

CHAPTER 1

INTRODUCTION

1.1 Background and Significance of the Problem

According to a study on statistics of juvenile cases in Thailand in 2002 compared with 2003, there were 35,285 and 29,915 cases respectively, showing a decline of 15.22% (Department of Juvenile Observation and Protection, 2003: 3). Despite a decrease in overall number, arrests in some offences have significantly increased, including offences of assets (up 897 cases), offences of life and body (up 1,789), offences relating to sexuality (up 256 cases), offences against public peace, liberty, reputation and public administration (up 335 cases), offences of firearm and explosive (up 577 cases), and others 18 offences including (1) falsifying document, seal, etc. (2) miscarriage of jurisdiction of the court (3) Copyright Act (4) Forest Act (5) Protection and Suppression of Prostitution's Act (6) Prostitute (7) Spreading Out and Obscene Material Trade (8) Telecommunication Act (9) Land Traffic Act (10) Illegal Car-Racing (11) Transportation Act (12) Fishery Act (13) Vagrant (14) Conscription Act (15) Alien-Illegal Migrant (16) Selling Over-priced Lottery (17) Gambling Act, and (18) Scales and Measurement Act (up 1,562 cases). Only drug offences have decreased by 10,826 cases (Department of Juvenile Observation and Protection, 2004: 10-12).

In addition, it was found from a comparison of number and percentage of juvenile cases during January 2004 to August 2004, classified by offence, that there were 31.21% of offences of assets, 18.24% of offences of life and body, and 7.29% of offences relating to sexuality. Violent cases were mostly found among the three offences which accounted for 56.74%. This statistics implies that more than half of juveniles are likely to commit violent crimes or violent-crime based offences.

It was also found that juveniles are more likely to imitate adults' behaviors in committing offences and devising offence plans, and sometimes outcomes turned out

to be more severe. The government has recognized the problem as a country-level issue, which affects all concerned parties. In response to such problem, the government has issued a law to punish parents of offence-committed juveniles to take criminal liability on the ground of failing to provide a proper guidance for their children.

Table 1.1 Total of Juvenile Cases was Arrested since January to August 2004,
Classified by Offence

| Offence | Number of Cases | Percentage |
|--|------------------------|-------------------|
| Assets | 6,614 | 31.21 |
| Life and Body | 3,866 | 18.24 |
| Sexuality | 1,544 | 7.29 |
| Against Public Peace, Liberty, Reputation and Public Administration | 735 | 3.47 |
| Drug Abuse | 3,152 | 14.87 |
| Firearm and Explosive | 1,193 | 5.63 |
| Others | 4,087 | 19.29 |
| Total | 21,191 | 100.00 |

However, the implementation of such law does not help reduce the number of criminal offences. Offences and violence committed by juveniles have increasingly been widespread in many media. Moreover, some offence-committed juveniles who had been released or were under suspension of the determination of punishment by probation, etc., have committed repeated violent-crime based offences, which is against law enforcement and objectives. This proves a continual increase in repeated offences during 2002-2003 and 2003-2004, in spite of stricter measures on juveniles imposed by the authority.

The court order to detain juveniles in Juvenile Observation and Protection Centers can cause many direct and indirect impacts, including the lack of proper education, burdens to authority, society and parents, the feeling of inferiority, and blames from society.

After the offence-committed juveniles are released from Juvenile Observation and Protection Centers, they could also face both direct and indirect impacts - being under a close watch of people in the society or being discriminated from participating in social activities. Most importantly, detained juveniles might share plans for further violence or crimes while being in Juvenile Observation and Protection Centers.

It was found that offences committed by juveniles keep increasing. According to Table 1.1, which displays number of juvenile cases in all Juvenile Observation and Protection Centers, classified by offences, during January 2004 to August 2004 compared with the number during January 2002 to July 2002, overall number of offence-committed juveniles increased by 31.58% (Department of Juvenile Observation and Protection, 2007: 9).

Table 1.2 Recidivism Cases of Juvenile all Juvenile Observation and Protection Centers Between 2002 and 2004

| Offence | Number of Cases | | | Percentage's Changing | |
|---|-----------------|--------------|--------------|-----------------------|-------------|
| | 2002 | 2003 | 2004 | 2002-2003 | 2003-2004 |
| Assets | 1,532 | 1,903 | 2,006 | 6.71 | 2.27 |
| Life and Body | 304 | 580 | 738 | 4.99 | 3.48 |
| Sexuality | 136 | 164 | 245 | 0.51 | 1.79 |
| Against Public Peace, Liberty, Reputation and Public Administration | 88 | 106 | 117 | 0.33 | 0.24 |
| Drug Abuse | 3,162 | 1,269 | 1,004 | -34.23 | -5.84 |
| Firearm and Explosive | 114 | 161 | 164 | 0.85 | 0.07 |
| Others | 195 | 352 | 333 | 2.84 | -0.42 |
| Total | 5,531 | 4,535 | 4,607 | -18.00 | 1.59 |

Juveniles are valuable resources for the country's development. If they are raised properly by their families, and receive good guidance from schools and other social institutions, they will grow up to be important drive for the country. However, in fact, juveniles today are likely to use violence as a way to solve all kinds of

problems, break the law, destroy property or have other forms of deviant behaviors, all of which are not accepted by the society.

This problem is prevalent throughout the world. More juvenile cases have been brought through criminal justice system. Causes of problem stem from environment, more materialistic society, economic problems, and less care from parents.

Table 1.3 Total of Juvenile Cases was Arrested since January to July 2008,
Classified by Offence

| Offence | Number of Cases | Percentage |
|--|------------------------|-------------------|
| Assets | 7,374 | 26.45 |
| Life and Body | 3,974 | 14.25 |
| Sexuality | 1,125 | 4.03 |
| Against Public Peace, Liberty, Reputation and Public Administration | 1,810 | 6.49 |
| Drug Abuse | 6,866 | 24.62 |
| Firearm and Explosive | 1,806 | 6.48 |
| Others | 4,929 | 17.68 |
| Total | 27,884 | 100.00 |

According to juvenile offence statistics, the number one committed offence is offence of assets, followed by drug offences, mostly by male juveniles. In consequence, it is the responsibility of criminal justice system to seek measures for handling the problems (Department of Probation, 2004: 11). As juvenile offences can lead to crimes, which strongly affect life and assets of people in the society, reduction of offences will also lead to reduction of crimes (Prathan Watthanawanith, 1987: 39-42).

Juvenile offences in Bangkok and major cities keep increasing due to other social problems, including poverty, labor force from rural area, slums, unemployment, and drugs. Most of the offence-committed juveniles have bad family background such as poor family or broken family or did not receive good guidance from their families.

Moreover, this problem has long been ignored by the government. As a result, social institutions and state mechanism were faced with failures in solving juvenile problems (Baworn Praphruetdee, Tipaporn Pimpisut and Banport Werasai, 1995: 7-11) since juveniles' behaviors do not solely depend on the government actions, but on many factors such as heredity, guidance, family and social environments, as well as media.

Thus, juvenile offences involve many factors, including economic and poverty problems. At present, average Thai households earn low to moderate income and mostly work in agricultural sector (National Statistical Office, 2003: 8).

Family violence faced by juveniles occurs from many relevant factors. It was found that society or environment full of problems, such as housing, environment, drugs, violence, crime, poverty, and media problems can have great influence on behaviors of juveniles who grew up under such environment. Once those juveniles come to live together in a bigger society, various forms of social problems occur, which are direct impacts of their social values. In consequence, juveniles develop anti-social behaviors and are likely to break the law or act against social norms (Lourdes, 2000: 5-6). Furthermore, 12.20% of juveniles think that their family tensions are a result of insufficient family income (Phonphen Petchsuksiri, 1996: 37-44). It should be noted that bad family financial status is one factor causing loose family relationship, which might further lead to broken family and social problems (Phatsorn Limanon and Phenphon Thirasawat, 1989: 3-5). Families that parents have to work far away might lead to problems of stress, loneliness and broken family.

Family is a core institution of the society, which provides basic guidance for children (William, 1994: 503-505). Due to this fact, the role of family leader like father or mother is very important (Vicki, 1995: 2-5). Families without good guidance from family leaders will lead to widespread crimes. Consequently, children are at risk to cause social problems both legally and illegally since society and crime are closely related (Dupont-Morales, Hooper and Schmidt, 2001: 321-323).

Court justice process plays a vital role in solving crime problems committed by both adults and juveniles. Present legal system classifies punishment by age of defendant-juvenile and adult. The classification leads to different criteria for judgment and goals (Bazemore and Umbreit, 1995: 768-771). For example, adults are "imprisoned" while juveniles are "detained" for their delinquency (Lemov, 1994: 28).

Places for imprisonment or detention of adults and juveniles are also different (Feld, 1993: 775-778).

Criminology does not use the word “Crime” with juveniles as they are regarded as innocent. Thus, their wrongdoings, even as severe as those committed by adults, are regarded as misconduct or mistakes done by inexperienced persons or caused by environment, or only as behaviors against social norms.

Basically, juveniles’ wrongdoings are similar to crimes. The only difference is that punishment is classified by age since it is believed that juveniles cannot differentiate right from wrong like adults. Therefore, different practices and enforcement of laws are used for juveniles and adults (Charles, James and Michael, 1998: 125-138) -- from investigation, detention, to punishment. Juveniles are sent to Juvenile Observation and Protection Centers while adults are sent to prisons (Prathan Watthanawanith, 1987: 39-42). Consequently, judgment for juvenile cases and adult cases must be separately considered (Okeson, McGarrell and Brinker, 1997: 7-12).

For some societies like America, definition of “juvenile delinquency” is very broad - from misconduct, anti-social behavior, to an act of law violation such as robbery or murder. However, as some acts are committed particularly among juveniles, they are called “status offender” such as skipping school, running away from house, and disobedience to parents. Based on this reason, the aforementioned definition is much broader than what has been defined in Thailand. In other words, it includes both criminal offences and delinquency. In addition, criteria have been set for determining juvenile delinquency. Juveniles’ acts considered as delinquency are against any of the following norms.

1. Crime norms.
2. Child welfare norms - ordinary violation in terms of child welfare.
3. Educational norms - ordinary violation in terms of juvenile student conducts.

As for Thailand, juveniles can be arrested only in case of breaching criminal laws or juvenile delinquency-related acts. The main reason for separating juveniles from adults is due to different means of rehabilitation and totally different processes (Feld, 1993: 775-778). As juveniles are younger, less experienced, and understood less social norms than adults (Garland, 1990: 23-25), juvenile and adult cases must be

separately considered (Umbreit, 1994: 25-27). Due to these facts, juvenile courts need to be established in many places with high numbers of crimes (Bazemore, 1994: 429-453). Such process has a great influence on convictions of justice process and administration of ministries of justice worldwide (Butts, 1996: 30-39).

In Thailand, separation of methods for considering offences committed by juveniles or “teenagers” and adults who are fully grown up and conscious, started from the issues of Juvenile Court Establishment Act, B.E. 2494 and Juvenile Procedure of the Court Act, B.E. 2494. The first Juvenile Court and Juvenile Observation and Protection Center were founded on January 28, 1952. Later, the government recognized the importance of family institution as a solution to juvenile problems. To protect family welfare like juvenile welfare, the government issued Juvenile and Family Courts Establishment, and Procedure of the Court Act, B.E. 2534 in 1991 which was effective from January 2, 1992. This law added the authorization to litigate family cases based on a universal concept “Family is a core institution of society.”

Family well being means every family member lives happily. Family problems can definitely have impacts on family members’ well being and mental state, as well as obstruct solutions to juvenile problems. As a result, the names of Juvenile Court and Children Observation and Protection Center have been changed to Juvenile and Family Court, and Juvenile Observation and Protection Center respectively. At first, when juveniles committed offences, they had to undergo prosecution based on juvenile justice, having Juvenile Observation and Protection Centers under the jurisdiction of the Department of Juvenile Observation and Protection as a remand home. Later, the Cabinet resolved on July 10, 2001 that juvenile offenders be under care of the Department of Probation. Therefore, the responsibility to monitor and observe juveniles was transferred to the Department of Probation on July 1, 2003. Juvenile probation then started when the Court ordered a release of juveniles, regardless of whether they were guilty. The court also ordered juvenile probation under stipulated conditions regarding juvenile behaviors. Juvenile probation can be divided into two following cases:

1. In case a juvenile is guiltless, but has committed a delinquent act, the court may release the juvenile for the sake of his welfare but place the juvenile under probation.

2. In case a juvenile is guilty, the court may release the juvenile but place him under probation or send him to rehabilitation center for a specified period. During such period, the court may release the juvenile from rehabilitation center, but place him under probation (Department of Juvenile Observation and Protection, 2003: 12).

After the implementation of Constitution of the Kingdom of Thailand, B.E. 2540, in which Section 275 stipulated that the Courts of Justice shall have an independent administrative office of the courts of justice and hence Act on Judicial Administration of the Courts of Justice, B.E. 2543 was issued. Consequently, Juvenile Observation and Protection Centers which had formerly been under the supervision of the Juvenile and Family Court were transferred under the jurisdiction of the Ministry of Justice in accordance with Section 36. After that, in 2002 bureaucratic reform took place and Government Departments Improvement Act, B.E. 2545, was issued. Therefore, Juvenile Observation and Protection Centers were transformed into Department of Juvenile Observation and Protection, with authorization, role and administrative jurisdiction according to ministerial regulations on service division, Department of Juvenile Observation and Protection, Ministry of Justice, B.E. 2545, which was effective from October 9, 2002.

Juveniles' social responsibilities and conscience are not as developed as those of adults (Phillip, 1977: 74-78). According to the law, "Child" is a person aged between 7 and 14 and "Juvenile" is a person aged over 14 but not yet 18" (Institute for Juvenile and Family Justice Development, 1993: 5). This is a way to separate juvenile and adult cases by age. However, if juveniles commit severe offences, adult prosecution may be enforced regardless of whether the juveniles reach the age of 18. Basically, juvenile offences are similar to crimes, except that punishment is classified by age.

Sociologists believe that juvenile delinquency is a form of anti-social behavior, which leads to social and personal disorders. Furthermore, it implies consequences of using social values to consider behaviors whether they are desirable under particular social norms and laws (Warunee Phurisinsith, 1988: 15-18). Juvenile

delinquency is therefore caused by problem of teenagers' mental and emotional adjustment, which needs to be solved. It is also believed that delinquency can be a result of learning. Thus, behaviors are closely related to environment and personal conditions. Studies on juvenile delinquency have then been focused on mental and ethical development of juvenile offenders rather than personalities (Bartol, 1998: 525-542).

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In criminological perspective, juvenile delinquency is only a stigma of behaviors against social norms or laws, which is still obscure. This includes both social and legal stigmas, stating that the offence committed are those who perform an act prescribed in the laws as delinquency and they shall undergo litigation in a specially assigned court.

As a legal definition is quite narrow due to consideration of punishment by age, levels of offences cannot clearly be determined. In consequence, asset value, frequency of offences, injuries, support and interference from state officials or repeated offences are taken into account. Thus, it can be concluded that "severe offenders" are those who involve in criminal offences which affect stability and security of life. From this definition, severe offences may include rapes, murders, severe physical abuses, robberies and arsons, but not involved with offences of assets. In 1980, a revision of children law issued in 1974 took place in America, in which nine severe offences were stated namely murders, rapes by force against one's mind or for physical abuse, kidnaps, severe physical abuses, robberies, thefts with severe stated criminal punishment, thefts of machined vehicles, intrusion into one's property and arsons with severe stated criminal punishment (Bartol, 1998: 525-542).

Offence severity classification is very important in terms of criminology. Besides data collection and statistical data analysis, the classification serves the judicial proceedings, probation, suspension of punishment, and transfers of juvenile cases to courts for adult cases. Later, criminal offence severity classification was developed for both offences of assets and offences of life and body by adopting

quantitative criminology to set scores based on estimation, physical injuries or property damage as follows:

1. Murder is marked with the highest score of 26 points. Meanwhile, severe physical abuses, causing others injuries which need treatment from hospitals is marked with 7 points. However, if the victim is injured, but does not need treatment from hospital, the score will be at 4 points. Rape by force against one's mind is marked with 10 points, but can be higher if weapons are concerned.

2. Offences of assets severity will be considered based on property damage value. For instance, damage of US\$ 80,000 is marked with 7 points while damage of US\$ 2,000 is marked with 3 points. Take the following case as an example. A defendant forced victims who were husband and wife to get out of the car. After that, the husband was shot dead and the wife raped. The defendant also stole US\$ 100 and fled. After the incident, it can be concluded that "the husband was murdered" (26) "the wife was raped" (10) "the offence was done by gun" (2) "the wife was injured and admitted in hospital" (7) "the car was stolen" (2) total damage value was US\$ 2,100 (4). From this example, the score totaled 51 points, which is categorized as severe offence. However, it is argued that the consideration was not complete as intention to commit the offence and the pressure on offender caused by the incident were not taken into account. However, such method is an attempt to measure severity both in terms of offence and offender (Bartol, 1998: 525-542).

Offence severity classification is a result of collection of data involving juvenile delinquencies based on various views and theories in order to transform the data into information, knowledge and wisdom respectively. Offence severity is classified into 11 types, namely murder or manslaughter, forcible rape, robbery by property intrusion, theft of assets worth more than US\$ 1,000, car theft without return, arson in others' property, kidnap, extortion, and illegal drugs distribution (Smith, 1999 quoted in Phumphong Khunchanomcham, 2004: 8-12).

Teenagers' behavioral problem is very critical, particularly in developed countries (Jessor, Van-den-Bos, Vanderryn, Costa and Turbin, 1995: 923-933). Apart from this problem, increasing teenage population, teenage health problems, smoking, aggression, and violence exist in all societies (Neumark-Sztainer, Story, French, Cassuto, Jacobs and Resnick, 1996: 1599-1606; Piko, 2000: 617-630). It was found

that teenagers' behavioral problems are closely related to development and modern technologies which can be regarded as society risks (Beck, 1992: 337-342). Moreover, teenagers today grow up amidst these surrounding so it is highly risky for them to develop bad behaviors, causing a direct impact on lifestyle, health and family (Windle, 1992: 352-364).

Accordingly, juvenile delinquency and violent crimes are regarded as critical problems in all societies. If violent crimes among juveniles keep increasing, society will not be peaceful, causing insecurity of life and property, social disorder and problems to society. Consequently, studies on problems and risks faced by teenagers, from personal factors, family status and relation, economic condition, criminal record, social environment to risk factors (Furlong and Cartmel, 1997: 301-321).

1.2 Research Objectives

This research aims to study the following issues:

1. Antecedents of juvenile violent crimes.
2. Outcome of juvenile violent crimes and remedial measures.

1.3 Scope of the Research

This research was conducted with juveniles convicted of violent crimes and detained by the court order under the custody of Juvenile Observation and Protection Centers, as well as juveniles without mental or critical illness who were under custody of Juvenile Observation and Protection Centers, Ministry of Justice, and can be accessed for data collection through ordinary means.

1.4 Expected Benefits

1. Results of this study will be presented to the Ministry of Education for teachers to adopt as a guideline for fostering ethics among children and juveniles who attend compulsory basic education to prevent the juveniles from committing

delinquency. Once the real causes of decision to commit delinquency among juveniles is found out, juveniles can be guided and taught to behave well and avoid risk factors leading to delinquency. This will help reduce social problems caused by juvenile delinquency.

2. Results of this study will be presented to Community Development Department, Ministry of Interior, and Department of Probation, Ministry of Justice, to be adopted for juvenile life planning. Various antecedents were included namely counseling to parents/custodian as well as juveniles regarding spending to suit financial status, guiding juveniles ways to get access to education, promoting lawful professions which suit each juvenile's ability, suggesting parents to quit vices, and choosing friends. The counseling is organized in order of importance.

3. Results of this study will be presented to concerned agencies including Ministry of Justice, Ministry of Labour Protection and Welfare and Royal Thai Police, etc. to be adopted for use with legal measures, as well as related regulations or orders. In addition, the results can appropriately be used in many projects to comply with juvenile violent crimes remedial measures obtained from the study.