



## Legal Problems Related to the Development of Juvenile Criminal Record Records

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### Abstracts

**Background and Aim:** Since the development of juvenile criminal records is a major problem in Thailand and abroad, the Convention on the Rights of the Child is an international agreement established by the United Nations and approved by the United Nations. Adopted by the United Nations General Assembly (United Nations General Assembly) to set guidelines as a minimum standard for countries. To provide appropriate protection and care for children of a certain age to develop the mechanisms in Thailand's juvenile criminal justice system to achieve their true objectives and within the concept of justice. The findings revealed that the law concerning the criminal record in Thailand, Royal Thai Police Regulation on Police Code not concerning the Criminal Case Title 32 Fingerprint, has caused four legal problems. First is the problem with the form of the law concerning the criminal record. Second is the problem of the element of the criminal record dividing. Third is the problem of the person who will have the right to make a petition for the criminal record division. And last is the problem with the starting time for the criminal record dividing process. The objectives are as follows: 1) To study concepts and theories related to the criminal justice system for children and youth. Rehabilitation, stamping, and criminal records 2) to study and analyze legal and social problems affecting children and youth caused by the criminal records of Thailand Including studying and analyzing the opportunity to work in the workplace. 3) to find recommendations for the development of legislation on criminal records in line with obligations under the Convention on the Rights of the Child. and in line with the spirit of the criminal justice system for children and youth.

**Materials and Methods:** there is a way of doing this by using the data collection model in the form of a documentary study (Documentary Research) by studying and collecting data in the form of documentary research. by studying information from laws, rules, regulations, and guidelines or manuals announced in force as well as studying and researching information and academic documents and documents related to the probation system.

**Results:** (1) to make them aware of concepts and theories about the criminal justice system for children and youth, rehabilitation, stigma, and criminal record; Including making known the similarities and differences, advantages and disadvantages of legal rules relating to criminal records in Thailand and abroad. (2) to know the legal and social problems that affect children and youth There is a cause linked to the criminal records of Thailand. Including making aware of the opportunity to work in the establishment of the person named in the criminal record. (3) Recommendations for the development of criminal record laws are in line with the obligations under the Convention on the Rights of the Child and in line with the spirit of the criminal justice system for children and young people.

**Conclusion:** it was found that the law that determines the criteria for the criminal records of Thailand, which are Regulations of the National Police Agency Regarding the Code of Police Regulations, Not Related to Cases, Title 32, Finger Print This caused 4 legal problems: problems with legal criteria relating to criminal records; Problems with the conditions of criminal record separation; problems with who is eligible for criminal record separation; and problems with the timing of the criminal record separation process.

**Keywords:** Development; Criminal Record; Child and Juvenile

### Introduction

The development of juvenile criminal records is an important issue in Thailand and abroad. The Convention on the Rights of the Child is an international agreement established by the United Nations and recognized. The United Nations General Assembly in 1989, it aims to set guidelines as minimum standards for countries. To provide appropriate protection and care for children of the specified age. At present, 196 countries are parties to the Convention on the Rights of the Child, which comprises four key principles : (1) the right to survival; (2) the right to protection; and (3) the right. to be developed; and (4) the right to participate. Juvenile delinquency is caused by many factors, such as intelligence and mentality. ignorance of family conditions, environment, imitative behavior careless parenting detention

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centers, and Protection of Juveniles has prepared statistical data on juvenile offenders. When juveniles enter the justice process, information about offenders is recorded, called the Offense history register which relevant agencies such as juvenile detention and protection centers Department of Probation collect information to send to the National Police Agency Criminal Records Division to classify criminal records. The purpose of social protection is to require the offender to be aware of what they have done and to be a tool for police and prosecutor organizations to facilitate the search for criminal records. to be used in making complaints and exercising discretion of the court in punishing. But there are exceptions under the Criminal Code on increasing the punishment of a person for committing an offense through negligence or a misdemeanor. In addition, the action of Previous offenses by juveniles will not be taken into account in increasing the punishment of those who have reached the age of majority. Being recorded in the juvenile delinquency register is therefore a state stamp on juveniles, creating obstacles to employment and depriving the rights of citizens on unfair grounds. Although children and young people receiving rehabilitation, which is the heart of the criminal justice process that aims to rehabilitate children and youth from detention centers or have passed the period specified by various conditions, Thailand should adopt the principles of The concept of criminal records sorting for children and youth who commit crimes. Criteria for disclosing information about offenders in Thailand and abroad To be a solution to the problem that arises by adapting it to suit Thai society and in line with the legal intent of juvenile punishment.

Thailand has become a party This results in obligations under international law. The Convention on the Rights of the Child is consistent with efforts to protect and protect the rights of children and young people in Thailand. whose rights in the criminal justice process for juvenile offenders are included under the Convention on the Rights of the Child Protecting the rights of children and young people in the criminal justice system where a child or young person commits an offense is another important issue where minimum standards are set. Under the concept contained in the preamble: Therefore, need special protection and care Including the need for appropriate legal protection before and after birth, which does not want to punish children who commit criminal offenses. but want to change bad behavior as well as protect the welfare and future of the child or young person at the same time, stating that “ States Parties recognize the rights of every child accused of Charged or deemed to have violated the criminal law. to be treated in a manner consistent with fostering a sense of the child's dignity and worth This will strengthen children's respect for the human rights and fundamental freedoms of others. and in such a way as to take into account the age of the child and the desire to promote reintegration. and the constructive role of children in society.

Under the concept of child rights and the unique juvenile justice system (Juvenile Justice), providing opportunities for and securing the future of juvenile offenders is an issue that should be carefully considered in practice, it is evident that Juvenile and Family Court is one of the organizations. Major state power users in the criminal justice system for juveniles Usually the operator is mostly unilateral. in criminal cases that are not serious offenses, Courts are often reluctant to convict juvenile offenders. But will choose to use the method to divert the case away from the mainstream justice process (Diversion) so that the offender has the opportunity to change their behavior. It also provides an opportunity for individuals who are immature, mature, inexperienced, and unrestrained by behavior modification measures that courts may use in juvenile criminal justice under the Juvenile and Family Courts and Procedures Act. Trial of Juvenile and Family Cases B.E. 2010 There are many measures together. Including the change of imprisonment or safety measures to the deportation of the child or youth to be detained for training under section 142 (1) as well (Teeraphan, P., 2019: 1-3)

The concept of punishing juvenile offenders. The law aims to protect the welfare and future of children and young people. To be educated, to be educated, and to help them become citizens rather than punishment. Both personal and social so that children and youth can live in society and communities normally like ordinary people. not shunned It undermines human dignity or deprives civil rights and complies with the Convention on the Rights of the Juvenile and the Convention on the Elimination of Discrimination Against Juveniles following the Minimum Standards of Beijing Rules.

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The United Nations Standard Minimum Rules for the Administration of Juvenile Justice, Rule 8, Confidentiality, emphasizes the importance of protecting rights at all stages of the juvenile process and providing protection after the return of juveniles to the society as well, which must protect the privacy rights of children and young people who commit crimes without disclosing information that would allow juvenile offenders to be identified to avoid the process of stigmatization.

The Juvenile and Family Court is an organization whose duty is to safeguard the welfare and future of misled children and young people. It has endeavored to meet international obligations and meet the objectives of juvenile criminal justice in the best interest of juvenile offenders (Best Interest). That when children and young people pass the training prescribed by the court and wish to become good members of society. The persistence of criminal records turned out to be a problem for one's existence in society as the example above was given from the social problems that arise. The researcher found interesting legal problems as follows: (1) the criminal history registration law. This is a law that affects the rights, liberties, and future of individuals. Not in the form of a law passed through the legislative process. (2) The use of measures to transfer imprisonment or security measures to the deportation of children or young people for training under Section 142 (1) of the Juvenile and Family Court and Juvenile and Family Procedure Act B.E. 2010 is not one of the conditions for criminal record extraction; (3) the failure to provide juveniles with the right to obtain their own criminal record extraction rights; and (4) Failure to specify the period for the commencement of criminal record separation to be clear and certain.

The above problems are not only harmful to children and young people who have previously committed crimes. But it also reflects that Thailand has failed to protect or secure the future of children or young people who have committed crimes following international obligations to which Thailand is a party. It also goes against the objectives of the criminal justice system for juveniles. Both legal and social problems. In addition, the researcher also focuses on proposing a solution to the aforementioned problems to develop mechanisms in the juvenile criminal justice system in Thailand to achieve their real objectives and remain within Thailand's obligations. (Saengphattham, K., 2015: 97)

## Objectives

This paper aims to (1) To study concepts and theories about the criminal justice system for children and youth, rehabilitation, criminal labeling, and records. Including to study and compare legal criteria regarding criminal history records in Thailand and abroad. (2) To study and analyze legal and social problems affecting children and youth caused by the criminal records of Thailand. Including studying and analyzing job opportunities in the workplace. (3) To find recommendations for the development of a criminal record law that is in line with the obligations under the Convention on the Rights of the Child and under the spirit of the criminal justice system for children and young people. (4) To study and analyze patterns of investigation and investigation both at home and abroad. (5) to analyze search patterns and make comparative investigations. (6) Propose guidelines for the development of investigations and observations.

## Scope of the article

This article provides key informants, by selecting in-depth interviews, to address those who were affected by the persistence of the criminal record of those who committed offenses when they were children or youths. The owner of the establishment has the authority to consider accepting a person to work in the establishment. and government officials exercising legal powers in the criminal justice process for children and young people. and this article has a content scope consisting of studying concepts and problems of community participation in caring for juvenile offenders. The study focuses on analyzing the concept of the criminal justice system in which children and youth are offenders as the main concept (Teeraphan, P., 2019: 6).





## Story/Analysis

Before studying and analyzing the criminal records of children and young people in the criminal justice system It is necessary to understand several relevant background knowledge. In this chapter, the researcher explains the basic principles involved. consisting of Criminal Justice Concepts and Theories for Children and Youth Thailand's juvenile criminal justice system, concepts of rehabilitation, stigma theory, and the concept of criminal records. which are described in order as follows:

1. Basic Concepts of the Criminal Justice System for Juveniles Offenses stipulated by law If there is no provision for exclusion of offenses and exemption from punishment The offender must be punished according to the law at that time. The law may prescribe the objectives of the criminal justice process as well as prescribe procedural rules that differ from those in ordinary criminal cases. Offenses are committed by persons who are inferior in age, maturity, and experience, such as children or youths. It is another example that reflects the differences between the general criminal justice system and the criminal justice system for juvenile offenders. (Teeraphan, P., 2017: 35 - 50)

2. Thailand's current criminal justice system for juveniles is governed by the Juvenile and Family Court and Juvenile and Family Procedure Act B.E. 2553, which was enacted on 16 November 2010. aiming to protect the rights and welfare of children and youth in various types of cases Avoid the process of stigmatizing juveniles during the judicial process. In addition, it is a law that has improved the treatment of children, youth, and family members, which is significantly different from the law that was enforced in the past by the content of the Juvenile and Family Court and Juvenile and Family Court Procedure Act B.E. 2010 will be consistent with the constitution. Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women to which Thailand is a party. Including the Criminal Code and the Child Protection Act B.E. 2545 (the reason for the promulgation of the Juvenile and Family Court Act and Juvenile and Family Procedure Act B.E. 2553).

3. Rehabilitation correction concept All types of offenders will be dealt with on the same principle, i.e., retaliation or intimidation. based on the punishment of the perpetrators In addition, the idea of separating the criminal justice system for children and youth began to spread throughout the world. Prosecuting juvenile offenders through retaliation or intimidation may not fulfill the objectives of the juvenile criminal justice system. Therefore, there are attempts to use other concepts against such perpetrators. The concept of rehabilitation is an important line that has developed and appears in the criminal justice system for children and youth in Thailand under a change in thinking. As a result, the objectives of the criminal justice system for children and youth are therefore different from the general criminal justice system. (Phaichit, S., 1984: 33 - 34)

4. Theory of stigma (Labeling Theory) or some textbooks use the word stigma theory is a theory that believes that deviants or offenders exist because society stigmatizes them. whereby the offender is not different from the non-offender. This theory suggests that Crime happens because society is stigmatized. Stigma occurs when the first offense is committed and the perpetrator becomes involved in the justice system, including other social entities. It is these institutions that determine that he behaves as a criminal. As such, the perpetrator accepted the stigma. and began to determine the direction of their behavior in the future in line with the perception of society In this sense, crime occurs because of interactions between individuals and society. (Choobumrung, A., 1984: 159)

5. The concept of criminal history records in criminal proceedings After the offense has occurred and there is a complaint, accusation, or knowledge of the police or the administration. The investigating officer must promptly investigate the commission of the offense. The investigating officer will gather all kinds of evidence as they can. to know the facts about the commission of an offense In practice, the investigating officer may issue summons to various persons. came to inquire about facts that may be related to the case. (Article 134 of the Criminal Procedure Code)

6. The concept of community justice (Community Justice) is a term that has received attention from legal scholars, especially in an era when the normal form of justice, which is primarily operated by the state, is experiencing great problems. The community fair promotes and gives opportunities for the community to participate in any action. related to crime This includes community-based crime

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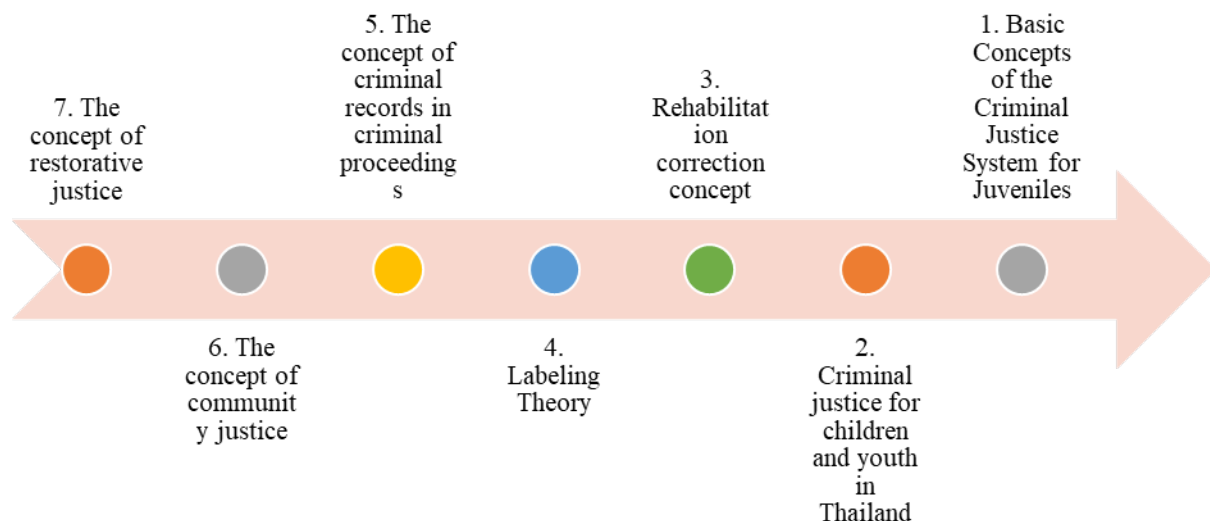
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prevention. and the use of restorative justice. which can be preliminarily concluded that Community justice is any action. which is done at the community level itself (Todd R. Clear, David R. Karp. 1999)

7. The concept of restorative justice The use of mainstream justice creates other problems. followed in the present both the problems of the efficiency of the administration of justice resource wastage problem The problem of managing the prisoners, therefore, The administration of justice by using the process as in the past may not be suitable for the current times and changing facts. For this reason, efforts have been made to develop a model for administering justice. (Teeraphan, P., 2019: 73-83)



**Figure 1:** The concept of criminal records

## Conclusion

A criminal record is one of the most important things in the criminal justice system. The criminal record is a database that collects stories about the prosecution of crimes or offenders by the state. And was used in the police investigation process. Prosecution of the prosecutor's case and court judgment make the entire criminal justice system run efficiently in different countries In the world, databases are being created and compiled that collect stories about the perpetrators of crimes or perpetrators in their state. with similar primary objectives Efforts to segregate and improve the criminal justice system for children and young people in Thailand seem even more nuanced as Thailand enters into its obligations under the Convention on the Rights of the Child. which sets minimum standards to protect children's rights in various areas This includes the rights of children in the criminal justice system to be in the best interests of the child, a key principle under the Convention on the Rights of the Child. In addition to various government or private organizations must take into account the best interests of the child Those organizations must also take into account the desire to promote the reintegration and constructive role of children in society. And if it can be done, special measures must be imposed which are not judicial procedures in court as well. which at present, under the concept of international law and domestic law The criminal justice system for children and youth in Thailand has adopted the process concept (Pankaew, P., 2020: 147-148).

## Recommendation

From the study and analysis of legal problems, The social problem of being listed on the criminal record includes analyzing the relationship between the information in the criminal record and considering the recruitment of people. The researcher proposes guidelines for improving or developing laws related to criminal records in Thailand as follows:



Problems with the legal basis of criminal records The researcher proposed a solution to the problem by requiring the criminal record law of Thailand. which are laws, procedures, and provisions that may affect the rights and liberties of the people involved considered and approved by the National Assembly, which may be promulgated in the form of an amendment to an article in the Criminal Procedure Code or promulgated in the form of any statutory law

Legal Issues Regarding Criminal Record Segregation Conditions The researcher proposed that such criteria be revised in consideration of the future and social reintegration of children and young offenders as the main concept of rehabilitation. but changed the imprisonment to be sent for training and training It is one of the conditions for separating the records from the list of records. The setting of this condition is consistent to provide opportunities for reintegration into society. (Teeraphan, P., 2019: 155)

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