**CONCEPT NOTE**

**Background**

The Juvenile Court Project on conclusion in early 2017 would have established two juvenile courts in Trinidad, piloted a school-based youth court model using Peer Resolution in Tobago and a court annexed model in Trinidad, drafted and enabled the Family and Children Division Bill which provides the legislative frame work for the juvenile courts as well as convened numerous stakeholder dialogues to (a) identify the data gaps on juveniles in detention (b) support the drafting of multi-agency protocols, and (c) provided training on treatment of youth in conflict with the law. These important achievements brings Trinidad and Tobago a few steps closer in alignment with the UN Conventions on the Rights of a Child (CRC) and the Beijing Rules which provides international guidelines and best practices on how juvenile should be treated. However a significant amount of work will be left undone, and if unaddressed will be counter-productive to the strides made by the Juvenile Court Project implemented by the Judiciary, managed by UNDP with funding from United States Agency for International Development (USAID).

UNDP is committed to working with the government of Trinidad and Tobago to continue this juvenile justice reform process and engaged in a number juvenile justice development dialogues to identity the key priority areas requiring immediate, medium and long term attention with a view to continuing a phase two project on juvenile justice. This effort was enthusiastically embraced by the Office of the Prime Minister, Children’s Authority, TT Prison and Police Services, St Judes and St Michaels Homes, Judiciary, Probation Services, Victim and Witness Support Unit, to name a few. Based on the feedback from these important stakeholders the following concept note was developed for consideration. This concept note seeks to provide support for the overall reformation of the Juvenile Justice system in Trinidad and Tobago using a Restorative Justice Philosophy with the objective of reducing juvenile reoffending, and providing rehabilitation opportunities that would facilitate positive youth development so they can become productive members of society and lead richly fulfilling lives.

**Situational Analysis**

Notwithstanding growing youth violence, less than 10% of youth in Trinidad and Tobago are repeat offenders. This means that over 90% of juvenile offenders are amenable to rehabilitation and should be separated from other less serious offenders to reduce the possibility that social learning or socialisation processes might foster increased rates of offending for less serious youth offenders. The ‘offences’ committed by youths can be divided into two major groupings (1) things which are illegal, and (2) things which may be counter-normative, but which do not necessarily indicate that the offender would ‘graduate’ into more serious types of offending. These offences can be classified as

* Running away from home
* Attempting suicide
* Beyond control
* Promiscuity
* Abandoned / No adult supervision or care
* Victim of abuse, and
* Vandalism.

It is important to note that 44.5% of Trinidad and Tobago’s institutionalised youth are there because of counter-normative as opposed to illegal activities. The most prevalent of these offences are being beyond control (27.3%); running away from home (13.6%); victims of abuse (2.6%). Arguably, many of these ‘offences’ are not offences at all, and call for care and counselling instead of incarceration, particularly in cases where youth run away from home, or are victims of abuse, and are only institutionalized because there is no one who is willing to take care of them. A very strong argument can therefore be made that youths who commit non-illegal acts should not be incarcerated and that such incarceration may lead to a range of negative consequences, including increasing the propensity for subsequent delinquency and criminality. Despite the best efforts of the justice apparatus, recidivism rates are currently over 50%.

Research in the region has consistently denounced the legislative and administration of juvenile justice as outdated and almost socially irrelevant for these times. Among the deficiencies highlighted are:

* The low age of criminal responsibility
* The lack of adequate probation and counselling services, psychological assessment, secure treatment facilities
* The absence of consistent legal aid support
* The absence of diversion as an integral part of the system
* The lack of realistic sentencing options
* The lack of reliance on important psycho-social interventions to support the legal process
* The lack of a restorative justice perspective
* The lack of robust data systems from which information is analyzed and applied to policy formulation

**Proactive versus reactive paradigm shift: A Restorative Approach**

While the public often focuses on the performance of the police service in evaluating crime rates, the other arms of the criminal justice system play equally important roles. Inefficiencies in the Judiciary and the Prison Service will also translate into problems with crime and insecurity. The Judiciary of Trinidad and Tobago faces the overwhelming task of adjudicating at a rate expected to be fast enough to keep up with the large number of offences which occur on a daily basis. Consideration should be given to alternatives which may reduce the caseload of the Judiciary, at least where less serious offences are concerned. For example, a restorative justice model, where there is provision for mediation, counseling, and other facilities which allow for out-of-court solutions to disputes, is encouraged. This model, quite apart from freeing the Judiciary from dealing with less serious matters, has the advantage of enabling dialogue between victims and offenders and possibly initiating a rehabilitation process for offenders. Offenders who are encouraged to empathise with victims and to make reparations for wrongdoing in a social context which is more accepting of the offender, but which at the same time signals social disapproval for the wrongdoing, may be more willing to desist from reoffending. Social pressures exert as much, or perhaps even more influence on behaviour than the threat of punishment from the criminal justice system. This determines the degree to which the vast majority of citizens abide by the laws. Where offenders are allowed opportunities to reintegrate into the community, this reduces the likelihood that such persons may be forced into lives of crime due to a lack of legitimate opportunities which are typically provided by society.

Interventions must be put in place to *prevent* the escalation of crime and insecurity while reducing the likelihood of the reoccurrence of criminal offending. While these may be long-term in terms of their outcomes, such strategies over the long run reduce the burden of crime and insecurity faced by the Criminal Justice System, facilitating more manageable and efficient operations. Another advantage of preventative interventions is that their effects tend to be more lasting. Intervention strategies must relate to the level of power exhibited by the individual risk factors. Some risk factors have a more powerful impact on crime and insecurity than others and where these are manipulated, it makes more sense to tackle such factors since this improves the cost effectiveness of the intervention strategy. Promote use of alternative conflict resolution mechanisms to enhance justice

**About the Juvenile Justice Reform Project**

For optimal performance, the entire juvenile justice system needs to operate on a research-informed, evidence based platform. A Comprehensive Strategy is central for ensuring evidence-based programming for juvenile offenders provides a holistic approach and this strategy must integrate juvenile justice stakeholders, communities, children and their families. This concept note focusses on strengthening the national governmental institutions and capacities among those agencies who function within the juvenile justice system, as well as bridging the gap between the community/ child and family, and the system so that there is a harmonious approach and shared responsibility model embraced by all partners built on the foundation of a restorative justice philosophy.

**Aim**

Promote public safety, uphold a fair and equitable juvenile justice system and reduce juvenile delinquency and reoffending by fostering positive behavour change among young persons

**Outcomes**

1. Enhanced capacity, effectiveness and efficiency of juvenile justice stakeholders in Trinidad and Tobago to respond to the unique needs and characteristics youth in conflict with the law using data driven and evidence based interventions.
2. Institutionalisation and implementation of diversionary mechanisms aimed at providing restorative non-custodial sentencing and rehabilitation options in full participation with family and the community while promoting juvenile accountability and personal responsibility.

**Estimated Budget**

US$5,000,000 (to be further disaggregated by activity/ output)

**Time frame**

3 years 6 months

**Key Partners**

Office of the Prime Minister, Gender and Child Affairs Unit

Children’s Authority

