

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice

*(Adopted by the Committee of Ministers on 24 September 2003
at the 853rd meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that juvenile delinquency is perceived as a pressing concern in a number of European countries;

Aware of the fact that, although overall juvenile crime rates remain more or less stable, the nature and seriousness of juvenile delinquency require new responses and new methods of intervention;

Taking into consideration that the traditional criminal justice system may not by itself offer adequate solutions as regards the treatment of juvenile delinquents, given that their specific educational and social needs differ from those of adults;

Convinced that responses to juvenile delinquency should be multidisciplinary and multi-agency in their approach and should be so designed as to tackle the range of factors that play a role at different levels of society: individual, family, school and community;

Considering that the age of legal majority does not necessarily coincide with the age of maturity, so that young adult offenders may require certain responses comparable to those for juveniles;

Furthermore, considering that some categories of juvenile offenders, such as members of ethnic minorities, young women and those offending in groups, may need special intervention programmes;

Taking into account, inter alia, Recommendation No. R (87) 20 on social reactions to juvenile delinquency, Recommendation No. R (88) 6 on social reactions to juvenile delinquency among young people from migrant families and Recommendation Rec(2000)20 on the role of early psychosocial intervention in the prevention of criminality;

Having regard to the outcome of the 10th Criminological Colloquy on young adult offenders and crime policy (1991);

Taking into consideration the European Convention on Human Rights, the European Convention on the Exercise of Children's Rights, the United Nations Convention on the Rights of the Child, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty,

Recommends that governments of member states:

– **be guided in their legislation and policies and practice by the principles and measures laid down in this recommendation;**

- bring this recommendation and its explanatory memorandum to the attention of all relevant agencies, the media and the public; and
- acknowledge the need for separate and distinct European rules on community sanctions and measures and European prison rules for juveniles.

I. Definitions

For the purposes of this recommendation:

- “juveniles” means persons who have reached the age of criminal responsibility but not the age of majority; however, this recommendation may also extend to those immediately below and above these ages;
- “delinquency” means actions which are dealt with under criminal law. In some countries it also extends to antisocial and/or deviant behaviour which may be dealt with under administrative or civil law;
- “juvenile justice system” is defined as the formal component of a wider approach for tackling youth crime. In addition to the youth court, it encompasses official bodies or agencies such as the police, the prosecution service, the legal profession, the probation service and penal institutions. It works closely with related agencies such as health, education, social and welfare services and non-governmental bodies, such as victim and witness support.

II. A more strategic approach

1. The principal aims of juvenile justice and associated measures for tackling juvenile delinquency should be:
 - i. to prevent offending and re-offending;
 - ii. to (re)socialise and (re)integrate offenders; and
 - iii. to address the needs and interests of victims.
2. The juvenile justice system should be seen as one component in a broader, community-based strategy for preventing juvenile delinquency, that takes account of the wider family, school, neighbourhood and peer group context within which offending occurs.
3. Resources should in particular be targeted towards addressing serious, violent, persistent and drug- and alcohol-related offending.
4. More appropriate and effective measures to prevent offending and re-offending by young members of ethnic minorities, groups of juveniles, young women and those under the age of criminal responsibility also need to be developed.
5. Interventions with juvenile offenders should, as much as possible, be based on scientific evidence on what works, with whom and under what circumstances.
6. In order to prevent discrimination public authorities should produce “impact” statements on the potential consequences of new policies and practices on young members of ethnic minorities.

III. New responses

7. Expansion of the range of suitable alternatives to formal prosecution should continue. They should form part of a regular procedure, must respect the principle of proportionality, reflect the best interests of the juvenile and, in principle, apply only in cases where responsibility is freely accepted.

8. To address serious, violent and persistent juvenile offending, member states should develop a broader spectrum of innovative and more effective (but still proportional) community sanctions and measures. They should directly address offending behaviour as well as the needs of the offender. They should also involve the offender's parents or other legal guardian (unless this is considered counter-productive) and, where possible and appropriate, deliver mediation, restoration and reparation to the victim.
9. Culpability should better reflect the age and maturity of the offender, and be more in step with the offender's stage of development, with criminal measures being progressively applied as individual responsibility increases.
10. Parents (or legal guardians) should be encouraged to become aware of and accept their responsibilities in relation to the offending behaviour of young children. They should attend court proceedings (unless this is considered counter-productive) and, where possible, they should be offered help, support and guidance. They should be required, where appropriate, to attend counselling or parent training courses, to ensure their child attends school and to assist official agencies in carrying out community sanctions and measures.
11. Reflecting the extended transition to adulthood, it should be possible for young adults under the age of 21 to be treated in a way comparable to juveniles and to be subject to the same interventions, when the judge is of the opinion that they are not as mature and responsible for their actions as full adults.
12. To facilitate their entry into the labour market, every effort should be made to ensure that young adult offenders under the age of 21 should not be required to disclose their criminal record to prospective employers, except where the nature of the employment dictates otherwise.
13. Instruments for assessing the risk of future re-offending should be developed in order that the nature, intensity and duration of interventions can be closely matched to the risk of re-offending, as well as to the needs of the offender, always bearing in mind the principle of proportionality. Where appropriate, relevant agencies should be encouraged to share information, but always in accordance with the requirements of data protection legislation.
14. Short time periods for each stage of criminal proceedings should be set to reduce delays and ensure the swiftest possible response to juvenile offending. In all cases, measures to speed up justice and improve effectiveness should be balanced with the requirements of due process.
15. Where juveniles are detained in police custody, account should be taken of their status as a minor, their age and their vulnerability and level of maturity. They should be promptly informed of their rights and safeguards in a manner that ensures their full understanding. While being questioned by the police they should, in principle, be accompanied by their parent/legal guardian or other appropriate adult. They should also have the right of access to a lawyer and a doctor. They should not be detained in police custody for longer than forty-eight hours in total and for younger offenders every effort should be made to reduce this time further. The detention of juveniles in police custody should be supervised by the competent authorities.
16. When, as a last resort, juvenile suspects are remanded in custody, this should not be for longer than six months before the commencement of the trial. This period can only be extended where a judge not involved in the investigation of the case is satisfied that any delays in proceedings are fully justified by exceptional circumstances.

17. Where possible, alternatives to remand in custody should be used for juvenile suspects, such as placements with relatives, foster families or other forms of supported accommodation. Custodial remand should never be used as a punishment or form of intimidation or as a substitute for child protection or mental health measures.

18. In considering whether to prevent further offending by remanding a juvenile suspect in custody, courts should undertake a full risk assessment based on comprehensive and reliable information on the young person's personality and social circumstances.

19. Preparation for the release of juveniles deprived of their liberty should begin on the first day of their sentence. A full needs and risk assessment should be the first step towards a reintegration plan which fully prepares offenders for release by addressing, in a co-ordinated manner, their needs relating to education, employment, income, health, housing, supervision, family and social environment.

20. A phased approach to reintegration should be adopted, using periods of leave, open institutions, early release on licence and resettlement units. Resources should be invested in rehabilitation measures after release and this should, in all cases, be planned and carried out with the close co-operation of outside agencies.

IV. Implementation

21. The response to juvenile delinquency should be planned, co-ordinated and delivered by local partnerships comprising the key public agencies – police, probation, youth and social welfare, judicial, education, employment, health and housing authorities – and the voluntary and private sector. Such partnerships should be responsible and accountable for achieving a common and clearly defined aim, and:

- provide initial and in-service training;
- plan, fund and deliver services;
- set standards and monitor performance;
- share information (adhering to the legal requirements of data protection and professional secrecy and taking into consideration the specific duties of the agencies concerned); and
- evaluate effectiveness and disseminate good practice.

V. Rights and safeguards

22. All new responses and procedures contained in the current recommendation must be considered within the framework of the rights and safeguards set out in relevant international instruments.

VI. Monitoring, evaluation and dissemination of information

23. To increase the knowledge base as to what interventions work, funds should be allocated to the independent scientific evaluation of such interventions and the dissemination of findings to practitioners.

24. To prevent discrimination on ethnic grounds within the juvenile justice system and to identify cases where culturally specific interventions are required, information should be collected and/or research undertaken on the involvement and treatment of ethnic minorities at each and every stage of the juvenile justice system.

25. To counter overly negative perceptions, inform public opinion and increase public confidence, information strategies on juvenile delinquency and the work and effectiveness of the juvenile justice system should be developed, using a wide range of outlets, including television and the Internet. This should be accomplished without making available personal information or other data that may lead to the identification of an individual offender or victim.