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AN INVESTIGATION INTO THE EXPERIENTIAL WORLD OF CHILDREN AWAITING TRIAL AT DYAMBU YOUTH CENTRE

BY

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ABSTRACT

This study investigates the children’s experiences whilst awaiting trial at Dyambu Youth Centre. DYC is the largest Youth Development Centre in the country, which serves involuntary clients. A qualitative research method was used to investigate whether the children in the centre do experience change, or does change come about as a result of other factors?

Does staff succeed in transferring their skills and motivation to these children? Do the children feel they belong to DYC whilst awaiting trial? Seeing that a whole range of issues needed to be explored and investigated, interview schedules and focus groups were administered and the children’s views about DYC had to be investigated from themselves, their parents, staff, volunteers and probation officers at court, who were responsible for their admission at DYC.

The research findings indicated that DYC does make a difference in the lives of these children. Key challenges for DYC have been noted, and recommendations regarding future research were made.
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CHAPTER ONE

1. Introduction

1.1 Background To The Study

In the past three decades sweeping changes have occurred in South Africa in legislation and in the treatment of children who have come into conflict with the law. In the 1970's and 1980's, because of political upheavals, many children were detained in prison without trial. Many parents' committees, political activists and non-governmental organisations were deeply concerned about the detention of children without trial. As a result, when the new government came into power in 1994, it resolved to address the plight of imprisoned children. The Government of National Unity effected a revision to Section 29 of the Correctional Services Amendment Act No. 17 of 1994, legislating that (a) children under 14 awaiting trial, should not be kept in prison for longer than 24 hours, and (b) those between 14 and 18 years of age should not be kept in prison for longer than 48 hours. Children should be released to the care of their parents or guardians, or should be referred to places of safety. On 8th May 1995 the legislation was promulgated with immediate effect by President Nelson Mandela. At the time, 829 children were awaiting trial in South African prisons, and approximately the same number were in police cells.

However, no preparation was made to ensure that there were sufficient resources to deal with this change in law. Children arrived in large numbers at the doors of places of safety. Staff members, not trained to care for these children, were therefore unable to do so satisfactorily, and there were no programmes for awaiting-trial youngsters. As a result, some of the youth absconded shortly after referral by the magistrates. Also, the safety of other children who were already in places of safety was a matter for concern. Another major change was the entrustment of awaiting trial children to the Department of Social Services. The juveniles were to be kept in specially selected
places of safety and care (IMC, Nov. 1996). One of these was and still is, Dyambu Youth Centre, which will be discussed later on in the study.

The Department of Social Development’s aim was to establish secure care facilities and places of safety which were to be established and maintained according to national regulations, minimum standards and practice guidelines, based on international instruments and internationally accepted child and youth care practices. The standards were put up to emphasise the well-being of the juvenile and to develop conditions that will ensure for the juvenile a meaningful life in the community. “Max Planck Institute of Foreign International Law” These standards both nationally and internationally will be discussed later in the course of this study.

Standards provide guidance and direction for management, support staff and programmes to enable them to meet the pre-determined outcomes for young people. This is a move away from just providing alternative places of detention for children, but to ensure that a child’s developmental plan and programmes meets his care, educational and therapeutic needs. (Interim Policy Recommendations: 6.3.2.)

Secure care facilities are especially designed for the safety of both the child and the community. The decision about where a child should be placed need not be based on the offence alone, rather the assessment need look at the child, his circumstances and history. This calls for a juvenile justice system that looks at the best interest of the child. It is however not the situation in South Africa as, at present there is no specific body of legislation which governs the handling of juvenile offenders. Those dealing with young children in conflict with the law have to wade through a number of Acts to find the few sections which deal with juvenile offenders.

Juvenile justice for South Africa is the first step towards the legislative creation of the juvenile justice system in the form of a draft. The draft provides for sound structures and procedures for dealing with young people committing serious crimes. In July 2000 the South African Law Commission published a report on juvenile justice in the form of proposals called “The Child Justice Bill”.

These proposals aim to:
- emphasise accountability, encouraging the young person to acknowledge and take responsibility for his offending behaviour.
- Encourage restorative justice by bringing young people, their families and communities to the centre of decision making processes, and
- Protect the rights of the young person, with restitution to the victim being a particular feature and to provide alternatives at every stage of arrest (Legislative Proposals, 1993: 1,2)

For the above Bill to be successful, an interim national protocol for the management of awaiting trial children was put in place, to ensure amongst others the effective intersectoral management of children who are charged with offences and who may need to be placed in residential facilities to await trial. These procedures are established to facilitate the implementation of the proposed new legislation although it has not yet been passed by parliament. The problems facing South Africa today, however, are the conditions of children awaiting trial in especially prisons, inter alia overcrowding which affects their health. This situation was particularly exposed in 1995 when children were released from prisons to places of safety and to their respective homes. In July 2000 in the Cape High Court the condition of children awaiting trial at Pollsmoor Prison was successfully challenged and some of the children were removed to places of safety. (The Star July 23, 2000.)

As South Africa is battling with developing a system of youth justice, it is important to continually assess and evaluate the developments that are currently being implemented in places of safety and secure care facilities holistically, that is, the point of view of the child in detention should be regarded as also important.

1.2 The Purpose Of The Study

This study investigates how the awaiting trial children experience detention at DYC. Their ideas and experiences regarding food, healthcare, rooms, programmes, staff, volunteers, recreational facilities and anything else associated with the Centre that affects their lives there, was examined. The research endeavoured to discover how the resident children cope with their changed circumstances, especially with being away from home.
Some issues investigated were:

a) whether the children felt DYC was making a positive difference in their lives; that is, was change brought about by direct interventions by the staff, or by other factors such as compliance from the children? Did they do what was prescribed by the authorities because their status was that of involuntary clients; or because they were responding to the power exercised by the authorities running the Centre? Etzioni described compliance as a 'relation in which an actor behaves in accordance with a directive supported by another actor's power', and defined power as 'an actor's ability to induce or influence another actor to carry out his directives or any other norms he supports' Etzioni, in Taylor, (1996: 21).

In view of these statements, investigating the actual influences and drive behind the change as experienced by the children, was considered to be an imperative necessity.

b) Whether the children experienced a sense of belonging, (during discussion they referred to themselves, saying” “ons is gemang” meaning “we are the ones detained”. This statement “ons is gemang” appears to mean “you do not know how we feel, we are the ones arrested”. They appeared to experience a feeling of being different from the rest of the staff, which promoted the “us” and “them” syndrome;

c) whether the staff were able to transfer their skills and motivation to these children (The issue of the young people's level of motivation, especially during the first 6 months; whether it was conformity that made them appear to be interested in the programmes offered, was of interest.)

d) what the children thought about the volunteers and the services that they provided and whether it was in the children's best interest to take part in programmes offered by the volunteers, or whether their doing so merely served the interests of management at the institution, by making the work of the staff easier, deserved investigation;

e) whether the staff at the Centre were applying at least the minimum standard laid down for the South African child and youth care systems in 1996 as they were expected to do. It had established a set of ‘bottom line’ goals for the transformation of the child- and youth-care system.
The minimum standards were drawn up to establish the management actions to be implemented by service providers, programme practices, and outcomes to be achieved for young people. The expected role of management was clarified and the outcomes were based on the experiences of young people in the hands of the service providers. (Minimum Standard of Child and Youth Care Systems, 1966). DYC’s service providers were expected to apply the minimum standard in their daily interaction with the youngsters. Discovering whether the service providers in this setting were successfully complying with the set standards was important to the research.

1.3 The Scope Of The Study

Management at DYC initiated a comparative and exploratory research project conducted in 1996, with the intention of testing the feasibility of undertaking a more careful investigation of the basic conditions of life for juveniles awaiting trial. That study compared the quality of life at two institutions for awaiting trial juvenile offenders: the DYC in Krugersdorp, Gauteng, and the Enkuselweni Place of Safety at Port Elizabeth in the Eastern Cape. The former of these is a private sector initiative; the latter, a state-run institution. The present study deals with children’s experiences at DYC only.

An extensive research project was conducted by members of the Inter-Ministerial Committee on Young People at Risk, in 1996. ‘In Whose Best Interest’ is a report about places of safety, schools of industry and reformatory schools. This national investigation led to the closure or upgrading of some of the facilities, which were found not to be conducive to the healthy development of children.

Another study, ‘What the Children Said’, was conducted as a consultation with children on the Draft Child Justice Bill, 1999. The document records the experiences of children in relation to their contact with the legal system. In order to determine whether significant differences of opinion existed between those entering the system, those being tried, those sentenced and those serving time, youngsters were grouped according to stages in the criminal justice system. (Consultation with Children on the Draft Child Justice Bill, 1999). The publication took into consideration the children’s views and attitudes, and their opinions as to what should take place in matters affecting them.
The present study comprises six chapters. The purpose of the first is to state the background to the study, its purpose, scope and significance.

The second chapter discusses Youth Justice its development and transformation as well as review of literature on children’s experiences in selected countries. Chapter three discusses the transformation of the Youth Justice System in South Africa with special reference to the Child Justice Bill.

The fourth chapter discusses Dyambu Youth Centre, its historical background, mission statements, structure, operations and management.

Chapter five discusses the methodology to be employed in conducting this research and an analysis of the data.

In chapter six the findings of the research are presented, that is, the views of children concerning their detention are discussed.

Chapter seven is the concluding chapter. What has been achieved thus far, that is the results of the research are presented. Areas for future research study are suggested.

1.4 Significance Of The Study

This study is descriptive in nature. Its analytical aspect goes beyond description to find patterns and relationships among variables. It was undertaken in the hope that the outcome would contribute to the existing theories and principles pertaining to juvenile justice in South Africa, especially with regard to how youngsters experience detention. It is envisaged that those who work in institutional settings, especially in juvenile detention facilities, will use the findings of this study. Knowing how the children experience detention at DYC will, furthermore, hopefully contribute to the philosophy, vision and mission statements of the management of the Centre. (Fine, 1996: 5,6) states that ‘the aim of transformation is to provide young people with an opportunity to alter the way in which they perceive themselves and the world around them, to allow them to express themselves, and to accept themselves as well as others. The process of transformation is a co-operative partnership and we need the support of young people at risk in helping them transform the way in which they think about their past, present and their future’. (Fine, 1996: 5,6)
This can be achieved if people, including managers, understand how the children in detention feel about the programmes provided for them and about the organization itself. If they are enabled to experience the change, and are given the opportunity to see beyond the walls of DYC, by being supported in making the transition to ‘I matter; life matters; I do care’, only then as they experience themselves differently, can it be said that DYC has made a difference in the lives of the children.

The aim of this research has been to empower the personnel at DYC to understand the problems emanating from detention and support the children during the transitional stages. The information gathered from the study will be shared with management at other centres and with the Department of Social Services, as they are in a position to influence and develop policy, to the benefit of service providers ‘on the ground’.

It is envisaged that the research will also be useful to the Department of Correctional Services, as a large number of children are detained in the youth sections of the Department’s prisons throughout the country.
CHAPTER TWO

2. **Youth Justice – It’s Development And Transformation**

2.1 **Review of literature on children’s experiences of detention in selected countries**

2.1.1 **A report by the steering committee of the national programme of action for children in South Africa**

The National Programme of Action for Children in South Africa, Office of the Presidency, compiled a report on the state of the nation’s children in 2001. This report was conceived by the National Programme of Action (NPA)’s steering committee as a means of addressing the lack of a regular, reliable and comprehensive picture of the situation of all children in South Africa. Its relevance to the topic lies in its reference to children in care, including children in conflict with the law.

The report defines care as a sector-wide issue. According to it, the emerging concept of care, in relation to children refers to the set of practices and actions that affect development, including growth and survival. Good care protects the child from hazards and harm, but also produces an enabling environment for extending survival while promoting the growth, and the psychosocial and cognitive development of the child.

The report states that, “families, communities and government all have duties towards the care of children. Parents or extended family have the primary responsibility, but there is a state obligation to support family to enable them to fulfill these responsibilities and to ensure that families and communities act as a frontline in the care and protection of children. Furthermore, the concept of care also affirms that children are not compartmentalized: their needs are holistic.”
Another common practice throughout the world is to label or categorize children so as to facilitate the delivery of special services and interventions. This, according to the report, has the effect of further fragmenting the way children are serviced, leading to their institutional separation from their families and peers. A vast range of ‘other’ children is created in this way. Often these categories harness negative stereotypes; for example, homelessness, abuse, Aids orphans or children in conflict with the law. (Children in, 2001: 23)

Children at DYC fall within the ‘care’ category of children awaiting trial, and they need to be protected. They need to grow up in an enabling environment. The practices and actions of staff in DYC are expected to positively influence their development and this study examines how, according to the view of the children, staff at DYC impact their development.

2.1.2 “Locking up children” - Millham et al.

A study was conducted in England to explore secure accommodation for children awaiting trial. The research was an attempt to provide the urgently needed factual base for the argument over the rights and wrongs of locking up children. Locking up children may strike some people as an unduly harsh way to describe secure accommodation within a child ‘care’ system, but such a title rivets attention to the serious moral and practical issues involved. Locking-up is central to the ‘law and order’ issue, but there is little evidence about the effectiveness of this stance, according to Millham et al., so the argument between politicians, judiciary and social workers blunders on in ignorance. By contrast, the caring system is expected to adopt a treatment or nurturing perspective, which is hardly compatible with locking-up. (Millham et al., ix-1)

According to the authors, this form of provision raises uncomfortable issues about the relationship between ‘care’ and ‘punishment’ and about whether they can ever be reconciled. They point out that, since the implementation of the Young Person’s Act of 1969, public concern over what to do with the recalcitrant and offending young has increased. It is maintained that children are more difficult and the number of young persons charged with offences is rising.

Millham et al., ask the following questions:
“Who are the children considered to require secure accommodation?
Does their behaviour differ in a pronounced fashion from that of other children living in community homes?”
"We are referring to children considered to have committed grave offences, and held in secure care whilst awaiting trial. Just how are they to be cared for as growing children? Whom do we ask to do it, and what impossible responsibilities do they have to carry?" (Millham et al., 1978: ix-1)

The key issues in the studies mentioned above have a direct bearing on the outcomes; that is, on the experiences of the children themselves: how they experience care in a facility where they are being locked up; who has to look after them, and how the staff at DYC should reconcile care and punishment so that children can experience the 'good care' mentioned in the National Programme of Action for Children in South Africa Report.

Howard Becker in (Millham et al.) states that frequently we accept too readily the 'official' definitions used by those in power. According to him we accept labels such as 'criminal' or 'disruptive' without considering the respondent's definition of the problem. "We assume", says Becker, "that lower participants in our service have no right to be heard and accept a situation where the power holders in society define both the problem and its solution". (Millham et al., 1978: 6). His statement justifies this research about the children's experiences at DYC and why there is a need to listen, and understand how they feel. The children will also tell whether they are in 'good care' through this research.

2.1.3 A journey through the walls - Transforming Institutional Thinking - Nick Fine

In Fine's publication Through the Walls - Transforming Institutional Thinking, some of the problems facing programme designers working with youth in conflict, in crisis, in care and in custody, are examined. A thorough examination of this work yields answers to the questions put forth by Millham; for example: who are the children / how are they to be looked after / cared for and by whom. The book will enable people working in institutions to reconcile "care" and "locking up" of children. It sets to describe structures, ideas, techniques and principles that have been successfully used with young people who are in conflict, in crisis, in care or in custody. It does not provide the answers or solutions, nor does it dictate the way in which to work with youth at risk, instead, it is hoped that it will act as a stimulus and support for those who wish to create programmes to challenge and motivate the young people with whom they work. (Fine, 1996: 1)
“Risk”, according Fine, “is inherent in the nature of young people.” (Fine, 1996: 1) On their difficult journey from children to adulthood, they need to test limits, discover boundaries, explore the unknown and search for meaning and direction in their times. Many of these young people are in conflict with the law, their communities and families, and themselves.

Many have experienced living in an institution, without a sense of family. Many have needed protection. Many struggle with critical choices that could mean the difference between a future and no future. Many are now awaiting trial or serving custodial sentences. Most operate on a basic principle, which governs how they interact with the world around them. They have a way of thinking about themselves, about those around them and about the entire universe, which could be up summed as ‘nothing matters’. If nothing matters, what difference does it make whether they go to school or rob a store? They are saying, ‘I don’t matter, you don’t matter, they don’t matter, my life does not matter, your life does not matter, their lives don’t matter and nothing in my life matters, nothing in the world matters.’

Many of these young people live their lives inside their own internalized prisons, within the limits of custodial sentences that they have passed on themselves. Often, by institutionalizing them alongside other young people in the same condition, society is reinforcing a process that has already begun. If those working in institutional settings are to make a contribution in civil society and to the youth whom they serve, they need to support young people at risk by helping them transform the way in which they think about their past, their present and their future. It was in their past that they decided that ‘nothing matters; I don’t care’. This attitude limits and dictates how they are in the present; and how they are in the present determines how they will be in the future unless effective intervention occurs.

During the time the children spend in detention centres, they need to be given an opportunity to ‘blast some holes’ through the walls of their thinking, so that they can see beyond their perceived reality. Designing a programme that could make a difference with these young people is a huge challenge. The situation faced with these young people at risk is much too serious for despair: it is also much too serious for a ‘quick fix’, or an easy solution. (Fine, 1996: 4)

Fine introduced a leadership workshop at Bonnytoun - a remand centre for awaiting-trial youths in the Western Cape. Staff members reported substantial improvements in the
behaviour and motivation of participating youth. His work is relevant to this research in allaying fear, because “locking up children may strike some people as an unduly dramatic way of describing secure accommodation within the child and youth care system, but turning keys is the distinguishing feature of security.” Furthermore Millham et al., stated that a careful look at staff in secure units is rewarding both practically and theoretically. According to these authors it is interesting to note in secure units, the shifting relationships between staff and child worlds, and the ways in which the strengths of the latter seem to affect the institution as well. It is also surprising, considering the specialized nature of these places, to see the hierarchical distribution of power, the clearly defined roles of staff, the routine and above all, the perspectives that staff have of how their tasks contribute to the children’s experiential world. (Millham et al., 1978: 96)

2.1.4 Who Cares - Page Et Al

This study was conducted in England during April 1975 by the National Children’s Bureau - the ‘Who Cares’ programme at a national one-day June conference held in London for young people living in care. In the belief that in the re-evaluation of residential care, a crucial element ought to be the child or young person’s own perspective on his experience, the Bureau intended to provide a neutral but supporting platform from which the youngsters could speak freely about what mattered to them most. Of course, this is not the only important perspective of the service but it was one, which hitherto had not been given public expression. For that reason, the Bureau considered it vital that these views should be given a hearing although it could not confirm every view, which was expressed (National Children’s Bureau, 1975). This book describes what might be called one aspect of the ‘Who Cares’ experience. ‘Who Cares’, was fundamentally about the creation of a dialogue and better understanding between children growing up in care and adults directly involved in their lives. Children are born to be cared for, but no child is born into ‘care’. For ‘care’ in the sense in which we use it is a replacement life that society fashions for certain children when their own first environment fails beyond remedy. Children come into care voluntarily or compulsorily as a result of court decisions. (Page et al., 1977: 7,9).

The Bureau’s action was prompted by the recognition of the fact that since the end of World War Two it has been increasingly accepted that institutionalized forms of public care present serious obstacles to the satisfactory social, emotional and educational development of children. Not least of these is the isolation from the ordinary life of the community, as it is
experienced by the children and by those who look after them, or the stigma attached to the children in care. Very little work has been done to find out what the children themselves think about the life that society has provided for them. It was against this background that the conference was held. The programme was to be introduced to the young people by four adults who had grown up in care. In this book young children speak of their experiences in care and the care they present defies simple analysis. (Page et al., 1977: 11).

2.1.4.1 Children’s experiences

In the study of Page et al., the detained children expressed a longing for their parents: “But you still miss your parents about. My mum always used to say ‘Have you got a clean handkerchief? Have you got clean underwear on?’ before I went out, and I missed that when I first came into care. Because when I go out the staff just say ‘Okay’. “ (Page et al., 1977: 20).

Page et al., found that the young people tended to see the staff as adults paid to do a job and felt that they should show them that they care and help them to sort out their problems. They further found that children in care understand that their being in care brings tension to the staff as well as themselves and that not just any person is suitable to work with them. “The authorities should not let just anyone work in homes, if people who are a bit absent-minded get in, then it proves that they should be more careful and interview them properly. Staff working with children needs training. They need to know it is a job that has its own special tensions. (Page et al., 1977: 21). This underlines the need for adequate selection and interviewing procedures in the employment of residential care staff. It also draws attention to the need for adequate training of childcare workers.

The researchers noted that children were aware of role conflicts between residential care staff, particularly between residential social workers and residential care staff. This illustrates the need for clearly defined role definitions for staff. Confusion in the structure itself will have an effect on the children. “There are so many people discussing your future and disagreeing. You don’t know who to go to when there is something to discuss. I don’t know whether it is the social worker’s business, or the Superintendent’s business or whether it is the staff’s business. There are so many people. I am lost. Sometimes the staff are telling you one thing and knocking the social worker and the social worker is knocking the staff.
We are in the middle. Residential staff and social workers need to get together and cooperate more.” (Page et al., 1977: 24)

The young people expressed the opinion that there was a lack of security for their personal possessions as well as a lack of privacy and personal space (Page et al., 1977: 31). This illustrates a need to respect personal space and to provide facilities for the safekeeping of personal items.

The children also felt that staff had problems communicating appropriately with them and needed to allocate more time to listening to their issues. “Staff will talk to you all right but they give you the feeling they are not concerned with the things that you want them to be concerned with. It is impossible for them to speak our language. It is not because they do not want to, but because they can’t. They can’t think for us, speak for us, worry for us, so what can they do? What should they do? They should be able to communicate with us properly and more often, by thinking with us instead of for us, not listening with one ear blocked.”

A further view of a young respondent was: “I think the biggest problem and it’s one of the main ones, and starts off lots of little problems, is that the social workers and staff will not consult the children. If they could just sit down and talk it over with us, they could come to much better conclusions than just thinking for us and putting down a conclusion that we might not like. After all it’s our life and our future that is being decided.” (Page et al., 1977: 31) This is applicable to DYC where some probation officers who come to the Centre once, speak to the child and leave without telling the child what the recommendation would be at court. It points to a need for an open communication between social worker and client at all times and for the client to be informed as to what is happening in terms of his case.

Page et al., points out that detained children’s feelings and views are often disregarded: “It’s us too, you know. We shut the staff out. Children in care get all kinds of depressions and have many troubles that worry them. I think we worry a lot about the past and what is going to happen to us even though we are larking about. It’s no good patting us on the head and telling us not to worry and not get depressed because we do.” (Page et al., 1977: 32). (This echoes the ‘ons is gemang’ sentiment of the DYC children referred to earlier on)
Children also brought up the issue of unapproachability of staff and the use of violence by staff. "Why are so many kids scared to say things? It's fear, that's what it is. Staff that are putting this fear over children should not be in this job. They are not here to frighten kids out of their minds, they are there to help them." (Page et al., 1977: 35)

The lack of trust of staff by children is reflected as follows:
"When you are in care you have to be very careful. You never let them know what you really care about because if they find out they will use it against you. I thought it was all right for the staff to knock us about. It has happened so many places I've been in. Now I don’t think there should be any physical punishment put on kids. There are other ways besides shouting and hitting." (Page et al., 1977: 39)

The above highlights the importance of checks and balances within residential care as well as the need for adequate supervision of care staff. A lack of adequate control mechanisms resulting in institutional abuse in the South African context was identified by the Inter-ministerial Committee on Young People at Risk in their 1996 study of places of safety, reform schools and remand centres. This report led to the setting up of minimum standards, which today apply to and regulate places of care, including DYC.

The children stated that: "When care ends, it’s a blow. You cannot go into care and be taken up in an institution without it having some effect on you. I want to get out, but then I do not want to because I do not have anybody outside." (Page et al., 1977: 54)

If the children in the "Who Cares" workgroup felt like this, we need to know what the children at DYC feel like. A number of children without family return to DYC after their release expressing similar feelings, with DYC having responded by starting an aftercare programme.

2.1.5 **A Kind And Just Parent - Ayers, W.**
A study on the experiences of detained children in Chicago was conducted by William Ayers, a writer and an observer. He gave an insightful account of what young people have had to endure in the Cook County Juvenile Court System and the Audy Home School at Cook Country Juvenile Temporary Juvenile Centre in Chicago, Illinois. Today, as the juvenile
court approaches its centenary, William Ayers says it has become by all accounts an unfit parent, unable to sort out the problems that the children bring with them through the doors, and incapable of addressing the complicated needs of families. The gap between the crisis faced by families and youth in trouble and the capacity for the detention centres to address them is vast and growing. The law is a blunt instrument as a solution to most problems; it is severely limited and the intervention of the law often causes more harm than good. Ayers points out that Len Edwards, a dedicated family court judge in California called this phenomenon 'like going to the hospital and getting sicker'.

The National Programme of Action report holds the view that the state is obliged to support families so that they can fulfill their responsibilities and protect children accordingly. This research chronicles Ayers’ immersion in the detention centre’s school. He says: “I wanted to understand how one acts sensibly in this place, what one needs to know or understand in order to join in fully, what is important or significant for the actors (children) themselves. I was after their meanings, their voices, their intentions as they are held in temporary lock down. I was surprised to encounter so many dedicated, hardworking and good people toiling everyday to lift these children.” (Ayers, 1997) The present research intends to find out what the children at DYC think about it.

Ayers quotes the children at Audy Home as expressing their detention experience as follows: “It is not fun that you have to ask a stranger ‘Can you go to the bathroom, can you get some water, can you go to your room?’ Also when you first come in you go to a section of this building called intake. You stay there for about a week, with the same clothes you get picked up with! Then if you are lucky you get one shower through that whole week. Yes one shower! You have a TV room enough to hold about 28 people, and while you are in intake you have to sit there all day long. If you talk without permission, not the group but the whole section will have to suffer. Like you stand on the wall facing bricks for about five hours. If not, you get just enough food on your plate to fill you up for about half the night! When the week is over, you get put on a regular section. It starts to get a little more exciting, because not only do you get to the gym, you also are in a gang, you have to watch out for other gangs. This food they give you here is nasty because it makes bumps come out of your back and on your face. About the visits, they are only on Wednesdays, Saturdays and Sundays. No person can come and see you but your father and mother. Then we have the staff, you will bump into a staff who does not like you, then you will fight with him, and you will do about ten days in confinement. The only time you can come out is for shower for five minutes.
The parade of visitors cycling regularly through Audy Home and the school, sometimes up to three tour groups a day, it makes them feel like monkeys in a zoo. Like all the visitors that come here, they think we are all the same, killers, rapists etc.” (Ayers, 1997: 46, 88)

About their teacher the children are quoted as saying: “He makes you work hard, but then he also lets you play, that he listens carefully to you and that he want you to learn that he is firm but fair. Mr. B is the type of person who understands how you feel for being locked up. I mean, we are already locked up, why treat us wrong? Why disrespect us? Mr. B understands. I love my freedom. I hate being locked up. I wish I was out in the world. I hope for mercy. Afraid of being found guilty. Afraid of being long in prison. I dislike lights out and wake up time.”

One of the teachers’ remarks concludes Ayers’ observational study: “We talk about the excruciating uncertainty of teaching in any situation, the difficulty of knowing with any confidence when this or that activity or lesson or intervention made a difference - teaching is idiosyncratic and maddeningly invincible in nature, and how it is precisely this aspect of teaching that is painfully pronounced when teaching student inmates in a detention centre. What is a realistic goal and what should we as a society hope for? We can’t do everything”, says Mr. B, “so I do what I am capable of doing. I provide a safe place and a steady routine. I build a relationship with each kid. Then day in and day out the regularity, the consistency and the certainty of it gives the kid something to hold onto, to count on, to be comfortable with. Then usually good things can happen to them, and God knows not enough good things have happened in the lives of these kids. Mostly come from chaos, or pain or trouble, they are cast-offs who fell right through the cracks” (Ayers, 1997: 198)

The ‘Who Cares’ programme in London, and the ‘Children in Detention at Audy Home - Chicago’ studies mentioned above, depict two different care scenarios. ‘Who Cares’ is about children found to be in need of care, while the ‘Kind and Just Parent’ study is about the children in detention, awaiting trial or on transfer to prison. In these studies, the children expect the adults who care for them to listen to them and speak to them. They express their need to be loved and respected. When communities take ownership of the place, it is imperative that the children in detention be made aware of the important role played by the visitors, as it appears in Audy detention centres some juveniles felt like they were on display.
2.1.6 ‘In Whose Best Interest?’ - The Inter-Ministerial Committee On Young People At Risk

A South African investigation on places of safety, industrial schools and reformatory schools was conducted during 1996. It was noted that “In Whose Best Interest could not have been a successful exercise if children were not consulted.”

Children reported on the following issues:

- lack of respect for privacy and human dignity
- Serious intrusions into privacy and human dignity of children and youths were found in relation to sanitary facilities. Strip searches were conducted and privacy relating to phone calls and correspondence was lacking. Breeches in regard to the youngsters’ freedom and security related to widespread use of isolation cells and corporal punishment.
- Assaults and abuse

A number of children in all categories of residential facilities claim to be victims of emotional, physical and/or sexual abuse, as well as assaults by members of staff. Children are also often the victims of assault by other children because adequate programs and supervision are not provided.

2.1.7 Some conclusions drawn from the above review of selected literature

The children in the ‘Who Cares’ programme (mentioned above) have indicated that not everybody is fit to work in care. Those who do need to be trained because, as the children themselves have stated, the work entails a lot of tension. The children in the investigation, ‘In Whose Best Interest’, clearly denounced punishment and degrading conditions at facilities.

All of the above articles/reviews highlight the issue that planning is done more often than not for children and young people by adults and not sufficiently taking their views and opinions into account.

How children are to participate in decision-making depends upon individual capacity. Resistance to acknowledging that the child may have any capacity is often based on an adult
viewpoint: 'that children lack foresight, that given the capacity to make decisions, they will make disastrous ones'. The Child Justice Bill - Consultations with Children (1994: 4)

It is important at this stage to refer to Article 12 of the Convention on the Rights of the Child, as it provides a clearer picture as to how and when a child should be consulted. This article says 'state parties shall assure the child who is capable of forming his or her own views the right to express those views freely, in all matters affecting the child. The views of the child being given due weight in accordance of the age and maturity of the child. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly or through a representative or an appropriate body in a manner consistent with the procedural rules of national law'.

When the child should participate in decision-making is no less controversial. Apart from any judicial or administrative proceedings affecting the child as identified in Article 12 (2), a whole range of issues can be debated.

On one side there are those who would include the participation of children in all spheres of life, such as environmental and community planning. Others interpret Article 12 more restrictively, arguing that 'the provision deals, first of all, with the events occurring in the private lives of children, and is not meant to be used principally in public debate and it should not lead to a systematic consultation in all matters'. A case can certainly be made for including children in all matters that may play an important role in their daily lives or future position, such as those related to education, juvenile justice, adoption and recreation. There is another dimension to the CRC, and Article 12 in particular, that seeks to enhance the social, as well as legal, position of children within society. Article 12 can be regarded as restraining the margins of appreciation and choice for the state and society, in the process of decisions towards children within their jurisdiction. Both the community and the public authorities can no more act as if the child were a passive and silent being. Participation is in short essential for well being. (Ochaita, et al., 1997)

One might argue further that the endpoint of children's participation does not necessarily entail their involvement in decision-making, but rather in ensuring that children are heard. The CRC advocates a position which argues that children must now be seen and be heard, unlike the traditional view held by many adults that children must be seen and not be heard.
If the managers; that is, care-workers, social workers, educators and volunteers, as well as the Departments; Social Services and Justice and Correctional Services, do not know how the children experience being locked up or being in any form of care, they cannot be sure that the programmes proposed are any more correct or suitable than those in use.

The 'In Whose Best Interest' investigation went out to consult with the consumers of the service as well as to physically inspect the facilities. Staff and other service providers were also consulted. Failings within the existing system were identified and out of this investigation came sweeping reforms to the care of children within places of safety, places of detention as well as reform and industrial schools. These reforms were based on the real needs of the consumers of the service as opposed to the 'trial and error' approach used up to then.

Ayers [1998, xvi] stated that 'Most reforms simply add a programme or a requirement or a procedure to the maze and the tangle becomes just a twist or a turn, more "impossible"'. What he was referring to, was the trial and error approach applied by managers or policy makers, because they do not understand what is needed or what the situation requires; the managers not knowing what the children appreciate as they seem to be breaking down the walls, windows and structures of the detention facility. They form gangs within the facility because they feel they belong together apart from the rest of the staff. If managers and policy makers understand how the children experience themselves, they can then know what the children need in order to change. Children's law, according to (Ayers, 1998: xv, 11) was originally conceived in an effort to place the youth, not the offence, at centre stage; to see the child as three dimensional, moving forward, full of promise and possibility and worthy of a second chance. The best interest of the child was at a central stage when laws were made, but in their present implementation, the child has all but disappeared. According to Ayers, children's voices are no longer heard, and he stresses the need to understand the children's views and intentions, and their meanings, in a detention centre.

(Page et al., 1977) were motivated by the fact that very little work had been done to find out 'what the children themselves think of the life that society has provided for them'. Some adult participants in the "Who Cares" project had themselves grown up in care. The focus of Page et al., was on children in institutions. In the 'Who Cares' project, they defined care as "a condition, which is shaped by society and imposed on a child. It defines the ending of an
old way of life and the starting of a new. It faces the youngster with a ready-made environment in which he has to live. It is one that by definition is reserved for particular kinds of children and the fact that they are special is made public”.

They stated further, “the total picture of care is so complex that it has to be lived to be understood and it has to be understood to be lived”. The authors were arguing that what the children in institutions experience and adapt to; how the inmates experience being locked up, as a result, is something that only those who have gone through detention or institutionalization will understand. (Page et al., 1977: 29)

The authors of 'Who Cares' (Page et al., 1977) stated furthermore, that ‘childhood should be a time of dependency’. Their investigation had convinced them that, for all the children in care there had been a moment at which care started, and from that moment they had needed to grow old quickly. To a child who was at home yesterday, and is in DYC today, the crisis he is facing simply means that he has to adjust to his changed circumstances. That does mean that he has to grow up quickly.

The children in the project 'Who Cares' were quoted as stating that “staff should be able to communicate with us properly and more often, by thinking with us instead of for us, not listening with one ear blocked. I think the biggest problem, is that the social workers and staff will not consult the children. If they could sit down and talk it over with us, they could come to much better conclusions, than just thinking for us and putting down a conclusion that we might not like. After all it is our life and our future that's being decided. They also say that when adults become adults, they forget they used to be children, they should be able to learn from their own experiences.” (Page et al., 1977: 31,32)

The above readings give some insight of the experiences of youth within the child and youth care system in selected countries, with an emphasis on children in detention.

The experiences and views expounded above, justify this research. It is vitally important for the future of the children and for society, that all the children's views, attitudes and needs, whilst being locked up should be known and taken into consideration.

Various areas that have been identified as being of importance including relationships, staffing, staff competencies, skills and role definitions, the physical environment and standards of care, communication, self expression and personal development are included when obtaining feedback from children and staff at DYC.
Feedback from the consumers of the service is essential in gauging what they think about the service provided to them. In the case of DYC this would be helpful in the identification of areas that impact on the children’s lives that might need attention and for the effective application of corrective measures as well as enabling the institution to provide effective future programming.

2.2 International developments in youth justice

In considering youth justice, Milham et al., made the following statement: “Locking up young offenders has always been an emotive issue. For centuries the severity of the penal code meant that courts were very reluctant to convict the young, but the whimsical nature of judicial compassion and royal mercy did mean that severities occurred. As a result of harsh punishments being visited on juveniles, reformers frequently demanded change while as many conservatives countered these anarchical threats with demands for greater severity. This traditional conflict is with us today and can be seen as various groups, social workers, police, magistrates and other argue about the need for increased secure provision for young people.” (Millham et al., 1978: 11) This statement summarizes the historical situation prevalent in the treatment of juvenile offenders. In order to understand the nature of youth justice in South Africa it is important to look at work done in other countries in the worldwide development of juvenile justice. A few examples are used for the purpose of this study.

2.2.1 The Work Of Mary Carpenter - Reformatory And Industrial Schools In England

In 1756 the Marine Society started a school for the children of convicts and in 1788 a few philanthropic individuals formed a society ‘to educate and reform destitute depraved children’. This marked the beginning of the ‘Philanthropic Society’ that established a number of institutions funded by state or voluntary effort, or both. An example was Hackney, founded in 1848 and later removed to Redhill Farm at Reigate. The purpose in detaining these children was not clear. According to Young and Ashton (1956: 164), the youngsters were expected to respond to a ‘rough life’ and at the same time, to a ‘strong religious influence and the irresistible law of kindness’. By the middle of the 19th century, these institutions were in a chaotic state. Mary Carpenter published a plan of what she
thought the institutions should be. The four distinct ways in which she thought a youth in trouble with the law could be dealt with at that time were:

- **Prisons**: A large number of children found their way into prison. In 1844, for instance, 11,000 children and adolescents between 10 and 20 years old were in prisons, where youngsters mixed freely with hardened and depraved adults.

- **Reformatories**: These were schools in areas around towns like London, Warwickshire and Gloucester, for the accommodation and education of youngsters already convicted or at risk. Their purpose was rehabilitation. The aim was to move away from the lack of structure and classification of prisoners that characterized prisons.

- **Industrial schools**: They were established to teach children trades and to instill a habit of work in youngsters from classes seen to be lacking discipline and moral and industrial training. They were not meant primarily for convicted children. Magistrates did, however, send some delinquent children there, applying what they called a 'free pardon'. The modern South African equivalent of the 'free pardon' (to be discussed later) could be called the 'diversion option'. The Child Justice Bill contains a clause on diversion with a residential element. The difference is that the period of detention should not exceed 6 months, if this form of a diversion has to be considered.

- **Feeding schools**: These day schools were set up in local centres, and like industrial schools were intended for the non-convicted, but were also used by the justice department. A condition of release could be regular attendance at the centres. This is popular in South Africa at present in the juvenile justice system and is usually used as a diversion option.

Mary Carpenter published her book ‘Reformatory Schools for the Children of the Perishing and Dangerous Classes and for Juvenile Offenders’ in 1851. She founded many schools, and studied how other countries dealt with children with behavioural problems.

Examples were:

- The establishment by Philadelphia and New York State in 1825, of 'houses of refuge' for the reception of delinquent children or those at risk. From these houses children were apprenticed to 'understanding masters', who would care and teach them a trade. Misbehaviour during apprenticeship would result in return to the 'house' for a further period. Thus the 'release on license' idea, a form of parole, was developed in America.
In Europe experiments of various kinds, centered on the penal services - especially in matters concerning the treatment of children - were being conducted. Pestalozzi's work in Switzerland deserved close study, as did the farm schools of Belgium and other European countries, including Russia. It was the reformatory colony at Mettray in France, and the Rauhe-Haus in Hamburg, Germany, which according to Young & Ashton, (1956: 167) gave Mary Carpenter stimulus and hope.

The farm school in Mettray, founded in 1839, focused on religious instruction, moral education and the acquisition of trades; especially agriculture, and provided benevolent guardianship; that is, 'after care' was given as long as the children needed it.

In Germany the first reformatory school was started in Stuttgart in 1820 and the best known was 'Rauhe-Haus', founded in 1833 on the following principles:

- state subsidization and funding of voluntary effort;
- Subdivision into family groups. (The importance of the family, and individual attention were recognized);
- subject to due precautions, association of children of both sexes with each other in natural 'family' relationships, in open facilities (in contrast to DYC, which caters only for boys).

In 1851 Mary Carpenter held a conference in Birmingham to discuss the institutional care of young offenders. She advocated that treatment must be founded on the love of the child, to awaken in him trust, affection and a sense of security. She believed in small units representing families, where discipline and training could be given and individual needs met. She outlined the following principles:

- The child must be willing to co-operate and reform.
- Work was to be a means to an end; no child should be forced to work.
- Recreation was important and should be catered for.
- The use of corporal punishment should be reduced.
- Educational methods were to be implemented.

It is important to note that Mary Carpenter's principles were based on the best interests of the child. What she did is what organizations, governmental and non-governmental, are trying to embrace in institutions and communities today.
DYC likewise aims to serve the best interests of the children in its care holistically. This research attempts to discover the extent to which the Centre succeeds in doing so, as perceived by the children.

2.2.2 Further developments in England after Mary Carpenter

According to Midgley, in 'A Study of Juvenile Justice' reforms in many areas of childcare preceded the creation of the English juvenile court in 1908. The reformatory movement had succeeded in diverting children from the prisons. A period of gradual progress and reform culminated in the passing of the 1908 Act. The English juvenile court of 1908 was given jurisdiction over children below 14 years of age and young people aged between 14 and 16. The courts were empowered to dispose of cases through the use of probation, custodial or residential committals, conditional discharges and conventional criminal justice penalties. (Midgley, 1975: 28).

The Act required the attendance of parents in court, permitted remand into the care of suitable persons (recognizing the significant others or guardians who played a role in the children's lives), and allowed higher courts to commit children convicted of serious offences to reform schools, (note: reform schools; not as in South Africa, prisons). The Probation Offenders Act of 1907 permitted the appointment of probation officers and created the State Probation Service. It should be noted, however, that it was not until 1925, when the Criminal Justice Act was passed, that the Probation Service was comprehensively organized and brought into full-scale operation. (Midgley, 1975: 29) Successor to the 1908 Act was the Children and Young Persons Act of 1933. It maintained the strictly legalistic orientation of the court although it permitted magistrates to consider the social services element in sentencing, raised the minimum age of criminal responsibility from 7 to 8 years and it modified the definition of 'young person' from that of a youngster of 14 to 16 years, to one of 14 to 17 years. It also permitted parents to prosecute their children for being uncontrollable.

The court was firm and quite explicitly rooted in criminal justice procedure. It was quite clearly a court of law and its major business and activities were concerned primarily with the implementation of criminal prosecution. Because of the low age of criminal responsibility, young children were subjected to the full rigours of a formal trial and in the common absence of counsel, children were expected to examine witnesses, testify in their own defense in terms
of established procedures and present coherent cases. The court formally weighed the
evidence and passed judgement in terms of criminal procedures. The application of this
formality in cases involving children was defended on the grounds of:

- safeguarding the rights of the child,
- quickly arriving at the truth, (regardless of whether the children followed and
  understood the proceedings or whether their best interests were served), and
- inculcating in the child a respect for the law.

Watson, the proponent of the court in its legalistic form (Midgley, 1975: 30), stated that the
procedure of the court “which may be quite intelligible to an adult is often far beyond the
comprehension of a child”. He maintained that, far from facilitating the court's aims, the
formal legal procedures merely alarmed children. Watson's opinion was supported by The
Scottish Kilbrandon Report, which favoured a non-judicial approach in handling matters
concerning juvenile offenders. The report emphasized ‘the needs of the child rather than the
nature of the offence or any other criminal law principles’.

The Longford Committee and the White Paper proposals shared these sentiments. According
to Midgley (1975) magistrates and probation officers were critical of the proposals and were
generally supported by those who expected the proposed reforms to result in the escalation of
juvenile crime. Their main point centered on fear that the abolition of procedural formalism
would lead to abuse when considerable powers were handed to the administrative
professional bodies without sufficient consideration of procedural safeguards.

Only in 1969, did the Children and Young Persons Act, to be implemented in stages, give
legislative sanction to the White Paper's main proposal. The Act’s major contributions were
that:

- children under 10 were not to be subjected to criminal prosecution;
- children of an unspecified age over 10 years could, in addition, not be prosecuted, but
  an offence committed could be used as grounds for care or control proceedings;
- as many children as possible should be diverted by the courts to administrative and
  professional agencies;
- children would be brought to court when referred by these agencies only when the
  agencies were satisfied that they could not proceed without judicial intervention;
- individual social workers would be empowered to take far-reaching decisions;
- police would be given greater powers to deal with suspected juvenile offenders
  administratively; for example, to set up their own judicial tribunals. Under this
clause, the police were empowered to caution a child if the allegations against the youngster were not disputed.

Midgley felt that: "The attempt to evade the fundamental conflict between a legalistic and a social services approach through modifying the age of criminal responsibility and diverting children from the juvenile court is a half-hearted solution. The answer lies not in peripheral modifications but in the subject of the controversy itself - the juvenile court". (Midgley, 1975: 36)

South Africa is today battling with the issues discussed above and they will be discussed further in the proposals of the Child Justice Bill, which is the first piece of legislation specifically addressing the administration of juvenile justice in South Africa.

2.2.3 Jane Addams: An American experience in juvenile justice

Jane Addams and the women of Hull House established the world's first children's court in Chicago, on 1 July 1899. They aimed at creating a special, separate place for children in crisis, away from adults' courts and the horrors of adult goals and poorhouses, especially because between 1897 and 1899, 1705 children had been incarcerated in Cook County Jail. As a result, from 1900 to 1902, only 60 children were goaled in Cook County, Chicago. The rest were diverted to probation and other services by the new Juvenile Court. The founders strove to develop a safe haven, a space in which to protect, rehabilitate and heal children; a site of nurturance, guidance and compassion. Their vision was that of a juvenile court functioning in the best interest of the children and youth, acting in any circumstance, they said, exactly as 'a kind and just parent' would act. (Ayers, 1997: 24)

According to Ayers, the movement for a juvenile court brought together the reformers of Hull House Society, powerful attorneys of the Chicago Bar Association, and the 'child saving' societies of the Protestant and Catholic churches. It was in some ways an odd alliance. The 'child saving' societies strove to take children from 'unfit' or destitute homes, and to place them in foster homes (preferably on farms) or institutions where they could be raised up to be 'moral', 'fully participating' members of society. Large numbers of children, particularly immigrant children from Catholic countries like Italy and Ireland, found themselves swept off
the streets and ensnared in the legal system, either as delinquents or as paupers, forced from their families and shipped away 'for their own good'. (Ayers, 1997: 25,26)

What Jane Addams had in mind was more temperate, more family-centered: a large multifaceted settlement house, a living community of solidarity and support with a tiny children's court settled down in a corner. Children and families in crisis would find themselves encircled by compassion and concern. The stance would be identical to that taken by the settlement house movement; friend, ally and partner, rather than benevolent-philanthropist (Ayers, 1997: 26). She argued that the settlement house “must be grounded in a philosophy whose foundation is on the solidarity of the human race, a philosophy which will not waver when the race happens to be represented by a drunken woman or (a retarded) boy”. (Ayers, 1997: 26)

What started in Chicago met the hopes and expectations of the country, and by 1925 special courts and legal proceedings for children existed in all but two states. These reforms had been built on the concept of child protection and restoration: judges were expected to act flexibly and informally, and to make their decisions in the best interests of the children. Proceedings were not to be legalistic and punitive, but personal and creative.

Until mid-century the juvenile court was lawyer-free. Jane Addams thought that lawyers would merely contribute contention and a dangerous narrowing of focus, but then the lack of constitutional protection for the children brought with it other abuses, such as the sending of a large number of youngsters to reform schools for years, without allowing them a proper chance to object or even defend themselves. For example, in 1967, the US Supreme Court heard the case of Gerald Gault who had made an obscene phone-call and was sentenced to 6 years in prison (an adult convicted for the same offence, who had legal representation could have been sentenced to 30 days).

Gault had no legal representation, and his parents were not notified of his arrest timeously. The prosecutor in his case was also the assigned probation officer. The review court subsequently reversed Gault's conviction and established the requirement for children in the system to have full legal rights, including:

- the right to be notified of charges,
- the right to confront one's accusers and
the right to protection against self-incrimination.

Children thus became entitled to due process rights under the law, although there are still important differences between adults and children in court. Children do not have the right to bail or to trial by jury. The best interest standard guides most proceedings in juvenile court; for example, petitions in court are entitled: 'in the best interest of John Doe', whereas in adult criminal proceedings, the familiar 'people versus John Doe' format is used. The Gault case changed practice only marginally. In many American districts children still get little or no legal representation. The situation is similar in present-day South Africa, where legal services are available in some urban areas, but unavailable in most rural areas, and where reception, assessment and referral centres have been established in a few areas only, and probation officers are often unavailable in rural areas. The lack of these essential resources for children results in their being sent unnecessarily to prisons or reformatory schools. In 1994 the Nancy B Jefferson School, known as the Audy Home, was founded in Chicago. It is a temporary detention centre for juvenile offenders that, in April 1995, held 746 youths, making it the world's largest juvenile jail. It is licensed for only 498 children. Nevertheless, over 1000 youngsters a month, to close to 13000 a year, are sent through Audy Home.

As previously in Chicago, so too in South Africa, there is no specific body of legislation governing the handling of juvenile offenders. The Child Justice Bill, to be discussed later, however, attempts to move the South African judicial system to being child-sensitive and to act in the best interests of children at all levels and stages of the proceedings.

2.3 Youth justice and its transformation in South Africa

According to Midgley, before the emergence of the 19th century reformist movement, children and adults convicted of criminal offences were not dealt with differently. Like adults, youngsters were brutally and cruelly punished in European countries and territories that, like South Africa, had been explored and colonised by European settlers. During the period of Dutch colonial rule at the Cape, criminal matters were dealt with by a special judicial authority known as the Council of Justice. The line between criminality and deviance was vaguely defined; for example, a child reported for refusing to attend church or for swearing, was referred to the Council, who would decide on a suitable sentence. (Midgley, 1975: 51)
In 1879 local philanthropists, impressed by the progress of the child-saving movement in England, persuaded the colonial government to pass the Reformatory Institutions Act, in terms of which a juvenile reformatory named after the Attorney General of the Cape Colony, William Porter, was established in Cape Town: the Porter Reformatory. After Union in 1910, a reformatory was established in Heidelberg for young people convicted of offences, and an industrial school for children in need of care was set up in Standerton. The Union Government in 1910 concentrated in co-ordinating and synchronising, under central authority, the services which had previously existed in the four colonies, under the Prisons and Reformatories Act of 1911. This Act was the Union's first legislation dealing on a comprehensive basis with penal matters. (Midgley, 1975: 54). It also dealt with issues such as the treatment of juvenile offenders and the creation of special institutions for alcoholics. Two chapters were specifically devoted to children and young people. Chapter 7 dealt with young offenders and Chapter 8, with children who had not broken the law but whose circumstances were such that social services and judicial intervention would serve their interests.

The separation of judicial procedures applicable to young people who have committed crimes and those applicable to children deemed to be in need of care, protection or control, is now well established in South African Child Social Services policy. The Act stipulated that

- all cases should be dealt with by magistrates courts;
- the hearings to be held in camera, in places other than court rooms;
- parents would be permitted, but not compelled, to attend;
- and residential care facilities would be extensively relied upon.

Reformatories were described as 'suitable solutions' to the needs of young offenders, while licensed children's homes and industrial schools were seen as 'profitable remedies' for the problems of children in need of care. The institutions were, in most respects, miniature prisons. Discipline was harsh and life was formal and regimented. Today the move is towards the unblocking of residential care facilities in terms of Project Go, to be dealt with later on. An attempt is being made to allow fewer children to enter the system, while the focus is on early prevention and diversion.

The 1911 Act defined the upper limit of childhood as 16 years, but allowed for committal in a reformatory or industrial school to extend to the 18th year. Furthermore, juvenile adults were
defined as young people between the ages of 16 and 21 years, and the Act allowed for their committal to special ‘adult juvenile’ reformatories instead of to prisons. No such reformatories were created and the young offenders of this age were treated as adults by the court and sent to prison. A positive component of this Act was the decision to licence, inspect and supervise all children's institutions. Licences could be revoked if on inspection, conditions were found to be unsatisfactory.

In 1913 the Children's Protection Act was passed. Its emphasis was explicitly directed towards social services for children, and it introduced a few innovations concerning:

- the nature of the court hearing,
- grounds on which children could be committed to industrial schools,
- the definition of childhood,
- the accommodation of children in conflict with the law.

Rules and regulations pertaining to industrial schools were unchanged from the earlier legislation.

Before this Act was passed, while young offenders were more frequently being committed to reformatories, those on remand were usually detained in police cells or in the remand sections of adult prisons, pending conclusion of investigations. The new legislation specified clearly that children should not be kept in police cells or prisons while awaiting trial unless no alternative accommodation could be found. The Act specifically encouraged the release of children awaiting trial to the care of a guardian.

Places of safety were to be created by government for the reception of children who could not be released into the custody of their parents while awaiting trial. However, not many special places of safety or detention were created to facilitate effective administration of juvenile justice by the system.

The Criminal Procedure and Evidence Act of 1917 focussed exclusively on the young offender, and its new policy concentrated on the separation of the young offender from the child in need of care. The procedures applicable to adult offenders in the determination of guilt or innocence were to apply to young offenders. However, children under 7 years of age could not be regarded as having *mens rea* and those between 7 and 14 years old were also deemed to lack *mens rea* unless the contrary could be proved. The courts were to apply a
variety of penalties and be lenient with first offenders. Only in matters of punishment were children to be given special treatment.

Reprimands, release on recognisance and postponed sentences were recommended. Conventional sentences of whipping and committal to reform schools could be imposed. (According to Midgley, the latter 2 sentences became far more popular than the former). (Midgley, 1975: 59)

Of great significance in this Act was the legislation allowing for the appointment of probation officers who could be entrusted with the care or supervision of offenders whose sentences of imprisonment had been suspended. Under this Act, probation officers were drawn from the South African Prisoners' Aid Association (now NICRO) to assist with prisoners' aftercare, prevent recidivism and help with adjustment problems. It should be noted that imprisonment may lead to isolation: the released offender needs to make adjustments and his family has to adjust to him/her as well.

In 1920, the Prisons and Reformatories Act was amended to permit the licensing of voluntary hostels for the reception of children convicted of criminal offences. The aim of this legislation was to encourage the reception of young offenders with particular needs into custodial settings other than reformatories. In 1917 the Union Department of Education assumed responsibility, previously exercised by the prison administration, for administering existing child social services legislation. In 1934, the Department of Education assumed responsibility for the administration of reformatories and certified hostels. In the following year, 12 probation officers in the service of the Department of Prisons were transferred to the Department of Education.

When parliament decided to transfer all reformatories from the Department of Prisons to the Union Department of Education, its goal of replacing the penal objective of a reformatory was met. The fact that the word 'reformatory' was used at all was an acknowledgement that the institution had an educational as well as a custodial function. These schools are maintained for the reception, care and training of children. [IMC investigation, 1996: 27.] One of these reformatories was Diepkloof Reformatory in Soweto. A discussion of Diepkloof Reformatory is appropriate at this point because it explains the function of the reformatory.
2.3.1 Early reformatories in South Africa with special reference to the Diepkloof reformatory

The reformatory was used by magistrates and judges for black boys who would have been sent to orphanages, farm schools or industrial schools (had such places been available), but in South Africa the number of alternative institutions for black boys was extremely limited. (Paton : 1988)

Diepkloof catered for boys between 9 and 21 years of age from everywhere in South Africa, who were first-, second- and third-time offenders. They were mainly blacks and few boys of mixed race, from Kimberley. The whole purpose in transferring reformatories in South Africa from the Department of Prisons to the Department of Education was to change their goal from one of detention to one of education. However, the black children had to work on the lands of the farmers who were situated near Diepkloof Reformatory and in this case, the objective was not met.

Diepkloof inherited a system of punishment in which the infliction of cuts played a major role, largely because there were so few privileges that could be removed. (Paton : 1988)

In 1948, Dr Hendrik Verwoerd, became Minister of Native Affairs. He transferred the responsibility for 'African' boys to his ministry and closed down Diepkloof. Dr Verwoerd transferred children according to ethnic grouping, to all parts of South Africa and continued the practice of using their work on farms. (Paton : 1988) The researcher noted that the reformatory schools for the black children were concentrated in homelands, some examples were: Vuma in Eshowe, Natal; Eureka in Thaba-Nchu and Iziko Lolutsha in the Eastern Cape. Some reformatories, serving the Coloured community, were concentrated in the Western Cape.

According to the 'In Whose Best Interest?' investigation led by the IMC team, there are currently 9 reform schools in South Africa, six of which are situated in the Western Cape, one in Mpumalanga and two in KwaZulu - Natal. The reform schools in KwaZulu - Natal fall under the provincial Department of Social Services, having previously been under the KwaZulu Government. The other 7 are the responsibility of education departments of
provinces in which they are situated. The investigation by the IMC team led to the closure of some reformatories regarded as unfit to cater for the needs of children, especially with regard to the following;

a) **Health and human dignity: sanitary facilities** - There was no privacy and no doors existed in bathrooms or showers. Some children had to sleep next to the open toilet bowls. At some reform schools children, as they were locked in at night, had to use bedpans.

b) **Freedom and security of person** - Isolation cells were a common feature in all reform schools, industrial schools and places of safety, according to the IMC report. The isolation cell concept was inherited from the prison system. The primary motivation for its use was punishment. The duration of isolation varied from one institution to the other, depending on how the facility viewed the action or behaviour that called for punishment. Until 1995 corporal punishment was regularly carried out on boys (and in KwaZulu-Natal, also on girls) - according to the IMC document entitled ‘In Whose Best Interest?’. The Department of Education issued a circular which called for the cessation of corporal punishment in 1995.

c) **Education** - The investigation teams found that there were unequal educational standards in reform schools. Most schools traditionally catering for white, coloured and Indian children were found to be maintaining reasonably good standards. The teams found that schools which were formally created for black children (for example, Umzingisi, Ethokomala, Vuma) had lower educational standards. [IMC report, 1996 : 32] This was in line with the apartheid policies of 1948 which emphasised separate development in the form of Bantustans. It is not surprising that facilities established for black children were of inferior standards in all such aspects as health, education and programme plans.

### 2.3.2 Childcare Legislation And Its Relevance To The Administration Of Juvenile Justice In South Africa

#### 2.3.2.1 The Children's Acts Of 1937 and 1960

According to Midgley, South Africa's other social service legislation was being administered by several state departments and there was widespread support for the creation of a separate ministry of social services because the conditions of the economically disadvantaged sections of the white community had been revealed to the public. The Carnegie Commission and the Dutch Reformed Church's ‘Volkskongres’ added weight to the recommendation and called
for re-organisation of state social services under a single government ministry. (Midgley, 1975: 60)

The growing pressures on the government to address the poor-white question persuaded it in 1935 to create within the Department of Labour a division dealing exclusively with social service matters. An autonomous ministry, the Department of Social Services, was established in October 1937. The Department of Social Services immediately assumed the responsibility for the administration of children’s social services legislation. The committee that was set up made recommendations which were set out in three bills:

(i) the Maintenance of Relatives Bill which addressed the maintenance of deserted wives, dependent children and unsupported relatives. The committee was of the opinion that cases of dependency could be solved if those responsible for the maintenance of a child, wife or near relative could be compelled by law to fulfil their obligations.

(ii) the Children's Protection Bill, which dealt with neglected, incorrigible or abused children, such children could be dealt with and protected in terms of specific legislation as prescribed by the Children's Protection Bill; and

(iii) the Young Offenders' Bill dealt with young delinquents which was never passed.

The young offender in South Africa is today dealt with in terms of criminal law regardless of the sections of the social legislation dealing with juvenile delinquents and court procedure. These sections of the social services legislation “have been merely reproduced and cross-referenced with the relevant sections of the criminal law” (Midgley, 1975: 62)

The Children's Act came into force in May 1937 and most of the responsibility for administering it was given to the newly created Department of Social Services. The Education Department retained responsibility for the administration of the industrial and reformatory schools because they were educational institutions.

This Act changed the definition of childhood and resulted in the creation of a social services court known as the Children's Court, which had powers to investigate cases of child neglect, dependency, abuse and incorrigibility, and to take remedial action. Other developments were the amendments which permitted magistrates of the opinion that a particular child charged with criminal offences ‘is a child in need of care’ within the definition of section 1 of the...
Children's Act of 1937, to refer the individual to the children's court. Cases are still converted from criminal courts to children's courts.

According to Midgley, the policy that children needing social services assistance were to be dealt with quite separately from juvenile delinquents, was now clear. Since the passing of the 1937 Children's Act, no fundamental changes in the laws or procedures governing the detention, trial or treatment of young offenders in South Africa, have been introduced. The procedures applicable to young offenders after 1937 are, more or less, the procedures applicable today.

However, the subsequent 1960 Children's Act introduced some changes. A defining limit of childhood, the maximum age of jurisdiction, was lowered from 19, to 18 years. The maximum age of infancy was reduced from 10, to 7 years. The 1960 Act extended the principle of deprivation of parental powers to the father, to include deprivation of either the father's or the mother's parental powers. By creating Bantu Children's Courts in any area for which a Bantu Commissioner's Court had been established, the Act also created new institutional structures to deal with children in need of care. Observation centres, where children brought before the children's court could be observed and examined, were established. These centres were essentially diagnostic and remedial, and included the clinic schools. The Act also promoted the establishment of attendance centres to deal mainly with uncontrollable children more than 14 years old and found to be in need of care. Children found to be in need of care were placed under probation and could be supervised briefly by probation officers.

According to Midgley, “This was a terminologically rather confusing development, for 'probation' was being used to denote the treatment of children found to be in need of care while the corresponding term employed in the juvenile court was 'supervision' ”. (Midgley, 1975: 69) The Criminal Procedure Act permits a juvenile court magistrate to place a child found guilty of an offence 'under the supervision of a probation officer', but it does not permit the use of probation. The essential difference between the two forms of social work intervention concern the intensity of the relationship between probation officer and the child and the period of supervision. In probation under the Child Care Act, the period is usually of short duration and the relationship close and specific. The child may be required to conform
to a set of conditions defined in the probation order. At the end of the period the probation officer reports back to the children's court on the child's progress.

Probationary supervision in terms of the Criminal Procedure Act is on the other hand, a long-term loosely structured form of intervention. The probation officer does not report back to the juvenile court on the child's progress nor are any specific conditions written into the supervision order. According to Midgley, “the term probation gives the erroneous impression that the child has been placed on probation by a children's court because it has committed an offence, whereas these measures were introduced to empower the children's courts to deal more effectively with the child whose parents are unable to control him, or discipline him. It also seems desirable that the powers given to the children's court to impose probation with conditions and intensive social work supervision, should be available to the juvenile court as well.’ (Midgley, 1975: 69,70)

2.3.2.2 The Child Care Act, No. 74 of 1983

It is important to remember that the principal Act was promulgated to deal differently with different race groups; hence the Child Care Amendment Act of 1966, which asserts that ‘all children and all clauses shall relate to all children irrespective of their colour’. The Bantu Commissioner's Courts were to be replaced by the clause: ‘Every Magistrate's Court shall be a children's court for the area of its jurisdiction’.

The Criminal Procedure Act No 51 of 1977 was, and still is, the principal Act which has sections on ways in which a juvenile offender can be dealt with (sections 254, 290, 291, 276 and others), and if in the probation officer's opinion there is a need for conversion of the child's case to the children's court, that would be done in terms of Section 254 of the Criminal Procedure Act and the child would be dealt with in terms of the Child Care Act of 1983.

2.3.3 Other Developments Which Impacted on the Transformation Process of The Youth Justice System in South Africa

In 1987 an international conference on children's rights held in Zimbabwe gave rise to what would become a strong children's rights movement in South Africa. The National Children's
Rights Committee (NCRC), a non-governmental organization, was established in 1991 and many groups working on children's issues affiliated themselves to it. Although South Africa had not yet ratified the United Nations' Convention on the Rights of the Child, the NCRC spearheaded the writing of a National Plan of Action for Children (Anne Skelton, Juvenile Justice Reform, 1999: 89)

Skelton informs us that first intensive calls for reforms in the administration of juvenile justice came about in the early 1990's, and emanated from a group of non-governmental organizations; for example, the Community Law Centre (Western Cape), Nicro and Lawyers for Human Rights. Members of these organizations went into courts, police cells and prisons to provide assistance to juveniles awaiting trial. The stories of the children they met were highlighted by the media in a carefully orchestrated campaign. The public began to listen, and radio talk shows elicited sympathetic responses. (Skelton, 1999: 90)

Imprisonment and whipping, however, continued to be standard sentences handed down by the courts. In 1992 alone, some 36,000 young offenders were sentenced to whipping. (Legislative Proposals, 1993: 2) In August 1992 the television programme, Agenda, highlighted the plight of young people awaiting trial in detention. Then in October 1992, 13 year-old Neville Snyman was beaten to death by his adult cell mates in a Robertson police cell. His death forced the realization that effective and humane methods of dealing with young people in conflict with the law were imperative. "South Africa was ready for the debate; it was an idea whose time had come" (Legislative Proposals, 1993: 4)

The campaign, 'Justice for the Children: No child should be caged', was initiated in 1992, by the Community Law Centre, Lawyers for Human Rights and NICRO. The campaign raised national and international awareness about young people in trouble with the law in South Africa. The report called for the following:

(i) a comprehensive juvenile justice system for humane treatment of children in conflict with the law;
(ii) diversion of minor offences away from the criminal justice system;
(iii) a system that humanized rather than brutalized young offenders.

NICRO took the step of launching diversion programmes designed specifically for young offenders, which were offered to courts as alternative sentencing options. In particular, the
Youth Empowerment Scheme (YES) programme, a six-week, non-residential life skills programme, was heralded as providing an ideal alternative to prosecution for children charged with petty offences. Referral of young people to this diversion opportunity was predicated on the cooperation of district court prosecutors, who were lobbied to make use of it. Since 1992, both NICRO as an organization, and the range of diversion programmes it now offers, have been available in all the nine provinces of the country, particularly in major urban areas. More than 5600 children benefited from access to these in 1997. (Sloth-Nielsen, Juvenile Justice Law Reform Process in South Africa, 1999: 471)

Another initiative to secure the release of children in detention was begun by the establishment of a national working committee on children in detention. The committee initiated the 'Free a child for Christmas' campaign. Pressure was brought to bear on state departments and by local children in detention committees to find effective ways to manage the crisis.

Because various state departments were involved and no specific department could be found to be held accountable for young people in conflict with law, role-players were confused. What was clear, however, was that young people in conflict with the law were not being treated according to internationally acceptable standards. The government, according to (Skelton, Juvenile Justice Reform, 1990: 90), was finally moved to show some commitment to remedying the situation, and set up a working group under the auspices of the Department of Social Services to consider alternatives to the imprisonment of children. For the first time government department officials began to debate the issues with the non-governmental sector, and a thawing of relationships began.

At the end of 1993 the Community Law Centre in Cape Town hosted an international seminar entitled 'Children in Trouble with the Law'. Various ideas for a new juvenile justice system for South Africa were put forward. From this conference the Juvenile Justice Drafting Consultancy Group was formed, made up of members from the Community Law Centre, Lawyers for Human Rights, NICRO, the Institute of Criminology (UCT), Child Social Services and the Community Peace Foundation. The purpose of this group was to draft policy and legislative proposals. Although these proposals did not enjoy any official status, they did influence the discourse in the field of juvenile justice in South Africa, and many debates thereafter revolved around the ideas set forth in the proposals. Ideas for a
juvenile justice system were put forward and formed the basis for the draft Child Justice Bill. A new vision emerged, providing ideas that encompassed the charging, arresting, diverting, trying and sentencing of young offenders in a system that would spell out the roles of the police, the prosecutors, probation officers and others dealing with young people. The system of justice needed to take into account victim's rights; to hold young people accountable for their actions. (Skelton, 1991: 91)

2.3.4 The Reconstruction and Development Policy

During 1994, the Government of National Unity came to power and the ANC was about to assume governmental responsibility. The challenges facing the organization involved the development of a detailed policy framework and legislative programmes. The Reconstruction and Development Programme (RDP) came into being. It was "an integrated, coherent socio-economic policy framework. It seeks to mobilize all our people and our country's resources toward the final eradication of apartheid and the building of a democratic non-racial and non-sexist future" (RDP 1994)

The RDP document embraced children awaiting trial in its brief, and emphasized the importance of having to reform:
- laws dealing with children in custody,
- the persistence of practices infringing even the existing laws (such as the accommodation of children and juvenile prisoners in cells with adults) (RDP, 1994: 125)

2.3.5 The New Constitution of South Africa

As the apartheid era came to an end, the new constitution provided an opportunity for recognition of children's rights at the highest level. A fairly extensive clause enshrining children's rights in the Interim Constitution, came into effect on 27 April 1994, and incorporated the 'best interest' principle in section 30 (3) of the Interim Constitution. The rights provisions were unique in that they included second generation or socio-economic rights, such as: the right to basic nutrition, the right to basic health and social services, the right to protection from neglect and abuse, and the right to security.
Perhaps the most significant aspect of the children’s rights movement was the political will behind it, a sentiment shared at the highest levels of government. Nelson Mandela, especially, made it a point to promote the cause of children, and highlighted the needs of children, including children awaiting trial, in many of his early speeches. (Sloth-Nielsen, 1994: 323, 325)

The Constitutional Assembly of the new political dispensation ensured the constitutional establishment of children’s rights and protection for children accused of crimes, incorporating them in the highest law of the land. Child rights organizations had made submissions to the Constitutional Assembly, using international instruments as their departure point. The final working of the Children’s Rights clause of the South African Constitution testifies to the fact that these efforts bore fruit. Section 28 (1) (g) states that every child has the right ‘not to be detained except as a measure of last resort, in which case, in addition to the rights the child enjoys under Section 12 and 35, the child may be detained only for the shortest possible appropriate period of time, and has the right to be treated in a manner, and kept in conditions, that take account of the child's age’. (SA Constitution)

In 1994 the issue of the juvenile sentence of whipping was brought before the newly created South African Constitutional Court because previously imprisonment and whipping had been a common penalty in the juvenile criminal court cases in South Africa. In 1992 some 36000 young offenders had been sentenced to whipping. In the case of state versus Williams, as mentioned above, the court found the juvenile sentences of whipping to be unconstitutional and it was abolished. (Legislative proposals, Child Draft Bill, 1999). The constitutional challenge had been based mainly on the violation of the right to freedom from cruel, inhuman and degrading treatment or punishment.

2.3.6 Ratification of the United Nations Convention on the rights of the child as a step towards transforming the Youth Justice System

During 1995 South Africa ratified the Convention on the Rights of the Child, without reservation. Since then Articles 37 and 40 have been repeatedly referred to in discussions about a new juvenile justice system. The point has been made that Article 40(3) of the
convention obliges state parties to establish laws, procedures, authorities and institutions specifically applicable to children in conflict with the law.

The process of drafting an official national plan of action commenced, and as part of this process a justice sectoral working group was set up. It recommended that the South African Law Commission should be requested to develop a juvenile justice system to give effect to the convention. (Skelton, 1999: 92)

2.3.7 The welfare discussion document of 1995, its contribution towards the administration of juvenile justice

South Africa has embarked on the arduous task of socio-political and economic reform in order to redress the imbalances created by apartheid; for example, 14 different departments had previously administered the social services system for the different population groups and homelands. The result had been fragmentation, duplication, inefficiency and ineffectiveness in meeting needs. Each department had had its own procedures, styles of work, approaches and priorities. Services to children awaiting trial had been inaccessible and unresponsive to needs; for example, reformatory schools and schools of industries had been located in other provinces on the basis of the Bantustan approach. The social service approach to service delivery had been largely concerned with rehabilitative institutional care; neither preventative nor developmental, so blockage of the residential care facilities had resulted, and services had not been accessible and responsive to needs.

Some of the challenges that faced the new government involved the creation of a single national social services department and various provincial social services departments, and exploration of the potential role of local government in service delivery.

Legislative reform was required in creating a comprehensive social services policy. The previous government had set up multiple departments and territorial states, each of which had developed its own legislation applicable according to particular groupings and applied by different ministries. This presented challenges for legislators determining how to establish a viable comprehensive social services policy. The new government needed to promulgate holistic and comprehensive legislation and develop strategies and mechanisms to translate the RDP aims, objectives and programmes into action in the field of social service provision.
The development of inter-sectoral arrangements was a key priority. (Discussion Document 1995: 4,30,53)

2.3.8 The setting up of the Inter-Ministerial Committee on Young People At Risk (IMC)

By the early 1990's a crisis situation, linked to matters such as the lack of adequate facilities for black children, poor salaries for child and youth care workers and the lack of adequately trained managers and staff in many facilities, had developed within the social services system. (IMC, Nov, 1996: 7)

To remedy this, the South African cabinet, with the full sanction of the then president, Nelson Mandela, resolved during May 1995 that an Inter Ministerial Committee on Young People at Risk should be established to manage the process of crisis intervention and transformation of the child- and youth-care system over a limited time period. The decision was officially announced to the South African public on 17 July, 1995. The committee consisted of the Ministers of Social Services, Justice, Safety and Security, Correctional Services, Education and Health; RDP representatives and members of a number of national non-governmental organisations such as Lawyers for Human Rights, the National Institute for Crime Prevention and Rehabilitation of Offenders (NICRO), and National Association of Child Care Workers (NACCW). Geraldine Fraser Moleketi, the then Deputy Minister of the Department of Social Development at the time, chaired it. (IMC, Nov, 1996: 8)

2.3.8.1 The need for transformation of the child and youth care system as set out by the IMC.

The IMC, having undertaken to conduct substantial empirical research pertaining to residential child- and youth-care, in the form of a situational analysis of residential care facilities and an investigation into places of safety, schools of industries and reform schools, as requested by cabinet, performed a situational analysis of state-owned residential facilities in September 1995. Much attention was given to the issue of children awaiting trial. Cabinet requested an investigation into the existing facilities, and the results as reported in the document ‘In whose best interest?’ (1996 Report) showed that Human Rights abuses existed or were practiced. The IMC concluded that a need existed for urgent transformation of the existing child- and youth-care system, to provide for matters such as prevention and early intervention, so that children would not unnecessary enter the system. In consequence,
Project Go was initiated and designed within the context of the transformation of the child and youth care system (CYCS) by the IMC nationally to assist provinces to:

- address the blockages in residential care;
- address the human rights abuses in residential care facilities;
- improve early intervention services;
- pilot a new developmental assessment approach.

This process benefited the children at DYC, for those who had waited for designation and transfer to reformatory schools for between 14 months and 2 years, were assessed, and their cases reviewed to facilitate their placement or determine whether the child had been appropriately placed. Thirty children who had been wrongfully placed in 1998 benefited. Case records at DYC show that some magistrates were not in favour of Project Go as it was seen to be interfering with orders made during sentencing. Not only magistrates but also probation officers complained about orders being changed administratively in terms of Section 37 of the Child Care Act, 74 of 1983. The summit held in June 1999 at the Gauteng Department of Social Services criticised the principles and implementation of Project Go, stating:

- that it was a prescriptive, autocratic and overtly administrative top down approach;
- that Project Go was not widely known by all role players in the child and youth justice system and the community.

Project Go has since been integrated into the normal working or administrative procedures within the Department of Social Services. The IMC also made proposals regarding young people in conflict with the law in their brief, and the following extract from the minutes has a bearing on children awaiting trial at DYC, and has contributed towards the transformation process within the South African justice system.

2.3.8.2 The IMC’S recommendation on how young people in conflict with the law should be dealt with

a) Referral to prosecutor: In cases where the inter-disciplinary team involved in referral decides that the case is not suitable for diversion (taking into account for example, the seriousness of the offence or recidivism on the part of the young person), or where the young person declines to acknowledge responsibility, then the matter could be referred to the public
prosecutor for consideration. It should be possible, however, for the prosecutor to refer the matter back to court if circumstances change or if new information comes to light, but only in circumstances where this is of benefit to the young person.

b) Age of criminal capacity: The minimum age of criminal capacity is a contentious issue in South Africa. The current system followed in South Africa is that of the *doli capax* rule (children under 14 are presumed to be lacking in criminal capacity, but such presumption can be rebutted simply by the presentation of evidence by the State to show that the child understands the difference between right and wrong and was capable of acting in accordance with that knowledge). This has not worked in favour of South African children, and effectively leaves the possible minimum age of criminal capacity at seven years old, the lowest (together with some other countries) in the world.

This Roman Dutch law presumption must be revisited. The *doli incapax* rule does allow for a flexible approach, so that each child's case is be looked at individually. It might be workable for the *doli incapax* rule to be retained, but for the lower age limit to be raised from 7 to 10 or 12. Additionally it would be necessary to tighten up on the weight of evidence required for the presumption to be rebutted, with a requirement of expert psycho-social evidence. Another route would be to abandon the *doli incapax* rule altogether, and settle for a minimum age of 12 or 14, below which the child cannot be prosecuted criminally, as is the case in many countries.

In South Africa there is a lot of difficulty with age determination due to the fact that a large number of young people do not have birth certificates or other identification documents which indicate their correct age. According to police and probation officers the promulgation of the amended section 29 of the Correctional Services Act has led to an upsurge in the number of young people claiming to be under 18 years of age. The problem should be examined from the perspective that such young people may be clogging the system or posing a risk to younger people with whom they might be held in custody as there is no accurate medical testing procedure (and if any such tests were to be developed in South Africa, they would almost certainly include x-rays, and would therefore be very expensive) it is difficult to find quick solutions to this problem. The only answer to the problem in the long term is for the birth date of every young person to be registered, and for the Department of Home Affairs
to embark on a campaign to ensure that all children under 18 are registered, as soon as possible.

c) The pre-trial stage: Cases going to trial where the young person is in custody (even in places of safety) should be given priority, and the police investigating officer should work closely with the prosecutor overseeing the investigation so that delays can be avoided. The Justice Department should give serious consideration to drafting legislation which actually limits the time allowed to lapse between the arrest and the commencement of trial in cases where the young person is in custody, even in a place of safety.

Access to legal representation should be granted as soon as it is clear that the matter is going to court, or that the young person is to be held in custody. The right to legal representation should be explained carefully to the young person, and where the family is unable to pay for the services of a lawyer, such services must be provided by the state.

If the young person is staying in a residential care facility which is a long distance away from the trial court, consideration should be given to the possibility of the remands being done at a magistrate’s court near the residential care facility, so that the young person need not be transported backwards and forwards over long distances. The investigation of the case could continue, and the magistrate of the remands court would have to liaise closely with the officers of the trial court in order to ensure that unnecessary delays do not occur. Consideration must be given to the effect that this may have on the family’s ability to see the young person during the pre-trial phase, as well as the effect on the opportunity for consultation between the legal representative and the young person.

d) The trial: The Beijing Rules provide at 14.2 that “the proceedings shall be conducive to the best interests of the juvenile and shall be conducted in an atmosphere of understanding, which shall allow the juvenile to participate therein, and to express herself or himself freely”.

Where it is possible, specialised courts which deal only with young persons should be set up. (The channelling of persons under 18 charged with offences through a specific court is already practised in most large urban magistrates courts.) In sparsely populated areas this would be difficult to organise, but they should then reconstitute itself as a youth justice court and abide by the rules and principles which should be developed and applied to such courts.
It is necessary to alter the atmosphere of courts in which young people are tried. The set up of a formal court can be very daunting to a young person. It is preferable if the presiding officer sits on the same level as the young person in order to establish a better rapport, and also if robes are not worn during the proceedings. The young person should be made to feel free to participate, although this should not interfere with his or her right to remain silent. Efforts should be made to make youth justice courts less adversarial in style.

The parent or guardian should also play a supporting role with regard to the young person, and should be free to participate by asking questions or following up on issues.

Where a young person is charged together with an adult as a co-accused, where possible a separation of trials should follow the young person to the youth justice courts, rather than the young person being taken before the adult court.

Where, due to the seriousness of the offence, a young person is to appear before a Regional court, the person should enjoy the same protections during the trial as he or she would in a youth justice court. (IMC, 1996)

d) Pre-sentencing reports: It is necessary, particularly in cases where the young person is at risk of having his or her liberty restricted, that before passing sentence a report which sets out the background and circumstances under which the young person is living and the circumstances under which the offence is committed.

The probation officer will compile this report, and in order to do so will need to build on information gathered at the assessment done shortly after arrest. Probation officers will need to be trained to provide succinct reports based on a sound and thorough assessment of all the important issues. In addition, he or she must be trained to be creative in the sentencing suggestions to be put before the courts. Liaison with the Department of Correctional Services and NGO’s offering programmes is required on an ongoing basis. (IMC, 1996)

Mechanisms will need to be built in by the Department of Social Services to ensure that these officials present their reports to the courts timeously. Liaison between the courts and probation services must be improved. An evaluation process to ensure quality of reports should also be developed by probation services; for example, by the establishment of pre-sentence evaluation committees, probation services will ensure that production of quality services, in the form of reports is produced.
2.3.9 The Human Rights Committee’s views on problems facing children awaiting trial

Although the Constitution of S.A. and the 1996 IMC document has set forth standards for the treatment of children awaiting trial, there are still problems regarding the management of children awaiting trial. The report from the Human Rights Committee (not commission), in Durban highlights the problem areas. (Human Rights Committee Report, 2000)

In the document ‘Where rights get locked out’ the committee discusses the apparently unconstitutional treatment of children awaiting trial in prison, noting that “In terms of the constitution of South Africa, 52.8 (2) a child's best interest are of paramount importance in every matter concerning the child”.

This document expresses the Human Rights Committee’s concern that the best interest of the child is not being recognized by the Departments of Social Services, Correctional Services and Justice when considering children awaiting trial.

A number of issues regarding these children are of concern to the Human Rights Committee. These include the following:
- the length of awaiting-trial periods sometimes lasting 18 months, experienced by children, (At Dyambu in the year 2000 the longest awaiting-trial period lasted three years.);
- detention of children under the age of 14 or over the age of 17;
- deplorable conditions in the prisons;
- inadequate facilities and staffing, as exemplified in Westville Prison.

Of the four issues noted above, the first two highlight matters relevant to children awaiting trial at DYC.

2.3.9.1 Children awaiting trial for more than 6 months

According to the constitution, S(35)(3)(d), every accused person has the right to a fair trial, which includes the right to have their trial begin and conclude without unreasonable delay’.

Whether this is happening is questionable. The Constitution states further, that no child should have to await trial for long periods of time. It is the opinion of the HRC that, except
in exceptional circumstances, no child's case should take longer than six months to come to trial and that any unwarranted or avoidable delays should be addressed.

Large numbers of children under the age of 14 are regularly, even routinely, remanded to prison. The Human Rights Committee is concerned because these children are being placed in prison by the courts, without age assessment.

The HRC's report expresses the opinion that in cases of doubt, there is a responsibility on the courts to request age assessment, so as to avoid the remand of very young children to destructive environments, for even short periods. It is also disturbing that very young children are not always immediately age-assessed by the prisons and returned to court on the following day. In some prisons this process happens on a weekly basis, while in others it does not happen at all. Even after the children's ages have been assessed and they are found to be under-age, the courts do not act immediately to have them transferred to secure care centres or places of safety.

2.3.9.2 **Age Assessments**

According to the HRC report, it is the courts' responsibility to adhere to the law and their constitutional obligations, bearing in mind S28(1)(g)(ii), 'the child has the right to be treated in a manner, and kept in conditions, that take account of the child's age'.

There is also the need for age assessments to identify those children who are too old to be in the children's sections of prisons. It has been estimated that in some prisons up to 100 of the 'children' are in fact over age (18 or older). At DYC about 50 of the total (of 450) boys are older than 18 years. There are several reasons for this, the primary one being that youths (18-25 years), who may look young, claim to be younger than 18 to take advantage of the child justice system which is seen as 'softer' than the adults' system. These older youths can prove to exert a destructive and damaging influence on younger children, possibly extending to extreme bullying and sexual and physical abuse.

According to the Constitution, (S28(1)(g)(i)), 'every child has the right to be kept separately from detained persons over the age of 18 years'.

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When probation officers, after assessing a youth, are of the opinion that he is older, and according to their records, may have been in the system under a different name, they experience difficulty in proving that he is older, because the issue becomes one of their word against that of the youth who may also be backed up by a guardian. When a probation officer presents a request for an age assessment, the court more often than not rejects recommendation stating, 'There is sufficient evidence presented before court to prove that the accused is under 18 years.' A probation officer stationed at Johannesburg Court, in an interview regarding juveniles assessed by them, confirmed that this was common, notwithstanding the submission in each such case, of a statement showing the grounds for the request. According to her, in all cases where juveniles are involved in serious crimes, the regional court rejects requests for age assessment. She stated furthermore, that in the district courts about 50% of their recommendations are not accepted. If the structures created to facilitate the administration of juvenile justice are under-utilized, it is not surprising that blockages exist within the justice system, causing overcrowding in prisons, and lack of security in care facilities and places of safety.

This matter has been discussed at the provincial inter-sectoral meeting which includes representatives from (a) the regional office of the Department of Justice - a senior magistrate from Johannesburg Court and a representative from the Directorate of Public Prosecution; (b) the Department of Social Services; (c) Youth for Christ, an NGO providing services to youth awaiting trial in Johannesburg prison; (d) DYC, (e) the Departments of Correctional Services, (f) Department of Education, (g) Department of Safety and Liaison, and (h) the Department of Sports and Recreation. Members of this committee agreed that a High Court ruling on the age-assessment question be sought, because evidence produced at the District and Regional Court in Johannesburg is usually rejected. Two cases of youths aged about 20 to 21 years awaiting trial at DYC are currently being piloted. The Centre can accommodate 17 to 18 year-olds and when the 17 year-olds turn 18 whilst awaiting trial, some are returned to prison, but others are referred back to the Centre. There is no uniform application of the law: each magistrate interprets the Criminal Procedures Act differently, using his discretion. This confuses role players like probation officers and personnel in places of safety, because in places like DYC, for example, there are clear guidelines for admission criteria, which guide probation officers when they refer children for admission.
The age question also presents problems because not all children, especially not all black children, in South Africa possess birth certificates. This anomaly has enabled some of the over-aged youths to abuse the justice system. When arrested, they assume names of younger brothers who may possess birth certificates. In DYC, for example, a youth with a 14 year-old younger brother named Lloyd, was registered by computer in 1997 as Marvin Constandt. When he was re-arrested in 1999, his names according to the J7 (detention warrant), were Lloyd Constandt - and he was 11 years old. The computer and the finger-printing system used for admission at DYC rejected Lloyd’s name and revealed that the youth had been registered as Marvin in 1997. The social worker in the Centre challenged this issue in court, and presented the assessment notes of 1997, which outlined his family composition and his age on admission to the Centre in 1997. His mother was present in court and produced Lloyd’s valid birth certificate. Because the name in it corresponded with the name on the charge sheet, the court rejected the social worker’s recommendation that an age assessment should be carried out. After awaiting trial for 18 months at DYC the youth, by then 21 years old, was (in 2001 only) sentenced to 10 years in prison.

A comparison between the situation regarding the registration of black children’s births in South Africa, with how Ghana handles the registration of births, is interesting. In Ghana, Article 7 of the Convention on the Rights of the Child provides that ‘the child should be registered immediately after birth ...’. To facilitate this process, Clause 121 of the Children's Bill vests the responsibility for the registration of births, as integral to the district primary health care programme, in the District Health Department of a District Assembly. The expectation is that combining the registration of births with the primary health care programme will ensure that children are registered. Furthermore, the District Assembly, the highest political authority in the district, may delegate this registration function to a sub-district authority, the Unit Committee or such other person as a chief or a traditional authority. Thus strengthening the provisions for the registration of births will gradually reduce necessity for the courts to determine children’s ages for judicial purposes. (Appiah, 1997: 3)
2.3.10 Contributions of the international instruments to the transformation of youth justice

2.3.10.1 The United Nations guidelines for the prevention of juvenile delinquency (the Riyadh guidelines) and their relevance to DYC

The Guidelines stipulate that the institutionalisation of young persons should be a measure of last resort, limited to the minimum period necessary, and that the best interest of the young person should be of paramount importance. Criteria authorizing formal intervention of this kind should be strictly defined and limited to the following situation:

a) where the child or young person has suffered harm inflicted by the parents or guardians;
b) where the child or young person has been neglected, abandoned or exploited by the parents or guardians;
c) where the behaviour of the parents or guardians threatened the child or young person with physical or moral danger; and
d) where a physical or psychological danger to the child or young person has manifested itself in his or her own behaviour and neither the parents, the guardians, the juvenile him/herself nor non-residential community services can meet and remove the danger by means other than institutionalisation.

2.3.10.2 The United Nations’ standard minimum rules for administration of juvenile justice (the Beijing rules): its fundamental principles relevant to the study.

- Treatment of juveniles in conflict with the law should be fair and humane. In particular, the aims of Juvenile Justice should be twofold: the promotion of the well-being of the juvenile and a proportionate reaction by the authorities to the nature of the offender as well as to the offence.
- The use of diversion from formal hearings to appropriate community programmes where the consent of the juvenile is encouraged.
- Where diversion is inappropriate, detention should be used as a measure of last resort, for the shortest period of time possible and separate from adult detention.
Proceedings before any authority should be conducted in the best interest of the juvenile, in a manner which allows him/her to participate and to express himself/herself freely.

Deprivation of liberty should be imposed only after careful consideration, for a minimum period, and for serious offences only.

2.3.10.3 The United Nations rules for the protection of juveniles deprived of their liberty (JDL)'s fundamental perspectives

The juvenile justice system should uphold the rights and safety of juveniles and promote their physical and mental well-being. Imprisonment should be used as a last resort.

Juveniles should be deprived of their liberty only in accordance with the principles and procedures set forth in these rules and in the United Nations Standard Minimum Rules for the Administration of Juvenile Justice. Deprivation of the liberty of juveniles should be a disposition of last resort and for the minimum necessary period. The length of sanction should be determined by the judicial authority, without precluding the possibility of early release.

The above international instruments emphasise that youngsters deprived of liberty should be kept only in facilities which guarantee meaningful activities and programmes promoting their health, self-respect and sense of responsibility. These should also foster their skills, to assist them in developing their potential as constructive members of society.

- The detention facilities should be decentralised to enable access and contact with family members and to allow for integration into the community.
- The care of juveniles deprived of their liberty is a social service of great importance.
- All personnel involved with juvenile justice should receive appropriate training including child social services provision and human rights issues.
- All juveniles should benefit from arrangements designed to assist them in returning to society.

The purpose of this study is to find out how the children experience detention at DYC. Whether the Centre meets the fundamental principles as set out in the JDL rules will be
determined during the analysis of data, as what the children say will indicate whether the
above requirements are being met.

The international instruments recommend that detention should be a measure of last resort
and should be implemented for the shortest period possible, and serving the best interests of
the child. These are merely guidelines. However, if individual magistrates or judges in their
daily application and administration of juvenile justice were following these
recommendations, possibly fewer children and less over-age children would be in detention
in places of safety.

Some of the children detained at DYC could have been treated differently; that is, released
into the care of their parents. However, it appears as though some magistrates use detention
as a form of punishment even before judgement is passed, denying the child schooling and
denying him bail even if the parents are found to be in a position to control him. The
overriding issue, therefore, often appears to centre on the exercise of power and authority
rather than on the young person's best interest.

In the courts where reception assessment and referral centres (RAR’s) are available in
Gauteng, the probation officer's recommendation is often simply ignored. Sometimes
children are not referred to the RAR and it seems that additional structures created to assist in
the administration of juvenile justice, are perceived to be challenging the authority of some
magistrates.

The international principles on the administration of juvenile justice state: “...when
preventive detention is used, juvenile courts and investigative bodies should give the highest
priority to the most expeditious processes of such cases to ensure the shortest possible
duration. It is further important that each case should be handled without any unnecessary
delays. It should be noted that the rationale behind this principle relates to the particular
characteristics of a child whose ability to relate to procedure and to disposition deteriorates
over time…” (Beijing Rules)

The impact of dragged-out cases on children, as recorded in case studies by social workers in
the Centre, is significant. From 4 months onwards, the strain of detention can be seen, and
the children talk about themselves and the ‘long trial’. The child begins to concentrate on
himself, he thinks less of the offence, and he begins to think and act as a victim. When judgement is finally passed, he has been awaiting trial for a long period; he cannot be released until sentence has been handed down. The probation officer must prepare a pre-trial report but the request from the court may not reach the officer on time. In one recent case the child was released after being in the system for 24 months and according to DYC records, the longest period spent awaiting trial was 3 years, and the youth having been acquitted, was released in January 2001. When, at last the child is sentenced, he is emotionally exhausted from having repeatedly gone to court. He may be angry and feel that nothing matters now. Instead of being rehabilitated, the youth may be set on the downhill road to crime. Thus the cycle of crime continues. The statistics of children awaiting trial for 6 - 24 months in DYC, was presented at the summit on 29 February 2000, to highlight the plight of these children and the infringement of their rights.

2.3.10.4 The African charter on the rights and welfare of the child
Skelton drew a parallel between the African Charter and the United Nations Convention. According to her, “Although the African Charter does not differ significantly in content from the UN convention on issues relating to juvenile justice, it is sometimes favoured by South Africans because of its emphasis on responsibilities corresponding with rights.” She noted that the United Nations instruments promoted a highly individualized approach to the rights of the child, whereas the African Charter took “a more collective approach, blending children's rights with respect for family and community.” She commented that the African Charter approach “accords well with the concept of restorative justice, and the trend towards restorative justice is a second sphere of influence which can be identified as having a major impact on the reform of juvenile justice in South Africa”. (Skelton A, 1999: 92)

2.3.11 Restorative - Justice Viewed As A Contributory Factor To The Transformation Process
According to Bazemore (1996:44) the restorative philosophy and practice is based on ancient concepts and practices. The re-emergence of interest in it grew out of several developments in the 1970’s and 1980’s, including the experience with reparative sanctions and processes such as restitution, victim-offender mediation, the victims’ movement and the rise of interest in informal neighbourhood justice and dispute resolution. Restorative justice may also be viewed as a component of an overarching paradigm of public problem solving and citizen
participation known as ‘communitarianism’. It is also closely linked to emerging theoretical perspectives on the role of meaningful sanctioning and the importance of citizen involvement in response to crime and enforcement of community norms. (Bazemore, 1996: 44)

Interestingly, it is in the field of juvenile justice that many experiments with regard to restorative justice have been taking place. Skelton held that most South Africans would recognize the concept once it was explained to them. Restorative justice is a theory of justice which relies on reconciliation rather than on punishment. It begins with the notion that a society which is functioning well operates within a balance of rights and responsibilities. When an incident occurs which upsets the balance, methods must be found to restore the equilibrium, so that the community members, including the offender and the victim, can come to terms with the incident and carry on with their lives. In order for this to occur, the offender must accept responsibility for the fact that his behaviour has caused harm to the victim, and the victim must be prepared to negotiate and accept restitution or compensation for the offender’s wrongdoing. (Skelton, 1999: 93)

Thus, the purposes of restorative justice are to identify responsibilities, meet needs and promote healing. South Africa’s Truth and Reconciliation Commission which will be discussed later may be described as an exercise in restorative justice on a massive scale.

Long before the Truth and Reconciliation Commission, and before apartheid and colonisation, restorative justice was known and understood by people living in South Africa. Reconciliation, restoration and harmony lie at the heart of African adjudication. The central purpose of a customary law court was to acknowledge that a wrong had been done and to determine what amends should be made. Community-based justice of this restorative nature was peculiar to Africa, and a trend has been developing in a number of former colonies where indigenous people are living, to return to restorative justice models.

The ‘Lekhotla’ practiced amongst the Basotho nation exemplifies a form of restorative justice. If an offence is reported to a traditional leader, he may call to session, a Lekhotla, which is normally attended by the victim, the offender, family members and supporters of both the offender and the victim, as well as by community members. Everyone attending is entitled to full participation and all decisions are reached through consensus. The aim is to restore what has been lost through the offence.
The Ancient Greeks, who were first to use the scales as a symbol for justice, had an understanding that justice was about restoring balance. Scales found in Justice Departments' logos symbolise restoration of equilibrium - not balancing the severity of punishment with the seriousness of the crime, as is often thought.

According to the Juvenile Justice Bill, an international movement favouring restorative justice is growing within the field of criminal justice, particularly with regard to children accused of crimes. Restorative justice is a notion of justice which focuses on reconciliation and restitution rather than on retribution and punishment. It views criminal wrongs as conflicts between the offender and the victim and sees the appropriate resolution of that conflict to be a healing of relationships.

The above definitions clearly indicate that restorative justice originates from somewhere. In South Africa it was commonly practiced by the Africans, and the Basotho with their 'LEKHOTLA', the Imbizo amongst Xhosa's, Inkundla amongst the Zulu Nation and Tinkundla amongst the Swazi speaking people is an indication that restorative justice practices is widely practiced by Africans. The definitions also agree in principle, that restorative justice focuses to a considerable degree on accountability.

Restorative justice is based on the assumption that the response to crime cannot be effective without the joint involvement of victims, offenders and the community. It is based on the principle that justice is best served when each of those parties receives fair and balanced attention, is actively involved in the justice process and gains from the interaction with the justice system.

Recent thinking about crime prevention in South Africa is embodied in the National Crime Prevention Strategy Document released in May 1996. This promotes a victim-centric approach to crime prevention, where the 'onus is on government to deliver a crime prevention approach which places the rights and needs of victims at the centre of the strategy'. (NCPS, 1996: 2.3.3)

In line with a victim-centric vision for the criminal justice system, the National Programme on Victim Empowerment of the NCPS claims, amongst other things, to want to:
enhance the system’s effectiveness as a deterrent against crime and a source of relief and support to victims, of focusing on them rather than merely perpetuating a crime-centred stance [NCPS, 8.1.1];

improve the access of disempowered groups to the criminal justice process, including women, children and victims in general [NCPS, 8.1.5];

redesign the criminal justice process to reduce blockages and unnecessary time delays and empower victims [NCPS, 8.2.1] (The main problems at court are the following: (a) Often the dockets are not at the court and the prosecutor has no time to prepare the case. (b) The court roll is full and the case is postponed only after the victim has sat in court all day.);

provide a greater and more meaningful role for victims in the criminal justice process [NCPS, 8.2] Zehr asks the question “who can be surprised that victims are so dissatisfied?” and asserts that the criminal justice system is not addressing the victim’s needs. He asserts that the criminal justice system is not geared to meeting victims’ or individuals’ needs: victims are simply regarded as witnesses who may not be called upon, and if they are, the purpose will be to convict an offender not to provide an opportunity for the victims to express their feelings and emotions about what happened to them. Instead, the judicial process ignores victims and their needs; denying their participation. [Family Group Conference Manual];

improve the service delivered by the criminal justice process to victims through increasing accessibility and sensitivity to the needs of victims [NCPS, 8.1.8: 1.9.1.3] Simpson, pointed out that the criminal justice system needed to incorporate sensitive interaction with, and accountability to, victims and victimized communities: effective victim support services needed to be developed for the entire population; police stations needed to become accessible to victims; courts should provide volunteers to offer victim support, and provide waiting rooms for mothers with babies [Simpson, 1997];

deal with the damage caused by criminal acts, through providing remedial interventions for victims [NCPS, 8.2.9, 1.9.1], by explaining, for example, the court process. (Ignorance about the court process and procedure can cause confusion and emotional stress that ultimately discourages victims from participating in the legal system). In order to ensure successful prosecution of criminal offenders, it is imperative that the victim understands what to expect from the justice system: the
more informed the witness, the better his capacity to assist in the prosecution process. Roberts suggested the use of court escorts for those victims who have transportation problems to and from court. Escorts could also provide moral support to victims. He further suggested that victims need assistance in relating to their employers about concerns over salary losses and absence from work. A letter could be sent to victims’ employers about programmes and the importance of witness involvement. (NCPS,8.2.9,1.9.1)

Many programmes catering for victims are limited to crisis intervention or short-term counseling through personal contact. Needs must be assessed, the appropriate agency located, and arrangements made for individuals to receive services. Follow-ups must be made to determine whether the victims’ needs are being met. The NCPS maintained “in the longer term, a justice process which provides a real role for victims imposes a more meaningful moral burden on offenders, hence reducing the justification for crime inherent in a system which conceals the victim entirely”. [NCPS, 1.9.3]

Finally, family group conferencing is a restorative justice process whereby young people who offend, their families and victims are brought together to look at ways in which the wrong can be put right for both the victim and the community, and to make plans for preventing the young person from re-offending. Victims need to have their story heard and the wrong they felt needs to be validated and where possible put right. Family group conferences allow this to happen.

Bazemore (1996) stated that there are some practical obstacles to developing a victim-focus in offender-driven juvenile justice systems. However, these include fear and uneasiness that even sympathetic staff may experience at the prospect of engaging citizens perceived by them to be angry and vengeful. Moreover, responsibility for more intensive offenders, together with the influence of higher caseloads, has decreased the time community supervision staff have for attention to such responsibilities as victim notification, restitution, and support. Ultimately, in the absence of a new mission that gives priority to victims’ needs and values victim involvement, the victim, as juvenile ‘customer’, will compete unsuccessfully in agencies traditionally focused on addressing youth and family needs only.
What Bazemore (1996) was highlighting here about the fears of staff who perceive clients to be angry and vengeful, is a question that challenges theory and practice. In practice, staff meet with angry people who are unwilling to discuss reconciliation.

Identifying the community as a customer would require juvenile justice professionals to begin to target community groups, as well as offenders and victims, for intervention and involvement in efforts to address community safety needs actively and reduce neighbourhood fear. Braithwaite in Bazemore (1996) noted the importance of active citizen participation in the social control process of low crime societies. He concluded that a restorative juvenile justice would need to engage community groups in efforts to define and reinforce limits of tolerance against youth deviance through shaming and reintegration processes. Braithwaite [1989, 1994] in Bazemore (1996).

Citizens and community groups would be asked to adopt more active guardianship roles in a collaborative effort to build safer communities. Juvenile justice staff might also facilitate offender participation in community restoration, by involving youths in efforts to build communities, enhance community safety, or restore the environment. For example, community service orders as sentence options would be most appropriate: the offender would be physically involved in restoring the community by performing a free service like cutting bushes near a township, or demolishing unused buildings. While he is serving a sentence and being reintegrated in the community, he would also be taking part in a process that would ensure community safety. [Bazemore, 1995 in Bazemore 1996]

Academics and practitioners in South Africa have, for some years, been following the development of restorative justice and of family group conferencing. In 1992 NICRO began to introduce the idea of diverting children away from the criminal justice system, and promoted this concept by using the language of restorative justice. In 1995 the Inter-Ministerial Committee on Young People at Risk set up a pilot project on family group conferences in Pretoria. The project ran 42 family group conferences, testing the setting up of conferences, mediation, outcomes, community participation, and victim and offender satisfaction. The report of the project provides a valuable resource, which identifies the practical implications of making family group conferences part of a future juvenile justice system.
Whether restorative justice will work is an inevitable question, in view of “the remarkable
lack of data on the effectiveness of current juvenile court interventions, and [the] strong
evidence of failure in some cases” [Lab and Whitehead, 1985 in Bazemore, 1996]
Furthermore, what impact can the approaches of restorative justice be expected to have on recidivism and other outcomes? This question could be linked to other factors beyond restorative justice, which is another concern; for example, if a person’s choice to be deviant or non-deviant depends entirely on him; his personality, biological, and other traits, will have to be taken into consideration. The challenge for those using the restorative justice model would be to look at the broader picture, and adopt a holistic approach when dealing with issues relating to juvenile crime.

According to Van Ness [1993], the more appropriate and far more important questions than ‘Does it work?’ are ‘Will restorative justice be given a chance?’ and ‘Will it be implemented with integrity in respect to the values and intervention goals discussed, or repackaged to meet the objectives of retributive juvenile justice or the treatment paradigm?’ Wilson [1987] in Bazemore (1996) stated that many problems facing juvenile justice managers today are symptoms of social-structural changes in the economy and of social policy failures that have produced a generation of neglected children and appear to be transforming a children’s social services crisis into a juvenile justice crisis. [Inciardi et al., 1993 in Bazemore (1996)]

Problems such as family and neighbourhood disintegration, increasing drug sales and use and child abuse challenge these youths and their families, and make crime an attractive option for many young people. The solution to these problems lies beyond the capacity of any court or justice system. Children awaiting trial at DYC have been affected by all of this. As mentioned before, some of the children engaged in crime because they were breadwinners in their families, or members of drug syndicates. Unemployment was found to affect a large percentage of the children in the Centre: when unemployed parents cannot meet their needs, some children tend to find crime an attractive option.

The primary distinguishing characteristic of restorative juvenile justice; its emphasis on engaging communities in the sanctioning and rehabilitation of offenders, restoring victims, and enhancing public safety is difficult to apply effectively, because at present criminal elements reside in their areas with little or no sanction or collective action on the part of community members. Fear and victimization paralyze the communities so much that they
ignore the criminal subcultures in their midst. It is important to note that a community’s social functioning and that it’s members’ ability to handle challenges are determined by individual and collective knowledge, insight, skills and attitudes. These attitudes are attained through education. Therefore, educating children at DYC in life skills enables them to handle challenges once they are returned to their communities. The community is both the instrument and environment of change. The two primary strategies used are community counseling and community networking. The Inanda Pilot Project, an I.M.C. pilot project, for example, uses community conferencing as a tool for family preservation. It has managed to bring community structures together to explore ways of reducing risk factors for children. Community counseling centres on factors like effective parenting skills, home management and housekeeping skills. Developing and strengthening neighbourhood and community resources is an attempt to rebuild a sense of community. The Centre educates children to equip them with the ability to identify risk factors.

2.3.12 The Truth And Reconciliation Commission As An Example Of Restorative Justice In South Africa.

The Truth and Reconciliation Commission (TRC) was created by Nelson Mandela's Government of National Unity in 1995, to enable South Africans to come to terms with an extremely troubled past. The TRC was established to investigate the violations that took place between 1960 and 1994, to provide support and reparation to victims and their families, and to compile a full and objective record of the effects of apartheid on South African society. Perpetrators of any politically motivated acts (including violations or abuse) could apply for amnesty from the TRC, in return for providing a full account of their actions. By 1990, when then South African President F.W. de Klerk announced negotiations with Nelson Mandela and the African National Congress (ANC), small groups of South Africans: non-governmental organizations, religious leaders, and human-rights lawyers, had already begun to address the problem of the nation’s past. They agreed that there could be no new, united South Africa without a commonly acknowledged history and this required honestly facing and dealing with the brutal oppression of the apartheid years.

Any successful attempt to address the past needed to both acknowledge the suffering of apartheid's victims and lead to national reconciliation. It had to steer a delicate course
between those who cried ‘prosecute and punish’ and those who demanded ‘forgive and forget’.

The TRC had a number of unique features. First, it gave priority to victims rather than to perpetrators. The Gross Human Rights Violations Committee heard the stories of victims across the land.

Scores of hearings were held in city halls and rural community centres. The commission honoured the victims by going to them rather than calling them to a central venue. Victims were also empowered by ‘Khulumani’ (‘speak-out’) groups of fellow victims and assisted by hundreds of volunteer statement-takers.

A second unique factor in the work of the TRC was that victims of all sides of the struggle participated. The TRC designers were determined that history would not be sanitized by the victorious side, so those who suffered at the hands of the liberation forces were also invited to share their experiences. A story of torture by the secret police might be followed by a white farmer's story of how his wife and children were killed by an ANC landmine, or by an account of torture in one of the liberation movement's training camps. These stories communicated the important message; that a morally justified struggle does not justify indiscriminate killing and deliberate brutality.

The Amnesty Committee, consisting of Supreme Court judges and lawyers, heard pleas for amnesty. The requirements for amnesty were clear. Only individuals (not groups) might apply and they had to provide full disclosure. The abuses had to have been perpetrated to further political aims. The principle of ‘proportionality’ had to apply. If, for instance, the security police had killed a group of young activists, was it for merely distributing anti-government pamphlets or for organizing armed resistance? The first case would fail the test of proportionality; the second case might not.

If amnesty was granted, the slate was wiped clean. If not, then disclosures before the Commission were not to be used in any subsequent court prosecution. Evidence would have to be independently sought by the Attorney General.

A further unique feature of both the Gross Human Rights Violations Committee and the Amnesty Committee was that all their hearings were open to the public, and perpetrators had to face the individuals they had tortured or the families of those whom they had killed.
Knowing the truth was another feature of the Truth and Reconciliation Commission. A third committee, on Reparations and Rehabilitation, received less publicity. South Africa's battered economy could not afford large cash payouts to victims, so other methods of reparation had to be fashioned. Generally, victim's requests were remarkably modest. Most of all, the bereaved wanted the return and proper burial of their relatives' remains, or a memorial in their village, or a small scholarship for orphaned children. All agreed that the most important thing was to know the truth.

The Truth and Reconciliation Commission provides a perfect example to the children at Dyambu Youth Centre (DYC) of what forgiveness is, and what healing the nation means. Children at DYC should be taught the objectives of the TRC through life skills, including that of full disclosure for amnesty. The moral that one first has to disclose fully the circumstances surrounding the offence and to show remorse is in line with the plea of guilty. Although it may seem that the two cannot be compared, the importance is the rationale behind the two concepts; that of admitting guilt before you can be forgiven. Healing also involves reparation and restitution, where children are taught the meaning of a formal apology and its effects on deeper healing.

Rather than denying justice, the TRC process may have been exploring justice in a larger, more magnanimous form: restorative justice, as opposed to retributive justice. [The Truth and Reconciliation Commission. http://gbgm-umc-org/now/99ja/different.html]

2.3.12.1 Children’s Rights And Restorative Justice Versus Crime Control

Skelton, asked the questions: ‘Is it still possible to view juvenile justice through the windows of children’s rights and restorative justice? Or are we moving towards a situation in South Africa where we will be forced to view it through the narrow keyhole of crime control? Is there a shift away from a child rights issue to one of crime control?’ She stated that South African policy and law makers have in recent years begun to embrace a number of ideas relating to crime control, primarily borrowed from the United States; for example, (i) the ‘broken window approach to policing’ championed by a former commissioner for New York City, William Bratton, and discussed enthusiastically in the South African press. In the
United States, Bratton achieved much success by exhorting police to crack down on the 'squeegee boys', a reference to young (mainly black) males who washed car windscreens in New York streets. This approach, according to Skelton was somewhat at odds with the idea of diverting of children away from the criminal justice system.

Also from the United States of America came the concept of mandatory minimum sentences: in the US federal code over 60 statutes contain mandatory minimum sentences. At the end of 1997, the Justice Portfolio Committee voted in a bill on minimum sentences. Although in deference to our Constitution the minimum sentences in the South African Bill were not mandatory, the similarity of this document's approach to the American one of 'three strikes and you're out' alerted criminal law reformists to the fact that we were moving away from a balanced human rights approach to an approach in which fighting crime was the overwhelming consideration. (Skelton, 1999: 99)

Early in 1997 The South African Law Commission had published an issue paper criticizing mandatory minimum sentencing, and rejecting is as an option for South Africa. In a list of possible solutions, the issue papers include presumptive sentencing guidelines, voluntary sentencing guidelines, principles of sentencing which determine the imposition of imprisonment, and as a final option, 'the enactment of mandatory minimum sentences combined with a discretion to depart from the sentences under certain conditions'. It was this option, the most retributive of all those offered, which provided the inspiration for what was to become the Criminal Procedure Amendment Act. This provides for minimum sentences ranging from a minimum of five years to life imprisonment for offences listed in Schedule 2 of the Criminal Procedure Act. Different sentences are prescribed for first, second, third and subsequent offenders. The sentences must be imposed unless there are substantial and compelling reasons for not doing so. (The onus of providing these rests on the accused.). The presiding officer must give written reasons for deviating from the minimum sentence. The initial draft of the legislation included offenders under the age of 18 years within its ambit.

Non-governmental organizations rallied and made both written and oral submissions on the Draft Bill, to the Portfolio Committee on Justice, arguing that the idea of minimum sentencing for children would go against the UN Convention on the Rights of the Child and the South African Constitution. Both state that the detention of children should be a measure
of last resort, and that minimum sentences for children would, in fact, make imprisonment one of first resort, notwithstanding the ‘escape clause’ which would allow the court in its discretion, to deviate from the minimum sentence. Perhaps as a result of these submissions, the Bill was changed, so that children under the age of 16 years have been completely excluded from the ambit of the Criminal Law Amendment Act. While included in its ambit, 16 and 17 year-olds are treated differently, in that the state has to show that there are substantial and compelling reasons why the minimum sentence of imprisonment linked to an onus on the accused, would not be in breach of the international and constitutional provision that imprisonment of children should always be a measure of last resort.

The efforts to exclude children from the effects of the new bail legislation did not yield the same positive result. In 1997 the law relating to bail was changed to make it more difficult for accused persons charged with certain serious violent crimes to be able to be released on bail. Submissions to the Justice Portfolio Committee requesting that the bill exclude children from its provisions were not favourably considered. The final Act made no allowance for differentiation based on age. This legislation, like the legislation on minimum sentencing, is based on lists of offences and downplays the individual circumstances of the offender.

A further example of how American crime control concepts are gaining ground in South Africa is the development of the Prevention of Organized Crime Bill. In its definition the Bill provides a number of factors to guide the courts in deciding whether or not a particular individual is a member of a criminal gang. One of these is whether the person ‘resides in or frequents a particular criminal gang’s area and adopts their style of dress, their use of hand signs, language or their tattoos, and associates with known criminal gang members’. This is rather sweeping, and may spell danger for many teenagers who, although not really involved in criminal gangs, fit the above description. It best describes children awaiting trial at DYC, who enjoy wearing clothing and bearing tattoos similar to the local gangs. The definition also says that a criminal gang member may be identified by a ‘parent or guardian’ and this gives a clue to the fact that this legislation is aiming to draw persons below the age of 18 years into its web. Chapter 5 of the Bill creates a list of ‘gang related activities’, which in themselves constitute an offence for which a three-year prison term may be handed down by the courts. Membership of a gang may be regarded as an aggravating factor for the purposes of sentencing.
The most recent piece of legislation with a direct bearing on the issue of juvenile justice to be developed by the national legislature is the latest bill dealing with the detention of awaiting-trial children. Strangely, it started out as an attempt to offer increased protection for children in the pre-trial phase. In early 1998 it became apparent that a flaw existed in the saving clause of the Correctional Services Amendment Act, and that Section 29 of the Correctional Services Act dealing with the pre-trial detention of children would disappear when the new Correctional Services Act replaced the Correctional Services Act of 1959. On 1 April 1998 the Office of the President released a cabinet statement, which began with the words:

"The Cabinet has endorsed the position of government that children and youth awaiting trial should not be detained in prison or police cells. Cabinet has agreed to the following: That there will be a repeal of Section 29 of the Correctional Services Act, that new temporary legislation with a more restrictive provision than section 29 on pre-trial detention of children will be established within the Criminal Procedure Act to replace Section 29 of the Correctional Services Act. This Act provides for the detention of children charged with scheduled offences in prison. Which is a tougher crime control measure."

To answer Skelton's question: Is there a shift away from child right issue to one of crime control?

It would seem that the best interests of the child are in direct conflict with crime control measures. Profiling seems to be an error on which the present system of the SAPS is focusing its attention. Children brought to the Centre are sometimes arrested for trespassing because they appeared to be 'tsotsis' wearing big earrings and tattoos. The children, however, say during interviews with social workers, that they wear certain types of clothes for identification, and to instill amongst themselves a sense of belonging, because they are street children. They are, moreover, detained longer than those who have actually committed serious crimes, because there are no guardians at court and they cannot be released onto the streets. Furthermore, lacking fixed addresses and guardians at court, they fail to meet the bail requirements. The children in the centre most commonly victimized by profiling, have come from neighbouring countries. That they do not speak some of the official languages of South Africa makes them targets for arrest. They generally find it difficult to express themselves. Information verified by case records at DYC shows that they are usually among those children who stay longer than others in the Centre.
CHAPTER THREE

3. The Transformation Of The Youth Justice System In South Africa

3.1 Introduction

Following upon the ratification of the United Nations' Convention on the Rights of the Child in 1995, was a request to the South African Law Commission, to undertake an investigation into juvenile justice and to make recommendations to the Minister of Justice for the reform of this particular area of the law. An issue paper was published for comment during 1997, which proposed that a separate bill should be drafted in order to provide for a cohesive set of procedures for the management of cases in which children were accused of crimes. The issue paper was the subject of consultation with both government and civil society role players.

Towards the end of 1998, the Commission published a comprehensive discussion paper accompanied by a draft bill. Wide consultation was held regarding this document, with all the relevant government departments and non-governmental organisations providing services in the field of juvenile justice being specifically targeted for inclusion in the consultation process. The draft encapsulated a new system for children accused of crimes, providing substantive law and procedures to cover all actions concerning the child from the moment of commission of the offence through to sentencing. Record-keeping and special procedures to monitor the administration of the proposed new system were included. The workshops and seminars held and the written responses received regarding the discussion paper, garnered substantial support for the basic objectives of the Bill as well as for the proposed structures and procedures. Many of the submissions and discussions included constructive criticisms and helpful suggestions as to how the Bill could be improved. The report contains a final proposed Draft Bill, entitled the Child Justice Bill. This embodies the recommendations of the South African Law Commission for the reform of the law relating to children accused of crimes in South Africa. [Juvenile Justice Report, July 2000: x, South African Law Commission]
3.2 Application Of The Draft Bill

It applies to any person legally resident in South Africa who is alleged to have committed an offence and who at the time of the alleged offence is or was under the age of 18 years, although the Director of Public Prosecutions may in exceptional cases direct that proceedings in terms of the Bill must take place in respect of a person who is over 18 years but has not reached 21 years of age.

The Bill applies to any person in respect of whom proceedings have been instituted, notwithstanding the fact that he or she may have turned 18 years of age during the course of such proceedings. [Juvenile Justice Report, July 2000: x1]

As described under the profile of the children awaiting trial at DYC, some children come from states neighbouring South Africa. Social workers' files at DYC show that they commit crimes for a number of reasons; for example, hunger, homelessness and lack of parental care support and guidance.

The Centre is guided by the principles laid out in the National Programme of Action for Children in South Africa, from the office of the President, whereby the status of the refugee children is described as follows:

Economic hardship and political unrest will force people to take flight to South Africa. The United Nations Convention of 1951, the 1967 UN Protocol on the Status of Refugees and the 1969 OAU convention governing the specific aspects of refugee problems in Africa have been ratified by South Africa.

The basic rights in the Bill of Rights apply to all people and any unaccompanied child is considered a child in need. Hence, such a child would qualify for all benefits of children in need. [A Report on the State of the Nations' Children. Children in 2001: p14] Therefore, the foreign and South African children in detention at DYC will be treated similarly, although the Bill does not explain its application where foreign and illegal immigrant children awaiting trial are concerned.
3.3 **The Objectives Of The Bill**

to protect the rights of children subject to the Bill,

- to promote the concept of ‘ubuntu’ in the child justice system
- to promote co-operation between the relevant government departments, other organisations and agencies involved in implementing the effective child justice system.

3.4 **Age: Criminal Capacity And Age Determination**

3.4.1 **Age And Criminal Capacity**

The Bill repeals the common law with respect to children below the age of 14 years. The minimum age of criminal capacity is raised from seven to 10 years. The rebuttable presumption of *doli-incapax* with regard to children who are at least 10 years, but not 14 years of age is codified. The Bill provides that:

- a child who at the time of the commission of an alleged offence is below the age of 10 years, cannot be prosecuted.
- a child who, at the time of the commission of an alleged offence, is at least 10 years, but not 14 years of age is presumed not to have had the capacity to appreciate the difference between right and wrong and to act accordingly, but this presumption may be rebutted if it is subsequently proved beyond a reasonable doubt that he or she did have capacity at that time.
- A child who has reached 10 years, but is not yet 14 years of age may not be prosecuted unless the Director of Public Prosecution issues a certificate confirming an intention to proceed with the prosecution of such a child. This approach is intended to encourage the diversion of children in this age group in the majority of cases, whilst still preserving the discretion of the prosecutor with regard to their prosecution. Moreover, the first draft of the bill achieved two important goals that were in line with the aim of further limiting pre-trial detention. It removed the discretion of presiding officers to detain children on any offence in circumstances serious enough to warrant detention. It also raised the minimum age below which children should be allowed to be detained in a prison, from 14, to 16 years of age.
When the Portfolio Committee on Justice considered the Bill, substantial changes were made to it. The most dramatic effect was to remove from it entirely, the minimum age below which a child may be detained in a prison. Previously, only children of 14 years or older were permitted to be held awaiting trial in prison. In the current Bill, there is no minimum age below which children may not be imprisoned: the age-based criterion has been jettisoned in favour of offence-based decision-making. A last minute inclusion into the Bill by the Portfolio Committee on Justice was a clause providing that a child under the age of 14 years may be detained in prison only if the Director of Public Prosecutions or a prosecutor duly authorised, issues a written confirmation that s/he intends charging the child with an offence referred to in Schedule 8 and possesses sufficient evidence to institute a prosecution.

The Bill was submitted to the National Council of Provinces, where the Select Committee for Security and Justice made a further amendment. They added the following clause to a list of matters to be considered by the court before deciding on the pre-trial detention of a child: 'the age of a person, particularly if he or she is under the age of 14 years'. This amendment may have been made because of letters sent to the chairperson of the Select Committee for Security and Justice, which pointed out that children under the age of 14 years are presumed by South African Common Law to be doli incapax, and deemed to lack criminal capacity until this presumption has been rebutted beyond reasonable doubt. The detention of such children prior to rebuttal of the presumption might thus be unlawful.

The crucial questions of the minimum age of criminal capacity and the minimum age of imprisonment have still to be decided upon for the future juvenile justice system in South Africa. The Law Commission Issue Paper on Juvenile Justice tended to weight the debate against the retention of the doli capax and doli incapax presumptions, recording how these have failed to protect children in South Africa. A minimum cut-off age below which a child may not be prosecuted or linked to actual criminal capacity was offered as a possible alternative. The advantage of this approach is the certainty which it brings. What the debates in parliament in the latter part of 1998 highlighted, was that decisions related to minimum ages need to be made with utmost caution. An environment in which consideration of the age of the child is outweighed by consideration of the offence with which s/he is charged, is a dangerous one for efforts to reform. A clear cut-off minimum age below which a child could be prosecuted might be set extremely low - or even removed, by the Portfolio Committee on Justice. This means that the examination of these issues must be made not only against the
backdrop of commitment to children’s rights, but also in the light of political realities. [Skelton 1998]

3.4.2 Age Determination

The Bill has not yet been able to address the problem of age determination satisfactorily. The current bill proposes to create a lot of paperwork for determining age, with age assessment forms moving from the presiding officer to the probation officer, to the district surgeon and back to the presiding officer, or, if the trial has not commenced, the case is to be referred back to the inquiry magistrate. If South Africa believes that the most reliable tool for age determination is an X-ray machine, it is not clear why the Bill still entertains the notion that this manual paper-work trail is necessary in reaching a conclusion about a youngster’s age. District surgeons need only to check the offender’s bone structure.

3.4.3 Features Characterising The Proposed Preliminary Enquiry

Should a child not be diverted and the prosecutor not withdraw the charges, a preliminary magistrate would be appointed. This protective measure would prevent the child’s going deeper into the system, which happens under the present act. The magistrate would ascertain whether assessment had taken place and whether the matter could be diverted. The preliminary inquiry would provide the opportunity for innovative and imaginative intervention by specialised and trained judicial officers, to examine the circumstances of the child and the offence with a view to devising a solution.

Implementing this system would mean that children would be listened to. Their reasons for coming into contact with the justice system would be heard. Those children in DYC who have been led to commit crime, usually theft of food, because family members (including themselves) were going to bed hungry; there being no food available, worry about conditions at home and find it very difficult to cope. In cases like these, the Centre’s social workers refer the case to the Department of Social Services, requesting intervention on the youth’s behalf, so that he can cope with his changed circumstances in the knowledge that his family is receiving assistance whilst he is in detention.
3.4.4 Court Procedure Within The Current South African Law And The Proposed Juvenile Court

There is no separate criminal court for children in South Africa. However, trials of children are required by law to be held in camera, regardless of which court they are appearing in. Special courts are a requirement in areas where the intake of juvenile offenders is high in contrast to that of sparsely populated areas. The present courts have not succeeded in promoting neither the dignity nor the worth of children appearing before them because they are not child-friendly.

3.4.5 A Model For A New Child Justice Court

The committee proposes the establishment of a child justice court with a particular identity. It proposes that the atmosphere of such a court and the roles of the officials serving in this court should be defined by legislation. It will be less formal, and encourage greater participation by the child and family, than the present day court, where the prosecutor is the starring. The children in the youth centre have this to say: “They were talking alone (referring to the magistrate and the prosecutor). Thereafter I was told to go down and to come back on the next date. I tried to speak to them. The police officer dragged me to the cells; I could hardly look at my mother, who was also not given a chance to speak. I do not know why the case was remanded.” The sentiment has been echoed by Article 40 Volume 22, where the children stated that “They must speak so we understand.”

The Bill proposes that the specialised court or district court should have increased sentencing jurisdiction that will minimise the long detention of children who have to wait for a year or more for a case to be heard in a High Court. The presiding officer should be empowered to intervene wherever it appears to him that this would further the child’s best interest, and required to protect the child from hostile cross-examination. The bill has looked at all functions of the different courts; of, for example, children’s courts, child justice courts and district courts. It places the interest and protection of the child first. In all the above courts, the case must be held in camera and informally; the child must be addressed in his language, as much is lost during interpretation, so that he can feel that he is part of the proceedings. This will help to remedy the problem expressed by, for example, “they talk alone”. The child must not be restricted or cuffed.
3.5 Definition And Use Of Diversion And How It Benefits Children Awaiting Trial At DYC

3.5.1 What Is Diversion?
The IMC document defines diversion as follows: ‘It is the channelling of *prima facie* cases away from the criminal justice system on certain conditions. It creates the opportunity for young people, where appropriate, to repair the damage and be accountable for their actions rather than be labelled with a criminal record.’

This prevents the phenomenon of self-fulfilling prophecies, of young people thinking they are bad and therefore, acting badly. Previously, street-children were excluded from diversion programmes: the street shelters in and around the city, of which Othandweni Home for Street Children is one example, have now been registered; they provide guardians at court for street children in their care. Thus these children can also benefit from the programme. At DYC if a street child has been arrested for a petty offence (perhaps shoplifting a R35 cassette) and no guardian was present during his court appearance, social workers phone the shelter to inform the social worker responsible, about the plight of the child - irrespective of whether they know him or not. Usually they come to the centre to interview him, and when he goes to court a guardian is arranged for him. They usually supervise and monitor placements. The new bill with its acceptance of a guardian or ‘significant other’, enables street shelters to render services to street children, who are often disadvantaged. The prosecutor at court remains the gatekeeper where a referral has to be made. A multi-disciplinary team assesses the child, using an assessment form. It is important for a copy of the assessment form to be forwarded to the detention facility if the child will be further detained.

The Draft Bill proposes that assessment of all children be mandatory before decisions regarding their detention is made.

3.5.2 Assessment And Referral
Assessment is the process of identifying the developmental needs of the young person and family from a strengths based perspective, planning with the young person and referring
him/her to the appropriate programmes and resources, within the boundaries of the legal requirements applicable to that young person.

Referral is the process of directly linking the young person to the programme and resources which will most appropriately meet his assessed developmental needs and the legal requirements. In the Centre, the child will be referred to a specific developmental programme.

For the purposes of this discussion, diversion should be analysed. It is central to the new juvenile justice system, but it is not simple. According to the IMC document interim policy recommendations in line with the United Nations on the rights of the child, the Beijing rules and other international instruments, where this is appropriate young people should be diverted from the criminal justice system into programmes. Those who should be targeted for diversion are young people who have not committed serious crimes, or those who have not been prosecuted more than twice. The current Act 51/77 assigned too much power to the judiciary. As a result some children who were first-time offenders, were given prison sentences, without probation officer’s involvement. Only when they have re-offended, have the magistrates decided to involve a probation officer. By that time, intervention is too late: the child is already lost to the criminal gangs that rule the country’s prisons. The child should be given a chance, and be exposed to a diversion / supervision programme from the onset.

**Mechanism for Referral**
Currently the decision to allow for diversion is made by the public prosecutor, and the lack of a proper screening mechanism hinders diversion. It is also rare that prosecutors initiate diversion of their own accord.

**Due Process Rights**
It is necessary to build in safeguards to minimise the risk of loss of due process rights when the young person is required to acknowledge responsibility for wrongdoing before being considered for diversion. The child may opt for diversion through fear of being tried in court, and may plead guilty.
Role of probation officers

The Child Justice Bill proposes that probation officers should be given powers to decide on diversion, where the offence is of a non-serious nature, and where there are no factors opposing that decision. Each probation officer’s recommendations should be subjected for review by the local child justice committee.

3.5.3 Factors To Be Considered When Referring A Child For Diversion.

The decision to refer a child for diversion must be based on the best interest of the child. Children must have equal access to diversion and none should be discriminated against on the basis of race, sex, ethnicity, sexual orientation, disability or religion. The participants in the publication of Article 40 (3) No 1 on diversion, strongly supported this view, and felt that access to diversion should not be limited by the type of crime (offence) with which the child had been charged. Corporal punishment and humiliation are not elements of diversion. The programme facilitator must be aware of the above factors to prevent abuse of children while they are involved in a programme.

Diversion programmes must:

- promote the dignity and well-being of the child, and not exploit or expose him to harmful or hazardous situations which might harm his physical or mental health;
- not interfere with the child’s schooling;
- not require or permit a child under 13 years of age to perform community service or other work as an element of diversion;
- take into account the age and maturity of the child in determining programme content, programme conditions and the period of time that a child is required to attend a diversion programme;
- if possible, include a restorative justice element which aims to heal relationships, including relationships with the victim;
- where possible include an element which seeks to ensure that the child understands the impact of his or her behaviour on others, including the victim/s of the offence.

Diversion programmes should be presented in a location accessible to children and, if they do not have money, the means to attend should be provided. In rural areas where NICRO
services are not available, the probation officers must be creative and start their own programmes, such as for example, the juvenile offender school programme or a youth offenders’ programme, and they could also link up with NICRO on ‘train the trainers’ programmes, where children would be empowered and thereafter able to train others in their respective villages. They could train peer counsellors, because not all programmes should be run by probation officers.

The problem with the programme arises in relation to dealing with children less than 15 years old, because no person under 15 can do community service because it can be viewed as forced labour, violating the constitutional ban on forced or child labour.

The delivery of appropriate programmes needs to be ensured. The levels of diversion give a child a chance to be tried at each level. The programme recognises that children do make mistakes, but their protection must be ensured. The span of the programmes’ duration is meant to empower the child and give him/her a chance. If a youngster has to be referred to a residence, the programme period should not exceed six months.

Diversion can also be used in terms of Project Go; for example, where a child has been sentenced to a reformatory school and has awaited designation for a period exceeding 6 months and more in a residential area. This would unblock the residential facilities. Such a child should be returned to his/her home, but placed in a diversion programme that will ensure a smooth transition from institutional life and reintegration into the community. Diversion calls for creativity. As long as it is a viable programme, probation officers should sell the concept of diversion to the communities, so that people could become aware of its implications and benefits to their communities and to the children.

According to Muntingh, diversion is not an option to be implemented without proper training, accountability structures and guidelines. Diversion by definition operates on the periphery of the criminal justice system in somewhat murky waters. For it to be successful, accepted and supported by the general public, the existence of very specific practice guidelines is imperative. It is also essential for public awareness campaigns to be carried out to prevent the public from thinking that the justice system is not ‘punishing’ offenders, and consequently taking the law into their own hands.
3.5.4 Use Of Diversion At DYC

For the purposes of this study diversion may include

- referral to a programme with a residential element for a period of about 6 months;
- compulsory attendance at a school (For example, already some courts refer children for literacy training, especially where a child is 16 years and older, and has never been to school);
- compulsory attendance at a specified centre for a specific vocational or educational purpose. (Some magistrates refer children for vocational training in the centre. Upon completion, a progress report is sent back to court.);
- provision of diversion programmes, with a residential element for the most serious cases; for example, the Centre is already running a sexual offenders’ programme for those children who have pleaded guilty to rape or other sexual offences.

3.5.5 Sentencing

Sentencing is inextricably linked to the overall principles and values underlying a child justice system. Those include restorative justice, respect for human rights and dignity, proportionality and limitations on the restrictions of liberty. The commission believes that it is important to propose a sentencing framework for child justice legislation in which aims of sentencing and practical issues are both addressed in a workable way. Sentencing must be reappraised and developed in the spirit of the constitution: the cornerstones of the constitutional principles applicable to sentencing are legality, equality and proportionality. The constitutional court, which recognised the validity of retribution as a proper purpose of sentencing but noted that traditionally it has carried less weight than deterrents, places emphasis on ‘Ubuntu’ rather than victimisation, understanding rather than vengeance and reparation rather than retaliation. Van Bueren 1993 pointed out that the approach adopted by the Convention on the Rights of the Child established clearly that the aims of child justice system should be for children to have the right to be treated in a manner consistent with their ages, and that the system should promote the child’s reintegration into society. International laws require that any reaction to the juvenile offender should ‘always’ be in proportion to the circumstances of both the offender/s and the offence. There is a trend towards the over-use of imprisonment as a sentence for children, even when non-violent offences are involved.
The Bill proposes that the court should not be allowed to impose a sentence with a residential element unless a pre-sentence report has been placed before it. This is another measure for protecting the children. As mentioned before, probation officers' reports need to be screened at all times to ensure that they do not mislead magistrates, through the establishment of pre-sentence evaluation committees. It is furthermore, common knowledge that large parts of the country's rural areas do not have resources (probation officers) to make those mandatory reports available within reasonable periods if sentences with a residential element are considered.

3.5.6 Review And Appeal
The Child Justice Bill, like the Criminal Procedure Act maintains that it is a child's right to appeal against his sentence. It recommends that every case be reviewed irrespective of the magistrate's experience, especially in sentences involving a residential care component.

3.5.7 Monitoring Systems
Their main purpose is to oversee the effective implementation of this legislation; to collect and collate the relevant statistics and to promote public awareness and prevention strategies.

3.5.8 Legal Representation
The constitution provides every person with a right to choose and be represented by, a legal practitioner, if necessary, assigned to him at state expense. The project committee fully recognises that legal representation for children is a requirement where children are deprived of their liberty; during the pre-trial stage and when children are to plead guilty or be tried for serious offences. The children must understand their right to have legal representation. Because they do not see them at court, some children in the centre believe that some legal representatives contribute to the delay of their cases. NICRO, (the report on which the publication was made, was commissioned from Nicro in December 1998) conducted a survey and found that 46,7% of the children expressed more or less the same concerns about lawyers:

- children did not feel that the lawyers were 100% on their side;
- lawyers did not show up for court, which led to postponements;
- children told the lawyers one story, and the lawyers told the court a different one;
- without consulting the children, lawyers pleaded guilty on their behalf.
The remaining 53.3% said that they had experienced no problems with legal aid. Furthermore, 80% of the participants were in agreement with the Draft Bills’ proposals that a child should not be able to refuse legal representation, except in the case of a minor offence. One viable possibility is that specialised youth advocates could be trained, to be able to give special attention to children in juvenile courts. (The Draft Child Justice Bill 1999)

### 3.5.9 Confidentiality And Expungement Of Records

The commission recommended that the present provisions relating to the protection of the identity of accused persons under 18 years old, and the privacy of criminal proceedings involving such children, be incorporated in similar form in the proposed legislation. They also recommended that an additional provision in accord with the intended regulation should be inserted, to prevent people and organisations from gaining access to information pertaining to children, if such access were concerned with the administration of the proposed child justice system.

In order to protect the children, the proposed legislation recommends that for children to enjoy confidentiality of records, a separate system needs to be created, because the present system fails to address the issue of previous convictions’ confidential, and thus, children are not protected. The commission recommends the expungement of the criminal records of a child offender, because a criminal record has serious implications: a conviction brands a person forever as an untrustworthy member of society and compromises job opportunities. Ex-convicts are always subject to suspicion and mistrust. There are guidelines to be followed when expungement is considered, to avoid its abuse.

### 3.6 Other Features In The Child Justice Bill

Other relevant features of the Child Justice Bill include:

#### 3.6.1 Costing The Implementation

A group of researchers were employed to cost the implementation of the Child Justice Bill. [Applied Fiscal Research Centre, University of Cape Town] Their research has shown that the new legislation can lead to a saving of about 35% per year on current expenditure. This
saving will happen only through the expansion of diversion and the reduction of time spent by children in the youth justice system and in prisons.

3.7 Other Developments In The Field Of Youth Justice, Which Have An Impact On Youth Awaiting Trial

3.7.1 The Court Processes Project

The present youth justice process is plagued with shortcomings. This is largely due to the department’s operating in an environment of isolation and the lack of reliable and timely information. This creates blockages and inefficiencies, militating against the critical need for smooth functioning. In order to transform the present criminal justice system into a modern, efficient, effective and integrated system, a User Board consisting of senior members of Correctional Services, SAPS, Justice and Social Development was established in 1997. The User Board was given the task by the NCPS Ministers’ Committee, of initiating recommendations for the implementation of an Integrated Justice System.

The approach taken was to review the business processes involved in managing an offender and the associated case through the justice system. Special attention was paid to points where processes crossed departmental boundaries. Six core processes were pre-defined: crime reporting and investigation, arrest, prosecution, adjudication, incarceration and community corrections.

The Court Process Project will enable the greater integrated justice community electronically to interact, and manage and control a criminal case from pre-adjudication, through the adjudication process to post-adjudication.

The goals of the project are to:
- improve administration and tracking of dockets and case files,
- reduce delays leading up to trials,
- reduce duplication of data entry,
- re-align procedures,
- improve access to information,
- communicate and receive timeous notification of events
- verify identities
- reduce the number of lost case dockets
- reduce case postponements caused by misplaced files/exhibits
- improve administration of prisoner admissions and releases
- improve docket/exhibit administration.

The Departments of Justice and Constitutional Development (DoJ), Correctional Services (DCS), Social Development (DSD), Safety and Security (SAPS), National Director of Public Prosecutions (NDPP) and the State Information Technology Agency (SITA) will be participating in the project.

Two pilot sites were identified for the project: Johannesburg and Durban. The following sites will participate in the Johannesburg pilot project:

Courts: Johannesburg Magistrate’s Court, the Soweto branch court and the Jeppe branch court

Police Stations: Johannesburg Central, Jeppe and Protea/Soweto

Correctional Services: Johannesburg Prison and Florida Community Corrections

Social Services: Dyambu, Walter Sisulu Centre, Magaliesoord Treatment Centre (including Protem) and Johannesburg Decentralised Office

Direct benefits for departments actively involved will entail the following:

- police notification, informing the probation officer electronically when a child is arrested, so that early intervention services will start immediately;
- availability to the prosecutors, of results of all developmental assessments in an electronic format;
- electronic linkages with facilities accommodating children awaiting trial and treatment centres;
- electronic submission of requests for pre-trial and sentence reports;
- positive identification of clients, especially children;
- proper scheduling of probation reports and resources;
- effective human resource management;
• availability of integrated justice management information on a provincial and national level for strategic planning purposes.

The pilot projects commenced in August 2000, to prove certain concepts, to facilitate legislative changes, and to develop an extended requirement that will be put out to tender in 2001. The success of these projects will benefit the Child Justice System and promote the best interests of the child.

3.7.2 The Interim National Protocol For The Management Of Children Awaiting Trial

The protocol arose from an intersectoral investigation that examined the issue of children awaiting trial in prison on 1st June 2001. One recommendation of the team was that a protocol should be developed to guide the management of children in the early stages of the criminal justice process.

The objectives are to ensure:

- effective inter-sectoral management of children who are charged with offences and may need to be placed in a residential facility to await trial;
- appropriate placement based on an individual assessment, of each child;
- correct use of the different residential options available;
- the flow of information between the residential facilities and the courts;
- assistance for managers of facilities in keeping the numbers in facilities manageable;
- improved safety of communities through appropriate placement of children, effective management of facilities and minimisation of abscondment;
- effective monitoring of the situation of children in custody;
- establishment of appropriate procedures to facilitate the implementation of the proposed new legislation, once it has been passed by parliament.

Arrest

- when a child is arrested, every effort must be made by the police as soon as possible to:
- notify parents or guardians of the child’s arrest [Section 50(4) of the Criminal Procedure Act] (This measure will relieve the burden placed on
facilities. When a child is admitted at DYC his parents do not know about his arrest; the telephone bill grows as social workers engage in the process of finding children's families.

- notify parents about time, place and date of court, in terms of Section 74 (2) of the CPA. (Some parents report at DYC on the court date, which adds to the management at centre's financial burden, as they have to be transported to court as speedily as possible to appear before the magistrate with their child);
- consider the release of the child to parents or guardians on 'police bail', where this is suitable in terms of section 59 (1)(a) of the CPA;
- consider the release of the child into the 'care of the person in whose custody he is' and the issuing of a written notice to appear in court, in cases where the child could be released on police bail [section 72(1)(b) of the CPA];
- notify a probation officer that a child has been arrested [section 50(5) of the CPA];
- take a child directly to a probation officer for assessment if there is a probation officer on duty;
- Obtain confirmation of the age of the child when notifying parents of the arrest.
- The Provincial Department of Social Development must make available to all police stations in the area of service:
  - notification of when probation services are available,
  - venues where children are to be brought for assessment,
  - relevant names and contact details of probation officers,
  - assistance offered by the Department in finding families.

The Criminal Procedure Act does not define 'guardian' and the courts have been left to interpret this. They have given it a broad interpretation, allowing family members such as aunts, uncles, grandparents and older siblings to stand as guardians. This facilitates the release of children, and is a positive practice. A provision is that the person must be older than 18 years and show that he has a pre-existing relationship with the child (although this need not be a blood relationship). For children in boarding schools or residential care, a
A teacher or care worker may stand in as a guardian. This is very important for some of the children at DYC who do not have parents or guardians, for a staff member can make a court appearance on behalf of the child.

**Assessment**

The Provincial Department of Social Development will ensure that every child is assessed by a probation officer as soon as possible, and not later than 48 hours after the arrest has taken place. A sufficient number of trained staff are made available in the area of service to undertake such assessments. Probation services liaise between the residential care facilities (run or subsidised by the Department of Social Development) and the court, ensuring that the courts are informed about the various facilities and the availability of places in each facility on an ongoing basis. The assessment will be recorded on an assessment form. It will include the following relevant information:

- the youngster's name, address, age (source included) and case number, the police station and investigating officers name;
- availability of parents/guardians and attempts to contact them;
- relevant background information.

It will also contain information regarding:

- diversion,
- release into care of parent/guardian,
- placement and availability of places in recommended facilities,
- age estimation.

The Department of Justice and Constitutional Development will assist the Provincial Department of Social Development by:

- ensuring that probation officers have easy access to all children appearing in the courts, including those appearing in the ordinary (not juvenile) district courts;
- designating one court within a district to deal with all juvenile matters, as far as is reasonably possible;
- channelling regional court cases involving juveniles through one regional court where reasonably possible;
allowing adequate time for assessments to take place on the morning of the first appearance, if such assessments have not already been completed;

- notifying probation services, if a child due to appear in court has not been assessed, and making such a child available for assessment.

After assessment prior to appearance in court, the probation officer will hand over completed assessment forms to the prosecutor, and where possible, should discuss or explain the recommendations. The prosecutor will then peruse the completed assessment forms together with the docket and will decide whether or not to prosecute.

If the matter is to be remanded for further investigation or for trial, the issue of placement will also need to be considered, and the probation officer will inform the prosecutor on the availability of places at the facilities. If the child can be released to the care of parents or guardians and they are not at court, the matter should be stepped down and the prosecutor should request the probation officer and the investigating officer to make every attempt to find the parents. If they cannot be found, the remand date to be recommended by the prosecutor should be set for a few days later.

**First Appearance**

At the first appearance, consideration will be given to the completed assessment form and the recommendation regarding suitability of placement submitted by the probation officer, who can be called in to support the recommendation if there are matters in dispute.

The options for placement are set out below hierarchically. The least restrictive options should be considered first.

- A child should be released into the care of parents/guardians, or otherwise, be accommodated in a suitable placement recommended by a probation officer.
- The placement should be of short duration.
- If the court is concerned about abscondment when a child is released to the care of the parents, conditions such as reporting to police stations or to the probation officer could be set.
- The place of safety.
- The child may be placed in a secure care facility.
- The suitability of setting bail in an affordable amount should be considered.
Detention in prison should be regarded as a last resort, to be used for the shortest possible period of time.

Remands
Remands for children in prison will be 14 days. The children are brought back to court to give them an opportunity to raise their concerns or problems at court. This serves as a monitoring mechanism for children in detention but this system, however, adds to the burdens of the court. The Child Justice Bill has taken into consideration these short remands and the burden they place on courts, parents and police: the child will be remanded for 30 days, but until the Bill becomes law the status quo will remain.

The probation officer or the facility’s social worker can use remands to vary places of detention. If a suitable placement has been found, police should assist with transportation of children for variation of places of safety.

Progress of the investigation of each child should be assessed carefully by the prosecutor. Cases for remands can be ‘clustered’; for example, heard on Tuesdays and Fridays only, thus providing for days which are clear of remand hearings, on which trials can be heard. In areas where the prisons have been designated as ‘places of sitting’ (Pretoria and Port Elizabeth), consideration can be given to clustering the remands and attending to them on two days every week in the prison. If this is done, due regard must be given to enabling their families to attend such remand hearings where this is possible.

Requisitions
A child can be required to appear in court if the manager of the facility is of the opinion that the child needs to be placed more correctly; for example, where his parents/guardians have been found. If this happens, the social worker at the facility should notify the probation officer if a requisition is required and the probation officer will make the necessary arrangements with the clerk of the court.
Age Assessment

Where the age is uncertain, the magistrate may make an estimation of the age in terms of section 337 of the Criminal Procedure Act. Information gathered during assessment will assist the court.

If a child at the facility appears to be older, the social worker can inform the court and can testify at court, or can send a childcare worker to testify at court.

Monitoring

The situation of children should be monitored within each district. This can be achieved through an inter-sectoral meeting which should take place preferably on a monthly basis.

The meetings should be attended by representatives of:

- the Department of Justice and Constitutional Development,
- the Office of the Director of Public Prosecutions,
- the Department of Social Development (Probation Services) and representatives from Residential Care Centres,
- The SAPS,
- relevant NGO’s: those providing diversion programmes.

At these meetings cognisance should be taken of:

- the number of children in custody in prisons and secure care facilities,
- the number of children diverted,
- number of children in custody for more than 3 - 6 months.
- The purpose of the examination of these cases is to give attention to problems. Crisis intervention should be attended to inter-sectorally, especially where a child dies whilst in custody. Overcrowding in facilities and escapes from facilities should be dealt with on an urgent basis, perhaps through sub-committees appointed by the meeting. Relevant national departments should be notified about these crisis issues. In the proposed new system such local inter-sectoral structures will become the core structures of a new monitoring system. [Child Justice Project 2001]

The Interim National Protocol for the Management of Children Awaiting Trial, if correctly used by all role players, can be an effective monitoring mechanism for the management of
children in this circumstance. However, because it is not binding on individual role players, during intersectoral meetings key role players absent themselves without giving valid reasons or apologies. The National Protocol should build in safeguards relating to consequences should role players not abide by the recommendations.

3.8 Legislation Affecting Children In Trouble With The Law

3.8.1 The Criminal Procedure Act No. 51 Of 1977

Section 6 deals with the court’s power to withdraw or stop prosecution before conviction, whether the accused has pleaded or not. At any stage before judgement, court proceedings can be stopped and the accused can be placed under correctional supervision. The prosecutor after consultation with the probation officer, can request a report from a probation officer.

Section 50 refers to procedure after arrest. An accused person cannot be detained for more that 48 hours unless he is brought before court.

Section 71 deals with provisions for placing a juvenile in a place of safety or under supervision in lieu of release; for example, under the supervision of a probation officer or a correctional official. The magistrate usually does not implement this section; children are usually referred to places of safety or released on bail, even for petty crimes. This happens to children at DYC.

Section 71A provides for the detention in a prison cell of unconvicted young people under age of 18 years who are accused of having committed an offence referred to in Schedule 8 i.e:

- Murder
- Robbery with violence
- Assault of a sexual nature
- Kidnapping
- Drug dealing
- Conspiracy to commit any of the above-mentioned offences.

Such detention may only be authorized under the following conditions:

- That it is a measure of last resort
- That it is necessary in the interests of the administration of justice and the protection of the public or such person
- There is a substantial likelihood that such person could be sentenced to imprisonment exceeding 2 years.
- No secure place of safety as mentioned in Section 28 of the Child Care Act is available
- That there is a substantial risk of the person absconding from such a Place of Safety.

Any juvenile so detained has to be brought to court every 14 days to enable the court to determine whether the interests of the administration of justice and the safety and protection of the public necessitate the further detention of such person in prison.

Furthermore, Section 71A provided for the detention of an unconvicted person under the age of 16yrs in a police cell or lock-up for a period not exceeding 48hrs after their arrest if such detention is necessary and in the interests of justice and no alternative place with parents, guardians or in a place of safety is available. This provides a reasonable opportunity to provide for an alternate placement.

**Section 72** provides for pre-trial custody and release on warning. An accused person may be released on warning, or may be released to the custody of a person who will ensure that he comes to court on the specified date of trial, especially when he is under 18 years old, has a fixed place of abode, and can be trusted. (From experience with children at DYC, it is really confusing as to who gets released on warning as there is no consistency at court. The justice system is still not colour-blind; it is easy to observe which children (population group) move faster out of the justice system.)
Section 72(i)(b) considers the release of the child into the ‘care’ of the person in whose custody he is, and the issuing of a written notice to appear in court in cases where the child could be released on police bail.

Section 73 The accused person’s entitlement to assistance after arrest and at criminal proceedings is dealt with here. This section, if properly administered, will benefit children who do not follow the proceedings, as some children come back from court without having followed the court proceedings or knowing when they have to return to court. The shortcoming of this section is that not all accused people can afford the services of an attorney. In courts where the unavailability of services of probation officers result in non-screening of children, or non-assessment, such children if they fail to speak for themselves become lost within the system.

Section 74 provides for the presence in court of custodial adults. Parents or guardians of accused children under 18 years of age are required to attend proceedings. (If these adults are not informed in time of their children’s arrest, the social workers at DYC will concentrate on assessing and counselling the youngsters, who often state that their parents do not know where they are.)

Section 77 refers to the capacity of the accused to understand proceedings. A requirement is that the accused person must understand the court proceedings.

Section 79 deals with the accused person’s mental capacity to stand trial. (Provision is made for a panel of enquiry and its report under Sections 77 and 78.) The accused person is usually referred for psychiatric observation, to determine if he is fit to stand trial or not. In April-May 2001 three children who were admitted at DYC are currently at Sterkfontein Psychiatric Hospital for observation.

Section 80 establishes the right of the accused person to examine charges at any time.

Section 81 states that any number of charges may be joined in some proceedings.

Section 153 identifies circumstances in which criminal proceedings shall not take place in open court. Cases involving risk to state security are usually held in camera. Protection of
state witnesses to prevent victimisation, and matters involving children younger than 18 years of age, are addressed.

**Section 154** prohibits publication of certain information relating to criminal proceedings, especially those held *in camera*.

**Section 170 (a)** covers provision of evidence through intermediaries, and involves younger children especially in child abuse cases, where they may have to give evidence against perpetrators.

**Section 254** provision is made for the court to refer accused juveniles to a children’s court. If it appears that a person under the age of 18 years needs to be treated in terms of the Child Care Act, the enquiry will be stopped and the child will be referred to a children’s court.

**Section 255** allows the court to order an enquiry under the Prevention and Treatment of Drug Dependency Act. The criminal proceedings are stopped for referral of the accused to the rehabilitation court. Children at DYC have benefited from this conversion. Without it instead of receiving treatment for addiction, they would have been sent to prison.

**Section 271** allows previous convictions to be proved.

**Section 271A** Provision is made for certain convictions to fall away, which happens to all previous convictions after 10 years.

**Section 276** specifies the nature of punishments is specified, namely

- imprisonment, including life-imprisonment;
- periodic imprisonment;
- being declared an habitual criminal;
- committal to any institution established by law;
- imposition of a fine

**Section 276A** covers the imposition of correctional supervision and conversion of imprisonment into correctional supervision and its reverse as follows:

(a) punishment in terms of section 276(1)(h) shall only be imposed
(i) after a report of a probation or correctional officer has been presented in court
(ii) for a fixed period not exceeding three years.

(b) Punishment shall only be imposed under Section 276(i)(i)

(i) if the court is of the opinion that the offence justifies the imposition of imprisonment, with or without the option of a fine, for a period not exceeding five years and for a fixed period not exceeding five years, and
(ii) for a fixed period not exceeding five years.
The focus and purpose of this section is on rehabilitation.
(iii) A court may reconsider a sentence and convert it into correctional supervision on the conditions it may deem fit.

Section 290 prescribes manners of dealing with convicted juveniles:
If a person under 18 years is convicted of any offence, the court may, instead of imposing punishment, order that
(a) he be placed under supervision of a probation officer or correctional officer
(b) he be placed in custody of any suitable person
(c) he be sent to a reform school in terms of the Child care Act No. 74 of 1983.
Because there are no reformatory schools in Gauteng, children there endure long periods awaiting designation. The delay occurs in the processing of paperwork from the Clerk of the Court to the Department of Education, and back to the court again. Sometimes the documents get lost. These delays cause tremendous stress to the children at DYC who, having been sentenced, do not understand the legal technicalities.

Section 291 regulates the duration of orders prescribed under Section 290. The order will lapse after the expiration of two years. This protects children who sometimes get lost in the system. Some, having spent two years at DYC, were released during 1998 without ever having reaching their specified destination.

Section 297 covers the alternatives of conditional or unconditional postponement, suspension of sentences, caution, and reprimand. Postponement of a sentence can be conditional or unconditional. The section enables the courts to pass sentence but order the operation of the whole, or any part thereof, to be suspended for a period not exceeding 5 years.
Section 300 mandates the court’s capacity to award compensation where offences have caused damage or loss of property.

Section 302 states that sentences are subject to review in the ordinary course. The purpose of the section serves to protect the rights of the accused person.

3.8.2 Probation Services Act (116 / 1991)

The aim of probation work is to provide for the establishment and implementation of programmes aimed at crime prevention through development and restorative justice. Probation work deals with child, juvenile, and adult offenders, victims of crime, and their families.

The functions of probation work:
The Act makes provision for a wide variety of programmes and services. This may include arrest, reception, assessment and referral centres for juveniles as well as diversion and alternative sentencing programmes.

Probation programmes:
These are aimed at the prevention of crime through:
- community services providing treatment of and care for offenders;
- observation, treatment and supervision of people who have been released from a prison or reform school;
- the establishment, financing and registration of shelters;
- pre-sentence investigation;
- management of pre-sentence evaluation committees and the conducting of information classes.

Basic principles of probation work (with regard to juveniles)
In working with children and young people at risk the focus should be on development and preventive services available through programmes.

Section 3 of the Probation Services Act makes provision for a wide variety of programmes and services to juveniles.
Section 2 provides for the appointment by the Minister, of probation officers. Probation officers may appoint and register any person as a volunteer in respect of any programme, provided that person has an appropriate qualification, is trained, signs an agreement and obtains a certificate. (A register of volunteers is kept.) S/he may also terminate volunteer appointments and withdraw certificates of appointment if the volunteer does not perform the prescribed duties, or if the service is no longer required.

3.8.3 The Child Care Act No 74 Of 1983, And Its Application To Children Awaiting Trial At DYC

The Act provides for the:
- establishment of children’s courts;
- appointment of Commissioners of Child Welfare for the protection and welfare of certain children;
- adoption of children;
- treatment of such children after reception;
- contribution by certain persons towards the maintenance of certain children;
- provision for incidental matters pertaining to children.

Section 5 : Children’s Court.
Every magistrates’s court is deemed a children’s court for the area of its jurisdiction. Every commissioner’s court is a children’s court for the area in which it has been established.

Section 6 : Commissioner of Child Welfare
Every magistrate shall be a commissioner of child welfare and every additional magistrate and assistant magistrate shall be assistant commissioner of child welfare.

Section 7 : Procedure in Children’s Court
- It must be conducted in a room set aside for it.
- It is to take place in camera. Only people whose presence is required by court will be present.
- Information is confidential and should not be made public.
- The section aims to protect the rights of children.

Insertion of section 8 A in Act 74 of 1983
Legal representation: The costs will either be paid by (a) the parties to the proceeding in question, or (b) the parents or any one of the parents of the child concerned, or (c) The guardian of the child concerned.

Chapter 5 : Places of safety, children's homes and places of care.
Section 28,29,30,31 and 32 serves to protect the interests of children. It ensures that the relevant legislation that guides these places is followed to the letter, to prevent the abuse of children. It stipulates that the places of care will be subject to inspection at all times, and that the accommodation must be hygienically clean and conducive to the well-being of the children. Furthermore, each child must be provided with adequate nutrition for the promotion of good health.

Chapter 6 : Special provision is made regarding pupils, foster children and other children.

Section 33 serves to regulate the movement of children from one place to the other.

Section 34 deals with the transfer of children from one type of custody or residential facility to another is dealt with. This is the section which will be used by Project Go as the basis for the movement of children to and from DYC.

Section 35 mandates the management of an institution with the authority to grant a child leave of absence from that place if circumstances in the home environment are conductive for the child to visit his/her home. In the centre, children who have been sentenced and are awaiting designation to a reformatory school or school of industry may, on the recommendation of the centre’s social worker, be granted leave of absence to go home while awaiting designation.

Section 36 deals with the removal of pupils or foster child from institutions or custody, for examination and treatment.

Section 37 relates to discharge from an institution or custody as applied in conjunction with Project Go.
Section 38 relates to the transfer of certain parental powers to the head/management of an institution.

Section 50 – 52 deals with estimation of age and admission of children from other countries. (Children in institutions who come from neighbouring states also need protection.)

3.8.4 Prevention Of Family Violence Act No 133 Of 1993
This act serves to provide for the granting of interdicts with regard to family violence; for an obligation to report cases of suspected ill-treatment of children, and stating that a husband can be convicted of the rape of his wife. Knowledge of this act enables the social worker to empower the children in the Centre, who are sometimes faced with abusive situations caused by one or more members of the nuclear or extended family or guardians. The children are empowered to know how and when to ask for help.

3.8.5 Drugs And Drug Trafficking Act Of 1992
The Act provides for the prohibition of drug use, possession, and/or trafficking, and of certain acts relating to the manufacture or supply of certain substances or the acquisition or conversion of the proceeds of certain crimes. It imposes an obligation to report certain information to the police, for the recovery of the proceeds of drug trafficking. Life skills Information sessions are held to implement the above and to impart information to the children at DYC.

3.8.6 Prevention And Treatment Of Drug Dependency Act Of 1992
The Act provides for the establishment of a Drug Advisory Board, of programmes for the prevention and treatment of drug dependency and of treatment centres, and hostels; for the registration of institutions as treatment centres and hostels, for the committal of certain persons to, and their detention, treatment and training, in such treatment centres or registered treatment centres. In the DYC, children are referred to the clinic and receive counselling whilst awaiting trial, before being referred to treatment centres. They are also referred to the SANCA programmes existing in their communities.
3.8.7 Correctional Services Act No 8 Of 1959

Section 29 of this Act applied to the detention of children. This has now been replaced by Section 71A of the Criminal Procedure Act.

During 1998, the new Correctional Services Act III of 1998 was passed by parliament. This act, *inter-alia*, regulates conditions of detention for awaiting-trial and sentenced prisoners. It does not provide for circumstances under which a person (adult or child) may be referred to a prison to await trial. In respect of adults, this falls generally in the domain of the Criminal Procedure Act 51 of 1977. It was predicted that, in respect of judicial decisions to detain or release children, the applicable legislation would be the Child Justice Bill. There was, however, a concern that upon promulgation of the new Correctional Services Act, Section 29 with its various amendments, being part and parcel of the old Correctional Services Act 8 of 1959, would be repealed along with that act. This would, it was feared, leave a legislative vacuum regarding the detention of children awaiting trial. [Juvenile Justice Report, July, 2000: 71,72]
CHAPTER FOUR

4. Dyambu Youth Centre

4.1 Introduction

Dyambu Youth Centre is a facility contracted by the Gauteng Department of Social Services to operate as a detention facility and place of safety for children awaiting trial. The biggest centre of its nature in South Africa, it is situated in Krugersdorp, on the Gauteng West Rand and accommodates up to 500 children awaiting trial.

It is operated by a private South African company, Bosasa Operations (Pty) Ltd, previously known as Dyambu Operations (Pty) Ltd. The name of the company Dyambu Operations (Pty) Ltd officially changed to Bosasa Operations (Pty) Ltd in the beginning of 2001. Bosasa is a Tswana word for “the future”. Since 2001 Dyambu Youth Centre became known as Bosasa / Dyambu Youth Centre. For the sake of simplicity, the Bosasa / Dyambu Youth Centre will be referred to as “DYC” in this document.

DYC perceives itself as an important partner of the state in its endeavours to create a new juvenile justice system and support the Department of Social Services as far as humanly possible, by being open at all times for the admission, development and empowerment of youth in conflict with the law.

4.2 Early History

Initially known as the Meritum Youth Centre, DYC was established in June 1995 by the Meritum group of companies in partnership with the Gauteng Department of Social Services. The Youth Centre's establishment was a culmination of 3 factors:
1) The election of the new government in 1994 and its introduction of the Reconstruction and Development Programme, which set the wheels in motion for wide reaching change and development throughout the country.

The government's challenge to the private sector to contribute towards the reconstruction and development of South Africa, as political freedom for all the country's citizens was beginning. The new government was inviting partnerships from organs of civil society. Article 2.13 of the Reconstruction and Development Programme refers to social security and social welfare; especially Article 2.13.4.4; which states: "the recognition of the role of organs of civil society in the welfare system, such as community based rehabilitation centres and organizations, non governmental development organizations, civic associations, the private sector, religious organizations, traditional and other complementary healers, trade unions and individual initiatives, and the establishment of guidelines for mutual cooperation."

Meritum as a company accepted the RDP concept. They embraced the government's invitation to accept social responsibilities by participating in matters that would contribute to the reconstruction of the country. In considering what part the Company could play, they submitted a proposal that the Department of Welfare & Population Development outsource some of its services to the company.

2) The mines in the area were closing down, so hostel facilities that Meritum wanted to transform were available.

3) In 1995 the Amendment of the Correctional Services Act [Section 29 of 1959] was promulgated. This required that trial awaiting juveniles be transferred from prisons to more suitable alternative accommodation with immediate effect.

The amended Act required that accommodation should be sought, which accelerated the need for a place of safety, and Meritum was ready to accommodate awaiting trial juveniles when approached by the Gauteng Department of Social Services.

The Meritum Youth Centre was then established as a public/private partnership between the Gauteng Department of Social Services and the Meritum Group.
In 1996 the Meritum Group sold the company to Dyambu Operations (Pty) Ltd. The Centre was then renamed Dyambu Youth Centre. Dyambu is a Tsonga name that means "sun" and the word was chosen for its association with light, hope, warmth and new beginnings. The partnership between the Department of Social Services and Dyambu continued.

4.3 Limitations And Strengths Of The Partnership Between Dyambu Youth Centre And The Government

According to Dr Jurgen Smith, one of the founder members of Dyambu Youth Centre, the Department of Social Services had initially wanted to use smaller accommodation units. The existing accommodation differed from the concepts of the Inter-Ministerial Committee's recommendation on secure care centres. Furthermore, the existing staff were in the main, security personnel; people with no knowledge of Social Services policies, their only function being to guard the children. Interaction with the children was minimal. This was a limitation because the welfare needs and problems of the children were not addressed. The initial agreement was that all social services were to be provided by the Department of Social Services from its Krugersdorp offices.

After realising the shortcomings mentioned above, the directors of the company under the leadership of Dr Jurgen Smith, resolved that the social service attitude should be adopted to promote and strengthen the ties between the Department and the company. In adherence to the procedures and guidelines of the Department of Social Services regarding the care of trial awaiting juveniles at places of safety, the company started to employ its own social workers.

The concept of having smaller accommodation units was overshadowed by the increased intake of juvenile offenders, as it seemed at the time that more children were referred to places of safety to await trial. Secondly, the nature of their crimes was serious. Revision of the contract and consideration of practical solutions was necessary. At present DYC is contracted to cater for 350 awaiting-trial juveniles: currently up to 500 are accommodated. This is possible without overcrowding as the premises have capacity for this.
During its inception, DYC was accorded the status of a place of safety and the children were admitted, as they still are, in terms of Section 28 of the Child Care Act No 74, 1983. This defines a place of safety as ‘any place established under Section 28 and includes any place suitable for the reception of a child, into which the owner, occupier, or person in charge thereof is willing to receive a child’ The purpose of a place of safety is to render a comprehensive temporary care service, for a period not exceeding six months to the child whose welfare and safety is at risk and who is admitted on a statutory order, while the future placement of the child is being determined through a multi-disciplinary approach. The reality is that the temporary placement becomes a protracted one of more than six months.

Determining a child’s future currently takes too long. That different role-players; for example, police, probation officers and the justice personnel, are involved in his life during this period, results in undue delays. For example, completion of the police investigation is time-consuming, and by the time that the Justice Department has found the child guilty in court, he has been repeatedly remanded. Furthermore, the probation officer, who has to compile a report, also needs time for investigation. The burden of these delays has a negative impact on the child. By the time a young person is sentenced, the system has already turned him into a victim; especially when he is made to await trial for as long as 3 years which, as DYC records verify, sometimes happens.

4.4 The Vision And Philosophy Of Bosasa

DYC is operated as an integral part of Bosasa Operations (Pty) Ltd, and is as such subjected to and supportive of all the policies and procedures in terms of its operating company. Bosasa aims to provide ‘service excellence by harnessing synergy in which the Bosasa people are empowered to express their personalities and strength in a team environment, thereby contributing to the economics and social employment of our nation.’ [Bosasa Policy Document, March 2000: 18]
4.4.1 The Company's Values

These are expressed as follows: 'In Bosasa we value conducting business with integrity and the highest standards of excellence, competitiveness in the market place for accomplishment of business goals allowing employees to achieve self-actualisation through implementation of effective policies and practices.’ [Bosasa Policy Document, March 2000: 18]

4.4.2 Services Provided

Bosasa declares that they are committed to providing quality service in full facilities management. The company is strongly involved in the mining industry, where it is responsible for the provision of catering and accommodation services at a number of mines in the Gauteng, the Free State and Mpumalanga. The company also has a large security and vocational training divisions. The company now has two youth centres (one in Gauteng and one in the Western Cape Province) for trial awaiting youth. Here the company’s experience in full facilities management is combined with education and child care expertise to provide an acceptable standard of care for young people in trouble with the law.

4.4.3 Bosasa’s Policy On Youth At Risk

BOSASA believes that: “A child in conflict with the law has the right to treatment which promotes the child’s sense of dignity and worth, takes the child’s age into account, and aims at his reintegration into society.” [Bosasa Policy Document, March 2000]

The Company subscribes to the view that, “the child is entitled to basic guarantees as well as legal or other assistance for his or her defence. Judicial proceedings and institutional placements shall be avoided wherever possible” [Article 40, United Nations Convention on the Rights of the Child]

According to Brendtro et al., it is important that a comprehensive and holistic approach is undertaken when intervening in the life of a child who is in detention. Their concept of “the circle of courage” is one example that explains such intervention, noting that everything; light and dark, good and bad, giving and receiving, and life and death, is connected. The authors use the medicine wheel which is used by tribal people of North America to illustrate that all must be in
balance and harmony, to depict what they considered to be the four overriding needs of young people.

This “circle of courage” portrays the four developmental needs of children: belonging, mastery, independence and generosity. If any need is not met, the child is at risk and in danger of being hurt, or of hurting others.

[Brendtro et al., 1990:172-175].

a) In partnership cultures “belonging” is the organising principle and ensures the individual’s significance, whereas in dominator cultures, significance is acquired by standing out from others.

b) “Mastery” measures competence by comparing an individual’s progress with his/her past performance rather than with the achievements of others. In dominator cultures, ‘winners’ show competence by beating ‘losers’

c) “Independence” is the only principle that allows people to exercise autonomy. In dominator systems, only a few can occupy coveted positions of power; the majority are obliged to submit.

d) “Generosity” is the measure of virtue in partnership cultures, where relationships are more important than possessions. In dominator cultures the ‘good life’ is reflected in the accumulation of material goods. [Brendtro et al., 1990, volume 7 no. 3 p131]

Brendtro et al state that when we take into consideration that many children have broken circles, the fault line usually starts with damaged relationships. Having no bonds to significant adults, they chase a counterfeit sense of belonging through gangs, cults and promiscuous relationships. Some are so alienated that they have abandoned the pursuit of human attachments. Guarded, lonely, and distrustful, they live in despair or strike out in rage. Families, schools and youth organisations are being challenged to form new “tribes” for all our children, so that there will be no “psychological orphans”…”. Reclaiming Youth Brendtro et al [Volume 7 No. 3 1998].

This is true for children entering DYC because many seem to have lost hope. Bosasa believes, as its policy document states, that when children are given a structure and a chance to be responsible, they change demonstrably. Children crave structure even when they rebel against it. Their security is built up through structured, meaningful activities.
Bosasa’s structured interaction not only provides these but also defines clear expectations and consequences. Many of the young people have never before experienced structure or a schedule. The therapeutic community is a family and members must live according to family rules. As they begin to transform their minds, the youngsters earn greater responsibility in the centre, which will further be transferred to his community. [Bosasa Policy Document, March 2000: 6]

Bosasa strives to uphold the dignity of, and respect for, the children in its care, because these qualities are seen as absolutely critical to enabling them to change and grow. Some are used to being treated as outcasts, but when treated with respect, they rise to the level of what is expected from them. [Bosasa Policy Document, March 2000: 6]

### 4.5 The Client System At Dyambu Youth Centre

The Centre serves involuntary clients; young people in conflict with the law and awaiting trial. It is a detention facility, for youth at risk ‘The Inter-Ministerial Committee on Young People at Risk, ‘at risk’ defined as referring to ‘those young people who have their normal healthy development placed at risk because their behaviour or circumstances make them vulnerable to having to live away from their community or family, or under statutory care’ [Inter-Ministerial Committee on young people at risk 1996.]

Not only do children in this facility not decide to be brought to the centre, they are subjects of the court. At the point where the justice system determines and appoints a detention facility as a child’s custodian, the state has more powers than the parents do. Goldstein et al., [1986] elaborates: ‘... the law recognizes that there are situations when, on behalf of the child, the state is justified in breaching family privacy and supervening parental autonomy.’ [Goldstein et al., 1986.] The magistrate has the authority to decide where a child must be detained and for how long, irrespective of the child’s present circumstances; for example, whether he is attending school or whether the parents are able to control the child. A detention warrant, ‘J7’, or court order, is issued by the magistrate after consideration of 'at risk' factors such as the seriousness of the crime, and the need to protect the child and the community.
The child, having been removed from the community because of the crime that s/he has allegedly committed, and having expected to be pardoned and returned to his parents, may regard himself as an outcast, unwanted, abandoned and a victim of the court. The services rendered to the children in this detention centre occur in isolation; that is, outside the child's community. Delinquent behaviour does not usually occur outside the community, as in most instances delinquency is learned within the community. According to Stumphauzer [1985], 'Most of the stimuli and consequences that control delinquent behaviour are in the neighbourhood e.g it occurs in the evening and on weekends. Therefore it would seem most logical if programmes to help change or prevent crime also take place in the community'.

This, however, is not generally the case, as there are those children who need to be detained for their own protection and that of the community.

Thus it must be borne in mind when children are labelled deviants, that 'Crime or deviance are social constructions and deviance is created by society'. [Pearson, 1996]. Thus it is important to involve volunteers from the community who can assist as tutors or supportive mentors, to remind youngsters that they are still part of a community, while offering a one-on-one form of assistance to them. The volunteers' involvement can, and does, enhance the self-esteem of the children in the centre, as it enables them to encourage the youngsters to pursue learning, acquire skills training and commit themselves to the norms and values of the centre. As mentors, the volunteers also help the youth centre personnel to provide an effective service, reinforcing their efforts in the process of rehabilitation, as children learn through modelling, imitation and positive reinforcement.

The volunteers serving in the Centre are not registered, and the Centre does not check that their qualifications are appropriate, although they are subject to in-service training. A contract having been agreed upon, the volunteer is given the liberty of setting out his/her own intervention strategy on condition that it addresses what the centre perceives as meeting the needs of the children in its custody. According to Hepworth and Larsen [1992] 'volunteers have long been a resource to social-workers, for enhancing the environment of clients, they render services to
clients without remuneration'. DYC draws volunteers from the local high schools, youth organisations, NGO's, church groups and health officials. These role models devote themselves to direct interaction with the children, thus countering the influences and negative role models that place youth at risk. The Inter-Ministerial Committee on young people at risk confirms the notion that a child's problems must be attended to holistically. Furthermore it supports the belief that 'it takes a whole village to raise a child' a notion based on 'ubuntu', a spirit of humanity which encompasses a principle of caring for each other's well-being within an attitude of mutual support. According to 'ubuntu' a person is a person because of or through, others. In pre-colonial and traditional societies, South African children were raised in this spirit, and few if any children were homeless or abandoned. [IMC : 1996]

The statement above highlights the sacrifices of volunteers, who make use of their own transport to render services to children at DYC. Without remuneration, looking after those children who do not have parental support and care, they take the process further by acting as guardians at court when parents cannot be traced. Sometimes they introduce the children to church members who become interested in fostering them. During the year 2000, 10 children were successfully placed in the care of guardians through the involvement of volunteers who initiated the process.

4.6 Profile Of The Juvenile In DYC

Youth in trouble with the law are detained for offences ranging from minor or petty offences to serious ones; for example, from shoplifting of sweets, cassettes or perfume to rape, robbery and murder. The Centre accommodates males of all races, aged from 14 to 18 years. They come from all over South Africa but have allegedly committed crimes in Gauteng. Their family backgrounds can be classified as follows:

a) A few are from stable family backgrounds and have been living with their parents, one or both of whom may be employed. [From documented records obtained during interviews with social workers, at DYC]
b) A sizeable number have been raised by single parent mothers. The children in this group have never met or known their fathers and paternal relatives [From documented records obtained during interviews at DYC]

c) Where a juvenile is raised by his father, the mother’s whereabouts are known: she might be married to someone other than the child’s father, she may have died, alcohol abuse might have led her to abandon her family altogether, or she might have left the child with the child’s grandparents or maternal relatives.

d) Some of the children are raised by the maternal, or paternal relatives. The percentage raised by their maternal relatives is higher.

e) In other cases children have left their homes to become street-children. They have then been exposed to an independent type of life away from parental control and guidance. They have cited problems of poverty, lack of parental care and supervision, excessive punishment, degeneration of family life caused by one or both parents’ excessive drinking, death of parents, and wars in their countries as factors contributing to them leaving their homes.

The children have cited the following as factors that have influenced their involvement in crime:

a) In some instances, gangsters in their communities have affected their lives. Gangs have determined their way of life and as a consequence, their parents have not been able to control them.

b) Peer pressure is also a contributory factor to their involvement in crime because they lack life-skills that can help them cope effectively with peer demands. Their ability to make informed decisions and choices is limited, as they are always under pressure to gain their friends’ approval and follow their example.

c) Drug abuse, always linked to drug syndicates, is another factor that leads some children to engage in criminal behaviour to obtain a constant supply of drugs for selling and using.

d) Poverty caused by unemployment of family members often leads to crime as the children assume the responsibility of the breadwinner in order to alleviate their families' financial problems.
e) A small percentage of the youngsters come from neighbouring countries like Maputo, Zimbabwe, Angola, Zaire and Nigeria. Some have fled their countries looking for better living conditions in South Africa, and once in the country, the children fail to provide for themselves because they do not know where and how to get help. Crime becomes an easy option.

The profiles of these children cannot be discussed in isolation, as the youngsters are members of a family system. Therefore, to make reference to this system is appropriate. Hepworth and Larsen [1992], in their discussion of the primacy of family systems, mentioned that among the various systems of concern to social work, the significance of the family is paramount, as the family is 'the ecological' system that nourishes the individual. The family performs essential care-giving functions, and it is also largely in the family that character is formed, vital roles are learnt and children are socialized for responsible participation in the larger society. It is furthermore, primarily through family interaction that children develop or fail to develop self-esteem, a sense of belonging and interpersonal skills. However, the outer boundaries of family systems also deserve consideration as living systems.

Families necessarily have diverse transactions with the environment. They differ widely in the degree to which they are open and flexible towards their outer boundaries; for example, families can have open, closed or random bounding arrangements, which is a reason why the profiles of juvenile offenders in the Centre differ.

The research focussed broadly on the company's policy. The management and the programme of DYC are discussed below.
4.7 The Management, Structure And Operation Of The Dyambu Youth Centre

As mentioned before, the changes which were brought about on the 8th of May 1995, when the Amendment of the Correctional Services Act [Section 29 of 1959] was promulgated with immediate effect, giving rise to the need for accommodating children awaiting trial in facilities other than prisons; and hence to the existence of DYC. The Centre’s present management structure is shown in figure:

**Figure: 4.1**

![DYC Organogram Diagram]

- **Director**
  - Education Specialist
  - Training, Development and Marketing
  - Human Resources
    - Support Services
      - Unit Leader
        - Unit Leader (Operations)
          - Clerk
          - Cleaner
          - Administration Technical
        - Secure Care Worker Supervisor
        - Care Worker
          - Medical Social Worker
          - Occ. Therapist
          - Psychologist
        - Head (Prof. Services)
          - Principal
          - Educators Volunteers
Bosasa’s vision emphasises “the second chance theory”. This asserts that all learners must be given the opportunity of a second chance to:

* develop their potential with skills and knowledge;
* become balanced human beings who can contribute to the social, economic and political development of South Africa;
* broaden their horizons and develop their natural curiosity and willingness: to become self-confident, self-assured and self-fulfilled humans. [Bosasa Policy Document]

In order to attain this, Bosasa focuses its activities on three aspects of development; namely,

- **Personal development**,
- **Intellectual development**,
- **Reintegration into society**.

The following programmes are presented:

**MISSION: SECOND CHANCE**

**PERSONAL DEVELOPMENT**
- Life Skills
- Gardening
- Drama
- Gym
- Sport
- Career guidance
- Chapel services
- Computer literacy
- Social services
- Personal interviews
- Medical treatment
- Recreation (videos)
- Library
- Literacy
- Business skills

**INTELLECTUAL DEVELOPMENT**
- Workshop Classes
- Computers
- Arts and Craft
- Motor mechanics
- Electric
- Carpentry/ Woodwork
- Sewing
- Arc welding
- Catering
- Upholstery
- Basic ABET
- ABET
- NQF based curriculum
- Record of Achievement

**REINTEGRATION INTO SOCIETY**
- Family reunion
- Going back to school
- Bursaries for further study
- Job hunting
- Employment
4.7.1 Management At DYC

The management of Dyambu is divided into the following four departments:

- Social work services and health care,
- Care and custodial workers,
- Operations (Administration),
- Education and Recreational programmes and facilities

The functions of these departments in relation to the children, as described in Bosasa’s Discussion Document, are outlined further on.

The management of Bosasa is based on the vision, mission and objectives of the company, and each staff member is expected to embrace the company’s vision and perform accordingly.

The children in the Centre, are the consumers of the services offered. The company strives to provide a level of service such that the care that the children experience in the hands of the Centre should not differ from the mission statements and objectives expressed by the company in its policies.

This study attempts to explore the children’s experiences in the Centre at all levels: the Centre’s policy document is put to the test.

Dyambu’s philosophy emphasises the importance of using professionally trained staff to work with the youngsters.

Article 22.1 of the Beijing Rules states, “professional education, in-service training, refresher courses and other appropriate modes of instruction shall be utilised, to establish and maintain the necessary professional competence of all personnel dealing with juvenile cases”. This process plays a crucial role in ensuring that all staff dealing with youth at risk are trained in appropriate skills and attitudes for dealing with such youngsters.

Learning to build relationships with children in crisis is not easy. Untrained adults often feel threatened by children in crisis, but training and experience can provide the necessary understanding. When the trained and caring adult walks with the child through the storms of life
and alleviates psychological or physical discomfort, bonding and attachment are enhanced. [Van Brocken, Volume 7 No. 3 p175]

Article 22.2 of the Beijing Rules states, "juvenile justice personnel shall reflect the diversity of juveniles who come into contact with the juvenile justice system". As children referred to Dyambu come from all race groups, it is important that staff employed by the company also reflect the diversity of juveniles who are in the system. Article 22.2 of the Beijing Rules is emphatic that 'all political, social, sexual, racial, religious, cultural or any other kind of discrimination in the selection, appointment and advancement of juvenile justice personnel should be avoided in order to achieve impartiality in the administration of juvenile justice'. Efforts are made to ensure the fair representation of women and minorities in all South African juvenile justice agencies. Staff recruitment reflects society and highlights commitment to employment equity in everything that DYC does. [Discussion Document DYC, March 2000 : 2]

Professional qualifications are an essential element in ensuring the impartial and effective administration of juvenile justice. At DYC the recruitment, advancement and professional training of personnel are addressed in order to provide them with the necessary means to enable them to fulfil their functions properly. Resources needed by staff in performing their roles are provided.

A high level of teamwork characterises management at DYC, who emphasise the need to manage the facility effectively with authority and, minimising bureaucracy.

The youth-care work is primarily focussed on the growth and development of children. The totality of a young person's functioning is the concern of the staff. The focus is on the young person living through a certain phase of life in detention. The staff approach is holistic, and they work closely with a variety of other professionals.

Child- and youth-care work is based on direct day-to-day interaction with children in their environment. It involves the deliberate use of attachment through the development of close therapeutic relationships with children. Reference to "therapeutic" in child- and youth-care work
does not necessarily imply to clinical intervention, but that which empowers, and brings about developmental growth, healing and wholeness and a child could, for example, become attached to a cleaner, gardener, instructor, social-worker, nurse or clerk, or to the manager of the Centre.

4.7.1.1 The Role Of The Social Workers

The juvenile is individually assessed by social workers, to find out if the family is aware of his situation and to do a developmental assessment. The developmental assessment assists in identifying areas of concern as well as areas of strength. His family circumstances are thoroughly explored at this stage to determine if his family plays a significant role in his life, and to determine who are the significant others in his life.

The young person’s schooling level, his abilities and interests, and the skills he would like to develop in the centre are determined. His general attitude towards the future and his ability to take responsibility for his actions are also assessed.

After consultation, he is assigned to a tentative programme and is motivated to participate in the life skills programme, which lasts for two weeks.

Social workers liaise at various levels with service officers, DYC staff, the courts, and the family. The social workers request the help of the Department of Social Services when a juvenile’s parents cannot be traced, to inform them about the juvenile’s offence and the date and venue of the court appearance. Where judgement has been passed, the social workers may be requested to submit a detailed progress report but not a pre-sentence report, detailing the youth’s progress in the Centre.

Reports are submitted where an advocacy role has to be filled by the social worker, to provide information that might help the juvenile in his case. A facilitative role is adopted where unnecessary delays would otherwise occur in the trial. Social workers also assist the juveniles in the Centre by linking them up with public defenders for legal aid.
The social worker also assists in the management of the youth’s behaviour, through counselling, individual therapy and/or group therapy. Family conferences may be held with parents and other family members to clarify court procedures such as bail applications or legal interventions; or as a form of therapeutic intervention on behalf of the juvenile in DYC’s care. Social workers are often contacted to assist in the disciplinary process, to counselling the youngsters about the consequences of behaviour and equipping them with problem-solving skills to help them stay out of trouble.

Regular, formal consultation with the rest of the staff takes place on a daily basis and social workers provide staff members with information regarding the behavioural background of some of the juveniles and possible causes underlying certain problems, so that they can understand the situation better.

4.7.1.2 Care-Worker Programme

DYC has approximately 38 care-workers, trained by DYC and the Department of Social Services. Each has two rooms of boys in his care. A room is a section in the centre that houses about 10 to 12 juveniles, so each care-worker is responsible for 20 - 24 juveniles. Each meets with the juveniles in his care every morning, for a personal development programme. They meet for 30 minutes as a group before going to classes, pray together, talk about the previous evening’s events and programme and afterwards address problems if there are any.

The care-worker gives them a moral message for the day. The programme is repeated in the evening, before they go to sleep. Its main purpose is to develop a relationship of trust and individual care and guidance. Each care-worker gives a progress report on each boy under his care to the social worker, who uses it in conjunction with therapy sessions, to formulate an overall progress report recording the youngster’s development in the centre, for submission at the next court hearing.
4.7.1.3 Operations And Administration Of DYC

In terms of management of the Centre, DYC provides various administrative tasks to ensure smooth operation of the youth Centre. These are administered according to the guidelines set by the Department of Social Services; for example, children to be admitted must be males of 14 years to 17yrs.

On their arrival at the centre, juveniles entrusted to the care of DYC complete an admission form. This form, in addition to one containing the juveniles’ personal details, allows DYC to assess their previous schooling, interests and abilities.

A file is opened for each young person, comprising social work process notes, court documents and any other relevant information. A medical file is also opened after the child has been medically examined.

Further administrative procedures have been computerized and are discussed below.

Bosasa has developed an innovative and comprehensive method of capturing the residents data on computer. A picture and finger-prints are captured on computer, together with personal data. A bar-coded identity card is printed for each child. This identity card is used when the child goes to court/ returns from court as well as for record purposes at meal times. Regular roll-call and physical body counts are held on a daily basis to complement the computerized database.

4.7.1.3.1 Orientation

The juvenile is issued with hygienically clean clothing, bedding and toiletries. He receives a medical check up and his clothes are washed. From this point each child is allocated a place in an established room under the care of a particular care-worker. He ensures that the child takes part in an orientation programme which includes information regarding DYC’s procedures and rules and is especially designed to familiarise the child with his new environment and the use of available facilities. The child is also provided with information on court procedures and legal aid, with an explanation of his stay in the centre until the return date given by the magistrate, and with information about his rights at court. He may ask for legal assistance, or for clarification if he does not understand.
4.7.1.3.2 Security Issues

People security is essential for the maintenance of a therapeutic environment for all within the Centre. Each child is searched on admission and also passes through a metal detector on admission and after return to the Centre.

Room inspection is a process whereby, regular checks are undertaken for hidden weapons in the centre. The boy's lockers and beds are opened and checked by staff members in the presence of the boys.

All visitors to the Centre are searched for dangerous items and illegal substances. All reasonable attempts are made to ensure that a safe environment is maintained within the Centre.

4.7.2 Programmes

4.7.2.1 Life Skills Programme

In addition to support from the care-worker, the juvenile is given the opportunity to participate in the life skills programme. DYC's life skills programme enables the youth to develop the skills, including those needed for decision-making, communication and problem solving, required to navigate his way through the demands of adult life. The problem also addresses issues of self-awareness, self-esteem and recognition of his greater self and potential.

The programme aims to motivate and inspire the youth to set goals for themselves so as to enhance their sense of competence and pride, and to overcome their sense of failure.

4.7.2.2 Community Involvement

To restore balance and wholeness to life, Dyambu Youth Centre aims to integrate the juvenile's life with a family and a community and strives to foster social awareness and to counsel and to involve the parents and the community, in order to address the root causes of crime.

4.7.2.3 Community Interaction In The Youth Centre

DYC provides a place of care, understanding, assistance and upliftment, working to change the attitude and behaviour of youth in trouble with the law in a positive way. To enrich them spiritually, it encourages a range of religious groups to hold services in the centre with the
youngsters. The meetings take place every Wednesday afternoon and on Saturdays and Sundays. Attendance at these meetings is not compulsory and the Centre has an open policy on religion, encouraging each child to explore his own spirituality through his own religio-cultural norms and values. Freedom of religious belief and a respect for other’s beliefs is encouraged within the Centre.

Interaction with community members encompasses a whole range of topics; for example, speakers have been encouraged to address the juveniles on issues that affect them as well as their communities. These talks have included environmental awareness, AIDS awareness, rape-perpetrator counselling and nature conservation.

Schools are encouraged to visit the Centre, with a view to interacting with the children through sport, cultural interaction and holding talks with them. This process reminds the juveniles that although they are locked up for allegedly being in conflict with the law, they are still members of the broader community.

The community is also invited to open days that are held twice a year. On open days the juveniles address and entertain the visitors through dance and music. They also display their workshop activities.

Workshops are held with key role players; for example, the SAPS, the Department of Social Services, probation officers, magistrates and public defenders. These serve to provide information to other roleplayers in the youth justice system and give them a chance to understand what the Centre stands for and hopes to achieve for every child placed there.

4.7.3 Community Interaction Outside The Youth Centre

One core aim of the developmental assessment is to move the young people from a restrictive environment (the Centre), to a less restrictive one; that is, back into the community. The first step is to ascertain whether young person can continue with his schooling and to make the necessary arrangements with the Education Aid Centre, who will help with placing him in a school. DYC also works hand in hand with non-governmental organisations, as well as the Department of
Social Services. The most relevant NGO is NICRO, which has programmes such as Youth Empowerment schemes and Employee Opportunity programmes. Whilst assisting the youngster to reintegrate into the community, they also strive to teach him life-skills and create employment opportunities for him, monitor the process of his reintegration, and attend to his adjustment problems.

Not all youths in the Centre have parents, who are traceable and some are orphans. Some come from dysfunctional homes, have been living as street children, or have been forgotten by their families. It therefore becomes the social worker's task to look for alternative placement. Foster parents are screened to find out whether they are suitable, and the child must support the idea of his placement with other people. Before he is placed with foster parents there has to be interaction between the child and the prospective parents, until a strong bond is formed.

4.7.4 Sports And Recreation

The provision of adequate recreational facilities plays a major role in stabilising individuals in confinement. Sport relaxes them, releasing stress and enabling them to develop self-esteem. Efforts have been made therefore, to assist and uplift them by establishing a sports programme, which includes exercise, participation in sports, recreation and entertainment. Comprehensive recreation and sports facilities are available. These include a well equipped gym and fields for rugby, cricket, volleyball, basketball and soccer. Facilities are available for karate, boxing, athletics, snooker, board games and other indoor games. There is a library and supervised television and video viewing. DYC is committed to improving the total quality of the child's life.

4.7.5 Medical Programme

DYC runs a daily clinic, which operates from 7am to 5pm on weekdays; 7am to 12 noon on Saturdays and 7am to 10am on Sundays. A sick bay is available to admit any ill juvenile, should this be necessary. Clinic staff, however, remain on call. Medication is available for dispensing. The full-time house doctor is available daily and when a child needs hospitalisation, he is transported to the nearby Leratong Hospital.
4.7.6 Education And Training Facilities

DYC is well equipped with a library, computer centre, classrooms and six technical workshops. The education programme is outcome-based, and aims to integrate school curriculum subjects, life skills programmes and technical trade courses. In addition to the practical subjects, provision is also made for young people to continue with normal schooling or to attend adult basic education and training courses. Certificates awarded are recognised academically and in the workplace. The education and technical training programme helps to ensure that the youths have access to various opportunities offered by self-employment, the job market, apprenticeships or higher education. The technical training programme covers welding, woodwork, basic motor mechanics, electrical appliance repair, arts and crafts and sewing. Each child learns through both theoretical and practical training. The practical component involves the production of certain items. In the process entrepreneurial skills are learnt and the children gain an understanding of how to run their own businesses.

4.7.7 Computer Training

Dyambu Youth Centre has a Computer Centre with a set of fifty computers. The young people have the opportunity to complete basic and advanced computer skills. Learners intending to return to school can continue with their education by making use of the education units across the curriculum from grade one to grade 12. Learners who are keen to learn computer literacy for office work are trained in those programmes. Some enrol for the computer technicians’ course, which prepares them for careers in the repair of computers.

4.7.8 Entrepreneurial Skills

All the technical workshop instructors have attended a basic entrepreneurial skills programme. Its aim is to enable instructors to teach and run their workshops as small businesses. The need arose when boys who, after release have returned to the centre seeking assistance because they were unable to run small businesses on their own. Dyambu has hired a small business consultant to develop a programme especially suited to the needs of the youth here. The consultant is
continuing with the training of instructors and is developing modules for learners who pass the various technical accreditation courses.

4.7.9 Volunteers’ Contribution To The Dyambu Programme

Community mobilization is a process of raising awareness that address the concerns and long-term interests of those most affected by the problem of juvenile crime. It calls for objective identification of the problem’s dimension and the volunteers’ will and commitment to act. The process depends on cooperation and collaboration of key groups and appropriate activities that can enhance awareness of and improve responsiveness to the crime problem.

Volunteers at DYC come from the neighbouring communities, and from afar. There are volunteers for the following services:

**Legal aid clinic**

Since it was realised that boys are anxious about their court appearances, it was then decided to introduce this clinic. It prepares them for their court cases. Arrangements were made for legal students to volunteer their services and give pre-court counselling if necessary. It is important for the youth to understand basic legal principles and procedures and how they are applied at court.

**Alcohol and drugs**

Drugs and alcohol can be a problem in juvenile detention centres. The DYC programme focuses on the danger of substance abuse, especially because drugs are smuggled into the Centre despite routine searches. It aims to promote a healthy and productive lifestyle and looks at peer pressure, drug tolerance, withdrawal and dependence. Education through providing life skills has become the best practice to raise awareness about the harm caused by drugs.

**Sexuality and Aids**

Classes are conducted on sexuality and sexual health. The course focuses on sexually transmitted diseases and Aids and attempts to deal with methods of preventing the spread of aids by helping the boys to make informed choices. The nursing sisters and Aids counsellors from the neighbouring community provide the services voluntarily free of charge.
Religious support

Youngsters who have been removed from the security of their family homes will often turn toward their faith in God for strength and consolation as well as spiritual fulfillment. A variety of religious groups visit the children and involve them in religious activities. A number of children do practice their own religious beliefs: like observing certain religious holidays.

According to the Probation Services’ Act, the probation officer shall ensure that the volunteer has an appropriate qualification, has successfully completed the prescribed course, and has also signed a written agreement and has been issued with a certificate of appointment, setting his powers and duties. They have to attend a course which outlines methods of rendering assistance to people, utilisation of resources, communication with people at individual level and group level.

At DYC, a written contract with the volunteer is entered into. The volunteer is given the liberty of setting out his/ her own intervention strategy as long as it will address what are perceived to be the needs of the young detainees. Volunteers take part in in-service training and are also able to access courses that will be able to enhance their performance at the Centre.

This research will also attempt to discover whether there is a need for more volunteer programmes as well as what adaptations / improvements should be made to ensure efficiency. Volunteer programmes give an opportunity for the juveniles to interact with the community and thus serves as a bridge that prepares the youth for their ultimate release back into their communities.
CHAPTER FIVE

5. Research Methodology

5.1 Introduction And Orientation

This chapter presents the research design of this qualitative study, briefly explaining methods used, including a short presentation of data analysis and outlining limitations of the study. A qualitative data collecting technique was used, because it employs an approach that aims to understand and interpret the meaning that subjects give to their everyday lives. It is descriptive in that it describes more carefully the basic conditions of life as experienced by awaiting-trial juvenile offenders. To address the research topic, the researcher used data gathered from youth in detention at Dyambu Youth Centre. This facility serves young involuntary clients placed there by the courts, usually because they are in conflict with the law and awaiting trial. Their ages range between 12 and 17 years, but the Centre’s admission criteria stipulate that the age during admission should be over 14 and under 18 years. In reality, children who commit serious crimes are becoming younger and some turn 18 whilst awaiting trial. Other realities are that:

- though they are of school going age, some of the children have been playing truant for some time, and in the case of some, for example, street children, one to two years of schooling cannot be accounted for prior the arrest, so they have missed out on formal education;
- some of the children have never been to school because they are orphans or lack parental support;
- for some children it is a matter of choice: they choose to be involved in gang-related activities, rather than spend time at school.

Given the above factors, it should be noted that levels of understanding vary from one child to the next. This meant that the administration of the interview schedule was time-consuming, as it had to be done according to each individual child’s ability to comprehend and concentrate.

For the reasons mentioned above, the interview schedule was administered in a language that the child could understand. The time allowed for completion,
considering the children’s concentration span, had to be less than two hours.

The researcher used interview schedules for interviewing the parents, staff and volunteers to avoid influencing their objectivity as they can now concentrate on their own opinions of the Centre while not being influenced by other respondents.

The children’s attitudes towards staff, the programmes and the activities of the detention centre as a whole were observed daily. Both verbal and non-verbal cues were noted. The researcher’s intention was also to determine whether their level of participation or commitment was a direct result of their own interest and motivation or merely an expression of conformity.

5.2 **Focus Of The Study**

This study explored the children’s experiences at DYC while awaiting trial: about how they experienced being cared for by the staff and whether they developed a sense of belonging during their stay in the Centre. Their experiences in relation to programmes and services rendered by volunteers, and their attitudes towards visitors were also considered.

5.2.1 **The Exploratory Phase**

In this phase consultative discussions regarding the topic to be researched were held with other role-players outside DYC. The Centre is linked inter-sectorally with some state departments and NGOs. Believing that the conclusions and recommendations reached would contribute a great deal to policy concerned with the administration of juvenile justice, these were supportive towards the research. Some of the bodies consulted were: the Department of Social Services – Gauteng; the Department of Justice; the Department of Correctional Services; the Department of Safety and Security – SAPS, and NICRO.
5.3 **Methodology**

The respondents were informed of the intent behind the research. The research would give the children a chance to be heard and provide the necessary insight into their perceptions of their experiences. For the staff it would provide a better understanding of the approximately 450 children in their custody, whose cases are at different levels; for example, they might be awaiting further investigations, at a trial stage (i.e. before judgement), or at a sentencing stage (after judgement). The different levels or stages of their trials, and the inadequate communication from the courts to the Centre (sometimes solely a “J7” (detention order) stating the next court date), place considerable stress upon the children, who in turn aggravate the stress of the staff by withdrawing or behaving badly. The children await trial, some for up to 2, or even 3 years, pending investigations. For the purposes of this study, after the interview schedule had been piloted, 45 of the children was chosen to constitute the sample population. The interview schedule covered 13 pages and up to two hours per child was allotted for its administration. When necessary, each question and each concept was explained to the child being interviewed, and if this was indicated, the interviewer prompted the child to clarify points and obtain more comprehensive, in-depth information. Although the researcher’s position of authority in relation to the children might have posed a problem, the children did not appear to feel threatened by it. This may have been the result of the initial explanation given to them and the fact that the researcher was able to establish rapport with the children.

An in-house newsletter, written by the children for the children, was also considered. In this newsletter the children’s views were expressed freely and without prompting, and could be submitted anonymously. As a result, these were considered unbiased. A year’s issues of these newsletters were analysed.

5.3.1 **Method of selecting the subjects**

i. **The children**

The documentary evidence consisting of children’s individual files is stored both manually, and on computer using the UNISYS Management System. The original ‘J7’ (detention order) is kept in the file with all the child’s personal details. The UNISYS Management System provides information such as the thumbprint and photo of the child, taken on
admission. Even when the child changes his names, the system exposes the year, month and date when his thumbprint was registered for the first time, as well as his personal details. The selection of the sample included children in the following:

- children awaiting trial for more than 6 months (because they had experienced detention for a long time);
- minority groups in the Centre (Children at the Centre are not grouped by race or colour. Children who are not black are, however, in the minority, and their experiences at Dyambu Youth Centre could provide a different perspective, especially with regard to their treatment by staff and other juveniles);
- children from other African countries; for example, Zimbabwe, Mozambique, Angola, Nigeria, Swaziland and Lesotho, brought to the Centre after they had allegedly committed crimes in Gauteng (Being far from their countries, they too would have had their own perspectives. A pertinent issue is whether, and how they experienced 'belonging' at the Centre);
- new admissions (selected because still traumatised, battling with adjustment problems and trying to come to grips with their change of circumstances. While the staff and other children in the Centre were still unfamiliar to them, all their perceptions and perspectives of DYC would differ from those of children more familiar with the Centre’s environment.);
- Children from 12 - 13 years, who were also in the minority groups.

ii. The parents and guardians

Parents and guardians of the children selected were included in the study. In the case of foreign children, the guardians were from street-shelters like the Othandweni and Paradise for Streetchildren shelters in Johannesburg City Centre. (Some church organisations have been used as guardians for street children. They are encouraged to bond with the children, to visit them regularly and to accompany them to court.)

iii. The staff

The staff representatives were selected from each workshop or activity provided because they were involved with the children as their tutors, interacted with them in the rooms and in sporting activities, and communicated with the children’s parents.
iv. **The Volunteers**
All of the Centre’s eight volunteers were selected for the study.

v. **Youths in the after-care programme**
These former inmates of the Centre could contribute input on their experiences inside the facility whilst awaiting trial and on life outside after their detention. They could determine whether DYC had made a difference in their lives, and whether it had affected their ability to cope subsequently outside the Centre.

**Staff from the Department of Social Services:**
The Probation Section of the Department was also included in this study. These people came into contact with the children during the early stages of arrest, and their assessment determine where the children should go to after appearing in court. They knew the children’s circumstances prior to their being placed at DYC and keep contact with children as they appear in court on various occasions. Moreover, the children talked to them about how they were feeling and how they were being treated at DYC.

5.3.2 **The sampling process**
The various samples consisted of the following:
45 Out of a total of 450 trial-awaiting children;
20 staff members from a staff compliment of 76;
20 parents of the children who had been selected
All 8 volunteers in the Centre;
8 children from the after-care programme, selected as they visited;
13 probation officers from the courts in the areas where most of the children came from: 3 probation officers from Johannesburg, 1 each from Germiston, Boksburg, Krugersdorp, Roodepoort, Westonaria and Randfontein, 2 from Randburg and 2 from Soweto, however only 6 were available for interviews, some were held up at court on the day when the interviews were taking place.

The computerised number that every child is allocated during the admission phase starts with an alphabet letter. These began at A000 and will in time reach Z000. At the time of this research the
numbers had reached 1000.

An identification card that bears a number is issued so that children in the Centre can be accounted for and the correct child goes to court, or is seen by a probation officer, or member of the South African Police Services.

5.3.3 **Sampling method**

The children were selected by means of systematic sampling with a random start, as illustrated below:

Every fifth child in the total list was chosen systematically from a random start.

Twenty staff members were selected according to a non-probability sampling method (depending on their availability according to shifts).

Eight volunteers were selected according to their participation and involvement in the Centre, especially those who had been involved in the Centre consistently for long periods of time.

A non-probability sampling method was used in selecting twenty parents according to their availability during visiting hours. (Visits take place daily but not the same parents visit daily.)

A stratified sampling method was used to create six focus groups, each consisting of eight children in different circumstances. A group, for example, would contain representatives of various minority groups in the Centre (such as foreign children, coloured and white children, those younger than 14 years, newly admitted children, and children awaiting trial for more than 6 months).

Eight youths from the aftercare programme were interviewed. They had returned to the Centre for assistance after their release from DYC.

Structured one-on-one interviews were conducted with six of the thirteen probation officers when they completed their questionnaires.

The triangulation method was adopted in an attempt to increase the reliability of the study. The researcher, to avoid the possibility of bias and to discover possible factors
contradicting or corroborating results, considered the opinions and observations of the different groups in the study, gained through formal and informal administration of the interview schedules, focus group discussions, daily observation of the children and analysis of the newsletter. The term 'triangulation’ refers mainly to the use of multiple methods of data collection with a view to increasing the reliability of observation, and not specifically to the combination of quantitative and qualitative approaches’. [de Vos, 1998:359]

Duffy [1993] stated:

"Theoretical triangulation involves the use of several frames of reference or perspectives in the analysis of the same set of data.

Data triangulation attempts to gather observation through the use of a variety of sampling strategies to ensure that it is tested in more than one way.

Investigator triangulation is the use of multiple observers, coders, interviewers and/or analysts in a particular study.

Methodological triangulation is the use of two or more methods of data collection procedures within a single study.” [Duffy in de Vos, 1998: 359] The last definition best describes the method used in this study.

5.3.4 Focus group interviews

A focus group interview “is a purposive discussion of a specific topic or related topics taking place between 8-10 individuals with a similar background and common interest”. [de Vos, 1998: 314] The children in the Centre responded well to these interviews. In expressing their experiences and evaluating the Centre as a whole, they were able to engage in purposeful discussion.

5.3.5 Observation

The researcher made daily observations of the children’s behaviour, involvement in activities and demeanour. Their attitudes commitment, expressed opinions, and verbal and non-verbal cues shed light on how they feel about:

- basic conditions; for example, infra-structure, warmth, nutrition and medical and personal hygiene;
- education and educational opportunities available to them;
- recreation and the recreational opportunities available;
the organisational aspects of the institution, with specific reference to personnel, morale, authority-child interaction, contact with family and community involvement.

5.3.6 Data collection tools
In conducting the descriptive study three basic techniques were used:

(a) The interview schedule was structured around the broad objectives of the study, and youngsters, staff, parents, volunteers, probation officers and the youths in the after care programme were interviewed. This method was chosen because, according to de Vos “Unstructured interviews are guidelines for the interviewer and contain questions and themes that are important to the research. They do not have to be asked in a particular sequence, . . . they do ensure that all the relevant topics are covered during the interview” [de Vos, 1998: 2, 99].

(b) The DYC physical and computer files were used. The completed interview schedules were studied. Newsletters from the monthly magazine compiled by the children were another source from which to elicit information about how the inmates of DYC experience their stay in the Centre.

5.4 Analysis Of Data
Data analysis was done by searching for patterns, themes and trends, which were identified from the information gathered.

Key variables were located. Their connection and how they influenced each other was determined.

Codes and clustering of all segments relating to a particular question were used during this process to integrate the variables.

Analysis of data was double-checked by an external body, to avoid the possibility of bias.

5.5 Limitations Of The Study
The children in this study were involuntary clients who would have preferred to have been at home with their parents. Therefore, their responses may have been affected by how they felt on the interview day. Other factors might have affected their answers: for
example, a child might have been interviewed a day after a remand at court, which could have affected his emotional state at the time.

Moreover, it should be noted that children's answers might have been motivated by the desire to please the researcher, or to gain favour, especially because the place of detention is not a natural setting, but an artificial one. However, safeguards were built into this study to get other responses, for example, from focus groups, the views of probation officers, volunteers and parents; to validate or contradict answers motivated by the desire to please.

As a director and member of staff at the Centre, the researcher may very well be biased in favour of DYC. It is hoped that the inclusion of the children's opinions expressed in their newsletter and the views of the probation officers and volunteers who are not employed by the Centre will have provided a safeguard against the effects of any bias of this nature in the findings. The double-checking by an external body, of the analysis of data was also intended as a protection against bias.
CHAPTER SIX

6. Analysis of Findings

6.1 Introduction

As mentioned before, the children awaiting trial at DYC, sometimes for more than six months, are involuntary clients: involuntary recipients of services because for each, the criminal court has issued a detention warrant that specifies the details of his next court appearance and the reasons for his detention. The scope of this study is limited to the children’s experiences whilst awaiting trial at DYC and it should be noted that many, if not most of the residents might experience their involuntary detention as stressful and might, therefore, be in a negative frame of mind. Various factors such as their individual circumstances and emotional strength or lack of it, affect their experience of detention. The stress levels of the young people may fluctuate considerably in a day, and their emotions can oscillate accordingly. Children placed in detention centres have varied expectations, but in general they expect to be granted bail or released, and sometimes they feel completely alone or isolated from their families (this varies according to their personal circumstances; for example, whether they are first- or repeat-offenders)

All of those interviewed were repeatedly assured that they would not be discriminated against because of answers to the questions put to them regarding their attitudes to the conditions of their detention. It is hoped that they responded truthfully, despite the factors mentioned above.

The respondents’ contributions were classified and grouped according to dimensions, or spheres of experiences, which were clustered and presented in four broad categories, and are discussed under headings relating to the children’s physical, emotional, educational and spiritual needs.

The results of this study have been presented in the various tables and figures presented below:
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<th>Categories of Needs</th>
<th>Spheres of Children's Experiences</th>
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</thead>
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<tr>
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<tr>
<td>6.1.2 Food:</td>
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<td>6.1.6 Life in DYC:</td>
<td>How DYC works: rooms, bedding, peers, comfort, water, toilets, elders, problems, relationships, length of stay in place of safety, personal safety, staff roles.</td>
</tr>
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<td>6.1.7 The Clinic:</td>
<td>Medical assessment, cleanliness, privacy, staff treatment, medicine and structure of the clinic.</td>
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<td>6.2.1 Assessment by Social Workers</td>
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Other areas that were explored are:

6.5 Children’s description of the role of staff in their lives
6.6 Volunteer’s involvement and their contribution to the lives of the children
6.7 Children’s views on the contribution of DYC to their growth
6.8 Newsletters: An in-house newsletter written by the children was considered during the study
6.9 How staff see their role in the lives of DYC children
6.10 Volunteer’s perception of their roles in the lives of the children at DYC
6.11 Parent’s views of DYC

6.2 Physical needs of the children at DYC

6.2.1 The children’s responses regarding admission procedures

To clarify how the children experienced admission to DYC, this category has been divided according to four basic aspects: friendliness, respect, dignity and experience on arrival.

The number of positive scores regarding Friendliness, Respect, Dignity, and Experience on arrival, as shown in figure 6.1, indicates that most respondents viewed their first day at the reception centre positively. It would appear that some were influenced by previous experiences. Some respondents stated that it felt like ‘a hotel or being at school’.

Of the forty-five children in the study seventy eight percent, being the total of all negative scores in percentages responded negatively with comments such as, “it felt like a prison”. It appears that these children too were influenced by their previous environments. That is,
where they had been prior to their arrest. If they had been at home with parents, their experiences and responses on admission were negative because they felt sad, nervous and scared, which is to be expected when children are separated from their families for the first time. They failed to appreciate what was being done for them, wanting only to go home.

Twenty five percent did not comment on how they experienced admission. This could be attributed to separation anxiety, causing children to withdraw when faced with changed life circumstances - or to incomprehension regarding the questions if they were from foreign countries, (although during the interviews the questions were explained in languages familiar to them: in Portuguese for Mozambicans, Shona in the case of Zimbabweans, or Swahili for other foreign children). It should be noted, however, that a lot is lost during interpretation. It can also contribute to the lack of responses by some of the children.

The variety of the responses clearly demonstrates that children undergo a range of emotions when their circumstances change, and that they view their experiences differently. It would appear that their responses were largely influenced by where they had come from at the time of arrest. A child coming from home, a street child, and a child who has been awaiting trial in prison will experience admission differently. Generally, however, children experience admission at DYC positively.

6.2.2 The children’s views about the food at DYC

The children’s positive and negative views with regard to their first and subsequent meals, the dining hall and the quality of the food are depicted in percentages in Figure 6.2 below.

**Figure 6.2**  The children’s responses to questions about meals at DYC
Of the forty-five respondents, when all the positive responses in percentage are added up the total is 196%, and the children stated that they enjoyed their meals. Within this group 45% reported that their first meal went smoothly, although for a somewhat greater number (55%) this was not the case. Again, where they had been prior to their arrest could have influenced the children’s responses to their first meal. A negative response could indicate indifference to the environment and denial of their changed circumstances, dislike for the food or the environment because it was unfamiliar, or some other factor, not explained by the children.

The scores changed as the children began to adjust and accept their circumstances. This is reflected by the fact that an increased percentage of sixty three percent enjoyed their 3 daily meals, compared to the 35% who did not.

The quality of food was rated equally on both positive and negative scores (37%) each. This could be attributed to different early experiences and family backgrounds, as discussed earlier in the section dealing with the profiles of the children at DYC. The length of stay also affected the food quality ratings, either positively or negatively, depending on the duration. They may either have become used to the food provided or have simply associated it with life in detention.

A slim majority of the respondents (51%) were satisfied with conditions in the dining hall. Forty percent were not. This may reflect discomfort at having to adjust to the large number of children in the dining hall, some of them from different race groups and some of different nationalities. Children from families of 2 or 3 members experienced the dining hall differently from the way in which other children did; possibly because they found difficulty in adjusting to eating in an institutional setting when accustomed to doing so in a smaller and more intimate family setting.

A total of thirty seven percent of the children did not respond to any questions. As mentioned before, language problems could be a barrier to communication especially for those children from countries neighbouring South Africa. Separation anxiety or anger at being removed from home could also result in a lack of response.
6.2.3 The children’s experiences of the orientation process at DYC

The primary intention behind the orientation process is to reassure the child, make him feel welcome, enable him to understand his new environment and, thereby, to allay his fears. The process introduces him to the code of conduct and the disciplinary code, so that he will know how he is expected to behave and will know that as a recipient of services he has rights that will be respected, while the rules and procedures of the service provider are to be respected by him.

According to the Minimum Standards, 1998 the Code of Conduct were established to ensure that young people are provided with relevant written and verbal information on rights and responsibilities during orientation, and with due regard for their age-capacity cultural, religious and linguistic heritage.

In DYC the Code of Conduct are rules and procedures established by the Centre’s Management in consultation with the children through their room representatives. The rules ensure that young people conduct themselves in ways that are acceptable for example fighting is prohibited inside the Centre.

The Disciplinary Code relates to policy and procedure on behaviour management. The children are provided with relevant complaints procedures that are age and language appropriate. The disciplinary code ensures that children understand their responsibilities. The children need to understand the consequences that will arise if the rules are not followed. If the young people for example are found fighting the first step will be to restrain them, secondly to conduct a hearing where both will be listened to, thirdly to find an acceptable solution. The hearing is conducted by a multi-disciplinary team to ensure that children’s rights are not violated, and that counselling should always follow up a hearing.

The questions were as follows in this dimension, and were explain fully to the respondents:

- Did you understand how the code of conduct and disciplinary procedure works?
- Did you understand where to go after orientation?
- Is the code of conduct and disciplinary measures realistic?
- Did you understand the consequences that will result from going against the code of conduct?
The responses are shown in Figures 6.3 (a) and (b) below

**Figure 6.3 (a) Code of Conduct**

From the children’s responses 80% indicated that they understood the consequences of going against the code of conduct. From the responses:
- “I was given information first”;
- “I know how to behave myself”; and
- “the room leader guides me”

it appears that when children understood what is acceptable behaviour during orientation, prior to their interaction with their peers inside the Centre, adjustment becomes easy as this process begins to familiarize them with their new environment.

The other 15% indicated that they did not understand the consequences of flouting the code of conduct. It could be true for these children, particularly those coming from unstructured environments with little discipline prior to their detention, that their former environment will also contribute to their not understanding the code, for example, street children. Young people who have been members of gangs have often internalised new morals, norms and
values which do not necessarily conform to those of society. Five percent of the children did not respond. Reasons were not given.

A total of 72% of the children who took part in the study indicated that the code of conduct was “realistic”. One of the respondents indicated that it is realistic because “he has learned more about to live with other people”. On the negative scores, 18% of the children found the code of conduct to be unrealistic, for example, “I have been detained that is real to me, why should I not be left alone”. For this child detention should be a period where he should be left alone; there should not be any added rules because he is already detained.

A total of 10% of the children did not respond. Possibly because they too feel frustrated by the additional rules. As far as they are concerned, they have been arrested; how they conduct themselves is irrelevant.

The children stated that, after orientation, they knew “where to go”. Eighty percent of the children responded positively to this question. It is important that children receive proper orientation by well trained staff to allay the fears and confusion that is created by detention.

An insignificant number of children, 6%, did not know “where to go”, possibly due to their own fear of having to deal with arrest. It could have been the first time away from home. The same could be said for the 7% of the children who did not respond. For them it could be meaningless to know where to go inside a detention centre, for them it is a confined environment.

From the children who took part in this study, 87% indicated that they understood the code of conduct, with it possibly not differing very much from the code of conduct from their schools or homes. However 6% of the children did not understand the code of conduct, possibly because they have been exposed to a set of rules and procedures for the first time in their lives. This could apply to a child who has never been to school, and has been in the streets to fend for himself. The other 7% who did not comment on understanding the code, could as well be influenced by the child’s inability to relate to his new environment, or by anger and frustration due to arrest.
Most responses to the questions about the code of conduct were positive, indicating that the children understood the code and felt that it was realistic enough for them to adopt. There were forty-seven percent negative responses indicating disagreement with the consequences of flouting the code.

**Figure 6.3 (b) Disciplinary Code**

Most respondents (70%) indicated that they understand the consequences of going against the disciplinary code in the Centre. Responses like "...other children have no discipline, they want to do as they please, discipline is important" reflect this. The respondents indicated that some children need ground rules, because if there are none, the children will lay their own disciplinary procedures. It appears from the scores that the children do understand the consequences that will result from failing to comply with the disciplinary code.

On the 80% of the children understood what to do, and where to go in relation to the disciplinary code, for example, where to go to lodge a grievance. A total of 17% indicated that they did not understand where to go in case they needed assistance relating to the disciplinary code. As stated before some children could be having other issues to deal with during orientation. Listening to details about disciplinary codes in detention could be
irrelevant to them. A total of 3% of the children who took part in this study did not respond. The same could be said about them, namely, by withdrawing they could show their anger and frustration about their arrest.

A total of 73% of the children also indicated some positivity regarding the disciplinary code. The fact that it is realistic has been agreed upon by this high percentage, as opposed to 24% who found it to be unrealistic. It could mean that the latter are used to being on their own, or possibly have norms and values that are in conflict with those of society at large. Having to adhere to a disciplinary code could be problematic to them, hence they feel it is unrealistic.

A small number, 3% did not respond, without giving any reasons. The lack of responses form these children could mean that they still need to deal with being detained first, before they could embrace the new rules.

Eighty-two percent of the respondents indicated that they do understand the disciplinary code. Some are agreed with the response that “... it is obvious that there should be a disciplinary code”. This indicates agreement with and an understanding of the disciplinary code.

An insignificant number (15%) stated that they did not understand the disciplinary code, and also 3% did not respond. The children could be affected by a variety of factors, having to deal with strangers who have a lot to say about understanding disciplinary procedures, while what is immediately important to them is their arrest. They could be angry for being locked up, and that is what they have to deal with at the moment.

Responses to the disciplinary code were similar. When all positive response were added up the total was 305%, and 78% being the total of negative scores. Figure 6.4 shows combined responses to questions about the codes of conduct and discipline.

The negative responses to the codes of conduct and discipline were found to be surprisingly few, considering that denial and rejection of detention in an unfamiliar environment would not be unreasonable, and embracing the codes of that environment might seem an act of surrender. The child who has been at school and exposed to routine and a clearly defined set of rules finds adjustment at DYC relatively easy. However, the child who has roamled the
streets and been free to do as he pleases may find difficulty in abiding by the rules set out in the codes of conduct. Hence he finds discipline too strict. Fifty percent of the children’s total scores for both categories comprised non-responses. The children did not offer reasons for not giving answers. The language issue has been singled out as the major contributory reason, even though questions were interpreted, other factors like feelings of rejection and anger were regarded as possible ancillary ones.

Figure 6.4 The children’s perception of discipline at DYC

The different responses from the children for example “too strict”, could signify the child’s own inability to relate to procedure and routine. He may be used to being alone, doing as he pleases with his peers e.g. a street child. Thus adapting to his new environment could be problematic. On the other hand the children’s responses that discipline is “too easy” could be interpreted in different ways for example:

This child who is an offender expects to be exposed to a harsh and strict environment, which resembles a jail. The environment he is exposed to proves otherwise, hence it is too easy for him. “Just right” could mean a lot of things; it could mean accepting the environment, conforming to rules, or it could be a state of surrender and acceptance of the rules at DYC.
6.2.4 Clothing: the children’s views regarding the wearing of uniforms

Figure 6.5 below represents the children’s feelings and attitudes towards wearing uniforms while at DYC.

Ninety three percent of the respondents were positive about the uniforms. Their reasons are summarized as follows: the uniform made them ‘belong to DYC’, it was a symbol of unity, it made them ‘feel safe / comfortable’ and saved their own clothes. Furthermore, the uniform provided a solution to the problem for those who lacked a support system to provide them with clothes and who did not own garments or whose clothes had been damaged during arrest.

Seven percent of the respondents stated that wearing the uniform made them feel like sentenced prisoners, confirmed their arrest and made them feel as if already perceived as guilty. Past experiences caused them to feel sad and depressed about wearing uniforms.

Conclusion

All children responded to this question. A clear picture emanating from the responses is that the children rated the wearing of uniform highly positively.
6.2.5 Programmes at DYC

The programmes offered to all the youngsters at DYC form part of the routine and attendance is compulsory as it is expected that children under 17 years should be at school. Constant remands at court, viewed by most of the youngsters as punishment, negatively affect the child’s interest in the programmes offered. He cannot understand why he should participate actively in programmes when his case is remanded, and he may simply lose interest.

Figure 6.6 Children’s responses to programmes offered at DYC

Of the 45 children who took part in this study 80% indicated that they were happy with programmes offered, as compared to 15% who did not like the programmes offered at DYC and 5% who did not respond.

As mentioned before, detention evokes a variety of emotions to children, having to deal with their arrest could be problematic to some of them, some may need more time than others to adjust to the Centre, whereas others could find adjustment relatively easy.

Negative responses could also mean that a child, who has a speech and hearing defect but can read, will find it difficult to respond positively about programmes in the classrooms, as he cannot participate fully. This is also true for children with a barrier to learning, as they may also find it hard to participate fully or achieve in a classroom environment. A lack of
response could also mean that the child is less interested in programmes; he would rather engage in physical training, as that could be his strength.

As far as the life skills programmes are concerned, 75% of the children found life skills to be meaningful. Some stated that the life skills taught them to “respect one another, to love myself before I love another”. Life skills provided the children with an opportunity for introspection. It is a period of finding out more about themselves. The children who responded negatively made up a total of 15%. To them a life skills programme is irrelevant. For those denying their charges, so taking part in a programme could possibly mean to them that they admit. A small number, namely 5% did not comment. They could possibly be sharing the same sentiments like those who responded above.

A total of 68% of the respondents indicated that the recreational programme met their needs, that there were enough activities for them in the afternoons, weekends and holidays as well as enough sporting equipment. Twenty-two percent stated that there were not enough activities. It could also mean that what is considered an “activity” for them could be something like gambling, which the Centre does not entertain. To the other children, who posed as children underage in court, taking part in sporting activities could be viewed as childish, hence a negative response. A small number, 5%, did not respond, possibly due to anger at being detained. They could also have been ill or depressed.

When all aspects were combined, total positive responses in percentages numbered two hundred and twenty three percent. Although programme attendance is compulsory for the involuntary clients, most do not seem to resent this. Negative scores in percentages totalling fifty-five percent could be attributed in part to the fact that some children resent any form of structure. (That is one reason why there are street children: the desire to be independent and away from adult control seems to dominate their thinking, thus influencing the way they do things.) Some children in this category await trial for long periods and may be bored with this routine.

A total of twenty-two percent of the children did not respond; perhaps, again, through boredom, anger or apathy towards the programmes, or because the programmes do not meet the needs of physically or intellectually challenged children referred by the courts to the Centre. Generally, however, the programmes have been rated positively.
6.2.6 Daily life in DYC: relationships, freedoms, restrictions and security

Issues such as the youngsters’ relationships with their peers and the staff, the roles that staff play in their lives, whether the children feel safe and experience religious freedom at DYC, whether their length of stay affects their perceptions of being free or restricted, and how the youngsters feel about their accommodation, were explored. Figure 6.7 shows their responses.

**Figure 6.7** The children’s perceptions of freedom, restriction, and security:

Of the forty-five children who took part in this study, 73% indicated that they were given enough time to move freely within the Centre and do their own things, such as playing during their leisure time. A total of 22% stated that their freedom was restricted. It is true for these children because confinement is not easy. One of the respondents said “seeing the same people, same things everyday is boring”, hence, in their view they were already restricted. An insignificant number 5% did not respond, possibly they were sharing the same sentiments with the 22% who responded negatively.

Most children, (77%), rated the length of stay at DYC negatively because they did not want to be detained, but be free. This can also be related to delays in the criminal justice system, which are common. Eighteen percent felt that their length of stay was ‘just right’. As indicated before, they could have experienced being cared for by adults for the first time in their lives. Five percent did not respond.
On the issue of personal safety, 69% of the children felt safe, while 17% did not feel safe. The remaining 14% did not respond. Some of the children felt unsafe in the environment where they came from, possibly the streets, or they had experienced family violence. Hence they feel safe at DYC. Others feel unsafe to be in these crowded surroundings, while they are used to being at home with their families only. The same could possibly be said about the 14% who did not respond.

The issue of religion has been discussed under the heading of spiritual needs, and will, therefore, not be dealt with here.

The discussion of staff will also be elaborated on later on after Figure 6.12.

The children rated their rooms positively, with 69% stating that their rooms are comfortable, and warm enough. They also experienced their relationships with the other boys as well as their room elders positively. The remaining 25% indicated that their rooms were not comfortable, and it seemed they did not relate to what the other children appreciated. Possibly due to individual circumstances some children have their own rooms at home, and they are not used to sharing or they came from less crowded environments. The other 6% did not comment, and therefore, they could also be rejecting their present environment.

The children’s positive scores in percentages were high, constituting a total of four hundred and twenty-five percent. They were satisfied with their freedom, personal safety, religious provision, the staff’s attitude towards them and their rooms.

What stood out in this category, however, was that (77%) of the children expressed dissatisfaction with their length of stay at DYC. Five percent did not comment. Only 18% were satisfied with the duration of their stay. Perceptions about the length of stay varied. Some found it very short, others too long. Two weeks could be too long for some children. Family relationships were a major factor influencing how the children experienced their length of stay. It must be kept in mind that the respondents had been detained for varying periods of time, ranging from one month, some up to three years.

Those children who perceived their detention and length of stay as satisfactory could have been enjoying, possibly for the first time, the experience of being cared for and the new
relationships formed in a caring environment. This sometimes happens when children are used to fending for themselves.

The negative effects that detention usually has on children can be worsened by long remands at court, especially when they await trial for periods ranging from 6-36 months. Magistrates are responsible for deciding what should happen to them and DYC has no control over what the courts do. However, knowing how delays affect the youngsters, the Centre’s social workers send progress reports to court to raise awareness about children who have been awaiting trial for more than 6 months.

6.2.7 The children’s views on the clinic at DYC

Two nursing sisters and an in-house doctor who visits the Centre daily, attend to the children’s minor ailments in the clinic. Children with major illnesses and those needing surgery are referred to the local hospital. The researcher sought to discover how the children experienced the staff and the clinic: whether they found the clinic to be clean, whether the treatment and medication provided made them feel better, and whether they felt that the medical team respected their dignity and privacy. Responses are shown in Figure 6.8 below.

Figure 6.8 The children’s views on the clinic at DYC
From the children who took part in the study 90% rated the medication they received from the clinic positively. Three percent felt that the medication did not make them well, and 7% did not respond.

Fifty percent of the children in the study indicated their appreciation to the medical team, as compared to 40% who did not. Ten percent did not respond. Some of the children who visit the clinic are attention seekers. The medical team on the other hand are looking at ailments, that the children could have, and may not have time to give the child the attention he needs. And to this child, the clinic could not be fulfilling his needs. Hence the negative response.

From the children’s responses 70% stated that they were treated as individuals and their privacy was respected. The other 25% felt that their privacy was invaded without giving any explanations, and 5% of the children did not respond.

A total of 90% of the children recommended the clinics, cleanliness, and 10% did not respond. Possibly due to the fact that they have never been to the clinic as a result the question may not be relevant to them.

Medical assessment or examination is compulsory for all boys who are admitted in the Centre. The sister in the clinic first conducts examination before the child is referred to the doctor. The children’s responses were as follows: fifty-five percent approved of the medical examination and twenty-two percent did not like this routine check-up. Possibly they have never been to a doctor before their detention. They could feel as though their privacy is invaded much as the care staffs explains the need for medical assessment. Twenty-three percent of the children did not respond, they could be angry or dislike this procedure, or could not be bothered by it.

Children attend the clinic for a variety of reasons. Sometimes the ailment is physical. At other times they may be seeking attention or comfort. Sometimes loneliness, depression and frustration at being separated from their homes and families for long periods manifest themselves in illness. At these times a female staff member at the clinic may represent a mother-figure for the child experiencing unhappiness about his separation from his family and the caring attitude of the staff might provide the comfort that he seeks. The normal tendency of children to seek adult attention is intensified in a place of detention. The
children often associate the feelings linked to the need for adult attention and affirmation with illness.

A negative response could indicate that a child’s feelings of loneliness and homesickness had not been dispelled by medication or a visit to the clinic. Sometimes a child resents the staff’s strictness in ensuring that he takes his medication regularly in accordance with a prescription. His negativity towards the clinic may increase if his compliance with the medication does not result in alleviation of depression that may have been caused by the duration of his detention while awaiting trial.

Some of the children who did not comment (41%) may not have been to the clinic because they may not have been ill or they may have been healed by other means, as verbalized by them occasionally that they consult traditional healers who are not catered for inside DYC.

Conclusion

The various responses by the children to their physical needs could be attributed to their early childhood experiences that impact positively or negatively on their present experiences. The type of relationships they are used to and the environment from which they come also seems to determine how they experience detention.

6.3 Emotional needs

6.3.1 The children’s experiences with regard to assessment by social workers at DYC

Social workers assessing children newly admitted to the Centre are involved in a process of finding out whether their parents or guardians know where they are. It is compulsory for the children to be seen by a social worker, as this enhances their adjustment to DYC. It is also important for a child to be able to speak to a social worker, who will facilitate the process of family reintegration where this is possible and will move at the child’s pace so that he can express himself effectually and feel understood. Figure 6.9 illustrates this.
Eighty percent of the children felt listened-to and understood. Twenty percent felt that they were not. Although they did not give reasons, those who were foreign children may have found language problems a barrier to communication. Twenty-five percent of the children had not consulted a social worker. Some had been admitted during the weekend, when the social worker is off duty, and the staff admitting them had not subsequently notified the social worker of their admission. Some had already seen the social worker at court, and either did not see why they should undergo a further session with her at the Centre or, possibly, feared that they might contradict what they had said in court. Others had been detained in the Centre before and were returning for a second or third time, giving different names and ages. These were probably ashamed of themselves and did not want the social worker to know that they were repeat offenders. Generally, however, the children experienced their contact with social workers positively. Most seemed to be able to telephone their parents. An insignificant number were not provided with this opportunity. (Reasons were not stated, but the lack of a telephone or contact person at home could be a factor).
6.3.2 The children’s experiences regarding contact with the outside world

This section explores how visiting hours, or the illness or death of a relative or family member affected the children. It considers whether telephone contact with families was maintained and whether family members visited the children. These factors do have an effect on the children’s adjustment in the Centre, especially affecting their participation in the various activities offered. The illness or death of a family member has a negative effect on how they perceive detention.

The children’s feelings in relation to family visits, the visiting hour, the number of telephone calls they made, and their experiences when illness and death had occurred at home, were measured. Seventy-three percent were visited by their families and sixty-three percent maintained telephonic contact with family members. Thirty-three percent had been informed of family members’ illness and, sometimes, death. These are the lowest positive scores, because at least some of the children’s families had not experienced death or illness.

**Figure 6.10** The children’s experiences regarding contact with the outside world
Of those interviewed, 55% stated that the visiting hour was adequate. On the negative scores, families of 22% of the respondents did not visit them. This could be attributed to the possibility that their families were prevented by distance and circumstances from travelling to see them or, alternatively, that family ties had already been affected before their arrest. Children, for example street children, could have been living alone without their parents’ knowledge of their whereabouts.

Of those interviewed, 33% had had no telephone contact with family members. As stated before, the reason could be that either their families did not own telephones or they could not afford telephone calls. The children who did not comment about telephone contact made up four percent of the respondents.

It also appeared during the research, that 54% had not heard of death or illness in their families, and stated that their families had not given them such information. This could be the result of lack of contact between child and family. Another cause could be reluctance on the part of a family to add to a youngsters’ stress by informing him of a traumatic event while unable, because of the separation caused by detention, to give him adequate family support. Some families prefer to break the news to the child when he has returned to his home.

Thirteen percent of the children did not comment on the illness or death of a family member. It should be noted that some children had already been orphaned before their arrest.

Of the total number of respondents, 35% stated that the visiting hours were too short. (Visiting hours are: 14h00 – 16h00 daily on weekdays, and 13h00 – 16h00 on weekends.) This response could indicate the strength of their family ties. If the bonds between family members are close, a child does not experience separation after the visit positively, as a child who yearns to be home always feels that the visit should last longer.

Ten percent did not comment. This could be ascribed to children having come from far away or from neighbouring countries, or to the disintegration of family ties before detention, (street children belong to this group), or to the reluctance of over-aged youths to have family members (who might reveal their true identity and age) know of their whereabouts. The amount of time allotted for visiting is irrelevant to children who are not being visited.
6.3.3 The children’s views on the role of visitors to the Centre

It was important to elicit the children’s views about visitors, because their detention isolated them, to a large degree, from the outside world.

**Figure 6.11** The children’s view on role of visitors to the Centre

Most of the children at the Centre seventy two percent enjoyed visits from members of the outside community. They perceived them to be people who cared about and respected them, shared their experiences, taught them skills, taught them about God, and taught them about success and how to discover their talents.

Those who seldom enjoyed being visited twenty three percent stated that visitors invaded their privacy and said that they would prefer to be visited by people who would interact with them, ‘treat us like human beings and not fear us’. This kind of response could be attributed to displaced perceptions of rejection emanating from their experiences at home and projected upon their visitors. In some cases children from neighbouring countries wish to be visited by people from these countries, with whom they can identify, but this is not always possible. It is possible that in this situation a child might react negatively towards a local visitor because he cannot identify with the person. Children from other South African provinces sometimes
also react in this way, finding themselves unable to connect with visitors, most of whom are from Gauteng and its environs.

Five percent of the children had had no contact with visitors, and desired none, saying that they were jealous of visitors who were free, while they were not. Their attitude of preferring not to interact with visitors may stem from their feelings of frustration and helplessness in detention rather than from envy towards visitors.

**Conclusion**

Detention appeared to evoke a variety of emotions in certain children. Their responses to visitors differed from those expressed by children in detention at Audy Home in the USA, who said that a parade of visitors, cycling regularly through Audy Home and the school in as many as 3 or 4 daily groups, made them feel like ‘monkeys in a zoo’... “Like all the visitors that come here, they think we are all the same, killers, rapists (Ayers, 1997: 46, 88) It is possible, however, that some of the children interviewed at DYC, because they judge themselves, convince themselves that visitors do so too and see them in the same way as they see zoo exhibits as oddities.

Another reason why some children do not want contact with visitors may arise from the general public’s association of detention with criminal behaviour, with which they do not want to be associated. It may also be that the children’s anger towards the court that has placed them in detention is sometimes displaced onto visitors.

### 6.4 Educational needs of the children at DYC

The education policy at Bosasa is based on the belief that a learner can be developed as a balanced human being with a healthy personality and can acquire one or more job skills. The education provided at DYC is an attempt to lay a proper foundation for learners to develop and acquire useful skills. (Bosasa Policy Document 2000)

Furthermore, Bosasa believes that each learner must have the opportunity of a second chance. Bosasa Education is in line with the United Nations Convention on the Rights of the Child, (which was ratified by South Africa in 1995), and complies with the key principles:

- **Best interest of the Child (Article 3)**
- **Survival and Development (Article 6)**
The implications of these guidelines for the youngsters in the Bosasa Youth Centre are:

- As many youngsters of school-going age as possible are helped to continue their education and training.
- Despite the temporary nature of a youth’s stay in residential care his education will be as uninterrupted as possible.
- From the basis of a thorough assessment of each youth’s previous schooling and abilities, an occupational therapist will help the youngster to choose an academic or training programme as part of his individual development plan.

(Bosasa Policy Document 2000)

6.4.1 Assessment of children by educators

The researcher had to determine the children’s experiences to find out whether they were in agreement with Bosasa’s education policy, and whether DYC’S education was making a positive difference in their lives. The children were asked to comment on how they experienced life-skills training, skills development workshops and literacy and numeracy programmes in the Adult Basic Education and Training Section.

6.4.2 The children’s experiences of life skills training at DYC

The part of the questionnaire addressing this aspect of life at DYC was aimed at discovering what life skills the children had learnt and what they wished they could have gained from the classes. Some decided that the programme had provided a foundation for their lives. They believed that it had taught them to know themselves, to respect others, including those of other races; to manage stress and to make informed choices about friends, life and crime; that it helped them to handle difficult situations and taught them moral values and how to live meaningful lives.

Some children said that they wished that they had gained the ability to love themselves, love others, deal with people, exercise patience, persevere, and forgive and forget the violence in their homes. Some wished that they had learnt English and improved their education.

The responses of the 45 children interviewed about the programme are listed in Table 2 below. In general, the children appeared to regard the programme positively.
### Table 2 Responses given by the children to questions about the life skills programme

<table>
<thead>
<tr>
<th>LIFE SKILLS CLASS</th>
<th>WHAT CHILDREN GAINED</th>
<th>WHAT CHILDREN WISHED TO HAVE GAINED</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Respect 4</td>
<td>Self love 1</td>
</tr>
<tr>
<td></td>
<td>Life skills techniques 1</td>
<td>The ability to love other people 2</td>
</tr>
<tr>
<td></td>
<td>Peace 1</td>
<td>The ability to deal with other people 3</td>
</tr>
<tr>
<td></td>
<td>Self respect 1</td>
<td>Patience 1</td>
</tr>
<tr>
<td></td>
<td>Knowledge regarding Aids, drugs, sex, abortions 2</td>
<td>More skills 1</td>
</tr>
<tr>
<td></td>
<td>Academic education 1</td>
<td>More academic education 1</td>
</tr>
<tr>
<td></td>
<td>Ability to distinguish between good &amp; bad 4</td>
<td>More understanding of other people 2</td>
</tr>
<tr>
<td></td>
<td>Ability to care 1</td>
<td>Perseverance 1</td>
</tr>
<tr>
<td></td>
<td>Basis for decisions to change life style 3</td>
<td>The ability to forgive and forget 1</td>
</tr>
<tr>
<td></td>
<td>Mind control 2</td>
<td>home violence 2</td>
</tr>
<tr>
<td></td>
<td>Heart control 2</td>
<td>English language skills 1</td>
</tr>
<tr>
<td></td>
<td>Ability to escape from crime 3</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Communication skills 2</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Coping skills 2</td>
<td></td>
</tr>
</tbody>
</table>

#### 6.4.3 The children’s views about programmes and workshops at DYC

The children were asked to explain how programmes had or had not contributed beneficially to their lives. Each child is expected to attend a life skills programme, on completion of which he makes a commitment as to how he will use his time at DYC to achieve his short-term goals while awaiting trial. (It is accepted that his long-term goal may depend upon the outcome of his case.) He may decide upon a workshop of his choice, such as motor-mechanics.

Comments by the children about the programmes and workshops were:
• “It is a good idea for us to be in the workshops because some of the juveniles they don’t get knowledge from where they are right now. For us is a good thing to be in the workshops while we are awaiting trial”
• “Workshops help us to discover our talents and learn new skills”
• “Programmes are interesting and we gain a lot”
• “In workshops we experience different things and learn different skills”
• “Life skills is good because it is like guidance for our lives. We think what we learn in the life skills will help us”
• “Workshops gives us something for outside. They teach us skills to make a business”

There were no negative or no-comment responses: all respondents rated this dimension of their experience positively. This may be because they felt a degree of autonomy in being allowed to establish their own goals and to choose the courses that they wished to attend. They clearly felt empowered by the practical training. Placement on courses is based on the individual’s manual, academic and intellectual strengths and abilities, and on his wishes. If a child proves unable to make progress in an area of his choice, the instructor, in discovering strengths that could gain him placement in another workshop of his choice, guides him in making another choice.

6.4.4 Probation officers’ responses regarding training of the children at DYC

Probation officers receive, assess, and refer youngsters in conflict with the law to suitable placement whilst they are awaiting trial. Some of the children at DYC have been referred there by probation officers. Usually his probation officer meets with the child during the next court appearance, to check on his progress at DYC. The child will then give feedback regarding his experience in the Centre.

The researcher regarded the probation officers as important role-players who could provide considerable input about the children’s experiences since they have open relationships with the children.

As discussed in chapter five (Research Methodology) children are referred by probation officers from certain courts in and around Gauteng, hence their opinion was relevant to this
study. Appointments were made with 13 probation officers from the courts where the majority of children come from. Only 6 probation officers were available for the interviews. The six probation officers concerned with particular children placed at DYC evaluated the educational needs of the children in some of their responses that will be discussed later. Because these evaluations are those of outsiders but, summarised, correspond with the children’s views about the provision made at DYC for meeting their educational needs, they are included. Individual comments are listed below in Table 3.

<table>
<thead>
<tr>
<th>No</th>
<th>Do the children learn useful skills in the time here?</th>
<th>Do the children keep their minds active?</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Yes. Children are able to talk about things they learn and express their ambition.</td>
<td>Yes they seem to be motivated</td>
</tr>
<tr>
<td>2.</td>
<td>Children at DYC are offered useful skills such as computer literacy, welding course, motor mechanics, sewing woodwork, electrical courses, etc. Accredited certificates are also issued at the completion of such courses.</td>
<td>On arrival at the Centre, a child’s educational needs are assessed, and the child is assisted to choose a suitable programme or course, which he is going to attend during his stay at DYC. Drama skills are also learnt. Such programmes or courses keep the children busy and stimulate their minds most of the time.</td>
</tr>
<tr>
<td>3.</td>
<td>The educational programmes offered are excellent. A variety of skills are offered to the youth. After their release, some youth actually use these skills to generate their own income.</td>
<td>The training provided includes practical skills as well as theoretical skills. These training skills allow the youth to become more confident and proud in themselves.</td>
</tr>
<tr>
<td>4.</td>
<td>From what the children themselves say, as well as having observed their class, it is obvious that they are learning very useful skills at the Centre.</td>
<td>With the certificates they receive at completion of the courses they can once again become useful members of the society and in the workplace.</td>
</tr>
<tr>
<td>5.</td>
<td>The majority of the children when admitted at DYC are severely neglected in terms of their education. The training at the Centre affords them with the opportunity to learn skills that will help them become self-sustaining individuals. The training also serves to give them an increased sense of self worth and dignity and they leave the Centre feeling human and as if they are worth something often the skills learned help their families, as they are the only ones with the knowledge to become breadwinners and sustain their families.</td>
<td>The children are encouraged to enhance the quality of their lives by actively participating in learning skills that are going to help them in their lives. They are motivated to learn, as they understand that these courses are going to contribute towards a better quality of life for them. Also the training of the children receive is in keeping with reality as the children gain skills, which prepare them for the job market.</td>
</tr>
<tr>
<td>6.</td>
<td>No comment</td>
<td>No comment</td>
</tr>
</tbody>
</table>
When asked whether the children learn useful skills at the Centre, the probation officers made it clear in their responses that they regarded the education provided by DYC with approval, and they showed a high degree of agreement about the children’s ability to discuss their ambitions and talk about what they had learned. What the children told their respective probation officers, especially about life skills programmes, skills development workshops and the attitude of staff when they interact with the children, tallied with what the officers had observed when they had visited DYC.

Skills development is seen to be important for the young people who have not completed their schooling. By the completion of his trial, a youngster may already have turned 18. At this age he is no longer eligible to attend school. In the current environment of widespread unemployment, placing him in a job is an unlikely prospect.

The management, therefore, established these workshops to equip the children with skills that would enable them to provide their own incomes. The company offers them assistance in setting up their own small businesses and runs an aftercare business course programme to enable them to do this. Some of the children have grabbed the opportunity with both hands and run with it. The workshops realistically address their needs and are adapted to their world, and they were positively rated by children, parents and probation officers alike. One probation officer did not comment and no reasons were given.

6.4.5 Probation officers’ views regarding what needs to be changed at DYC

Prominent among concerns elicited from these respondents were those specifically related to the admission of older boys who will end up mixing with the children and influencing them negatively. They also felt that the life skills programme should be extended to the holiday periods. Comments are listed below in Table 4. The probation officers’ suggestions for changes in Dyambu’s services are listed in Table 5.
### Table 4  Probation officers’ comments about what needs to be changed at DYC

<table>
<thead>
<tr>
<th>Respondent No</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Admission, e.g. children’s age must be estimated before being admitted. Most of the children are above 18yrs.</td>
</tr>
<tr>
<td>2.</td>
<td>I personally feel that there is nothing really to be changed at DYC. The existing programmes should continue and be strengthened by DYC personnel.</td>
</tr>
<tr>
<td>3.</td>
<td>More joint efforts should be made by DYC staff and probation officers at courts, to ensure that the older boys pretending to be younger are kept out of DYC. They do not belong there and teach the younger youths more negative behaviour, and they endanger everybody at DYC’s safety e.g. older boys who were in prison before, teach youth about goings and other criminal activities.</td>
</tr>
<tr>
<td>4.</td>
<td>I have one concern and that is the fact that children newly admitted to the Centre are not involved in any programme/skill training. Some children are detained for 7 to 14 days in order for the guardians to be traced and warned to attend proceedings. These children are idle for the period. It would be ideal to get them involved in a strictly short-term activity, as one can understand frustration of being detained for a short period, without any activities to keep them busy.</td>
</tr>
<tr>
<td>5.</td>
<td>This worker is of the opinion that the Centre is functioning optimally and nothing needs to be changed.</td>
</tr>
<tr>
<td>6.</td>
<td>No comments</td>
</tr>
</tbody>
</table>

### Table 5  Probation officers’ suggestions for changes at DYC

<table>
<thead>
<tr>
<th>Respondent No</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>DYC should expand its capacity so that it can accommodate children in conflict with the law i.e. sentenced children. DYC should accommodate children in their units according to their age.</td>
</tr>
<tr>
<td>2.</td>
<td>If possible, DYC should consider opening up other branches at Ekurhuleni (East Rand). There are lots of children in this area who are likely to benefit from the valuable service offered by DYC.</td>
</tr>
<tr>
<td>3.</td>
<td>It is always a pleasant experience in dealing with DYC. Should any problems be experienced and be reported to DYC staff, it is dealt with promptly.</td>
</tr>
<tr>
<td>4.</td>
<td>No suggestions</td>
</tr>
<tr>
<td>5.</td>
<td>No further suggestions are made. Keep up excellent work.</td>
</tr>
<tr>
<td>6.</td>
<td>No comments</td>
</tr>
</tbody>
</table>
It appears that the respondents were satisfied with the services being rendered, to such an extent that they felt that they should be extended to other geographical areas and in other spheres; such as those involving children who have been sentenced.

**Conclusion**

No life skills programmes are offered in the Centre during holiday periods. A holiday programme, however, is put in place. The probation officers recommended that the life skills programme should not be interrupted by holidays. The management at DYC has taken note of this input, and will ensure that during holidays, the life skills programme will be made available to the children, including those whose stay at the Centre is brief.

The probation officers' recommendation that Bosasa should provide other branches is a valuable one, because there are children in other areas who could benefit from Bosasa’s programmes. This matter will be brought before the monthly joint meeting with the Department of Social Services’ Provincial Office because the Department can, and does, influence policy.

**6.5 Spiritual needs of the children at DYC**

The children’s experiences with regard to their spiritual well-being had to be examined, as the religious backgrounds of the youngsters are varied and Bosasa’s philosophy is one of religious freedom. The Centre allows ministers from a wide variety of Christian denominations to hold services for the benefit of children belonging to their churches, and Moslem children are encouraged to practice their faith. However, the children’s views need to be constantly elicited in order to evaluate the degree to which their spiritual needs are being met. The children’s views on religious activity in the Centre are summarised in Table 6 below:

**Table 6 Children’s responses concerning religious activity at DYC**

<table>
<thead>
<tr>
<th>NEEDS</th>
<th>YES</th>
<th>NO</th>
<th>OTHER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Are spiritual needs provided for?</td>
<td>60%</td>
<td>0%</td>
<td>40%</td>
</tr>
<tr>
<td>Have you grown spiritually?</td>
<td>55%</td>
<td>5%</td>
<td>40%</td>
</tr>
<tr>
<td>Can you practice your own religion</td>
<td>60%</td>
<td>0%</td>
<td>40%</td>
</tr>
<tr>
<td>Is your religion respected?</td>
<td>70%</td>
<td>5%</td>
<td>25%</td>
</tr>
</tbody>
</table>
On the issue of spiritual needs, 60% of the children felt that their needs were adequately catered for. They seemed to be fortified and comforted in their sense of spiritual belonging by the services provided for them at the Centre. Of the respondents, 55% reported that they had grown spiritually while at DYC. This group included children who were members of religious groups, and knew and understood their religious beliefs, practices and needs, though before their arrest they had not been regular churchgoers. Their detention may have intensified their awareness of their spiritual needs, and motivated them to attend services and religious instruction more frequently; the result being their spiritual growth.

Of the respondents, 60% reported that they were able to practise their own religions. Most of these will have been children whose ministers were regular visitors. They would have included children belonging to Christian denominations and Hindu and Moslem children, all of whom freely practise their religious beliefs and are free to inform management of any needs not already provided for. Seventy percent of the respondents indicated that their religions were being respected. In each category interviewees who did not respond constituted 10% of the total.

The children who felt that they had not grown spiritually constituted 5% of the total, and they were either Rastafarians who needed to smoke cannabis when praying, or believers in ancestor worship, who felt the need, for example, to burn herbs or occasionally, to take part in rituals involving the slaughter of birds or animals. As cannabis is still regarded as an illegal substance, the Centre cannot permit its use on the premises. Providing for the needs of ancestor worshippers also presents practical problems, although some parents and guardians leave ‘muti portions’ for their children to use. No adults have yet approached the Centre with offers to supervise the children’s observances of ancestor worship.

Those who stated that their religion was not respected made up 25% of the total. Included in these groups were Satanists who found that they could not openly practise rituals meaningful to them. While religious freedom is allowed at Bosasa DYC, society in general frowns upon Satanism, regarding its rituals and beliefs as evil. The Centre does not encourage this religion and endeavours to protect the children from its beliefs and practices, inviting church ministers to counteract its influence by praying in the children’s rooms. Nevertheless, among the children there are those who openly declare themselves ‘angels of Satan’ and recruit new members in the Centre.
Other children who may have constituted the ‘Other’ in this category or responded negatively may have been street-children who may not have experienced a religious service and might not have had reasons to supply their answers. Children from neighbouring countries may also have been in this category, as their indigenous religious practices might not be prevalent in the Centre.

**Conclusion**

Religious philosophy and practice is still a thorny issue, more especially when it is unfamiliar to the service providers. For example, barriers to engaging in certain practices, if decided upon by management and staff, would be imposed upon the children.

This has happened with respect to certain Satanist practices and to the smoking of cannabis by Rastafarians. The aim of management and staff is the protection of the children but, inevitably, there will be those who are frustrated and dissatisfied. The Centre endeavours to meet the children’s spiritual needs in this dimension, providing them with opportunities for spiritual learning and worship, which continually gives them a message of hope, grace and forgiveness.

6.6 **The children’s description of the roles of the staff in their life at DYC**

It is important that the caregivers of the children at DYC are properly trained to work with these troubled young involuntary clients who happen to be in conflict with the law. The researcher attempted to explore the children’s feelings towards the staff at DYC, and to discover how they experienced being in the hands of these people who, on admission, were total strangers in their lives.

Of the forty-five children who responded, twelve regarded the staff as their caregivers. They viewed them as providers of protection who ensured their safety in a secure environment where no outsiders could harm them when they were in class, sleeping, or relaxing. Their perception was that they were protected at the Centre against any angry members of the outside community intent on seeking revenge for harm done to them during the commission of a crime. In general they seemed to accept the Centre’s discipline, partly perhaps because it
provided structure and security, and the adults administering it cared for their well-being, and partly because it was rehabilitative in nature.

**Figure 6.12** Summarised illustration of the children’s perceptions of the staff

According to Whittaker (1972) people who work with children “must have patience and knowledge, a sense of justice and deep respect for every human being, as well as an all-encompassing love that goes beyond justice...this applies to all who work with people, but especially to those who work with children who puzzle us, annoy us and frighten us”. The author explained further that childcare workers (like the staff at DYC), by the very nature of their assignment become authority figures and parent-substitutes protecting the child in his daily struggle with his inner and outer environment. The children at DYC seemed to understand this, and gave different names to the various roles that the staff fulfil in their lives.

These children expressed their enjoyment of the opportunities given them to relax in their rooms and play games with staff members who would then also tell them stories and interact closely with them. They said that they appreciated the cleanliness of the kitchen and their living quarters, and the laundry service provided by staff. They felt that they did not have to
worry about their health because the clinic staff monitored it and they enjoyed exercising in the health and fitness room provided. A total of 45 children were interviewed. Twelve regarded staff as their care givers, they regarded them as their protectors and provided them with a clean safe environment. The term used by 8 of the children in describing the staff, was ‘interactor’, which is a term they used. By this the children meant that they saw them as people who would listen to them and be their friends, counsellors, role models, advisors and parent-substitutes.

The view of 10 children was that staff members are also teachers and advisors: providers of life skills, education and useful training.

Of the children interviewed, five said that the staff were ‘orientators’, welcoming them, making them feel accepted and giving them responsibilities when they were new to the Centre. Ten regarded the staff members as ‘conductors of their lives’, explaining that staff members offered their assistance and guidance, attended to, and solved their problems and rehabilitated them.

**Conclusion**

The researcher took into consideration that children in this age range could be expected to dislike or resent some staff members and to fear others, but their position as involuntary clients might influence their responses to questions, prompting them to give answers pleasing to the researcher. A youngster quoted in the Who Cares Project opined: “When you are in care, you have to be very careful, you never let the staff know what you really care about. Because if they find out, they will use it against you”. (Page et al., 1977: 39) The children interviewed at DYC were often reassured that there would be no repercussions if they spoke their minds

**6.7 Volunteers’ involvement at DYC: how their contributions are experienced by the children and affect their lives**

The authors of Reclaiming Children and Youth maintain that “a good volunteer programme allows the children to gravitate towards activities that interest them and provides a variety of
activities from which they may choose to develop further strengths and interests. More importantly, in allowing children to be involved with adults who share an interest in them, it helps to increase the youngsters' feelings of self-worth". (Brendtro et al., 1998: 177) The DYC children's experiences of volunteers and the effects that these have on their lives, have been summarised and are presented according to the following themes: belonging, mastery, independence and generosity.

A small number of children (16%) indicated that volunteers taught them to know God, made them feel that they belonged, and provided friendship. This would have reduced the children's feelings of being isolated from the community when in detention. The youngsters need friendship to fill their need to belong.

It would seem beneficial to have volunteers in the Centre at all times because they form a bridge between the Centre and the community, reducing the children's isolation and resultant psychological trauma through enabling them to participate more with the outside world.

A total of 40% of the respondents indicated that the volunteers had enabled them to cope with their change in environment and mentioned the following: "I have knowledge." "I have learned to be myself and to be non-violent". Their comments indicate that their association with volunteers had given positive focus to their need for mastery and helped them to adapt to their new environment.

About 38% stated that they had acquired skills for solving problems and skills for dealing with their emotions (One example was "I have learnt to listen first and react after"), and they reported that they could now act independently, without simply bowing to pressure exerted by friends.

Another 6% had learnt care and respect for others, a generosity best demonstrated by the volunteers who spend their time working with the children, without remuneration.
Conclusion

The children saw volunteers as independent people doing what they want to do with their spare time, and choosing to spend it with them. They demonstrated their appreciation for the volunteers and their services.

6.8 Children’s views on the contribution of DYC to their growth (After care boys: Focus Group)

"Has DYC made a difference?" The purpose of this question was to find out from the children whether or not DYC had generally made a difference in their lives. The children’s responses are summarized in terms of stated needs in Figure 6.13 the Circle of Courage below, which is adapted from Brendtro et al. It identifies the four overriding needs of young people: those related to belonging, mastery, independence and generosity. Brendtro et al. warning that “A hurting child hurts, others”, consider the meeting of those needs to be the birthright of all children and maintain that if any need is not satisfied, the child is at risk and in danger of being hurt, and of hurting others.

These authors point out that children strike out and desperately seek ways (ineffectual ones) to fill their needs. The need to belong is often destructively satisfied by membership of gangs, connections to false friends and relationship with adults who exploit youth. Mastery can be found in snatching purses and stealing. Autonomy, or a sense of independence, is something sought in drugs and alcohol use, and generosity is often measured by the amount of drugs and alcohol shared with others. The authors suggest that the pursuit by troubled youngsters of means of satisfying their needs of belonging, mastery, independence and generosity, even through the wrong avenues, is an encouraging sign. A tougher strategy would be to tap and redirect these children’s strengths. (Brendtro et al., 1998: 173,174) As knowing the child’s strengths enables the care staff to concentrate on the child’s positive behaviour. In the process negative behaviour diminishes.
As stated before forty-five children took part in this exercise. Twelve of their responses indicated that their need to belong had been restored: "I can face the community and learn to know God. I have learned to appreciate my parents." This had been achieved through life skills classes, which attempt to instil moral values and foster a sense of belonging. The self-introspection that is encouraged had helped the children to realize that, because they exist in relation to others, they must see themselves as part of the broader community.
Another eleven children responded that their need to master a skill and learn to work with their minds and hands had been addressed. Their talents had been tapped and they had been encouraged to reflect on these and their strengths. In the process, the good in them had been given a chance to surface.

The children attributed this development to encouragement given at DYC to do introspection and follow what they could do best. Nineteen of the respondents stated that they did not want to do crime again, steal, or smoke: they understood that they needed to concentrate on their studies. It appears that the children were encouraged to take control of their lives and had decided what they needed to do whilst awaiting trial. The structured environment at DYC seemed to provide them with the right resources. Some children have not been given the opportunity to make decisions and take control of their lives to fulfill the need to be independent as opposed to seeking independence through the use of drugs.

Three children stated that they would be able to help others and solve their problems. The children realized that generosity and helping others could be more constructive than the mere sharing of illegal substances or stolen money, because they had been taught that there were other, more positive, ways of satisfying this need. The need to help others, however, had a very low score. This could indicate that children by nature are susceptible to be selfish and need to be encouraged by adults to share. Sharing is generally learnt, and if they are not influenced and directed by adults or older peers, children will tend to live without recognising this need. It is, therefore, important for adults, when working in care, to be aware of this generosity need and to know how to encourage children to recognise it and adopt a way of life that allows them to satisfy it constructively.

6.9 Extracts from newsletters expressing the children’s views on the contribution of DYC to their growth

The newsletter is written independently by the children for their peers. All contributions are entirely voluntary and the writers have the right to anonymity and the use of pseudonyms. Articles from the newsletters reflect the children’s views about admission, orientation, life skills, workshops and staff. The following is a synopsis of the key elements included in the articles. Full articles can be viewed in the appendix.
Admission
The children clearly state all the processes involved from admission to release and this is a clear indication that they have been thoroughly orientated.

Life at DYC
The children are encouraging each other to change their attitudes with regard to crime and to make use of the second chance that they have been given by getting involved in the programmes.

Workshops
The children are very impressed by the workshops and even remind each other that education is very important in their daily lives. They are also very grateful that they have been awarded this opportunity to learn a skill because often they don’t have money to do it on their own.

Staff
A great deal of praises goes to the staff at DYC, especially for their overwhelming support and encouragement. Individuals have also been identified as making a positive contribution to their lives.

6.10 How staff sees their role in the lives of DYC children
Brendtro et al., said that children, especially distrustful ones, “may actively try to elicit physical abuse, testing us again and again. They look for our weakness and push our buttons. They are masterful at testing our patience, at trying to push us over the edge.” (Brendtro et al., 1998: 151)

Although staff members are patient, they are not devoid of emotions. They should learn not to overreact to testing, but showing their strong feelings is legitimate if children help or hurt one another or wilfully destroy property. The children must feel the adults’ happiness and anger in such circumstances and yet see that they are able to control themselves. In this dimension the researcher attempted to find out what staff members feel as they interact with the children daily. It is, therefore, important to evaluate how staff see their role in the lives of these children, and to ensure that the staff understand the source of the children’s rage. While
it might at times be directed at them, they should be able to recognize that an outburst is not necessarily caused by them and may very well be an expression of displaced anger rooted in a child’s past experiences.

In exploring how staff view their role in the children’s lives, the researcher asked the 20 available staff members (available due to shifts as explained in chapter 5) who were interviewed “Are you making a difference with children at DYC?”. A summary of their responses follows:

These staff members said that they believed that they were making a difference. Five of the respondents saw their function to be the changing of lives for the better. Three linked their role to giving advice: they make children feel respected and appreciated. The other four respondents believed that they were giving support by being accessible to the children in times of need, and six saw themselves as teachers, giving children attention and being involved with them. Only two respondents stated that they were offering guidance, because “I do not understand why the boys commit crime again.”.

The staff indicated in some of their responses that they also felt accepted by the children because they interact with them, are involved with them and are accessible to the children in times of need. They attributed their success in dealing with the children to:

- giving the children attention;
- making them feel respected appreciated;
- being trustworthy and friendly, and trusting the children and believing in their honesty.

**Conclusion**

The children usually find it difficult to trust adults who do not believe in them, or label them, but the staff at DYC attribute their success in working with these children to their being confident in their job and enjoying what they do with children, and they believe that the children feel protected and cared for, and so respond by acknowledging their presence.

The staff believed that they had made a difference in the children’s lives because they had provided them with survival skills for living, illustrated in Figure 6.14 below:
**Staff perception of their role in the lives of children at DYC**

The staff at DYC believe that they have made a difference in the lives of the children in their care. They regard their role as developing the youth through education and providing life skills.

Furthermore, they regard their role as being there for the youth to offer guidance and support as well as being able to influence the young person to make informed choices and decisions in matters that concern their lives.

From their responses, it appears that the staff is of the opinion that they have succeeded in encouraging the young people to support themselves and to seek advice from significant others without resorting to crime. This is with special reference to the boys in the aftercare programme (Category 3).

The above links with Bosasa's education vision, which is based on the "second chance" theory. It asserts that all learners must be given the opportunity of a second chance to: 
- develop their potential with skills and knowledge,
- become balanced human beings who can contribute positively to the social and economic development of their communities.
- broaden their horizons and develop their natural curiosity and willingness to become self-confident, self-assured and self-fulfilled humans. (Bosasa policy document)

**Conclusion**

It would appear that the staff were able to transfer their skills and motivation to the children, which can be seen in the high scores of the children’s responses regarding the workshops and programmes (Category 3).

The parents’ and probation officers’ views confirmed the children’s, indicating that the success of DYC could be attributed to the staff members’ positive attitude and commitment, and their influence upon the children’s participation.

**6.11 The volunteers’ perception of their role in the lives of DYC children**

As is the case with the staff members, the children also appreciated the role played by volunteers, namely their meaningful contribution and the significant changes that they had brought about in their lives. As the authors of Reclaiming Children and Youth stated, research indicates that many of the mentors identified by resilient children are volunteers. Children form bonds with adults who share an interest in them. (Brendtro et al., 1998: 177)

**Figure 6.15** below, is a graphic representation of areas in which volunteer involvement enhances the children’s lives.
Because the volunteers interact with the children daily, their views about their contribution to the lives of the children awaiting trial at DYC are important to this study. All eight volunteers at the Centre were included in this study and their responses are summarized as follows:

Two volunteers saw their purpose to be the provision of life skills to the children, and another stated that he is guiding the children through the Chapel, and teaching them to know God. One saw his contribution to be the enhancement of the children’s lives through drama. Another felt that the importance of his contribution lay in keeping the children motivated. The remaining three stated that they were helping the children to change their attitudes, assisting them in problem solving, and helping them in their workshops.

The volunteers believed that each of them was making a real contribution to the potential for positive change in the lives of the children at DYC.

6.12 The parents’ views of DYC

The criminal courts transfer the parental powers of parents and guardians whose children need to be detained in a youth centre to the care staff at one of these centres. At this point the state decides where the child should go and for how long. Goldstein et al., state that: “…the
law recognizes that there are situations when, on behalf of the child, the state is justified in breaching family privacy and supervising parental autonomy” (Goldstein et al., 1986). This explains why some children with parents who can control them are, nevertheless, wards of the state. (Guardians are also regarded as parents for the purposes of this study.)

The parents’ views were important, especially because of the anxieties that parents suffer in separation from a child. Parents needed to express their evaluation of the care of their children and the services provided by DYC staff. The interaction during parents’ visits to their children in the hours specified enables the children to give their parents feedback about their experiences at DYC. For these reasons twenty parents were selected according to their availability during visiting hours in the Centre, (visit take place daily but not the same parents visit). The parents were interviewed in the areas of the children’s experience shown in Figure 6.16 below, DYC was providing suitable care and services to their children awaiting trial at DYC.

Figure 6.16  Aspects of caring mentioned by parents interviewed

![Diagram showing aspects of caring mentioned by parents interviewed at DYC]
Six parents indicated that staff were caring and had a good attitude: the lack of bossing and assaults was attributed to the staff’s understanding attitude, which, according to these parents, contributed to the children’s safety.

A total of eight parents were pleased with the education provided at DYC. One, without elaborating, said that DYC was providing their children with safety, and one stated that her son had been given a chance to focus on his future, and get his life in order. Another parent was of the opinion that wearing a uniform is a good thing. The discipline and respect being taught at the Centre pleased one parent. Another made a positive comparison between DYC and prison regarding rehabilitation.

The overall comments made by seventeen parents about DYC were that they liked everything about the Centre and were of the view that nothing needed to be changed.

Of the twenty, only three recommended changes. These recommendations were:

- regarding food: “my child complains about food”;
- an extra meal at night: “as they get hungry during that period”;
- “bigger boys should be removed from the Centre”.

The food issue, as discussed earlier, is influenced by a variety of factors. Separation anxiety and the changed circumstances of the child could make it difficult for him to enjoy the food provided, especially if he was living at home before his arrest. (It is also very difficult to provide food that is familiar to, and liked by every child.) On the other hand, some children await trial for long periods, and could thus become used to the food. The variety of the children’s responses on the food issue, presented earlier in this chapter, could be an indication that detention evokes a wide range of different feelings from different children. What is certain, however, is that a dietician plans the meals and they are balanced.

The parents suggested that the children should be provided with an extra meal/snack at night, because at present the children eat their supper between 17h00-18h00. This recommendation has been forwarded to the Centre’s management.
The changes that the parents recommended regarding removal of older boys from the Centre require the cooperation of the courts. DYC, itself, cannot effect this change because only the courts are responsible for referrals. Moreover, the courts too have problems regarding the correct ages of the boys, as some parents produce false documentation in court, believing that their children will be given more lenient sentences if they pose as juveniles.

Other suggestions regarding DYC made by parents:

- One parent suggested that DYC should upgrade the sports activities.
- Nine respondents stated that DYC should keep up with the good work,
- Two parents recommended that children be sentenced to DYC.
- One parent stated that the security system at DYC was lax (not knowing that the Department of Social Services and Population Development's policy for DYC is that the structure should be safe and secure whilst providing a child-friendly environment. Stricter security is linked to prisons. The security personnel have been trained to safeguard and protect the interest of children and they have obtained the Basic Qualifications in Secure Care, training accredited by National Association of Child Care Workers.
- Four parents recommended that children should be allowed to further their studies from where they left off when they were removed from their communities.

With regard to the last suggestion, social workers do recommend that children should continue with their studies and some children have written internal as well as external exams while inside DYC.

A total of three respondents attributed positive changes that they had observed in their children to DYC.

6.13 Conclusion

It is evident from this chapter that when children’s physical needs (like food, personal safety, health, cleanliness), emotional needs (trust, support), educational needs (learning skills, gaining knowledge) and spiritual needs are met they develop holistically, as all levels of development are being catered for, they experience the caring, they respond to the staff's willingness to help them and also respond positively because they see staff being motivated
and caring. Children can tell if staff are pretending. They will trust or mistrust adults on the basis of what they observe daily as they interact with adults around them.
7. Conclusions and Recommendations

7.1 Conclusions

7.1.1 Introduction

The primary aim of this research was to discover how the children resident at Dyambu Youth Centre experience their changed circumstances of being in detention and away from home. Certain specific issues reflecting the children's experiential world at the Centre were selected for the study.

This study set out to determine how the children detained at Dyambu Youth Centre experience their stay at the Centre, particularly with regards to the staff, the facilities, the procedures and the volunteers.

From the findings it would appear that the intervention led to some positive development among the detained youth at DYC and that the institution had fostered a sense of belonging and well being among the children. The children's responses reflect positively upon the commitment of the members of staff, who saw their function as that of a team dedicated to making a difference in the lives of these children. The children's initial mistrust seemed to diminish and the "us" and "them" appeared also to be slowly replaced by friendship and mutual respect when the youngsters began to experience trust and got to know better the adults at DYC, who had been strangers in their lives. For some children, the staff could be providing their first experience of belonging instilled by adults who care about them.

As to the ability of the staff to transfer their skills and motivation to the children, it was evident that the staff were positively involved in the children's world. They seem to have succeeded in helping the children to identify their needs, as described by Brendtro et al, and to devise positive ways of solving their problems through receiving counselling and skills training, and employing life skills techniques. In helping the youngsters, staff came to be accepted by them, and they embraced the children in a symbiotic relationship depicted in the
circle of courage. The children’s responses indicated that their developmental needs were being catered for, to a significant extent.

Coupling the question as to whether DYC was making a positive difference in the children’s lives, (and if so, whether the change was brought about by direct staff intervention, or by other factors, such as compliance) with the question about staff ability to transfer skills and motivation to these children helps to clarify the actual influences and drive behind how the children experience change.

It appears from the children’s comments that staff at DYC had been able to win their trust, as they referred to staff members as their “protectors”, “parents”, “conductors”, “friends” and “role models”.

Regarding their perception of volunteers, the children’s answers to questions showed that they believed that like the staff at DYC, volunteers serve their best interest.

When considering the findings of the research regarding the children’s perception of the staff and programmes of Dyambu, it will appear that the minimum standards of the child and youth care systems are being met at the Centre. When considering the four broad categories of physical, emotional, educational and spiritual needs, it is clear that the children’s rights were being observed. Furthermore according to the perception of the youngsters, their care was adequately administered.

By providing the children with survival skills at the Centre, Bosasa appears to have succeeded in contributing to the employment and social development of the youth at the Centre and therefore, to the general economy of the country. With that, the broader vision of the organisation appears to have been achieved, as Bosasa aims “to provide service excellence by harnessing synergy in which the Bosasa people are empowered to express their personalities and strengths in a team environment, thereby contributing to the economics and social development of our nation”. (Bosasa Policy Document March 2000:18).
7.1.2 **The physical needs of the children at DYC**

The interview results indicated that the youngsters’ physical needs had been satisfactorily catered for at DYC. Provisions made for their health care, nutrition, cleanliness and personal safety were found to be adequate.

7.1.3 **Emotional needs of the children**

The results of the interviews with children and other role players indicate that when children had been properly welcomed in the orientation programme and treated as individuals with their own significance, without being labelled, their dignity and respect were restored and they experienced their stay in the Centre positively. Nevertheless, previous experiences still affected their self-image and self-esteem. This confirmed Bobby Gillian and Dow Scott’s view that developing a strong welcoming tradition in an orientation programme that is designed to include input by current students, staff members who will be caring for the new students, and a peer who can act as a “buddy”, is very important.

Furthermore, understanding the anxieties that children suffer in separation from their parents is necessary, because what was very noticeable in the children’s expression of their emotional needs, was how their ability to experience themselves positively and cope well with their changed circumstances was affected by their need to communicate with their families regularly.

It was especially apparent that for a significant number of cases where parents are not involved, the children’s emotional state gets affected. Children who did not have family support seemed to experience themselves negatively and would not readily accept visitors who came to visit them only once, viewing such visitors as not genuinely interested in them. As pointed out in the interviews “they must talk to us”. This statement by the children highlighted the importance of their need for genuine, ongoing and supportive relationships with visitors.

7.1.4 **The children’s educational needs**

The children, probation officers and parents highly commended the life skills programmes, workshops and literacy classes that constitute the education offered at DYC. Each child at DYC has to be in the programme. Attendance is compulsory and each child chooses his own
workshop or class, guided by the social worker that matches his commitment to his strengths and capacity. With regard to life skills programmes, the boys indicated that the 2 weeks in the life skills course provided them with an opportunity to learn about themselves; that is, it allowed them to do introspection and provided them with skills for coping with their changed circumstances and future. However, during holiday time a holiday programme is put in place and all educational activities, including life skill programmes, are suspended.

The new boys who come during this period usually fit into the holiday programme. This issue has had the result that some new boys who stayed for a short period missed out on the life skills programme. When they met with their probation officers at the court they did not, therefore, have progress reports. The probation officer who identified this limitation has assisted the Centre’s management in revisiting this issue and has also provided full support for the view that life skills training should be an ongoing process at DYC, regardless of holidays, because those children who were not part of a life skills programme actually missed out on the accompanying transformation process. Nick Fine(1996:4) explains this process as “a journey through the wall” where the young person looks at himself, because it is in the past that they decided that “nothing matters” and if they “don’t matter”, you also “don’t matter”. It is a time when the “I don’t matter” is transformed into “I do matter”.

The educational programmes at DYC were not tailored to the special needs of children with physical or mental disabilities, and their problems need to be addressed.

7.1.5 The spiritual needs of the children at DYC

The provisions made for addressing the children’s spiritual needs were rated fairly positively by children and parents alike, as the children are given the opportunity to grow spiritually and are free to practice their religions with the proviso that these do not harm them or affect others negatively in any way. The Centre cannot and does not entertain practices like Satanism and witchcraft, which are usually destructive.

7.1.6 Children’s views on the role of staff and volunteers in their lives

The children at DYC believe that staff plays an important role in their lives. During the interview the children referred to staff as their “parents” and “friends”. It should be noted that some children do fear or dislike certain adults, and children who are forced by the courts
to live with strangers while awaiting trial at DYC could be expected to sometimes react in this way. However, the children had not expressed this kind of fear or dislike when with their parents or probation officers, or in their newsletter, so it does not seem to be a matter for concern at DYC.

The volunteers appeared to be playing an important role in the lives of these children, as they seemed to have succeeded in reminding the youngsters that they were still members of the broader community. They seemed to be able to instil hope and encouragement into the children and the children had accepted them in their lives.

The newsletter, which is a voluntary publication written by and for the children, and one where they may choose to remain anonymous, is a communication tool that allows them to express themselves freely in explaining and interpreting their experiences at DYC. It is through the newsletter that staff gets to know the children’s views and needs better without prodding and probing.

7.1.7 The staff’s views about children awaiting trial at DYC

The staff are of the opinion that they are making a difference in the lives of the children as they are giving the children advice, guiding them, making the children feel respected and giving them support. In interviews, they did not indicate that they experienced any difficulty in relating to the children who would be labelled as ‘dangerous’. This could be due to their training as childcare workers. Some of the staff, however, did indicate that they were puzzled about why some children re-offended.

7.1.8 Parents’ views concerning DYC, and their suggestions

The parents who were interviewed, while satisfied with DYC in general, suggested that older boys should be removed from the Centre. They raised some concerns about food and felt that there should be an additional meal. Some parents also felt that more sporting equipment should be provided and suggested that the Centre should allow the children to continue with their formal school attendance. These concerns, especially those regarding an additional meal, have been put forward to the Support Services of DYC so that a budget could be allocated for the additional cost. Implementing their request for an extra meal will not be very difficult, as the infrastructure; that is, the dining hall, is there and all that needs to be
done is to plan for the service. The issue of older boys, a problem inherited by DYC, is caused by external factors and is, therefore, more difficult to resolve. Some parents, believing that the law is less harsh for youngsters under 18 years of age and harsher for those who are older, produce false documentation in court: some have also testified under oath about their children’s ages and the courts have accepted their testimony. In some cases as indicated previously, a parent has produced a valid birth certificate that belongs to his younger sibling on behalf of a youngster. The age factor can be correctly determined only by using an X-ray machine. However, this equipment is expensive. Unless the government or the public sector can be persuaded to provide an accurate and cheaper version to enable the police, justice personnel and youth centres to conduct age assessments of children when they are sceptical about their ages, the present situation will persist, requiring referral of these children by the Centre to a district surgeon. There is also a need to raise awareness on this issue through the media. It could influence some parents positively. As it is, DYC cannot refuse a child who has been referred by a court. All that the Centre does, is to notify the court regarding a name and age discrepancy if the child is a repeat offender.

7.1.9 The probation officers’ views about DYC

The information provided by the probation officers involved in this research was valuable. They, like the parents, were highly impressed with the children’s education, care and rehabilitation programmes. They found the issue of older boys to be problematic for probation officers. The Centre receives some children who have been referred to probation officers after assessment. They are the first people who have to check with a child’s parents or school as to whether the details that the child has provided are correct. Some children lie to the probation officers, sometimes concealing their involvement in crime and giving false names, partly out of fear and partly to avoid bringing shame upon their families; not realising that their denial complicates matters.

Probation officers have suggested that there should be a Bosasa Youth Centre in other areas. That is, they have called for a replication of the Centre so that while awaiting trial, the children in those areas can benefit equally in their towns, especially on the East-Rand at Ekuxhuleni. The probation officers have noted the difference when children come from other places of detention. They have mentioned, amongst other things, that DYC children bring
with them reports and certificates that indicate how far they have progressed. Sometimes a magistrate, at the request of the child and parent, refers the child back to finish a programme, such as a computer course, that he has started, because at the end the child receives a certificate.

7.2 Recommendations

Arising out of the findings of the study and, more specifically, from the interviews conducted with children, staff, parents, volunteers and probation officers, the following recommendations are made:

- **Selection of children in detention for sports events**

  The children’s request for closer interaction with the Department of Sports, Art and Culture so that they might stand a chance of being selected for the National Games, for example, in athletics, was noted. For the sake of the boys and those who will benefit from their rehabilitation, the Department should consider a closer cooperation, with the children at DYC.

- **Non-admission of older boys**

  Proper age determination should be carried out in respect of all boys considered for admission to Dyambu. Boys older than 18 should not be admitted to the centre. Screening of older boys should be seriously considered. Attempts should be made to secure a cheaper version of reliable x-ray equipment that would enable every police station, probation officer and detention centre to assess age accurately, and the screening and assessment procedures should be strengthened at court.

- **Judicious detention of trial-awaiting children**

  The decision as to whether a child should be detained or released into the care of his parents should be made subject to the child’s best interest and not, as sometimes seems the case, to the whim of the magistrate. It should not be possible for a magistrate to use detention as a form of punishment even before judgement is passed, thus denying the child schooling and denying him bail. If bail conditions are set, the
amount should not exceed what the child and his family can afford. Whether the parents are in a position to control their child should be considered seriously.

- **Detention of children without parents or guardians**
  To overcome the problem of children without parents / guardians; being detained longer than the others because they fail to meet bail conditions (for example, having a fixed address), which results in the slow processing of street-children and foreign children, it is recommended that family finders directly linked to the South African Police Service should be employed. This would speed up the awaiting-trial period that is directly related to the tracing of parents. If the children’s parents or guardians cannot be found, guardians could be appointed by the Centre to represent the children’s interest in court. A good example of this practice can be found in Othandweni Street Shelter, which provides guardians at court. It is recommended that the Services of Othandweni should not merely be concentrated in Johannesburg, but should also be offered in areas around Gauteng.

- **Support group for street children**
  A “Friends of Dyambu Youth Centre” should be established for street children awaiting trial at DYC, to provide a social support system made up of volunteers, each interested in mentoring a child while the Centre’s social workers continue trying to re-unite the child with his family.

- **Assistance for children from foreign countries**
  For foreign children without family support the Centre should embark on a drive to recruit people from the children’s respective countries who are living in South Africa, so as to encourage communication and facilitate the processes of family reintegration. Moreover, consulates, trade missions and Red Cross personnel should be encouraged to be more involved with foreign children awaiting trial at DYC, with a view to lessening the separation anxiety experienced by these youngsters.

- **Consultation between probation officers and Dyambu social workers**
  It should be compulsory for probation officers, when compiling a report on behalf of a child detained at DYC or any other centre, to communicate with the social worker in
that centre to find out what changes or progress, if any, the child has made, so that they might always be able to advise the Magistrate correctly.

- **Speedy sentencing of children**
  The children should be sentenced within a reasonable period, while actively engaged in their rehabilitation programmes. Within a period of 3 - 6 months the child should be sentenced and start his rehabilitation programme in prison, reformatory school or the community, as long periods awaiting trial (sometimes 18 – 36 months) only serve to provide the young person with excuses. He sometimes fails to accept responsibility for his actions and after 6 months he behaves like a victim, focussing on himself. His ability to relate to procedure in the Centre diminishes over time.

- **Inter-sectoral meetings of all youth justice role players**
  The partnership and co-operation of all role players needs to be encouraged in order to unblock the criminal justice system. Inter-sectoral meetings should be binding on all role players, and consequences for role players who do not abide by the recommendations should be built into the national and provincial protocols concerned with children awaiting trial.

- **Employment of young persons who exit the youth justice system**
  Business communities are not prepared to employ or engage youngsters who have spent a long time awaiting trial. The children should therefore be encouraged to use the skills they have learnt, and to become self-employed. While awaiting trial they need to be provided with business skills such as knowing how to buy and cost material, and how to budget and save. Because the unemployment rate in South Africa affects the children’s parents, for those children who need further assistance regarding schooling or improving their qualifications, money in the form of bursaries for further education should be made available by the Departments of Labour and Welfare. Funds could come from their poverty-alleviation and education programmes.
• **Aftercare services for children released from detention**

Aftercare services, where available, are not effective. This adds to the strain of the social workers at DYC, because released children come back or telephone for guidance when they experience problems in areas such as re-admission to school, or family matters. DYC needs to start an aftercare programme, with follow-up in the form of home visits. A full-time social worker should be employed to provide this service.

The programme would ensure continuity of learning for the child, from the Centre to his community, and should the community be unable to provide him with a similar programme, the social worker could assist in setting one up outside the Centre.

Another possibility would be the establishment of a half-way-house, operating relevant educational and therapeutic programmes to alleviate the problems of boys who have been in the programmes, to continue with what they started at DYC.

• **Establishment of diversion programmes at Dyambu**

Diversion programmes need to be established at DYC, to enable magistrates to send young people who require such services to them in accordance with the recommendations of the Child Justice Bill. Some of the programmes include a sexual offenders programme, a life skills programme and an alternatives to violence programme.

• **Rotation of life skills teachers during vacations**

Rotation of life skills teachers during vacations is recommended to ensure continuity of this programme during holiday periods.

• **Development of a “one stop youth justice centre”**

The development of a “one-stop service centre” like Stepping Stones in Port Elizabeth should be considered. This project could be piloted around the West Rand only, and then expanded when positive results have been achieved. Such a centre would operate on the basis of an inter-sectoral team approach, involving Nicro and the Departments of Welfare, Correctional Services, Justice, and the South African Police Services. The centre should foster a philosophy that promotes the preservation of families and the
participation of young people and their families in all processes affecting their lives. It should offer the following services: reception assessment and referral of children, and new diversion programmes. It should also conduct pre-sentence investigations and probation supervision and provide parental guidance and support, making use of volunteers and involving youth and community groups.

An advantage of establishing a “one-stop service centre” would be the assurance that services, particularly for children awaiting trial, would be accelerated. The situation at present requires the police to transport the children between the Centre and the court. If the police do not fetch a child at the Centre for a court appearance, the child’s J7 court order lapses and as a result, the detention centre has no right to detain him further without a valid court order. Therefore, the child’s further detention would, as a result of this, be technically illegal. Consequently, when the SAPS have transportation problems, a child’s detention can be unnecessarily prolonged, or a child charged with a serious crime may be released because of a technical error. The establishment of a “one-stop service centre” would mean that children’s detention would no longer be affected in this way by transportation problems.

- **Regular evaluation of DYC programmes**
A more regular and vigorous evaluation of its programmes should be undertaken by DYC, in order to determine their effectiveness, and to measure any long-term follow-up and support given to children once they have returned to their schools or communities.

- **Identification of reasons for the decreasing age of child sexual offenders**
An in-depth study of sexual offending amongst children revealed that children are becoming offenders at increasingly younger ages; that is, from 7 years upwards. As documented at the Soweto Court, 10 year-olds have been referred to DYC for sexual offences. The dynamics behind sexual offending amongst 10 year-olds and younger children should be identified and addressed.
Consideration of children with special needs

While DYC addresses educational needs of most of the children, there are children with special needs who have been referred to DYC by a J7 court order. Some have speech defects or may be deaf. Others may suffer from problems like slight mental retardation or foetal alcohol distress syndrome. The Centre needs to form links with organizations catering to the needs of such children and obtain their involvement and assistance.

The percentage of these children at DYC is low and the psychologist and occupational therapist in the Centre play a major role in placing or referring the children for further assistance and helping the educators to be able to deal with them. However, further research to formulate appropriate programmes for the children with special needs is recommended.

Liaison of Dyambu with tertiary institutions

It is recommended that DYC staff liaise with tertiary institutions. Their possible input into identifying and formulating programmes and training for awaiting-trial children at DYC could prove extremely valuable.

7.3 Suggestions for further Research

- Other youth detention facilities might find it useful to evaluate their procedures for introducing newly detained children to their centres and to determine the extent to which the programmes that they offer benefit the detained youngsters.

- The causes and dynamics of sexual offending by the very young urgently require research. Further research would be required in order to establish effective and appropriate ways of addressing the problem.

- Research should be conducted in order to develop appropriate programmes for children in detention with various special needs, and to determine the training needs of staff that care for them.
• It became evident from the findings in the study that DYC as a facility needs to have its own field section, for better services to the youth, because referring to the field social workers appears to be ineffective. Social workers in the field have their own problems presented by challenges within their communities. The ideal will therefore be total management of youth services in facilities for waiting trial youth.
**INTERVIEW SCHEDULE**

**BOSASA DYAMBU YOUTH CENTRE**

**QUESTIONS FOR JUVENILES**

**AIM:**
- To discover how you experience Dyambu Youth Centre
- To establish whether Dyambu is making a significant difference / contribution for the better in your life.

**YOUR FIRST DAY AT DYAMBU:**

**Admission:**

1. Describe your experience of arriving at reception.

2. Were you treated with:
   - respect? Yes / No
   - dignity? Yes / No
   - friendliness? Yes / No

3. Were you given a facecloth, toothbrush? Yes / No

4. Did you feel comfortable in your room? Yes / No

5. Did your first meal (supper) go smoothly? Yes / No

**Orientation:**

The Code of Conduct was explained to you. Do you feel that it is necessary to have a Code of Conduct? Yes / No

If your answer is yes or no, please state why.

Did you understand the Disciplinary Procedures? Yes / No

Do you think that the orientation is useful to you? Yes / No
In what way?

1. Was the way Dyambu works (e.g. life skills) made clear to you?
   Yes / No

2. Did you understand where you needed to go after your orientation?
   Yes / No

3. Were you treated with respect during this orientation process?
   Yes / No

Assessment:

1. Were you allowed to call your parents to inform them of where you were?
   Yes / No

2. Were you treated as an individual?
   Yes / No

3. Did you have a chance to speak to the social worker about problems you were having that led to your arrest?
   Yes / No

4. Did you feel understood and listened to?
   Yes / No

5. What would you change about this Orientation and Assessment if you were in charge of Dyambu?

Food:

1. Are the three meals you get, enough?
   Yes / No
2. Give a mark out of 10 (10/10 = perfect; 1/10 = very bad, inedible) for the quality of the food.

________________________________________________________________________

3. Explain why you give the food this mark.

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

4. Give the conditions in the eating hall a mark out of 10.
   - Cleanliness
   - Seating
   - Enough clean plates and spoons
   - Discipline

________________________________________________________________________

5. Is it a good idea to use the juveniles to serve the food to you?
   Yes / No __________

   Why? / why not
   ______________________________________________________________________

________________________________________________________________________

6. Have you experienced any favouritism from the kitchen committee?
   Yes / No __________

   Explain:
   ______________________________________________________________________

________________________________________________________________________

7. Are you able to eat in peace, without worrying that your food will get stolen from you?
   Yes / No __________

Programmes:

1. Was the two weeks life skills program helpful to you?  Yes / No __________
2. Would you like to have learned about something in your life that was not taught in the program? 
   Yes / No _____________
   Explain: ____________________________________________________________

3. Complete the sentence:
   From the life skills program, I gained ________________________________________
   ____________________________________________________________
   From the life skills program, I wish I had gained ____________________________
   ____________________________________________________________

4. Which workshops have you taken part in?
   ____________________________________________________________

5. Explain if these workshops (e.g. carpentry, drama, welding, etc.) are useful for you.
   Why / Why not? ____________________________________________________________
   ____________________________________________________________

6. Complete this sentence:
   From the workshops I attended, I learnt ________________________________________
   ____________________________________________________________
From the workshops I attended, I wish I had learnt ________________________

_____________________________________________________________________

7. Are there enough activities for you in the afternoon? Yes / No ____________

8. What would you change about the workshops? ____________________________

_____________________________________________________________________

9. When you have chosen a workshop to attend, has there been space for you to join? Yes / No ____________

10. Have you ever been excluded from any workshop that you wanted to attend? Yes / No ____________
    Why? _______________________________________________________________________

11. There is a Dyambu newspaper written by the juveniles for the juveniles. Have you read each month’s issue? Yes / No ____________
    Was it useful / enjoyable for you to read? Yes / No ____________
    What would you add / take away from the newspaper? ____________________________
    _______________________________________________________________________

Recreational Facilities:

1. Are there enough activities for you in the afternoon, on weekends and holidays? Yes / No ____________

2. Is there enough sports equipment for everyone to use? Yes / No ____________
3. Are there enough games (e.g. snooker, board games) for everyone to play?
   Yes / No ___________

4. What games and activities would you like to have a chance to play?
   _____________________________________________________________
   _____________________________________________________________
   _____________________________________________________________
   _____________________________________________________________

5. Are the care workers and ‘uncles’ helpful to you in your free time?
   Yes / No ___________

   Do they take part in activities with you?
   Yes / No ___________

Clothing:

1. Is wearing a uniform a good idea?
   Yes / No ___________

   Why? ________________________________________________________
   _____________________________________________________________
   _____________________________________________________________

2. How do you feel when you wear this uniform?
   a) always comfortable □
   b) usually comfortable □
   c) never comfortable □

3. If you were in charge of uniforms, would you change them?
   Yes / No ___________

   How? ________________________________________________________
   _____________________________________________________________
   _____________________________________________________________
4. Complete this sentence: 
When I wear the Dyambu uniform, I feel ____________________________

______________________________________________________________

Health Care:

1. Give a mark out of 10 (10/10 = perfect; 1/10 = very bad)
   - The cleanliness of the clinic
   - The privacy you are given when you go there
   - The respect with which you are treated

2. Your first examination:
   - were you treated with respect? Yes / No __________
   - did the doctor explain what he was doing to you? Yes / No __________
   - Did you get a chance to speak to him about any health Problems? Yes / No __________

3. When you are sick, are you given medicine? Yes / No __________

4. Does this medicine help you to feel better?

5. Do you feel cared for when you go there because you are sick? Yes / No __________

6. While at Dyambu, have you been sick
   - more often □
   - less often □
   - than when you were outside?

7. If you were in charge of the clinic, what things would you change?

   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________
LIVING AT DYAMBU

Discipline:

1. How do you feel about disciplinary measures that are taken at Dyambu?
   a) I usually agree with them □
   b) I sometimes agree □
   c) I never agree □

2. Do you think the discipline is:
   a) too strict □
   b) too lenient / easy □
   c) just right □

3. Do you understand the consequences that will result from going against the Code of Conduct?
   Yes / No __________

4. Have you ever appeared in front of the Disciplinary Committee?
   Yes / No __________
   Was this a learning experience for you? Yes / No __________
   Did you understand what you had done wrong? Yes / No __________
   Did you feel that you were treated fairly? Yes / No __________
   Was the outcome fair for you? Yes / No __________
   Did you become a better person through this experience? Yes / No __________

5. Is the discipline realistic, i.e. are you able to abide by (follow) the rules at Dyambu?
   Yes / No __________

Explain: _______________________________________________________________
_______________________________________________________________
_______________________________________________________________

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6. If you could change the discipline and the Disciplinary Code at Dyambu, what would you change?


Rooms:

1. Is your room comfortable to sleep in? Yes/No

2. Are you warm enough in winter and not too hot in summer? Yes/No

3. Is your bedding (mattress, sheets) kept clean? Yes/No

4. Is there warm water for you to wash? Yes/No

5. Are the toilets kept clean and in good working order? Yes/No

6. What would you like to change in your room?


7. If you are not happy with the boys in your room, are you able to speak to your room elder and does he/she try to help you?


8. Does your room elder guide you and teach you? Yes/No

Is he/she a good example to you? Yes/No

9. If you have a problem, do you feel able to speak to your room elder? Yes/No

Staff:

1. Describe your relationship with the staff at Dyambu.
2. Complete this sentence:
   I think the staff at Dyambu are ____________________________

   I think the staff at Dyambu think I am ____________________________

   I think the staff at Dyambu think that juveniles are ________________

3. Do all the staff members treat you with respect and care?  
   Yes / No ____________________

4. If you were the boss of the staff, what would you tell them? ____________________________

5. The staff at Dyambu show by example how to respect others:
   a) I agree strongly □
   b) I agree sometimes □
   c) I strongly disagree □

6. Have you ever been abused by any of the staff members?  
   Yes / No ____________________

   In what way? ____________________________

7. Have you ever been assaulted by any of the staff members?  
   Yes / No ____________________

   How? ____________________________

   ____________________________

   ____________________________

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   ___x______
Religion:

1. Is your religion respected at Dyambu? Yes / No

2. Have you been able to worship in the way you are used to outside? Yes / No

3. Do you feel that religion is forced on you at Dyambu? Yes / No

Other comments?
__________________________________________________________________________
__________________________________________________________________________
__________________________________________________________________________

Peers:

1. Have you ever felt threatened by other juveniles? Yes / No

2. Do you feel safe to sleep peacefully in your room? Yes / No

3. Are there groups of juveniles that you feel scared of? Yes / No

4. Are you ever in danger from them (i.e. do they hurt you, steal from you)? Yes / No

5. The staff and elders at Dyambu know what is going with the juveniles (e.g. if anyone is intimidating others, causing corruption) -
   a) always
   b) seldom
   c) never

6. Have you ever been robbed or hurt by another juvenile? Yes / No

7. If so, did you feel free to tell one of the ‘uncles’? Yes / No

8. Did he/she help you with your problem to your satisfaction? Yes / No

9. Are your room leaders respectful of you and helpful? Yes / No
10. Have any of the juveniles ever forced you to do something you did not want to do? (e.g. make you pay for your bed / food, force you to touch them / have sex with them) Yes / No

Other comments: __________________________________________________________
________________________________________________________________________
________________________________________________________________________

Contact with family / community:

1. Has your family been able to visit you? Yes / No

2. Have you been able to telephone them for important matters? Yes / No

3. If there was an illness or a death in your family while you were at Dyambu, did the staff help you to phone and to see your family? Yes / No

4. Are the visiting hours convenient and long enough for your visitors? Yes / No

Other comments: __________________________________________________________
________________________________________________________________________
________________________________________________________________________

Length of stay:

1. How do you feel about the length of your stay at Dyambu?
2. Did the length of your stay help you to change and to learn a new way of life?  
   Yes / No

Extent of freedom in Dyambu:

1. Were you allowed enough freedom to move around and do your own things at Dyambu?  
   Yes / No

2. Being locked up in your room at night was:
   a) too long
   b) too short
   c) manageable

Detention:

1. How do you feel about being placed in a place of safety while you await trial?

2. How do you feel about detention (being deprived of your freedom)?

Overall:

1. Write down what you will say to your friends about Dyambu when you are outside.
2. On the whole, my experience at Dyambu has been:
   a) positive □
   b) negative □
   c) a bit of both □

3. Are you different now from who you were when you first arrived at Dyambu?
   Yes / No ______

4. How are you different? In what ways have you changed? ______________________
   ______________________
   ______________________

VISITORS:

1. Do you enjoy visitors coming into the Centre and into your classroom?
   Always □
   Seldom □
   Never □

2. What have you gained from visitors in the Centre?
   ______________________
   ______________________
   ______________________

3. What things would you change about visitors coming into the Centre?
   ______________________
   ______________________
   ______________________
VOLUNTEERS:

1. Do you enjoy volunteers coming into the Centre and working with you?
   Always ☐
   Seldom ☐
   Never ☐

2. Write down the different volunteers you have met at the Centre and what activities they did with you.
   ____________________________________________
   ____________________________________________
   ____________________________________________

3. What have you gained from working with volunteers?
   ____________________________________________
   ____________________________________________
   ____________________________________________
   Other comments? ____________________________________________
   ____________________________________________
   ____________________________________________
INTERVIEW SCHEDULE

BOSASA DYAMBU YOUTH CENTRE
QUESTIONS FOR MINORITY GROUPS

Please assist us by completing these questions. We would like to know how you experienced the following:

1. The attitude of the staff towards the juveniles.

   ___________________________________________________
   ___________________________________________________
   ___________________________________________________

2. The environment and assistance when you are sick?

   ___________________________________________________
   ___________________________________________________
   ___________________________________________________

3. The programs and workshops.

   ___________________________________________________
   ___________________________________________________
   ___________________________________________________
4. The food provided.

5. Extra mural activities.

6. Please feel free to make any other suggestions about Dyambu Youth Centre.
INTERVIEW SCHEDULE

BOSASA DYAMBU YOUTH CENTRE
QUESTIONS FOR SOCIAL WORKERS
OF THE DEPARTMENT OF SOCIAL SERVICES

Please assist us by answering these questions. We would like to know how you as our partner feel about the service we are offering to the children in our care/custody.

1. What is your overall attitude towards Dyambu Youth Centre?

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

2. Do you think the children are being well looked after in terms of:

   **Physical needs:**
   - Health [ ]
   - Diet (food they are fed) [ ]
   - Cleanliness [ ]
   - Personal safety [ ]

Which of the above need strengthening? ________________________________

   **Educational needs:**
   - Are they learning useful skills in their time here? Yes/No _____________
   - Are they keeping their minds active? Yes/No ________________

   **Emotional needs:**
   - Do the children seem to have a support system at DYC? Yes/No __________
3. What do you like about DYC?

____________________________________________________________________

____________________________________________________________________

____________________________________________________________________

4. What do you feel needs to be changed? Please give examples.

____________________________________________________________________

____________________________________________________________________

____________________________________________________________________

5. Please feel free to make any suggestions about DYC.

____________________________________________________________________

____________________________________________________________________

____________________________________________________________________
INTERVIEW SCHEDULE

BOSASA DYAMBU YOUTH CENTRE
QUESTIONS FOR STAFF MEMBERS AT DYAMBU

Please assist us by answering these questions. We would like to know what your experience of working with the children at Bosasa / Dyambu is like.

1. Describe what your role is at Bosasa Dyambu Youth Centre:
   __________________________________________________________
   __________________________________________________________
   __________________________________________________________

2. What role do you play in the lives of the juveniles in the time they spend at DYC?
   __________________________________________________________
   __________________________________________________________
   __________________________________________________________

3. Do you feel you are making a difference as a care giver in the children’s lives?
   Yes / No __________________
   In what way? ______________________________________________
   __________________________________________________________

4. Do you feel accepted by the children? Yes / No ______________

5. In what way do you feel accepted by the children? __________________
   __________________________________________________________
   __________________________________________________________
6. Do you feel a sense of belonging to Bosasa Dyambu Youth Centre?
   Yes / No __________

7. Do you feel that the problems experienced by the children are because they are going through adolescence or because of other factors?
   Yes / No ______________
   Explain your answer ________________________________________________________________
________________________________________________________________________________

8. What puzzles you about the juveniles? What aspects of their actions or behaviour do you not understand?
   ________________________________________________________________________________
   ________________________________________________________________________________
   ________________________________________________________________________________

9. What keeps you going in this job? What motivates you?
   ________________________________________________________________________________
   ________________________________________________________________________________
   ________________________________________________________________________________

10. Please feel free to make any other suggestions about Dyambu Youth Centre.
    ________________________________________________________________________________
    ________________________________________________________________________________
    ________________________________________________________________________________
INTERVIEW SCHEDULE

BOSASA DYAMBU YOUTH CENTRE
QUESTIONS FOR VOLUNTEERS AT DYAMBU

Please assist us by answering these questions. We would like to know how you experienced your volunteer work at Bosasa / Dyambu.

1. Do you feel you are making a difference in these children’s lives? 
   Yes / No ______________
   In what way? __________________________________________________________
   __________________________________________________________

2. Do you feel accepted by the children? 
   Yes / No ______________

3. Do you feel needed by the children? 
   Yes / No ______________
   In what way? __________________________________________________________
   __________________________________________________________

4. What keeps you motivated when working with these children? ______________
   __________________________________________________________
   __________________________________________________________

5. What makes you want to give up your volunteer work with the children?
   __________________________________________________________
   __________________________________________________________
6. Any other comment?

________________________________________________________________________

________________________________________________________________________
Please assist us by answering these questions. We would like to know how you as a parent of a child at Bosasa Dyambu feel about the service we are offering to your child.

1. What is your overall attitude towards Bosasa Dyambu Youth Centre?

2. Would you recommend it as a place of safety to other parents?
   Yes / No ______________

3. Do you think your children are being well looked after in terms of:

   **Physical needs:**
   - Health
     Yes / No ______________
   - Diet (food they are fed)
     Yes / No ______________
   - Cleanliness
     Yes / No ______________
   - Personal safety
     Yes / No ______________
   - Other____________________________

   **Educational needs:**
   - Are they learning useful skills in their time here?
     Yes / No ______________
   - Are they keeping their minds active?
     Yes / No ______________
Has your child gained knowledge since being at DYC? Yes / No ____________

Other ____________________________________________

________________________

*Emotional needs:*
Do they have adults they can trust and talk to at DYC? Yes / No ____________
Are they receiving counselling for problems at DYC? Yes / No ____________
Do you feel like your child has a support system at DYC? Yes / No ____________
Has your child grown emotionally since being at DYC? Yes / No ____________
____ Other ____________________________________________

________________________

*Spiritual needs:*
Do you feel that your child’s spiritual needs are provided for? Yes / No ____________
Has your child grown spiritually since being at DYC? Yes / No ____________
Are your child’s rights to practice his religion respected at DYC? Yes / No ____________
If your child is not interested in religion, are his rights respected? Yes / No ____________
____ Other ____________________________________________

________________________
4. What do you like about Dyambu?

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

5. What do you feel needs to be changed at Dyambu? Please give examples.

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

6. Please feel free to make any other suggestions about Dyambu Youth Centre.

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
EXTRACTS FROM NEWSLETTERS EXPRESSING THE CHILDREN’S VIEWS ON THE CONTRIBUTION OF DYC TO THEIR GROWTH

From Admission To Workshops And Other Activities.

Article by a detainee

When you first arrive at DYC, you’ll start at the clinic. And after the clinic you’ll have to go to Life Skills. Before you go to this class, you’ll see the social workers and tell them your problems from home. After this they give you a chance to call your parents and tell them where you are. Then they will tell you about the classes and the rooms of the Centre as a whole. You’ll also find out about the rules and respect. And then you start attending your Life Skills class for ten days.

After this you can ask your care worker for advice and they will convince you about the other classes that you must choose for yourself. There are a lot of workshops to choose from: Computer, Motor Mechanic, Laundry, Sewing, Chapel, Carpentry, Library, Arts & Crafts, Welding, Electricity, Music and Drama, Sport Administration, Gymnasium, and Literacy.

And there you must have the ability to do work by sharing knowledge with one who is next to you. Your care worker in your workshop will instruct you to choose the right tool for the job, and try to be patient for the rules of the workshop for the sake of avoiding injury to yourself. In the workshops there are short breaks for going to the toilet and drinking some water. While you are busy, your care worker will take a look at your job. In the workshop your job should be neat and tidy and no careless mistakes are allowed. After completing that first test, you’ll get into other difficult jobs that need your tenderness from your mind.

If you are troublesome or disrespectful you’ll be corrected. While you are busy by your job your care worker again will check to see that everyone is participating. And the hard worker at the Centre is rewarded by the care worker with the certificate for the future. After that certificate it’s
still your chance to go for another opportunity in the Centre because it’s your life that you are living.

And Friday its Sport Day, Saturday church and dance to music and Sunday is a happy day because we become ourselves by praising to Thee oh Lord. We pray to Thee oh Lord to hear our prayers and make a way for us and prepare any day for us for as long as we are believers. I thank God I am still alive.

My introduction to DYC

Article by a detainee

From me, Mr. Nice Guy at DYC. On the 2nd of August I was sent to the kitchen. Afterwards I went back to reception where I received a card. I came back to the yard. That is where I met one of the uncles called ‘taMoloto. He told me where I must go. At the kitchen there was a well-developed guy called Chuku. He took me to Room 23, he is a room leader. He introduced me to the guys in the room. There in the room was a guy who also worked in the kitchen. His name was Sibonelo. He was a kind I couldn’t believe that he was also arrested. He also encouraged me to have hope and belief in God. He is always there for me when I need somebody. When I need help he does the best he can to help me. He also encourages me to apologize to my father.

Now I wish I could be free and do something for my environment.

Life at DYC

Article by a detainee

Have courage

It’s been three months since I arrived at DYC and I am longing to go back home. I pray to spend the festive season with my dudes in Durban. We all know how painful it is to be separated from the one we love and I still have two more months remaining before I go to court. I feel bitter and angry for what I did and now I am paying the price.

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I’ve learnt a couple of courses in DYC and I’ve gained a lot of knowledge. Now I am doing Motor Mechanics. The guys in my class are dedicated to their work. They are hard working and I believe we have what it takes to be the future motor mechanics. We owe our success to our teacher, Jonas. He has been the pillar of my strength. He always has time to listen to our problems and he doesn’t treat us like criminals. He always encourages us that we mustn’t lose hope, we still have what it takes to fulfil our ambitions. We mustn’t accept failure. I believe that each of us was born with a talent, nobody was born a criminal.

So guys, it’s never too late to change, the time is now. We can’t go on stealing, raping and murdering innocent victims. Enough is enough. Let’s work hard, finish our studies. I’m looking forward to finish my course. To all the juveniles – let us not lose hope, one day we will be free. To my motor mechanics class – keep it up, you’re the best, the sky is the limit. To the staff members – we appreciate everything you do for us, God will reward you.

Thank you DYC
Article by a detainee

When I first came there I thought my life was ruined, cause I never have been in a place like DYC. I thought ‘oh no me in a prison’ but I got used to all the things that was happening around me.

I write this letter just to say thanks to all the uncles and care workers and to the juveniles who have made my period of the here in DYC such a wonderful time.

Thank you DYC for making me realise that there is some life outside and that there is a second chance in life.

My special thanks must go the Sister Caroline, Sister Cathy, Ta Kolodi and all the social workers cause they have always been there for me in my worried times. Then of course “Mr. Fire with Fire” Mr. Themba and Mr. Peter. Thank you Caroline for always being there for me and always
helping me with my problems where you can. I really appreciate all your support and encouragement.

To Sis Cathy who helped me in my confusing times thank you, to Ta Kolodi thank you very much, cause you are the whole reason why I like DYC so much. I respect and honour you very much since the day I met you, you were my role model.

To the social workers and Themba and Mr. Peter thank you for caring so much I appreciate very much.

Thank you DYC for accepting me for what I am I love you all and I will always cherish all my memories of all of you in my heart, God bless you.

**Before and After DYC**

**Before**
I was the person who did not care about others.
I did not care about my responsibilities.
I worshipped the Lord a little bit because I knew nothing about him.
I only cared about my mom, brother and sister.
I did not give a damn about what people said or did not say about me.
I only cared for the people I loved and admired.

**Now**
I care more about people so that they can care for me.
I love myself.
I love God – everything I do now is under the will of the Almighty.
I know that if I do the best in my life, God will do the rest.
I learned that in the middle of difficulty lies opportunity.
Advice to live a good life

- Believe in God and pray to Him regularly – He will answer your prayers in His own way.
- Acknowledge the presence of God in you, in all people and situations.
- Respect yourself first, then love everyone as you love yourself.
- Do not undermine your neighbours and help those who are suffering.
- Be friendly.
- Don’t be selfish.
- School must be your first priority because it’s the key to a better life.
- Respect each individual’s rights so that they can respect your rights too.
- Keep your body healthy.
- Learn to be patient – good things come to those who wait.

Open your eyes and see

Dear Brothers

I am a young man of 17 years. I grew up in Soweto and I was arrested last year November. Being here I have seen that DYC is not a prison as we might say. It is an institute of rehabilitation. If you look for yourselves you will see there are many courses you can do here.

Outside I wanted to do computers but money wasn’t there. Now I have the opportunity to use these free resources here. Brothers, open your eyes and see that in many ways God has given us a big chance to make our dreams come true. Stop fooling yourselves my brother, you can go out and do crime but the wages will be jail. But if you study here and go out the wages will be a good job and success in life. Don’t be afraid because you will get hurt in the end. Do any course you wish to do and be serious. Education is the only source.

About Uncle Moloto

I remember the first time I met taMoloto he just told me I would be out soon. He is a caring uncle and he is a very important person to the juveniles. When you have a problem he tells you that Jehovah is alive and that He will help you. When you call him he comes and listen to your
problems and he tries his best to help you. When it is cold and you tell him you are short of a blanket he just gives you.

When you respect him he also respects you with dignity. Even if you don’t respect him, he does not forsake you. He just tells you that you must have respect for everyone so that you may have success in your life.

He really is a care worker because he does not destroy the juveniles with dagga. He just needs you to be protected. He wants us to have a perfect life and to make our dreams come true. He is a loving father who cares about our lives, not just the two of us but all of us in the Centre.

**Report on Business Skills Course**

During the school holidays a Business course was held by Cathy at DYC, I was one of the guys who attended. To learn Business Management has been one of my dreams but I never had the opportunity due to lack of funds. So my dreams was fulfilled. I learnt what the course comprised of and I gained a lot of knowledge. The guys who attended the course were great. Our teacher is one of the best teachers I’ve had in my life.

So guys let us not let these opportunities slip away. Crime is a dicey business. Let’s work hard to fulfil our goals and education is the key.

**DYC Activities**

At DYC we are having many activities. We have Sports, Drama, Music, etc. In Sports, we have soccer, volleyball, running and basketball. In Drama we are having time for acting. We are preparing to be on stage soon.

And then there are the people who are attending the workshops like: Computer, Library, Life Skills, Arts & Crafts, Gym, Electric Workshop, Welding, Carpentry, and Motor Mechanics. We also have the sewing centre and gardening. When we are sick it is easy because there is also a clinic.
We have another important class for everyone, from Monday to Sunday. This is Chapel. We read the Bible and we do some lessons then we receive certificates.

We also have the social workers and the uncles who are responsible for us. We also have time to watch TV. We also have some of the juveniles who are serving in the kitchen.

**How to be free from stress**

- Talk to other people about the problems that are making you feel stressed.
- Write a letter to your mother, father or any loved one, without posting it. You can even write to someone you love who has passed away. You can use this letter to express all your feelings and all your worries.
- Take a look in a mirror and have a talk to yourself. Ask yourself what is worrying you and what your problems are. You will find your own answers.

**When life gets tough**

Don’t you dare let go of your faith, strength and hope
‘Cause only Mighty God is the one you can cry on
He’ll dry up those tears and take away that sadness
He’ll take care of you every step of the way
When life gets tough.

**Wise Words**

- Don’t label me.
- If you label me, label me with love, dignity and compassion.
- Respect me as I respect you and myself.
- When you have a problem, share it with somebody who can help you.
- When you think that to be in jail is difficult, try to change your life.
- Know that crime does not pay.

(He is in Sun City now. His message to you is to pray and trust in God. Tell yourself that you will soon be outside).
Two Roads Our Choice
This last week at DYC has been full of lessons for all of us. This week has shown us the two different roads we are faced with. It is up to each of us to choose where we want to walk. Do we want to walk the road of anger and corruption? Or do we want to walk together on the road of building a better life and understanding each other?

Picking up a weapon to destroy or picking up a hammer to build takes the same amount of effort. The weapon takes you down the road of anger and hurt. The hammer takes you down the road of creating a new life. Which road do you want for yourself, for your family, for your future children?

Formula for Success
You can control your thoughts (if you don’t control them, who does?) Thoughts lead to your feelings. You are responsible for your feelings. Control + Sense of Humour = Good thoughts = Feelings that you take responsibility for = A person who people want to be with.

Improve your Life
- Be calm
- Smile
- Do one thing at a time
- Learn to listen
- Learn to ask questions
- Distinguish sense from nonsense
- Say the problem
- Say it simple

Motivation:
Motivation does not come first, action does. When you don’t feel like doing something you put it off, it’s often AFTER we get involved in a task that we become highly motivated. Discipline is habit-forming. A little leads to more. You will then begin to feel better all round. We are at our best physically and mentally when we are DISCIPLINED.
Mistakes:
Everyone makes mistakes. The important thing is not to dwell on them, but to consider these mistakes as valuable lessons to be learnt. Learn from you past mistakes, see where you went wrong and then avoid making the same mistakes the next time you are involved in a similar situation. People become failures when they loose hope. There are many people who are not as fortunate as you are and they have succeeded. Therefore there is no reason why you too cannot succeed.

Encouragement
• Do not sit alone and isolated. Remember that life is yours.
• Do not allow anyone to choose for you. Have your own goal that you want to achieve. Don’t look at somebody else because he will go out from the place and you will be left behind.
• If you don’t change your bad attitude today, you will cry at the end.
• Remember those people who tell themselves they are clever, they die like flies and get buried like dogs.
• Don’t play with your time here. Go to classes and behave well. If you do this, you will find your way forward.

Achieve your goals now!

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