

AN ASSESSMENT OF THE IMPLEMENTATION OF REPUBLIC ACT NO. 9344 OR THE JUVENILE JUSTICE AND WELFARE ACT IN LUZON

ABSTRACT

Purpose

This study aims to determine whether Republic Act 9344 is being fully implemented by local government units in Luzon, so as to find out whether proper implementation of the law will already address the problems currently being attributed to it.

Problem

This law has been under a lot of scrutiny from both lawmakers and the public ever since it was enacted in 2006, with some saying that the lowering of the age of criminal responsibility and the exemption of children aged 15 years old and below from criminal responsibility have contributed to an increase in the number of crimes committed by children. These observations have led lawmakers to propose amendments to the law, including proposals to raise the age of criminal responsibility, or to repeal it altogether.

Findings

The results of this study showed that RA 9344 is not being fully implemented in local government units in Luzon. Most of its provisions that require action from the local chief executive (LCE), the Local Social Welfare and Development Officer (LSWDO), and the barangays are not being complied with by all the respondents in the study, as shown by the low percentage of compliance in each area of the survey.

Conclusions

The respondents listed reasons for their inability to fully implement the law, among which are: financial constraints, lack of personnel, lack of knowledge, and lack of training on RA 9344, particularly at the barangay level.

INTRODUCTION

The Juvenile Justice Welfare Act or Republic Act 9344 was enacted in 2006 to protect the best interests of Filipino children,¹ in recognition of their vital role in nation-building,² their right to assistance, including special protection from all forms of neglect, abuse, cruelty and exploitation, and other conditions prejudicial to their development,³ and pursuant to international standards in child development and child protection, including those laid down in the United Nations Convention on the Rights of the Child.⁴

This law mandated local government units, including provinces, cities, municipalities, and barangays, with duties to administer juvenile justice in their jurisdictions, including the creation of local councils for the protection of children.⁵

Today, seven years after the effectivity of RA 9344, the Institute of Government and Law Reform of the University of the Philippines Law Center sought to assess the implementation of the law. The Institute first conducted a survey among local government units in the cities and municipalities in Metro Manila.⁶ However, upon learning of the Institute's project, the Policy Development and Planning Bureau, the research arm of the Department of Social Work and Development (DSWD), proposed a partnership to expand the scope of the project to cover the entire Luzon. The DSWD has a five-year research agenda which identified an assessment of the implementation of RA 9344 as one of its highest priority research. Thus, the present project was born.

The research team, composed of staff from both the Institute and DSWD, visited selected local government units all over Luzon, and interviewed local officials as to their compliance to the provisions of RA 9344 in their implementation of the law.

PROBLEM AND ITS SETTING

RA 9344 aims to protect the best interests of Children in Conflict with the Law (CICL) by ensuring that Philippine laws on child protection conform to international standards.⁷ It raised the age of exemption of children from criminal responsibility, from nine years old under Article 12 of the Revised Penal Code (RPC), to 15 years old. It also provided that children ages 15 to 18 years old be exempted from criminal charges if they are shown to have acted without discernment. Under

¹ Sec. 2(b), RA 9344.

² Sec. 2(a), *Ibid.*

³ Sec. 2, *Ibid.*

⁴ See full text at <http://www2.ohchr.org/english/law/crc.htm> (last accessed, January 10, 2013).

⁵ Sec. 15, RA 9344.

⁶ The team was unable to survey the city of Muntinlupa due to difficulties it encountered in getting in touch with its Local Social Welfare Development Office (LSWDO).

⁷ *Supra*, note 4.

the old provision in the RPC, the discernment test was used only on children between nine years old to 15.

This law provides that the priority of the State is for CICLs to undergo intervention or diversion programs instead of being prosecuted. Children 15 years of age or under are subject to intervention programs.⁸ For children above 15 years old but below 18 years old, it is necessary to determine whether they have discernment so as to determine the appropriate action for them. Those who acted without discernment are also subject to intervention programs, whereas those who acted with discernment are required to undergo diversion programs without the necessity of court proceedings as long as the conditions provided by the law are met.⁹

If the CICL does not qualify for diversion, or if the CICL or his or her parents or guardian does not agree to diversion, or if the prosecutor determines that diversion is not appropriate based on the assessment and recommendation of the social worker, then legal action may be had.¹⁰ Failure of the CICL to comply with the terms and conditions of the contract of diversion also gives the offended party the option to institute legal action.¹¹

The law also provides that children 15 years old and below who are taken into custody of the law are to be immediately released to their parents or guardian, or in their absence, to their nearest relative.¹² Only when they are found by the LSWDO to be abandoned, neglected, or abused by their parents, or when the parents do not comply with the prevention program will a petition for involuntary commitment be filed. If a case has been filed against the CICL, institutionalization or detention pending trial is resorted to only as a last resort.¹³ Even after a court finding of guilt, imprisonment is not automatic for CICLs; there can be automatic suspension of sentence,¹⁴ discharge,¹⁵ probation as an alternative to imprisonment,¹⁶ and confinement in agricultural camps and other training facilities in lieu of confinement in a regular penal institution.¹⁷

Despite the good intentions of lawmakers, however, certain sectors have called for amendments or the total repeal of the law for various reasons. Some call for the lowering of the age of criminal responsibility, while others criticize its implementation. Others point out that crime syndicates have abused this law by exploiting children and by using them to carry out their illegal activities. They are of

⁸ Sec. 6, RA 9344.

⁹ Sec. 23, *Ibid.*

¹⁰ Sec. 33, *Ibid.*

¹¹ Sec. 26, *Ibid.*

¹² Sec. 20, *Ibid.*

¹³ Sec. 36, *Ibid.*

¹⁴ Sec. 38, *Ibid.*

¹⁵ Sec. 39, *Ibid.*

¹⁶ Sec. 42, *Ibid.*

¹⁷ Sec. 51, *Ibid.*

the view that RA 9344 did not benefit children, but instead enabled the abuse of children for illegal ends.

On the other hand, it could be that critics are just too quick to condemn the law. RA 9344 has been in effect for only six years; thus, it may be too early to say whether it has been effective or whether it has met its objectives. Moreover, it has not even been fully implemented in many areas in the country, hence amendment may be premature.

OBJECTIVES OF THE STUDY

There is a need to assess how the agencies tasked with the duty to implement RA 9344, particularly the LGUs, have implemented it. It is the objective of this study to determine if the LGUs have been able to implement the law to the letter, and if not, to determine the cause, including the problems and issues that the LGUs encountered in implementing the law, and then come up with solutions to address those issues.

SCOPE AND LIMITATIONS OF THE STUDY

The study focused on obtaining information on the manner by which LGUs in Luzon implement RA 9344. A sample population of LGUs in Luzon was surveyed to: (a) determine the extent to which they have implemented the law, (b) identify the problem areas in implementation, (c) determine what is hindering full implementation of the law, and (d) determine what can be done to assist or enable the LGUs.

The study did not focus on the effectivity of the law in preventing children from committing crimes, nor on the effectivity of the law in rehabilitating the children in conflict with the law and then reintegrating them back into society.

METHODOLOGY

Questionnaires were prepared for key officials in each LGU: the Local Social Welfare and Development Officer (LSWDO), a member of the Barangay Council for the Protection of Children (BCPC), and the Local Chief Executive (LCE) or a representative of the local government unit. The questions were formulated in order to determine whether the LGUs have been able to comply with the provisions of the law, and to identify the issues or problems that LGUs encountered in implementing the law.

CONCEPTUAL/THEORETICAL FRAMEWORK

This study aimed to show that among the possible reasons for the apparent ineffectiveness of the law is the inability of LGUs to fully implement its provisions. The research team determined the extent to which the LGUs have been able to comply with the requirements of RA 9344, and for the areas where compliance is incomplete, to identify the factors that contribute to their failure to fully implement the law.

REVIEW OF RELATED LITERATURE

Several studies have been conducted on RA 9344, among which is a report¹⁸ published by PREDA Foundation¹⁹ which identified the demographics (age, gender, geography, education, economic) from where CICLs most commonly originate.

It also identified the gaps in the implementation of RA 9344, especially where it concerns the rights of CICLs from being incarcerated with adults, and from being abused by the police. The report also gives an account of the situation of CICLs in youth detention homes, and included testimonies of CICLs which reveal that their lives in detention homes vastly differ from the ideals embodied in the law.

RESEARCH DESIGN

The current research followed the same strategy and development plan of its predecessor. The survey questionnaires for the local chief executive (LCE), the LSWDO, and the barangay council for the protection of children (BCPC), which were all used in the research for Metro Manila were also used for this study, but with a few additional questions. The questions were based on the provisions of RA 9344 and its Implementing Rules and Regulations (IRR) on the duties and responsibilities of the LGU, its Barangays, and its Local Council for the Protection of Children (LCPC).

Out of the 753 LGUs in Luzon (excluding Metro Manila), 132 or 17.53% of the total number was included in the sample. This number was then proportionately

¹⁸ JESSICA KNOWLES, STILL BEHIND BARS: CHILD INCARCERATION AND JUVENILE JUSTICE POLICY IN THE PHILIPPINES, PREDA Foundation Report (July 2010). Available at <http://www.preda.org/main/archives/still-behind-bars.pdf> (last accessed March 7, 2013).

¹⁹ The People's Recovery, Empowerment and Development Assistance ("PREDA") Foundation is a human rights social development organization based in the Philippines. See <http://www.preda.org/en/> (last accessed March 7, 2013).

distributed according to province. To get the sample, the team used the *non-probability purpose sampling technique* to identify the cities and municipalities with CICL cases, based on the initial information given by LSWDOs. However, considering the proximity and the cost, the provinces of Romblon and Batanes were excluded by the research team.

The research team was however able to visit 144 cities and municipalities in Luzon.

The respondents consisted of City/Municipal Social Welfare Development Officers (CSWDOs/MSWDOs), LCEs, and BCPCs in Luzon.

The research used both qualitative and quantitative methods. The procedures for gathering qualitative data included survey interviews and document reviews. The team went either in small groups or individually in visiting cities and municipalities.

After the conclusion of the data-gathering process, all the questionnaires were submitted to the Institute for encoding and processing of the data.

Instrumentation

There were three (3) sets of survey questionnaires, each designed for LCEs, LSWDOs and BCPCs. The questions were based on the provisions of RA 9344 and its Implementing Rules and Regulations (IRR) on the duties and responsibilities of the LGUs, Barangays, and its Local Council for the Protection of Children (LCPC).

Statistical Treatment of Data Data Analysis and Interpretation

After the data-gathering and processing, the team evaluated and interpreted the responses as well as the results of the survey data. The team classified, analyzed, interpreted and presented findings in textual and tabular form, utilizing Microsoft Excel for data analysis. The outputs were largely descriptive statistics. The frequency distribution, average mean, and cross-tabulations of results were used in this study.

This report was then presented to LGU officials who were invited to a forum at the UP Law Center during the Juvenile Justice and Welfare Week last October 22, 2012.

THE ROLE OF THE LOCAL GOVERNMENT UNIT IN IMPLEMENTING RA 9344

A. Policy – the LCPC

RA 9344 provides for a council in every local government unit which has the duty of creating a blueprint or plan for delinquency prevention and which oversees its implementation.²⁰ This is called the Local Council for the Protection of Children (LCPC).²¹ For provinces, it is called the Provincial Council for the Protection of Children (PCPC); for cities, the City Council for the Protection of Children (CCPC); for municipalities, the Municipal Council for the Protection of Children (MCPC); and for barangays, the Barangay Council for the Protection of Children (BCPC).²² In this survey, the local chief executive (the city or municipal mayor, as the case may be) in his or her capacity as the head of the LCPC,²³ or his or her appointed representative, was asked about the compliance by their respective LCPCs to their functions as set forth in the law.

Under the IRR, the LCPC has the following duties and responsibilities:²⁴

1. Serve as the primary agency to coordinate with and assist the LGU concerned for the adoption of the Comprehensive Juvenile Intervention Program as provided in Rule 18 below, and to oversee its proper implementation;
2. Coordinate with and assist the LGUs in calling on all sectors concerned, particularly the child-focused institutions, NGOs, people's organizations, educational institutions and government agencies involved in delinquency prevention to participate in the planning process and implementation of juvenile intervention programs;
3. Coordinate with LGUs in the annual review and assessment of the comprehensive juvenile intervention programs;
4. Coordinate with and assist the SK in the formulation and implementation of juvenile intervention and diversion programs in the community;
5. Provide coordinative linkages with other agencies and institutions in the planning, monitoring and evaluation of juvenile intervention and diversion programs in the community;
6. Assist the Punong Barangay in conducting diversion proceedings in cases provided under Section 23(a) of the Act and Rule 43.b below;

²⁰ Sec. 15, RA 9344.

²¹ Rule 18.c, IRR.

²² Rule 15.a, *Ibid.*

²³ Rule 15.c, *Ibid.*

²⁴ Rule 15.d, *Ibid.*

7. Assist the Local Social Welfare and Development Officer (LSWDO) in the development of the appropriate diversion program as provided under Section 23(b) of the Act;

8. Institute together with schools, youth organizations and other concerned agencies the community-based programs on juvenile justice and welfare initiated by LGUs;

9. Conduct capability building programs to enhance knowledge and skills in handling children's programs;

10. Establish and maintain a database on children in the local government. Specifically, for the purpose of this Act, the LCPCs shall maintain a database of children in conflict with the law, which shall include the children who undergo intervention, diversion and rehabilitation programs and after-care support services;

11. Document best practices on juvenile intervention and prevention;

12. Advocate and recommend local legislations promoting child survival, protection, participation and development, especially on the quality of television shows and media prints and coverage, which are detrimental to children, and with appropriate funding support;

13. Conduct an inventory of all NGOs serving children in conflict with the law and mobilize them as resources for the effective implementation of the Act;

14. Review existing policies of units providing services to children in conflict with the law, determine the barriers to access to these services, and take the necessary action to improve access to these services.

The BCPCs are also required to perform the following functions as set forth in Presidential Decree No. 603, or the "The Child and Youth Welfare Code" ["P.D. 603"] and Republic Act No. 8980, or the "ECCD Act."²⁵

1. Encourage the proper performance of the duties of parents, and provide learning opportunities on the adequate rearing of children and on positive parent-child relationship;

2. Assist parents, whenever necessary in securing expert guidance counseling from the proper governmental or private welfare agency;

3. In addition, it shall hold classes and seminars on the proper rearing of children. It shall distribute to parents available literature and other information on child guidance. The Council shall assist parents, with behavioral problems whenever necessary, in securing expert guidance counseling from the proper governmental or private welfare agency;

²⁵ *Ibid.*

4. Coordinate the activities of organizations devoted to the welfare of children in coordination with the Sangguniang Kabataan and secure their cooperation;
5. Protect and assist children at risk; and
6. Take steps to prevent juvenile delinquency and assist parents of children with behavioral problems so that they can get expert advice.

B. The CJIP

LGUs are mandated to formulate their own comprehensive juvenile intervention program (CJIP)²⁶, based on the National Juvenile Intervention Program developed by the Juvenile Justice and Welfare Council (JJWC).²⁷ They are also required to annually review and assess their implementation of their CJIPs and submit the assessments to the JJWC.²⁸

The IRR sets forth the components²⁹ of the CJIP:

- a. In-depth analyses of the problem and inventories of programs, services, facilities and resources available;
- b. Well-defined responsibilities for the government agencies, both member and coordinating, institutions and personnel as well as non-government agencies involved in intervention and prevention efforts;
- c. Mechanisms for the appropriate coordination of intervention and prevention efforts between governmental and non-governmental agencies;
- d. Policies, programs and strategies based on prognostic studies to be continuously monitored and carefully evaluated in the course of implementation;
- e. Methods for effectively reducing the opportunity for children to commit offenses;
- f. Community involvement through a wide range of services and programs;
- g. Close interdisciplinary cooperation between the national government and the local governments, with the involvement of the private sector representative citizens of the community to be served, and concerned government agencies as well as the judiciary in taking concerted action to prevent commission of offenses by children;

²⁶ Sec. 18, RA 9344, Rule 18, IRR.

²⁷ Rule 17.a, *Ibid.*

²⁸ *Supra* note 18.

²⁹ Rule 17.b, IRR.

h. Participation of children in intervention and prevention policies and processes, including recourse to community resources, youth self-help, and victim compensation and assistance programs; and

i. Specialized personnel at all levels (e.g., social workers, prosecutors) and their respective roles in the juvenile justice and welfare system.

The Sangguniang Kabataan (SK) also has a role in the formulation and implementation of juvenile intervention and diversion programs in the community.³⁰

C. Funding

RA 9344 has two provisions mandating LGUs to set aside funds for its implementation. Section 15 requires all barangays, municipalities, and cities to allocate 1% of its internal revenue allotment (IRA) for the implementation of the programs of the LCPC.³¹ Section 50 also provided that the LGUs, together with the national government, should bear the expenses for the care and maintenance of a CICL whose parents or guardian are unable to provide support.³² Under Rule 99 of the IRR, LGUs are also mandated to set aside an amount in their annual budget for the implementation of their CJIPs, which has been specifically distinguished from the one percent (1%) IRA provided in Section 15.³³

D. Infrastructure

There are two (2) types of institutions which the law requires to be established for the benefit of the CICLS: the youth detention home³⁴ and the youth rehabilitation center.³⁵ LGUs are mandated to exert all efforts to build the youth detention homes, where CICLS may be detained when necessary during trial,³⁶ within five years from the effectivity of RA 9344.³⁷ The youth rehabilitation centers are to be established by DSWD in every region of the country³⁸ for the rehabilitation of CICLS with suspended sentences.³⁹

E. Diversion, Intervention, Rehabilitation and Reintegration

The LGUs are mandated by RA 9344 to institute community-based programs on juvenile justice and welfare.⁴⁰ The objective of these programs is to “respond to the special needs, problems, interests and concerns of children and which offer

³⁰ Sec. 17, RA 9344.

³¹ Sec. 15, RA *Ibid.*

³² Sec. 50, RA 9344, Rule 100.a, IRR.

³³ Rule 99, IRR.

³⁴ Sec. 49, RA 9344.

³⁵ Sec. 53, RA *Ibid.*

³⁶ Sec. 36, RA *Ibid.*

³⁷ Rule 76.d, IRR.

³⁸ *Supra* note 27.

³⁹ Rule 77.a, IRR.

⁴⁰ Sec. 19, RA 9344.

appropriate counseling and guidance to them and their families.”⁴¹ There are three levels of these programs: primary, secondary and tertiary intervention.⁴²

Intervention

Intervention is a series of activities designed to address issues that caused the child to commit an offense,⁴³ or programs resorted to for children who committed an offense who are exempt from criminal liability.⁴⁴ These are children 15 years or below, or are between 15 years old and 18 years old but were found to have acted without discernment.⁴⁵ Intervention may take the form of an individualized treatment program, which may include counseling, skills training, education, and other activities that will enhance his/her psychological, emotional and psycho-social well-being.⁴⁶

To determine whether the CICL and the parents/guardians/person having custody are complying with the terms and conditions of the intervention program, and to allow the LSWDO to evaluate the effectiveness of the intervention program, the CICL and the parents are required⁴⁷ to regularly report to the LSWDO. In case of failure to comply with the intervention program, the LSWDO may petition for the involuntary commitment of the CICL.⁴⁸

Diversion

Diversion is an alternative, child-appropriate process of determining the responsibility and treatment of a CICL on the basis of his/her social, cultural, economic, psychological or educational background without resorting to formal court proceedings.⁴⁹

As provided in Rule 41 of the IRR, pursuant to Section 23 of RA 9344, CICLs who are above 15 years but below 18 years of age and acted with discernment, and CICLs who committed an offense the penalty for which is imprisonment of not more than 12 years,⁵⁰ undergo diversion. Those who did not qualify for diversion, those who did not agree to diversion, and those cases which the prosecutor, along with the assessment and recommendation of the social worker, determine to be inappropriate for diversion, will be subject to prosecution as provided in Section 33.⁵¹

⁴¹ Rule 19.a, IRR.

⁴² *Ibid.*

⁴³ Section 4 (l), RA 9344.

⁴⁴ Rule 36, IRR.

⁴⁵ Sec. 6, RA 9344, Rule 35, IRR.

⁴⁶ *Supra* note 35.

⁴⁷ Rule 38, IRR.

⁴⁸ Rule 39, *Ibid.*

⁴⁹ Sec. 4(i), RA 9344.

⁵⁰ Sec. 37, RA 9344, Rule 41, IRR.

⁵¹ Sec. 33, RA 9344.

If the CICL is qualified for, agrees to undergo diversion, and signs the contract of diversion,⁵² he or she undergoes diversion depending on the crime committed that the child committed⁵³, and always under the supervision of the LSWDO.⁵⁴

Like intervention programs, the CICLs undergoing diversion and their parents are required to report to the competent authority imposing the diversion program at least once a month for the evaluation of the effectiveness of the program.⁵⁵

Community-based rehabilitation and reintegration

All LGUs are mandated under Section 55 to establish community-based programs that focus on rehabilitation and reintegration of the CICL into the society, ⁵⁶ of the purpose of which is to provide “CICLs with interventions, approaches and strategies that will enable them to improve their social functioning with the end goal of reintegration to their families and as productive members of their communities.”⁵⁷ They are intended to be community-based to prevent disruption in their education or means of livelihood, prevent separation from their parents or guardians who make up their support system, facilitate their rehabilitation, and encourage community support and involvement, and minimize the stigma attached to CICLs by not detaining them in jails.⁵⁸ CICLs with suspended sentences are eligible to undergo community-based rehabilitation.⁵⁹

After-care support services

When a court dismisses a CICL’s case for good behavior as recommended by a DSWD social worker, the LSWDO is required to provide after-care services to the CICL for at least six (6) months,⁶⁰ the objective of which is to facilitate social reintegration, prevent re-offending and make the children productive members of the community.

F. The LSWDO

Among the duties of an LGU in its function as an implementor of RA 9344 is to appoint a local social welfare and development officer (LSWDO), who assists CICLs.⁶¹

The following are the duties of the LSWDO:

1. Obtain physical custody of the CICL within eight (8) hours from apprehension⁶²;

⁵² Sec. 26, *Ibid.*

⁵³ Sec. 23, *Ibid.*

⁵⁴ *Supra* note 45.

⁵⁵ Rule 51.a, IRR.

⁵⁶ Sec. 55, RA 9344.

⁵⁷ Sec. 44, *Ibid.*

⁵⁸ Sec. 54, *Ibid.*

⁵⁹ Sec. 52, RA 9344, Rule 73.b, IRR, Rule 73.c, IRR.

⁶⁰ Sec. 56, RA 9344.

⁶¹ Sec. 16, RA *Ibid.*

2. Prepare a case study report on the child;
3. Determine the appropriate intervention and prevention programs in consultation with the child and the person having custody over the child;
4. determine if the child is abandoned, neglected or abused by his/her parents for purposes of filing a petition for involuntary commitment if necessary;
5. In the event the parent or guardian does not agree to the request for temporary custody of the child, the LSWDO shall carefully review the case of the child and file a petition for involuntary commitment when sanctioned by law, in accordance with P.D. 603 and the SC Rule on Commitment of Children;⁶³
6. Determine discernment⁶⁴;
7. Determine the appropriate intervention and prevention programs⁶⁵;
8. Formulate, implement and supervise the implementation of diversion programs⁶⁶;
9. Supervise the implementation of community-based rehabilitation programs⁶⁷;
10. Provide after-care support services⁶⁸;
11. Monitor compliance with intervention programs⁶⁹;
12. Conduct case conference and periodic visits to determine compliance⁷⁰;
13. Petition for involuntary commitment of CICL in case of failure to comply with intervention programs⁷¹;
14. Issue certification of failure of CICL to comply with diversion program⁷².

G. The BCPC

The BCPC also has an active role in the proper implementation of RA 9344 at the barangay level. Aside from the functions of the LCPC, it is also mandated under the Child and Youth Welfare Code and RA 8980 to perform the following:⁷³

1. Encourage the proper performance of the duties of parents, and provide learning opportunities on the adequate rearing of children and on positive parent-child relationship;
2. Assist parents, whenever necessary in securing expert guidance counseling from the proper governmental or private welfare agency;
3. In addition, it shall hold classes and seminars on the proper rearing of children. It shall distribute to parents available literature and other information on child guidance. The Council shall assist parents, with

⁶² Sec. 21, RA 9344, Rule 25, IRR.

⁶³ Rule 31.c, IRR.

⁶⁴ Rule 34.b, *Ibid*.

⁶⁵ Rule 34.e, *Ibid*.

⁶⁶ *Supra* note 45, Rule 45.a, IRR.

⁶⁷ Rule 73.c, IRR.

⁶⁸ *Supra* note 50.

⁶⁹ *Supra* at note 39.

⁷⁰ *Ibid*.

⁷¹ Rule 39, IRR.

⁷² Sec. 26, RA 9344.

⁷³ Rule 15.d, IRR.

behavioral problems whenever necessary, in securing expert guidance counseling from the proper governmental or private welfare agency;

4. Coordinate the activities of organizations devoted to the welfare of children in coordination with the Sangguniang Kabataan and secure their cooperation;

5. Protect and assist children at risk; and

6. Take steps to prevent juvenile delinquency and assist parents of children with behavioral problems so that they can get expert advice.

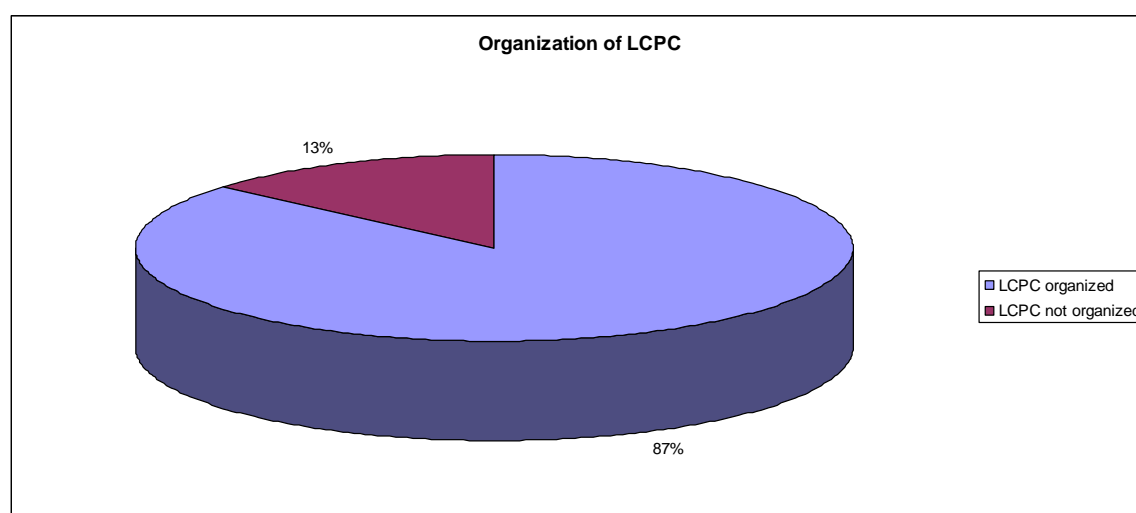
The BCPC and the barangay also have direct contact with the CICLs, as the Katarungang Pambarangay also formulates and supervises diversion proceedings in certain instances.⁷⁴ In cases where there is no diversion, the barangay forwards the records of the CICL to the law enforcement officer, prosecutor or the appropriate court.⁷⁵

SURVEY FINDINGS

A. Survey of Local Chief Executives

Out of the 144 cities and municipalities visited by the team, they were able to interview 126 local chief executives or their representatives. For the other localities, the LCE or a representative of the LCE was not available for interview at the time of the visit.

The first question was on whether the City or Municipal Council for the Protection of Children (CCPC/MCPC) of the LGU is organized, as mandated in Section 15.⁷⁶ Of the 126 LCEs or their representatives interviewed, 109 (86.51%) answered yes.

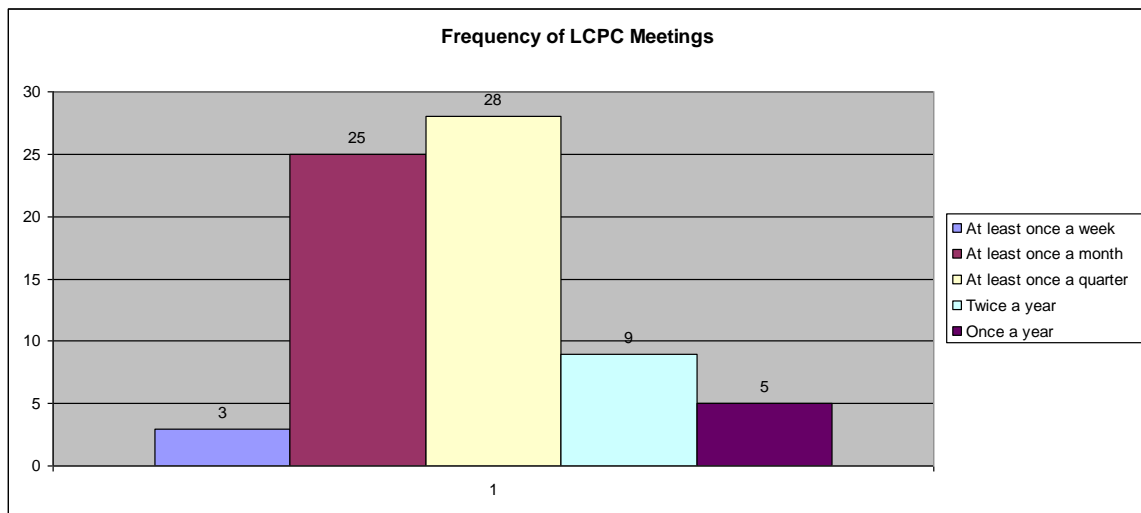


⁷⁴ Sec. 24, RA 9344, Rule 43.c, Rule 43.d, IRR.

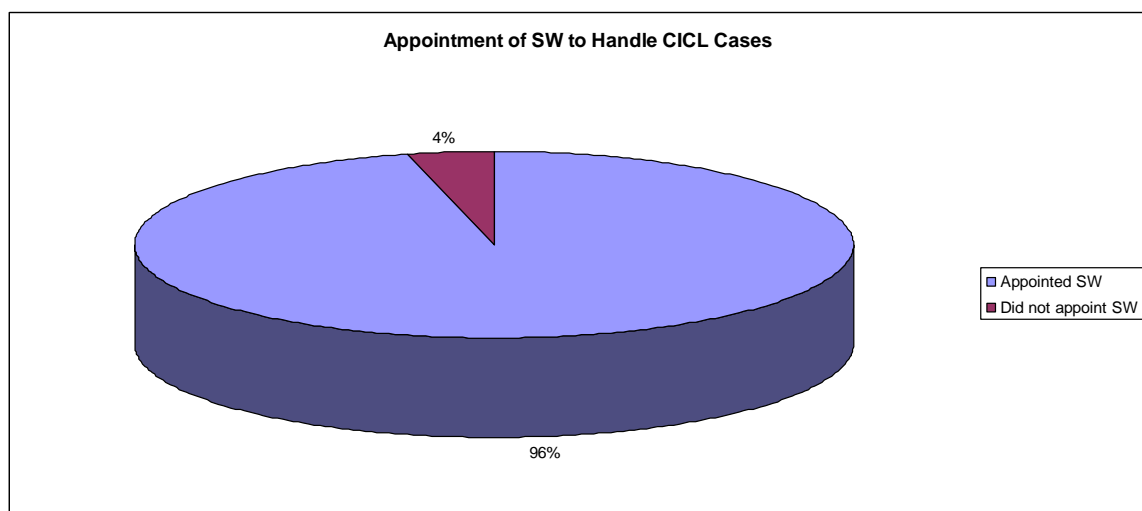
⁷⁵ Sec. 27, RA 9344.

⁷⁶ Sec. 15, *Ibid.*

Out of this number of organized LCPCs, six (6) were not functional. Three LGUs (2.38%) meet at least once a week, 25 (19.84%) meet at least once a month, 28 (22.22%) meet at least once a quarter, 9 (7.14%) meet twice a year, 5 (3.97%) meet once a year, while 19 (15.08%) have no regular scheduled meetings and meet only as the need arises (i.e. when there are CICL cases to be discussed). Of this number, three LCPCs has had no meeting yet for the year 2012. However, there are also LCPCs which also meet as the need arises, in addition to having scheduled meetings (6 LCPCs or 4.76%).

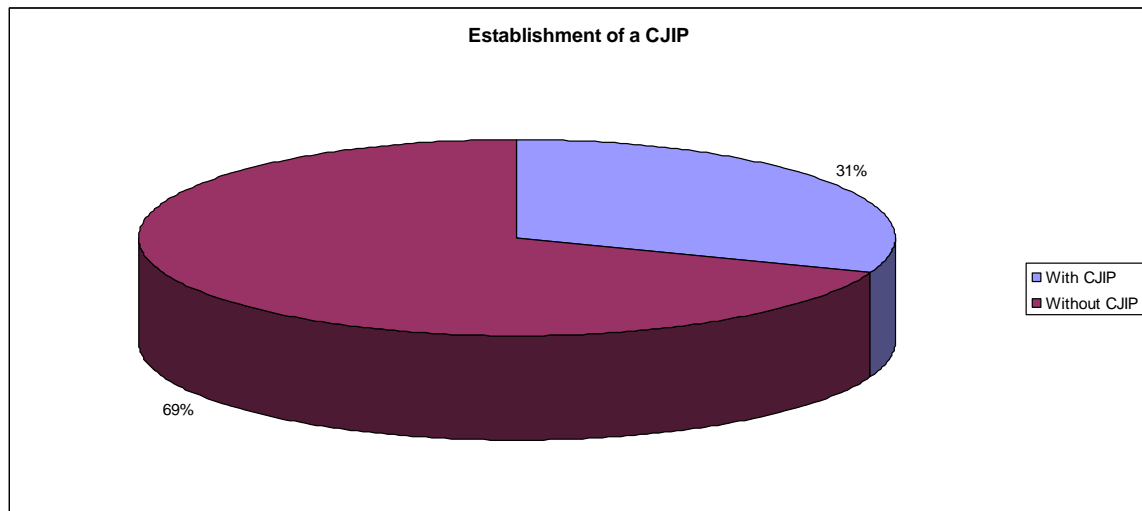


The respondents were also asked whether they have complied with Section 16, which requires that LGUs appoint a duly licensed social worker as its local social welfare and development officer.⁷⁷ Of the 126 respondents, 121 (96.03%) said that they have appointed a social worker assigned to CICL cases.

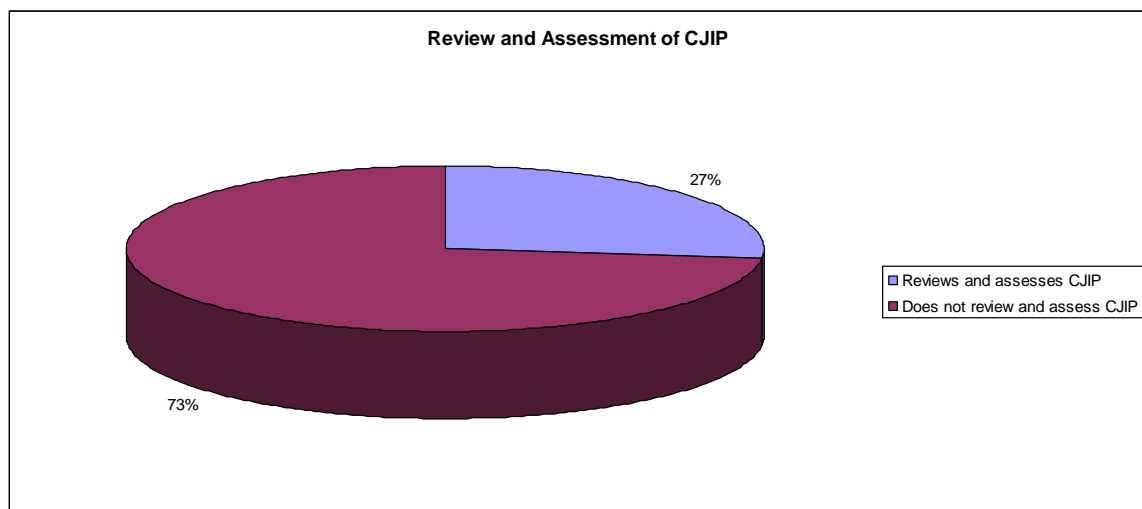


⁷⁷ Sec. 16, RA 9344.

Another question was whether there was a Comprehensive Juvenile Intervention Program instituted in their localities, as mandated in Section 18 of the law.⁷⁸ Thirty-nine (39 or 30.95%) said they have a Comprehensive Juvenile Intervention Program.



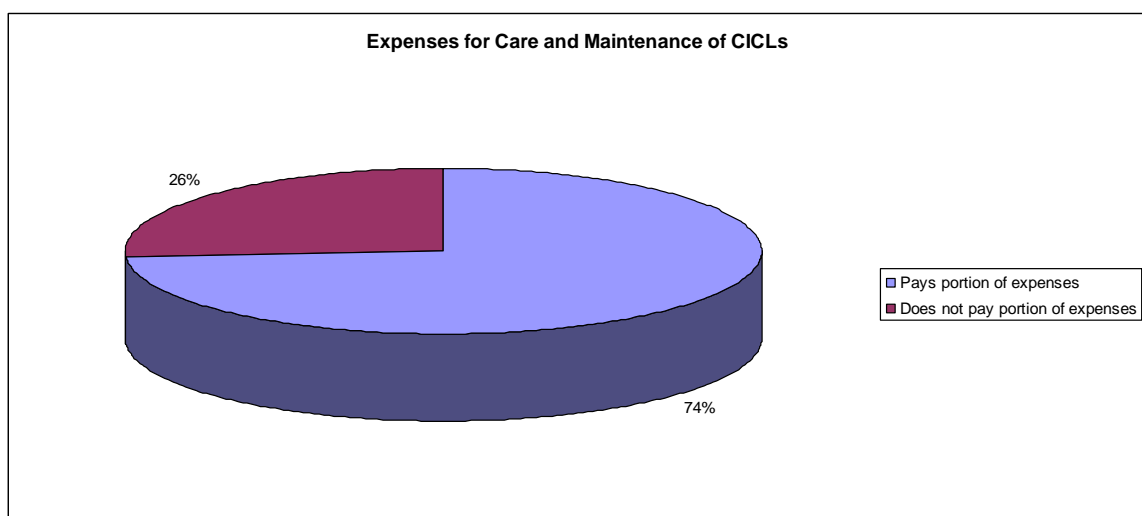
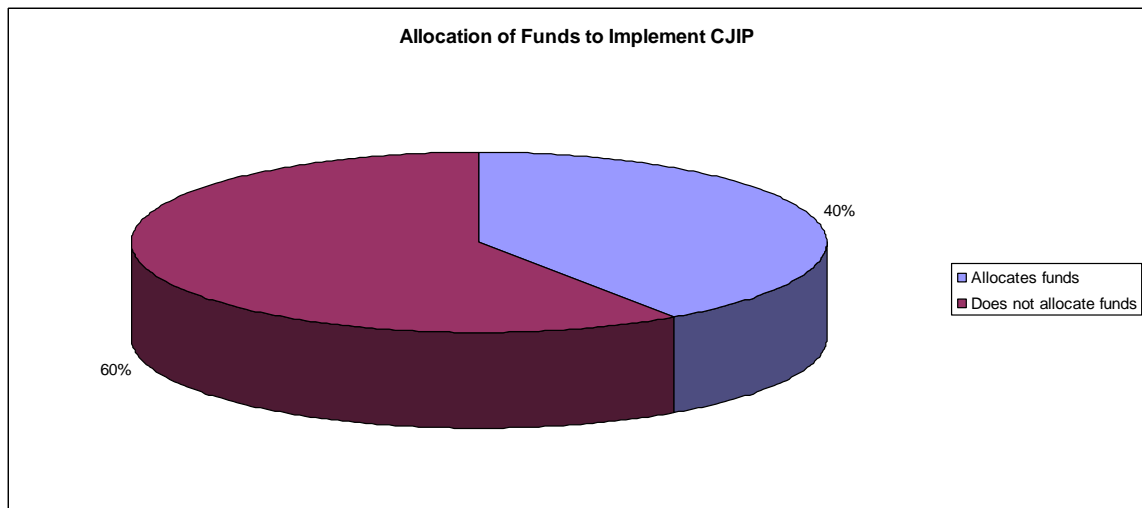
Section 18 also provides that the implementation of the CJIP should be reviewed and assessed by the LGU every year. Of the 126 respondents, 34 (26.98%) of those with CJIP answered that they conducted an annual review/assessment of the CJIP.



As regards the budget, Section 15 provides that one percent of the internal revenue allotment of barangays, municipalities and cities be allotted to the LCPC. Of the 126 respondents, 51 (40.48%) answered that they allocated funds to implement the CJIP, while 93 (73.81%) stated that they pay a portion of the expenses for the care and maintenance of the CICLs in cases where the parents cannot pay for the expense.⁷⁹

⁷⁸ Sec. 18, *Ibid.*

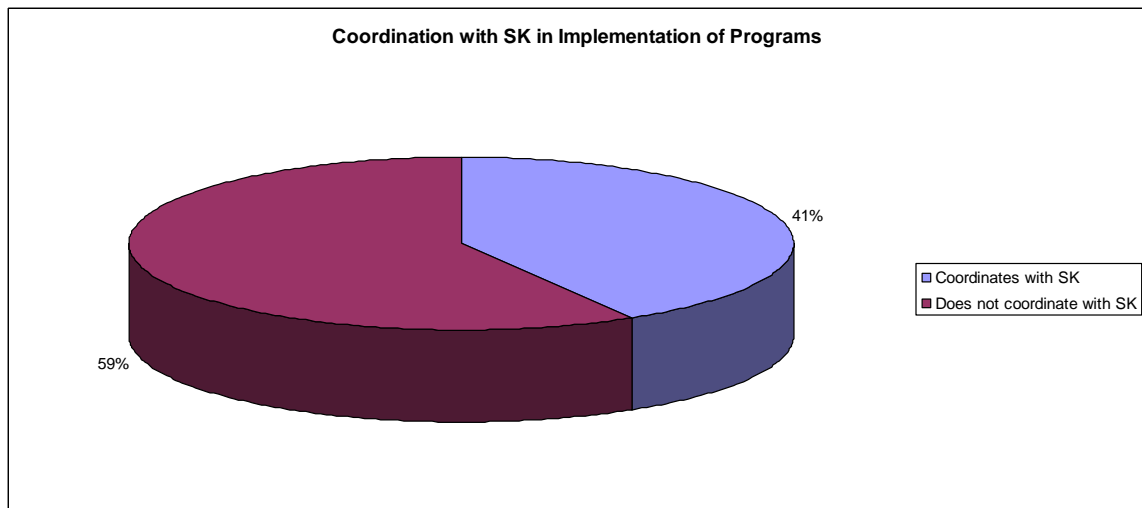
⁷⁹ Sec. 50, *Ibid.*



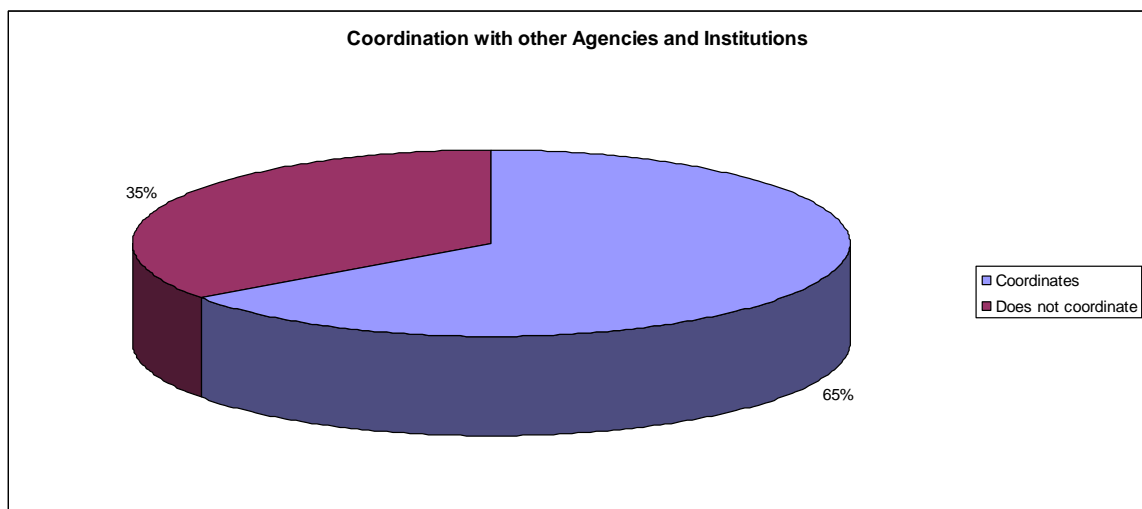
However, there is a discrepancy between the response to the question on whether the LGU has instituted a CJIP, which has a positive response of 39 or 30.95%, vis-a-vis 51 (40.48%) respondents who said they allocate funds for its implementation. This is because there are LGUs that have no CJIPs but are allocating funds for their children- or CICL-oriented programs.

LCPCs are also mandated to coordinate with the Sangguniang Kabataan in the formulation and implementation of juvenile intervention and diversion programs in the community.⁸⁰ Of the 126 respondents, 52 (41.27%) said they comply with this provision.

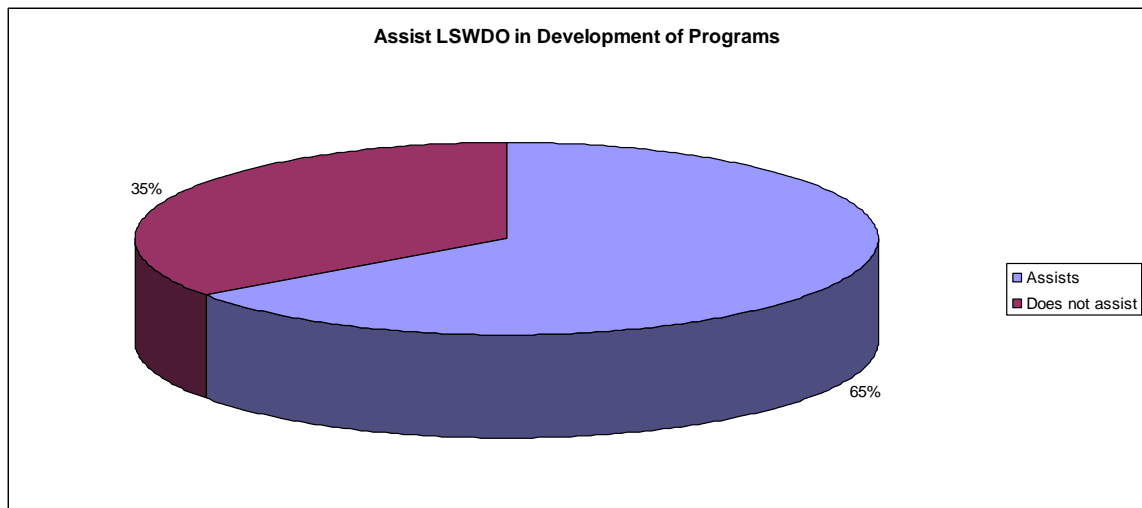
⁸⁰ Sec. 17, *Ibid.*



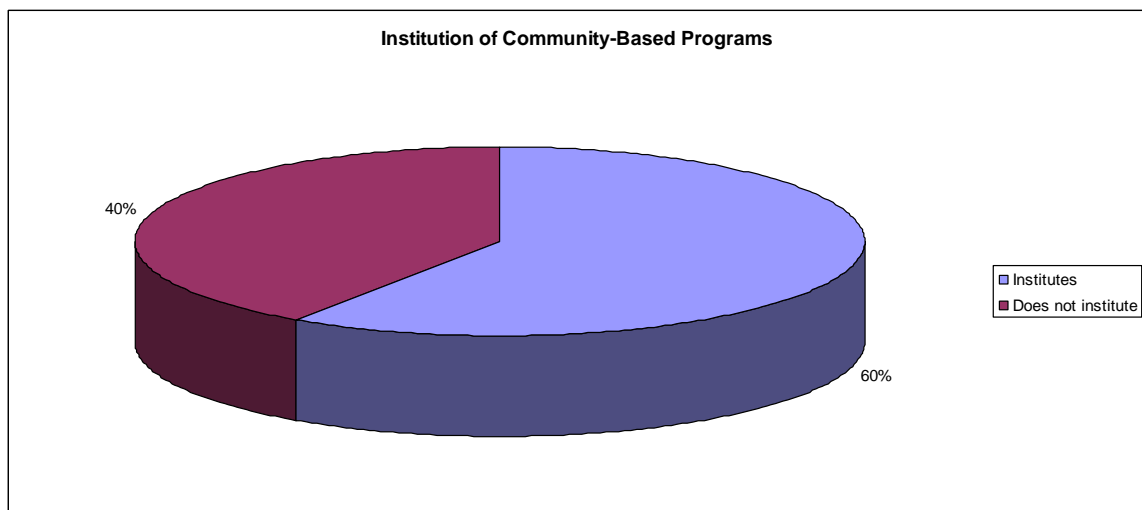
The respondents were also asked questions about the duties and responsibilities of the LCPC as set forth in Rule 15d of the Implementing Rules and Regulations. Eighty-two out of 126 respondents (65.08%) said that their LCPC coordinate with other agencies and institutions that plan, monitor and evaluate juvenile intervention and diversion programs in the community, as set forth in Rule 15d (5) of the IRR.



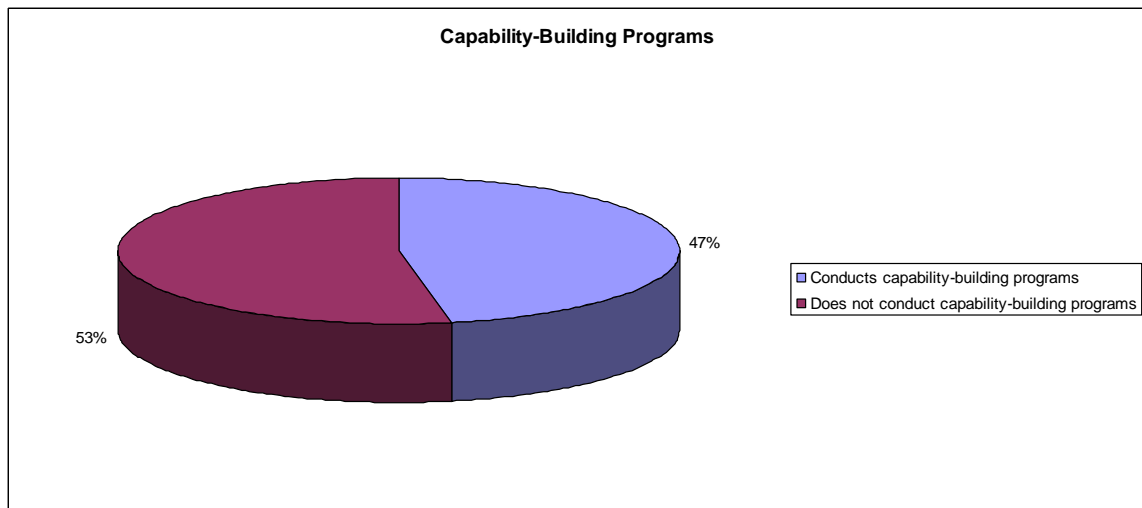
The same percentage (65.08%) claim that they assist the LSWDO in the development of diversion programs, as mandated in Rule 15d (7) of the IRR.



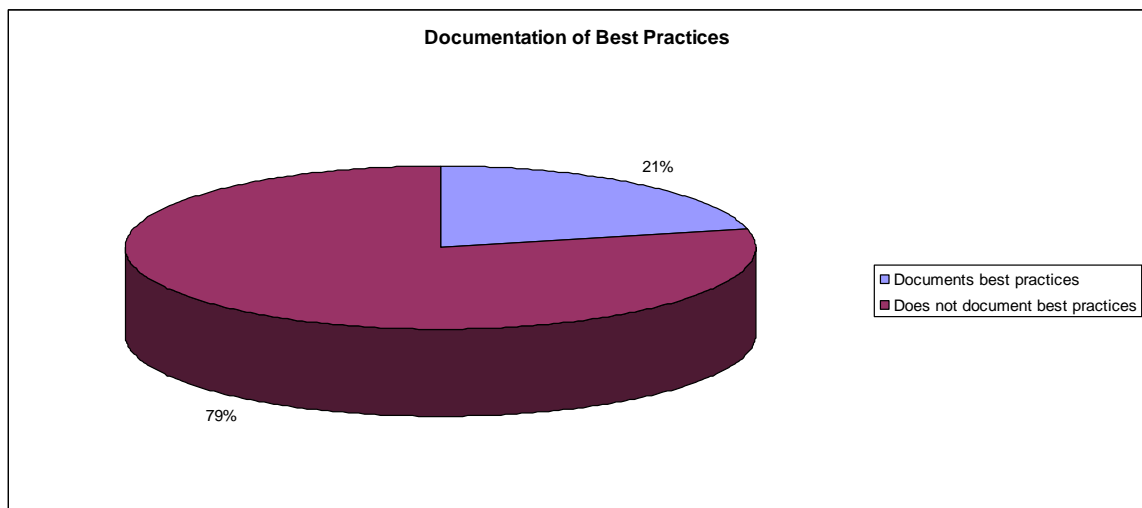
Seventy-five out of 126 respondents (59.52%) claim that they institute, together with schools, youth organizations and other concerned agencies, the community-based programs on juvenile justice and welfare, as mandated in Rule 15d (8) of the IRR.



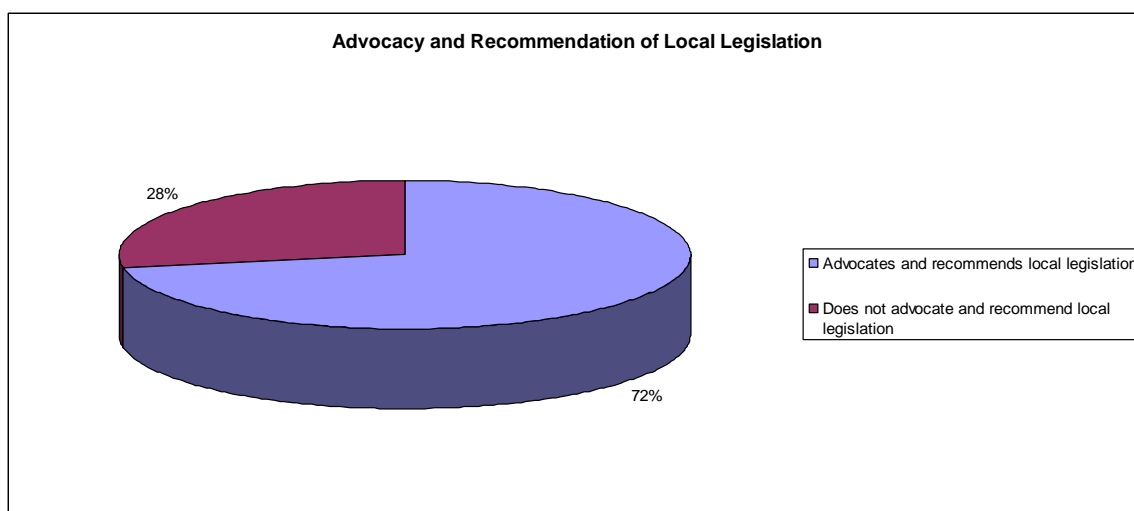
Fifty-nine out of 126 respondents (46.83%) also said that they conduct capability building programs to enhance knowledge and skills in handling children's programs, as provided in Rule 15d (9).



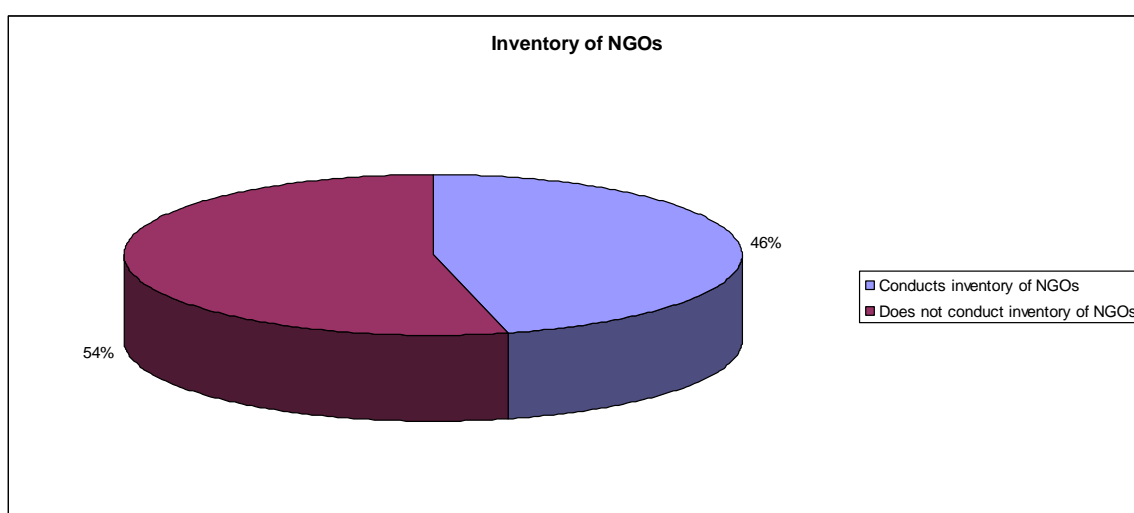
Twenty-seven out of 126 respondents (21.43%) stated that they document best practices on juvenile intervention and prevention, as provided in Rule 15d (11).



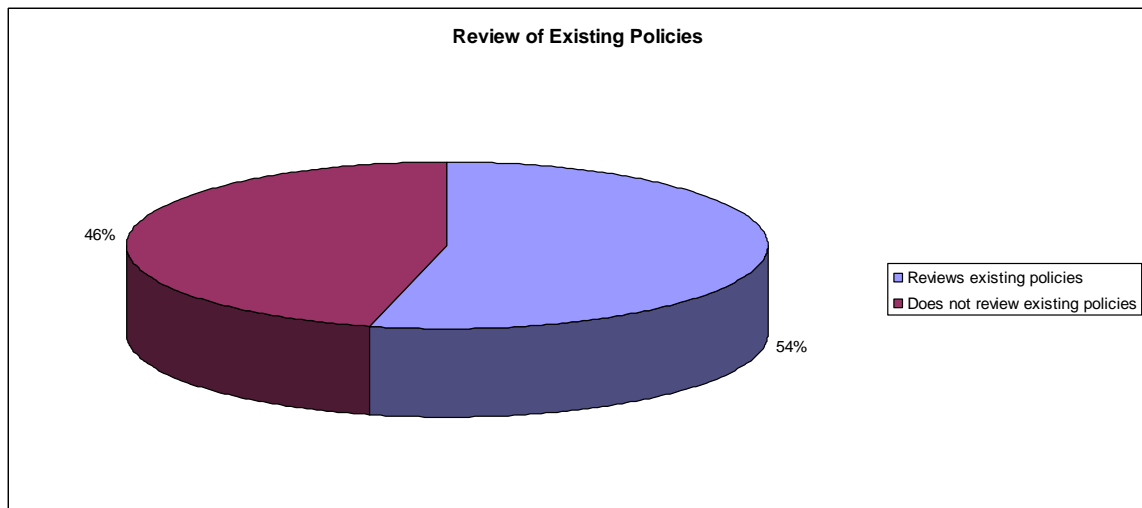
Ninety-one out of 126 respondents (72.22%) answered that they advocate and recommend local legislations promoting child survival, protection, participation and development, as mandated in Rule 15d (12).



Fifty-eight out of 126 respondents (46.03%) answered that their LCPC conducts an inventory of all NGOs serving children in conflict with the law and mobilize them as resources for the effective implementation of the law, as provided in Rule 15d (13).



Sixty-eight out of 126 respondents (53.97%) said that their LCPC reviews existing policies of units that provide services to CICLs, determine the barriers to access these services, and take the necessary action to improve access to these services, as mandated in Rule 15d (14) of the IRR.



B. Survey of LSWDOs

Out of the 144 LGUs visited, the team was able to interview 139 social workers from the Local Social Welfare and Development Office (LSWDO) in the LGUs.

1. On maintaining a database of CICLs

Rule 15d (10) of the IRR of RA 9344 requires that LCPCs establish and maintain a database on CICLs, and indicate whether these children are undergoing intervention, diversion, and rehabilitation programs and after-care support services.

Because it is the LSWDO that handles these programs and services for the CICLs, the LSWDOs were asked whether they maintain a database of CICLs, and whether the databases contain information on the children who undergo intervention, diversion and rehabilitation programs and after-care support services. Of the 139 LSWDOs, 97 (69.78%) claim to maintain a database on CICLs, 63 (45.32%) include data on apprehension, 79 (56.83%) include data on intervention, 73 (52.52%) include data on diversion, 50 (35.97%) include data on rehabilitation, and 47 (33.81%) include data on after-care services.

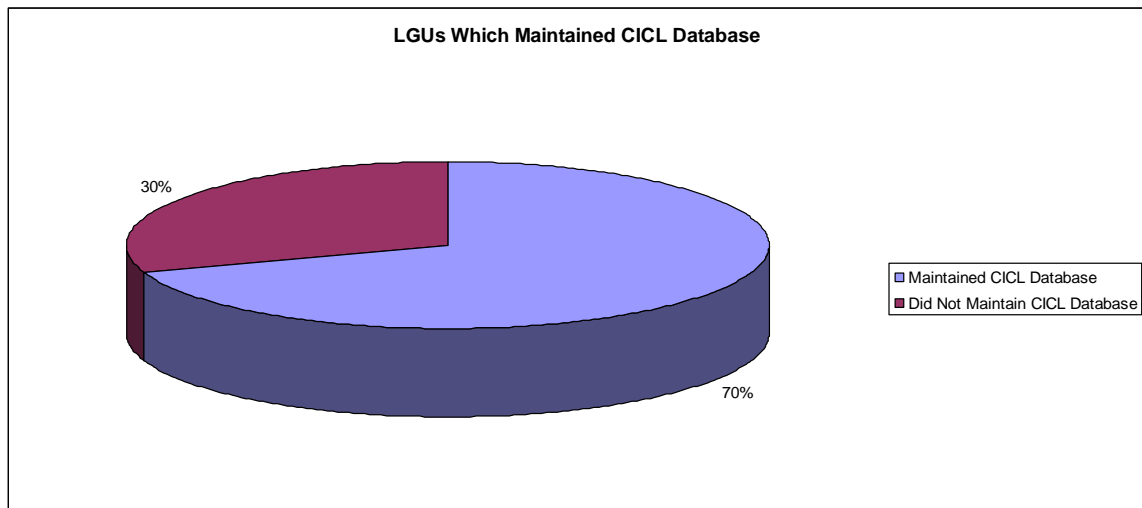
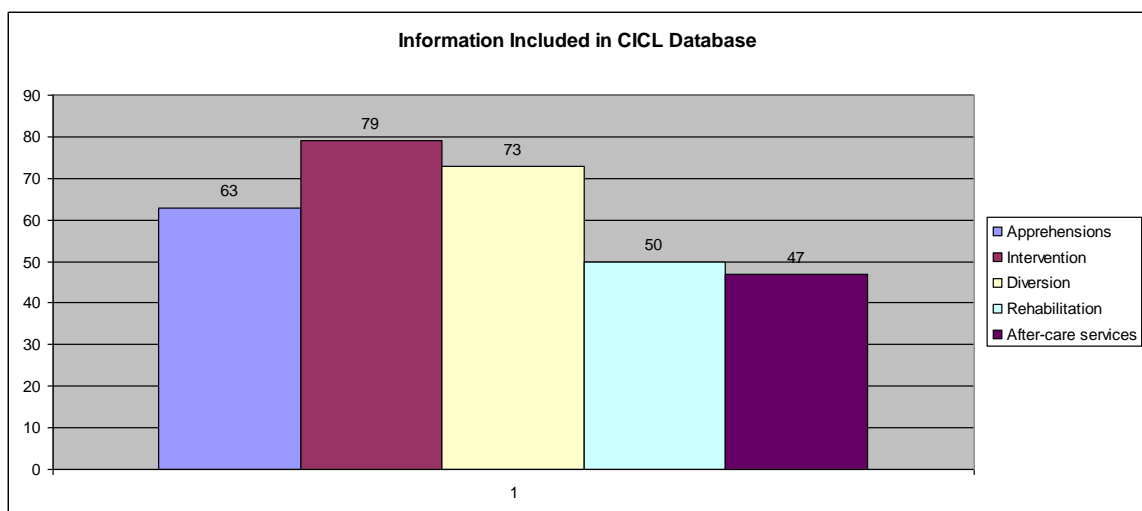


Table 1. Information included in CICL Database

Information included in CICL Database	
Apprehensions	63 (45.32%)
Intervention	79 (56.83%)
Diversion	73 (52.52%)
Rehabilitation	50 (35.97%)
After-care services	47 (33.81%)



2. Crimes most commonly committed by CICLs

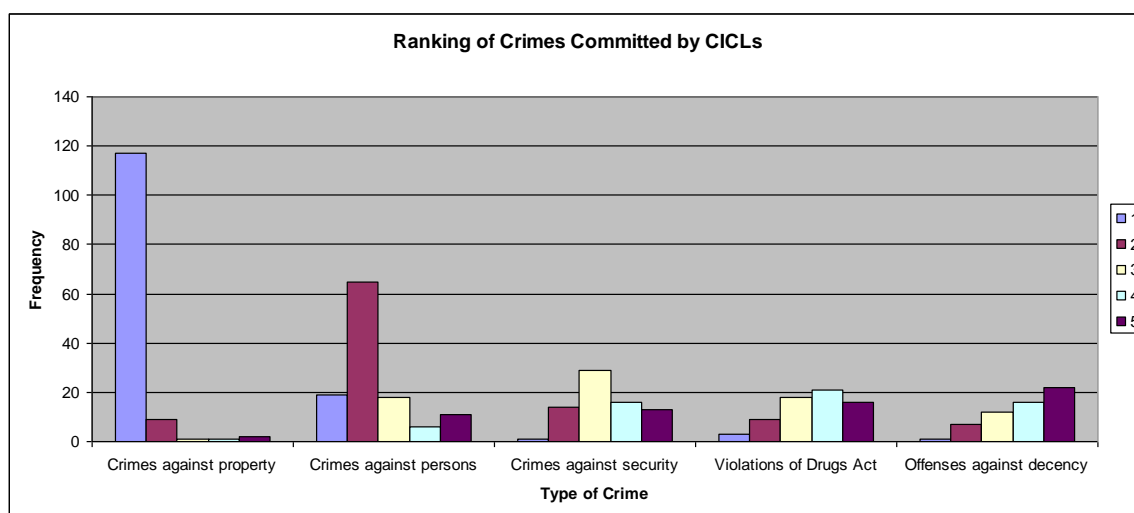
The LSWDOs were asked to rank crimes in the order of highest incidence of commission by CICLs in their jurisdiction. They were asked how they would rank crimes against property (i.e. robbery, theft, swindling, arson, malicious mischief), crimes against persons (physical injury, rape, homicide, murder, etc.), crimes against security (i.e. trespass to dwelling, grave threats), violations of RA 9165 or the Comprehensive Dangerous Drugs Act of 2002, and offenses against decency and good customs (i.e. grave scandal, vagrancy) in terms of highest incidence of

commission, with 1 being the crime most often committed by CICLs and 5 being the least committed crime.

The 139 LSWDOs surveyed ranked the crimes as follows:

Table 2. Ranking of Crimes Committed by CICLs

Crimes against property	1.17	117 LGUs (84.17%) selected it as rank 1
Crimes against persons	2.37	65 LGUs (46.76%) selected it as rank 2
Crimes against security	3.36	29 LGUs (20.86%) selected it as rank 3
Violations of Drugs Act	3.46	21 LGUs (15.11%) selected it as rank 4
Offenses against decency	3.88	22 LGUs (15.83%) selected it as rank 5

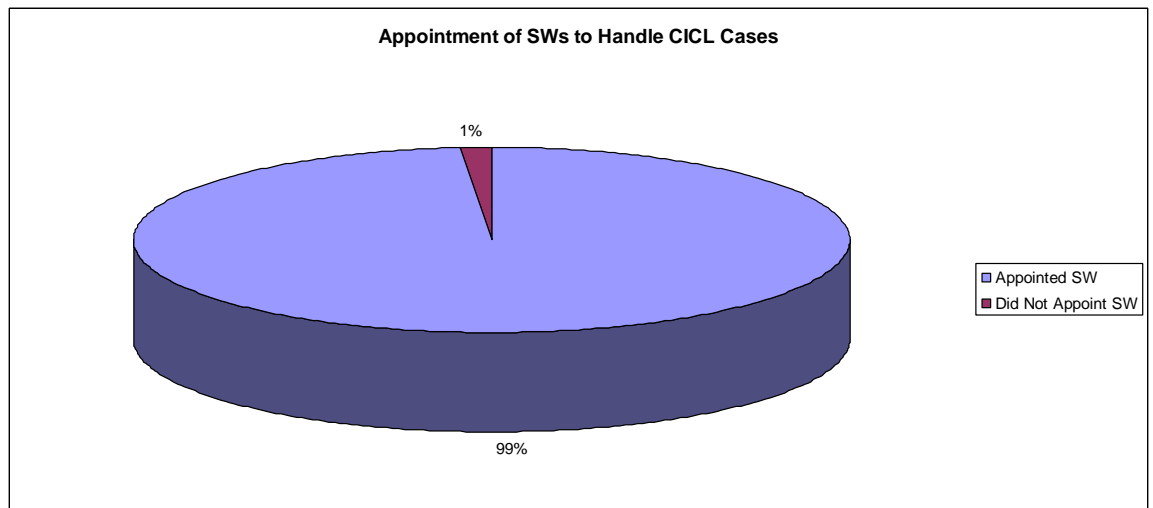


3. Number of social workers working on CICL cases

The team sought to determine the number of social workers working on CICL cases. Section 16 requires that all LGUs appoint a duly licensed social worker as its local social welfare and development officer, who is tasked in assisting CICLs.⁸¹ Out of the 139 LSWDOs interviewed, data shows that 137 LGUs or 98.56% have appointed at least one social worker to focus on CICL cases. There appears to be compliance only with the minimum, as 132 of the 139 LGUs or 94.96% have only five or less social workers working on CICL cases. Based on the data on number of social workers, the average number of social workers per LGU in Luzon is 2.1. Forty-two LGUs have only one social worker, while 46 have only two social workers.

This indicates that there are LGUs with undermanned social welfare and development offices, as CICL cases are not the only concern of LSWDOs.

⁸¹ **SEC. 16. Appointment of Local Social Welfare and Development Officer.** - All LGUs shall appoint a duly licensed social worker as its local social welfare and development officer tasked to assist children in conflict with the law.

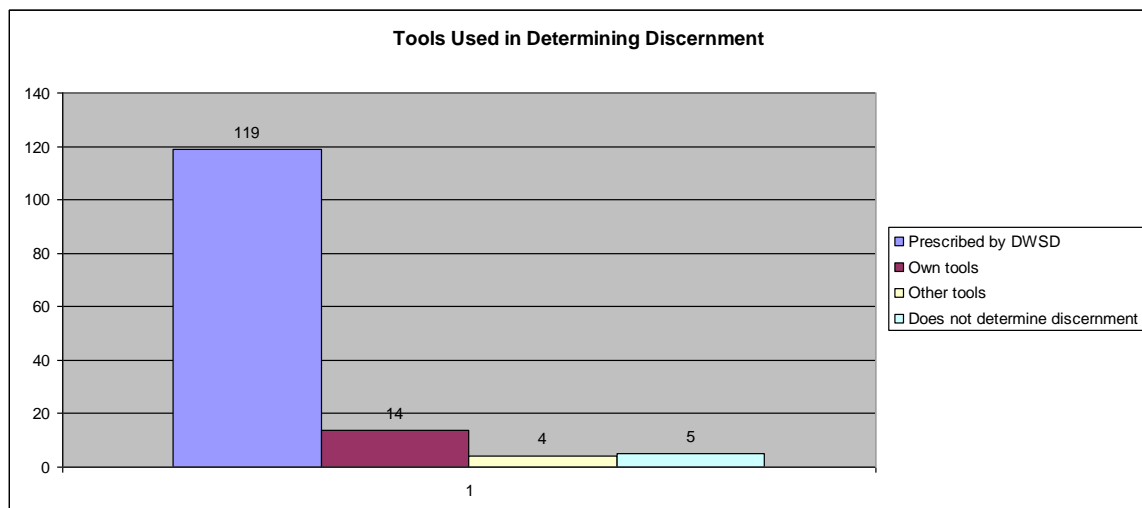


4. Determination of Discernment of CICL

Discernment is the mental capacity to understand the difference between right and wrong and its consequences.⁸² The LSWDO determines discernment⁸³, and the DSWD prescribes tools to determine discernment. Out of 139 LSWDOs, 119 or 85.61% use the DSWD-prescribed discernment tools,⁸⁴ whereas 14 (10.07%) use their own discernment tools. Four (2.88%) use other tools. Five LSWDOs (3.6%) do not determine discernment.

Table 3. How LSWDOs Determine Discernment

Prescribed by DWSD	119 (85.61%)
Own tools	14 (10.07%)
Other tools	4 (2.88%)
Does not determine discernment	5 (3.6%)



⁸² Rule 34.a, IRR.

⁸³ Rule 34.b, *Ibid.*

⁸⁴ Rule 34.c, *Ibid.*

5. Determination of Age of CICL

While it is the law enforcement officer who determines the age of the CICL, the last paragraph of Sec. 7 also states that in all proceedings, “law enforcement officers, prosecutors, judges and other government officials,” which includes LSWDOs, should exert all efforts at determining the age of the CICL.⁸⁵

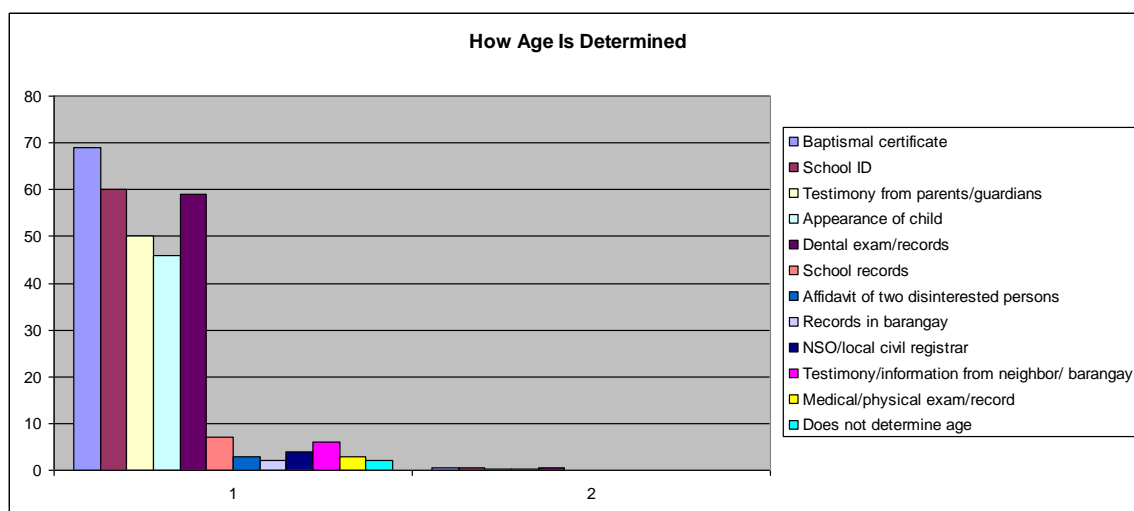
Out of 139 respondents, 69 (49.64%) use the baptismal certificate of the CICL to determine his/her age, in the absence of a birth certificate. Sixty (43.17%) use the school ID, 59 (42.45%) use dental examination/records, 50 (35.97%) rely on the testimony of the parents or guardians, while 46 (33.09%) rely on the appearance of the child. The other means used are: school records (7 or 5.04%), testimony or information from neighbors (6 or 4.32%), NSO/local civil registrar records (4 or 1.44%), medical/physical examination/records (3 or 2.16%), affidavit of two disinterested persons (3 or 2.16%), and barangay records (2 or 1.44%).

Two (1.44%) LSWDOs do not determine age.

Table 4. How LSWDOs Determine Age of CICL

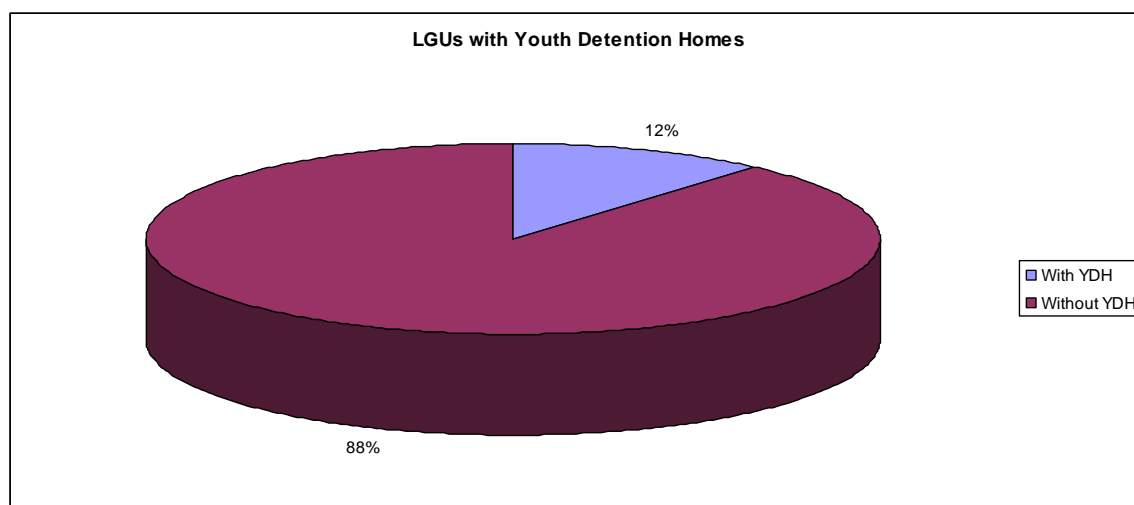
Baptismal certificate	69 (49.64%)
School ID	60 (43.17%)
Testimony from parents/guardians	50 (35.97%)
Appearance of child	46 (33.09%)
Dental exam/records	59 (42.45%)
School records	7 (5.04%)
Affidavit of two disinterested persons	3 (2.16%)
Records in barangay	2 (1.44%)
NSO/local civil registrar	4 (1.44%)
Testimony/information from neighbor/ barangay	6 (4.32%)
Medical/physical exam/record	3 (2.16%)
Does not determine age	2 (1.44%)

⁸⁵ Sec. 7, RA 9344.



6. Establishment of a Youth Detention Home

Under Section 49,⁸⁶ LGUs are required to have a Youth Detention Home where CICLs waiting for the disposition of their cases may be confined, although they may also be established by private or non-government institutions accredited by the DSWD. Under Rule 76d, LGUs are expected to exert efforts to establish such youth homes within five (5) years from effectivity of the law. Out of the 139 LGUs surveyed, only 16 or 11.51% have Youth Detention Homes established at the time of the survey.



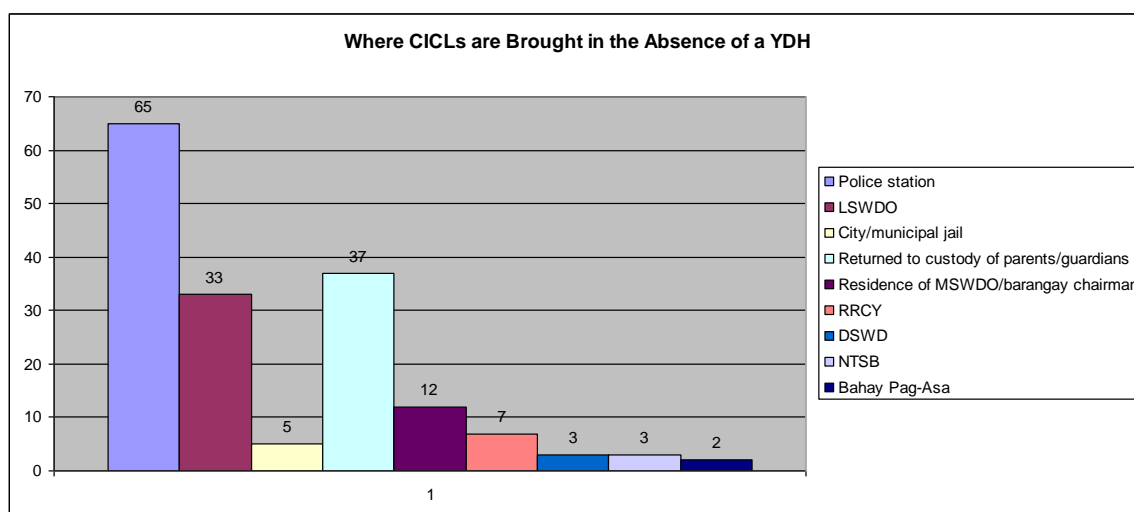
Of the LGUs that do not have Youth Detention Homes, 65 or 46.76% bring the CICLs to the police station for handling, 33 (23.74%) allow them to stay at the LSWDO or the Barangay Hall, while the rest bring them to either one of the following:

Table 5. Where CICLs Are Brought in the Absence of a YDH

Police station	65 (46.76%)
LSWDO	33 (23.74%)

⁸⁶ Sec. 49, *Ibid.*

City/municipal jail	5 (3.6%)
Returned to custody of parents/guardians	37 (26.62%)
Residence of MSWDO/barangay chairman	12 (8.63%)
RRCY	7 (5.04%)
DSWD	3 (2.16%)
NTSB	3 (2.16%)
Bahay Pag-Asa	2 (1.44%)



Other specific places indicated were: Silungan Center, NGO, Detention center for women, Task Force Lingkod Bayan, Prosecutor's office, AV room at Mayor's office, PREDA, Barangay Women and Children's Desk, Crisis Intervention Center, Public Safety Department, religious sector, temporary shelter, Bahay Kalinga, Hablon-Dawani Rehab Center, MSWDO Drop-in Home, or a capable custodian.

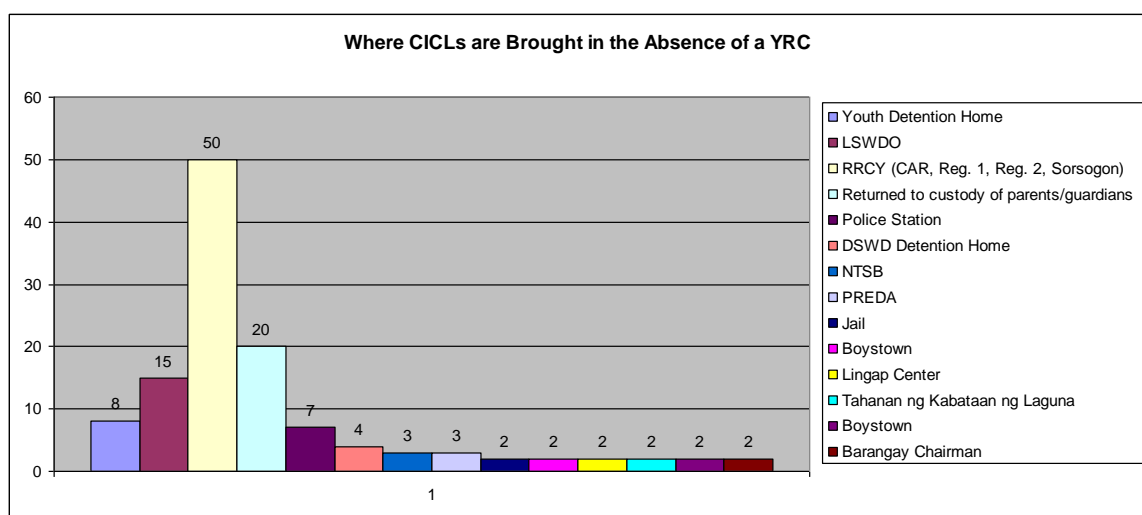
7. Establishment of a Youth Rehabilitation Center

Under Section 53,⁸⁷ the DSWD is mandated to establish youth rehabilitation centers in each region of the country. Out of the 139 LGUs interviewed, 13 (9.35%) have Youth Rehabilitation Centers at the time of the survey. In the absence of a Youth Rehabilitation Center, 8 (5.76%) bring the CICLs for rehabilitation to the Youth Detention Home, 15 (10.79%) bring them to the LSWDO, while the rest bring the CICLs to the following:

Table 6. Where CICLs Are Brought In The Absence of a YRC

⁸⁷ Sec. 53, *Ibid.*

Youth Detention Home	8 (5.76%)
LSWDO	15 (10.79%)
RRCY (CAR, Reg. 1, Reg. 2, Sorsogon)	50 (35.97%)
Returned to custody of parents/guardians	20 (14.39%)
Police Station	7 (5.04%)
DSWD Detention Home	4 (2.88%)
NTSB	3 (2.16%)
PREDA	3 (2.16%)
Jail	2 (1.44%)
Boystown	2 (1.44%)
Lingap Center	2 (1.44%)
Tahanan ng Kabataan ng Laguna	2 (1.44%)
Boystown	2 (1.44%)
Barangay Chairman	2 (1.44%)



Other specific places indicated were: St. Louis University Home for Children; SDC; Task Force Lingkod Bayan; Amor Village; RCHI; Tarlac Home for Girls; school principals; Hablon-Dawani; DSWD Home for Boys; BJMP facility; Marillac Hills; Nayan ng Kabataan; Regional office; Center for boys and girls; Women and Children's Desk; released on recognizance

8. Available Diversion Programs⁸⁸

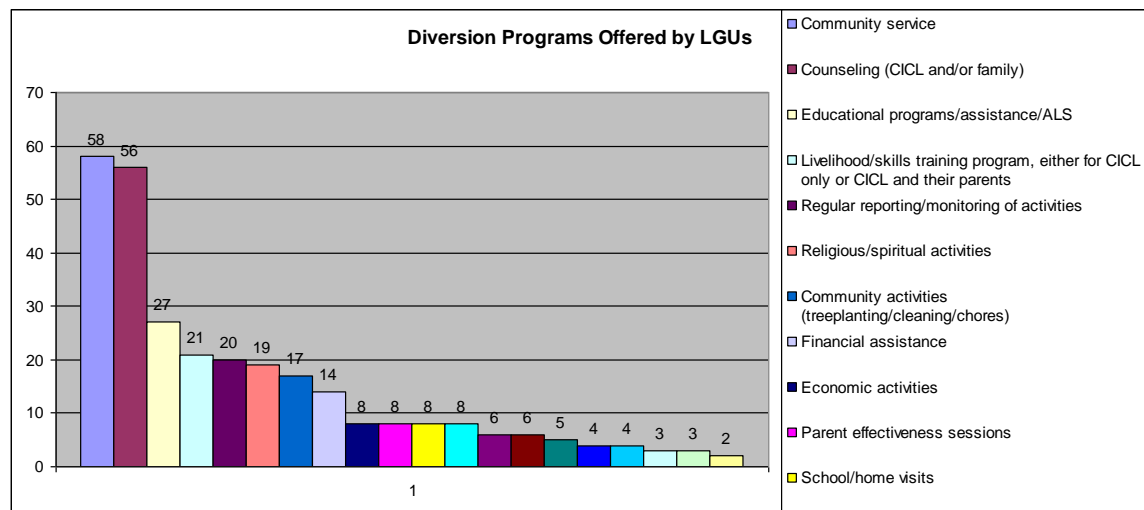
The respondents were asked to list all the diversion programs that their LGU is offering, in order to determine what diversion programs are most resorted to by LGUs in Luzon. The following is a list of the diversion programs offered by the respondents:

Table 7. Diversion Programs Offered by the LGUs

Diversion Program	No. of LGUs using
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⁸⁸ Sec. 31, *Ibid.*

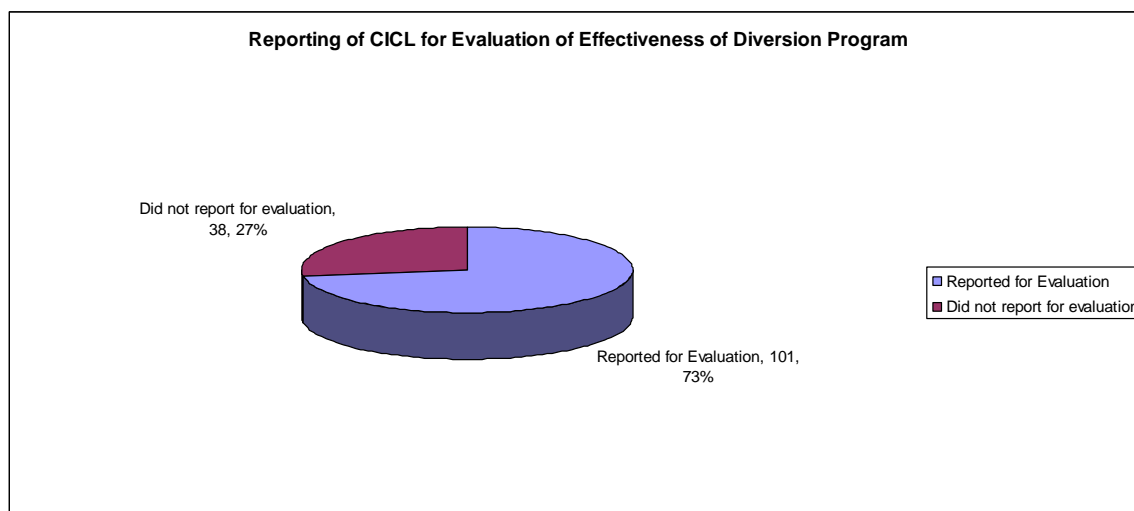
Community service	58 (41.73%)
Counseling (CICL and/or family)	56 (40.29%)
Educational programs/assistance/ ALS	27 (19.42%)
Livelihood/skills training program, either for CICL only or CICL and their parents	21 (15.11%)
Regular reporting/monitoring of activities	20 (14.39%)
Religious/spiritual activities	19 (12.95%)
Community activities (treeplanting/cleaning/chores)	17 (12.23%)
Financial assistance	14 (10.07%)
Economic activities	8 (5.76%)
Parent effectiveness sessions	8 (5.76%)
School/home visits	8 (5.76%)
Restitution	8 (5.76%)
Psychosocial therapy	6 (4.32%)
Sports activities/kids camp	6 (4.32%)
Care, guidance and supervision orders	5 (3.6%)
Values formation	4 (2.88%)
Case conference/mediation	4 (2.88%)
Family redirection/dialogue/meeting	3 (2.16%)
Logbook	3 (2.16%)
Agreements	2 (1.44%)



Other diversion programs resorted to by LSWDOs and LGUs include: legal assistance, change of address of CICL, *plano sa buhay*, curfew, avoiding bad vices, follow-up of cases with teachers, family redirection, referral to other agencies for appropriate services, amicable settlement, membership in Pag-Asa Youth Association.

9. Reporting of CICT for evaluation of effectiveness of Diversion Programs:

Under Section 26 of the law, the CICT undergoing diversion is required to report at least once a month to the competent authority imposing the diversion program to allow the latter to evaluate the effectiveness of the program.⁸⁹ One hundred one (72.66%) LSWDOs require the CICT and his/her parents/guardians to report for evaluation of the effectiveness of the Diversion Program for diversions at the law enforcement and prosecution level, in compliance with Section 26 and Rule 51b⁹⁰ of the IRR.



10. Monitoring/follow-up mechanism to ensure compliance with diversion programs

It is also the duty of the LSWDO to come up with a monitoring and follow-up mechanism⁹¹ to ensure compliance to the contract of diversion, and to determine the progress of the CICT. The LSWDOs were asked to list and relate the monitoring and follow-up mechanisms that they use to determine compliance to the diversion program and evaluate the progress of the CICT. They answered as follows:

Table 8. Monitoring/Follow-up Mechanism

Monitoring/follow-up mechanism	No. of LGUs
Home visits	60 (43.17%)
Coordination with/monitoring and reporting by barangay	31 (22.3%)
Regular reporting of CICT and/or parents	30 (21.58%)

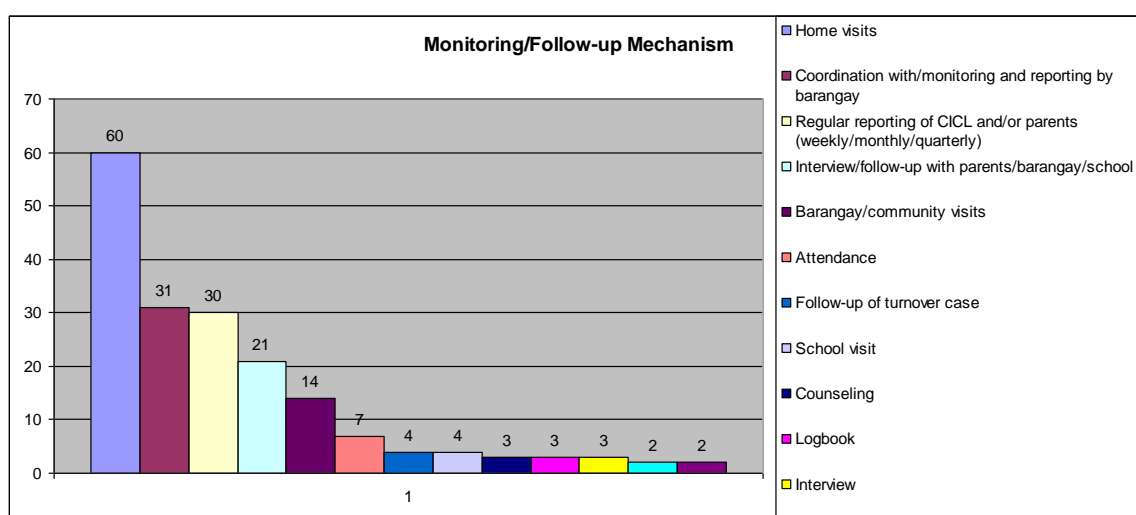
⁸⁹ Sec. 26, RA 9344, Rule 51.a, IRR,

⁹⁰ Rule 51.b, IRR.

⁹¹ Rule 51.b, *Ibid.*

(weekly/monthly/quarterly)	
Interview/follow-up with parents/barangay/school	21 (15.11%)
Barangay/community visits	14 (10%)
Attendance	7 (5.04%)
Follow-up of turnover case	4 (2.88%)
School visit	4 (2.88%)
Counseling	3 (2.16%)
Logbook	3 (2.16%)
Interview	3 (2.16%)
Case conference	2 (1.44%)
Contract	2 (1.44%)

The other monitoring/follow-up mechanisms they mentioned were: consolidation of report of BCPC, PNP and MSWDO; interview; youth-based organization; day-care work; after-care plan; social case study; written communications with RRCY on status of CICL; accomplishment report; sports activities; compliance report; diaries; meeting; and barangay records.

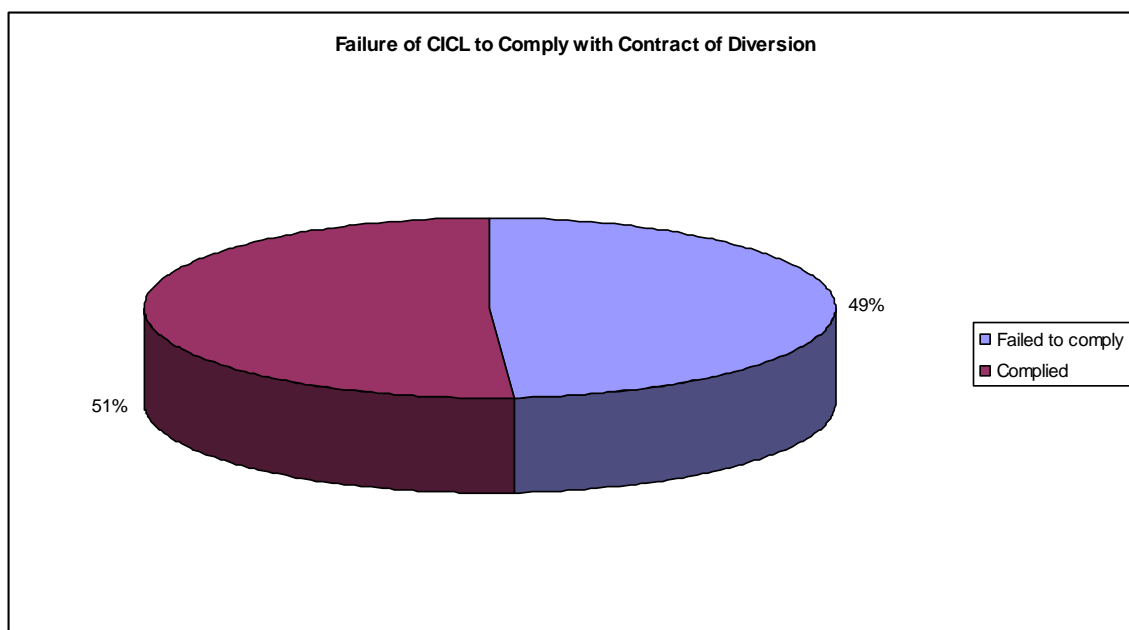


One LSWDO said that there is no monitoring or follow-up done once the CICL is released to the custody of the parent.

11. Failure to comply with contract of diversion

The failure of a CICL to comply with the contract of diversion has consequences, as it gives the offended party the option to institute the appropriate legal action, or refer the case to the law enforcement officer or prosecutor.⁹² Sixty-eight (48.92%) out of the 139 LSWDOs said that their LGUs have CICLs who failed to comply with the contract of diversion.

⁹² Rule 51.c, *Ibid*.

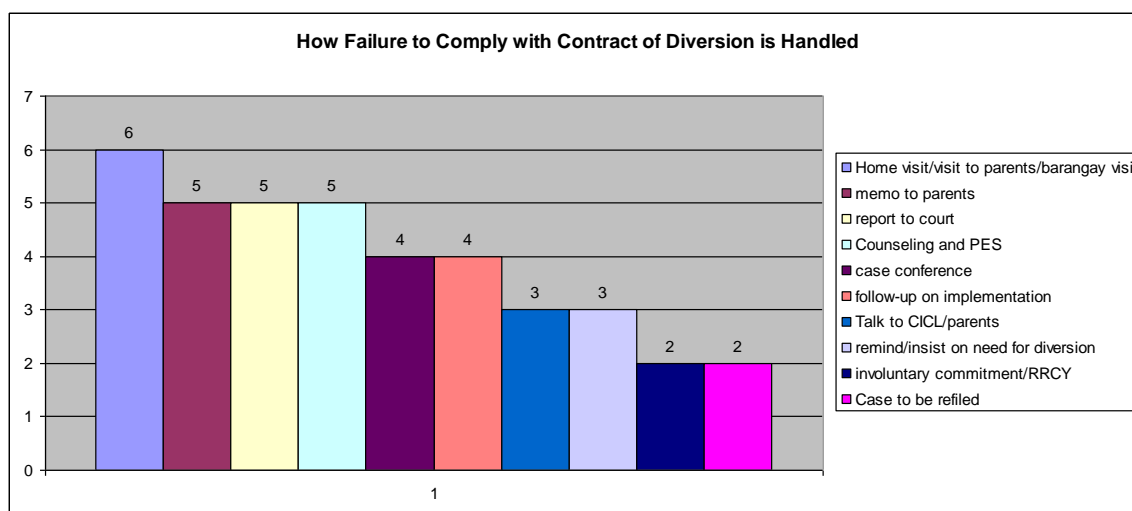


When asked how they handled non-compliance to the contract of diversion, the LSWDOs answered as follows:

Table 9. How failure to comply with diversion contract is handled

	No. of LGUS using
Home visit/visit to parents/barangay visit	6 (4.32%)
memo to parents	5 (3.6%)
report to court	5 (3.6%)
Counseling and PES	5 (3.6%)
case conference	4 (2.88%)
follow-up on implementation	4 (2.88%)
Talk to CICL/parents	3 (2.16%)
remind/insist on need for diversion	3 (2.16%)
involuntary commitment/RRCY	2 (1.44%)
Case to be refiled	2 (1.44%)

Other methods indicated were: substitute activities; BCPC monitors CICL; visit to the center; restart diversion; refer to PNP; monitoring; ALS; formal education; and youth camp community service.



12. Available Intervention Programs

The respondents were asked to list all of the intervention programs offered by their LGU. The following is a list of the intervention programs offered by the respondents⁹³:

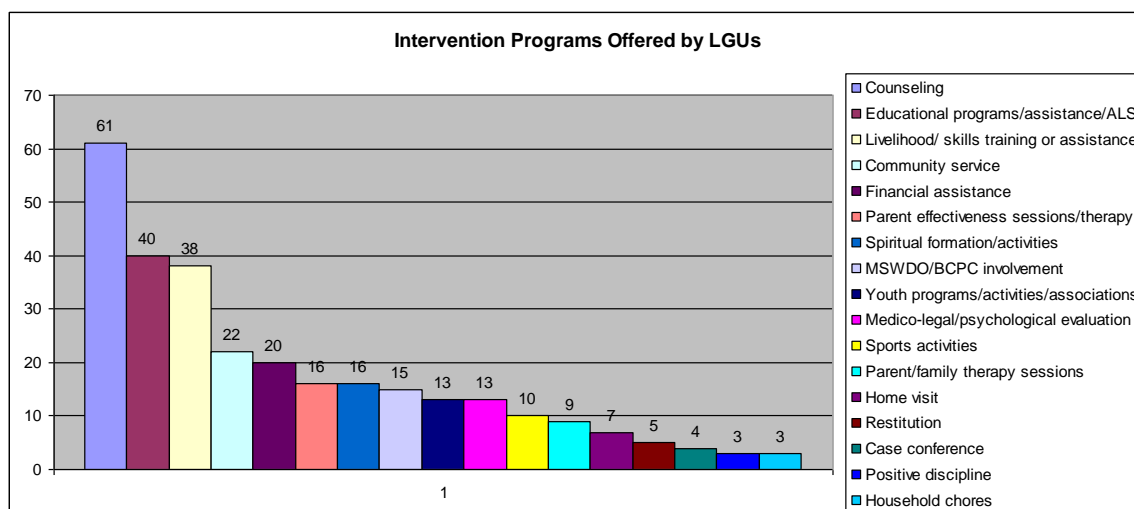
Table 10. Intervention Programs Offered by LGUs

Intervention Program	No. of LGUS using
Counseling	61 (43.88%)
Educational programs/assistance/ ALS	40 (28.78%)
Livelihood/ skills training or assistance	38 (27.34%)
Community service	22 (15.83%)
Financial assistance	20 (14.39%)
Parent effectiveness sessions/therapy	16 (11.51%)
Spiritual formation/activities	16 (11.51%)
MSWDO/BCPC involvement	15 (10.79%)
Youth programs/activities/associations	13 (9.35%)
Medico-legal/psychological evaluation	13 (9.35%)
Sports activities	10 (7.19%)
Parent/family therapy sessions	9 (6.47%)
Home visit	7 (5.04%)
Restitution	5 (3.6%)
Case conference	4 (2.88%)
Positive discipline	3 (2.16%)
Household chores	3 (2.16%)

Other intervention programs they indicated were: information dissemination, comfort giving, guide the CICL to intervention program, storytelling games, ERPAT sessions, gender sensitivity trainings, coordinate with school principals, *plano sa*

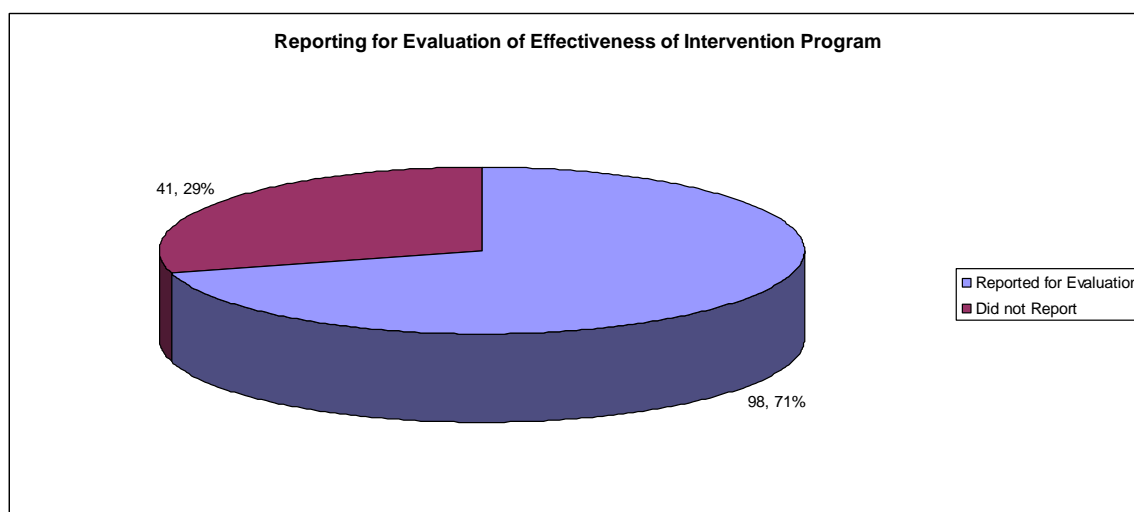
⁹³ Section 4 (I), RA 9344.

buhay, trainings/information in IEC, temporary shelter, and provision of support services.



13. Evaluation of effectiveness and compliance with intervention programs

The CICL and the parents are required to report regularly to the LSWDO for evaluation of the effectiveness of and compliance with the intervention programs.⁹⁴ Of the 139 LSWDOs, 98 (70.50%) claimed that they required the CICL and their parents to comply with this reporting requirement.

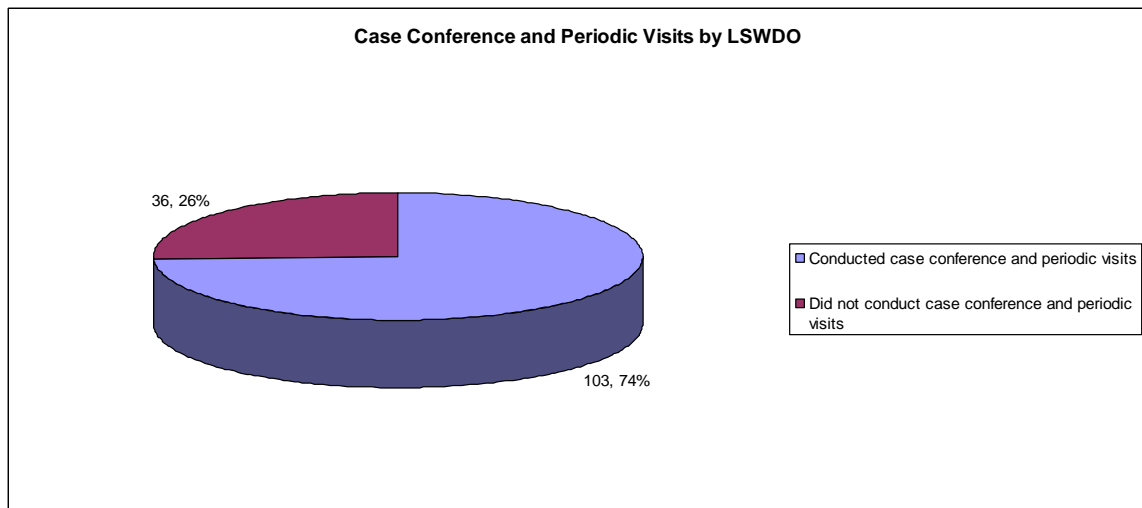


14. Case conference and periodic visits

The LSWDO is also required to conduct case conference and periodic visits to determine compliance with intervention programs.⁹⁵ One hundred and three (74.10%) of those surveyed claimed that they comply with this requirement.

⁹⁴ Rule 38, IRR.

⁹⁵ *Ibid.*

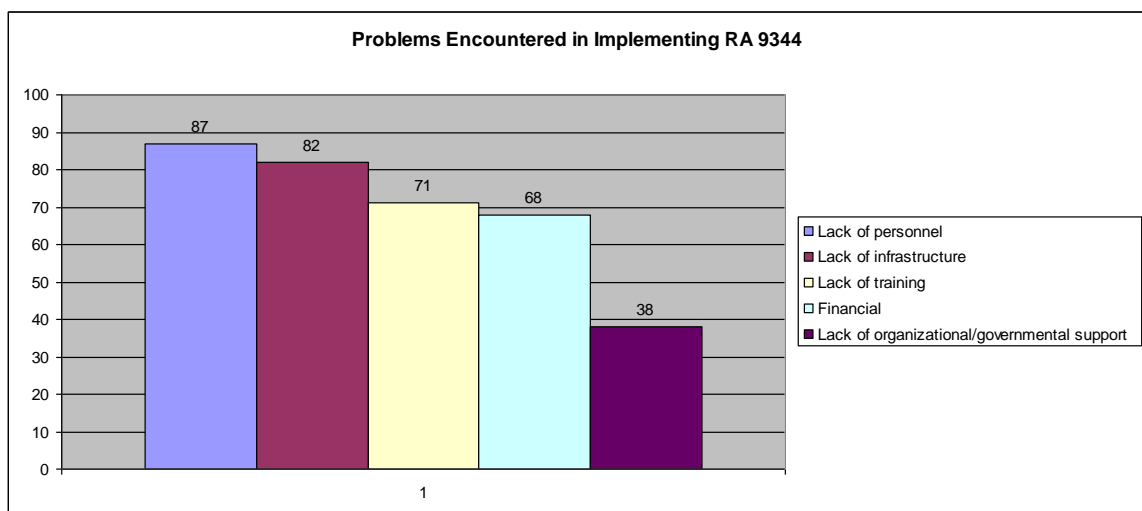


15. Problems and Issues

The LSWDOs were asked to identify which among the problems and issues listed in the questionnaire they encountered in implementing RA 9344. Respondents were allowed to select more than one.

Table 11. Problems Encountered in Implementing RA 9344, by rank

Lack of personnel	87 (62.59%)
Lack of infrastructure	82 (58.99%)
Lack of training	71 (51.08%)
Financial	68 (48.92%)
Lack of organizational/governmental support	38 (27.34%)



Lack of personnel was the most prevalent problem identified by the respondents, with 87 LSWDOs or 62.59% identifying the same, followed by lack of infrastructure (82 or 58.99%), lack of training (71 or 51.08%), financial (68 or 48.92%), and lastly, lack of organizational or governmental support, identified by 38 LSWDOs or 27.34%.

That lack of personnel is the problem most identified by the LSWDOs is supported by the data on the number of social workers in the city or municipality, which shows that 132 of the LGUs or 94.96% have only 1-5 social workers, that 42 LGUs (30.21%) have, in fact, only one social worker, and 46 (33.09%) have only two social workers. This difficulty presents itself more starkly in cities and municipalities with high incidences of CICLs.

Lack of infrastructure refers to the lack of Youth Detention Homes and Youth Rehabilitation Centers. The respondents also noted the need for temporary shelters in their cities and municipalities where they can house the CICLs upon apprehension while their cases are still being processed, before they are released to their parents or guardians.

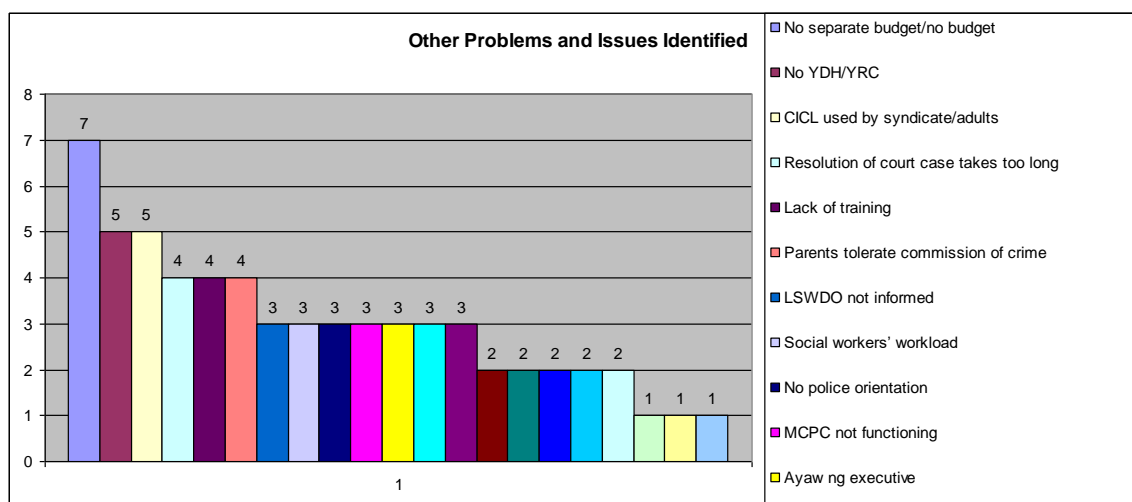
Lack of training refers the lack of training of the BCPC and the law enforcement officers, which leads to improper handling procedures. For instance, the respondents said there are law enforcers who do not inform them when a CICL is apprehended, and that there are barangays who handle the CICLs themselves and only inform them when the barangay fails to effect a settlement between the CICL and the offended party.

Other problems or issues identified were the following:

Table 12. Other Problems and Issues Identified

Problem	No. of LGUS
No separate budget/no budget	7 (5.04%)
No YDH/YRC	5 (3.6%)
CICL used by syndicate/adults	5 (3.6%)
Resolution of court case takes too long	4 (2.88%)
Lack of training	4 (2.88%)
Parents tolerate commission of crime	4 (2.88%)
LSWDO not informed	3 (2.16%)
Social workers' workload	3 (2.16%)
No police orientation	3 (2.16%)
MCPC not functioning	3 (2.16%)
Ayaw ng executive	3 (2.16%)
Community acceptance	3 (2.16%)
Not familiar with the law	2 (1.44%)
Lack of coordination	2 (1.44%)
Problem with discernment test	2 (1.44%)
Recidivism	2 (1.44%)
Interpretation of RA 9344	2 (1.44%)
LSWDO always in transition due to replacement of workers	3 (2.16%)
Expand YDH	2 (1.44%)
CICL knows it won't be jailed	1 (0.72%)
Inactive LCPC	1 (0.72%)
Not familiar with the law	1 (0.72%)

(Aileen: new chart below)



Aside from the five problems in the questionnaire, the respondents were allowed to identify other problems that they encounter in implementing RA 9344. The top answer is lack of funding (“no budget”). The LSWDOs said this is a problem because the LSWD office incurs a lot of expenses in implementing RA 9344, such as transportation to and from the homes of the CICL, transportation to and from the court, and other operating expenses. One LSWDO said it their office does not use the DSWD discernment test because they do not even have the funds to photocopy the test.

They are also concerns that CICLs are being used by syndicates and adults to commit crimes because they cannot be jailed, and that diversion and intervention programs would not work on reforming the CICL because there is an adult corrupting the CICL.

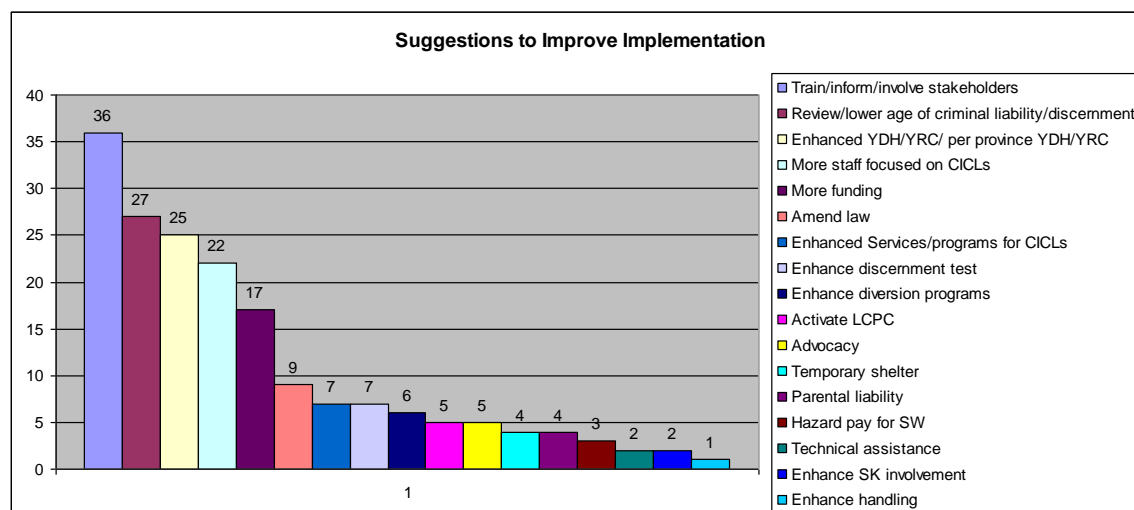
16. Suggestions

The respondents were also asked for their suggestions, if any, to improve the implementation of the law. These were their suggestions:

Table 13. Suggestions to Improve Implementation of RA 9344

Suggestion	No. of LGUS
Train/inform/involve stakeholders	36 (25.9%)
Review/lower age of criminal liability/discernment	27 (19.42%)
Enhanced YDH/YRC/ per province YDH/YRC	25 (17.99%)
More staff focused on CICLs	22 (15.83%)
More funding	17 (12.23%)
Amend law	9 (6.47%)
Enhanced Services/programs for CICLs	7 (5.04%)
Enhance discernment test	7 (5.04%)
Enhance diversion programs	6 (4.32%)
Activate LCPC	5 (3.6%)
Advocacy	5 (3.6%)
Temporary shelter	4 (2.88%)
Parental liability	4 (2.88%)

Hazard pay for SW	3 (2.16%)
Technical assistance	2 (1.44%)
Enhance SK involvement	2 (1.44%)
Enhance handling	1 (0.72%)



The top suggestion was to train, inform, or involve stakeholders. This includes the BCPC, law enforcers, the local chief executives, and the community. According to LSWDOs, law enforcers and BCPC members were not yet familiar with the law, and were not yet knowledgeable on handling CICLs. They also said that there are local chief executives who are biased against the law, resulting in lack of support to programs for CICLs. The LSWDOs also said that there is a need to educate the community about the law, and make everyone more involved in community projects and programs.

The next most suggested measure was the lowering of the age of criminal responsibility or discernment. Strictly speaking, however, lowering the age of criminal responsibility would not directly affect the manner in which LGUs implement the law, because it delves into the wisdom of the law. Depending on the formulation, lowering the age of criminal responsibility would only increase the number of CICLs undergoing diversion compared to intervention. Also, this may be a function of the discernment test, as there were respondents who suggested enhancing or reviewing the test. According to LSWDOs, the discernment tests taken by CICLs always indicated that they acted with discernment. They are of the opinion that the discernment tests currently being used either may not be accurate in showing discernment, or that children 15 to 18 years of age today are really already capable of determining whether their actions are right or wrong.

C. Survey of BCPCs

Each LSWDO interviewed was asked to refer a barangay within their jurisdiction which could be a respondent to the survey on the BCPC implementation of RA 9344. Out of 144 LGUs visited, the team was able to interview representatives of 137 BCPCs.

1. Organization of the BCPC

Out of the 137 barangays, 125 (91.24%) claimed that the BCPC was organized in compliance with Section 15.⁹⁶ Of this number, 93 (67.88%) BCPCs (74.4% of barangays with organized BCPCs) conduct regular meetings. Only one BCPC (0.73%) meets at least weekly, 51 (37.23%) BCPCs meet at least once a month, 11 (8.03%) BCPCs meet at least twice a month, 30 (21.9%) only meet at least once a quarter, 12 (8.86%) meet twice a year, and four (2.92%) meet once a year.

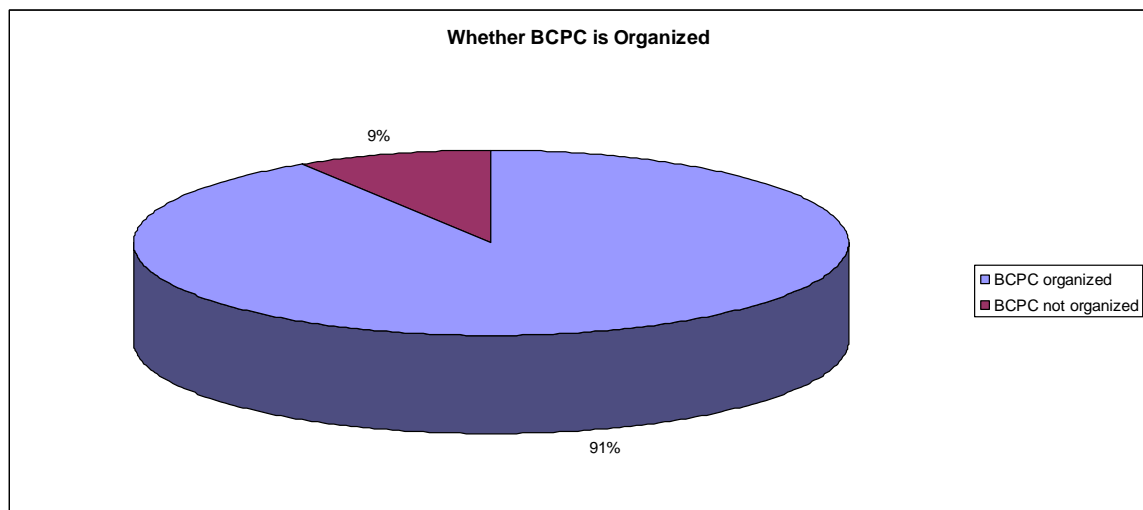
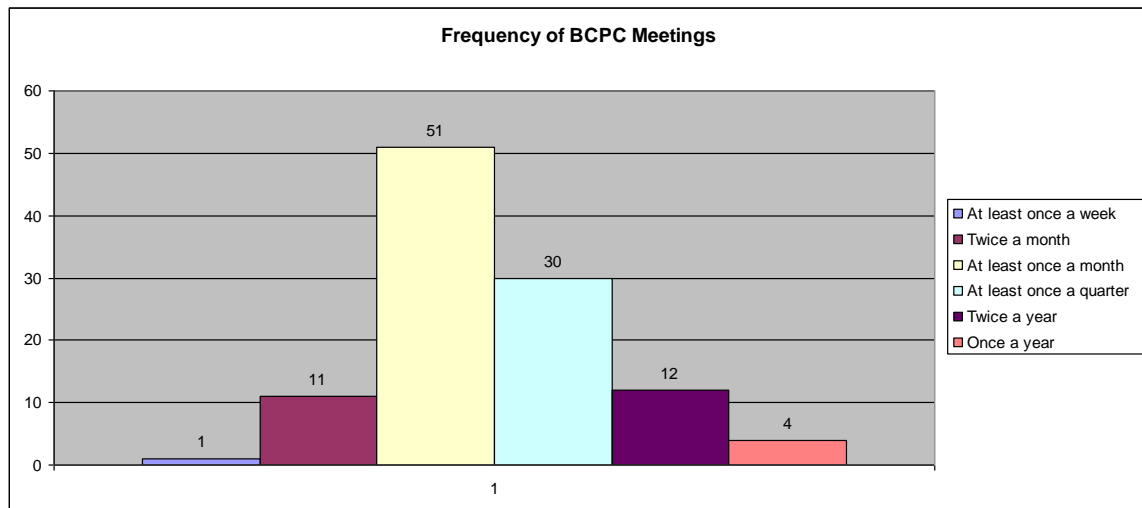


Table 14. Frequency of BCPC Meetings

Frequency of meetings (whether regular or not)	
At least once a week	1 (0.73%)
Twice a month	11 (8.03%)
At least once a month	51 (37.23%)
At least once a quarter	30 (21.9%)
Twice a year	12 (8.76%)
Once a year	4 (2.92%)

⁹⁶ Sec. 15, RA 9344.



Twenty BCPCs (14.6%) do not meet regularly, but meet only as the need arises (i.e. when there are CICL cases to be discussed). Four (2.92%) BCPCs, in addition to their regularly scheduled meetings, also meet when there is a need.

2. Maintenance of a Database on CICLs

Rule 15d (10) of the IRR requires that LCPCs establish and maintain a database on CICLs, which should indicate who are undergoing intervention, diversion, and rehabilitation programs and getting after-care support services. Out of the 137 BCPCs, 77 (56.20%) maintain a database on CICLs, and 49 (35.77%) or 63.64% of those that maintain databases include CICLs who undergo intervention, diversion and rehab and after-care support. Thirty-seven (37) are in the form of logbooks or blotters; some which are police blotters, while some keep their database in a logbook together with records of adult offenders. Thirty-six (26.28%) maintain databases that include information on apprehension, 46 (33.58%) on intervention, 39 (28.47%) maintain databases that include diversion, 25 (18.25%) maintain databases that include rehabilitation, and 29 (21.17%) maintain databases that include after-care support services.

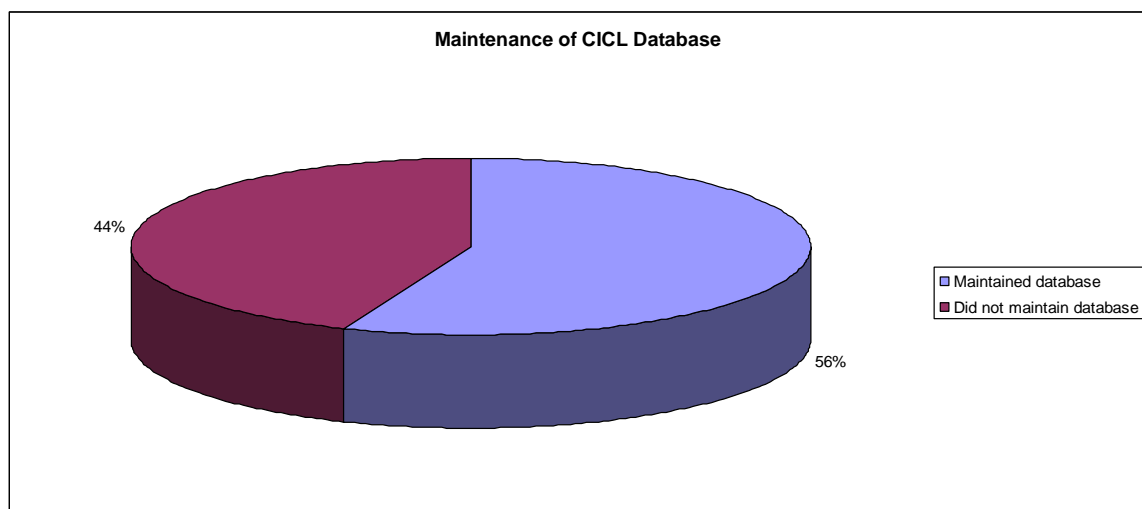
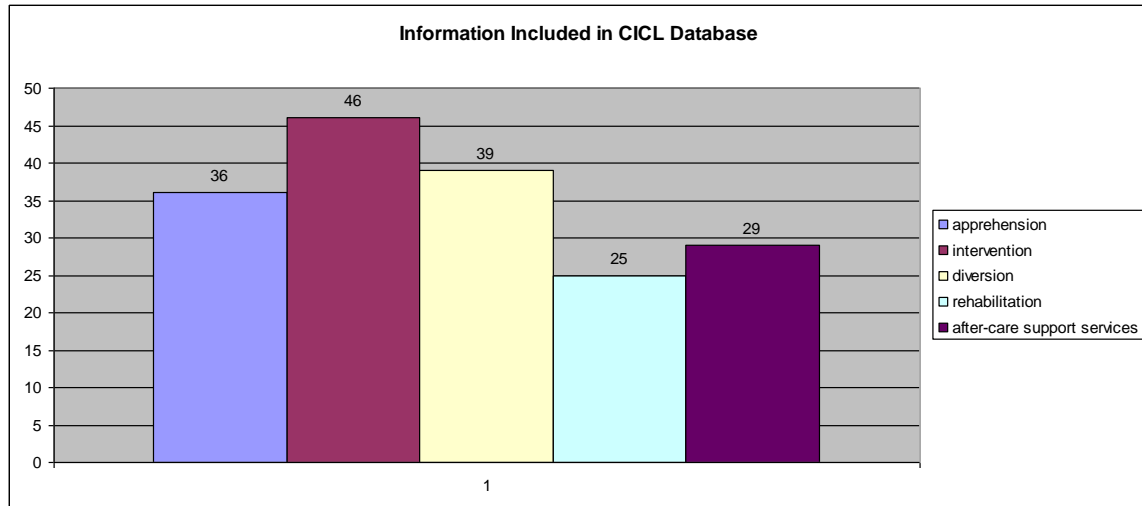


Table 15. Information included in database

Information included in database	
apprehension	36 (26.28%)
intervention	46 (33.58%)
diversion	39 (28.47%)
rehabilitation	25 (18.25%)
after-care support services	29 (21.17%)



3. Crimes most commonly committed by CICLs

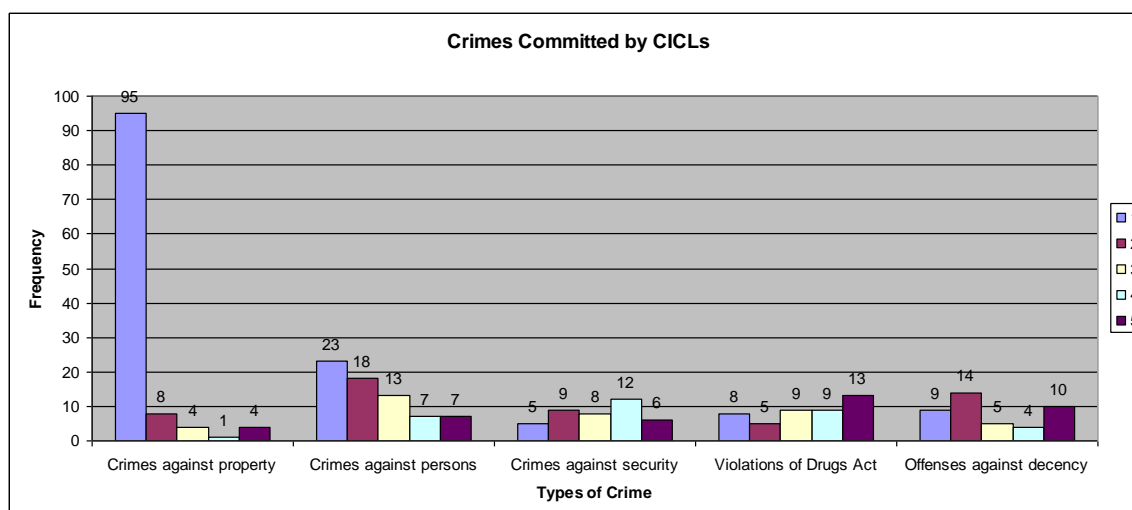
The barangays were asked to rank crimes in the order of highest incidence of commission by CICLs. They were asked how they would rank crimes against property (i.e. robbery, theft, swindling, arson, malicious mischief), crimes against persons (physical injury, rape, homicide, murder, etc.), crimes against security (i.e. trespass to dwelling, grave threats), violations of RA 9165 or the Comprehensive Dangerous Drugs Act of 2002 and offenses against decency and good customs (i.e. grave scandal, vagrancy), with 1 being the crime most often committed by CICLs and 5 being the least committed crime.

Out of the 137 barangays, crimes against property emerged as the type of crime most committed by CICLs, with an average ranking of 1.34, with 95 out of 137 barangays ranking it as number 1 (69.34%). The second is crimes against persons, with an average ranking of 2.41, 18 (13.14%) ranked it as no. 2. Crimes against decency came in third, with an average ranking of 2.81, 5 (3.65%) ranked it as no. 3, while crimes against security came in fourth (3.1 average rank). Drug-related crimes are the least committed (3.31 average rank).

Table 16. Ranking of Crimes Committed by CICLs by Frequency

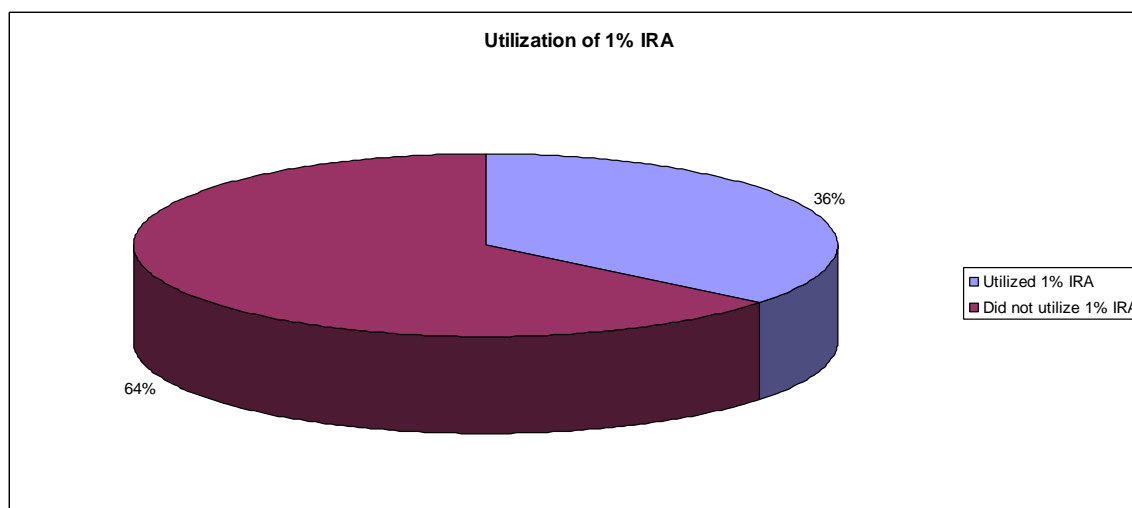
Overall ranking of crimes (rank)		
Crime	Average Ranking	No. which selected
Crimes against property	1.34	95 (69.34% ranked it as no. 1)
Crimes against persons	2.41	18 (13.14% ranked it as no. 2)
Offenses against decency	2.81	5 (3.65% ranked it as no. 3)
Crimes against security	3.1	12 (8.76% ranked it as no. 4)

Violations of Drugs Act	3.31	13 (9.5% ranked it as no. 5)
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4. 1% IRA share and Work/Financial Plan

Under Section 15,⁹⁷ barangays are required to allot 1% of their IRA for the strengthening and implementation of their comprehensive juvenile intervention programs. Out of the 137 BCPCs, 49 (35.77%) utilize their IRA share to implement RA 9344. Only 66 (48.18%) out of 137 barangays have a Work/Financial Plan as required by the law.

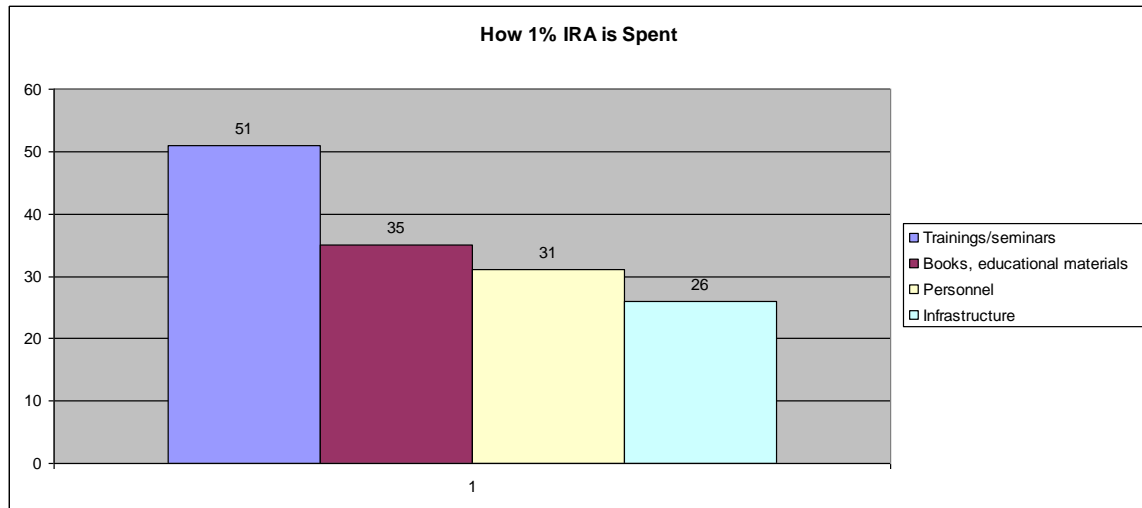


They were also asked how the 1% IRA share is spent or allocated. Out of the 137 BCPCs, 51 (37.22%) spent it on trainings and seminars, 35 (25.55%) spent the fund on books and educational materials, 31 (22.63%) used it for personnel expenses, while 26 (18.98%) spent it on infrastructure.

⁹⁷ *Ibid.*

Table 17. How 1% IRA is Spent

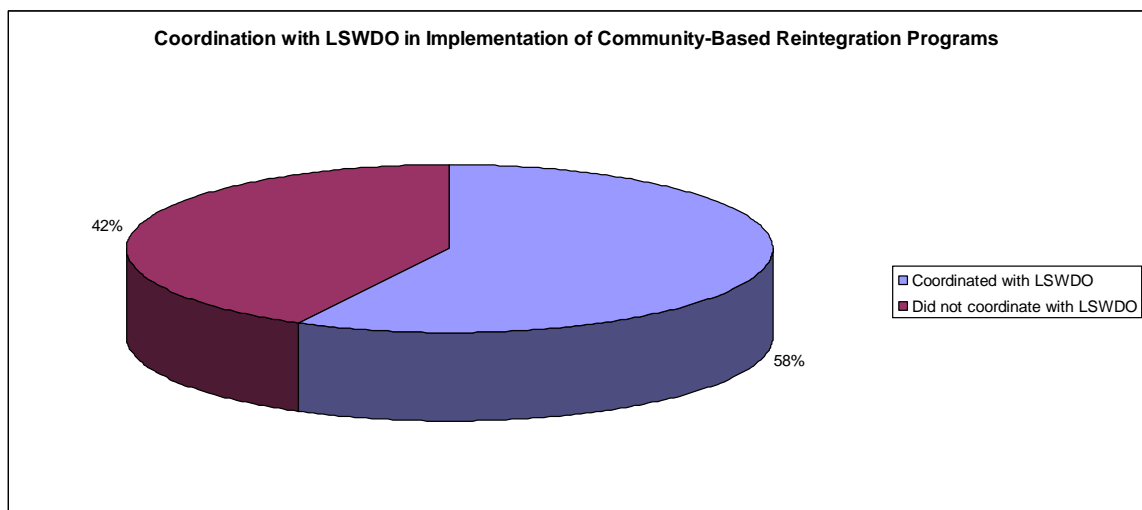
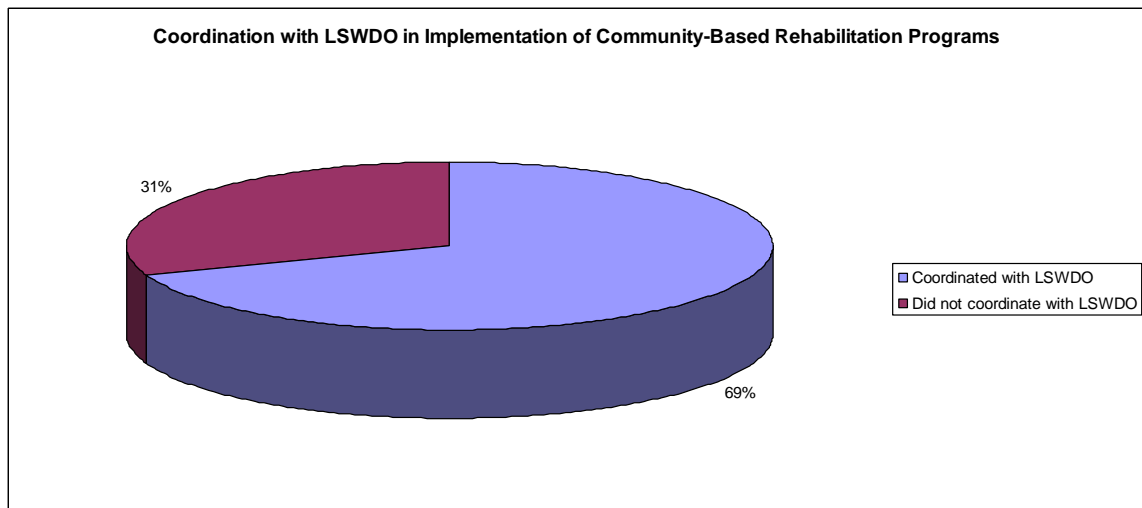
Trainings/seminars	51 (37.23%)
Books, educational materials	35 (25.55%)
Personnel	31 (22.63%)
Infrastructure	26 (18.98%)



5. Coordination with LSWDO in implementation of Community-based Rehabilitation and Reintegration Programs

The barangays were asked whether they coordinate with the LSWDO in the implementation of community-based rehabilitation and reintegration programs, as required under Rule 73c of the IRR. ⁹⁸ Ninety-five (69.34%) claimed that they coordinate with the LSWDO in the implementation of community-based rehabilitation programs, and 79 (57.66%) claimed that they coordinate with the LSWDO in the implementation of community-based reintegration programs.

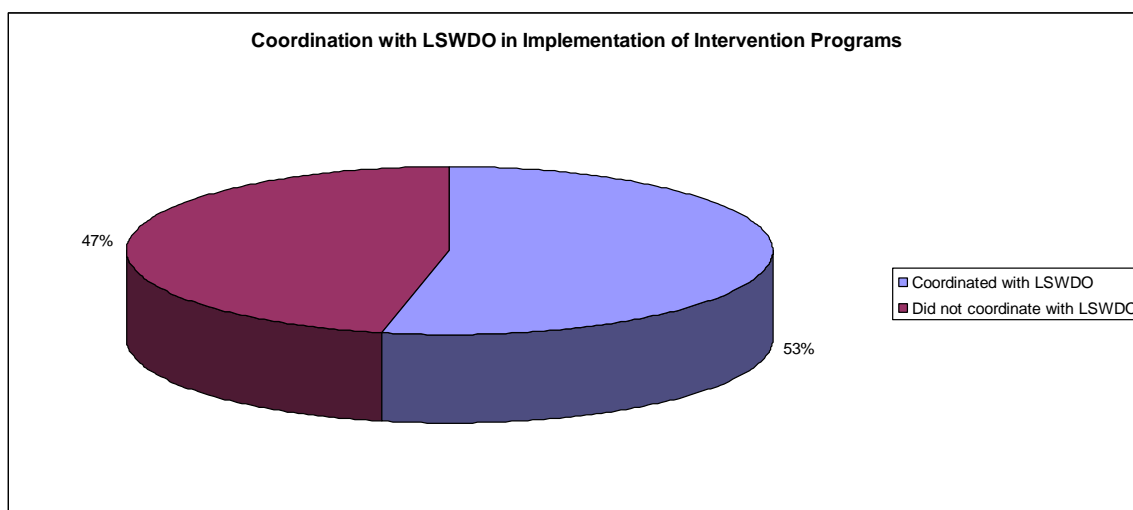
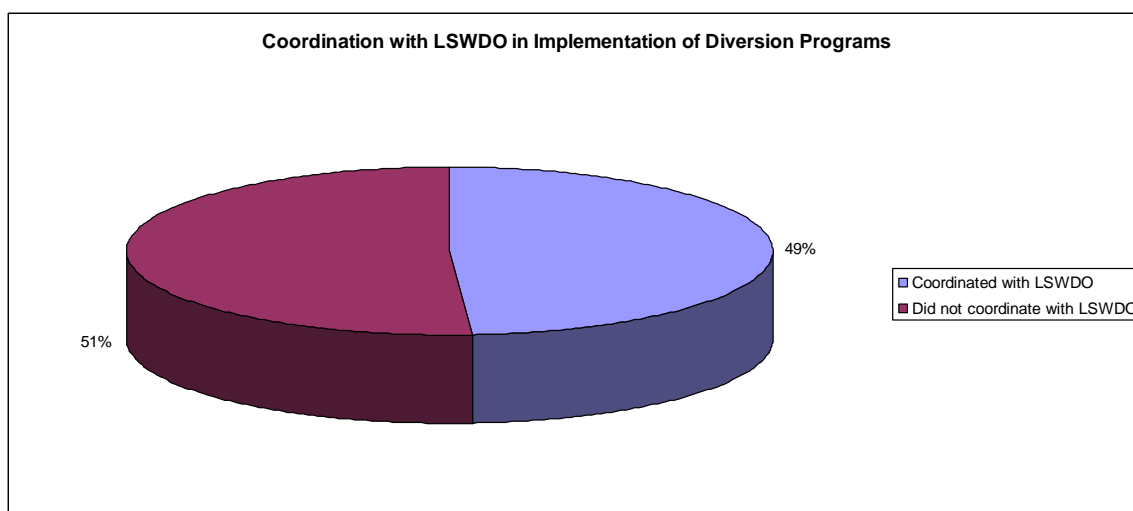
⁹⁸ Rule 73.c, IRR.



6. Coordination with the LSWDO in the implementation of Diversion and Intervention Programs

The barangays were asked whether they coordinate with the LSWDO in the implementation of diversion and intervention programs. Sixty-seven (48.91%) claimed that they coordinate with the LSWDO in the implementation of diversion programs,⁹⁹ while 73 (53.28%) claimed that they coordinate with the LSWDO in the implementation of intervention programs.

⁹⁹ SEC. 26, RA 9344.



7. Sangguniang Kabataan's (SK) Involvement in the implementation of community-based rehabilitation and reintegration programs, diversion and intervention programs

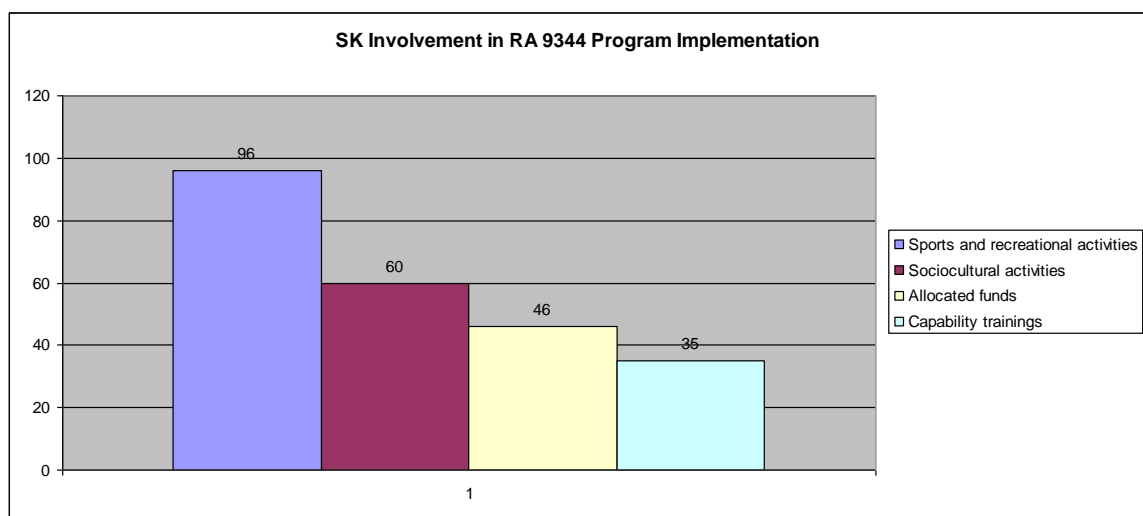
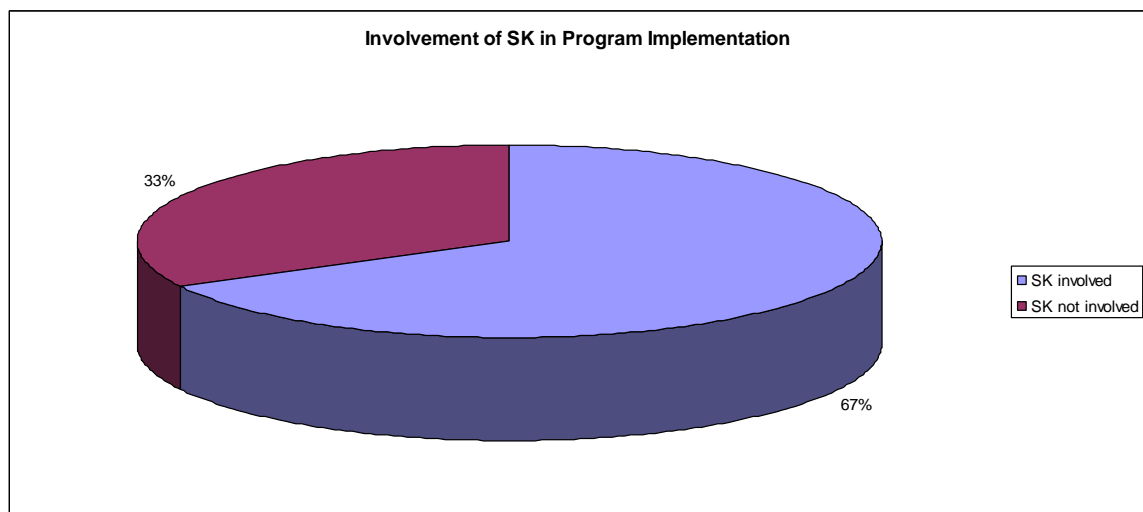
The respondents were also asked whether the SK in the barangay were actively involved in the implementation of community-based rehabilitation and reintegration programs, diversion and intervention programs, and if they were, the extent of its involvement, as required under Section 17.¹⁰⁰ Ninety-two (67.15%) claimed that the SK is actively involved, particularly in sports and recreation (96 or 70.07%), socio-cultural activities (60 or 43.8%), in the allocation of funds (46 or 33.58%), and in capability trainings (35 or 25.55%).

Table 18. SK Involvement in RA 9344 Implementation

Sports and recreational activities	96 (70.07%)
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¹⁰⁰ Sec. 17, *Ibid.*

Sociocultural activities	60 (43.8%)
Allocated funds	46 (33.58%)
Capability trainings	35 (25.55%)



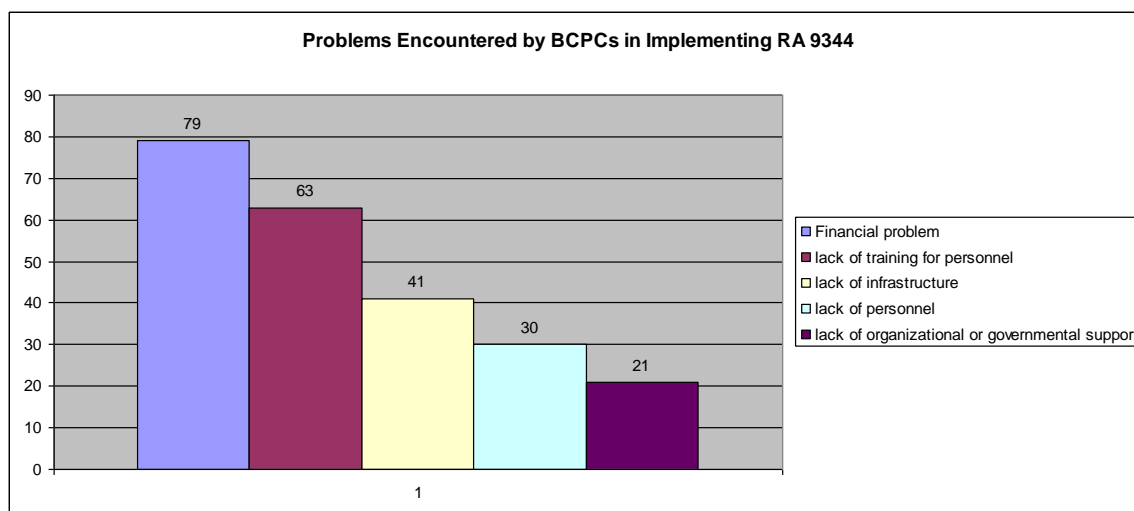
8. Problems encountered in implementation of law

The respondents were asked to identify which among the following problems and issues they encountered in implementing RA 9344.

Table 19. Problems Encountered in Implementing RA 9344

Problems encountered in implementing RA 9344	
Financial problem	79 (57.66%)
lack of training for personnel	63 (45.99%)

lack of infrastructure	41 (29.93%)
lack of personnel	30 (21.9%)
lack of organizational or governmental support	21 (15.33%)



Financial problem was the problem most identified by respondents (79 barangays or 57.66%), followed by lack of training (63 barangays or 45.99%), lack of infrastructure (41 barangays or 29.93%), lack of personnel (30 or 21.9%) and lastly, lack of organizational or governmental support, which was identified by 21 LGUs or 15.33%.

Financial problems, which is the top answer selected by BCPCs, ties in with the figure earlier discussed showing that only 49 or 35.77% utilize the 1% IRA share to implement RA 9344, and that only 51 or 40.48% of the cities and municipalities allocated funds to implement the CJIP. The respondents also said that sometimes, the entire 1% IRA share is not allocated strictly to RA 9344 matters alone, but shared with other expense items such as gender or child rights.

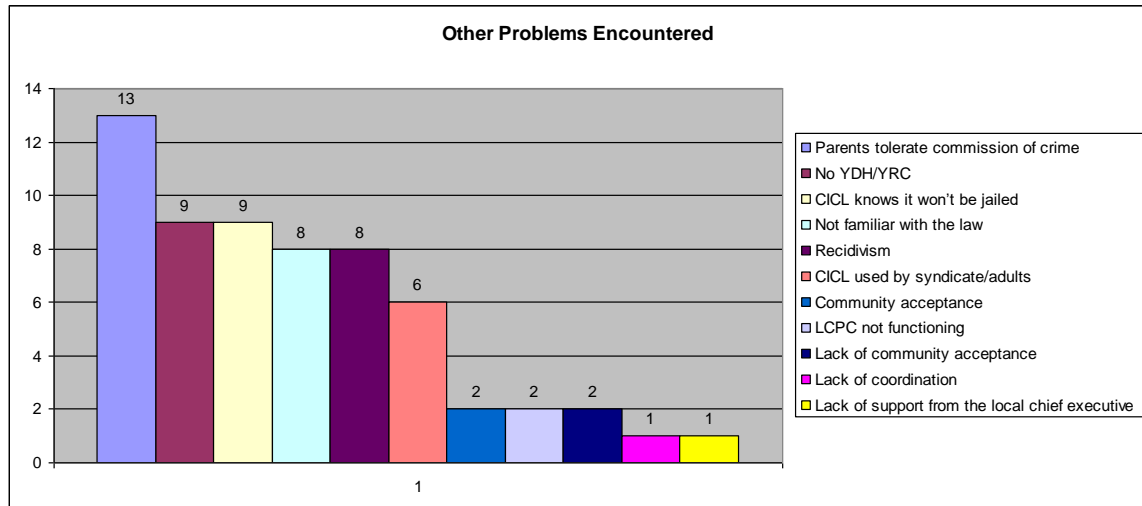
The next problem most selected by the BCPC respondents was lack of training for personnel on RA 9344. The respondents were aware of and admit to the lack of training in implementing the law. In fact, there were a number of survey questionnaires that were not completely answered by some respondents because they were not familiar with the law. Eight or (5.84%) admitted that they were not familiar with the law.

The respondents were also asked to identify what other problems or issues they encountered in implementing the law aside from those enumerated. Their answers were:

Table 20. Other Problems and Issues Identified

Problem	No. of barangays
Parents tolerate commission of crime	13 (9.49%)
No YDH/YRC	9 (6.57%)
CICL knows it won't be jailed	9 (6.57%)

Not familiar with the law	8 (5.84%)
Recidivism	8 (5.84%)
CICL used by syndicate/adults	6 (4.38%)
Community acceptance	2 (1.46%)
LCPC not functioning	2 (1.46%)
Lack of community acceptance	2 (1.46%)
Lack of coordination	1 (0.73%)
Lack of support from the local chief executive	1 (0.73%)



The biggest problem identified by respondents was parents' tolerance of their children in committing crimes. This could be due to the fact that parents are physically absent, as in the case of children with OFW parents. There are also parents who have given up on disciplining their children as they are no longer able to control and discipline them. This increases the challenges faced by the LSWDOs and the BCPC, as they cannot rely on the parents or guardians to ensure that the CICL complies with the terms of the diversion contract and provide guidance to the CICL. The responsibility of disciplining and ensuring compliance with the contract of diversion now falls on them.

Another problem is that, according to the respondents, CICLs already know that they cannot be jailed according to the law, and this knowledge gives them confidence in committing crimes and in facing law enforcement officers and the BCPC.

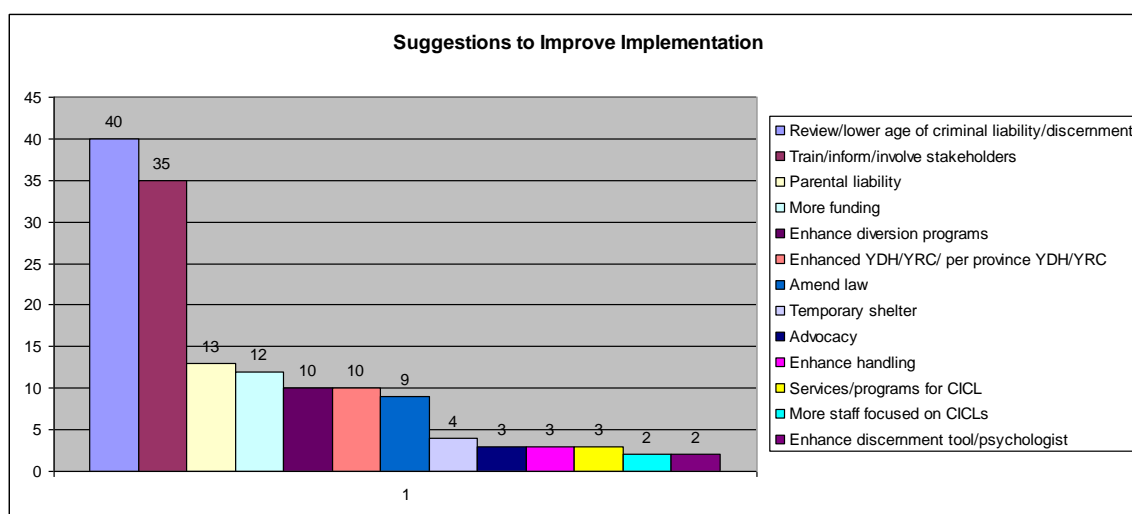
While the JJWC has said that there is no solid data or evidence on this, the BCPCs pointed out that CICLs are being used by crime syndicates or by adults to commit crimes because they cannot be jailed. In fact, there are claims that CICLs have copies of their birth certificates readily in their pockets, such that upon apprehension they are ready to present the same to the apprehending authorities as proof of their minority.

9. Suggestions on how to improve implementation of the law

The respondents were also asked for their suggestions, if any, to improve the implementation of the law. Their suggestions were as follows:

Table 21. Suggestions to Improve Implementation of RA 9344

Suggestion	No. of barangays
Review/lower age of criminal liability/ discernment	40 (29.2%)
Train/inform/involve stakeholders	35 (25.55%)
Parental liability	13 (9.49%)
More funding	12 (8.76%)
Enhance diversion programs	10 (7.3%)
Enhanced YDH/YRC/ per province YDH/YRC	10 (7.3%)
Amend law	9 (6.57%)
Temporary shelter	4 (2.92%)
Advocacy	3 (2.19%)
Enhance CICL handling	3 (2.19%)
Services/programs for CICL	3 (2.19%)
More staff focused on CICLs	2 (1.46%)
Enhance discernment tool/psychologist	2 (1.46%)



The top suggestion was to review and lower the age of criminal responsibility. As stated earlier, however, lowering the age of criminal responsibility would not directly affect the manner in which LGUs implement the law, and it delves into the wisdom of the law. Depending on the formulation, it would only increase the number of CICLs undergoing diversion compared to intervention.

This response of the BCPCs could also be a reflection of their lack of full understanding of the objectives of RA 9344 with respect to prioritizing restorative justice rather than punitive justice, considering that the provisions of the law have not been fully disseminated to the barangays and other stakeholders.

The second most suggested solution was to train/inform/involve stakeholders, which is also a reflection of the lack of full dissemination of RA 9344 to the LGUs.

ISSUES AND RECOMMENDATIONS

1. Organize the LCPC in every LGU

One hundred and nine (109 or 86.51%) cities and municipalities have organized the LCPCs, but only about half of which (53.17%) hold regular meetings; in fact, 7.14% meet twice a year while 3.97% meet only once a year. Nineteen (19) or 15.08% only meet as the need arises, i.e. when there are CICL cases to be discussed.

At the BCPC level, 125 (91.24%) claim that their BCPC is organized, 93 (67.88%) of which hold regular meetings. There were BCPCs which only meet as the need arises (20 or 14.6%). One reason mentioned by numerous respondents is the constant change in the composition and leadership of the LCPC with every change in administration every three years. Thus, these LCPCs may change as often as once every three years, laying it susceptible to discontinuity in terms of policies and programs. There are times where a change in administration renders a formerly organized and functional LCPC inactive.

The LCPC, as stated earlier, is the entity in the local government unit which coordinates with and assists the LGU in the adoption of its CJIP, and which oversees its implementation. Considering that full and proper implementation of RA 9344 requires the coordination of several units and personnel in the LGU and the efficient allocation of funds to finance the programs and the expenses attendant to implementing the law, it is essential that the LCPC is organized and functioning properly.

Furthermore, an LCPC directing, coordinating and overseeing the implementation of the law is more desirable because of its composition. At the level of the city or municipality, the CCPC or MCPC is composed of the mayor, the chairperson of the Sangguniang Panlungsod/Pambayan Committee on Women and Family, the DILG field officer, the LSWDO, DepEd Division Superintendent/District Supervisor, Planning and Development Officer, Budget Officer, Health Officer, Nutrition Officer, PNP Director, Treasurer, LIGA ng mga Barangay President, Child representative, and at least 3 representatives of NGOs, while at the BCPC level it is composed of the Punong Barangay as chair, with a barangay kagawad who is the chair of the Women and Family Committee, a barangay nutrition scholar, daycare worker, health nurse/midwife, health worker, DepEd principal/Teacher-in-charge, chief tanod, SK Chairperson, child representative, PTA president or representative, and NGO representative. With these members who collectively have the necessary knowledge to formulate the appropriate programs and to implement them, it is expected that all aspects of the implementation of the law will be attended to.

With respect to compliance with the duties and functions of the LCPC, it was found that only 59 LGUs or 46.83% conduct capability-building programs to enhance the knowledge and skills of the personnel handling children's programs. This is not so much an issue at the city or municipal level considering that 121 or 96.03% of

those surveyed appointed a LSWDO. However, these kinds of programs are essential at the barangay level, as the barangays have a lot of functions and responsibilities under the law and its IRR. This study shows that barangays are unprepared and ill-equipped at present to perform those functions and responsibilities.

With respect to documenting the best practices on juvenile intervention and prevention, only 27 or 21.43% perform this function. Documentation of best practices is very important because the elected officials of the LGU may change every three years, which could result in lack of continuity of the programs of the previous administration. This is a major obstacle in effectively addressing the problem of juvenile crime. Documenting best practices would also serve as a guide for future LCPCs in formulating new programs.

The study also showed that only 58 LGUs or 46.03% conduct an inventory of the NGOs that serve CICLs in their localities and mobilize them as resources. This is an area that may need to be studied, as NGOs are not just alternative detention or rehabilitation centers. They can do so much more for the LGUs in terms of providing trainings, information dissemination, and assistance in the development of programs and policies on RA 9344.

Only 68 or 53.97% of LGUs review existing policies of units that provide services to CICLs to determine the barriers to access to these services, and take the necessary action to improve these services. This means that only roughly half of the LGUs take the opportunity to assess the manner by which they implement the services, determine what, if any, are the obstacles to full and effective provision of these services, and come up with solutions to these obstacles.

In view of the essential role of the LCPC in the effective implementation of RA 9344, this project recommends that the DILG ensure that all LCPCs are organized and functioning. It is important to emphasize to the LGUs that RA 9344 is not only about dealing with CICLs who commit crimes, but that it also prescribes the implementation of programs aimed at the preventing of crimes committed by children. Thus, even LGUs with no CICL cases should be covered by the law and should be required to organize their LCPCs and to come up with a CJIP. It is recommended that the DILG, in cooperation with the JJWC ensure the compliance of all LGUs with this requirement, first, by issuing a Memorandum Circular requiring strict compliance by all LGUs, and second, by coming up with a mechanism to monitor compliance by the LCPCs of their functions and responsibilities. The mechanism may be some form of a scorecard or report card issued regularly by DILG field offices where the DILG, JJWC, and the LGUs themselves will be able to tell, at one glance, which areas of implementation they have failed to comply with. The results of the monitoring should be reporting to the JJWC, in line with its function to oversee the implementation of RA 9344.

There is also a need to address the implication of the local elections every three years and its effect in the membership and functioning of LCPCs. The LCPCs should be considered as a continuing body, not one which has to be organized every time there is a change in its membership. If this is the mindset for the LCPC, there would be no more instances where an LCPC which is organized and active in some years will become inactive and not functioning once there is a change in administration and appointees. The matter of its organization and functioning should not depend

merely on the whim or caprice of the local chief executive. There may be changes to the programs and projects, but the LCPC in itself should survive and thrive regardless of changes in its composition. It is recommended that immediately after every local election upon the assumption of office of the local chief executive, the DILG issue a Memorandum Circular requiring the LGUs to organize and convene the LCPCs. This will ensure that the LCPC is placed at the forefront of the consciousness of the LGUs.

2. Comprehensive Juvenile Intervention Program (CJIP)

Only 39 cities and municipalities or 30.95% of the LGUs surveyed have a CJIP. The CJIP sets out important matters on the implementation of RA 9344, such as the roles and responsibilities of the officials involved in the prevention and intervention efforts for the CICLs, and the programs to be implemented for intervention and prevention, to name a few. It is a comprehensive guide for the LGUs in implementing the law, especially with respect to child crime prevention. Thus, the 30% compliance of the LGUs with the requirement to formulate the CJIP is a blow to effective juvenile crime prevention. It indicates a lack of preparation in dealing with CICLs.

With respect to funding for implementation of the CJIP, only 51 cities and municipalities or 40.48% of the sample size allocated funds to implement the CJIP or, in the absence of which, their equivalent juvenile welfare programs. This failure to allocate shows the lack of foresight and planning for and prioritization of juvenile welfare programs.

Furthermore, only 34 cities and municipalities or 26.98% conduct an annual review or assessment of their CJIP. While the cities and municipalities surveyed answered that they review and assess their respective CJIPs, the JJWC said that very few, if any, LGUs submit the written review and assessment as required under Section 18. This review and assessment of the CJIP is essential to enable the respective LGUs to determine whether their programs are effective, and will help uncover gaps in the implementation of RA 9344. It will also give the JJWC information on the effectiveness of the programs implemented by the LGUs, and allow them to come up with suggestions if any problems or issues are identified. It is therefore recommended that the JJWC come up with the template for the written assessment of the CJIP, disseminate the same to the LGUs through the DILG, and require through strict compliance from the LGUs through the DILG.

Under Section 18, it is the duty of the JJWC to come up with a NJIP and to receive the yearly CJIP written review and assessment submitted by the LGUs. It is thus recommended that the DILG issue a Memorandum Circular to all LGUs requiring their compliance with Section 18, and for the DILG and JJWC to monitor which LGUs have complied with the requirements therein. The compliance date herein may be included in the proposed scorecard or report card of compliance as adverted to in the LCPC section.

3. Utilization of 1% IRA

Based on the responses of the BCPC respondents, only 49 or 35.77% of the barangays surveyed utilize the 1% IRA share to implement the law. There were BCPCs that

were unaware that the law requires the LGU to allocate 1% of the IRA for such purpose. At the time the research was conducted, the DILG had not yet issued Memorandum Circular No. 2012-120 dated July 4, 2012, which required all LGUs to, among others, appropriate 1% of their IRA for the implementation of the programs of their LCPCs. There were BCPCs that were aware of the 1% IRA allotment or were unable to utilize the entire amount for the purpose, as they had a lot of other programs for which their IRA had to be allocated. There were also BCPCs that were able to allot the entire 1% for RA 9344 purposes, but the fund was insufficient. Near the end of the data-gathering phase of this study, the DILG issued the said Memorandum Circular, which reminds all LGUs of the requirement to allot 1% IRA share for the implementation of the programs of the LCPC. It is thus recommended that the DILG and JJWC track compliance of the LGUs to the said Memorandum Circular, and to include this matter in the proposed scorecard or report card monitoring mechanism to determine compliance.

4. Maintaining a CICL database

Based on the data collected, 69.78% of LSWDOs (cities/municipalities) maintain a CICL database. However, this number does not record all the required information. For BCPCs, only 77 or 56.20% maintain a CICL database, out of which only 50 or 36.5% include data on apprehensions, intervention, diversion, rehabilitation and after-care support. Of this number, around 37 (27%) BCPCs stated that their database is kept in a logbook or a blotter. Some do not have their own database and rely on police blotters, while others maintain the CICL information in a logbook which also stores information on adult offenders. There were BCPCs that do not maintain a CICL database because they have no or very few CICL cases (10 barangays claimed to have no CICL cases for the year; 14 claimed to have very few CICL cases (1-2 only).

The importance of maintaining a proper and complete CICL database cannot be sufficiently underscored, as the JJWC and all the other agencies and instrumentalities tasked with implementing and overseeing the implementation of RA 9344 need accurate data and statistics in order to be able to come up with the correct and applicable policy decisions. The lack of a complete and dependable database impairs the decision-making capabilities of all enforcers the law. Policies, programs and decisions can only be effectively made if they are based on correct information.

It is important that barangays and LSWDOs (for the cities and municipalities) keep complete and updated records on CICLs as required under Rule 15d (10) of the IRR. A complete database will assist the LGUs in keeping track of their CICL cases and their progress, as well as keep them in the loop on CICL trends. It would also make it easier for the LGUs to report accurate data, and make it easier for the JJWC to get hold of the data required in their conduct of studies and research on RA 9344, and assist them and the other agencies involved in coming up with appropriate and responsive policies. It is recommended that the DSWD and/or the DILG issue a Memorandum Circular setting forth a template for the LGUs to follow in maintaining their CICL database, and to require the LGUs to submit a copy of the database to the JJWC every year. This will ensure that LGUs maintain a uniform, complete, and accurate database, and which also ensures that the JJWC has complete and accurate data on the number of CICL cases as well as the programs they are undergoing for diversion and intervention.

5. Shortage of social workers

One-hundred twenty-one (121 or 96.03%) of the mayors of the cities and municipalities included in the study have appointed a local social welfare and development officer, as required by Sec. 16 of the law. This is a very high compliance rate. However, based on the responses in the survey, the average number of social workers per LGU is only 2.1. This indicates minimum compliance with the provisions of the law. Moreover, 132 LGUs or 94.96% of the cities and municipalities have only 1-5 social workers. Forty-two (42 or 30.21%) cities and municipalities have only 1 social worker, and 46 (33.09%) have only 2.

That this minimal number of personnel is a problem is supported by the fact that 87 or 62.59% of LSWDOs said that lack of personnel is one of their problems in implementing RA 9344. This is compounded by the fact that local social workers have a myriad of duties and responsibilities on social welfare and development, in addition to juvenile welfare. The lone local social worker is more often than not overwhelmed and hardly able to attend to all the needs of the social welfare and development office of the city or municipality. In fact, there were LSWDOs in the study who commented that even with three social workers, one of which is dedicated solely to CICL concerns, they are still undermanned, such that the other two social workers had to assist. This is most probably a common scenario in cities and municipalities with a high number of CICLs.

The research team was also told that some cities and municipalities appoint social workers who are not licensed by the Professional Regulation Commission (PRC). It is thus recommended that the DSWD look into this matter to ensure the professionalism of the social workers, determine if there are really appointments made in contravention of the law, and to remind LGUs of the qualifications standards required to be met by the LSWDO. It is also recommended that the DSWD conduct a study to determine the ideal social worker-to-population ratio and disseminate the said information, which the LGUs may consult in determining the number of social workers to appoint.

6. Lack of YDHs

Of the 139 LSWDOs surveyed, only 16 or 11.51% have Youth Detention Homes as required by Section 49 of RA 9344. This means that around 90% of the cities and municipalities do not have their own YDH, and thus have to bring their CICLs required to be detained in some other place.

Thus, contrary to the prohibition in Rule 28a of the IRR which provides that a CICL should not be locked up in a detention cell and should not be detained in the provincial, city or municipal jail, five (3.6%) bring the CICLs to the city or municipal jail. The LSWDOs also mention the need for a temporary shelter where they can place CICLs while they are processing the case. These difficulties are reflected in the responses of 82 (58.99%) of the LSWDOs, who answered that lack of infrastructure is a major problem encountered in implementing RA 9344.

Among the reasons cited for the lack of a Youth Detention Home are lack of funds to establish and maintain it, and the lack of a suitable location to build one.

There are also LGUs that do not prioritize the YDH because they have very few or no CICL cases, which makes it financially impractical.

There were recommendations to establish provincial YDHs instead of requiring one for each city or municipality. This would address the issue of lack of funds and of building a YDH in a city or municipality where there are very few or no CICLs. However, the number of CICL cases vary per LGU; there are LGUs with very few to no CICL cases, and there are LGUs with a high incidence of CICLs. Also, requiring LSWDOs to travel to a different city or municipality to visit the CICLs detained in the provincial YDH would be financially difficult on them, as they are already budget-strapped in the first place. If this approach is to be considered, it is recommended that the DSWD and JJWC come up with a mapping of CICL incidences to determine the recommended size and housing capacity of a YDH in a given province.

The respondents also pointed out the need for youth detention homes that would function not only as detention cells, but to become houses where the CICLs are taken cared of, and where they could avail of services aimed at reforming them, such as psychosocial therapy, with a psychologist being assigned to the YDH, or educational and livelihood services where they can be educated and trained.

There should also be an effort to segregate the first-time offenders from the repeat offenders. This will ensure that the repeat offenders, who presumably have more knowledge and experience in committing crimes, will not be able to influence the first-time offenders toward more criminality and prevent the diversion and intervention programs from achieving their goals of reform and reintegration.

7. Lack of training and information at the LSWDO and at the barangay level

The study also found that knowledge, information, and training on RA 9344 has not yet completely trickled down to the barangay level. Seventy-one LSWDOs (51.08%) replied that lack of training is a problem in implementing the law, particularly at the barangay level. Similarly, 63 BCPCs (45.99%) state that lack of training is a problem in the implementation of RA 9344. In fact, there were BCPC respondents who were unable to answer most of the questions because they were not familiar with the law. Most of the suggestions on how to improve the implementation of RA 9344 was to train, inform, involve the stakeholders on the provision of the law (36 responses or 25.9%), and 35 (25.55%) of BCPCs answering the same. In fact, the LSWDOs indicated their need for trainings and seminars on RA 9344, and some have made requests for such trainings and seminars to be initiated in their localities.

One of the main comments of both the LSWDOs and the barangays was the need for more training and information dissemination on the law for barangays and police who handle CICLs. The survey showed that there were respondents at the barangay level who were unfamiliar not only with the procedures and processes under the law but even with the substance of the law. Effective implementation cannot be achieved if those who have the duty to implement it are unfamiliar with the policy behind the law and the processes, procedures and programs that they need to perform for the CICLs.

To achieve this purpose, there are several options. One is to require the JJWC or the DILG to conduct the trainings or seminars, in line with its duties and functions under Section 9 (i).¹⁰¹ Another is to coordinate with NGOs or other governmental institutes in coming up with trainings and seminars, and have these entities conduct the trainings and seminars themselves. There are already some NGOs who perform these services in partnership with the LGUs.

It is also recommended that some sort of primer or guidebook be made available to the barangays, to serve as their guide in implementing RA 9344. This addresses not just the need to disseminate information and impart knowledge on processes and procedures, but also will help them recall what they learned in trainings and seminars. Furthermore, it will also address the issue of continuity. As the composition of the BPCPC may change after every election, there is a need for constant updating and orientation of the new members. Having a primer or guidebook will give the new BCPC members the information that they need to implement the law properly even in the absence of training seminars, or while they are waiting for such trainings and seminars to be made available.

In the trainings or seminars, it is also recommended that the trainers pay special attention to diversion and intervention programs. Respondents have expressed concern on two matters concerning the implementation of diversion and intervention programs, the first of which is guidance on what community service is acceptable to impose on CICLs, and the other is guidance on what intervention and diversion programs are suited for “recidivist” CICLs, or the repeat offenders.

It is also recommended that the trainings and seminars stress the importance of having a CJIP and diversion and intervention programs in place even if the locality has no CICL cases at present. These programs are not intended to merely respond to the existence of CICLs in the locality, but are also intended for the prevention of juvenile crimes. Thus, it is appropriate not only for places with CICL cases, but even for those which do not have such cases. It is important that the barangays, even those without CICL cases, be prepared to handle such cases, instead of being caught unaware and unprepared when a CICL case does happen to crop up.

The LSWDOs themselves also admitted that they lack training on the law. It is therefore recommended that DSWD, JJWC and/or DILG institute training programs and refresher courses for LSWDOs and other officials in the local social welfare office.

8. Diversion and Intervention Programs

There were two issues that were raised with respect to diversion and intervention programs. First, respondents said that they would like to secure guidelines on what are the acceptable modes of community service which can be imposed as diversion and intervention programs. There are cities and municipalities which include community service in their diversion and intervention programs, but are unable to

¹⁰¹ Section 9 (i) on the duties and functions of the JJWC: (i) To initiate and coordinate the conduct of trainings for the personnel of agencies involved in the administration of the juvenile justice and welfare system and the juvenile intervention program;

fully implement the programs as they have doubts on the extent of service they can require from the CICLs. There is a need to inform them of the limitations, if any, they are subject to with respect to requiring community service from the CICLs without becoming liable for exploitation of child labor.

Second, LGUs are seeking guidance on what programs may be imposed on the so-called “recidivists,” or those CICLs who commit crimes more than once. There are BCPC members and LSWDOs who see “recidivism” as a problem because they see it as a failure of the intervention or diversion program. They see no assurance that requiring the CICL to undergo the same program a second or third time would reform the CICL.

It is recommended that the JJWC and DSWD include in their research and studies as to what diversion and intervention programs may prove effective in reforming CICLs and prevent them from committing crimes again. The results of these should be disseminated to the LSWDOs and the BCPCs to guide them in their formulation of diversion and intervention programs. This will ensure a higher success rate, instead of requiring CICLs to undergo random programs which may in the end prove ineffective.

It is also recommended that the DSWD and/or the JJWC conduct or commission an in-depth research study with the CICLs themselves as the subjects, in order to understand more thoroughly the factors which compel them to become repeat offenders. Gaining this kind of knowledge will greatly assist the stakeholders in determining how to prevent juvenile crimes.

9. Crimes most committed

Based on the responses of both the LSWDO and BCPC respondents, crimes against property are the types of crimes most committed by CICLs in their localities. In fact, 14 (10%) of LSWDOs and 34 (24.82%) of BCPCs indicated that crimes against property are the only crimes committed in their localities. This may be taken as an indication that poverty is one of the main causes why CICLs commit crimes, as cited by respondents as possible cause of juvenile crimes. The other possible causes mentioned were: out-of-school youths, lack of parental supervision (whether due to neglect or because the parents are absent, i.e. OFWs), and the negative influence of violent computer games.

It is recommended that the JJWC and/or the DSWD, perhaps in consultation with the medical community, conduct a study to determine what intervention and diversion programs are more suited to and would address the needs of CICLs who commit property-related crimes. The results of this study will then be disseminated to the barangays and the LSWDOs. It would serve as a guide in handling this most prevalent type of crime, and also give officials an idea how to prevent children at risk from committing said crimes.

10. Parental Tolerance and Liability

One of the problems pointed out by both LSWDO and BCPC respondents is the lack of parental supervision, parental neglect, and even parental tolerance of the

crimes committed by their children. The lack of parental supervision may be a result of physical absence, or because they have given up trying to supervise their children because they can no longer “control” the actions of their children. These situations have led the respondents to suggest that parents be held liable for the acts of the CICLs. It is also noted that a number of the respondents have parent effectiveness sessions and family therapy as part of their diversion and intervention programs. It is recommended that the LGUs strengthen this aspect of their CJIP. This study also recommends that the DSWD and the JJWC to determine which LGUs utilize these programs and to recommend these programs to other LGUs which currently do not have these in their roster.

It is worth noting that the last paragraph of Section 6 of RA 9344 provides that the exemption from criminal liability does not include exemption from civil liability. While alternative modes of dispute resolution is highly encouraged by the law, it does not preclude the offended parties from demanding restitution, which should be highly encouraged to at least provide some deterrence to the CICLs, and their parents from neglecting to supervise them, from committing crimes.

10. Research on CICLs

In order to gain more information and data on CICLs, the effectivity of the intervention and diversion programs, the root causes why CICLs commit crimes, the reasons why there is CICL “recidivism”, and such other matters relative to RA 9344, it is also recommended that the JJWC perform its function under Rule 11d of the IRR on research and evaluation, specifically number 1, which mandates the JJWC to collect relevant information and conduct continuing research support evaluations and studies.

By getting these information, the JJWC will have data available for distribution to its member agencies to help them in formulating policies and programs designed to address a specific situation.

11. Lowering of the age of criminal responsibility

Twenty-seven LSWDOs (27 or 19.42%) and 40 BCPCs (29.2%) suggested lowering the age of criminal responsibility. As earlier noted, however, lowering the age of criminal responsibility is not a means to improve the implementation of the law.

This study recommends that an appropriate study be done involving child psychologists and/or experts, if the aim is to determine what the appropriate age is for which a child may be held criminally liable for the commission of a crime.

CONCLUSION

The study found that the provisions of RA 9344 are not yet being fully implemented by LGUs in Luzon. While 86.5% of the LGUs surveyed have organized LCPCs, only

30.95% have come up with a CJIP. However, whether or not the LGU has a CJIP, LGUs (40.48%) still allocated funds for the implementation of juvenile welfare programs. Only 26.98 conduct review and assessment of their CJIP; however, not all of them submit the written assessment of the CJIP to the JJWC as required by the law.

There are also not enough social workers to perform all the duties required to fully implement the law. While 96.03% LGUs appointed social workers for CICL cases, this study reveals that lack of personnel is a top problem (62.6%) in implementing RA 9344. The LSWDOs suggest to hire more staff focused on CICLs (22 or 15.83%).

There is also a lack of the infrastructure needed to effectively implement RA 9344. Only 11.5% of the LGUs studied have established Youth Detention Homes, and only 13 (93.5%) LGUs have a Youth Rehabilitation Center in their locality. Because of this, there are some LGUs which detain CICLs in jails, which is prohibited by law. Problems also arise because LSWDOs and barangay officials have difficulty determining where to temporarily place CICLs while their cases are undergoing evaluation.

Even the task of maintaining complete databases are not fully complied with by the LSWDOs and the barangays. There appears to be a need for a uniform and complete “form” which the LGUs may follow in keeping databases.

Another issue is that not all LCPCs are able to utilize the 1% IRA as mandated by the law for the implementation of RA 9344. Based on the study, only 35.7% are able to do this. There were LGUs that were not aware of this provision; whereas others who were aware and were able to get the allotment had to deal with insufficient funds.

Moreover, there appears to be a need to adequately inform and train the implementers in the LGUs about RA 9344 as well as their duties and responsibilities.

When asked what obstacles they encountered in properly implementing the law, the LSWDOs see lack of personnel and infrastructure as top contributors, whereas the officials at the barangay level said it was lack of training and information on the matter and insufficient funds.