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**THE CAPE TOWN JUVENILE
ASSESSMENT CENTRE AND THE
TRANSFORMATION OF THE YOUTH
JUSTICE SYSTEM**

University of Cape Town

RETURNED
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THE CAPE TOWN JUVENILE ASSESSMENT
CENTRE AND THE TRANSFORMATION OF
THE YOUTH JUSTICE SYSTEM

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Dissertation submitted in partial fulfilment of the requirements for the degree
of Masters of Social Science (Msoc sc) in Clinical Social Work at the
University of Cape Town

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TABLE OF CONTENTS

DESCRIPTION	PAGE
CHAPTER ONE: INTRODUCTION	1
1.1 BACKGROUND TO THE STUDY	1
1.2 MOTIVATION FOR THE STUDY	3
1.3 GOALS AND OBJECTIVES FOR THE STUDY	4
1.4 OUTLINE OF THE STUDY	5
CHAPTER TWO: METHODOLOGICAL ACCOUNT	7
2.1 INTRODUCTION	7
2.2 DEMARCATION OF THE STUDY	7
2.3 RESEARCH METHODOLOGY	7
2.4 SAMPLE SELECTION	8
2.5 RECORDING OF DATA	9
2.5.1 Statistics	9
2.5.2 Personal Interviews	9
2.6 ANALYSIS OF DATA	10
2.7 PROBLEMS ENCOUNTERED DURING THE EXECUTION OF THE RESEARCH	11
2.7.1 Literature Review	11
2.7.2 Statistics obtained from the database of the Cape Town Juvenile Assessment Centre	11
2.7.3 Sampling	12
2.7.4 Interviews	12
CHAPTER THREE: JUVENILE JUSTICE IN SELECTED COUNTRIES	13
3.1 INTRODUCTION	13
3.2 JUVENILE JUSTICE IN ENGLAND	14
3.3 JUVENILE JUSTICE IN THE UNITED STATES OF AMERICA	18
3.4 JUVENILE JUSTICE IN KENYA	21
3.5 DISCUSSION	22

CHAPTER FOUR: TRANSFORMATION OF THE JUVENILE JUSTICE SYSTEM IN SOUTH AFRICA	25
4.1 INTRODUCTION	25
4.2 DEFINING THE CONCEPT OF 'JUVENILE OFFENDER'	25
4.3 DEFINING THE CONCEPT OF 'ASSESSMENT'	27
4.4 LEGISLATION THAT GOVERNS THE JUVENILE JUSTICE SYSTEM IN SOUTH AFRICA	28
4.4.1 Probation Services Act no 116 of 1991	29
4.4.2 Child Care Act 74 of 1983, as amended	30
4.4.3 Criminal Procedure Act 51 of 1977	31
4.4.4 Child Justice Bill	32
4.5 THE PROCESS OF TRANSFORMATION OF THE JUVENILE JUSTICE SYSTEM SINCE 1992	33
4.5.1 The IMC process	34
4.5.2 Project 'GO'	36
4.5.3 NGO initiatives	38
4.6 DISCUSSION	38
CHAPTER FIVE: CAPE TOWN JUVENILE ASSESSMENT CENTRE	40
5.1 INTRODUCTION	40
5.1.1 The legal basis for the Assessment Centre	40
5.1.2 The purpose and aims of the Assessment Centre	41
5.1.3 Statistics of youth offenders that have been assessed	43
5.2 FINDINGS OF EVALUATION DONE BY THE INTERMINISTERIAL COMMITTEE ON YOUNG PEOPLE AT RISK IN 1995	47
5.2.1 Method evaluation	47
5.2.2 Findings	47
5.2.3 Recommendations	47
5.3 THE PROCESS OF ASSESSMENT AND THE FUNCTIONS OF THE MAJOR ROLE-PLAYERS	48
5.3.1 Pre-arrest	49
5.3.2 Arrest	50
5.3.2.1 <i>The role of the arresting officer</i>	50
5.3.2.2 <i>Holding cells</i>	51
5.3.3 Assessment process.....	51
5.3.3.1 <i>The role of the probation officer at the Assessment Centre</i>	52

5.3.3.2	Assessment office	53
5.3.3.3	Assessment method	54
5.3.3.4	Recommendation options	54
5.3.4	The court process	58
5.3.4.1	The role of the prosecutor	58
5.3.4.2	Physical layout of court	59
5.3.4.3	Recommendation options	59
5.3.4.4	Detention	59
5.3.4.5	Further management of the case	60
5.3.5	The role of the magistrate and assessors	60
5.3.5.1	Recommendation options	60
5.3.6	Family Finder	61
5.3.7	Data processing	61
5.3.8	Referral and follow-up	61
5.4	CONCLUSION	62
 CHAPTER SIX: PRESENTATION AND DISCUSSION OF FINDINGS		63
6.1	INTRODUCTION	63
6.2	DATA ANALYSIS	63
6.3	FINDINGS	64
6.3.1	Views of probation officers, the family finder and the public prosecutor regarding the Juvenile Assessment Centre	64
6.3.1.1	The purpose of the Assessment Centre	64
6.3.1.2	The goals of the Assessment Centre	64
6.3.1.3	Developmental assessment	65
6.3.1.4	Recommendations made for the Assessment Centre in the 1995 evaluation by the Inter-Ministerial Committee on Young People at Risk IMC	66
6.3.1.5	Views on the implementation of the practice principles as set out by the Inter-Ministerial Committee on Young People at Risk	67
6.3.2	The offenders processed at the Cape Town Juvenile Assessment Centre	69
6.3.2.1	Profile of the juvenile offenders	69
6.3.2.2	Arrest procedure	70
6.3.2.3	The holding cells	71
6.3.2.4	Assessment of young offenders	72
6.3.2.5	The court environment and process	73

6.3.2.6	<i>The role of the family in the court procedure</i>	73
6.3.2.7	<i>Outcome of the court case</i>	74
6.3.3	Views of the parents/guardians regarding the treatment of their children	74
6.4	DISCUSSION OF FINDINGS	75
CHAPTER SEVEN: CONCLUSIONS AND RECOMMENDATIONS		78
7.1	INTRODUCTION	78
7.2	CONCLUSIONS	78
7.3	RECOMMENDATIONS	81
7.4	FUTURE RESEARCH	81
BIBLIOGRAPHY		82
APPENDIXES		85

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LIST OF FIGURES

DESCRIPTION	PAGE
Figure 1	Number of juvenile's assessed during the period 1995 to 1998 44
Figure 2	Age distribution of youth offenders assessed at the Cape Town Juvenile Assessment Centre during the period 1995 to 1998 45
Figure 3	Types of offences committed by youth assessed during 1995 to 1998 46

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This dissertation is dedicated to my late brother, Edgar Cowley and my late nephew,
Philip Esbach.

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Declaration

1. I know that plagiarism is wrong. Plagiarism is to use another's work and to pretend that it is ones own.
2. I have used the Harvard convention for citation and referencing. Each significant contribution to, and quotation in, this dissertation from the work, or works, of other people has been attributed, and has been cited and referenced.
3. This dissertation is my own work.
4. I have not allowed, and will not allow, anyone to copy my work with the intention of passing it off as his or her own work.

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Signed by candidate

DATE: 12/2/03

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- My friend Anita Maritz, who motivated me to do this course.
- My friend Richard Glashoff who was in this with me from the beginning.

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' So what is the purpose of telling miracle stories to children? It is to nurture the children away from excessive realism, which accepts the world's disbelieving verdict about the nature of reality. This fabulous memory asserts that the world, in its most concrete form, is open to healing and transformation by the power of God. The alternative, disbelieving verdict is that the world is a closed system, which remains always the same. Obviously such a view of the world ends in despair. This instruction is to counter despair, and to leave the world open to hope and possibility, as our ancestors have known it to be.'

*(Walter Brueggemann as sighted in Revised Common Lectionary: Year B
1999/2000. p. 64)*

Abstract

The Inter-Ministerial Committee on Young People at Risk (IMC) undertook a comprehensive analysis of the Child and Youth Care system, including the Juvenile Justice system in South Africa and made recommendations for transformation thereof. Various transformation initiatives in the Child and Youth Care System stimulated the researcher's interest in the progress of the implementation of transformation policies. In particular the policies related to the Juvenile Justice system at the Cape Town Juvenile Justice Assessment Centre were of interest to the researcher.

Services and legislation governing youth in conflict with the law was fragmented. New legislation was needed that incorporated national and international instruments to protect the rights of children and to regulate the juvenile justice system. Since the establishment of the Inter-Ministerial Committee on Young People at Risk (IMC) in 1996, various documents, policies, discussion papers and draft legislation have been published. The aim of this study is to determine to what extent the recommendations in these various documents have been implemented at the Cape Town Juvenile Assessment Centre.

The aim of the Cape Town Juvenile Assessment Centre is to assess all youth in conflict with the law in the magisterial district and, where possible, to divert the case away from the justice system.

From the findings of the study it is clear that the Cape Town Juvenile Assessment Centre has progressed far on the continuum of implementing the transformation policies. The probation officers in particular had excellent insight into the transformation process and the implementation of practice principles. It was also clear that every effort was made to make services child and family centred. Diversion options are implemented where possible and detention of juveniles in prisons was reduced drastically.

The Cape Town Juvenile Assessment Centre has good relationships with other role-players. Services are co-ordinated through a monthly co-ordination meeting, where role-players like the Departments of Social Services, Justice, South African Police Services and NICRO are represented.

In summary, the Cape Town Juvenile Justice Assessment Centre has made commendable progress in implementing policy recommendations and policy related to the transformation of the juvenile justice system. There is, however, room for improvement, particularly with the after-hour assessments. Delegating decision-making powers to all prosecutors will streamline the diversion process. Diversion options for second- or third-time offenders should be developed. Furthermore, not enough support is given to youth in conflict with the law and their families in that very few of them are referred to welfare organisations for continued services.

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Chapter One

INTRODUCTION

1.1 BACKGROUND TO THE STUDY

The 1994 elections and establishment of a democratic society in South Africa have brought about numerous changes, also in the field of social welfare. The poorest of the poor and the family unit are being emphasised in the White Paper for Welfare (1997:15) as the focus for future services.

The White Paper for Welfare (hereafter referred to as the "White Paper"), a document that was published in 1997 places the well-being of children and the ability of the family unit to function effectively, at the forefront of service delivery. The document outlines principles, guidelines and recommendations for the transformation of the welfare system. According to the White Paper (1997:92) the aim of service delivery should be to preserve and strengthen families in order to provide a caring and stable environment for healthy development of children. This is a paradigm shift away from the current individual focus of service delivery towards a holistic focus on the individual as part of a family and a community. The suggested paradigm shift is also moving away from a problem centred approach focused on the individual, towards a strengths based approach where the potential for "healing" is believed to be within the individual, his family and his community. It is this potential for "self-healing" that needs to be developed.

The White Paper (1997:138) also identifies the youth offender as one of the areas of special needs. The document advocates a holistic and integrated approach in working with youth offenders in relation to the individual problem approach. It describes the services in this field as fragmented between various service deliverers i.e. the Departments of Justice, Welfare, Education, and Correctional Services, with little co-ordination.

One of the recommendations of the White Paper (1997:140) is the formulation of a comprehensive youth policy of which the reformation of juvenile justice is an important aspect. Statistics highlighted in the White Paper (1997:138) indicate a total of 675 sentenced children under the age of 18 in prisons during 1994.

Some of the first guidelines proposed for the transformation of the juvenile justice system by the White Paper (1997:142-144) were the preservation of family life and the reintegration of offenders into their families and communities rather than institutionalisation. Other proposed strategies include the provision for individualised prevention services and long-term psychological care and empowerment of the child, parents and community. The White Paper (1997:144) emphasises the fact that youth offenders and their families will receive counselling.

As an outcome of the findings and recommendation of the White Paper, the Inter-Ministerial Committee on Young People at Risk (hereafter referred to as IMC) was formed in 1996. The task of the IMC as set out in the Inter-Ministerial Committee on Young People at Risk Interim document (1996:8) was the management of the process of crisis intervention and transformation of the Child and Youth Care System over a limited period of time. The process followed by the IMC and their recommendations will be discussed later on in this study.

In line with the recommendations of the White Paper (1997:5) the Inter-Ministerial Committee on Young people at Risk consisted of various role-players in the Child and Youth Care field including the private and government sectors. The IMC drew on the existing expertise in this field. A situational analysis of the Child and Youth Care field was done and best practises already existing in the field were further explored. One such existing initiative was the Cape Town Juvenile Assessment Centre that was established in 1993 as a partnership between the departments of Justice, Welfare, Police and Education in 1993. The piloting of juvenile assessment centres at various courts was included in the recommended outcomes by the IMC for the management of the crisis revolving around the detention of juveniles. These assessment centres had the task of keeping youth out of prisons. The aims of these centres was to assess each youth arrested for an offence and, where possible, to decriminalise the action by implementing diversion programmes and to re-unite the offenders with their families.

This study intends to investigate the current functioning of these assessment centres and, in particular, the assessment centre at Cape Town court.

The researcher was interested in establishing to what extent the recommendations for the transformation of the juvenile justice system have been implemented at the Cape Town Juvenile Assessment Centre.

1.2 MOTIVATION FOR THE STUDY

Welfare services in South Africa have received a great deal of criticism over the past few years for their handling of youth in conflict with the law. Large numbers of youngsters are roaming the streets, often acting out and attacking tourists. When they eventually come to the courts they are being detained in prison for long periods at a time. This was the image of the juvenile justice system that was being portrayed in the media.

A new policy, known as 'Project GO' has been implemented in the Western Cape as an attempt to deal with over-full institutions and juveniles in prison. The Western Cape had the highest number of juveniles in prison according to the business plan for 'Project Go' (1997:3). This project advocated for a total reform in the approach of working with the youth at risk. Its main focus point is decriminalising and de-labelling of youth, with the focus on the strengths based approach.

This project has been received by social workers with very mixed feelings. Although social workers agree with the underlying principals of the strengths based approach, they are confronted with the reality of large caseloads and limited resources.

As a social worker, the researcher has been frustrated with slow progress in the field of youth at risk. Behaviour modification techniques have not always been effective and the only other option appeared to be placement in an institution.

The researcher became more interested in the topic after attending the 'Project GO' workshop on youth at risk, particularly the concept of the 'circle of courage' and strength based approach. His special interest was at a clinical level, especially the relationship between the troubled behaviour of youths at risk and

that of their early development. Should clinicians not stop working with the symptoms, namely the current acting out behaviour, and rather focus on what really went wrong in the early development of that specific youth? Surely an understanding of early deficits would contribute to a more effective treatment in the present. In order to achieve a better understanding, clinicians would have to do a comprehensive assessment of each juvenile in the context of his family, community and developmental stage to bring about a comprehensive understanding of the youth at risk.

The policy guidelines and recommendations that are proposed by the various transformation documents (e.g. White Paper, Inter-Ministerial Committee on Young People at Risk progress report of November 1996, Project GO) support a developmental approach. The development approach refers to an assessment in context of the family, and the broader community as well as an understanding of the troubled youth in context of his/her developmental needs. Only such a comprehensive assessment will support a holistic understanding of the youth and his troubled behaviour.

The Juvenile Assessment Centre affords us as clinicians the opportunity to assess youth in conflict with the law. The implementation of a strengths based assessment within a developmental approach framework will bring about a better understanding of the troubled youth. A better understanding will open up more options in treatment and will take the focus away from the current behaviour and, therefore, contribute to de-labelling.

An evaluation of the Cape Town Juvenile Assessment Centre in terms of the implementation of transformation appears to be necessary in order to establish how far on a continuum the implementation of the current changes in the juvenile justice system is and what still needs to be done.

1.3 GOALS AND OBJECTIVES FOR THE STUDY

The purpose of this study is to evaluate the Cape Town Juvenile Assessment Centre at the Magistrates Court.

The goal is to determine to what extent transformation guidelines for the juvenile justice system have been implemented at the Cape Town Juvenile Assessment Centre and to identify areas that might still need attention.

The following research questions are asked in order to meet the goal of the study:

- Does the Cape Town Juvenile Assessment Centre meet the initial goals as stipulated in the White Paper on Welfare (1995:139), Juvenile Justice for South Africa (1995:16) and The Inter-Ministerial Committee on Young People at Risk (1996:21)?
- Does the current method of assessment consider the developmental needs of the youth offender in context of his family and community?
- Do the current methods of assessment meet the goals of the Assessment Centre as set out in *Cape Town Magistrates' court Assessment Centre evaluation report* (Sloth Nielsen & Muntingh. 1995:3) and *Assessment Centres: Towards a more Child-friendly Justice System* (Meyer. 1996:8)?
- Have the main practice principles as set out in the Inter-Ministerial Committee on Young People at Risk: Interim Policy Recommendations (1996:15) namely, family-centred, child friendly, strength based, developmental assessment etc. been implemented?
- How does the multi-professional team of the Cape Town Juvenile Assessment Centre evaluate its own progress in terms of the transformation process?
- How does the recipient of services experience these changes?

By answering these questions, the researcher should be able to identify possible strengths and weaknesses within the current implementation of the juvenile justice system at the Cape Town Juvenile Assessment Centre.

1.4 OUTLINE OF THE STUDY

In this study the researcher first motivates the reason for this research. That is followed by a description of the research methodology that was used.

In the third chapter the researcher briefly describes juvenile justice trends around the world with emphasis on some of the major countries' policies in this field. This is followed by discussion of the transformation process of the juvenile justice system in South Africa. Relevant processes and policy developments that preceded the establishment of a new juvenile justice system are highlighted.

The Cape Town Juvenile Assessment Centre is then discussed in terms of the physical layout, the aims of the Centre, the role-players and their respective functions and the assessment process.

Lastly the findings of the research are discussed and recommendations are made.

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Chapter Two

METHODOLOGICAL ACCOUNT

2.1 INTRODUCTION

This chapter provides a brief overview of the research design, highlighting the key research sources and methods that were utilised during this study. This overview also include the demarcation of the study, methodology issues, sampling, data collection, method of analysis, limitations of the study and definition of terms.

2.2 DEMARCATION OF THE STUDY

The population, for the purpose of this study, consisted of all the role-players involved in the process of assessment of a youth in conflict with the law that is brought to the Cape Town Juvenile Assessment Centre. The role-players included in this study were one of two public prosecutors, five of six probation officers, the family finder, eleven of 33 youths in conflict with the law that were assessed during a one week period, and ten of a possible eleven parents or guardians of the juveniles.

The universum of youth in conflict with the law will include all juveniles between ages of 7 to 17 years who were assessed at the Cape Town Juvenile Assessment Centre over a given one week period.

2.3 RESEARCH METHODOLOGY

In this study the researcher used a combination of document study and qualitative and quantitative research methods.

Documentary evidence consisted primarily of relevant legislation and policy documents related to the juvenile justice system. Draft legislation and policy documents were also included. Secondary documentary evidence included a

broad range of articles, books and journals both local and international dealing with juvenile justice and the concept of assessment.

The quantitative dimension of the study lies in the analysis of the data collected from the database of assessed juveniles at the Cape Town Juvenile Assessment Centre (Hereafter referred to as the Assessment Centre). The data reflects the number of juveniles assessed at the Cape Town Juvenile Assessment Centre, the mean age of the juvenile offender as well as the type of offences. The quantitative data is presented in three different graphs, showing the relationships between the various dimensions.

The qualitative aspect of the research is reflected in the three interview schedules that were administered to the various role players at the Assessment Centre, the juveniles and their parents/guardians. The interview schedule for the role players was designed to elicit responses reflecting their attitude and knowledge base in terms of the transformation of the juvenile justice system. The interview schedules for juveniles and parents were designed to elicit responses regarding their experience of the system.

Subsequently, comparisons were made between the themes of the literature review and trends that arose from the interviews.

2.4 SAMPLE SELECTION

Arkava and Lane (1983:27) define a sample as the element of the population that is considered for actual inclusion in the study. The sample is thus seen as that small portion of the population that should give us an indication of the characteristics of the broader population without having to use the whole population for the research.

The dilemma that the researcher was confronted with was to ensure that the sample is as representative of the population as possible. One such method is random sampling, which De Vos (1998:193) describes as the method of drawing a sample from a population so that all possible elements drawn from that population have the same probability of being selected.

In selecting the eleven (out of 33) juveniles the random sampling technique was used. Every third youth assessed at the Assessment Centre during a given one week period in December 2001 was included in the study. This included youth assessed after hours. The parents or guardian of each juvenile sampled were also included in the interviewing process.

All the magistrates (1), prosecutors (2), probation officers (6) and family finder (1) were included in the study, since there were only a few of them.

The reception officers (Correctional Services staff) were excluded from the study, due to different shifts and rotation of the reception officers.

2.5 RECORDING OF DATA

2.5.1 Statistics

The analysis of statistics was finalised in 1999. Three reports were drawn from the database kept at the Cape Town Juvenile Assessment Centre. The first report included all cases assessed by the Cape Town Juvenile Assessment Centre for the period January 1995 to December 1998. The second report consisted of the ages of all juveniles assessed at the Centre during the same period and the third report gave the type of offences that assessed juveniles had been involved in during this period.

2.5.2 Personal Interviews

Semi-structured interviews were conducted during December 2001 with the role players at the Cape Town Juvenile Assessment Centre, namely, one public prosecutor, five probation officers and one family finder. Interviews were also conducted with eleven juveniles and 10 parents/guardians. Three different semi-structured interview schedules were compiled for data collection. One was compiled for the prosecutor, the probation officers and the family finder (see Annexure A). The second interview schedule was utilised for interviewing the juveniles (see Annexure B). The third interview schedule was used for interviewing the parents or guardians (see Annexure C).

The various responses to each question were recorded in writing.

2.6 ANALYSIS OF DATA

The database for the Cape Town Juvenile Assessment Centre was kept on an old D BASE programme. The probation officers at court were unable to draw reports on the system, therefore the researcher had to familiarise himself with the programme and taught himself to draw reports. The reports drawn contained information on juveniles assessed during 1995 to 1999, their age distribution, gender and type of offences. The data in these reports was then converted to a Microsoft Excel format and graphs were drawn for the purpose of this analysis.

The researcher followed a multi-stage process when analysing the interviews with the role-players, juveniles and parents/guardians. Authors such as Marshall and Ross (1989), Miles and Huberman (1994) and Robson (1996) refer to three phases in the process of data analysis. The first phase is described as the process of bringing order and structure to the data that has been collected. Secondly, themes must be identified. Robson (1996:378) refers to this process as "pattern matching". The last phase described by these authors requires the researcher to search for alternative explanations in order to challenge the patterns that emerge from the data.

The researcher adopted the above-mentioned three-phase procedure in the analysis of the data in this study. In the first phase the responses of each respondent were recorded on individual interview schedules. In the second phase the responses of each cluster, namely role players, juveniles and parents / guardians were grouped together on a data sheet. In the third phase the data was analysed, looking at general trends in responses. A cross analysis was done, drawing comparisons between responses of the three clusters and between the different role players' responses within the cluster of role players. The statistics obtained from the Assessment Centre and the literature review aided the analysis of the interviews.

2.7 PROBLEMS ENCOUNTERED DURING THE EXECUTION OF THE RESEARCH

2.7.1 Literature Review

The literature study was completed in June 2001 and only documents prior to this date were included in the study.

Very few books or journal articles were available on the juvenile justice systems in various countries and especially that of a third world country. If more literature on the juvenile justice system in third world countries was available, a more in-depth comparison between South Africa as a third world country and the rest of Africa would have been possible.

Although many policy documents on the transformation of the juvenile justice system are available, many are still in draft form and very few of these policies have been piloted. It was thus easy to get confused with proposed changes and actual changes within the juvenile justice system that have already been documented. A further drawback was the fact that the Child Justice Bill was at the time of the study in draft format and had at that stage not influenced the juvenile justice system yet.

2.7.2 Statistics obtained from the database of the Cape Town Juvenile Assessment Centre.

The programme used for the database at the Assessment Centre was specifically developed for the Centre and was based on a D BASE data system. However, none of the users of the system knew how it worked. They were only able to capture data and to look up individual cases. They were unable to draw reports in order to analyse data. The researcher was unfamiliar with the system and attempts to trace the person that developed the system were unsuccessful. He then studied the D BASE manuals and taught himself how the system worked and was eventually able to draw reports on the system. These reports were used for the analysis of the total number of juveniles assessed, age distribution and types of offences committed by juveniles.

2.7.3 Sampling

In sampling the role players various problems were encountered. During the period of the field study only one prosecutor was interviewed. The other prosecutor, primarily responsible for the juvenile court, was on long leave. The implication for the study was that only one person representing the judicial system's view is reflected in the study.

During the period of the study the juvenile court had no assigned magistrate and made use of any magistrate available at a given time. The magistrates acting at the juvenile court did not have knowledge of the field of juvenile justice as their expertise was in the adult criminal court. For this reason the magistrate was excluded from the research. The exclusion of the magistrate from the study is a major limitation of this study. Only the opinion of one of the representatives of the Justice System is reflected and therefore results can be seen as one-sided. However, the opinion of the representatives of the Justice System is also reflected on the outcome of the court hearing and whether recommendations made by the probation officer were accepted.

2.7.4 Interviews

Language was a problem in two of the twenty-seven interviews done due to the fact that two of the juvenile respondents only spoke Xhosa. The researcher had to make use of an interpreter. It is thus not clear whether questions and responses were correctly translated or understood. The interpretation of non-verbal communication in such situations is also lost.

Interviews took place after the assessment and court procedure had taken place. This implied that both juveniles and parents/guardians had been at court from early morning waiting for the process to be completed and were only interviewed late in the afternoon or evening after appearing in court. They were often exhausted and did not elaborate on questions put to them. Nevertheless, sufficient information was gathered for the purpose of this study.

The findings of the study will be presented in Chapter Six.

Chapter Three

JUVENILE JUSTICE IN SELECTED COUNTRIES

3.1 INTRODUCTION

In order to place the transformation of the juvenile justice system in South Africa in perspective it is important to look at juvenile justice in some other countries. The purpose is not to make comparisons, but rather to highlight similarities between South Africa and selected countries in terms of the transformation of the juvenile justice system. The researcher has chosen the following three countries for these reasons:

England has a historic influence on South Africa in terms of South Africa having been a British colony. Most of our laws are based on English law.

The United States of America on the other hand is seen as one of the true democracies of the world and, therefore it has a great influence on the world trends and politics, also as far as juvenile justice is concerned.

Kenya, like South Africa, is a third world country in relation to above first world countries and a look at Kenya's juvenile justice policy will ensure a more balanced view of the juvenile justice system in selected countries.

Morris (1992:149) and the IMC Interim Policy document (1996:24) emphasise that the dilemma for countries in establishing a juvenile justice system is in the balancing of the philosophies of the welfare and the justice models.

The welfare model highlights an informal procedure in dealing with youth in conflict with the law and places emphasis on assessment, treatment and rehabilitation (Morris 1992:161). The justice model on the other hand, sees the youth in conflict with the law as responsible for his actions and therefore, if found guilty, he should receive punitive or rehabilitative punishment (Morris 1992:162).

Looking at the historic development of the juvenile justice systems in the England and in the United States of America, it is clear that over the centuries there has

been a movement away from a pure justice model for youth in conflict with the law towards a welfare model.

3.2 JUVENILE JUSTICE IN ENGLAND

Juvenile justice in England has a history of continuous review (Morris 1987:103). The juvenile justice system has its roots in the early 19th century with the passing of the Juvenile Offenders Act in 1847. This act allowed cases, where persons under the age of 14 years had committed theft, to be heard by magistrates in Petty Sessions. Three years later the Act was amended to include children of up to 16 years (Morris 1987:10).

During the same period schools of industry and reformatories were established. Children that were found begging, wandering, had no home or visible means of subsistence, as well as children under the age of twelve charged with an offence punishable with imprisonment were sent to schools of industries. The reformatories received juveniles up to the age of 16 who had been convicted for an offence punishable by imprisonment. Those over the age of 16 years were tried as adults.

Prior to this Act adults and juveniles were treated alike with examples of children receiving sentences of imprisonment and even the death penalty for crimes that would be described today as petty theft (Morris 1987:6-9).

The Children's Act, passed in 1908, made provision for the establishing of juvenile courts from which the public would be excluded. This Act also started addressing the rights of children. Although children in conflict with the law were now tried separately, the procedures followed in the courts were the same as in the adult courts. Children were still seen as "wrongdoers" but with the difference that courts were given a flexible range of dispositions. Sentences were based on consideration of the seriousness of the crime and the interests of the public (Morris 1987:11).

The juvenile justice system has since evolved to the point where the young person's rights are protected and diversion away from the justice system is emphasised. Within the English juvenile justice system the police have the greatest decision making power over the course that will be implemented after

arresting a youth in conflict with the law (Morris 1987:152). This contrasts with the decision making power of the probation officer in the American juvenile justice system (Kratcoski 1990:238). An inter-agency discussion at the stage of the police decision-making process is encouraged. If necessary the police can include probation services, social services and education in the process of deciding the course that will be implemented for the youth in conflict with the law.

After an arrest the parents of the youth are informed of the arrest. In the case of minor offences an immediate course of diversion away from the justice system is implemented, should the youth meet the criteria. The criteria include sufficient evidence that a crime was committed; admission of guilt by the juvenile; and consent of the parents.

According to Morris (1987:166) magistrates are now more accepting of social workers and are relying more on the information they supply the court in decision making. Morris (1987:167) also found that more children are legally represented than before. The juvenile court follows the same formal procedure as an ordinary court.

The Criminal Justice Act of 1982 makes provision for an interesting range of dispositions that can be imposed on the juvenile offender. Morris (1987:179-194) describes the following dispositions:

- Bind-over: The court can order the juvenile or her/his parents to undertake to pay a fixed amount should the juvenile subsequently misbehave over a period of up to three years.
- Absolute discharge: When an offence is minor or there is not enough evidence the magistrate can make a disposition of absolute discharge.
- Conditional discharge: The offender is not to commit another offence within a period of up to three years. Should the offender commit a further offence during the said period she/he can be sentenced for both offences.
- Fines: This disposition is the most frequently used in English juvenile courts. The fine is normally imposed against the parents and can include compensation to the victim.

- Attendance centre orders: These orders are designed to deprive the youth offenders of their leisure time. An order can be made for up to 12 hours for 10 to 14 year old youths, and 14 hours for 14 to 17 year old youth offenders. The police run these centres.
- Supervision orders: The young offender is placed under the supervision of a social worker for a period up to three years.
- Intermediate treatment: In addition to a supervision order the court can make an order for the youth to participate in activities for a period of up to ninety days. These activities normally include participation in group-work exercises or community-based reparation schemes.
- Supervised activity requirements: The juvenile court magistrate determines the activity that the offender should attend.
- Night restriction requirements: This order is normally attached to a supervision order. The juvenile court can order that a juvenile remain in the same place he/she lives for 10 hours between 6 p.m. and 6 a.m. for up to three months.
- Refraining conditions: The court can order a youth under supervision of a social worker to refrain from certain activities.
- Community service order: This order is imposed on juveniles of 16 years and older.
- Care orders: This order places the parental rights over the juvenile into the hands of the local authority until the age of 18 years. This order gives the discretion to local authority social service departments to place the child wherever it is thought appropriate. The same department also has the authority to decide when to return the child to the care of the parents. Magistrates, however, became weary of social workers not exercising effective control over the youths in conflict with the law and just returning them to the care of the parent they were removed from. This concern led to the care order with charge and control conditions.

- Care orders with charge and control conditions: This order enables the court to restrict the charge and control of the youth from specified parents, guardians, relatives or friends for a period of up to six months. The court places certain conditions on the youth being returned to the care of the parent or caregiver he was removed from for a period of up to six months. This is to ensure that social workers intervene appropriately and bring about sufficient change for the youth to be returned to the care of the parents or caregiver.
- Secure accommodation: A juvenile can be placed in secure accommodation for a period of up to 72 hours over a 28 day period.
- Detention centre orders: Boys between the age of 14 and 17 years can be sent to a detention centre for a minimum period of 21 days and maximum period of 4 months. On release from the centre the youth is placed under supervision of either a probation officer or a social worker for a period of three months.
- Youth custody sentences: This order makes provision for male and female children between ages 15 and 17 to be placed in custody for a minimum period of 4 months and maximum period of 6 months. On release they are placed under supervision of either a probation officer or a social worker for a period of three months.
- Deferment of sentence: The court can defer sentence for a period up to six months.

The variety of dispositions available in England speaks of a well-developed juvenile justice system with good inter-agency co-operation and support.

The Crime and Disorder Act of 1998 legislates that each local authority must establish a Youth Offending Team that should consist of at least one of the following, namely- Probation Officer, Social Worker, Police Officer, representative of the health authority and a representative of Education. This team is tasked with formulating and implementing a yearly youth justice plan. Such a plan should include steps designed to encourage children and young persons not to commit offences. (1998:4)

3.3 JUVENILE JUSTICE IN UNITED STATES OF AMERICA

The United States of America followed the same route of that of England in the development of a juvenile justice system. In the early stages of American history children were not protected from the realities and difficulties of life. Penalties for crime were meted out without age distinctions (Kratcoski 1990:71) and children were tried as adults.

It was only in the mid-19th century that emphasis was placed on childhood and adolescence as periods in life distinct from adulthood. Through this focus on children the juvenile courts evolved and children were being tried separate from adults.

The first juvenile court came into operation in Chicago in 1899 (Morris 1987:11). The approach of this juvenile court was to rescue juveniles rather than punishment. Kratcoski (1990:69) refers to the "benevolent parent" protecting the well being of the child.

In the 1970's the juvenile courts moved away from the philosophy of the "benevolent parent". The courts now guaranteed the rights of juveniles under the constitution answering to their need for treatment, guidance and rehabilitation. Juvenile courts now acknowledged youth in conflict with the law's rights to legal counsel, to notice of charge against them, confront and to cross-examine the witness, and to have guilt established beyond reasonable doubt. They however did not receive the right to be tried by a jury.

The American justice system loosely defines delinquency as any type of behaviour by those socially defined as juveniles that violates the norms (standards of proper behaviour) set by the controlling group (Kratcoski. 1990:2).

The system defines two types of offences namely delinquent offences e.g. murder, arson, rape, robbery, shoplifting and car theft, and status offences e.g. truancy, running away from home, violation of curfew hours, various sexual acts and purchase or drinking of alcoholic beverages

Youth in violation of either a delinquent offence or status offence can be brought in front of the juvenile court. According to Kratcoski (1990:7) one million cases

were tried in the juvenile courts during 1983. 83% of these cases were delinquent offences the other 17% were status offences.

The process that the juvenile justice system in the United States of America follows is describe by Kratcoski (1990:236-255) in various phases:

- Complaint: The police officer has to make contact with the youth after receiving a complaint by a citizen or after observing suspicious behaviour. The officer then decides whether to caution the youth and release him; release the youth after warning; take the young person to the police station for further questioning; lodge a charge and release the youth in the custody of the parents; or request secure detention.
- The petition: At the time of the arrest it is the responsibility of the police officer to inform the youth of her/his rights. That is the right to counsel and the right to remain silent. After taking the youth into custody the police officer has to notify the parents that their child has been taken into custody. The officer then prepares a complaint and a decision is made whether the youth will be released into custody of the parent or be placed on detention until a court hearing.
- Temporary detention: The decision whether to detain a young person or not is done by the juvenile court personnel. According to statistics referred to by Kracoski (1990:243) only 17% of juveniles arrested are detained and 30% of those who were detained were released into the custody of their parents within 4 hours of detention.
- Intake department: The function of the intake department is to screen all referrals and determine which cases should be handled judicially and which cases will be handled non-judicially.

In the case of non-judicial handling a formal petition is not filed. The parents and the youth voluntarily agree to take certain action, normally referral to a programme or counselling.

The intake officer is a probation officer and has wide discretionary powers. These discretionary powers include the following:

- Authorisation of detention before court hearing

- Dismissal of a case that is too petty
 - Dismissal of a case after a youth has been advised of illegality and consequences of her/his behaviour and warned to avoid this conduct
 - Referral to non-judicial handling by a community social agency, and
 - Special diversionary program and scheduling of a court hearing for each case to be handled judicially
- Diversion: Kratcoski (1990:245) defines two kinds of diversion, namely total diversion and partial diversion. Total diversion refers to turning the youth in trouble away from a course of action that is leading towards justice system involvement. In total diversion the juvenile court has no claim on the diverted youth and the youth has no obligation to submit to any type of treatment.

In a partial diversion an agreement is reached between the intake officer, the juvenile court, the youth and her/his parents that if a certain course of action is followed, the youth may escape formal court processing. The youth is then referred to one of the court sponsored supervised diversion programs.

The National Advisory Commission on Criminal Justice Standards and Goals has listed four factors as favourable to diversion. These factors are:

- The age of the offender
- The willingness of the offender to have no conviction sought
- The likelihood that the offender may suffer from a mental illness or psychological abnormality
- The likelihood that the crime was related to any other condition or situation such as unemployment or family problems (Kratcoski 1990:248).

If the four factors favourable to diversion as listed above were applicable to the South African context most of the offences committed by youth should then be favourable to diversion away from the justice system. Most of the offences committed by youth in the South African context are related to family problems or poverty.

- Court hearings: In the initial hearing the charges in the petition are read and the youth has to respond by answering true or not true. If a plea of true is made in a serious offence a social investigation and report is required. The purpose of this investigation and report is to aid the judge in making an appropriate disposition. The youth may remain in custody or can be returned to the custody of the parents.

In some instances a pre-hearing conference is held. The purpose of the pre-hearing conference is to consider the facts of the case in incidents where a plea of guilty is made.

At the adjudication hearing the judge decides upon the truth of the charges and acts accordingly.

The American juvenile system makes a definite distinction in legislation and the treatment of youth in conflict with the law and so-called “endangered children” or neglected and abused children (Kratcoski 1990:184). The removing of neglected or abused children is only done as a last resort. Every effort is made to keep the child in the community with supportive and corrective counselling. Should detention be necessary it is separate from youth in conflict with the law.

3.4 JUVENILE JUSTICE IN KENYA

A project identification mission on juvenile justice, commissioned by the Royal Netherlands Embassy in Nairobi and headed by Ann Skelton found that Kenya was set for reform in the field of juvenile justice.

Skelton (1999:10) highlights in her findings that juvenile crime in Kenya is rooted in poverty. The majority of children in conflict with the law are street children. The juvenile justice system of Kenya is based on a welfare model and thus favours rehabilitation and education rather than punishment. Children and youth in conflict with the law do not get criminal records and terms like “conviction”, “sentence” and “imprisonment” are rarely used.

Kenya has a different care and protection system to that of the juvenile justice system. In practice however no distinction is made between the process of managing the different groups. Skelton (1999:10) found that the police subject

children from both groups to the same process of arrest and detention. Both children in need of care and children in conflict with the law are kept in the same police cells, holding cells at court and share the same court. After first appearance in court a child from either group can be remanded back to the police cells or sent to the Juvenile Remand Home. No distinction is made at the Juvenile Remand Home between children in need of care and children in conflict with the law. Although similar treatment of children under care and protection and youth in conflict with the law results in de-labelling of youth in conflict with the law, it traumatises and hardens children in the childcare system who have to go through the same experience as children in conflict with the law.

Skelton (1999:11) raised the following concerns regarding the present juvenile justice system in Kenya. She found that there is no specialisation within the police service regarding arresting of children. The children were often held for periods of 48 hours in cells before first appearance in court. Attempts to contact parents within the 48 hours before the first appearance in court are rarely made by police. She also highlights a concern for a lack of differentiation between the processes followed for children in need of care and protection and children in conflict with the law. She found that there were no official time limits for completion of cases and thus cases could drag on for months. Children also did not have any legal representation.

On the positive side, Skelton (1999:11) found that Kenya has a sound legislative framework for the administration of juvenile justice. Imprisonment is rarely used in relation to children and they do not get criminal records. Although several different laws have to be read simultaneously current reform is on its way in the form of a Children's Bill that will be discussed shortly in parliament.

Since the completion of the literature study, Kenya promulgated its Children's Act in 2001. According to the article '*Grim Statistics, Desperate Children*' (2001:1) the Kenyan Children's Act "borrows heavily" from the provisions in the United Nations Convention on the Rights of the Child.

3.5 DISCUSSION

England has a long history in the development of a juvenile justice system. It has a system that is centred on the juvenile court and a diverse spectrum of dispositions. The juvenile justice system of the United States of America was built on that of England with the difference that more emphasis is placed on the

diversion away from the justice system. The probation officer at the court has more decision making power and thus more authority to divert the youth in conflict with the law away from the juridical system. Thus the formal justice process deals with fewer cases.

Kenya on the other hand still has a long way to go in developing a juvenile justice system. Children are still detained for long periods. No distinction is made between youth in conflict with the law and children at risk of abuse and neglect. On the positive side the society appears to be more tolerant towards children and youth in general. Kenya appears to be a society has a sound philosophy of not labelling children.

Traditionally the youth in conflict with the law in South African were dealt with in terms of the welfare model. South Africa has, however, progressed far in developing a juvenile system that is constructed from a predominant welfare model, incorporating the justice model and adapting to a tolerant and non labelling approach to dealing with youth in conflict with the law.

The arresting officer in the South African context does not have the same decision making power as his counterpart in the USA. The decision making power regarding the course of action that should be implemented after arrest in South Africa, is in the hands of the senior public prosecutor. Although this decision is influenced by a recommendation of the probation officer at the Juvenile Assessment Centre, the final decision is made by the justice system. Youth in conflict with the law are only partially diverted away from court by first completing a diversion programme and then withdrawing of the charge after completion. This results in all youth in conflict with the law entering the justice system. The result of such a system is a flooded court roll and long delays in implementing a course of action. The system that is followed in the United States of America, where the probation officer is given more decision making powers, appears to be a more effective system in that youth in conflict with the law are truly diverted away from the justice system in petty cases.

South Africa is also in the process of developing and expanding its range of dispositions. The options in terms of dispositions will be discussed in chapter four under new legislation as well as in chapter five under recommendation options.

South Africa is also in the process of moving away from a system that previously labelled youth in conflict with the law, by implementing the strength-based approach in the assessment of youth. This paradigm shift should lead to greater tolerance to children and youth in conflict with the law.

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Chapter Four

TRANSFORMATION OF THE JUVENILE JUSTICE SYSTEM IN SOUTH AFRICA

4.1 INTRODUCTION

Chapter four describes the process of transformation that took place within the juvenile justice system since 1994. Various policy documents are discussed. It is, however, important first to define two concepts namely that of 'juvenile offender' and 'assessment' before these changes in the juvenile justice system can be discussed.

4.2 DEFINING THE CONCEPT OF 'JUVENILE OFFENDER'

The two terms "juvenile delinquent" and "juvenile offender" are commonly used in the literature. The Terminology Committee for Social Work (1995:35, 36) defines these two terms as follows: a "juvenile delinquent" is a juvenile that has been found guilty of a serious crime and who reveals criminal tendencies. A "juvenile offender" on the other hand is a juvenile who occasionally commits an offence and has as yet not revealed criminal tendencies. Hoghughi as referred to by Tshiwula (1995:17) supports the definition of "juvenile delinquent as "...a person who breaks the law habitually and persistently..."

The distinction between these two terms refers to the degree of seriousness and the number of offences committed by the juvenile. These definitions, however, do not clarify the term juvenile.

The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Resolution 40/30. Nov 1985) in short referred to as "The Beijing Rules", defines a juvenile as a child or young person who is dealt with under a respective legal system in a different manner than an adult when committing an offence.

A "juvenile" is thus a child or young person who has committed an offence. The juvenile justice system is a different system or set of laws that defines or

prescribes how a child or young offender should be dealt with, as opposed to the treatment of an adult under the criminal justice system.

The South African Law Commission's Project Committee on Juvenile Justice in the Draft Child Justice Bill (1998:4) defines a child as any person under the age of eighteen years, irrespective of that person's nationality, citizenship or other status. This same definition is found in the Child Care Act 74 of 1983. In the South African context a child is thus seen as a person under the age of eighteen years.

A "juvenile offender" is thus a child under the age of 18 years who occasionally commits an offence, but has not revealed criminal tendencies like a juvenile delinquent.

If a juvenile offender is a person under the age of 18 years, the question might then be asked whether a distinction is made within the juvenile justice system for different treatment of a 7-year-old child as opposed to a 16-year-old child?

In this regard the Draft Child Justice Bill (1998:8-10) suggests three options regarding the minimum age of prosecution. In the first option it is recommended that children under the age of ten years not be prosecuted. Children between the ages of seven and fourteen years are presumed to lack the capacity to appreciate the difference between right and wrong. The onus is on the court to prove that a child within this age group has the capacity to appreciate the difference between right and wrong.

In the second option it is recommended that no child below the age of twelve years be prosecuted.

Option three recommends that a child below the age of twelve not be prosecuted for any criminal offence. An exception is made that a child of ten years or older can be prosecuted for specific offences.

These offences are:

- Murder
- Rape
- Indecent assault involving the infliction of grievous bodily harm
- Robbery with aggravating circumstances

- An offence as referred to in section 13(f) of the Drugs and Drugs Trafficking Act, 1992 no 140 of 1992, on condition that the value of the dependence producing substance is more than R50 000, and any offence relating to dealing in or smuggling of ammunition, firearms and explosives.

It is clear that the changes to the juvenile justice system propose to define a child as a person under the age of eighteen years. However, it goes a step further in proposing a minimum age for prosecution. Children under the age of ten should not be prosecuted. Children between the ages of ten and fourteen years can be prosecuted if their ability to distinguish between right and wrong has been proven and/or they have committed an offence as listed in the above paragraph. The Beijing Rules (Resolution 40/33 of Nov 1985) recommend that the beginning age of criminal responsibility not be fixed at too low a level. It does not however recommend a specific age. According to the Beijing Rules the emotional, mental and intellectual maturity of the juvenile should be considered in determining the age of criminal responsibility.

A further distinction in the definition of a child being a person under the age of 18 years is also found in the developmental theory. Authors such as Kaplan and Sadock, Neinstein, Louw and Cobb define adolescence commonly as the period between childhood and adulthood that is characterised by intense biological, psychological and social developmental changes (Kaplan and Sadock 1994:51) (Neinstein 1996:41) (Louw 1998:384) (Cobb 1995:17-27). Adolescence is also commonly divided into three stages, namely early (11-14 years), middle (14-17 years) and late (17-20 years). It is the early stage of adolescence, that is ages eleven to fourteen years where the young adult's ability to determine between right and wrong is under question.

In the South African context it is recommended that the court should determine the child's ability to make this distinction between right and wrong through a developmental assessment by the probation officer.

4.3 DEFINING THE CONCEPT OF 'ASSESSMENT'

Assessment forms an integral part of the juvenile justice system. It is important that the youth in conflict with the law be assessed in order to determine the cause of action that should be implemented. It is interesting that the Defining

Social Work Dictionary (1984) does not define the concept of 'assessment', but the concept of 'evaluation' instead. 'Evaluation' is defined as the "*assessment in the diagnostic and problem-solving process in order to judge the person's abilities, needs, social situation and social functioning, as well as the effectiveness of assistance rendered*" (Terminology Committee for Social Work. 1984:70). It appears that the term 'assessment' is a concept that evolved later within the social work context.

The Probation Services Amendment Bill, 2001 defines 'assessment' as a process of developmental assessment and evaluation of a person and the family circumstances of the person. This includes assessing the nature and circumstances surrounding the alleged commission of an offence, its impact on the victim, the attitude of the alleged offender in relation to the offence and any other relevant factors.

The South African Law Commission in the Draft Child Justice Bill in essence incorporated the above definition with the inclusion of the following:

"It is a process of evaluation by a probation officer of a child. It includes the competencies of the child as well as the intention of the child to acknowledge responsibility of the alleged offence." (Draft Child Justice Bill. 1998:4)

It is clear from the above definitions that the terminology of 'assessment' and 'evaluation' are used as interchangeable concepts. The last two definitions already include the recommended transformation concepts of 'developmental' as well as 'strength based assessment'.

4.4 LEGISLATION THAT GOVERNS THE JUVENILE JUSTICE SYSTEM IN SOUTH AFRICA.

Prior to 1994 legislation that governed the handling of juvenile offenders was fragmented. Only a few sections in various acts dealt with the youth offender. It was the responsibility of the probation officer to know these acts and to assess the juvenile and make appropriate recommendations to court. The legislation that governs juvenile justice in South Africa, follows below.

4.4.1 Probation Services Act no 116 of 1991

The Probation Services Act (Act 116 of 1991) makes provision for the appointment of probation officers. The Act also make provision for programmes focusing on the combating of crime and the rendering of probation services. The powers and duties of a probation officer are also outlined. Some of these duties are highlighted as follows:

- Investigation of the circumstances of the offender with the view of reporting to court
- Assistance to probationers
- Reporting to the court should the probationer not comply with conditions of his sentence
- Planning and implementing programmes
- Reporting to court on progress made by a probationer, should the court require such information

This Act was a major milestone in securing the probation profession, but still left the discretion with the court (e.g. magistrate or prosecutor) whether a probation officer should investigate the circumstances of the offender with the view of reporting to the court or not. Although this particular Act does not mention the juvenile offender, it was possible for the court to request a probation officer to do an investigation of the circumstances of the youth offender and report to court.

It was only in 1999 that the Probation Services Amendment Bill of 1999 extended the powers and duties of the probation officer to mandatory assessment of arrested children. This change in legislation is a result of the transformation process of the juvenile justice system. Mandatory assessment of the juvenile by a probation officer made it possible for implementing diversion of the juvenile away from the criminal justice system, but also contributed to alternative detention options to prison.

Since the completion of this study the Probation Services Amendment Bill of 1999 became law in 2002 and is now called the Probation Services Amendment Act no 35 of 2002.

4.4.2 Child Care Act 74 of 1983, as amended

The Child Care Act makes provision for the management of a child in need of care. The Act defines a child as any person under the age of 18 years. A child is deemed in need of care when:

- The child has no parents or guardian;
 - The child has a parent or guardian who cannot be traced;
 - The child
 - × has been abandoned or is without visible means of support;
 - × displays behaviour which cannot be controlled by his parents or the person in whose custody he/she is;
 - × lives in circumstances likely to cause or conducive to his/her seduction, abduction or sexual exploitation;
 - × lives in or is exposed to circumstances which may seriously harm the physical, mental or social well-being of the child;
 - × is in a state of physical or mental neglect;
 - × has been physically, emotionally or sexually abused or ill-treated by his/her parents or guardian or the person in whose custody he or she is;
 - or
 - × is being maintained in contravention of section 10, that is a child under the age of 7 being cared for away from his/her parents for longer than 14 days without the consent of the Commissioner of Child Welfare.
- (Child Care Act 74 of 1983. Section 14 (4))

Although this Act does not address the youth in conflict with the law directly, it is possible in terms of the Criminal Procedure Act 51 of 1977, Section 254 (1) to convert the case into a children's court inquiry. The criminal case against the juvenile is thus withdrawn on condition that a children's court inquiry has been opened. The inquiry will then be referred to a social work agency to be finalised. The social worker will make a recommendation to the children's court in terms of whether the child is a child as describe in section 14 (4) of the Child Care Act.

Should the child then be found in need of care any one of the following recommendations can be made:

- Return to care of parents under supervision of a social worker,
- Foster placement,
- Placement in a children's home, or
- Referral to a school of industries.

The Child Care Act supports the justice system as an option for diverting the juvenile away from the justice system. Unlike a diversion programme where, after completion of the programme, no further intervention is done with the family, converting a criminal case to a children's court inquiry has the added benefit that it secures further intervention for the child and his/her family.

4.4.3 Criminal Procedure Act 51 of 1977

The Criminal Procedure Act 51 of 1977 did not directly address the juvenile offender. In terms of this Act juveniles were treated and tried on the same basis as an adult criminal. There are, however, certain sections in the Act that refer to juvenile offenders and they will be discussed briefly.

Two sections, namely section 71A and 72 (1)(b) refer to the detention and release on warning of a juvenile. According to section 71A, a juvenile can be detained in a place of safety as defined in section 1 of the Child Care Act pending his further appearance in court until the case has been finalised. Section 72 (1)(b) makes it possible for a juvenile to be released on warning into the care of a person in whose custody he is. That person is then warned to bring the juvenile back to court on a specific date.

Section 74 of the Criminal Procedure Act 51 of 1977 makes provision for a juvenile to be assisted by a parent or guardian and section 50 (4) describes the process to be followed by the arresting officer to inform the parents of the arrest and to be present at the hearing. The authority, however, is with the court, as to whether it is of the opinion that the juvenile offender requires the assistance of another person at the criminal proceedings.

As mentioned under the Child Care Act 74 of 1983, it is possible in terms of section 254(1) of the Criminal Procedure Act 51 of 1977 to stop a criminal trial and refer the juvenile to the children's court. This option is considered when it appears that the juvenile is a child in need of care and that it would be desirable to deal with him in terms of the Child Care Act.

Section 290 of the said Act describes the manner in which a convicted juvenile can be dealt with. This section makes it possible for a juvenile to be placed under the supervision of a probation officer and/or to be placed in the custody of a suitable person. It is also possible to send a juvenile to a reform school and, pending admission, to be detained in a place of safety. Section 291 describes the length of the periods for a convicted juvenile is to remain at a reform school in terms of his sentence. It is possible for a juvenile to remain in a reform school until the age of 23 years depending on the age at which he was sentenced.

The last section in the Criminal Procedure Act that could be applied to the juvenile is section 337, which refers to the estimation of the age of a young person.

In terms of the above it is clear that sections dealing with the juvenile are fragmented. The Criminal Procedure Act 51 of 1977 was written in such a way that the court may decide to implement a specific section in relation to a juvenile or not.

It is encouraging to see to what extent the Criminal Procedure Act had been transformed to address the needs of juveniles, and that punishment like whipping has been stopped.

4.4.4 Child Justice Bill

The Child Justice Bill is a comprehensive draft legislation aimed at regulating the juvenile justice system. This Bill incorporates national and international instruments, which protect the rights of children and to ensure an appropriate, individual response to each child in trouble with the law while still holding the child responsible for his/her actions. (Draft Child Justice Bill, 1998:1)

This Bill is based on the definition that a child is any person under the age of 18 years, and makes recommendations for a minimum age of Prosecution (see point 4.2). The proposed age of prosecution is based on the concept that a child

under a certain age lacks the capacity to appreciate the difference between right and wrong.

The Bill sets out the powers and duties of police officers upon arrest of a juvenile and provides a broader scope for securing the attendance of youth in conflict with the law at court proceedings. These powers and duties are written in such a way that they incorporate the rights of children and ensure that each youth in conflict with the law will be treated with dignity. More responsibility is placed on the police officer to notify the probation officer as well as the parents of the youths.

Assessment and diversion are two new aspects that receive statutory recognition in the Child Justice Bill. Pre-trial assessment of a youth in conflict with the law is now entrenched in government policy and the juvenile justice system. This legislation now makes provision for minimum standards for diversion options to protect children from harm and to prevent exploitation (Chapter Six of Child Justice Bill). It also stipulates that youth in conflict with the law should be assessed within 48 hours of arrest. The proposed legislation makes provision for a child justice court and provides details on sentencing.

The Bill provides further requirements concerning legal representation of children. Finally the Bill also makes provision for monitoring of the child justice system.

The Child Justice Bill is still to be ratified by parliament. It is, however, clear that this Bill is an effort to regulate the juvenile justice system. It has taken into consideration national and international policies and trends in relation to juveniles and children.

4.5 THE PROCESS OF TRANSFORMATION OF THE JUVENILE JUSTICE SYSTEM SINCE 1992

The transformation of the juvenile justice system is a process that started prior to 1994 with the lobbying of NGO's for a comprehensive child justice system. The transformation process is a result of consultations and partnerships between NGO's and government, to work towards a child-friendly justice system.

4.5.1 The IMC process

In 1994 the cabinet established an Inter-Ministerial Committee on Young People at Risk (IMC). The task of the IMC was to manage the then crisis of the uncoordinated release of youth from prisons and to manage the transformation of the child and youth care system as a whole. One of the first steps to manage the crisis resulting from the release of the juveniles from prison was the piloting of juvenile assessment centres at magistrate's courts aimed at diverting youth in trouble with the law from the criminal system.

In the document "Interim Policy Recommendations" (November 1996) the IMC outlined their policy for the transformation of the child and youth care system. This document emphasised certain practice principles based on the recommendations of the White Paper on Social Welfare as well as various United Nations documents regarding children and juveniles. These include: The United Nations Convention on Rights of the Child, The United Nations Guidelines for Prevention of Juvenile Delinquency, The United Nations Rules for the Administration of Juvenile Justice and The United Nations Standard Minimum Rules for the Prevention of Juveniles Deprived of their Liberty. These practice principles are:

- **Accountability**
This implies that every individual that intervenes in the life of young people and their families should be held accountable for the standard of service that they render.
- **Empowerment**
The ability of each individual should be promoted by providing opportunities to use and build their own support networks.
- **Participation**
The young person and his/her family should be actively involved in the intervention process.
- **Family-centred**
The principle of family-centred services implies that support and guidance should be provided to the family through regular assessment and a plan of intervention in order to enhance the family's development over time.

- **Continuum of care**
Young people at risk and their families should have access to a range of services on a continuum starting with the most empowering and least restrictive intervention for the individual.
- **Integration**
The focus of service delivery should be inter-sectorial and, where appropriate, a multidisciplinary team should be utilised.
- **Continuity of care**
The principle of continuity of care emphasises the recognition of the changing social, emotional, physical, cognitive and cultural needs of young person's and their families. These needs should be addressed through the intervention process.
- **Normalisation**
Young people and their families should be exposed to normative challenges that will promote participation and growth.
- **Effective and efficient**
All interventions aimed at young people and their families should be implemented in the most effective and efficient manner.
- **Child-centred**
The focus of service delivery to young people should ensure positive developmental experiences. Appropriate guidance and support should be ensured through regular assessment and action planning to enhance the young person's development over time.
- **Rights of young people**
The protection of the rights of young people according to the UN Convention and the SA Constitution is emphasised.
- **Restorative Justice**
The focus changes from punishment to restoring harmony and putting wrongs right. The young person is accountable for his/her actions and, where possible, should make amends to the victim.

- **Appropriateness**

Services to the young person and the family should be appropriate to the individual, family and the community.

- **Family preservation**

Young people should remain within the context of the family and, therefore, services should emphasise capacity building of the family.

- **Permanency planning**

Young people should grow up with their own family and, where this is not possible, there should be a time-limited plan which works towards life-long relationships in the family. (The Inter-Ministerial Committee on Young People at Risk, Interim Policy Recommendations. Nov 1996, pp15-17)

The effective implementation of these principles requires a proper and regular assessment of the young person and the family. Healthy family life is at the forefront and all services should help promote the maintaining of the young person within the family context. The challenge to social workers is thus to explore and create a range of possible services to the youth at risk and their family.

Based on the IMC interim policy recommendations certain pilot projects, one of which was the development of juvenile assessment centres at various courts, were launched. One task of these centres was to keep youth out of prisons. These assessment centres function on the basis of assessing each youth arrested for an offence. The aim is, where possible, to decriminalise the action, implement diversion programmes and re-unites the offender with his/her family.

In their Report on Pilot Projects (1998:5) the Inter-Ministerial Committee on Young People reports on the piloting of the Durban Reception, Assessment and Referral Centre. It was found that there was poor co-operation from police. During piloted period, the assessment centre did little to reduce the number of children detained in prison. Only 20% of juveniles assessed were diverted from the justice system whilst the project aimed at a 50% diversion rate.

4.5.2 Project 'GO'

Project 'Go' formed one of the pilot projects that was a result of the interim policy guidelines of the IMC. Project 'Go' has been established in an attempt to

deal with over-full institutions and juveniles in prison. This project advocates for a total reform in the approach of working with youth at risk. Its main focus is decriminalising and de-labelling of youth with an emphasis on a strengths based approach.

This project has been received with very mixed feelings by social workers and probation officers. The social workers agreed with the underlying principles of a strengths based assessment but were sceptical regarding the reality of large caseloads and few resources.

The strengths based assessment is based on the traditional indigenous American educational practices that describe the four bases underlining self-esteem as a sense of belonging, mastery, independence and generosity. This forms the "*circle of courage*".

- **Belonging** refers to the experience of being part of a caring family, community and culture.
- **Generosity** refers to sharing without holding back in order to experience the satisfaction of giving.
- **Mastery** is the sense of competency that leads to motivation for further achievement.
- **Independence** is the sense of power and autonomy over own behaviour and environment. (Brendto, Brokenleg and Von Bocken 1990:37-53)

In terms of the strengths based assessment a juvenile is assessed within the framework of the circle of courage and the four elements of belonging, mastery, generosity and independence. Assessment within this framework focuses on the strengths of the juvenile within these four elements. Should there be a shortcoming within one or more of the elements, the challenge is to focus on that particular element in order to start the healing process and create balance within the circle of courage. The advantage of such a model is that it moves away from labelling and creates an empowering environment for the juvenile to learn through error.

4.5.3 NGO initiatives

Prior to 1994 lobbying for one body of legislation that governs the handling of juvenile offenders was mostly done through NGO's and various interest groups.

The Community Law Centre, Lawyers for Human Rights and NICRO initiated the campaign **Justice for the Children: No child should be caged** in 1992. The aim of this campaign was to raise national and international awareness about young people in trouble with the law and called for a comprehensive juvenile justice system. (Juvenile Justice for South Africa. 1994:1-5)

A paper, "**Raising ideas for a juvenile justice system**", presented by Adv. Ann Skelton at a seminar on Legislative Drafting run by Community Law Centre, UWC in 1993 raised awareness that lead to a drafting committee convened by Adv. Dullah Omar. This paper formed the basis for their proposals on a juvenile justice system. (Juvenile Justice for South Africa. 1994:1-5)

The Juvenile Justice Drafting Consultancy published the document "**Juvenile Justice for South Africa Proposals for policy and legislative changes**". This document suggests that criminal charges for youth in trouble with the law should be the last resort and that diversion should become the central procedure for dealing with youth offenders. With diversion is meant that the juvenile is channelled away from the justice system to community-based programmes on certain conditions. (NICRO 1997:7) This document also underlines the importance of family life and places the family at the centre of the decision making process. (Juvenile Justice for South Africa. 1995: 1-6)

4.6 DISCUSSION

The process of transformation of the juvenile justice system in South Africa can be seen as a partnership between non-government organisations and the government that developed through time, to result in a transformed justice system for youth in trouble with the law.

The various efforts of the private sector as well as those of the state culminated in a vision that is becoming a reality. Uncoordinated services and fragmentation in various acts are addressed within the frame of the Child Justice Bill. This Bill is inclusive of the vision of one juvenile justice system, incorporates the various

national and international policy documents on children, child justice and children's rights.

Practice principles ensure a uniform standard in service delivery to the juvenile and secure the participation of the youth in conflict with the law as well as his/her parents or guardian and victims.

South Africa has come a long way in the transformation of the juvenile justice system. It has developed a Bill that does justice to the rights of the child as formulated in the Constitution of this country. The challenge, however, now lies in the acceptance and implementation of this Child Justice Bill.

University of Cape Town

CHAPTER FIVE

CAPE TOWN JUVENILE ASSESSMENT CENTRE

5.1 INTRODUCTION

Cape Town Assessment Centre was started early in 1993 as a joint initiative between the departments of Justice, Welfare, Police and Education. This joint initiative resulted in the establishment of a specialised juvenile court where all criminal charges against persons under the age of eighteen are prosecuted. The Department of Welfare assigned a full-time probation officer to the juvenile court to be responsible for the assessment of juveniles that were brought before the court. Where possible, cases against youths were channelled away from the justice system.

5.1.1 The legal basis for the Assessment Centre

In 1994 President Mandela raised a concern for children being detained in police cells and prisons for lengthy periods on petty charges. The President made an appeal that this crisis in the juvenile justice system be addressed. His appeal was followed by the amendment of section 29 of the Correctional Services Act no.8 of 1995 which set conditions for detaining unconvicted persons under the age of 18 years in prison, police cells or lock-up facilities.

The Correctional Services Amendment Act No 14 of 1996 amended section 29 of the Correctional Services Act no.8 of 1995 to provide measures in terms of which the courts were given limited discretion to order the detention of unconvicted juveniles. This applied to juveniles between the ages of 14 and 18 years and enabled courts under specific conditions to order detention in prison or a police cell or lock up. Juveniles under the age of 14 could only be detained in places of safety.

In response to this crisis of juveniles being detained in prisons the Cape Town Juvenile Assessment Centre was expanded from only an office-hours service to

include an after-hours service. The daytime assessment service was also complemented by probation officers that assessed juveniles between 16h00 and 22h00 every day of the week. This allowed for youths that were arrested between 15h00 and 21h00 to be assessed and brought before court without being detained for the night. Due to financial constraints the after-hour assessment centre is currently in operation from 18h00 to 21h00.

It is important to note that the Cape Town Assessment Centre was a joint initiative between the Departments of Justice and Social Services, which started before the Inter-Ministerial Committee on Young People at Risk (IMC) launched pilot assessment centres at various courts.

5.1.2 The purpose and aims of the Assessment Centre

The purpose of the Assessment Centre as stated in the Cape Town Magistrates' Court Assessment Centre Evaluation Report (Sloth Nielsen 1995:3) is to channel juveniles away from the justice system, but also to guide them into accepting accountability for their actions.

The aims of the assessment centre as set out in the above mentioned document are as follows:

- Determine the age of the juvenile where possible: The youth in conflict with the law is asked for his/her date of birth and current age. Where possible this information is confirmed by a parent or family member. In the cases where juveniles appear physically to be older or younger than the age given, the probation officer can request the court that the age be determined in terms of section 53 of the Child Care Act 74 of 1983.
- Include the parents in the process: It is the responsibility of the investigating police officer to trace the parents or guardian of the arrested youth. Should this not be possible the probation officer can request the family finder (a service provider contracted to trace families of juveniles) to trace the juveniles' parents or guardian.
- Making a recommendation regarding diversion options: The probation officer determines whether a juvenile meets the respective criteria (discussed later

in this chapter) for a diversion option and makes the necessary recommendation to court.

- Secure the most suitable placement option for each child: Should it not be possible to return the juvenile to the care of a parent or guardian, the probation officer secures a suitable place of detention for the juvenile. The police are responsible for transporting the youth to the detention centre.

These aims are supported by the IMC in their document “Interim Policy Recommendations” (1996:31). This document added the consideration that after-hour assessment is only a preliminary assessment that focuses on the detention or return of the juvenile to the parent’s/guardian’s care rather than diversion of the case. The Cape Town Juvenile Assessment Centre currently appears to be only doing a preliminary assessment after hours. The focus is on getting the involvement of the parents/guardian and returning the child to their custody. If this is not possible, the aim is to find a suitable detention placement. The daytime assessment appears to be more involved in the diversion of the juvenile away from the justice system. The result is that a youth who is arrested after hours (between 15h00 and 21h00) is subjected to a second assessment the following day to determine the possibility of diversion. This is contradictory with the recommendations for the transformation of the juvenile justice system. It is recommended that the after-hour assessment should be a complete assessment with the probation officer and the prosecutor having the authority to divert cases and not for cases to return to court the following day.

Currently the Cape Town Juvenile Assessment Centre is in the process of making after hours assessment as comprehensive as the daytime assessment. The after-hours probation officers are expected to make a recommendation in terms of diversion options that will be implemented the following day. A juvenile will then not be subjected to a second assessment and time spent at court will be reduced. This is in line with the philosophy of the new juvenile justice system.

It is however debatable whether the aims for the Assessment Centre have kept up with the transformation process. These aims do not include the practice principles as documented in the “Interim Policy Recommendations” (1996) of the IMC (see chapter four). If the existing aims for the assessment centre are evaluated in terms of the practice principles of empowerment, participation, family-centredness, and child-centredness, then certain questions arise.

A question arises as to how the individuals are empowered by channelling them away from the juvenile justice system if empowerment refers to providing opportunities for building supportive networks. It is suggested that one should aim at identifying and linking the juvenile and his family with supportive networks in the community.

One of the existing aims of the Assessment Centre is to include parents in the process (see point 5.1.2:43), but how are they, in practice, involved in the intervention process? The Practise Guidelines set out in the IMC "Interim Policy Recommendations" (1996:36) emphasise the importance of participation by the juvenile and his/her family. The implication should then be that the parent and the juvenile are included in the decision making process and agree on the implementing of an appropriate course of action. However, it is questionable whether this actually happens.

The practice principle of family-centred services does not appear to be included in the aims of the Cape Town Assessment Centre. In this regard, one wonders to what extent support and guidance are given to the juvenile and his family over time. It is understood under family-centred services that either the Assessment Centre extends its services to include support, or that the family and the youth in conflict with the law are referred to a suitable service provider.

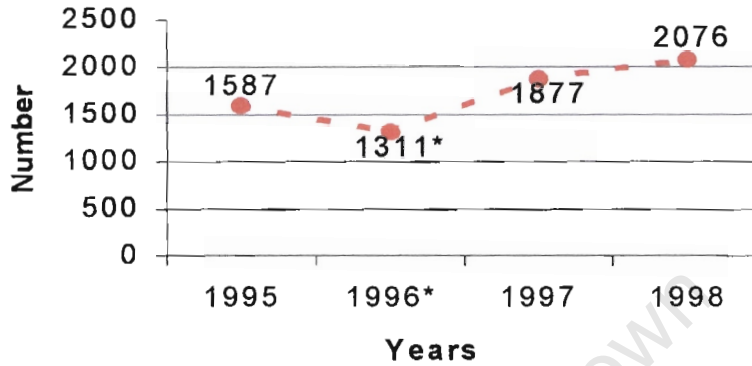
A further practise principle refers to a child-centred service that implies regular assessment and action planning to enhance the young person's development over time. It is not clear in the aims of the Assessment Centre how this practise principle is incorporated. One might assume that the assessment done by the Assessment Centre will form a basis and that this assessment will then be made available to the detention centre and organisation to which the juvenile is referred.

5.1.3 Statistics of youth offenders that have been assessed

The Cape Town Assessment Centre is the first assessment centre in South Africa to compile a comprehensive database on youth offenders that have been assessed at the Centre. The interpretation of this data affords one the opportunity to determine the extent of youth criminality in the Cape Town magisterial district. A total of 1618 juveniles were assessed within the first year of operation of the Centre (Meyer 1996:8). The statistics for the years 1995 to 1998 are as follows:

Figure 1

Number of juveniles assessed during the period 1995 to 1998



(* The number of juveniles assessed for 1996 is incomplete)

Figure 1 shows a gradual increase in the number of juveniles assessed at the Cape Town Assessment Centre over a period of four years. It is not clear whether this increase in numbers is related to an increase in crime amongst juveniles, or to policy change, namely that each child in conflict with the law is to be assessed by a probation officer. It is possible that the latter is more of an acceptable explanation for the increase, in that legislation has made it compulsory for all juveniles to be assessed at the Assessment Centre. In the past criminal cases against juveniles proceeded without the input of a probation officer.

Figure 2

Age distribution of youth offenders assessed at the Cape Town Juvenile Assessment Centre during the period 1995 to 1998

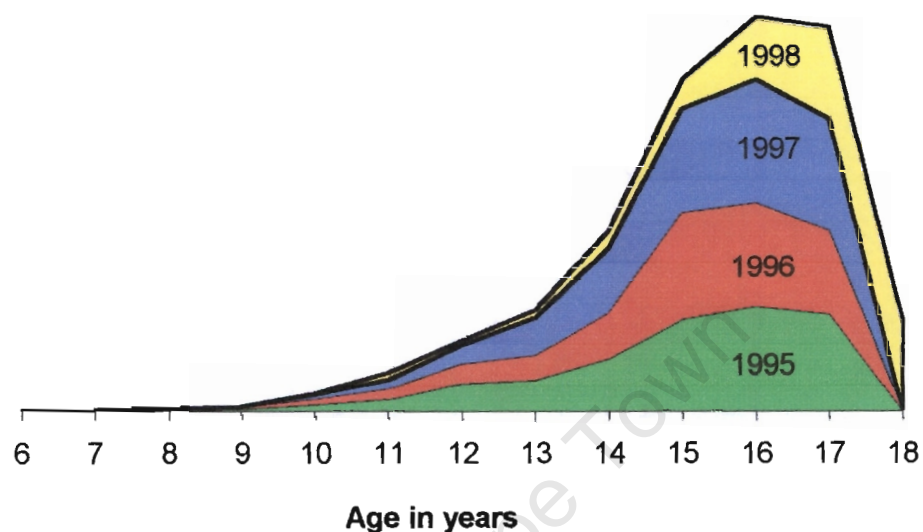
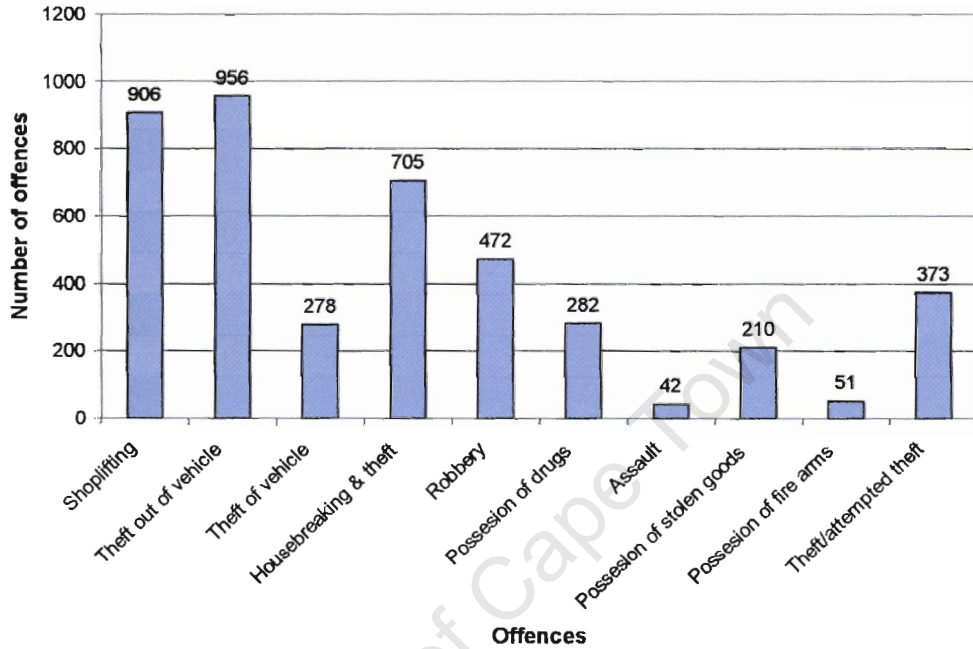


Figure 2 indicates the distribution of juveniles assessed over the four-year period according to their ages. It clearly shows that the majority of juveniles who are brought to the Centre fall within the age group of 14 to 17 years. The figures for the age group of 18 years appear to be skewed due to the difficulty of determining the true age of juveniles, especially when they are 18 years old but claim that they are 17 years of age or vice versa. Offenders over the age of 18 years lie about their age so as not to be tried as an adult. The Assessment Centre is not supposed to assess youths of 18 years or older. The mean age for juveniles assessed at the centre is 16 years. The youngest is 8 years old and the oldest 18 years.

Figure 3

Types of offences committed by youth assessed during 1995 to 1998



According to figure 3, the most commonly occurring crimes are shoplifting, theft and housebreaking. The incidence of more serious crimes is noticeably less. The above statistics are supported by analyses of data from the Central Statistical Services. Although the data analysed was for the period 1977 to 1996 the same trends are indicated in the type of offences committed, namely, 80% of juvenile offences were theft related (Muntingh 1999: 4).

5.2 FINDINGS OF EVALUATION DONE BY THE INTERMINISTERIAL COMMITTEE ON YOUNG PEOPLE AT RISK IN 1995

Early in 1995 the steering committee of the IMC requested an evaluation of the Cape Town Assessment Centre. Four researchers were briefed to evaluate the Assessment Centre, identify problem areas and make recommendations concerning identified problems.

5.2.1 Method evaluation

The research was done during February, March and April 1995 and the method of direct observation was used. It was supplemented by informal interviews with role players in the assessment process such as the probation officer, arresting officer, and public prosecutor.

5.2.2 Findings

In short, the findings were that holding facilities were not child-friendly even though the holding cell at Sea Point police station had been decorated with child friendly pictures. The juveniles' basic needs of food and medical attention were in most cases not met. Juveniles were often not brought to the assessment centre on time for after-hour's assessment and then had to be detained overnight in the police cells until the following day, when assessment could be done.

The probation officer on duty during the day was found to be efficient. This could possibly be ascribed to the fact that assessment was the person's full-time function. The night-time probation officers were found to lack initiative to act proactively in order to anticipate problems. It was further mentioned that assessment during the evening should include a recommendation regarding diversion options in order for the juvenile not to have to be reassessed the following day.

Pen-care, a community based group assisted with the locating of parents and bringing them to the court. However, it was felt that they were under-utilised.

The court itself was found to be very formal with a high wooden fence separating the magistrate from the rest of the court. The acoustics were poor and the magistrate was found to be unsympathetic at times.

5.2.3 Recommendations

The group of observers recommended that the assessment process be adapted in order to streamline the judicial process. After-hours assessment should include a decision whether a case should be diverted or not. It would then not be necessary for the juvenile to be reassessed the following day.

When assessing a case after-hours public prosecutors should use their power to make a decision regarding continuation with prosecution or diversion.

The holding facilities should be upgraded and provision should be made for basic needs like food and medical attention.

The Assessment Centre should be centralised to reduce the distances that juveniles had to be brought to be assessed. The operation hours of the Assessment Centre should be extended.

In general training of all role players is necessary to secure better co-operation. (Sloth-Nielson 1995:23)

5.3 THE PROCESS OF ASSESSMENT AND THE FUNCTIONS OF THE MAJOR ROLE-PLAYERS

The IMC incorporated the assessment centres into the transformation process of the juvenile justice system. In their "*Interim Policy Recommendations*" document of November 1996 the IMC set guidelines for assessment centres. In this document the Assessment Centre is described as an early intervention process that affords the opportunity to interrupt the chain of events that normally leads to the conviction of a young person.

In this document early intervention in respect of the young person in conflict with the law is divided into the arrest, reception, referral and diversion phases. (IMC 1996:35-39)

For the purpose of this study the early intervention process is divided into the following stages, namely, pre-arrest, arrest, assessment and the court process.

5.3.1 Pre-arrest

The Child Justice Bill (2002:17) makes provision for various options that can be implemented by the police officer other than arresting the youth in conflict with the law. These options are as follows:

- a) Requesting the child to accompany the police officer to the assessment centre
- b) Written notification to the child and the parents or family to appear at the assessment centre at a given date and time
- c) Granting of a recognisance by the police officer at the place of the arrest provided that the police officer informs the probation officer in the prescribed manner as soon as reasonably possible.
- d) Accompanying the child home and giving written notice to the child, parent or family to appear at the assessment centre on a given date and time
- e) Opening a docket for the purposes of consideration by the Director of Public Prosecutions as to whether there should be a preliminary inquiry or whether the child should be charged.

These alternatives to arrest will have the advantage that a juvenile will be spared the trauma related to being arrested and detained in a cell. The risk however is that the juvenile and the parents or family will not show up for the assessment which will then place additional pressure on current staff.

Currently a warning can be utilised as an alternative to arrest when a complaint has been received or the arresting officer observed the juvenile in committing a criminal act. The arresting officer then has the option of warning the youth or giving a formal caution, rather than arresting the juvenile. These options, however, depend on the nature and seriousness of the crime committed. Police are encouraged to use these options in less serious crimes. It is, however, not clear whether police are actually utilising these options.

5.3.2 Arrest

The IMC policy document (IMC 1996:35) refers to “arrest” as the initial contact between the young person and the arresting officer. This document recommends that the youth’s legal status be respected and that the management of the situation promotes the wellbeing of the juvenile. It is further suggested that a distinction be made between minor and serious offences. Alternative means other than arrest and detention, in order to secure the attendance of the youth at the reception centre of the court, are encouraged.

Training of police officers regarding the juvenile justice system should be on an ongoing basis to ensure that juveniles are treated in a respectable manner.

5.3.2.1 *The role of the arresting officer*

The arresting officer is the policeman/woman who has apprehended the youth. He/she has options other than arresting the child. This includes giving a warning or formal caution. If the young person is arrested he is first taken to the police station where a charge is laid and a docket is opened. The youth is then taken to the holding cells at the court for assessment. The Draft Child Justice Bill (1999:19) proposes that a child be brought to a probation officer for assessment within a 12-hour period after arrest.

At present should the arrest take place after 15h00 the youth can be detained at the youth cells at Sea Point Police station until taken to the Assessment Centre between 18h00 and 21h00 for assessment and appearance in court. Sea Point Police station was identified as the most suitable station to establish youth cells.

The arresting officer must provide the court with a docket and formal charge sheet. It is also the function of the arresting officer to determine the youth’s age or to arrange for the age to be determined by the district surgeon in cases where the age is in dispute. Should the juvenile need medical attention it is also the responsibility of the police to ensure that he/she receives the necessary medical attention.

One of the arresting officer's most important responsibilities is to find the parents or guardian of the juvenile. All efforts should be documented in the docket.

Transport from the charge office to the assessment centre is a responsibility of the police. The court orderly will then inform the probation officer that there is a juvenile in the holding cells and is responsible for taking the juvenile through to the probation officer.

5.3.2.2 *Holding cells*

The holding cell for arrested children forms part of the chain of holding cells for the Cape Town magistrate's court. Although the juvenile will not be locked up with adult offenders they are still able to hear everything that happens in the reception area and the adjacent cells. A difficult adult offender could be treated harshly and they will be able to hear everything, including foul language. The reception area and holding cells are poorly ventilated and they have a stale smell to them. Wooden benches are situated along the walls of the cell for the juveniles to sit on. Toilets are open and provide minimal privacy. Each cell only has one toilet and a basin that has to be shared by up to 15 inmates at a time.

The juvenile is kept in this cell from the time he is brought to court until he has to appear in court that day in order to prevent him from running away. The implication is that a juvenile can sit in the cell for up to 8 hours. He is only out of the cell for a short period when assessed by the probation officer.

5.3.3 Assessment process

After arrest the juvenile is taken to the Assessment Centre. The IMC (1996:37) refers to this process as "reception". The young person should be received in a child friendly environment after arrest. This includes any holding facility and the Assessment Centre itself. This does not actually happen. The juvenile is received in the same reception area where adult criminals are received.

The Assessment Centre appears to be the name that is given to the process and not a specific place. Although the probation officer has a large well-ventilated office it is rare that the juvenile is assessed in this space. The probation officer is

taken to the area of the holding cells, upon which the juvenile is removed from the cell. Assessment then takes place in an interview room next to the reception area. Furniture is limited and very old. There is poor ventilation and the noise level is high due to being so close to the reception area. This interferes with the interview process in that the young offender's attention is often diverted to happenings outside the interview room.

The only advantage of the close proximity of the interviewing room to the reception area appears to be the fact that the police at the reception desk would be able to protect the probation officer if necessary. The risk of the juvenile escaping is diminished.

5.3.3.1 *The role of the probation officer at the Assessment Centre*

The task of the probation officer is to assess the juvenile and to determine the most appropriate course of action. It is the responsibility of the probation officer to receive the dockets and arrange them according to date of court appearance. After assessment the probation officer hands the dockets to the prosecutor. The probation officer does not record any information on the docket, but only uses the docket to verify information such as name, date of birth, address and statement regarding the offence. The assessment is done on a separate document that is added as a supplement to the docket.

The probation officer assesses the youth and the parents if the parents are present. If not the probation officer continues the process of finding the parents or guardians and all possible attempts are made to trace the parents. The services of a family finder are used. The family finder is a person who physically goes out into the community and traces parents where they cannot be reached by other means such as a telephone. This service was only available after hours, but has been expanded to daytime at present.

The juvenile is assessed to determine whether he could be diverted away from the justice system. The requirements for diversion as set by NICRO in the booklet "Diversion: an Introduction to Diversion from the Criminal Justice System" (Muntingh 1997:19) are:

- Petty offence

- First/second offender
- Admission of guilt
- Parents or guardian must be present
- Fixed address or resident shelter

A recommendation is then made to the court regarding the placement of the child, attendance at diversion programme, conversion to children's court enquiry or to proceed with the case.

At present after-hour assessment is aimed at determining whether the juvenile can be released to his/her guardian or whether overnight placement in a suitable residential care facility should be arranged. Both the IMC (1996:44) and Sloth-Nielson (1995:21) proposed that the after-hour assessment include the implementation of diversion options to prevent the juvenile having to return to court the following day.

The probation officer is also responsible for record keeping of each juvenile that has been assessed. This information is captured in a computer database for future reference and research

5.3.3.2 *Assessment office*

The office of the probation officer is spacious with a lowered ceiling for improved acoustics. It is well aired and has sufficient light coming in through two large windows. However, a child appears very small in this open space, especially after being kept with up to 16 others in a cell much smaller than the office. The offender can experience this large office as an intimidating environment.

The walls of the office are brightened with children's art and child friendly posters explaining children's rights. The furniture, however, is old-fashioned government furniture and not very user friendly for a child.

This office is interlinked with the holding cells and courtroom 19. The probation officer thus has direct entrance to the courtroom. The juvenile is brought from the

holding cells to the office where he/she is assessed by the probation officer and then taken through the interlinked door into the back of court 19.

The families of the juveniles have waiting facilities in the passage in front of the court and can enter the centre through a third door.

5.3.3.3 *Assessment method*

A basic assessment questionnaire has been drawn up by the probation officer at the Assessment Centre for the purpose of assessment. The assessment form makes provision for the following: a reference number, docket details and biographic details of the offender. Other information that is found on the assessment form is the probation officer's written record of the circumstances of the young person and whether there has been previous action in terms of the Child Care Act. Lastly, a written evaluation and recommendation is made on the form (See appendix D).

Information is gathered through an interview with the young person and his/her parents, if present. Collateral contacts are made via telephone where possible. The questionnaire is completed and a recommendation is made.

Language appears to be a problem during assessment. Often the first language of the offender is Xhosa. Only one of the five probation officers taking turns at the after-hour assessment is able to speak Xhosa. The rest have to make use of an interpreter. Interpreters are not regularly available for after-hours assessment and in certain cases other juveniles are requested to interpret.

5.3.3.4 *Recommendation options*

After assessing the youth offender the probation officer then has to make a recommendation to the court regarding the course of action that should be implemented for a particular youth. A recommendation is made only after careful consideration of all the information gathered during the assessment.

"Referral" as explained in the IMC Document (1996:38) relates to the decision about how the case will proceed. The options for dealing with the case are

withdrawal of the charges, formal caution, children's court inquiry, diversion programme or criminal court. The referral is seen as a multi-disciplinary process and the police representative, prosecutor, probation officer, the juvenile and a family representative should partake in the decision making process. This does not appear to happen. The parent and youth are informed of the planned course of action, but they do not partake in the decision-making process.

Firstly, the probation officer must determine whether the youth concerned must be released or detained. The probation officer has the following recommendation options regarding detention:

- The juvenile can be released on a warning on his own cognisance, in the care of one or both of his/her parents, in the care of a guardian or a shelter and is warned to appear in court on a specific date.
- The juvenile can also be detained in a place of safety, childcare institution or in prison. Detention in prison is only used in the case of serious offences e.g. rape, murder.

Secondly, the probation officer has to make a recommendation regarding the further management of the case. The case can be withdrawn, diverted or proceed.

"Diversion" refers to channelling of the case away from the criminal justice system on certain conditions. (Muntingh 1997:7) Diversion creates the opportunity for the young person to be accountable for his actions and, where appropriate, to repair the damage done. Should a diversion option be implemented the criminal charge is postponed until completion of the diversion option. Successful completion of the diversion option will result in the criminal charge being withdrawn.

Currently the following diversion programmes run by NICRO (a non-government organisation) are available:

- YOUTH EMPOWERMENT SCHEME

This programme is a life skills programme that is comprised of six sessions held over six consecutive weeks. The programme is broadly aimed at

encouraging the young offender to behave within acceptable societal norms. The parents attend the first and last session.

Only youth offenders between the ages of 12-18, that have not committed a serious crime, plead guilty, have a fixed address, and have a parent or guardian that is prepared to take co-responsibility, are deemed to be suitable for inclusion in this programme.

- PRE-TRIAL COMMUNITY SERVICE

This programme allows the juvenile to serve a certain amount of hours at a non-profit organisation in his/her free time without pay. In this way the youth repays the community for the wrong he has done, by doing certain chores at the organisation. This normally implies helping with everyday tasks in the running of such an organisation. Record is kept of the hours spent at the organisation and the youth's progress is monitored by the organisation.

This option is considered when the offence is a fairly minor one, the prosecution wants to withdraw the charges but does not want the accused to walk away scot-free, the accused accepts guilt, is over the age of 14 years and has a contactable address.

- VICTIM OFFENDER MEDIATION

This is the process of facilitating communication between the victim and the offender after a crime has been committed.

Guidelines for selection suggest that the youth offender is over the age of 14 years, violent and sexual offences be excluded, the offender plans to plead guilty, the offender is willing to participate in mediation and the victim is identifiable and willing to participate in this option.

- FAMILY GROUP CONFERENCE

This programme is aimed at bringing the young offender, his/her family and the victims together to explore ways to correct the wrong for both the victim and the community. It is based on the notion that families and communities traditionally have dealt with offending and that they are the people who know best how to deal with this behaviour. The family conference gives the victim

the opportunity to have his/her story heard and to validate his/her needs and feelings.

The family group conference consists of three phases namely, the preparation, facilitation and monitoring phases.

This programme does not stipulate specific guidelines for inclusion, but rather emphasises the importance of preparation of all parties concerned before the conference takes place.

The desired outcome for such an intervention seeks to answer the following questions:

- How can an apology be meaningful in the given circumstances?
- What can be done to put the wrongs right?
- What needs to be learnt in order for the crime not to happen again?
- What can be done to help or strengthen the juvenile and his or her family?
- What creative means can be used in these circumstances?

Once these questions have been answered during the conference, a course of action is decided upon, implemented and monitored.

This diversion option aims to ensure that the juvenile takes responsibility for his or her own actions. It also ensures involvement in the decision-making process.

- THE JOURNEY PROGRAMME

The Journey programme presents problems to the youth through an adventure-base experiential outdoor intervention model. The aim is to empower young offenders to take control over their lives.

The programme consists of three phases. In the *separation phase* the juvenile is taken away from that which is familiar to the young person. They attend a two-week retreat away from familiar surroundings. During these two

weeks they have to submit to certain rules and partake in a range of activities which are designed to test their limits, confront their fears and heighten their sense of awareness and spirituality.

The second phase is referred to as the *transition phase*. This phase starts after return from the two-week separation. The group meets weekly for two hours during which they are taught life skills through experimental learning.

In the final phase, the *reintegration phase*, ceremonies of reintegration serve to celebrate the achievements of the young people. This phase also includes a six-month mentoring program to assist the young person in adjusting to everyday life.

The selection criteria include that only male children between the ages of 15-18 years are included. They should be mostly school dropouts, have no previous record of a sexual or violent offence and should not be recidivists.

5.3.4 The court process

Once the juvenile has been arrested, assessed and the docket updated the case proceeds to the juvenile court where the recommendation of the probation officer is considered by the magistrate.

5.3.4.1 *The role of the prosecutor*

The prosecutor presents the case to the court based on the information contained in the docket, which includes the recommendation of the probation officer. In the cases where a diversion option is implemented the case is remanded until such a date that the juvenile has completed the diversion programme. The senior prosecutor will then, on recommendation of the probation officer, withdraw the charges against the youth.

5.3.4.2 *Physical layout of court*

The court is a small room that has a formal layout with wooden partitions dividing the magistrate's bench from the rest of the court. Wooden partitions are also used to distinguish the witness- and offender stands from the rest of the court. A large table in the middle of the court indicates the space for the prosecutor and clerk of the court. The courtroom has four doors. The one door serves as an entrance for the magistrate. Another door allows for entry into the court for the public. A third door is linked with the holding cells and allows for the juvenile to enter the court. The fourth door is linked with the office of the probation officer.

5.3.4.3 *Recommendation options*

In terms of recommendations the probation officer is bound to the plea of the juvenile. Should the juvenile enter a plea of not guilty the case must proceed in the court. In the event that the juvenile pleads guilty the probation officer considers the various recommendation options mentioned under point 5.3.3.4.

The probation officer makes a recommendation in respect of whether the child should be detained and where, and also makes a recommendation in terms of the further management of the case.

5.3.4.4 *Detention*

A juvenile can be warned to appear in court on his/her own cognisance. He/she can be released in the care of a parent, guardian or shelter and warned to appear at court on a specific date.

The juvenile can also be detained at a place of safety, a childcare institution or prison. Detention is considered on the basis of risk to the child and the community.

5.3.4.5 *Further management of the case*

Based on the probation officer's assessment of the juvenile the following options for further management of the case can be considered:

- (a) *Diversion*: The probation officer considers the various diversion options as described earlier in this chapter in relation to the individual criteria for each programme. Conversion of the criminal case to a children's court inquiry is one of these options.
- (b) The probation officer can also recommend for the criminal case to proceed.

The docket (case file) that is presented to court will contain a recommendation in respect of detention and further management.

5.3.5 *The role of the magistrate and assessors*

The magistrate, assisted by two assessors, makes the final decision in the case. It is the responsibility of the magistrate and the assessors to ensure that the juvenile's rights have not been ignored and that he/she has been treated in a fair, respectful and non-threatening manner.

It is important that all the above role players are familiar with all the new developments in the juvenile justice system. This is achieved at the Cape Town Assessment Centre through monthly co-ordination meetings where the various role-players have a forum to discuss new developments in the field of juvenile justice and iron out possible problems. It is also important that all role players make the necessary paradigm shift in order for this new policy to be effective. This has been achieved to some extent. However, not all role players are attending the co-ordination meetings regularly.

5.3.5.1 *Recommendation options*

The magistrate has the final say in the process and has to weigh the best interest of the juvenile against the crime committed and the interest of the community.

5.3.6 Family Finder

At Cape Town court a family finder is used after hours to assist with the finding of the parents or guardians. The family finder is a person that knows the developing communities well and who is fluent in three languages, namely: Afrikaans, English and Xhosa. The expanding of this service to include daytime services is currently being investigated.

5.3.7 Data processing

The probation officer is responsible for keeping records of each youth that has been assessed at the assessment centre. The database at Cape Town Assessment Centre has been the only database in respect of juveniles brought to court in the Western Cape over an extended period. Other centres have recently started keeping databases.

5.3.8 Referral and follow-up

It is the opinion of the researcher that the step of referral and follow-up should be the most important step in the process of the assessment of juveniles. If the juvenile justice system truly wants to reduce youth criminality, aftercare of youth in conflict with the law should be a priority to prevent the youth from relapsing into crime. However, this appears to be the phase that receives the least attention.

The only cases that seem to be referred to outside organisations appear to be the cases where the probation officer recommended that the criminal case be converted to a children's court inquiry. Cases that were included in a diversion programme are monitored for completion of the programme in order for the criminal charge to be withdrawn.

It appears that no cases are referred to organisations for counselling or family interventions to take place on a preventative level. In accordance with the recommendations of the White Paper (1995:145) all children in conflict with the

law and their families should be referred for counselling. When necessary individual treatment plans should be implemented that includes continuous assessment. The question that arises however is whether the intervention was sufficient in dealing with the causes of the problem related to the juvenile committing a crime or whether it only dealt with the symptoms, i.e. with the manifestation (the deviant behaviour) instead of the underlying causes. The researcher is of the opinion that a more comprehensive intervention period than just a diversion option is necessary to effectively reclaim the youth for his/her community and family.

5.4 CONCLUSION

The Cape Town Juvenile Assessment Centre can be seen as a pilot centre that developed and is still developing hand in hand with the transformation of the juvenile justice system. The initial aims of the centre are still very much applicable in today's context but could be adapted to include more relevant changes in the juvenile justice system. Here the researcher is specifically thinking of the practice principles as set out by the IMC (1996:15-17).

Statistics play a very important function in the evaluation and improvement of services. The Cape Town Assessment Centre has a comprehensive database that has been kept over a number of years. It is clear from these statistics that there is an increase in the number of juveniles being assessed at the Centre. It also indicates that most juveniles fall within the age group of 14 to 17 years and that the prominent crime is theft. These statistics can effectively be used in planning and developing future diversion programmes.

The assessment process and the functions of role-players are clearly defined. A positive addition to the multi-professional team is that of the family finder. As the transformation process develops, so do the functions of role-players and more options of possible actions become available, specifically to the arresting officer as proposed in the Child Justice Bill (2002:14-24).

The recommendations as made by the IMC Steering Committee in 1995 were implemented, with the only exception of the after-hour assessment probation officer and public prosecutor still does not have the powers to complete the diversion process. In general the Cape Town Assessment Centre is a well functioning centre with excellent collaboration between the various role-players.

Chapter Six

PRESENTATION AND DISCUSSION OF FINDINGS

6.1 INTRODUCTION

Three different samples were used during the field study. The first sample consisted of some of the role-players involved in the Assessment Centre. Those included in this sample were five probation officers, one family finder and one public prosecutor. The second sample consisted of eleven of the thirty-three juveniles who were assessed during the period of the field study, and the last sample consisted of parents/guardians of the eleven juveniles who were sampled for the study. Separate interview schedules were used for each sample group.

Findings are presented in terms of each separate sample group. Where responses had a similar theme, these responses are presented in a summarised format.

6.2 DATA ANALYSIS

A total of twenty-eight semi-structured interviews were conducted during a one-week period at the Assessment Centre. The first eleven interviews were with a random sample of juveniles assessed during the specific period. Every third juvenile assessed by the Centre during the given one week period was selected to be interviewed for this study. This included the juveniles assessed after hours.

In the second sample all parents/guardians who accompanied the selected juveniles were interviewed. One juvenile was unaccompanied by a parent or guardian.

In the third sample various role-players including five probation officers, one family finder and one public prosecutor were interviewed.

The responses of each respondent were recorded on individual interview schedules. Thereafter, the responses of each cluster of role players, juveniles and parents/guardians were grouped together on a data sheet. General trends in responses were analysed. Each cluster's responses were first analysed

separately. Comparisons between the groups were made through a cross analysis.

6.3 FINDINGS

6.3.1 Views of probation officers, family finder and the public prosecutor regarding the Cape Town Juvenile Assessment Centre.

6.3.1.1 *The purpose of the Cape Town Juvenile Assessment Centre*

The various role players were asked for their views regarding the purpose of the Assessment Centre.

There is a general perception amongst the probation officers, public prosecutor and the family finder that the purpose of the Assessment Centre is to assess juveniles with a view to diverting the juvenile away from the justice system. Should diversion not be possible the role-players agreed that consideration of a suitable placement for the juvenile as a second purpose. Two probation officers were of the opinion that a further purpose is to expedite the case. One probation officer felt that an additional purpose was to lessen the trauma of the court experience for the juvenile. Only one respondent (probation officer) felt that a decision regarding the further management of the case forms part of the purpose of the Assessment Centre.

The public prosecutor, the family finder and the five probation officers share a common view on the purpose of the Assessment Centre and echo the main purpose of diversion and alternative placement for detention.

6.3.1.2 *The goals of Cape Town Juvenile Assessment Centre*

In the second question respondents were given the goals of the Assessment Centre stipulated in the literature. They had to give their opinion as to whether these goals had been achieved or not.

The public prosecutor, the family finder and five probation officers all felt that most of these goals had been achieved. There was a general feeling that the goal to determine the age of the juvenile is not achieved due to lack of co-operation with the district surgeon. One probation officer was of the opinion that there are not enough diversion options and thus not enough juveniles are

diverted away from the criminal justice system. The probation officer was also of the opinion that the current criteria for diversion programmes are too strict. This results in a large number of juveniles that cannot be considered for diversion.

All of the respondents agreed that the goals of the Assessment Centre as stipulated in the above mentioned documents are achieved with the exception of the goal of determining the age of the juvenile. District surgeons appear to be reluctant to see patients after hours. The implication is that juveniles of eighteen years and older enter the system, which holds a danger for juveniles under the age of eighteen.

6.3.1.3 *Developmental assessment*

The respondents were asked a two-part question. In the first part they had to give their own understanding of the term "*developmental assessment*". In the second part of the question the elements of developmental assessment as defined by the Inter Ministerial Committee on Young People at Risk (1996:5) were given to them and they had to comment on whether these elements are actually incorporated at the Assessment Centre in assessing juveniles. They also had to indicate - in terms of priority - which elements should still be implemented or receive more attention.

In the first part of the question 57% of the respondents had a good idea of what developmental assessment is and were able to identify some of the elements. The public prosecutor was unfamiliar with the concept and referred to it as "something the probation officer should know about and do". Forty percent of the probation officers were unsure of what is meant by 'developmental assessment'.

The response of the public prosecutor is interesting in that it indicates a role division between the probation officer and the prosecutor. It also highlights interdependency between the two professions in that the prosecutor relies on the probation officer to do justice to the child. On the other hand it can also show ignorance of the prosecutor in respect of the transformation of the juvenile justice system. Were the prosecutor to have more knowledge on the aspect of developmental assessment, it could serve as a built-in check for probation officers to do a proper assessment of juveniles. The fact that 40% of the probation officers were unsure about the meaning of the concept

“developmental assessment” raises some concern. Probation officers are the people directly responsible for assessing juveniles.

After having been given the elements of developmental assessment, 100% of the respondents indicated that the assessment done at the Assessment Centre was developmental in nature. One probation officer was of the opinion that more attention should be given to a multi-disciplinary approach, especially where schools are concerned. This probation officer felt that teachers have valuable information regarding the child within the school environment and that this information should contribute to a better understanding of the juvenile. Time constraints, person power and juveniles lying were highlighted as challenges in applying a developmental assessment by 57% of the probation officers and the one family finder.

After having been given the elements of developmental assessment it appears that more respondents recognised the concept, but were unfamiliar with the terminology of ‘developmental assessment’. A multi-disciplinary approach was highlighted as one of the elements that should receive more attention at the Centre. The respondents also highlighted other constraints in a developmental assessment. According to the respondents manpower and time constraints, followed by juveniles not telling the truth hampers the process of a proper assessment and thus influences the decision on further management of the case.

6.3.1.4 Recommendations made for the Cape Town Juvenile Assessment Centre in the 1995 evaluation by the IMC.

During 1995 the Inter Ministerial Committee on Young People at Risk commissioned NICRO to evaluate the functioning of existing assessment centres. Certain recommendations were made (see chapter 5). These recommendations were put to the current respondents and they had to indicate whether they were of the opinion that these recommendations had been implemented and if not, which recommendations are still applicable today.

One probation officer was of the opinion that none of these recommendations had been implemented. Three of the five probation officers interviewed, as well as the public prosecutor and the family finder felt that the recommendations had all been implemented at some stage, but that some had changed due to other

priorities that developed over the years. It was, for instance, recommended that the operational hours of the Centre should be extended. At that stage the after-hour probation officer was available from 16h00 to 22h00. Currently the after-hour probation officers are called when there are children to be assessed. Assessment takes place between 18h00 and 20h00. One respondent indicated that only some of the recommendations had been implemented.

Seventy one percent of the role players (probation officers, public prosecutor and family finder) were of the opinion that the after-hours prosecutors should be given greater powers to enable them to finalise a diversion option or withdrawal of a case. The prosecutor and one probation officer disagreed with this view. The prosecutor was of the opinion that only a senior public prosecutor can make a decision of diversion. The probation officer indicated that the NGO's responsible for diversion programmes are not available after hours. A placement can thus not be arranged with them after hours. The lack of medical attention to the juveniles was raised as a concern by 86% of the respondents. Two the probation officers were concerned about the conditions in the holding cells and felt that this aspect should be improved.

In addition two probation officers and one family finder felt that the SAPS should receive specialised training in dealing with children. One probation officer was concerned that some of the SAPS members still beat the children when they arrested them.

It is clear from the responses that not all recommendations made during the evaluation of the Assessment Centre in 1995 are still applicable today, mostly because the situation has changed or other priorities have been identified. The concerns raised are mostly regarding the treatment of the juveniles as well as the conditions in which they are being detained until they are assessed. Training of SAPS members on dealing with children and medical attention was highlighted as a need. One wonders if the so-called lack of co-operation of the district surgeon to determine the age of juveniles is also the reason for a lack of medical attention.

6.3.1.5 *Views on the implementation of the practice principles as set out by the Inter-Ministerial Committee on Young People at Risk (1996:15).*

The respondents were asked to what extent these principles (see pages 34, 35, 36 of chapter four) had been implemented at the Assessment Centre.

All the respondents were of the opinion that these practice principles are being implemented in one form or another.

The public prosecutor and one probation officer were of the opinion that enough has been done and that no further attention is needed in this regard. Four probation officers and one family finder identified the following practice principles: "child-centred services", "continuity of care" and "family-centred services", as principles that should receive more attention. One other respondent was of the opinion that the practice principles of "normalisation", "empowerment" and "participation" should also receive attention.

The following additional comments were made by the respondents. The family finder was of the opinion that parents do not take enough responsibility for their children. One probation officer felt that there are too many role players involved in the process and that this created too many loopholes in the system. Two probation officers emphasised the fact that most juveniles don't tell the truth about their age or identity and this hinders the process of assessment. The public prosecutor was of the opinion that more institutions are needed to get children off the street.

Probation officers and the family finder see the practice principles recommended by the IMC (1996:5) as guidelines for rendering a service to young offenders. In general it appears that they are following these guidelines as far as practically possible for them in the time they spend with the juvenile. There are, however, concerns that services are not child and family centred enough. A concern is also raised regarding the continuity of care. Very few cases are referred for further social intervention after the case has been finalised, diverted or withdrawn.

6.3.2 The offenders processed at the Assessment Centre.

6.3.2.1 Profile of the juvenile offenders

6.3.2.1.1 Gender

		Frequency
GENDER	Male	6
	Female	5

The random sample of juveniles selected consisted of 55% male and 45% female.

6.3.2.1.2 Age

		Frequency
AGE	15	4
	16	5
	17	2

Thirty six percent of the respondents were 15 years of age and 46% were 16 years old. Those 17 years of age constituted 18% of the sample. The age distribution of the sample confirms the results in the figure 2 in chapter five on the age distribution of youth offenders assessed at the Cape Town Assessment Centre for the period 1995-1998. The majority of youth offenders are between the ages of 15 to 17 years.

6.3.2.1.3 Types of crime committed

		Frequency
Types of crime	Theft	4
	Shoplifting	5
	Robbery	1
	Attempted rape	1

Shoplifting was the offence committed most frequently, namely by 45% of the respondents interviewed. The second most frequently committed offence was theft. Thirty six percent of the respondents had committed a crime of theft. The high incidence of shoplifting and theft are in correlation with statistics obtained from the database of the Assessment Centre. (See figure 3, chapter five)

6.3.2.1.4 Frequency of diversion

		Frequency
Diversion	Diverted	3
	Not diverted	8

Only 27% of the cases were diverted during the week of the study. The other 72% of cases were remanded for another date to be finalised. This figure is influenced by the seriousness of the crime, whether the juvenile pleaded guilty to the offence and the availability of the senior public prosecutor who has the final say as to whether a case will be diverted or not.

6.3.2.2 Arrest procedure

The sample of eleven juveniles were asked various questions regarding their experience of the arrest. Three of the eleven juveniles interviewed reported that

violence had been used during their arrest. In their report of the incident it appears that violence had been used by security guards from private companies and not by the members of the SAPS. Ninety one percent of the respondents reported that the arresting officer had explained to them what they had done wrong at the time of the arrest. According to 64% of the respondents the arresting officer had explained the rest of the process in terms of being detained, assessment and court appearance. Of the 11 respondents, six reported that their parents had been informed of their arrest and court appearance. One respondent was not sure whether her parents had been informed.

In additional comments made by three of the eleven respondents, one respondent reported that he had not been given the opportunity to tell his side of the story during the arrest. One respondent indicated that she did not mean to steal. Another respondent said that the arresting officer had informed him about his rights, but that he was not allowed to execute them. He was not allowed to contact his mother.

According to the respondents, juveniles appear to be treated fairly during the process of arrest. They are generally informed about what they have done wrong and the process of assessment and court appearance is explained to them. Arrest of any person however remains a traumatic experience, especially for a young person.

Violence reported during arrest appears to be perpetuated mainly by private security staff rather than by the SAPS. This indicates that training of role players in dealing with children should include private security companies.

6.3.2.3 The holding cells

The eleven juveniles were asked how they experience the physical condition of the holding facilities. Seven of the total of eleven respondents reported that they found the holding cells clean. All reported having access to drinking water and toilet facilities. One of the eleven respondents reported not having been given food while he was detained in the holding cells. Two respondents reported having needed medical attention and that they reported this to the police officer, but that they never received any medical attention. The average number of juveniles being detained in one cell is four according to five of the respondents.

Only one respondent reported having been detained with eleven other juveniles. One respondent was detained alone and experienced this as “very scary”.

Additional information given by individual respondents is as follows:

One reported that foreign objects like razor blades and sharpened pieces of wire were lying around in the cell.

One reported that the police cell in which he had been detained had been in a physically neglected state.

One respondent reported there had not been enough blankets between the four young persons who had been detained in one cell.

Respondents found the holding cells as having been adequate. There were however individual complaints and incidents like the physically neglected state of a police cell and the sharp objects lying around that raise some concern. It is interesting to note that based on their responses, the probation officers are more concerned about the child friendliness of the holding cells than the juveniles themselves.

6.3.2.4 Assessment of young offenders

A further group of questions put to the eleven juveniles focussed on their experience of the assessment by the probation officer.

All respondents reported that they had understood the questions put to them by the probation officer. Two of the eleven respondents reported that they were not given the opportunity to tell their side of the story and that the probation officer did not explain the further management of the case to them. The rest felt they were able to tell their story and that it had been understood. Nine of the eleven respondents reported that they had felt safe and comfortable speaking to the probation officer.

One respondent made the additional comment that she felt that the probation officer had done her work well and that she was put at ease by the probation officer.

From their responses it appears that juveniles experience assessment as positive in that the probation officer succeeded in creating a safe environment for them allowing them to feel understood and free to ask questions.

6.3.2.5 The court environment and process

Respondents were asked about their experiences in the courtroom.

Eighty two percent of juveniles reported the court as being a "scary place". The two 17 year old juveniles reported feeling comfortable. They also had previous convictions and were thus familiar with the court environment. The majority of the respondents however felt that the courtroom was a "scary place" to be in. Only two respondents reported feeling comfortable in the courtroom. Five of the eleven respondents reported that neither the public prosecutor nor the magistrate had explained the process in the court to them. All eleven reported that the language used in the court was aimed at their level and that they were able to understand what was asked. Only three juveniles reported that they had been given the opportunity to tell their side of the story in court. The other nine reported that their cases had been postponed without explanation. No additional comments regarding the court procedure were made.

The majority of the juveniles were afraid of the courtroom and it is clear that not enough time is spent in the court to address these fears or to explain the procedure in the court to them. It is possible that the court role is too full and that the public prosecutor is pressed for time to finalise the cases for the day. It is also possible that the judicial staff assume that probation officers will address all these issues.

6.3.2.6 The role of the family in the court procedure

Respondents were asked how they experienced having family members present at court. Two of the eleven reported that their parents/guardians were not present at court. One of these two respondent's older sister was however present at court. Sixty four percent of the respondents preferred not having their parents/guardians present at court. However one respondent said she had felt alone and would have preferred having her parent present at court. Only two respondents reported being comfortable with a family member present at court.

When asked whether parents should be present at court, five reported affirmatively and five negatively. One respondent suggested that the choice should be left to the juvenile whether he wants his family present or not.

It is clear, therefore that the respondents were divided as to whether parents should be present at court or not. The majority of juveniles felt embarrassed by having parents present at court. Others were able to identify the support value of family being present. The confused response by the juveniles on this question is very much in line with the developmental phase they find themselves in.

6.3.2.7 Outcome of the court case

In six of the 11 cases the respondents reported that they did not plead guilty and the case was postponed for a hearing. In four of the cases diversion was recommended. Two of these cases for diversion could not be finalised due to the senior prosecutor not being available. These two cases had to be postponed. In one case diversion could not be considered due to other outstanding charges against the respondent and the serious nature of his offence.

It is clear that very few cases are diverted due to constraints on the part of the judicial system. All levels of prosecutors should be allowed to make a decision regarding diversion of a case or not. Postponing cases only increases the workload of another day.

6.3.3 Views of the parents/guardians regarding the treatment of their children

Parents/guardians were asked how they felt about the treatment of their children and whether they perceived the current juvenile system as fair. Only ten parents/guardians were interviewed. One of the eleven juveniles appeared at court without parents or guardian and one with his sister.

Nine of the ten parents reported feelings of sadness, shock, anger and "just feeling bad" about their child's involvement in crime. One parent reported not feeling responsible for what her child had done. Only one parent felt that her child had not been treated fairly due to the fact that he was not allowed to call her after his arrest.

Five of the nine respondents indicated that parents should be present at court. Four indicated that parents should not be present. Their reason being mostly a loss of income while they sit and wait at court. One respondent was of the opinion that she did not tell her child to steal and therefore he had to deal with his wrongdoings on his own.

All except one respondent reported that they had been sufficiently informed about the process by the probation officer.

Six of the respondents were unable to indicate whether they were satisfied with the outcome of the case due to the cases of their children having been postponed. Only three of the respondents reported that they were satisfied with the outcome of the case. One parent did not comment.

None of the nine respondents reported that they had been referred to an outside organisation for assistance. One respondent reported having the involvement of a social worker since before the offence.

Additional comments of two of the respondents focussed on their dissatisfaction with the fact that their children had been detained. One parent felt that she needed social work intervention as she is a single parent and unable to cope alone with her child's deviant behaviour.

The majority of the parents indicated that parents should be involved in the court process even though it is painful to them. The postponement of cases aggravates parents, who commented on the loss of income while having to sit at the court all day.

6.4 DISCUSSION OF FINDINGS

The findings indicate that the role players, especially the probation officers and family finder, have a general knowledge of the major concepts in the transformation of the juvenile justice system. Probation officers follow practise principles as proposed in various policy documents. They are able to do a developmental assessment of the juvenile and engage the parents/guardians when present at court. The assessment process appears to be empowering for most of the juveniles in that they reported feeling comfortable with the probation officer.

An area that is neglected is that of the continuity of services. None of the juveniles or their families had been referred to a welfare organisation for services or support. Where cases against juveniles were withdrawn or diverted, no further intervention with the family was recommended.

A limitation of this study is the fact that only one respondent was from the judicial system. Caution must therefore be taken in interpreting the views of the public prosecutor. However, it appears that the public prosecutor viewed herself as not being directly part of the transformation of the youth justice system. The prosecutor appears to depend on the probation officer's advice and assumes that whatever is recommended is in line with the transformation of the youth justice system. The public prosecutor still had the attitude of getting children off the street and placing them in institutions and if there is not enough space, to build more.

It is also clear that the justice system, namely the juvenile court, is not doing enough to finalise cases against juveniles as quickly as possible. Only one senior public prosecutor is responsible for making a decision as to whether a case will be diverted or not. If that person is not available, cases for diversion are postponed to another day, unnecessarily increasing the workload of the court. This practise is also contrary to suggested policy.

The juveniles' responses in terms of their experiences in the courtroom reflect a lack of transformation on the part of the court. They are not given the opportunity to speak and decisions were not explained to them. Their reports of being "scared" indicate that the courtroom is not a child friendly environment.

Aspects that should receive attention as highlighted by the role players are the determination of age and medical attention to juveniles.

Not all recommendations as suggested by a 1995 evaluation of the Assessment Centre have been implemented. However, it does not seem that all the recommendations made in 1995 are still applicable today. The operational hours have for instance been reduced due to budgetary constraints. Nevertheless, a service is available when needed. Juveniles arrested after-hours are brought to court and the reception officer on duty phones the probation officer, prosecutor and the magistrate on duty to convene the court. The majority of the respondents still feel that more powers should be assigned to the after-hours prosecutor in

order to finalise court cases there and then. The number of cases in this study alone that were postponed due to senior prosecutor not being available to divert them confirms this need.

The profile of juveniles included in this study confirms the profile in terms of gender, age and types of offences as analysed from the data at the Assessment Centre. It reflects that the mean age of juvenile offenders is 16; the most frequent crime is shoplifting and that only a small percentage of cases are diverted. A study done by Muntingh (1999) had the same findings. Juveniles in general were satisfied with the manner in which they were treated during the process of arrest, detention, assessment and the court procedure. Their responses confirm that youth justice role players are implementing practise principles in order to make this experience an empowering one for the juvenile.

Individual concerns were raised in terms of violence used during arrest, not receiving medical attention and the physical state of the holding cells. The violence incidents reported emphasise that private security companies should be included in training on dealing with children in conflict with the law, and on the youth justice system generally.

Juveniles are in disagreement in their views as to whether parents should be present at court or not. This should be interpreted within the context of the developmental stage they find themselves in. In the teenage phase, individuals naturally tend to question authority (e.g. parents) as they move towards becoming independent.

The responses by the parents confirm that they have become part of the assessment process at court. They are informed about the process and in general are of the opinion that their children were treated fairly.

A concern however is the fact that some parents reported losing income while spending the day at court. Parents should somehow take responsibility for what their children have done, but the court should cushion the impact by finalising cases sooner and not wasting parents' time by having to come back to court.

Chapter Seven

CONCLUSIONS AND RECOMMENDATIONS

7.1 INTRODUCTION

This study was undertaken to evaluate the progress made in the implementation of the recommendations for transforming the juvenile justice system at the Cape Town Juvenile Justice Assessment Centre and thus contributing to the progress in this regard. The study included a literature survey in which the various policy documents influencing and guiding the transformation of the juvenile justice system since 1994. In addition a comparison was made with the juvenile justice systems of selected countries (i.e. United States of America, United Kingdom, and Kenya). The objectives of the study were achieved through an empirical study that used the semi-structured interview technique to gather data from various role-players involved in the Assessment Centre.

In this chapter the conclusions drawn from the literature and empirical study and the recommendations will be presented.

7.2 CONCLUSIONS

The conclusions drawn from the findings are as follows:

Policy documents i.e. the White Paper on Social Welfare and the recommendations made by the Inter-Ministerial Committee on Young People at Risk are clear in the goals of the assessment centre. The assessment centre aims to divert juveniles away from the justice system, (including their families in the process) securing a suitable placement for detention, and determining the age when in dispute. The aims of the Cape Town Juvenile Assessment Centre are in line with the recommendations of the various transformation documents are clearly incorporated in the views and opinions of the various role-players involved at the Assessment Centre.

However the study found that only a small number of cases are diverted. Possible explanations are too strict criteria for diversion, that exclude second- and third-time offenders to be considered for diversion, and the availability of the senior public prosecutor, who has the decision making power.

Age determination in cases where the ages of juveniles are in dispute is also problematic. A lack of co-operation between the Assessment Centre and the office of the district surgeon emerged from the study. The district surgeon is also the only role-player that is not represented on the co-ordinating committee of the Cape Town Juvenile Assessment Centre.

The promotion of a developmental approach is an attempt to move away from a problem-centred approach to that of a developmental approach where the individual's circumstances are evaluated in relation to that of his family, community and his developmental stage. Probation officers included in this study had a clear understanding of the developmental assessment approach. The process of developmental assessment, however, appears to be too lengthy to implement, especially with high caseloads and a lack of manpower. Pressure for time often, prevents a thorough assessment from being done.

The researcher is of the opinion that public prosecutors need training in developmental assessment and should not just rely on the information given by the probation officer. The aim of the transformation of the juvenile justice system is to create an empowering experience for the juvenile and his/her family. An understanding of the youth in context of his family, environment and developmental stage will influence the way a person responds to the individual. This knowledge and the implementation thereof will contribute to a more positive experience in the courtroom.

In their recommendations, the Inter-Ministerial Committee on Young People at Risk lay down practice principles for the transformation of the juvenile justice system. Probation officers view these practice principles as guidelines and acknowledge that more can be done, especially in terms of the principles of "family centredness" and "continuity of care". There is an effort on the part of the probation officers to implement these practice principles, but the same effort by the rest of the role-players was not visible in the courtroom.

The White Paper on Social Welfare places specific emphasis on the involvement of families and continued intervention services to juveniles and their families. However, it appears to be normal practice that cases are not referred for social services intervention unless the criminal case was diverted to a children's court inquiry.

In measuring their own progress in terms of the transformation of the juvenile justice system, the role-players showed basic knowledge of what is expected, made a reasonable effort to implement policies and practice principles, and were also able to identify gaps where they feel improvement is needed.

Progress can still be made on a few levels, namely holding cells, child-friendliness of the court room and the court process, delegation of decision making power for diversion and referral of juveniles and their families for further intervention.

Although it may be an embarrassing experience, family members prefer to be involved in the process at the Assessment Centre. They reported fair treatment of their children and felt sufficiently informed about the process. The juveniles on the other hand prefer to have the choice as to whether their parents/guardians should be involved in the process.

It was clear that juveniles are aware of their rights and that they are of the impression that their rights are respected by most of the role-players involved in the assessment process.

In general, the Cape Town Juvenile Justice Assessment Centre functions well and makes efforts to get new systems like a computerised data system, friendly environment, co-ordination committee, training, and assessment forms, in place and to improve on existing ones. The centre has a sound database and clear procedures. The monthly co-ordinating meetings with role-players ensures that challenges are dealt with in a positive manner.

7.3 RECOMMENDATIONS

The following recommendations are made:

- Decision making powers in terms of diversion should be delegated to all prosecutors. Not only the senior prosecutor should have that power. This will streamline the process of diversion and reduce the number of cases on the court roll.
- The judicial staff should be trained in practice principles and development assessment. Progress in the implementation thereof should be monitored.
- A workable agreement should be formulated with the office of the district surgeon to become part of co-ordination committee.
- More diversion options should be explored and criteria for diversion should make provision for second- and third-offenders, where offences are not of a serious nature.
- More manpower should be made available in order to allow for proper developmental assessment. The developmental assessment forms one of the corner stones of intervention with juveniles. A proper assessment will contribute to a successful intervention.
- Juveniles and their families should be referred to outside welfare agencies to continue the intervention plan for the family. This might prevent juveniles from re-offending.

7.4 FUTURE RESEARCH

It is recommended that further studies be undertaken to determine:

- (a) The effectiveness of diversion as an intervention and,
- (b) Alternative sentencing options

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BIBLIOGRAPHY

ARKAVA, M L & LANE, T A. 1983. **Beginning Social Work Research**.
Massachusetts: Allyn and Bacon Inc.

BLESS, C & HIGSON-SMITH, C. 1995. **Social Research Methods: An African Perspective**. Second Edition. Kenwyn: Juta & Co Ltd.

BRENDTRO, LARRY K, BROKENLEG, M AND VAN BOCKEN, S. 1990. **Reclaiming Youth at Risk**. Atlanta: National Educational Service

COBB, N J. 1995. **Adolescence Continuity, Change, and Diversity**. Second Edition. Mountain View: Mayfield Publishing Company

DE VOS, A S. 1998. **Research at Grass Roots: A primer for the caring professions**. Pretoria: J L Van Schaik Publishers.

JUVENILE JUSTICE FOR SOUTH AFRICA. 1995. **Proposals for policy and legislative change**. Cape Town: Allies Printers.

INTER-MINISTERIAL COMMITTEE ON YOUNG PEOPLE AT RISK. 1996. **Interim policy recommendations**. Pretoria. November .

INTER-MINISTERIAL COMMITTEE ON YOUNG PEOPLE AT RISK. 1998. **Report on the Pilot Projects**. Pretoria. .

KRATCOSKI, P AND KRATCOSKI, L. 1990. **Juvenile delinquency**. New Jersey: Prentice Hall.

LOUW, D A, VAN EDE, DM AND LOUW A E. 1998. **Human Development 2nd ed**. Pretoria: Kagiso Publishers.

MARSHALL, C AND ROSS, G B. 1989. **Designing Qualitative Research**. London: Sage Publications.

MEYER, K. 1996. **Assessment Centres: Towards a more Child-friendly Justice**

System. **Child & Youth Care** Vol. 14 No 1, January 1996:8-9.

MILES, M B AND HUBERMAN, A M. 1994. **An expanded Sourcebook Qualitative Data Analysis**. London: Sage Publications.

MORRIS, A AND GILLER, H. 1987. **Understanding Juvenile Justice**. Worcester: Billing & Sons Limited.

MUNTINGH, L M & SHAPIRO, R J (eds). 1997. **Diversions: an introduction to diversion from the Criminal Justice System**. Cape Town: Royal Dutch Embassy.

MUNTINGH, L M. 1999. Statistics: Youth Convictions. **Article 40**, volume 2, August 1999:

NEINSTEIN, Lawrence S, MD. 1996. **Adolescent Health Care – A Practical Guide**. Third Edition. Lippincott: Williams & Wilkins

ROBSON, C. 1996. **Real World Research**. Massachusetts: Blackwell Publishers Inc.

SKELTON, A. 1999. African Focus: Juvenile Justice in Kenya. **Article 40** Volume 2, August 1999.

SLOTH NIELSEN, J & MUNTINGH L M. 1995. **Cape Town Magistrates' Court Assessment Centre Evaluation Report**.

SLOTH NIELSEN, J & MUNTINGH L M. 2001. **Juvenile Justice Review 1999-2000**

SOUTH AFRICA. 1983. **Child Care Act no 74 of 1983**.

SOUTH AFRICA. 1991. **Probation Services Act no 116 OF 1991**.

SOUTH AFRICA .1995. **Correctional Services Act no 8 of 1995**.

SOUTH AFRICA. 1996. **Correctional Services Amendment Act no 14 of 1996**.

STEERING COMMITTEE FOR PROJECT GO, 1997. **Business plan**.

TERMINOLOGY COMMITTEE FOR SOCIAL WORK. 1995. **New Dictionary of Social Work**. Pretoria: Government printer.

THE SOUTH AFRICAN LAW COMMISSION'S PROJECT COMMITTEE ON JUVENILE JUSTICE. 1998. **Draft Child Justice Bill**.

THE SOUTH AFRICAN LAW COMMISSION'S PROJECT COMMITTEE ON JUVENILE JUSTICE. 2002. **Child Justice Bill**.

TSHIWULA, J L. 1995. **The Development and Evaluation of a Preventative Programme for Juvenile Delinquency**. Doctoral dissertation: University of Port Elizabeth

UNITED NATIONS STANDARD MINIMUM RULES FOR THE ADMINISTRATION OF JUVENILE JUSTICE. **The Beijing Rules**. Resolution 40/30. Nov 1985.

WHITE PAPER FOR SOCIAL WELFARE. 1997. **Government Gazette, no.16943**. Notice 57 of 1996. Pretoria: Government Printer.

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APPENDIXES

➤ QUESTIONS FOR MULTI PROFESIONAL TEAM	A
➤ QUESTIONS FOR JUVENILES	B
➤ QUESTIONS FOR FAMILY MEMBERS/GAURDIANS PRESENT AT COURT	C
➤ ASSESSMENT OF YOUNG PERSON	D
➤ UNDERTAKING FOR TO COMPLETE DIVERSION PROGRAMME	E
➤ SWORN STATEMENT	F

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