

SINGAPORE JUVENILE DELINQUENCY PROCEEDINGS: APPREHENSION TO DISPOSITION

INTRODUCTION

In Singapore, it seems an undeniable fact that widespread unawareness exists, not only among the bar and judiciary but the public generally, as to the nature, purpose and effectiveness of the socio-legal system governing the disposition of Singapore's juvenile offenders. Since concern for this system is part of any greater concern for the prosperity and vitality of the entire community, the purpose of this article is basically informational; an attempt to make familiar the practices and procedures employed by the government from the time a child (defined as under fourteen years of age) or young person (defined as between fourteen and sixteen years) is apprehended by the police until his case is determined by the Juvenile Court acting pursuant to the provisions of the Children and Young Persons Ordinance.¹

The thread of analysis follows only those police, probation service and Juvenile Court operations having to do with the actual violation of a law by a youth below the age of sixteen. The Children and Young Persons Ordinance's additional sections on the care and protection of youths, and cases concerning neglect, dependency and refractory children will not be treated. Similarly omitted is any description of the institutions or detailed study of the method of rehabilitation once a case has been dealt with by the Juvenile Court.

A brief insight into the rationale supporting the Children and Young Persons Ordinance is essential at the outset. The philosophy underlying the treatment of cases involving a juvenile accused of committing an act which if committed by an adult would amount to a crime, is that the juvenile offender is seen as a separate and individual legal category where attention is focused on the psychological, educational, and social problems which lie behind the simple fact of a youthful theft or an act of destruction, no less than in the case of a neglected or ill-treated child. A Juvenile Court therefore, does not deal with offenders only, nor does it award to offenders legal punishment alone.²

1. Children and Young Persons Ordinance, 1955, Cap. 128, Laws of Singapore (1955), s. 62 as amended by Children and Young Persons Ordinance (Amendment) No. 39 of 1956. This Ordinance is almost word for word the former Straits Settlement statute entitled Children and Young Persons Ordinance No. 18 of 1949. Hereafter all references to the Ordinance refer to the 1955 Ordinance.
2. Grunhut, Max, *Juvenile Offenders Before the Courts*, (Oxford 1956) p. 1.

Since rehabilitation of offenders rather than legal punishments is recognised as the more desirable legal as well as sociological end to be attained, the proceedings to which the child or young person is subjected are informal in nature and specifically conducted on the level of his understanding. The extent to which the Singapore authorities are able to implement this rehabilitative philosophy is incorporated in the study which follows.

THE POLICE AND JUVENILES

The formal processing of a delinquent who may eventually receive courtroom attention usually begins in arrest or apprehension by a police officer. At this initial stage the discretion of the individual officer unofficially comes into play. In rare circumstances, for exceedingly minor first offences for example, he might let the youth off with a stern lecture. (The police officer is guided in such decisions by his previous training in Police Training School where he received weekly lectures on many subjects including that of juvenile delinquency).

In most circumstances however, the juvenile is apprehended and taken to the police station where the police officer commences investigation by interrogation. At the police station, he is subject to conventional adult criminal procedures, which, when probable cause is found, includes entering his name in the precinct's arrest records as well as photographing and fingerprinting. At this time the juvenile's parent or relatives are either present or he returns home in the custody of the police officer in order to notify the adult responsible for him. The police often take this opportunity to make a search of the premises or look for other juveniles or persons implicated by the youth arrested.

While being detained in a police station or being transported, the Children and Young Persons Ordinance commences its protection of the youth by requiring that no child or young person shall be permitted to associate with an adult who is charged with an offence other than the offence with which the child or young person is jointly charged.³

When sufficient evidence against a child or young person under the age of sixteen is evident, he may be temporarily dealt with by the officer in charge of the police station or brought without unnecessary delay before the Juvenile Court magistrate or any other magistrate. These officials are empowered to release the child or youth on bond by his parents unless the charge is one triable only by the High Court (offences punishable by death or life imprisonment) or it is necessary in the interest of the child to remove him from the association of undesirables, or the magistrate has reason to believe that the release of such person would defeat the ends of justice.⁴ The wording of the second part of this Ordinance reveals the laws' awareness that a child is frequently incapable of adequately protecting himself if liberated on bond. Moreover, it is a power of the court or police to assume jurisdiction to remand the child

3. Children and Young Persons Ordinance, 1955, s. 47.

4. *Ibid.*, s. 48.

on the basis of dependency, as well as delinquency, if it appears upon sufficient further investigation that exposure to his home life will be debilitating.

Hence the determination of the youth pending hearing by the Juvenile Court is left to the discretion of the police officer in charge or the magistrate, who uses the nature of the offence as a principal criterion in reaching a decision concerning bond. For example, in cases of minor offences, the magistrate may release the youth on a signed statement by his parent that he or she agrees to produce the child in court. On the other hand, for more serious offences, surety may be required. In Singapore, by far the larger number of cases are released on bond.⁵

At the fixing of bond or possible detention awaiting trial, the magistrate may also look at the circumstances of the offence. The charge as compiled by the police are read and made understandable to the youth and his parent. If the youth admits the facts constituting the offence, as the larger number of Singapore youths do,⁶ the magistrate at this juncture has the power to dispose of the case.

It is the practice of the magistrate courts at this time to call for a probation officer's report before sentencing, and in Juvenile Court request for a report is made whenever an offender admits guilt except in the most trivial cases.⁷ There may also be a postponement of sentence when the youth pleads guilty, until the court has the opportunity to peruse the probation officer's report.

The youth and parents often go directly from Juvenile Court or Magistrate Court to see an officer of the Probation After-Care Service, a department directly administered by the Ministry of Social Affairs. The officer at this time begins to complete a standard probation report form which informs the court of the home conditions, employment history, family income, recreation and friends of the individual. A second interview is with the subject's school principal and homeroom teacher. The juvenile's physical and mental health is briefly noted. It is in only the most extreme cases however, that any type of psychological test is given. The juvenile's general behaviour is commented on and record if any, is checked with the Criminal Investigation Department (C.I.D.).

An outline summary of this material is drafted by the probation officer and at his discretion, he may conclude by making a recommendation for the disposition of the case, often by suggesting that the Juvenile Court employ a specific provision of section 62 of the Children and Young Persons Ordinance which provides legal determination of juvenile offenders.

5. From an interview with Mrs. Koh, Juvenile Court Magistrate 1966-1967. All references to magistrate include the Juvenile Court Magistrate.
6. *Ibid.*
7. I.e. the so-called 'jaga kreta' cases where a child admits he has been importuning in violation of the Road Traffic Ordinance.

Any magistrate's court by or before which a child or young person is found guilty of an offence may, if it thinks fit, remit the case to a Juvenile Court and the Juvenile Court will deal with it accordingly.⁸ By section 58(3) of the Ordinance such an order remitting the case to the Juvenile Court may require the offender to be remanded or released on bail until his appearance before the Juvenile Court. A certificate setting out the nature of the offence and the transfer is sent by a clerk to the Juvenile Court.

On the other hand, if the juvenile declares his willingness for a hearing and he is not released on bond, the magistrate will remand him pending hearing. He is remanded under an order valid for one week only. Section 68 of the Ordinance deals with the detention of any child under sixteen who is arrested and not released on bail. It states that the officer in charge of the police station to which such a child is brought shall cause such child to be detained in a place of detention or remand home until he can be brought before the court, unless the officer certifies that such detention is impracticable; or the child is of so unruly or depraved a character that he cannot be safely so detained, or that by reason of health or mental condition it is inadvisable to so detain him.

The court must remand or commit to custody in a place of detention or remand home pending trial. The court is prohibited except in the abovementioned circumstances from committing the youth to prison.⁹ However, the detention order may be varied at any time, and the Juvenile Court is empowered to order the juvenile before it for an enquiry before any such transfer is made.¹⁰

In selecting the place of detention or remand home to which a child is to be committed, the court or police has regard as to whether the place is suitable for the reception of persons charged with serious or minor offences.¹¹

The order in pursuance of which a child is committed to custody in a place of detention or remand home is delivered with the child to the person in charge,¹² and the child while en route and being so detained is deemed to be in lawful custody, which means that if he absconds he may be arrested without a warrant.¹³

A youth of twelve years and under sixteen suspected of a delinquency of a more serious nature is remanded to the Gimson School, Clementi Road — whereas under age twelve delinquents are remanded to the Boys Salvation Army Home. A brief history is taken, and he undergoes a

8. Children and Young Persons Ordinance, 1955, s. 58(1).

9. *Ibid.*, s. 69(1) (2).

10. *Ibid.*, s. 75(1) (2).

11. *Ibid.*, s. 70.

12. *Ibid.*, s. 71(1).

13. *Ibid.*, s. 71(2).

medical check-up. The boy is then placed in a separate living unit with others awaiting Juvenile Court hearing. During his short stay, Department of Social Welfare personnel guide him in various works, physical training and schooling activities. It is estimated that approximately some twenty boys are so detained awaiting trial each year.

The expenses of maintenance of each youth so remanded are carried by the government,¹⁴ but they are defrayed by contribution from the parents or relatives. This monetary contribution of some amount has been made mandatory, and the Juvenile Court has been empowered to inquire into failure to pay and may impose fine or punishment.¹⁵

The period between arrest and remand or release on bond is ordinarily not more than five or six hours. In instances where there is a search for other juveniles or articles that have been stolen, the pre-commitment detention may extend to a longer period. With release on bond or remand order, police control over the juvenile ends, and further police participation in the case will be restricted to informal consultation with Juvenile Court officials, usually the Police Prosecutor, or to testifying in court during the hearing.

JUVENILE COURT

Under the third part of the Children and Young Persons Ordinance, 1955, entitled Juvenile Court, the jurisdiction of the court is conferred. It is stated here that no charge against a child¹⁶ or young person shall be heard by a court of summary jurisdiction which is not a Juvenile Court, except where the child or young person is charged with an offence triable only by the High Court, or a charge is made jointly against a child or young person and a person who has attained the age of sixteen, in which case the case is to be heard by the court of appropriate jurisdiction (it being the obvious intention of this section to try young offenders in Juvenile Court as far as possible), or if in the course of any proceedings before a court of appropriate jurisdiction other than a Juvenile Court, it appears that the youth being tried is under the age of sixteen, the court may continue its hearing of the case.¹⁷

However, pursuant to section 58(i) as beforementioned, any court which finds the juvenile guilty of an offence may in its discretion remit the case to Juvenile Court for disposition. No appeal lies against this remission, but the juvenile may appeal to the High Court directly on the merits of his case. In 1965, for example, fifteen cases were transferred under this section of the Ordinance. Fundamentally, the Juvenile Court

14. Children and Young Persons Ordinance, 1955, s. 73.

15. *Ibid.*, s.74(1)-(8).

16. Where there is no legal proof as to age, the Juvenile Court judge may make a presumption as to the age of the offender relying mainly on appearance and manner. Children and Young Persons Ordinance, 1955, s. 61(1)(2).

17. *Ibid.*, s. 51(1)(i)(ii)(iii).

is empowered by the Ordinance with the same jurisdiction as a Magistrate or District Court.¹⁸

Located in Empress Place, the Juvenile Court shares the same building as the First, Second and Third Civil District Courts, but the physical differences between the courtrooms are immediately perceptible.¹⁹ The Juvenile Court, which shares the same room as the Third Civil District Court is a small room crowded with benches. The magistrate sits at a simple table on a small platform. There is little to impress the child or young person or his parents of the austerity and importance of the occasion.

All proceedings in the Juvenile Court are held *in camera*, meaning that only clerks, police prosecutor, probation officer and other members and officers of the court are present, as are the youth, his parents and counsel (if desired) and their witnesses. Bona fide newspaper representatives may attend.²⁰ These latter persons however, are restricted from and may be fined for publishing the particulars of any Juvenile Court proceeding.²¹ The intention of this part of the Ordinance seems clearly to exclude the general public from juvenile proceedings and admit only such persons as have a direct interest in the case thus revealing one of the main purposes of the statute: the safeguarding of juveniles from the notoriety which attends public trial and commitment.

There is no jury. The Juvenile Court is presided over by a magistrate nominated by the President. The magistrate is assisted by two advisors, one of whom may be a woman and both of whom are members of the Panel of Advisors to the Juvenile Court magistrate.²² This Panel in 1965 consisted of seven persons representative of various social service and religious welfare organizations of the Singapore community. Its primary function is to inform the Juvenile Court with respect to any consideration affecting treatment of the juvenile cases reviewed.

The necessity of the attendance of both advisors to constitute competence in law has been upheld in the case of *Public Prosecutor v. Aya-samy*.²³ This was a case of an appeal against acquittal, where the magistrate with one advisor only dismissed the case on the failure of the prosecution to call evidence. The appellate court held that although it

18. Children and Young Persons Ordinance, 1955, s. 51(2).

19. It is to be noted that since the Juvenile Court's inception in 1946, it has had its sittings in the Welfare Building, Havelock Road, from which it removed in 1960 to Fort Canning Road. By Order in Government Gazette of 27th December 1963, the Juvenile Court was moved to its Empress Place location. Since the above was written in June 1967, it was announced that the Court has now removed to a room behind the Legislative Assembly Building and is separate from the Third Civil District Court.

20. Children and Young Persons Ordinance, 1955, s. 52(1) (2).

21. *Ibid.*, s. 53(1) (2).

22. *Ibid.*, s. 50(3).

23. (1955) 21 M.L.J. 64.

may be possible for a magistrate to sit as a Juvenile Court for the purpose of making interim orders and the like, conducting a trial in the absence of advisors or one of them renders the proceedings unlawful. And in the view of the court, the Respondent had not been lawfully tried for the offence with which he was charged. This opinion however, is not precedent today, and the amount of business in the Juvenile Court presses the trial and determination on regardless of the number of advisors in attendance.

At the commencement of the Juvenile hearing, the charge, which is normally drafted by the Police or the Probation and After-Care Service (if there is violation of a probation order), is read to the juvenile who is present in court with his parents or party responsible for him. It is at this serious moment that the duty of the Juvenile Court magistrate is made clear, that is, the responsibility to alert the youth and his parents to an awareness of the possible consequences of the proceedings. The informal atmosphere of the Juvenile Court tends to obscure the seriousness of the situation, and in Singapore particularly it has been noted that this ignorance of the possibility of grave consequences has diminished the juvenile's efforts to controvert a charge even if it were in fact untrue, particularly when this would involve calling witnesses.

The attendance of parent or guardian is normally required through all stages of the proceedings.²⁴ In *Lim Soo Hak v. Regina*,²⁵ the appellant juvenile was charged in Juvenile Court with assisting at a public lottery. She claimed trial, and after hearing evidence, the Juvenile Court recorded conviction and made an order for a fine of \$1,000 to be paid by the father of the appellant. The record of trial did not show whether the father was present; nor was there any record that he was asked what he had to say. It was held by the appellate court that there was a breach of s. 13(4) of the Juvenile Court Ordinance, 1947, which provided that no order shall be made against a parent or guardian without giving them the opportunity to be heard. Spenser-Wilkinson, J.:²⁶

It is true that the procedure in Juvenile Court is governed by the Criminal Procedure Code as modified or extended by the Juvenile Court ... nevertheless I take the view that it would be in accordance with the spirit of the Juvenile Court Ordinance that the atmosphere of the Juvenile Court should have some at least of the elements associated with the manner in which the Courts of Chancery deal with infants in civil cases and that special care should be taken to ensure that all the proper parties are before the Court and have the fullest opportunity of being heard.

After the charge is read, it is incumbent upon the Juvenile Court magistrate to explain to the juvenile in simple language suitable to his age and understanding the substance of the alleged offence. He is asked if he admits the facts. If the child or young person does not admit the facts, or starts upon an explanation, the court then calls for evidence in

24. Children and Young Persons Ordinance, 1955, s. 49.

25. (1955) 21 M.L.J. 44.

26. *Ibid.*, at p. 45.

support of the charge. This evidence is presented by a Police Prosecutor who usually has the prosecution witnesses sworn in and state what happened; the substance of their testimony is presented in narrative form. At the close of each witness' presentation, the child, parent or their counsel conducts an equally informal cross-examination. But more often than not it is the magistrate who in leading the proceedings, asks the most pertinent questions. If it appears to the magistrate that a prima facie case has been made, the court explains to the juvenile the substance of the evidence against him and again asks for an explanation.

Usually the child or young person comes to the witness stand to make a statement under oath in his defence, although it does not appear that he could be required to so testify if it were not his wish. In most cases, parents or relatives or any other persons with information relating to the proceedings are then presented as witnesses for the defence. The same type of cross-examination follows their testimony.

On the whole, the atmosphere throughout these brief modified legal proceedings is one of informality. In practice, the rules of evidence, although following the guidelines of summary trials by magistrate courts,²⁷ are within the discretion of the magistrate.

A juvenile²⁸ was convicted of abetting the commission of the offence of voluntarily causing hurt to the complainant by means of a knife. The conviction was appealed against because it was contended that there was insufficient evidence for a conviction and that the magistrate should have complied with s. 172 of the Criminal Procedure Code by giving the juvenile an opportunity to recall and re-examine witnesses called by the prosecution on the amended charge. The appellate court held as dicta that this point was valid. The appeal against conviction was dismissed however, because the court was convinced on the facts of the case that there had been no miscarriage of justice.

After the particulars of evidence are in and the final statement made, the magistrate decides whether the juvenile has committed the offence or is innocent of it; no specific finding of fact is made. Further, in making and stating his decision the magistrate is forbidden from using the words "conviction" and "sentence".²⁹

In addition, s. 54 of the Ordinance rather ambiguously states: "A conviction or finding of guilty of a child or young person shall be disregarded for the purposes of any Ordinance by or which any disqualification or disability is imposed upon convicted persons." And yet the photographs and fingerprints of juveniles find their way into C.I.D. files where they do most damage to the child's future.

27. Criminal Procedure Code 1955, Cap. 132, Laws of Singapore (1955), s. 172.

28. *Teoh Ah Kow v. Public Prosecutor* (1961) 27 M.L.J. 75.

29. Children and Young Persons Ordinance, 1955, s. 59; see also *Lim Soo Hock v. Regina, ante*.

In most cases, the judicial pronouncement as to the guilt or innocence of a child or young person is reached by the Juvenile Court magistrate alone without leaving the bench and within a few moments. Rarely is such a decision "taken under advisement". If a determination of delinquency is reached, the child or young person may be called upon to make a statement in mitigation. Immediately following any such remarks, the probation officer's report comes before the court.

The case of *Turiran v. Public Prosecutor*³⁰ deals directly with the duties of the trial judge in this respect. In this instance, the juvenile involved had been found guilty of the theft of coconuts. "It is always desirable before imposing sentence of imprisonment on a person between the ages of seventeen and twenty-one to consider the powers under s. 40 of the Juvenile Court Ordinance, 1947, and call for a probationer's report to establish the background of the person about to be sentenced." This should be done in every case where the court contemplates imprisonment. A probation officer's report should always be called for, and a magistrate should not hesitate to adjourn the case in order to obtain such a report before passing sentence.

Previous to sentence, the substance of the report has been scrutinized by the magistrate and advisors. It includes the background of the child, such as family surroundings, any previous difficulties and recommendation as to future treatment as beforementioned. The parts of the report that the court in its discretion considers material to the disposition of the case are read to the child, parent or guardian. If any of these parties take objection to the truthfulness of this material (since probation reports consist mainly of statements based on the observation of others, they are clearly hearsay), the proceedings are adjourned for the production of further evidence.³¹ On the other hand, the Juvenile Court may in its discretion require the child or parent or both to withdraw from the courtroom during the reading of the probation report.

On the basis of this report and recommendation, the type of offence involved, previous record, and any other relevant material³² before the court, the magistrate and advisors determine what disposition is to be made. Except in the most unusual type of case, the decision is reached after a few minutes of quiet discussion at the Bench. Although the decision is clearly of great importance to the child's future, in spite of a pre-hearing probation briefing and discussion, the necessity of whispering

30. (1955) 21 M.L.J. 24. See also *Teh Yeh Whatt v. Public Prosecutor* (1958) 24 M.L.J. 171.

31. Children and Young Persons Ordinance, 1955, s. 60(8) (c).

32. In practice, the appeal courts have held that all the relevant material must be before the court before sentencing. In *Re Johari bin Ramli* (1956) 22 M.L.J. 56, the accused was convicted of possessing house-breaking implements. He had a number of previous convictions. The appeal court held where the accused has previous convictions, a complete list of the convictions and record of the details should be before the magistrate before sentence is imposed. See also *Re Neoh Bean Chye* (1966) 1 M.L.J. 61 (Penang).

at the Bench does not permit the Juvenile Court the luxury of prolonged discussion on a remedy individually suited to the particular case.

TABLE OF PRE SENTENCE REPORTS SUBMITTED TO
JUVENILE COURT

1958	1959	1960	1961	1962	1963	1964	1965	1966
97	164	220	331	362	287	286	311	381

TOTAL NUMBER OF CASES REVIEWED BY JUVENILE COURT

1958	1959	1960	1961	1962	1963	1964	1965	1966
326	355	418	534	586	513	471	554	NA

DISPOSITION

Under s. 62(1) (2) (3) of the Children and Young Persons Ordinance, 1955, many avenues are open to the Juvenile Court in making a disposition of the case. Legal disposition or determination of cases which are not appropriate in the case of adults may be imposed in the case of persons under twenty-one (as well as sixteen); the punishments are usually conditioned mainly by the type of offence and the age of the offender. The intention of the authors of the act is to embrace all those situations requiring a remedy suited to the child's difficulty.

Before a discussion of these remedies however, it will be useful to note certain basic limitations on forms of punishment of children and young persons found in the Criminal Procedure Code. Sentence of death must not be passed or recorded on a person who appears to have been under the age of eighteen at the time of the offence,³³ but in lieu thereof he must be sentenced to detention at such place and on such conditions as the Minister of Social Affairs may direct.

Further, where a child or young person is convicted of murder, culpable homicide not amounting to murder, attempted murder, or voluntarily causing grievous hurt and the court is of the opinion that no other method of disposition is suitable, the court may sentence the offender to

33. Criminal Procedure Code 1955, Cap. 132, Laws of Singapore (1955), s. 256.

be detained for such period as specified in the Criminal Procedure Code.³⁴

Continuing in this same vein, the Penal Code states categorically that nothing can be an offence against the Code which is done by a child under seven years of age.³⁵ Hence an infant is by presumption of law *doli incapax* and cannot be endowed with discretion. Further, it is also stated that nothing is an offence which is done by a child above seven and under twelve who has not attained sufficient maturity of understanding to judge the nature and consequences of his conduct on that occasion, i.e. a rebuttable presumption of incapacity.

Basic restrictions contained within the Children and Young Persons Ordinance itself are that no child shall be sentenced or imprisoned in default of payment of a fine or costs;³⁶ nor shall a young person unless the court certifies that he cannot be detained properly in an approved school.³⁷ Only the High Court may order a child or young person to submit to corporal punishment.³⁸

Turning now from the restrictions on punishments to the actual dispositions meted out by the Juvenile Court in its ordinary course of business, it is necessary to refer to s. 62 of the Ordinance. The status of acquittal and discharge as set up by s. 62(1) (a) of the Ordinance may be obtained by a child or young person who has proven himself innocent of an alleged offence before the Juvenile Court. The latter and more prevalent status is "discharge in circumstances not amounting to an acquittal". These circumstances are instances where the juvenile looks guilty of the charge but the police prosecutor has been unable to prove him so to the satisfaction of the magistrate.

On the subject of discharge, it is to be noted that at any stage of any summary trial before judgment has been delivered, the police prosecutor may decline to prosecute further. Proceedings are stayed and the plaintiff is discharged.³⁹ This discharge does not amount to an acquittal unless the court so directs.⁴⁰ The power given by this section enabling the discharge of the accused person without acquitting him is a power which should be exercised sparingly and grudgingly and only used where

34. Children and Young Persons Ordinance, 1955, s. 56(1). In the British courts where a sixteen year old appellant was convicted of murder, it was held that a life sentence was a period which may validly be specified for an offender's detention under this section of the Ordinance. *Rex v. Abbott* (1963) 1 All E.R. 38.

35. Penal Code, 1955, Cap. 119, Laws of Singapore (1955), s. 82.

36. Children and Young Persons Ordinance, 1955, s. 54(1).

37. *Ibid.*, s.55(2).

38. *Ibid.*, s. 55(3).

39. S.175(1) *Malla's Criminal Procedure* (4th ed.) Singapore, 1957.

40. *Ibid.*, s. 170.

the court is satisfied for good cause that public interest demands its use.⁴¹ In 1965, the Probation and After-Care Service recorded that twenty-eight cases were acquitted and discharged out of the total of five hundred and fifty-four cases heard by the Juvenile Court.⁴²

To discharge the offender upon his entering into a bond to be of good behaviour; to commit the offender to the care of a relative or other fit person; and to order his parent or guardian to execute a bond guaranteeing proper care and guardianship, these dispositions are parts (b), (c) and (d) of s. 62(1) of the Ordinance respectively.

These sections in toto have been interpreted to read that the child or young person may be absolutely or conditionally discharged from Juvenile Court, subject to the condition that he commits no offence for a twelve month period. The legal onus is by (c) and (d) on the parent or party responsible for the child to see that he stays out of trouble.

The 1956 Report of the Probation and After-Care Service states that fifty-eight out of the total of five hundred and fifty-four cases determined by the Juvenile Court in that year were "absolutely and conditionally discharged".⁴³ This type of disposition may be used if it has been noted in the probation report that the child or young person has some sort of mental disability, or if the offence is trivial or technical.

Section 62(1) (e) reads that without making any other order or in addition to (b) (c) (d) or (h), the Juvenile Court may make a probation order for a period of not less than one year nor more than three years.

The making of such an order in effect means the conditional suspension of punishment by a court while the offender is released under the supervision of a probation officer who guides and advises him during the period of probation ordered by the court.⁴⁴ A person may be placed on probation for almost any type of offence and there is no restriction as to

41. *Seet Ah Ann v. Public Prosecutor* (1950) 15 M.L.J. 293. In *Goh Oon Keow v. Rex* (1949) 14 M.L.J. 35, Murray-Aynsley, C.J. on appeal altered an order of Discharge not amounting to an acquittal to acquittal. The Chief Justice pointed out that the power given by this section may, unless vigilance is displayed by the courts result in oppression. Two later cases *Mat Zain v. Public Prosecutor* 14 (1948-49) M.L.J. Supp. 142 and *Tan Ah Chan v. Rex* (1955) 20 M.L.J. 218 further reinforced the principle that unless good cause is shown, the court should order an acquittal on the basis that an accused is entitled to trial and determination; only in exceptional cases should the charge be permitted to hang indefinitely over his head.

42. Probation and After-Case Service Annual Report, 1965.

43. For example, in the case of *Teoh Ah Kow v. Public Prosecutor* 27 (1961) M.L.J. 75, the appellant was recognised by the complainant as being one of a gang of youths who set upon him while playing cards. The charge of voluntarily causing hurt was reduced to abetment of the offence. After reading the probation report, an order was made that the appellant be sent to the Henry Gurney School (approved school) for three years. On appeal, the appellate judge declared that the juvenile had only been on probation for selling black market cinema tickets, the order committing him to the school was set aside and he was discharged conditionally upon entering a bond to be of good behaviour.

44. Annual Report of Social Welfare, 1961, at p. 15.

age or the number of times an individual may be placed on probation.⁴⁵

In the making of a probation order the Court must refer to the Probation of Offenders Ordinance, 1951,⁴⁶ which is also applicable to juveniles. The Ordinance states that the probation order, besides placing the juvenile under supervision of a probation officer, may include requirements relating to the residence of the offender for a twelve month period only.⁴⁷ In making such residence a condition of the probation, the court must take into consideration the home surroundings of the juvenile. Since failure to comply with the residential requirements renders the juvenile to be subject to sentence for the original offence, the juvenile court cannot order residential probation for a child of fourteen or under unless he fully comprehends the situation and indicates a willingness to comply.⁴⁸

The Juvenile Court is not empowered to amend the probation order by reducing the original time period or extending it past three years. However, it may cancel any requirements such as the residential one, for example, or reduce the time period of such requirement. Further, a probation order may require the probationer to be of good behaviour, keep the peace, and abstain from crime; that he carries out the instructions of his probation officer and report to him at certain specific intervals. There may be other positive as well as negative conditions, such as that the probationer attend school regularly, or negatively, that he should not frequent amusement parks or be out of his house after dark unless accompanied by an adult relative. In most cases, probationers realise they are being given a second chance and cooperate with the probation officers.

Under section 5 and 6 of the Probation of Offenders Ordinance, 1951, six monthly reports on every current case are required. In practice, a Probation Committee comprised of a Judge of the High Court and ten other persons including a District Judge and magistrate, is responsible for reviewing this work of the probation officers and assessing the use of the probation system by the courts.

The Probation Case Committee appointed by the Probation Committee, is one which deals solely with the Juvenile Court, in reviewing the cases once a month. The Committee's decisions in this regard are generally based on the probation officer's recommendation. At the Committee meetings, cases not needing review but requiring special atten-

45. Annual Report of Social Welfare Department, 1961.

46. Probation of Offenders Ordinance, 1951, Cap. 135, Laws of Singapore (1955).

47. *Ibid.*, s. 5(3).

48. The residences in Singapore for boys 14-19 years are the Bukit Batok Boys Hostel and the Prince Edward Road Boys Hostel; for girls of the same age the Girls Hostel, Canning Rise. Children from 6-12 are placed in Perak House. At these hostels, probationers are mixed with orphans, destitute children beyond parental control and those placed in homes by the Social Welfare Department. The children, with the exception of a few mentally retarded, all attend the local schools and participate in their Community Centre youth activities as well as activities organised by the hostel.

tion are also discussed. At the final six month period under an individual probation order, it is the Probation Case Committee which decides whether to extend the probation period for another year. This is the so-called order for conditional discharge from probation,⁴⁹ and it is usually conditional on the probationer being of good behaviour for a year's time.

Probation was first introduced into Singapore after the Second World War in 1947 with the commencement of the Probation and After-Care Service.⁵⁰ Initially, probation was confined to juveniles. The table below shows the number of children and young persons actually placed on probation compared with the number of pre-sentence probation reports submitted to the Juvenile Court for the last nine years. In reading the table, it should be borne in mind that almost every case in Juvenile Court is accompanied by a probation report, while placing a child on probation is not always the answer to every juvenile difficulty.

	1958	1959	1960	1961	1962	1963	1964	1965	1966
Pre-sentence reports	97	164	220	331	362	287	286	311	381
Probation Orders	65	92	107	183	244	178	170	178	202

From the table, it is interesting to note that the large majority of Juvenile Court cases are determined by the viable remedy of the probation order. For example, in 1964, out of a total of 471 cases heard by the court, 182 juveniles were placed on probation which is the largest number of cases disposed of under any single category of s. 62.⁵¹ The Report of the Probation and After-Care Service 1965 states that by far the majority of cases determined by the Juvenile Court (204 out of 554) were by probation order. Nearly 60 per cent of the cases investigated were placed on probation.

49. Probation of Offenders Ordinance, 1951, s. 8(1).

50. The probation of juvenile (and adult) offenders under the Probation of Offenders Ordinance, 1951, as well as the preparation of probation reports is only one of the statutory functions of the Probation and After-Care Service. Its other functions are:

- (a) after-care of approved school parolees under s. 95 of the Children and Young Persons Ordinance, whereby a young person may be released at any-time on parole licence from an approved school. (The unexpired portion of his full period of detention is then subject to the supervision of an officer of the Probation Service);
- (b) after-care of reformatory trainees under Schedule B of the Criminal Procedure Code, Cap. 132; and
- (c) supervision of corrective trainees and preventive detainees on licence under s. 3 of the Criminal Justice (Temporary Provisions) Ordinance, Cap. 131 (Schedule B) where a person not less than 18 years of age who is connected with an unlawful society may be committed to undergo corrective training for a period of not less than three nor more than seven years. Annual Report of the Social Welfare Department, 1961.

51. Report of the Department of Social Welfare, 1964.

Of the 204 juveniles placed on probation in 1965, 57 were from age seven to fourteen. In the 14 to 16 age group, the court placed 121 on probation (the difference of 26 were placed by the magistrate courts). It has been noted that half or more than half of those juveniles on probation are fifteen year olds.⁵²

Of the offences committed by children and young persons on probation from Juvenile Court in the 7-14 age group, 4 were offences against person, one was robbery and extortion, 6 were housebreaking and 35 other offences against property, two were traffic offences, and one was a gaming offence and 8 other offences seizable, such as causing mischief. In the 14-16 age group there were 11 offences against person, 6 of robbery and extortion, 12 of housebreaking and 77 other offences against property, three traffic offences, two gaming and 10 other seizable offences making a total of 121. Of the year's total of 178 cases on probation from Juvenile Court, the large majority (112) were offences against property which did not amount to housebreaking, in other words petty theft of one sort or another. It is estimated that two-thirds of these petty thefts were perpetrated by 14-16 year olds.⁵³

Under s. 62(1) (f), the Juvenile Court has the power to order the offender to be detained in a place of detention or remand home for a period not exceeding six months or under (g) of the same section to order the offender to be sent to an approved school for a period of not less than three nor more than five years.

S. 62(1)(f) refers to a "place of detention" or "remand home". Perak House is such an approved home for children from the ages of six to fourteen. For boys between the ages of fourteen and sixteen, there are the Bukit Batok Boys Hostel and Prince Edward Road Hostel and for girls of the same age group the Girls Hostel Canning Rise. These Houses have been briefly described in the previous pages. The Report of the Probation and After-Care Service 1965 states that there were fifteen approved home placements during the year.

S. 62(1)(g) is concerned with "approved schools". As an approved school, the Gimson School for Boys functions to provide rehabilitative training for boys between the ages of fourteen and sixteen at the time of committal by the Juvenile Court. The term of residence as stated by this section is from three to five years, but the boy must be discharged by the age of nineteen.⁵⁴ On completing twelve months residence in the school, a boy who has made good progress may be released on parole under the supervision of a probation officer. The Probation and After-Care Service Report 1965 states that 116 juveniles were placed in approved schools. This figure however, includes 36 cases where more than one offence was committed by the same delinquent.

Part V (ss. 76-101) of the Children and Young Persons Ordinance,

52. Singapore Annual Report, 1963.

53. Probation and After-Care Service Annual Report, 1965.

54. Children and Young Persons Ordinance, 1955, s. 63.

1955, covers the establishment and administration of approved schools and remand homes and will not be discussed in this paper.

Section (h) of s. 62(1) of the Ordinance empowers the Juvenile Court to order the offender to pay a fine, damages or costs. The wording of this section is self-explanatory, but it is to be noted that s. 55(1) of the Ordinance as beforementioned limits this power. Generally, a child or young person is not to be sentenced or ordered to be imprisoned in default of payment of fine or costs. Relevant to this principle is that upheld in the case of *Ang Teng Hai v. Regina*.⁵⁵ The appellant, a boy of fifteen, was among a group of six persons who were arrested as the result of a police raid on certain premises where it was alleged that a public lottery was going on. The first appellant was sentenced to a fine of \$3,000.00 in default a sentence of three months imprisonment. On appeal, the Chief Justice altered the sentence by deleting imprisonment by default having regard to the provisions of s. 55(1) of the Children and Young Persons Ordinance.

The important second section of s. 62 of the Ordinance gives the Juvenile Court the right to review the records of boys who have completed their required period of training in an approved school, remand home or place of detention. The court may further order and deal with these cases even if the youth has by this time passed his nineteenth birthday.

Briefly, the court is empowered to order the young person transferred and detained in an approved school for the unexpired portion of his detention, to order such young person to be detained in the Young Offenders Section for a six month period or divide his term between this section and an approved school, or for a male person 16-21, the Juvenile Court may order that he be brought before a District Court to undergo a period of training in a reformatory training centre.⁵⁶

CONCLUSION

Singapore's Juvenile Court proceedings have been found to be on the whole a workable and effective legal system. The police and police prosecutors are functioning well within this system, although the procedure of photographing and fingerprinting children and young persons continues contrary to the spirit if not the letter of the Ordinance. There

55. (1960) 26 M.L.J. 290.

56. The Reformatory Training Centre is an institution set up under s. 13A of the Criminal Procedure Code. The Report of the Prisons Inquiry Commission 1960 reveals its purposes and aims. It was the opinion of the Report that the need for after-care is greater for juvenile offenders than adults. The majority of persons committed to the reformatory training centre are under twenty one and still developing when they are discharged. It was the Report's recommendation that there should be only one form of sentence for the detention of all offenders between sixteen and twenty-one; that is committal to the Reformatory Training Centre and not to prison and that the legal categories of Young Offender and Reformatory Trainee be merged. However, this suggestion was not to become the practice. It is noted in the Probation and After-Care Service Report of 1965 that four cases were sent to the Young Offenders Section and fifteen cases were "transferred to other courts" (presumably to District Court for reformatory training orders).

is also far too much serious prosecution on the part of the police for the theft of fruit and similar minor matters that may be regarded as a normal part of any child's growing experience.

The Juvenile Court is sitting in its fourth location since 1947 without noticeable improvement in equipment and appearance. This informal atmosphere is misleading to the child or young person and his parents, for it tends to minimize in the juvenile's eyes the court's power to remove him from his home for several years time. Further, the magistrate and advisors are given far too little time to form a concensus of opinion concerning the best solution for the juvenile's difficulty. Probation order has been found as the most viable remedy in the majority of cases, but conditions of probation are often hastily selected by the court.

From 1958 through 1966, the majority of Singapore juvenile offenders before the Juvenile Court were found to be boys. Usually less than a dozen girls appeared each year. Further and not surprising is the fact that the majority of boys were found guilty of theft and other offences against property. Among other offences, juveniles in Singapore are most often charged with voluntarily causing hurt, possession of dangerous weapons, or gaming in public.⁵⁷

A short survey based on the pre-sentence reports of 305 juveniles by the Probation and After-Care Service in 1965 reveals that only fifty-one per cent of the offenders in this group were attending school. Of the percentage who had left school, approximately forty per cent were unemployed. Undoubtedly these statistics point to one of the important causes of juvenile delinquency in Singapore.

If one looks at the total number of cases dealt with by the Juvenile Court, as presented in the Singapore Annual Reports from 1958-1966, the fluctuations in number are surprising.

TABLE OF TOTAL NUMBER OF CASES DEALT WITH BY
JUVENILE COURT 1958-1966

1958	1959	1960	1961	1962	1963	1964	1965	1966
326	355	418	534	586	513	471	554	NA

Whereas Singapore's population has been steadily increasing, it has also been growing progressively younger, so that at present it has been estimated that more than half of the two million people on the island are below the age of twenty. Hence the instance of adjudged delinquency in comparison to juvenile population is small and decreasing.

57. Singapore Annual Report, 1963.

It is suggested that the existence of this unexplained fact indicates that not enough attention is being focused on the problem of juvenile delinquency proceedings in Singapore. A more positive sociological approach to Juvenile Court is needed, as well as a comprehensive look at juvenile delinquency proceedings together with all other difficulties facing Singapore youths, for it is on their well-being that the future of this young nation rests.

FREDERICA H. GRIES*

* A.B. 1959, Mount Holyoke College; LL.B. 1963, American University.