of agreement on parenting arrangements. Joint parental interviews also contribute to an assessment of how the parents will interact in future over disagreements involving child care and arrangements. Extremely hostile relationships may require that a third party (usually another family member) transports children from one home to another and indicates that explicit decisions about raising the child may need to be recommended in the report if the parents cannot be trusted to arrive at decisions together in the best interest of the child. For example, religious education, extra curricular activities, special occasions or events and who has the children, along with other

issues may need to be included in a recommended plan. How the parents communicate, with recent examples provided, particularly if there are problems, should be included in the report.

It is imperative that the child(ren) be interviewed to ascertain their wishes and feelings and that how these were identified be indicated in the report. Remember to never directly ask a child with whom he or she wishes to live. Ask indirect questions instead to find out how the child experiences life with mom and life with dad, what types of activities she or he does when with each parent, how she or he feels when staying with mom and when staying with dad (and why).

Where there is fear of violence or abuse, the report must take into account the following:

- Is there family violence? If so, describe it as specifically as possible. For example, is there physical abuse, verbal abuse, emotional abuse, controlling behaviour, threats or intimidation? If so, describe them and outline specific recent incidents;
- If anyone has been injured by the family violence, describe the injuries and attach medical report or a doctor's notes, if any;
- Get and attach copies of police reports, charges and peace bonds, if any;
- Describe any exposure the children have had to violence or abuse;
- Describe any steps taken to help children deal with the abuse;
- Describe any drug or alcohol abuse by a parent or new partner that affects the children's safety or care;
- Describe any child abuse (for example, harsh corporal punishment or neglect by one parent or his or her new partner); and
- Describe any agency involvement with the family, if any, which indicates a history of problems or an attempt to resolve issues in the child's interest.

The information collected by the probation officer on parenting ability and family dynamics will inform the recommendations for parenting arrangements, hence, data collected here through interviews and observation is essential to complete a SER.

#### 6.2.4 Extended family

A probation officer may choose to interview significant people in the child's life such as, but not limited to, caregivers, extended family, step-siblings, parents' partners and family friends. If a new partner were living in a residence with the children and performing a caregiving role, or were reasonably likely to be living in a residence with the children or performing a caregiving role, it would be important to include him or her. All participating parties should be informed of the limits of confidentiality. The purpose is to explore their relationship with the child and/or the parents and obtain a broader understanding of the family system and family dynamics.

This section includes analysis of evidence of wider family and friends' capacity to meet each child's needs, where family and friends are protective contacts and caregivers of a child. These stakeholders should be included in the genogram, if you developed one in the report. Is there evidence of past and current willingness to be part of the team around the child? For example, are parents of the mother or father closely involved with the children and how will this be maintained and continued after custody and access is decided by the court. What is the willingness of each parent to sustain these family relationships with the children?

Extended family and friends do not necessarily need to be interviewed for the SER, however, it may be quite useful to contact some of them as they may provide valuable information or corroboration. Always take into consideration that they are likely to have loyalties to one of the parents at the expense of the other and try to verify any data they provide through other sources.

### 6.2.5 Finances

If the applicant is seeking child support, the SER must include an analysis of the necessary costs to maintain the child measured against the ability of the respondent to pay. Monthly costs should be included for regular maintenance such as food, clothing, shelter, afterschool care if a mother is working, and routine medical and dental care. Evidence must be provided about the financial costs of a child's schooling, health or any other special needs requiring funding, such as school and doctor receipts, for example. If there have been extraordinary expenses such as special dental work, for example, proof of these expenses should be provided in the form of an invoice or receipt. This information can be collected through interviews with parents, extended family and friends, as well as through collateral sources such as schools (for data on fees), family doctors (for evidence of medical fees) and employers.

The report should delineate the following:

- Current income of the mother, attaching a payslip, bank statement or copy of tax return, if available.
- Current income of the father, attaching a payslip, bank statement or copy of tax return, if available.
- Savings, investments, real estate, property or any other financial assets each parent has.
- Any inaccuracies in either the mother or father's income, as indicated by the other parent. Inaccuracies should be enumerated with the reason the parent believes that the financial statement is false.

If the above data is provided in the report, with supporting proof, the work on this section is complete, since the court will ultimately determine the amount of child support to be paid by the non-custodial parent or parents, in cases where a third party is granted custody.

### 6.2.6 Other information

Any information that the probation officer sees fit to include in the report, so long as it is fair and objective, may be included. Affidavits from friends, neighbours, teachers, religious or community leaders, or others may be included in the SER if they can be considered fair in their perspective and are backed up with proof when they are not. Copies of journals or calendars that indicate how much time a parent has spent with a child may be considered evidentiary. Requests to accommodate religious, spiritual or cultural values or activities that are important to both or one parent in the child's upbringing should also be included in the report.

The probation officer should be mindful of the importance of gathering information and testing the reliability of what has been heard or observed from multiple sources in order to thoroughly explore the issues relevant to the assessment. Collateral information may be obtained from professionals such as physicians, teachers, therapists, social service workers or law enforcement officers. The choice of which collateral information to obtain remains with the probation officer, who may contact these collateral sources once other interviews have taken place and parents have given consent to the contact. Collateral interviews may take place in person or by telephone, as determined by the probation officer.

### 6.2.7 Recommendations for a parenting plan

Based on the investigation conducted and the evidence collected, this section includes realistic options for a child's care and a preferred custody arrangement. Preferred custody arrangements mean that, on the assessments and evidence available, the preferred placement should offer the child the prospect of recovering from any trauma she or he has experienced; personal growth and development within a family where the child is guaranteed unconditional love; strong educational prospects; good health outcomes and, as far as can be predicted, one or more positive lifelong attachments which promote the child's unique identity. Options can be defined as realistic when the proposed placement and parenting plans are considered to be sufficiently resilient and sustainable to justify the label of 'permanent'. If, for example, the report recommends that custody be granted to the mother, the father's engagement in the care of his child must be realistic and enduring. This section should also include each parent's perspective on such an arrangement and any anticipated difficulties that may be encountered in execution of the plan.

### 6.2.8 Objective tests and evaluative measures

Rarely, objective testing may be helpful to obtain a broader understanding of a parent's psychological and social functioning and how this might impact on parenting ability. Many tests and measures require that the user has advanced training at the graduate level in tests and measurement. Testing should only be conducted by a qualified professional and when court ordered as part of the assessment.

### 6.3 Concluding the SER Assessment

After collecting and analysing the data, the probation officer will need to disclose the outcome of the assessment. She or he should verbally disclose the recommendations to the parents and/or their legal representatives. The written report must be shared with the parents and their representatives, ensuring that both parents receive the report at the same time.

There are some challenges in conducting and preparing SER reports for the Family Tribunal. Preparing comprehensive SERs within the tight timeframes provided by the courts can be quite difficult, particularly when coupled with resource constraints in the probation service. Many custody cases are highly charged and bitterly contested. In these circumstances, it may be difficult for a probation officer not to take sides or be influenced by one of the parties, but it is critical that the objectivity of the probation officer not be compromised. In addition, the court often does not provide sufficient direction on the content required for the SER, leaving the probation officer to decide what to include at his or her discretion. The court may not be happy with the contents if it does not meet expectations and need. Thus, it is necessary to have a clear understanding of the objectives of the SER before probation officers begin their investigation. As always, ethical conduct, professionalism and the skills to carry out the work of probation officers is a must, as the lives of children depend upon it.

### 6.4 Checklist for conducting investigations for SER for Family Tribunal

**For all SERs:**

- ☐ Standard cover/front page completed and attached to report
- ☐ Report reviewed by supervisor; feedback incorporated
- ☐ Evidentiary documentation attached to report
- ☐ Copies of report made for court, child, parents/guardian, legal representation, prosecutor, if appropriate

### For Family Tribunals:

- ☐ Legal information as required
- ☐ Purpose of report clearly identified, including source and reason for the assessment and scope and intent of the report
- ☐ All information sources and methods clearly articulated and described
- ☐ Individual and family history relevant to the objectives of the assessment included
- ☐ Evaluation of parent(s): Information about the psychological, social, financial and parenting functioning in light of their capacity to care for the children involved/each parent interviewed individually
- ☐ Evaluation of children and their needs, including relevant psychological and social functioning/ Child(ren) interviewed without parents present
- ☐ Home visits conducted to observe and analyse family dynamics and relationships, between parents and children and among adults
- ☐ Significant others interviewed and contributions analysed, if warranted
- ☐ Parenting plans proposed by each parent and relative merits of each, including other viable options proposed
- ☐ Other interviews conducted – physicians, teachers, social workers, police, etc.
- ☐ Relevant documents acquired and reviewed – finances, pay stubs, assets, bank accounts, medical, dental, educational reports, etc.
- ☐ Conclusion that synthesises the data collected in the report which lead logically to recommendations below
- ☐ Recommendations made with best interest of the child(ren) taking precedence

## 7. Preparing Social Enquiry Reports (SERs) for Juvenile Court

A Social Enquiry Report for the Juvenile Court, also known as a Pre-Sentence Report, is a full formal assessment provided to the court in order to assist the magistrate, judge or panel in passing the most suitable sentence on a child or young person (juvenile or young offender) who has been convicted of an offence. It can only be ordered by the Court. Its purpose is to determine what is in the **best interest of the offender in order to maximise his or her chances to lead a productive life without resorting to crime**. At the same time, the safety of the public must be considered and balanced with the child's interests.

The SER provides **objective, factually accurate information to the court for sentencing** and other matters related to the disposition of the case. Whether conviction is obtained through guilty plea, plea-bargaining or trial, the pre-sentence investigation is conducted by the probation officer on instructions from the court. It provides a detailed view of the defendant, including his or her background, history and possibilities for rehabilitation. The SER is to be **completed by the date** as ordered by the court. While this may be a challenging timeframe for complex investigations or when a juvenile is from a district far from the court, probation officers must meet this deadline, with few exceptions, and when a juvenile is being held in remand, the probation officer should try to complete the report sooner so that the child is detained for the minimum period possible.

The SER has several important functions. First, **it helps the judge to make an informed decision regarding the sentence**. Second, **it assists probation officers with developing a plan and monitoring the offender's behaviour if he or she is placed on probation**. Third, it assists the **corrections centre in determining what types of programming would be beneficial for the juvenile offender, as well as supervised release, early release and other supervision decisions**.

The Social Enquiry Report for Juvenile Court should aim to:

- a. Identify the **factors and circumstances leading to the commission of the offence**;
- b. Identify the **history, including the family, educational, social and criminal background of a juvenile** convicted of an offence;
- c. Identify the **impact that the offence has had on the victim(s)**;
- d. Identify the **strengths and vulnerabilities of the juvenile's parents or guardian**, including the home environment;
- e. Identify the **potential for reoffending**, including risk factors and factors that could mitigate the risk;
- f. Identify **interventions and supports, where possible, that could assist in rehabilitating the juvenile**;
- g. Make **sentencing recommendations, balancing the best interest of the child with the need for public safety**; and

- h. Through a **written report**, provide the court, parents and legal representatives with these recommendations and supporting data.

## 7.1 Contents of the SER for Juvenile Court

Probation officers should use a consistent format for investigating juvenile offending to draft reports for the courts. Following is a list of the elements that should be included in the report.

- **Standard cover/front sheet for the report, including a list of information sources used to compile the report**
- **Offence analysis**
- **Previous offences**
- **Background**
- **Risks and protective/mitigating factors**
- **Conclusion and risk to public**
- **Recommendations**

A template for writing a SER for Juvenile Court can be found in the Appendices section at the end of this manual.

### 7.1.1 Standard Cover/front sheet for the report

This should be standard and include the following subtitles:

- **Court** – indicate which court (ie: Juvenile Court 1)
- **Location** – indicate where the court is located (ie: Tema)
- **Case No.** – this can be acquired from the court registrar
- **Date SER referred**– indicate the date the request to complete a SER was made
- **Date SER required**– this should be the date of the hearing or the date the SER is required
- **Name of offender**, along with his or her age, sex, student status and school/occupation, religion, residential address, contact
- **Name of the juvenile’s father, his occupation and his residential address, contact**
- **Name of the juvenile’s mother, her occupation and her residential address, contact**
- **Name of guardian, if appropriate**, along with his/her occupation and residential address and contact

- **Offence** – this/these should be listed directly from the charge sheet, as identified in the Criminal Offences Act, 1960 (Act 29)
- **Release status** – indicate whether the child has been released on his/her recognizance, unsecured or surety bond, to a parent, to a third party or to a remand home and include details of amounts, persons released to and their addresses, contact information and the title and address of the remand home
- **Information Sources** – this is a listing of all the sources drawn upon to prepare the report, including documents reviewed, people who were interviewed and any agencies or institutions consulted. If any information provided by interviewees was subject to verification, indicate how the data was verified or what steps were taken to verify it. All parties to the application should be interviewed individually, where possible and appropriate. If any person refused to attend an interview, indicate this and provide the reason, if one was given.
- **Attachments** – this will include all documentation relevant to the report which is attached, such as prior juvenile records and adjudications; victim and witness statements; medical reports, prior SERs, prior probation or supervision reports, etcetera.

The report must be headlined with the clause. **“This report is confidential and is meant for the purpose of this court proceeding only”** in capital letters and underlined.

Note that your probation unit may also receive a written request to complete a SER from the Circuit Court (or another) that is trying a young person (between 18-20 years), as required under the Juvenile Justice Act. In these situations, a cover letter, on proper letterhead from the probation unit, should be forwarded to the court along with the report.

## 7.2 Collecting Information to Complete the SER

The process of conducting a SER investigation requires multiple interviews to collect essential information on the juvenile offender, his/her background, details of the offence and its impact on others, and opportunities for the offender to be rehabilitated. At least one home visit is essential to observe family dynamics and whether the youth lives in an environment of positive or negative influences, as this information is necessary to assess probation as a sentencing option. Collection of documentation related to the assessment is also undertaken by the probation officer, including collateral information from appropriate outside sources.

With regard to information sources, probation officers must conduct at least one interview with the juvenile offender, his/her primary caregiver (parent or guardian) and, as noted above, conduct a minimum of one visit to the offender’s residence. While in the offender’s community, it would be wise to visit his/her school or employer, any doctors, counsellors or child protection workers the child interacts with, and any other person such as a religious leader or traditional chief with

whom the child has a relationship. If the victim of the offence lives in the offender's community, he or she should also be visited and interviewed with family present. The police officer who arrested and charged the child should be interviewed, at least by phone. If compensation is to be provided to the victim, it would also be important to discuss with the prosecutor their deliberations about appropriate amounts.

Document sources to review include the police records – charge sheet, statement and investigation notes, if any, previous juvenile offender records, medical documentation from the victim or offender (if appropriate), school records, any previous court documents such as Care or Supervision Orders and anything relevant to investigating the offence and the juvenile's background.

While there are significant resource limitations for probation officers to be conducting home visits, it is strongly recommended that at least one home visit be undertaken to the juvenile offender's residence. If the family lives in another district, cooperative arrangements might be made among the probation units to have officers located in a family's district conduct the visits and interviews. This would be reciprocal if that probation officer required home visits in the other's district. Some interviews may be handled over the phone, but these should not be interviews with the juveniles, who ought to be seen face to face and, ideally, also interacting with family members, especially parents.

### 7.2.1 Offence analysis

Under this section of the report, the probation officer should include analytical information, not simply a restating of the information the court already has regarding the charge. It should include key features of the offence, including whether violence was involved, and its circumstances (ie: did a juvenile steal food because he or she was hungry) which are relevant to the court in determining the nature and seriousness of the offence. The aim is to assist the court to understand why the offender committed this particular offence at this particular time.

Included in the analysis should be:

- An assessment of the nature of the offence and its seriousness, including assessing the offender's culpability and whether or not the act was premeditated, as well as whether others were involved in committing the offence;
- An assessment of the context within which the offence occurred, including if there were any special circumstances, such as family crisis, alcohol or drug consumption prior to the act, existing relationship with the victim, or any other circumstance directly relevant to the juvenile carrying out the act which may affect the court's judgment of the act's seriousness;
- An assessment of the consequences of the offence, including statements from the victim(s) and evidence of damages resulting from the offence; and

- An assessment of the offender's attitude regarding the offence itself and the impact on the victim(s), including whether she or he has thought about this, takes responsibility for his/her actions, expresses remorse or guilt and any unprompted desire to make amends.

Usually, information for this part of the report is collected during interviews with the offender and the victim and/or witnesses. The offender should be observed for attitudes and orientation toward offending, his/her empathy for the victim, if relevant, and any indications of motivation to change.

If there were witnesses and/or victims to the offence, information from them will be valuable for this section of the report. Witnesses should report what they observed and this information should be included in the report in a neutral reporting format. If there is no victim impact statement available, the probation officer should interview the victim in person. If the victim is a child, his or her parent or guardian must be present during the interview. The probation officer is not assessing the victim, but rather the impact that the offence has had on him/her. This interview can be quite sensitive if the victim is still traumatised by the event. The probation officer should be empathetic, respectful and professional and ensure that she or he does not take sides with the victim. Sometimes, a period of time is needed to establish a rapport with the victim so that she/he is comfortable disclosing information that may be sensitive, painful and personal.

For the analysis in the SER, it is important to note the physical, emotional and financial effects of the offence committed. If the victim has documentation of the cost of repairs, medical reports and costs, damage to a vehicle or home, etc, ask if you can copy the receipts as evidence. If the victim was a direct subject of the offence, he or she should describe what happened, from his/her perspective and in his/her words. The victim should be asked to explain how she/he is now feeling, how that is different from before the offence and what the victim thinks is necessary to make things right. Monitor any reactions to what is being said, avoiding shock, disgust, horror or surprise. For the victim, these reactions can exacerbate the trauma experienced.

In some cases, the victim will have empathy for the juvenile offender and may recognise some of the positive qualities in him or her. These will be important to note in the SER as it may help the offender in rehabilitation and result in a less harsh sentence.

### 7.2.2 Previous offences

The report should indicate whether or not the offender has any **previous convictions and what the nature** of those prior convictions is. Previous SERs should be assessed, if they exist. If there is indication of a pattern of offending or a pattern of increasingly serious offences being committed, this would be relevant for the court to consider and thus should be included. If there were previous court sentences or orders, these should be noted, along with the how the offender followed these. Where an offender may have breached or committed a further offence while under probation or

supervision order earlier, the report should assess both the offender's negative response, as well as any positive indicators or initiative on which the juvenile offender can build in future. The reasons for breaching any previous probation or supervision orders should also be examined and assessed.

The information for this section will come predominantly from prior records, however, if the juvenile was on probation or spent time in corrections, the probation officer and head of the corrections' centre, respectively, should be interviewed, by phone at least, to understand the juvenile's history and background of offending. While it is useful to list previous convictions in this section, some narrative information regarding the nature of these offences and the juvenile's behaviour during and after should also be included here.

### 7.2.3 Background

This section should analyse the offender's **personal and family environment and history, education, employment history, if applicable, special talents, hobbies or interests, health – both physical and mental, past or present addictions to alcohol or drugs and the financial status of the offender and his/her family for the purposes of victim compensation.** The objective is to describe both present and historic social factors that have had a significant bearing on the juvenile's personality and behaviour. Early life influences such as divorce, extreme poverty, abuse, and other factors which may have contributed to the juvenile offender's current lifestyle and behaviour. This section should include an analysis of the juvenile offender's positive life influences as well, such as a caring grandparent, positive interaction with school friends, interests that can be built on for rehabilitation, etc. The offender's strengths and weaknesses/vulnerabilities should be assessed, including whether or not she/he has taken any positive action since the offence was committed. This background section is essential to the report since it helps to reveal risks and protective/mitigating factors for the juvenile offender's likelihood of re-offending.

Information for this section comes from your interview with the juvenile and his/her family members, which will also contribute to the background, offence analysis and risk/mitigation elements of the report. Probation or community supervision of the offender is dependent upon an understanding of his or her personality and motivations, the extent of family and community support that can be expected, employment or schooling patterns, abuse of drugs or alcohol, financial stability and a variety of social factors that will make each case unique. Note that more than one interview may be required in order to build sufficient rapport with the offender for him or her to be comfortable disclosing personal information.

The basic information to collect for the analysis should include the following:

- Date of birth, if known
- Address of current residence; placement history if out of home placements in past
- Phone contact, if available

- School information: does she/he attend; what class level, attendance record, average grades, best school subjects, any problems such as expulsion/suspension or failure of classes, school activities involvement, academic or vocational school, does she/he plan to graduate, highest class or form completed? Future academic goals? Risk factors and strengths?
- Employment history, if applicable, including length of employment, duties, schedule and salary; future employment goals, risks and strengths?
- Medical information: visible scars, medication, family doctor's name and contact, special medical concerns, visits to emergency hospitals, family medical history – heart disease, diabetes, etc.; drug or alcohol dependency; general physical condition
- Peer relationships, risk factors and protective factors
- Interests, hobbies, sports, activities involved in; risk and protective factors
- Attitudes/orientation toward offending, empathy for victims, motivation to change
- Family: mother and father and their relationship, siblings, step-siblings, dynamics of the relationship – is family cohesive? Relationships with other family members or friends? History of any abuse/neglect? Risks and strengths?
- Family status – poverty or wealth? Absent or engaged parental supervision? Social status? Isolated or connected to community? Religious or political affiliations? Risks and strengths?

The probation officer may choose to meet with others who play an important role in the offender's life, such as a teacher, religious leader, a sports coach, traditional leader, employer, any doctors, counsellors or child protection workers the offender has regular interactions with and the police officers who arrested, interviewed and investigated the juvenile offender. Due to the negative effects of stigmatisation, it will be important to select community members carefully, to have the consent of the juvenile offender to contact these people and to ensure that the offender's privacy is respected. This means that the probation officer should not divulge any information about the offence while speaking with those not directly involved.

These interviews must have a purpose. They may be used to verify information received by the offender or his/her family or they may serve the purpose of rounding out the analysis of the child's background and history if this information is not otherwise available. Some of these people could potentially play a future role in community supervision of the offender or could provide services and support that the offender requires to not re-offend. They might also suggest other people who could offer the offender support, such as a tradesman who will take on apprentices, for example.

The police should be queried about any gaps in their reports on the juveniles and asked for their investigation reports, the charge sheet and the statement from the offender, if appropriate and necessary. As discussed, police may be contacted by phone, as a face to face meeting is not essential.

The SER should provide a summary and analysis of the juvenile's background, focusing on his or her environment, including family and friends, and how these may have contributed to offending behaviour or how these may contribute to protective and encouraging interventions to keep the juvenile from future offending.

#### 7.2.4 Risks and protective/mitigating factors

**Risk factors** are the characteristics of a juvenile and his/her environment that increase the likelihood of him or her offending. **Static risk factors** are the historical, unchangeable characteristics that are unable to be changed through treatment or programming, such as the age at which the first offence was committed, the history of violent behaviour or the criminality of other family members. **Dynamic risk factors** can change over time because of treatment or due to normal development of the juvenile and/or the family. Examples include poor parenting practices, substance misuse, poor academic achievement and association with delinquent peers. These areas may form part of the programming to rehabilitate a child.

**Criminogenic needs factors**<sup>10</sup> refer to the dynamic risk characteristics of the juvenile that, once changed, are associated with changes in risk of re-offending. For example, drug abuse is a dynamic risk factor but can also be a criminogenic needs factor if the juvenile demonstrates delinquent behaviour while on drugs. Factors correlated with offending behaviour include antisocial attitudes, lack of empathy, antisocial peer group affiliation, substance abuse, lack of problem solving skills and poor self-control. These are the needs that must be addressed for the juvenile's rehabilitation. There are also noncriminogenic needs factors that are also dynamic risk characteristics which may indicate a need for programming or treatment of the juvenile, however, they are not related to re-offending or delinquent behaviour. An example would be depression, which might be addressed through counselling, however, helping a juvenile escape depression is not likely to lead to any change in his/her risk of re-offending, as there are more critical need factors that lead to antisocial behaviour. One criminogenic factor is usually insufficient to cause offending behaviour; rather, a cluster of these factors, coupled with a lack of protective or mitigating factors, is what increases the likelihood of offending or re-offending behaviour.

**Protective factors** are characteristics of the juvenile and/or the environment surrounding him or her that interact with risk factors to reduce the odds of involvement in criminal activities. These are also referred to as **mitigating factors** since they mitigate the risk of offending behaviour. Some examples of protective factors are the presence of caring and supportive adults in the community and at school, having a stable family, being empathetic to others and having a positive/resilient temperament. Some risk assessment tools take a more strengths-based approach by considering the presence of protective factors when estimating a juvenile's level of risk.

<sup>10</sup> Vincent, G. M., Guy, L. S., & Grisso, T. (2012). **Risk assessment in juvenile justice: A guidebook for implementation**. Retrieved from [http://escholarship.umassmed.edu/psych\\_cmhsr/573/](http://escholarship.umassmed.edu/psych_cmhsr/573/)

In seeking information about the juvenile's risk and protective factors, a **home visit** is ideal to observe family and discover strengths and weaknesses in the juvenile's nature and environment. From the home visit, a description and location of the residence should be noted including length of time at the residence, whether home is owned or rented, the number of rooms and shared bedrooms, the condition of the house, upkeep of the house (housekeeping – cleanliness and orderliness), whether privacy is available and a previous address if the family has been in residence for less than one year. Family dynamics should also be observed while in the home – do family look to be close and caring of one another? How are they interacting with one another? Is there respect demonstrated among family? Is there physical affection among the family members? Does there appear to be support for the juvenile offender? What leads you to think that? How is the family likely to support the offender in his rehabilitation? Reintegration? Would the family environment be appropriate for an offender under supervision? Why or why not?

Home visits will assist with the analysis of family dynamics and the offender's background analysis, however, they will be most instructive for determining ongoing risks and mitigating factors in the offender's rehabilitation. A negative family environment may put him or her at higher risk of re-offending, while a nurturing, supportive environment might protect the offender from making bad choices in future.

Family members are interviewed in order to complete analysis on the juvenile offender's background, risks and mitigating factors for re-offending/being rehabilitated and to ascertain the family's ability to supervise the offender if placed on probation or supervision. The opportunity to meet face to face with family members, ideally in the home, allows the probation officer to observe family dynamics, assess the home, as well as determining the suitability of parents to supervise the child. The probation officer should observe carefully for any evidence of violence in the home, fear from family members and the possibility of abuse.

Possible questions to ask parents, guardians and other family members include:

- How would you describe the juvenile offender? Has he or she always been so? If not, how was he/she before? What do you think changed him/her?
- What do you think are the offender's strengths? Weaknesses?
- Does the offender have any physical, mental or emotional health issues? Learning disabilities? Other disabilities? Have these been diagnosed?
- Are you aware of any substance abuse by the offender?
- Has there been any violence in the home, including by other members of the family?

- What is the status of your relationship with him/her? What kind of relationship would you like to have with him/her in the future?
- What has been the impact of the offence on your relationship? On the family?
- Has the offence affected the family's finances? How so? What would happen financially if the offender was sent to corrections?
- If the offender were to be supervised at home, what would you be able to do, if anything? What plans would you make to assist him/her with rehabilitation? How do you think he or she would fare? Why?
- Is there anything else you would like the court to know about the offender?

This section requires that the probation officer make a **professional judgment on the risk that the juvenile offender will re-offend and the risk of harm to the public posed by the offender**. The probation officer should assess the history and patterns of offending behaviour, the continued existence of negative and positive influences in his/her life, the offender's capacity and motivation to change and the availability of services and activities which could reduce the risk of further offending. The diagram below contains the main categories that can be either risk or protective factors in a juvenile offender's life.



### 7.2.5 Conclusion and risk to public

The conclusion section emerges from the rest of the report's contents and is **consistent with the analysis of the offender's personal circumstances and risks/protective or mitigating factors** in his or her life. The probation officer should provide a summary here that analyses the likely reasons for the juvenile committing the offence and determines whether the juvenile is likely to offend again, based on a preponderance of criminogenic risk factors or whether the juvenile's protective factors are likely to steer him/her on the right path to rehabilitation and social integration as a well functioning citizen. Remember, this is an analysis which should not repeat everything written in the other sections. Instead, it should provide a **summary assessment of the current status of the juvenile and his/her likely future.**

The probation officer also classifies the juvenile as either **high, medium or low risk to the public** in this section. In many jurisdictions, this classification is arrived at through a very detailed, lengthy risk assessment instrument. The classification should be aligned with the evidence and conclusion arrived at in the report. Remember, every child is unique, meaning that even if a juvenile has a number of criminogenic risk factors, he or she may not be predisposed to re-offending if protective factors are strong and can be further strengthened.

Generally, a juvenile is considered to be a **high risk** to the public if she/he is very likely to re-offend, poses high risk of escaping a corrections' centre or renege on the probation contract and requires a high degree of supervision. A juvenile may be more likely to engage in further criminal behaviour if she/he has a significant number of criminogenic needs factors and a very limited number of protective factors that will be very difficult to strengthen. Juveniles who have previously offended and began offending at a very early age might be considered high risk if there are limited means to strengthen the juvenile's protective factors. As an example, even a serious crime such as defilement in a case where the boy had sexual intercourse with his girlfriend, who, despite being underage like the boy, consented to the act, would likely not result in the boy's classification as a high risk offender if he had no criminogenic needs factors. This boy would likely be given a **low risk** classification since he is not likely to engage in other criminal activity, does not have many, if any at all, criminogenic needs factors and may have an environment and personal history that is highly protective. Low risk offenders require very limited supervision.

**Medium risk** to the public would be juvenile at moderate or low probability of escaping a corrections' centre or reneging on a probation contract and requiring a moderate degree of supervision to keep him/her on the right path. This juvenile would be at moderate to low risk of reoffending based on an analysis of his/her criminogenic needs factors balanced against the juvenile's protective factors.

#### 7.2.6 Recommendations

The probation officer **should make a recommendation on sentencing** based on balancing the best interest of the juvenile offender and the need for public safety. The recommendation should be backed up by your analysis of risk and protective factors, as well as taking into account the sentencing options available. The legislation explicitly mentions the recommending of a sentence in the Juvenile Justice Act; consequently, it should not be omitted in the report and left to the judgment of the Juvenile Panel. Moreover, having completed all information gathering to conduct a SER, the probation officer is best placed to understand the child's best interests and potential risks to public safety.

Under the Juvenile Justice Act, 2003 a variety of non-custodial and custodial options are available for children found guilty by the court (s.29):

- Conditional or unconditional discharge;
- Discharge with an undertaking;
- Release on probation for between six and 18 months under the supervision of a probation officer;

- Committal to the care of a relative or other fit person;<sup>11</sup>
- Order to pay fine, damages or costs;
- Order the child's parent, guardian or relative to pay fine, damages or costs;
- Order the child's parent, guardian or close relative to give security for the good behaviour of the child;
- Order the child to be detained in a correctional centre for up to three months if the child is under the age of 16, up to six months for a child 16 to under 18, or up to three years if the child committed a serious offence (defined as murder, rape, defilement, indecent assault; robbery with aggravated circumstance, drug offences; and offences related to firearms) (s. 46); and
- Deal with the case "in any other lawful manner the court considers just", however, section 32 explicitly prohibits a sentence of imprisonment or the death sentence.

Remember that **deprivation of liberty should be used only as a measure of last resort**, and for the **shortest appropriate period**. Deprivation of liberty should be imposed only after careful consideration of all other options, and must be used only in cases where the child has committed a serious act involving violence against another person or if the child persists in committing other serious crimes and there is no other appropriate response. When custody is proposed as an option, the report should include expected adverse effects on the offender and his/her family, his/her education or employment and any specific considerations regarding the sentence length, which the court may find relevant.

If probation or a supervision order is recommended, the report should include a very basic outline of the supervision plan proposed for the offender. It should describe the purpose of the plan the methods to meet that purpose and activities that may be undertaken to achieve the goals. The outline should **include activities to strengthen the juvenile's protective factors and minimise criminogenic risks**. The report should also include a justification of how the plan proposed meets the need to change the juvenile offender's behaviour.

Other sentencing options may involve community justice processes, restorative victim-offender mediation, service to the community or victim undertaken with strict guidelines, compensation to be paid to victims (perhaps with a schedule of payments), if warranted, and other non-custodial alternatives that will be developed as part of the Justice for Children Policy, 2015. Although most of these options are not yet operational, they are likely to be available as sentencing options soon. If a probation officer wishes to propose a community justice process or service option, even before these have been fully developed, she or he should do so, if it is in the best interests of the juvenile.

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<sup>11</sup> A "fit person" is defined as a person of full age who is of high moral character and integrity and sound mind capable of looking after a child and who has been registered by a probation officer or Social Welfare officer as being able to provide a caring home for a child (s. 60)

## Tips for Sentencing Recommendations

With regard to making recommendations in the **best interest** of the juvenile offender, consider the following before making a custodial recommendation:

- You must be of the opinion that the offence, or combination of the offence and one or more offences associated with it, was so serious that neither a community sentence nor fine alone can be justified.
- You must make a proposal about an appropriate length for a custodial sentence, taking into account the minimum and maximum duration required in the Juvenile Justice Act.
- You must have concluded that there is significant risk of serious harm to members of the public from the actions of the offender and potential future offences. In essence, you have the belief that the child or young person is a “dangerous” offender.

When making recommendations for **supervisory sentences** in the community:

- You must be of the opinion that the offence, or combination of the offence and one or more offences associated with it, was serious enough to warrant a community sentence.
- You must have considered and determined what restrictions on the juvenile offender’s liberty are commensurate with the seriousness of the offence.
- You must have ascertained the suitability of the offender for the particular requirements to be imposed in a supervision or probation order.

If the juvenile should receive an absolute discharge, a conditional discharge, a fine or compensation order, or a referral order, you must explain clearly why and account for why the sentence was not proposed earlier by the prosecutor.

### 7.2.7 Documentation to attach

Documents can help to verify information received through interviews, as well as provide new information on offending patterns and the risk that the offender might commit another crime. The types of documentation that a probation officer reviews and analyses include the following:

- Prior juvenile records and adjudications
- Victim and witness statements
- Medical reports
- Financial records
- Receipts

- Prior SERs and probation or supervision reports
- Education records – attendance, grades, disciplinary issues
- Offence charge sheet, investigation report and offender’s statement
- Plea bargain, if relevant

This list is not exhaustive, but may provide a basic checklist of documentation that probation officers should collect and append or attach to the final report.

### 7.3 Concluding the SER Investigation

Once the probation officer has collected all necessary information, analysed it, performed a risk/protective factors assessment, considered and decided on recommendations, and prepared a final report, the juvenile court must ensure that the contents of the SER are made known to the juvenile offender and/or his or her legal representative. The report should also be made available to the offender’s parent or guardian, if they are present in court. The prosecutor should also receive a copy of the SER. In exceptional cases, the court may decide to not release portions of the report to the offender’s family if the report places him/her at risk of significant harm. The report is provided to the prosecutor only for the purpose of enabling the prosecutor to make representations to the court about matters contained therein and the SER is not to be used or retained by the prosecutor for any other purpose.

There are definite challenges in conducting and preparing SER reports for the Juvenile Court. Preparing comprehensive SERs within the tight timeframes provided by the courts can be quite difficult, particularly in light of the human and financial resource constraints in the probation service. Juveniles from regions outside of Accra may be held in the remand home there and have their cases heard in Accra courts. Investigations in other parts of the country are difficult for Accra probation officers and the same would be true when a juvenile has left his/her Accra home and been arrested in another region, requiring that probation officers from that region conduct SERs for children from far away. Reciprocal arrangements among probation units to conduct investigations in their districts when a child is from outside communities will have to be made.

At this point in time, it is quite difficult to recommend non-custodial sentences outside of probation since these options have not yet been fully developed. Probation officers writing SERs for the Juvenile Courts may also be the same people who sit on juvenile panels which hear the cases, particularly in those districts that are served by only one or two probation officers. This is a conflict of interest that has the potential to impact on the court’s judgment. It is thus recommended that **probation officers who complete SERs not serve the court in any other manner**, nor should they serve any participants to the proceedings in any other manner.

Remember that the SER must be:

- Balanced;
- Impartial;
- Timely;
- Focused;
- Free from discriminatory language and stereotyping;
- Verified and factually accurate;
- Understandable to the young person and his or her parents/guardian.

Information must be edited to ensure only that which is relevant to the SER is retained. The format, wording, grammar, style and flow of the SER must be appropriate for presentation at court and follow standard practice.

## 7.4 Checklist for conducting investigations for SER for Juvenile Court

### For all SERs:

- ☐ Standard cover/front page completed and attached to report
- ☐ Report reviewed by supervisor; feedback incorporated
- ☐ Evidentiary documentation attached to report
- ☐ Copies of report made for court, child, parents/guardian, legal representation, prosecutor, if valid

### For Juvenile Courts:

- ☐ Current offence, detailed statement from police/charge sheet, juvenile statement, investigation notes reviewed
- ☐ Juvenile offender's version/Juvenile offender interviewed in-person
- ☐ Victim impact statement/Victim interviewed + witness accounts
- ☐ Prior offences/convictions/adjudications; full record reviewed
- ☐ Placement history if juvenile offender has had previous out of home placements
- ☐ Family history background and risk/strength factors; family/guardian interviewed, including siblings and extended family, as required

- ☐ Home visit conducted for report on background
- ☐ Education/employment summary of current situation, noting future goals, risk and strengths
- ☐ Peer relations identified with summary of risks and strengths
- ☐ Juvenile offender's health status, including physical, mental and emotional; substance abuse history and current issues; risks and strengths/any documentation on health issues reviewed
- ☐ Leisure and recreation of the juvenile; risk and protective factors identified
- ☐ Attitudes/orientation of juvenile; risk and strengths identified
- ☐ Other interviews held with community members with positive relationships to juvenile
- ☐ Final assessment with risk and protective factors analysed
- ☐ Legislation, regulations and policy reviewed for sentencing options
- ☐ Recommendations made with evidentiary justification

## 8. Care and Supervision Orders and the Social Enquiry Report

A Care Order is a **court report and application to remove a child from a situation in which she or he is suffering or likely to suffer significant harm, temporarily transferring parental rights to the Department of Social Welfare**, which will determine the most suitable place for the child at either an approved residential home, with an approved fit person, in remand in the case of a juvenile, or the home of a parent, guardian or relative. A Supervision Order is similar, but it can allow for a child to continue living with his/her parent or guardian, **under the supervision of a probation officer**.

Care and Supervision Orders provide for district social welfare departments to be responsible for making sure that **children are safe and appropriately cared for** by the person/institution looking after them. Social welfare authorities also have a general duty of care to promote the well-being of children in their area and are responsible for investigating any child in their area where they have cause to suspect the child is suffering, or is likely to suffer, significant harm.

Application for these orders is to the **Family Tribunal**, in most cases. An **application must be accompanied by a Social Enquiry Report** which establishes a firm case for the transfer of parental responsibilities or supervisory responsibility for a child by the Department of Social Welfare. Orders are granted by the court. There is no single template for the SERs that accompany an order since they are tailored to the specifics of each circumstance.

### 8.1 What constitutes a need for protection?

The Children's Act, sect. 18, outlines that a child is considered to be in need of care and protection if the child:

- a. is an orphan or is deserted by his relatives;
- b. has been neglected or ill-treated by the person who has the care and custody of the child;
- c. has a parent or guardian who does not exercise proper guardianship;
- d. is destitute;
- e. is under the care of a parent or guardian who, by reason of criminal or drunken habits, is unfit to have the care of the child;
- f. is wandering and has no home or settled place of abode or visible means of subsistence;
- g. is begging or receiving alms, whether or not there is any pretence or singing, playing, performing, offering anything for sale or otherwise, or is found in any street, premises or place for the purpose of begging or receiving alms;
- h. accompanies any person when that person is begging or receiving alms whether or not there is any pretence of singing, playing, performing offering anything for sale or otherwise;
- i. frequents the company of any reputed thief or reputed prostitute;

- j. is residing in a house or the part of a house used by any prostitute for the purpose of prostitution, or is otherwise living in circumstances calculated to cause, encourage or favour the seduction or prostitution of or affect the morality of the child;
- k. is a person in relation to whom an offence has been committed or attempted under section 314 of the Criminal Code (Act No. 29 of 1960) on slave dealing;
- l. is found acting in a manner from which it is reasonable to suspect that he is, or has been, soliciting or importuning for immoral purposes;
- m. is below the age of criminal responsibility under the Criminal Code, (Act No. 29 of 1960) and is involved in an offence other than a minor criminal matter; or
- n. is otherwise exposed to moral or physical danger.

**Threshold criteria** for determining the need for a Care Order include the list provided for under the Children's Act, as noted above. Reasonable suspicion is a sufficient basis for beginning an investigation. In care proceedings, there is usually a **two stage test** used to justify making a care or supervision application. The first stage, **the threshold stage**, requires that there be sufficient reason to justify making the order. The threshold is crossed if the court agrees:

- That things have happened which have already caused sufficient harm to a child; or
- Pose a serious risk that significant harm will be suffered in the future; or
- Demonstrate that the child is beyond parental control.

If a child is not suffering or at risk of suffering significant harm, there cannot be a Care or Supervision Order because the requirements of sect. 18 of the Children's Act will not have been met.

The second stage test in determining the child's need for care and protection requires that the Care Order is **in the child's best interest**, even if the threshold criteria have been met. It is not inevitable that an order will be made every time a child suffers significant harm, although it is quite likely. **Significant harm can be caused either by what parents are doing or failing to do** for their children **or because the child is beyond parental control**. For example, a child who has been acting out and cannot be managed by his/her parents may benefit from continued parental care supplemented with counselling or programming to help him/her deal with mental health issues (or some other psychosocial behaviour). In these circumstances, a Supervision Order with a detailed care plan for the child may be in the child's best interest.

Probation officers mostly find themselves preparing Care Orders for children in conflict with the law when parents or guardians are unavailable/unknown to the child or unable to be located quickly and a child must be safely held somewhere pending a trial. In addition, probation officers will be asked to assist police or the court once they have been informed that a child is in need of care and protection, such as a child being harmed by a family member she/he lives with, a child subject to exploitative labour or a child who is a victim of trafficking. If there are social welfare officers in the Department of Social Welfare, they may be asked to prepare the order themselves. In both circumstances where protection is needed, a probation officer needs to provide an affidavit to accompany an application for a care order, which is completed in a Social Enquiry Report. **The Social Enquiry Report presents the facts relied upon to make the case for a care order – in other words, the evidence.**

## 8.2 How is a Care Order investigation started?

Typically, the Department of Social Welfare may start an investigation for any of the following reasons:

- When directed to do so by the court;
- When a report of child abuse or neglect is made by any person to the Department;
- When a child has consistently failed to comply with the terms of a Supervision Order while under the care of a parent;
- When it suspects that a child in its area is suffering or likely to suffer significant harm;
- When a child is in police protection and cannot remain with family;
- When an emergency protection order is needed to protect the child from harm by removing him/her from one place or by requiring that he/she stay in a specific place.

An investigation is usually **conducted by a probation officer or social welfare officer from the Department of Social Welfare**. Sometimes, police collaborate with the department by providing evidence when they have launched an investigation into a criminal offence to which the child is a victim.

### ***Steps undertaken to investigate and rescue a child who has been harmed or is in danger of harm:***

- A probation officer or social welfare officer is directed by the Department of Social Welfare and Community Development to **visit the premises** where the child is in order to determine if the child is in need of immediate care and protection. It is common for the probation or social welfare officer to be accompanied by a police officer to the premises for the protection of the child and to begin a criminal investigation, if warranted.

- If the visit confirms that the child is not in need of immediate care and protection, the district social welfare department will refer the matter to an appropriate agency or a community leader to be addressed. Alternatively, the officer may make a recommendation that an application for a **Supervision Order** be started, enabling the child to stay with family, but under the supervision of the Department.
- If the probation officer or social welfare officer has reasonable grounds to believe that the child's best interest will be served by removing the child from the locale and providing immediate care and protection, the officer will inform his/her department that **a Removal Order is required and a Care Order application will be started.** The Removal Order is prepared and signed by the probation officer and can be found in the Appendices at the back of the manual. It specifies the grounds for removal of the child and is served to the parents, guardian, relatives or custodian of the child.
- If the child is to be removed from the premises, the probation or social welfare officer will work with the attending police officer to **take the child to a place of safety.** This may be a shelter, if the region has one, the home of an approved fit person or another suitable residence as determined by the Department.

Before beginning the application for a Care Order, the Department of Social Welfare may work with the family of the child and involve relevant agencies and professionals in a case conference to discuss and determine **if the child could be properly protected without a Care Order being made.** The **child should also be consulted** on his/her preferences prior to making a decision on the best care arrangements and, where possible and in the best interests of the child, these preferences should be accommodated.

If it is determined that the family can safely care for the child, a **Supervision Order** will be made instead. This does not remove guardianship from the family, but does mandate that the Department **supervise the child while under parental care.** In this case, parental care is shared between the Department and the child's parent(s), and a detailed plan for the child's care is drawn up by the social welfare or probation officer, with family input. The care plan is then monitored by the Department of Social Welfare.

Supervision Orders are also granted to prevent any significant harm being caused to a juvenile while under parental care and/or to monitor the juvenile when the family may not be able to handle him/her.

### 8.3 What happens after a child is removed from his or her family or guardian?

Once a Family Tribunal imposes a Care Order, the child is placed in an approved residential home or with an approved fit person. An application for a **Fit Person Order** is made to the court in the latter instance. If neither of these options is available, the Family Tribunal will make a determination as to the best place to house the child.

A probation or social welfare officer takes responsibility for the child's supervision under a Care or Supervision Order. This may include advising and helping the child and his/her family to be able to return the child home; taking reasonable steps to ensure that the child is not subjected to any harm; and holding regular reviews with stakeholders to plan for the future of the child.

At any time, an application for an **Order Revoking or Varying a Fit Person Order** may be made by a probation or social welfare officer to have the child cared for by another approved person, as can an application for an **Order Revoking or Varying a Supervision Order**, which may be undertaken to remove a child from his or her parents or to make a change in supervisory responsibility. Both of these forms are included in the Appendices. Care and Supervision Orders can be discharged in the best interest of a child by the Family Tribunal on the application of the child, a probation officer, a social welfare officer or a parent, guardian or relative of the child.

Ultimately, a child under a Care Order needs a permanent home and caregivers. If no family member has nor develops the capacity and will to care for a child, parental responsibility may be permanently removed. A child may then be taken in by a foster family or permanent adoption into another family may be arranged. In either case, the parents will be given **notice to show interest** in the child and if they do not respond within a timeframe stipulated by the Family Tribunal, the child will be put up for adoption.

### 8.4 Contents of the SER for Care or Supervision Order

Probation officers should use a consistent format for investigating the need for care or supervision in order to draft reports for the courts. Following is a list of the elements that should be included in the report, which is attached to the application for the order:

#### 8.4.1 Standard cover/front sheet for the report, including a list of information sources used to compile the report

This should be standard and include the following subtitles:

- **Court** – indicate which court (ie: District Court 1, Family Tribunal)

- **Location** – indicate where the court is located (ie: Accra)
- **Date** – this should be the date when the application is brought to court
- **Name of applicant**, which is the Department of Social Welfare (indicate district)
- **Children Involved** – each child involved should be listed by name, age, sex and the school he or she attends should also be indicated
- **Parents/guardians** – mother and father’s names, addresses and contact information
- **Information Sources** – this is a listing of all the sources drawn upon to prepare the report, including documents reviewed, people who were interviewed and any agencies or institutions consulted.

The report is prepared for the court to know what **the nature of the local authority case** is; what the **essential factual basis of the case** is; what the **evidence** is upon which the local authority relies to establish its case; **what the local authority is asking the court and why**. Aligned with the legislative requirements, the SER includes the following subject headings:

#### 8.4.2 Concerns

This section describes the immediate circumstances that triggered the application for a Care Order and anything significant that has happened since. This is the section of evidence or facts to make the case for the order. It may have been triggered by a notification of harm being done to a child by a neighbour or family member, a criminal investigation into a parent launched by the police, a child taken into custody without parental or guardian care or someone else who knows the child making a report to the DSW about potential harm being done to the child. It also should specify the type of abuse, neglect or harm that was reported, witnessed or investigated.

#### 8.4.3 Children’s background

This section informs as to who the parent(s) or guardian is, the status of the parents’ relationship with the child, the child’s name, age and relevant information about school, health, work and living arrangements, the date court proceedings relevant to the order began and any other significant orders that have been made since the court process began. In the case of a child before the juvenile courts without parental accompaniment, the background will include information about attempts to contact family and/or guardians.

#### 8.4.4 Current findings

This is the section where the investigation results are reported. Wherever possible, proof of the concerns and allegations made in the first section should be included, such as witness statements, medical records, photographs of bruises and wounds and any other evidence such as that procured

by the police. The probation officer should include whether the abuse/neglect/harm has been proven to take place and evidence that neither parent nor guardian is capable of protecting the child(ren) from further harm.

### 8.4.5 Recommendations

The recommendations section provides for the child being taken into temporary care and guardianship under the Department of Social Welfare, release of the child to a parent or guardian with a specific care plan to be followed or release of the child to another family member. It should include the details of the care plan, if there is one. If the recommendation is to take away parental responsibility, the name of the institution or the fit person that will take responsibility for the care of the child must be included in this section.

Below is a sample of a SER prepared for a case where a child required rescuing and immediate care.

| <u>SOCIAL ENQUIRY REPORT</u>                                                                                                                                          |      |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|
| <u>THIS REPORT IS CONFIDENTIAL AND IS MEANT</u>                                                                                                                       |      |
| <u>FOR THE PURPOSE OF THIS COURT PROCEEDING ONLY</u>                                                                                                                  |      |
| TYPE OF CASE: CARE ORDER                                                                                                                                              |      |
| DATE:                                                                                                                                                                 | XXX  |
| NAME OF CHILD:                                                                                                                                                        | XXXX |
| AGE:                                                                                                                                                                  | XX   |
| SEX:                                                                                                                                                                  | XX   |
| PLACE OF BIRTH:                                                                                                                                                       | XX   |
| FATHER:                                                                                                                                                               | XXX  |
| ADDRESS AND CONTACT:                                                                                                                                                  | XXX  |
| MOTHER:                                                                                                                                                               | XXX  |
| ADDRESS AND CONTACT:                                                                                                                                                  | XXX  |
| <u>SOURCES OF INFORMATION:</u>                                                                                                                                        | XXX  |
| <u>BACKGROUND:</u>                                                                                                                                                    | XXXX |
| <u>CONCLUSION:</u>                                                                                                                                                    | XXX  |
| <u>RECOMMENDATION</u>                                                                                                                                                 |      |
| In view of the above the Court may consider granting Care Order to the Director of Social Welfare for the child to be protected and sheltered at XXX Children's Home. |      |
| <hr/>                                                                                                                                                                 |      |
| Probation Officer                                                                                                                                                     |      |
| Probation Unit, District, Region                                                                                                                                      |      |
| Contact Information                                                                                                                                                   |      |

## 9. Probation: Commencement, Planning and Management

Probation is a program and **period of supervision in which the juvenile offender's freedom is limited and activities restricted**. Probation has been called the “workhorse” of the juvenile justice system – as, in many jurisdictions, probation is the most common disposition in juvenile cases that receive a juvenile court sanction. Specific terms of probation vary widely from jurisdiction to jurisdiction, and from case to case. Typically, a juvenile offender must obey both the general terms of probation and any additional requirements tailored to the particular circumstances. The court usually expects that **parents or a guardian will help the offender fulfill the conditions of the probation order**. These conditions can include community service, attendance at a certain school, counseling, curfews, orders that the juvenile not associate with certain individuals (as in cases involving suspected gang members) and life skills training. As part of probation, some juvenile offenders must attend special day treatment programs that provide additional monitoring and educational services -- including anger management classes, social skills building and substance abuse education, when these services are available. The period of probationary supervision can fall between six to 18 months. (Sec. 31 (5) JJA)

The overall approach to supervision relies on **assessing risk and supporting youth and families in order to provide them with the tools to change behaviours**. The old “one size fits all” model of supervision fails to improve outcomes, hence **policies and practices must be tailored for the specific needs and supervision requirements of individual youth**. This means that some juvenile offenders receive minimal supervision, while others require more support in order to address public safety, the offender's specific behaviour and risk and his/her rehabilitation needs. It is important that **each condition placed on the youth contributes to public safety, treatment or rehabilitation**.

### 9.1 Probation Officer's Role

The probation officer is not merely an agent of simple surveillance of the child, but a **“broker” of services, a problem solver and a change agent**. Put simply, the probation officer works with families/guardians to keep juvenile offenders out of trouble and solve problems that exist with the family. The child or young person, his or her family members, mentors, service providers, teachers and other interested adult supporters, work with the probation officer to design and execute service plans tailored to the strengths and needs of the juvenile offender. In order to carry out this role, probation officers do the following:

- **Maintain regular contact with offenders and their families**, including home visits (sometimes unannounced), building rapport and supporting family development of positive relationships, communicating expectations of the juvenile justice system and the probation system, and providing supervision, support, case management and intervention, as needed. Each contact should be recorded in the juvenile offender's case file.

- **Identify and maintain collateral contacts**, including community resources, services, community supervisors and any others who are part of the child/youth and his/her family's plan. Remember that juvenile cases are confidential and collaboration with others may require that release forms be signed by the parent and/or the offender to authorise transfer of information between agencies. Record a summarised account in the juvenile offender's case file after every collateral contact.
  
- **Assist offenders and their families to recognise and accept their responsibilities** by ensuring that the supervision plan reflects the child and family strengths and needs, as well as his/her age, offence severity, type of crime and level of assigned supervision, provide juvenile offenders and their families with a copy of the probation rules and supervision plan, ensuring that they understand it, sign it and commit to honouring it. Explain to children and their families that the rules must be followed strictly, unless specific permission is given by probation for special occasions such as curfew extensions, family trips or delays in reporting for good reason.
  
- **Know how to coordinate services**, including awareness that community-based intervention is usually most appropriate for juvenile offenders. Both formal community resources, agencies that target specific problem areas and behaviours, and informal resources, which tend to be more generic, such as church youth groups or sports teams, can be very effective for juvenile rehabilitation and nurturing roots and belonging to the community. Never make referrals haphazardly without considering the overall appropriateness of the action. Also, it is important to realise that "more" is not necessarily "better" in making referrals to community services. Many new probation officers believe that juvenile offenders are best served by referrals to numerous community-based interventions. Experienced juvenile probation officers realise that a single, appropriate referral is more effective. In addition, successful juvenile probation officers involve offenders and their families in determining needs and contacting the appropriate resources to meet those needs. Depending on the local jurisdiction, contracts between community agencies and probation departments must be in place before services can be provided.
  
- **Provide direction and guidance**, knowing that efforts spent in supervision activities are aimed to assist juvenile offenders in making permanent changes in their behaviours, perception and judgments. To maximise these efforts, it is critical that a child's needs and strengths are defined and understood clearly by both the juvenile probation officer and the child him or herself. An assessment of the offender's needs includes clarification of the level of risk the juvenile offender poses to the community; the capacity of the family/community to monitor him/her; problem behaviours, thinking errors and skill deficits; mental health and/or substance abuse problems and educational concerns. An assessment of strengths includes positive family relationships, school and extra curricular activities, personal interests and hopes, academic/vocational abilities, community/social relationships, maturity, attitude and remorse for the crime.

## 9.2 Commencing Probation

### 9.2.1 General procedures after the Order is made

All juvenile offenders placed on probation must be **assigned to a probation officer and be supervised until discharged or transferred to another officer**. The probation officer must **establish initial contact with the juvenile offender within 24-hours** of release on probation. If convenient, contact could be made with the probationer and his/her family before they leave the court. At this time, the probation officer must inform the offender that the role of probation is to monitor the conditions of the court, but also work with the offender and his/her family on areas that may reduce his/her likelihood of continued involvement in the criminal justice system.

The probation officer must **serve the order on the probationer as soon as possible and furnish written conditions of supervision to the juvenile offender and parents/guardians**, explain the terms and obtain signed acknowledgement from both. The offender and his/her family should receive a copy. The case plan can be prepared at a follow up meeting with the juvenile offender and his/her family.

General terms of the probation order often include the following, but should be specifically adapted to each probationer and his/her family requirements:

- An agreed upon location of residence;
- Agreement that the child/youth will get approval from the district Department of Social Welfare before travelling outside the district;
- Agreement to abide by the law;
- Attendance at school, work or in apprenticeship, as required, maintaining a satisfactory performance;
- Respecting a curfew;
- Agreement to warrantless search of the probationer, his/her residence and any personal property when reasonable suspicion exists;
- Establishment of a restitution payment plan, if applicable;
- Agreement to attend regular meetings with the supervising agent (probation officer or community member), as detailed in the plan; and
- Complying with all instructions and executing programming, as detailed in the case plan.

If any of these conditions do not meet the probationer's treatment or rehabilitation and do not serve public safety, they should be dropped from the order. These orders come from the court.

### 9.3 Probation supervision

The head of the district probation unit will **assign juvenile probation supervision** cases. A **case plan should be developed at the first meeting** with the probationer and his/her family. Information on developing the plan can be found below. Juvenile offenders should be provided with a **Supervision Level classification**, as below:

**Maximum** – this level is the most restrictive and requires frequent (weekly) contact with a probation officer. All probationers usually begin their probation at maximum supervision levels for at least one month. Community supervisors are usually not used for maximum supervision.

**Medium** – this level provides for a greater focus on family issues and the need for therapeutic intervention. It may use community supervision, but often has close probation officer involvement. Meetings are usually monthly, but may become less frequent as conditions in the case plan are met, such as improved life skills and drug rehabilitation programs are completed by the probationer, as an example. Meetings with the probation officer are held once or twice per month.

**Minimum** – this level allows for probationers and families to provide more input on privileges and consequences, adapting the terms of the case plan as time goes on, as circumstances remain stable. Probation officers must approve changes and supervision meetings are usually held every four to six weeks. Minimum supervision is easily provided by community members.

**Administrative** – this is the least restrictive level of supervision and is usually designed for the final phase of probation supervision or when a probation order is discharged, but administrative tasks remain to be completed by the probationer. Meetings with a community supervisor or probation officer are held as needed under this level.

If the probation officer is not located within the probationer's community and the supervisory level required is not maximum, she or he may identify someone of high moral character and standing in the community who can act as a **community supervisor**<sup>12</sup>, standing in for the probation officer. The probation officer will be in regular contact with a community supervisor, receiving reports no less than monthly and conducting face to face meetings with the probationer and supervisor no less than **every 60 days**.

<sup>12</sup> A community supervisor or probation agent is someone who has been approved by the Head of the Probation Unit or the district social welfare officer. Persons who can be considered for engagement in this capacity include religious leaders, catechists, family heads, chiefs or town elders, teachers, social workers or retired public servants. Others from different occupations may be considered.

**Case contacts** with the probationer must be periodically conducted at his/her home, place of employment or school, in the probation unit's office or at other appropriate places by the probation officer, even when a community supervisor is being utilised. Contacts may also be conducted with other persons interested in the probationer's welfare, such as employers, relatives, friends, school officials, clergy, welfare and other agencies. The probation officer must maintain confidentiality requirements and data practices standards in these contacts.

The probation officer must maintain a written record of visits and contacts regarding the probationer. This record must present an evaluation of the juvenile offender's progress and adjustment under supervision and is used as a basis for determining further supervision strategies. Record keeping of the chronological case record must be completed as follows:

- Enter the date of contact;
- The focus on the visit or contact must be based on a risk/need factor, any ambivalence or barriers to change detected in the probationer and progress on goals worked on. The probation officer should use interviewing techniques to motivate the offender. The information in this record, along with other notable developments or changes, requires the probation officer to update the status of special conditions and the Case Plan.

## 9.4 Records

Notes must be kept **up to date** in order to present at court proceedings. Include **dates, times, locations and persons present, along with the narrative of the contact**. Probation officers must clearly identify the **source, verification and confidentiality of the materials** in the case file.

At a minimum, records for each probationer must be kept of the following:

1. Probation Agreement (attached, on top);
2. Supervision level classification and notes as it changes;
3. Case Plan;
4. Service referrals/restitution/certificate of restitution/fine receipts;
5. Probationer Progress or Violation Reports/case updates;
6. Correspondence;
7. Monthly reports;
8. School – grades or Work - progress;
9. Travel permits;
10. SERs;

11. Police reports;
12. Violation Reports;
13. Letters notifying police of court-ordered probation;
14. Discharges;
15. All court documents; and
16. Incoming transfer requests.

Probation officers must have at least one face to face contact with the probationer **every 30 days unless she/he is on minimum or administrative supervision**, when meetings can be less frequent. When supervision terminates, such as when the court approves and orders a discharge or when a probation violation results in a custodial sentence and termination of probation, this too must be filed into the probationer's records.

## 9.5 Case Planning

The probationer's **Case Plan** provides the focus for case management and supervision planning. It is distinct from the probation conditions, which require that the juvenile adhere to certain restrictions on his/her living conditions. The case plan, on the other hand, is **a framework drawn up between the probation officer and the juvenile/young offender and his/her family that lists activities for the probationer and his/her family to undertake and complete during the supervised period.** These activities are **targeted to address the juvenile's risk or criminogenic needs factors to diminish the likelihood of re-offending and to strengthen the protective factors of the family and juvenile in order to facilitate rehabilitation and reintegration.**

All probation officers must develop plans for cases at medium and maximum supervision levels. Plan implementation must begin within 30 days of the juvenile offender being placed on supervision. The offender and his/her family must be consulted in the development of the plan with their input considered and integrated, as much as possible. The plan should be signed by the probationer and his/her parent or guardian. It forms the basis for case management reviews at meetings between the probationer and his/her probation officer. The case plan is a living document which must be regularly adjusted to respond to benchmarks achieved, the needs and the performance of the juvenile offender.

The probation officer has primary responsibility for **tracking that the case plan** for a youth and family is carried out and for **coordinating and evaluating services.** She/he will have regular contact with the youth and family. The probation officer will ensure that:

1. Services and supports are in place to address the youth’s likelihood of reoffending;
2. Family preservation is maintained to the greatest extent possible;
3. The case plan/behaviour contract provides the supervision necessary for the juvenile or young person;
4. Permanency is achieved for the young person or juvenile;
5. Opportunities for family involvement are maintained;
6. If the juvenile is placed out-of-home, she/he is placed in the least restrictive environment available in close proximity to his/her family;
7. The juvenile or young person and each family member are offered appropriate services for achievement of the case plan;
8. Services to the juvenile and family are coordinated;
9. Interventions are done in a least restrictive way to meet the juvenile’s needs for supervision;
10. Probationers are prepared for adulthood, with specific focus on services to those aged 16 through 18.

### Formulating a Case Plan

Criminogenic needs factors were discussed earlier in this manual under the section on completing SERs for Juvenile Courts. Case plans are usually a one page document that records the risks or issues (due to criminogenic factors), as well as the protective factors, and outlines the action steps to diminish risk and strengthen protection. It should also include timelines. An example can be found below.

|                                                                                                   | Activities | Frequency of activities | Completion date |
|---------------------------------------------------------------------------------------------------|------------|-------------------------|-----------------|
| <b>Risks/Issues</b><br><br>(enumerate these one at a time, with targeted activities for each)     |            |                         |                 |
| <b>Strengths/Assets</b><br><br>(enumerate these one at a time, with targeted activities for each) |            |                         |                 |

For example, if a juvenile is intelligent and good at school, an activity to strengthen that asset would

be to attend school and achieve a minimum grade of B+. This activity would have a frequency of 5x weekly. Completion date would be the end of the school year, to be re-evaluated for another year if the juvenile would still be on probation then. A risk to address might be antisocial behaviour for another juvenile. Potential activities to address this might include counselling once a week; the maintenance of a daily journal where the juvenile records the difficult situations when she/he acts out and seeks reasons for that; and a specific activity designed to help him/her develop social empathy and skills, such as supervised volunteering in a hospital, on a farm or in a school one day each week, if it is safe to do so.

The plan is to be monitored with each contact the probation officer has with the juvenile or young person and progress is to be noted with regard to each of the activities. Progress reporting should include:

- a. What changes (if any) have occurred with respect to the conditions and behaviours which contributed to the probationer offending?
- b. What case plan activities have been accomplished and how does the probation officer know that they have been accomplished?
- c. What progress has been made toward achieving the outcomes of reducing risk and strengthening assets?
- d. Are services being provided as planned and/or are other services needed to help the juvenile and his/her family achieve case goals?
- e. Identify or document unanticipated barriers.
- f. Should a new case plan or referrals be developed based on the progress or lack of progress?
- g. What is the current level of risk of re-offending?

## 9.6 Probation Breaches and Violations

A probation officer should **not ignore any problems** that arise in the supervision of the juvenile offender, such as failure to report or failure to comply with conditions of the probation order. In early stages, it is recommended that the probation officer contact the home immediately after such failures, but even in the middle or towards the end of the supervision, no more than two consecutive failures should pass without a home visit and attempt to discover the causes. A re-assessment of the probationer, his or her home and the rehabilitation process may sometimes lead to changes in case plans, which is preferable than threatening court action or following through, when this option should be a last resort only.

A **probation violation occurs when the juvenile offender fails to meet the conditions** of probation. This may necessitate a modification of probation conditions and/or violation hearing. A decision regarding appropriate action should be taken at the Probation Unit. Some options are to

increase the level of supervision, increase restrictions or make corrections to the probation unit. If **modification of the Probation Agreement** is a less restrictive alternative and is deemed appropriate by the Probation Unit and the court, the probation officer must abide.

**New offence violations result in juvenile court proceedings.** The probation officer must immediately investigate all arrests, petitions and alleged violations of probation conditions in order to determine the action required. If the juvenile offender admits to a new offence, the probation officer may initiate a probation violation hearing. **The commission of a new offence must be reported to the court, subject to review by the head of the probation unit.** The probation officer must be prepared to make a recommendation to the court, if there is a finding of a violation. Any recommendation to the court must include supporting justification for actions or resolutions. Alternatives to confinement must be considered to the extent that public safety and the best interest of the juvenile offender are not endangered and the possibility of successful community intervention exists.

**Technical violations of probation conditions are not acts that constitute a new offence.** Absconding from supervision, curfew violations, failure to comply with a court order and truancy from school are all considered technical violations. Formal court hearings for technical violations should not be used. The probation officer and his/her head of unit should consider the following questions in determining appropriate action:

- Is the violation part of a recurring pattern of violations or a relatively isolated event;
- Is it possible for the violation to be addressed through less restrictive sanctions or untried remedies in the community; and
- What action/treatment is needed to address the underlying causes of the violation?

## 9.7 Discharge of Probation

Probation orders can either end by the period of supervision expiring or when a new order is made revoking the probation. Most often, probation ends when the term imposed by the court expires and rarely have probation officers made use of probation revocation in circumstances where the juvenile is rehabilitated prior to the end of the court-mandated probation term. Yet, it is worthwhile for probation officers to consider early termination and make applications to revoke the probation order when the term is significantly longer than rehabilitation requires.

## 10. Probation Officer Safety when Supervising

A probation officer is responsible for different types of supervision of children. These may include:

- Supervision of a child who is under the care of the court through a Care Order or Fit Person Order or a Supervision Order;
- Supervision of a child in remand or serving a corrections' sentence;
- Supervision of a child on probation; and
- Supervision of a child in aftercare or on licence.

In all these situations, there is the potential for a probation officer to be exposed to danger and threats, from family members or probationers, while she or he is carrying out probation supervision duties.

### 10.1 Probation Staff Safety

Occasionally, probation officers have to deal with potentially difficult juvenile offenders and young persons that they supervise. Some of those under supervision will have severe behavioural issues, making staff fearful for their own safety. Probation unit heads must take responsibility for the officers in the unit and take all appropriate steps to protect their health and safety. When supervising any child, a probation officer is to treat the person fairly and equitably, however, when a child or youth under supervision is potentially volatile, there are a number of steps that can be taken to make the interaction more secure for probation officers.

Evidence-based practice stresses the importance of identifying each child's risk level and developing supervision conditions and goals that address that perceived risk. However, when it comes to probation officer safety, when encountering an individual under supervision in your office, at their place of employment, or at their home, you should always assume that every individual poses an "unknown risk", regardless of if the field contact was planned or unannounced.

Family members who contest care and supervision orders and family of some juvenile offenders can also pose risks to probation officer safety. The good news is, your safety is determined just as much, if not more, by you being proactive and mentally prepared than any equipment you wear or carry.

**In the office:** Mentally prepare yourself prior to each meeting with a person under supervision. Review what you have to discuss with him/her prior to the meeting. If you have to discuss something unpleasant with them, such as a violation issue or why they have not met a goal or condition, be prepared for the variety of ways they may react. Also, prepare yourself for the likelihood they may

just generally arrive in a foul mood, particularly if they have exhibited unsavory feelings about having to come see you. If possible, it is becoming a practice of many probation departments to have a “sterile” room where probation officers can meet with probationers. This room is devoid of anything more than a desk and two chairs to minimise the likelihood of an altercation. This type of meeting space also minimises the likelihood of an individual on supervision getting a glimpse of someone else’s information or possibly identifying personal information about you that could prove damaging later. If the “sterile” room is not possible, there are still some things you can do to be proactive in protecting yourself during an office contact.

**Clear your desk.** This includes any items that could be used as a weapon (staplers, tape dispensers, telephones, pencils/pens, picture frames, binders, desk lamps, knickknacks, etc.).

**Protect your personal information.** Keep pictures of family members and things that provide personal information about you or your family out of sight. This includes photographs, pictures that your kids/grandkids, nieces/nephews have given you, diplomas/ training certificates or any information that could give the probationer personal or background information about you. What may seem trivial to you can be a source of vital information for an individual who may intend to do you or your family harm.

**Make it a practice to escort probationers and other visitors into and out of your office.** Have the probationer walk in front of you. Never turn your back on the probationer when entering or leaving your office, walking down the hallway, or entering/leaving the reception area. As soon as you make visual contact with the probationer, pay close attention to his/her appearance. For example, is she or he wearing clothing that could hide a weapon (such as inappropriate clothing for the weather)?

**It is good practice to schedule appointments with individuals only when a co-worker can be in the office area with you.** Establish a code word or code phrase for your probation unit that will send a signal to your co-workers that something is not right, but will not alert the individual that you are calling for help (e.g., asking a co-worker for the orange file). Establish a procedure for what should happen when that code word or code phrase is used (for example, the co-worker notifies law enforcement or interrupts the meeting to defuse the situation).

**Be aware of technology.** In this age of camera phones and other miniaturised equipment, make sure you do not have any items or documents in your office that you would not want to be photographed by a probationer or other visitor. Additionally, be aware that the probationer may be recording you without your knowledge.

**In the field:** Just as with an office visit, it is important to mentally prepare prior to making a field contact. Review the case file and determine the purpose of the contact. Is it to just check in with the individual, confirm residency, to check on compliance with conditions or to execute a warrant or violation/revocation? Each of these scenarios can have a variety of outcomes and mentally preparing for potential conflict can improve your chances of the contact going smoothly.

**Do not assume that announced contacts will carry less risk than unannounced contacts.** Both carry inherent risks. With announced contacts, if the individual intended to do you harm (possibly because they knew you were coming to arrest them), they will be prepared for you. With unannounced contacts, you may unknowingly catch the individual doing something they should not be doing and that can also lead to a potentially dangerous situation for you.

**It is good practice to conduct home contacts in pairs,** such as with another probation officer or a law enforcement officer. There is safety in numbers. It is good practice to alert someone to the fact that you will be in the field, where you will be (such as the address) and how long you should be gone. You may have to travel to remote areas for home contacts where dispatch or cell signals are not available. Therefore, alerting individuals at the office of your whereabouts is a good habit to develop and implement as standard practice. If you are not back or have not made contact in the allotted time, initiate a procedure where they check on you (a police call or a check-in procedure).

In addition, at least one member of the probation unit should receive special training in safety, which might include:

- self defense and verbal gymnastics
- reading body language
- “common sense” options
- how to identify dangerous situations and how to avoid them
- recruiting and using back up resources
- crisis intervention and defusing
- how to and when to use nonlethal techniques, if required
- interlocking issues of violence prevention, defusion and post trauma support.

Remember, in the vast majority of contacts with probationers and their families, as well as families of children under care and supervision orders, there is very little to no risk. The situations that do pose risk are few and far between. That said, adhering to basic safety procedures is good practice in all client contacts.

## 11. Aftercare/Reintegration Planning and Management

Juvenile aftercare refers to **the services designed to prepare juvenile and young offenders who served custodial sentences for re-entry** into the community. Ideally, planning for aftercare begins the moment the youth or child enters the justice system, including while in custody. Both the junior and the senior correctional centres have an appointed **aftercare officer** who is charged with **maintaining links between the offender and his/her family, conducting group programming to facilitate programming and developing individualised reintegration programming** for each juvenile offender while in custody.

The aim of aftercare and reintegration is to **ease the offender's transition from the junior or senior corrections' centre to his or her home**, whether the child returns to family or to another guardian's residence, **and reduce the chance of recidivism**. Custodial sentences disrupt a child or young person's life by removing him/her from family, school, work (in some cases) and the wider community. As a result, he or she loses the support that family, friends and community members provide. Transitioning home can be even more difficult for youth who are already experiencing the transition from adolescence to adulthood. Aftercare programs aim to overcome these challenges by offering reintegrative services and ongoing support.

Aftercare services **begin while the juvenile offender is still detained**, continue through the transition back into the community and are **maintained during a supervision period in the community**, which is legislated as one year. (*Juvenile Justice Act, sect. 52 (3)*) Release into the community can occur after the juvenile has **served his/her full sentence** in a corrections' facility or when **released early on licence**, if the person in charge of the facility is satisfied that the young person will abstain from crime and lead a useful and industrious life. Juveniles in aftercare are **under the supervision of a local probation officer or a community supervisor** from the district in which they will reside.

Aftercare requires **collaboration between the corrections' centre, the district probation office and the community in order to deliver effective services and supervision**. It may also involve **partnerships between public and private organisations**, such as NGOs or churches and mosques, to expand the overall capacity of services for youth.

Aftercare programs have **different components, depending upon the unique needs of the child or youth**. Since aftercare intervention strategies concentrate on changing individual behaviour in order to prevent future delinquency, they are focused on **mitigating risks that the juvenile will return to offending and strengthening protective factors** in his or her life. For example, a youth who committed an offence while high on drugs will be supported with programming to get him/her off of drugs for good, in order to reduce offending behaviour. Another child may have acted out as a result of learning disabilities and an inability to control his/her impulses. Aftercare programming for this child will likely include remedial school tutoring and life skills education, focused on developing and improving his/her coping strategies and skills.

Aftercare programming should **not neglect the family**. Families, too, require a period of adjustment and new skills to welcome a child back home and help him/her be successful in the transition. It is especially important to find ways to support families if home dynamics contributed to the child's offending in the first place. Too little supervision, too much supervision, too harsh discipline, inability to be at home, among other factors, all contribute to a lower level of protection and care for a child. **Parenting skills and support** often go hand in hand with programming for the child or youth.

## 11.1 The procedure for aftercare and reintegration

### Step 1:

Both the junior and senior corrections' centres have a **Discharge Board**, composed of:

- The Regional Prisons Commander
- A Labour Officer
- The Regional Director of Social Welfare
- The Officer in Charge of the Corrections' Centre
- The Aftercare Officer (as secretary).

The Discharge Board meets monthly to discuss the discharge of juveniles, both those whose custodial sentence is ending and those who are recommended for early release on licence. Based on the recommendations for discharge plans by the Head of the Corrections' Centre and the Aftercare Officer, the Board usually approves the releases and aftercare plans.

### Step 2:

Once release is approved, a district probation officer from the location in which the child will reside liaises with the Aftercare Officer and visits the family or guardian who will be taking the boy or girl in. The discussions that the probation officer has with each will aid in developing the discharge contract and aftercare plan, by incorporating the Aftercare Officer's knowledge of the child's strengths, aptitudes and outcomes of the training, education and programming the child has undertaken while in custody with the information gathered regarding family/guardian capacity to support the child. The probation officer will also contact community partners who can assist with reintegration, such as tutors, if the child needs educational help; tradesmen who can offer apprenticeships; NGOs or other organisations providing lifeskills training or parenting classes; among others. If the probation officer is not located within the juvenile's community, she or he may identify someone of high moral character and standing in the community who can act as a **community supervisor**<sup>13</sup>, standing in for the probation officer.

<sup>13</sup> A community supervisor or probation agent is someone who has been approved by the Head of the Probation Unit or the district social welfare officer. Persons who can be considered for engagement in this capacity include religious leaders, catechists, family heads, chiefs or town elders, teachers, social workers or retired public servants. Others from different occupations may be considered.

### Step 3:

A **discharge contract and aftercare plan** is developed for the child or young person who will be released. Ideally, the local probation officer, the family/guardian, the child, the Aftercare Officer and the community supervisor (if there is one) should work together to develop the plan, ensuring input from everyone and that all understand the conditions under which the child is released. This step is very similar to probationary supervision, especially the probation order and the case plan.

The terms of the **discharge contract** often include the following, but are specifically adapted to each juvenile and his/her family requirements:

- An agreed upon location of residence;
- Agreement that the child/youth will get approval from the district Department of Social Welfare before travelling outside the district;
- Agreement to abide by the law;
- Attendance at school or in apprenticeship, as required, maintaining a satisfactory performance;
- Respecting a curfew;
- Agreement to warrantless search of the juvenile, his/her residence and any personal property when reasonable suspicion exists;
- Establishment of a restitution payment plan, if applicable;
- Agreement to attend regular meetings with the supervising agent (probation officer or community member), as detailed in the plan; and
- Complying with all instructions and executing programming, as detailed in the plan.

The **aftercare plan** usually includes additional conditions that the child and his/her family/guardian must meet to make the transition from custody to release easier, to build on the strengths of the juvenile and his/her family, to minimise insofar as possible the risk of re-offending with a focus on the factors that contributed to the behaviour and to develop the capacities of the juvenile to become a healthy and well equipped citizen who contributes to society.

Remember, each child and young person is unique, requiring an aftercare plan that suits his/her specific needs to build on strengths and minimise risks in order to stay out of trouble and become a successful member of society. An example of some of the conditions that might be included in a plan are:

**Ensuring youth complete high school** — Education in youth facilities is often substandard and youth in adult facilities may get none at all. The child has a much better chance at success if she or he has the critical and analytical skills gained through high school, as well as the diploma required to secure good employment or continue his/her education.

**Preparing youth for the job market** — Many youth leaving facilities are older teens who will soon be looking for jobs. Some will have gained technical or vocation skills while in corrections, but will likely not have developed the “soft skills” required to succeed in interviews and with co-workers. Once they are released, internships, apprenticeships and subsidised employment opportunities can help them to catch up to their peers and ready them for the working world. Voluntary service opportunities may also help the juvenile gain valuable experience in the field she or he wishes to work.

**Supporting physical and mental health**—Having a child keep active and busy is very important for his/her health and well-being, particularly when finding free time and freedom in the new environment which was not there before. Regular exercise, along with counselling that supports the youth’s weaknesses or challenging behaviours, is valuable for transition success. Removing barriers to health insurance and is essential.

**Family conferences** - Regularising family meetings for discussions on what is going well and what needs improvement can be very useful at ensuring adherence to an aftercare plan. These meetings may be facilitated by a community supervisor or probation officer, or by someone else trusted by all members of the family.

#### Step 4:

Once the elements of the aftercare plan are in place (community supervisor has agreed, partners providing services to the juvenile and his family are secured, school registration completed, health insurance acquired, etc.), the juvenile will be released to his/her family or guardian. The probation officer, ideally, will deliver the juvenile from the corrections’ centre to the home, remind everyone of the discharge contract and aftercare plan, leaving copies with the family. The juvenile will begin to follow the plan and the probation officer will monitor and supervise.

In developing the discharge contract and aftercare plan, it is important to keep in mind the four different levels of supervision required for the juvenile and aligning the contract with the level he or she requires. These levels are used to help the probation officer and Aftercare Officer determine appropriate frequency of meetings and visits and how closely the terms of the contract and plan must be monitored. The four levels of aftercare supervision, based on re-offending risk, are:

**Maximum** – this level is the most restrictive and requires frequent (weekly) contact with a probation officer. Often, maximum supervision is used for the first month that the child is released. Community supervisors are usually not used for maximum supervision.

**Medium** – this level provides for a greater focus on family issues and the need for therapeutic intervention. It may use community supervision, but often has close probation officer involvement. Meetings are usually every one to two times per month, but may become less frequent as conditions

in the aftercare plan are met, such as improved parenting skills and drug rehabilitation programs are completed by the juvenile, as an example.

**Minimum** – this level allows for juveniles and families to provide more input on privileges and consequences, adapting the terms of the aftercare plan as time goes on, as circumstances remain stable. Probation officers must approve changes and supervision meetings are usually held every month to six weeks. Minimum supervision is easily provided by community members.

**Administrative** – this is the least restrictive level of supervision and is usually designed for the final phase of aftercare supervision or when a probation order is discharged, but administrative tasks remain to be completed by the probationer. Meetings with a community supervisor or probation officer are held as needed under this level.

Supervision is usually quite frequent at the beginning of the juvenile's discharge since the early stage of reintegration is when problems are most likely to present themselves. Consequently, the probation officer will have visits and meetings with the child/youth and the family at one week intervals at the beginning of the juvenile's release. The frequency of visits and meetings may taper off as more conditions in the aftercare plan are executed and the child/youth and family are deemed to be stable. Consequently, medium level supervision may be downgraded to minimum, as evidence of effective reintegration mounts.

On the other hand, supervision can be increased when there are breaches of the contract, failures to comply and delays in meeting the requirements of the plan. A juvenile at medium supervision level may require a period of maximum supervision to get back on track. . Other consequences may include loss of privileges, house arrest or other responses. The probation officer will keep records of the supervision and report on the juvenile and family's progress in executing the aftercare plan.

## 11.2 Enforcement of Licence

If a juvenile **on licence** (released early from his/her custodial sentence) does not meet the terms of his/her discharge contract and plan, called the **Licence**, responses may differ depending upon the severity of and reasoning behind not meeting the terms of the licence. These releases are supervised by the Aftercare Officer (through a local probation officer) since, technically, the corrections' centre is still responsible for the juvenile who has not yet completed his/her custodial sentence.

**Failure to comply** with the requirements of the licence results in the Aftercare Officer seeking an explanation from the offender and/or his parents. If the explanation is not acceptable, the Aftercare Officer will record the incident as an instance of failure to comply in the offender's record at the

corrections' centre. The offender and his family should be advised formally (in writing and orally) of the likely consequences of further failure, which are likely to result in the offender's return to the institution. The offender and family should indicate that they understand the consequences and any response to the warning should also be recorded.

**Breach of Licence** results in the juvenile being immediately returned to the institution from where the licence was granted. Failure to return will result in the juvenile's arrest, without warrant, and his/her return to the corrections' centre.

### 11.3 Progress Reports and Full Discharge

During the supervisory period, the probation officer is responsible for regular (quarterly) progress reports to the court. These should indicate how the juvenile is meeting the requirements of the licence or aftercare contract and plan, assess his/her familial and community support and evaluate the juvenile's personal progress. The probation officer may use the same forms for progress reporting that are used during probation.

Once the period of aftercare supervision ends, if the juvenile has followed all conditions required for successful reintegration, he or she is considered to have fully completed the sentence and is no longer under supervision. A final meeting with the family and child or youth should be scheduled shortly before the supervision ends in order to determine if any additional referrals would help the youth and the family to stay on track. The family and youth should be reminded that juvenile records are confidential and that they have the right to apply to have records expunged or sealed, if that would assist reintegration and minimise stigmatisation. They should then be congratulated and wished well. Remember, children in conflict with the law have deep capacity to learn and change. Effective aftercare and reintegration programming and support makes success more likely.

## 12. Reporting

Recordkeeping should be a key part of the probation officer's daily practice and monthly records should be compiled for the probation unit as a whole. Good record management results in the **historical and legal record** of the probation officer's interaction with, assessment and treatment of, and supervision of juveniles, children and young offenders. It also records the interaction with the courts and other child justice actors.

In order to hold accountable the juvenile justice system, reporting from district to national level provides **evidence of the nature, scope and trends in juvenile offending and child protection**, which contributes to effective policies, programming and management. So, for example, requests to increase the number of probation officers can be backed by evidence of the need if workload exceeds current full-time staffing capacity.

This section concentrates on the **internal reporting requirements** of the probation officer. An automated case management system offers the best method of deriving statistics, as well as the easiest. If sufficient detail about cases handled by the probation unit is input into a computer program that has pre-selected fields to capture necessary data, all that is required to generate a report is a selection of the fields of interest for the report. Currently, automated case management for child justice is not yet available, partly due to the fact that it is quite complex and involves the linking of court, prosecutorial, police and social welfare records. Until such time that a comprehensive case management system is introduced into the justice sector, probation officers should meet the minimum requirement to keep statistics relevant for the district Department of Community Development and Social Welfare and the national Department of Social Developments/Welfare.

The probation officer creates a number of records by virtue of his/her supervisory role. This role includes:

- Preparing reports for the courts and other correctional decision makers;
- Enforcing probation and supervision orders;
- Comprehensively assessing and monitoring juvenile and young offenders, making case management decisions and determining rehabilitative interventions; and
- Regular referrals to support the rehabilitation and reintegration of children and youth in contact with the law.

Each of these activities must be captured as statistics in order to report on activities.

## 12.1 Statistics

Probation officers and probation units must keep statistics on activities the unit undertakes. These statistics should include the following:

1. Number and nature of cases supervised by probation officers
2. Number and nature of reports to the Family Tribunal
3. Number and nature of reports to the Juvenile Court

### 12.1.1 Supervisions

The types of supervisions undertaken by probation officers include:

- Care Orders to protect children
- Supervision Orders to protect children; Supervision Orders to protect juveniles
- Juveniles under Probation Orders; Young Offenders under Probation Orders
- Juveniles under Licence; Young Offenders under Licence
- Juveniles in Aftercare; Young Offenders in Aftercare

### 12.1.2 Workload

To report on the **number and nature of reports to the Juvenile Courts and the Family Tribunal**, as well as the probation officers' workload, the categories below should be incorporated into the regular reporting structure.

VIII. Reports and Workload

1. How many SERs for Juvenile Courts were completed during the reporting period? \_\_\_\_\_

2. How many SERs for Family Tribunals (custody, access and maintenance) were completed during the reporting period? \_\_\_\_\_

3. How many SERs for Family Tribunals (care and supervision orders) were completed during the reporting period? \_\_\_\_\_

4. How many progress reports on the implementation of court orders were completed during the reporting period? \_\_\_\_\_

5. What is the total number of juvenile or youth probationers under supervision with your unit at the end of the reporting period? \_\_\_\_\_

6. Of the juveniles/youth reported in question 5, how many were placed in each of the following workload/supervision levels?

- A.Maximum \_\_\_\_\_
- B.Medium \_\_\_\_\_
- C. Mimimum \_\_\_\_\_
- D.Administrative \_\_\_\_\_
- E. Total \_\_\_\_\_

7. How many other juveniles were you monitoring at the end of the reporting period for administrative purposes, in addition to those reported above in question 6? \_\_\_\_\_

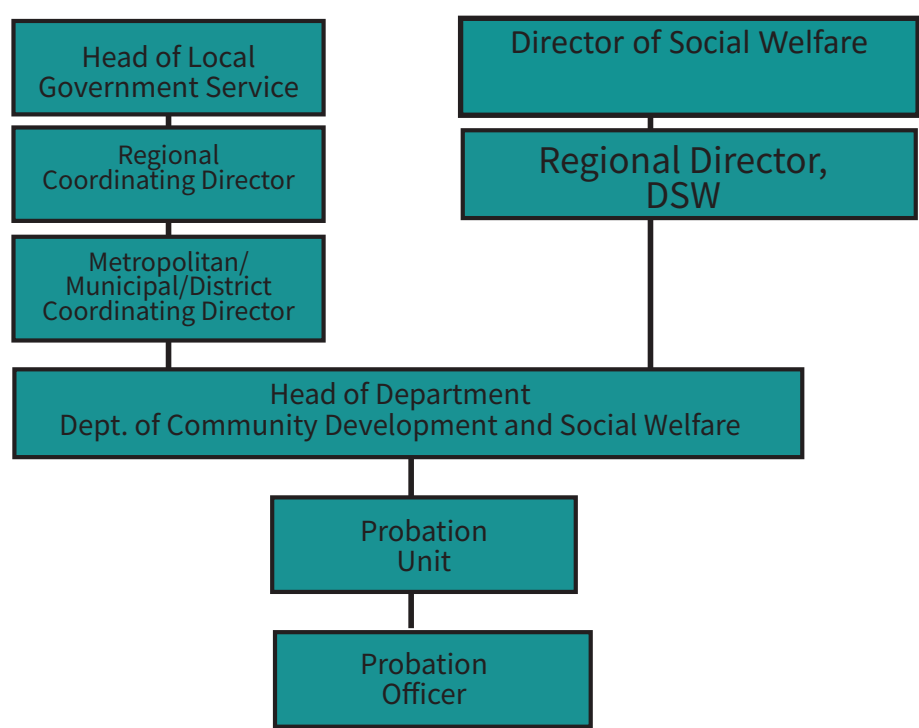
12.1.3 Filing reports

Probation officers should file **monthly** reports within their units. Reporting from the units should happen **each quarter** in writing. District probation units also provide a briefing to their **Probation Committee** at the regional level on the various cases they supervise on a **quarterly basis**. This

is usually an oral report, supplemented by the written report. It is also designed to provide an opportunity for case discussions, should they be necessary.

In terms of filing quarterly reports for statistical recordkeeping, probation units at the district report to the Head of the Department of Community Development and Social Welfare. The Head then submits the reports to both the Regional Director of the Department of Social Welfare who will forward the report to DSD/W Headquarters. The Head of Department must also submit reports to the MMDA Coordinating Director, who submits reports to the Regional Coordinating Director. The Regional Coordinating Director then forwards the reports to the Head of Local Government Services. Reporting lines are diagrammed below.

## REPORTING LINES/STRUCTURES FOR PROBATION



Forms and templates for reporting are developed at the Justice Administration Unit of the national Department of Social Welfare. These will be shared with each probation unit and probation officer and a schedule for report timing will be established.

### 13. List of Key Stakeholders

This page should list the names and contact numbers of key stakeholders the probation officer works with to protect child victims and to rehabilitate juvenile offenders. Please fill this in upon receipt of the manual.

#### 1. Probation officers in other regions

| Name | Probation Unit (location) | Contact phone |
|------|---------------------------|---------------|
|      |                           |               |
|      |                           |               |
|      |                           |               |
|      |                           |               |

#### 2. Legal aid and pro bono legal representation

| Name | Court (location) | Contact phone |
|------|------------------|---------------|
|      |                  |               |
|      |                  |               |

#### 3. Medical and psychosocial support

| Name and position | Hospital or clinic (location) | Contact phone |
|-------------------|-------------------------------|---------------|
|                   |                               |               |
|                   |                               |               |
|                   |                               |               |

4. Ghana Police Service

| Name | Division and location | Contact phone |
|------|-----------------------|---------------|
|      | GPS                   |               |
|      | DOWSU                 |               |
|      | AHTU                  |               |

5. Department of Education

| Name | School or department (location) | Contact phone |
|------|---------------------------------|---------------|
|      |                                 |               |
|      |                                 |               |

6. Department of Labour/Vocational Training

| Name | Assistance provided and location | Contact phone |
|------|----------------------------------|---------------|
|      |                                  |               |
|      |                                  |               |

7. Transport

| Name | Company and location | Contact phone |
|------|----------------------|---------------|
|      |                      |               |
|      |                      |               |

8. NGOs offering services to children

| Name | Service offered and location | Contact phone |
|------|------------------------------|---------------|
|      |                              |               |
|      |                              |               |
|      |                              |               |

9. NGOs offering services to parents

| Name | Service offered and location | Contact phone |
|------|------------------------------|---------------|
|      |                              |               |
|      |                              |               |
|      |                              |               |

10. Community leaders – district, religious, traditional, elders

| Name | Details and location | Contact phone |
|------|----------------------|---------------|
|      |                      |               |
|      |                      |               |
|      |                      |               |

11. Shelter

| Name | Details and location | Contact phone |
|------|----------------------|---------------|
|      |                      |               |
|      |                      |               |

12. Other

| Name | Specify (location) | Contact phone |
|------|--------------------|---------------|
|      |                    |               |
|      |                    |               |
|      |                    |               |

A large, stylized, light blue letter 'C' is centered in the upper half of the page. It is composed of two concentric arcs, with the inner arc being a slightly darker shade of blue than the outer one. The background is a dark teal color with abstract, flowing, lighter teal shapes that create a sense of movement and depth.

# SECTION C:

APPENDICES - FORMS

APPENDIX 1

SOCIAL ENQUIRY REPORT FOR FAMILY TRIBUNAL

DEPARTMENT OF SOCIAL WELFARE

SOCIAL ENQUIRY REPORT FOR FAMILY TRIBUNAL

THIS REPORT IS CONFIDENTIAL AND MEANT FOR THE PURPOSE OF THIS COURT PROCEEDING ONLY

COURT: \_\_\_\_\_

LOCATION: \_\_\_\_\_ (District – Region)\_\_\_\_\_

COURT FILE NO: \_\_\_\_\_ (from Registrar)\_\_\_\_\_

CASE NAME: \_\_\_\_\_(if applicable)\_\_\_\_\_

DATE REFERRED: \_\_\_\_\_

DATE REQUIRED: \_\_\_\_\_

NATURE/PURPOSE

OF APPLICATION: \_\_\_\_\_

NAME OF APPLICANT: \_\_\_\_\_

RESIDENTIAL ADDRESS/CONTACT: \_\_\_\_\_

OCCUPATION: \_\_\_\_\_

NAME OF RESPONDENT: \_\_\_\_\_

RESIDENTIAL ADDRESS/CONTACT: \_\_\_\_\_

OCCUPATION: \_\_\_\_\_

CHILD(REN) INVOLVED:

| Name | Age | Sex (M/F) | School attending |
|------|-----|-----------|------------------|
|      |     |           |                  |
|      |     |           |                  |
|      |     |           |                  |
|      |     |           |                  |
|      |     |           |                  |

**INFORMATION SOURCES:** (list all sources used to draft report, including documents and people interviewed)

**ATTACHMENTS:** (list all attachments to the document)

**FAMILY COMPOSITION AND LIVING CONDITIONS**

**CHILDREN AND THEIR REQUIREMENTS**

**PARENTING ABILITY AND FAMILY DYNAMICS**

**EXTENDED FAMILY**

**FINANCES**

**OTHER INFORMATION**

**RECOMMENDATIONS FOR A PARENTING PLAN**

....(signature).....

Name, Title, Probation Unit, Contact Phone

APPENDIX 2

SOCIAL ENQUIRY REPORT-JUVENILE CASE

DEPARTMENT OF SOCIAL WELFARE  
IN THE JUVENILE COURT-(Region)

SOCIAL ENQUIRY REPORT- JUVENILE CASE

THIS REPORT IS CONFIDENTIAL AND MEANT FOR THE PURPOSE OF THIS  
COURT PROCEEDING ONLY

|                              |                         |
|------------------------------|-------------------------|
| COURT:                       | Juvenile Court (number) |
| LOCATION:                    | (District – Region)     |
| CASE No.                     | (from Registrar)        |
| DATE SER REFERRED:           | _____                   |
| DATE SER REQUIRED:           | _____                   |
| NAME OF OFFENDER:            | _____                   |
| AGE:                         | _____                   |
| SEX:                         | Male/Female             |
| SCHOOL/OCCUPATION:           | _____                   |
| RELIGION:                    | _____                   |
| RESIDENTIAL ADDRESS/CONTACT: | _____                   |
| FATHER’S NAME:               | _____                   |
| RESIDENTIAL ADDRESS/CONTACT: | _____                   |
| OCCUPATION:                  | _____                   |
| MOTHER’S NAME:               | _____                   |
| RESIDENTIAL ADDRESS/CONTACT: | _____                   |
| OCCUPATION:                  | _____                   |

OFFENCE:

(From charge sheet, as identified in the Criminal Offences Act, 1960 Act 29)

**RELEASE STATUS:** (indicate if recognizance, bond, to third party, to remand, including persons, addresses and amounts, if applicable)

**INFORMATION SOURCES:** (all sources listed that were drawn upon to prepare the report)

**ATTACHMENTS:** (list all attachments to the document)

**OFFENCE ANALYSIS**

**PREVIOUS OFFENCES** (list and describe)

**BACKGROUND**

**RISK AND PROTECTIVE/MITIGATING FACTORS**

**CONCLUSIONS**

**Risk to public:**

High ☐ Medium ☐ Low ☐

**RECOMMENDATIONS**

....(signature).....

Name, Title, Probation Unit, Contact Phone

**For: Probation Office**

**PROPOSED PLAN (If released on probation)**

- 1. To decrease risk factors:
- 2. To strengthen protective factors:
- 3. To ensure public safety:

**APPENDIX 3**  
**FIT PERSON ORDER**

(Sections 23, 29, 34, 35, 36, 38, 38 and 43 of the Juvenile Justice Act, 2003)

IN THE ..... COURT.....GHANA

CASE NO. .... OF 20 .....

(Full Name) .....

who appears to the Court to be a juvenile aged ..... years, and whose religious persuasion appears to be that of a .....

The Court being satisfied that :

\*(a) the said juvenile was on (date) .....charged with ..... (offence) contrary to section .....and that the charge was proved,

\*(b) the said juvenile was on (date) ..... found to be in need of care or protection, namely that he.....

It is here by ordered that the said juvenile be committed to the care of (full name and address of fit person).....who is a fit person and willing to take care of him/her, for a period of .....years/until he attains the age of 18 years\*

\*It is further ordered that the said fit person shall be paid from the revenue of Ghana a monthly maintenance allowance of Gh¢ ..... (in words) .....

\*It is further ordered that (name of parent/guardian)..... of (address)..... being the parent, guardian or other person responsible for the juvenile, shall pay Government of Ghana a monthly sum ..... (in words) ..... for so long as this order remains in force.

Dated at ..... this ..... day of ..... 20.....

Magistrate/Judge

*\*Delete as appropriate*

APPENDIX 4  
SUPERVISION ORDER

(Section 35 of the Juvenile Justice Act of 2003)

IN THE ..... COURT, .....GHANA  
CASE NO. .... OF 20 .....

(Full name) .....  
of.....who appears to the Court to be a juvenile aged ..... years.  
The Court being satisfied that the said juvenile is in need of care or protection, namely, that he.....  
.....  
.....

(Quote relevant sections)  
It is hereby ordered that he be placed under the supervision of a probation officer for the  
.....Magisterial District for a period of .....  
month/years.  
That he does reside at .....for.....months/years  
and thereafter at.....

Dated at.....this .....day of ..... 20.....  
.....

Magistrate/Judge

## APPENDIX 5

### ORDER REVOKING OR VARYING A FIT PERSON ORDER

IN THE .....COURT, .....GHANA

(Full name) ..... was on (date)

..... committed to the care of .....

a fit person willing to take care of the said juvenile.

This Court hereby revokes/varies\* the said Order

\*1 By substituting .....of.....  
A fit person and willing to take care of the juvenile, in place of the first named fit person.

\*2 By substituting ..... of .....A  
fit person and willing to take of the juvenile, in place of the first named fit person.

\*3 By extending the period for which the order shall remain in force by .....years  
to a total of ..... years/until the juvenile attains the  
age of 18 years\*

\*4 By cancelling/varying\* the amount of the maintenance allowance to be paid to the fit  
person to be Gh¢ ..... (in words) .....

\*5 By cancelling/varying\* the amount of contribution order made against ..... of  
..... to be Gh¢ ..... (in words) .....

\*6. ....  
.....  
.....

Dated at ..... this ..... day of ..... 20.....

.....

Magistrate/Judge

*\*Delete as appropriate*

APPENDIX 6

ORDER REVOKING OR VARYING A SUPERVISION ORDER

IN THE ..... COURT, .....GHANA

CASE NO. ....OF 20.....

(Full name) .....on  
..... at the .....Court  
.....was placed under the supervision of probation officer of the.....  
..... District, and directed to reside at .....

The Court here by revokes/ varies the order

- \*1. By substituting the ..... Court, .....  
in place of the Court of origin and substituting the Probation Officer for the.....  
.....  
District in place of the within-named Probation Officer.
- \*2. By extending the period of supervision by.....  
months/years to a total of ..... months/years.
- \*3. By varying the direction as to residence and directing that the supervisee reside at  
.....  
.....
- \*4 .....  
.....  
.....

Dated at .....this ..... Day of.....20.....  
.....

Magistrate/ Judge

*\*Delete as appropriate*

**APPENDIX 7**  
**REMOVAL OF CHILD FORM**

*(Section 19 (3) of Act 560, Regulation 3, Child Rights Regulations LI 1705)*

- 1. Following a report of child abuse or a need for care and protection, the Department of Social Welfare and Community Development has decided under the section 19(3) of the Children’s Act, 1998 (Act 560) to remove your child/ward.....
- 2. The child is now in the custody to the Department of Social Welfare and Community Development and shall be kept at ..... until further notice to you.
- 3. Grounds for removal.

.....  
.....  
.....  
.....  
.....

Signed .....

APPENDIX 8  
ORDER REVOKING OR VARYING A FIT PERSON ORDER

IN THE ..... COURT..... GHANA  
(Full name) ..... was on (date) .....  
..... Committed to the care of..... a fit person willing to  
take care of the said juvenile.

This Court hereby revokes/varies\* the said Order

- \*1 By substituting ..... of..... A fit person  
and willing to take care of the juvenile, in place of the first named fit person.
- \*2 By substituting ..... of ..... A fit person  
and willing to take of the juvenile, in place of the first named fit person.
- \*3 By extending the period for which the order shall remain in force by ..... years  
to a total of ..... years/until the juvenile attains the age of 18  
years\*
- \*4 By cancelling/varying\* the amount of the maintenance allowance to be paid to the fit  
person to be Gh¢ ..... (in words) .....
- \*5 By cancelling/varying\* the amount of contribution order made against.....  
.....of  
..... to be Gh¢..... (in words) .....  
.....
- \*6 .....  
.....  
.....  
.....

Dated at ..... this ..... day of ..... 20.....  
.....

Magistrate/Judge

## APPENDIX 9

### ORDER FOR RELEASE ON PROBATION

(Sec. 31 of Act 563 of 2003)

IN THE ..... COURT ..... GHANA

CRIMINAL CASE No.....OF 20.....

(Full Names).....

Has been found guilty of the offence of.....Contrary to.....

.....

The Court being satisfied that the charge is proved and being of the opinion that it is expedient to release the said offender on probation, it is hereby ordered that the offender be released on probation for a period of.....months/years, under the supervision of a Probation Officer for.....Juvenile Court, subject to the following provisions:

1. That he be of good behavior and appear before the Court for (conviction and) sentence when called on at any time during the period of this order.
2. That he do lead an honest and industrious life.
3. That he do report to the Probation Officer in person as and when required.
4. That he do receive visits from the Probation Officer at his home or elsewhere and that he be present at such times if required.
5. That he do reside at.....for.....months/years and thereafter at/with.....
6. That he do report forthwith to the Probation Officer any change of his residence or place of employment and that he do not leave the place at which he has been ordered to reside without prior permission of the Probation Officer.
7. That he do attend school/work regularly.
8. That he do not associate with anyone, frequent any place, which the Probation Officer has forbidden him to do.
9. That he do abstain from over-indulgence of intoxicating liquor.
10. That he do answer truthfully all questions put to him by the Probation Officer with regard to his conduct, employment and residence.

11.That he do permit his photograph to be taken.

12.....

And it is further ordered that he/his parent or guardian do enter into a recognizance in the sum of.....with a surety in the sum of.....

Dated at.....this.....day of.....20.....

.....

Magistrate/Judge

APPENDIX 10

COMMUNITY SUPERVISOR’S [PROBATION AGENT] REPORT

Quarter Ending ..... 20.....

Name of Probation/Supervisee: .....

Address: .....

1. Probationer/Supervisee’s Reports (with dates): .....

.....  
.....  
.....

2. Home visits (with date): .....

.....  
.....  
.....

3. Activities:.....

.....  
.....  
.....

4. Conduct:.....

.....  
.....  
.....

5. Progress:.....

.....  
.....  
.....

6. General Remarks (Relationships, attitudes of all concerned):

.....

.....

.....

Address: .....

Community Supervisor (Probation Agent).....Date: .....

APPENDIX 11

APPRENTICESHIP AGREEMENT

(Regulations 39 and 41 Child Rights Regulations, 2002)

*This Agreement is to be submitted in Triplicate to the District Labour Office.*

THIS APPRENTICESHIP AGREEMENT made this .....day of .....20.... between (Craftsman) .....of (address) ..... carrying on business as .....herein after called “the Craftsman” and (Parent/Guardian/Relative) ..... of (address) ..... referred to as “the Guardian”.

WHEREAS

- i. The Guardian is the guardian of (Apprentice) ..... of (address) ..... born on or about (date) ..... at (place) ..... referred to as “the Apprentice”
- ii. The Apprentice has attained the age of fifteen (15) years/\*completed basic education.
- iii. The Craftsman is willing to train and instruct the Apprentice in his trade subject to the terms below.

IT IS HEREBY AGREED AS FOLLOWS:

GENERAL TERMS

- 1. This agreement is entered into for the benefit of the Apprentice
- 2. The Craftsman agrees to train and instruct the Apprentice in the trade of .....
- 3. The apprenticeship shall be for a period of ..... years commencing on the .....day of.....of which the first three (3) months shall be probationary on either side.
- 4. This agreement shall be in accordance with the custom which pertains to the trade specified in paragraph 1.

Apprenticeship Fees

- 5. The consideration/fee/payment in respect of the apprenticeship shall be as follows:  
Amount of Money or Items  
(a) Induction .....  
(b) Completion .....

(c) Other.....

Duties and Responsibilities of the Craftsman

6. The Craftsman agrees:

- (a) to the best of his or her ability, skill and knowledge to train and instruct the Apprentice or cause to be trained and instructed in the trade concerned for the period specified in paragraph 3;
- (b) to be responsible for any harm caused to the Apprentice in the course of the training;
- (c) to provide a safe and healthy workplace for the Apprentice
- (d) to be responsible for the moral training of the Apprentice;
- (e) to protect the best interest of the Apprentice generally;
- (f) to register the Apprentice with the Craftsman’s Trade Association (where it exists);
- (g) upon completion of the apprenticeship, to issue a certificate of release to the apprentice indicating that the Apprentice has completed his or her training.

Duties and Responsibilities of the Apprentice

7. It is agreed that the Apprentice shall:

- (a) diligently and faithfully obey the lawful and reasonable orders and directions of the craftsman or his representatives and carry out to the best of his or her ability all work given;
- (b) not absent himself or herself from the work/apprenticeship training without permission;
- (c) not deliberately damage or conceal any damage to any property of the Craftsman, or misuse or waste or lend or dispose of any property to any person without the consent of the Craftsman or his representatives; and
- (d) not to leave the Craftsman and transfer to another Craftsman without the permission of the Craftsman.

OPTIONAL TERMS

THE CRAFTSMAN AND THE GUARDIAN MAY ALSO AGREE ON OR CANCEL THE FOLLOWING CLAUSES:

- \*8. The Craftsman agrees to provide accommodation for the Apprentice for the duration of the apprenticeship.
- \*9. The Craftsman agrees to give the Apprentice a daily allowance of not less than Gh¢.....
- \*10. The Craftsman agrees to provide food for the Apprentice
- \*11. The Guardian agrees to provide food for the Apprentice.

**\*12.** The Guardian agrees to provide at personal cost all protective clothing and basic tools necessary for the training of the Apprentice.

|                           |                           |
|---------------------------|---------------------------|
| Signed/ Thumbprinted..... | Signed/ Thumbprinted..... |
| Craftsman                 | Witness                   |
|                           | Full Name.....            |
|                           | Address.....              |

\*This agreement has been read and explained to me and I .....accept to be an apprentice under the Craftsman in the trade of ..... as agreed between the Craftsman and my Guardian.

Signed/Thumbprinted .....

Apprentice

\*This agreement was read and explained to me.....of  
(address).....to the parties in (language)..... and  
(language) ..... before they thumbprinted it.  
Signed.....

*\*Delete as appropriate*

APPENDIX 12

ORDER OF DISCHARGE OR AMENDMENT OF PROBATION ORDER

IN THE ..... COURT .....GHANA  
(Full Name).....

Upon the application of the Probationer/ Probation Officer for the .....  
District \*this Court hereby discharges/ varies the probations of \* the  
probation order made in respect of the above-named accused on the .....day of  
..... 20 ..... in the ..... Juvenile Court.

- 1. By substituting the ..... Juvenile Court in place of the  
Court of origin and substituting the probation order by .....
- 2. months/years to a total of ..... months/years.
- 3. By extending the period of probation order by ..... months/years to a total of  
..... month/years.
- 4. By cancelling the provision requiring the probationer to .....  
.....  
.....
- 5. By inserting the new provision requiring the probationer to .....  
.....  
.....

Dated at ..... this ..... day of ..... 20.....  
.....

Magistrate/Judge

**APPENDIX 13**  
**DETENTION ORDER**

(Section 46 of Juvenile Act 653, 2003)

IN THE.....COURT.....

Criminal Case No: .....of 20.....

(Full names).....

(Hereinafter called the offender) who appear to be a juvenile/young person aged.....years has this day been convicted of an offence punishable in the case of an adult by imprisonment he/she on the.....day of.....20.....at.....did.....contrary to.....  
.....(State the offence and relevant provision).

**IT IS HEREBY ORDERED** that the offender (whose religious persuasion appears to be that of a.....) be detained in an Industrial School/Correctional Centre namely the  
.....

For the period of ..... (State name and place of School or Institution)

**AND IS FURTHER ORDERED** that the Commissioner of police shall be responsible for conveying the offender to the above school/institution or on the.....day of.....

20.....and that until that day the offender be detained in the Remand Home at.....

**AND IT IS FURTHER ORDERED**.....at

.....being the parent, guardian or other person responsible for the juvenile shall pay to the Government of Ghana monthly sum of .....

Cedis.....pesewas until the offender ceases to be detained at the inmates' school.

Dated at.....this.....day of .....

.....  
Judge/Magistrate

APPENDIX 14

PRE-DISCHARGE AND PAROLE ASSESSMENT REPORT

Inmate’s Name: .....

Type of release: .....

After-Care Officer (name and phone number): .....

Recommendation (Discretionary Release only):.....  
.....  
.....  
.....  
.....

YES/NO

- 1. Are the sources clearly outlined?
- 2. Is the report clear and concise?
- 3. Are the circumstances of the original offence and its seriousness clearly assessed?
- 4. Has the inmate’s attitude to his/her offence been addressed?
- 5. Has the risk to the public been addressed?
- 6. Are the content of the report relevant?
- 7. Is the report free from discriminatory language?
- 8. Is a clear and authoritative and relevant programme of supervision proposed?
- 9. Does the recommendation contained in the parole assessment report flow logically and convincingly from the body of the report.

If the answer to any of the question’s is “NO” the headmaster/ headmistress should discuss with the After-Care Officer and assist him to make the necessary changes.

APPENDIX 15  
DISCHARGE PLAN (AFTERCARE)

Name of Institution:

.....

School admission No: .....

Section 1

1. Name: .....

2. Legal/Actual Age: ..... Year On: .....20.....

3. Tribe: ..... Home Town:.....

4. Address on admission to school: .....

5. Court: .....

6. Offence(s): .....  
.....  
.....

7. Date of committal: .....

8. Previous Offence(s): .....  
.....  
.....  
.....

9. Monthly Contribution Order (Amount ₦): .....  
.....

10. Person responsible for payments: .....  
.....

11. Address: .....

12. Name of Parent/Guardian: .....  
.....

13. Address: .....

14. Date of admission to School: .....  
.....

15. Legal Age due for Discharge: .....  
.....

16. Proposed Date for Discharge on Licence: .....  
.....
17. Date Final Supervision ends: .....  
.....
18. Age on Discharge on Licence: .....  
.....

**Section 2**

1. School Reports

Home Reports (including games and hobbies):

.....  
.....  
.....

Housemaster

2. Trade Report (indicating Boy’s Grade e.g. Apprentice/improver): .....

.....  
.....  
.....

Trademaster

3. Headmaster’s/headmistress Report: .....

.....  
.....

Headmaster

4. Relevant Notes from Medical History/Social Welfare): .....

.....  
.....  
.....

Nurse in Charge

5. Proposed Occupation or School on Discharge: .....  
.....

Date .....  
Aftercare Agent/industrial School

**Section 3      SUPERVISING AGENTS PRELIMINARY REPORT**

- To include:
- a. Home Visit Report (Guardian/fit person and any financial arrangement involved)
  - b. (i) Trade terms of apprenticeship, wage, rates, saving schemes, name and address of employment, etc; or  
(ii) Arrangements for school (where applicable).

**Section 4      FINAL DISCHARGE**

- 1. Time spent in school:.....
- 2. Discharge on : .....Occupation on Discharge: .....
- 3. Address on Discharge: .....
- 4. Remarks (if any): .....  
.....  
.....

Date .....  
Aftercare Agent/industrial School

**Section 5 (to be used only in case of recall)**

Licensee recalled on: .....Re-licenced on: .....(for particulars, see page .....)

Date .....

Aftercare Agent/industrial School

Note: Section 1 and 2 will be completed in original only before issue to supervising Agent who complete section 3 and return the form to the School for completing of Section 4 and filling, Continuation sheets SW 4 or 5 should be used for further records.

**Section 6 SUPERVISING AGENTS PRELIMINARY REPORT**

- 1. Home Visit Report: .....  
.....  
.....  
.....
- 2. Arrangements for School: .....  
.....  
.....  
.....
- 3. Remarks: .....  
.....  
.....  
.....

Place: ..... Signature: .....

**APPENDIX 16**  
**MOTION FOR CARE ORDER**

IN THE..... (NAME AND LOCATION OF COURT)  
(TOWN) AD 20....

SUIT NO.....

IN THE MATTER OF CARE ORDER OF (NAME OF BENEFICIARY)  
AND

IN THE MATTER OF AN APPLICATION FOR GRANT OF CARE ORDER (NAME OF APPLICANT/  
PROBATION OFFICER) UNDER SECTION 20 OF THE CHILDREN’S ACT 1998 (ACT 560)

**MOTION FOR GRANT OF CARE ORDER OF (NAME OF BENEFICIARY) TO THE DIRECTOR OF  
SOCIAL WELFARE**

TAKE NOTE THAT this honourable court will be moved by the Applicant herein praying the Honourable Court for grant of CARE ORDER OF..... (NAME OF BENEFICIARY) TO THE DIRECTOR OF THE DEPARTMENT OF SOCIAL WELFARE, (DISTRICT) upon grounds contained in the accompanying affidavit, Social Enquiry Report and Police report (where applicable).

AND for any order or orders as this Honourable Court may deem fit.

COURT TO BE MOVED on ..... the ..... day of ..... 20... at 9:00 O'clock in the forenoon or so soon thereafter as Applicant may be heard.

DATED AT (TOWN) ..... THIS .....DAY OF..... (MONTH), 20.....

.....  
APPLICANT

**THE REGISTRAR**  
**(NAME AND LOCATION OF COURT)**

APPENDIX 17

AFFIDAVIT IN SUPPORT OF APPLICATION FOR CARE ORDER

IN THE FAMILY AND JUVENILE COURT

IN THE MATTER OF THE CHILDREN’S ACT, 1998 (ACT 560)

AND

IN THE MATTER OF AN APPLICATION BY VIDA DANQUAH FOR GRANT OF CARE ORDER IN RESPECT OF..... (NAME OF BENEFICIARY) FOR THE DIRECTOR OF SOCIAL WELFARE

AFFIDAVIT IN SUPPORT OF APPLICATION FOR CARE ORDER

I .....(Name), a Probation Officer of the Department of Social Welfare, (name of district) make oath and say as follows:

- 1. That I am the deponent herein.
- 2. That I put this issue before the court for redress.
- 3. That the subject of report is a .....(age and sex of beneficiary) child.
- 4. That S/he is a victim of (state nature of case).
- 5. That the Police took the child to (custody of the child) on (date) for protection and shelter.
- 6. That .....(State the status of investigation by the police).
- 7. That It would be in the paramount interest of the child if Care Order is granted to the Director of the Department of Social Welfare to protect and shelter the child at (state name and location of shelter) per section 20 of the Children’s Act, 1998 (Act 560).

WHEREFORE I SWEAR TO THIS AFFIDAVIT ACCORDINGLY.

-----  
DEPONENT

SWORN AT ACCRA THIS.....DAY OF ...(MONTH), 20...

BEFORE ME:

COMMISSIONER FOR OATHS

**APPENDIX 18**

**SOCIAL ENQUIRY REPORT FOR CARE ORDER**

**SOCIAL ENQUIRY REPORT**

**THIS REPORT IS CONFIDENTIAL AND IS MEANT  
FOR THE PURPOSE OF THIS COURT PROCEEDING ONLY**

TYPE OF CASE: CARE ORDER

NAME OF CHILD:

AGE:

SEX:

PLACE OF BIRTH:

FATHER:

MOTHER:

**SOURCES OF INFORMATION**

**BACKGROUND**

**CONCLUSION**

**RECOMMENDATION**

....(SIGNATURE).....

NAME, TITLE, PROBATION UNIT, CONTACT PHONE

**APPENDIX 19**  
**CARE ORDER**

*(Section 20, Children’s Act of 1998)*

IN THE .....(NAME OF COURT) (TOWN)  
BEFORE HIS WORSHIP .....(NAME OF MAGISTRATE)..... (DISTRICT)  
WITH (NAMES OF PANEL MEMBERS) ON THE ..... DAY OF.....  
(MONTH) , 20.....

SUIT NO. ....

IN THE MATTER OF CARE ORDER OF (NAME OF BENEFICIARY)

AND

IN THE MATTER OF AN APPLICATION FOR GRANT OF CARE ORDER BY (NAME OF APPLICANT/  
PROBATION OFFICER) UNDER SECTION 20 OF THE CHILDREN’S ACT 560 OF 1998

**CARE ORDER**

NAME, SIGNATURE AND STAM OF MAGISTRATE

UPON READING the Motion for grant of Care Order filed on..... (date)....by.....  
(name of Applicant/Probation Officer) herein;

AND AFTER LISTENING to the Applicant and READING the Supporting Affidavit and the annexures  
and having also considered the Social Enquiry Report;

THE COURT HEREBY grants CARE ORDER of (name of beneficiary) herein to the Director of the  
Department of Social Welfare.

GIVEN UNDER MY HAND AND THE SEAL OF THE COURT AT.....

(NAME OF COURT, TOWN) THIS (DATE)

(NAME, SIGNATURE AND STAMP OF REGISTRAR)





## PROBATION DESK MANUAL

Department of Social Welfare  
Ministry of Gender, Children and  
Social Protection

Canada 

unicef   
for every child