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# JUVENILE JUSTICE · REGS- PLEGING TEN OPSIGTE VAN MINDERJARIGES

## Juvenile justice review 1994–1995

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### **Introduction**

This review of the state of juvenile justice in South Africa introduces a new section to this journal in which annual developments relating to law and policy in the field of juvenile justice will be examined. Juvenile justice has long been a Cinderella topic in the South African legal and academic arena. Legislation relating to juvenile justice is spread out in various sections in the Criminal Procedure Act 1977, the Child Care Act, and the Correctional Services Act. No textbook for those practitioners concerned with juvenile justice has yet been published, and journal articles on aspects relating to juveniles in trouble with the law are sporadic.

However, juvenile justice issues have for some years been the focus of media attention. Activists have drawn attention to the plight of children detained in prisons and police cells in particular. At an international seminar hosted by the Community Law Centre in 1993, the matter of comprehensive and radical legislative reform was mooted (see Report of the International Seminar on 'Children in Trouble with the Law', Community Law Centre, 1995). An outcome of the conference was the establishment of a drafting team, which set to work to produce innovative proposals for a new juvenile justice system. Published in November 1994 by the Drafting Consultancy as 'Juvenile Justice for South Africa: Proposals for Policy and Legislative Change' (discussed in D Pinnock, A Skelton, R Shapiro (1994) 3 *SACJ* 338–347), the document has inspired much of the current debate about legislative and policy reform for juveniles who come into conflict with the law.

Attention on juvenile justice issues has continued to increase throughout the year under review. It is widely expected that a comprehensive Act to regulate juvenile justice will be developed by Government during the coming year.

The remainder of this review details some of the developments in law, policy and practice relating to juvenile justice from October 1994 until September 1995.

## **Arrest and pre-trial procedures**

### **Section 29 of the Correctional Services Amendment Act 1994**

On 26 October 1994, the Correctional Services Amendment Bill, 1994, was passed unanimously by Parliament (see a discussion of the import of this legislation in Sloth Nielsen (1995) 8 *SACJ* 47–59). The intention of the drafters of the amendments to s 29 was to ‘make it as difficult as possible for children under the age of eighteen years to be detained in a police cell or lock-up’ (speech of C Niehaus, chairman of the parliamentary portfolio committee on Correctional Services, reproduced in the Report of the International Seminar on ‘Children in Trouble with the Law’, Community Law Centre, 1995). At the time that the Bill was tabled in parliament, it was feared that the amendments did not go far enough to outlaw incarceration of awaiting trial children, since an ‘emergency’ detention period of 48 hours was allowed for children between the ages of 14 and 18 years, and children under the age of 14 years could still be detained for 24 hours prior to their first appearance in court. (Various non-governmental organisations had argued strongly for a total ban on detention of those under the age of 14.)

The new s 29 of the Correctional Services Act was put into operation by the State President on 5 May 1995, with effect from midnight on 8 May. The move took role persons affected (police, welfare officials and justice personnel) by surprise. Most were completely unaware of both the existence and the contents of the reform, copies of the legislation had to be hastily procured.

Since 8 May, what has been termed ‘a crisis’ has prevailed in juvenile courts throughout most of the country. Faced with few placement possibilities in existing places of safety, and not able to remand children in custody, courts have been forced to release children on their own recognisance or into the care of parent or guardians, in the hope that they will return to court for trial. Many have not returned.

Some aspects related to the way in which s 29 was drafted have also given rise to unforeseen problems. The section prohibits the detention of unconvicted accused in police cells or prisons, but does not mention the custodial position of those who have been convicted but merely await

sentence. Convicted children are therefore liable to lengthy periods of detention in custody after conviction pending the imposition of sentence (see Ann Skelton (1995) 13 *The Child Care Worker*). And, as predicted in my discussion of s 29 in (1995) 8 *SACJ* 48 at 54, the fact that the wording did not clarify the meaning of the 48 hour clause, and specifically whether it is a renewable in a 'roll over' fashion, has led to varying practices in courts around the country. Some magistrates are returning children for repeated periods of 48 hours in custody, whilst others regard the 48 hours as a finite allowance. Further practical problems have emerged: how to transfer children from far-away centres arrested on warrants, when there is no provision for their transfer in custody, the hospitalisation of a juvenile wounded while resisting arrest, when the expiry of the mandated detention period occurs, to name but two.

However, as pointed out in my earlier discussion of s 29 in this journal, the most pressing problems relate to the position of juveniles charged with serious offences. Places of safety, the alternative facility to detention in police cells or prisons, have proved to be less than secure, child care workers staffing them ill-equipped to cope with an influx of difficult inmates, and escapes are at present the order of the day. Some places of safety have virtually ceased to function, and even those that are operational have few spaces available for the daily influx of juveniles from the courts. In some regions, there are no places of safety available at all, and detaining a juvenile necessitates lengthy inter-provincial journeys to the nearest facility.

The introduction of s 29 has caused widespread concern, and it has been suggested more than once that amendments may be introduced in the 1996 parliamentary session. The position of juveniles charged with serious offences has been raised repeatedly in the media as a source of concern to many communities, and it is possible that future plans may include amending legislation which enables juveniles charged with serious offences to be held in prisons once again while awaiting trial.

One consequence of the introduction of s 29 may be a reduction in the numbers of juveniles arrested in the period following 8 May. It has been alleged that the police, aware of the crisis in juvenile institutions, and mindful of the reports to magistrates that they have to complete in order to detain a juvenile prior to their first appearance in court, are arresting fewer juveniles. As statistics which would demonstrate the validity of this assertion are not yet available, the possibility of a decline in arrests, especially where petty offences are concerned, will have to await the review.

### **Assessment centres**

In October 1994, the provincial probation services arm of the Western Cape Province introduced assessment by a probation officer as a prelude to a

juvenile's first appearance in court. (This idea was mooted by Ann Skelton at the Community Law Centre's International Seminar in 1993 referred to above.) The initial goals of the assessment process were to first, verify the alleged age of the accused juveniles, second, to locate parents or guardians if possible, and third, to plan for the placement of the accused juveniles while awaiting trial: either in custody in appropriate circumstances, or in the care of parents or suitable other persons.

From the start, the assessment process was characterised by two innovations. The first was the introduction of volunteers to actually locate parents and, if needs be, get them to the court or police station. Initial research, conducted by a team of independent evaluators from the community Law Centre, University of the Western Cape, Nicro, and the Institute of Criminology, University of Cape Town, showed that where inner cities and large numbers of homeless children did not predominate, the parent finding task assigned to the community-oriented organisations and their volunteers was by and large successful. Also, by making use of additional overnight placement options—street shelters for example—the numbers of children detained in police cells were dramatically reduced.

The second innovation was the organisation of an after-hours service. Probation officers would be available at night and at specified times over weekends, to ensure that children did not languish in detention while awaiting the expiry of an extended '48 hours' in terms of the provisions of s 50 of the Criminal Procedure Act. Day time staff, some on permanent assignment to individual magistrate's courts, could also decide immediately upon assessment to divert appropriate cases.

The notion of assessment centres, or rather, the assessment process, was predicated upon the centralisation of juvenile holding facilities in larger urban magisterial districts. The reason for this was practical: in those magisterial districts where multiple police stations were located, it was felt that unless all arrested juveniles were brought as soon as possible after arrest to one central point, some juvenile detainees would inevitably languish in custody unbeknown to the probation officer and volunteer family finder. Another practical reason was that only one probation officer for each magisterial district would be on duty, and that person would be unable to travel from police station to police station within a district to assess juveniles detained in cells.

The operation of the assessment centres was not helped by the introduction of s 29 of the Correctional Services Amendment Act: it meant that now, there were that many fewer placement options available for juveniles for whom parents or guardians could not be found, or who were for some other reason disqualified for release into their parents' care. Probation officers from the assessment centres are now reluctant to adjudicate upon the success rate of the centres, as the current (high) release figures merely demonstrate the

fact that most juveniles have to be released because there are no placement options available.

Despite the difficulties brought about by the implementation of s 29, three notable benefits of assessment centres remain. The first is that the juvenile is brought into contact with a sympathetic official shortly after arrest. The probation officer, being concerned with the wider circumstances of the juvenile, is better able to ensure that the constitutionally mandated principle of the 'best interests of the child' (s 30(3) of the Interim Constitution) plays a role in decisions about children's placement on remand than is the case when police officials are entrusted with those powers.

The second benefit lies in the fact that the process still includes establishing, as far as possible, the age of the juvenile accused. Finding out the age of an accused has not hitherto been a matter of primary concern in the criminal justice system. This was largely because, since juveniles were treated as small adults, there were few benefits to be had by false declarations of youthfulness. This has changed dramatically with the introduction of s 29, with its twin cut off points of 14 years and 18 years. It is now all the more tempting to deceive about age, since release from custody is more or less guaranteed. And official documentary proof of age is often hard to come by, since many children's births were not registered in the past. Also, the Department of Home Affairs (the possible repository of the such relevant documentary proof that does exist) has never before been included in juvenile justice debates or formally approached to contribute to the 'proof of age' problem. The other method relied upon to establish age, namely examination by a district surgeon, is inexact, and not helpful in determining precise cut off points (like 18 years) where doubt exists.

It has been shown that one important reason for the crisis in places of safety is the fact that older persons frequently slip through the net, are placed in juvenile institutions, and disrupt their functioning. The assessment process has revealed the centrality of the 'proof of age' problem, not only to such practical issues as placement on remand, but also potentially to such future debates as raising the age of criminal capacity. The Draft Proposals for Legislative and Policy Change referred to above argue that the age of criminal capacity should effectively be raised to 14 years, with only young persons of that age or older liable to prosecution in criminal courts. Recognising the potential problems of proof, the proposals also suggest that where the age of a young person is uncertain or in dispute the young person shall be the age he or she claims to be until an examination by a district surgeon is carried out. The difficulty now revealed is the practical problem that district surgeons cannot determine such clear age distinctions, and that to err on the side of generosity towards the alleged juvenile can open the floodgates to widespread abuse. The lure of a ban on criminal charges for those under 14 years may prove hard to resist for older juveniles.

There are no easy answers to this dilemma, but regional agencies involved in all sectors of juvenile justice should as a matter of urgency begin to collate such information as they do have on record in an attempt to build a database of offenders who have already come into conflict with the law. This, then, might be of assistance should these offenders re-offend. For example, the age of one 'juvenile' held recently on remand amongst other children was eventually rectified after his age was determined by manual examination of the records of a nearby reformatory: since he was a 16-year-old juvenile resident there a decade ago, the probation officer, was able to exclude his claim that he was not yet 18 years old.

The third beneficial consequence of the establishment of the assessment centres is that in order to implement the steps practically required to centralise arrests of juveniles, find families, transport juveniles to courts at night and from there to places of safety where necessary, local committees were set up to meet on a regular basis in order to iron out problems in the functioning of all these constituent processes. These local committees comprise justice personnel (magistrates and prosecutors), local police officials, welfare staff concerned with the procedures, interested non-government organisations and organisational representatives from NICRO, who oversee the implement diversion programmes (such as the Youth Offender School programme discussed below) and community service orders. In one centre, the juvenile legal aid personnel attend meetings regularly, and it has been suggested that representatives from Community Police Forums should also be drawn in.

These committees are possibly the first fora of their kind, where all role players in the criminal justice system can address day-to-day problems in an integrated way. Each contingent has to account for mistakes and explain difficulties which affect the others arena of work. For example, delays in bringing arrested children to the assessment centre, which in turn means that parents cannot be timeously located during the evening, which also means that late night court sittings are delayed, can be resolved because all stakeholders come to an appreciation of the concerns of other role players. Also, the NGO's participation has brought an outsiders dimension to traditionally closed interactions between actors in the criminal justice field.

The committees have proved invaluable as a basis for innovative pilot projects. In one magisterial district, where experienced prosecutors are on hand even after hours, juvenile cases are being diverted immediately without the necessity of any court appearances. (In others, an evening appearance in the after hours 'bail court' is a requirement; diversion is only considered during standard court hours, when experienced prosecutors are available.) In Cape Town, a diversion project utilising the services of lay assessors was initiated by members of the committee. A third jurisdiction is piloting the Family group Conferences, which were suggested as a novel diversion

possibility in the Draft Proposals for Legislative and Policy Reform. In short, the assessment committees provide the infrastructure needed to develop local solutions to juvenile justice matters.

Assessment centres are now being considered for areas other than in the Western Cape, and even beyond the borders in Namibia. Together with the structured involvement of all the relevant role players, they provide a practical means of co-ordinating juvenile justice reform.

## **Diversion**

With South Africa's ratification on 16 June 1995 of the United Nations Convention on the Rights of the Child, diversion from the formal criminal justice system for children under the age of 18 years is now a goal which the system of juvenile justice must now endeavour to implement. Article 40 enjoins States who are parties to the Convention to 'seek to promote the establishment of laws, procedures, authorities and institutions specially applicable to children alleged as, accused of, or recognised as having infringed the penal law, and in particular:

- '(a) . . .
- (b) whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, proving that human rights and legal safeguards are fully respected'.

While the principle of diversion has been advocated by other non-binding international instruments, the inclusion of an article encouraging diversion in a legally binding convention has significantly upgraded its status.

One of the existing formal diversion alternatives for South African juveniles in some centres is the Youth Offender Programme (YOP) also known as Juvenile Offender School (JOS) and Youth Empowerment Scheme (YES). One of the first such programme, initiated jointly by NICRO, the office of the Attorney-General and the Department of Health and Welfare in the Cape Peninsula in 1992, has recently been evaluated by NICRO researcher, Lukas Muntingh. In a publication entitled 'Perspective on Diversion' (NICRO 1995 Research Series No 2). He examines quantitative data to explore some of the trends identified since the inception of the programme.

The researcher found that although the programme can also be used as a sentence, often coupled with a conditionally suspended or postponed sentence, its key function has been as a diversionary option. The number of cases referred monthly to the YOP has quadrupled, by comparison to the monthly referrals at the commencement of the project. Offenders are chiefly referred for non-violent property offences. The largest group are aged 16 and 17 years, although the numerical average age is 15-33 years. It would appear



that 76% of the offenders completed the course successfully, but no long term recidivism studies have yet been conducted.

Further diversionary options, such as the Family Group Conference alternative referred to earlier, are still being developed, and to date, no pilot project has proceeded far enough to warrant comprehensive evaluation.

### **Admissibility of confessions**

In *S v Kondile* 1995 (1) SACR 394 (SEC), the court had occasion to consider the admissibility of pre-trial confessions made by juveniles. In this case, the juveniles were aged 14 years and 16 years respectively, and the disputed evidence concerned a pointing out and subsequent confession made before a magistrate in terms of s 217 of the Criminal Procedure Act. At issue was the fact that the investigating officer had not informed the two accused that they were entitled to the assistance of their parents or guardians, although their right to representation and to remain silent was explained. (In fact, their age was only ascertained by the magistrate after he had noted the confession.) The absence of the assistance parents or guardians, it was argued, may have influenced the decision to confess before a magistrate, and this may then have constituted undue influence which negatives the exercise of free will. Pointing out that it was unnecessary to speculate as to what advice of parents or guardians might actually have given with regard to the pointing out and confession, and how the juvenile accused might have reacted to any parental or other advice, it was held that the mere fact that they were not afforded the opportunity of obtaining parental advice and assistance was sufficient ground to establish that their decision to confess was the consequence of undue influence. (Note that there was no evidence of any impropriety on the part of the investigating officer: the decision concerned only his failure to advise the juvenile accused of their right to parental assistance.)

This decision supports the extension of juvenile's right to parental assistance (in s 73(3) of the Criminal Procedure Act) to the pre-trial phase of the criminal process laid down in *S v M* 1993 (2) SACR 487 (A). In that case, the court said that '[t]he conjunction of ss (1) and (3) of s 73 in the same section would seem to indicate that a person under the age of 18 years would at least be entitled to the assistance of his parent or guardian as from the time of his arrest, in the same way as an adult would be entitled to the assistance of a legal adviser' (quoted in *S v Kondile* (supra) at 398b-c).

The decision implies that parent finding may be an important part of correct pre-trial procedures in cases involving juveniles. The decision in *S v Kondile* reflects only upon the obligation to inform a juvenile accused about his or her right to parental assistance during pre-trial procedures. But if a juvenile chose to exercise that right, it would surely be incumbent upon the investigating officer to take the necessary steps to ensure the presence of such

parent—irrespective of whether or not the parents or guardians can be ‘traced without undue delay’ as presently set out in s 50(4) of the Criminal Procedure Act.

## **Offences and convictions**

At present, the only statistics available detailing offences and convictions for juvenile offenders are those released by Central Statistical Services in their annual report. The data is obtained from police dockets. The most recent report available is the 1993/1994 No 00-11-01 for the period July 1993 to June 1994, which shows that 32 863 persons of between 7 and 17 years were convicted of offences during that period. Selected figures include:

- 341 juveniles convicted of unlawful possession of firearms;
- 64 juveniles convicted of indecent assault and 774 of rape or attempted rape;
- 1 125 convictions for possession of dagga and 237 for dealing in dagga;
- 1 194 convictions for common assault and 2 620 for assault with intent to do grievous bodily harm;
- 171 convictions for murder and 199 for attempted murder;
- 2 571 convictions for burglary of business premises and public buildings, and 4 998 for burglary of residential premises;
- 637 convictions for theft of motor vehicles, including theft of motor cycles;
- 7 282 convictions for shoplifting;
- 587 convictions for theft of motor vehicles, including theft of motor cycles;
- 14 203 convictions for ‘other theft’ which excludes stock theft, pick pocketing or bag-snatching, robbery and burglary, but includes the shoplifting statistic given above.

These statistics indicate that the largest group of offenders are convicted for theft, and that theft and burglary together account for well over half the total number of juvenile convictions. However, a perusal of the statistics also demonstrates that a total of 4 465 juvenile offenders were convicted of the serious offences of murder, attempted murder, rape and indecent assault, aggravated robbery and assault with intent to do grievous bodily harm, all of which are offences involving the use of interpersonal violence.

## **Sentencing and juvenile offenders**

### **Whipping**

On 9 June 1995 the Constitutional Court of South Africa abolished the

sentence of whipping for juvenile offenders in the matter of *S v Williams* 1995 (3) SA 632 (CC). The case was referred by the Cape Provincial Division to the constitutional court after a magistrate requested that the sentence he imposed be subjected to special review in terms of s 304(4) of the Criminal Procedure Act. He doubted whether juvenile whipping was permissible in the light of the provision of Chapter 3 of the Interim Constitution. At issue were ss 8, 11, 19 and 30 of the Interim Constitution, on the one hand, and s 294 of the Criminal Procedure Act, on the other.

The court ultimately found it unnecessary to decide whether the provisions enabling juvenile shipping violated in s 8 or 30 of Chapter 3 of the Interim Constitution. The provision allowing whipping allegedly violated the equality provision in s 8 because it discriminated against male juveniles unfairly on the grounds of age and sex—only males could be whipped—and because the application of the sentence of whipping was susceptible to racial bias. It was argued that s 30, with its provisions designed to protect children's security and their right not to be subject to abuse, was also infringed by the offending clause in the Criminal Procedure Act. This, too, was not decided in the judgment.

The decision therefore turned chiefly on the alleged violation of s 10, which guarantees to every person the 'right to respect for the protection of his or her dignity', and s 11(2), which provides that 'no person shall be subject to torture of any kind, whether physical, mental or emotional, nor shall any person be subject to cruel, inhuman or degrading treatment or punishment'. This wording conforms with that to be found in many other international human rights instruments, and Mr Justice Langa, writing the judgment on behalf of the court, had no difficulty in concluding that, as has been decided in other jurisdictions, the infliction of juvenile whipping is an invasion of the right to human dignity entrenched in s 10 of the Interim Constitution (at 649A–B), and, in addition, that it constitutes a cruel, inhuman and degrading punishment which is hit by the prohibition in s 11(2). The court did not 'see any compelling reason to confine the conduct impugned to one adjective only' (at 658A), and concluded that juvenile whipping is cruel and inhuman and degrading (at 658E).

Having established a violation of a right protected in the constitution, the next question falling to be considered was whether the violation constitutes a permissible limitation in terms of s 33 of the Constitution. Leaving aside the question as to whether infringements of s 11(2) are capable of limitation, the court proceeded to consider the issue on the basis that s 33(1) was indeed of relevance to breaches of s 11(2). The court then considered whether whipping was reasonable, justifiable and necessary as a form of punishment in South Africa.

The State argued that it 'made good practical sense to have whipping as a sentencing option'. It was contended that there were advantages to both state

and the offender, and that there were insufficient alternative sentencing options available to judicial officers wishing to keep young offenders out of prison. Additionally, this country does not have sufficient resources to support the imposition of alternative punishments.

The state also contended that whipping was a deterrent. In an affidavit submitted by the state for consideration by the court, it was alleged that whipping was especially beneficial for offenders brought up by single mothers who lacked a father figure, and that parents often asked that this punishment be imposed.

The court rejected the argument based on expediency: society's greater concern, said Langa J, was with the form of punishment. Punishment must be consistent with the promotion of values that are reflected in the Constitution. 'It cannot be reasonable and in keeping with these values to imply, through the punishments we impose, that the infliction of violence is an acceptable option in the solution of problems' (at 655E).

Bearing the practical aspects in mind, the court proceeded to examine current sentencing options and trends in juvenile justice and penology. In particular, correctional supervision, encompassed in s 276 of the Criminal Procedure Act, was characterised by the court as a 'milestone' introducing a new phase in our criminal justice system. And, referring to the possibility of 'moves to develop a new juvenile justice system', the judge commented that 'it seems to me that the new dynamic should be regarded as a timely challenge to the State to ensure the provision and execution of an effective juvenile justice system'. Referring to evidence of alternative sentencing (and diversion) possibilities, such as community service orders, victim-offender mediation, and juvenile offender school (discussed above), the court endorsed further development of these alternatives by the state and by non-governmental organisations.

Any deterrent value of whipping was found to be so marginal that it failed to override the violation of the constitutional right in ss 10 and 11(2). Weighing the perceived advantages of whipping against the rights which Chapter 3 seeks to protect, the court was not satisfied that a compelling interest was proved which could justify the practice.

The decision in *S v Williams* was not unexpected. Many magistrates had de facto ceased to impose sentences of whipping in the months prior to the hearing in the Constitutional Court, and on the eve of the hearing, whippings were still being imposed only in the Transkei region. (In August 1995, Lawyers for Human Rights brought to light evidence that whippings were still being imposed there, in violation of the abolition of the sentence brought about by the decision in *S v Williams*. This has reportedly now ceased.)

Of special interest in the judgment, therefore, is the court's interest in, and encouragement of, the development of non-custodial sentencing options.

And, although it was not referred to explicitly in the judgement, the court may have been mindful of s 40(4) of the now ratified Convention on the Rights of the Child, which provided that:

'A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate to both their circumstances and the offence.'

## Imprisonment

According to figures supplied by the Department of Correctional Services, there were 8 621 sentenced juveniles in South African prisons on 30 June 1995. However, unlike related definitions in other legislation, the definition of 'juvenile' in the Correctional Services Act includes persons younger than 21 years, rather than person younger than 18 years. Of the total figure given above, 631 children under the age of 18 years were at that date serving sentences in South African prisons. Of these, 469 were aged 17 years, 131 were aged 16 years, 21 were aged 15 years, 10 were aged 14 years and one was aged between seven and 13.

Three of the children under the age of 18 years were serving sentences of more than seven years imprisonment. Nine were serving between five and seven years, 66 were serving between three and five years, 91 were serving two to three year sentences, 36 sentences ranged from one to two years, and 120 children had prison sentences of less than a year in duration.

As early as October 1994, it was announced in the press that the Department of Correctional Services planned to implement 'Youth Development Centres' as an alternative to the incarceration of juveniles in adult prisons. These centres would accommodate sentenced prisoners under the age of 21 years. The departmental plans in this regard have only recently been aired at the Ministerial Committee on Youth At Risk (see further below), and at the time of writing it is not clear whether, and to what extent, these plans will materialise.

## Policy

After it became clear that the implementation of the amendments to s 29 of the Correctional Services Act was the cause of a crisis in juvenile courts and in places of safety, and Inter-Ministerial Committee was set up to resolve the predicament. Comprising representatives from nine Ministries relevant to juvenile justice (Justice, Welfare, Safety and Security, Education and so on), as well as committed NGOs, and chaired by the Deputy Minister of Health and Welfare, Ms G Fraser-Moleketi, the mission of this task group is 'to

design and implement an integrated child and youth care system' (Vision Document: Ministerial Committee on Young People at Risk, August 1995).

Included within the ambit of the committee's work are young people under the age of 18 in residential care, as well as those under 18 who are in trouble with the law. The committee has a lifespan of six months, and is busy with policy and programme development to underscore a new juvenile justice system. Amongst the issues that the committee is considering are alternative residential care models; the training of personnel involved with young people at risk is also an important goal of the Committee.

## **Conclusion**

1995 has been a watershed year in the history of juvenile justice in South Africa, as the twin distinguishing features which have characterised the system of juvenile justice in this country have been abandoned. Pre-trial detention of children in adult prisons and police cells has been severely curtailed by legislation, and whipping, for years the most prevalent sentence for convicted juveniles, has been removed from the range of permissible sanctions as a consequence of the introduction of a Bill of Rights.

The experiences of 1995 have shown that the existing infrastructure needs attention in order to enable legislative reform in the field of juvenile justice to be feasible. The remainder of 1995 and 1996 will see the tasks associated with rebuilding a principled and humane juvenile justice system assuming precedence.