

*UN Committee on the Rights of the Child  
Philippines: Continuing Child Detention with Adults in Police Lockups, Arbitrary Detention  
of “Rescued” Street Children, and Extrajudicial Execution of Children Accused of Violating the Law*

**United Nations Committee on the Rights of the Child**  
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**BRIEFING PAPER**

***Philippines: Continuing Child Detention with Adults in Police Lockups,  
Arbitrary Detention of “Rescued” Street Children, and  
Extrajudicial Execution of Children Accused of Violating the Law***

*By*

***Coalition to Stop Child Detention through Restorative Justice (Philippines)***



*Photo courtesy of bulatlat.com*

## Table of Contents

- *Briefing Paper on the Philippines: Continuing Child Detention with Adults in Police Lockups and Arbitrary Detention of “Rescued” Street Children*
  - *Authors*.....pp. 3-5
  - *Acronyms*.....p. 5
  - *Whisperin’ Tears, poem by a former martial law child political prisoner*..... p. 6
  - *Introduction*..... pp. 7-8
  - *Historical Challenge*.....pp. 8-9
  - *Command Responsibility*..... pp. 9-10
  - *Invisible Detainees: Continuing Historical Injustice*..... p. 10
  - *Mushrooming Child Prisoners*..... p. 11
  - *Girl Prisoners*.....p. 11-12
  - *BJMP Statistics: Male and Female Child Prisoners*..... pp. 12-13
  - *Molave Youth Home Experience*.....pp. 13-14
  - *Poorest of the Poor*..... pp. 14-15
  - *First Point of Contact: Police*.....pp. 15-16
  - *Police Lockups*.....pp. 16-17
  - *Metro Manila: Three Youth Detention Centers*.....p. 17
  - *Social Stigma of Police Detention*.....pp. 17-19
  - *Children Prisoners’ Subculture*.....p. 19
  - *Impunity*.....p. 20
  - *Police Impunity in Locking Up Children*.....p. 20
  - *Detention Pending Trial*..... p. 21
  - *Snail-Paced Justice*..... pp. 21-22
  - *Chart: After Arrest, Children Accused of Violating the Law (CAVL) ...pp. 22-23*
  - *Types of Detained Children Accused of Violating the Law*.....pp. 23-25
  - *Chart: Types of Children Accused of Violating the Law*.....pp. 25-27
  - *Ghost Prisoners*.....pp. 26-27
  - *Chart: Philippine National Police (PNP) Disposition of Children*.....p. 28
  - *Police Prisoners*.....pp. 28-29
  - *Comprehensive Drugs Act (RA 9165)*.....p. 29
  - *Legal Framework: The Incongruence between the Philippines’ Revised Penal Code, Criminal Statutes, Drug Law, RA 9344 and the CRC*.....pp. 29-31
  - *Domestic Laws Relevant to CRC Enforcement*.....p. 31

- *Political Prisoners*.....p. 32
  - *BJMP Prisoners*.....p. 32
  - *DSWD Prisoners*.....p. 32
  - *Children on Recognizance or Bail*.....p. 33
  - *Convicted Prisoners*.....p. 33
  - *Murdered Suspects*.....p. 33
  - *Child Prisoners in Provinces*.....p. 34
  - *Deadly Bureaucratism*.....p. 34
  - *Presidential Intervention Long Overdue*.....p. 35
  - *Diversions at Point of Arrest*.....p. 36
  - *Securing Children During Police and Inquest Proceedings*.....p. 36
  - *Alternatives to Prison*.....p. 37
  - *State Human Rights Obligation*.....p. 38
  - *Recommendations*.....pp. 38-41
  - *Chart: Anatomy of Non-Segregation of Adult and Child Prisoners*.....p. 42
  - *Chart: Anatomy of police child detention and the lumping of children together with adult prisoners*.....pp. 42-43
  - *Chart: Anatomy of police child detention and the mixing up of children with adults in Philippine National Police headquarters, stations*.....pp. 44-45
  - *State officials responsible*.....p. 46
  - *Chart: Chain of command from the President of the Philippines to the Philippine National Police*.....pp. 46-47
  - *Statistics: Slain Filipino Journalists: 1986-2008*.....pp. 48-51
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- *Sagip o Huli: Rescue of Street Children in Caloocan, Pasay and Quezon Cities, Bahay Tuluyan, March 2009*
  - *Indiscriminate Rescue of Street Children in the City of Manila, Bahay Tuluyan, January 2008*
  - *Chart: Philippines: Types of Children Accused of Violating the Law*

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The Coalition to Stop Child Detention adheres to the international humanitarian and human rights law framework and the principles of therapeutic and restorative justice in dealing with the issue of children accused of violating the law (CAVL).

The Coalition is not funded by any public or private individual or entity. Nor does the Coalition solicit funding from any source. Its works are purely voluntary.

Since its inception on October 28, 2003 in Quezon City, Philippines, the Coalition has mobilized children’s human rights NGOs to raise public awareness about the problem of police child detention with adult crime suspects and ill-treatment amounting to torture or cruel, inhuman, or degrading treatment or punishment. These mobilizations include a demonstration in front of the Office of the Ombudsman in Quezon City, Philippines on December 10, 2003. This was followed by a march-rally near the Presidential Palace (Malacanang) in Manila, Philippines on January 8, 2004.

The Coalition also supported lobbying efforts for the passage into law of what is now known as the Comprehensive Juvenile Justice and Welfare Act of 2006 (RA 9344).

The Coalition also denounced Proclamation 1017, imposing a *de facto* martial law in the Philippines in February 2006. See *Resist Despotism Against Children’s Liberties*.<sup>1</sup>

The Coalition further exposed the continuing phenomenon of ghost police child prisoners notwithstanding the passage into law of RA 9344. Please see *‘Ghost’ child prisoners languish in RP jails*.<sup>2</sup>

The Coalition counts as its friends, supporters, and members at least 26 organizations and other concerned individuals in the Philippines, who expressed their support to the Coalition’s vision-mission-goals and program of action. It includes:

- Amnesty International-Philippines
- Alliance of Concerned Teachers
- Stairway Foundation
- Bahay Tuluyan
- Sining Larong Pambata
- Lingap Pangkabataan
- Humanitarian Legal Assistance Foundation
- Children’s Legal Bureau
- FREELAVA
- PREDA Foundation
- PRESO Foundation

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<sup>1</sup> Coalition statement against the imposition of Proclamation 1017 available at [http://www.tinig.com/v46bl\\_cscd/](http://www.tinig.com/v46bl_cscd/). Last visited on June 8, 2009.

<sup>2</sup> GMA News.TV, ‘Ghost’ child prisoners languish in RP jails, May 8, 2007. Available at <http://www.gmanews.tv/story/41394/Ghost-child-prisoners-languish-in-RP-jails---group>. Last accessed on June 8, 2009.

- Save the Children Fund-UK
- Medecins Sans Frontieres-Japan
- Medecins Sans Frontieres-Switzerland
- ERDA Foundation
- Coalition of Services of the Elderly
- Sarilaya
- Women’s Research and Resource Center Western Mindanao State University
- CARE for ChYPs Organisation
- Gender and Development Office West Visayas State University
- PYAP-Kabataang Gabay sa Positibong Pamumuhay City Social Welfare and Development Office
- Balay sa Gugma Foundation
- Share A Child Movement
- Consuelo Foundation

Bahay-Tuluyan is a Coalition-affiliated organization, providing holistic services for street children, including education, shelter, advocacy and legal services.

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### **Acronyms**

- *BJMP – Bureau of Jail Management and Penology*
- *CAVL – Children accused of violating the law*
- *CRC – Convention on the Rights of the Child*
- *CRADLE – Center for Restorative Activities, Development and Learning Experiences*
- *DILG – Department of Interior and Local Governments*
- *DSWD – Department of Social Welfare and Development*
- *LGU—Local government unit*
- *NPA – New People’s Army*
- *PNP – Philippine National Police*
- *PREDA – People’s Recovery, Empowerment Development Assistance*
- *RA – Republic Act*

*Whisperin’ tears*



*tears are gems  
offered for the downtrodden  
faceless nameless  
masses  
of children  
forlorn  
prostrate  
alone  
behind prison bars  
they languish  
shadows enmeshed  
in anguish, sorrow  
muffled screams  
of torture  
who cares?  
who cares for the destitute souls  
thrown in decrepit cells  
like ants  
who could barely survive  
the floods  
of apathy  
antipathy*

*ill-will  
poison of hatred  
ill-judgment  
who’s gonna stand up  
for children  
lurking in the shadows  
when no one knows  
nor hears their voices  
if they had voices  
in the night  
who cares?  
as they lie  
in cold  
prison pavements vanquished  
for tomorrow  
that ticks endlessly  
in the void of darkness  
who for God’s sake  
would dare whisper  
to the pangs of hunger  
tearing apart  
their loins?  
tender bodies and bones?*

- *Former child prisoner*

## **Introduction**

This alternative report aims to point out and clarify the core issues besetting children accused of violating the law (CAVL), whom others presume or tag as children in conflict with the law. It discusses the various types and categories of CAVL as well as the procedures and processes they go through upon contact with and subjection to the criminal justice system, particularly with officers of the Philippine National Police.

It seeks to expose the lack of governmental understanding, if not denial, of the true nature and seriousness of the abuse and cruelty committed against the extremely vulnerable members of this much neglected and reviled sector.

It also draws attention to the urgency of immediately and unconditionally eradicating the institutionalized crime of incarcerating children with adult crime suspects, with impunity, by means of direct and concrete action, specifically on the part of the President and top Cabinet

officials. Aside from citing the reasons why police child detention and mixing up children with adult crime suspects on a wide scale should be stopped right away, it points to available courses of action that are immediately available to the President and top Cabinet officials to address these issues. Stopping this form of torture, cruel, inhuman, and degrading treatment and punishment as well as crimes against humanity is not only decisive, but indispensable as well, in humanizing the juvenile justice system.

### **Public Outcry**

Philippine Executive Secretary Eduardo Ermita<sup>3</sup> vowed to pull out children from jails swarming with adult prisoners and turn them over to the care of the Department of Social Welfare and Development. This was actually long overdue and government officials from the President down to the police have no right in the first place to dehumanize and criminalize children.

However, the 3,705 number of child prisoners as of July 2005 cited by Ermita covers only those being secured by the Bureau of Jail Management and Penology (BJMP), who usually controls city and municipal jails. Ermita’s toned down statistics smacks of governmental attempts to cover up the ghastly crime of jailing children with adults in police jails nationwide, save for Cebu City. Unicef, for one, reported that more than 10,500 children were imprisoned by the state every year from 1995 to 2000.

To put it in proper context, Ermita’s press release came in the heels of the U.S. congressional lobbying efforts<sup>4</sup> by Fr. Shay Cullen, founder and president of the PREDA Foundation, and another human rights group, the Jubilee Campaign, calling for U.S. aid cuts to the country if child prisoners’ rights violations persist,<sup>5</sup> which got wide publicity amid President Arroyo’s participation at that time in the UN Security Council meeting at the UN Headquarters in New York in 2005.

### **Historical Challenge**

Weeding out police child detention and the crime of incarcerating children with adult inmates poses an enormous historical challenge. Instead of licking out this problem given the welter of laws outlawing the barbaric practice of locking up children in police jails with adult prisoners, state officials exhibit gross criminal neglect in confronting the spectacle of this widespread child

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<sup>3</sup> Ermita bares transfer of children in prisons to DSWD youth rehabilitation centers  
<http://www.gov.ph/news/default.asp?newsid=13464>

<sup>4</sup> Smith Hearing Aims to Protect Street Children – Global plague becoming a humanitarian crisis and security threat  
[http://www.house.gov/apps/list/press/nj04\\_smith/PRStreetChildren.html](http://www.house.gov/apps/list/press/nj04_smith/PRStreetChildren.html)

<sup>5</sup> No foreign aid unless there is justice for children, Fr. Shay Cullen  
<http://preda.org/home.htm>



prison abuse. This led to the further institutionalization of this reprehensible system, victimizing even children with mental disabilities, street urchins, child laborers, children hooked on substance abuse, and sexually exploited children. Ironically, laws recognize these prisoners as children in especially difficult circumstances who are entitled to special protection. In reality, though, the state criminalizes and subjects these disadvantaged children to various forms of inhumanity by subjecting them to police detention under subhuman conditions and bereft of human rights entitlements and protection.

Official indifference to the barbarity that is the mixing up of children with adult prisoners remains the norm. The clamor of the global community to stamp out this criminality, every now and then, compels government officials to at least acknowledge, albeit citing lame excuses – as if committing human rights violations could be excused – that this form of crimes against humanity indeed persists in the country.

### **Command Responsibility**

Official pronouncements from President Arroyo<sup>6</sup> and Ermita indicate they were trying to feign ignorance about the immediate causes as well as true nature and extent of police child detention and the lumping up of children together with adult crime suspects in cramped police jails nationwide, without access to psychological, health, social, and legal services. Mrs. Arroyo and top executive officials pass the buck for these serious human rights violations to the judiciary whom they blame for the children’s prolonged detention.<sup>7</sup> Through this ruse, Mrs. Arroyo and

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<sup>6</sup> Note the following portions of Mrs. Arroyo’s speech during the mass oath taking and seventh founding anniversary celebration of the Volunteers Against Crime and Corruption (VACC) held at the Rizal Hall, Malacañang on August 12, 2005:

*“Wag yung mga matatandang masyado at huwag naman yung mga bata. Kasi ayon sa batas kapag ikaw ay child offender eh dapat hindi nga aabot hanggang preso, sa welfare. Doon sa may... Di ba kaya may boystown at girlstown tayo. Kapag naman ikaw ay juvenile offender lilitisin ka hanggang sa punto bago magkaroon ng judgment. Tapos ang judgment ng judge -- di ba, judge ganito yon? -- litis ang juvenile offender parang adult offender at the point of judgment ang sasabihin ng judge you are committed to this institution kaysa sa preso. Ngayon kung papaano yung mga juvenile offender ended up in jail baka ito ay dahil detention awaiting trial. Gawa nang hindi ba yung juvenile offender they go through a trial like any adult.*

*“Ano ang ating solusyon doon sa mga juvenile offenders that are under detention awaiting trial? Ang isang importante siguro -- pero kayo ang makakagawa noon, hindi ako makaka-utos sa judge -- baka unahin yung mga kaso ng juvenile offender para sa madaling panahon makalabas na sila sa welfare institution kung saan sila dapat nananatili at hindi nakakahalo-halo doon sa mga hardened adult criminals. Yon ang hinihingi ko sa Department of Justice na pag-aralan. Hindi pwedeng sabihin wala tayong magagawa. Meron tayong magagawa, lima tayong pillars of justice.” (underscoring supplied)*

The full text may be accessed at [http://www.ops.gov.ph/speeches2005/speech-2005\\_aug12.htm](http://www.ops.gov.ph/speeches2005/speech-2005_aug12.htm)

<sup>7</sup> Even Ermita’s pronouncement pursues the same tract as Mrs. Arroyo’s. Note the following portion of Ermita’s press statement:

top Cabinet officials attempt to sweep under the rug the fact that, prior to the courts’ assumption of jurisdiction over the children, law enforcers – who indirectly get their orders from Mrs. Arroyo herself and top Cabinet officials through the chain of command – are the very ones who perpetrate this atrocity against children.

The responsibility for perpetuating the crime of co-mingling up children with adult prisoners clearly lies in the hands of the President and top Cabinet officials, specifically the Secretary of Interior and Local Governments and the Secretary of Justice, who are all in a position to know the real situation of child prisoners, if indeed they do not actually know their plight. Courts neither have the power to carry out the warrantless arrest, for instance, of street children, nor the capability to lock them up in police jails swarming with adult crime suspects.

### **Invisible Detainees: Continuing Historical Injustice**

The ghastly phenomenon of lumping up children with adult crime suspects has been the state norm and practice ever since. The influx of rural migrants to urban centers following World War II saw the mushrooming of slum communities, especially in Manila, and concomitantly, the worsening phenomenon of police child detention and the incarceration of children with adult prisoners due to poverty-related offenses. In 1969, excluding ghost police child detainees – or those apprehended and detained indefinitely without charges – the defunct Bureau of Prisons reported that at least 1,111 children aged nine to 15 had been arrested in Metro Manila from January to December. The following year, 523 children were reported arrested from January to June.

The Bureau of Prisons also reported the arrest of 142 children aged nine to 15 from January to March 1979. This was followed in 1980 by 262 recorded arrests of children from January to June. During the same months the following year, 280 children were arrested. In 1982, 540 children were reported arrested from January to December.

Although incomplete and unreliable due to the police practice of keeping ghost child prisoners, these data as juxtaposed with the current upsurge in the number of child prisoners showcase the government’s continuing observance of the punitive and retributive mindset and approach in dealing with the perceived criminal behavior of the young. The callousness and insensitivity of the President and top Cabinet officials in stopping police child detention and the mixing up of children with adult prisoners are symptomatic of this prevailing punitive and retributive mindset

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*"Our overcrowded jails, especially at the municipal and city levels, are a perennial problem that deserve a long-term solution. Right now, we are focused on prison reforms that would include expanded rehabilitation programs for youth offenders and children in conflict with the law (CICLs)," Ermita said, adding that the transfer will be done in phases since proper court procedures must be followed by the agencies concerned. (underscoring supplied)*

**Id.**

and approach. Never mind if this state practice violates Republic Act 7610<sup>8</sup> criminalizing this form of child torture, cruelty, abuse, neglect and act that puts children in conditions inimical to their development for which officials should be slapped with a 12-year jail term.<sup>9</sup>

### **Mushrooming Child Prisoners**

Estimates on the number of child prisoners – on a cumulative basis and including repeaters per year – vary from 13,300 (36 children per day) who availed of free legal aid from the Public Attorney’s Office in 2002 to 20,000 (54 children per day) given by the office of Senator Francis Pangilinan in 2003.

The Philippine Council for the Welfare of Children reported a total of 52,756 CAVL from 1995 to 2000.

The Philippine Department of Social Welfare and Development (DSWD) provides educational and various forms of psychosocial services to CAVL all over the country. DSWD operations encompass Regions I, III, IV-A, VI, VII, VIII, IX, X, XI, CARAGA and the National Capital Region (or Metro Manila).<sup>10</sup> Its residential care facilities for CAVL include the Regional Rehabilitation Center (RRCY), National Training School for Boys (located in Tanay, Rizal), and the National Training School for Girls (located in Marillac Hills, Muntinlupa, Metro Manila).<sup>11</sup> These RRCYs provide 24-hour custodial care to children found guilty of crimes such as rape, murder, and robbery.<sup>12</sup>

In 2000, the number of CAVL provided with DSWD assistance reached 10,094 (including 703 girls), down from the 13,073 recorded in 1999.

In 1998, DSWD registered only 6,410 CAVL, further down from the 8,623 documented in 1997. At least 7,057 CAVL were recorded by DSWD in 1996.

DSWD reported having rendered assistance to these CAVL, through its community- and center-based programs, respectively, as follows: a total of 7,057 in 1996, including 6,292 community- and 765 center-based; 8,623 in 1997, including 7,486 and 1,137; 6,410 in 1998, including 5,575

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<sup>8</sup> An Act Providing For Stronger Deterrence And Special Protection Against Child Abuse, Exploitation And Discrimination, And For Other Purposes

<sup>9</sup> Article VI, Section 10[a]

<sup>10</sup> Department of Social Welfare and Development, Community-Based Services. Available at <http://www.dswd.gov.ph/programs2.php?progtype=3>  
Last visited on April 2, 2009.

<sup>11</sup> Department of Social Welfare and Development, Community-Based Services, available at <http://www.dswd.gov.ph/programs2.php?progtype=3>  
Last visited on April 2, 2009.

<sup>12</sup> Department of Social Welfare and Development, Helping Children in Conflict with the Law, available at <http://www.dswd.gov.ph/searchdetails.php?id=136>, last visited on April 2, 2009.

and 835; 13,073 in 1999, including 11,289 and 1,784; and 10,094 in 2000, including 8,883 and 1,261.

### **Girl Prisoners**

Boys make up the bulk of CAVL, comprising 8,198 out of a total 9,391 in 2000. This consists of 8,198 boys provided assistance through DSWD’s community-based programs and 1,193 through its center-based programs. Most of the girls, numbering 635 out of the total 703 girl CAVL in 2000, were provided community-based assistance by DSWD, in contrast to only 68 who received center-based services.

While girl prisoners are comparatively lower than the number of male child prisoners, girls face far greater risks of abuse on account of their sex, gender, and poor economic status.

During a three-year period, from 1990 to 1992, the 10 DSWD regional rehabilitation centers reported having served 12,878 CAVL. Succeeding figures on CAVL, spanning four years, more than doubled to 30,377 from 1994 to 1997.

### **BJMP Statistics: Male and Female Child Prisoners**

BJMP reported a total of 362 child prisoners all over the country as of October 2008, including six boys who have already been sentenced.<sup>13</sup> The prisoners included nine (9) girls and 353 boys, including those already sentenced.<sup>14</sup> They make up 0.58 percent of the overall BJMP and PNP prisoners population totaling 62,001 as of October 2008.<sup>15</sup>

Region VII or Central Visayas (composed of the provinces of Bohol, Cebu, Negros Oriental, and Siquijor)<sup>16</sup> accounted for the highest number of CAVL (108), followed by the National Capital Region (50), and Region X or Northern Mindanao,<sup>17</sup> consisting of the provinces of Bukidnon, Camiguin, Lanao del Norte, Misamis Occidental, and Misamis Oriental (48).

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<sup>13</sup> Bureau of Jail Management and Penology, Information and Communication Technology Service, Data on Children in Conflict with the Law, As of October 2008, available at [http://www.bjmp.gov.ph/Data\\_Stat/Nov\\_2007/Data\\_CICL\\_sentenced\\_detained.html](http://www.bjmp.gov.ph/Data_Stat/Nov_2007/Data_CICL_sentenced_detained.html), last visited on April 2, 2009.

<sup>14</sup> Bureau of Jail Management and Penology, Information and Communication Technology Service, BJMP Jail Population Data, As of October 2008, available at [http://www.bjmp.gov.ph/Data\\_Stat/Nov\\_2007/nation\\_sentenced.html](http://www.bjmp.gov.ph/Data_Stat/Nov_2007/nation_sentenced.html), last visited on April 2, 2009.

<sup>15</sup> Bureau of Jail Management and Penology, Information and Communication Technology Service, BJMP Jail Population Data, As of October 2008, available at [http://www.bjmp.gov.ph/Data\\_Stat/Nov\\_2007/nation\\_sentenced.html](http://www.bjmp.gov.ph/Data_Stat/Nov_2007/nation_sentenced.html), last visited on April 2, 2009.

<sup>16</sup> National Statistical Coordination Board, Region: Region VII (Central Visayas), available at <http://www.nscb.gov.ph/activestats/psgc/regview.asp?region=07>, last visited on April 2, 2009.

<sup>17</sup> National Statistical Coordination Board, Region: Region X (Northern Mindanao), available at <http://www.nscb.gov.ph/activestats/psgc/regview.asp?region=10>, last accessed on April 2, 2009.

Interestingly, the BJMP report cited that one boy is detained at the PNP jail at the Autonomous Region of Muslim Mindanao.<sup>18</sup>

In 2001, BJMP reported a total of 1,824 child trial prisoners under its custody. They consist of 1,714 boys and 110 girls. They exclude 99 other sentenced child prisoners (96 boys and three girls). The previous year, BJMP’s child trial prisoners reached 1,800 (1,678 boys and 122 girls), excluding 137 sentenced children (130 boys and seven girls). BJMP locked up 1,808 child trial prisoners (1,686 boys and 122 girls) in 1999. This was on top of 121 sentenced children, consisting of 115 boys and six girls during the same period.

What accounts for the lower number of BJMP child prisoners? Does this accurately mirror the actual extent of child detention in the Philippines? The answers to these questions lie in the fact that BJMP prisoners do not include ghost child prisoners, police child prisoners ordered released during inquest proceedings, and children on recognizance or bail, but, as discussed later in this article, cover only those ordered committed by the court to BJMP custody to face trial. It is noteworthy that the number of children who cannot get out on bail is quite nil, since the families of child detainees mostly live in the shadows of social existence and cannot afford to pay bail.

### **Molave Youth Home Experience**

The ebb and flow of the children prisoners’ population at the Molave Youth Home, a local government unit-run youth detention center in Quezon City, mirrors somehow the general situation of child prisoners in the country.

Way back in 1990, the number of children detained at Molave was only 227 (197 boys and 30 girls). This slightly increased to 237 the following year with the incarceration of 206 boys and 31 girls.

Their number dropped in 1992 to 182 (167 boys and 15 girls), but again rolled up to 196 in 1993 (178 boys and 18 girls). This further rose to 251 in 1994 with the detention of 206 boys and 45 girls.

The following year, Molave locked up 264 children (241 boys and 23 girls). In 1996, a total of 263 children, consisting of 229 boys and 34 girls, got thrown behind bars.

This shot up to 324 in 1997 with the imprisonment of 235 boys and 89 girls. This jumped again to 420 in 1998 with the jailing of 368 boys and 52 girls.

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<sup>18</sup> Bureau of Jail Management and Penology, Information and Communication Technology Service, BJMP Jail Population Data, As of October 2008, available at [http://www.bjmp.gov.ph/Data\\_Stat/Nov\\_2007/nation\\_sentenced.html](http://www.bjmp.gov.ph/Data_Stat/Nov_2007/nation_sentenced.html), last visited on April 2, 2009.

This ebbed a bit to 382 (348 boys and 34 girls) in 1999, but surged up again to 418 by the turn of the century, with the imprisonment of 375 boys and 43 girls.

The year 2001 marked a significant rise in the number of child detainees, which leapfrogged to 538. A total of 492 boys and 46 girls languished in prison during the period.

Most child prisoners, no doubt, come from 45.30 percent of the population living below the poverty threshold as of 1991. While National Economic and Development Authority statistics show a downtrend in poverty incidence – pegged at 40.60 percent in 1994, reduced to 34 percent in 2000, and curbed down further to 30.40 percent in 2003<sup>19</sup> – the phenomenon of child detention, as could be gleaned from Molave statistics, is in the upswing.

### **Poorest of the Poor**

Child prisoners belong to the poorest of the poor. They come from families whose earning falls way below the P6,817 (US\$122) monthly income needed to live decently in 2000, according to NEDA. Poverty threshold indicators show that to live decently, a family has to earn P3,043 (US\$54.5) in 1991, P3,702 (US\$66.3) in 1994, and P4,101 (US\$73.5) in 1997.<sup>20</sup>

A number of child prisoners come from families with incomes not exceeding P2,000 (US\$35.8) and P4,000 (US\$71.6) per month. This is based on the 1990-2002 statistics of the Social Services Development Department that runs Molave, in Quezon City, that accounts for one of the cities with the highest number of child prisoners in the country.

An analysis of Molave statistics shows that most child prisoners belong to families living below the poverty threshold, pegged at 39.90 percent in 1991 and at 28.40 percent in 2000 by NEDA.<sup>21</sup>

In 2001, for instance, 178 out of 538 detainees (33 percent) came from families earning below P3,000 (US\$53.7). This was followed by 142 children (26 percent) whose family income falls below P4,000. During the same period, only 63 children (12 percent) belonged to families earning less than P6,000 (US\$107.5).

A similar pattern could be gleaned during the 10-year period covering 1990 to 2000. Categorized into several income groups, the highest number of Molave prisoners mostly comes from families earning less than P3,000. Their number and percentage *vis-à-vis* the total number of Molave prisoners are as follows: 121 in 2000 (29 percent); 103 in 1999 (27 percent); 123 in

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<sup>19</sup> Poverty and Equity Indicators, Household Income and Consumption, National Economic Indicators, Philippines Economic Indicators Online, National Economic and Development Authority  
[http://localweb.neda.gov.ph/~ioneda/cgi-bin/st2.cgi?eds/db/national/hincome/poverty\\_equity\\_indicators\\_a.sc](http://localweb.neda.gov.ph/~ioneda/cgi-bin/st2.cgi?eds/db/national/hincome/poverty_equity_indicators_a.sc)

<sup>20</sup> **Id.**

<sup>21</sup> **Id.**

1996 (47 percent); 102 in 1995 (39 percent); 118 in 1994 (47 percent); 94 in 1993 (48 percent); 91 in 1992 (50 percent); 150 in 1991 (63 percent); and 141 in 1990 (62 percent).

In 1998, the 127 highest number of prisoners in the Molave income grouping (equivalent to 30 percent) belonged to families with income not exceeding P4,000, while a total of 101 children (31 percent) accounted for the P2,000 income category in 1997.

The state practice of jailing them with adult crime suspects under sub-human conditions smacks of unlawful discrimination committed by government functionaries, along with law enforcers, on account of the children’s bleak economic status.

The Philippine government should fulfill its CRC obligation to provide social services that are indispensable for the holistic growth and development of children, especially in the area of education. However, the automatic debt servicing law eats up the largest share of the national budget, to the detriment of essential social services.

### **First Point of Contact: Police**

The precise point of contact of children with the criminal justice system and the nature, conditions, and consequences of this contact defines the character of the Philippine criminal justice system insofar as children are concerned.

While the legal regime on children accused of violating the law is relatively advanced, in practice, however, children who mostly belong to the poorest of the poor suffer from egregious practices the moment they come into contact with the criminal justice system.

While the legal regime has progressed enormously over the years, the nefarious practice of jailing children in police prisons, packed with adult crime suspects, following their arrest persists. Police jails are not designed to promote, but in fact, negate and undermine, the therapeutic and restorative goals and thrusts of the CRC, RA 9344 and other domestic child protection laws. As a matter of state norm and practice, police jails serve as the temporary holding cells for all kinds of crime suspects, including children, pending inquest proceedings, and their eventual transfer to BJMP jails by virtue of court-issued commitment orders.

Children, in practice, still go through this hellish experience of being jailed in cramped and decrepit police lockups with adult crime suspects. The CRC, RA 9344, and other laws remain scraps of paper as far as police child detention is concerned.

In so doing, the Philippine government continued to breach its obligation under the CRC to stop its own institutionalized practice of jailing children with adult crime suspects particularly in



police lockups. The Committee has expressed grave concern over this human rights violation in its concluding observations<sup>22</sup> dated 21 September 2005, to wit:

*90. Furthermore, the Committee is concerned about the very low minimum age of criminal responsibility (9 years). Referring to the provisions on youth detention homes of the Child and Youth Welfare Code and the Rules and Regulations on the Apprehension, Investigation, Prosecution and Rehabilitation of Youth Offenders (Presidential Decree No. 603), the Committee is concerned about the inadequate implementation of these provisions and the placement of persons below 18 years of age together with adults in detention. Unlawful detention of children, street children for instance, for the extended period of time and limited, or lacking access to appropriate legal aid and assistance and adequate social and health services give cause for serious concern. In addition, the Committee is concerned about unreasonable amounts requested for bail, which cause insurmountable financial obstacles for children and their parents, limitations as regards the suspension of sentences and poor detention conditions, including so called secret cells.*

### **Police Lockups**

The four police commands operating in Metro Manila where police child prisoners abound – the Western Police District, Central Police District, Eastern Police District, and Northern Police District – commit the institutionalized crime of locking up children in police prisons with adult crime suspects. The Galas Police Station under the CPDC, however, has put up a small “separate” cell intended for children starting a few years back; but their interaction with adult crime suspects remains unhampered due to contiguity. Recently, the Police Community Precinct 6 in Barangay Addition Hills, Mandaluyong, Metro Manila, was designated as an exclusive facility for children.<sup>23</sup>

In its recommendations in 2005<sup>24</sup>, the Committee has specifically urged the Philippine government to stop this egregious practice of lumping up children with adults in police prisons, to wit:

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<sup>22</sup> UN Committee on the Rights of the Child: Concluding Observations of the Committee on the Rights of the Child: Philippines. CRC/C/15/Add.259 (21 September 2005), at para. 90, available at [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CRC.C.15.Add.259.En?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CRC.C.15.Add.259.En?Opendocument) . Last accessed on June 9, 2009.

<sup>23</sup> Mandaluyong child suspects get own cell, Edson C. Tandoc Jr., Philippine Daily Inquirer, p. A23, Oct. 17, 2005

<sup>24</sup> UN Committee on the Rights of the Child: Concluding Observations of the Committee on the Rights of the Child: Philippines. CRC/C/15/Add.259 (21 September 2005), at para. 91, available at [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CRC.C.15.Add.259.En?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CRC.C.15.Add.259.En?Opendocument) . Last accessed on June 9, 2009.



91. *The Committee urges the State party to ensure that its legislation and practice concerning juvenile justice is in full compliance with the provisions of the Convention, in particular articles 37, 39 and 40, as well as other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) (General Assembly resolution 40/33), the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) (General Assembly resolution 45/112), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (General Assembly resolution 45/113) and the Guidelines for Action on Children in the Criminal Justice System (annexed to Economic and Social Council resolution 1997/30 of 21 July 1997). In this regard, the Committee recommends to the State party in particular that it:*

- (a) Adopt, as a matter of urgency, a proposed bill on Comprehensive Juvenile Justice System and Delinquency Prevention Programme and raise the minimum age of criminal responsibility to an internationally acceptable level;*
- (b) Ensure that deprivation of liberty is used only as a measure of last resort, for the shortest possible time and in appropriate conditions, and that persons below 18 years of age are not detained with adults;*
- (c) Establish juvenile courts staffed with sufficient, appropriately trained professional personnel;*
- (d) Ensure that persons below 18 years of age have access to legal aid and independent and effective complaints mechanisms;*
- (e) Implement alternative measures to deprivation of liberty, such as probation, community service or suspended sentences;*
- (f) Train professionals in the area of recovery and social reintegration of children;*
- (g) Continue to seek technical assistance from, inter alia, the Office of the United Nations High Commissioner for Human Rights, the United Nations Office on Drugs and Crime and UNICEF.*

### **Metro Manila: Three Youth Detention Centers**

Three youth detention centers exist in Metro Manila, namely, the Molave Youth Home (located in Quezon City), the Manila Youth Reception Center (located in Manila), and the Pasay City Youth Home (located in Pasay City). In Cebu City, the local government maintains “Operation Second Chance”.

## **Social Stigma of Police Detention**

Although the DSWD has developed holistic and highly developed child-friendly intervention programs and services to protect the best interests of children accused of violating the law, these institutional programs and services come only after children have already gone through their traumatic experience of being brought to police lockups and incarcerated with adult crime suspects over significant periods.

It is at this most critical juncture, when children are extremely vulnerable to police brutality and torture, sexual molestation and rape, sodomy, and other forms of indignities inflicted by police and adult crime suspects, that the Philippine government fails and refuses to fulfill its duty under the CRC to respect, protect, and fulfill the human rights of children accused of violating the law.

State functionaries, including the President, Cabinet secretaries, police officials, prosecutors, judges, *etc.* justify and excuse this wanton violation of children’s human rights by citing the lack of resources and facilities. The Philippine government’s continuing justification and excuse for perpetuating police child detention with adult crime suspects and exposing these children to indignities and lifelong trauma serve only to deeply entrench the culture of retribution and violence against children accused of violating the law.

In reality, stakeholders condone the practice of police child detention with adult crime suspects under subhuman conditions as a form of punishment and retribution for children’s alleged crimes, betraying their avowed adherence to the CRC as nothing more than lip service.

Countless children, including girls, have been sexually abused, tattooed, and subjected to various forms of atrocities and indignities in the hands of their police jailers and adult prisoners, with impunity and without redress.

Law enforcement agencies, including the National Bureau of Investigation and the PNP, fail and refuse to investigate and prosecute the illegal practice of jailing children with adult crime suspects in police prisons by virtue of the prevailing *esprit de corps* among government employees, thereby rendering child protection laws inutile.

In police jails, children are subjected to inquest proceedings, then charged in court. They are only taken out from police prisons after the commitment order issued by family court judges had been served upon the police.

If the goal of the RA 9344 is to restore the child, then all the institutional systems, mechanisms, and procedures starting from the critical point of arrest should ensure the restoration of the child. In practice, however, what the PNP *de facto* norm and practice has been doing to children is to traumatize, dehumanize, and criminalize them for life. Children’s period of police detention, ranging from two weeks to two months, on the average, can prove to be life-altering, introducing

them to a career of crime, and develop in them social antipathy and rebellion against persons in authority.

Even though the government is claiming that DSWD and CHR are monitoring police prisons, in practice, their personnel do not have the capability to monitor all police jails nationwide round the clock. DSWD personnel generally learn about the fact of arrest of children upon their receipt of commitment orders from family court judges. This means that after DSWD learns of children’s arrest, the children have already experienced police detention usually in the company of adult crime suspects under sub-human conditions.

DSWD personnel as a whole observe the 8 a.m. to 5 p.m. work shift. Hence, children who get arrested at night suffer from police detention with adult crime suspects.

Hence, in practice, so-called restorative justice intervention services meant for children accused of violating the law serve as mere palliatives, if not as a smokescreen to conceal the brutal practice of police detention of children with adult crime suspects. This status quo serves to entrench deeper the retributive and punitive mindset generally prevailing among stakeholders of the Philippine criminal justice system. Weeding out the government-sanctioned PNP practice of jailing children with adult crime suspects is decisive in humanizing the criminal justice system as far as children accused of violating the law are concerned.

The prevailing system has been ineffective in preventing the ill-treatment of children accused of violating the law.

The advent of RA 9344 and other child protection laws, not to mention the CRC, does not *ipso facto* alleviate the plight of children prisoners, given the prevailing retributive and punitive mindset among some Filipinos, including stakeholders of the criminal justice system, such as prosecutors, judges, and public attorneys. For instance, some family court judges generally prefer detention over the provisional liberty of children, believing that detention is beneficial for children, so they will supposedly “learn their lesson”.

### **Children Prisoners’ Subculture**

Family court judges are generally ignorant of the fact that children prisoners have actually adopted the adult prisoners’ subculture to which children have already been exposed starting from the point of contact with the police. Notable among these prisoners’ cultural practices is the *takal* system, the local parlance for corporal punishment in the form of physical beating inflicted among children prisoners by their *mayores*, a child or adult prisoner himself or herself at the police jail and/or BJMP cells, who has been detained the longest and/or who faces the worst charges among them. Under the *takal* system, children are beaten up with the use of a

piece of wood, locally known as *dos por dos* (two by two), in reference to the size of the paddle, belt, or other tool.

Children also spend their pastime in fistfights due to *buryong* (or extreme boredom and desperation due to prolonged detention). Some children also suffer from sodomy. Tattooing of children, including girls, during detention also happens.

Criminal contamination even among the ranks of children occurs during detention, due to the lack of segregation of children based on the charges filed against them. For example, a child who has been arrested and detained merely for littering, from experiencing detention with adult crime suspects in police jails, also end up being detained with other children belonging to street gangs involved in solvent-sniffing, theft, and robbery. Children generally end up becoming hardened individuals stigmatized and ostracized by society on account of their arrest and prolonged detention. Given their experience, it is with criminal gangs whom they came into contact with during detention, that children feel an affinity with.

### **Impunity**

Generally, DSWD and PAO personnel, due to lack of operational capacity, do not visit police jails, where ghost and police child detainees languish into oblivion. Even the Commission on Human Rights does not have the operational capability to conduct jail visits nationwide, hence, the lack of effective grassroots mechanisms to monitor, prevent, and redress the onslaughts against children in police prisons.

In its report on the national jail population as of October 2008,<sup>25</sup> BJMP included 1,168 prisoners detained by PNP in its own jails nationwide.<sup>26</sup> The data on the number of PNP prisoners – not disaggregated as to age and sex and apparently including adults and children alike – came from Region III (33 prisoners), Region IV-A (417 prisoners), Region VI (197 prisoners), Region VII (249 prisoners), Region VIII (69 prisoners), Region IX (98 prisoners), Region XIII (29 prisoners), and the Autonomous Region of Muslim Mindanao (76 prisoners).<sup>27</sup>

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<sup>25</sup> Bureau of Jail Management and Penology, Information and Communication Technology Service, BJMP Jail Population Data, As of October 2008, available at [http://www.bjmp.gov.ph/Data\\_Stat/Nov\\_2007/nation\\_sentenced.html](http://www.bjmp.gov.ph/Data_Stat/Nov_2007/nation_sentenced.html), last visited on April 2, 2009.

<sup>26</sup> Bureau of Jail Management and Penology, Information and Communication Technology Service, BJMP Jail Population Data, As of October 2008, available at [http://www.bjmp.gov.ph/Data\\_Stat/Nov\\_2007/nation\\_sentenced.html](http://www.bjmp.gov.ph/Data_Stat/Nov_2007/nation_sentenced.html), last visited on April 2, 2009.

<sup>27</sup> Bureau of Jail Management and Penology, Information and Communication Technology Service, BJMP Jail Population Data, As of October 2008, available at [http://www.bjmp.gov.ph/Data\\_Stat/Nov\\_2007/nation\\_sentenced.html](http://www.bjmp.gov.ph/Data_Stat/Nov_2007/nation_sentenced.html), last visited on April 2, 2009.

The abovementioned PNP prisoners’ statistics have not been disaggregated by sex and age, making it virtually impossible to monitor the PNP’s practice of jailing children with adult crime suspects in its filthy jails in various parts of the country.

Furthermore, the BJMP report<sup>28</sup> does not indicate any data on prisoners detained by the PNP in the National Capital Region, Region I (Ilocos Region), Region II (Cagayan Valley), Region IV-B (consisting of the provinces of Marinduque, Occidental Mindoro, Oriental Mindoro, Palawan, and Romblon), Region V (Bicol Region), Region X (Northern Mindanao), Region XI (Davao Region), XII (consisting of North Cotabato, Cotabato City, Sarangani, South Cotabato, and Sultan Kudarat), and the Cordillera Administrative Region.

### **Police Impunity in Locking Up Children**

The lack of transparency and accountability on the part of law enforcers who lock up children in police headquarters, stations, and sub-stations erected the wall of impunity surrounding the practice of jailing children with adults. This lack of transparency, made worse by the utter lack of an effective system of checks and balances, is taking its toll on child detainees, who risk getting sodomized, tortured, raped, and tattooed during police custody. This is not to mention the routine violation by the police of the child prisoners’ Miranda rights or constitutional right to be informed of their right to remain silent and to have an independent and competent counsel of their own choice.<sup>29</sup>

It is noteworthy too that the CAVL is the twin phenomenon of street children, estimated at 70,000 in Metro Manila alone as far back as 1995. Given the rounding up operations periodically carried out against them by the police and DSWD, especially when foreign dignitaries visit the country, the number of children deprived of their liberty is actually much higher. Although street children are supposed to have been rescued, not arrested, by the government from the streets, their freedom is actually curtailed, and hence, these “rescued” children could be categorized as children deprived of their liberty.

So-called “rescue operations” targeting street children are merely palliative measures. Such roundups do not address the socioeconomic causes of the mushrooming of street children and families. Historically, the Philippine government has displayed its propensity to round up in order to conceal street children in case of international events or foreign dignitaries’ visit to the country. Such approach betrays the government’s bias against street children as social eyesores.

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<sup>28</sup> Bureau of Jail Management and Penology, Information and Communication Technology Service, BJMP Jail Population Data, As of October 2008, available at [http://www.bjmp.gov.ph/Data\\_Stat/Nov\\_2007/nation\\_sentenced.html](http://www.bjmp.gov.ph/Data_Stat/Nov_2007/nation_sentenced.html), last visited on April 2, 2009.

<sup>29</sup> This is punishable under Republic Act No. 7438, An Act Defining Certain Rights Of Person Arrested, Detained Or Under Custodial Investigation As Well As The Duties Of The Arresting, Detaining And Investigating Officers, And Providing Penalties For Violations Thereof.

### **Detention Pending Trial**

The length of detention of children pending trial is neither based on the observance by family courts of the much-avowed principle of due process of law, principle of proportionality, the principle of restorative justice, or principle of best interests of the child under the CRC. The much-ballyhooed progresses achieved in the Philippines in the area of child rights legislation largely remain scraps of paper. There exists a wide gap between law and reality.

### **Snail-Paced Justice**

In practice, children suffered from prolonged imprisonment on account of the snail-paced administration of justice occasioned by backlogs. Family courts do not only handle criminal cases filed against children. Family courts exercise jurisdiction over family court cases, including petitions for declaration of nullity of marriage, violence against women, adoption, and the like as well. Further, as a matter of practice, public prosecutors oppose defense motions to dismiss the case on account of the failure of prosecution witnesses to appear, with the prosecution citing the lack of proof of return in court records, proving that the prosecution witness had received the notice of hearing. As a matter of common knowledge, postal services in the Philippines are not reliable, such that the proof of service of summons for prosecution witnesses to appear takes weeks if not months to be received by courts. Further, even with available evidence showing that prosecution witnesses have been duly notified of the schedule of hearing, family court judges are usually wont to simply reschedule the hearing of the case to give the prosecution enough opportunity to present its witnesses.

The overall outcome is the prolonged detention of children. On account of the growing number of drug cases involving children, court dockets are becoming more clogged than ever. In reality, this clogging of court dockets reflects a relatively proportionate degree of congestion of jails managed by BJMP. Hence, even though trial detention is supposed to simply guarantee the appearance in court of children to stand trial, their incarceration pending trial is actually designed by judges and prosecutors, wittingly or unwittingly, “to teach children their lesson” for their alleged crimes.

This violates the child’s right to life, survival and development under Article 6 of the CRC, which the Committee interpreted in its General Comments<sup>30</sup> in the following way:

*In this regard, article 37 (b) explicitly provides that deprivation of liberty, including arrest, detention and imprisonment, should be used only as a measure*

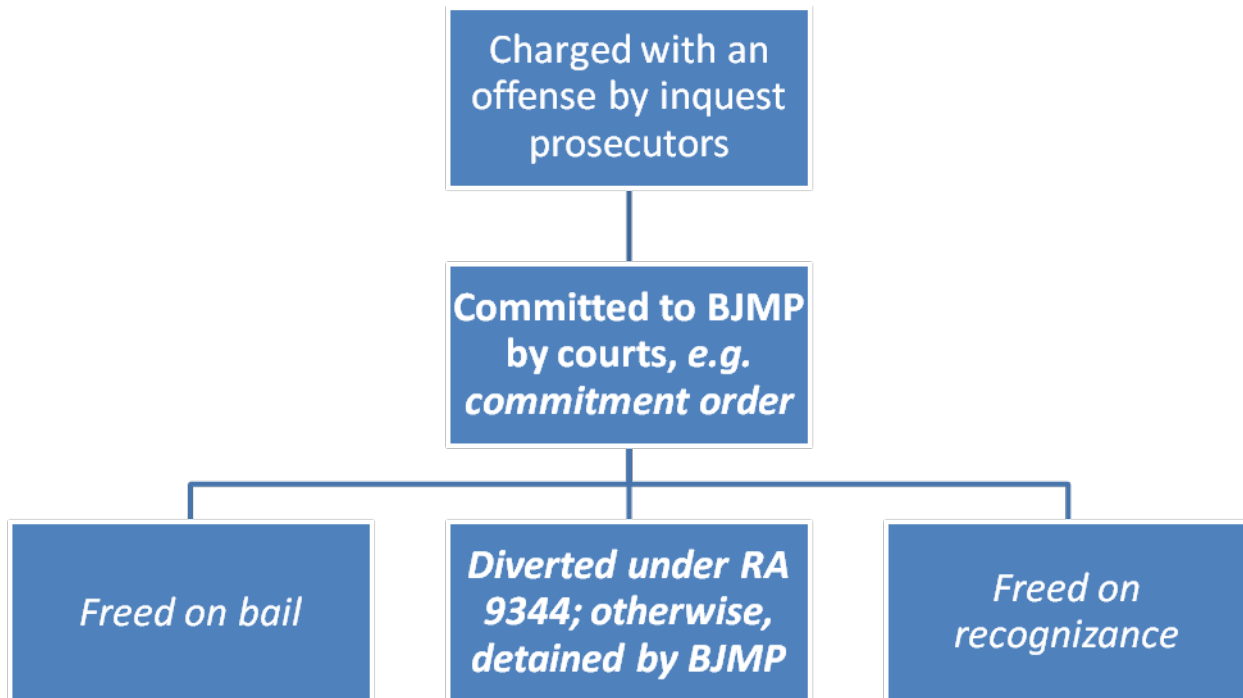
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<sup>30</sup> General Comment No. 10 (2007): Children’s Rights in Juvenile Justice, UN Committee on the Rights of the Child, CRC General Comment No. 10. (General Comments), (2007), available at <http://www2.ohchr.org/english/bodies/crc/comments.htm> . Last accessed on June 9, 2009.

*of last resort and for the shortest appropriate period of time, so that the child’s  
right to development is fully respected and ensured.*

It would be helpful to give a background on the various types of CAVL to illustrate the complexity of this problem.

***AFTER ARREST, CHILDREN ACCUSED OF VIOLATING THE LAW (CAVL) GET:***



**Types of Children Accused of Violating the Law**

In the Philippines, there exist at least three major types of CAVL: detained children; children freed on recognizance or bail; and extra-judicially executed children.

Detained children fall under six categories: ghost prisoners; police prisoners; political prisoners; BJMP prisoners; DSWD prisoners (euphemistically called wards); and convicted prisoners who turned 18, and in reality, therefore, are no longer children. They should be categorized, however,

as child prisoners, nonetheless, owing to their entitlement as children at the time of their alleged commission of the offense.

Ghost prisoners are mostly held in police custody. But to distinguish them from police prisoners on the basis of the filing of charges against them in court, ghost prisoners are categorized separately. Police prisoners fall into two sub-types: children charged in court and those ordered freed during inquest proceedings due to the desistance of complainants from pressing on charges against them or for lack of evidence. These children who have been ordered freed nonetheless have undergone the ordeal of imprisonment, most often in the company of adult crime suspects.

In addition, there are “rescued” street children<sup>31</sup> who are actually stripped of their liberty and child immigration prisoners. Included as parts of this report are two comprehensive investigative reports prepared by Bahay Tuluyan titled

- *Sagip or Huli?: Indiscriminate Rescue of Street Children in the City of Manila, January 2008, 74 pages*<sup>32</sup>
- *Sagip o Huli? Rescue of Street Children in Caloocan, Pasay and Quezon Cities, March 2009, 89 pages*

These two Bahay Tuluyan reports show how the so-called “rescue” operations mounted by the government violated the state party’s obligation under the CRC. Further, these reports underscore how the government had undermined this Committee’s recommendations given in its concluding observations<sup>33</sup> dated 21 September 2005, to wit:

*Street children*

83. *The Committee reiterates its grave concern at the high number of children living in the streets and their special vulnerability to various forms of violence and abuse, including sexual abuse and exploitation, economic exploitation and substance abuse. The Committee notes the lack of a systematic and comprehensive strategy to address the situation and protect children living in the streets. The Committee emphasizes that unlawful arrest and detention of street*

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<sup>31</sup> Another category of children, not considered CAVL, but restrained of their liberty under the government’s rescue operations in order to keep them out of the streets and return them to their families exists.

<sup>32</sup> The full report is available at [http://www.bahaytuluyan.org/news/indiscriminate\\_rescue\\_of\\_street\\_children\\_in\\_the\\_city\\_of\\_manila\\_28\\_january\\_2008.pdf](http://www.bahaytuluyan.org/news/indiscriminate_rescue_of_street_children_in_the_city_of_manila_28_january_2008.pdf) . Last accessed on June 8, 2009.

<sup>33</sup> UN Committee on the Rights of the Child: Concluding Observations of the Committee on the Rights of the Child: Philippines. CRC/C/15/Add.259 (21 September 2005), at paras. 83-84, available at [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CRC.C.15.Add.259.En?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CRC.C.15.Add.259.En?Opendocument) . Last accessed on June 9, 2009.



**children are serious violations of the provisions and principles of the Convention.** Notwithstanding the efforts taken by the State party and, in particular, many non governmental organizations working with and for street children, for example ChildHope Asia Philippines, the Committee is concerned about street children’s limited access to adequate nutrition, clothing, housing, social and health services and education. Furthermore, the Committee is concerned about health risks faced by street children, including environmental health risks, such as toxic and hazardous wastes and air pollution.

84. The Committee recommends that the State party:

(a) Develop a comprehensive strategy with active participation of street children, non governmental organizations and relevant professionals to address the high number of street children, with the aim of reducing and preventing this phenomenon;

**(b) Ensure that children living in the streets are not unlawfully arrested and detained, protect them from police brutality and where needed, secure their access to adequate legal services;**

(c) Ensure that street children are reached through trained street educators and counsellors and provided with adequate nutrition, clothing and shelter as well as with social and health services and educational opportunities, including vocational and life skills training, in order to support their full development and provide them with adequate protection and assistance;

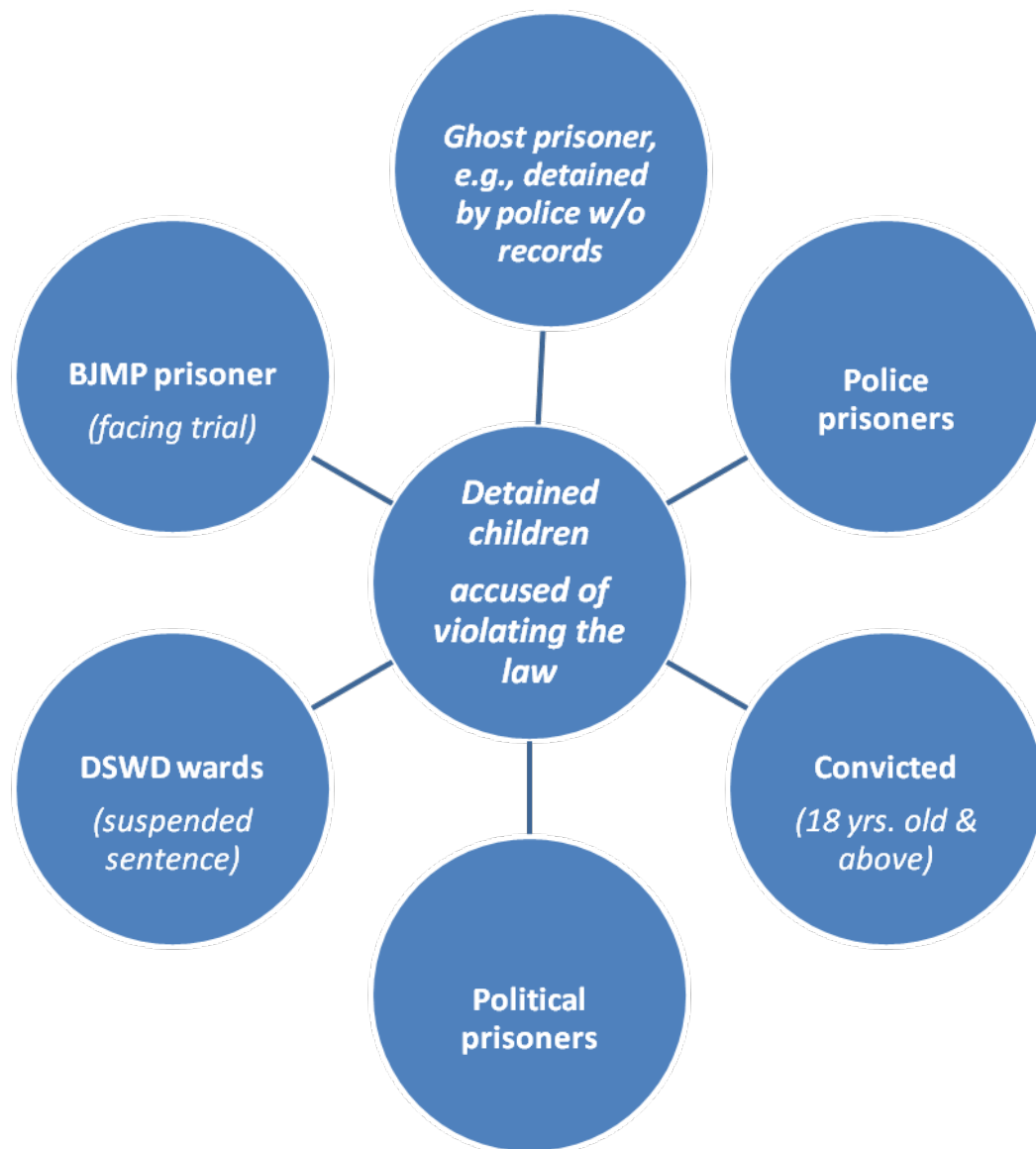
(d) Provide street children with adequate recovery and social reintegration services for physical, sexual and substance abuse and promote reunification with their families, when feasible;

(e) Reduce and prevent the environmental health risks faced by children living in the streets, inter alia, through raising awareness about environmental health risks among these children and instructing appropriate behaviours which protect them from these risks;

(f) Support the efforts of street children to organize themselves in order to enhance their self esteem;

(g) Collaborate with and support non governmental organizations working with and for street children. (underscoring supplied)

**TYPES OF DETAINED CHILDREN**  
**ACCUSED OF VIOLATING THE LAW**



### **Ghost Prisoners**

Ghost child prisoners are arbitrarily arrested and detained without charges. They include children apprehended and locked up by *barangay* officials and *barangay tanods* (local guardsmen) in their makeshift jails as well as street children routinely rounded up and jailed by the police for being hooked on substance abuse, for allegedly engaging in the flesh trade, or on suspicion of having committed crimes, usually robbery snatching, if they do not get charged due to the lack of complainants or if the police are not wont to press charges against them. No

official documentation on these children exists; hence, the name ghost child prisoners. They include some of the children rescued from jails by Fr. Shay Cullen and his PREDA Foundation.<sup>34</sup>

What gives rise to the phenomenon of ghost police prisoners? The socio-legal environment plays a critical role in the emergence of this police practice. Laws criminalizing vagrancy and prostitution enable law enforcers to apprehend and detain poor and destitute children and adults alike in police headquarters, stations, and sub-stations over periods ranging from a single night to several days at the law enforcers’ own discretion.

Vagrancy laws specially arm law enforcers with a broad discretion in determining whether certain individuals should be picked up and detained without necessarily turning them over to inquest prosecutors to ascertain whether probable cause exists to charge them in court. Law enforcers release them afterwards without charges.

How could this happen when law enforcers could be held liable for resorting to this practice? Ironically, legal provisions that are supposedly meant to protect individuals from arbitrary detention are the very same ones that enable law enforcers to detain individuals and set them free after several days of imprisonment without charges at will. Article 125 of the Revised Penal Code requires law enforcers to turn over prisoners to the courts’ jurisdiction within 12 hours for light offenses, 18 hours for less serious offenses, and 36 hours for capital crimes. They incur criminal liability if they fail to observe this mandatory period. Hence, what law enforcers do usually is to detain ghost adult and child prisoners – especially those apprehended for vagrancy – during nighttime and set them free in the morning. Ghost prisoners include girls and women suspected of engaging in prostitution but apprehended instead by law enforcers for alleged vagrancy due to the legal difficulty of proving the crime of prostitution.

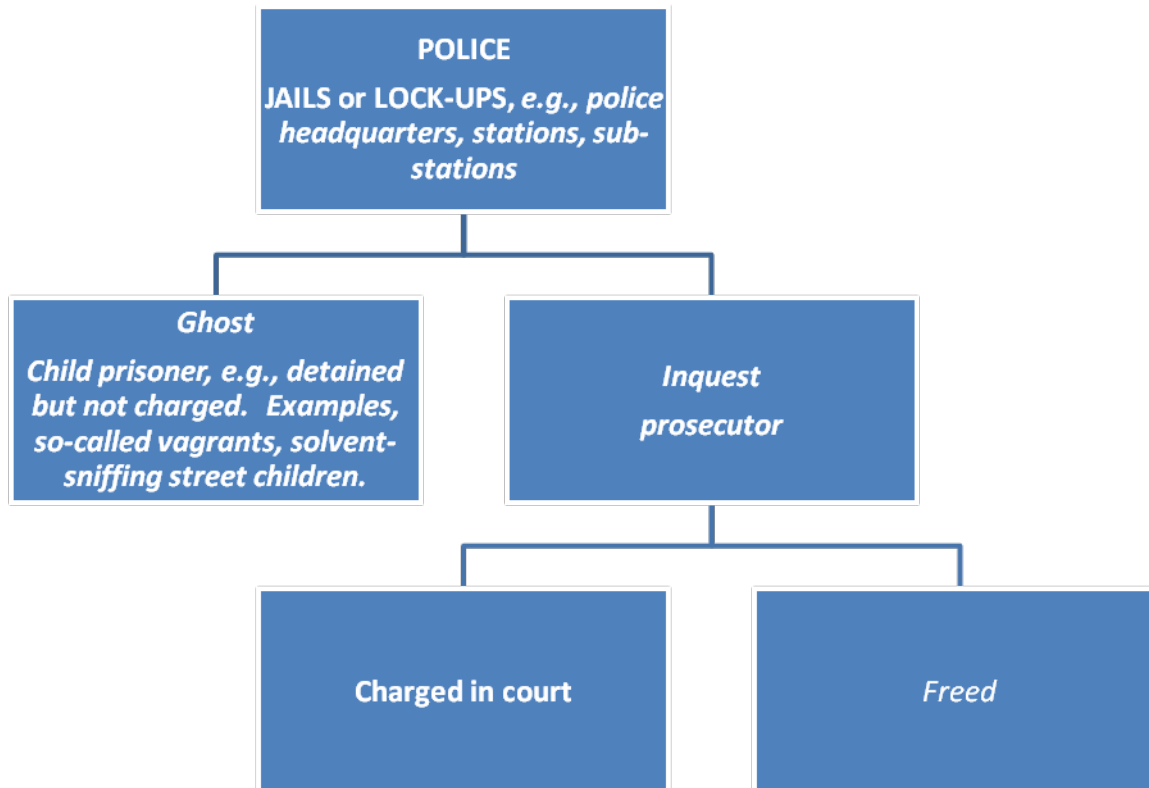
It is usually during nighttime that ghost prisoners get locked up in police jails.

Critical factors that perpetuate this practice include the poverty and political powerlessness of the ghost detainees, who generally lack knowledge about their own legal entitlements. Ghost detainees suffer from economic want as well as fear and distrust of authorities. They lack access to justice. All this prevents ghost prisoners from protecting and defending their dignity and human rights from the arbitrary and despotic nature of this police system. To a large extent, the practice of keeping ghost police prisoners occurs on account of the lack of transparency and adequate system of checks and balances in police jails, both from within and outside the government. All these elements combine to enshroud this police practice with the mantle of impunity.

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<sup>34</sup> CNN Insight report on Kids in jail and the rescue work of Preda to free them  
<http://www.preda.org/home.htm>

**PHILIPPINE NATIONAL POLICE (PNP) DISPOSITION  
OF CHILDREN ACCUSED OF VIOLATING THE LAW**



**Procedure from PNP jails to Bureau of Jail Management and Penology (BJMP) jails:**

1. *The police investigator prepares and submits to the inquest prosecutor the police investigation and arrest reports, affidavits of arresting officers, affidavit of complainant, and other evidence to the inquest prosecutor.*
2. *The inquest prosecutor determines whether probable cause exists against the child accused of violating the law (CAVL). CAVL are referred to inquest prosecutors, since CAVL are mostly arrested without judicial warrants.*

*The inquest prosecutor, in almost all cases, files charges against children in court. Children are still in police jails at the point of inquest. Only after the Department of Justice forwards the criminal information against the children to the courts that courts are able to prepare and issue a commitment order, directing the transfer of the children*

**Police Prisoners**

Police child prisoners are those who are locked up, upon arrest, by law enforcers in police headquarters, stations, and sub-stations, all over the country usually in the company of adult crime suspects, pursuant to the PNP’s *de facto* standard operating procedure, with the exception of Cebu City. They usually get apprehended without a warrant of arrest. Private complainants usually press charges against these children who are mostly accused of robbery snatching or theft. BJMP official statistics<sup>35</sup> reveal that as October 2008, robbery (93) and theft (95) cases accounted for 188 of the total 392 crimes attributed to children all over the country, or an equivalent of 47.96 percent.

The other crimes ascribed to children during this period include: murder (50); homicide (17); rape (29); and physical injury (8), accounting for a total of 104 crimes against persons.<sup>36</sup>

### **Comprehensive Drug Act (RA 9165)**

In recent years, law enforcers themselves – especially with the advent of the Comprehensive Drugs Act of 2002 or RA 9165<sup>37</sup> – have been increasingly accusing children nabbed during raids or buy-bust operations of drug trafficking or illegal possession of drugs. The BJPM recorded a total of 35 cases of alleged violation by children of RA 9165 from all over the country as of October 2008.

### **Legal Framework: The Incongruence between the Philippines’ Revised Penal Code, Criminal Statutes, Drug Law, RA 9344 and the CRC**

While RA 9344 establishes the principle of therapeutic and restorative justice, the Revised Penal Code and other criminal statutes are mostly retributive and punitive in nature. Based on the ancient and outdated Spanish *codigo* penal, the RPC’s underlying philosophy is retributive justice, in contraposition to RA 9344’s restorative justice precepts. As could be gleaned from the length of imprisonment provided in the RPC, the goal is mainly to punish convicted felons, including children, with imprisonment. The implementers of RA 9344, while expressly avowing adherence to restorative justice precepts, in practice, are still using as their framework the penal

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<sup>35</sup> Bureau of Jail Management and Penology, Information and Communication Technology Service, Common Crimes Committed by Youth Offenders, For the Month of 2008, available at [http://www.bjmp.gov.ph/Data\\_Stat/Nov\\_2007/common\\_crimes\\_cicl.html](http://www.bjmp.gov.ph/Data_Stat/Nov_2007/common_crimes_cicl.html), last visited on April 2, 2009.

<sup>36</sup> Bureau of Jail Management and Penology, Information and Communication Technology Service, Common Crimes Committed by Youth Offenders, For the Month of 2008, available at [http://www.bjmp.gov.ph/Data\\_Stat/Nov\\_2007/common\\_crimes\\_cicl.html](http://www.bjmp.gov.ph/Data_Stat/Nov_2007/common_crimes_cicl.html), last visited on April 2, 2009.

<sup>37</sup> An Act Instituting the Comprehensive Dangerous Drugs Act of 2002, Repealing Republic Act No. 6425, Otherwise Known As the Dangerous Drugs Act of 1972, As Amended, Providing Funds Therefor, and For Other Purposes. Signed into law on June 7, 2002 by President Gloria Macapagal Arroyo.

provisions of the RPC and criminal statutes, contrary to the provision of Article 37(b) of the CRC.

On account of this framework, RA 9344 provided for diversion for felonies as defined in RPC with the impossible penalty of less than six (6) years imprisonment. Of the 85 felonies defined in RPC that are diversionable, as provided under RA 9344, only three felonies are relevant to children accused of violating the law. These include the felonies defined in the RPC under Article 308 (theft) in relation to Article 309 (not exceeding 12,000 pesos), Article 202 (vagrants and prostitutes), and Article 265 (less serious physical injuries).

The advent of RA 9165, combined with anti-vagrancy and prostitution laws, has made girls extremely vulnerable to police frame up and arrest. Some unscrupulous officers of the PNP are known for engaging in what is known in local parlance as *hulidap* (a combination of two words in the vernacular that means arrest and holdup). Given the ease with which law enforcers could plant evidence of alleged drug possession or trafficking on anyone, law enforcers have been reported to engage in *hulidap* in order to extort children’s family members.

The continuing criminal neglect of the President of the Philippines and the President-appointed Secretary of Interior and Local Governments, who exercises supervisory power and authority over the PNP, to eradicate the long-running practice of police child detention spells doom for countless children and society.

Even progressive rules of procedure formulated by the Supreme Court prove inutile in sparing children from going through the nightmarish experience of being jailed in police prisons with adult crime suspects, deprived of access to psychosocial, health, and legal services, given the lifelong impact of police child detention.

RA 9165 effectively emasculated child protection laws, since about 90 percent of the felonies penalized thereunder are non-bailable. Hence, even children cannot avail of provisional release pending trial of drug-related charges against them. As of July 2008, BJMP reported a total of 25,501 cases involving both adults and children alike under RA 9165 all over the country.<sup>38</sup>

The penalties under this drug law are unduly punitive and violate the principles of due process of law and of proportionality, especially in light of scientific evidence proving the medical value of marijuana. The findings of the American Medical Association and the American Cancer Society and the legalization of medical marijuana in California and 12 other U.S. states prove that this statute, at least as far as marijuana is concerned, does not necessarily rest on a comprehensive and thorough knowledge of the nature of marijuana. Otherwise, Congress would have regulated, rather than outrightly prohibit the use of marijuana for medical purposes at least.

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<sup>38</sup> Bureau of Jail Management and Penology, Information and Communication Technology Service, Data on Drug Related Cases, available at [http://www.bjmp.gov.ph/Data\\_Stat/Nov\\_2007/drug\\_cases.html](http://www.bjmp.gov.ph/Data_Stat/Nov_2007/drug_cases.html), last visited on April 2, 2009.

By virtue of RA 9344 as well as Article 37(b) of the CRC, the government is obligated to ensure that children held under this drug law are released on recognizance or bail, and most importantly, are able to avail of diversionary measures, pursuant to the principles of proportionality, of due process of law, and of the best interests of the child.

These provisions of RA 9165 undermine and defeat the principles and goals of restorative and therapeutic justice enshrined in domestic as well as international laws to promote the best interests of children who come into contact with the criminal justice system on account of alleged drug or marijuana use, as this Committee has expounded in its General Comments,<sup>39</sup> to wit:

*Best interests of the child (art. 3)*

*10. In all decisions taken within the context of the administration of juvenile justice, the best interests of the child should be a primary consideration. Children differ from adults in their physical and psychological development, and their emotional and educational needs. Such differences constitute the basis for the lesser culpability of children in conflict with the law. These and other differences are the reasons for a separate juvenile justice system and require a different treatment for children. The protection of the best interests of the child means, for instance, that the traditional objectives of criminal justice, such as repression/retribution, must give way to rehabilitation and restorative justice objectives in dealing with child offenders. This can be done in concert with attention to effective public safety.*

The enforcement of these provisions unduly congests jails and further strains the country’s already meager personnel, financial, and logistical resources.

### **Domestic Laws Relevant to CRC Enforcement**

Philippine laws, however, do not authorize law enforcers to hold children in their custody, much less to lock them up with adult crime suspects. Quite the contrary, Section 8 of the Rules and Regulations on the Apprehension, Investigation, Prosecution and Rehabilitation of Youth Offenders and Article 191 of the Child and Youth Welfare Code (Presidential Decree 603) both

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<sup>39</sup> General Comment No. 10 (2007): Children’s Rights in Juvenile Justice, UN Committee on the Rights of the Child, CRC General Comment No. 10. (General Comments), (2007), available at <http://www2.ohchr.org/english/bodies/crc/comments.htm> . Last accessed on June 9, 2009.



require law enforcers to immediately consult with and turn over children upon arrest to the custody of social workers and/or responsible members of the community.

The lack of capability on the part of law enforcers, on their own, to address the twin problems of police child detention and mixing up children with adult crime suspects underscores the nature and character of these core issues as primarily the responsibility and requiring coordinative action on the part of the President and top Cabinet officials.

### **Political Prisoners**

Child political prisoners are those branded as alleged members of political groups. At least 17 child prisoners have been monitored by Salinlahi, a Philippine-based alliance of children’s organizations in 2005. They are supposed to be held under DSWD custody. But according to Salinlahi, 11 alleged Abu Sayyaf members were detained at Camp Bagong Diwa in 2005. Three alleged New People’s Army members were detained at the Sorsogon Provincial Jail, one in Davao, another in Eastern Visayas, and a third in Fort Bonifacio also in 2005.

### **BJMP Prisoners**

Those who have been ordered committed by courts to its custody pending the trial of their cases are BJMP child prisoners. They actually come from the ranks of police prisoners. It is noteworthy that although BJMP is operating under a tight budget, its well-meaning officers, especially those at the junior level, are doing their best to comply with UN prison standards, including the provision of separate facilities for children. Examples of BJMP-controlled facilities are the Molave Youth Home and the recently created Center for Restorative Activities, Development and Learning Experiences (CRADLE). CRADLE is a detention facility located inside Camp Bagong Diwa in Bicutan, Taguig City, Metro Manila.

President Gloria Macapagal Arroyo designated DSWD as the lead agency “to protect the rights and welfare” of CAVL, by virtue of Memorandum Order No. 203 issued on January 30, 2006.<sup>40</sup> Thirty-nine BJMP officers, with eight jail officers staffing its three (3) eight (8)-hour shifts, fulfill “safekeeping” tasks for CAVL. Six social workers provide psychosocial and educational services for the child prisoners.

### **DSWD Prisoners**

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<sup>40</sup> Bureau of Jail Management and Penology, 5.2M Budget for CRADLE Sought, available at [http://www.bjmp.gov.ph/Press%20Releases/Archives/20070731\\_5.2M.html](http://www.bjmp.gov.ph/Press%20Releases/Archives/20070731_5.2M.html), last visited on April 2, 2009.



DSWD prisoners (“wards”) are those children who have been adjudged guilty by the court after trial or after a voluntary plea of guilty on the part of the children and ordered committed by family court judges to DSWD for rehabilitation, by virtue of a suspended sentence. Children ordered committed by family courts to the National Training School for Boys in Sampaloc, Tanay, Rizal and to the National Training School for Girls in Alabang, Metro Manila are included in this category. The DSWD currently manages a total of 11 rehabilitation centers for CAVL all over the country.<sup>41</sup>

### **Children on Recognizance or Bail**

Children on recognizance, on the other hand, are those freed and entrusted to the custody and care (or in legal parlance, released on recognizance) of DSWD-accredited NGOs, next-of-kin, or responsible members of society by the courts while facing trial. The PREDA Foundation has taken up the daunting challenge to assume the binding legal obligation of taking care of homeless children while they undergo trial.

Those freed on bail, quite obviously, refer to children who secured their liberty while facing trial by posting a cash or surety bond to guarantee their court appearance.

### **Convicted Prisoners**

Those committed to the National Penitentiary (known as the National Bilibid Prison) in Muntinlupa, Metro Manila are convicted child prisoners, mostly for capital crimes like murder and robbery with homicide, upon reaching the age of 18. Ironically, they previously included eight (8) death row child prisoners, although Article 37(a) of the CRC, Philippine and international laws prohibit the imposition of the death penalty upon children, notwithstanding their having attained the age of majority, since the determinative point in the imposition of the penalty upon them should be their age at the time of their alleged commission of the crime, and not their age at the time of sentencing or service of sentence. The Bureau of Corrections, under the Department of Justice, assumes custody over their person the moment they turn 18.

To its credit, DSWD legally intervened before the Philippine Supreme Court, thereby facilitating the transfer of 10 children detained at the National Penitentiary to DSWD rehabilitation centers. DSWD also rendered psychosocial and legal services to 148 child prisoners, including eight (8) condemned to death row, in national penitentiaries in 2003.

### **Murdered Suspects**

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<sup>41</sup> Department of Social Welfare and Development, Home for Minors in Conflict with the Law Opens at Legazpi City, available at <http://www.dswd.gov.ph/articledetails.php?id=226>. Last visited on April 2, 2009.

Extra-judicially executed children are those tagged as criminals, such as street drug peddlers and pickpockets, and banished to thine-kingdom-come by state functionaries, law enforcers, and their thugs who are referred by media as vigilante death squads.

Recently, Human Rights Watch published a report documenting the extrajudicial executions in Davao.<sup>42</sup>

The Philippine Center for Investigative Journalism has published a report about the systematic pattern of what is widely believed to be an officially sanctioned extrajudicial execution of children accused of violating the law in Davao City headed by Mayor Rodrigo Duterte.<sup>43</sup>

These murders exist amid a wall of impunity surrounding the extrajudicial killings of lawyers, judges, journalists, civilians in the midst of armed conflict, and human rights defenders, all over the country. The killing of journalists continued unabated. Please see annex at the end of this report titled *Slain Filipino Journalists: 1986-2008*.

Contrary to popular perception, the murderers do not only target alleged criminals, but human rights defenders as well. The shooting in broad daylight of Rashid Manahan in August 2004 illustrates the point that human rights defenders fall within the ambit of the executioners’ targets.<sup>44</sup> The killings also trigger a chilling effect among human rights defenders, especially those directly opposing the killings.

The Davao killing fields, though probably the worst documented so far in recent years, are not isolated cases. The summary executions of children, particularly those perceived by the police as incorrigible, also occur in various parts of Metro Manila, including Manila and Quezon City.

Some street children used by criminal syndicates said to be run by men riding in owner-type jeepneys with handcuffs hanging by the driver’s seat are also believed to be extra-judicially executed by their handlers in cases wherein they fail to fully turn over the fruits of robbery snatching operations to the syndicate. Years ago, several street children met gruesome deaths in Manila, reportedly for their failure to turn over all items of jewelry robbed from complainants who reported and gave an accounting of the items stolen from them to the police.

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<sup>42</sup> Human Rights Watch, “You Can Die Anytime”, April 6, 2009. Available at <http://www.hrw.org/en/reports/2009/04/06/you-can-die-any-time-0> . Last accessed on June 9, 2009.

<sup>43</sup> Teenagers Perish in Davao’s Killing Fields, Carlos H. Conde, December 23-24, 2002  
<http://www.pcij.org/stories/2002/davao.html>

<sup>44</sup> See FIDH, Open Letter To: Her Excellency Gloria Macapagal Arroyo President of the Philippines, August 26, 2004. Available at <http://www.fidh.org/Open-Letter-To-Her-Excellency> . Last accessed on June 8, 2009.

The impunity characterizing the extrajudicial executions, especially in light of the fact that journalists, lawyers, judges, and human rights defenders are being targeted, is symptomatic of the breakdown of the rule of law.

The continuing, organized, coordinated, systematic, and widespread extrajudicial executions of alleged crime suspects, including children, in Davao constitute a crime against humanity.

### **Child Prisoners in Provinces**

A matter of grave concern involves children facing arrest and detention in the provinces. As discussed in this report, BJMP and DSWD only assume custody of children prisoners upon issuance and by virtue of court-issued commitment orders.

Recently, the Legazpi Youth Home in Barangay Poro, Legazpi City, has been established to separate children from adult inmates. However, notwithstanding the creation of such separate facilities for CAVL, the PNP standard operating procedure for arresting and detaining children in police headquarters, stations, and sub-stations will continue to condemn children to languish in prison with adult crime suspects, pending their transfer to such exclusive centers for CAVL upon procurement of commitment orders from courts of law.

Hence, pursuant to the PNP’s standard procedure, children who are arrested in provinces are detained in provincial jails run by their respective local government units (LGUs).

There are no publicly available reports made by these LGUs as far as the arrest and detention of children within their jurisdiction are concerned. However, BJMP and PNP data and statistics confirm the mushrooming number of children experiencing arrest and detention in provinces.

### **Deadly Bureaucratism**

What has been hindering DSWD and BJMP from immediately assuming custody over children upon their arrest by the police, thereby condemning children to rot in police dungeons? Both DSWD and BJMP require a commitment order from backlog-ridden courts before admitting children to their own custody. Hence, the police, operating within the prevailing punitive and retributive mindset, “have no alternative” but to lock up children with adults in police jails pending the issuance of a commitment order by the courts. Because of this bureaucratic technicality being followed by DSWD and BJMP, children, mixed up with adult crime suspects, languish in police prisons for periods ranging from two to six months, due to the snail-paced administration of justice. This criminal bureaucratism, however, should not prevail over, and is in fact violative of, the sacred human rights of children protected by the CRC, treaties and national laws that uphold the children’s dignity and humanity.

What then is the remedy? The President should immediately de-operationalize DSWD’s and BJMP’s self-imposed requirement for a court-issued commitment order before admitting child

prisoners, and, henceforth, require BJMP and/or DSWD to admit children, upon arrest, into their own custody even without intervention from the courts. The President should order the PNP to immediately turn over to DSWD and/or BJMP the children upon arrest and not lock them up in police stations and police headquarters even for a minute.

The President should not pass the buck to the courts and blame the judiciary for the prolonged incarceration of children with adults in police jails and instead act to decisively end the human rights violations committed by the police.

### **Presidential Intervention Long Overdue**

The President has the duty and the power to coordinate the efforts and to financially support, through the President’s discretionary social and intelligence funds, in order to provide adequate resources to DSWD, PNP, and BJMP to weed out police child detention and their mix up with adult crime suspects once and for all.

This should be done now for four intertwining factual and legal reasons:

First, by diverting them upon arrest to DSWD and/or BJMP custody, children would be spared from police detention and from being mixed up with adult crime suspects, where they face the risk of being sodomized, tattooed, raped, tortured, and subjected to various despicable forms of abuse;

Second, jailing them especially with adult crime suspects, breeds contempt and antipathy on the part of the young towards authority and society, stigmatizes and traumatizes them for life, and initiates children to a career and lifetime of crime;

Third, jailing children with adults under sub-human conditions constitutes child cruelty, torture, abuse, and neglect punishable under Article VI, Section 10(a) of RA 7610 or the Special Child Protection Act with a 12-year jail term;

And fourth, this is the mandate of the law, specifically Article 191 of PD 603 or the Child and Youth Welfare Code and Section 11 of the 1995 Rules and Regulations on the Apprehension, Investigation, Prosecution and Rehabilitation of Youth Offenders requiring the immediate turn over to social workers or responsible members of the community of children upon arrest, the CRC and the International Covenant on Civil and Political Rights providing for the segregation

of child and adult prisoners,<sup>45</sup> RA 9344, as well as of the 1987 Philippine Constitution that prohibits torture and all forms of cruel, inhuman, and degrading treatment and punishment.<sup>46</sup>

### **Diversion at Point of Arrest**

The state-perpetrated crime of keeping ghost and police child prisoners should be stamped out by the President now. The President, through the Secretary of the Department of Interior and Local Governments (DILG), should not only remove the children, wherever they are found, from jails teeming with adults.

The President should, more importantly, also divert children, at the crucial point of arrest, from the hands of the police to the custody of DSWD and, to a certain extent, BJMP (where appropriate facilities for children exist), even without commitment orders from the court; and from there, humanize the entire system of dealing with child prisoners under the leadership of career DSWD officials and social workers.

The President can and should do this immediately by requiring law enforcers to turn over the children to the custody of the DSWD and/or the BJMP, without exemption, and for DSWD and/or BJMP to admit them right away, even in the absence of court orders. This can be accomplished by virtue of an executive order.

### **Securing Children During Police and Inquest Proceedings**

In practice, this would mean that the children would be kept under BJMP and/or DSWD custody, hence, separately from adult crime suspects, even while law enforcers prepare their police report, take the affidavit of complainants and witnesses, and prepare their own affidavit of arrest for transmittal to inquest prosecutors, who routinely charge children in court anyway.

Diversion proceedings mandated by RA 9344 should be conducted in DSWD and/or BJMP facilities to spare children from the horrors of police detention.

Currently, the standard operating procedure among law enforcers and prosecutors throughout the country, save for Cebu City, is to mindlessly detain children in police jails with adults while doing their paper work, while prosecutors subject children to inquest proceedings, and while the criminal information and all the supporting evidence are transmitted by prosecutors to, and await action from, courts.

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<sup>45</sup> Article 10 (2)(b) of the International Covenant on Civil and Political Rights (ICCPR) which the Philippines ratified on October 23, 1986, and Article 37© of the UN CRC, that came into force on September 2, 1990, require the state to segregate children from adult prisoners from the precise moment of arrest.

<sup>46</sup> The locking up of children in police jails swarming with adult crime suspects constitutes torture or other cruel, inhuman or degrading treatment or punishment outlawed under Article 37(a) of the UN CRC, Article 7 of the ICCPR, and the Bill of Rights (Article III, Section 19 [paras. 1 & 2]) of the 1987 Philippine Constitution.

Children suffer in anguish until the police receive a commitment order coming from the courts. All this takes eternity at the expense and to the irreparable damage of children.

### **Alternatives to Prison**

This is just one of the immediate solutions however. A far better approach than eyeing the construction of more jails would be to entrust the children to the care of their parents, next-of-kin, or responsible members of the community, for proper care and guidance, to spare them from detention, especially for light and less serious offenses, pending the resolution of their cases.

On a medium- and long-term basis, and pursuant to the CRC and RA 9344, the government, together with the family, community, and barangays, schools, police, judiciary, non-government organizations, the corporate community, and other stakeholders should adopt and institutionalize restorative justice and preventive measures as well as other just and humane alternatives to imprisonment pursuant to the 2005 Bethlehem Declaration: No Kids Behind Bars.<sup>47</sup> These include community diversion, teen courts, community service such as tree-planting, restitution, apology, essay writing, shoplifting seminars, and anger management and conflict resolution workshops in order to prevent and build the wall of non-recurrence of crime among the young.

### **State Human Rights Obligation**

The President, the Interior and Justice Secretaries, and the chief of the Philippine National Police are duty-bound to respect the dignity and human rights of children by not subjecting them to police detention and by not mixing them up with adult crime suspects. Indeed, the government must desist from further committing this institutionalized and continuing crime against the children of the poorest of the poor.

Jailing children with adults, particularly in police jails, should be rooted out permanently. The pernicious system, starting from police jails, that perpetuates and nurtures this hooliganism should be eradicated.

## **RECOMMENDATIONS**

### **Stop Police Child Detention**

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<sup>47</sup> This refers to the statement of the International Executive Council of Defence for Children International following its international conference “Kids Behind Bars – A Child Rights Perspective” held in Bethlehem, from June 30 to July 2, 2005.

The complete text of the Bethlehem Declaration can be accessed at  
<http://www.defenceforchildren.nl/ariadne/loader.php/nl/dci/nieuws/BethlemenDeclaration/>

- Abrogate the Department of Social Welfare and Development and Bureau of Jail Management and Penology requirement for the police to first produce a commitment order issued by the court before taking into custody a child accused of violating the law

**Strengthen Alternatives to Child Imprisonment**  
**pursuant to CRC Article 37(b)**

- For the Department of Social Welfare and Development to serve as the lead implementing agency of RA 9344
- To establish the Public Attorney’s Office as an independent department, free from the supervisory control and authority of the Department of Justice, as it currently exists, and with a special service component devoted to pre-trial and trial diversion mechanisms
- Expand the scope of recognizance as one of the alternatives to detention pending trial of children accused of violating the law
- Empower children’s human rights organizations, civil society groups, and responsible members of society to assume custody of children accused of violating the law pending trial to save them from the trauma of prolonged detention pending the hearing of their cases
- For the Philippine Judicial Academy to reorient and train family court judges to deemphasize the Revised Penal Code and various criminal statutes and ordinances as points of reference in hearing and deciding cases and incidents involving children accused of violating the law
- For the Supreme Court to enjoin family court judges to *motu proprio* initiate, expand, and strengthen various forms of alternatives to detention pending the trial of cases involving children accused of violating the law pursuant to Article 37(b) of the CRC that detention should be used only as a measure of last resort
- In lieu of so-called “rescue operation” that is a disguise for the arbitrary arrest and illegal detention and ill-treatment of street children, establish and develop, in consultation with the organized ranks of children, children’s human rights and welfare organizations, various street-based short-, medium, and long-term programs and services, with multilevel and multipronged service components, including family and community support, health, and education
- Strengthen alternatives to detention from the point of arrest and during pre-trial detention

**Document and Monitor Children Deprived of Liberty**

- Develop a documentation and monitoring system to surface out the political nature of crimes attributed to children to develop appropriate intervention services
- Develop a mechanism for data-gathering, disaggregation by sex and age, ethnicity of children prisoners, including those in immigration facilities for undocumented aliens
- Establish a monitoring system in provincial jails controlled by LGUs how these jails are complying with the CRC and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)

### **Investigate and Prosecute**

- For the Commission on Human Rights to be empowered to investigate and prosecute in courts of law various forms of human rights violations in accordance with current international human rights norms and standards; specially vest the Commission on Human Rights with prosecutory power and authority to investigate and prosecute violators of children’s human rights
- For the Philippines to ratify the Rome Statute of the International Criminal Court
- Investigate and prosecute Department of Justice and Department of Interior and Local Government officials and top ranking officials of the Philippine National Police for violating the Child Protection Act (RA 7610) for locking up children with adult crime suspects in police prisons by virtue of their command responsibility for being in a position to know or should have known about the children prisoners’ situation
- For the Supreme Court to consider expanding the doctrine of *locus standi* in order to empower concerned citizens and members of children’s human rights organizations to institute criminal and civil suits for violation by state functionaries and agents of the human rights of children accused of violating the law under the CRC
- Establish mechanisms to investigate and document cases of torture and ill-treatment amounting to torture of children accused of violating the law, taking into consideration the totality of the circumstances of their arrest, treatment, and conditions of detention

### **Repeal Unjust Criminal Laws**

- Repeal the anti-vagrancy law
- Repeal the substance abuse law

### **Amend the Comprehensive Drugs Act (RA 9165)**



- Amend the provisions of the Comprehensive Drugs Act to conform with the provisions of the Comprehensive Juvenile Justice Act (RA 9344) and CRC, especially to allow children to be released on recognizance pending the trial of their case

**Prioritize the Budget for Children’s Education**

- Realign budgetary appropriations in favor of children’s mandatory education pursuant to the mandate of the Philippine Constitution and the CRC’s best-interest-of-the-child principle
- International financial institutions (IFIs) should be held to account for their obligation to respect, protect, and fulfill the human rights of children. These IFIs should be held accountable for imposing conditionalities whose social impact militates against the basic human rights of children

**Combat Impunity in Extrajudicial Executions**

- Establish a truth commission and inform the public about the facts and circumstances involving the extrajudicial execution of children
- Establish and integrate the doctrine of command responsibility in the criminal investigation and prosecution of perpetrators at various levels of participation, including conceptualization and planning, preparation, and execution stages

**Strengthen and Institutionalize Child Sensitivity Training**  
**Among Civil Service Officials and Employees**

- Establish street children-sensitization programs for DILG, PNP, BJMP, PAO officers and personnel, judges, and DOJ prosecutors
- Establish street children-sensitization programs for PNP officers and personnel to strengthen their capability to dialogue with street children, addressing street children’s vulnerability to exploitation and abuse, in lieu of so-called “rescue operations” that lead to street children’s arbitrary detention and ill-treatment
- For the officers and personnel of the Department of Interior and Local Governments, the National Police Commission, the Bureau of Jail Management and Penology, and the Philippine National Police to undergo intensive child sensitization and gender reorientation and training, with emphasis on skills training on engaging in dialogue with street children and children accused of violating the law, integrating street children’s life

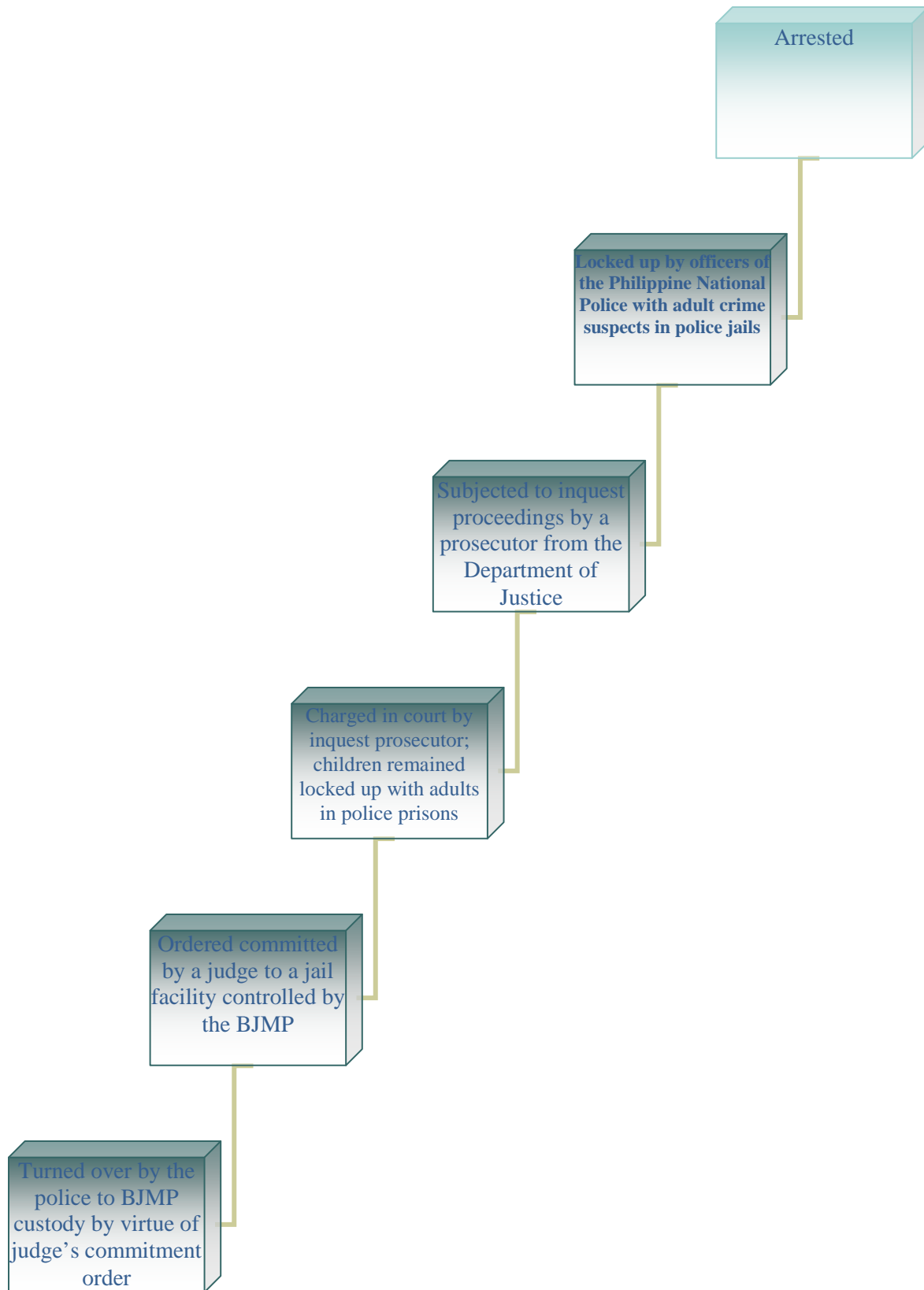
experiences and worldview, mediation, conciliation, and conflict-resolution strategies; deemphasize arrest and detention as well as prosecution and conviction as primary modes of dealing with children accused of violating the law by providing incentives for promotion and career advancement for law enforcers, public prosecutors, who promote the CRC and restorative and therapeutic justice approaches and principles

- For the Supreme Court and children’s human rights organizations to develop collaborative programs, involving the private sector, to develop and strengthen street-, family-, community-, and school-based diversion programs and services for children accused of violating the law

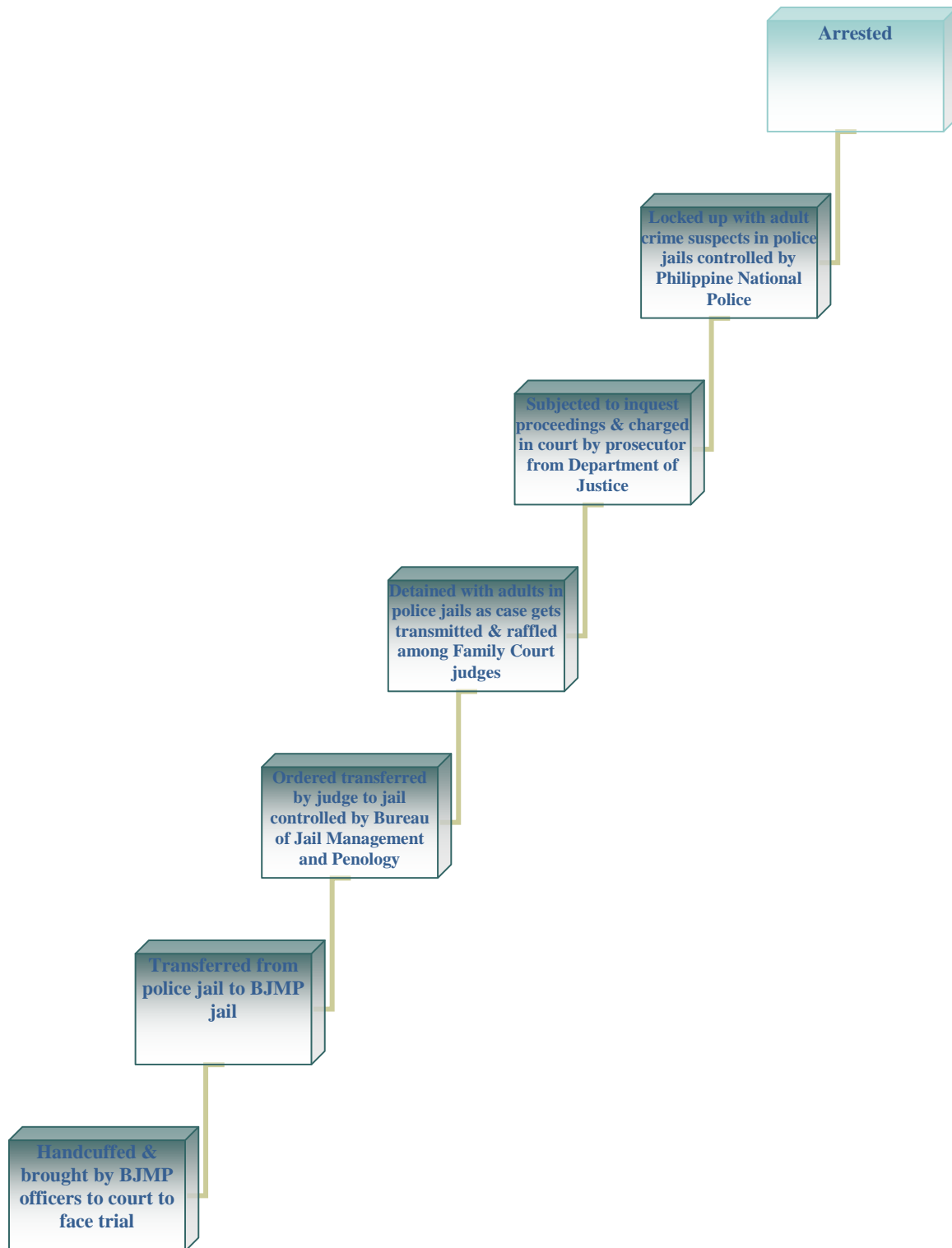
### **Anatomy of Non-Segregation of Adult and Child Prisoners**

Upon arrest, officers of the Philippine National Police lock up children in cramped police jails swarming with adult crime suspects. Children are then made to go through inquest proceedings and routinely charged before the court by inquest prosecutors belonging to the Department of Justice, who conspiratorially turn a blind eye to the illegal practice of locking up children with adults. Upon raffle to the family court of their case, the judge issues a commitment order for the children to be transferred to a detention facility controlled by the Bureau of Jail Management and Penology. Only then are the children released from police custody. Children usually languish in decrepit cells packed with adult crime suspects over a period of two weeks to six months, sometimes even longer.

### **Anatomy of police child detention and the lumping of children together with adult prisoners**



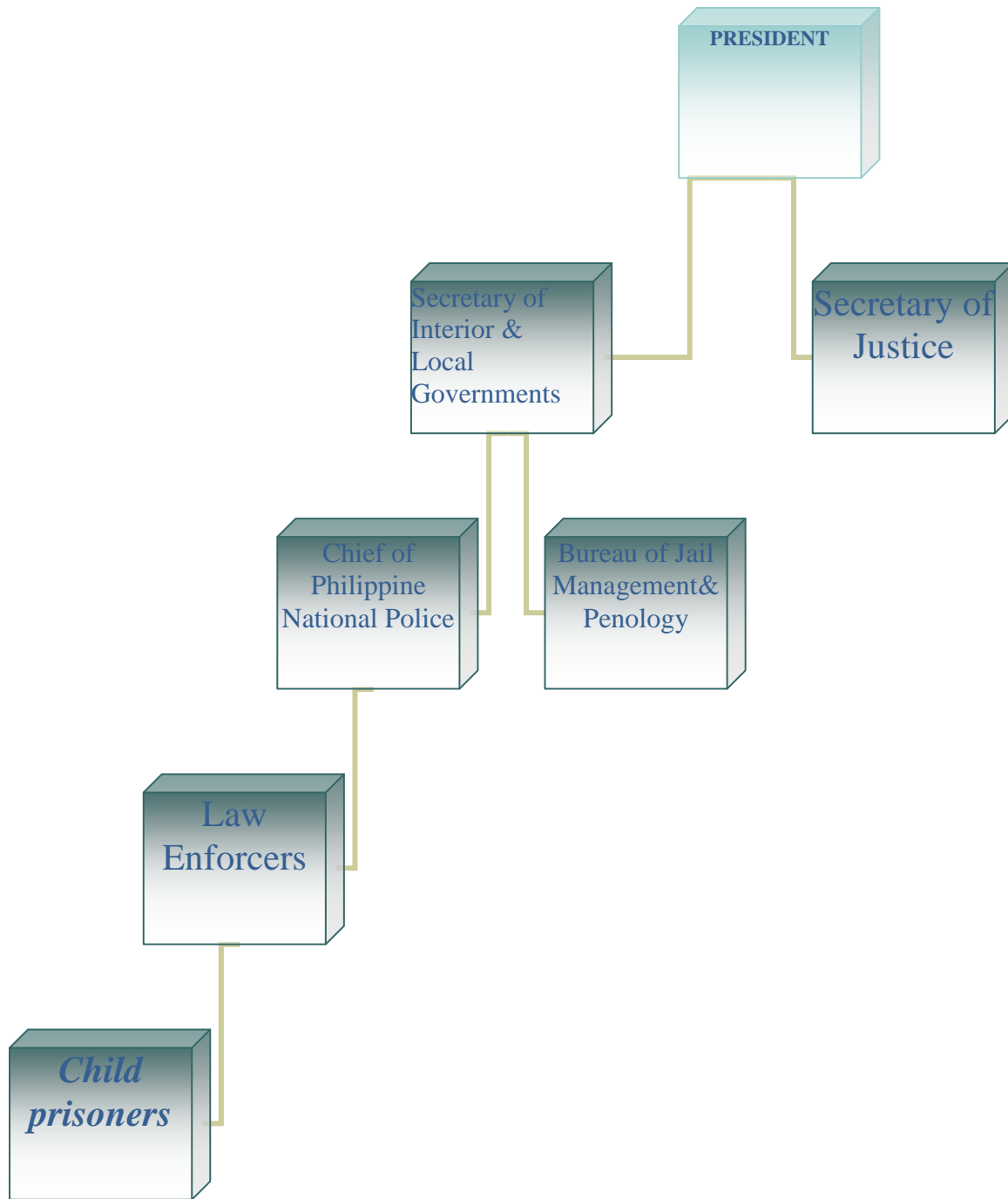
**Anatomy of police child detention and the mixing up of children with adults  
in Philippine National Police headquarters, stations, and substations**



***State officials responsible***

Law enforcers perpetrate this barbarity with the conspiratorial acquiescence, tacit consent, and implicit authority of the President of the Philippines, her Secretary of Justice, Secretary of Interior and Local Governments, and Chief of the Philippine National Police.

**Chain of command from the President of the Philippines  
to the Philippine National Police**



**SLAIN FILIPINO JOURNALISTS  
1986-2008**

**Number. Name / Media Outfit / Date Killed**

+++ 1986 +++

- 01. Pete F. Mabazza / Manila Bulletin / 1986 April 24
- 02. Wilfredo "Willy" Vicoy / Reuters / 1986 April 24
- 03. Florante "Boy" de Castro / DXCP, General Santos City / 1986

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- 04. Dionisio Perpetuo Joaquin / Olongapo News / 1987 April 12
- 05. Narciso Balani / DXRA, Davao City / 1987 August 27
- 06. Rogie Zagado / DXRA, Davao City / 1987 August 27
- 07. Leo Palo / DXRA, Davao City / 1987 August 27
- 08. Martin Castor / Pilipino Ngayon, Manila / 1987 August 28
- 09. Ramon Noblejas / DYVL, Tacloban City / 1987 August 28

+++ 1988 +++

- 10. Noel Miranda / Mindanao Scanner, Tagum City,  
Davao del Norte / 1988 March 29
- 11. Ruben R. Manrique / Luzon Tribune, Bataan / 1988 August 12
- 12. Josef Aldeguer Nava / Visayan Life Today, Iloilo / 1988 Oct. 30

+++ 1989 +++

- 13. Severino Arcones / DYFM-Radyo Bombo, Iloilo / 1989 Oct. 17
- 14. Eddie Telan / Newscaster, Manila / 1989 December 01

+++ 1990 +++

- 15. Reynaldo Catindig Sr. / Northern Sierra Madre  
Express, Isabela / 1990 May 15
- 16. Jean Ladrangan / Southern Star, General Santos City / 1990 July 08

+++ 1991 +++

- 17. Nesino Paulin Toling / Panguil Bay Monitor, Ozamiz / 1991 April 14

+++ 1992 +++

- 18. Danilo Vergara / Philippine Post / 1992 July 01
- 19. Ladjid "Jade" Ladja / Prensa Zamboanga / 1992 July 03, 7pm
- 20. Rev. Greg Hapalla / DXAS, Zamboanga / 1992 September 21, 8am

+++ 1993 +++

- 21. Gloria Martin / DXXX, Isabela Basilan / 1992 December 30
- 22. Romeo Andrada Legaspi / Voice of Zambales / 1993 January 11
- 23. Rosauro Lao / Cotabato News / 1993 November 22
- 24. Ding Sade / Cotabato News / 1993 November 22



*UN Committee on the Rights of the Child*  
**Philippines: Continuing Child Detention with Adults in Police Lockups, Arbitrary Detention  
of "Rescued" Street Children, and Extrajudicial Execution of Children Accused of Violating the Law**

+++ 1994 +++

none

+++ 1995 +++

none

+++ 1996 +++

25. Ferdinand Reyes / Press Freedom, Dipolog City / 1996 February 12  
26. Alberto Berbon / DZMM, Manila / 1996 December 15

+++ 1997 +++

27. Evelyn Joy Militante / GMA Channel 2, Legazpi City / 1997  
28. Daniel J. Hernandez / People's Journal Tonight, Manila / 1997 June 03  
29. Regalado Mabazza / Polaris cable network,  
Cauayan, Isabela / 1997 December 17

+++ 1998 +++

30. Odilon Mallari / DXCP, General Santos City / 1998 February  
31. Rey Bancairin / DXLL, Zamboanga City / 1998 March 29  
32. Nelson Catipay / DXMY, Cotabato / 1998 April 16  
33. Dominador "Dom" Bentulan / DXGS, General Santos City / 1998 October 30

+++ 1999 +++

34. Frank Palma / Bombo Radyo, Bacolod / 1999 April 25

+++ 2000 +++

35. Vincent Rodriguez / DZMM, Pampanga / 2000 May 23  
36. Olimpio Jalapit / DXPR, Pagadian City / 2000 November 17

+++ 2001 +++

37. Rolando Ureta / DYKR-Kalibo of Radio Mindanao  
Network / 2001 January 3, 9:30pm  
38. Muhammad Yusop / DXID, Pagadian City / 2001 February 24  
39. Candelario Jumamil Cayona Jr. / DXLL Radyo  
Ukay (UMBN) / 2001 May 30, 6:20am  
40. Joy Mortel / Mindoro Guardian / 2001 May 31

+++ 2002 +++

41. Benjaline "Beng" Hernandez / CEGP, Davao / 2002 April 05  
42. Edgar Palomeras Damalerio / RPN-9 (TV);  
DXKP-RPN (Radio); Zamboanga Scribe, Goldstar Dail  
/ 2002 May 13, about 8am  
43. Sonny Alcantara / Kokus, Celestron Cable TV,  
San Pablo City / 2002 August 22

+++ 2003 +++

44. John Belen Villanueva Jr. / DZGB, Legazpi City / 2003 April 28

*UN Committee on the Rights of the Child*  
**Philippines: Continuing Child Detention with Adults in Police Lockups, Arbitrary Detention  
of “Rescued” Street Children, and Extrajudicial Execution of Children Accused of Violating the Law**

45. Apolinario "Polly" Pobeda / DWTI, Lucena City / 2003 May 17
46. Bonifacio Gregorio / Dyaryo Banat, Tarlac / 2003 July 8
47. Noel Villarante / The Laguna Score/DZJV / 2003 August 19
48. Rico Ramirez / DXSF, Butuan City / 2003 August 20
49. Juan Porras Pala Jr. / DXGO, Davao City / 2003 September 6, 7pm
50. Nelson Nadura / DYME, Masbate City / 2003 December 2

+++ 2004 +++

51. Rowel Endrinal / DZRC, Legazpi City; Bicol Metro News / 2004 February 11
52. Elpidio "Ely" Binoya / Radyo Natin, General Santos City / 2004 June 17, 2:15pm
53. Roger Mariano / DZJC-Aksyon Radio, Laoag / 2004 July 31, 3:00pm
54. Arnnel Manalo / DZRH/Bulgar, Batangas; Dyaryo Veritas; People's Courier / 2004 August 5
55. Jonathan " Jun" Abayon / RGMA Superadyo, General Santos City / 2004 August 8, 3:30am
56. Fernando Consignado / Radio Veritas, Laguna / 2004 August 12
57. Romy Binungcal / Remate, Bulgar, Bataan / 2004 September 29
58. Eldy Gabinales (Eldy Sablas) / DXJR-FM, Tandag, Surigao del Sur / 2004 October 19, 10:00am
59. Gene Boyd Lumawag / MindaNews, Jolo, Sulu / 2004 November 12
60. Herson "Boy" Hinolan / Bombo Radyo, Kalibo, Aklan / 2004 November 13, 10:45pm (shooting); November 15, 2004 (died)
61. Michael Llorin / Freelance photojournalist, Manila / 2004 November 13
62. Allan Dizon / The Freeman Daily and its sister publication Banat News, a tabloid, in Cebu City / 6: 59pm, November 27, 2004
63. Stephen Omaois / Guru News Weekly, DZRK, Kalinga / 2004 December 1

+++ 2005 +++

64. Edgar Amoro / Freelance Broadcaster, DXKP Pagadian City / February 2, 2005; 11:30am
65. Arnulfo Villanueva / Asian Star Express Balita, Naic, Cavite / 2005 February 28, 10:00pm
66. Romeo Sanchez / DZNL, Baguio / 2005 March 9
67. Marlene Garcia Esperat / The Midland Review, Tacurong City / 2005 March 24, eve of Easter
68. Klein Cantonerros / DXAA-FM, Dipolog City / 2005 May 4, 12:30am
69. Philip Agustin / Starline Times Recorder / 2005 May 10, 11:45pm
70. Rolando "Dodong" Morales / DWMD-Radio Mindanao Network, South Cotabato / July 3, 2005, around 5:30pm
71. Ricardo "Ding" Uy / DZRS-AM, Sorsogon City / 2005 November 18, 11am
72. Robert Ramos / Katapat (community paper) / 2005 November 21, 7:45am
73. George Benaajan / DYDD Bantay Radyo, Cebu City / 2005 December 2, 9:30pm

+++ 2006 +++

74. Rolly Cañete / DXPR, Pagadian City, Zamboanga del Sur / 20 January 2006, 10am
75. Graciano Aquino / Central Luzon Forum, Bataan / 21 January 2006, 4:40pm
76. Orlando Mendoza / Tarlac Profile; Tarlac Patrol / 2006 April 2
77. Nicolas Cervantes / Surigao Daily & Daily Tribune / 2006 May 2
78. Albert Orsolino / Saksi Ngayon (tabloid) / 2006 May 16
79. Fernando "Dong" Batul / DYPR (Palawan)

*UN Committee on the Rights of the Child*

***Philippines: Continuing Child Detention with Adults in Police Lockups, Arbitrary Detention of "Rescued" Street Children, and Extrajudicial Execution of Children Accused of Violating the Law***

*Broadcasting Corp.), Puerto Princesa City,  
Palawan / 2006 May 22*

*80. George Vigo / Union of Catholic Asian News  
(UCAN), Kidapawan City / 2006 June 19, 5:15pm*

*81. Macel Alave-Vigo / Church-run radio dxND / 2006 June 19, 5:15pm*

*82. Armando Pace / RADYO UKAY DXDS Digos City,  
Davao del Sur / 2006 July 18, 1pm*

*83. Ralph Ruñez / RPN 9, NCR / 2006 July 28*

*84. Prudencio "Dick" Melendrez / Tanod (tabloid) / 2006 July 31*

*85. Ponciano Grande / The Recorder and Nueva Ecija Times / 2006 December 7*

*86. Andres "Andy" Acosta / dzJC Aksyon Radyo Ilocos Norte / 2006 December 20*

+++ 2007 +++

*87. Hernani Pastolero / Lightning Courier, Sultan  
Kudarat / 2007 February 19, around 6:20am*

*88. Carmelo "Mark" Palacios / Radyo ng Bayan,  
Nueva Ecija / 2007 April 18, 7:30am*

*89. Dodie Nuñez / Katapat Cavite / 2007 May 21*

*90. Vicente Sumalpong / Radyo ng Bayan, Tawi-Tawi / 2007 June 25, around 8 a.m*

*91. Fernando "Batman" Lintuan / DXGO Aksyon Radyo / 2007 December 24, 10am*

+++ 2008 +++

*92. Benefredo Acabal / Pilipino Newsmen Tabloid / 2008 April 7, 10:15pm*

*93. Marcos Mataro / UNTV host, D Ex-Man / 2008 April 27, 10am*

*94. Robert Sison / Regional Bulletin, Harana program / 2008 June 30, 5:30pm*

*95. Martin Roxas / dyVR-RMN, Capiz / 2008 August 7, 1pm*

*96. Dennis Cuesta / DXMD-RMN, Gen.Santos / 2008 August 4, 4pm*

*97. Arecio Padrigao, Sr. / DXRS Radyo Natin / 2008 November 17, 7:30am*

*98. Leo Luna Mila / Radyo Natin, Northern Samar / 2008 December 2, 8pm*