



**The Effectiveness of the Ghanaian Juvenile Courts: The Gap between Policy and Practice.**

By

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## **ABSTRACT**

As a state party of the United Nations Convention of the Rights of a Child and the first country to ratify it in 1990, the Government of Ghana indicated its willingness to protect youth's rights. In accordance with signing the treaty, the government established the Juvenile Justice Act (JJA) 2003 (Act 653) to locally implement the treaty's core imperatives. Despite the enthusiasm shown by the government, the few studies that exist in this neglected area suggest a gap between the spirit and the letter of the law. However, these studies have solely relied on anecdotal data, skewing the focus on the Juvenile Justice Act's compliance to the international treaties. Contributing to the scant body of literature, in the current study, I explore the juvenile court's procedures in age determination and jurisdiction, bail and remand, duration of cases and sentencing procedures, and adherence to the policy of the JJA.

I employed qualitative content analysis to data collected from 290 summarized court case dockets from the archival unit of the Ghana High Courts. The findings showed that the Ghanaian juvenile courts put in efforts to adhere to the guidelines in the JJA. However, the shortage of trained professionals, along with the system's lack of resources and logistics, impede the efforts of the juvenile courts. Based on the findings of this research, I recommend that the government ensure youth custodial facilities/institutions are responsible, in legislation and in practice, for the care and well-being of young people living there, by first allocating more resources and funding to the juvenile unit of the police and to the Department of Social Welfare, and by providing specialized training to people working in the youth justice system in Ghana.

**KEYWORDS:** Youth, juvenile justice, Ghana

## **DEDICATION**

I dedicate this thesis to my husband, Nana Yaw Agyeman Owusu, and to my parents and siblings, Mr. Samuel Anku, Mrs. Happy Anku, Esenam, Dominic and Eric, who have been my strength throughout my academic journey. God bless you for the financial, moral, and spiritual support you have given me throughout these long years of education.

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## **LIST OF ABBREVIATIONS**

ADR	Alternate Dispute Resolution
AFRWC	African Charter on the Rights and Welfare of the Child
CP	Child Panels
DSW	Department of Social Welfare
JJA	Juvenile Justice Act
MoGCSP	Ministry of Gender, Children and Social Protection
SER	Social Enquiry Report
UN	United Nations
UNICEF	United Nations Children's Fund
UNCRC	United Nations Convention on the Rights of a Child
WAJU	Women and Juvenile Unit

## **CHAPTER ONE – GENERAL INTRODUCTION**

### **1.1 Background to the Study**

In the eighteenth century, youths were subjected to the same penalties and procedures as adults. Thus, persons below 18 years were not recognized as having a special status in common law; hence, they did not receive any special protection when charged with criminal offences (Bala & Jaremko Bromwich, 2002). The notion of having a unique justice system separate from the adult system for youths originated in the mid-nineteenth century in the United States (Asamoah, 2021). The reasoning for this at the time was that persons under 18 years go through several developmental changes that inhibit their ability to make appropriate choices, which manifest as problem behaviours and poor conduct (Jacobs, 2014; Mensa-Bonsu, 2017; Omboto et al., 2012). Consequently, stakeholders deemed it inappropriate to equate their mental and intellectual, emotional, physical, and psychological capacity to that of adults (Obidimma & Obidimma, 2012). The understanding that young people's behaviours were developmentally contingent resulted in the push for a separate justice system that would try youth under more sympathetic conditions and protect them from the harsh punishments that criminal courts inflict on adults who commit crimes (McCord et al., 2001).

To guarantee that youth's rights are protected, many statutes have established legal frameworks on how to treat youth within the justice system. Today, countries have formulated and signed these statutes to help streamline, monitor, and govern the overall administration of youth justice globally (Penal Reform International, 2013). These statutes include the United Nations Convention on the Rights of the Child (UNCRC), the United Nations Guidelines on the Prevention of Juvenile Delinquency (Riyadh Guidelines), Protection of Juveniles Deprived of their Liberty (Havana Rules), and, in Africa, the African Charter on the Rights and Welfare of the Child

(AFRWC), amongst many others. In 1990, Ghana ratified the UNCRC and participated in making the AFRWC (Mensa-Bonsu, 2017). As signatories to these international treaties, the Ghanaian government indicated their support and willingness to protect youth's rights (Ame, 2011), and agreed to be bound by their terms; that is, to take all political, legal, and administrative steps necessary to locally implement the treaties' core imperatives (Mensa-Bonsu, 2017; Odhiambo, 2005). Today, the Juvenile Justice Act, 2003 (Act 653) [hereafter JJA] is the main legislation that defines and regulates the Ghanaian youth justice system. The Act outlines guidelines for governmental institutions involved in youth justice administration on how youths between the ages 12 and 18 years in conflict with the law should be dealt with, while protecting their rights and ensuring rehabilitation (Juvenile Justice Act, 2003). Unfortunately, several studies have identified inconsistencies between the guidelines in the legislative bodies set to protect youths and the reality of what is practiced by administrators of the youth justice system, indicating that the rights of youth are often disregarded (Ame, 2011; Casey, 2011; Hoffmann & Baerg, 2011; Mensa-Bonsu, 2017).

In the current study, I focus on the effectiveness of the juvenile courts' compliance to the guidelines established in the JJA. There is an emphasis on the court because it is the final decision-making body of the youth justice system. Therefore, although the Ghanaian youth justice system comprises various administrators, including the Department of Social Welfare (DSW), the Ministry of Gender, Children and Social Protection (MoGCSP), the Ministry of Interior, the Attorney General's office, and the Domestic Violence and Victim Support Unit (DOVVSU) of the Ghana Police Service (Asamoah, 2021; Hoffmann & Baerg, 2011), the court is the stage on which these other agencies and institutions function. My study answers the broad question, "To what extent do the juvenile courts' processes adhere to the Juvenile Justice Act in Ghana?" Using a

qualitative approach, I review 290 youth case dockets collected from the Accra high courts in Ghana. The case dockets provide information about the court's various processes and day-to-day decisions regarding youth case hearings. To answer the research question, data from the case dockets are explored and compared to the stipulations in the JJA.

## **1.2 Research Problem and Relevance**

The modern youth justice system has the dual objective of protecting the rights of youth while also addressing their negative behaviour. The dual function presents a daunting obligation, as courts attempt to adhere to existing legislation while achieving these objectives. A small number of studies have noted some conflict between the legislation and the practices of the institutional bodies responsible for ensuring youth's rights. These studies have concluded that a lack of financial and human resources (Ame, 2011; Casey, 2011), along with miscommunication and fragmentation of services between multiple departments charged with the administration of justice to youths (Asamoah, 2021), have made compliance with the legislation difficult. Although experts have noticed the gap between the policy and the practice, little empirical research has critically examined the extent to which the juvenile court deviates from the guidelines set in the legislative body. Nevertheless, many studies have focused on various other aspects of youth justice in Ghana, and this has helped to illuminate this research need.

Studies conducted by Ame (2017, 2018) and Mensa-Bonsu (2017) focused on the current state of the Ghanaian youth justice system, stressing its evolution from the traditional justice system to its current form. Mantey and Dzator (2018) explored the procedures used to admit youth to facilities, and the challenges faced in rehabilitating them. They indicated that both caretakers and prisoners at correctional facilities in Ghana face challenges regarding human resources,

inadequate training options and materials, poor facilities for housing prisoners, and improper admission procedures. Asamoah (2021) adds that other difficulties in processing youth within the justice system stem from procedural delays and institutional fragmentation. There also seem to be few studies and official reports focusing on the experiences of youth within the justice system. Ayete-Nyampong (2013) explored how youth make their everyday life in detention meaningful. Her study found that their social life was not confined to the institution, but extended to the broader society through interactions with philanthropist groups, visitors, and others. She also found that correctional officers, because of their inexperience, lacked the power to make the youth in detention compliant to the rules and training programs, hence their use of compromise and negotiations to ensure the youth attended lessons (Ayete-Nyampong, 2013).

Contributing evidence to the welfare practice, Adu-Gyamfi (2019) and Ame et al. (2020a) conducted studies to interrogate the efficiency of Child Panels (CP), a semi-judicial body mandated to adjudicate minor criminal cases diverted from the youth justice system. Their findings suggested that diverting youth cases using the child panels provided by law was ineffective. Identifying the lack of awareness of the CP concept and some institutional constraints, Ame et al. (2020a) explained that, in the absence of functioning child panels, youth justice becomes the responsibility of the courts.. As I do in this study, Ame (2011) examined the compliance of the JJA, but to the UNCRC. He identified coherence between the JJA and the UNCRC, but highlighted a gap between the policies and what is practiced. Evidence from the Ghana Judicial Service (2018) and Hoffmann & Baerg (2011) also suggests that the police and criminal courts fail to distinguish between children and adults. These studies show that law enforcement agencies either sentence juveniles as adults, imposing excessive punishments, or discharge them with no disciplinary consequences, which encourages them to engage in further crimes. Apart from these studies,

existing literature gives inadequate attention to the courts and how they deal with children in conflict with the law in Ghana.

The plethora of issues identified in the extant literature highlights the lack of attention to criminalized youths in general. The dominance of the court in this complicated arena means that knowledge of the legal framework that has been developed in the past decades with regard to the procedural rights of youth is needed to understand the treatment of youth in the justice system. In the current study, I bridge the knowledge gap by examining juvenile court proceedings and their adherence to the legislative body underlying the youth justice system in Ghana. The purpose of the study is to explore and describe how the courts that process youth in conflict with the law organize and structure their decisions.

### **1.3 Research Objectives**

The general aim of this study is to explore the nature of the court's procedural adherence to the JJA. To do this, it will specifically address the following objectives:

1. To examine how the juvenile courts ensure they abide by the upper and lower age jurisdiction set out in the JJA.
2. To understand the bail and remand practices of the juvenile court and whether they comply with the JJA.
3. To determine the duration of case processing in the juvenile court under the JJA.
4. To examine the various decisions made by the courts and their compliance to the JJA.



## **1.4 Thesis Structure**

The thesis is organized into six chapters. Chapter One, the general introduction, gives a brief background to the study by presenting the research problem and relevance of the study, research questions and objectives, definition of critical concepts, and describes the structure of the thesis. Chapter Two, the literature review, presents and discusses the existing literature in the study area. The chapter sheds light on the historical and theoretical backgrounds of the phenomenon and discusses the state and nature of the Ghanaian youth justice system and the challenges it faces. Chapter Three describes and justifies the research methodology used in the study. Other information, such as the details of the study area, data sources, ethical procedures, and analysis methods, are also discussed in the third chapter. Chapter Four gives insight into the characteristics of youths within the court system during the period 2007 to 2018 and presents the study's findings. Chapter Five discusses the study's results and compares them to the guidelines in the JJA and other relevant literature. Chapter Six summarizes, concludes, and makes recommendations for policy implementation and further research.

## **CHAPTER TWO – LITERATURE REVIEW**

In the chapter, I provide a background to the Ghanaian criminal justice system by reviewing the existing literature while identifying the nature and practices of youth justice administration in Ghana and around the world. The section initially presents a historical background of youth justice in Ghana, highlighting the nature of crime adjudication during the pre-colonial, colonial, and post-colonial eras. Following this, the theoretical framework and the various justice models are discussed, placing importance on the ways the Ghana youth justice system has emulated the characteristics of the various models. The structure of the administering bodies responsible for youth justice and their respective functions will also be presented. The latter parts of the chapter show and discuss the trends and predispositions to youth crime, and the challenges and gaps within the youth justice system in Ghana.

### **2.1 Conceptualizing Youth**

The term 'youth' generally refers to the period between childhood and adulthood. However, what constitutes a child or adult varies amongst different societies. For most jurisdictions, the definitions of child and adult are dependent on age; in contrast, amongst most ethnic groups in Ghana, a person is a child until they have reached puberty and is initiated into adulthood through puberty rites (Ame, 2018). Obidoo et al. (2019) further point out that reaching puberty marks the attainment of adulthood for girls, whereas, for boys, becoming an adult means achieving economic independence. The National Youth Policy of Ghana classifies youth as a period in which a person prepares to be an active and fully responsible member of society (National Youth Policy, 2010). Whereas the United Nations considers this period to be between the ages of 15 and 24 years

(United Nations, 2005), in Ghana, it covers the period between 15 to 35 years (National Youth Policy of Ghana, 2010).

In criminology, the definition of youth has seen some variations, mostly setting as the average minimum age of culpability to 12 years (Penal Reform, 2013). The Criminal Code Amendments Act 1998 (Act 554) sets the minimum age of criminal responsibility in Ghana at 12 years; hence, the definition used in this study would include all individuals between the ages of 12 to 17 years. People within this age group have also been described variously as children, juveniles, young people, and young offenders in most local and international literature. In this study, preference is given to the term youth. I use the term “youth” interchangeably with “child,” “children in conflict with the law,” or “young persons.” Due to the negative connotations the words juvenile (and offender) may carry, I will only use it to refer to things, e.g., Juvenile courts, Juvenile Justice Act, and not to human beings.

## **2.2 Historical Background: The Juvenile Justice System in Ghana**

In pre-colonial Ghana, children were considered the property of the family, and their parents and elderly extended family members were charged with providing foster care for them (Nukunya, 2016). Several generations of tribespeople, residing in rural communities in small homes in compound houses, provided substitute parental care to children from dysfunctional or low-income families when necessary. Childless members of the society willingly took care of orphaned children, and relatives who had the means took on more orphaned children to help educate or teach them a skill. The adage "it takes a village to raise a child" was fully practiced during that era (Asamoah, 2021). The extended family system provided an advantage to children, as it meant that they had two or more adults on the constant lookout for their welfare. Nukunya

(2016) indicates that close living arrangements and settlements were factors that made it easier for such a welfarist system to operate. The kinship foster care system was based mainly on altruism, bolstered by fear of reprisal from dead relatives and reciprocity. Misconduct resulted in the Gods withholding the good things of life from the culprits or plaguing the community with disasters or sicknesses. The agents of social control--the chiefs, elders, teachers, and extended family members--were tasked with socializing community members to behave appropriately and meted out punishment when they deviated. This punishment mostly took the form of arbitration, compensation, banishment, ostracism, or even the death penalty, depending on the nature and seriousness of the offence (Ame, 2018; Novak, 2014).

### ***2.2.1 Colonial Period***

The modern juvenile justice system in Ghana traces its origins to the colonial or pre-independence era of the country (Ame, 2018). The colonial period introduced English laws and administration, and European goods and services, which attracted many youths into the urban areas searching for jobs. With time, the traditional systems eroded due to economic pressure and social change. Colonial rule brought about lots of changes, including the rise of industrialization and modern cities. Rural-urban migration, a common effect of the concentration of industries in cities, contributed to weakening the extended family system (Frimpong-Manso, 2014). These social changes undermined the kinship foster care system's capacity to respond to children's needs, calling for alternative parental care. During these migrations, different tribespeople came together in new communities. These new community members had little in common, and therefore had minimal cohesion, neighbourliness, or sense of responsibility to dependent children (Frimpong-Manso, 2014).

The mass movement of people into urban areas led to high unemployment, which caused people to seek alternative, and sometimes illegitimate ways to make ends meet. Migration led to challenges in the traditional methods of maintaining social control and keeping law and order, and so the English practices of dispute settlement by means of new agents of social control, the police and the court, was adopted (Ame, 2018). The British introduced the first formal youth justice system in Ghana the colonial era (Ame, 2018). A separate justice system was created for young persons for the first time. The colonial government formalized having a different judicial system for youths. Traditional social control systems of the various ethnic groups were used alongside the English system, known as the modern system, in a dual system of control (Weinberg, 1964). The colonial administration responded to the problems created by wayward children by passing a set of ordinances in 1928, which led to the establishment of the first correctional center in Ada under the supervision of the Salvation Army church, marking the beginning of an attempt to separate institutions for children in the criminal justice system. Children in conflict with the law, deserted or orphaned children, were all sent to the same home to be cared for and trained. The Children Care and Reformation Ordinance passed in 1936 gave the courts the authority to commit children under sixteen years in conflict with the law to a training school (Boakye, 2013).

A special provision was made in the 1944 Ordinance of Ghana (then the Gold Coast), led by Governor Sir Allan Burns, to empower chiefs to establish juvenile courts in the various districts that would try those under the age of sixteen years (Mensa-Bonsu, 1990). The Courts Ordinance of 1944 created the juvenile court and granted it exclusive jurisdiction over any matter concerning juveniles, thereby creating the juvenile justice system. In addition, the Ordinance gave the governor the mandate to constitute a juvenile court, and to appoint a panel and magistrate to sit in camera on cases concerning young persons (Tooth, 1956). The Ordinance then diverted many

cases pertaining to youths to the juvenile courts. Meanwhile, jurisdictions without juvenile courts were allowed to try youth cases in district courts made up of a magistrate or lawyer and two other persons. These reforms in the youth justice system significantly changed the administration of youth offender adjudication in the pre-colonial era, forming the bedrock of many more developments in the post-colonial periods, as will be discussed in the next section.

### ***2.2.2 Post-Colonial Period***

After Ghana attained independence, a parliamentary review was conducted of all existing laws, leading to the creation and adoption of the Criminal Procedure Code (Act 30) in 1960. The Code allowed the juvenile court to determine the guilt of children who came before it, and to make decisions on the best treatment options for them. The juvenile courts were still represented by the magistrates appointed by the Chief Justice. Magistrates were chosen from among the ranks of the clergy, senior officials of the Department of the Social Welfare, and school headmasters or other people in good standing who had demonstrated a particular interest in children (Nortey, 1969). The court sittings were private and only included the child's parents or guardians, the police (prosecutor), social workers who provided Social Enquiry Reports (SER), and a lawyer representing the accused child. The Code covered children in conflict with the law and extended its jurisdiction to children in need of care and protection (orphans, mistreated, and deserted children), empowering the justice system to find safe places for these youths. Shortcomings in the Code contributed to the ratification of the UNCRC in 1990. Two major legislations, the Children's Act (Act 560) and the Juvenile Justice Act 2003 (653), were passed following the ratification of the UNCRC. The provisions made in these legislations largely mirrored the commitments of both the UNCRC and the AFRWC.

The former legislation, the Children's Act (Act 560), was enacted in 1998 to enforce protection of all children. Act 560 gave family tribunals and child panels at the district levels jurisdiction over youth cases. The Act lifted the age of culpability from 7 to 12 years, defining a child as "a person between zero to eighteen years." The Act also developed new philosophies and institutions for dealing with child-related problems. One of these was differentiating children who needed care and protection from those who had committed infractions and needed reformation (Ame, 2017; Mensa-Bonsu, 2017). In 2003, the JJA was established, and, according to Ame et al. (2020b), the new Act was based on a modified justice model, which synthesizes the justice model with critical elements of welfarism. The law prescribed that the child is held responsible for their actions; however, their best interest should be the primary consideration in decisions concerning them. Hence, the rights of the child should be the guiding force in all decisions regarding arrest, detention, trial, and sentencing. This was a significant change in the Act, and led to an emphasis on diversionary mechanisms, like victim-offender mediation and Child Panels (CP), which use principles of restorative justice to prevent the induction of juveniles into the formal justice (Ame et al., 2020a; Mensa-Bonsu, 2017).

### **2.3 Theoretical Framework: Post-Colonial Theory**

Post-colonial theory is generally described as a contemporary body of writing and thought that seeks to transcend the legacies of modern colonialism and overcome its epistemic confines. The central tenet of post-colonial theory is that colonialism dominated the creation of modern societies, and that its influence persists to the present day. According to post-colonial theorists, Western culture has been presented as superior to all other forms of cultures and espoused as a standard in all other societies. Consequently, communities that maintain their traditional practices

are regarded as backward and unwilling to accept change (Khapoya, 2015; Oriola, 2006). This way of thinking has created a lasting impression amongst people in Indigenous societies and challenges them to become modern by adopting Western cultures (Agozino, 2004). Accordingly, post-colonial theorists are interested in countering Western ideas with counter-discourses that empower Africans. Post-colonial theory is used between and across academic disciplines, including sociology, political science, international relations, criminology, and development studies.

Post-colonial theory has been employed by sociologists and critical criminologists, who advocate for a criminology relevant in the lives of people throughout the world. These theorists seek to change the criminal justice system field (Agozino, 2004; Oriola, 2006). Cunneen (2011) argues for the importance of a post-colonial perspective in criminology. He explained that post-colonial theory can offer new theoretical insights and expand the discipline to become an engaged and reflexive endeavour cognizant of cultural and historical differences. Agozino (2004) argues for the particular urgency of a post-colonial critique of criminology, because it has served colonialism more directly than have many of the other social science disciplines that post-colonial theorists have critiqued. Nakajima (2004) further argues that Western criminology was developed during colonialism to serve imperialist interests and facilitate the exploitation of the colonized. Therefore, criminology is underdeveloped in Africa, because mainstream positivist criminology was never, and is still not, in Africa's interest, but is, rather, an imposition on African countries by imperialist, Western countries. This explains the disconnect between policy and practice in the justice system in Africa. Post-colonial theory argues against an all-encompassing perspective and instead encourages African criminology to re-examine and wean itself from imperialist



criminology that primarily focuses on crime prevention methods that do not account for African history.

Therefore, the importance of this theory to the current study is threefold. First, post-colonial criminology offers insights for policy research. The post-colonial perspective helps us understand that marginalized groups, such as criminalized youth, have less capacity to utilize legal protections, so principles of fairness and equality are violated when they encounter the law. Second, post-colonial theory provides a framework for situating the experience of youth within a specific socio-cultural and historical framework. Third, and more importantly, post-colonial theory requires researchers to rethink and pose questions about why these policies are adopted, why they are less effective, or simply do not work in a particular way in certain societies. Post-colonial theory provides a valuable perspective for this study because it provides insights as to whether the ratification of the UNCRC has practically brought about any significant improvement in the administration of youth justice in Ghana. Furthermore, it was also employed to reveal whether the extensive exportation of Western crime control models to developing countries, particularly Ghana, was just another form of imperialism, or was a legitimate way of eliminating and preventing criminal activities. Therefore, post-colonial theory provides a framework to understand the nuanced social reality of criminalized youth in Ghana.

## **2.4 Youth Justice Models**

Enacted laws are often complex, making their content challenging to understand and decipher. Hence, they require enormous effort and deep legal knowledge to comprehend their various definitions, principles, and procedural provisions. Youth justice models provide a comprehensible set of concepts and principles that help clarify these complicated laws. In effect,

the models distill laws to an essential collection of legal, philosophical, and procedural themes (Corrado et al., 2010). These models are ideal types, meaning that a country may not match or correspond to either type exactly, or display all of the characteristics identified with either model (Hazel, 2008). Winterdyk (2014) identifies six models to characterize youth justice systems worldwide: participatory, welfare, corporatism, modified justice, justice, and crime control models. However, in this section, I discuss three models of justice: the welfare, justice, and restorative justice models. These models have been the most influential historically, as every other model that has been developed can be traced back to variations of the two basic approaches; the welfare and justice models (Hazel, 2008). However, the third restorative justice model is emerging as a significant influence on lawmakers.

#### ***2.4.1 The Welfare Model***

The welfare model is the initial model for juvenile justice and originated in the United States. The ideology behind it led to the passing of the Parkhurst Act of 1838 and the subsequent formation of a different justice system for youth. The model holds that society shapes behaviour and values, and emphasizes that people below 18 years of age are shaped by their environment, but are not yet rational agents because of their immaturity (Odhiambo, 2005). Hence, any misconduct by youth represents a malfunction in the environment, rather than an inherent will to offend (Odhiambo, 2005). In dealing with such youths, there is an emphasis on individualized treatment that includes rehabilitation, supervision, and control, with affirmative intervention from the state, instead of punishment (Hazel, 2008; Winterdyk, 2014). The model introduced the principle of *parens patriae*, which grants the state significant or ultimate power and authority to

protect people who are deemed legally unable to act on their behalf, with the intention that the state would act in their best interest and enhance their welfare (Odhiambo, 2005).

The "rehabilitative ideal," as Breen (2002:195) terms it, requires a court to consider the economic and social background of a youth to make an informed decision in their interest. The key players responsible for rehabilitation are social work agencies and child experts (Winterdyk, 2014). So far, this model has been recorded as the most successful of United States legal innovations, and has been adopted worldwide, identifiable in countries including Australia, The Netherlands, Italy, Korea, Scotland, and Belgium (Winterdyk, 2014). The JJA echoes the welfare model of justice with its fundamental principle of ensuring that youth welfare is always paramount (Juvenile Justice Act, 2003). The Act mandates the court and social welfare department to investigate the living conditions of youths, to consider the risk factors and motivation to criminality within their environment before sentencing them, thus ensuring that decisions taken are in their best interest.

Critiques of the model state that the lack of due process standards in youth proceedings denies them legal representations and rules of evidence safeguarded by the law (Skelton, 2011). In addition, Bala and Jaremko Bromwich (2002) indicate that the many perfectionist policies in the welfarist approach, along with the apparent over-reliance on institutions for extensive periods, create the potential for discriminatory treatment that violates the human rights of youth. Another critique suggests that the departures from established constitutional procedures have often produced unfair, inefficient, and arbitrary results, rather than the enlightened adjudication initially sought (Wagman, 2000). For instance, to adhere to the welfare principle, youth guilty of a non-serious crime may be sentenced to detention, which allows them to escape risk factors in their environment, or to acquire education or training to improve their opportunities. At the same time,

another youth who commits a serious offence might be given a more lenient sentence, like paying a fine, to minimize disruptions to their education. The Criminal Procedure Code (1960), which was the legislation underlying the youth justice system before the Children's Act (1998) and the JJA, incorporated welfarist ideas by providing vocational training in detention facilities as a form of rehabilitation. Critiques of the welfare model, along with the increasing numbers of violent crimes committed by youths and high rates of recidivism, led to the emergence of a justice-based approach.

#### ***2.4.2 The Justice Model***

The justice model began in the early 1980s (Draper, 2002). Advocates of this approach maintain that all individuals, including children, are reasoning agents who are fully responsible for their actions, and should therefore be accountable before the law (Osei, 2013). The motto, "adult crime for adult time," indicates that the model's proper function is to assess the degree of culpability of the youth and apportion punishment proportional to the seriousness of the criminalized behaviour (Wagman, 2000). Indeed, the legitimate public concern about the rate of recidivism and violent youth crime was relevant, and used as a catalyst for the legal changes. Youths were seen as super predators who posed a significant threat to society, and therefore were undeserving of sympathy and should be harshly punished for heinous acts (Odala, 2012). As a result, the risk to public safety was inflated, leading to a punitive campaign to end all youth criminality.

The justice model emphasizes retribution and protecting society; hence, the best interests of the youth is not its primary focus (Odala, 2012). The focus of this model is two-fold; first, to protect the community against crime and, second, to offer special treatment to offending youths,

by accounting for their circumstances. Thus, the model was more aligned to the adult criminal justice system, in which the main goal is the protection of society. In addition, this approach serves as a deterrent, preventing future offences through punishment, removing culprits from the community, and holding them accountable for their behaviour. Walen (2016) argued that the punitive model was necessary to help restore a seemingly broken balance between the criminalized person, the state, and citizens.

The colonial period in Ghana saw a shift toward the punitive justice model as the country adopted the British legal system. Gabagambi (2019) argues that adopting the more punitive approach transferred the power of resolution from the family and community to the courts. The model was more individualistic since most of the parties involved were excluded from the adjudication process. Although the justice model brings closure and healing to victims, all other participants become mere spectators, which clashes with the Ghanaian cultural ideal in which the community plays a nurturing and fostering role.

#### ***2.4.3 Restorative Justice Model***

According to Marshall (1999:5, cited in Omale, 2006), restorative justice is a problem-solving approach to crime that involves the victim, offender, and community in an active relationship supervised by the statutory agencies. The model is one that already existed as a means of conflict resolution common in many Indigenous cultures worldwide (Omale, 2006; Sloth-Nielsen, 2016). Through colonization, new forms of justice became widespread, eroding the dominance of the former restorative justice model. According to Zehr (1990), the change was motivated by the desire for political power, which the crown proclaimed to be the 'keeper of peace,' and as such would be the victim whenever peace is violated. The modern concept of restorative

justice is attributed to psychologist Albert Eglash, who coined the term in the 1970s (Gade, 2018). The concept, however, gained prominence in the late 1990s, when the United States, Britain, and Europe adopted it as an alternative approach to youth justice (Omale, 2006).

The rationale behind the model was that crime violates relationships between people, violations create obligations, and the key responsibility is to right the wrongs done (Zehr, 2004). Hence, the goal should be to repair the harm a youth may have caused by first addressing their needs and then the needs of the victim and the entire community. The model endorses considering the cause of criminal behaviour and providing healing for all affected parties. Youth are made to understand the ramifications of their actions and tasked to repair the damage. All parties affected by the crime are encouraged to participate in the justice process (Skelton, 2008). According to Gabagambi (2018), restorative justice might take the form of compensation or an apology to mend strained relationships.

Restorative justice approaches, such as circles and child conferencing, are used to resolve and transform conflicts, and are common in countries like New Zealand, Australia, and Canada. Many African countries also practice the model of justice, as it has similarities with their traditional ways of conflict resolution (Skelton, 2011). Gabagambi (2019), in a comparative study analyzing restorative justice practices in selected African countries, i.e., Rwanda, South Africa, Kenya, Uganda, Nigeria, and Ghana, found that restorative justice as a paradigm was a common practice before the coming of the colonialists, and should be revived by these countries, as such practices heal and restore relationships between the victim, criminalized person, and the community. In agreement, Mangena (2015) further states that the restorative justice practices have deep roots in Africa and in many parts of the world, irrespective of the term used to describe them. Before colonialism the different ethnic communities had their own customs, laws, and legal systems for

dealing with conflict, crime, and other social issues. These methods focused on reconciling the parties to the conflict, which meant that the whole justice machinery concentrated on mending the ruptured relations between the parties, rather than on punishing individuals. For instance, the people of Adaboya in Northern Ghana practiced the *Kima* system of resolving disputes. This system involved reporting crimes or disputes to a clan leader, a subsection leader, or a chief. The people involved in the dispute were then summoned and allowed to tell their part of the story, after which a decision was given (Gabagambi, 2018). The restoration of the strained relationship remained the goal, even when the criminalized individual was ordered to compensate the victim. The payment of the compensation was used as a sign of accepting responsibility, rather than a punitive measure aimed to create financial hardship (Rautenbach, 2015). Ameh (2006) argues that Ghanaians are not culturally inclined to resort to the law courts, especially in the state's matters. This is the reason for the positive reaction to the National Reconciliation Commission (N.R.C.), which was established to help reconcile Ghanaians who had suffered human rights abuses during past military regimes: the proceedings were not like the law courts (Attafuah, 2004).

In modern times, Section 25 of the JJA reflects restorative justice through a process of diversion, which entails an alternative procedure, in which a case is discharged from the court to rehabilitate the accused in the community. The JJA provides that the court should consider diversionary programs to encourage the youth to be held accountable for their behaviour, promote reintegration into the community, promote reconciliation with the victim and the community, and avoid stigmatization. For instance, the JJA provides the Child Panels (CP), where semi-judicial bodies were created to implement alternative measures to divert youths from the court system to prevent stigmatization and help them reintegrate into society (Ame, 2017). Such programs are encouraged when the youth has committed minor offences.

## **2.5 Youth Justice Agencies in Ghana**

The youth justice system is a complex system that involves government agencies and bodies such as the DSW, the Ministry of Gender, Women, Children and Social Protection (MOGWCSP), Ministry of Interior, Ministry of Justice, and the Attorney General, The Judicial Service, Domestic Violence and Victim's Support Unit (DOVVSU) of the Ghana Police Service, and the District Assembly. The system comprises policies, guidelines, laws, institutions, customary norms, professionals, and treatments directed to youth in conflict with the law (Nyantakyi, 2013). The ultimate goal of the youth justice system is to provide social development support to youth who have committed various crimes. According to Penal Reform International (2013), two main international standards exist in juvenile justice administration.

First and foremost, treaties must be legally binding under international human rights law. The treaties require the undersigned parties to respect, protect, and fulfill their provisions, and to report on how national legislation, policy, and practice reflect international human rights law (Penal Reform International, 2013). A committee of experts is employed to monitor the implementation of the provisions of each treaty. The second international standard involves human rights standards, which are found within UN non-treaty instruments like declarations, recommendations, codes of conduct, and guidelines (Penal Reform, 2013). These standards provide complimentary backing to the treaties by ensuring they have significant moral force to provide practical and useful governance. The Youth Justice System in Ghana is governed by the JJA, which directly stems from the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, popularly known as The Beijing Rules. The JJA has the mandate to “provide a youth justice system which will protect the rights of juveniles, ensure an appropriate and individual response to youth offenders, provide for young offenders and other



connected purposes.” (Juvenile Justice Act, 2003). The Youth Justice System in Ghana is made up of several institutions, and the section that follows examines these institutions and their roles in the system. Notably, many institutions undertake functions outside of the juvenile justice system, although the focus is only on their role in the juvenile justice system.

### ***2.5.1 Ministry of Gender, Children and Social Protection (MoGCSP)***

The ministry consists of three different departments: one overseeing women's affair, another dealing with social welfare issues, and the third for issues concerning children. The DSW and the Department of Children are authorized to manage the affairs of persons between the ages of 12 and 18 years (Hoffmann & Baerg, 2011). The Department of Children implements policies, monitors, and evaluates the processes, impacts, and programs. It also collaborates and networks with other NGOs and conducts research to find ways to improve children's socioeconomic status and circumstances. Other functions include implementing Ghana's international conventions, treaties, and protocols related to children's development. The DSW, on the other hand, is authorized to oversee children's survival, protection, and development through suitable policy formulation, coordination, monitoring, and evaluation of children's issues within the nation's development agenda and social protection (Hoffmann & Baerg, 2011). The DSW is also mandated to oversee the administration of juvenile justice and the overall protection of children. According to section 39 of the JJA., the DSW must establish correctional centers and remand homes for criminalized youth. These correctional centers provide housing for detained youth for rehabilitation and reintegration into society (Nyantakyi, 2013). However, the remand homes are temporary facilities to house accused youths before and during the trial. Currently, the country has

ten remand homes, one senior correctional center (formerly known as Borstal home), and three juvenile courts across the country (Ghana Judicial Service, 2018).

### ***2.5.2 Ministry of Interior***

The Ministry of Interior oversees the activities of the Ghana Police Service, Ghana Immigration Service, Ghana Refugee Board, and Ghana Prison Service, which runs the Senior Correctional Centers/Borstal homes around the country. These centers host youths between ages 12 and 18 who are found guilty of delinquent behaviours. They also provide training and skill development to youths while they are serving their sentences. The center is headed by the Deputy Director of Prisons, who is also the Regional Commander of Prisons in the Greater Accra region. According to Ayete-Nyampong (2013), the senior correctional centers have a prison-like atmosphere because of their uniformed officers; however, they are different than prisons because they lack high walls. An arm of the police service, the Domestic Violence and Victim's Support Unit, popularly known as DOVVSU, exists under the ministry. The department previously known as the Women and Juvenile Unit of the police service (WAJU) handles cases involving vulnerable groups, gender-based violence, and youth criminal cases. This specialized unit was formed in 1998 in response to the increasing number of reports of abuses against children and women, and is responsible for investigating and prosecuting violations of the rights of children and women in domestic settings (Ghana Police Service 2021).

### ***2.5.3 The Judicial Service***

The Judicial Service runs the formal court system of Ghana. These courts include the Supreme courts, Appeal courts, High Courts, and the Juvenile courts. Under the Courts Act, district

courts are mandated to sit as specialized courts to handle child-related cases. Juvenile courts and Family Tribunals operate specialized panels within the district court structure, as stipulated in the JJA and Courts Act (Ghana Police Service, 2016). Juvenile courts were created to oversee or adjudicate juveniles while providing legal aid and treatment (Department of Social Welfare and UNICEF, 2005).

#### ***2.5.4 The District Assembly***

Metropolitan, Municipal, and District Assemblies are the decentralized government units found at district levels. District Assemblies are required by Section (16) of the Children's Act to establish CPs and facilitate the operation of these panels in all districts across the country. CPs are alternatives to the justice system, to which minor cases involving youths are diverted for resolution. The primary function of the child panels is to mediate issues concerning children, parental responsibilities, and minor crimes committed by youths (Ame et al., 2020). They are also required to protect and defend children's rights by championing them through restorative justice processes. CPs are composed of seven members, consisting of the chairperson of the Social Services Subcommittee of the District Assembly a member of a women's organization, the district social worker, a representative of the traditional council, a member of the justice and security subcommittee of the District Assembly, and two citizens with proven integrity and high moral standing in the community (Adu-Gyamfi, 2019). Community Development Departments manned by trained social welfare officers and probation officers are established in every district to conduct Social Enquiry Reports (SERs) for youth in conflict with the law (Ghana Police Service, 2016).

## **2.6 Trends in Youth Delinquency**

Youth crime is a global challenge with multifaceted causes for its occurrence and prevalence. The rate of youths in the criminal justice system differs among countries. However, this rate may be underreported due to governments' over-reliance on arrest rates, charges, and convictions to determine crime rates (Patoari, 2020). Howell (1995) points out that many crimes go unreported or uncharged; therefore, they are not captured in the crime statistics. In addition, data regarding crimes committed by youths in administrative detention are not collated in most countries (Hamilton et al., 2011). In instances where data is collected, it is not made public because of the sensitivity of the information. Hence, it is challenging to ascertain the exact number of children who encounter the law.

Statistical information on youth crime, especially in the Western world, has shown a downward trend over the past 20 years (Fernández-Molina & Bartolomé Gutiérrez, 2020; van der Laan et al., 2021). The youth justice system in Australia recorded 49,180 cases in 2018 and 2019, compared to 71,421 cases between 2008 and 2009, representing a decline of 36 percent within ten years (Clancey et al., 2020). Decreases in youth crime rates have also been observed in other developed jurisdictions, including Spain, England, Wales, and the United States. For instance, in their study analyzing youth crime trends and testing the explanatory capacity of sociodemographic hypotheses, Fernández-Molina and Bartolomé Gutiérrez (2020) concluded that the rate of crime amongst the youth in Spain had decreased between 2001 and 2016, from 124.84 to 68.62 per 10,000 inhabitants. According to a study by the Ministry of Justice and Youth Justice Board in England and Wales, there was a reduction of above two-thirds of the number of youths in custody, showing an 80% decline in youth crime between 2007 and 2009 (Bateman, 2020). Likewise, the juvenile courts in the United States recorded 744,500 delinquency cases that involved youth

charged with criminal law violations in 2018, which was less than five percent of the number of cases recorded in 2017 (Hockenberry, 2020). In a report analyzing statistics about youths in residential placements in the United States, Hockenberry (2020) indicated that, between 2005 and 2018, the number of youth cases recorded declined by 55%. These statistics, however, only reflect incidents reported to the police, which are affected by the scale of the criminal offence, social movements, changes in legislation, and policies and procedures.

Unlike some Western countries, Ghana has observed increased crime rates amongst youth. The Department of Social Welfare (DSW) and UNICEF (2005) show that, in the space of ten years (1993 to 2003), 10,488 children were arrested; whereas, in the year 2005 alone, 2,164 children were arrested. The Ghana Prisons Service (2017) also recorded a 36.7% increase in juveniles admitted to the Senior Correctional Center in Accra, from 117 in 2015, to 185 by mid-2017. According to the World Prison Brief (2021), 0.9% of the total prison population were juveniles, translating to approximately 200 persons. This represented a 73.9% increase from the 2015 figures. Barnie et al. (2017) explain the increase due to the difficulties in finding employment and the absence of social support systems, due to weak family and attachment structures. On the other hand, Wadsworth (2010), in his work on urban crime trends and patterns, blames the intense levels of social change, migration, modernization, and urbanization for youth criminality. The types of crimes common to the youth in Ghana comprise mainly physical fighting, theft, sexual abuse, burglary, robbery, assault, obscene gestures, and isolated cases of murder (Barnie et al., 2017).

Wadsworth (2010) elaborates that the continuous decline in youth crime rates in developed economies is not necessarily a result of any single action or policy. He attributes the drop to the increased attention to at-risk youth before they commit a crime. By looking out for risk factors indicating a youth is likely to become criminalized, family and community members have the

opportunity to intervene by directing the child to services aimed at preventing criminal involvement (University of Pennsylvania et al., 2012). Farrell et al. (2014) also assert that an increase in security, including a more prominent police force and better preventive policing, is responsible for reducing crime statistics. Other contributing factors comprise demographic changes, such as an ageing population, high rates of education, immigration (Levitt, 2004; Wadsworth, 2010), increased gun control, stronger economies, changes in the illegal drug market (Butts, 2000), and public policies (Fernández-Molina & Bartolomé Gutiérrez, 2020).

## **2.7 Factors Contributing to Justice-System Involvement Amongst Youth**

Attempts to explain the causes of criminal behaviour amongst youth have generally resorted to strain, differential association, and labelling theories. Strain theory, developed by Merton (1938), asserts that society pressures individuals to achieve certain socially accepted goals. However, legitimate means of accomplishing these goals are limited, leading to negative emotions, such as fear, defeat, and despair. Individuals choose from the adaptations--conformity, innovation, ritualism, retreatism, and rebellion—but, aside from conformity, the adaptations deviate from the legitimized accepted means; hence, they are seen as deviance (Merton, 1938). On the other hand, the differential association suggests that criminal behaviour is learnt through interactions with others but depends on the frequency and intensity of the interactions. However, the choice of criminal behaviour is based on an individual's perception of legal codes (Kubrin et al., 2009). That is, an individual who accepts the codes is less likely to engage in misconduct, while one who distrusts the legal codes is prone to deviant behaviour. Labelling theory diverges from actions to focus on responses to actions. The theory associates with concepts of 'self-fulfilling prophesy' and stereotyping, hypothesizing that human behaviour is significantly influenced by how one is

perceived (and thus labelled) in their society (Becker, 1963). Therefore, individuals tend to live up to the labels attributed to them by society: a person labelled a criminal tends to exhibit criminal behaviours. These theories have manifested in several empirical studies conducted on youth delinquency (Becker, 1963; Kubrin et al. 2009; Merton, 1938)

Apparent causes of youth delinquency have been attributed to negative family structures, social, economic, and personal factors, and these predispositions to criminality seem to cut across societies. Some researchers have examined the impacts of family structures on delinquency, and have identified incidences of separation from parents, broken homes, absence of parental guidance and supervision, lack of parental involvement, pampering, rejection, and less quality time spent with parents to explain delinquency in youths (Barnie et al., 2017; Mishra & Biswal, 2020; Ojo, 2012; Parks, 2013). A study by Barnie et al. (2017), which aimed to understand the causes and consequences of youth violence in the Kumasi metropolis in Ghana, reported that insufficient guidance and supervision from parents lead to criminal activities through bad choices and association with deviant peers. Mishra & Biswal (2020) reveal that youths need more parental supervision in their adolescent stages, suggesting that the guidance they receive requires both authoritarian and authoritative parenting styles in moderation. Thus, parents should have a controlled balance of strict and warm or cold parenting styles. Social factors, such as negative peer activities and community influences, have also factored in youth delinquency. Patoari (2020) identifies community influences, such as the lack of opportunities for education and availability of drugs, have led to deviance amongst youths in Bangladesh. In Ketu in Nigeria, Ojo (2012) also finds that the availability of drugs, weapons, and media influences, like watching films with sex and violence, exposed youths to crime. He added that other predispositions were negative peer activities, such as engaging in cults, examination malpractices, drug abuse, bullying, and truancy.

Stress stemming from economic difficulties, such as unemployment, poverty, natural disasters, industrialization, and urbanization, are known causes of deviance amongst youths (Barnie et al., 2017; Patoari, 2020). Property-related crimes, for example, tend to stem from economic stress. Crimes such as stealing and robbery are a means to survival because of the high rates of unemployment and poverty (Barnie et al., 2017). Certain personality traits and characteristics, such as high impulsivity, low I.Q., and attention deficit, also predict criminal behaviour by youths (Patoari, 2020). According to Barnie et al. (2017), curiosity and drug addiction were also generally associated with deviance. Studies have reiterated that exposure to a single risk factor does not lead to criminality, but that a combination of multiple causes raises the likelihood of criminal behaviour. For instance, Omboto et al. (2012) assert that strain from economic stress and family difficulties may encourage engagement with problematic peers, which leads in turn to negative behaviours such as drugs, alcohol, and sex-related problems. Likewise, individuals with personal criminogenic traits who experience bad parenting or exposure to community vices may engage in deviant behaviour. In contrast, good parenting may curtail impulsive behaviours and deviant desires (Mishra & Biswal, 2020).

Welsh and Farrington (2007) point out that delinquent behaviours exhibited by youth are due to stressors they experience at various critical developmental stages and can be prevented through intervention at an early age. Citing Duncan & Magnuson (2004:101), Welsh and Farrington (2007) reiterate that younger people are more receptive to interventions to correct behaviour, suggesting that, as individuals grow older, interventions become more complicated and costly. They suggest an individual prevention approach, which entails social skill training or social competence training. These types of training are mainly aimed at helping individuals to develop social, emotional, and cognitive competence, anger management, and effective problem-solving



from early childhood. They also address personal predisposing factors, such as low I.Q., low empathy, impulsivity, and self-centeredness (Welsh & Farrington, 2007). Welsh and Farrington (2007) also suggest family interventions, such as parental education through regular visits and parental management training programs, to train parents in effective child-rearing methods to alter their children's behaviour.

Similarly, Barnie et al. (2017) also suggest punishments, like grounding children for wrongdoings, as an intervention parents can use to reduce “misbehaviours.” Welsh and Farrington (2007) also propose using school- or community-based intervention approaches, such as mentoring or after-school programs, to provide prosocial opportunities to the youth. The creation of employment opportunities for youth of employable ages by the government’s private entities is also important, as is ensuring that these jobs offer reasonable pay and are viewed as meaningful by the young people. Guidance and counselling are encouraged in schools to counter the impacts of negative peer pressure (Omboto et al., 2012).

## **2.8 Challenges and Gaps in the Juvenile Justice System**

Despite establishing a seemingly comprehensive legal framework and institutions governing youth justice in Ghana, the system still faces some challenges that affect adherence to youth justice policies. Many studies have reiterated that the youth justice system and its mandate are captured well in print, but that many hitches make implementation ineffective (Ame et al., 2020b; Ame, 2011, 2017; Hoffmann & Baerg, 2011; Mensa-Bonsu, 2017). Ame et al. (2020b) mention that recent studies in youth justice in Ghana find the same challenges as existed back in the 1990s, indicating that although efforts have been made to identify these challenges, nothing has been done to solve them. Ame et al. (2020b) list the collective challenges: little collaboration

and communication amongst the key institutions and agencies of the youth justice system, irregular juvenile courts sittings, inadequately qualified staff, lack of resources and logistics, the insufficient and appalling state of physical facilities.

The Commonwealth Human Rights (CHRI), which has a mandate to promote awareness of, and adherence to, human rights in Commonwealth countries, sanctioned a study led by Hoffmann and Baerg (2011) to assess its effectiveness in Ghana. Hoffmann and Baerg (2011) found that responsibilities associated with youth justice were spread across several departments, meaning that there was no specific institution directly responsible for the system's administration. In addition, communication across the system becomes a challenge, due to the many institutions involved in its administration. The fragmentation of tasks has led to a general lack of interest in rehabilitating the youth, as no single department or individual feels directly responsible for the successes or failures of the system. The report concludes that there is little or no accountability for the administration of youth justice, due to the failure of the JJA to mandate an agency to be directly responsible for it (Hoffmann & Baerg, 2011). The multiple functions of the institutions responsible for youth justice administration also lead to a lack of attention to the youth justice system. For instance, institutions such as MoGCSP, Ministry of Interior, DOVVSU, and the DSW, are all mandated by the Children's Act to oversee youth justice administration and the protection of children in general. However, the institutions are overwhelmed, as they are also concerned with the welfare of other vulnerable groups, such as women and people with disabilities. Therefore, these institutions allocate insignificant amounts of their budget to youth justice administration (Ame, 2011; Kumi, 2015). The perception holds that children are meant to be obedient and respectful; therefore, children who commit crimes are considered to be bad children; hence, they are assigned the lowest priority on the national agenda (Ame, 2011).

In a study on juvenile justice administration in Ghana, Asamoah (2021) points out that the key agencies responsible for implementing the JJA procedures lack the resources to do so. In particular, she identifies inadequate juvenile facilities, such as juvenile courts, junior and senior correctional facilities, and remand homes. The study shows that the facilities face budgetary constraints, transportation challenges, and a lack of trained personnel or social workers. These facilities are unevenly distributed geographically, situated in cities and districts, and therefore not accessible to local communities outside the cities and districts (Asamoah, 2021). Interestingly, prior study conducted by Nyantakyi (2013), in a study to assess how Ghana can adopt a Child Rights-Based Approach with an emphasis on diversion, reported that only ten remand homes and four juvenile correctional centers exist across the country. She reported that only three of the ten remand homes are in use indicating that the issue of inadequate facilities for youth still pertains to date. Nyantakyi (2013) further argues that these inadequacies have over-burdened the available resources, and describes the remand homes and correctional centers as overcrowded with youths; having poorly ventilated cells, with no mattresses or bed sheets; and poor maintenance of the facilities, which has led to their deterioration over the years. Ame et al. (2020b) also describe the remand homes as appalling and not fit for human habitation, indicating that, in many cases, the physical structures of these remand homes collapses, making the security of the youth questionable; hence, they shut down.

The scarcity of institutions, especially in the districts, also make it difficult for complainants to report cases. According to Ame et al. (2020b), complainants have to travel long distances to make reports and to attend court dates. The report by Ghana Judicial Service (2018) elaborates that the cost and time constraints faced by complainants and witnesses who must travel long distances to attend court hearings discourage them from attending court hearings, which leads

to significant absenteeism, prolonging the cases in court. In addition, the police have articulated the difficulties they face due to a lack of resources, indicating that this leads them to adopt some less desirable practices, such as dismissing cases to be settled at home and processing only very serious cases (Ame et al., 2020b). According to Asamoah (2021), logistics and funding to support youth justice programs, and investigative and probationary services, have been declining over the years, making it difficult for the police, probation officers, and other key personnel to do their jobs in a timely manner. For instance, the lack of transportation makes it difficult for the police to carry out investigations and send youths on remand to court for their hearings (Mensa-Bonsu, 2017). In addition, probation officers also face challenges in going into the communities to locate youths' families to prepare social enquiry reports needed for sentencing, as doing so would require money and transportation. The absence of resources thus delays the processes of the courts.

Coupled with the scarcity of resources, the lack of specialized training has also resulted in many malpractices that infringe children's rights within the justice system. Many studies have found that the police keep youths together with adults in the same cell, and fail to process them to court within 48 hours, as stipulated in Section 15 of the JJA (Asamoah, 2021; Hoffmann & Baerg, 2011). The police have also been accused of keeping youths in custody without the presence or knowledge of their parents or guardian, and without making attempts to locate them (Kumi, 2015). Assessing the youth justice system of Ghana, Hoffmann & Baerg (2011) and Ame (2011) found that the cases of youths being treated as adults are mainly due to wrongful age determination. Section 19 of the JJA recommends using documents such as birth certificate, baptismal certificates, or certificates signed by a medical officer as proof of a person's age. However, some studies have pointed out that the lengthy processes and difficulties that come with ascertaining a person's age cause delays in case hearings and non-compliance to guidelines (Dake & Fuseini, 2018; Ghana

Judicial Service, 2018). According to Dake and Fuseini (2018), approximately 30 percent of children born in the country have never been registered, due to their parents' lack of formal education, poverty, or the lack of medical facilities in some areas, which makes the use of birth certificates to determine age difficult. The cost of medical tests also makes it difficult for medical officials to use more accurate tests, like dental x-rays or hand wrist x-rays, limiting them to physical examinations, which may not be accurate enough (Ghana Judicial Service, 2018).

The youth justice system also lacks state/public defenders or defense attorneys trained to handle juvenile cases. As found by the Ghana Judicial Service (2018), there are no special criteria, qualifications, or training requirements for panel members in the juvenile courts in Ghana. Asamoah (2021) points out that the absence of a specialized police unit responsible for dealing with delinquencies has led to concerns about the lack of proper processing of cases. To function well as a juvenile representative, considerable knowledge of adolescent development is required. According to EWG (2011), this issue is present in most juvenile representatives worldwide; however, Piper (2017) shows that certain jurisdictions are taking steps to remedy this by requiring lawyers who interact with children to specialize in juvenile justice. Amongst European Union (E.U.) member states, there are mandatory training requirements on the rights and needs of children for judges, prosecutors, and defense lawyers (Piper, 2017). Piper (2017) points out that, in the Flanders region of Belgium, only lawyers who undergo specialized training delivered by the Flemish Bar Association on this subject matter can represent children in court proceedings.

Low motivation, poor remuneration and lack of panel members, and many non-functional juvenile courts around the country cause irregularity in court sittings. In their work, Ame et al. (2020) found that, in many districts, juvenile courts were inactive because the panels were not properly constituted. Essentially, this was the failure of the government to swear in persons who

had been posted to such districts to work, which means that, although the juvenile courts exist, they cannot actually function; hence, youth cases must be sent elsewhere to be heard (Ghana Judicial Service, 2018). Frequent transfers of staff, shortages of staff, and a lack of automated systems to improve efficiency also over-burden courts with caseloads, leading to lengthier durations of case processes in court (Ghana Judicial Service, 2018; Osei, 2013). Meanwhile, the policy advises that youth cases must be within a timeline of six months (Juvenile Justice Act, 2003). Delayed and irregular salaries contribute to low motivation among professionals, who lose interest in sitting as panel members, thereby causing delays and lapses in court processes. There are also few lawyers interested in representing juveniles, leading to a paucity of legal representation (Ameh, 1993). Unfortunately, state-funded legal aid services do not extend to criminalized youth. Although a few non-governmental organizations could sponsor legal representation for these youth, they are often unaware of such options, owing to a lack of education about their rights and opportunities (Hoffmann & Baerg, 2011).

The JJA recommends both custodial and non-custodial sentencing options for the court, but also encourages the use of alternative measures, in the form of diversions, to settle cases out of the justice system where possible, but this is rarely used in practice (Ame, 2011, 2017; Hoffmann & Baerg, 2011). Diversion is the term used to describe the approaches of interventions to redirect youth from formal processing in the youth justice system, while still holding them accountable (Juvenile Justice Act, 2003). According to the Act, diversion should be the first option after a youth is arrested, depending on the circumstance of the individual and the nature of the crime (Hoffmann & Baerg, 2011). Child Panels were tasked with implementing the JJA's goal of diverting cases away from the courts (Ame et al., 2020a; Ame, 2011); meanwhile, studies have concluded that the court relies largely on custodial options for case disposal (Ame, 2011;

Hoffmann & Baerg, 2011). Ame et al. (2020a) explain that the non-functionality of alternative measures, due to the lack of training of panel members on their existence, results in the choice for custodial measures.

## **2.9 Conclusion**

In reviewing existing literature, the chapter explores the evolution of the Ghanaian youth justice system, describing it as heavily motivated by Western influences. While it seems to have good intentions, it is sometimes met with resistance and impediments because its adoption of Western ideals mean that it diverges from local beliefs. The review also recognized that the current nature of the youth justice system, established by the JJA, combines welfare and justice principles with some elements of restorative justice through the introduction of alternative measures. However, the various agencies responsible for the administration of youth justice experience significant challenges that hinder them from properly adhering to the directives provided by the JJA.

## **CHAPTER THREE – METHODOLOGY**

In this chapter, I focus on the methods of the research project. First, I present the philosophical assumptions and research design of the study. Following that, I discuss the methods used to obtain data, including the study area, data sources, sample size and sampling techniques, data collection procedures, ethical procedures, and data analysis. Additionally, the justification for selecting a descriptive qualitative design, the rationale behind choosing the sample, and the analytical tools used in the study, are discussed. The final section presents ethical consideration and a conclusion.

### **3.1 Research Paradigm**

This study is informed by a post-colonial theoretical framework, which suggests the Ghanaian youth justice system fails to comply with the tenets of the policies that establish the system because of continuing influences from Western countries. This approach leads to the speculation that, when policies do not align with the social and cultural values of a people, adherence to them become problematic, therefore infringing on the rights of young people in particular. The study's assumption of a critical paradigm is useful in explaining and analysing cultures and bringing injustices and marginalisation to light with the goal of pressing for social change (Patton, 2002). In applying a critical paradigm, this work challenges the commonly accepted view of society to highlight the suppression of young people and their limited power and position within society, specifically, within the justice/legal system. This paradigm is well-suited to the current study because of its descriptive nature and primary focus on examining the body of systems that respond to a marginalised group (i.e., youth in the Ghanaian juvenile justice system), with a view to effecting change. This study increases our awareness of the experiences of young



people who have been impacted by their experiences in the youth justice system, specifically the courts, with the intention of providing evidence and motivation for reforming the justice-system to comply with its own established policies. The ontological position is historical realism, which views reality as that which has been shaped by social, political, economic and cultural factors and gender values (Scotland, 2012). According to Cohen et al. (2009), the critical paradigm's epistemology is subjective, because it concedes that knowledge is a social construct influenced by power relations. Critical methodologies have largely been geared toward qualitative approaches, often involving thematic interpretation of data (Scotland, 2012); hence, the study assumes the same method of inquiry.

### **3.2 Research Design**

The research adopts a qualitative approach. The qualitative method is known for its diverse approaches toward data collection and for providing cultural and contextual descriptions and interpretations of social phenomena, including the subjective experiences of vulnerable groups (Vaismoradi & Snelgrove, 2019). After reviewing the various qualitative approaches available, it was decided that this study would employ a qualitative descriptive content analysis, because such an approach allows researchers to study many individual cases at once. The method also permits the subjective interpretation of the content of text data through the systematic classification process of coding and identifying themes or patterns (Hsieh & Shannon, 2005). Content analysis refers to research methods and procedures that researchers use to investigate concepts in the texts. The flexible nature of the content analysis method permits analysis of textual data, and it is deemed to be a practical design for research involving court case files (De Bortoli et al., 2013; Kratky & Schröder-Abé, 2020). The goal of this qualitative descriptive study was to comprehensively

describe specific court processes experienced by youth in Ghana. The approach helped generate the critical description of the youth cases and identify case themes. The method allowed an opportunity to compare court cases by teasing out comparable themes that represent issues of each criminalized youth case.

### **3.3 Study Area**

The study was set in Accra, the capital city of Ghana. Ghana was the first country in sub-Saharan Africa to gain independence from colonial rule. The country's legal institutions, including the court system, have been influenced by its colonial heritage of British rule. In 2015, Ghana recorded having three hundred and sixty-eight courts with two hundred and sixty-one registries. The courts in Ghana comprise both superior and lower courts. The superior courts consist of the Supreme Court, the Court of Appeal, and the High Court and the Circuit and District Courts, comprising the Juvenile Courts and Family Tribunals, constitute the lower courts.

The study focused on the juvenile court in Accra. This site was chosen because Accra is metropolitan and populated by diverse social groups. The team collected the study's data from the records office and the courts' archival unit in the Accra Court Complex. The study for which we initially collected the data was a case study, intended to serve as a preliminary study before designing a more general study covering the whole country. Nevertheless, the choice of the study area proved most appropriate, as the courts in Accra have the best resources and specialized supporting professionals the government can provide, compared to other regions of the country. In essence, data collected from the chosen area of study would serve as the benchmark for assessing juvenile courts in the country.

### **3.4 Sources of Data**

The study used court records, i.e., youth case dockets, as its primary data source. I used the case dockets to explore and describe the various processes youth in conflict with the law go through in the courts in Ghana. The data set was initially gathered for an ongoing project titled "The Perceptions of the Juvenile Court of Juvenile Offenders in Ghana," which was conducted by Dr. Robert Ame in 2018. The data collected included modified legal case briefs generated from juvenile court case dockets from 2007 to June 2018. According to Cohen & Olson (2016) and Makdisi & Makdisi (2009), legal case briefs present a summary of court cases, consisting of a few essential elements that include: an introduction, the statement of the facts of the case, the arguments, the decisions of the courts, and the rationale behind the decisions. However, the modified case brief method included a more detailed summary that captured all necessary information, and so was helpful to the study in not being limited to the precise nature of regular legal case briefs. The court proceedings, including the dates of sitting, adjournments, reasons for adjournments, a summary of the social enquiry report (SER), and the other medical reports, were included in the case briefs. The additional information yielded more vital and in-depth data.

To examine the compliance of the courts with the legislative body's guidelines for the youth justice system, I relied on the JJA. The Act spells out specific procedural remedies to be adhered to by the institutions responsible for rehabilitation while ensuring children's rights within the justice system. With the findings from the data revealing what is practiced in the courts, I reviewed the JJA to show "what ought to be," and to adequately examine the gaps between policy and practice.

### 3.5 Sampling Technique and Sample Size

Youth are a vulnerable population; therefore, their records are mostly expunged or sealed, and access to them is limited (McCord et al., 2001). Jacobs (2014) establishes that juvenile courts ensure that children are protected from the negative consequences of being stigmatized and labelled criminals. According to McCord et al. (2001), youth justice agencies undergo periodic expunging of records that are of no more use to the juvenile court, the juvenile in question having died or come of age. Given this, the research team employed a non-probability sampling technique to select the case dockets for the data. Convenience and purposive sampling techniques proved best for guiding selection. Dockets were chosen conveniently based on availability and accessibility. In other words, all dockets that had not yet been destroyed or impounded, and were made readily available to be reviewed, were collected. The juvenile court cases ranged from juvenile delinquency cases, status offence cases, and child protection cases. The team purposively chose criminal and status offence case dockets, irrespective of the gender of the juveniles, the type of offences, or whether the court completed the case. Thus, cases concerning family and child protection issues were excluded. In all, two hundred and ninety (290) case dockets were chosen and reviewed from 2007 till June 2018 (see the breakdown in Table 3.1). The case dockets involved three hundred and thirty-three (333) youths, since some of the cases were committed by multiple persons. The current study maintains a sample size of 290 case dockets.

**Table 3.1: Court case dockets reviewed per year**

<b>Year</b>	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	<b>TOTAL</b>
<b>No. of Dockets</b>	20	25	27	23	21	26	25	22	39	19	21	22	<b>290</b>

**Source: Researcher's constructs**

### **3.6 Data Collection Procedure**

The data collection process comprised a research team of five. The research team included the principal investigator, a research coordinator (the principal researcher), a law practitioner, and two research assistants (both master's students at the University of Ghana). Data collection began with two training sessions, led by the principal investigator and the law practitioner, to acquaint the team with the research, data collection methods, and ethical considerations. The initial training session was theoretical. It focused on details about the study, including the ethical issues and methodology. The training session took place in the Sociology Department at the University of Ghana.

The second session was more practical and included a pilot study in the records office of Ghana's Judicial Service. More recent dockets from all the courts in Accra are kept before processing them to the archives. During the pilot, the team agreed to modify the legal case brief methodology to get more vital information, usually not captured in the traditional legal case briefs. The team also had access to the court's Records Book, where the judge handwrites more detailed notes about the case, which are later transferred into the dockets. The records book was used along with the dockets to get more information about the cases, mostly when the information was scant. In the dockets, the magistrates gave reference numbers to each court sitting, and these could be traced into the records book for more details on the cases.

Data collection lasted for two months, from June 11<sup>th</sup>, 2018, to August 6<sup>th</sup>, 2018. In the field, we were assisted by the registrar of the Juvenile court and two national service personnel, who helped locate and gather the dockets we needed to review. The dockets were read thoroughly and summarized, and we typed the summaries onto our individual computers. We began summarizing from the most current year, 2018, and worked backwards until all the dockets

available were exhausted. Dockets were kept in the juvenile court's records office and the supreme court's main archives.

Case dockets were sorted into two categories: criminal cases and child protection cases. After sorting and reviewing all dockets from the records office and the archives, the modified legal case briefs were transferred to the research coordinator using a USB flash drive. The data was then re-sorted: categorized according to year and re-numbered to get the total number of dockets for each year. The data were then proofread and given to the principal researcher.

### **3.7 Data Analysis**

Content analysis was used to examine the data. To better understand the findings, the content analysis was done both quantitatively (producing a numerical description of the content) and qualitatively (thematic analysis). In analyzing the data, I paid close attention to the various categories in the modified case briefs, i.e., the young person's profile, the facts of the case, the legal issues raised, the proceedings, the decisions made, and the court's reasoning, and created a coding scheme based on these categories. Data were analyzed using the inductive content analysis approach with the qualitative analysis. I used the NVivo software to organize and code the content of the case dockets. First, descriptive open coding was employed to categorize data and examine its consistency. Frequently mentioned words, sentences, and paragraphs were labelled with codes. Second, through constant comparison between transcripts, similar codes were combined into analytic concepts. Concepts were then grouped by similarity, where I identified themes or categories and developed the coding scheme. Some of the themes that emerged were jurisdiction, bail, remand, case adjournment, and decision. For example, a word or short phrase in case file data initially coded as "ASSURANCE BY PARENT", "MEDICAL REPORT" or "PERSONAL

REPORT” were categorized under the major category, “AGE DETERMINATION”. As the study continued, another major category emerged, which we labelled “TRANSFER OF CASES”. Through further reflection and consistent with practice, these categories were themed “JURISDICTION”. The coding scheme with proportions for each category/subcategory is shown in the codebook (See Appendix B)

Regarding the quantitative analysis, each case attribute was coded and organized in a Microsoft Excel spreadsheet, which I later exported to STATA software for analysis. Data were extracted on a range of demographic variables: age of the child (continuous) and categorical variables included the gender of the child, occupation status, type of offence, court orders, i.e., remand status, SER ordered (Yes/No), and court decision or verdict. Other variables coded and computed included SER adherence (Yes/No), case completion status, duration of proceeding (See Appendix C). Next, I produced themes, patterns, and statistical annotation to present a more vivid picture of how youth are treated in the justice system. The findings from the case dockets analysis were compared to the provisions established by the JJA. The results are presented and discussed along with the relevant literature in the ensuing chapters.

### **3.8 Data Validation and Reliability**

By reviewing the court case dockets, methodical examination of the information included inside court case dockets, this study offers a fresh perspective on the procedures followed by youth courts in Ghana. Regarding the reliability of the findings, the research team had access to the documents of the SER, as well as medical records and other court documents containing orders and decisions. As a result, the research did not use interview or survey methods because of their inherent subjectivity. Reliability of the data was gained to a substantial degree by the inquiry that

involved a sample of 290 young people's cases. In comparison to earlier studies that used smaller sample sizes, this one has a significantly larger number of participants. More crucially, the research utilised both qualitative and quantitative content-coding methods, which, given the dearth of previous research in this field, was thought to be a suitable approach. In addition, the analysis consisted of three cycles of coding in order to guarantee a more accurate representation of the data by adjusting the categories to be as similar to the data as is practically possible. In content analysis, establishing validity is best regarded as a two-step process. The first step is to develop a coding scheme that guides coders in studying content. If the scheme is faithful to the theory in orienting coders to the focal concepts, it is regarded as a valid coding scheme. The second step is to assess the decisions made by coders against some standards. If the codes match the standard for correct decision-making, then the coding produces valid data. I found substantial perfect intercoder agreement, thus substantiating the quality of the category system.

### **3.9 Ethical Considerations**

The Director of Research of the Judicial Services of Ghana was approached to approve the study before it commenced (See Appendix A). The approval came in the form of a letter written by the Judicial Secretary of the Judicial Service of Ghana to the registrar of the Accra Juvenile Court, granting us access to the legal documents. Although the research did not include human participants, it involved sensitive information about a vulnerable group; hence, the team ensured utmost confidentiality and anonymity of the information accessed, including storing the data collected on a hard disk locked with a password. The team also refrained from discussing case content outside the field or with non-team members. Further ethical approval was received from the Interdisciplinary Committee on Ethics in Human Research (ICEHR) of the Memorial



University of Newfoundland (No. 20222010-AR). The study ensures the confidentiality of the information and the anonymity of youths. The data were anonymously coded, so that no information could be traced back to individuals (See Appendix D). Except for Dr. Ame, the principal investigator of the original study, whose data is being used for this thesis, my thesis committee members signed a non-disclosure agreement. None of the juveniles will be identified by name or any other identifying information in this thesis, or in any reports or articles based on this study.

## **CHAPTER FOUR – YOUTH JUSTICE IN PRACTICE**

This chapter discusses the procedural practices of the juvenile court in Accra, Ghana. Referring to the case files, the chapter presents the characteristics of youths involved in the justice system between 2007 and 2018. To address the objectives of the study, the findings are captured under six broad headings: age determination, transfer of cases, bail practices, remand practices, duration of court processes, and court sentencing and decisions. The findings are then summarised in a concluding section.

### **4.1 Profile of Youth in the Ghana Justice System**

The characteristics of the youths include their age, sex, occupation, and type of crime committed (see Table 4.1). Of all the youths in this sample, approximately 89% were male, and 11% were female. Only 287 out of 333 youths had their ages noted in the data, because the remainder had no age recorded in their case dockets. The ages of the 287 youths ranged between 12 and 19, with a mean age of 15.5 years old. The youths were in court for various crimes, categorized broadly into property crimes, sexually related crimes, assault, murder or attempted murder, weapon possession, drug-related crimes, fraud, and crimes against public order/authority. The most common infraction, representing approximately 55% of all cases before the courts, was against property. The property crimes included stealing, robbery, and unlawful damage to property. Sexual-based offences, such as defilement and unnatural carnal knowledge, were also prevalent, and constituted 29% of the violations committed. The least common acts of misconduct were assault (12%), murder or attempted murder (2.4%), possession of a weapon (0.6%), and 0.3% each for fraud, drug-related crimes, and public order offences.

**Table 4.1: Profile of the Youths**

<b>Variables</b>	<b>% (<i>frequency</i>)</b>	<b>Mean (SD)</b>
Age	*(287)	15.50 (1.4)
Sex		
<i>Male</i>	88.90% (296)	
<i>Female</i>	11.10% (37)	
Occupation (recategorized)		
<i>Student</i>	(34.50%) 115	
<i>Employed</i>	(34.50%) 141	
<i>Unemployed</i>	23.10% (77)	
Offence Type		
<i>Property offence</i>	55.00% (183)	
<i>Sexual offence</i>	29.40% (98)	
<i>Assault</i>	11.70% (39)	
<i>Murder/attempted murder</i>	2.40% (8)	
<i>Possession of weapon</i>	0.60% (2)	
<i>Drug-related offence</i>	0.30% (1)	
<i>Fraud</i>	0.30% (1)	
<i>Crime against public order/Authority</i>	0.30% (1)	
* Even though the total observation was 333 only 287 out of 333 youths had their ages noted in the data.		

**Source: Author's construct from field data, 2018**

About 42.3% of the youth that encountered the law indicated that they engaged in various economic activities. Many jobs were mentioned, including, amongst many others: hairdressers, seamstresses, bus conductors, errand persons, porters, traders, shop attendants, masons, scrap dealers, electricians, and plumbers. Students made up 34.5% of the 333 youths, and 23.12% were unemployed. The unemployed group included many youths who indicated that they were school

dropouts, while others were job seekers who had not yet found jobs. It is noteworthy that two youths had already been incarcerated in a detention center, where they had undergone training and reformation, and had re-offended.

In summary, youths in the justice system between 2007 and 2018 were mainly between the ages of 12 and 19, and most of them were males. They engaged in both serious and non-serious crimes, with the most common crimes being property-related, while the rarest were fraud, drug-related crimes, and public order offences. Many of these youths were attending school, pursuing vocational training, or engaging in some economic activity. However, a few of them did not go to school or work.

#### **4.2 Determining Age and Transfer of Cases**

The data shows that the youths who appeared before the Accra juvenile court were between 12 and 19 years old. The police determined the age of the youth during their arrest before processing them to court. The profile of the accused youth was captured on a charge sheet and transferred to the court. The police included information on their age, sex, occupation, the facts of the case, and the legal charges they faced. The data indicated that juvenile court magistrates generally depended on the age stated on the charge sheet provided by the police. However, it was evident that the magistrates regularly verified the age of the accused youth by assessing their physical appearance to determine whether their physique matched the age stated on the charge sheet. For example, in a case involving a 16-year-old, the magistrate noted that they had no reason to impugn the age given, because the appearance of the youth and the age stated on paper seemed to align (Case 2014/7).

When the offender's age was unknown or uncertain, the magistrates pursued further options to verify the age of the accused youth. The options the court adopted included dependence on the parent or guardian to furnish the court with personal documents, such as a birth certificate or a school testimonial (if attending school), that stated the age of the youth. In a few cases, the court relied on a verbal attestation from the parent or guardian to confirm the age of the accused youth when the personal documents were not readily available. The juvenile court also relied heavily on medical reports from a trusted hospital to determine the age of persons that came before it. Through a court order, the magistrates requested that the youth be taken to a selected hospital to undergo a medical examination to determine their age before proceeding with the case. The courts determined a youth's age before proceeding with any case, and doubts about age mostly led to adjournments of the court until the medical center or family of the youth provided proof of age.

The court transferred cases to and from the juvenile court and the circuit courts. The data found that magistrates in the juvenile courts retained those within its jurisdiction and transferred the cases involving persons older than 17 years to the circuit court, which is the appropriate court of jurisdiction. Cases were also transferred to the circuit courts for hearing when an accused youth was charged with an adult. However, the circuit courts, after hearing the case, transferred the cases back to the juvenile court for sentencing. Extracts from some dockets captured the practices of the court in ensuring appropriate jurisdiction of cases. For instance, case 2015/32 shows a situation where a magistrate strikes out a case brought before the juvenile court because it involved youth and an adult. The magistrate ordered the case to be transferred to a circuit court for a hearing, and, if the youth was found guilty, the circuit court should send the youth back to the juvenile court for sentencing.

*The case was disposed-off. The judge declined jurisdiction to hear this matter. Since the juvenile is alleged to have committed the offence with an adult, per section 17 (3)*

*of the Juvenile Justice Act, 2003, Act 653, a charge made jointly against a Juvenile and a person who attained the age of 18 years shall be heard by a court of summary jurisdiction other than a Juvenile Court. In this instance, the Accra District Court 3 ordered that the juvenile be arraigned before the juvenile court. However, the district court should have dealt with him jointly with the adult and, if convicted, remitted him to the juvenile court for sentence. (Case 2015/32)*

Case 2011/12, however, captures an incidence of a youth being brought to the juvenile court for sentencing after a case hearing in the circuit court with an adult.

*The juvenile committed the offence with an adult; he was trialed with the adult offender at the circuit court and is transferred to the juvenile court for sentencing. (Case 2011/12)*

In case 2008/17, a youth initially sent to the circuit court was transferred to the juvenile court when the circuit court discovered that he was under 18 years, based on documents presented by the youth's father.

*Accused was arraigned before the circuit court and mentioned he was 18 years but when his father presented his birth certificate, it indicated he was 17 years old; therefore, he was discharged from the circuit court for him to appear before the juvenile court. (Case 2008/17).*

## **4.3 Bail and Remand Practices of the Ghana Juvenile Court**

### **4.3.1 Bail**

When the juvenile court has established and confirmed the appropriate jurisdiction of the case before it, the first court sitting is a bail hearing to read the facts of the case and charges against the youth and, most importantly, to determine whether the youth should be released on bail. The data shows that most youths were denied bail at this initial hearing. Nonetheless, in subsequent

court sittings, the court granted the youths bail when they met the bail conditions. The courts recorded, in the dockets, reasons why magistrates granted or failed to grant bail to youths at any point during the case hearings. The case records showed that the court could not grant many youths bail at the initial court hearing, mainly because of the absence of a surety.

In most cases, the youths had no responsible adult to represent them and to vouch for taking care of them and ensuring the bail conditions would be met. One reason presented in the dockets as to why parents did not attend court hearings was a lack of interest in their ward. Evidence also shows that some of the parents or relatives were not actively present in the youth's life, as the youth had left home and migrated to Accra to fend for themselves. The data also revealed that some family members were unaware of their child's involvement with the justice system, while others who did know were unaware that they had to be in court with their ward for the hearings. In the absence of a family member, the magistrate declared that the panel was not adequately constituted; hence, they adjourned the case, issuing a bench warrant for the prosecutor to bring the youth's parent or guardian to court before the case was heard.

The courts granted bail to youths whose family member was present in court, while noting that the court made sure that the youths granted bail had committed non-serious crimes and posed no threat to their community. The family member present in court was given the responsibility of ensuring that the youth was present at all court hearings and abided by the other conditions of the bail. The court granted bail at a monetary cost that varied based on the economic status of the surety. The surety was liable to pay the charge if the youth broke the bail conditions. Youths enrolled in school or engaged in an apprenticeship were also granted bail when the court believed that doing otherwise would affect their education, as captured in case 2018/18:

*The victim was absent. The juvenile was granted bail to a sum of GH¢3000 with Uncle as surety because he is a Senior High School boarding student. (Case 2018/18)*

In an exclusive case, the magistrate granted a youth bail and subsequently discharged the case because the youth was committed to police custody for a long period of time. The case was initially treated as an adult case in a circuit court, from January 2008 until July 2008, when it was proven that the youth was under 18 years. He was transferred to the juvenile court in July, and was granted bail in September. The docket indicated that bail was granted because the magistrate felt that the youth had already gone through an ordeal by enduring police custody for five months.

*The case was at the circuit court, but the medical report found that the juvenile was 17 and a half years old, so the case was discharged and brought to the juvenile court. Accused pleaded not guilty and is admitted to bail at GHC 4000.00 with a surety. This is due to the fact that the accused has been in custody since February 2008. (Case 2008/3)*

#### **4.3.2 Remand**

Youths who were not granted bail were remanded to be kept safe and to guarantee that they appeared for their court dates. The court sat on youth cases either once every week or bi-weekly, and, at these hearings, the magistrates reviewed and renewed remand orders. The court granted bail to youths who met the conditions for it, while renewing remand orders until the next court hearing for those who did not. The court provided reasons for remand in the case dockets. Youths were mostly remanded because of no representation to stand as a surety. Youths were also remanded when they were accused of having committed serious crimes or had pled guilty to crimes. Evidence of danger to the welfare of the youth and likelihood of re-offending when released were also reasons why magistrates remanded youths. Finally, when a magistrate was not convinced that a youth would appear in court, they refused bail, remanding the youth. For instance, in one case, the youth's father described his difficulty in affording transportation for himself and



his daughter to court for hearings, so, to alleviate this burden, the youth was taken to a remand home.

*The juvenile's father says he has no money for transportation to court. The juvenile is remanded at the Girl's Home at Osu. Case adjourned to next date for decision of the court. (Case 2016/9)*

Of all the youths captured in the data, 60.06% experienced remand at one point in time, while 39.94% experienced no remand at all. The courts remanded youths either in remand homes, police custody, prison, or in the care of a fit person. The data shows that 52.85% of youths were sent to remand homes, 4.50% were remanded in police custody, 1.20% were remanded at home in the care of a fit person, and 1.50% were in prison (See Table 4.2).

**Table 4.2: Remand Location by Sex (percentage)**

Remand location	Freq.	Percent	Cum.
Remand Home	176	52.85	52.85
Police Custody	15	4.50	57.36
Fit Person	4	1.20	58.56
Prison	5	1.50	60.06
Not Remanded	133	39.94	100.00
Total	333	100.00	

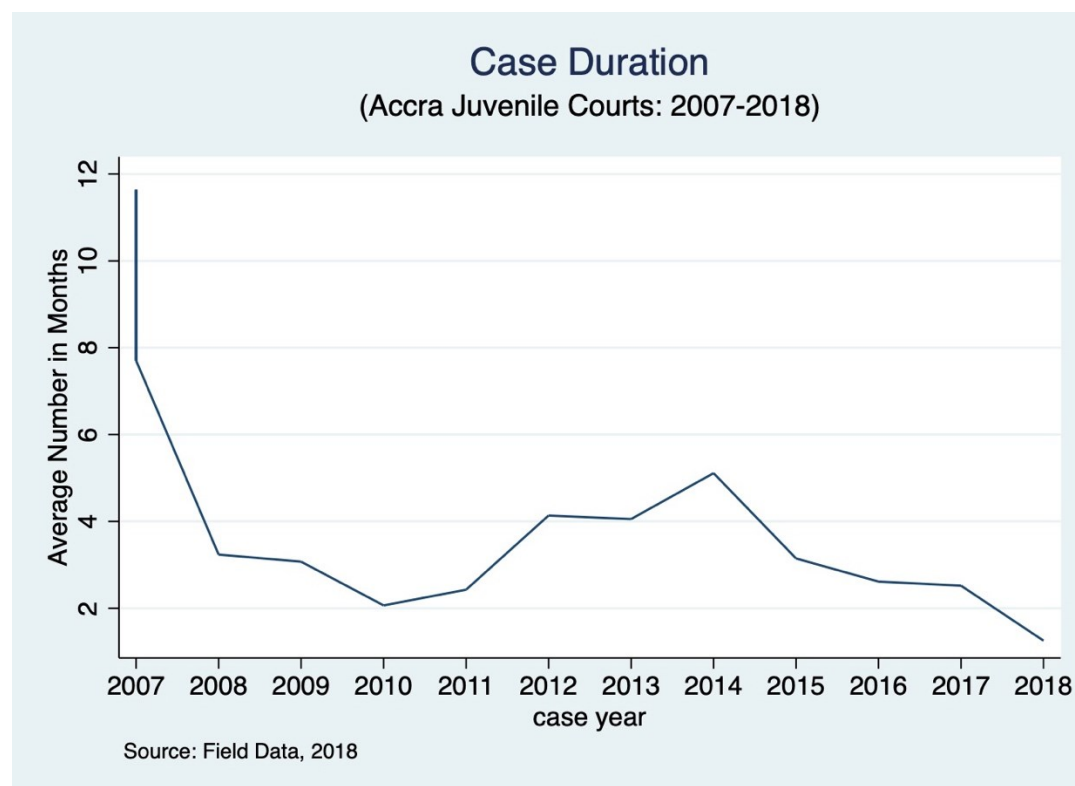
The court used two remand homes, the Osu Boys and Girls Remand Homes, for all youths within the jurisdiction of the Accra juvenile court. The males were kept in the Boys Remand Home, females in the Girls Remand Home. Youths kept in police custody were held in different cells from the adults, called "junior cells." Remand in police custody was considered when the age of the youth was yet to be determined, so as to enable further investigations and locate the youths' parents. Police custody was also an option for youth who tried to escape from the remand home. In two

youth cases, the courts remanded male youths to prison; however, reasons for this decision remain unknown since it was not recorded in the case docket.

#### 4.4 Duration of Court Case Processing

The field data show that cases at the Accra juvenile court lasted between a week to 22 months, with an average duration of three months and two weeks (see Figure 1). The study identified that cases were adjourned for several reasons. Reasons for frequent case adjournments were prosecutors being unprepared to proceed with a case, delays in determining the age of the youth, and delays in prosecutors furnishing the court with police statements and other evidence. Other reasons included delays in obtaining medical reports and other documents necessary to complete the case, long cross-examinations, and non-attendance of critical persons to court.

**Figure 1: Case Duration- Accra Juvenile Court (2007-2018)**



The data shows a vast decline, from an average duration of eight months to three months, in the Accra courts between 2007 and 2008. From 2008 to 2009, the average remained constant, before beginning to see a slight fall to an average of two months in 2010. Between 2011 and 2014, the average time to process youth cases gradually scaled to an average of 5 months, and then began a gradual fall to the lowest average of one month two weeks in 2018. (See fig. 1)

#### **4.4.1 Absenteeism**

Until the juvenile court was appropriately constituted, magistrates could not proceed with a case hearing. Hence, they had to adjourn cases till all key persons were present in court. Complainants were the main culprits of not appearing in court on set dates without giving the court reasons for their inability to report in court. Reoccurrence of non-attendance without providing the court notice led magistrates to assume the complainant was uninterested in pursuing the case further. Therefore, the court struck out the case and discharged the youth involved. The data also revealed the absenteeism of family members who represent youth, mainly at the initial court hearings. After being summoned by the court and given the responsibility as surety, the youth's parent ensured adherence to the bail conditions and appeared in court with the accused youth. When they could not attend, they gave an excuse of absence to the court before the hearing. Although uncommon, accused youths, especially those remanded in institutions, also sometimes failed to appear in court. As shown in Case 2008/2, their absence in court was sometimes a result of the failure of the prosecution to transport the youth to court due to logistic problems, or a result of the youth escaping from custody, as shown in Case 2014/8:

*Accused absent in custody. Prosecutor indicates that investigators are unable to bring the accused from the Nsawam Prison due to logistic problems. (Case 2008/2)*

*The juvenile had absconded and even stole his teacher's laptop. Bench warrant issued for the arrest of the juvenile. (Case 2014/8)*

The data also found that some youths were absent when the court date interfered with their schoolwork. For instance, captured in Case 2018/18, the youth's mother explained to the court that the youth could not attend because he was writing his final exams. The magistrates, therefore, decided to organize court dates on the days he had no exams, which also resulted in prolonging the case.

*The juvenile was absent because he was writing his final exams, but his mother was present. Counsel is ordered to provide the court with a timetable for examination of Juvenile by N. A. D. Matter adjourned to 22/03/2018.*

*5/04/2018 – Juvenile Absent, but his mother was present. Considering the welfare principle of seeking the children's best interest and Section 33 of Juvenile Justice Act 653, the trial will go along with days the juvenile has no exams. The matter was adjourned to 13/04/2018 for trial to commence at 12:00noon. (Case 2018/18)*

Non-attendance in court was also observed amongst magistrates and other court officials. Transfers to different courts or pursuing national assignment elsewhere explained why some court officials and prosecutors were not in court. In addition, the numerous national holidays in the country, coupled with legal holidays, were also reasons for postponing court sittings, leading to lengthy durations.

#### **4.4.2 Delays in Documents**

The juvenile courts mainly depended on documents produced by other institutions, such as the police department, DSW, the youth's family, medical centers, and psychologist's reports, to

make critical decisions. Failure to furnish the court with such documents led to adjournments, which created delays in case processing.

The data showed that the unpreparedness of prosecution to begin cases, due to unfinished investigations delayed them in presenting police statements and other evidence necessary to the court for the hearing to begin. In addition, courts often had to await documents from families or medical centers to verify or determine the age of youths, to ensure the case is within jurisdiction before commencement. SERs requested from the DSW to aid in the decision taken by the court also saw some delays, mostly coming from the refusal by family members of the youths to grant interviews, or difficulties in locating family members, as some of the youths had no contact with home. Waiting for other documents, like victim medical assessments, especially in cases of defilement, or psychologist reports required to determine youth's mental health status, also caused delays in processing youth cases.

#### ***4.4.3 Prolonged Trials***

Cases of youths who pled not guilty in court proceeded to trial, where the youth were cross-examined to determine their innocence or guilt. Counsels asked for extra time to prepare for trial, so as to conduct further investigations into the matter and locate witnesses to testify in court. Case processing was prolonged when counsels found the court case complex, evidence was difficult to get, or witnesses refused or did not appear in court to testify.

#### **4.5 Court Sentencing and Decisions**

The juvenile court decided on 285 youth cases, while 48 were incomplete. Incomplete cases were those for which the case dockets did not contain any more information

on the case's progress. The study recognized discharge of case from the court, detention in an institution, probation, signing a bond of good behaviour, payment of fines, committing to a fit person, diversion of cases out of court for settlement, and imprisonment as sentencing options used by the courts. Although the courts mostly meted one of these sentencing options to youth, they sometimes adopted a combination of them. For instance, Table 4.3 indicates that 3.9% of youths sentenced to probation were also made to sign a bond of good behaviour, while 0.7% were ordered to pay fines. Other youths were detained in an institution and fined. The findings showed that -fines were included in different decisions as compensation to the victim if the youth's action had caused damage to property or other harm.

**Table 4.3: Table showing the decision taken by the Juvenile court in Accra**

Decision	Freq.	Percent	Cum.
Discharge	100	35.09	35.09
Detention	63	22.11	57.19
Probation	55	19.30	76.49
Sign Bond	28	9.82	86.32
Probation/Sign Bond	11	3.86	90.18
Fine	8	2.81	92.98
Committed to fit person	6	2.11	95.09
Diversion	4	1.40	96.49
Imprisonment	4	1.40	97.89
Fine/Detention	2	0.70	98.60
Probation/Fine	2	0.70	99.30
Transfer to circuit court	2	0.70	100.00
Total	285	100	

#### **4.5.1 Case Discharge**

Among the decisions taken by the juvenile court, 35.1% of youth cases were discharged from the court, which was the most common decision taken by the magistrates. The court mainly discharged cases on the premise of "for want of prosecution"; in other words, when a complainant indicated a lack of interest in pursuing the matter further, or was constantly absent in court without reason. Charging the youth wrongfully or lacking evidence to confirm the accused's guilt during a trial also called for the case to be discharged from the court. Coupled with the reasons mentioned above, cases that exceeded six months were also struck out and discharged from the court, as demonstrated in Cases 2017/5 and 2015/11:

*The case has been before the court since January 2017 and has gotten to 8 months due to delays by the absence of counsel for the juvenile and the prosecutor. Per Section 33 of Juvenile Justice Act 653, the juvenile is hereby discharged. (Case 2017/5)*

*The complainant has not provided any sensible evidence, and the trial has been pending for over six months. (Case 2015/11)*

It was notable that the court, in a few cases, considered the youth's motivation for criminal behaviour, as stated in the SER, before proceeding to discharge a case. Youths regarded as victims of their circumstances, including financial difficulties, peer pressure, neglect, and broken homes, or who were first-time offenders, had their cases discharged from the court, but with caution, as captured from Case 2016/12 and Case 2014/3:

*According to Social Enquiry Report, the juvenile's behaviour was out of desperation to pursue his education; moreover, he was neglected at an early age and had to be fending for himself for most parts of his life. Therefore, by the court, the juvenile was remitted to Kinder Paradise for care and protection at Prampram. (Case 2016/12)*

*The juvenile is a school dropout and a victim of a broken home. He came to Accra to fend for himself but found himself among boys of questionable character. He lives on his own in a kiosk under no authority. His mother cannot be reached. He cannot be entrusted into the hands of anybody to ensure proper supervision. The court may consider cautioning and acquitting the juvenile of any other orders in the juvenile's best interest. (Case 2014/3)*

The way youths conducted themselves before committing a crime and after being accused was essential in the court's decision to discharge their case. Youths who were believed to be respectful and conforming in their communities before committing a crime were considered for discharge. In addition, those who showed remorse, pleaded for leniency, and were reported to have exhibited a positive change in their behaviours at home, were pardoned and had their cases discharged with caution, as the court assumed reform had taken place.

Finally, 1.4% of cases were discharged when both parties requested an alternative dispute resolution. Alternative dispute resolution required that the case be discharged from the criminal justice court and resolved informally in the community. Although records as to why the parties requested out-of-court settlements were not available in the dockets, the study identified this as common to crimes of assault and to crimes where there was a close relationship between the youth and the victim.

#### **4.5.2 Custodial Sanctions**

The data identified that 23.5% of the youths were detained in an institution to undergo reform and rehabilitation. Youths who pled guilty or were found guilty, based on evidence, of committing severe offences, or who had previously been recorded as having committed a crime, were detained in an institution. The magistrates used detention as a punishment to deter youths



and others from committing future crimes. The court also recommended institutional detention to youths believed to need reformation and rehabilitation to instil in them the will to conform to norms through counselling. Dominant environmental risks to criminality, including financial difficulties, poor familial supervision or support, and neglect, informed the decision to detain youths. The purpose of this was to protect them from danger in their community, reform them, and provide them with skills with which to earn a livelihood after release.

*The juvenile might have been neglected by his relatives due to his behaviour. He was arrested in 2007 for robbery when he was 17years, but he absconded from the remand home. It appears that he has a gang that steals and robs people. He has not received any better character training. He needs both vocational and character training to become a responsible adult in future. The SER recommended that her worship considers committing a juvenile to the Senior Correctional Centre for 2years vide section 46(c) of Act 653/2003. (Case 2009/15)*

Approximately 22.1% of youths were detained in correctional centers for an average period of about 20 months to undergo training and reformation. In addition, 1.4% of the youths were detained in an adult prison. The case dockets did not provide reasons for the choice of prison as a sanction. However, three cases involved youths under 17 years accused of stealing. The fourth case involved a 17-year-old male. The court identified the youth as likely to re-offend, because of lack of control from his guardian from a tender age and a bad company of friends. The youth was a recidivist who had also assaulted another youth while in the remand home for stealing. Although the SER suggested that he be committed to the senior correctional center for reform, he was sentenced to prison, as the court believed that he was beyond control.

### **4.5.3 Community-Based Sanctions**

The courts also meted out non-institutionalized sanctions, which were seen as more lenient than institutional sanctions, to the youths. Probation, payment of fines, and committing youth to the care of a fit person are some of the courts' non-institutionalized sanctions.

#### **4.5.3.1 Probation**

The study found that 19.3% of youths were released on probation for a period. Probation meant that they were cautioned and given some conditions to follow; otherwise, they would be detained in an institution. The court released the youths into the care of a close relative, a fit person and, in a few cases, an institution that was willing to supervise them. Probation was commonly considered when a youth committed a minor offence, or if it was their first offense. Another factor crucial to the choice of probation by magistrates was a youth's previous behaviour. When SER's indicated that the youth generally demonstrated good and acceptable behaviour before their arrest, the court established that the cause of misconduct was circumstantial, and therefore recommended shorter periods of probation.

*Juvenile is conscious of his offence, and he pledged to be very careful. He is a student and a first-time offender. His mother takes good care of him, and he has a seemly good character. He is not known to be in any bad group. The SER recommended that he should be released on probation to his mother for six months. (Case 2010/12)*

On the other hand, reports of unacceptable behaviours displayed in communities were taken to validate the youth's criminality. Combined with the minor offences and first-time offending, the court may consider shorter period probation and flexible conditions.

*According to the juvenile's father, the juvenile dropped out of school in 2011, and he helped on his father's land for some months. He later joined children of unquestionable character with whom he committed this offence. The juvenile is a victim of a broken*

*home, and it appears that after the separation, he wasn't given any proper care. The SER recommended that the juvenile should be released on probation for one year.*  
*(Case 2013/9)*

Youths enrolled in schools or vocational training programs were considered for probation when doing otherwise was expected to adversely affect their education and training. Notwithstanding, youths who indicated they were willing to pursue such programs were also sent to probation when their parents expressed readiness to afford these and ensure that they attended. Plea for leniency and showing remorse also assured magistrates that the youth had recognized their misbehaviour and was willing to change. Finally, medical diagnosis of psychological challenges, such as depression or kleptomania pushed magistrates to sanction youths to probation.

Before making decisions to send youth to probation, the magistrates evaluated the severity of the crime committed and the youth's history of re-offending. They also depended on SERs to consider the dangers of releasing the youth to the community and the likelihood of re-offending.

#### *4.5.3.2 Committal to fit persons*

Some youths were committed to the care of a person of good moral standing who was willing to supervise them for a period. The study identified that these fit persons were mainly relatives of the youth in a few cases, or, in some cases, foster homes. The SERs identified some youth's criminal behaviour as stemming from irresponsible parenting or a lack of parental and financial support, indicating that youths can be guided to conform with strict supervision in the community. As a result, youths who committed minor offences and posed no danger to the community were released to the care of an adult who was willing to be bonded by law to take care of them. The SERs also recommended foster homes to youths whose environment threatened their

treatment. For instance, in Case 2014/14, the SER found that the youth was a victim of irresponsible parenting and that the adult willing to take care of her lived in an environment not conducive to her reform. The youth's age also made detention in an institution questionable, since she would be required to be released after three years, at which time she will be 15 years old, and therefore still in need of supervision and a salubrious environment. As a result, the probation officer recommended a foster home as the best option, as there she could get training and education until she is of age.

*The juvenile is a victim of irresponsible parenting, and she has been living on the street for over a year. Her father sells Indian hemp, and the stepmother sells alcoholic beverages. She shows signs of remorse, and it appears that she may commit another offence if proper care and supervision are not put in place to prevent her from going back to the street. Even though the juvenile's stepmother is willing to live with the juvenile, the place and environment are not conducive to helping the juvenile conform and reform. The stepmother doesn't know the whereabouts of the girl's father. The police officer who promised in court to serve as a fit person for the juvenile has declined her interest. The juvenile is young and will still need formal education and a home that will provide her with care and supervision until she becomes an adult. When the juvenile is committed to an institution, she may complete her sentence at age 15 years, and she will still be young and may not comport herself in the environment. The SER recommended that the juvenile be committed to a foster home to continue her education and character reformation. Chance for Child and Kinder Paradise were the two foster homes recommended. (Case 2014/24)*

Youths who had committed serious crimes were also released to the care of a fit person when court records showed that they had been mistreated within the system. In an exclusive case, a youth accused of stealing was detained in police cells for nine months and was kept on remand

for a year and three months. As a result, the court released him to the care of a relative, indicating that further sanctions would infringe on the youth's rights.

#### 4.5.3.3 Fines

Payment of fines was mainly associated with crimes concerning the destruction of property or causing harm to a person. The court ordered fines to compensate the complainant or victim by helping them to repair or replace property, or to pay hospital bills. The responsibility of payment fell to the parents or relatives of the youth; however, youths were tasked to incur the costs in a few cases. Fines were ordered exclusively or in combination with other decisions. Of the 4.2% of the fined youths, 2.8% were discharged after the parents paid the fine. 0.7% of youths were sentenced to probation, and another 0.7% detained in a correctional center but were required to settle fines to the victims. Case 2018/22 describes a decision to release a youth on probation and issue him with a fine:

*The juvenile was fined 15 penalty units in default 30days in the remand home. He was released on probation to the mother for one year. Juvenile is to be put into apprenticeship immediately to learn a trade. The surety of the juvenile was to compensate the victim with GH¢200. Surety was to settle medical bills of GH¢500.*  
**(Case 2018/22)**

Comparatively, payment of fines was seen as a lenient form of punishment for youths guilty of crimes. As shown in some of the cases, the court considered the motivations to criminal behaviour, the severity of the damage caused, the youth's background, pre-court behaviours, and pleas for mercy, in considering decisions to fine a youth. As shown in Case 2015/6, the SER reported that the youth was a well-behaved and respectful person whose criminal behaviour was not premeditated, but, rather, had been triggered by the complainant's behaviour:

*Juvenile fined to pay GHC 300.00 in open courts... The case was disposed-off. The father and neighbours testified that the juvenile was respectful and was always of good behaviour. His father stated that the juvenile stayed with him, attended primary school and was currently in boarding school studying electrical engineering. The juvenile had no criminal record. When the juvenile was interviewed, he narrated that the day the incident occurred, the lights were off, so he went outside to get some air and chat with some friends when the victim came and pushed him. He warned the victim to stop, and he didn't, and when he wanted to beat the victim, he blocked him; therefore, the coil he was holding broke. The complainant came to the scene, slapped him in the ear, and put his head under his armpit. He took out his screwdriver and scratched the complainant's back to defend himself. He indicated that the complainant beat him seriously until some elders came to rescue him. Later, the juvenile was arrested and charged. However, the father reported that, as a result of the beating, the juvenile suffered a dislocation of his arm but was treated by a herbalist. The narration showed that the juvenile did not premeditate over his offending behaviour. The report indicated that the juvenile regretted his action and promised to be careful next time. (Case 2015/6)*

In another case, the data showed that there was no intent to commit the crime; rather, the youth acted out of anger. Showing remorse, pleading for mercy, and promising good behaviour informed the court's decision to minimize the sentence. The youth and mother were required to pay monies to the victim, and in default, the youth will be kept in custody.

*Juvenile is sentenced to a fine of 20 penalty units in default 130 days in custody. Mother was ordered to pay the complainant's medical bills as presented to the fine of GHC 965 and further compensate the complainant with an amount of GHC 500.00. The juvenile was convicted on his guilty plea. He was a victim of a broken home. His mother and the complainant are friends; however, the report found that he is a well-behaved child. His offending happened out of anger. He appears to have acted in defence. He is remorseful. He is pleading with the court to be lenient with him and*

*promised to be good henceforth. The juvenile's mother has paid GHC 550 to the complainant. (Case 2018/1)*

Youths known to be generally well-behaved in their communities were given fines and released on probation, whereas those not so well-behaved were ordered to pay fines and be detained. The court investigated the background of the children to identify risk factors, classifying them as victims of their circumstances, rather than as culprits. The study determined that pleas for mercy and assurances of good behaviour by the youth also led to the court reducing sentences given to them.

#### **4.6 Social Enquiry Report**

The social welfare department, upon request, provided the court with SER reports on the youths before the court made decisions concerning them. To prepare this report, a probation officer visited the youths' homes and interviewed their parents or guardian, teachers, or any other adult that could give pertinent information about the youth to help the social worker make recommendations to the court. The SERs included the socioeconomic background of the youth and indicated whether the residential environment included any risk factors for criminality. The report also suggested recommendations for sentencing to be considered by the court.

**Table 4.4: Table showing SER ordered and adhered to by the judge**

SER Adherence (percentage)				
<b>SER Ordered</b>	<b>Yes</b>	<b>No</b>	<b>NA</b>	<b>Total</b>
Yes	39.34	4.20	4.8	48.35
No	0.00	0.00	18.92	18.92
NA	0.00	0.00	32.73	32.73
<b>Total</b>	<b>39.34</b>	<b>4.20</b>	<b>56.46</b>	<b>100</b>

Among the 333 youths, the court requested SERs on 48.4% of the youths before making their decisions. In 39.3% of the youth cases, the magistrates adhered to the recommendations stated in the SER. In 4.2% of the cases, they did not adhere, and 4.8% had no trace of the SER reports on record, although the case dockets captured the request. In 19% of youth cases, magistrates made decisions, although SERs were not recorded in the case dockets. Of the cases, 32.7% were either struck out from court or incomplete; hence, no records of SERs were requested or submitted in their case dockets.

#### **4.7 Conclusion**

In this chapter, I presented the results of the study, giving insight into the realities of what takes place in the juvenile courts. I began with a description of the youths involved in the justice system, focusing on their age, sex, occupation, and the type of crime they were accused of having committed. The second section presented how the court ensured that people that came before it was within its jurisdiction. The third focused on the bail and remand practices, paying attention to the reasoning given as to why bail was granted or denied and, examining what happens to youths



when bail is denied. The fourth section outlined the factors that result in delays during case hearings and how the courts managed to close cases within the time required. The final section presented the sentencing options used by the courts, highlighting the factors that aided their decisions. I provided figures, tables, and direct quotes from the case dockets to show the results.

## **CHAPTER FIVE – DISCUSSION**

Growing literature in youth justice in Ghana has often suggested that policies surrounding youth justice in the country look good on paper but are not feasible in reality. Motivated to contribute to the limited empirical research that exists, the study set out to answer the broad question, “To what extent do the juvenile courts' processes adhere to the Juvenile Justice Act in Ghana?” The primary goal of the study was to examine the effectiveness of the Ghanaian juvenile court in adhering to the mandate outlined for it by the JJA, the policy that oversees youth justice. I employed the post-colonial theoretical framework that stipulates that the modern justice system in Africa was imposed and influenced by western philosophies. Hence, the disconnects between policy and practice is the failure of these systems to reflect African countries' socio-cultural values. Based on the critical paradigm, data was gathered using a qualitative approach to conveniently select, review, and summarize 290 court case dockets from the Supreme court archives in Ghana.

I employed a qualitative content analysis, using both qualitative and quantitative tools to analyze court case files. Deducing from the preceding chapter, the study finds that the Ghanaian juvenile courts endeavour to adhere to the guidelines given in the JJA. However, as indicated by previous studies, the justice system is flawed, due to challenges that affect its functionality. The chapter discusses the findings presented in the preceding chapter, mirrored by the recommendations in the JJA and other relevant literature. Specifically, I sought to assess the court's compliance to age determination and jurisdiction, bail and remand, duration of cases, and decisions. I discuss these issues under the broad headings, 'exclusive jurisdiction and transfer of cases,' 'institutionalization before the court hearing,' 'procedural delays or due diligence?' and 'social enquiry report and sentencing.'

## **5.1 Exclusive Jurisdiction and Transfer of Cases**

The Juvenile Justice Act (2003) established the youth justice system and gave it the power and authority to arbitrate criminal cases involving persons between 12 and 18 years. The Act includes the obligation to inquire into the age of persons who come before the courts (Section 19). Although the onus seems to be on the court to ascertain and ensure that individuals brought before it is within its jurisdiction, the current study found that charge sheets brought before the court already included the age of the youths, meaning that the police had noted their ages during the arrest. As found in the report by Hoffmann & Baerg (2011), the police, and not the court, determined the age of the youths. Although, according to the policy, age determination was the court's responsibility, it seemed necessary for the police to take up this responsibility to process individuals to the appropriate courts.

The study did find a degree of compliance with the JJA, however, in that, although the police determined the age of persons that came before the court, the court also verified the youths' ages when in doubt. The data did not show evidence as to how the police determined the age of the youths. Still, a report by the Ghana Judicial Service (2018) indicated that the police depended mainly on the physical appearance of the youth. Significantly, the magistrates also relied mainly on the physique of the youths to verify the age recorded by the police; a questionable practice, given that youth develop at different rates, so that their appearance might not match their age. Other times, the magistrates complied with the JJA, by adopting the use of birth certificates and medical reports to verify the ages of the youth. However, the court equally considered other documents that the JJA did not mention, such as school testimonials and statutory declarations from parents or guardians. The use of alternative documents not recommended in the JJA was not surprising because, as Dake & Fuseini (2018) stated, some births were never registered, due to

lack of medical facilities, poverty, or the parents lacking formal education. In addition, reliance on documents such as baptismal certificates become a challenge to the court, since only Christians would have baptismal certificates. The court further requested medical tests to determine the age of youths when in doubt. However, stakeholders have also reported that the medical examination used to determine age was a mere general physical review, and that dental x-rays or hand/wrist x-rays would be more suitable (Ghana Judicial Service, 2018). Sadly, the lack of medical facilities and the cost of such medical tests pose barriers to these options.

Adherence to the guidelines provided by the JJA was also noticeable in how the courts transferred youth cases between the circuit/district courts and youth justice court. As stipulated in the act, youths found to be above 17 years were transferred to the circuit or district courts, and youths found to be below 18 years in the circuit or district courts were transferred to the juvenile courts (JJA, Section 17). Where the charge was made jointly with an adult, or the charge against the youth was one that is punishable by death if committed by an adult (JJA, section 18), the case was heard in the circuit court and was transferred to the juvenile court for sentencing, mostly following the advice of the circuit courts, as Ame (2011) indicated.

The findings evidenced that the courts complied with the directives of the JJA, however, the JJA may be unclear in some of its directives, and that this may create loopholes affecting the system's functioning. As captured in Hoffmann & Baerg (2011), the failure of the JJA to mandate which institutions are directly responsible for tasks creates little room for accountability, leading to malpractices within the system.

## **5.2 Institutionalization before the Court hearing**

Youth granted bail are to be released from custody temporarily, after giving security or accepting specified bail conditions. The JJA (Section 21) provides that the court may grant bail for the accused person's undertaking, or by sureties, who are usually the relatives or guardians of the young offender, or may be any willing and responsible person. The bail is secured by money, which serves as a penalty the surety must pay if the bail conditions are disregarded. According to the JJA, the amount of funds associated with bail should be determined giving due regard to the circumstances of the case. The juvenile court is mandated to grant bail to youths unless they are convinced that releasing the criminalized youth would risk their flight, interfere with the trial, hamper investigations, expose the youth to danger, risk the youth not appearing in court to answer the charge, or if the youth is likely to re-offend if released on bail (JJA, Section 21). The policy requires that the court record their reasons for granting or denying bail.

The juvenile court ensured they outlined their reasons for granting or denying bail in the dockets. The findings suggested that the court confirmed that youths met the bail terms specified in the JJA before granting bail. Hoffmann & Baerg (2011) reported that the juvenile court frequently sought remand for youths, and considered bail as a last resort. In contrast, the study's findings suggested that the court willingly granted bail to youths. However, although the law states that the court could grant bail on a youth's undertaking, the court insisted on the presence of a surety before bail was considered. The Ghana Judicial Service (2018) reports that the court takes into account the seriousness of the offence, the youth's age, history of previous crimes, public safety, and the likelihood that the youth will abscond or interfere with the investigation or commit further offences. The report indicates that the court also gives attention to family circumstances, the parent's ability to pay bail, disruption to the child's education, and the principle that deprivation

of liberty should be a last resort. Likewise, the study found that youths whose parents were in court, had committed non-serious crimes, and who did not pose a threat of re-offending were granted bail. However, the court also emphasized the families' situations and how bail would affect the youth's schooling or apprenticeship: youths were granted bail if the alternative would jeopardize their training. Examples are evident in Case 2016/9, where the court refused bail because of the financial burden it would place on the youth's father, and Case 2018/18, where a youth was granted bail to avoid interrupting their schooling.

The main grounds for bail denial were the overwhelming observable trend of nonattendance to court by parents for a first court sitting. However, after receiving a subpoena, the parents or a relative would be present at subsequent hearings. The reasons for the parents' non-attendance, as recorded in the dockets, is that they did not know they were required to attend the initial court hearing; this is questionable. Given that the JJA (Section 11) requires that, during the arrest of a person below 18 years, the police inform a parent or guardian of the arrest, or, if the parent cannot be located, to notify a probation officer, who then becomes responsible for locating the parents of the youth.

*"(1) At least one parent, a guardian or a close relative of a juvenile shall be informed of the arrest of the juvenile by the police as soon as possible after the arrest, and the juvenile shall have right of access to legal advice.*

*(2) Where the police are unable to inform a parent, guardian, or a close relative of the juvenile of the arrest of the juvenile, the police shall inform the probation officer responsible for the district.*

*(3) It is the duty of the probation officer with responsibility for the district to trace the parents, guardian, or close relative of the juvenile. (JJA, Section 11)"*

Clearly, this was not the case in Ghana. Consistent with several studies (Ame et al., 2020b; Ghana Judicial Service, 2018; Hoffmann & Baerg, 2011; Mensa-Bonsu, 2017), the challenge of inadequate resources and logistics by the police and the Department of Social Welfare (DSW) make it difficult for the police and probation officers to carry on their duties in searching for the relatives of the youth. Another reason for difficulties in locating relatives could perhaps be the country's lack of a unified address system. Finding the homes of these youths might at times prove futile, especially when the police and probation officers must rely on memory or landmarks, which tend to be unreliable or short-lived. Where the police and probation officers located parents, some refused to appear in court because of the embarrassment and stigma of encountering the justice system. Like Hoffmann & Baerg (2011), a good number of these youths had left home because of difficult family situations, and had moved to Accra to fend for themselves, making it difficult for the police to locate their parents.

Youths who were refuted bail during the court process were remanded. As required by the JJA, remand orders were either revoked or renewed for another week based on the youth's ability to meet bail conditions. The JJA directs the court to remand the accused into the care of a relative, any fit person willing to take care of them, or, as a last resort, to remand the youth to a home situated within a reasonable distance from the court. With a court order, the police are to place the youth in the designated institution of remand. The police become responsible for transporting and ensuring that the youth appear at all court hearings. Still, if the youth is remanded in the custody of a relative or fit person, that person is responsible for bringing the youth to court (Section 23).

In practice, institutional remand was the most common, despite the directive that deprivation of liberty should be a last resort. Although remand to fit persons may have been preferred, the absence of most of the youths' parents led to an over-reliance on institutions. In the

few cases where a responsible adult was present and willing, the youth was remanded into their care. In accordance with the JJA, the remand homes that the courts used were situated at Osu, about 20 minutes from the juvenile courts. Boys and Girls remand homes were located on the same premises but in separate buildings, as required by the JJA. Not all youths were sent to remand homes; contrary to the recommendations of the JJA, a few of them were kept in police custody or prison. The evidence showed that 4.53% of the 59.82% youths were remanded in police custody, marking a significant drop compared to the situation between 1993 and 2003, where 2164 youths were held in police custody (GoG, 2005), thus showing some improvement in adherence. Youths were remanded in police custody when investigations were still ongoing, when the court was awaiting documents to determine their age, when keeping the youth in a remand home would pose a risk to other youths, and when youths tried to escape from the remand home. However, the police claimed to have kept the youths separated from the adults in police custody.

Although remand in prison was found in two cases, it is noteworthy that the court kept youths in prison against the tenets provided in the JJA. The court failed to explain why youths were sent to prison in the dockets. However, it tried to grant immediate bail or to discharge such cases when they became aware of mistreatment.

### **5.3 Procedural Delays or Due Diligence?**

According to the JJA, cases concerning youth are intended to last for six months. When the case exceeds the time required by the JJA, the court is supposed to release the young person unconditionally, no longer holding the youth liable for the offence (Section 33). Figure 1 demonstrates a general downward sloping trend, which indicates that the time used to conclude juvenile cases has reduced in recent years. Although the court managed to work within six months



for most cases, many factors prolonged court hearings unnecessarily, causing some cases to exceed the prescribed period. Many obstructions result in cases being dragged on over lengthier periods. These obstacles included absenteeism by court officials, complainants, witnesses, accused persons and their relatives; delays in furnishing the court with documents; and prolonged trials. However, it is evinced that all of these obstructions stem from inadequate allocation and supply of resources, logistics, and a lack of skilled professionals.

The nature of juvenile case hearings requires the presence of the magistrate, a court clerk, a social worker, two lay panel members, the defense counsel, the prosecutor, complainant, guardian or parent of the youth, the accused youth, and a translator if needed (Ghana Judicial Service, 2018; Hoffmann & Baerg, 2011). In compliance with the JJA, the court always ensured that panels were fully constituted before cases proceeded, and the absence of even one member of the panel resulted in the postponement of the hearing to another date. As presented in the preceding sections, relatives of the youths often claimed that they were not aware of their child's involvement or did not know they were expected to attend court. On the other hand, complainants and witnesses did not give the court reasons for their non-appearance, but simply stopped attending court sessions. Existing literature, however, shows that complainants, witnesses, and relatives of the accused tend to struggle with the time and expense of transportation incurred in appearing in court (Ame et al., 2020; Ghana Judicial Service, 2018). Asamoah (2021) pointed out that the uneven distribution of youth justice services is unique to big cities, because complainants, witnesses, and relatives who live outside of these cities must travel long distances to attend hearings. Hence, while the court does due diligence by ensuring directives are followed, and the rights of the youth are protected, complainants lose motivation and abandon the case (Ghana Judicial Service, 2018).

The court tried to schedule court dates around school schedules, to avoid distracting school-attending youths from their education. This was not always possible, however, and when court and school times clashed, youths were absent and demanded that their court hearing be rescheduled. Youths also missed their court hearings when the police failed to pick them up from the remand homes to take them to court. Youths who absconded were also absent.

Due to the low motivation and poor remuneration that comes with the job, many people are uninterested in working with the youth justice system, resulting in a lack of trained professionals within the system. In line with Osei (2013), the shortage of skilled professionals within the youth justice system calls for frequent transfers of court officials to other courts, or their being sent on national assignments periodically, which sometimes means adjourning cases until they return, or a replacement is found. Again, logistical problems and a lack of resources in youth justice agencies pose challenges to workers in producing documents in time to advance court hearings. For instance, parallel to findings by Mensa-Bonsu (2017), the data showed evidence of prosecutors being unable to complete investigations, and therefore being unprepared to present the court with the facts of the case in due time. They also experience difficulties in accessing transportation to locate youths' homes to inform parents of their wards' involvement in an offence and the need for them to report to the court. In addition, probation officers struggled to access resources to gather information for the SER needed for sentencing. Also, medical facilities are ill-equipped to use more accurate testing methods, like dental x-rays or hand wrist x-rays, limiting them to superficial physical examinations (Dake & Fuseini, 2018).

As the Act suggested in Section 33, the juvenile courts discharged several cases based on duration. In fact, most cases were discharged, even when they had not exceeded the time recommended. Cases were dismissed when complainants missed court hearings a few times in a

row, irrespective of the severity of the offence, based on 'for want of prosecution.' The core mandate of an exclusive system for youths is to ensure rehabilitation, which aims to prevent them from a future life of crime. However, when cases are discharged without examination of the causal factors that might guide appropriate rehabilitation, youths are likely to return to situations that led them to commit the initial crime, and they may therefore re-offend. It becomes evident that, to follow the directives of the JJA, the court is likely to overlook the very things that for which the JJA established the youth justice system.

#### **5.4 Social Enquiry Report and Sentencing**

The JJA recommends various sentencing options to the juvenile court, emphasizing sentencing should be done devoid of discrimination. The sentencing options include discharging youths conditionally or unconditionally, signing a bond of good behaviour, probation, committal to the care of a relative or fit person, ordering the payment of fine, and detaining the youth in a correctional center (JJA, Section 29). However, reflective of the restorative justice model of justice, section 25 of the Act urges the courts to consider diversionary programs for youths charged with minor offences. Cases that came before the court were frequently discharged with or without conditions. The court also seemed to rely more on non-custodial sanctions than custodial sanctions, with most youths put on probation. Youths were also bonded to good behaviour, and others were fined or committed to fit persons. Although institutionalization was supposed to be a last resort for the courts, 22% of the youths were detained in correctional centers and 1.4% in prison. Sentencing youths to prison was a deviation from the JJA's recommendations, yet the court failed to provide reasoning as to why they took such decisions.

Guided by welfarist principles, before any decision concerning youth is taken, the JJA (section 24) requires that a probation officer completes an SER and presents the SER to court. The probation officer is encouraged to visit the youth's home and speak to their parents or guardian, teachers or any other adult that can give pertinent information on the youth (Mensa-Bonsu, 2017). When submitted to the court, the report must include information on the socio-economic background of the child and whether there are any risk factors to potentially lead to subsequent criminal behaviour (Mensa-Bonsu, 2017). The SER is to recommend the cause of action to be taken by the court, ensuring that it's in the youth's best interest. The courts are to adhere to the recommendations offered in the SER; however, if the court does not, written reasons for why the recommendations were not complied with are to be recorded. It is evident in the data that SERs largely influenced decisions taken by magistrates, and when they did not, the magistrates often recorded the reasons in the dockets. Probation officers, as recommended, often looked into the background of the youths and recommended interventions. The SERs also considered the seriousness of the case, previous criminal records, the risk of offending, the presence of relatives who are willing to supervise youths, a plea for leniency and evidence of remorse, and if the sentence destructed school or vocational training.

The juvenile court failed to comply with the directives around sentencing in the JJA when it sentenced youths without SERs. The courts made decisions on 19% of the cases without requesting SERs. However, most of these cases were discharged from the court. Many case dockets reviewed were also incomplete. Thus, these dockets had no sentences, neither did they have reasons why the cases ended abruptly included. Ghana Judicial Service (2018) makes known that proceedings in the juvenile court are recorded by hand, and based on the caseload, pressure on magistrates may lead to some inadequacies in court. Like Osei (2013) stated, the lack of automated

systems overburdens magistrates and could be why so many cases are incomplete. Out of the 290 cases the court dealt with between 2007 and 2018, only four were diverted out of the criminal justice system and referred to Alternative Dispute Resolutions (ADR).

Meanwhile, according to Ame et al. (2020a) and Mensa-Bonsu (2017), the JJA emphasizes alternative measures to criminal justice. Although the court prescribed diversionary programs for youth who had committed minor offences, all cases referred to the ADR were serious. The court, again, had no existing reasoning in the docket. Adu-Gyamfi (2019) and Ame et al. (2020a) indicate that diversionary programs like the CPs are not functioning effectively due to inhibitions rising from resource challenges, structural problems, and the changing tenure of CP members. Conceivably, these impediments make diversion rather a last resort for the court.

## **5.5 Reflection**

In this chapter, I discussed the research findings, comparing these findings to the guidelines in the JJA and conclusions made in extant literature. The discussions covered practices of the juvenile courts that complied with or did not comply with the JJA. The shortcomings were discussed, and they either contradicted or supported previous studies. The study identifies that juvenile courts in Ghana in many cases adhere to the guidelines given to them by the JJA. To summarize, in order to ensure appropriate jurisdiction, cases that were not within the court's jurisdiction were transferred to the appropriate courts for hearing. Likewise, cases that ended up in the circuit courts that involved persons under 18 years were transferred to the juvenile courts, and youths who committed a crime with adults were also moved back to the youth courts for sentencing. Bail was granted to youths who met the requirements at any point of the adjudication process. In addition, many youths were remanded in remand homes when bail was denied. Court

magistrates worked to expediate youth cases and concluded most of the youth cases within the specified time given by the JJA. Finally, decisions in the juvenile court were mainly influenced by the SER prepared by the social welfare department and in most of the cases, the court adhered to the recommendations of the SERs.

What stands out is that many challenges in the youth justice system stemming from 1. lack of trained professionals to deal with issues concerning young people, and 2. inadequate and improper allocation of resources make it challenging for youth justice agencies to function. The system also becomes difficult and costly for people to assess. Due to these challenges, cases in the juvenile court were adjourned several times before they ended. Lack of resources leads to some malpractices and also make it difficult for youth justice agencies to carry out their work diligently and in due time. The challenges the juvenile courts face is responsible for non-compliances to the JJA.

## **5.6 Recommendations to Policy Implementation**

The study makes an immense contribution to knowledge in youth justice in Ghana and gives a more profound understanding of the challenges of the Ghanaian youth justice system, with recommendations on how to bridge the gaps. Per the study's findings and literature review on the youth justice system in Ghana, the following recommendations are made to ensure proper adherence to the JJA to ensure youth rights.

1. The government must allocate adequate resources and logistics to youth justice institutions to aid in the smooth running of the justice system. Juvenile courts should be established in every district to make them accessible to members of every community. In addition, remand homes that are not in use should be reinstated to reduce overcrowding and over-

dependence on the few available and desist from remanding youths in police custody and adult prisons.

2. The government should give specialized training to magistrates, lawyers, the police, probation officers, court officials, doctors in medical facilities that furnish the courts with documents, and other persons who provide youth justice service to give the youths the appropriate assistance while ensuring their rights are protected. Also, it will serve many purposes if the government automates the recording of cases in the juvenile courts to achieve more detailed accounts of the court sittings.
3. Issues of fragmented functions amongst many institutions that create ambiguity amongst youth justice institutions could be addressed if the government puts only one institution in charge of all matters concerning youth justice. A premier institution to handle issues concerning criminalized youth would also mean more accountability on the treatment of youths. Additionally, the government would have to allocate resources to only one institution instead of dividing resources amongst multiple agencies.
4. There is a need for educational campaigns to educate people to understand the youth justice system's essence and eradicate the stigma people carry about encountering the justice system. Parents of youth also need information to understand their presence and support to ensure that the right interventions are sought to treat criminalized behaviours.

## **5.7 Study Limitation and Gaps for Further Research**

The study's uniqueness creates an obvious constraint in theoretical selection. Because there is few research in the study field, choosing a theory for the investigation proved problematic. The post-colonial theory succeeds in elucidating how the remains of colonialism have influenced

policy practise. However, the notion appears to be an oversimplification of the problem, blaming post-colonial nations' difficulties entirely on colonial/imperialist influence. Indeed, the study's findings have pointed to a lack of logistics and financial constraints as causes for the gaps between policy and practise in Ghana, among other things. It is critical that future studies adopt a more appropriate theory that incorporates these elements.

The scope of the study was limited to Accra, Ghana's main city, as a standard for all juvenile courts in the country. Researchers can, however, replicate the study across the country to see what applies to different areas. Compliance studies in Ghana's youth justice system have largely relied on anecdotal data sources. Although the current study relied on primary data from court case files, it would have benefited greatly from hearing from the actors involved in the adolescent justice system. In-depth interviews with key respondents would have aided in the discovery of additional information to explain certain major occurrences in the data. Behind example, additional information about the reasons for the dramatic reduction in the time it takes to process cases in juvenile courts may have been gathered. Further research could include testimonies from court officials, stakeholders, and, most importantly, the youths and their family members who have experienced the justice system.



## CHAPTER SIX – CONCLUSION

From a critical standpoint, this study adopted the post-colonial theory that explains that colonialism was dominant in the making of modern societies and even after, has created a lasting impression amongst people in Indigenous societies that makes them continue to adopt Western cultures to remain modern. The perspective encourages Indigenous societies to move away from Western influence and lean towards policies that are in line with their social and cultural values. In adopting this theory, the study speculates that a gap exists between youth justice policy in the country and the reality of what is practiced because the policies were imported from the West, therefore, do not correspond to the belief system of the country. The empirical findings, however, concludes that the juvenile court tries hard to emulate the guidelines in the JJA only to have their efforts hindered by the lack of resources, infrastructure, logistics and skilled professionals. Inclusively, the inability of the government to allocate adequate resources to youth justice institutions create so many delays in case processing and in the attempt to work within the prescribed period given by the JJA, magistrates sometimes disregard due diligence, take decisions in haste that deny youth the appropriate interventions.

Although the findings of the study may seem as though there is a shift in the paradigm, I present that the spirit of the policies on the fragility of a child and how they should be treated holds differently from that which exists in the Ghanaian social system and this explains the kind of challenges the system faces. Ame (2018) elaborates that in Ghana, children are supposed to be seen but not heard, describing that they are expected to be humble, obedient, and respectful to the elderly. Children who commit crimes are often seen as wayward or ‘bad children’, hence, do not merit any good treatment (Ame, 2011). I deduce that Ghana’s ratification of the UNCRC in 1990 was an indication of the country’s eagerness to “belong” rather than its willingness to uphold and

protect the rights of children for the following reasons. First, it took the government over a decade to establish a unique policy for youths in conflict with the law. Secondly, studies on youth justice in Ghana have reiterated the same issues of inadequate allocation of resources and degrading nature of juvenile facilities, lack of skilled professionals but there seems to be no improvement in the situation whatsoever and this affirms the paradigm (Ame et al., 2020; Ame, 2011; Ayete-Nyampong, 2013; Ghana Judicial Service, 2018; Hoffmann & Baerg, 2011; Mantey & Dzator, 2018). My research shows that the guidelines set out in the JJA are, for the most part being adhered. However, it is also clear that a greater focus is on following the directives laid out in the Act rather than on the welfare of youth in contact with the juvenile justice system in Ghana.

Indeed, now that the Ghanaian juvenile justice system has received some attention, exposing its flaws, as Ame et al. (2020b) have suggested, it is past time for academics to look beyond the system's problems and consider how it might be changed to perform its functions more effectively in future research.

## References

- Adu-Gyamfi, J. (2019). Ghana's Child Panels: Effective Child Protection and Juvenile Justice System or Superfluous Creation? *The British Journal of Social Work*, 49(8), 2059–2072.  
<https://doi.org/10.1093/bjsw/bcz024>
- Agozino, B. (2004). Imperialism, Crime and Criminology: Towards the Decolonisation of Criminology. *Crime, Law and Social Change*, 41(4), 343–358.  
<https://doi.org/10.1023/B:CRIS.00000025766.99876.4c>
- Ame, R., Ayete-Nyampong, L., & Gakpleazi, D. A. (2020b). Ghana's Juvenile Justice System: Assessment of Selected Formal Juvenile Justice Institutions and Agencies. *Ghana Social Science Journal* 17(2), 24.
- Ame, R., Ayete-Nyampong, L., & Gakpleazi, D. A. (2020a). 'There's No Functioning Child Panel in This Region': An Assessment of Child Panels in Ghana's Juvenile Justice System. *Contemporary Justice Review*, 1–28.  
<https://doi.org/10.1080/10282580.2020.1719362>
- Ame, R. K. (2011). The Rights of Children in Conflict with the Law in Ghana. *The International Journal of Children's Rights*, 19(2), 271–293.  
<https://doi.org/10.1163/157181810X528003>
- Ame, R. K. (2017). The Juvenile Justice System in Ghana: An Overview. *Ghana Social Science Journal*, 14(1), 244.
- Ame, R. K. (2018). The Origins of the Contemporary Juvenile Justice System in Ghana. *Journal of Family History*, 43(4), 394–408. <https://doi.org/10.1177/0363199018798099>
- Ameh, R. K. (1993). *Juvenile Delinquency Policy in Ghana: An Evaluation Study* [M.Phil. Thesis]. Department of Sociology, University of Oslo.

- Ameh, R. K. (2006). Uncovering Truth: Ghana's National Reconciliation Commission Excavation of Past Human Rights Abuses. *Contemporary Justice Review*, 9(4), 345–368. <https://doi.org/10.1080/10282580601014284>
- Appiahene-Gyamfi, J. (2003). Urban Crime Trends and Patterns in Ghana: The Case of Accra. *Journal of Criminal Justice*, 31(1), 13–23. [https://doi.org/10.1016/S0047-2352\(02\)00196](https://doi.org/10.1016/S0047-2352(02)00196)
- Asamoah, J. M. (2021). *Juvenile Justice Administration in Ghana*. Walden University.
- Attafuah, K. A. (2004). An Overview of Ghana's National Reconciliation Commission and its Relationship with the Courts. *Criminal Law Forum*, 15(1), 125–134. <https://doi.org/10.1007/s10609-004-3564-1>
- Ayete-Nyampong, L. (2013). *Entangled realities and the underlife of a total institution*. Wageningen University.
- Bala, N., & Jaremko Bromwich, R. (2002). Introduction: An International Perspective on Youth Justice. In N. Bala, J. Hornick, H. Snyder, & J. Paetsch (Eds.), *Juvenile Justice Systems: An International Comparison of Solutions* (pp. 1–18).
- Barnie, A. J., Nyarko, A. S., Dapaah, J. M., Appiah, S. C. Y., & Awuviry-Newton, K. (2017). Understanding Youth Violence in Kumasi: Does Community Socialization Matter? A Cross-Sectional Study. *Urban Studies Research*, 2017, 1–10. <https://doi.org/10.1155/2017/1565602>
- Becker, H. (1963). *Outsiders: Studies in the Sociology of Deviance*. The Free Press.
- Boakye, K. E. (2013). Correlates and Predictors of Juvenile Delinquency in Ghana. *International Journal of Comparative and Applied Criminal Justice*, 37(4), 257–278. <https://doi.org/10.1080/01924036.2013.792149>

- Breen, C. (2002). *The Standard of the Best Interests of the Child: A Western Tradition in International and Comparative Law* (Vol. 72). M. Nijhoff.
- Butts, J. A. (2000). *Youth Crime Drop*. Urban Policy Center Urban Institute.
- Casey, S. (2011). *Report of the mapping and analysis of Ghana's child protection system*. Child Frontiers Ltd.
- Clancey, G., Wang, S., & Lin, B. (2020). Youth Justice in Australia: Themes from Recent Inquiries. *Trends and Issues in Crime and Criminal Justice*, 605(1–19).  
<https://nla.gov.au/nla.obj-2861184847>
- Cohen, L., Manion, L., & Morrison, K. (2007). *Research Methods in Education* (6th ed.). Routledge.
- Cohen, M. L., & Olson, K. C. (2016). *Legal Research in a Nutshell* (12th ed.). West Publishing Co.
- Corrado, R. R., Gronsdahl, K., MacAlister, D., & Cohen, I. M. (2010). Youth Justice in Canada: Theoretical Perspectives of Youth Probation Officers. *Canadian Journal of Criminology and Criminal Justice*, 52(4), 397–426. <https://doi.org/10.3138/cjccj.52.4.397>
- Cunneen, C. (2011). Postcolonial Perspectives for Criminology. In M. Bosworth & C. Hoyle (Eds.), *What is Criminology?* (pp. 249–266). Oxford University Press.  
<https://doi.org/10.1093/acprof:oso/9780199571826.003.0018>
- Dake, F. A. A., & Fuseini, K. (2018). Registered or Unregistered? Levels and Differentials in Registration and Certification of Births in Ghana. *BMC International Health and Human Rights*, 18(1), 25. <https://doi.org/10.1186/s12914-018-0163-5>
- De Bortoli, L., Coles, J., & Dolan, M. (2013). Parental Substance Misuse and Compliance as Factors Determining Child Removal: A Sample from the Victorian Children's Court in

- Australia. *Children and Youth Services Review*, 35(9), 1319–1326.
- <https://doi.org/10.1016/j.chidyouth.2013.05.002>
- Department of Social Welfare and UNICEF. (2005). *A Report on the State of Juvenile Justice Administration in Ghana: A Decade Assessment 1993-2003*.
- Draper, A. J. (2002). An Introduction to Jeremy Bentham's Theory of Punishment. *Journal of Bentham Studies*. <https://doi.org/10.14324/111.2045-757X.018>
- Duncan, G. J., & Magnuson, K. (2004). Individual and Parent-Based Intervention Strategies for Promoting Human Capital and Positive Behavior. In L. Chase-Lansdale, K. Kiernan, & R. J. Friedman (Eds.), *Human Development Across Lives and Generations: The Potential for Change*. Cambridge University Press.
- EWG. (2011). *Expert Working Group Report: International Perspectives on Indigent Defense* (p. 63). U.S. Department of Justice.
- Farrell, G., Tilley, N., & Tseloni, A. (2014). Why the Crime Drop? *Crime and Justice*, 43(1), 421–490. <https://doi.org/10.1086/678081>
- Fernández-Molina, E., & Bartolomé Gutiérrez, R. (2020). Juvenile Crime Drop: What Is Happening with Youth in Spain and Why? *European Journal of Criminology*, 17(3), 306–331. <https://doi.org/10.1177/1477370818792383>
- Frimpong-Manso, K. (2014). Child Welfare in Ghana: The Past, Present and Future. *Journal of Educational and Social Research*, 4(6), 10. <https://doi.org/10.5901/jesr.2014.v4n6p411>
- Gabagambi, J. J. (2018). A Comparative Analysis of Restorative Justice Practices in Africa. Hauser Law and Justice. *Hauser Global Law School Program*.  
from [https://www.nyulawglobal.org/globalex/Restorative\\_Justice\\_Africa.html](https://www.nyulawglobal.org/globalex/Restorative_Justice_Africa.html).

- Ghana Judicial Service. (2018). *Children before the Courts in Ghana: A Move Towards Child-Friendly Justice*. <https://www.unicef.org/ghana/reports/children-courts-ghana>
- Ghana Police Service. (2016). *Integrating Child-Friendly Policing into the Ghana Police Service*. [Mapping Report Summary].
- Hamilton, C., Anderson, K., Barnes, R., & Dorling, K. (2011). *Administrative Detention of Children: A Global Report*. (p. 343). United Nations Children's Fund (UNICEF).
- Hazel, N. (2008). *Cross-national comparison of youth justice*. 77.
- Hockenberry, S. (2020). *Juveniles in Residential Placement, 2017* (National Report Series Bulletin, p. 16). U.S. Department of Justice Office of Justice Programs.
- Hoffmann, S., & Baerg, C. (2011). *Juvenile Justice in Ghana* (p. 29). Commonwealth Human Rights Initiative.
- Howell, J. C. (1995). *Guide for implementing the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders*. Department of Justice, Office of Juvenile Justice and Delinquency Prevention.
- Hsieh, H.-F., & Shannon, S. E. (2005). Three Approaches to Qualitative Content Analysis. *Qualitative Health Research*, 15(9), 1277–1288.  
<https://doi.org/10.1177/1049732305276687>
- Jacobs, J. B. (2014). Juvenile Criminal Record Confidentiality. In F. E. Zimring & D. S. Tanenhaus (Eds.), *Choosing the Future for American Juvenile Justice* (pp. 149–168). NYU Press. <https://doi.org/10.18574/nyu/9781479816873.003.0008>
- Juvenile Justice Act, no. Act 653, 1 (2003).  
<http://www.unhcr.org/refworld/docid/44bf87374.html>

- Khapoya, V. (2015). Colonialism and the African Experience. In *The African Experience* (pp. 119–158). Routledge.
- Kratky, N., & Schröder-Abé, M. (2020). A Court File Analysis of Child Protection Cases: What Do Children Say? *Child & Family Social Work*, 25(S1), 169–177.  
<https://doi.org/10.1111/cfs.12744>
- Kubrin, C. E., Stucky, T. D., & Krohn, M. D. (2009). *Researching Theories of Crime and Deviance*. Oxford University Press.
- Kumi, B. A. (2015). *A Critical Review of Policy Responses to Juvenile Delinquency in Ghana* [Master Thesis, University of Ghana]. <http://197.255.68.203/handle/123456789/8622>
- Levitt, S. D. (2004). Understanding Why Crime Fell in the 1990s: Four Factors that Explain the Decline and Six that Do Not. *Journal of Economic Perspectives*, 18(1), 163–190.  
<https://doi.org/10.1257/089533004773563485>
- Makdisi, J., & Makdisi, M. (2009). *Introduction to the Study of Law* (3rd ed.). Lexis Nexis.
- Mangena, F. (2015). Restorative Justice’s Deep Roots in Africa. *South African Journal of Philosophy*, 34(1), 1–12. <https://doi.org/10.1080/02580136.2014.940572>
- Mantey, E. E., & Dzetor, G. (2018). Juvenile Delinquency: Evidence of Challenges in Rehabilitation. *American Journal of Applied Sciences*, 15(6), 321–330.  
<https://doi.org/10.3844/ajassp.2018.321.330>
- McCord, J., Widom, C. S., & Crowel, N. A. (2001). *Juvenile Crime, Juvenile Justice*. National Academies Press.
- Mensa-Bonsu, H. (1990). The Young Offender and the Criminal Justice System. *University of Ghana Law Journal*, 18, 49–71.



- Mensa-Bonsu, H. (2017). Ghana: The Legal Status of Juveniles. In *The International Handbook of Juvenile Justice* (2nd ed., pp. 1–28). Springer International Publishing.
- Mishra, E., & Biswal, R. (2020). Exploring Parental Risk Factors in The Development of Delinquency Among Children. *Humanities & Social Sciences Reviews*, 8(3), 141–148.  
<https://doi.org/10.18510/hssr.2020.8316>
- Nakajima, Y. (2004). Review of Counter-Colonial Criminology: A Critique of Imperialist Reason, by B. Agozino. *African American Review*, 38(4), 740–742.  
<https://doi.org/10.2307/4134438>
- National Youth Policy of Ghana. (2010). *Towards An Empowered Youth, Impacting Positively on National Development* (p. 33). Ministry of Youth and Sports.
- Nortey, D. N. A. (1969). The Treatment of Juvenile Delinquency in Ghana. *Ghana Journal of Child Development*, 2(1), 30–46.
- Novak, A. (2014). Capital Punishment in Precolonial African Society. In *The Death Penalty in Africa: Foundations and Future Prospects*. Palgrave Pivot.  
[https://doi.org/10.1057/9781137438775\\_2](https://doi.org/10.1057/9781137438775_2)
- Nukunya, G. K. (2016). *Tradition and Change in Ghana: An Introduction To Sociology*. Universities Press.
- Nyantakyi, M. A. (2013). *Rethinking Juvenile Justice in Ghana: Proposing Practical Measures through a Child Rights Based Approach*. Institute of Social Sciences.
- Obidimma, A. E., & Obidimma, E. O. C. (2012). Challenges and Prospects of the Juvenile Justice Administration in Southeast Nigeria. *Nnamdi Azikiwe University Journal of International Law and Jurisprudence*, 83, 14.

- Obidoa, C. A., Dodor, B. A., Tackie-Ofosu, V., Obidoa, M. A., Kalisch, H. R., & Nelson, L. J. (2019). Perspectives on Markers of Adulthood Among Emerging Adults in Ghana and Nigeria. *Emerging Adulthood*, 7(4), 270–278. <https://doi.org/10.1177/2167696818778906>
- Odala, V. (2012). The Spectrum for Child Justice in the International Human Rights Framework: From “Reclaiming the Delinquent Child” To Restorative Justice. *American University International Law Review*, 27(3), 543–580. <https://www-proquest-com.qe2a-proxy.mun.ca/scholarly-journals/spectrum-child-justice-international-human-rights/docview/1372344133/se-2?accountid=12378>
- Odhiambo, O. G. (2005). *The Domestication of International Law Standards on the Rights of the Child with Specific Reference to Juvenile Justice in the African Context*. University of Western Cape.
- Ojo, M. O. D. (2012). *A Sociological Review of Issues on Juvenile Delinquency*. 5(21), 468–482.
- Omale, D. J. O. (2006). *African Journal of Criminology & Justice Studies: AJCJS; Volume 2, No. 2, November 2006*. 2(2), 32.
- Omboto, J. O., Ondiek, G. O., Odera, O., & Ayugi, M. E. (2012). Factors Influencing Youth Crime and Juvenile Delinquency. . . *Vol., 1*, 4.
- Oriola, T. B. (2006). Biko Agozino and the Rise of Post-Colonial Criminology. *African Journal of Criminology & Justice Studies*, 1(2), 28.
- Osei, A. B. (2013). *Evaluating the Effectiveness of Ghana’s Juvenile Justice System in Rehabilitating the Offender*. Ashesi University College.
- Parks, A. B. (2013). *The Effects of Family Structure on Juvenile Delinquency* [East Tennessee State University]. <http://dc.etsu.edu/etd/2279>

- Patoari, M. M. H. (2020). Socio-Economic, Cultural and Family Factors Causing Juvenile Delinquency and Its Consequences in Bangladesh: A Look for Way Out. *Asian Journal of Social Sciences and Management Studies*, 7(2), 89–98.  
<https://doi.org/10.20448/journal.500.2020.72.89.98>
- Penal Reform International. (2013). *Protecting Children's Rights in Criminal Justice System: A Training Manual and Reference Point for Professionals and Policymakers*.
- Piper, D. (2017). *My lawyer, My rights: The Role of The Youth Lawyer in The Juvenile Justice System in Germany* [National report - Desk research]. Justice Program of the European Union. National-Report\_GERMANY\_EN.pdf (lachild.eu)
- Rautenbach, C. (2015). Legal Reform of Traditional Courts in South Africa: Exploring the Links Between Ubuntu, Restorative Justice and Therapeutic Jurisprudence. *Journal of International and Comparative Law*, 275, 31.
- Scotland, J. (2012). Exploring the Philosophical Underpinnings of Research: Relating Ontology and Epistemology to the Methodology and Methods of the Scientific, Interpretive, and Critical Research Paradigms. *English Language Teaching*, 5(9), p9.  
<https://doi.org/10.5539/elt.v5n9p9>
- Skelton, D. A. (2011). *From Cook County to Pretoria: A Long Walk to Justice for Children*. 6(2), 16. <http://scholarlycommons.law.northwestern.edu/njlsp/vol6/iss2/9>
- Skelton, T. (2008). Research With Children and Young People: Exploring the Tensions Between Ethics, Competence and Participation. *Children's Geographies*, 6(1), 21–36.  
<https://doi.org/10.1080/14733280701791876>
- Sloth-Nielsen, J. (Ed.). (2016). *Children's Rights in Africa: A Legal Perspective*. Routledge.

- Tooth, G. (1956). *Survey of Juvenile Delinquency in the Gold Coast,*” in *Social Implications of Industrialization and Urbanization in Africa South of the Sahara* (P. M. Hauser, Ed.). UNESCO.
- United Nations (Ed.). (2005). *World Youth Report, 2005: Young People Today and in 2015*. United Nations.
- University of Pennsylvania, Wharton School, Center for Studies in Criminology and Criminal Law, & United States of America. (2012). *Understanding the " Whys" Behind Juvenile Crime Trends*. Chicago.
- Vaismoradi, M., & Snelgrove, S. (2019). Theme in Qualitative Content Analysis and Thematic Analysis. *Forum: Qualitative Social Research*, 20(3), 15.
- van der Laan, A. M., Rokven, J., Weijters, G., & Beerthuizen, M. G. C. J. (2021). The Drop in Juvenile Delinquency in The Netherlands: Changes in Exposure to Risk and Protection. *Justice Quarterly*, 38(3), 433–453. <https://doi.org/10.1080/07418825.2019.1656762>
- Wadsworth, T. (2010). Is Immigration Responsible for the Crime Drop? An Assessment of the Influence of Immigration on Changes in Violent Crime Between 1990 and 2000. *Social Science Quarterly*, 91(2), 531–553.
- Wagman, M. T. (2000). Innocence Lost in the Wake of Green: The Trend is Clear – If You Are Old Enough to Do the Crime, Then You Are Old Enough to Do the Time. *Catholic University Law Review*, 49(2), 37. <https://scholarship.law.edu/lawreview>
- Walén, A. (2016). Retributive Justice. In E. N. Zalta (Ed.), *The Stanford Encyclopedia of Philosophy* (Winter 2016).

- Weinberg, S. K. (1964). Juvenile Delinquency in Ghana: A Comparative Analysis of Delinquents and Non-Delinquents. *The Journal of Criminal Law, Criminology, and Police Science*, 55(4), 471. <https://doi.org/10.2307/1140898>
- Welsh, B. C., & Farrington, D. P. (2007). Save Children from A Life of Crime. *Criminology & Public Policy*, 6(4), 871–879. <https://doi.org/10.1111/j.1745-9133.2007.00465.x>
- Winterdyk, J. A. (Ed.). (2014). *Juvenile justice: International perspectives, Models, and trends*. CRC Press.
- World Prison Brief. (2021). *World Prison Brief Data*. Institute for Criminal & Justice Policy Research.
- Zehr, H. (1990). *Changing Lenses: A New Focus for Crime and Justice*. Herald Press.
- Zehr, H. (2004). Commentary: Restorative justice: Beyond victim-offender mediation. *Conflict Resolution Quarterly*, 22(1–2), 305–315. <https://doi.org/10.1002/crq.103>

## APPENDIX A: Ethics Approval Letter



### Interdisciplinary Committee on Ethics in Human Research (ICEHR)

St. John's, NL Canada A1C5S7  
Tel: 709 864-2561 icehr@mun.ca  
[www.mun.ca/research/ethics/humans/icehr](http://www.mun.ca/research/ethics/humans/icehr)

ICEHR Number:	20222010-AR
Approval Period:	November 9, 2021 – November 30, 2022
Funding Source:	
Responsible Faculty:	Dr. Rosemary Ricciardelli Department of Sociology
Title of Project:	THE EFFECTIVENESS OF THE GHANAIAN YOUTH JUSTICE COURTS: THE GAP BETWEEN POLICY AND PRACTICE

November 9, 2021

Deladem Anku  
Department of Sociology, Faculty of Humanities and Social Sciences  
Memorial University

Dear Deladem Anku:

Thank you for your submission to the Interdisciplinary Committee on Ethics in Human Research (ICEHR), seeking ethical clearance for your research project. The Committee appreciates the care and diligence with which you prepared your application. The project is consistent with the guidelines of the *Tri-Council Policy Statement on Ethical Conduct for Research Involving Humans* (TCPS2). *Full ethics clearance* is granted for **one year** from the date of this letter. ICEHR approval applies to the ethical acceptability of the research, as per Article 6.3 of the *TCPS2* (2018). Researchers are responsible for adherence to any other relevant University policies and/or funded or non-funded agreements that may be associated with the project. If funding is obtained subsequent to ethics approval, you must submit a Funding and/or Partner Change Request to ICEHR so that this ethics clearance can be linked to your award.

The *TCPS2* requires that you **strictly adhere to the protocol and documents as last reviewed** by ICEHR. If you need to make additions and/or modifications, you must submit an Amendment Request with a description of these changes, for the Committee's review of potential ethical issues, before they may be implemented. Submit a Personnel Change Form to add or remove project team members and/or research staff. Also, to inform ICEHR of any unanticipated occurrences, an Adverse Event Report must be submitted with an indication of how the unexpected event may affect the continuation of the project.

The *TCPS2* requires that you submit an Annual Update to ICEHR before **November 30, 2022**. If you plan to continue the project, you need to request renewal of your ethics clearance and include a brief summary on the progress of your research. When the project no longer involves contact with human participants, is completed and/or terminated, you are required to provide an annual update with a brief final summary and your file will be closed. All post-approval ICEHR event forms noted above must be submitted by selecting the **Applications: Post-Review** link on your Researcher Portal homepage. We wish you success with your research.

Yours sincerely,

Kelly Blidook, Ph.D.  
Chair, Interdisciplinary Committee on  
Ethics in Human Research

KB/bc

copy: Supervisor – Dr. Rosemary Ricciardelli, Department of Sociology

## APPENDIX B: Codebook

Name	Description
Bail	Topics under the section captures whether or not youth were granted bail by the court and the conditions associated with the bail
bail granted	Information on whether case was granted
reason	Reason for bail being granted
committed to fit person	Youth put in protection of fit person responsible to appear in court with the youth
custody	Juvenile already spent time in custody
presence of family	Information on whether bail was granted because a family member was present
Bail not granted	Information on bail not granted
reason	Reason bail was not granted e.g., parent, guardian, council absent etc.
Case Adjournment	Highlights reasons why cases were adjourned
Absenteeism	Information of people not showing up in court
accused	Accused person absent in court
complainant	Complainants absent in court
council	Council is absent in court
prosecutor	Prosecution is absent in court
representation	Relative of accused absent in court
victim	Victim is absent in court
witness	Witness is unavailable in court

Name	Description
confirm jurisdiction	Case adjourned to be able to ascertain age
holiday	Court adjourned because of public holiday
medical report not ready	Court adjourned because medical report of youth is not ready
prosecution not ready	Prosecution not ready with case
SER not ready	SER requested but not yet available
transfer	Transfer of court official
trial	Adjourned for witness hearing
Decision	The topics in the section give information on the type of decisions the courts made
committal to fit person	Youth committed to relative or fit person
reason	Reasons for committing to fit person
Detention	Committed to an institution
Length of time	Information on how long to be spent in facility
reason	Reason for detention in an institution
convicted on own plea	Pleads guilty
deterrence	Detained to deter from future crime
exposed to danger	Information on danger to reoffend
poor family support	No proper guide to life from parents
recidivism	Youth has committed other crimes in the past



Name	Description
reformation	Committed to detention for reformation and rehabilitation purposes
SER adhered	Information on court adhering to SER
SER not adhered	Decision goes contrary to SER
Discharged	Case dismissed without sentencing
reasons	Reasons for discharging case
circumstances	Behaviour as a result of circumstances
bad friends	Misconduct because of questionable friends
financial	Misconduct as a result of financial problems
complainants absent	Complainant does not appear in court
diversion	Case dismissed to solve at home
No evidence of guilt	Youth is tried and not found guilty
over 6 months	Case exceeded 6 months duration
plea for leniency	Youth begs for forgiveness
positive change	Positive change in behaviour
want of prosecution	Complainant not interested in pursuing case
wrongfully charged	youth is charged under wrong section
SER not adhered	Recommendations SER adhered
Diversion	Case diverted out of court for settlement

Name	Description
Fine	Payment made to compensate victim
reason	Reason for fining youth
good behaviour	previous good behaviour calls for leniency
plead leniency	Youth pleads with court for leniency
Imprisonment	Youth sent to prison
length of time	Length of time to serve in prison
reason	Reason for imprisonment
convicted on own plea	Youth pleads guilty
Probation	Release but subjected to good behaviour under the care of social welfare or fit person
detention in default	Committed to correctional center because of default of probation
length of time	Length of time to be on probation
reasons	Information on reason for probation
committed to fit person	Put in the care of a fit person during probation
continue education	Put on probation to avoid destructing schoolwork
convicted on own plea	Sentenced because of guilty plea
first offender	Youth is a first offender
medical	Medical reasons given for behaviour
minor offense	Crime committed is minor

Name	Description
plea for leniency	Youth begs for pardon
poor parental supervision	Parents are unable to give good supervision to youth
previous behaviour	Information on type of behaviour shown before accused
bad behaviour	Youth's previous behaviour is non-conforming
good behaviour	Youth is generally of good behaviour
recidivist	Have previous record of offending
SER adhered	Court adheres to recommendation in SER
Sign Bond	Youth to sign bond of good behaviour
adhere to SER	Whether decision adheres to SER
fails to adhere to SER	Decision fail to adhere to SER
reasons	Reason why decision was taken
acted out of curiosity	Misconduct as a result of curiosity
convicted on own plea	Youth pleads guilty
custody of fit person	Bonded to care of fit person
good behaviour	Good previous behaviour
plea for leniency	Youth pleads to the court to deal leniently
reason for misconduct	Information on what caused the youth to commit crime
bad friends	Behaviour as a result of bad friends

Name	Description
financial constraint	Misconduct as a result of financial problems
need care & protection	Youth should be given care and protection from guardian
school	Decision taken to allow youth finish school
want of prosecution	Complainant is no more interested in pursuing the case
incomplete cases	Reasons for incomplete cases
Jurisdiction	Youth justice courts are limited to oversee cases concerning persons under the age of 18years. The topics coded in this section show the age determination methods as well as case transfers to appropriate courts.
Age determination	Information on what methods were used to determine age (e.g., medical reports, birth certificates etc.)
assurance by parent	Parent testifies ensuring youth is within jurisdiction
medical report	Any record from the hospital indicating the age of the child
personal report	Any document submitted to court, showing age of child (birth certificate, passport etc.)
Transfer of Cases	Information on transfer of cases to appropriate court for hearing
from court of summary to juvenile court	Cases moved from adult court to juvenile court
reason for transfer	Why the case was transferred
from juvenile court	Information on transfer from court of summary to juvenile court
crime committed with adult	Case transferred because youth is charged with an adult
Remand	Information on where youth is remanded when bail is denied
custody of fit person	Information on who keeps the child till case is concluded

Name	Description
father	Youth is put in care of father to appear in court on due dates
other	Includes any person outside the family (e.g., Community member, church etc.)
uncle	Youth is remanded into the care of an uncle
In police custody	Youth is remanded in police custody
prison	Juvenile remanded in prison
Remand home	Youth is remanded in a remand home

### APPENDIX C: Qualitative Data Set

	Variable	Variable type	Description	Variable labels
1	Case_ID	String	Unique ID of case file.	N/A
2	Individual_ID	String	Individual ID – ID assigned to young offenders.	N/A

3	<b>caseyear</b>	Numeric	Case file year	
4	<b>sex</b>	Categorical	Sex of the young offender	1- male 2- female
5	<b>Age</b>	Numeric – continues	Age of the young offender	N/A
6	<b>Occupation</b>	String	Occupation of young offender as stated on the case file.	n/a
7	<b>occupation2</b>	Categorical	Occupation categorized	1- student 2- employed 3- unemployed
8	<b>Crime_type</b>	String	Official charge against young offender as stated on the case file.	N/A
9	<b>crimetype</b>	Categorical	Crime_type recategorized	1- "Murder/attempted Murder" 2- "Assault" 3- "Sexual Crimes" 4- "Property Crimes" 5- "Drug related crime" 6- "Fraud" 7- " Public order/Authority" 8- "Possession of weapon "

10	<b>remand_loc</b>	Categorical	Remand location of offender. -	1 - Remand Home 2 - Police Custody 3 - Fit Person 4 - Not Remanded 5 - Prison
11	<b>ser_ordered</b>	Categorical	Was social enquire report (SER) requested?	1- Yes 2- No 3- n/a
12	<b>ser_adhered</b>	Categorical	Was recommendation in SER adhered?	1- Yes 2-No 3- n/a
13	<b>Decision</b>	string	Decision	N/A
14	<b>court_decision</b>	Categorical	Decision recategorized	1 - "committed to fit person" 2 - "Detention" 3- "Discharge" 4 -"Diversion" 5 - "Fine" 6- "Fine/Detention" 7- "Imprisonment" 8- "Probation" 9- "Probation/Fine" 10- "Probation/Sign Bond" 11- "Sign Bond"

				12- "Transfer to court summary"
15	<b>status</b>	Categorical	Case status of the case as the time the files were retrieved, i.e., completed or not completed?	1- Yes 2- No
16	<b>startdate</b>	Date	Case start date – first hearing	N/A
17	<b>enddate</b>	Date	End date – last hearing	N/A
18	<b>duration</b>	Numeric – continues	Computed- Duration of the case in months	N/A
19	<b>durationgroups</b>	Categorical	Case duration recoded into groups	1- Within 6 months 2- Above 6 months
20	<b>mean_duration</b>	Numeric – continues	Computed – mean duration in months by case year	N/A