

REGISTRAR'S CIRCULAR NO. 6 OF 1954

To: All Presidents, Sessions Courts.  
All Circuit Magistrates.

Young offenders

In a recent circular, No.(172) in RSC.146/50, on the subject of Probation, it was stated that the Chief Justice considered that it was most important that young offenders, (between the ages of 17 and 21) should be kept out of prison, if possible. A number of cases have been brought to notice recently, where such young offenders have been sent to prison, for short terms (without a Probation Officer's Report) and the Chief Justice desires the following points to be brought to the attention of Presidents and Magistrates:-

- (a) As stated in the previous circular, the Court should always, in the case of young offenders, consult the Probation Officer before imposing imprisonment, with a view to seeing whether a period of probation with a condition as to residence would be suitable. The Probation Officer can advise as to the best place for residence: vide para 3 of the Circular under reference. In really minor offences where imprisonment is not contemplated, this may not be necessary.
- (b) In cases where a term of imprisonment is thought necessary, it must be realized that to send such an offender to prison for a short period may do considerable harm, because it is impossible, in such a case, to send him to a prison where he will be isolated from 'old lags' and where he can receive useful training.
- (c) When a fine is imposed, with a sentence of imprisonment in lieu of payment, it should be realized that non-payment may have the effect of sending the offender to prison. Of course it is a fact that the limits of imprisonment in default laid down in the Criminal Procedure Code (Section 283 Cap 6 F.M.S., or Section 279 Cap 21 S.S.) may preclude a sentence adequate to achieve the above object. But if a heavy fine is imposed, para (b) should be kept in view.
- (d) A sentence of six months is the shortest which would enable the Prison authorities to effect the desirable isolation and training.
- (e) A Sessions Court, but not a Magistrate (and this includes a President when sitting in a Magistrate's Court), has power, under Section 40 of the Juvenile Courts Ordinance, to send a young offender over the age of 17 but under 21, to a Henry Gurney School.
- (f) My confidential circular of 18th March last, where it was indicated that the Chief Justice considered that offences against the Emergency Regulations concerning Food Control were serious matters, was drafted without particularly having young offenders in mind. Each such case must be considered on its merits, but where the offender is young, (a) & (b) supra should not be overlooked.

2. The Chief Justice considers that the following information as to Prison Organization and Procedure, which has been supplied by the Commissioner of Prisons, will be of interest and use to all Judicial officers:-

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- (1) A list of Penal Establishments in the Federation shewing the class of training and classification of each establishment is appended hereto.
  - (2) Muar Prison for young offenders is of particular interest in view of the subject of this circular. The training there is based on a modified form of the system in force at Telok Mas.
  - (3) It is clearly of little use to send a young prisoner to Muar unless his sentence is long enough to give a fair chance of achieving success. In consequence no youth sentenced to imprisonment for a period of under six months is sent to Muar.
  - (4) Under the new Prisons Rules every prison in the country has a Reception Board, which must interview each prisoner shortly after admission, decide his classification and the form his training should take. All prisoners are classified by the Prison Reception Board as follows:-
    - (i) Young prisoner class - under the age of 17 years.
    - (ii) Star Class - First offenders and well behaved prisoners who have no vicious tendencies or habits.
    - (iii) Ordinary Class - all others.Each class is segregated at labour, location in Halls and at recreations.
  - (5) Arrangements are in force whereby Prisons report to the Commissioner the case of every youth under 21, who is sentenced to imprisonment for a term of 6 months or more. A decision is then made on the basis of the Reception Board's recommendation as to whether the youth should be transferred to Muar or not. This system is followed irrespective of any recommendation from the Court.
  - (6) The Commissioner of Prisons considers it would be of assistance if Courts would, in cases where they think it advisable, make an entry on the warrant that a prisoner is considered "suitable for training in a young persons' prison". This would ensure that particular attention would be paid to the case by the Reception Board. It must however be realized that should the Board consider such a prisoner unsuitable for training at Muar, he would be transferred to a Regional prison in accordance with the Prison Rules.

(D.H. SHACKLES)  
REGISTRAR.

The Federal Registry, Supreme Court,  
Federation of Malaya.

Kuala Lumpur, 7th September 1954.  
(RSC.146/50-II: RSC.39/54: /BEN)

c.c. to All Judges.

*not to be typed*