
Cambodia Criminal Justice Assistance Project Phase III

Juvenile Justice
Strategy

GLOBAL JUSTICE SOLUTIONS (ASIA) PTY
LTD

MARCH 2009

CONTENTS

ABBREVIATIONS.....	4
INTRODUCTION	5
PURPOSE.....	5
BACKGROUND	6
POLICY FRAMEWORK FOR CCJAP ENGAGEMENT ON JUVENILE JUSTICE	7
THE CONSTITUTION	8
ACCRA AGENDA FOR ACTION (AAA)	8
CCJAP JUVENILE JUSTICE SUPPORT TO LSJR OBJECTIVES AND ACTION PLAN	9
KEY STAKEHOLDER INITIATIVES AND PROGRAMMES IN JUVENILE JUSTICE.....	10
OTHER DONOR ACTIVITY:	11
NGO ACTIVITY (BY THEME)	11
MAPPING OF JUVENILE JUSTICE ACTORS	12
PROBLEM DIMENSION.....	13
DEFINING JUVENILE JUSTICE AND CCJAP’S APPROACH.....	16
STRATEGIC OBJECTIVES AND OPPORTUNITIES	18
1. PROVISION OF STRATEGIC SUPPORT	18
ENHANCING AGENCY CAPACITY TO IMPROVE ACCESS TO JUSTICE AND JUSTICE SERVICES FOR JUVENILES	18
INCREASED STRATEGIC AND OPERATIONAL ALLIANCES.....	20
2. STRENGTHENING THE KNOWLEDGE BASE.....	20
3. PREPARING STAKEHOLDERS FOR CHANGE	22
COMPONENT OBJECTIVES AND ACTIVITIES.....	23
COMPONENT OBJECTIVES IN JUVENILE JUSTICE	23
COMPONENT ACTIVITIES IN JUVENILE JUSTICE	24
MONITORING AND EVALUATION	24
SUSTAINABILITY	25
IMPLEMENTATION.....	26
IMMEDIATE.....	26

SHORT -TERM (2009)	26
MEDIUM/LONG TERM (2010+).....	26

ANNEXURES

Annex A: List of Stakeholders Consulted

Annex B: Key indicators for children in conflict with the law (*and attempted performance verification 2004/2005 in italics*)

Annex C: MoSAVY Policy on Alternative Care for Children: April 2006

ATTACHMENT

Juvenile Justice Map

REFERENCES

List

TABLES

Table 1: Recent Data on Court's Performance in Juvenile Justice

Table 2: Juveniles in detention 2000 – 2008

Table 3: Summary of Implications of the juvenile justice law for justice sector agencies

Table 4: Component Activities: Juvenile Justice

ABBREVIATIONS

AAA	Accra Agenda for Action
AHTJP	Anti-Human Trafficking and Juvenile Protection
AUSAID	Australian Agency for International Development
BAKC	Bar Association of The Kingdom of Cambodia
CCJAP III	Cambodia Criminal Justice Assistance Project – Phase III
CICL	Children in Conflict with the Law
CIP	Commune Investment Plan
CJWG	Child Justice Working Group
CLEC	Community Legal Education Centre
CNP	Cambodia National Police
CPCS	Crime Prevention and Community Safety
CSD	Centre For Social Development
CWCC	Commune Women and Children’s Committee
CWCFP (CCFPWC)	Commune Council Women and Children’s Focal Point
DoSAVY	Department of Social Affairs, Veteran & Youth Rehabilitation
GDoP	General Department Of Prisons
ILO	International Labour Organization
IMS	Indicator Monitoring System
JMI	Joint Monitoring Indicator
LAC	Legal Aid of Cambodia
LICADHO	Cambodian League For The Promotion And Defence Of Human Rights
LISR	Legal & Judicial Reform Strategy
MoA	Memorandum of Agreement
MoE	Ministry of Education
MOI	Ministry of Interior
MoSAVY	Ministry of Social Affairs, Veterans, and Youth Rehabilitation
MOJ	Ministry of Justice
NGO	Non Governmental Organization
NGO CRC – CICL	NGO Commission on the Rights of the Child – Children in Conflict with the Law
NSDP	National Strategic Development Plan
OHCHR	Office of the High Commissioner for Human Rights
PJJ	Protection of Juvenile Justice
PoP	Police Operating Procedures
RGoC	Royal Government of Cambodia
STA	Short term assistance
SFD	CCJAP III Strategic Framework Document (updated 2007)
UNDP ADR	United Nations Development Program - Alternative Dispute Resolution
UNICEF	United Nations Children's Fund
USAID	United States Agency for International Development
YRC	Youth Rehabilitation Centre

INTRODUCTION

This strategy paper outlines the commitment of the Cambodian Criminal Justice Assistance Project, Phase III (CCJAP III) to improving access to justice for juveniles¹. It outlines an approach to inclusion of juvenile justice issues in current CCJAP programming, and offers a range of strategies and component specific activities, to increase CCJAP support to RGoC justice and welfare agencies to improve the delivery of and access to justice for juveniles in Cambodia.

In developing this strategy reference has been made to the Cambodian Constitution, international treaty commitments regarding children to which Cambodia is a party; international policy guidelines and commitment on aid delivery (the Paris Declaration and the Accra Agenda for Action); Cambodian Millennium Development Goals, 2004 Rectangular Strategy, the National Strategic Development Plan (NSDP) 2006-2010; the Law and Justice Sector Strategy and Implementation Action Plan; existing criminal law (Criminal Procedures Code) and draft law (Penal Code, Police law and Corrections legislation, the draft law on Juvenile Justice and the draft Prakas on Inter-Ministerial Cooperation and Collaboration in regard to Juvenile Justice), sector agency strategic and activity plans (Cambodia National Police (CNP), General Department of Prisons (GDoP), Ministry of Social Affairs, Veterans and Youth (MoSAVY) and key inter-Governmental and non-Governmental agency strategies and plans. The Australian Agency for International Development (AusAID)'s Country Programme Strategy² also informs this paper. Extensive consultations, with a wide range of stakeholders (Government, donor, and non-Government and of course with CCJAP advisers) has helped inform and contribute to this strategy³, and all proposed activities partner, align with, or complement key stakeholder interests in this sector.

The strategy also takes into account international standards, trends and models of best practice.

PURPOSE

The purpose of this paper is to place and strengthen juvenile justice activities supported by CCJAP securely within the law and justice sector reform framework for Cambodia. It sets out a range of objectives in juvenile justice and a programme of proposed activities that will (i) back-fill some gaps that exist in key justice sector agencies to increase their capacity to implement juvenile justice initiatives; (ii) strengthen specific justice sector agency mechanisms to address juvenile offending; (iii) improve the knowledge base around juvenile justice for justice sector agencies, and (iv) prepare the way forward as we anticipate the passage of new laws to further protect juveniles.

The strategy will help maximise the impact of CCJAP inputs and help guide strategic support and engagement with other key players. Implementation of this strategy will be instrumental in

¹ CCJAP's purpose is to "support the RGoC to provide equitable access to a high standard of justice, with a particular focus on juveniles and other vulnerable groups" CCJAP Strategic Framework Document (SFD)

² Objective 4: "improved capacity and commitment of RGoC justice agencies to delivery of justice services to vulnerable groups"; Objective 5: improved commitment to and performance in crime prevention and community safety."

³ Annex A lists all stakeholders consulted in the development of this strategy

supporting RGoC efforts to improve juvenile justice in Cambodia and can contribute to AusAID's best practice modalities for engaging in juvenile justice.

BACKGROUND

Against a backdrop of post-post-conflict recovery, where executive and mid level management experience in specialised areas of the law is still developing; and in a period of rapid development – both good and bad – widespread poverty, illiteracy, and a high youth population⁴ present a development challenge for the Government of Cambodia. The development challenges and the challenges that face under-developed justice sector and welfare agencies are many. A new cadre of young lawyers, judges and prosecutors is forming, but with only 200 judges and prosecutors for the entire country, many of whom are not legally trained, and only 550 lawyers for the country, progress remains slow and challenging⁵.

Population statistics for 2005 put the youth population (under 25 years) at 60% of the total population, with 36% in the 10-24 year age bracket. Youth unemployment is ever rising, and signs of adolescent and youth risk behaviours (including drug abuse, gang violence and engagement in criminal activities) are evident⁶. However, the majority of juveniles that appear in the justice system (children in conflict with the law) are living lives of absolute poverty – often living on the streets, with or without parental or adult support. Many are imprisoned for relatively minor offences – ranging from petty theft, to theft of food and clothes, to minor misdemeanours, or misdemeanours exacerbated by aggravating circumstances (e.g. misdemeanour theft elevated to felony robbery as a result of the theft being conducted in a group). Often, these are the acts of desperately poor and vulnerable people fighting for survival.

Due to their level of maturity and life experience, juveniles often do not comprehend the consequences of their acts – even when clearly illegal. They often do not comprehend the impact their actions have on others, let alone the implications for themselves. Once apprehended, juveniles are extremely vulnerable within the criminal justice system. Juveniles often have neither comprehension of the judicial process nor any ability to engage in it in a constructive way. They are unlikely to know their legal rights or have the ability to demand them. They present before justice sector authorities without parental support, or support from a social worker or lawyer. While most juveniles are represented at trial⁷, most juvenile defendants receive no legal support prior to trial. Even fewer receive legal advice for appeal purposes. Once in custody, separation of juveniles (remandees in pre-trial detention and sentenced offenders) are not always held separately from

⁴ ILO figures in 2004 place youth 0-24 years at 61% of the total population; the Khmer Youth Associate quotes a figure of 70% for 0-30 year olds; UNICEF quotes 60% of the population aged 0-24 in 2005 and 52% for the 0-18 year age group. All statistics, including basic population statistics, are erratic. As at 12 January 2009 inputting of data from the 2008 Census was almost complete in most provinces. Until data entry is complete a specific breakdown of youth population data is unobtainable. Interestingly, ILO reported a decrease in the child (0-15 years) /adult ratio between 1998-2004.

⁵ "Justice for Children in Cambodia – UNICEF Child Protection Programme 2008-2010": UNICEF 2007

⁶ Ibid; and "Policing in Cambodia: Legitimacy in the making?" Broadhurst and Bonhours 2008

⁷ This is encouraging but often representation at trial amounts to no more than a lawyer reading the case file 10 minutes beforehand. The quality of representation is improving. See Table 1 for a snap shot of Court performance re juvenile offenders. This data covers the 9 Courts monitored by the Centre for Social Development. National figures are unavailable.

adults (improvements have been seen in some prisons but separation in police holding cells remains a problem). The current criminal law limits options for alternate sentencing or diversion, and even where alternative options are available e.g. bail, conditional release and suspended sentences, they are not utilised as often as possible by the Courts due to limited understanding by judicial authorities, and limited practical opportunities to implement these alternatives. Arrest, detention, appearance before the Court and sentencing has life changing impacts on minors, in ways that are significantly more damaging than for adults.

The emerging juvenile justice law recognises the varied circumstances in which children come into conflict with the law. It seeks to provide alternatives to proceeding through the formal justice system, including diversion for petty offences and misdemeanours, and alternate sentencing and placement options. While juvenile diversion is not yet in place, alternate sentencing and placement options do exist under the current law,⁸ but have not been utilised as often as could be. An “iron-fist” approach to offending has contributed to the lack of utilisation of these measures. Current practice emphasises a punitive approach to child offending rather than a restorative justice approach – where reform, rehabilitation and reintegration into communities is paramount⁹. The new approach to juvenile justice as expressed in the draft juvenile justice law balances both punitive and restorative approaches, with the paramount focus being the best interests of the child (balanced as necessary against securing the safety and security of the general public). Restorative justice approaches are critical to ensuring that juveniles are not destined to a life of criminality.

The RGoC recognises that its future lies in the hands of its youth. It has demonstrated increasing support for improvement of access to justice by juveniles and child protection, since its signature of the United Nations Convention on the Rights of the Child (in 1992). High level political will and an emerging regulatory framework and a variety of existing initiatives and programmes are strengths upon which further progress in juvenile justice can build.

By assisting the Government of Cambodia justice sector agencies to protect and better serve the best interests of children CCJAP can help divert a largely youthful and poverty stricken population towards constructive engagement in the development of a vigorous democracy. Helping youth develop confidence in the rule of law through good judicial practice, will improve the safety and security of all Cambodians; this will help strengthen the rule of law and will improve good governance by improving the quality of and access to judicial services, thus leading ultimately to an improvement in democratic practices.

POLICY FRAMEWORK FOR CCJAP ENGAGEMENT ON JUVENILE JUSTICE

While a strong regulatory framework is emerging, it’s not yet here. In the absence of a special law for juvenile offenders¹⁰, we turn to Cambodia’s existing legal and policy frameworks for guidance, and to international law and policy.

⁸ Criminal Procedure Code, draft Criminal Penal Code, RGoC Policy on Alternative Care for Children (2006)

⁹ See Table 1 for recent data on Court’s performance in juvenile justice

¹⁰ It is anticipated that the draft Juvenile Justice Law will be completed in 2009.

THE CONSTITUTION

The RGoC Constitution lays the foundation upon which justice for children is ensured. Four key concepts contained in the Constitution seek to give all Cambodians, including children, improved access to justice. Those concepts are:

- The promotion of human rights – specific reference is given in the Constitution to international human rights law related to children¹¹ and that consideration must be given to these international standards;
- The practice of democracy – which includes participatory democracy at local levels;
- The separation of powers – critical to ensuring unbiased and unfettered application of the rule of law and legal processes; and
- Respect for the rule of law – which should be generated from the youngest age and be faithfully delivered by educators and justice sector leaders.

The initiatives proposed in this strategy support these principles by supporting and strengthening justice sector agencies to meet international human rights standards particularly in police practice and prisons conditions and to showcase the achievements made to the international community; encourage participatory democracy by assisting engagement at Commune and local levels through its community safety initiatives at Provincial levels; ensure the separation of powers by supporting administrative procedures and protocols that help ensure the independence of the judiciary and Courts processes, and enhancing respect for the rule of law by helping improve the delivery of justice services; helping generate demand for justice services (by supporting knowledge sharing and awareness activities) and thus increasing the confidence of the community in justice sector agencies.

The 2007 Criminal Procedure Code sets out a range of generic procedures applicable to all offenders brought before the Courts. These generic procedures are enhanced by the emerging juvenile justice law, in the same way that the UN Convention on the Rights of the Child enhances the generic protections of the International Covenants on Civil and Political Rights (ICCPR) and Economic Social and Cultural Rights (ICESCR). The fact that the specific law does not yet exist does not stop us progressing the protections offered in the generic law.

The Cambodian Penal Code is still being drafted, but the draft juvenile justice law has taken that draft into account, and the draft Corrections law, as well as other emerging laws and policies related to CICL.

ACCRA AGENDA FOR ACTION (AAA)

In the development of this strategy, particular attention has been given to the guiding principles and agreements contained in the Accra Agenda for Action (AAA) in regard to aid delivery. The key principles of country ownership, inclusive partner-shiping, and production of tangible results, and the key result area of improving information systems and statistics, have been reflected in the initiatives proposed here, in particular through:

¹¹ The United Nations Convention on the Rights of the Child

- Supporting, securing, and working with existing mechanisms within Government structures e.g. strengthening of MoSAVY in regard to its juvenile delinquency programme, and Ministry of Justice (MOJ) in regard to its juvenile justice initiatives; strengthening and supporting the Child Justice Working Group (CJWG), working through the Commune Investment Plan (CIP) processes to advance services in juvenile justice;
- Fostering more effective and inclusive partnerships with, inter alia, inter-Governmental and civil society policy and service delivery agencies in programming and through proposals to facilitate Government and non-Government engagement,;
- the development of project indicators¹² specifically addressing juvenile justice issues which feed into a proposed package of juvenile justice specific Joint Monitoring Indicators (JMI) for the Indicator Monitoring System (IMS); and
- assisting in the improvement of data and statistics collection, collation, utilisation for planning and budgeting purposes, and facilitating the sharing of data across justice sector, welfare and service delivery agencies.

CCJAP JUVENILE JUSTICE SUPPORT TO LSJR OBJECTIVES AND ACTION PLAN

CCJAP's juvenile justice strategy supports the Legal and Judicial Reform Strategy (LJRS) and key Justice sector initiatives in regard to:

- Obj 1: Improvement of the protection of fundamental rights and freedoms *by improving service delivery for Children in Conflict with the Law (CICL)*
- Obj 2: Modernisation of the legislative framework *by continuing its significant contribution to the work of the CJWG (through the Courts component) with the ongoing development and strengthening of the regulatory framework supporting CICL.*
- Obj 3: Provision of better access to legal and judicial information *by sponsoring or undertaking specific research; assisting agencies to improve their data collection activities particularly in regard to CICL; continuing to support training and awareness raising activities in CICL, and supporting measures to facilitate information and data sharing across and between Government and Non-Government agencies at national and sub-national levels.*
- Obj 4: Enhancement of the quality of legal processes and related services *by enhancing access to legal assistance and streamlining judicial procedures in order to ensure fair justice and due process for the people by supporting legal training, facilitating inter-ministerial and whole of sector approaches.*
- Obj 5: Strengthening of judicial services, i.e. the judicial power and the prosecutorial services *by developing procedures and mechanisms (tools) to enhance judicial and prosecutorial services for CICL*
- Obj 7: Strengthening of Legal and Judicial sector institutions to fulfil their mandates *through the development of a programme of action to support implementation of the regulatory framework across justice sector agencies; strategic and operational institutional support; strengthening of planning and budgeting processes; and by helping them focus energies and resources more effectively to address CICL*

¹² See Annex B Key National indicators¹² for children in conflict with the law

KEY STAKEHOLDER INITIATIVES AND PROGRAMMES IN JUVENILE JUSTICE

The three key Government agencies engaged in juvenile justice are the Ministries of Justice, Interior (CNP, GDoP), and Social Affairs, Veterans and Youth Rehabilitation. Other agencies that have secondary involvement are the Ministries of Education, Youth and Sport (in regard to access to civics education, education in prisons) and Health (in regard to medical services of detainees). Of course, all Ministries have a wider role in regard to broader child protection issues, most of which lie outside the criminal justice paradigm, and are beyond the scope of this strategy.

One of the key challenges with juvenile justice is a lack of coordination and collaboration across these Ministries. The Inter-Ministerial Child Justice Working Group (CJWG), established by Praka in 2006 in the MoJ, is the key existing mechanism within the justice sector addressing juvenile justice issues and seeks to improve collaboration and coordination.

Ministry of Justice: MoJ is now leading the development of a juvenile justice regulatory framework including the finalisation of the juvenile justice law. It also manages the ‘child justice database’ pilot project; hosts CCJAP’s Courts strengthening component, which includes the newly initiated juvenile courts register, and leads the Inter-Ministerial Child Justice Working Group. While managing this comprehensive programme MOJ has extremely limited resources to drive these issues forward, relying primarily on one Under-Secretary, who has significant competing priorities.

Ministry of Interior: Representatives of the Antihuman Trafficking and Juvenile Protection Department, General Department of Prisons and Legislative Council participate in the MOJ led inter-ministerial CJWG.

- Cambodia National Police: The CNP deals with CICL through both its Criminal Investigations Department (both Crimes and Misdemeanours sections); and through the Antihuman Trafficking and Juvenile Protection Department. At times, this dual mechanism raises confusion at both head quarters and at an operational level. The Criminology Department also addresses juvenile offending issues. There is no central point of contact on juvenile justice issues within CNP (MOI).
- General Department of Prisons: The GDoP deals with all juvenile’s incarcerated under the law i.e. either remandees awaiting trial or sentenced offenders. In this role GDoP provides educational, health, welfare and rehabilitation services to juveniles in prisons. GDoP is also mandated to provide reintegration services but this function is limited. There is no central point within GDoP that addresses juvenile justice issues.

MoSAVY: Is mandated to manage all child welfare issues, including welfare issues related to CICL, including, in collaboration with GDoP, reintegration issues. Under its Policy on Alternative Care for Children Section VI – Specific Objective for Alternate Care (section 7: Children in Conflict with the Law) specific objectives are outlined – some of which overlap with other agency mandates.¹³ In 2008 – 2013 MoSAVY proposed plans on juvenile justice include:

- Advocacy, research and planning on CICL and drug abuse and drug user rehabilitation
- Training and vocational training support in rehabilitation and reintegration
- Children in prison with mothers programme

¹³ See Annex C outlining MoSAVY’s Alternative Care strategies for Children in Conflict with the Law

- Strengthening performance in the Youth Rehabilitation Centre (YRC)
- Roll-out of the YRC to two provinces
- Social worker training
- Provision of legal protection for children
- Development of its juvenile delinquency prevention programme

OTHER DONOR ACTIVITY:

UNICEF: Has the primary institutional relationship with RGoC justice sector agencies on juvenile justice issues. It has an extensive child protection and child justice programme. From 2001-2005 it supported the development of the juvenile justice law; the establishment of the CJWG, progressed relevant guidelines and instructions on inter-ministerial cooperation and collaboration, and the handling of child victims and witnesses; progressed draft guidelines supporting the draft juvenile justice law; supported 2 pilot projects on diversion with MoSAVY, provided (through its social work programme) training and skills development to MoSAVY social workers, established the child justice database at MOJ, and in collaboration with World Vision International, been instrumental in supporting the MOI Antihuman trafficking and Juvenile Protection Department in training and skills development in regard to child victims of sexual assault and trafficking. In its 2006-2010 programme UNICEF is consolidating previous years experience by concentrating on securing the regulatory framework on child justice and building capacity to implement it; building child-friendly investigations and Court environments; enhancing law enforcement against trafficking, abuse and exploitation of children; promoting the use of diversion and alternatives to detention for children; assisting in improved data collection (through the MoJ based database); providing NGO support for improved legal representation; assisting in rehabilitation and reintegration, and of course child rights advocacy. UNICEF takes a systems approach to its programme, and thus focuses support to MoSAVY, MOJ and MOI, with some support to NGOs.

France and Japan: have been heavily involved in legislative drafting processes¹⁴, which impact on juvenile justice. Both have been involved in the training of judges, prosecutors and Court clerks (in specialised areas indirectly related to juvenile justice) through the Royal Academy of Judicial Professions, and Japan was involved with the Bar Association in the training of lawyers.

USAID's Human Rights programme provided grant funding to NGO's for legal training, and its Rule of Law project supported education of judges and prosecutors, and improvements in transparency and efficiency of justice sector systems. In its new phase the Rule of Law project maybe providing some statistics support to MOJ.

UNDP's Access to Justice /Alternative Dispute Resolution Project: offers processes that could present future opportunities for community based diversion for petty crimes and minor misdemeanours.

NGO ACTIVITY (BY THEME)

¹⁴ The Criminal Procedure Code, Criminal Penal Code, Anti-Human Trafficking law, Inter-Country Adoption law, and Police Procedures, and civil legal codes.

Legal Assistance: Legal Aid Cambodia (LAC), Protection of Juvenile Justice (PJJ), the Bar Association of the Kingdom of Cambodia (BACK), and the Cambodia Defenders Project have in recent years all worked to provide legal aid assistance to juvenile offenders, but legal representation remains a serious problem.¹⁵

Legal rights education, training and promotion: The Community Legal Education Centre (CLEC), the Centre for Social Development and LICADHO has provided assistance in this area. PJJ, LAC, and formerly DanChurch Aid have engaged in public advocacy.

Monitoring: The Center for Social Development's Courts Watch Programme has been the key NGO engaged in courts monitoring and has collected significant data, with some key finding distributed through its Courts Watch Bulletins. LICADHO has been engaged in prisons monitoring.

Prison Rehabilitation (educational or vocational training service provision): Friends International has provided literacy training in Siem Reap and is beginning an R&R programme in both Siem Reap and Kandal (CC2); Prison Fellowship works in a range of prisons.

MAPPING OF JUVENILE JUSTICE ACTORS

For summaries of other inter-Governmental, donor, and non-Governmental engagement in juvenile justice please refer to the Attachment (Juvenile Justice Map) at the rear of this document. The map identifies organisations that are currently working in the field of juvenile justice (or have programme approaches and models that could be readily extended to or replicated for working with CICL). The map categorises organisations activities according to CCJAP components¹⁶ (linking upwards to LJSR objectives supported by CCJAP); and then identifies whether they are working at primary ('coal face' service delivery), secondary (support to institutions) or tertiary (policy) levels. As expected most local NGO's work at the primary level; most international NGO's operate at primary and occasionally secondary level's; donor projects¹⁷ operate at various levels, and inter-governmental agencies operate primarily at secondary and tertiary levels. The map also identifies Provinces in which agencies are working (particularly CCJAP provinces), which will assist CCJAP core components collaborate and cooperate with agencies operating at sub-national levels. The map will be attached to CCJAP's website for easy reference by all actors engaged in this sub-sector, and later linked to the PMU's database.

In the process of developing this map it became very clear that:

- a) There are a limited range and number of government and non-Government service providers specifically addressing issues around CICL, but also, there are a promising number of NGO service providers that have programmes that could potentially be expanded to include CICL, particularly at the Provincial level. In all agencies, capacity to address juvenile justice remains an issue.

¹⁵ "Securing Children's Rights in Cambodia: Pre-Trial Detention and Legal Representation": Legal Aid Cambodia 2005

¹⁶ In regard to 'Prisons' the map identifies agencies working both in prisons and/or with prisoners, usually in a rehabilitation/reintegration role. Direct contact with the agency is recommended to clarify exactly how they are working in/with prisons/ers and where.

¹⁷ Apart from AusAID, through CCJAP, no other bilateral donor works specifically on juvenile justice issues.

- b) Coordination and collaboration on juvenile justice continues to be a significant problem. Increased effort must be given to collaboration and cooperation to minimise duplication and maximise outcomes; and
- c) Cambodia specific information on juvenile justice and the mechanisms to share that information are limited.

PROBLEM DIMENSION

A 2005 assessment on the Situation of Children in Conflict with the Law in the Kingdom of Cambodia provided an excellent (if now outdated) assessment of key issues. Key findings at that time included:

- Deficiencies in the general criminal law, criminal procedure and penal codes
- Limited access for juvenile to bail and pre-trial detention
- Mistreatment by police
- Poor legal representation
- Limited and oppressive sentencing options and judicial practice
- No parole system
- No specialised juvenile justice law or legal processes
- No system of juvenile diversion
- No national juvenile justice indicators or monitoring system
- Capacity of key actors is weak

Other specific issues affecting CICL included:

- A lack of separate accommodation for children in prison
- Limited access to educational and vocational training, rehabilitation and reintegration programmes for children
- Welfare issues related to children in prison – exposure to health risks and access to adequate food etc.
- A strictly punitive approach to child offending resulting in over 50% of child offenders being held in pre-trial detention (rather than released on bail); incarceration as a sentence for simple theft (and aggravated theft in company); and sentencing for short periods of incarceration when alternative available options were more appropriate.¹⁸

Since that assessment was completed some improvements have been seen and significant reforms initiated in the relatively short intervening period. Unfortunately, some slippage has also occurred.

- Criminal legal framework: The Criminal Procedure Code (CPC) has been promulgated – but in some instances (e.g. re pre-trial detention) the CPC has decreased protections for CICL. The draft Penal Code has progressed but some aggravating circumstances, particularly in regard to theft, are particularly detrimental to juveniles. Bail conditions and alternative sentence opportunities remain limited. However, the draft juvenile justice law, which helps to address these deficiencies, has been significantly progressed and is expected to be ready for consideration by the Council of Ministers in

¹⁸ This continues to be a problem. In its July 2008 special report on sentencing practices for juvenile, the Center for Social Development, Court Watch Project observed that “the vast majority of juveniles were sentenced to immediate imprisonment, and a significantly lower figure was given alternate sentences”. Although figures vary from Court to Court (with Kandal Court being the most progressive) in the 9 courts for which CSD monitored in the period 1-4 2008, 83% of juvenile defendants were sentenced to immediate incarceration; 6% to an alternate sentence, and 11% acquitted at trial. CSD Court Watch Bulletin Year 5, No 21 July 2008

late 2009. A comprehensive supporting body of regulatory mechanisms is also in development (guidelines, instructions, tools, standard forms etc)

- Legal representation: Legal representation of children at trial has increased but the quality of representation is disputable as adequate access to lawyers (physical access or time spent with defendants) prior to trial to prepare cases is often difficult. The draft juvenile justice law will increase pressures on legal representation by requiring earlier representation for children. There has been some reported improvement in performance of defence counsel and judges in presenting and considering the status of a child at trial i.e. age, but little reference in defence or mitigation, to other influencing factors e.g. poverty, lack of education, orphan status, street living, lack of parental support, exposure to adult criminal elements and influence etc¹⁹
- Application of the 2002 Law on Aggravating Circumstances of Felonies: This law was specifically written to increase sentences for felonies with a view to deterrence through strict penalties. Under that law, Judges are not permitted to consider extenuating circumstances in felony cases, nor to suspend the sentence, or impose alternate measures. Many judges took this law to also apply to juveniles, charged with felonies – most of who had committed misdemeanour theft but aggravated by the fact of committing these thefts with groups of friends – thereby making the offence a felony. As a result of extensive NGO advocacy, the Constitutional Council in 2007 ruled that the Courts have a duty to comply with international law when considering judgements (including international laws protecting children). It concluded that Article 8 of the Law on Aggravating Circumstances was not intended to apply to juveniles. This was a positive decision of the Council, which unfortunately however, has not yet made a significant impact on the sentencing practices of many judges.
- Efforts to make legal and judicial processes more accessible to juveniles through development of child-friendly approaches has been progressed (a CCJAP/UNICEF initiative)
- Data: There has been ongoing progress with the collection of national criminal justice statistics, but a continuing gap in informative statistics in regard to CICL. A wealth of data and information is coming out of NGO's (especially the Centre for Social Development in its Courts Watch Project), which is unfortunately underutilised. GDoP produces excellent data, which shows a significant increase in the number of children in prison (from 230 in 2000 to 727 by December 2008)²⁰. CNP can produce some good data, but it is erratically collected and some of the categories are not informative for juvenile justice purposes. Courts have the potential to produce improved data through the newly introduced juvenile register (a 2008 CCJAP supported initiative) which will go a long way towards the development of a separate juvenile "court". Under-utilisation of data and statistics for planning and budget purposes continues to be a major issue.
- Diversion: Development of juvenile diversion is included in the draft juvenile justice law. Evidence suggests²¹ an increasing occurrence of "informal diversion" at community levels addressing low level juvenile delinquency, using existing practices at police level and occasionally alternative sentencing provisions in existing law. Informal police practise is however unregulated, and utilisation of alternate sentence options is severely underutilised. The diversion provisions of the draft law set out a comprehensive structure for diversion – which will guide and regulate the Courts and justice sector agencies in this area.

¹⁹ Court monitoring reports of the Center for Social Development; UNICEF Courts monitoring

²⁰ See Table 2 based on available GDoP data at the time of writing (Nov 2008-Feb 2009). The total figure of juveniles represents around 6% of the total population in custody (comparable to women prisoners which also comprise 6% of the prison population). However, the actual average annual increase from 2000-2008 for juvenile is 12.51% compared to a projected 7.6% growth rate for the general prison population (as reported in the GDoP 2007 annual report). The reasons for this difference are unclear (see discussion in subsequent footnotes below).

²¹ Informal NGO reporting and anecdotal evidence. A focus group scheduled for late February 2009 will help clarify what exactly is occurring in "informal diversion".

- Monitoring: a database at MOJ was developed to collect key data, which would present information to verify proposed national indicators on juvenile justice. The database has met with challenges, which have meant that progress on verification of indicators has not been possible.

Key justice sector and welfare agencies have made significant improvements, but continue to struggle with a range of institutional and operational challenges. Those challenges include:

- Organisational dysfunction.
- As yet, inadequate regulatory framework (emerging).
- Lack of supported strategic focus within agencies on juvenile justice issues.
- Lack of synergy between agencies.
- Poor coordination and collaboration between Government agencies themselves and with non-Government service providers.
- Inadequate resourcing of support for juvenile justice initiatives.
- Reliance on 1 or 2 key personalities within the agencies to carry juvenile justice initiatives as well as competing priorities.
- Poor and inconsistent data collection and collation.
- Little strategic use of data for planning and budget purposes.
- Uneven practices within agencies and between national and sub-national levels.
- Little strategic understanding of the challenges and issues.
- Little training for staff on juvenile justice matters.
- Lack of access by legal and welfare stakeholders and service providers to core justice sector agencies in juvenile justice.
- Inadequate numbers of trained lawyers and social workers.
- Limited understanding of the special legal rights of juveniles by justice sector practitioners and juvenile themselves.
- Systems, processes, practices, norms and behaviours employed by justice sector practitioners (police, prosecutors, judges, and courts officials clerks) do not place the best interests of the child before the crime in dealing with CICL.

These challenges are balanced against the many strengths of these agencies and the current and emerging opportunities available. These strengths and opportunities include:

MOJ: High level executive and political support for juvenile justice issues; leadership of CJWG; Close strategic relationship with CCJAP and UNICEF; development of the juvenile justice law; new juvenile register opening more opportunities for further improvement; some nascent project support on data management; and diverse donor support (although this can also present challenges)

CNP: Proactive member of the Child Justice Working Group; close strategic relationship with CCJAP, have the Antihuman trafficking and Juvenile Protection Unit; existing champions of juvenile justice particularly in Criminology Department, Legal Counsel and Anti-Human Trafficking and Juvenile Protection (AHTJP) Department; new Police Act, Juvenile Justice Law, revised Police Operating Procedures Manual; training support from various sources, developing annual plans/business plans; new executive leadership

General Department of Prisons (GDoP): Individual provincial prisons have links with local NGOs to provide some services for juveniles; Executive level political commitment; close strategic relationship with CCJAP, Developing strategies with MOE re educational opportunities; CC2 links with Legal Aid Cambodia (LAC) re legal aid; new draft Corrections law; draft juvenile justice law; developing

partnerships with civil society organisations re training, minimum standards, rehabilitation and reintegration; possibility of improved separation of juveniles if new prison facilities are approved; further implementation of the prison reform strategy that will increase activity for prisoners and increase engagement of NGO services²²;

MoSAVY: Proactive engagement and commitment to the CJWG; strong operational support from UNICEF; long history of training on which to build; Expanded MoSAVY mandate re delinquency prevention, New systems emerging at sub-national levels as a result of the introduction of the organic law, providing increased opportunity to more effective engagement at Provincial levels; M/DoSAVY executive level commitment; emerging stronger regulatory frameworks; existing policy framework for alternate care for CICL²³.

DEFINING JUVENILE JUSTICE AND CCJAP'S APPROACH

Within international discourse on child protection, 'juvenile justice' refers specifically to 'children in conflict with the law' – these terms being used inter-changeably. "Juvenile/child offender" is often used synonymously with these terms. Other issues e.g. regarding child victims and witnesses are commonly referred to in the wider sphere of "child/ren's justice"²⁴. "Child Protection" on the other hand covers much broader issues, including health, welfare, education and status issues, which are beyond a criminal justice focus.

CCJAP follows international practice, defining juvenile justice as those issues surrounding children in conflict with the law²⁵. CCJAP engages on issues of child justice also through its vulnerable groups focussing theme, particularly in the areas of forensics and victim support management; supporting the development of child-friendly environments and processes (in Courts and Police), and in regard to vulnerable groups (e.g. young children in prison with their mothers).

The rationale for CCJAP's focus on juvenile justice is based on the following:

- a) Guided by international discourse, the RGoC has taken a specific approach to juvenile justice (as CICL) in its emerging Juvenile Justice law, and regulatory framework. CCJAP is guided by that framework.
- b) Within the realm of child justice issues, juvenile offenders (children in conflict with the law) are a less attractive client group – the poor cousin in child justice and child protection – compared to the needs of child victims and witnesses, and more broadly the health, education, protection, welfare and status issues addressed in wider child protection imperatives. Donor support and community sympathy for victims and witnesses etc. manifests in greater potential funding sources and consequently a wider range of services, through both formal and informal channels. Child offenders are seen as offenders first, so their issues tend not to attract the same level of attention or support and hence have been neglected. CCJAP seeks to help fill that gap.

²² See Table 2 for a breakdown on data regarding juveniles in detention 2000 – 2008

²³ See also Table 3 for a summary of implications of the juvenile justice law for justice sector agencies

²⁴ "Juvenile Justice: Modern Concepts of Working with Children in Conflict with the Law" - Save the Children (UK)

²⁵ CCJAP's Strategic Framework Document clearly states that a key priority stated by RGOC is to increase the focus on juvenile justice. The SFD identifies the aim to increase the thematic focuson (inter alia) juvenile justice.

- c) Victims and witnesses responses and interventions, apart from forensics and child-friendly environments, tend to sit in the realm of welfare support rather than strictly within a criminal justice paradigm, although of course a close relationship exists between social justice and welfare concerns. As resources expand and capacity develops there will be greater opportunity to address broader issues within a child justice paradigm.

There is an acknowledged overlap at times between child offenders and victims. In certain circumstances a child can be both offender and victim e.g. in cases of human trafficking where children are coerced into committing crimes against other children. In such cases, it is imperative to make a clear distinction in the management of the cases to avoid victims and offenders being handled by the same actors. In other situations, child offenders come from a place of great vulnerability e.g. street children²⁶ – making them potential victims to crime, or criminal influence. Living on the street does not predetermine criminality, but it does place children in position of great vulnerability. In these cases some strategies for assisting victims (street children who are victims of crime) have similar elements to assisting street children who are offenders e.g. in regard to rehabilitation support.

To date, CCJAP's core components have contributed to RGoC development of juvenile justice policies and services through:

- The development of a separate juvenile register in the Courts, and development of associated administrative instructions. Together these measures will result in the beginnings of a de facto juvenile 'court' – providing a special process for the handling of juveniles brought before the Courts. This, together with the juvenile justice law, is resulting in the emergence of a comprehensive juvenile justice system;
- The provision and funding of child friendly support services to Courts;
- Assisting with inclusion of juvenile issues on model court planning;
- Initial assistance with identification of juvenile justice issues in CNP annual planning;
- Initial assistance to help identify hurdles in CNP statistics gathering regarding child offenders;
- Strengthening of infrastructure facilities and rehabilitation and reintegration services in prisons;
- Supporting policy development and enhancing regulatory frameworks to better meet the needs of juveniles e.g. Support to the CJWG led juvenile justice law; review of GDoP procedures manual to better align with current and emerging laws and practices; and
- Supporting crime prevention initiatives at Commune level e.g. in Kandal, Battambang and Prey Veng

The Juvenile Justice Strategy seeks to place these activities, and others, within a broader framework of cumulative and sustained support across justice sector agencies, to address gaps, strengthen collaboration, and improve the flow of justice. In the first instance, this means sharpening CCJAP's focus on juvenile justice in its core components, and addressing some gaps that can be quickly filled e.g. in data development and collection. In the medium term, this means securing some of the major achievements and initiatives developed through CCJAP core components e.g. the Juvenile Court's register, and expansion of core component activities to better address juvenile justice programming (through, inter alia, organisational development initiatives; improvement in statistics management and utilisation). These initiatives will help get the fundamentals right for the long term – enhancing the necessary building blocks upon which to strengthen institutional capacity, to plan for and meet the needs of juvenile offenders, and prepare the way ahead.

²⁶ Mith Samkanh estimates that in Phnom Penh alone, approximately 20,000 children live on the streets of Phnom Penh, either independently, with other children or in family groups.

STRATEGIC OBJECTIVES AND OPPORTUNITIES

There are 3 key areas in Juvenile Justice in which CCJAP can provide support:

1. PROVISION OF STRATEGIC SUPPORT

While the emergence of the Juvenile Justice Law and supporting guidelines and instructions will create the regulatory framework for a juvenile justice system, a national programme of action to implement these regulatory mechanisms is absent. Various pieces of the regulatory puzzle go towards implementation e.g. the Praka on Collaboration and Cooperation, but an agreed programme of action on juvenile justice, diversion and also delinquency prevention, from national to sub-national levels, and from a whole of sector perspective is missing. Such a programme of action would help agencies focus on what they need to do in a practical sense to implement current obligations and to prepare for emerging obligations and approaches under the juvenile justice law. A sectoral programme of action addressing issues in each agency will take implementation of the existing and emerging regulatory framework forward.

Initiatives to improve the management and delivery of, and access to, justice services for juveniles, will have maximum effectiveness if they are established as part of whole of agency reform initiatives. This strategy proposes that ongoing efforts at MOI (CNP and GDoP) in organisational development will continue but with a sharpened focus on juvenile offender issues. It is also proposed that the strategic support which has been provided to MOI over the past 2 years be similarly offered to MOJ²⁷, with simultaneous specific support offered to strengthen its juvenile justice programmes. Similarly, organisational strengthening support to MoSAVVY's juvenile delinquency prevention programme, including to the Youth Rehabilitation Centre (YRC), is recommended.

In addition CCJAP will assist in the facilitation of additional support through strategic alliances with appropriate inter-governmental and non-governmental agencies.

ENHANCING AGENCY CAPACITY TO IMPROVE ACCESS TO JUSTICE AND JUSTICE SERVICES FOR JUVENILES

All justice sector agencies need assistance to identify current and emerging obligations to better meet the needs of CICL²⁸; assess the resource needs to meet these obligations; and develop and/or strengthen organisational capacity to address these needs. It is recommended that MoJ be supported to secure juvenile justice programmes firmly within the Ministry, with adequate resourcing, and to strengthen and extend the work of the CJWG. This must be done in the wider context of organisational development in MOJ – initiatives to strengthen and secure support to

²⁷ Ref: CCJAP SFD (2007 review): Scope of future support: “renewed focus on supporting strategic planning and management capacity development within the MoJ (including executive development)”

²⁸ The obligations under the draft juvenile justice law already exist under the CPC but are elaborated on in the new law (except in regard to diversion, the role of lawyers and social workers which is more pronounced under the juvenile justice law). Organisational development activities aimed at preparing agencies for the passage of the juvenile justice law therefore need not wait for the passage of that law, as those obligations already exist in the CPC but are not adequately met by agencies.

juvenile justice without addressing fundamental organisational weaknesses will jeopardise assistance in the long term. However, simultaneously strengthening capacity to service juvenile justice initiatives within MOJ can be used to model wider reforms e.g. in statistics and data management²⁹ and resource assessments for MOJ planning purposes, and should be pursued without delay.

Continued organisational strengthening support should sharpen its focus on juvenile justice issues within MOI (CNP and GDoP) e.g. in strategic³⁰ and annual planning. CNP and GDoP need to identify options to focus agency activity regarding juvenile offenders (focal point/unit); identify and secure appropriate resources, including assistance to facilitate engagement with NGO service providers, and develop programmes to ensure roll-out of juvenile justice initiatives to the sub-national level (i.e. Provincial and District units in CNP and Provincial Prisons). Consideration needs to be given as to how CICL are managed at an operational level in CNP – there is some confusion over the role of the Antihuman Trafficking and Juvenile Protection Department (AHTJPD) – some juvenile offences are handled by this unit while others are dealt with through the Criminal Department. There is also an inconsistent approach both at national and sub-national levels. In GDoP, particular attention needs to be paid to juvenile justice issues. The statistics show that the annual percentage increase of juvenile detainees from 2000 – 2008 is nearly twice that of the projected annual increase for the general prison population (12.51% cf 7.6%)³¹. This has implications for planning and resources in the future, and requires specific attention.

Significantly, a closer relationship with MoSAVY is required to support its juvenile delinquency prevention programme, including organisational development assistance to the Youth Rehabilitation Centre (YRC). Strategic planning, human and financial resources development, programme planning and budget planning to MoSAVY's YRC will support other partner initiatives (re: operational performance and social worker skills training) to enhance overall management and performance of the YRC, in preparation for a planned rollout of the YRC model in the coming years³². Proposed assistance will be provided to HQ management and planning responsibilities of the YRC, with the aim of improving its organisational management before the YRC is replicated in other provinces. Also MoSAVY's juvenile delinquency prevention programme is in its infancy. CCJAP support to help

²⁹ In collaboration with EWMI PRAJ's justice information management assistance initiatives

³⁰ Neither CNP nor GDoP strategic plans address juvenile justice issues. This can be rectified to a certain extent with appropriate reference in annual planning processes and documents.

³¹ The reasons for this difference need to be further researched. Application of the 2002 Aggravating Circumstances law may have influenced this statistic; a more punitive approach may also help explain it. However, without comparable statistics from Police and Courts it is impossible to ascertain the real reason for this. Is there a similar increase in the number of children apprehended by police/gendarmerie/other judicial police?; are more children being charged rather than released?; are the Courts taking a more punitive approach towards child offending than adult offending in an attempt to deter juvenile offending? Without comparable, consistent data the answers to these questions is allusive and interventions can only be reactive rather than proactively and preventative.

³² Ref: CCJAP SFD (2007 review): "Strategies to increase the focus on these groups (juvenile justice, victims and other vulnerable groups) were considered, and the view reached that these should include stronger engagement with MOSAVY, UNICEF and with NGOs working on related issues (particularly at the community/commune level). "It is also believed that MOSAVY should be more directly engaged (and as appropriate supported) given their key mandate with respect to juvenile justice and child welfare".re Component 2: Youth Diversion: "The primary point of engagement in the short to medium term will be MOSAVY and the 'Youth Rehabilitation Centre' outside Phnom Penh"; and re scope of future support: "There is also a need to engage with MoSAVY on youth diversion, rehabilitation and re-integration programs".

articulate that programme would enhance collaboration and coordination between MoSAVY and CCJAP particularly at sub-national levels.

At the same time as providing assistance in these specific areas, the CJWG should be supported to develop a sector-wide programme of action to implement recent and emerging reforms, including strategies for implementing the emerging juvenile justice regulatory mechanisms; scheduled actions with timeframes; identification (and if necessary establishment) of mechanisms and resources to achieve juvenile justice imperatives; and a framework to monitor and evaluate initiatives.

INCREASED STRATEGIC AND OPERATIONAL ALLIANCES

Strategic Alliances

The mapping of actors in juvenile justice in Cambodia indicates that there are relatively few agencies – be they Governmental, inter-Governmental or non-Governmental – engaged specifically in juvenile justice issues. The reasons for that are explained above. Of all the agencies, UNICEF is the lead, having the only Government endorsed comprehensive programme systematically addressing juvenile justice issues (within its child protection programme) at both national and sub-national levels. CCJAP has in the past had a close and collaborative relationship with UNICEF. This close relationship should continue, while also identifying any emerging strategic partners i.e. partners that have comprehensive programmes in juvenile justice operating at tertiary levels.

Operational Alliances to help enhance service delivery and improve access to justice

At an operational level i.e. at primary (service delivery) or secondary (support to RGoC institutions) a number of service providers (NGO's) are engaged, or could potentially engage, in juvenile justice issues (see the Map attached at the end of this document). CCJAP should continue to help identify and support appropriate partners on juvenile justice issues, and facilitate where possible, increased dialogue and engagement between RGoC counterparts and civil society to facilitate policy development, service delivery, and activity planning and resource allocation.

The mapping of current and potential partners and their activities in juvenile justice, executed during the development of this strategy, offers a useful resource for increased coordination and collaboration, partnering, information sharing and service delivery. The map³³ links those activities and agencies to CCJAP components and justice sector agency initiatives to implement the LIRS strategy. It also identifies potential NGO partners in CCJAP³⁴ key provinces.

2. STRENGTHENING THE KNOWLEDGE BASE

Without reliable, consistent, sufficient, and relevant information on juvenile offending, initiatives to improve policy and practices will fall short of expectations. A variety of information sources on juvenile justice currently exist both within and outside Government, but the data is not consistently categorised so that whole of sector assessments can be made, and is not being used to effective plan

³³ See Attachment at end of document

³⁴ Excluding Kampong Chham which was only just added to the CCJAP list of key provinces at the 28 January 2009 meeting of the National Management Board

and resource initiatives. Improved monitoring on juvenile justice will add to the pool of knowledge and provide a structure within which to receive and measure data. This strategy seeks to build the information base and effective utilisation of information in this sector, in 5 ways:

- (i) **Data collection, handling and use for planning and budget purposes:** There are significant data gaps in regard to CICL and weaknesses in all key institutions regarding data utilisation for planning and budgeting purposes. The juvenile justice strategy proposes that CCJAP;
 - working with other partners as appropriate, continue to support justice sector agencies to improve their statistics and data management process, paying particular attention to juvenile justice issues;
 - model activities on data collection, collation handling and use for planning in regard to CICL for replication more broadly across agencies;
 - support efforts to improve consistency of data categorisation across RGoC agencies; and
 - facilitate the development of protocols for sharing of justice sector data on juveniles.
- (ii) **Information sharing:** There are significant hurdles to information sharing. Incompatible data collection systems = poor planning and coordination. A great need exists for inter-agency collaboration on juvenile issues, i.e. Government, non-Government and project activities (there are a small range of projects being piloted – a few older projects also – but they are not all that well coordinated nor are lessons learnt from those activities being very well documented or shared). It is proposed that CCJAP support efforts to identify and support national coordination measures; and facilitate civil society engagement at both a policy and an operational level.
- (iii) **“Knowledge for work”:** There is an ongoing need for support in all judicial agencies in training and awareness raising in regard to CICL, and to provide best practice models and examples for application in the work place. Judges need awareness raising type training – this has proven very successful over the recent past with judges beginning to be more sensitive to the particular needs and circumstances of young offenders as well as victims and witnesses; police and prisons staff need more direct operational training on how to handle juvenile offenders. Police have had some training (continuing through World Vision) in the handling of juvenile victims and witnesses through their Anti-Human Trafficking and Juvenile Protection Department, but little if any training in the handling of juvenile offenders which is a different issue; Prosecutors and lawyers need training on the new laws also. Commune officials will also need training (re: diversion) to create a conducive environment at local levels to receive CICL that are diverted from the formal justice system. It is proposed that CCJAP support, and or lead, where appropriate, continuous learning initiatives in juvenile justice.
- (iv) **Monitoring and Evaluation:** the adoption of indicators at a national level will require agencies to collect and produce data to verify those indicators, thus increasing the data available to the pool of knowledge on this issue. Adoption of CCJAP indicators will facilitate the collection of agency data for this purpose.
- (v) **Research Support:** Knowledge gaps can be usefully filled through specific research initiatives to progress CCJAP and RGoC initiatives e.g. models of dispute resolution across Cambodia (consistent with LJRS Objective 6) and how these might be used in the future for low level dispute resolution in regard to juvenile offending or delinquency³⁵; Rehabilitation and reintegration opportunities for juvenile detainees (how many juveniles are actually receiving rehabilitation support; what are the International Labour Organisation (ILO) standards applicable to juvenile labour and vocational training in rehabilitation; community based support for reintegration of juvenile detainees post sentencing, etc. It is proposed that

³⁵ The draft juvenile justice law makes provision in the future for juvenile diversion through community based mediation processes.

CCJAP support research proposals through its FSF funding mechanism. In addition, existing qualitative and quantitative data sources should be better utilised³⁶.

3. PREPARING STAKEHOLDERS FOR CHANGE

The anticipated juvenile justice law which is currently in final drafting stage with the CJWG, is expected to pass from the MOJ by June 2009. Shortly thereafter promulgation of the law is expected. The implications for justice sector practitioners, including social workers and lawyers, are summarised in Table 2. The law is consistent with the existing Criminal Procedure and Penal Codes, so presents only a marginal change in law to the handling of juvenile offenders (changes in approaches and attitudes are still required). The most significant change however is in the area of legal and welfare support for CICL, and introduction of juvenile diversion (diversion for juveniles that have committed petty offences or misdemeanours). Diversion is not offered for felony offences. Placement options (either in open facilities or under community/parental supervision) of CICL that are diverted from the formal criminal justice system, are few and far between (open facilities) or unstructured (community/family based care). This strategy proposes that support be offered to MoSAVY and at community levels, to prepare for juvenile diversion at sub-national and local levels. The strategy also calls for ongoing training support to justice sector actors on diversion.

It is proposed that primary support will be provided through the CPCS component of CCJAP for the development of community based initiatives in partner provinces.

CCJAP CPCS Component can support CPCS Commune facilitators to;

1. help **identify needs** at local levels re juvenile offenders
 - a. What is the nature of juvenile delinquency at local levels
 - b. What are appropriate responses to juvenile offending given the nature of delinquency and available resources at local levels
 - c. What specific support do particular communes/villages need e.g. re gangs, in crime prevention programmes
 - d. How to source /access the required support e.g. through CIP processes
2. Utilise existing and supported mechanisms to **deliver messages and launch pilots re diversion and /or alternative sentencing through commune projects** directed at CWCC / Women and Children's focal points³⁷ and private sector/non-governmental sector. Commune level outreach to increase demand for and create a conducive environment to receive/operate diversion and alternative care/sentence programmes is critical. It would also be useful to research existing and planned alternative dispute resolution (ADR) mechanisms, (e.g. United Nations Development Program (UNDP)'s Alternate Dispute Resolution Project³⁸), with a view to utilisation of these mechanisms for low level criminal offending by juveniles.

These initiatives will support a nascent juvenile delinquency prevention programme at MoSAVY. The above mentioned community based support will help inform the development of MoSAVY's juvenile

³⁶ Data at Domrei Research and the Centre for Social Development has not been mined by CCJAP. Both agencies have a store of extensive qualitative and quantitative data that should be more systematically utilised by CCJAP, and counterpart agencies.

³⁷ The WCFP is one of 2 legislated positions within the Commune Council (WCFP and Chief) so this is the main point of contact that is embedded in the D&D system. Utilising existing and entrenched mechanisms is essential to sustainability of juvenile justice initiatives.

³⁸ For more information on the UNDP A2J ADR project see www.un.org.kh/undp

delinquency prevention programme, and provide opportunities for close collaboration with MoSAVY, particularly at the sub-national level.

The strategy also asks for support to MoSAVY to improve its operational and programme development. The proposal is to help MoSAVY institute organisational practices and procedures at the YRC with accompanying executive training on organisational development and management. Once YRC management has improved, it is proposed that assistance be provided to help develop business plans (and possibly feasibility studies) for the two new YRC facilities planned for 2012/3. All CCJAP engagement on this issue will be conducted with MoSAVY HQ.

COMPONENT OBJECTIVES AND ACTIVITIES

COMPONENT OBJECTIVES IN JUVENILE JUSTICE

The following articulates each component objective, with specific juvenile justice objectives for that component indicated below³⁹:

C1: To support the capacity of RGoC to effectively develop, coordinate and monitor the implementation of sector-wide legal and judicial reform.

- *Contribute to the expansion of the knowledge base on juvenile justice;*
- *Support increased access to justice for juveniles in Model Courts planning*
- *Contribute to sector monitoring on juvenile justice ;*
- *Contribute to improved coordination, collaboration and information sharing;*

C2: To establish sustainable, collaborative crime prevention and community safety initiatives.

- *Assist in development of community based diversion/alternate sentence options at Provincial level*
- *Assist MoSAVY strengthen its non-custodial care centers and its developing juvenile delinquency prevention programme*

C3: To strengthen the capacity of the Cambodian National Police to identify and respond to community, national and regional priorities

- *Assist in improvement of access to justice and service delivery to juveniles in contact with law enforcement personnel and agencies, through strategic and operational support*

C4: To strengthen the capacity of Ministry of Justice to effectively support the courts in delivering timely and equitable access to justice.

- *Assist MoJ through institutional strengthening and organisational support to improve management of juvenile justice issues in the context of wider institutional reforms;*
- *Assist in improvement of access to justice and service delivery to juveniles in contact with all Courts and Courts based personnel;*
- *Assist in sector wide implementation of juvenile justice initiatives through the development of a programme of action*

³⁹ See Table 4 for more detail

C5: To strengthen the capacity of the General Department of Prisons (GDoP) to identify and respond to prison management priorities, the physical and mental health needs of prisoners.

- *Assist in improving access to justice and delivery of justice services to juvenile offenders in prisons*

C6: Support effective project implementation, achievement of results, accountability for resource use and the sustainability of benefits

- *Enhance project M&E on juvenile justice issues*

COMPONENT ACTIVITIES IN JUVENILE JUSTICE

Component activities cover initiatives that can be taken in the immediate term, short term and medium-long term. Continuation of CCJAP current activities with a sharpened focus on juvenile justice issues can begin immediately; activities that expand or complement current activities are proposed for 2009, with an expectation that these will be progressed in following years. Activities based around organisational development will take some time to establish (medium – long term) and initiatives to prepare for the future require some medium-long term preparation and implementation.

Table 4 sets out the range of proposed activities, proposed implementation periods and suggested resources implications. Most immediate and short term activities could be undertaken by existing long term and short term advisers. Only additional short term specialist assistance is indicated.

Proposed activities focus around:

- Securing key achievements in juvenile justice, particularly implementation of the juvenile registers in all Courts
- Strengthening of juvenile justice capacities within key justice and welfare agencies, including juvenile justice needs and resource assessments for budgeting and planning purposes
- Continuing assistance in the development of strategic planning and policy tools
- Contributing to increasing the knowledge base around juvenile justice and CICL by assisting in improving data, statistics and information handling and sharing; and sponsoring research where required, at national and the sub-national (Provincial and Commune) levels, particularly to facilitate the development of evidence based initiatives,
- Supporting the improvement of coordination efforts in relation to juvenile justice, including assistance to facilitate engagement with non-state actors,
- Ongoing, and possibly new, capital works initiatives with particular attention given to the needs of CICL
- Continued support to specific training initiatives, either as lead or supporting agency

MONITORING AND EVALUATION

A range of national level indicators (Annex B) informed the development of the child justice database located in the MOJ. An initial attempt was made to verify these indicators in 2005, but was limited due to the lack of data then available. The 2005 attempt however, provides a useful baseline from which to measure progress to date. Unfortunately the database has suffered some challenges, but is currently being reviewed. Efforts to align that database with the Juvenile Court's register are ongoing. However, these indicators, and data emerging from the database, may in the future inform

national level M&E processes in juvenile justice, and offer verification for proposed JMIs under the IMS⁴⁰, support for which is proposed in this strategy.

CCJAP can contribute to national level monitoring on juvenile justice, by establishing its own project indicators specifically related to CCJAP's contribution in this area⁴¹. Some suggested project indicators are:

- Establishment and staffing of specific units/focal points mandated to address juvenile offender/CICL issues in key justice sector agencies.
- Increase in commune/district/Provincial initiatives related to juvenile delinquency prevention or alternate sentencing/diversion.
- All key justice sector agency strategic and operation policy documents (e.g. strategic plans, business and annual plans etc) address relevant issues related to juvenile offending within their mandates.
- Improved statistics collection, collation and utilisation in regard to juvenile offenders.
- Alignment of justice sector agency statistics and data collection systems to improve data sharing across agencies/increase in sharing of juvenile offender data across agencies.
- Increased formal reporting on juvenile defendants brought before the Courts through the Juvenile Register initiative.
- 100% separation of juvenile detainees (pre-trial juvenile defendants (remandees) and sentenced juvenile detainees and separation from adults) in prisons, and at Police holding cells.
- 0% occurrence of excessive physical force used against CICL at Police units and Prisons.
- Xx percentage increase in access of juveniles to educational and vocational training, and other rehabilitation and reintegration services in prison.
- 100% improvement in delay in processing /extracting final judgement in the case of juvenile offenders.
- Increased justice sector agency engagement with civil society organisations.

Further work can be done to assure alignment of indicators, and monitoring processes.

SUSTAINABILITY

A range of the proposed initiatives in this strategy will help ensure a sustained effort at improving the delivery of justice sector services and policies to the RGoC.

At the national level, the inclusion of specific JMI's on an annual basis in the IMS process, will keep agencies focused on juvenile justice outcomes (and the measures that need to be taken to achieve those outcomes). CCJAP project indicators would support this.

At an institutional level, securing the place of juvenile justice within key agencies organisational frameworks with appropriate resourcing, is critical to keeping agencies focused on what is otherwise an easily overlooked client group i.e. CICL. Key to this is securing and strengthening the role of the CJWG as a coordination body specific to justice sector agencies engaged in juvenile justice, with possible future expansion of its role to advocacy, monitoring, and implementation of the juvenile justice law.

⁴⁰ In Q3 2009 the CJWG will be considering a package of JMI's to be presented to the LJRS Technical Working Group (TWG) on an annual basis to inform the LJRS IMS. If adopted as annual JMI's this package of indicators will help secure juvenile justice reforms in the national law and justice sector reform process.

⁴¹ CCJAP SFD recommended the development of "key 'result' indicators" in juvenile justice to ensure project focus on this issue.

At national and sub-national levels, sustainability of juvenile justice initiatives rests on ensuring the utilisation of existing processes and mechanisms. At the Commune level this means working with the Commune Council Women and Children's Focal Point⁴², and where they exist, Women and Children's Committees. This mechanism can be used to help secure empirical evidence of challenges, needs, and potential solutions to juvenile delinquency and crime, which can then be included in Commune Investment Planning processes, and which will help inform MoSAVY's developing juvenile delinquency prevention programme. The development of a sector-wide programme of action will assist agencies identify the resources needed and actions necessary to implement those current and emerging issues in the long term.

Improving data and statistics management will provide the evidence necessary for future planning and resourcing, and facilitating operational alliances with non-Government agencies will assist in providing the resources necessary to take juvenile justice initiatives forward in the short-medium term. Again, improvements in information management will help Government agencies better plan and predict resource implications.

IMPLEMENTATION

IMMEDIATE

- Sharpened focus on juvenile justice perspectives in current CCJAP project activities, including re Model Courts, CNP and GDoP strategic and operational planning exercises, development of CPCS planning initiatives (e.g. MoAs) at Provincial levels.

SHORT -TERM (2009)

- Secure focal points within justice and welfare agencies.
- Secure current initiatives in juvenile justice e.g. Courts register; prisons initiatives; data and statistics management.
- Initiate research projects /mine existing data sources.
- Facilitate alliances with civil society actors (at both policy and service delivery levels) where appropriate.
- Support / continue training initiatives, focussing on training on juvenile justice.
- Revisit juvenile justice indicators in CCJAP's M&E framework and modify as necessary.
- Begin procedures to initiate medium – long term institutional strengthening and organisational development support to MoJ and MoSAVY.

MEDIUM/LONG TERM (2010+)

- With other partners, prepare the ground for longer term initiatives

⁴² Apart from the Commune Chief this is the only other elected position that is secured by regulation i.e. every Commune is required to have a WCFP. If a woman was not elected through the Commune Council election process, to take up this position, an appropriate woman is appointed to serve in this post.

Table 1: Recent Data on Court's Performance in Juvenile Justice⁴³

Number of juvenile Cases (Both misdemeanor and Felony):			217
NUMBER OF JUVENILES IN PRE-TRIAL DETENTION			
Court of first instance:			169
Appeals Court:			44
Supreme Court:			4
PRETRIAL DETENTION			
	<6Months	6Months - <12Months	More than 12 Months
Appeals Court	0	12	32
Battambang	18	1	
Kompong Cham	9	4	
Kampot	7	4	
Kandal	4	5	1
Phnom Penh	42	31	
Siem Reap	25	11	
Sihanouk Ville	2	5	
Supreme Court	1	1	2
Sub-Totals	108	74	35
		TOTAL:	217
% of juveniles with access to lawyer during pre-trial detention (investigation judge)among 217 juveniles			
Court of first instance:			45%
Number of juvenile access to lawyer at trial (Both Misdemeanor and Felony cases) among 297 Juveniles			
Court of first instance:			79.12%
Outcome of the Trials among 297 juveniles			
Custody:			82.15%
Acquittal:			10.77%
Alternative Sentence:			7.07%
Juvenile at Appeals Court (Total 56)			
Appeals court	Acquittal	Guilty	N/A
	5	49	2
	8.93%	87.50%	3.57%
Total:			56

⁴³ Center for Social Development, Court Watch Project (data covering 9 Courts only)

Table 2: Juveniles in detention 2000 – 2008⁴⁴

Year (data taken at the end of each year)	Juvenile Detainees	No +/-change pa	% change pa
2000	230		
2001	232	2	0.9%
2002	252	20	8.0%
2003	270	18	6.7%
2004	257	-13	-5.1%
2005	394	137	34.7%
2006	505	111	22.0%
2007	646	141	21.8%
2008	727	81	11.1%
Total	3513	497	
Average per annum increase 2000-2008			12.51%

⁴⁴ Statistics obtained from the General Department of Prisons

Table 3: Summary of Implications of the juvenile justice law for justice sector agencies

AGENCY	IMPLICATIONS
Police	Police are encouraged under the law to avoid taking juveniles into custody, except in exceptional circumstances (or in flagrant delicto cases – this is still being discussed – some flagrant delicto cases are petty offences so should be divertible). Police are required to advise juveniles of their legal rights. Police are required to allow access by parents, lawyers and social workers to the juvenile.
Prosecutors	Prosecutors are encouraged to avoid charging a juvenile except in exceptional circumstances. Prosecutors are offered the opportunity to divert a juvenile to alternate proceedings rather than lay a charge
Investigating Judges	Investigating Judges are encouraged to avoid progressing juvenile cases if diversion can be applied. Investigating Judges are encouraged to file the case without processing in all but exceptional cases (misdemeanours that have caused serious harm and felonies, or where diversion has been attempted previously but failed)
Trial Judges	Trial Judges are also given the opportunity to attempt diversion, rather than go to full trial. Successful diversion will result in the case closed. Failed diversion will result in normal criminal justice procedure applying. The draft juvenile justice law encourages trial judges to use alternative sentence options available under the Criminal Procedure Code (and draft juvenile justice law)
Prisons Officers	Prisons Officers are required to continue to meet international standards, but are also encouraged to collaborate and cooperate with social workers and lawyers to ensure that juvenile prisoners receive all measures to ensure that their best interests are met eg education, rehabilitation and reintegration assistance.
Social Affairs/Social Workers	<p>The draft juvenile justice law places a great deal of responsibility on social workers and on M/DoSAVY social officers. In order to protect a child's best interests, juvenile offenders are entitled under the draft juvenile justice law to the support of a social worker throughout all proceedings in the criminal justice system, including upon first contact with police; and in all interviews with judicial agencies, through the process of diversion, through the trial, at sentencing and through periods of incarceration. Social workers are also asked to provide rehabilitation support during periods of incarceration and to assist with reintegration post-release from prison.</p> <p>Social Officers from M/DoSAVY are required under the draft juvenile justice law to provide oversight and monitoring functions to all social workers (from either M/DoSAVY or non-government agencies) that have any engagement with juvenile offenders.</p>
Lawyers	<p>Juvenile offenders need greater protections than adult offenders in the justice system, simply because they have less ability to understand the legal implications of their actions. They have less ability to understand the consequences of their crime and they have less ability to understand the implications of the legal processes in the criminal justice system. They are hence more likely to do and say things that are detrimental to themselves. The draft juvenile justice law aims to protect juvenile offenders by providing for legal representation from the first point of contact all the way through the justice system. This requirement presents a major challenge to Cambodia. There are only 550 (estimated) lawyers that have been admitted to the Bar (i.e. only 550 that can represent clients in the criminal justice process). Only 350 (estimated) of these are currently employed in legal representation. The dearth of lawyers in Cambodia presents a significant challenge to access to justice, particularly for the poor and for juveniles.</p>

Table 4: Component Activities: Juvenile Justice

COMPONENT AND COMPONENT STRATEGIC OBJECTIVES IN JUVENILE JUSTICE			TIME FRAME	PROPOSED RESOURCES (all within existing resources except where indicated)
Facilitate improved coordination, collaboration and information sharing	1. Facilitate collaboration and coordination of juvenile justice issues between Govt and civil society partners	Support PMU efforts to engage with partners on juvenile justice and law reform issues	Imm+	
C2: Assist in development of community based diversion/alternate sentence options at Provincial level	1. Facilitate provision of services by NSA's thru PSDC against identified needs stated in CIP processes 2. Facilitate identification of appropriate responses to juvenile delinquency and crime at Commune and Provincial level ⁴⁵	Using Government sources of information and research, assess the causes of and appropriate responses to juvenile delinquency in partner provinces, (with Govt and inter-Governmental agencies, and civil society). Develop guidelines /booklets/SoPs for use at Community level, to respond to minor juvenile offending and delinquency. Assist Commune's to secure resources to enhance initiatives to prevent delinquency, through Commune Planning processes.	2010+	
C3: Assist in improvement of access to justice and service delivery to juveniles in contact with law enforcement personnel and agencies through strategic and operational support	1. Ensure inclusion of adequate reference to juvenile offenders, in addition to victim, issues in the emerging Police Act	Assist CNP to review the draft police Act from a juvenile justice perspective ensuring that juvenile offender and victims issues are adequately reflected in the new law	Imm+	
	2. Continue with development of CNP	Assist CNP with finalisation of business planning with	Imm	

⁴⁵ Supports MoSAVY's planned activities 2008-2013

COMPONENT AND COMPONENT STRATEGIC OBJECTIVES IN JUVENILE JUSTICE			TIME FRAME	PROPOSED RESOURCES (all within existing resources except where indicated)
	Business plans, ensuring an adequate focus on juvenile offending issues	inclusion of juvenile justice focus.		
	3. Help enhance operating procedures re juvenile offenders through input to the draft Police Operating Procedures Manual	In collaboration with partners, provide juvenile justice inputs to adjust (where necessary) and implement PoP manual	2010+	
	4. Review of CNP head Office and provincial level offices structure to provide a focus on juvenile offenders	Assist CNP to assess current practices at National and Provincial level for the handling of juvenile offenders, and devise best approach for management of CICL ⁴⁶	2010+	
	5. Strengthen and support CNP Criminal Investigations, Criminology and Statistics Department to assist in improvement of data collection and analysis	Support to assist in improvement of statistics gathering at provincial level. Continue to work with CNP on improving statistics gathering system, paying particular attention to the disaggregation of data on CICL, in particular disaggregating thefts and robberies into smaller more informative units of information	Imm+	
	6. Address problems associated with statistics and information sharing within CNP and with outside organisations/agencies	Facilitate improvement of access to CNP information – where appropriate – to other justice sector agencies. Facilitate statistics and information sharing with non-State actors through enhanced NGO/civil society collaboration.	2010+ 2010+	
C4: Assist MoJ through organisational support to improve	1. Provide strategic planning organisational management support to MOJ to (a) assess and	Work with senior MoJ executives to identify LJRS priorities and how to address these within	2010+	STA – Org. developmt and STA – Strategic

⁴⁶ Supports LJRS long term strategic objective 1.2.4 and recommendations from the National Workshop on Cooperation and Collaboration among Juvenile Justice Stakeholders (2007)

COMPONENT AND COMPONENT STRATEGIC OBJECTIVES IN JUVENILE JUSTICE			TIME FRAME	PROPOSED RESOURCES (all within existing resources except where indicated)
<i>management of juvenile justice issues in the context of wider organisational development initiatives</i>	recommend a programme for significant strategic organisation improvement and executive development and (b) to firmly secure the CJWG within MOJ core structure	existing resources; make recommendations for organisational change; work with senior executives to progress organisational review, and within the context of an organisation wide review, recommend and assist implementation of measures to secure and strengthen the juvenile justice programme within MoJ, including needs and resource assessment.		Planning
	2. Within the context of organisation development, assist MoJ to develop effective ethics and standards monitoring mechanisms to facilitate improved judicial performance.	Assist MoJ to identify and decide upon which department in MoJ is to monitor which Courts/processes.	2010+	
<i>Assist in sector wide implementation of juvenile justice initiatives through the development of a national programme of action</i>	3. Assist MOJ to strengthen the role of functions of the CJWG(including a role to measure performance in juveniles areas and train judges etc on ethics in relation to juveniles etc)	Support MOJ to prepare revised TORs on the roles and functions of the CJWG for consideration by the Minister. Support the CJWG members to draft a sectoral action programme for practical implementation of the current and emerging obligations	Q3-4 2009+ 2010	
<i>Assist in improvement of access to justice and service delivery to juveniles in contact with all Courts and Courts-based personnel</i>	4. Secure full implementation of the juvenile register in Kandal (with later roll out to all Courts) along with supporting administrative instructions and guidelines ⁴⁷	Continue supporting implementation of the juvenile register in Kandal, with roll out to other Courts in Q3 2009. Support MoJ to complete supporting administrative instructions and guidelines as part of the Courts Handbook.	2009+	
	5. Assist MoJ to develop measures to ensure	Investigate measures required to improve timely	Imm+	

⁴⁷ Supports LJSR Strategic Objective 5.3.3

COMPONENT AND COMPONENT STRATEGIC OBJECTIVES IN JUVENILE JUSTICE			TIME FRAME	PROPOSED RESOURCES (all within existing resources except where indicated)
	timely release of extract of judgements from Courts	extract of judgements from Courts and draft necessary protocols/procedures, with enforcement measures.		
<i>Increase access to justice for juveniles in Model Courts planning</i>	6. Assist Model Court TWG enhance its focus on improving access to juveniles	In collaboration with partners develop a range of measures to assist model court planning to increase access to justice for juveniles including physical and procedural measures, and to allow for increased access to juveniles during Courts proceedings by support people.	Imm ⁴⁸	
	7.			
<i>C5: Assist in improving access to justice and delivery of justice services to juvenile offenders in prisons.</i>	1. Juvenile justice inputs to draft corrections legislation, strategic planning, annual planning/reporting and administrative processes, including review of GDOP Head Office structure to provide a focus on juvenile offenders	Review of existing and draft strategic documentation from a juvenile justice perspective. Discussions with GDoP on need to focus policy and resources on juvenile offender issues within GDoP HQ.	Imm+	
	2. Juvenile justice inputs to the review and development of training and executive development procedures and manuals. Support ongoing and enhanced training for Prisons Officers on juvenile offenders	Review existing and proposed training manuals, procedures and plans, and develop revised training programmes. Seek advice and expertise from key stakeholders, donors and NGOs.	2010+	
	3. Continued assessment and development of adequate facilities for juveniles at national and provincial level	Continued Capital works activity in a number of prisons to provide better cell accommodation for juveniles. Provide assistance to GDOP in development of business case for new prison farm,	Imm+ 2009+	

⁴⁸ Immediate implementation

COMPONENT AND COMPONENT STRATEGIC OBJECTIVES IN JUVENILE JUSTICE			TIME FRAME	PROPOSED RESOURCES (all within existing resources except where indicated)
		including establishment of juvenile R&R activities ⁴⁹ .		
	4. Sponsor research into rehabilitation and reintegration	Assist GDoP to develop TORs for study into the current status of juvenile rehabilitation and reintegration programs and make recommendations for future directions (including needs assessment, data on provision of services, and the implications of international labour standards) ⁵⁰ .	2010+	FSF funded research
	5. Support GDoP initiative to increase engagement with civil society.	Continuing assistance to implement the Prisons reform strategy which will increase opportunities for NGO engagement ⁵¹ Assist GDOP to partner with key stakeholders to plan and implement pilot juvenile R&R ⁵² project in CC2. Assist in assessment and provision of educational opportunities in partner prisons facilities.	Imm+	
C6: Enhance project M&E on juvenile justice issues	1. Develop CCJAP specific indicators using existing data sources to support verification of juvenile justice specific JMI ⁵³	Develop relevant and measurable project indicators on juvenile justice Adjust M&E framework	Q3-4 2009	

⁴⁹ Supports Prison Reform Strategy Objectives 2 & 4

⁵⁰ Supporting the Corrections Management System

⁵¹ Supports Prison Reform Strategy Objectives 6

⁵² Supports Prisons Reform Strategy Objectives 4 & 6

⁵³ Supports LJSR Strategic Objective 7.4.1 and long term strategic objective 3.1.1

Annex A: List of Stakeholders Consulted

Justice Sector Ministries	
H.E. Ith Rady, Under Secretary of State	Ministry of Justice (MOJ)
H.E. Kong Chan	Ministry of Social Affairs Veterans and Youth Rehabilitation (MOSAVY)
Pol. Maj. Gen. Bith Kim Hong, Director of Anti-Human Trafficking And Juvenile Protection Department	Ministry of Interior - General Commissariat of National Police
Lieutenant Suy Sokhunthea, Chief of Administration Office, CID	Ministry of Interior (MOI) – General Commissariat of National Police – Crime Investigation Department
Col. Keng Sokun, Deputy of Crime Investigation Department, CID	Ministry of Interior (MOI) – General Commissariat of National Police – Crime Investigation Department
Ney Dara Nhil, Deputy Chief of Criminology Office – CID	Ministry of Interior (MOI) – General Commissariat of National Police – Crime Investigation Department
Chan Vibol, Deputy Chief of Admin Office – CID	Ministry of Interior (MOI) – General Commissariat of National Police – Crime Investigation Department
H.E. Gen. Heng Hak, Director General, General Department of Prisons and staff	Ministry of Interior (MOI)
CCJAP Staff	
Mr. Stephen Moore, Deputy Team Leader – CCJAP III	CCJAP III - Ministry Of Interior (MOI)
Mr. Ben Schultz, Capacity Building and Aid Effectiveness Adviser	CCJAP III - Council of Ministers – Council of Legal And Judicial Reform
Mr. Ian McPhee, Court Adviser	Ministry of Justice (MOJ)
Mr. Ian Bate, Police Adviser	CCJAP III - Ministry of Interior - General Commissariat of National Police
Ms. Cheryl Clay, Prison Adviser	CCJAP III - Ministry of Interior (MOI) – General Department of Prisons
Mr. Huot Veng Chan, Project Officer	CCJAP III - Ministry of Interior - General Commissariat of National Police
Mr. Lam Kun Both, Project Officer – Prison Management	CCJAP III - Ministry of Interior (MOI) – General Department of Prisons
Mr. Yan Sokha, Project Officer	CCJAP III - Ministry of Justice (MOJ) – Court
Mr. Chor Siek Veng, Project Officer	CCJAP III - Council of Ministers – CLJR
Mr. Heng Jolie, Senior CPCS Coordinator	CCJAP III - Ministry of Interior (MOI)
Ms. Chrea Dalya, Project Officer	CCJAP III - CPCS Kandal
Intergovernmental Agencies	
Mr. James Turpin, Human Rights Officer	United Nations – OHCHR
Mr. Vong Ton, Legal Associate	United Nations – OHCHR
Mr. Hong Sokheng, ADR Trainer/Coordinator	UNDP – Access To Justice Project
Ms. Lesley Miller, Head of Child Protection Section	UNICEF – Child Protection Section
Ms. Ana Janet Sunga, Project Office, Legal Protection	UNICEF – Child Protection Section
Non-Governmental Organisations	
Ms. Sharon Wilkinson, Country Director	CARE
Mr. Vannara Ouk, Country Director	EVERYCHILD
Mr. Rajan Shah, Deputy Chief of Party and Access To Justice Advisor	East West Management Institute (EWMI) – Program on Rights and Justice (PRAJ)
Mr Mark West, Justice Information Adviser	East West Management Institute (EWMI) – Program on Rights and Justice (PRAJ)
Ms. Rebecca Stankowski, Protection Advisor	Hagar
Mr. Sebastien Marot, International Coordinator	Friends International
Mr. Thary PRUM, Country Child Rights Advisor	PLAN
Mr. Henk Van Beers, Program Director and Team	Save the Children – Australia (SCA)

Mr. James McGovern, Consultant	Save the Children – Australia (SCA)
Ms. So Sereyvathana, Child Protection Unit Manager	World Vision International - Child Protection Unit
Mr. Em Poul, IHRD Program Officer	Coalition to Address Sexual Exploitation of Children in Cambodia (COSECAM)
Mr. Meas Yuth, Executive Director	Children and Poor Communities Development Organization (CPCDO)
Ms. Theary C. Seng, Executive Director	Centre for Social Development (CSD)
Mr. Him Yun, Acting President	Khmer Youth Association (KYA)
Ms. Ly Vichuta, Director/Legal Advisor	Legal Support for Women and Children (LSWC)
Ms. Map Somaya, Program Director	Mith Samlanh / Friends
Mr. Meas Samnang, Secretary General	Non-Governmental Organisations working with Children in Conflict with the Law (network) NGO – CRC
Ms. Sim Souyeang, Director	Protection of Juvenile Justice (PJJ)
Mrs. Yim Sokhary, Executive Director	Street Children Assistance and Development Program (SCADP)
Mr. Chhun Roeurn, Director	Save Incapacity Teenagers (SIT)
Mr. Tep Vuthy, Executive Director	Vocational Development and Training Organisation (VDTTO)

Annex B: Key indicators⁵⁴ for children in conflict with the law *(and attempted performance verification 2004/2005 in italics)*

Minimum age of criminal responsibility

- *There is no minimum age of criminal responsibility in Cambodian law.*

Limits on children criminal responsibility based on maturity and discernment

- *There is no age provided in Cambodian law which specifies that the exemption from criminal responsibility (as a child) is no longer available.*

Annual rate of children arrested for an offence

- *There is no national data on the rate of arrest for children. There is also no data from a research sample to allow estimation of the rate.*

Change in annual rates of children arrested for a criminal offence

- *There is no national data on the rate of arrest for children to allow assessment of annual changes. There is also no data from a research sample to allow estimation of the rate.*

Children charged with a criminal offence

- *There is no national data on the rate of children charged with a criminal offence. There is also no data from a research sample to allow estimation of the rate.*

Children charged by type of offences

- *There is no national data on the type of criminal offences children are charged with. There is some data from a research sample: data collected by BAKC on children represented by the Child Protection Unit provides some information. The most common charge is theft (33%).*

Changes in the annual rate of children charged with a criminal offence

- *There is no national data on the rate of charge for children to allow assessment of annual changes. There is also no data from a research sample to allow estimation of the rate.*

Proportion of violent crimes known to the police that are committed by children.

- *There is no national data available on the age of suspects for incidents reported to the police which are solved (suppressed) and thus no information on the proportion of violent crimes committed by children. There is also no data from a research sample to allow estimation of the rate.*

Vagrancy and other status offences are legally defined as unlawful

⁵⁴ Taken from the UNICEF 2005 Situational Analysis on Children in Conflict with the Law in Cambodia.

- *There are no status offences under Cambodian law and no offences which apply only to children.*

Children arrested and detained for vagrancy or other status offences

- *There are no children arrested and detained for status offences. The extent to which police apprehend and detain children (for short periods) who are homeless, drug addicted or truant outside the formal provisions of the law is unknown. The extent to which children who are homeless, drug addicted or truant are detained at the YRC is unknown, but the present research suggests that the children are free to leave the centre and are not detained against their will.*

Age and gender of children arrested by type of offence

- *There is no national data on the arrest of children. There is also no data from a research sample to allow estimation of the numbers.*

Use of diversion

- *No information is available on children informally diverted from the criminal justice system (by, for example, an informal caution by police). Because Cambodian law does not provide for the formal diversion of children, there are no children currently formally diverted either before or after conviction. No information is available on the number of children acquitted at trial or the number of children who receive a suspended sentence. There is also no data from a research sample to allow estimation of the numbers.*

Children admissions to detention facilities

- *This indicator requires data on admissions or receptions of children into detention. The only information currently available is the number of children in detention at a given time (i.e. census information). There is also no data from a research sample to allow estimation of the number.*

Children in detention

- *National data is available: 270 in 2003.*

Children detained in adult institutions

- *National data is available: 133 in 2003 (if CC2 is classified as a juvenile institution).*

Length of time children stay in detention

- *There is no national data on the length of time children stay in detention. There is also no data from a research sample to allow estimation of the periods.*

Children sentenced to institutions where they are deprived of their liberty.

- *National data is available: 139 in 2004.*

Children detained while awaiting trial

- *National data is available: 127 in January 2004 (47.7% of the children in detention). A rate may be calculated from this information.*

Length of detention while awaiting trial and disposition

- *There is no national data available. Data is available for CC1, CC2 and Kandal prison from CCJAP monitoring.*

Age and gender of children detained while awaiting trial

- *National data is available for gender.*

The average length of detention of children detained while awaiting sentencing/final disposition of their case

- *There is no national data available. Data is available for CC1, CC2 and Kandal prison from CCJAP monitoring.*

Children released while awaiting trial

- *There is no national data available on the grant of bail. There is some data from a research sample: data collected by BAKC on children represented by the Child Protection Unit provides some information. In the period between May 2000 to September 2003 only 8 of the 320 children represented were granted bail (2.5%).*

Children's access to legal advice and representation

- *There is currently no national information available on the number of children who are legally represented. There is some data from a research sample: In the present study on children detained in prison it was found that the majority of the sentenced children said that they were legally represented at trial (n=21, 67.7%).*

Children tried in an adult court

- *All children are tried in adult courts in Cambodia.*

National legislation on the separation of children from adults in detention

- *There is no legislation requiring the separation of children and adults. Procedure No 3.4 of the Prisons Operating Procedures Manual requires the separation of children, where the prison buildings permit.*

Clear national legislation or regulation concerning disciplinary measures that can be taken against children in detention

- *There is no legislation which creates prison discipline offences and specifies the procedures and penalties. Article 38 of the Constitution prohibits the physical ill treatment of prisoners. Procedure No 9.4.5 of the Prisons Operating Procedures Manual prohibits shackling and corporal punishment as a disciplinary measure.*

Children in detention together with adults

- *National data is available for the number of children in adult institutions: 133 in 2003. No national data is available regarding children in adult institutions who are housed in the same section of the prison as adults. There is some data from a research sample: In the present study on children detained in prison it was found that approximately half of the children in detention said that they were housed together with adult prisoners (n=29, 49.1%).*

Flogging and other forms of corporal punishment while in detention

- *There is no national data available. Article 38 of the Constitution prohibits the physical ill treatment of prisoners. Procedure No 9.4.5 of the Prisons Operating Procedures Manual prohibits shackling and corporal punishment as a disciplinary measure. There is some data from a research sample: In the present study on children detained in prison nearly half of the children reported being threatened or beaten whilst in police custody (45.8%). A study by LAC found that 16% of children reported physical abuse in police custody.*

Children's access to education while detained

- *There is no national data available. Procedure Nos 11.3 and 11.18 of the Prisons Operating Procedures Manual requires the provision of education to prisoners and especially, to those under 18 years. There is some data from a research sample: In the present study on children detained in prison it was found that the majority of children reported no access to schooling (n=42, 71.2%) and only two children reported having access to vocational training (3.4%).*

Children's access to health services (medical care) while detained

- *National data is available in the Ministry of Interior.*

Independent monitoring of conditions of imprisonment/detention of children

- *There is no provision in Cambodian law for an independent inspection office like an Inspector General of Prisons. NGOs currently perform this work without the benefit of legal powers and protection.*

Children sentenced to an institution

- *National data is available: 139 in 2004. No information is available on the number of children receiving other sentencing dispositions (such as a suspended sentence). There is also no data from a research sample to allow estimation of the numbers and the sentences.*

Offence committed by children sentenced to a form of detention

- *There is no national data available. There is some data from a research sample: In the present study on children detained in prison it was found that the most common offence was robbery (28.6%) followed by theft (21.4%) followed by rape (14.2%).*

Length of incarceration (i.e. sentence)

- *There is no national data available. There is some data from a research sample: In the present study on children detained in prison it was found that the custodial sentences imposed ranged from 4 months to 15 years, with a mean of 4.5 years. The largest number of sentences were 2 years or under (n=13, 46.4%) and nearly half of these were for theft offences*

Capital punishment or life imprisonment for children

- *The death penalty is abolished in Cambodia under Article 67 of the UNTAC Law. There is no national data available on the number of children sentenced to life imprisonment without parole. There is some data from a research sample: In the present study it was found that there were no children serving life sentences.*

Alternatives to incarceration

- *There are no statutory alternatives to imprisonment other than a suspended sentence for most offences.*

Recidivism

- *There is no national data available. There is also no data from a research sample to allow estimation of the recidivism or re-conviction rates*

Annex C: MoSAVY Policy on Alternative Care for Children: April 2006**Section VI: Specific Objectives for Alternative Care: Subsection 7: Children in Conflict with the Law**

- a) To develop a policy framework regulating and formalising care for CICL living in prison and other juvenile facilities including access to, roles and responsibilities, standards of care and guidelines
- b) To promote the development of an appropriate juvenile justice system eg special police unit for the protection of CICL and prevention of juvenile delinquency, juvenile court
- c) To formalise, establish and monitor standards based on this policy framework and other relevant international/national laws and instrument on juvenile justice
- d) To develop community based supervision and protection mechanisms against abuse and exploitation of CICL, taking into account the royal government's decentralised structures and responsibilities. This applied to CICL who are diverted by the Courts to community based or managed programmes
- e) To build capacity of judicial officers, lawyers, prison personnel MOSAVY and other relevant ministries central, provincial and district personnel, alternative care providers' staff focusing on implementation and monitoring of the policy framework,
- f) To raise awareness regarding the alternatives to juvenile imprisonment and the rights of children in prison/ juvenile facilities and CICL;
- g) To promote prevention and early intervention programmes, addressing the commission of crime and or the repetition of crime by children;
- h) CICL are placed in appropriate care with regards to their age, moral, mental, physical integrity and inform them about the placement (rights and responsibilities of personnel of juvenile facilities and community based programmes as well as the child)
- i) To reduce the number of children living in prison/juvenile facilities by promoting alternatives to juvenile imprisonment at the earliest possible moment eg reintegration with families or by placement in community
- j) To encourage juvenile facilities and community based programme for CICL to provide an environment as conducive as possible to community-reintegration, in particular through fostering contact with families and the provision of psycho-social and educational support

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Attachment: Juvenile Justice Map






RGoC - Rectangular Strategy					
Good Governance: focused at four reform areas: (1) Fighting corruption; (2) legal and judicial reform; (3) public administration reform including decentralization and deco centralization; and (4) reform of the Royal Cambodian armed forces.					
Legal and Judicial Reform					
CCJAP Supported LJSR Objectives	1.Improving the protection of fundamental rights and freedoms	3.Providing better access to legal and judicial information	4.Enhancing quality of legal processes and related services	5.Strengthening judicial services, i.e. the judicial power and the prosecutorial services	7.Strengthening justice sector institutions to fulfill their mandates
CCJAP III	Component 1: Legal and Judicial Reform Strategy Capacity building (LJRS) <ul style="list-style-type: none"> PMU Strengthening Sector planning Key Indicator system code of ethics capital works investment policy and strategy Emerging issue/Priorities 	Component 2: Crime Prevention and Community Safety (CPCS) <ul style="list-style-type: none"> National Crime Prevention and community Safety Provincial Crime Prevention and Community Safety Youth Diversion Community Justice 	Component 3: Cambodia National Police (CNP) <ul style="list-style-type: none"> Strategic policing issues Executive capacity development Crime scene investigation capacity and skills at sub-national level Training system review and reform 	Component 4: Ministry of Justice and Courts <ul style="list-style-type: none"> Strategic justice and court issues Executive capacity development Model Court and court processes Appeals court 	Component 5: Corrections <ul style="list-style-type: none"> Strategic correctional Issues Executive Capacity development Prisoner health Rehabilitation and community corrections

Component 6: Management Support Team and Flexible Support Fund

- Cross cutting issues – Juvenile justice, HIV/AIDS, gender, capital work
- Ongoing Planning and risk management
- Human resource and relationship management
- Administrative support and financial management
- Flexible Fund and contact management
- Monitoring and report

The following files contain all mapping information:

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1.	 Government institutions.doc
2.	 Inter-Governmental Agencies.doc
3.	 Donors.doc
4.	 International NGOs.doc
5.	 All Local NGOs.doc

