

**Case studies  
of children with experience of  
the criminal justice system  
in South Africa**

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**An exploratory study**

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In association with the

**CHILD JUSTICE ALLIANCE**

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Opinions expressed and conclusions arrived at are those of the authors and are not necessarily to be attributed to the Child Justice Alliance or the Swiss Agency for Development and Co-operation.

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## **Abbreviations used in the report**

CBO	Community-based organisation
CJA	Child Justice Alliance
CJB	Child Justice Bill
CRC	Convention on the Rights of the Child
CSIR	Council for Scientific and Industrial Research
CSVV	Centre for the Study of Violence and Reconciliation
Idasa	Institute for Democracy in South Africa
IMC	Inter-Ministerial Committee on Young People at Risk
NGO	Non-government organisation
NICRO	National Institute for Crime Prevention and Reintegration of Offenders
RDP	Reconstruction and Development Programme
RJC	Restorative Justice Centre
SALC	South African Law Commission
UCT	University of Cape Town
UN	United Nations
UNDP	United Nations Development Programme
UWC	University of the Western Cape

## **Background**

The Child Justice Alliance (CJA) is a network of NGOs, CBOs, academic institutions and individuals working to promote informed debate during deliberations of the South African Law Commission's Child Justice Bill (CJB) through the parliamentary process<sup>1</sup>. The Alliance was established to facilitate co-operation between members of civil society and other interested parties. Funding for the CJA research programme has been secured from the Swiss Development Corporation, and member organisations of the CJA Driver Group<sup>2</sup> also contribute to the research programme and other activities of the CJA.

One of the main objectives of the Alliance is to ensure that the debates about the CJB are well informed. In order to fulfil this objective the CJA has initiated six inter-related research projects that build on existing information, as much as is possible and feasible, within designated time frames, in order to assist the passage of the CJB through the parliamentary process. The first project was the compilation of an annotated bibliography that categorises available research and literature used in the process of investigating and drafting the CJB. Following on from this project, a report was produced that identified and prioritised the existing gaps in the above body of research on child justice issues. Amongst its various findings, the report identified that, although there has been a number of studies into the presence of children in the criminal justice system, there seems to be a lack of information on the actual backgrounds and experiences of these children.

This study represents an attempt to venture into this relatively uncharted territory and to identify salient issues and themes which may then set the terms of reference for future, more in-depth research into the experiences of children who have encountered the criminal justice system within South Africa. Since it is a pioneering and explorative study, it does not attempt to infer theories or generalise results. It uses a very small sample and, from this sample, it offers qualitative data that the authors hope will stimulate further interest and inquiry into the lives of the children behind the statistics.

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<sup>1</sup> For further information on the CJA see [www.childjustice.org.za](http://www.childjustice.org.za)

<sup>2</sup> The members of the CJA Driver Group are: Community Law Centre (UWC), CSIR Crime Prevention Centre, NICRO National, Institute of Criminology (UCT), Lawyers for Human Rights, Idasa, and the Restorative Justice Centre.

## Introduction

### Where are the children and why?

At present there are over 5000<sup>3</sup> children under the age of eighteen being held in criminal justice institutions throughout South Africa. According to the latest available figures from the Department of Correctional Services, the vast majority (3833) of these children is being held in prisons where they constitute approximately 2.2% of the total prison population. More than half of these children are awaiting trial. Children accused of criminal offending are also found in other criminal justice institutions, including places of safety<sup>4</sup>; secure care facilities<sup>5</sup>; and reform schools<sup>6</sup>. In addition, there are children who, although they may not find themselves behind the four walls of an institution, are equally subject to the authority of the criminal justice system through other 'non-institutional' criminal justice options, such as correctional supervision and diversion programmes.

The holding of large numbers children in criminal justice institutions is by no means a new phenomenon in South Africa. During the 1970s and 1980s thousands<sup>7</sup> of children were detained in terms of the emergency regulations for political offences. But during this period there were equally large numbers of children awaiting trial on crimes which were non-political in nature but which could invariably be traced to the prevailing socio-economic ills caused by apartheid (Potgieter and Skelton, 2001).

Although political detention of children is now a rare occurrence, the country's criminal justice institutions continue to be occupied by relatively high numbers of children involved in non-political crime. Figures taken in January 1998, compared with those made available in July 2000, illustrate that there has been a steady increase in the numbers of children serving prison sentences, and numbers have almost doubled over this period (Muntingh, 2001a). Studies show that the majority of these children are sentenced for property-related offences (Sloth-Nielsen and Muntingh, 2001). Of the total number of children convicted in South Africa between

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<sup>3</sup> Figure estimated from data made available from Departments of Correctional Services, Education, and Social Development (correct to December 2001).

<sup>4</sup> A place of safety is defined in the Child Care Act No.74 of 1983 as "any place established under s28 [of the Child Care Act] and includes any place suitable for the reception of a child, into which the owner, occupier, or person in charge thereof is willing to receive a child". All state-run places of safety fall under the Department of Social Development.

<sup>5</sup> Secure care has been newly defined in the Child Care Amendment Act 13 of 1999 as 'the physical, behavioural and emotional containment of children offering an environment and programme conducive to their care, safety and healthy development'. Section 28A clarifies that secure care facilities are intended to be used for the reception and secure care of children awaiting trial or sentence.

<sup>6</sup> A reform school is defined in the Child Care Act, No. 74 of 1983 as a school maintained for the reception, care and training of children sent thereto in terms of the Criminal Procedure Act 51 of 1977 or transferred there under [the Child Care Act]. Reform schools fall under the Department of Education.

<sup>7</sup> The Detainees Parents' Support Campaign estimated that 8,800 children had been detained between June and November 1986 (UNICEF, 1987)

1998 and 1999, 50.5% were convicted of property crime, 30.8% for aggressive offences, 14.5% for sexual offences, 0.7% for narcotics, and 3.4% for other offences. Although these trends are not peculiar to child offenders, they cannot be ignored when designing effective responses to crime.

### **Legislative reform**

In response to great pressure on the issue of children in criminal justice institutions, and in response to the ratification of the United Nations Convention on the Rights of the Child, in 1994 Section 29 of the Correctional Services Act was amended (Act 17 of 1994). This amendment made provisions to prevent the holding of children under the age of 18 years in police cells or prisons for longer than 24 hours. Instead it was stipulated that children should await trial under the care of their parents or guardians or in places of safety. Unfortunately there was very little inter-sectoral planning to accommodate this reform and the provincial departments of Welfare, which run the places of safety, were not prepared for the change (Sloth-Nielsen, 1995).

To address this problem a Private Members Bill was introduced in 1996 as a temporary measure, once again allowing for the holding of some children awaiting trial in prison. The passing of this Bill was to allow the Government the necessary time to develop the infrastructure and human resources required to support the previous amendment. Although this Bill was due to expire on 8 May 1998, it did not fall away because of a drafting error in the so-called 'sunset clause' of the Correctional Services Amendment Act no 14 of 1996. Section 29 was removed from the Correctional Services Act, but it re-emerged in the Criminal Procedure Act.

The situation gave rise to three Bills which were published and circulated in 1998, all containing amendments to section 71 of the Criminal Procedure Act 51 of 1997 (Sloth-Nielsen, 1999). The first of these, Bill 59 of 1998, repeated most of the provisions of section 29 of the Correctional Services Act except for the fact that it left out the clause allowing judicial officers to detain children for offences not mentioned in the schedule, where the offence was committed 'in circumstances so serious as to warrant such detention'. However, after parliamentary hearings, this Bill was replaced with a new Bill, Bill 132 of 1998 which, amongst other things, removed the legislative barrier to holding children under the age of 14 in prison. A further Bill, Bill 132b of 1998 was produced with amendments requested in the National Council of Provinces but it was not introduced in parliament before closure of the parliamentary session and the matter was not taken further.

Subsequently the South African Law Commission's Report on Child Justice suggested designing and implementing a new Bill that would create an entirely new system of child justice. This system would drive towards the use of alternative measures other than the traditional criminal justice options outlined above. This Bill has subsequently been approved by Cabinet and, at the time of writing, is expected to be tabled in Parliament in 2002 (Parliamentary Monitoring Group, 2001).

## **Understanding the issues**

In the advent of the Child Justice Bill, there is a strong need for both parliamentarians and members of civil society to develop a greater awareness of the situation of children accused of crime. Crime rates in general are high in South Africa and, because crime is such a problem, accurate information must be made available to the public and decision-makers in order for them to find a solution. Crime itself is an issue that is more prone than others to misinterpretation and manipulation. Availability and accessibility of reliable and relevant research is thus essential in the build up to legislative reform.

## **South African research**

In reviewing the available literature it is clear that there is a lot of information on children in criminal justice institutions. There have been numerous reports on the institutions themselves, describing their conditions in general and those conditions particular to children. The South African prisons have drawn the greatest amount of attention, generating emotive articles from the media (Steinberg, 2001) and more in-depth analysis from researchers (Community Law Centre, 1998; CRED, 2000; Office of the Inspecting Judge, 2000). The suitability of places of safety, schools of industry and reform schools has also been the focus of much discussion (IMC, 1996a, 1996b, 1996c, Sloth-Nielsen and Muntingh, 1999). Statistics on children, both awaiting trial and sentenced, have been generated to show the trends in their numbers within these institutions (Department of Correctional Services, 2000; Muntingh, 1999a, 1999b, 2001a; Skelton, 1998; Sloth-Nielsen and Muntingh, 1999). There is also a certain amount of research that focuses on the roles and responsibilities of the departments and personnel involved in dealing with children awaiting trial, from the stage of arrest through to monitoring (Department of Justice, 2001; Eliasov, 1998; IMC, 1996a, 1996b, 1996c; Steyn and Foster, 2001).

Collectively, this research offers some insight into institutional life and highlights current efforts to translate policy into practice. However, much of it has fallen short of emphasising the plight of these children individually, of showing that real people exist behind the faceless statistics. Yet, for society to provide effective responses to young people involved in crime, it must surely take into account the lives and views of the people it seeks to reach? In a time when alternatives to mainstream criminal justice options are being mooted as the mainstay of future policy, it is essential that the experiences of children affected by the system are taken into consideration. Professional bodies can refer to official records, to quantitative data, in order to design legislation, or to make decisions based on international standards or literature. However, they risk developing policy on the basis of assumptions as to what is best for a child when, at the end of the day, most policy makers simply need to listen to what these children have to offer: first hand experience.

However, it is only recently that South African research has begun to focus on the views and experiences of the children themselves. In 1997 the Centre for the Study of Violence and Reconciliation (CSV) carried out a small-scale pilot project that focussed on the backgrounds of 25 young men, drawn from two separate prisons,

who were serving sentences for similar types of offences (Wedge, Boswell and Dissel, 2000). The purpose of the study was to provide some insight into the background factors of juveniles committing violent offences in South Africa and to offer some recommendations for policy and practice. In its findings the pilot study acknowledged that a larger-scale exercise would be necessary to provide conclusive evidence about key factors in the backgrounds of young violent offenders.

In the same year CSVR initiated another research project drawing on the participation of a similarly small number of young people with different offence profiles, 15 of whom were serving jail sentences and another 18 who lived on the streets and who were all still involved in criminal activity. The basis of the research was the realisation that understanding young offenders and their motivations is not only essential for planning long-term solutions to the crime problem but also for all the front-line personnel dealing with crime and its victims (Segal, 1998).

Shortly afterwards NICRO conducted consultative research, funded by the SALC, involving a larger number of children (70) from a wider variety of backgrounds (Community Law Centre, 1999). Fieldwork was conducted with groups of children in prisons, in reformatories, in places of safety, in diversion programmes and even high-schoolers who had no prior contact with the criminal justice system. However, the focus of the research was limited to questions that sought to ascertain their opinions on the new draft Child Justice Bill. Inevitably those who had prior experience of the criminal justice experience could draw on their past to answer questions but this seems to have been an indirect consequence rather than an intended purpose of the study.

### **International perspectives**

Whilst local research provides findings that offer key indicators of the experiences of children processed by the system, it does not offer comprehensive life histories of these individuals nor does it investigate the complexities associated with this type of research. Therefore international research papers were reviewed in order to develop a better understanding of the essential elements of life history research and to appreciate some of the more conceptual and methodological issues surrounding such research.

Life history research is a way in which very detailed and insightful data are collected on an individual basis. Whilst official statistics provide bases for tracking the number of children in the criminal justice system, the collection of life histories provides means by which the lives and experiences of these children can be unearthed and understood. Shaw writes that life histories "not only serve as a means of making preliminary explorations and orientations in relation to specific problems in the field of criminological research but afford a basis for the formulation of hypotheses with reference to the causal factors involved in the development of delinquent behaviour patterns. The validity of these hypotheses may in turn be tested by the comparative study of other case histories and by formal methods of statistical analyses." (cited by Jupp, 1989).

Whilst it would appear that there is a great need for this kind of research in South Africa, investigation into the requirements of such research prove that it would be difficult to accommodate within the ambit of this report.

Firstly, as Farrington (1997) explains, when studying human development and criminal careers, it is important to investigate developmental sequences over time. "It is desirable to identify non-criminal behaviours that lead to criminal behaviours, and long-term developmental sequences including types of offending" (1997:361). Since time and resources only allowed the research team the opportunity for one-off interviews with the subjects of our study, it was acknowledged that such investigations would be severely restricted in this regard. The research then became focused on providing exploratory case studies rather than in-depth life histories.

Furthermore, when analysing behavioural patterns, Glaser and Strauss (1968<sup>8</sup>) argue that *a priori* assumptions about the objective characteristics of social situations are frequently made at too early a stage in the research process, and are often instrumental in masking what is really happening in these situations. In heeding this warning the case studies rely mostly on self-reporting with occasional recourse to official records. The semi-structured design of the interview allowed scope for the participant to define the issues in his or her own way, so that responses to questions were not always finite but sometimes led to further questions and answers about their experiences. Thus anti-social behaviour included acts prohibited by criminal law, such as theft, burglary and robbery, as well as more marginally errant activities such as bullying, heavy drinking and sexual promiscuity.

Criminal career research also requires exact information about the timing of offences (Farrington, 1997) and relying solely on children as sources of reference forfeits accuracy. Usually this information is available from official records but the way in which criminal records are collated and stored in South Africa does not guarantee accuracy or accessibility. Furthermore, Farrington warns that it is the most frequent offenders who are likely to find greatest difficulty in providing accurate retrospective self-reports of their offending careers. This is especially the case if they have low intelligence and are alcohol or drug abusers, characteristics which local research indicates are prevalent amongst young offenders in South Africa. Ideally, prospective longitudinal data would be necessary to obtain reliable data on children who offend.

Even at a global level, literature shows that a major problem in explaining the origins of offending is that most risk factors related to offending behaviour tend to coincide and tend to be inter-related. For example, children living in poor communities and socially volatile neighbourhoods disproportionately tend also to come from families with poor parental supervision or an absent parent. "The concentration and co-occurrence of these kinds of adversities makes it difficult to establish their independent, interactive, and sequential influences on offending and anti-social behaviour. Hence any theory of the development of offending is inevitably speculative in the present state of knowledge." (Farrington, 1997).

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<sup>8</sup> cited by Boswell (1996:60).

With these observations in mind, it is important to be realistic about the expectations of this project. Bearing in mind the limitations of time and resources, the project does not attempt to pass itself off as in-depth 'life history' research but rather a preliminary venture, via a number of case studies, into the institutional dynamics as experienced by a number of children.

The significance of this research report lies in its ability to enrich, to a certain extent, the information currently available to both the public and members of parliament and to stimulate further interest and inquiry into the lives of the children within the criminal justice system. It does so by giving voice to the experiences of a handful of children, bringing to life some of the identities behind the statistics. More importantly, it examines the effect of the current criminal justice policies once they have been translated into practice and experienced by each child. By illustrating what has happened to the children involved in the research, the study hopes to promote further thinking regarding the adequacy and appropriateness of the current ways in which children accused of crimes are dealt with.

## **Research Methodology**

### **Summary**

This study is investigative in nature and it aims to explore, in a qualitative manner, the experiences of various children who have encountered the criminal justice system. Having contextualised the presence of children within the system in the previous chapter, it is necessary to explain research design and data gathering processes.

### **Sampling strategy, recruitment and procedure**

The sample for the research comprised of 31 children, selected from children both within traditional criminal justice institutions and from those of have experienced non-institutional criminal justice options. The sample included children referred to diversion programmes (3), in places of safety (12), secure care facilities (7), youth correctional centres (4), prison (3) and reform schools (2).

Various reports and research papers were consulted to generate a list of possible locations in which the sample could be found (Barberson, 1999; Department of Social Development, 2001; Gast, 2001). This research was used to identify the whereabouts, contact details of management personnel and current occupation data of various criminal justice operations (both institutional and non-institutional). From this list, three or four locations were selected from each province to obtain a snapshot of the geographical spread and the variety of regimes that children experience in the criminal justice system. The process of location selection was also influenced by the availability of interviewers.

In most cases, the process of gaining access was highly personalised and the relevant authority of each institution freely gave permission to conduct interviews with the child/children in his/her care. Owing to the transitional stage of reform that many institutions for young offenders are currently facing, telephonic communication was sometimes necessary to confirm the presence of children placed there as a result of the criminal justice process.<sup>9</sup> However, certain government departments have lengthy processes for reviewing research projects that propose to collect data from institutions under their governance. With regard to accessing prisons, for example, there were often layers of gatekeepers to be negotiated and, since the process of securing permission from the relevant authority was a prerequisite for every interview, interviews at several institutions had to be abandoned since the research project was not designed to accommodate such lengthy review procedures.

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<sup>9</sup> For example, a number of places of safety that were included in the Department of Social Development's Report on secure care facilities (2001) have recently stopped holding children awaiting trial; instead they only serve children referred to them by the child care system.

The children were then selected by social workers with whom they were familiar either through their relationship at an institution or through participation in a diversion programme. Their choice was guided by certain criteria for selection.

All of the children selected were less than 18 years of age when they committed the crime that led to their contact with the criminal justice system. This definition of children correlates with the constitutional definition of a child. There was no bottom limit and this kept open the possibility of exploring the experiences of very young children, as well as older children, in the criminal justice system.

Offence categories were not used as criteria for selection in order to allow for greater diversity in criminal experiences. By chance, the sample represented a wide variety of offences, ranging from petty offences, such as shoplifting and theft through to more serious offences, such as rape and murder. However, those involved in selecting voluntary participants were encouraged to find children who had more than one criminal justice experience; in several cases, this would appear to have been interpreted as having more than one offence.

Both the participants and the institutional and non-institutional criminal justice options were selected on a national basis in order to offer a snap shot of the experiences of children in the criminal justice system in different areas of South Africa. This approach allowed for the possibility of identifying regional similarities or variations in the management of young offenders. The number of children selected from each type of institution was not fixed. The fact that most of the sample were residents of places of safety simply reflects the relative accessibility and openness to researchers of these particular institutions.

Ultimately the selection of children was made on the basis of individual willingness to participate in the study. Participation was also influenced by the availability of people and by the personal discretion of those assisting in selection.

Following the selection of participants, a suitable time and place for each interview was arranged and, before each interview took place, the consent of both the participant and his or her legal custodian was obtained. To achieve this, prospective interviewers were provided with notes that enabled them to explain essential information for the purpose of obtaining voluntary, informed consent (see Appendix 2). The terms and conditions of the research were also summarised in a consent form (see Appendix 1) which both the participant and his or her legal guardian were requested to sign. Where possible the interviewer then accessed the selected participant's case file in order to become acquainted with the case history of the participant. This process of familiarisation assisted the researcher in assessing the reliability and honesty of the participant during the interview stage.

## **Data collection**

The data for this study was collected by way of a semi-structured interview (see Appendix 3) administered by various researchers from the Institute of Criminology, NICRO and CSIR. The interview with the child sought to obtain information

regarding the following four areas: (a) personal (non-criminal) background (b) offence background (c) experience in the criminal justice system and (d) current status in the criminal justice process. The questions around the child's experience in the criminal justice system focussed both on general and specific information to determine the child's opinion and thoughts on his/her own personal experience of the criminal justice system and on the responses that he/she has received from others.

Most interviews took between one and three hours to complete. Breaks were allowed at appropriate stages in the interviews and refreshments (where permitted) were provided to ensure that the interviewee's concentration was maintained. Each interview was conducted in a manner and style appropriate to the age and level of understanding of the participant being interviewed. Interpreters were rarely needed as the interviewers could, more often than not, converse in the first language of the participant. As far as the authors are aware, in all but one of the interviews, the participants were interviewed without the presence of his or her legal guardian and/or director. This was to allow the child as much freedom as possible to discuss any information that they might not have felt comfortable discussing in front of these individuals.

### **Data analysis**

Each interview was written up as individual case studies and, from these reports, the information was sorted into different categories: (a) demographic data, (b) personal (non-criminal) background (c) offence background (d) criminal justice experiences. A fifth category was created to accommodate some of the more general reflections given by the children beyond those relating directly to their personal and offence background. This format allowed a comparison of events and remarks that were recorded during the different interviews in a systematic and purposeful fashion.

From the small number of participants one could identify certain similarities and differences emerging in each of the sections. These were then written up in the report and elaborated and interpreted where possible, with selective reference to particular examples. Caution was exercised to prevent over-interpretation of data and to resist constructing theories from the information. In order to emphasise the reality of the emotions and experiences of the participants in the study, the words of the children have been included (and italicised) as much as possible to draw out the life experiences.

### **Ethics**

Particular care has been taken to ensure that this research project was carried out with social sensitivity and responsibility and with respect to the rights of the children. Each interviewer was provided with notes regarding why and how the research was to be undertaken, including specific guidelines on the conduct of each interview. In particular researchers were made aware of the great potential for harm in raising expectations and were asked to make it clear to the participants their role as unobtrusive observers. For each interview consent was required and, as far as

researchers could tell, it was given voluntarily and freely. However, it was often difficult to know the extent to which prospective participants understood all that would be involved and feel able, within a prison context in particular, to withhold their consent. Interviewers were asked to stress that the participant could withdraw their agreement at any stage of the interview but none of them did this.

In a similar vein, there were fears that the nature of the inquiry may lead to the secondary victimisation of the offender. Having been through what was often lengthy, drawn out and formal procedures, many children may have felt victimised by being asked once again to explain themselves and their actions. What was more of a concern, however, was their possible victimisation by associates of theirs as a result of talking about their criminal activity. Adverse consequences have been known to result from breaking oaths of silence to accomplices or fellow gang members. Therefore participants were assured of the parameters of confidentiality of the information provided and interviewers explain clearly the limits on this confidentiality. Careful attention has been paid to the rights of the participants when reporting the results of the study and the identities of each the participants have been protected by using pseudonyms in place of real names and by avoiding reference by association.

## **Limitations and recommendations**

Various obstacles and limitations were identified both at the outset and during the course of conducting this research. The following limitations and recommendations have been included in order to encourage and facilitate future research in this area.

### **Limitations of a one-off interview**

One significant limitation of this study was that the data was gathered from a one-off interview with the participant. By limiting the collection of data to just one interview, the chance of building up a life history of each participant was impossible. The use of one-off interviews also forfeited the opportunity to secure feedback on all the aspects of the inquiry and to enable the child to build a trusting relationship with the interviewer. Since the information required for the study was often of a sensitive and personal nature, children were not always prepared to answer all the questions posed to them.

It is suggested that similar inquiries arrange more than one interview that are carried out over a period of time and are conducted in such a way to allow for a relationship of trust and confidence to be built up between the participant and the researcher. It is also important to include experimental interventions within longitudinal studies, to distinguish between causes and indicators, and to investigate the effects of prevention or treatment measures on the life histories of the offender.

### **Sample size**

The study is further limited by the reliability of the sample size. This limited the method of data analysis that could be chosen. By drawing on such a small sample, representing such a variety of personal and offence backgrounds, it is not possible to compare and draw conclusions about the experiences of children in the criminal justice system. For more meaningful results, it is suggested that future research narrows its focus by using perhaps larger samples representing children who fall into specific categories who, for example, share the same offence history (e.g. serious, violent offenders) or else have passed through similar criminal just processes. Research might also seek out youngsters who have been released and interviews could then be conducted in more leisurely settings where multiple set of interviews might elicit richer information.

### **Reliability and validity of information**

Even where participants appeared to be co-operative, it was clear that the provision of secure accurate information was by no means guaranteed. Although self-reporting has the advantage of including undetected offences it has the disadvantage of concealment and forgetting. Although the researchers' sense of the interviews was one of honest disclosure, it is feasible that children might have felt obliged to conceal information that could result in further criminal consequences. Nevertheless, by normally accepted psychometric criteria of validity, self-reports are valid (Huizinga

and Elliot, 1986<sup>10</sup>) and the predictive validity was enhanced by combining the self-report and social worker information about offending.

### **Representation of criminal justice institutions**

Contrary to its original intentions, the study does not reflect the entire scope of all traditional criminal justice responses experienced by children. As was stated earlier in this report, it was the intention of the study to explore the experiences from participants both in institutional and non-institutional criminal justice system throughout South Africa. However, children serving correctional service orders were not included and the proportion of children currently held in prison is not reflected by the sample.

This limitation is due to several factors. Firstly, tight time constraints and the limited availability of individuals to conduct the research restricted the number of interviews conducted. A far greater obstacle to selection of suitable locations was posed by the fact that certain government departments insist on lengthy processes for reviewing research projects that propose to collect data from institutions under their governance. Since the process of securing permission from the relevant authority was a prerequisite for every interview, interviews at several institutions had to be abandoned since the research project was not designed to accommodate such lengthy review procedures. However, children that were interviewed often spoke of more than one criminal justice experience, which effectively broadened the scope of the study beyond their current status.

### **Variation in quality of data**

In order to achieve the research project's aim of providing feedback from children on a national basis, twelve different interviewers were employed to conduct the interviews in eight of the nine provinces of South Africa. With each of these volunteers confined by tight time frames and limited resources, it was inevitable that the quality of the data collected would vary.

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<sup>10</sup> cited by Farrington (1997).

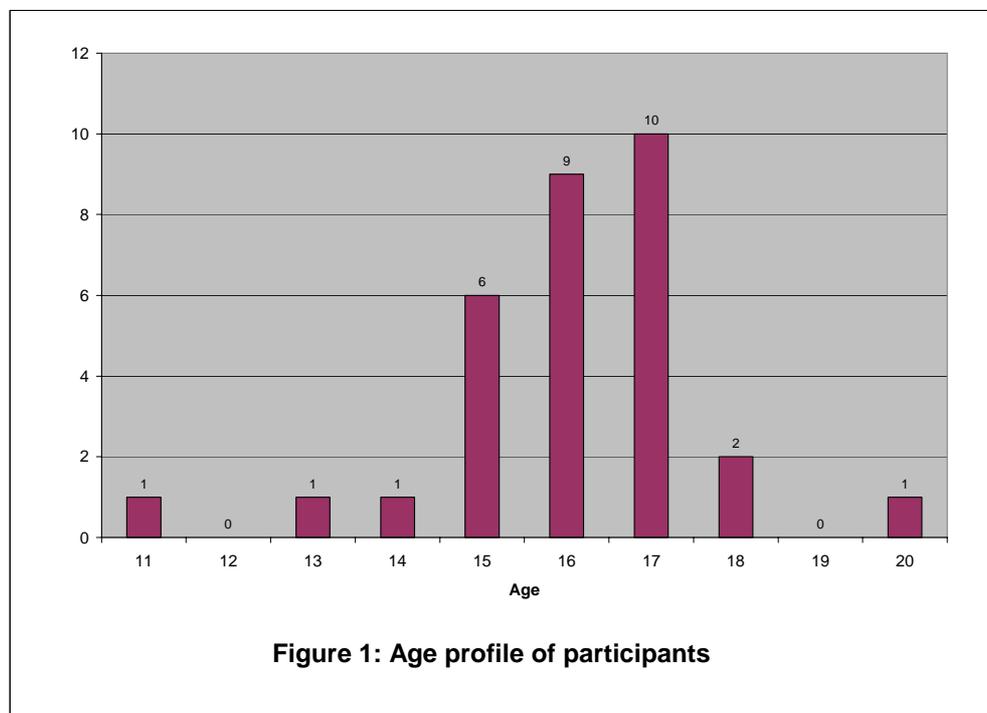
## Results

In the following section graphs and pie charts are used simply as a means of conveying basic information about the sample and are not to be interpreted as being in any way representative of children involved in the criminal justice system generally.

### A) Demographic data

#### Age and gender

The children ranged from eleven to 20 years of age (see Figure 1). The most frequent age was 17 and the average age was 16. Only one girl was interviewed.

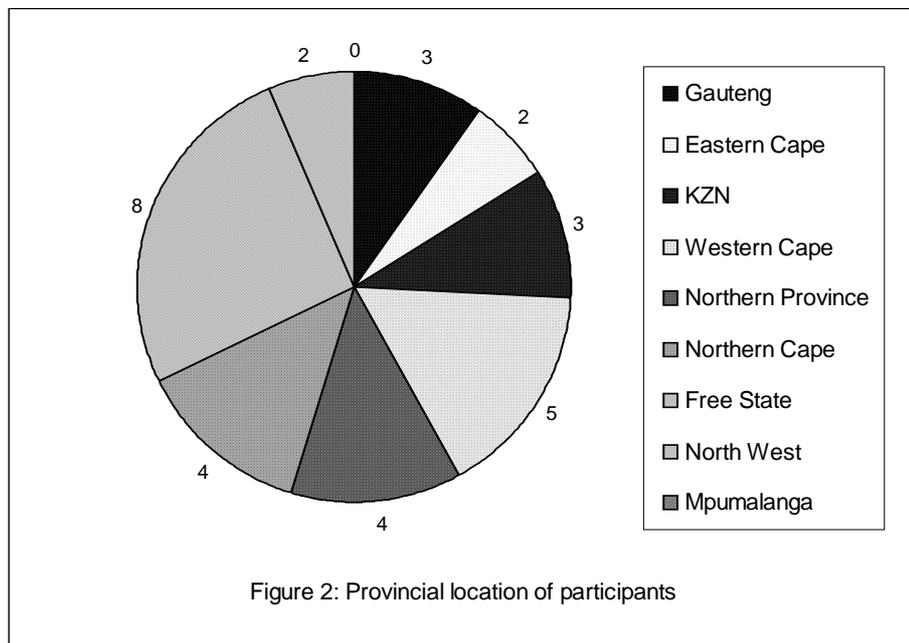


#### Provincial distribution

The research team managed to conduct interviews in eight of the nine provinces in South Africa. Each participant originated from the province in which he or she was interviewed. Figure 2 shows that the majority (8) of the participants were from the Free State followed by five from the Western Cape. These figures bear no reflection on the actual number of children in criminal justice institutions in these provinces. The provincial distribution of the sample simply represents where most of the interviews were conducted owing to interviewer availability.

It is difficult to be sure of which province has the most juvenile crime. No national figures are available on the number of crimes committed by young people in South

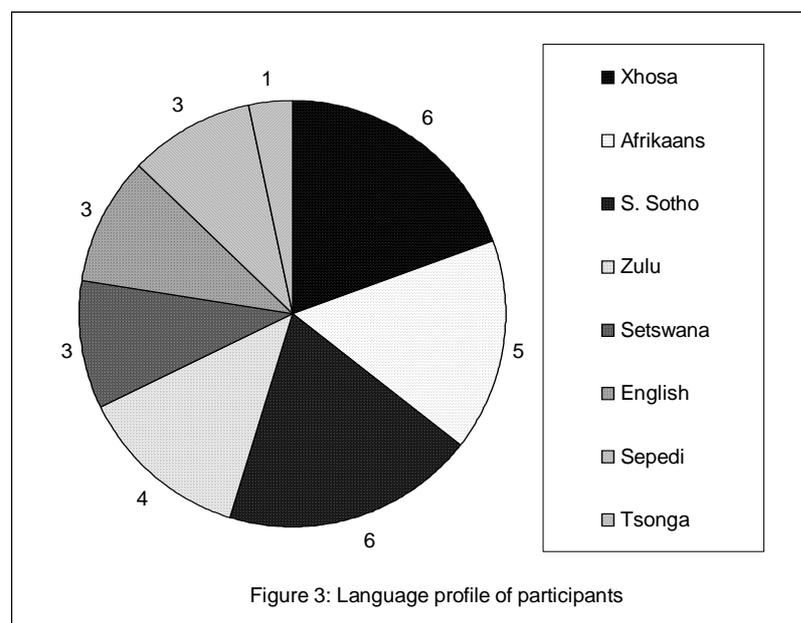
Africa. Not all crime is reported and those offences that are reported are not automatically included in police records. As a result, crime statistics often say more about reporting patterns and police procedure than about actual crime levels.



From the latest police figures (during the period January to March 2001) it appears that the Western Cape has the highest level of all reported crime<sup>11</sup> but this does not necessarily reflect the level of crime committed by children.

### Language

The children came from a variety of different population groups (see figure 3). The first language of the majority of the participants was either Xhosa or Sesotho. All but three of the official languages of South Africa are represented within the sample.



<sup>11</sup> Further information is available from: <http://www.saps.org.za>

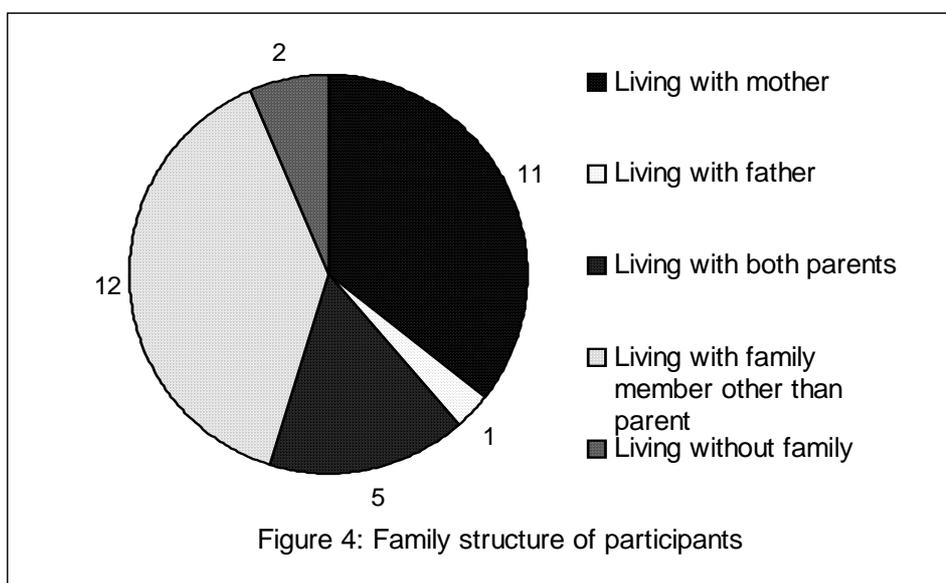
## B) Background information

### Family environment

At the time of their offence, most of the participants appeared to be living in relatively poor areas and living in quite modest surrounds. From those who gave descriptions of the location of their home, most (ten) reported that they were living in townships, whilst others reported that they lived in either squatter camps (two) or on the streets (two). When asked to describe their homes, twelve of the participants said that their home consisted of four or more rooms whilst four described their homes to be much smaller. Homes ranged from having six bedrooms to being a single compartment squatter house with no electricity or running water.

When asked about whether or not they were living with their parents at the time of their arrest or conviction, only five participants reported that they were living with both their parents (see figure 4). Twelve of the children reported that they lived with just one of their parents. In all but one of the case studies this individual was the mother and she was the only parental figure in the home. Only in one case had the mother found a new partner. Half of these single-parent scenarios was a result of the separation or divorce of the parents but in five cases one parent had died, and in one case both parents were deceased.

Even where parents remained married, children were often found to be living with their grandparents or a relative other than their parents. The researchers surmise that this is a consequence of the former apartheid policy of separate development in South Africa. Although apartheid rule ended in 1994, some parents are still often obliged to live in cities or in places closer to their employers, leaving their children behind. In one case the participant reported that he hardly ever saw his parents but that "*they usually come home at the end of the week*". In 90% of the situations where the child was living other relatives, either one or both grandparents, or an aunt, it was on account of the absence of one or both parents either through death, divorce or distant employment.



Whilst talking about their family environment, some participants included details about their parent(s)'s employment status. Of the 26 participants who had mothers, 15 said that their mothers were employed, four reported that their mothers were unemployed and seven did not report on the matter. There were various types of employment mentioned, all of which were service industries: they included nursing, catering, teaching and domestic work. Of those who discussed their fathers, nine confirmed that their fathers had employment and two that their fathers were unemployed. Very few participants mentioned what exactly their fathers' employment was. On a couple of occasions, absent parents were drawn into the discussion of parent employment, especially where the employment was the reason for the absence, such as in one case where the father is a long-distance truck driver.

Most of the participants (94%) reported that they had, and lived with, siblings. Only two appeared to be the only child in their family. Those that reported a large number of siblings often included half-sisters, half-brothers and children from a step-parent's previous relationship.

Although not many participants offered details about their relationship with their siblings, those that did offered a degree of insight into the influence these siblings had on their life. For example, Thando<sup>12</sup> (16) reported that he was fourteen years old when his mother died and his father abandoned him in order to live with his second wife. Fortunately, one of his older sisters, with whom he has a good relationship and who has four children of her own, took him in and became a "*mother figure*" to him. In other scenarios, families had less amicable relations. According to Tumelo (16), "*problems only started when I went to live with my parents*" (as opposed to his grandmother) since he says his father and sister "*regarded me as a criminal*" and "*denied me my spare time and needs.*" Several participants mentioned that one or more of their siblings were also involved in criminal activity. In one instance, it was reported that an adopted brother assisted and encouraged the participant in committing crimes.

Some interesting facts arose when the participants elaborated on the primary care giver in their home. Bongane, one of the few participants whose parents were not separated, mentioned that "*I am the first born at home meaning I am responsible at home because my parents are working at Johannesburg, I am the one who is taking good care of everything at home*". At the age of 17, it appears that he alone looks after his three younger siblings whilst his parents are absent.

Two participants reported that they had left home and lived on the streets. In both cases the children explained that they had done so on account of their parents' separation. The participant who reported that both his parents were deceased said that he moved in with friends when his parents passed away.

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<sup>12</sup> Real names of the participants have been replaced with pseudonyms.

## Significant life events

At the outset of the interview, participants were asked to identify four or five 'important moments' in their life, either good or bad, and to plot them on a 'time line'. Participants were encouraged to apply their own sense of significance to certain events thus 'important moments' ranged from "*the day my mum died*" and "*when I got expelled from school*" through to when "*I had an HIV test*" and "*the day I got shot in the leg by gangsters*".

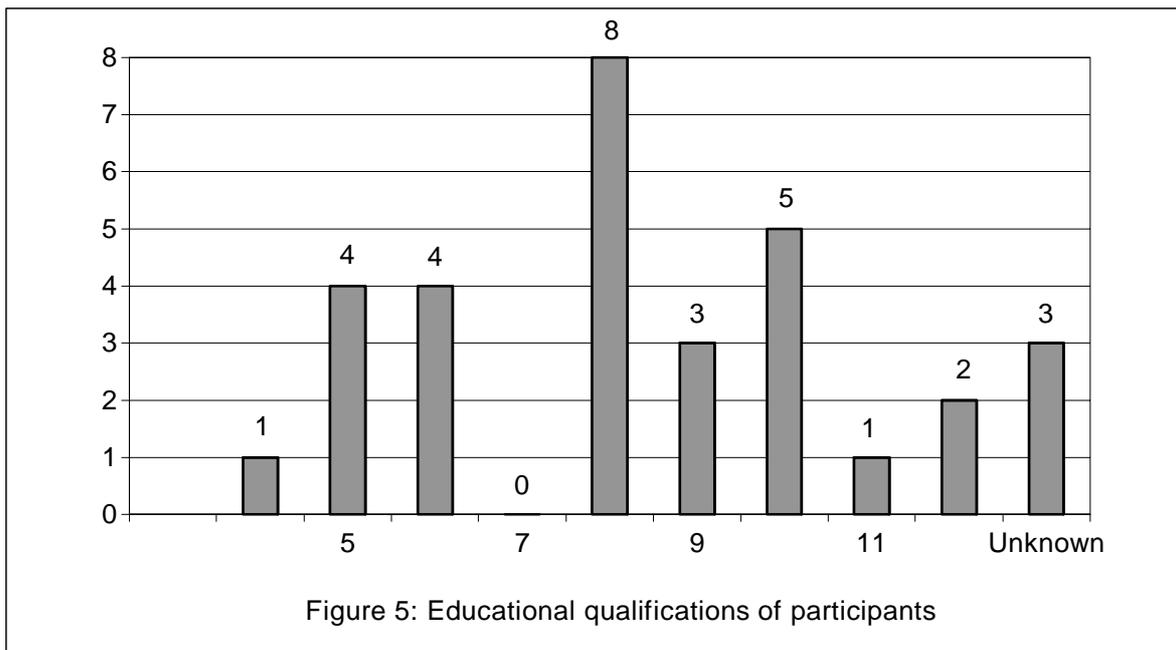
There were also some common features found in the answers. About three quarters of those who filled in a 'time line' mentioned that the break up of their parents (described as either "*divorce*" or "*separation*") was an 'important moment' in their lives. These break-ups often resulted in the participant living with only one parent and rarely, if ever, seeing the other parent. In Thomas' (17) case, he chose to live with his grandmother as opposed to either parent since "*life was much easier with her*" and "*she didn't have much control*" over him. It must be noted, however, that the other participants may have also had divorced or separated parents but they chose not to identify this fact during their interview. Interviewers were encouraged to use their discretion when asking about such sensitive issues.

In a similar vein, several participants recalled the death of a parent or other close relative as a turning point in their lives. One went so far as to say that when he lost his mother he "*went mad*". Despite the fact that he had not been living with his mother for more than seven years, her unexpected death at a relatively young age, made him "*angry*" and he "*didn't worry about anything anymore*."

About half of the participants that plotted a time line identified the age at which they started using drugs as an 'important moment' in their lives. Despite the fact that most of these participants had been smoking cigarettes for several years prior to experimenting with drugs, only three noted the time they started smoking cigarettes as another 'important' moment. Likewise only three (each of whom also used drugs) described the age at which they started drinking alcoholic substances as 'important'. One reason behind the emphasis on the importance of drugs emerges later in many of the interviews when participants are asked to talk about the motivational factors behind their crime. Participants, who admitted to using drugs, often explained that the reason for the crime that they had committed was their need to fund their drug habit (see section C below).

## Schooling

There was quite a wide range in levels of formal education shared by the participants (see figure 5). Whilst some children had completed Grade 12 at school, others had only reached Grade 4. More than two thirds of the children had achieved Grade 8 or above.



## Employment

When asked if they were employed at the time of their offence, none the participants reported that they were in work at the time. Four of the participants said that they were unemployed but most reported that they were still at school. Of these scholars, one mentioned that he *"assists with conducting the taxis"* after school and that he earns R30 an afternoon.

## Hobbies

Most of the participants reported of at least one hobby that they were involved in after school. Of the 26 who described their hobbies, 23 mentioned sport was a major interest. Soccer was seen to be the most popular (16 participants identifying it as their favourite hobby), with rugby, cricket, swimming, golf, volleyball, aerobics, running and tennis also being mentioned. It appeared that several of these soccer players had excelled at their sport since six included that they played for a team, at least one of whom played at provincial level.

Derek (11) was selected to play under-9's for South KNZ. He talked of this experience, proudly remarking that he had received a medal and sports gear.

Ndaweni (17) also remembers his times with the team. Whilst at school he was selected for a team called 'Young Strikers', and this team *"won a Chappies' competition and we ended going up to Johannesburg where we got to stay in a hotel and eat very nice food"*.

A few of the children also included more artistic and creative recreational activities in their list of hobbies: Four noted that they liked to listen to music, two said that they enjoyed reading books, and one mentioned that he liked to *"smoke cigarettes and sing with my friends"*.

## Friends

The majority of the participants (24) reported that they had at least one best friend and eight of these added that they had a group of friends. One participant boasted of 16 friends in total and, as he described the activities that they were involved in, it becomes clear that this group of friends formed some sort of gang that *"just went around robbing people"*.

*"After supper I would go out to the shops and get together with quite a lot of other friends. We would then mug people as they walked by the shops. We used to steal lots of cell phones, wallets and jewellery... but never got caught."*

However, several participants described their friends as being good influences on their lives. Descriptions of such friends include statements like: *"He gives me good advice and helps me with my homework"*; *I like him because of his manners"*; *my friend is very aware of hygiene"*. Bongane (17) recalls his best friend was:

*"encouraging me to further up my studies and to be somebody important with a better future. He was not like many boys who teach one another to steal other's people property"*.

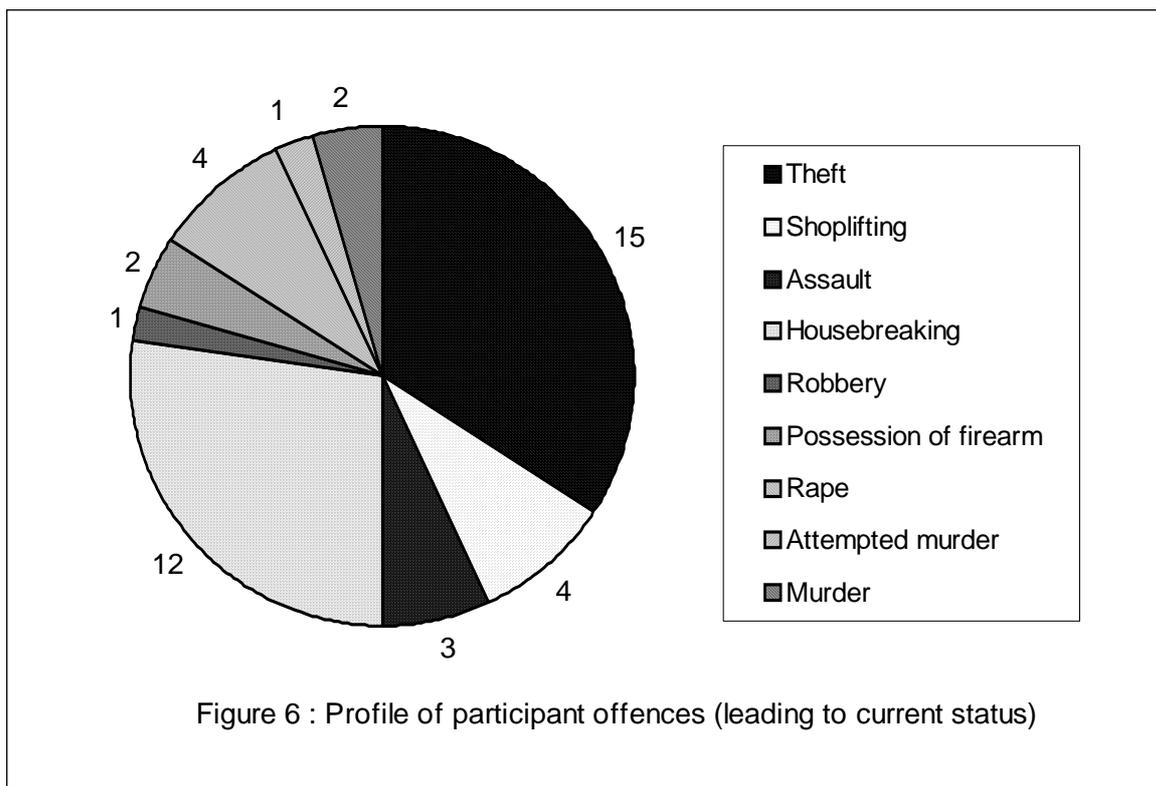
Mthobeli (17) describes his special friend who he met in high school:

*"He is a quiet somebody, who is like a brother to me. He is not involved in criminal activities and he always advised me not to mix with my other friends. These other friends I used to hang out with and I smoked dagga with them."*

### C) Offence background

#### Recent criminal history

The participants in the research represented a wide variety of offences, ranging from petty offences, such as shoplifting (4) and theft (18), through to more serious offences, such as rape (5) and murder (2). Such diversity in offence types (see figure 6) meant that the participants had received a range of responses from the criminal justice system.



In fact many of those interviewed (15) were being accused of, or sentenced for, more than one offence. This was especially true of those accused of housebreaking as this offence is often ancillary to the offence of theft. Figure 6 accommodates all of the offence types given as a reason for the participants' encounters with the criminal justice system. Between them, the 31 participants had either been charged or convicted (and sentenced) for more than 50 offences. All bar one of the offences had victims; the illegal possession of a firearm was the only victimless crime.

In order to obtain an idea as to how long each participant had been "in the system" they were each asked to give their age at the time they committed the offence for which they were in their current placement. Figure 7 illustrates that all the participants were either 17 or younger and that the majority of the participants were only 16 when they committed the offence.

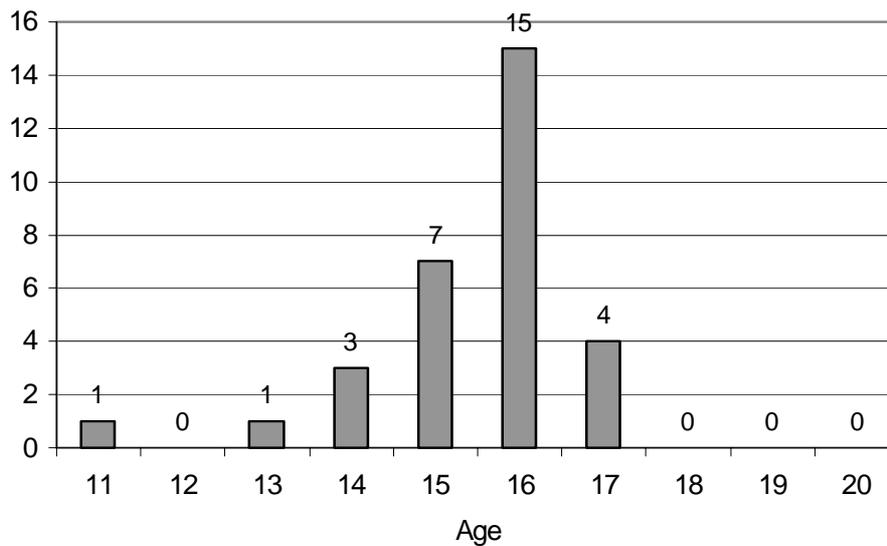


Figure 7: Age of participants at date of offence

Figure 8 illustrates that the majority (21) were awaiting trial for the offence(s) with which they were charged whilst seven of the participants had been sentenced. The duration of sentence, for those who had received one, ranged from one year to ten years. Only three of the participants were being or had been diverted from the criminal justice system.

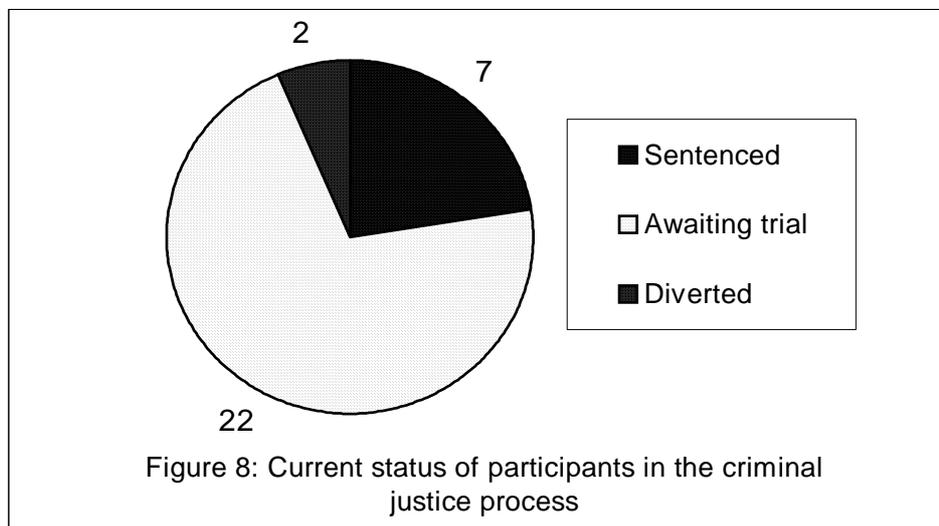
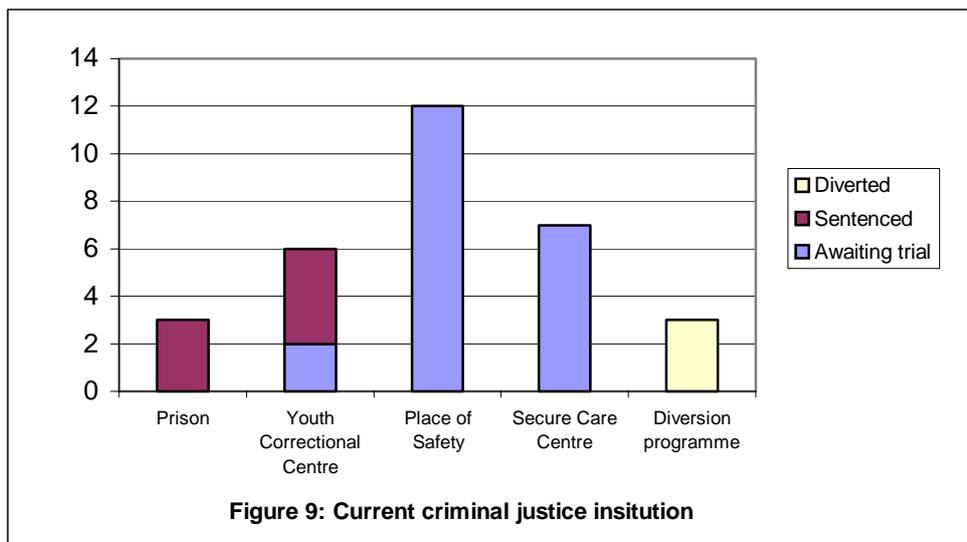


Figure 8: Current status of participants in the criminal justice process

All of those that were sentenced had been given a custodial sentence. At the time of interviewing, three were currently residing in the juvenile sections of prisons and four had been placed in youth correctional centres<sup>13</sup>. A couple of the participants who were awaiting trial were also being held in youth correctional centres. Figure 9 incorporates the criminal justice response to each child as well as their status as either awaiting trial, sentenced or diverted.

<sup>13</sup> prisons exclusively for juveniles.



### Past criminal offences

The interviews were also structured in such a way as to draw out information, where available, regarding past offending. Most (24) of the participants admitted to criminal activity prior to the present crime they were accused of. Usually this took place in the context of gang activities. However, only two thirds of these children (15) had been caught for this prior offending and, as a result, had prior experience of the criminal justice system. The other nine children were regarded by the law as first time offenders. The remaining seven participants claimed that this was their first (alleged) offence(s). Five of the participants had additional charges pending against them.

Of those who admitted to prior criminal activity, it appears that in 87% of these cases (21 out of 24), there was a link between the previous offence(s) and the latest offence in terms of the offence category. Where the category of offending, usually property-related offences, remained the same, the latest offence of nine of the participants was, somewhat unexpectedly, less serious than the former. For six of the participants it was about the same level of seriousness, whilst six participants had committed a more serious crime. It seemed that there were only three cases where there was no link between the first and second offences.

Lindikhaya (16) was one of the majority of repeat offenders whose latest crime was not his most serious. However, the consequences that followed the event seem to have been the harshest punishment he has yet received.

In January 1999 he committed his first offence of housebreaking and theft. He was given a second chance by the magistrate but committed the same offence later on in the following year. For this he spent a week in prison and was then sent to a place of safety for two months. In January 2001, he was involved in a fight and stabbed the person. He was arrested that May, spent two weeks in prison and was given a 5 years suspended sentence. The last time

Lindikhaya was arrested was for shoplifting in August 2001. He describes the incident as follows: he and two others were "*looking for lawn scissors*". They could not find them locally so went to a nearby town where they found the item in a shop. Because they did not know the cost of the scissors, they approached the cashier who was near the door. The cashier then grabbed him and accused him of stealing the item. He tried to hold on to the scissors, but then decided to run away. He was later caught by a farmer who pointed a gun at him. Four men arrived and they cut off three of his fingers with the scissors.

In the case of Thomas (17) his criminal activity became progressively more serious. He was 15 when he started smoking mandrax, both on his own and with the company of friends. He says he started stealing to "*get money for drugs*". Firstly he stole money from his father. He then "*watched*" his friends steal from people's houses. He said he "*was carrying stuff for them*". After a while he began to join in with the burglaries. He even did some housebreaking on his own. When he was 16 years old he started smoking "rocks" since the dagga had begun to lose its effect and he wanted to try something more powerful. To fund the drugs he started to break into cars to steal music systems. He admits to having actually stolen a car once before. The offence for which he is currently serving a two-year sentence is that of housebreaking and theft whilst in the illegal possession of a firearm.

### Motivational circumstances

A variety of reasons were given by each participant for the offences for which they accepted guilt.

Table 1: Reasons given for offending

Motivation	Number of participants giving this reason
Money	8
Peer pressure	4
Combination of money and peer pressure	4
Threat	2
"Mischief" and "fun"	1
Self defence	1
Combination of peer pressure, "mischief" and "fun"	1
Combination of money, abuse, threat and/or duress	1
No reason	1
Unknown	8

### **(1) Money**

A large number of participants (13), especially those who had been charged with theft and/or housebreaking, explained that they committed the crime because of the need for money. Some of these participants explained that they needed money to buy drugs (4) or alcohol (1); others explained that it was for basic necessities such as food (2), clothing (2) or simply a bus fare home (1). Participants often sought to justify their actions by explaining that their friends were *"better off"* than they were or else that their parents did not give them enough pocket money. Thando (16) recalls that most of his friends were *"privileged to get what they wanted from their parents"* whereas he *"had to struggle to get clothes and shoes"*. Others seemed to have been motivated out of sheer desperation. Phumlani (15) lost his father when he was eleven. He reported that he committed the crime of housebreaking because of the circumstances at home. He emphasised that:

*"My father was working nicely and then died. My mother was chased from work. Then when I am going to school I didn't have any pocket money and can't go to town with friends. Friends are wearing nice clothes and I have nothing. That is why I steal."*

### **(2) Peer pressure**

The desire to please one's friends appeared to be closely linked with the desire for money. As one participant recalled, *"most of the bad things that I have done, I've done because my friends were doing them"*. Eight of the participants mentioned that peer pressure played a role in their decision to commit an offence and, of these, four participants added that they also wanted money to spend with these friends. Some of these participants accepted that they are *"easily influenced"* by their friends whilst others simply wanted to share in their friends' *"luxury life, with stylish clothes, cell phones, money to support (girlfriends)"*. One individual simply recalled that his friends had *"requested my help"* in breaking into a house and so he did. Another participant whilst referring to the influence of peer pressure, added that *"we were very drunk"* at the time, implying that this was an important factor to be considered.

### **3) Threat**

A small number (3) of the children that were interviewed reported that they were forced to commit the crime they had been accused of.

Lukhanyo (17) is awaiting trial on a charge of shoplifting. He is unemployed and has been living on the streets since the age of 10. He lives with a group of approximately 30 children, all a variety of ages, on the street. He reported that the *"big boys give them orders to follow"* such as breaking into cars and that is the reason for his offences. When asked later in the interview what his opinion of the crime was, Lukhanyo admitted that *"I don't like to steal – it's my friend telling me to steal"*.

Asanda (15) reported that a boy had hit her in the face, threatened to kill her and took her bag. She said that she had obeyed the older boy because she was scared so, although admitting to the offence, she maintained that it was not her idea.

#### **(4) "Mischief" and "fun"**

One participant explained his motivation for breaking into a house quite simply: he did it out of "*sheer mischief*". Another offered a similar reason, say he was "*not aware that it was dangerous...we were doing it for fun under the influence of peer pressure*". Although one can imagine that a sense of excitement and danger may well have been an unspoken motivating factor, some participants made no reference to either.

#### **(5) Self defence**

Soli (16) was one of the two participants that had been accused of murder and he was the only one of the two to be pleading guilty. However, when asked to describe the incident, he implies that he killed the man in an act of self-defence.

*"I was walking up (a street) with two friends, when I saw two men sitting down near the Seven Eleven shop, drinking wine from a plastic sack". One of the men was a friend from the shelter where Soli was staying at the time. "I told my friend he should stop drinking that stuff as it was bad". The other man, whom Soli did not know, said he "talk shit" and took out a knife. Soli recalls that a tussle ensued where he managed to take the knife off the man and he stabbed the man in the back and ran away. His other friends just stood by and watched.*

#### **(6) Personal grievance**

As noted earlier, several participants reported the death of an important person in their lives. When asked for more information regarding the motivational circumstances surrounding their crime, some actually linked this loss as a reason for their offending even though it was not their direct source of motivation (hence this category does not feature in the above table).

Although Thomas (17) accepts that he committed his crimes to fund his drug habit, he actually began his criminal activity soon after his mother died. He "*couldn't believe it. She was still so young (aged 36)". "I went mad. I didn't worry about anything anymore...I was angry."* He maintains that if his drug problem is solved then his crime problem would also be solved.

## Gang activity outside the criminal justice system

When exploring the issue of gang exposure, each participant was simply asked: "Have you ever been in a gang or experienced gang activity?" The following section reports on the children's references to experiences of gangs. Seven of the children involved in the research affirmed that they have had experience of gangs either prior to or post their experience of the criminal justice system. It appears that all those who mentioned the age at which they joined their gang were 14 or 15 at the time.

Most of the participants immediately associated the term 'gang' with that of a group of young people engaging in criminal activity whilst there was one who referred to a group of friends from school as a 'gang', eagerly clarifying that they were not involved in crime. In their descriptions of the gangs involved in crime, several gave details as to how they became involved and how their gang operated.

Patrick (16) got involved in gang activities when he was 14. He explains that "*it started as a sports gang and changed to a criminal activity gang.*" They used to smoke dagga and drink alcohol.

Ndaweni (17), on the other hand, reported that after supper he would go out to the shops and get together with quite a lot of other friends. They would then mug people as they walked by the shops. They used to steal "*lots of cell phones, wallets and jewellery ... but never got caught*". Each mugging was pretty random but Ndaweni says that they never mugged women. When asked why not, he says he knew some of them but, in general, he just "*didn't like the idea*". Ndaweni believes he was the strongest member of this gang.

Several participants, either directly or indirectly, acknowledged their denunciation of gangs. One said that "*gangs are not okay*". Another reported that, after being involved in a NICRO diversion programme, he could see the value in life and he is "*a different person altogether*". He feels ashamed of his past involvement with a gang because "*it is a waste of time and future and it destroys the life of innocent people*". Other participants were keen to emphasise that their involvement with gangs had come to an end.

Sipho (17) had joined the "NWA" gang in 1999. This is a gang that was situated in his location. The gang was involved in firearms and drugs. He reported that he left the gang at the beginning of 2000, on the advice of his cousin, so that he could focus on his matric studies.

## D) Criminal justice experiences

This section on reported encounters with and responses from the criminal justice system has been arranged chronologically. Thus the information in this section is categorised with reference to certain common experiences (e.g. arrest; detention in a police cell; conditions within the institutions) and personnel (e.g. police; social worker; lawyers, etc.).

### Arrest and experience of police

When asked to describe the circumstances of their most recent offence, many of the children (10) said that they were caught at or close to the scene of the crime. Six children reported that the police had come to their own homes in order to effect arrest. This happened usually during the day and in the presence of parents. However, there was one exception:

Bongane (17) remembers his arrest was a rather rude awakening:  
*"It was 2am when I was caught at home sleeping...They kicked the door of my room open and asked me where is my friend, and I said 'I don't know'. They started to assault me with a sjambok, firearm and kick me with their boots."*

Other places where arrests took place include: on the street (4), at a friend's house (1), and at the house of the alleged offender's victim (1). Only one participant handed himself over to the police because he thought, by being honest, he would not be arrested. In the majority of arrests, there was more than one police officer present (see table 2). Not all of the participants remembered the number of police officers who were present at their arrest.

Table 2: Police presence at arrest

Number of police present at arrest	Number of participants who reported this number
1	3
"more than one"	4
2	10
3	3
5 or more	4
Unknown	4

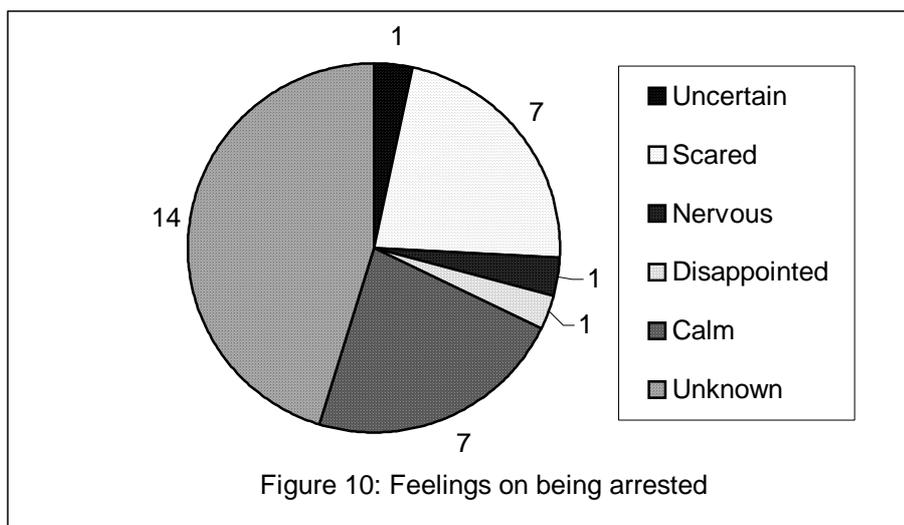
When asked to describe what the officers said and how they acted, participants gave a variety of responses. Six of the participants gave quite favourable reports, with statements such as *"they were good to me"* and *"they never hit me and were not bad"*. Other children (14) reported more negative experiences such as Ndaweni (17) who said that *"one of them loaded a pistol and held it to my head"* and Mphumzi (17) who was bitten by a police dog whilst they searched for a gun. Eleven children made no comment as to the conduct of the arresting officers.

A few participants made a distinction between the police officers they met on arrest and those who were at the police station.

Asanda (15) recalls that a policeman came to fetch her in a van and took her to the police station. They called her mother to fetch her. She remembers that the policeman who fetched her was nice towards her but that the three policemen at the station "*treated me badly, were rude and abusive*". She adds that they swore at her; called her "*kaffir*"; and wanted her to admit to things that she had not done. She reported that they did not give her any explanation as to what would happen to her. She reported that she feels that the police should have "*talked to me nicely; explained what I did was wrong; and explain that I would be sent to NICRO.*"

Only a couple of participants remember being told by the police what was going to happen to them.

The participants were asked to describe the feelings they experienced when they were arrested. Their responses included: calm (7), scared (7), uncertain (1), disappointed (1) and nervous (1) (see figure 10).



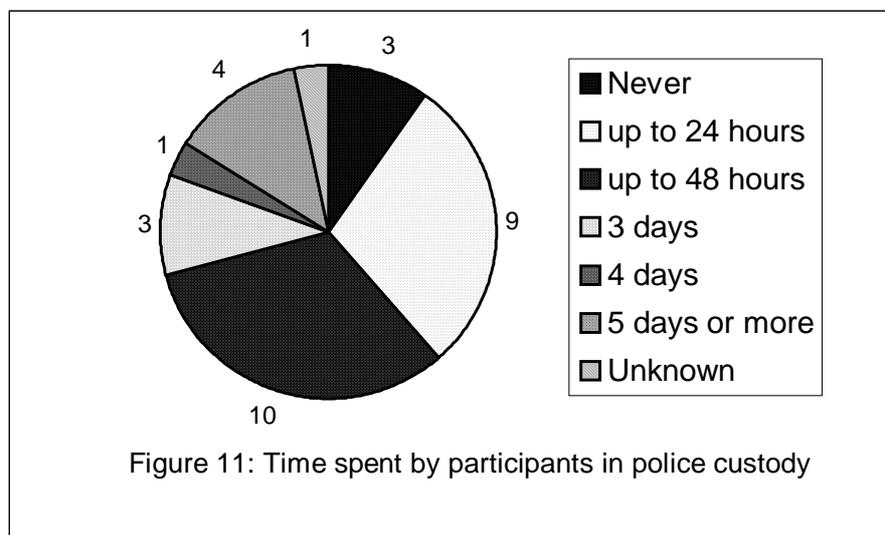
Seven of the participants talked about feeling scared or frightened but such feelings were not always induced for the same reasons. Sometimes participants felt afraid because it was the first time they were being arrested (4); other times they were scared because they feared for their safety (e.g. where the arresting officer(s) used threats or force (2)). In Bongane's (17) case, he actually feared for his life. He recalls:

*"I was very scared. I thought I will never see the following day, the way they were assaulting me, I thought they were going to kill me...my parents were there but they were afraid they could be shot. I did try to run away because I was afraid they could kill me".*

Feelings such as fear were reported less frequently in cases where participants were describing their second or third arrest. Instead the majority of these participants described themselves as feeling "calm" or "not nervous" because they knew that had done something wrong and expected to get into trouble. There was also one first offender who was calm because he thought exactly the opposite, that he would not get into trouble.

### Detention in a police cell

All but three of the participants had been held in a police cell at least once in their lives. Only on one occasion was the child that was arrested brought before court that same day. The average length of time spent by those that had been in a police cell was roughly 48 hours but some participants reported spending up to 14 days in a police cell (see figure 11).



Most of the children (29) knew why they were being held in a police cell although they had differing opinions as to whether or not it was right for them to be kept in that environment. Soli (16), charged with murder, feels that, although he was scared and the conditions of his cell were unpleasant, the police "did the right thing" by putting him in a cell overnight as the "thing (he) did was not right". He added that if a person "broke or steal or kill" he must be locked up. Those who thought it was wrong to be held in a police cell usually gave reasons for their opinion: "I'm under age and don't belong in a cell", said Simphiwe (15) who spent 14 days in a police cell.

Rather than being kept in a police cell, some of the children expressed that they should have been sent home to wait for their first court appearance or that their parents should have been given the responsibility of bringing them to court.

When asked to describe their experiences whilst in the cell, the participants gave a variety of responses. Seven of the participants recall being on their own during their

stay in a police cell, and the longest period any one of them stayed on their own was for three days. The majority of children (17) referred to being held with others, quite often (7) these were friends or accomplices to the crime they were accused of committing. In fact familiar company seemed to be a prominent factor in determining the participants' overall opinion of their detention. Tumelo (16) confirmed this by saying *"my experience was not so bad to me because I was arrested with my fellow friends. Together we committed crime."*

Only two children reported being assaulted. In one of these reports the participant referred to the perpetrators being police officers; for the other, the assaults were perpetrated by fellow inmates. Two other children reported being witness to other prisoners assaulting *"newcomers"*. One of these children remembers his worst experience whilst being held in police custody was *"when inmates assaulted or killed each other with a blanket and sodomising each other in front of my eyes"*. However, it was not clear whether or not he was describing his time in a police cell or in prison.

In most case studies the participants spoke of their experience in a fairly neutral and matter-of-fact way. Although the food was bad, one child recalled, *"we got to eat three times a day"* and the police were around to make sure that the other *"cell mates did not steal"*. None of the participants seemed to have much difficulty in recalling what the worst bit about being held in detention in a police cell, namely the actual conditions within the cells. Reference was made to *"the lice and sometimes the rats"*, *"smell of urine"* and the fact that the *"showers only had cold water"*. But there were also positive experiences recalled: Vuyane (17), who was kept with 18 others in a cell, reported that *"we played cards and other games...juveniles and adults, black white and coloured"*.

### Experience and role of social workers/probation officers

Most of the participants (25) recall being assessed by a social worker or a probation officer. Only five children reported that they had not been assessed and one child could not recall ever meeting a social worker. When asked to explain what experiences they had at the assessment, participants gave various responses, most of which were very positive (see table 3 below).

Table 3: Experiences of social worker/probation officer at assessment

Experience	Number of occasions this was reported
Was helpful	18
Asked about personal and home circumstances	11
Asked about details and reasons for offence	10
Advised what was going to happen next in the case	8
Was friendly	5
Gave hope or words of encouragement	2
Did not ask any questions	2
Gave false hope	1

Was not helpful in any way	1
Informed participant of his/her rights	1
Explained who they were and why they were there	1

The majority of the participants (19) offered favourable reports of the process of assessment. These ranged from general help with their case to more specific and personal assistance such as arranging for a phone call to parents from prison, writing a letter for the court, motivating for a reduction in bail, or paying bail *"so that I could go home"*. Siphon (17) understood the value of the assessment as an *"opportunity to explain what happened and explore the reasons why I had committed the crime"* and, as a result, he said the social worker helped by then conveying this to the court.

Only two participants reported that they were not impressed by their experience of assessment. Mphumzi (17) thought that his social worker was working hand in hand with the police and that she didn't care about him nor do anything for him. Thomas (17) said that *"all they are worried about was the crime"* and *"they didn't ask me to talk about myself or my background"*.

Participants were also asked to explain why they thought they had been assessed. Whilst three children confessed that they did not know, eleven gave answers to this question. These included: *"to help me lead a better life"*; *"...because I was young"*; *"it's done to everyone new"*; *"they do it to everyone known at the centre"*; it is an *"opportunity to explain what happened and explore the reasons why I had committed the crime"*.

The children were also asked to give their impressions as to what they thought is the role of the social worker/probation officer. Seventeen children responded and, considering that they sometimes had more than one idea as to what this role entailed, table 4 (below) accommodates all these ideas. The table shows that most felt that the social worker was there to help them address their problems.

Table 4: Participant's opinions on the role of the social worker/probation officer

<b>Role of social worker/probation officer</b>	<b>Number who gave this response</b>
to help people with social problems	6
to change lives for the better	4
to help with case/write reports to court	4
to help the child not to commit crime	3
to help people with no money	2
to advise children about the wrong things they are doing	1
to secure the correct placement	1
to let them phone home and talk to their parents	1
to ease the tension	1

The presence of a social worker or probation officer certainly seemed important to those children that received assistance in court preparation and orientation. Siphon (17) thinks that the social worker helped get him a reduced sentence and Derek (11) firmly believes that it was due to the social worker's intervention that he was transferred from a prison to place of safety for the last three weeks of his incarceration.

## Diversions

Very few of the participants (4) had experienced diversion. Each of these children were diverted for different reasons, namely for shoplifting, theft of a bicycle, house breaking and theft of a firearm. The majority of the children reported positive experiences of diversion. These three children could all recall details of their programme and identified certain life skills that they had learnt through their involvement with diversion.

Asanda (15) was arrested for shoplifting and was placed on NICRO's YES programme for three months and on the Journey for the duration of the winter vacation. She reported that she enjoyed socialising with people and remembers the questions on moral dilemmas and decision-making maps.

Lawrence (15), who also attended the YES programme, reported that he liked the "*motivation and positivity*" of the programme and feels that it has changed his manners.

Bongane (17) completed NICRO's Journey programme. He remembers the activities that he participated in when he was diverted and felt that they "*symbolised the importance and value of life*". He thought the programme was a good idea and that "*it had changed me in many ways because now I know how to respect other human beings and to take care of my life*".

Lunga (16), diverted for theft, seemed to be the only child who, in spite of acknowledging that diversion is a good idea, did not like his own experience of diversion. He said that he "*didn't quite understand what it was all about*". Although he thought the part on peer pressure was interesting, he did not enjoy cutting out pictures during the topic about self image. He added that he did not complete the programme and that there were no consequences for not completing the course.

In two other interviews, a couple of participants who had not experienced diversion but had the concept explained to them, expressed interesting opinions: they both thought that they would have been better off had they benefited from a diversion programme.

Sipho (17) said that he wished that he had been given the opportunity to be diverted. He felt that *"punishing a child without any warning or guidance makes things worse, so I think if I had been diverted many things could have changed my life."* In particular, Sipho felt that he could have benefited from receiving counselling or therapy, *"because there are so many things we think we know but we don't about life. I think knowing the reasons which make a child commit such an offence is very important."*

## Court

All of the participants in the sample had been inside a courtroom. Of those who were asked to recall how many times they had appeared in court, the majority had been in court more than once. Excluding the participants who had been in court so often that they had lost count, the average number of times a participant appeared in court was four. The average number of court appearances was three for first time offenders.

There was a lot of feedback from the participants on their experiences in court. When asked to describe their feelings in court, answers ranged from feeling ignored and confused to feeling scared and nervous, even where the child in question had appeared in court before.

Phumlani (15) has only been to court once. Despite having the support of a helpful legal assistant and understanding the process, he reported that he did not like court because *"if you wanted to talk you had to raise your hand up. But when I raised my hand they said to go down --you don't have to talk. They did not give me a chance to talk."*

Asanda (15) has also only appeared in court once. She reported feeling *"shy"* and *"concerned about what the other people in the courtroom were thinking of her."* She felt that the *"other people were looking at me funny... I should have been on my own."*

Craig (18), on the other hand, has appeared in court about eight or nine times but admits to feeling ignored and confused. He stated that *"I never do any talking and never know what is going on."*

Themba (18) reported that *"I don't like court as I was always scared"*.

Each of the participants was asked to describe the other people that were present in the courtroom.

Those that mentioned the magistrate appeared to understand that his or her role *"is to pass sentence"*. Craig (18) also thought that *"the judge...watches you the whole time... and you have to let them ask whatever they want"*. Andile (16) agreed that

"he is the one who has the power over everybody". Thomas (17), who has been to court "a lot", describes them as "all the same...not friendly".

Twelve of the participants recollected a prosecutor being present and most identified him or her as being the one who asked all the questions. Craig (18) described the prosecutor's purpose as being "to get you to open up by asking you tricky questions". A couple of children remembered that the prosecutor "read from a file" and "talked to the magistrate". Only one confessed that he did not know what the prosecutor's role was.

Twelve of the children also mentioned the presence of a legal representative. About half of them understood that this individual was there to represent them, as Mthobeli (17) says, "to talk on one's behalf even when guilty and... ask for a lesser sentence on your behalf". Soli (16) says "he is the one to tell the magistrate about the fact that it is your first offence and needs another chance." Interestingly, one participant reported that he was forced by the prosecutor to "take a state lawyer" which he did not want to do. Although one of the children said that the legal representative "done good things...(and) tells you when you are going to court", most complained that the legal representative did not explain the procedures and it would appear that this omission often increased levels of anxiety and fear in children.

Soli (16) recalls feeling scared and nervous in court. It was clear that Soli felt that, on his first appearance in court, he was being convicted for the murder he was charged with. Although he is still awaiting trial, and has been for almost two years, he believes that he is currently serving his sentence and being punished for what he has done.

Although Craig (18) has had a legal representative every time he has appeared in court but he believes that he has only ever spoken to him once. He would complain to the lawyer but he is scared to say anything against him in case he loses him and they have to pay for another one, which he thinks he can't afford.

Six of the participants mentioned the availability of a translator when the proceedings were not conducted in their first language. However, this was not always seen to provide the assistance and reassurance it intended to provide.

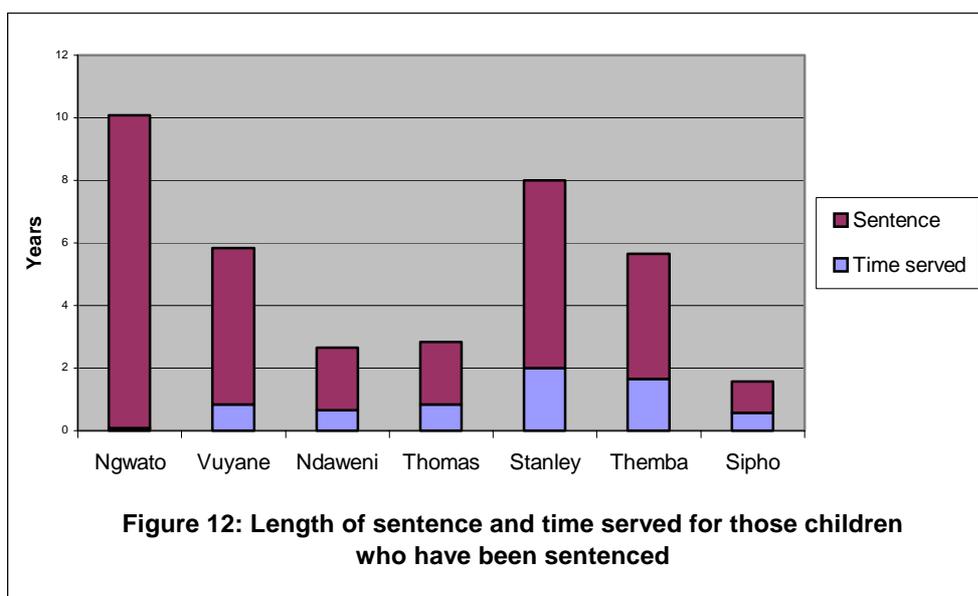
Themba (18), a Setswana-speaker, explains "Many people are speaking to you using different languages and sometimes the person who translates does not say the question as it was stated. I was not given a chance to state what happened beside what I told the police which I feel they did not state it as I did."

Only one participant made reference to bail and he said that it was first denied and then set too high, resulting in him being held for a long period of time awaiting trial.

Phumlani (15) reported that he asked for bail but the magistrate said 'no' on the grounds that he had allegedly committed a serious offence (housebreaking and rape). Instead, he was placed in the juvenile section of a prison to await trial. He spent 9 months awaiting trial there before being granted bail of R1000. He mother could not afford this because she was unemployed. Phumlani acknowledges the help of a social worker who wrote a letter to the court in order to reduce the amount to R500 bail.

### Criminal justice response

In spite of the fact that the majority (22) of children were awaiting trial, many of them had experienced more than one criminal justice institution and just under half had been sentenced previously. Of the seven children serving a sentence in an institution, most were sentenced to a period of less than five years (see figure 12) . One participant had been sentenced to ten years for a rape that he denies committing.



### Prison/Youth Correctional Centre

Out of the sample interviewed, 18 children had experience of either a prison (14) or a youth correctional facility (4). Five of these children had been sentenced and the time they had already spent in the correctional service institution ranged from just under a month to two years. The other thirteen children were awaiting trial. Of these, one child had spent only three days awaiting trial whilst another had been awaiting trial in prison for over a year and three months.

Together, this portion of the sample gave interesting insights into their experiences of the conditions, treatment and general attitude towards prison.

All of these participants, either as accused awaiting trial or sentenced offenders, had spent time in cells with anything from 18 up to 72 other children. Their stories spoke of overcrowding, unhygienic conditions, theft, exposure to gangs, etc.

*"I was sleeping in a cell where there were 72 boys...some had to sleep on the floor." Soli, (16)*

*"I sleep in a cell with 45 other boys. There are 19 beds." Sipho (17)*

*"The prison is very dirty...it looks like they (the prisoners) are rotting away...(t)here is a lot of sickness in that place...there are no warm showers". Thomas (17)*

Phumlani (15) reports that he suffered from scabies. He recalls being woken up *"with the wardens spraying you with a hose pipe in the middle of the night...not being able to go to sleep because they have sprayed the floor and it is wet"*.

*"What I disliked the most was watching the boys sleep on another boy and there was nothing you could do...(t)here they stole everything from you, your money, food from visitors, shoes, everything." Derek (11)*

Several of the children mentioned the presence of gangs and violence in prison.

Soli reported that there was a lot of fighting and stabbing. He witnessed three stabbings (with broken glass from a window). He was scared when this happened and ran away each time to lock himself in the toilet.

Derek and his co-accused spent 5 months and 3 weeks awaiting trial in prison. He thought that prison was *"bad."* He said that *"if a boy hits you or takes your money, food, shoes, pants no one will help you. If they say you sleep on the floor, you sleep on the floor...the boys sleep with other younger boys...they don't care about anyone there."*

The presence of 'friends' was regularly referred to by the participants as a source of protection from the violence and abuse they were exposed to in prison.

Derek reported that he was safe in prison and that no one touched him because his co-accused had been there before and they knew him.

Ndaweni (17) was in prison for three days, in a cell where there were about 50 boys, all awaiting trial. It was not as bad as he thought it could have been because there were people he knew there. He says, *"They were looking out for (me)"*.

Some of the children mentioned the behaviour of the personnel at the prison and several made fairly positive comments. Feedback included the fact that *"(e)ven the correctional officers are co-operative"* and *"the warders seemed to be quite nice"*. However it seems that the warders were, in most situations, not very active in providing activities or programmes for the children.

During the day *"we didn't do much; just eat, clean and sleep"*. Soli (16)

*"There is no routine...(y)ou get exercise for about ten minutes. You get to see the sun for ten minutes...The warders won't allow any longer since they don't want the 26s and 28s to start fighting"*. Thomas (17)

Phumlani (15), awaiting trial for nine months, reported that sometimes they would organise exercises but never sport. He said that the rest of the time would be spent sitting looking at the wall and playing cards.

Sipho (17) has finished school and is therefore not eligible to attend school within prison. He inquired as to whether he could continue his studies but was told that it was too far/ not possible. He reported that he does not have access to any reading material. He reported that he spends most of his time knitting. His mother brings him wool.

However, a few of the children seemed to be involved in some sort of programme and spoke of its value.

*"I did attend a few discussion groups – about AIDS and crime awareness...I found these useful"*. Phumlani (15)

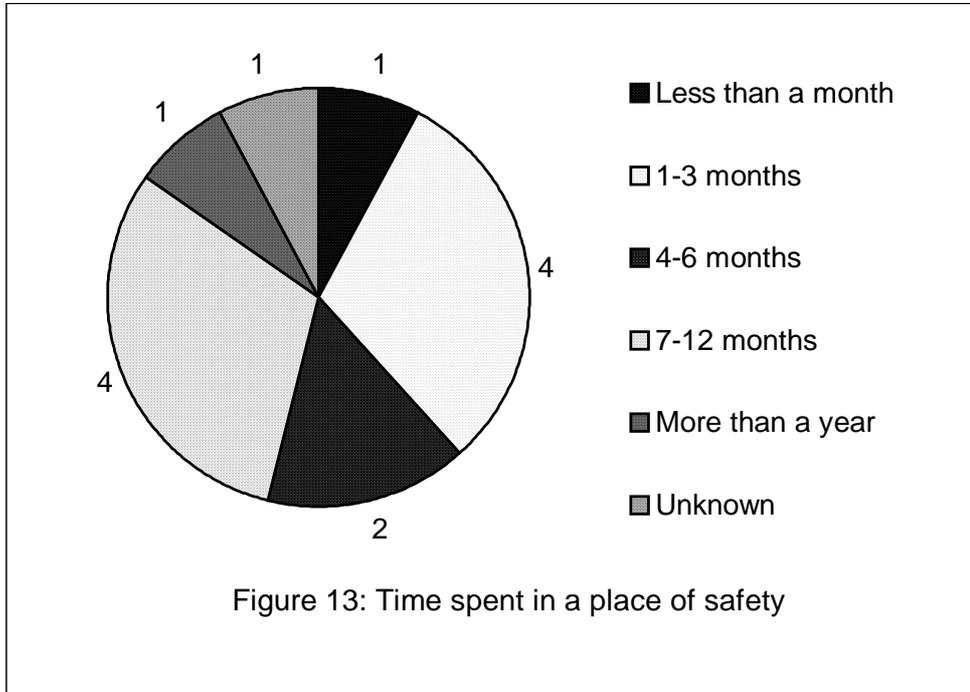
Joshua (17) recalls being busy each day. *"Children were made to wash socks for the older prisoners...(we had to) wash the floor and clean for them"*. He also remembers *"going to school"*. Joshua also mentioned that there were *"workshops on woodwork...these were good things because you must learn how to make things"*.

In most cases, however, the children expressed general dissatisfaction with prison life. Comments included *"it's not a nice place"*, it is *"not right"* and *"we're just obeying rules and regulations so that we can finish our sentence"*.

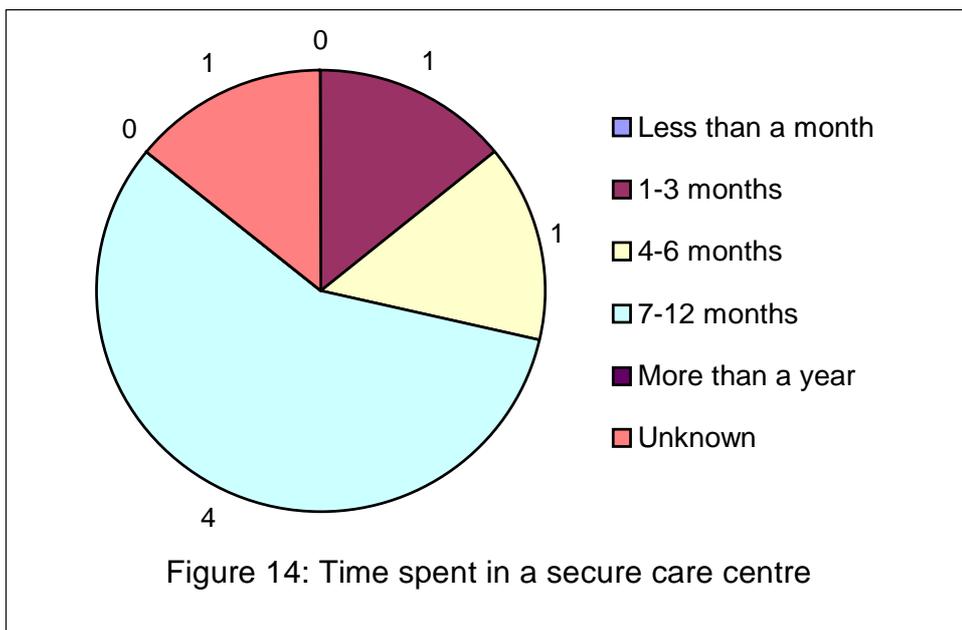
Mthobeli (17), who is currently awaiting trial in a youth correctional centre, says *"It is not a place where one should find yourself in...When you go to prison, life stops and its like time stands stills. The conditions are okay as they are, because they make one not to"*

*want to see yourself in prison again. In prison one does not do as one pleases”.*

**Place of safety/Secure care centre**



Of the total group, 13 of the children had been in a place of safety and seven children had been in a secure care facility. All of them were awaiting trial in these institutions. Figures 13 and 14 illustrate how long each participant had spent in either a place of safety or a secure care facility. The average time that a participant spent awaiting trial was seven months in a secure care centre and six months in a place of safety. One participant had actually been awaiting trial for three years.



Conditions generally seemed to be more preferable to those found in prison or youth correctional facilities. Lukhanyo (17) summarises by saying that *"no one hits you, you sleep in nice bed, eat nice food, and go to school."* Thando (16) also feels that it is better to be at a place of safety than in prison cell because they can walk around freely. Having experienced a variety of different criminal justice institutions, Thomas (17) reported that he most liked the place of safety. He recalled that there were lots of programmes, competitions (e.g. soccer where they played against each other) and the fact that *"every day you got given chips and chocolate"*. Derek (11) alluded to the amount of free time and leisure activities: *"We watch video's and play on the pool table."*

With regard to sleeping arrangements, participants reported that they shared rooms with relatively small numbers of other children, ranging from two to eight boys in each room. For more than one child, the fact that they could sleep on their own bed was quite a novelty. One child, who had just been transferred from awaiting trial in a prison, said *"it is like home because you can do anything and if you have a problem you tell sir or mam and they sort it out with the other boys and you eat many times."*

The daily routine described by various children seems to include a range of different activities, both indoors and outside.

Bongane (17) describes a typical day. *"We wake up and we take a bath. After we are eating our breakfast (we eat healthy food) and after breakfast we are starting with our activities. Some student from the University are coming to give us lessons...I am playing soccer and I enjoy it very much; it keeps my body healthy"*.

There also appeared to be a greater focus on organised activities than there was in correctional service institutions. In several places there are reports that the children are provided with schooling.

Phumlani (15) mentioned that he was pleased about the fact that on the day of the interview he was starting computer lessons. Apart from computers, what he most liked about his place was the sports and swimming.

Soli (16) agreed by adding that *"here you can learn a lot of things...it's like a school"*.

Not everyone reported that they enjoyed the programmes on offer. Simphiwe (15) said that *"I don't want to participate in the programmes offered in this place"*. Lunga (16) also reported that he was not participating in any of the programmes because he thought they were *"a waste of time"*. However, it must be added that according to their descriptions, and those of two others in the same institution, the secure care centre where they are staying appears to offer nothing more than simply *"video programmes and games"*.

Several boys mentioned that they had been visited whilst at a place of safety. Thomas (17) tells us that *"every Sunday, between 14.00-16.00, the boys had a 'contact visit'"*. This was in stark contrast to the same boy's experience in whilst prison where, on the one occasion he was visited by his father, he was only allowed to speak with him for half an hour but he felt *"it wasn't long enough"*. Furthermore, he says *"you had to speak through a speaker... and there was a glass partition"*. Yet frequent visits were not common to all. Soli (16) laments that he misses his mother as she only visits him once every six months.

It appeared that the majority of the participants had learnt something from their time in place of safety or secure care facility.

Bongane (17) highlights that, at his place of safety, *"they treat us with respect...I like this place because it has transform me. I am a different person altogether. I like the way they are treating us, we feel we are at home"*.

Craig (18) believes that the programmes have taught him how to be positive. He says he has learnt how to be patient, how to control his anger, and how not to take anything for granted.

Soli (16) is in charge of his dormitory, which comprises of several rooms totalling 52 boys, both older and younger. As the "dormitory leader" he is responsible for waking them up, supervising tidying up, and maintaining discipline. He reports any thefts to one of the social workers. He says that this responsibility has helped teach him that he wants to change his life. It has taught him discipline, the role of a teacher and the difference between good and bad. He believes that *"if you want to be a man, you mustn't fight. You cannot fight to solve a problem. When you talk you solve it right"*.

## Reform school

There were only three members of the sample who had experience of being at a reform school. Each of the children seemed to enjoy their time at the reform school; their reports mention that life skills programmes were available and that the supervisors provided schooling. However, each of the children had run away from the institution at some point.

Thomas (17) has spent ten months at the reform school and says that it's *"better being here than outside"*. He said he was learning new things; he could *"learn a trade"*. Out of the programmes run by the Centre, Thomas enjoys the woodwork lessons. He's made a jewellery box and has just finished a dressing table. He believes that woodwork has shown him *"stuff"* that he didn't know and that it *"helps get a job"*. In spite of such positive opinions, Thomas has run away from the reform school twice in the last ten months. He admits that he doesn't like *"being here"* and thinks that, *"no one*

*wants to be here". He says it's boring at weekends and he does not see his family because they live too far away. He sleeps in a dormitory in which none of the other boys speak English.*

Ndaweni (17) arrived at a reform school after three days awaiting trial in prison. He thinks it is a good place, saying it "*teaches you what is wrong and what is right*". Two or three times a week they have a group discussion on "*changing your life*". He believes that reform school has changed his lifestyle. He has stopped smoking drugs. He now thinks that, "*Drugs don't take you forward in life. You end up being someone else, either lying on the streets or end up dead.*"

### **E) Children's reflections**

In each interview the children were asked to contemplate their own criminal activity. There were a few children who denied their involvement in crime. Six of the children awaiting trial were pleading not guilty and one of the sentenced children refused to accept guilt for his charge.

#### **"What do you think of the crime you committed?"**

Those who accepted responsibility for their crime(s), regardless of their plea, were asked to offer their own opinion of the incident, commenting on the degree of seriousness. A few of the opinions expressed included:

*"What I did was a bad crime. I have disappointed my mother. I dropped my dignity down"* Asanda (15)

*"My offence (of theft) is not severe because I was satisfying a basic need"*

*"Housebreaking is bad because I took the victim's belongings without his consent"*

*"I regularly sit still and think about my offences wishing that I had never committed any of them".*

*"At the time you only think that you will get money, you don't think that you will go to jail."* Derek (11)

One of the children, Derek, showed a high degree of remorse and victim empathy when asked to reflect on the crime he committed.

In relation to his victim, he said *"if I stole all his money, how would he have finished his holiday in South Africa, what would he have spent because he was not from here"*. He related the man's experience to if he was to go to Mozambique and have his passport and money stolen. He said *"how would he get home, might end up sitting in the street begging."* He said that *"robbers don't care about anyone"*.

Three children, although they accepted guilt for their crime, showed no remorse. Lindikhaya (16) showed a lot of anger towards the criminal justice system, did not show any remorse and blamed the police for the situation he is in.

#### **"Why do children commit crime?"**

More than half of the participants gave an answer to why they thought children in general commit crimes. Their responses included the following:

*"The circumstances in which children find themselves in...Most of them have no food and money so they go out and steal". Lunga (16)*

*"Youth are just naughty, but some of them do it because they have no food". Thobile (15)*

*"The main reasons for youth committing crime in South Africa are (a) no corporal punishment, (b) boredom and being unnecessary, and (c) hunger." Lawrence (15)*

*"Peer group pressure." Ngwato (16)*

*"The problem of parents and familial neglect". Tumelo (16)*

*"Drug problems or house problems." Thomas (17)*

*"They are poor, have no parents but that some just do it. In (prison) there were even rich kids there. Most of the time because no jobs and don't know what to do. If there were jobs there wouldn't be crime". Derek (11)*

*"A lot of the time it is to do with their families...Their mother or father doesn't give them as much money as they want. They begin to rob and steal. They get used to it. They get to try drugs and become addicted. You do something worse. You end up in a gang". Craig (18)*

## Turning points

It appears that only three participants felt there was a clear turning point in their lives where they could have done things differently. Andile (16) felt that if he did not start using drugs, he would not be where he is today. Thomas (17) felt that the turning point in his life was when his mother died. Tumelo (16) made an interesting comment to the effect that a change in his family life would have changed his way of life and behaviour.

## Impact of the criminal justice system

Each participant was asked to describe the way in which they have been affected by the criminal justice system.

Stanley (20) feels that the way in which the criminal justice system has responded to him was *"the right treatment for me, as I feel that I would have committed more serious offences if I was not punished"*.

Ngwato (16) agrees. He says that in the future, even if he could find a clear chance of committing any crime, he will think of imprisonment. If chance allows, he says he will *"do things differently instead of taking advantage"*.

Not all the children felt that the criminal justice response had had a positive impact on them. Fundile (14) thought that he has always *"got away with crime"* as he *"got free bails in all offences"*. Sabelo (13) felt that, *"a lot of time has been wasted."*

### The right response?

The study also drew on the participants' opinions as to whether, if the legal system had responded to him/her differently, might he/she not have committed so many offences. Answers ranged from specific experiences of certain stages of the criminal justice process to more general comments on their overall experience.

Themba (18), convicted of housebreaking and theft, does not think he should have been arrested. But then he goes on to say that he should have been given a suspended sentence and put on a life-skills course *"as I was attending school"*. He wants to continue with school as *"without education I may fall into trouble again"*.

Stanley (20) was also sentenced for housebreaking and theft and agrees that he too should have been given a suspended sentence and should have been able *"to ask forgiveness from the victim and returned the goods"*. He feels that the worst thing about being arrested was *"being a child...I felt that there is no life after being arrested...the court should have given me free bail"* instead of keeping him held in police cells. He wanted to be employed so that he could have money.

Thomas (17) thinks that the legal system should have responded to him differently. He asked for *"rehab"* but was denied. He believes that there should be more centres for rehabilitation *"so that they can help"* children on drugs. When he finishes his sentence he doesn't want anything to do with old friends.

Ngwato (16) has been sentenced to ten years in prison for rape but thought that the sentence he was given was too harsh, as compared to the crime. He said there *"should have been an alternative sentence like warnings."*

Derek (11), the youngest of the participants, is awaiting trial on a charge of shoplifting. He thinks that the court should have sent him *"to a place of safety for 1 year and 6 months and afterwards made (me) go to the nearest police station every Friday to wash all the cars for 2 months."*

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**“What do you think should happen to children who commit crime?”**

When asked how a young offender should be treated, the participants offered several suggestions. Some focused on aspects of the traditional criminal justice system that they thought could be improved, such as court procedures and diversion programmes. Others looked at building on relatively new alternatives such as involving the offender and the community when working out a suitable response to the crime.

Zakhele (16) thinks the court system should be faster and more efficient. *“Court delays the hearing process and (offenders) have to wait for long hours ...and at the end of the day their cases are being remanded.”*

*“Programmes for offenders should teach them how to make stuff to help them understand that they are good at stuff; that they have got talent; that they shouldn't waste their talent by going to jail.”*  
Thomas (17)

*“Someone should sit down and talk to him; should tell him what is right and what is wrong.”* Ndaweni (17)

*“(The criminal justice system) should come together more with the community...People must come together and think about what to do... you (the offender) have to pay for your crimes in the way the community decides...at the same time, the criminal must be tried in court to avoid the influence of personal grudges on the outcome of a case.”* Craig (18)

## Discussion

The children involved in the research have produced a wealth of information. In this section we discuss some general observations and identify a number of key themes that have emerged.

### The backgrounds of young offenders

Through conducting research into the life histories of children who have experienced the criminal justice process, it has been possible to piece together various narratives about how such children came to be involved in crime. Broken homes and poverty were two issues, often inter-linked, that appeared not only to be common factors but also real influences that the participants identified in explaining how they ventured into criminal activity.

From the little detail offered by each participant on their home and personal circumstances, it is clear that the majority of the participants are from economically disadvantaged backgrounds. Many of the participants not only mentioned that money was a motivational factor for their own crime, but also specified that this money was needed often to satisfy the most basic of needs. Evidence of limited resources in the home was re-emphasised when several children explained how their parents felt compelled to seek work in the urban areas, leaving the children in the care of a relative. Whether through financial hardship or otherwise, many of the children's parents were not absent due to work but rather due to separation, divorce or death. This absence in turn seems to have had a negative impact on many of the children. Youngsters were often abandoned, kicked out of home, or rejected by their new step-parents.

This link between the loss or absence of a parent, resulting involvement in criminal activity, supports the findings of academic research that suggests that children who experience the permanent or semi-permanent loss of a significant figure to whom they are emotionally attached may suffer serious emotional disturbances as a result (Rutter, 1975; Wedge, Boswell and Dissel, 2000). Such disturbance is thought to be more likely when, as in many of the sample case studies, the children have not been effectively helped to deal with their loss. Such loss, it is argued, may contribute to later disturbed, aggressive or even violent behaviour. It is suggested that this theory has important implications for those designing effective crime prevention strategies.

Schooling also seemed to be quite an important feature in the lives of many of the participants. Almost all the participants who spoke about their schooling referred to it in positive terms, eagerly identifying a favourite subject (usually maths) or a preferred educator. Several voiced their desire to further their education upon their release from the criminal justice system explaining that "*it gives me more knowledge*" or "*it will help me get a job*". Only two of the participants talked about their dislike of school and it appeared that this negative attitude may have resulted from their treatment (perceived or otherwise) by the teachers as much as from their own wrong doing.

Although some of the participants had been able to continue their schooling following their contact with the criminal justice process, the majority of the participants had left the formal schooling system as a result of their criminal activity. In other instances they had left school before they became involved in crime. It is a clear concern that their involvement with the criminal justice system might impede their academic aspirations.

Unexpectedly, only one participant made reference to experiencing academic difficulties since under achievement is sometimes seen to be a common indicator or precursor to a child's involvement in criminal activity (Rutter, 1975).

### **Offence backgrounds**

More than half the sample admitted to prior offending for which they had been caught and processed through the criminal justice system. As far as researchers were aware, most participants were quite open about any past offending that they had committed. The researchers suggest that the high levels of recidivism could be the result of either the perpetual influence of environmental circumstances that induce children into committing crime, or the failure of the criminal justice system to respond effectively to young offenders, or a combination of both.

The search for the causes as well as the solutions to crime can, to a certain extent, be assisted by the children's explanations for their crimes and resulting experiences. With regard to their environmental circumstances, a troubled upbringing or poverty or a combination of both, seemed to play a role in drawing many of the children into a life of crime and these two factors will often remain unchanged regardless of the criminal justice response. Peer pressure and gangs outside the criminal justice system also seem to entice some of the children into committing crime. The influence of drugs and alcohol in the lives of some of the participants is also worth noting.

In assessing whether or not the criminal justice system could have played a role in preventing offending or re-offending, the children offered suggestions that reflected various rationales that have been used world-wide in formulating criminal justice policies, including retribution, rehabilitation and restorative justice. One boy asserted that it was essential that a criminal justice response involved "*paying the price*" whilst another felt that all that needs to be done to deter children generally from committing crime is to show them life in a prison. Another child suggested that the community should be more involved in reaching a solution that effectively repairs the harm done by the crime. The latter's proposition is in effect the principle of restorative justice that underlies the new Child Justice Bill.

### **Criminal justice experiences**

This study also generated an abundance of information on the children's own experiences within the criminal justice system. Owing to the variety of offence and offender profiles represented by the sample, no one participant shared the same experiences as another. Although they often passed through similar stages and

shared dealings with similar officials, the research brought to light a broad variety of different, sometimes unexpected, encounters with the criminal justice system.

### **Arrest & detention**

The children's experiences at the hands of police varied greatly. The only pattern that seemed to prevail was that, the more serious the crime, the greater the number of police present at arrest. In most cases, however, they were not informed of what was going to happen to them and this seems to have fuelled their uncertainty and anxiety.

Almost all of the participants had experienced being held in a police cell and this was usually in the company of others. Sometimes they were with friends; other times they were alone. Much of the time conditions were not good, either due to overcrowding, poor sanitation or infestation of vermin. Very few of the children felt that this incarceration was a necessary measure and several offered alternative suggestions, including forms of house arrest and informal warnings. The Child Justice Bill also includes these alternatives, emphasising that depriving children of their liberty, either whilst they await trial or as a sentence, should be a measure of last resort and should be restricted to the shortest possible period of time.

### **Assessment and the role of social workers and probation officers**

Most of the children had met with social workers or probation officers and offered understanding and support of the assessment process. Many offered favourable reports of their experience with welfare workers but it was sometimes unclear as to whether they were referring to the social worker who assessed them or a social worker who was resident at their institution. What was interesting was the way in which the children seemed to be aware of the social worker going beyond the call of duty in paying bail or arranging a crucial phone call. It is clear that for many of the children their encounter with a social worker was their first real chance to talk about their crime and their personal history.

### **Diversion**

Very few of the children had experienced diversion. Those that had all expressed the opinion that diversion was a good idea in principle, even though, in one case, the child did not enjoy his experience of diversion.

### **Court**

All of the participants had been in court at least once in their lives. Their experience of attending court, even for those who had made numerous court appearances, was unsettling and few showed any clear understanding of what was expected of them in court. They seemed to have different ideas of the roles and significance of the personnel and procedure of the court. Many mentioned the presence of an interpreter in their case but that did not seem to have any impact on their level of understanding of the case. Few, on the other hand, seemed to have had a legal

representative but, even where they did, from the general lack of understanding of court procedure, it might be assumed that this legal assistance did not explain procedures.

### **Prison & gangs**

Half of the children had either been in prison or a youth correctional facility. In both places they were made to share a cell with large numbers of children. Many reported on the presence of gang violence in prison but few talked about being directly involved, as either perpetrator or victim. Several explained the presence of friends had helped protect them against gangsterism. Very few seemed to be offered any programmes or activities whilst in prison and most reported dissatisfaction with prison as a meaningful response to crime.

### **Places of safety and secure care centres**

Reports of experiences of places of safety, secure care centres and reform schools tended to be far more favourable than those of prisons or youth correctional facilities. Children seemed to be more occupied and treated with greater care and respect.

### **Reflections**

The children showed mixed feelings about their criminal activity: Some showed real remorse whilst others seemed to have no regrets. Some felt that the criminal justice system had treated them appropriately whilst others felt that it allows them to "*get away with crime*". Many of the children thought that children commit crime because they are poor or else lack employment. Lack of family support, both materially and psychologically, featured in several explanations. Children had different ideas as to how the criminal justice system ought to deal with young offenders. Several highlighted the importance of providing life skills programmes to help divert people away from a life of crime. Others drew upon the importance of involving the victim and the community in a strategy to combat crime.

## **Conclusions**

In spite of the limitations identified earlier in this report, the research provides valuable insight into a variety of experiences borne by children in the criminal justice institutions of South Africa. Whilst the narratives and recollections of these children may not present us with solutions, they do frame the issues in a more meaningful way than simple cold and bare statistics. By listening to the reflections of the children who have experienced the criminal justice system as it currently operates, the research lends insight into different approaches that may be taken. Whilst this study is only investigative in nature, it does point to several factors that seem to drive children towards committing crime. Being purely exploratory and largely descriptive, further more in-depth research is needed that will allow us to identify patterns in the making of young criminal careers and therefore assist in the developing of strategies to prevent crime and reduce recidivism.

However, the transformation of youth justice extends beyond investigating causal factors. Youth crime is a serious topic and change needs a wholesale approach if it is to succeed. What is required is a full integration of research programmes into the process of policy formulation and application in the child justice system. This would entail regular review and evaluation of existing mechanisms and a commitment to the implementation and assessment of agreed experimental methods. Interventions and criminal justice responses geared to fight crime can only succeed if they take into account the real lives and views of the people they attempt to reach.

Children are sensitive barometers of social and economic change and the impact of such changes in South Africa has been illustrated by, amongst other things, the increase in crime committed by children. This trend leads onto the realisation that the costs to society of failing its children are huge. The way in which children develop determines whether they will make a net contribution – or pose a huge cost – to society over the course of their lives. The findings of this study show that children's earliest experiences – within the family and with other caregivers – can significantly influence the future course of their development. If they turn to crime at any stage, the criminal justice system must be capable of showing them the opportunity to return to a life without crime. Therefore the appropriate development of children in conflict with the law ought to be of universal concern.

## References

### **Academic sources**

Artz, L. (2001) *Research ethics relating to violence against women*. Discussion Paper. Institute of Criminology, University of Cape Town.

Barberton, C. (1999) *Costing the Implementation of the Child Justice Bill and developing a strategy for implementation*. AFREC: Cape Town.

Boswell, G. (1996) *Young and Dangerous: the backgrounds and careers of Section 53 offenders*. Avebury: Aldershot.

Community Law Centre. (1992) *Justice for the Children: No child should be caged*. CLC: University of the Western Cape.

Community Law Centre. (1998) *Children in prison in South Africa: a situational analysis*. Cape Town: University of the Western Cape.

Community Law Centre. (1999) *The Draft Justice Bill: What the Children said*. CLC: University of the Western Cape.

CRED (2000) CRED Needs Assessment: Medium A section, Pollsmoor prison. Unpublished. CRED: Cape Town.

Department of Correctional Services. (2000) *Trends in the offender population: January 1995 to July 2000*. Report prepared for the National Council on Correctional Services. Pretoria: Department of Correctional Services.

Department of Justice. (2001) *Interim National Protocol for the Management of Children Awaiting trial*. Pretoria: Child Justice Project and the Department of Justice.

Department of Social Development (2001) *Report on National Workshop on secure care facilities* Pretoria: Department of Social Development

Durrheim, K. and Wassenaar, D. (1999) 'Putting design into practice: writing and evaluating research proposals', in Terre Blanche, M. & Durrheim, K. eds. *Research in practice*. Cape Town: University of Cape Town Press.

Eliasov, N. (1998) *The Transformation of the Child and Youth Care system and its impact on warders and youth awaiting trial in Section B5, Pollsmoor prison*. Honours dissertation, University of Cape Town.

Farrington, D.P. (1997) 'Human Development and Criminal Careers', in Maguire, M., Morgan, R. and Reiner, R. eds. *The Oxford Handbook of Criminology*. Second Edition. Oxford: Clarendon Press.

- Frank, C. and Fisher, S. (1998) 'Kids, drugs and transformation'. *Crime & Conflict*, 12:7-11.
- Gast, M. (2001) 'Education and the South African Juvenile Justice system'. *Article 40*, 3/3:9-10.
- Inter-ministerial Committee on Young People at Risk. (1997) *Report of the Durban Pilot Assessment, Reception and Referral Centre*. Pretoria: IMC.
- Inter-Ministerial Committee on Young People at Risk. (1996) *In whose best interests? Report on Places of Safety, Schools of Industry & Reform Schools*. Pretoria: IMC.
- Jupp, V. (1989) *Methods of criminological research*. Contemporary Social Research: 19. London: Routledge.
- Muntingh, L. M. (1998) *The Effectiveness of diversion programmes – a longitudinal evaluation of cases*. Cape Town: NICRO.
- Muntingh, L. M. (1999a) 'Statistics: Youth convictions'. *Article 40*, 2/3  
(1999b) 'Statistics: Children sentenced to imprisonment'. *Article 40*, 2/1:6.
- Muntingh, L. M. (2001a) 'Update: Sentenced and unsentenced children in prisons'. *Article 40*, 3/1:6.
- Muntingh, L. M. (2001b) *The effectiveness of diversion programmes – a longitudinal evaluation of cases*. Cape Town: NICRO.
- Office of the Inspecting Judge. (2000) *Annual Report*. Judicial Inspectorate of Prisons, Cape Town.
- Parliamentary Monitoring Group. (2001) *Minutes taken at meeting of the Justice and Constitutional Development Portfolio Committee, 17 May 2001*.
- Potgieter, H. and Skelton, A. (2002, forthcoming) 'Juvenile Justice in South Africa' in Winterdyk, J.A. ed. *Juveniles Justice Systems: International Perspectives*. Canadian Scholars Press: Toronto.
- Prinsloo, J. (1996) 'Repeat offenders in South African prisons.' *Crime and Conflict* 7:24-29.
- Rutter, M. (1975) *Helping troubled children*. London: Penguin.
- Segal, L. (1998) *Youth Perceptions and Attitudes towards crime*. Report for Sports Against Crime: Centre for the Study of Violence and Reconciliation.

- Skelton, A. (1998) *Children and the Law*. Lawyers for Human Rights: Pietermaritzburg.
- Sloth-Nielsen, J. (1995) 'Juvenile Justice Review 1994 - 1995'. *SACJ*, 8/3:331-343.
- Sloth-Nielsen, J. (1996) 'Juvenile Justice Review 1996'. *SACJ*, 9/1:342-353.
- Sloth-Nielsen, J. (1997) 'Juvenile Justice Review 1997'. *SACJ*, 11/1:97-107.
- Sloth-Nielsen, J. and Muntingh, L. M. (1999) 'Juvenile Justice Review 1998'. *SACJ*, 12/1:65-80.
- Sloth-Nielsen, J. and Muntingh, L. M. (2001, in press) 'Juvenile Justice Review 1999-2000'. *SACJ*.
- Steinberg, J. (2001) 'Schools of criminality', *Business Day*, 1<sup>st</sup> edition. 22<sup>nd</sup> October.
- Steyn, F. and Foster, H. (2001) 'Impediments in the management of young offenders in the Free State'. *Article 40*, 3/1:10-11.
- Wedge, P., Boswell, G. and Dissel, A. (2000) 'Violent Victims in South Africa: Key Factors in the Backgrounds of Young Serious Offenders', *Acta Criminalogica*, 13/2:38.
- UNICEF. (1987) *Children on the front line: The impact of apartheid, destabilisation and the warfare on children in southern and South Africa*. UNICEF: New York.

### **Legislation**

Child Care Act 74 of 1983

Correctional Services Act 111 of 1988

Criminal Procedure Act 51 of 1977

## Appendix 1: Consent form

We, \_\_\_\_\_ (name of legal custodian) and \_\_\_\_\_ (name of participant), hereby consent to an interview being conducted between the aforementioned participant and \_\_\_\_\_ (name of interviewer) for the purpose of research on children in South African criminal justice institutions.

We understand that the interview involves the participant being questioned on his/her life history, focussing in particular on details of his/her past criminal behaviour.

We understand that the researcher will protect the privacy of the participant by withholding his/her name from all persons not connected with the research project.

We are aware that the information provided by the participant will remain confidential between the researcher and the participant. In particular, we agree that information that is gained through the interview, pertaining directly to the individual participant, will not be shared with individuals within this institution. This includes not only personnel who work with and/or care for the participant but also those who live with the participant. However, we understand that access, when requested, will be granted to the *general* findings of the research on completion of the study.

Signature of legal custodian: \_\_\_\_\_

Signature of participant: \_\_\_\_\_

Signature of witness/researcher: \_\_\_\_\_

Date: \_\_\_\_\_

## Appendix 2: Notes for interviewers

### BACKGROUND TO THE PROJECT

- The Child Justice Alliance (CJA) is a network of NGOs, CBOs, academic institutions and individuals working to promote informed debate during deliberations of the South African Law Commission's Child Justice Bill (CJB) through the parliamentary process. For further information on the CJA, please refer to the web site [www.childjustice.org.za](http://www.childjustice.org.za).
- This particular research project has been identified by the CJA as an area that has been relatively undocumented to date. Since the CJB drives towards the use of alternative measures to the traditional criminal justice options, the CJA feels that there is a need for greater awareness of the situation of children accused of crime.

### PURPOSE

- This project seeks to explore the encounters of children in the criminal justice system, documenting how they entered the criminal justice system, what processes they have been through, what treatment they have received and how they perceive each process. The project hopes to give voice to their experiences.
- It aims to do so by profiling a select number of children who have been in some way involved in the criminal justice system in South Africa and by highlighting their experiences and responses to their contact with the criminal justice system. The research team has elected to draw on a sample of between 20 and 25 children.
- The criteria for selecting children is that they must :
  - **have more than one experience of the criminal justice system**
  - **be under 18 years of age**

It would obviously be preferable if they are also:

- **willing to talk openly about their lives and experiences**
- **able to speak in the same language as the interviewer**

### ARRANGING THE INTERVIEW

#### OBTAINING PERMISSION & CONSENT

- Where necessary, the interviewer must telephone the director/manager of the institution/relevant authority to obtain permission to conduct the interview. To secure permission, please explain the background and purpose of the research.

Explain the sample required for the research, identifying the kind of participant you want to interview (see above), ensuring that the institution has an exact idea of who you are after and of why you have approached them. Also discuss with him/her the kind of relationship that will be established with the participant(s) and explain the conditions of the research.

- The relevant authority might ask for this request to be placed in writing. If this happens, please ensure that, when telephoning to establish initial contact, you find out exactly what needs to be included in the letter requesting permission. Ask for the information that they need to expedite the process of obtaining permission.
- Once permission, where appropriate, ask for assistance in choosing a suitable participant(s) from the relevant authority.
- If permission to conduct the interview is granted, you must obtain both the consent of the legal custodian and of the participant to the interview. (See Annexe 3). The consent form, to be signed by the legal custodian, the participant and the interviewer, highlights that the legal custodian will not have access to information gained through the interview, which pertains directly to the individual participant, but will be able to access the general findings of the research on completion of the study.
- Ensure that the time and venue of the interview is convenient for all involved.
- Where possible and appropriate, arrange the interview so that the participant will be interviewed without the presence of the legal custodian and/or director and/or correctional supervision officer. This is to allow the child the freedom to discuss any information, such as criminal activity or maltreatment within an institution or whilst under correctional supervision, that they might not feel comfortable discussing in front of these individuals. However, be aware that in some cases, the institution will insist on having a representative present and, in some cases, this would be advisable anyway.

## **PREPARATION FOR THE INTERVIEW**

- Where possible, the interviewer should fill in the details required on the first page of the questionnaire prior to the interview. If the information is not available from the participant's case file, gaps can be clarified with institutional staff/ parent(s)/ caregiver(s)
- This information can then be used at the outset of the interview to assist in gauging the anticipated level of co-operation of the participant. To achieve this, ask several questions regarding the case history of the participant. If at this stage the participant is not forthcoming or is consistently in denial of certain undisputed facts, the interviewer should confront the participant with knowledge of the truth. If this prevents further denial or lack of co-operation by the participant, the interview may proceed. If the child continues to deny indisputable information, the interviewer should terminate the interview.
- When setting up each interview, ensure that no disturbance will interrupt or unsettle proceedings (e.g. you have enough spare paper, etc.)
- Please ensure adequate time and privacy for the interview

## GENERAL GUIDELINES FOR INTERVIEW

### BREAKING THE ICE

- At the start of each interview, please introduce yourself and explain where you are from.
- Begin the interview with some easy-going conversation to help create a relaxed atmosphere. Maybe share information about yourself and ask questions that are non-threatening, relate to neutral subjects and that illustrate a real interest in the participant. The answers to these questions need not be noted as fervent scribbling can be unsettling for the participant and can frustrate the process of establishing a rapport.
- Focus initially more on being friendly and allowing the participant to open up (offering eye contact, reassuring body language, etc.).

### INFORMATION FOR THE PARTICIPANT

During this introductory phase, take care that the participant is fully aware of the following:

- what the purpose of the research is
- what procedure will be (the questions will centre on the participant's: personal (non-criminal) background; offence background; experience in the criminal justice system; and current status in the criminal justice process
- you are NOT an employee of the state and that anything discussed by the participant will not have an impact on his/her case; you are there purely for research. This research might serve to help other children in the future but it will not benefit the participant
- the information drawn from each interview will be written up, selectively transcribed to ensure that the words of the children are used as much as possible, in order to draw out their life experiences. Then the data will be analysed by means of thematic content analysis where the details of reported encounters with the criminal justice system will be arranged chronologically.
- the participant's personal identity will be confidential except to those directly involved in the research. He/she will not be identified in any publication released to the public or to others within the institution.
- if and when he/she chooses to talk about past offences, there is a possibility that the interviewer will be legally bound to reveal that information if subpoenaed to do so by the police under s186 and s205 of the Criminal Procedure Act 51 of 1977. It will also be explained that the likelihood of this happening is remote.
- he/she is free to decline to answer certain questions or withdraw from the interview at any time

### CONSENT

- Once these aspects of the interview have been explained, in a language that is understood by participant, the participant can then be asked for his/her voluntary, informed consent to being interviewed. This should be expressed by

the participant signing his/her name on the consent form. If this consent is not forthcoming, the interview cannot take place. The informed consent from the legal custodian of a child will not override the autonomy of the individual to choose not to participate.

### **DURING THE INTERVIEW**

- Focus on both general and specific information to determine the child's opinion and thoughts on his/her own personal experience of the criminal justice system and on the responses that he/she has received from others
- Keep the majority of questions open-ended and allow participants to talk in some depth about their individual feelings and experiences
- It is anticipated that the interview will take between one and three hours to complete. Please provide breaks (with refreshments if possible) to ensure that the participant's concentration is maintained.

### **AFTER THE INTERVIEW**

- Remember to thank the relevant authority and the participant for his/her help in your research

### **GENERAL CONDUCT**

- Ensure that each element of your research is carried out with social sensitivity and responsibility and with respect the rights of the children. In particular, please be aware of the great potential for harm in raising expectations and endeavour to make it clear to the participants your role as an unobtrusive observer
- Treat the participant in a professionally acceptable way, with respect, consideration and courtesy, and in a manner appropriate for children
- Avoid undue influence or subtle pressure on a participant
- Note relevant information acquired through the interviewing process by hand and, if necessary, record the interview using an audiocassette recorder. Where necessary, the assistance of an interpreter should be utilised.

### **WRITING UP**

- It would be of great assistance if the interviewer could write up his/her notes into a 'research report' as soon as possible after the interview takes place.
- Included in this report should be a short summary of the interviewer's general impressions of the interview. Comments regarding the behaviour of the participant and his/her reaction (both verbal and non-verbal) to certain questions would be very helpful in the process of data analysis
- Please ensure that the words of the children are used as much as possible to draw out their life experiences
- Finally, the interviewer must send both the report and interview notes/questionnaire to: Ros Koch, Institute of Criminology, Faculty of Law, University of Cape Town, Private Bag, Rondebosch, 7701.

### Appendix 3: Questionnaire

#### LIFE HISTORY REFERENCE PAGE

*Where possible, fill in details required below from the participant's case file. Any gaps can be clarified with institutional staff/ parent(s)/ caregiver(s).*

**1. DETAILS OF INTERVIEW**

NAME OF INTERVIEWER: \_\_\_\_\_ DATE: \_\_\_\_\_

NAME OF INSTITUTION (WHERE APPROPRIATE): \_\_\_\_\_

CONTACT DETAILS OF INSTITUTION: \_\_\_\_\_

CONTACT PERSON AT INSTITUTION/  
COMMUNITY CORRECTIONS OFFICER: \_\_\_\_\_

**2. IDENTIFYING PARTICULARS OF PARTICIPANT**

NAME: \_\_\_\_\_ AGE: \_\_\_\_\_ D.O.B: \_\_\_\_\_

LANGUAGE: \_\_\_\_\_ HOME TOWN: \_\_\_\_\_

NAME OF PARENT/ CAREGIVER: \_\_\_\_\_

CONTACT NO.: \_\_\_\_\_ (HOME) \_\_\_\_\_ (WORK)

**3. CASE INFORMATION**

OFFENCE	AGE	DATE OF OFFENCE	CRIMINAL JUSTICE RESPONSE	DURATION OF OPTION

**4. CURRENT STATUS IN CRIMINAL JUSTICE PROCESS:** \_\_\_\_\_

## LIFE HISTORY QUESTIONNAIRE

## EXPLAINING WHAT THE INTERVIEW IS ABOUT

*The beginning of the interview the most important stage:*

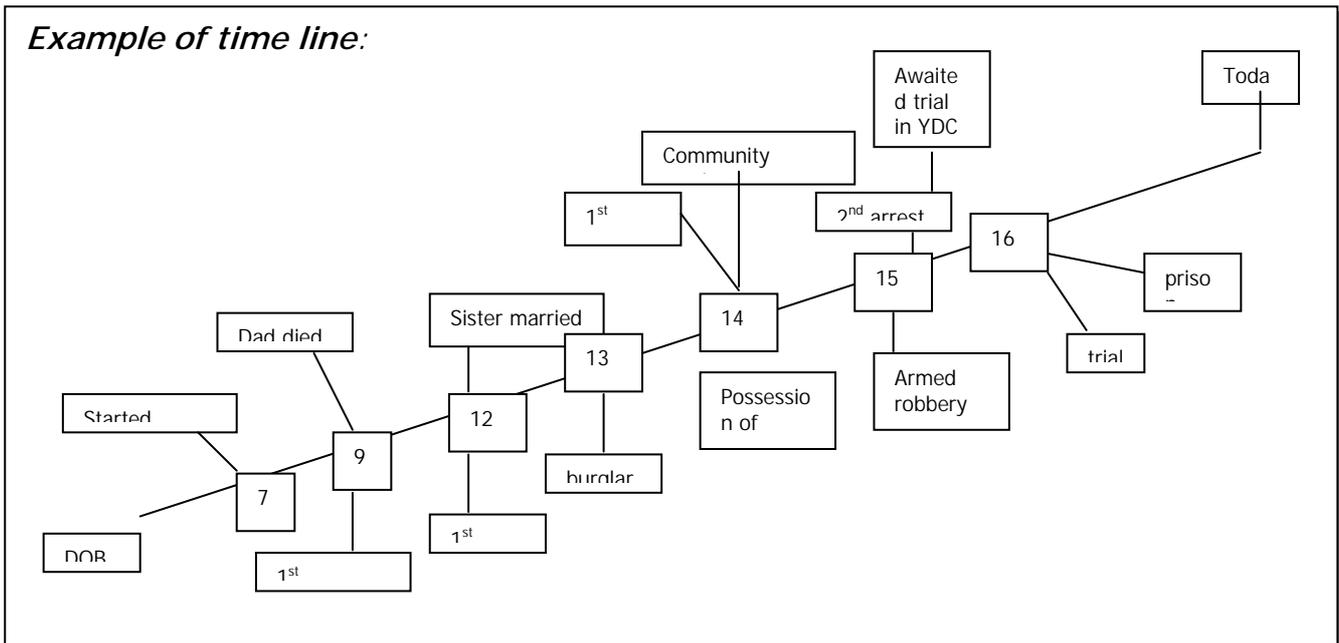
- *It is vital to create a **relaxed atmosphere** and to show you have a **real interest** in the story of the participant.*
- *Try and **gauge his/her level of understanding** of why he/she has been asked for interview. (e.g. Do you know why you are here? / why you have been asked to speak to me today?)*
- *It is also the stage at which you must spell out the **essential information** in order to obtain informed consent.*

*Essential information:*

- ***Who you are:***
  - *You are there to find out about the participant, who he/she is and what his/her experiences within the criminal justice system have been.*
  - *You are NOT an employee of the state*
  - *Anything discussed by the participant will not have an impact on his/her case; it might serve to help other children in the future but it will not benefit the participant.*
- ***Purpose:***
  - *The research explores how young people like the participant enter the criminal justice system, the processes they go through, how they are treated and what his/her feelings are during each process.*
- ***Procedure:***
  - *You will ask the participant about his/her personal background; about what lead he/she to being involved with the criminal justice system; about his/her experiences of the system; and about his/her current status in the criminal justice process*
  - *You would appreciate it if the participant could answer all questions as accurately and honestly as possible.*
  - *You will be writing down some of the things that are said (and, where applicable, will be recording the interview on tape).*
  - *The information discussed will be recorded, stored and processed for release.*
- ***Conditions:***
  - *The participant's personal identity will be confidential except to those directly involved in the research. He/she will not be identified in any publication released to the public or to others within the institution.*
  - *If and when he/she chooses to talk about past offences, there is a possibility that the researcher could be legally bound to reveal that information if subpoenaed to do so. However you should also be explained that the likelihood of this happening is remote.*
  - *The*
  - *participant does not have to answer all of the questions.*
  - *The*

## SECTION A: PERSONAL (NON-CRIMINAL) BACKGROUND

*Example of time line:*



- *In this section, it is hoped that the interviewer will encourage the **interactive participation** of the interviewee in mapping out the life history of the child.*
- *By using paper and a pen, help the participant to chart each answer to the following questions on a 'life line' of events, ensuring that both criminal and non-criminal activity is recorded and the age at which events happened. This chart will then **lend structure to the interview**.*
- *It is suggested that the interviewee first be asked to **recall several 'pivotal' moments**, not necessarily relating to his/her criminal history (such as a change of school, loss of a parent, move to a new neighbourhood, etc.) to provide the interview with some 'personalised' structure and to give the interviewer some idea of the transitional stages of the interviewee's life. It is important for the participant to feel that he/she has some control over the agenda for discussion. Certain life-changing events might be difficult for the interviewee to talk about; be diplomatic, patient and show respect for the participant's readiness to share information.*
- *The questions below are purely to help gather the information desired. They need not be asked in the order that they are set out but the issues they cover must be drawn out at some point during the interview. It is also suggested that **spare paper** be*

## Personal non-criminal history

Ask the participant to identify what he/she considers to be four or five important moments in his/her life and plot them on the 'time line'. With reference to these moments, draw out details of his/her personal (non-criminal) background by asking questions on:

- Home, location, environment, size, room-structure (*e.g. Where do you live/ come from? Tell me about your home.*)
- 
- 
- 

- Family size, structure, mother-figure/father-figure, occupations, presence at home, upbringing etc. (*e.g. Do you have any brothers or sisters? How old are they? Do you get on with them? Tell me about your mother and father. What do they do? Do you get on with them?*) Keep an eye out for problems in childhood.
- 
- 
- 

- School (*e.g. Do/did you attend school? What is it like? What are your favourite subjects? Do/did you get on well with your teachers? Which? Why?*)
- 
- 
- 

- Hobbies/employment (*e.g. What do/did you get up to after school/in your spare time? Do you have any hobbies, such as sport, music? Do/did you have a job?*)
- 
- 
- 

- Friends (*e.g. Do you have a best friend? Why do you like him/her? Tell me a bit about them.*)
- 
- 
-

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**SECTION B: OFFENCE BACKGROUND****Recent criminal history**

When appropriate, begin to explore the participant's criminal history, starting with the offence that has resulted in his/her current criminal status. (*E.g. Why are you in this institution? Under what circumstances did you end up on this diversion programme? Find out the charge/sentence.*)

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Ask the participant to flesh out the details of the offence. (*E.g. How old were you when you committed this crime? What was the offence and can you tell me how it? Was there a victim(s)?*)

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Try to find out about motivational circumstances. (*E.g. Why do you think you did this? Were you with anyone at the time? What did they do?*)

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Obtain an understanding of the personal circumstances of the participant at that time (*E.g. Where were you living at the time? With parents?*) **Only ask if this has not been asked already.**

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*You may either continue the interview by focussing on the experiences arising from this offence (go to section C) and return to past offences later on in the interview or, if more appropriate, ask the participant to elaborate on other criminal activity.*

## Past criminal offences

Find out about other criminal offences. (*E.g. I'm sure this wasn't the first time you've been in trouble. Can you remember other times when you committed a criminal offence? Tell me a bit about it/them.*). Plot each offence on the 'life line'. Be aware of the fact that the participant might not have been caught/arrested for some of these offences but include them nonetheless.

*Use a separate sheet of paper for each offence to record its details.*

Offence 1:

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Offence 2:

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Offence 3:

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Offence 4:

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Offence 5:

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Be sure of which offence(s) have led to the participant being arrested so that you can follow up the criminal justice response to that offence. Ask the same kind of questions as used in the previous section, 'Recent criminal history', in order to draw out details.

**SECTION C: CRIMINAL JUSTICE EXPERIENCES**

*Where the participant has had several experiences of a particular stage of the criminal justice process (e.g. arrest/court appearance), encourage the child to focus on one particular time that he/she remembers well and to answer questions relative to that encounter. Please make it clear in your notes which offence resulted in that experience.*

*If the participant is able and keen to tell you about more than one experience of a particular stage of the criminal justice process, record the information on the sheet*

**Experience and role of police**

Ask the participant to recall details of his/her arrest. (E.g. *How you were caught? How many police officers were there? What did they say/do? Was there anyone else nearby? Did you try running away?*).

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*On this occasion what did you think when you were arrested? Were you calm/scared? Did you expect to get into trouble?*

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*Was it the same experience as other times when you were arrested? How did it differ?*

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*Have you ever experienced the use of force when you have been arrested? Describe the situation and when it happened.*

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### Detention in a police cell

Find out about his/her experiences of detention in a police cell. (*E.g. Have you ever been held in a police cell?*)

YES	NO
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*If YES, do you know why you were held in the police cell?*

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*How long did you stay in the cell? \_\_\_\_\_*

*Describe your experiences whilst you were in the cell. (e.g. What did you do whilst you were in the cell? Was there anyone else in the cell with you? Can you describe them?).*

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*What do you remember was the worst bit about being held in detention in a police cell? Tell me a bit about it.*

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*What do you think should have happened instead of you being placed in a police cell? Why?*

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**Experience and role of social workers/probation officers**

Do you remember being assessed by a social worker/probation officer?

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Ask the participant to describe the process of assessment? . (*E.g. who was present? What did they say? What were you asked?*)

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Why do you think you were assessed?

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What do you think a social worker/probation officer is there to do?

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What other occasions did you meet with a probation officer? Please describe what happened.

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## Diversion

Have you ever been diverted? (May need to clarify what diversion is here).

YES	NO
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What was the crime for which you were diverted? \_\_\_\_\_

Describe the diversion programme you went on.

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What did you think of the programme? (*e.g. liked? disliked?*)

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Describe what you think is good about the programme.

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What do you think is bad about the programme?

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Overall, do you think the programme is a good idea?

YES	NO
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If NO, what do you think should have happened to you instead?

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Did you complete the diversion programme?

YES	NO
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If NO, were there any consequences from your not complying?

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If YES, do you think that the diversion programme has changed you in any way? If so, how?

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**Court**

Have you ever been to court?

YES	NO
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If YES, how many times have you been to court and what for?

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Describe your experience of being in court. *(e.g. What did you have to do? Who was there with you/ Who were the people present? Where did you sit? How long were you there? What language was spoken? How did you feel whilst you were in court?)*

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Ask him/her if he/she remembers the following people and, if so, what does he/she remember about them? *(E.g. What do you think their individual roles were? What did they do?)*

**Judge/magistrate**

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**Prosecutor**

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**Legal representative**

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What did you like about being in court?

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What did you not like about being in court? What was the worst bit?

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**SECTION D: CURRENT STATUS IN THE CRIMINAL JUSTICE PROCESS**

**Current status (Prison /place of detention/place of safety ...whichever is applicable)**

Let's talk about where you are now. *Please describe your experience of (this place) as best you can.*

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Describe the daily routine you have here.

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Are you participating in any programmes? If so, can you tell me a bit about it/them?

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Do you think that the programme(s) has changed you in any way? If so, how?

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How long have you been staying in (this place)? \_\_\_\_\_

Is there anyone staying in the same room as you? If so, who?

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What do you like most about (this place)? Tell me a bit about it.

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What do you most dislike about being here?

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What other, if any, institutions have you been in? (You may wish to use a separate sheet of paper for notes on each institution).

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How have your experiences there differed to here? (*Better/worse? Why so?*)

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**Gang activity**

Find out about the participant's peer group and whether or not he/she has been exposed to gang culture, either/both within or/and outside the criminal justice system.

N.B. A participant might refer to a group of friends from school as a 'gang'. Other times the participant might be referring to a gang that is involved in criminal activity. Make sure you know what type(s) of gang(s) the participant is referring to.

*Have you ever been in a gang? Have you experienced gang activity? Would you like to tell me about it? How old were you? Where was the gang? What did you/they do? What is your opinion of the gang?*

Gang activity outside the criminal justice system:

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Gang activity inside the criminal justice system:

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### Summarising remarks

Ask the participant to consider the severity of his/her criminal activity. (*E.g. In your opinion, what is the worst crime that you have committed? Why do you think so?*)

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If applicable, ask them to explain the underlying motivation behind and frequency of his/her crimes. (*It seems like you have committed a number of crimes. Why is this?*) Gauge whether the reason/motivation changes or not.

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Ask his/her opinion on why children in general commit crimes. Alternatively ask what he/she thinks draws people into a life of crime.

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Ask the participant if he/she feels that there was a turning point in his/her life. (*E.g. Is there a point in your life when you think you could have done things differently?*) Chart this on the life history sheet.

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Ask the participant to reflect on his/her experience, and to consider whether, if the legal system had responded to him/her differently, might he/she not have committed so many offences? When? What treatment? How else should the legal system have responded?

Use this opportunity to try and gauge what is the participant's general feeling of the criminal justice system and how he/she feels it has affected (or not, as the case may be) his/her life.

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Drawing on what the participant views as inducements into a life of crime, try and find out what his/her suggestions are for interventions, either preventative or reactive, that should be included in a criminal justice system that works.

*(E.g. If you could design a way of effectively responding to young offenders, what would you come up with? How would you go about encouraging an offender to change his/her approach to life, work, survival opportunities, processes of winning respect, tools for changing attitudes to others, e.g. women, compliance with the law, a life on the right side of the law/crime divide?)*

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**End of interview**

Thank the participant for his/her ideas and for his/her participation in the research.