

**THE IMPLEMENTATION OF THE 1997 WHITE PAPER FOR SOCIAL  
WELFARE WITH SPECIFIC REFERENCE TO CHILDREN IN  
CONFLICT WITH THE LAW:  
A CASE STUDY OF THE MANGAUNG ONE STOP CHILD JUSTICE  
CENTRE.**

BY



A Research Report submitted in partial fulfilment of the requirements for the degree of Master of Public Administration in the School of Government, Faculty of Economic and Management Sciences, University of the Western Cape.

MAY 2010

Supervisor: Prof. John Bardill

## DECLARATION

I declare that, 'The implementation of the 1997 White Paper for Social Welfare with specific reference to children in conflict with the law; A Case Study of the Mangaung One Stop Child Justice Centre,' is my own unaided work and that all the sources I have used or quoted have been indicated and acknowledged by means of complete references as indicated in the text. Furthermore, I declare that this mini-thesis has not been submitted at any university, college or institution of higher learning for any degree or academic qualification.

Andrew Paul



May 2010

## DEDICATION AND ACKNOWLEDGEMENT

This report is dedicated to the memory of my late father, John David Paul, who taught me that perseverance and hard work has never killed anyone. And to my dear mother, Katy Mary Paul, I thank you for teaching me the importance of humility, love for others, and of course, the fear of our Lord and saviour Jesus Christ.

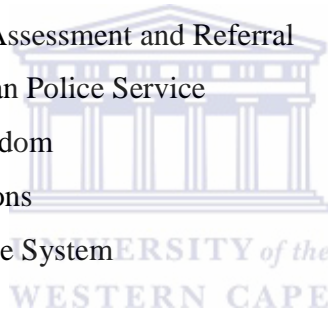
I give glory to God for helping me achieve what thought I could not. I would like to express my heartfelt appreciation to Professor John Bardill for always telling me that I can complete this degree. Prof, I appreciate the time you spend with me working on the Report and the guidance you gave me. Without you, the Report would never have been completed. To Professor Vivien Bozaleck and Mrs. Vallery Saville for putting me on this path, it was strenuous but worth it. I thank you both for your belief in me and your constant encouragement. I would also like to acknowledge the following people for the different roles they played in helping me complete this degree. To my brothers and sisters: Louise, James, Dorothy, John, Michael, and Romano you have always been my source of inspiration. To my dearest friends: Bob Ketano, you made me a believer. Zandile Donga, you have many times demonstrated that you are truly my friendship. To Alga Johnson, you are a Supermom and a role-model to me and when I grow up I would like to be like you. To my colleagues Palesa Nchake and Bridgette Mpata, I appreciate all your encouragement and teasing which helped me keep my head to the sky. To Seapei Mothlodi, Matshidiso Mankhoro and Palesa Ntholi, your energy helped me to focus. To the Swartz family, Elizabeth, Joseph, Saralize, and Sophie; I want to thank you for all your support and helping me stay on the right path. To Bessie Kgasane from the Department of Social Development I would like to extend my gratitude to you for assisting me get past the doorkeepers.

*“Our deepest fear is not that we are inadequate. Our deepest fear is that we are powerful beyond measure. It is our light, not our darkness that most frightens us. Your playing small does not serve the world. There is nothing enlightened about shrinking so that other people will not feel insecure around you. We were all meant to shine, as children do. Its not just in some of us, it’s in everyone. And as we let our own light shine, we unconsciously give other people permission to the same. As we are liberated from our own fear our presence automatically liberates others.”*

Author Unknown

## ABBREVIATIONS

AIDS	-	Acquired Immune Deficiency Syndrome
CCI	-	Children's Court Inquiry
CPM	-	Critical Path Method
CRC	-	United Nations' Convention on the Rights of the Child
HIV	-	Human Immunodeficiency Virus
IMC	-	Inter Ministerial Committee
NGO	-	Non Governmental Organisation
NICRO	-	National Institute for Crime Prevention and Reintegration of Offenders
NPA	-	National Prosecuting Authority
PERT	-	Program Evaluation and Review Technique
RAR	-	Reception, Assessment and Referral
SAPS	-	South African Police Service
UK	-	United Kingdom
UN	-	United Nations
YJS	-	Youth Justice System



## ABSTRACT

Whilst policy formulation has been extensively studied and theorised in the literature, far less attention has been paid until fairly recently to the issue of policy implementation. For a long time it was more or less assumed that once policy was formulated, implementation was a relatively straightforward administrative matter. In the past twenty or thirty years, however, public administration scholars (such as Pressman and Wildavsky and, in the South African context, Brynard and de Coning) have devoted more attention to unravelling the complexities of policy implementation. The current study intends to apply these more theoretical approaches to an analysis of the implementation of the 1997 White Paper for Social Welfare with particular respect to children in conflict with the law, focusing specifically on the One Stop Child Justice Centre in Mangaung, Bloemfontein.

Welfare Service in South Africa before 1994 had a racial bias with services mostly unavailable to the majority of the citizens of the country. The 1997 White Paper for Social Welfare, based on a developmental approach to social welfare, was designed to take the country in a new and inclusive direction. In line with South Africa's 1996 ratification of the UN Convention on the Rights of the Child, as well as other international instruments, Section 4 of Chapter 8 of the White Paper focuses on crime prevention through development and restorative justice, and recommends diversion wherever possible in the case of juveniles. With respect to Juvenile justice, this section of the White Paper makes provision for the establishment of One Stop Child Justice Centres, where a variety of services, from Social Development, the Department of Justice, the South African Police Services, Correctional Services, and the NPA, would be available to clients under one roof. All of these role players, it was envisaged, would operate as a multi-disciplinary team to achieve the objectives of the White Paper with respect to developmental and restorative forms of justice. The Centre at Mangaung is one of only a few centres to have been established as yet in South Africa. Although focusing in particular on the implementation of the 1997 White Paper, the study is also informed by other policy and legislative measures with respect to juvenile justice, in particular the Child Justice Bill of 2002 (now the Child Justice Act of 2008) and the Probation Services Amendment Act of 2002

It is generally accepted by the Government and its critics alike that the policy scene in South Africa in the period since 1994 has been characterized by good policies but poor execution. This is, however, a relatively untested hypothesis and needs further investigation. In the light of this, it is anticipated, that the present study will make a contribution to the literature on policy implementation in South Africa, as well as providing useful insights and lessons that can inform general government policy in this regard, and policy with respect to juvenile justice in particular.

Within the general context of the 1997 White Paper for Social Welfare and the Department of Social Development's Integrated Service Delivery Model, and the specific context of the Mangaung One Stop Child Justice Centre, the overall purpose of the study is to scrutinize the apparent discontinuity between policy design on the one hand and policy implementation on the other. More specifically, though, the objectives of the study are: (i) to examine the

content of the 1997 White Paper for Social Welfare in general and more specifically the section on children in conflict with the law, (ii) to provide a historical overview of the delivery of services to youth in conflict with the law prior to the first democratic elections (1994) in South Africa, (iii) to examine what the concept of 'integrated service delivery' means to the different role-players at the One Stop Child Justice Centre, (iv) to examine the existing resources (human, financial and other) for successful implementation of the policy, (v) to examine whether there are procedures in place to encourage co-operation among stakeholders at the One Stop Child Justice Centre, (vi) to examine the successes, challenges and opportunities presented by the implementation of this policy at the One Stop Child Justice Centre and, (vii) to identify gaps between policy and implementation and make recommendations towards more successful implementation.

Detailed semi-structured interviews were conducted with the Centre Manager and senior representatives of all the services involved (Social Development, the SAPS, Magistrates, the Probation Service, and Prosecutors). The interview questions focus mainly on implementation issues and challenges, but also gather information on the knowledge of the interviewees on the content of the policy. In addition, in order to validate and compare the data collected from these respondents, semi-structured interviews were held with six parents/guardians of children in conflict with the law who had been serviced by the centre. Official documents of the centre, such as annual reports, were also consulted for purposes of triangulation. Detailed transcripts will be made of all the interviews. In analysing the data, use was made in particular of the 5C Protocol advocated by Brynard and De Coning (2006) in their study of policy implementation in South Africa. The five C's include the Content of the policy, the Context in which the policy is implemented, Commitment from those implementing the policy, the role of Clients and Coalitions, and the Capacity of those tasked with implementing the policy. In addition other C's which have an impact on policy implementation (such as communication, co-ordination, and change management) will also be considered.

Confidentiality of data gathered and anonymity of respondents were ensured by not requiring any personal details from the survey instruments. The sole purpose of using the data gathered for research was communicated to the respondents on the front page of the survey instruments. The choice of also not answering questions raised was respected.

### **Key Words**

(i) Public Policy; (ii) Policy implementation; (iii) the 5C Protocol (iv) the 1997 White Paper for Social Welfare; (v) UN Convention of the Rights of the Child; (vi) the Child Justice Bill 2002; (vii) the Probation Services Amendment Act 2002; (viii) One Stop Child Justice Centres; (ix) Mangaung Child Justice Centre; (x) Juvenile Justice.

## TABLE OF CONTENTS

Declaration.....	(i)
Dedication and Acknowledgement.....	(ii)
Abbreviations.....	(iii)
Abstract.....	(iv)
<b>CHAPTER 1: INTRODUCTION &amp; BACKGROUND .....</b>	<b>1</b>
1.1 Introduction.....	1
1.2 Research Problem and Objectives .....	6
1.3 Significance of the Study.....	6
1.4 Literature Review.....	7
1.4.1 Introduction.....	7
1.4.2 First, Second and Third Generation Perspectives .....	8
1.4.3 The Top-down vs. Bottom-up Approach.....	10
1.4.4 The 5C Protocol .....	15
1.5 Research Design and Methodology.....	20
1.5.1 Research Design.....	20
1.5.2 Research Methods and Instruments .....	21
1.5.3 Data Gathering, Capturing and Analysis .....	22
1.6 Statement on Ethics.....	23
1.7 Organisation of the Study .....	24
1.8 Limitations of the Study.....	24
<b>CHAPTER 2: DEVELOPMENTS WITH REGARD TO CHILDREN IN CONFLICT WITH THE LAW.....</b>	<b>25</b>
2.1 Introduction.....	25
2.2 International Declarations.....	25
2.3 The United Kingdom .....	28
2.4 African Developments .....	32

2.5 South African Policy on Children’s Rights .....	34
2.5.1 Introduction.....	34
2.5.2 Historical overview .....	35
2.5.3 Legislation and Policy with Regard to Children.....	38
2.5.4 The need for a Monitoring Structure .....	41
2.5.5 The One Stop Child Justice Centre in Bloemfontein.....	42
2.5.6 Operations at the Centre.....	43
2.5.7 Organisational Structure .....	46
2.6 Summary .....	47
<b>CHAPTER 3: RESEARCH FINDINGS.....</b>	<b>49</b>
3.1 Introduction.....	49
3.2 Description of research findings .....	49
3.2.1 Trends in arrests and diversion .....	49
3.2.2 Achievements of the Centre.....	51
3.2.3 Limitations of the Centre .....	53
3.3 Analysis of Findings .....	55
3.3.1 Introduction.....	55
3.3.2 Content.....	55
3.3.3 Context.....	59
3.3.4 Capacity .....	63
3.3.5 Clients and Coalitions .....	68
3.3.6 Commitment .....	72
3.3.7 Change Management .....	74
3.3.8 Top-down Approaches to Policy Implementation .....	77
3.3.9 Bottom-up Approaches to Policy Implementation .....	78
3.4 Summary .....	80
<b>CHAPTER 4: SUMMARY, CONCLUSIONS AND RECOMMENDATIONS .....</b>	<b>81</b>
4.1 Introduction.....	81



4.2 Summary .....	81
4.2.1 5C Protocol .....	81
4.2.2 Change Management .....	83
4.2.3 Top-down vs. Bottom-up approaches .....	84
4.3 Achievements, limitations, challenges and constraints.....	84
4.4 Recommendations.....	85
4.5 Conclusions.....	87
Bibliography .....	89
Appendices.....	93



# CHAPTER 1

## INTRODUCTION AND BACKGROUND

### 1.1 INTRODUCTION

In the 13 October 2002 issue of the Sunday Times, the former President of South Africa, Thabo Mbeki stated that the “biggest challenge is the issue of implementation, of ensuring that the government structures have adequate capacity to address those policy things” (Sunday Times, October: 2002). This sentiment was in 2007 echoed by Mitchell (2007:447) at a conference of the Southern African Transport Conference arguing that:

It is common cause that government in South Africa suffers from an inability to implement its policy and strategy programme. This failure has been attested to in the public media by eminent persons such as the current and previous State Presidents, the Governor of the Reserve Bank, the Minister of Finance and many others.

Some scholars would argue that the statements by former President Mbeki and Mitchell are an oversimplification of the intricate processes involved in policy implementation. What makes policy implementation an even more contentious issue is that there is division among scholars about its conceptual nature: whether there is in fact a dichotomous relationship between policy and implementation or whether there ought to be a conceptual differentiation between the two. Implementation is regarded by many scholars as the most challenging part of the policy process. Koenig (1986: 149) is unambiguous in his assertion that the “great Achilles hill of the policy process is implementation.”

This research report focuses on the implementation of the 1997 White Paper for Social Welfare which was meant to direct the country in a new direction as far as Social Welfare Services were concerned. The aim of any policy that replaces another, as is the case with the 1997 White Paper for Social Welfare (herein after referred to as the White Paper), is to introduce change in the direction of services or change in the manner that services are delivered. The nature of this change is determined by those responsible for designing the policy. Depending on their decision, this change can be either incremental, focussing on fairly minor changes within the scope of existing goals and assumptions, or radical, requiring

a more fundamental change in goals and assumptions. Depending on the level of change intended by the introduction of the new policy, designers of policy need to anticipate factors that may impede the successful implementation of that particular policy. Among these are the environments into which a policy will be implemented, whether there are issues of human or physical resources to be taken into account, whether the society is an established or transitional one, or whether there is going to be buy-in or resistance from implementers to the envisaged change. Singularly, or in any sort of combination, these factors will have an influence on the policy implementation, outputs and outcomes. The focus then of this paper will be dual. It will firstly examine the soundness of the policy's formulation and secondly it will pay attention to the intricate processes of the policy implementation phase. The first part will be theoretical in its approach - examining the approach used in formulating the policy, whether goals and objectives were realistic, and also whether appropriate time frames were set. The second part will be more focussed on the practical issues of the implementation phase, using the Once Stop Child Justice Centre in Mangaung as a case study, examining issues pertinent to policy implementation.

For many years children's rights were just seen as an add-on to the issue of human rights. During the colonial years in Africa there was no distinction drawn between children and adults who broke the law. Children were treated as if they had the mental, emotional and intellectual capacity to appreciate their actions and were therefore subject to punishment in a similar manner as adults. Decades after independence this notion has persisted in many African countries and has only changed fairly recently when issues around children's rights became more prominent. One major International event that focussed attention on the issue under scrutiny was the United Nations Convention on the Rights of the Child (CRC)<sup>1</sup> in June 1989. Countries from around the globe attended this gathering and most African countries (with some exceptions such as Somalia) have ratified this Convention. Countries that have ratified the Convention are expected to annually submit progress reports on the protection of

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<sup>1</sup> The United Nations Convention on the Rights of the Child is an international human rights treaty that guarantees all children and young people (17 and under) a comprehensive set of rights that will ensure they receive fair treatment and trial.

the right of children to the UN Committee on the Rights of the Child. In 1990 African countries developed and in 1999 adopted the African Children's Charter under the auspices of the then Organisation of African Unity. (Odongo, 2004:8)

In the South African context, Section 4 of Chapter 8 of the 1997 White Paper for Social Welfare deals specifically with the delivery of services which covers what it calls "Special needs and problems" referring to mental health, substance abuse, crime prevention through development and restorative justice, people with chronic illnesses, and people (living) with HIV / AIDS. The Subsection that focuses on crime prevention addresses itself to the issue of children in conflict with the law. It becomes clear from reading the White Paper that there is a movement away from the retributive stance with regard to criminal activity towards a more restorative justice and re-socialisation approach in treating offenders. This shift is in line with the developmental approach in the social welfare services field. According to Midgley (1995:250), developmental social welfare is a "process of planned change designed to promote the well-being of the population as a whole in conjunction with a dynamic process of economic development." The goals of this approach according to Patel et al (2008) are, amongst others, to:

promote social and economic development; facilitate the participation of the socially excluded in development efforts; achieve tangible improvements in the quality of life of people; build human capabilities through enlarging people's choices; promote social integration through the delivery of equitable and appropriate developmental social welfare services for populations at risk of marginalisation and oppression and for people with special needs; and promote human rights (Patel et al: 2008; 4).

This approach holds that offenders need to perform reparation to victims in order to restore relations and enable the reintegration of ex-offenders back into the community. The White Paper acknowledges that crime levels in the country, and especially amongst young people, are unacceptably high pointing towards varying contributing factors. In order to reduce these crime levels among the youth it proposes a total overhaul of probation services within the context of the Beijing Rules (1985)<sup>2</sup> and the CRC (1989). Benchmarking itself against these

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<sup>2</sup> The Beijing Rules are the United Nations Standard Minimum rules for the administration of Juvenile Justice which seek to guide member countries in developing a juvenile justice system that protects the rights of children in conflict with the law.

international instruments the White Paper reveals a move towards following international best practice examples by the South African Government. An important element in the transformation of the criminal justice system requires movement towards a separate youth justice system distinct from the adult criminal justice system. Underpinning all of this is the need for capacity building of both the family and the community to assist in the identification of possible risk groups and the provision of sustained early intervention to prevent instances of first offending as well as repeat offending or recidivism. The White Paper points out the need for an integrated approach to crime prevention for juvenile offenders, and that collaboration between role players is paramount for successful implementation. Effective collaboration between different stakeholders, including the Departments of Social Development, Justice, and Correctional Services, the South African Police Service (SAPS), Non-Governmental Organisations, Faith Based Organisations as well as Community Based Organisations, is therefore essential.

Brynard and De Coning (2006: 180) argue that “policy coherence and the integration of services is an emerging issue internationally.” The Department of Social Development proposes such an integrated approach in its ‘Integrated Service Delivery Model’ which was launched in November 2005. The introduction of this model puts the Department in line with international best practice. The aim of this model is to render a comprehensive service to all clients in terms of service delivery. In this document the Department identifies three main programmes that need to be implemented in order to achieve its goals of sustainable development and addressing past imbalances; these are Social Security, Social Welfare and Community Development. In April 2005 however, Social Security became an autonomous agency with its own budget and this refocused attention on the remaining two developmental social services Social Welfare and Community Development. These two programmes are each classified according to levels of intervention. In developmental Social Welfare seven levels of intervention are identified namely prevention; early intervention; statutory; residential and alternative care; and reconstruction and aftercare services. Services in Community Development in turn are classified according to the scope and purpose of services which includes development of youth and women, poverty reduction programmes,

and the registration and facilitation of non-profit organisations. The Model is not a replication or review of the 1997 White Paper for Social Welfare; rather it is regarded as a "guideline for social services within the context of a developmental paradigm, and provides a value chain for social development services." (Integrated Service Delivery Model, 2005: 8) South Africa has adopted the cluster approach in the integration of service delivery and is presently using "implementation instruments such as joint programme and project teams, one-stop-service centres, and PPP's..." (Brynard and De Coning, 2006: 181)

The 1997 White Paper for Social Welfare's legal framework was informed by several different, but interrelated Acts, including the Aged Persons Act, 1967 (Act No. 8 of 1967), the Social Services Professions Act, 1978 (Act No. 110 of 1978), and the Child Care Act, 1983, (Act No. 74 of 1983). It was also influenced by international documents, such as the United Nations Convention on the Rights of the Child (Article 40 (2) (b)), the Beijing Rules and the Tokyo Rules. This research focuses at the level of statutory intervention specifically focussing on services to the youth. The context for the research study is the One Stop Child Justice Centre in Mangaung which gets its mandate firstly from the White Paper for Social Welfare (1997) and secondly from legislation such as the Probation Services Act, 1991 (116 of 1991) the Child Justice Bill, (1991) the Social Services Professions Act, 1978 (Act No. 110 of 1978) and the Child Care Act, 1983, (Act No. 74 of 1983). In order to investigate the implementation of the 1997 White Paper for Social Welfare, one needs to consider the unique environment into which it was introduced vis-à-vis the multi-disciplinary approach as encouraged by Article 40 of the United Nations' Convention on the Rights of the Child. This multidisciplinary approach has led, in South Africa, to the establishment of a number of One Stop Child Justice Centres. The current study focuses on one such Centre at the Mangaung One Stop Child Justice Centre. The multi-disciplinary team at the Mangaung Child Justice Centre is made up of Probation Officers who are qualified Social Workers, a Magistrate, a Prosecutor, members of the South African Police Services, assisted by representatives of NICRO, and a legal aid lawyer from the Legal Aid Board.

## **1.2 RESEARCH PROBLEM AND OBJECTIVES**

It is generally accepted by the Government and its critics alike that the policy scene in South Africa in the period since 1994 has been characterized by good policies but poor execution. This is, however, a relatively untested hypothesis and needs further investigation and is for that reason the main research problem that will be investigated by this study. Within the general context of the 1997 White Paper for Social Welfare and the Department of Social Development's Integrated Service Delivery Model, and the specific context of the Mangaung One Stop Child Justice Centre, the overall purpose of the study is therefore to scrutinize the apparent discontinuity between policy design on the one hand and policy implementation on the other.

More specifically, the objectives of the study are:

- To provide a historical overview of the delivery of services to youth in conflict with the law prior to the first democratic elections (1994) in South Africa.
- To examine what the 1997 White Paper and the concept of 'integrated service delivery' means to the different role players at the One Stop Child Justice Centre.
- To examine the existing resources, both physical and human, for successful implementation of the policy.
- To examine whether there are procedures in place that assist in achieving co-operation and reducing conflict among stakeholders at the One Stop Child Justice Centre.
- To examine the successes, challenges and opportunities presented by the implementation of this policy at the One Stop Child Justice Centre.
- To identify gaps between policy and implementation and make recommendations towards more successful implementation.

## **1.3 SIGNIFICANCE OF THE STUDY**

The purpose of this research is to illumine both opportunities and challenges which the implementation of the White Paper for Social Welfare (1997) presents. The research will be of particular significance to Probation Officers, Police Officers, and Magistrates, Legal Aid Lawyers and Prosecutors and others involved in the implementation of the White Paper at the

One Stop Child Justice Centres. Furthermore, it may, inform policy decisions made at the Provincial Offices of the Departments of the different stakeholders from government departments and non governmental organisations involved at the Centre.

## **1.4 LITERATURE REVIEW**

### **1.4.1 Introduction**

This section focuses on literature and conceptual frameworks associated with the issue of policy implementation. Literature associated with global, African, and South African developments in the areas of Social Welfare and Juvenile Justice will be covered in the second chapter of the study. Attention will be paid in this section to the different historical phases in the development of theoretical perspectives with regard to policy implementation, with particular reference to the ‘top-down, bottom-up’ perspective and the 5-C Protocol.

Until about thirty years ago, there was little systematic investigation of policy implementation as a discrete field of study. Before then, most policy studies focussed on policy formulation. It was largely assumed that implementation was a more or less straightforward administrative act. Then in 1973 Jeffrey Pressman and Aaron Wildavsky (1973) announced the ‘discovery’ of policy implementation. This led to an increase in policy implementation literature. Examining the literature of this period one is led to the conclusion that some have been rather exploratory and vague, as if treating policy implementation at a glance, whilst others have been more systematic treating the subject as a real field of academic endeavour. The latter group of writings have raised numerous searching questions about policy implementation: What does policy implementation entail? What is the practical advantage of singling out policy implementation for special attention? Does research on the subject increase the likelihood of better implementation success? Is there a need for a specialised body of knowledge to improve understanding of policy implementation, and is it better to approach the study of policy implementation from the perspective of the practitioner or the policy maker? Answering these questions has proven to be no easy task and Nakamura et al (1980, 709) argue that none of them has been answered fully satisfactorily. A brief historical overview of the debates within the field of policy implementation shows that one



can divide the literature into three distinctive sequential phases and the debates can further be divided into two general schools of thought' the top-down and bottom-up approaches. The historical phases are referred to as first, second and third generation literature of policy implementation, each generation with its own peculiar perspectives, characteristics and area of focus. With respect to the development of theories surrounding policy implementation scholars have divided them into first, second and third generations.

#### **1.4.2. First, Second and Third Generation Perspectives**

The first generation of policy implementation research covers the period up to the early 1970's. The key characteristic of first generation scholars was a view of policy implementation as self-executing; the perception that implementation would automatically happen once policies have been promulgated. This idea of policy implementation came about in particular as a result of three influential figures, namely Max Weber, Woodrow Wilson and Fredrick Taylor. Each contributed his own perspective towards the view that public administration was 'machine-like'. Weber's theory on the ideal type of a bureaucracy was based on the idea of an ordered system where decisions taken at the top are implemented by subordinates according to fixed rules and regulations. According to Dreschler (2005:94) Weber's ideal type of bureaucracy would comprise, amongst other things, a set of offices in which appointed civil servants operated under the principles of merit selection, impersonality, hierarchy, the division of labour, exclusive employment, career advancement, the written form and legality. Wilson (1887) on the other hand advocated for a clear separation between policy formulation and policy implementation. According to Brynard and De Coning (2006) Wilson "put forward the thesis that policy formulation and policy implementation are – and should be – two separate and distinct activities, with the latter being neutral, professionalised and non-political." (2006: 185) In criticising Wilson's view Mitchell comments that: "the assumption of bureaucratic neutrality, claimed by early scholars of public administration, such as Woodrow Wilson is a misnomer, which is not supported by actual experience" (Mitchell, 2005: 448). According to Brynard and de Coning (2006) Taylor, "provided the rationale for adopting "efficiency as the basic criterion for evaluating administration performance"(2006: 185) Later literature, however, revealed that

instructions from the top did not automatically ensure compliance by implementers at the lower end of the implementation cycle. As a result Goggin (1986: 328) has argued that “with few exceptions most first generation authors were pessimistic about a programmes chance of being implemented successfully.”

The second Generation of studies began in the mid 1970’s and included scholars such as Pressman and Wildavsky (1973) and Bardach (1977). These scholars moved away from the notion of “public policy as an efficient and orderly machine” to proposing that policy was instead a “process of muddling through” (Brynard and De Coning, 2006:181). These scholars also emphasised the fact that policy implementation was a complex process and that these processes affect a policy’s performance. According to Goggin (1987: 19) these authors now “perceived implementation problems as political in nature (and as a result) developed conceptual themes that defined and measured implementation performance.” The dominant view of the time was influenced by the perspective that policies are not introduced into a vacuum, but often into an environment that is politically contested by role players. In order to manoeuvre successfully and lessen negative impacts on policy performance it is essential that a certain degree of synergy exist or be created among these role-players.

Third generation scholars (Goggin, 1987; Cloete and Wissink, 2000; Moore, 1995; Pretorius, 2003), having had the benefit of theories from the previous two generations of scholars, mainly focussed their efforts on analysing how policy implementation works in general and how its prospects for success can be enhanced. To this end Goggin (1987: 21) suggests that scholars should “develop a ‘differentiated theory of implementation’ which takes into account variations in implementation success.” The lack of a consistent and clear theoretical framework of policy analysis to aid researchers in their work had by this time become a major obstacle in the field of implementation research. As a consequence a number of theoretical frameworks were formulated in an attempt to fully comprehend the policy implementation process. The most prominent of these theoretical frameworks were the top-down and bottom-up approaches and, more recently, other frameworks such as the 5C protocol and the linear and interactive models.

### 1.4.3 The Top-down vs. Bottom-up Approach

This section will focus on the top-down and bottom-up theoretical perspectives in policy implementation analysis. According to Birkland (2001: 179) supporters of the top-down approach:

claim that one can understand policy implementation by looking at the goals and strategies adopted in the statute or other policy, as structured by the implementers of policy.

Typically such studies would focus on the gaps between what the policy intends to achieve and the actual implementation and outcomes of the policy. From the perspective of the bottom uppers Birkland (179: 2001) states that:

...implementation is best studied by starting at the lowest levels of the implementation system or 'chain' and moving upward to see where implementation is more successful or less so.

The basic idea behind the bottom-up approach is to approach implementation from the perspective of the implementer and intended beneficiaries. Scholars have described these perspectives by quite different terms. For example Elmore (1979) refers to the two processes as forward mapping and back-ward mapping respectively.

The top-down approach is considered the more traditional approach in policy implementation analysis. Elmore (1979: 603) argues that the approach:

...begins with an objective, it elaborates an increasingly specific set of steps for achieving that objective, and it states an outcome against which success or failure can be measured.

In other words, it follows a specific sequence in all cases irrespective of the subject or field under scrutiny. Elmore (1979, 603) contends that this is in line with the:

standard framework of policy analysis and with conventional techniques of management science and decision analysis such as the program evaluation and review technique [PERT] and the critical path method [CPM]).

Brynard and de Coning (2006: 189) extensively quote from the work of Mazmanian and Sabatier stating that theirs is one of the most influential examples of the top-down approach.

According to Mazmanian and Sabatier (1981) the top-down perspective starts with three critical observations about policy implementation namely:

Policy making is an iterative process of formulation, implementation, and reformulation and the distinction between the three should be maintained. The focus should be on the attainment of policy goals, although the outputs of the implementing agencies and the outcomes of the implementation process are both important. Implementation can be viewed from three different perspectives – the initial policy maker or the centre, the field-level implementing officials or the periphery, and the actors at whom the programme is directed or the target group – but a centre focused perspective to implementation is preferred.

The approach is further characterised by hierarchical control, focussing on legally mandated aspects. As such it has been accused of under-estimating street-level influence, organizational interactions and bargaining amongst implementers. According to Birkland (2001: 179) the approach is informed by five important assumptions namely:

- “Policies contain clearly defined goals against which performance can be measured.
- Policies contain clearly defined policy tools for the accomplishment of goals.
- The policy is characterized by the existence of a single statute or authoritative statement of policy.
- There is an 'implementation chain' that 'starts' with a policy message at the top and sees implementation as occurring as a chain.
- Policy designers have good knowledge of the capacity and commitment of the implementers.”

In terms of these assumptions one can make the observation that successful implementation of a policy depends on setting goals that are both realistic and measurable. Also, one can assume that appropriate courses of action, such as costing of the implementation of the policy was carried out, and that sufficient resources were available to implement the policy. To avoid unnecessary delays because of multiple interpretations of a policy it is important to ensure that the policy is unambiguous in what it intends to achieve. In addition, it is also important to ensure that policy makers have detailed knowledge of the capacity and commitment of implementers (for example by conducting a skills audit). The lack of either of

these conditions could be detrimental to the implementation success of such policy.

In contrast to the top-down approach, the bottom-up approach focuses more on the actions of lower level officials, those at the coal-face of implementation. This approach starts at the lowest possible stage of implementation where the beneficiary or client interfaces with the 'street-level' officials. It adopts the perspective of what Michael Lipsky (1980) refers to as street level bureaucrats such as police officers, social workers and teachers and is informed by a different set of assumptions from the top-down approach. Elmore (1979, 603) claims that:

It begins not with a statement of intent, but with the statement of a specific behaviour at the lowest level of the implementation process that generates the need for a policy. Only after that...the objective is...stated as a set of organizational operations and then as a set of effects, or outcomes, that will result from these operations.

By back tracking through the structure of the implementing agencies the perspective asks two essential questions at each level; (1) about the capacity of implementers at each level to affect the behavior of beneficiaries (2) about what resources are required to effect successful implementation. The approach does not base its measurements of success or failure on compliance by implementers with the policy's intention. Instead it focuses more on (1) the ability of actors at one level to influence the behavior of actors at other levels, and (2) the ability of public organizations to influence the private behavior of implementers. The principle of influence and the ability to change the behavior of others is therefore a principal theme in backward-mapping. Acknowledging the potential for conflict the bottom-up approach attaches importance to the ability of organisations to interact, bargain and to reach compromises for successful implementation. In line with the views of second generation scholars it agrees that policy implementation does not happen in an orderly way but rather "can be viewed as a continuation of the conflicts and compromises that occur throughout the policy process, not just before and at the end point of enactment." (Birkland, 2001: 182) According to Elmore (1979) backward mapping challenges the idea that successful implementation would result from 'explicit policy directive, clear statements of administrative responsibilities and well-defined outcomes'. In addition, Elmore's (1979) discussion points out that forward mapping (top-down) intrinsically advances a notion of

hierarchy in policy implementation. The author also asserts that the main reason for the continued existence of forward mapping is the lack of suitable alternatives in policy analysis and suggests that backward mapping could be such an alternative. Birkland (2001: 182) argues that:

First, the bottom-up approach recognizes that goals are ambiguous rather than explicit and may conflict not only with the other goals in the same policy area, but also with the norms and motivations of the street-level bureaucrats. Second, the bottom-up approach does not require that there be a single policy defined policy in the form of a statute or other form.

The afore-mentioned quote also acknowledges the effects that street-level workers can have on the outcomes of a policy and is further strengthened by the following statement from Maynard-Moody et al.: "local adaptation and involvement of street-level employees in the decision-making process are crucial to successful policy implementation." (Maynard-Moody et al, 1990: 835) These authors argue in support of 'street-level influence' and the notion of involving lower-level workers in the policy process and according them more discretionary powers. Discretion as a practice in policy implementation has been a major bone of contention in the discourse on the issue. It has been frowned upon by traditionalists who adopted a distrusting attitude towards the practice. Arguing in favour of this practice, Maynard-Moody et al (1990: 833) contend that often when ideas of the person closer to the problem are "ignored by those higher up" it results in unfavorable effects on intended beneficiaries. Elmore, suggesting that those closer to the problem know better how to solve it, writes that "standardized solutions, developed at great distances from the problem, are notoriously unreliable..." (Elmore, 1979:610) While investigating discretion in implementation Brown cited in Maynard et al (1981) found that when implementing authorities attempted to control discretion in implementation it resulted in a breakdown in relationships between managers and frontline workers. By comparing two states in the United States of America's implementation of the same policy using different organizational styles (decentralized vs. bureaucratic styles of organizations) Maynard-Moody et al (1990) looked for which of the two more effectively aided successful policy implementation. They found that discretion was an inherent quality of human services work and in addition that

programmes with the greater street-level influence were more successful. One of the contributing factors of the more successful organization was the fact that it took advantage of the experiences and street-wisdom of street-level implementers. In addition, they found that if discretion is incorporated into the formal strategy of the organization, it allows for realistic guidance for lesser experienced workers in their dealings with clients. Quoting Lipsky (1980) Maynard-Moody et al (1990) suggests that a misguided view of policy implementers exists which deem them as “rule-bound implementers of social policies” suggesting that they are rather the “ultimate policy makers.” However, not all street level workers’ adaptation of policy implementation is necessarily positive. Some distort policies to favour themselves and make their work easier. Procedures to lessen the likelihood of implementers undermining a policy and its outcomes could be incorporated into the policy development process. By involving and allowing implementers a say at the design phase of a policy gives them a vested interest in the success of such policy and would compel them to use their influence constructively rather than for self-interest and in the process harm communities.

The assumptions of the two methods of analysis (backward mapping and forward mapping) appears to be diametrically opposed to each other. Forward mapping assumes that the closer one is to a policy the greater one’s authority and influence on such a policy and that complex systems depend on clear lines of authority and control in order to respond adequately to problems. Backward mapping on the contrary is based on the assumptions that one’s proximity to a problem does not determine one’s influence on that problem. It introduces the concept of discretion and claims that giving discretionary powers to those where the problem is most immediate, and enhancing the capacity of the person closest to the problem, that problems are better addressed. However, this does not necessarily mean the two perspectives are mutually exclusive or that it is a question of the one over the other. The two perspectives each have their own strengths and weaknesses and one perspective may be more relevant to a case than the other. In certain instances one may synthesize and integrate the two using a combination of their strengths and as a result have a better tool for policy implementation analysis by having a combination of top-down control and lower level discretion.



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#### **1.4.4 The 5C Protocol**

Over the years, during which the policy implementation debate became more and more prominent, scholars from diverse fields and adhering to dissimilar perspectives have agreed on a number of key variables in policy implementation. These include:

- (1) the form and content of the policy itself; (2) the capacity of the organization(s) responsible for making the program work; and (3) the qualifications of the people in charge of operations (Goggin: 1986: 328).

Drawing upon this consensus Brynard and De Coning (2006) identify five key variables for understanding policy implementation. These variables have become known as the 5C Protocol which stands for content, context, commitment, capacity, and support from coalitions and clients. Brynard and De Coning (2006: 194) describes the 5C protocol as making sense of the complex nature of the policy implementation process as each of the five variables are linked to and influenced by the others. What follows is a brief discussion of each of the variables.

##### ***Content***

Anderson (1997) claims that there are four types of policy content namely distributive, regulatory, self regulatory and redistributive. Brynard and De Coning (2006: 196) on the other hand proposes that in fact there are only three types and exclude self regulatory policies from their typology. The authors describe policies as follows:

- ...distributive policies create public goods for the general welfare and are non-zero-sum in character; regulatory policies specify rules of conduct with sanctions for failure to comply, and redistributive policies attempt to change allocations of wealth or power of some groups at the expense of others” (2006: 196)

Goods and services that are non-zero-sum in character are of no cost to the user and are paid for by the tax-payer. An example of this is the South African government’s so-called free basic health care system. Self regulatory policies are policies where those being regulated have influence over the regulation. The content of a policy has an impact on whether it achieves its goals or not.

### ***Context***

No policy is introduced into a context devoid of values or norms. In explaining this Berman cited in Brynard and De Coning (2006: 198) argues that “a context-free theory of implementation is unlikely to produce powerful explanations of or accurate predictions.” This brings us to the point that all policy contexts are by their very nature value laden and contested; meaning that organizations and institutions into which new policies must be introduced have their own cultures and practices, developed over time, which make them work. Policies which require multi-agency collaboration for effective implementation may be compromised because the environment is a contested one. The context is the standard operating procedures through which policy must travel, and by whose boundaries it is enhanced or limited, in the process of implementation. It is therefore imperative that implementers get along but this is easier said than done. “Effective working relations typically result from bargaining, cajoling, accommodation, threats, gestures of respect, and related transactions” (Brynard and De Coning, 2006: 198). The goodwill of individuals or groups from multiple agencies involved in implementing the same policy can as a result enhance or limit policy success. Informal agreements, deals and coalitions often times may be the lifeblood that makes a policy work that may have otherwise failed.

### ***Commitment***

Commitment from implementers to work towards the successful implementation of any policy cannot be legislated and therefore other means are required to get them to play along. This speaks directly to the issue of buy-in from role-players. A key factor in this all is that it is necessary to put the responsibility of implementation into the hands of an agency which is sympathetic towards the goals of the policy. Even then success is not guaranteed as implementers who do not believe in a policy or are opposed to it will either subvert its goals or objectives or distort them. This may have an adverse effect on the intended beneficiaries of such policy (Brynard and De Coning, 2006: 198)

### ***Capacity***

Capacity to implement a policy is divided by Brynard and De Coning (2006: 199) into two main categories, tangible and intangible. Tangible capacity refers to the availability of and

access to resources that can be relatively easily identified and quantified such as human, financial, material, technological and other resources. Intangible capacity speaks to resources that are not so easily identifiable or quantifiable such as leadership, motivation and commitment. Effective leadership counts as one of the primary intangible resources required by any organization to be successful in achieving its goals. According to Mohamad, Silong, Hamzah, Asmuni, and Hassan (149: 2008):

It can be said that leadership is defined as a process whereby a person influences individuals and groups within an organization, which helps them to establish and accomplish goals.

The same authors also claim that (149: 2008):

Effective managers are those who developed satisfied and productive employees, while successful managers are those who get promoted quickly.

In addition, these leaders also have a strong sense of commitment to their own and the organizations' goals but are flexible enough to know when change is required. Further, such leaders have in-depth knowledge of the organization they lead, the ability to learn from their mistakes, are resourceful, they value people and share power.

Brynard and De Coning (2006: 199) suggest that even if the necessary resources to aid successful implementation can be identified, it is not as easy to provide them, especially with regard to intangible capacity. Organizations which do not have the necessary tangible and intangible resources to implement a policy will definitely struggle to meet their goals and objectives. A key strategy is not to be too ambitious but rather to design programmes to match the existing delivery capacity. One issue worth mentioning is that of unfunded mandates in the period after 1994 when the National Government forced provincial and local government institutions to engage in certain projects but without the necessary resources to discharge them effectively.

### ***Clients and coalitions***

Clients and coalitions refer to the support of clients and coalitions whose interests are enhanced or threatened by the policy, and the strategies they employ in strengthening or

deflecting its implementation. Support from key sectors of society can either make or break the implementation of a policy. Identifying the most relevant and influential actors and actively seeking out their support for a policy can augment the policy and increase its chances of success (Brynard and De Coning, 2006: 203).

### ***Change management***

Since the 5C Protocol is not exhaustive enough to cover all issues related to policy implementation the author proposes that issues to do with managing change should also be regarded as a key element. There is a dictum that the only certainty in life is change. As in the case of individuals, organizations also need to learn to change and adapt in order to continue to survive and grow. If they don't, they will simply die. How change is deal with by the organization will determine whether it will result in a crisis or will be a smooth process. Jones, Aguirre and Calderone argue that: "successful companies...develop a culture that just keeps moving all the time." (2004:1) However, change is not easy as it involves new roles, requires employees to develop new skills and learning to think and behave differently. Stewart (1996: 23) states that strategic plans "...can never accurately anticipate and 'budget' for the response of individual human beings." In support of this Jones et al (2004:1) argue that: "leadership teams that fail to plan for the human side of change often find themselves wondering why their best-laid plans have gone awry." What those authors point out is the central role of employees in effecting the necessary change in the organisation.

Stewart (1996) proposes a five stage model for managing change: diagnosis, identifying resistance, allocating responsibility, developing and implementing strategies and finally monitoring. During the diagnosis stage the main priority is to plainly identify the felt need or problem. It is of critical importance that the correct need or problem be identified because if the wrong need or problem is identified it is highly likely that the wrong solution will be sought to address it. Stewart (1996: 24) claims that "individuals are unlikely to favour a change unless they perceive it to be attractive and beneficial." Therefore the purpose of the second stage is to anticipate who is likely to resist change and why they will resist it. Jones et al (2004: 1) argue that "new leaders will be asked to step up, jobs will be changed, new skills

and capabilities must be developed, and employees will be uncertain and resistant.” According to Dutfield and Eling (1996:97) there are several different types of resistance that may be encountered such as routines and habits that are hard to break, resistance propelled by self-interest, primacy of doing things a certain way, insecurity, a lack of trust in the manager, and differing perceptions. Resistance to change is a natural reaction from human beings as it brings uncertainty and challenges the traditional way operations have been conducted, and a planned strategy has to be formulated in order to counteract this resistance. Dutfield and Eling (1996: 101) propose four strategies for overcoming resistance namely negotiating with employees about advantages and incentives for supporting the change, educating them about the reasons for change, force and support employees to implement the change and have employees participate in the change effort.

The third stage in Stewart’s model involves a move towards such a strategy during which responsibility allocated to individual employees is seen as a move to address this resistance. By allocating responsibility to individuals it is “...likely to build their own commitment to the change and to provide a motivation for them to work towards building the same commitment in others.” (Stewart, 1996: 26) As part of this strategy, responsibility should not only be allocated to those in authority but also be devolved to other employees lower down the pecking order. Creating the necessary buy-in involves convincing all employees from the bottom to the top of an organisation of the need for change of an organisation. Jones et al (2004) suggests that it is wise to first engage the management team of the organisation as they will be the drivers of the change initiative. However, what is equally important is to identify leaders at all levels and train them to become the spokespersons for change in the organisation. Peer group influence as advocated for by Lovell (1994: 44) is a fundamental tool that can be used to gather support from peers. Lovell (1994: 45) identifies five different types of peer groups depending on the “degree of trust” and “whether they agree or disagree with the change you are endeavouring to implement”. The types of peer groups identified are allies, opponents, bedfellows, fence-sitters, and adversaries. Allies are peers one normally trusts and they agree with the change, opponents are also person’s one trust but they disagree with this particular planned change. Bedfellows are peers that would not normally support

one but now do so because of their own selfish interests. Fence-sitters will only support the change after it becomes evident that it is in their best interest. Adversaries are peers one has a less trusting relationship with and they also oppose this particular change. It is important to be aware of who 'fits into' which peer group when developing a strategy and approaching them for support.

The fourth stage of Stewart's model has to do with the development and implementation of strategies. Involving employees in the development and implementation of a change strategy, according to Stewart (1996:30), can take on several different approaches including sharing information, involvement, consultation and negotiation. At the lowest level of involvement employees are just informed of the planned change and expected to adopt it in their future dealings. Involvement, on the other hand, is at the other extreme of a continuum and means that those affected by the change are all given the opportunity to present their case, so to speak. In between these two extremes one finds two strategies which mediate between them namely consultation and negotiation (1996: 30). Consultation means simply having briefing sessions and involving staff structures, whereas negotiation is a deeper level of engagement with organised labour. The final stage of Stewart's model is called monitoring and requires goal-setting, aligning these goals with time frames, and developing a tool for assessing progress. Implicit in all of this is that the need for change had been correctly defined in order to measure future success or failure. Jones et al (2004: 4) comment that "no change program goes completely according to plan." This means that there may be unintended or undesired outcomes and that a continuous assessment plan be put in place in order to identify such outcomes and respond timely to correct the situation. It is also very important that indicators that are both observable and measurable are put in place.

## **1.5 RESEARCH DESIGN AND METHODOLOGY:**

### **1.5.1 Research design**

The author uses the case study method to conduct research. The motivation for using a case study is that it provides the researcher with the methodology to gather the information required to address the problem statement. A case study is seen as an in-depth analysis of a

'bounded system', bounded by time or place. The case study focuses on a system bounded by place, the One Stop Child Justice Centre in Bloemfontein. Information was collected from three different categories of informants namely the centre management, parents or guardians of the children, and official documents and reports. Books, journals and other articles were also used to gather further information. The case study was essentially used to examine the claim that good policies have been designed since 1994 but has been let down by poor execution. Since the case study examines a social issue related to policy implementation, it may be described as an "instrumental case study" (De Vos et al, 2006: 272). The case study method has several advantages and allows for the establishment of rapport with the research subjects, gives the researcher in-depth insights into the problem, and provides a high level of validity in terms of information gathering. Some of the disadvantages of the case study are that it does not yield generalisations that a comparative study would, and is rather time consuming. Given the time and resource constraints of the researcher however there was neither the time nor the resources to conduct such a comparative study.

### **1.5.2. Research methods and instruments**

A combination of practical research, looking at primary sources such as official reports, and other documents were used. This was supported by conducting semi-structured interviews with the managers of all the key role-players at the Centre including the Centre Manager, Senior Probation Officer, Station Commissioner from the Police Station, the Magistrate, Prosecutor, and the Legal Aid Advocate. In addition nine interviews were conducted with the parents/guardians of some of the Centre's clients. This method was chosen in order to give the interviewees a chance to tell their stories. The sampling method used in the case study to select the parents/guardians was through purposive sampling as the interviewees were selected on the basis of those who were the nearest and most easily available. According to the Chief Probation Officer they were a group that had undergone parental responsibility training and were therefore technically also clients of the Centre. Interviews with the management and the parents / guardians were conducted on a one-on-one basis. In order to allow the interviews to flow and also give interviewees the opportunity to elaborate on issues the interview schedule contained mostly open ended questions. A recording device was used

to ensure that no information was lost during the interviews and interviewees were re-assured of their confidentiality.

### **1.5.3 Data gathering, capturing and analysis**

The use of interviews in this type of research is not uncommon as it is a project of limited scope. It is a particularly useful method to gather information about a social problem that readily exists. In collecting the data attention was paid to three characteristics that any form of data needs to have in order to be useful to the researcher, viz. objectivity, reliability, and validity. Objectivity is described by Vos et al (2006: 248) as “the essential distance between himself and his material in the report in order to avoid emphasising his own preferences and aversions”, thus suggesting that the researcher should literally take a step back, be unbiased and objective when analysing the research findings. In terms of reliability De Vos et al (2006: 162) state that “reliability means that if the same variable is measured under the same conditions, a reliable measurement will produce identical (or nearly identical) measurements.” Reliability is not so much concerned with what is being measured but rather how well the phenomenon is being measured. Although perfect reliability is not possible in order to ensure some degree of reliability of information, a scientific method which is called triangulation will be utilised in analysing and interpreting data. The method entails the researcher looking at different and independent sources of data to ascertain how the policy was implemented namely official reports, interviews with management and also with the parents/guardians of the children. Validity is the “extent to which an empirical measure accurately reflects the concept it is intended to measure” (De Vos et al 2006: 160). The concepts of validity are further broken down by De Vos et al (2006: 160) into four types of validity namely content, face, and criterion and construct validity. Content validity refers to whether the content reflects an adequate representation of the samples of what an instrument is supposed to measure. In terms of face validity the question here is if from the look, at first sight, the instrument is measuring what it intends to measure. Criterion validity is concerned with providing objective evidence of validity and

“involves multiple measurements and is established by comparing scores on an instrument with an external criterion known to, or believed to, measure the concept trait or behaviour being studied.” (De Vos et al, 2006: 161)



Construct validity has to do with the “degree to which an instrument successfully measures a theoretical construct.” (De Vos et al, 2006: 162) Goulding (1987:102) claims that:”Data collected by means of questionnaires, interviews, diaries or any other method means very little until they are analysed and assessed”. This means that unless one analyzes the information collected and attaches some meaning to it, it is of little use. Bell (1987:102) suggests that it is important that one takes cognizance of your limitations and selects research methods which are suitable for the task and which can be readily analyzed, interpreted and presented. This is a rather small-scale study, in many ways a type of pilot study. When analyzing small-scale studies, according to Goulding, “the methods most likely to be useful...are those of descriptive statistics.” (1987: 102) As such the information recorded in the interviews were transcribed and analysed together with the information gathered from the annual reports and other documents. This transfer of data is tedious but regarded as essential by Goulding (1987: 108). Taylor and Bogdan contend that data analysis goes through certain definite phases. “The first is the ongoing discovery phase: identifying themes and developing concepts and propositions.” (Taylor and Bogdan, 1987:132) This involves the researcher reading through the transcripts several times. As the researcher reads through the data similarities are identified so as to develop themes. These are referred to as “typologies” by Taylor and Bogdan (1987:132) and means looking for trends or consistencies in the accounts of the respondents.

## **1.6 STATEMENT ON ETHICS**

The interviews were based on informed consent and voluntary participation as the purpose of the interviews was explained to the interviewees. The interviewees were also assured of confidentiality and that the researcher may not divulge any information without their consent. In addition, the interview transcripts have been kept as a record and reference if necessary and will form part of the Report as appendices.

## **1.7 ORGANISATION OF THE STUDY**

The study is organised as follows:

- Chapter 1 provides a background to the study and also looks at the research methodology utilised by the researcher.
- Chapter 2 provides a history of child justice internationally, on the African continent and finally South Africa. In addition the chapter examines the policy and legislative frameworks that govern child justice in South Africa.
- Chapter 3 offers a detailed analysis of the findings from the different sources viz. the annual reports, interviews with the management and parents/guardians of the children who benefited from the programmes.
- Chapter 4 will be devoted to draw conclusions and make recommendations with regard to improving policy implementation.

## **1.8 LIMITATIONS OF THE STUDY**

Although every effort was made to be as inclusive as possible and interview all stakeholders the researcher was not able to interview the representative of NICRO. The Researcher has also been limited by time constraints as the Department lost the first application to conduct interviews with the different role-players. The request had to be made again in writing and because of bureaucratic red tape there was a long delay before the request was approved. Eventually when the approval did come through the representative from NICRO was not available.

## **CHAPTER 2**

### **DEVELOPMENTS WITH REGARD TO CHILDREN IN CONFLICT WITH THE LAW**

#### **2.1 INTRODUCTION**

This chapter seeks to contextualise the study by providing background information and debate related to the development of policy with regard to children in conflict with the law. It will provide insight into the development of international instruments under the guidance of the United Nations. In addition, international and African perspectives are provided. The international perspective, however, is confined to the United Kingdom as there has been a long association between the United Kingdom and South Africa. This is followed by a summary of policy and legislation in South Africa dealing with child welfare. The Chapter is concluded with background detail on the One Stop Child Justice Centre in Mangaung, Bloemfontein.

#### **2.2 INTERNATIONAL DECLARATIONS**

In 1924 the League of Nations (predecessor to the United Nations) adopted the Geneva Declaration on the Rights of the Child. In 1959 this was given further prominence when it was adopted by the General Assembly of the United Nations. The Rights of children were given further recognition in the Universal Declaration on Human Rights by the United Nations (10 December 1948). Child justice is not a new phenomenon in the corridors of the United Nations and was given more prominence with the United Nations Convention on the Rights of the Child (CRC) adopted on 2 September 1990. This highlighted the plight of children across the globe whose rights were not recognised by governments and private organisations alike. The CRC seeks to establish universal norms and standards of treating children to which all signatories to the CRC have to adhere. In a General Comment on the Convention on the Rights of the Child in 2007 the UN provided guidelines for the development of policy regarding children. These give direction on several issues such as the prevention of Juvenile delinquency, diversion or intervention, the age of criminal capacity,

and guarantees for a fair trial. For the sake of monitoring and evaluating performances signatories are required to submit annual reports with regard to progress or otherwise made with regard to children's issues. However, in as far as juvenile justice is concerned the CRC was preceded by the adoption of the Beijing Rules (UN Standard Minimum Rules for the Administration of Juvenile Justice) in November 1985. This was followed during the sitting of the UN General Assembly in 1990 by the adoption of several other international instruments with regard to juvenile justice. The first of these were resolution 45/110 the UN Minimum Rules for Non-custodial Measures which has become known as the Tokyo Rules. Subsequently there was the adoption of resolution 45/112 of 14 December 1990, the UN Guidelines for the Prevention of Juvenile delinquency, also known as the Riyadh guidelines. The final resolution at this sitting of the General Assembly with regard to children in conflict with the law was the adoption of the UN Rules for the Protection of Juveniles Deprived of their Liberty, also known as the Havana Rules.

Part one of the Beijing Rules deals with more general issues such as the age of criminal capacity, diversion away from the main criminal justice system, rights of juveniles, and the protection of privacy. Part two has bearing on what happens with the child once he or she is arrested and has formally entered the criminal justice system focusing on investigation and prosecution. This section provides a step-by-step guide of the need to create specialised units within the police to deal with children, informing the child's guardian of the arrest, and considering the release of the child by a competent official. In addition it sets out steps to follow if the case should go to trial addressing issues such as legal counsel, preliminary inquiries, and suggests several different sentencing options. Part four and five, respectively, deal with measures to be taken when a child becomes institutionalised or gets a non-custodial sentence. It further suggests that, when institutionalisation is contemplated, consideration should be given to the Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations (Geneva, 1955). Part six addresses the need for continual research, planning, policy formulation and evaluation.

The Tokyo Rules encourage member States to consider a more restorative justice approach

when developing non-custodial measures. In particular they promote the involvement of communities in making a contribution towards the rehabilitation of offenders through non-custodial sentencing options. They also advocate for certain measures when it comes to pre-trial, trial and sentencing of offenders, as well as the importance of after-care services. Moreover, they provide general guidelines on staff recruitment, training, and remuneration.

The Riyadh guidelines state that the prevention of Juvenile delinquency ought to be an essential part of any crime prevention strategy of any government. They start out by providing principles that should be taken to enhance the capacity of young people to resist opportunities to commit crime. The guidelines suggests ways in which socialization processes, social policy, legislation and juvenile justice administration, and research and policy development and co-ordination may be used in order to enhance efforts in the combating of youth crime. Affording young people educational opportunities for the preservation of their personal development is stressed in particular. The rules identify four essential institutions in society which may assist in bringing up young people to have an aversion to crime. The four institutions are families, educational institutions, the communities in which the child is reared and the media.

The United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules) stress that juveniles should only be imprisoned as a last resort and for the least time possible. These rules provide practical guidelines with regard to the day to day running of a Juvenile Centre focussing on record keeping, administration, placement of offenders, and the type of accommodation they ought to have access to. They point out that whatever sentence the juvenile gets he/she should live a life as normal as possible which includes schooling, vocational training and possible work while serving his or her sentence.

The Convention on the Rights of the Child (CRC) was adopted and opened for signature, ratification and accession on the 20 November 1989 and came into force in September of 1990. It contains rules with regard to the general treatment of children such as protection against discrimination of any kind, protection against all types of abuse, the right to

alternative care should the need arise for whatever reason and the right to social security, among other. However, the section that speaks specifically on children in conflict of the law is Article 40 which gives direction to countries who sign the Convention on the treatment of children in conflict with the law. It also gives children certain guarantees such as the guarantee to be presumed innocent until proven guilty, to be informed of the charges against him or her. It also emphasizes the need to establish a minimum age of criminal capacity

### **2.3 THE UNITED KINGDOM**

According to an editorial in the European Journal on Criminal Policy and Research (1999) the first country to introduce specific measures for the treatment of children in the justice system was the United States of America in 1899. The American model was later imported by European countries, though with adaptations. The United Kingdom and Wales also adapted the system and in 1908 the juvenile court was recognised by the 1908 Children Act.

In the 1980s the UK introduced an approach to divert young offenders from the criminal justice system. In 1991 the Criminal Justice Act was passed. This moved towards a 'just deserts' approach that shifted the focus of sentencing towards the nature and seriousness of the offence, rather than the offenders and his/her criminal record.

However, the killing of a young child by two 10 year olds in February 1993 led to the introduction of new legislation and in October 1994 The Criminal Justice and Public Order Act 1994 was introduced. In 1998 this Act was replaced with the Crime and Disorder Act which regulated the legal position of children. Graham and Moore (2006:66) claim that the new Act introduced new ideas of working with children in conflict with the law:

The latest ways of thinking included extending criminal responsibility beyond the offender himself/herself and towards embracing their parents; the introduction of restorative justice; and confronting young offenders with the consequences of their offending and helping them to develop a sense of responsibility."

The aim was to introduce more severe sentences for youth offenders and reduce the juvenile custodial population. According to the Kids Behind Bars report edited by Meuwese (2003:34):"In the United Kingdom, 7563 minors were sentenced to prison in 1999. This figure is up from the 5464 sentenced to custody in 1995." The age of criminal capacity in the

UK is considered to be ten years because children under the age of 10 years are not held criminally liable.

The year 2000 saw the commissioning of the Youth Justice Board by the government of the United Kingdom to find improved ways of dealing with children in conflict with the law; those already in custody as well as those awaiting trial. (<http://www.yjb.gov.uk/>)<sup>3</sup> On 8 July 2003 at the Consultative Seminar on a National Monitoring Structure for Child Justice in Pretoria, South Africa, Mr Rob Allen, a Board member of the Youth Justice Board (YJB), made a presentation on their work with children in conflict with the law. During this presentation it became clear that the YJB primarily monitors the operation of the system and the provision of services. It also advises the Home Secretary on youth justice, national standards, custody and prevention. The Youth Justice Board's framework has evolved into four levels: namely plans, outcomes, outputs and process (Senekal, 2002: 4). Each of these operations has a distinct function but need to collaborate in order to ensure effectiveness and efficiency. Plans are produced by the chief executive of each local authority who is responsible for education and social services. These plans are assessed by the Board and, depending on whether they meet the set requirements, are funded. Senekal (2002:4) states that "the support for a grant is withheld until the plan is acceptable". Outcomes have to do with the achievement of the plans and are monitored via quarterly reports obtained from Youth Offending teams from each region. Again Compliance is enforced through the withholding of financial support, if no data is forthcoming. Outputs focus on the meeting of minimum standards in terms of service level agreements between role players. The process in this instance is concerned with who does what and by when. It includes practice standards, the quality of work produced and responses to non-compliance. All of this is performed by independent inspections of the Youth Offending teams. During this time several significant developments have taken place such as the creation of a separate juvenile justice system, twenty four hour health care for children in custody, suicide and self-harm prevention and anti-bullying strategies have all been introduced. (<http://www.yjb.gov.uk/>) In addition, Meuwese (2003) states that: "Minors detained in the United Kingdom have the right to legal

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<sup>3</sup> Accessed 07/05/2009

aid and to receive as many visits as necessary from their lawyer” (2003:39).

In September 2003 the United Kingdom government published what later became known as its new vision for children namely; “Every child matters: Change for Children.” This document explained how the new envisaged children’s legislation would improve the lives of children. The new law was the Children Act 2004 and formed the basis of a long-term programme of change. The document came about after extensive research among children and youth on their opinion of what is important to them. The respondents identified five main issues, later translated into outcomes. These were health, safety, enjoying life and achieving, making a positive contribution, and achieving economic well-being. The Act acknowledges the fact that disadvantaged children are faced with more obstacles than their more affluent peers and sees as part of their duty the need to narrow this gap.

The Justice System in the UK has long recognised the need to have an integrated approach to addressing social problems, in this instance; children in conflict with the law. This is further supported by Dingwall who claims that: “The National Youth Justice Board is equally committed to a programme of non-custodial intervention and claims to be fostering greater inter-agency co-operation.” (Dingwall, 2009: 11) Three organs of state collaborate in dealing with youth in trouble with the law and are known collectively as the Youth Justice System (YJS) consisting of the Police Services, Probation Services, and the Prison Service. The YJS sees as its primary role the prevention of crime and if offending has already taken place to respond to young people who have done the offending. Although each partner has an autonomous operation it always recognises the need to consult other partners if the need arises. The Police service for their part has adopted a youth strategy referred to as: “*It’s never too early...It’s Never Too Late*“. It undertook to build positive relationships between youth and the police by encouraging them to engage in law-abiding and positive behaviour. The strategy of the Police is to engage those who are already in the system but also pay special attention to repeat offenders. As part of their comprehensive services to children, police attend to allegations of child abuse and neglect. They complement this with their vetting processes to prevent potential dangerous individuals from getting access to children.



The Probation services recognise the fact that children are part of an existing system, a family. Their wide-ranging services to children seek to involve their families when engaging the children. Aside from this they also attend to the needs for adult offenders to improve their and their children's chances of becoming upstanding citizens and productive members of their respective communities. (<http://www.everychildmatters.gov.uk/key-documents>)<sup>4</sup> All these measures speak to the important issue of prevention.

The Prison Services emphasise the need to immediately work towards turning the life of the young person or child around from the time they are committed to the institution. A common attribute of the child who is committed is that many, if not most, have been truants all the way through their school career. Thus, prison becomes their first experience of regular, uninterrupted education.

The Youth Justice System (Police, Probation and Prisons) are working together in "developing integrated sentence planning, exit strategies, and mainstreaming of youth offenders" (<http://www.everychildmatters.gov.uk/key-documents>) but also trying to get other organisations involved. The YJS also recognises that community involvement in their activities is a key factor to succeed. At every level of contact with the criminal justice system, the offender is assessed and needs are analysed which includes aftercare services. Other endeavours from authorities to improve the lot of children in conflict in the law include children identified as potentially at risk of substance abuse who are assessed and put into contact with appropriate support and treatment services.

There are at least five important lessons that South Africa can learn from the UK namely:

- That at the level of National government the creation of enabling legislation will aid service delivery.
- That proper structures should be in place as a requirement and prerequisite for the successful implementation of plans.
- That collaboration between role players is a key factor in assisting children in conflict

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<sup>4</sup> Accessed on 03/05/2009

with the law.

- That continued research in the field will help to improve service delivery.
- That poverty is one of the main contributing factors to juvenile delinquency.

## **2.4 AFRICAN DEVELOPMENTS**

In 1979 The Organization of African Unity, predecessor to the African Union, adopted the declaration on the Rights and Welfare of the African Child at a gathering in Liberia. In this declaration, the Organization recognised the need to take appropriate measures to promote and protect the rights and welfare of the African Child. Following the United Nations Convention on the Rights of the Child (CRC), African countries in 1990 developed and adopted the African Charter on the Rights and Welfare of Children. This however, only came into force on 29 November 1999 and borrows heavily from the CRC. The Charter obliges member States to adopt legislative measures and take action to ensure the Rights and Welfare of children get the attention they deserve. In terms of Juvenile Justice, Article XVII of the Charter ([http://www.africa-union.org/official\\_documents/](http://www.africa-union.org/official_documents/)) encourages (i) separate facilities for children in detention, (ii) that due process is followed in case a child is accused of a crime, (iii) legal representation be made available to the child, and (iv) a speedy resolution of matters. It also prohibits the media from attending such a trial. The Charter states that even if the child is found guilty of committing a crime the emphasis should be on reforming the child's behaviour and reintegration of the child back into the family setting and the community. It states that member states must set an age of criminal capacity for children.

In response to the African Charter and other International instruments, African countries developed their own internal mechanisms in order to benchmark legal systems to international standards and practices. Child law reform initiatives in Africa have focused attention on legal and social systems within countries with regard to juvenile justice and child welfare. This has been true for countries such as Ghana, Kenya, Namibia and South Africa. Two principal provisions of the Convention on the Rights of the Child (CRC) may have been instrumental in focusing the reform proposals in relation to juvenile justice in the direction it was headed, namely Article 40 of the CRC emphasizes the need for legislative measures in general whilst Article 40 (3) calls for specific measures such as separate laws, procedures,

authorities and institutions for juvenile offenders. Early examples of movement towards meeting these requirements can be found in the legal systems of both the Ugandan and Kenyan contexts. According to Odongo: “The relevant Ministry inaugurated the Ugandan Child Law Review Committee in 1990 to study and make recommendations aimed at the revision of child laws in Uganda with a view to coming up with composite legislation in this regard” (Odongo: 2004: 9). In a similar move the Kenyan Attorney General (1990) requested the Law Reform Commission of that country to review existing laws concerning children which culminated with the passing of the Children’s Act in 2001. In both instances the new laws realised the importance of paying attention to both the issue of child welfare and juvenile justice to holistically address problems children face. Ghana followed the examples of these two countries and in 1995 the Children’s Act was passed, though it had a more singular focus, concentrating mainly on child welfare. However, the country does have a separate law dealing with the issue of juvenile justice(Odongo: 2004: 9) South Africa’s neighbour, Namibia, passed the Child Care and Protection Act in 2003 which made provision for aspects of childcare and protection, dealt with the dual issues of child neglect and abuse, and addressed issues of child justice. Currently, Namibia is looking to follow the South African example with a Namibian Child Justice Bill based on the South African legislation.

One can safely make the statement that juvenile justice and child welfare are distinct issues but not separate. Odongo sees a direct link between the circumstances in which children find themselves and the occurrence of homelessness (and subsequently a lack of adult supervision) among juveniles, writing that “two of the countries that have undertaken reforms of child care and juvenile justice laws (South Africa and Kenya) have the highest number of street and homeless children in Eastern and Southern Africa...” (2004: 9). To address the problem of children in conflict with the law, member states of the United Nations have been urged to consider adapting their existing child justice systems to bear some semblance to a welfare-justice model. In Kenya a co-ordinated approach has been adopted which fosters co-operation between interested parties in juvenile justice cases. This is a prime example of an integrated approach to address children’s issues.

The CRC states that diverting children away from the main criminal justice system should become a legal obligation of states in international law. South Africa and Namibia have both responded to this by focussing on a restorative justice model that makes provision for removing children from formal criminal procedure early on in all cases. Community involvement is a key issue for the Ghanaian situation as is evidenced from the provisions which look at opting for diversion as a sentencing option. (Odongo, 2004: 9) This community involvement focus of the Ghanaian system is further enhanced as it makes provision, in cases of minor juvenile offences, for mediation between victim and offender. This approach gives credence to the view that its focus in juvenile justice cases turns away from retributive justice towards a more reconciling stance of restoring broken relationships. The implication here clearly is that those considered to be children are unable to appreciate fully the criminality of their acts. The Ugandan approach to juvenile justice seems to be rooted in community-based resolutions to criminal offences involving children. Odongo remarks that "...informal courts ...are given exclusive jurisdiction to try particular offences committed by children." (Odongo, 2004: 11) Sanctions by such courts may differ but it excludes any form of detention. In the face of the requirements of the CRC, African countries also had to re-evaluate their stance with regard to the age of criminal capacity. In Namibia and Ghana it is at the age of eight years, whereas in Uganda it is twelve years. In establishing twelve years as the age of criminal capacity the Ugandan Law Review Commission took its direction from the Beijing Rules which points out that children's emotional, mental and intellectual maturity must be considered when deciding what the age of criminal capacity ought to be. The decision to put the age of criminal capacity at twelve years was a response by Uganda to ensure its policies on children is in line with the CRC's Article 40 (3) and therefore in line with core international standards.

## **2.5 SOUTH AFRICAN POLICY ON CHILD RIGHTS**

### **2.5.1 Introduction**

This section of the study focuses on the historical development of the juvenile justice system in South Africa. It will be followed by a discussion of the One Stop Child Justice Centre in Bloemfontein, including its operations and the major role players at the Centre.

### **2.5.2 Historical overview**

Several contributing factors have led in South Africa to a large number of children clashing with the law in the country. South Africa is one of the most unequal societies in the world with much of the country's wealth in the hands of a few individuals. Thus poverty is a characteristic in the lives of most South African children, and is an important factor that contributes to clashes with the law. Other contributing factors according to Du Preez et al (2005: 62):

...include drug abuse, low levels of family income, gender (mostly male), race demographics in line with the general statistics of the country, high levels of physical abuse and aggression, and high levels of family neglect.

Du Preez et al (2005) explain that certain factors may make certain children more vulnerable to commit crimes than others such as age, family life, peer group influence, and the response of society. Young boys are especially vulnerable and therefore more likely to commit a crime because of a lack of a strong father figure. This lack of a positive male role-model and a combination of other factors such as poverty leads to feelings of inadequacy and a desire to 'be the man' and impress friends by breaking the law. Age is another factor as younger children appears to be more at risk of engaging in criminal behaviour because they are more easily coerced into doing wrong.

Prior to 1994, children in conflict with the law in South Africa were dealt with primarily by Non-Governmental Organisations. The most prominent and recognised of these is the National Institute for Crime Prevention and Reintegration of Offenders (NICRO). NICRO's involvement with people in conflict with the law stretches back to the early 1900s. When initially it was founded in 1910, NICRO was known as the South African Prisoners' Aid Association and its mandate was to serve the needs of prisoners and their families. As the organisation evolved and expanded its range of services in 1970 it changed its focus and its name to the NICRO. After some changes in the 1980s and 1990s which saw it widening its

scope of operations it started serving victims of crimes. Instead of focussing exclusively on prisoners and their families it now also included services to children in conflict with the law. In keeping with the change in focus it replaced the word rehabilitation and substituted it with reintegration at its biennial meeting in 1997. It was now known as the National Institute for Crime Prevention and the Reintegration of Offenders. In addition, it then introduced the Economic Opportunities Project to deal with unemployment and special needs of NICRO clients. Following successes of other projects in 1992 the Institution launched, in collaboration with other NGO's, "Justice for children: no child should be caged", introducing the diversion of youth away from the criminal justice system into programmes that make them accountable for their actions. Presently NICRO has offices in all nine provinces with over forty victim support centres. In addition it serves a large number of magisterial districts.

When the African National Congress-led government came to power in 1994 one of its first actions was drafting legislation to prevent South African children in conflict with the law being kept in prison. During May 1995 President Nelson Mandela, on the advice of then Deputy Minister of Welfare and Population Development, Geraldine Fraser-Moloketi, resolved that an Inter-Ministerial Committee on Young People at Risk be established to manage the transformation of the Child and Youth Care sector in the country. The formation of the Committee was officially announced on the 17 July 1995 consisting of representatives of the Departments of Social Welfare, Justice, Safety and Security, Correctional Services, Education, and Health. In addition the committee also comprised representatives from the RDP Office and a number of NGO's, including NICRO. On the 8 May 1998 the Correctional Services Amendment Act (111 of 1998) became law and outlawed keeping children under the age of 14 in prison for longer than 24 hours. This caused a crisis in the system because almost 1700 children (the majority black) had to appear in court within 24 hours and either had to be released into the care of their parents or guardians or transferred to places of safety. However, historically insufficient residential care and protection facilities were created for black children in the country, and those that existed were poorly staffed and under resourced. Conditions in these centres were not conducive to the well-being of children. As children arrived in large numbers at the places of safety, equipped to deal primarily with children in

need of care and protection, staff were unprepared to care for them. As their needs were not met by the places of safety many of these children absconded and were later arrested and either returned to the care centres or imprisoned. In prison they often suffered humiliation as they were separated from their families and abused by their peers or adult prisoners.

Just after South Africa signed the United Nations' Convention on the Rights of the Child in June 1996 the idea of a specialized Court or Centre, dealing more humanely with children in conflict with the law was mooted. As mentioned before in this report, Article 40 of the Convention states that any child accused of having committed a crime shall be treated in a manner which is conducive to his or her development. In addition it says that the treatment should be less detrimental than the handling normally associated with procedures in a Criminal Court. The first specialised Centre to be established was The Stepping Stones One Stop Centre in Port Elizabeth. This was the pilot for the concept of such Centres countrywide. It was launched in August 1997 as a result of the work of the former National Inter-Ministerial Committee on Youth at Risk (IMC). Other cities were then chosen for the establishment of similar Centres such as Port Nolloth and Bloemfontein. More recently (2007) the Nerina One Stop Justice Centre in Port Elizabeth was launched to replace the Stepping Stones Centre because of the dilapidated conditions of the building and the fact that it was not considered to be sufficiently child-friendly.

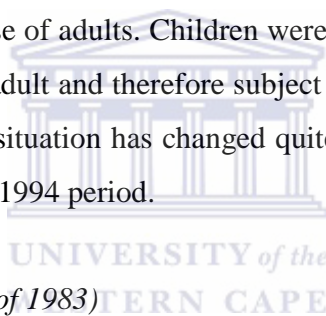
In Bloemfontein probation officers from the Department of Social Development and officials from the Department of Justice in the city met informally to find ways of dealing in more humane ways with children in conflict with the law. This then gave rise to the formation of a Committee which in time expanded to include other actors in the field of Child Justice, including NICRO and the South African Police Service (SAPS). Discussion between the actors led to a suggestion for the possibility of establishing a One-Stop Centre based on the Stepping Stones Centre in Port Elizabeth.

After two years of regular informal meetings and the formation of an inter-departmental committee, concrete steps were taken for establishing what was eventually to become the

Mangaung One Stop Child Justice Centre. Following an official visit by a multi-disciplinary team to the Stepping Stones One-Stop Centre in 1998, a business plan was developed and submitted to the Inter-Ministerial Committee on Young People at Risk (IMC). (Senekal, 2002: 1) This was approved by the IMC and the premises of the Monument Place of Safety were identified and assigned for the purpose of starting the operations of the Centre. In April 2002 staff from the different government Departments (Social Development, Justice, NPA, Legal Aid Board and SAPS) and NICRO moved to the new premises and in June 2002 the Centre officially opened its doors to the public.

### **2.5.3 Legislation and Policy with regard to children**

The following section presents a variety of legislation affecting children, some pre 1994 and others post 1994. Before 1994 all children were treated as if they were adults and subject to the same types of sentences as those of adults. Children were considered to have the capacity to appreciate their actions like an adult and therefore subject to the same or similar sanctions by the courts in the country. This situation has changed quite dramatically, following policy and legislative changes in the post-1994 period.



#### *Child Care Act, 1983, (Act No. 74 of 1983)*

The Act provided for the establishment of children's courts and the appointment of commissioners of child welfare; for the protection and welfare of certain children; for the adoption of children; for the establishment of certain institutions for the reception of children and for the treatment of children after such reception; and for contribution by certain persons towards the maintenance of certain children; and to provide for incidental matters.

#### *Probation Services Act, 1991 (116 of 1991)*

The aim of the Probation Services Act is to provide for the establishment of and implementation programmes to combat crime and for rendering assistance to and treatment for both the victims and offenders.

#### *White Paper for Social Welfare (1997)*

The period between 1995 and 1997 saw a large volume of White Papers developed by the



South African government with the express purpose of addressing past imbalances. One such White Paper was the 1997 White Paper for Social Welfare which aimed at restructuring social welfare services throughout the country. The Ministry for Welfare and Population Development in 1997 decided to adopt the developmental approach towards social welfare as advocated by the United Nations at the United Nations World Summit for Social Development in 1995. The adoption of this approach has placed the country in line with International best practice as proposed by the United Nations. Chapter Eight of the White Paper is geared towards enhancing social integration of different sectors of society who have become marginalised such as youth and children, the elderly, women, people with disabilities, offenders and their families as well as people living with HIV/AIDS. The Chapter is divided into different sections, each dealing with the afore-mentioned categories of citizens in a separate section. Section four of this Chapter is directed at dealing with special needs which are identified as mental health, substance abuse, crime prevention through development and restorative justice, people with chronic illnesses, and people with HIV/AIDS. The issue of juvenile justice is dealt with under the heading of crime prevention through development and restorative justice. The stance the White Paper takes can be described as pro-active as it focuses on crime prevention measures which are in line with international Instruments from the UN and the African Union. In addition it recommends that a new child and youth care system be developed which would also include a juvenile justice system, separate from the criminal justice system. As recommended in the Beijing Rules it advocates for children to be diverted from the criminal justice system and the development of alternative sentences for those found guilty. If a child is arrested and accused of any crime he or she should only be institutionalised as a last resort.

#### *Child Justice Bill, 2002*

The child justice bill has a long history. This was initiated in the early 1990 by advocacy groups such as NGO's and academics who were concerned that children were brutalised as there was no separate justice system that catered for their specific needs. The task of drafting the Bill was given to three individuals, namely Dr. Ann Skelton (an academic), Ms. Rosemary Shapiro (a Social Worker), and Dr. Don Pinnock (a criminologist and editor of

Getaway magazine). According to Dr Pinnock (Mail and Guardian, June 3, 2009) the reason for the long delay in securing the passing of the Bill was “official nervousness about its implications...the fact that the country was baying for the incarceration of criminals-saw it continually rewritten and sidelined in the parliamentary mill.” The Bill was refashioned (some say mangled) by the then Deputy Justice Minister, Johnny de Lange, who attempted to make it more punitive. It then disappeared from the radar and debates about it floundered. However, persistent questioning and submissions by NGO’s such as the Child Justice Alliance and Dr Skelton eventually got it back on the agenda of the portfolio committee. The appointment of Yunus Carrim as Chair of the Justice committee also assisted with the drafting of the Bill in 2002. The features of the Bill included raising the age of criminal capacity, diverting youth from court to community based structures, forcing offenders to face their victims and make reparations, and moving from a punitive system to a restorative system which favours negotiation over punishment.

#### *Children’s Act (38 of 2005)*

This Act also took a long time (thirteen years) to be promulgated. When finally it became law, it ushered in a new dispensation in terms of the best interests of children. The Act sets out to deal with different issues affecting children such as children’s courts, the rights and responsibilities of parents, rights of children, adoptions, foster care, and other matters relating to child care. It also deals with the rights of persons in the life of a child, especially in the case of unmarried fathers. Parents who were given custody of children had in the past abused this and unreasonably withheld contact between the child and the other parent. The abused party had to go the High Court in order to rectify this, which was a time consuming and expensive exercise. The new Act, however, allows them to appeal to their local magistrate’s court for assistance. It further also acknowledges, unlike the previous Act, the contact rights of grandparents and step-parents who are close to the child in terms of the rights of children to parental care. Children now also have a greater say in who cares for them and where they want to live.

#### *Child Justice Act (75 of 2008)*

The Child Justice Bill, 2002 eventually evolved into the Child Justice Act 2008 (75 of 2008). Its main purpose is to establish a criminal justice system for children, who are in conflict with the law and are accused of committing offences. In addition the Act endeavours to provide for other key issues affecting children in conflict with the law such as a minimum age of criminal capacity, assessments, holding of a preliminary inquiry and for diverting matters away from the formal criminal justice system, in appropriate circumstances. The Probation services Act and the Child Justice Act form part of an effort to develop a comprehensive Child Justice system and should therefore not be understood in isolation from each other.

#### **2.5.4 The need for a monitoring structure**

As with any new system or programme implemented by an organisation it is necessary to monitor its progress in order to identify obstacles and ensure an effective but also efficient child justice system. A sad reality during the Apartheid era was that many state organs were left unchecked and were therefore only accountable to themselves. In order to prevent a similar situation, the South African Law Commission made proposals for a monitoring system to oversee the new child justice system. It was therefore appropriate that, at the public hearings before the Justice and Constitutional Development Portfolio Committee in February 2003, members of civil society advocated for the inclusion of a monitoring system to keep the new system in check. In order to create such a structure the role players looked first of all at examples of international best practice example (especially the UK) that could be tailored to local circumstances. This led to the Inter-Sectoral Committee on Child Justice convening a workshop to discuss a national monitoring structure, followed by a Consultative Seminar on a National Monitoring Structure for Child Justice in July 2003 in Pretoria. Present at this seminar were representatives of the United Kingdom Youth Justice Board who, as stated earlier in this Report, gave a presentation on their work. A National Monitoring Structure for Child Justice came to fruition in 2005 and was subsequently cascaded down to the Provinces. In the Free State Province a Child Justice Committee was formed in 2008 in order to monitor compliance by all role players. The committee is made up of members from different Departments including Social Development, Correctional Services, Justice (which includes

both the NPA and Legal Aid), and the SAPS. One important Department that still has to make a commitment to the Committee is the Department of Health. In order to ensure compliance, statistics are supposed to be collected on a monthly basis from all role players.

### **2.5.5 The One Stop Child Justice Centre in Bloemfontein**

As noted above in Section 2.5.2, the Mangaung One Stop Child Justice Centre was officially launched in June 2002, following approval by the Inter-Ministerial Committee on Young People at Risk (Senekal, 2002: 1). The centre situated in the suburb of Vista Park in Bloemfontein. It has offices for the Departments of Social Development (Probation Officers / Social Workers), Justice (Magistrates), NPA (Prosecutors), Legal Aid Board (Advocates), South African Police Services, and NICRO. In line with international conventions, it was essential that the Centre had its own separate and autonomous court. After negotiations between the different Departments and NGO's such a court, specialising with children in conflict with the law, was established. This consisted of a magistrate, prosecutor and court interpreter. The Centre's building thus housed a courtroom, boardroom, offices and facilities for the SAPS which included an overnight holding facility, an Office for the NICRO Social Worker and various other offices (Senekal, 2002: 2). A directive was then issued to all police stations within the Bloemfontein jurisdiction that all children arrested within the Bloemfontein jurisdiction be referred to the Centre. In order to process reported cases in the least possible time an Assistant Probation Officer and Officials from the SAPS at the police station on the premises are on duty 24 hours a day, an arrangement that is in place even on public holidays and weekends. An immediate impact was made because cases were now finalised within one month, instead of three to six months which used to be the norm.

The co-operation between all stake-holders proved to be one of the biggest assets of the Centre. Cases were disposed of and finalized within one month and during 2005 the Legal Aid Board appointed a Legal Representative at the Centre on a full time basis. The Centre was operating so well that the National Department of Justice appointed it as a training Centre and numerous information sessions, training sessions and workshops were held for the benefit of National and Provincial stake-holders. A quarterly report on the project is

submitted to the Inter Ministerial Committee, which advises the Justice Portfolio Committee in respect of implementation of the relevant legislation (Senekal, 2002: 2).

In addition to its core activities, the centre has also introduced a range of complementary services. These include crime prevention campaigns, programmes rendered for purposes of diversion and as sentencing options, and programmes aimed at improving parental skills. Since the formal opening of the Centre, guests and delegates from both National and International organisations such as the Ministers of Justice, Social Development and Education and representatives of the United Kingdom's Child Justice Board have been hosted and briefed by the staff at the Centre. Positive comments were received throughout: from members of the community, legal representatives and other delegates who visited the Centre. All aspects pertaining to the new Child Justice Act (75 of 2008) are currently being implemented by the staff at the Centre.

#### **2.5.6 Operations at the Centre**

When a child is arrested by the Police that child is assessed using specific criteria proposed by the Probation Services Act and the Child Justice Act (Du Plessis, 2002: 7). Accordingly a child would qualify for diversion from the criminal justice system if he or she is under 18 years old, is a first offender, accepts responsibility for his or her actions, has a fixed address, has a guardian, and the value of the stolen goods is less than R2 000. In addition the crime must be considered to be of a less serious nature. Crimes that are considered less serious are crimes such as housebreaking, theft, and indecent assault. According to Du Plessis (2002: 8), "a developmental strength-based assessment will be compiled on each referral and the offender and his/her guardians will be involved in individual developmental interventions." The child will then be released into the custody of the guardian until the case is brought before the courts. However, even in more serious cases such as murder, rape and armed robbery the case may still be diverted depending on the circumstances of the offender, facts of the case, and the attitude of the offender. According to the Chief Probation Officer this is a mandate that was given to them by Parliament. Alternatively, the court proceedings may be turned into a Children's Court Inquiry if the child has re-offended and is found to be

neglected or in need of care. The criminal procedure is then turned into a Children's Court Inquiry (CCI) according to Section 14 of the Child Care Act. A child is found in need of care if he or she does not have a parent or guardian, or they cannot be traced, or if he/she does have shelter, food or clothes. Further if the children are considered to be abandoned, display uncontrollable behavior, are in a state of physical or mental neglect or have been physically, emotionally or sexually abused they can also be found to be in need of care. The child will then be placed into alternative care such as foster care by an order from the court. The procedure then is that the state withdraws criminal charges against the child and a CCI is opened. Substitute sentence options are then considered in line with International instruments such as the Beijing Rules and the UN Convention on the Rights of the Child. The first option that a Magistrate has is to order that the child not serve his or her sentence but that it is postponed until he or she reaches the age of eighteen years. This sentencing option goes together with the condition that the child is under the Supervision of a Probation Officer. The second option is to order a suspended sentence on condition that while serving this sentence the child is not found guilty of a similar offence. Again the child's progress will be monitored by a Probation Officer. The third option is correctional supervision. As the Free State does not have any Reform Schools at present, the fourth option is imprisonment" (Du Plessis, 2002: 8). Based on the statistics received from the Centre management, in general eighty percent of all cases are referred for diversion instead of prosecution.

Those who are diverted are then required to attend one of the seven formal diversion programmes offered by the probation and assistant probation officers at the Centre (Du Plessis, 2002: 8). These programmes, which on average last six weeks, are aimed at enhancing different aspects of the child's life. They include

- The 'Take a lead in life' programme which teaches children to make responsible decisions about their own lives.
- The 'Responsible sexual behaviour' programme which focuses on human sexuality and is primarily directed at addressing anti-social behaviour of sex offenders.
- The 'Responsible living' programme which aims to make the offender understand that with all rights comes a corresponding responsibility and that all societies have

rules and laws which everyone needs to obey.

- The 'Victim-Offender' programme which aims to restore relations between the victim and the offender through mediation and involves both their families. The emphasis is on restoring broken relationships between the perpetrator and the victim.
- Family group conferencing whereby a process of facilitation takes place where community representatives may be invited and the emphasis is on restorative justice.
- The 'Community Based Diversion Programme' which involves the participation of community members over a ten week programme. The focus in this case is on skills development through various interventions such as drama, adventure based group work and plays.
- The 'Toro' outdoor programme which is a three day intensive parental skills programme focusing on the needs of parents. The programme for parents and or caregivers is run concurrently with the diversion programmes for children. The programme is aimed at improving the supervisory and parenting skills of participants.

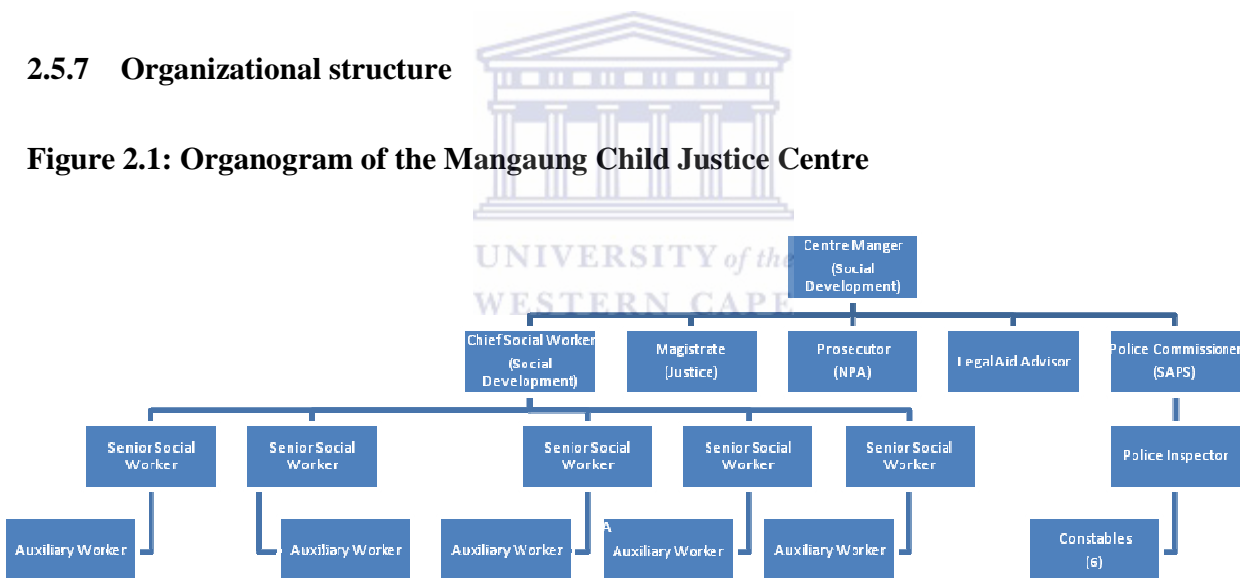
The overall aims of the programmes are to enable the child to learn alternative social skills and for the parents to reinforce positive behaviour patterns. After six weeks, and based on the report and recommendation from the probation officer, the prosecutor has to make the decision to either prosecute the child or drop the charges. In the case where a child is prosecuted and convicted "the principle of the least restrictive and most empowering sentence options is followed" when sentencing is passed. (Du Plessis, 2002: 8) Children who have undergone the diversion programmes are also offered an after-care service which is in line with the 1997 White Paper. Aftercare services at the Centre take the form of monitoring the child's progress and offering support, if required, after he or she had completed the recommended programmes.

The Centre also runs a number of crime prevention programmes. Individual and group intervention services are available to children with behaviour problems (Du Plessis: 2002, 8). These include Social Clubs and Speak-out competitions. The Centre has over the past three years been using Social Clubs to occupy children with developmental programmes aimed at

crime prevention. These are children who have been identified as children at risk of potential criminal activity. The Social Clubs engage both the children and the teachers from their respective schools. An additional characteristic of the Clubs is that not everyone is allowed to become a member. Membership is based on and aimed at those at risk of offending or re-offending. Learners and teachers are expected to discourage others, by word of mouth, from committing crime. In addition to this the Centre also hosts another crime prevention programme with its outcome considered as offering group work programmes to the schools where problem behaviour occur. The Speak-Out competition is another type of crime prevention programme and the outcome associated with it is developing public speaking skills in order to develop positive self-esteem. Camps are arranged to get children who face similar problems together to ‘transform and empower’ them through transforming their behaviour and empowering them with knowledge to make informed choices.

### 2.5.7 Organizational structure

**Figure 2.1: Organogram of the Mangaung Child Justice Centre**



(Source: Mangaung One Stop Centre, Second Quarterly Report, 2006/2007)

As the above organisational chart indicates, there are structures in place so that each individual at the Centre, irrespective of Department, knows how they fit into the overall scheme. The Manager at the Centre is a Social Worker from the Department of Social Development. Some visitors, both local and international, have found the idea of a Magistrate working under a Social Worker somewhat surprising. However, having the Social Worker as Manager, according to the interviews conducted by the author, was a purely logistical decision



for someone to oversee the day to day running of the Centre. The Centre Manager plays a largely coordinating role. This is because the members of the different units at the Centre do not report to and are not directly accountable to the Manager but to their respective Departmental Heads. For example the Auxiliary workers (also known as Assistant Probation Officers) report to the Senior Social workers, who in turn reports to the Chief Social Worker, who then reports to the Centre Manager since they are from the same Department. However, the police men and women at the Centre report to their immediate superior who is the Inspector. The Inspector in turn is accountable to the Station Commissioner. The Magistrate, Prosecutor and Legal Aid advocate do not have any subordinates at the Centre and therefore do not supervise anyone. As stated earlier they are accountable to the Heads of Department from their different Departments. Although this indicates that there are relatively clear lines of reporting, it does, however, pose a possible challenge for the effective coordination of the Centres' work.

Staff at the Centre is representative of the South African population and they speak a variety of languages such as Sotho, Xhosa, and Afrikaans. However, English is used as the common language for reports and during staff meetings. In terms of the gender and racial breakdown all groups are well represented in terms of the general make-up of the South African population and in line with the policies regarding equity. The manager of the Centre is an African female; the Magistrate is a White male, the Prosecutor an African female, the Chief Social Worker a White male, the Legal Aid Advocate a White female, and the Station Commissioner a White male. There are seven Probation Officers: three male and four female. One of these is a White female, and the other six are African. There are nine police officers: two females and seven males. Six of the police officers are African, and three White.

## **2.6 SUMMARY**

The issue of child justice is not only a South African concern but also a global one, involving all countries whether developed or developing. Several international organisations, most notably the United Nations, have stepped up efforts to improve the condition of children in conflict with the law. From the signing of the Universal Declaration on Human Rights to the

signing of the Convention on the Rights of the Child the focus has been on the protection of the most vulnerable groups in society. With the signing of the Beijing, Tokyo and Riyadh Rules, the rights of children were firmly placed on the agenda. Other organisations, such as the Organisation for African Unity followed suit and developed their own conventions, such as the African Children's Charter. This encouraged many African member states to review and replace existing policies and laws in relation to children in conflict with the law. In South Africa this led to the development of a separate child justice system, culminating in the promulgation of the Child Justice Act in 2008. Amongst other things, this Act provides for increasing the age of criminal responsibility from age seven to ten years, diverting children who qualify away from the criminal justice system, alternative sentencing options from direct imprisonment, and making courts more children friendly.



## **CHAPTER 3**

### **RESEARCH FINDINGS**

#### **3.1 INTRODUCTION**

This Chapter is divided into two sections. The first presents a description of the research findings, providing insight on trends, achievements and limitations at the Centre in terms of implementing the 1997 White Paper for Social Welfare and associated policies and legislation. The second provides a detailed analysis of the findings in relation to the theoretical issues regarding policy implementation outlined in Chapter One.

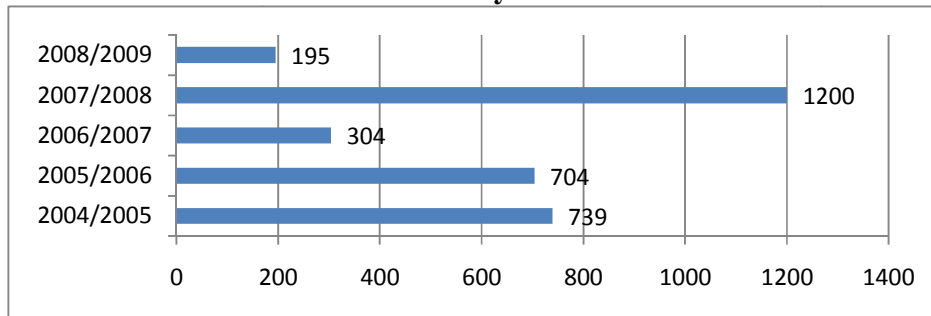
#### **3.2. DESCRIPTION OF RESEARCH FINDINGS**

##### **3.2.1 Trends in Arrests and Diversion**

The following section provides details on the number of children arrested and brought to the Centre by the Police. It also provides information on the number of arrested children placed in diversion programmes run by the Centre. Although general trends can be discerned from this data, the information needs to be treated with some suspicion, however. As later sections of this report will show, record keeping at the Centre has been problematic. The information below has therefore been calculated by the researcher from formula provided by the Chief Probation Officer at the Centre, rather than a survey of the actual records. According to the Chief Probation Officer, the actual records had been discarded.

Bearing the above reservations in mind, the figures set out in Figure 3.1 below show a steady decline in the period since 2004/05 in the number of children arrested and brought to the Centre, with the notable exception of 2007/08. The researcher was unable to obtain a satisfactory explanation of the dramatic rise in the children arrested during 2007/08, but it is possible that the figures derived for this year included all the children arrested in the Mangaung district rather than those who were arrested and actually brought to the Centre.

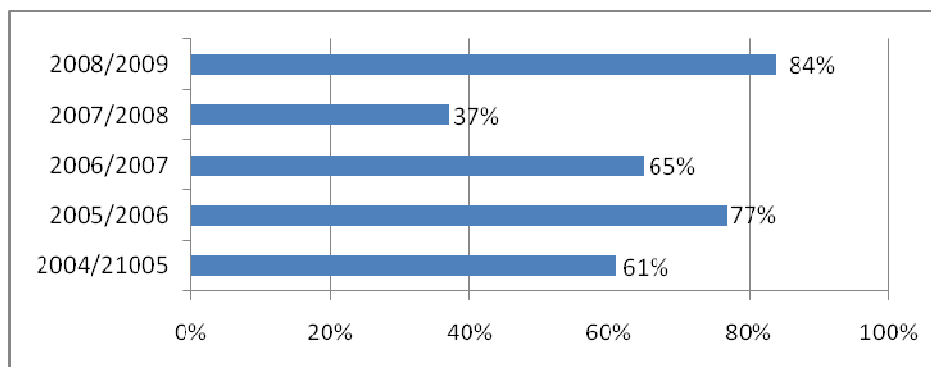
**Figure 3.1: Children Arrested and Handled by the Centre 2004-2009**



(Source: Mangaung One Stop Centre, Annual Reports, 2004-2009)

In line with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) the centre diverts children who qualify away from the criminal justice system. Children go through the diversion programmes and, to complement this, there are also programmes targeted at parents, focusing in particular on enhancing parenting skills. As far as diversion programmes are concerned Figure 3.2 below shows that an average of fifty six percent of children in conflict with the law has been diverted from the criminal justice system each year over the past four years. In terms of the percentage of the number of children diverted, year on year, there is an increase of nearly thirteen percent over the four year period. As with the number of children arrested the year 2007/08 is an anomaly, it indicates a dramatic reduction in the percentage of children diverted, compared to other years. Again this may have been due to record keeping problems, leading to the proportion of children diverted being based on the total number of children arrested in the Mangaung district as a whole rather than those who were brought to the Centre following their arrest.

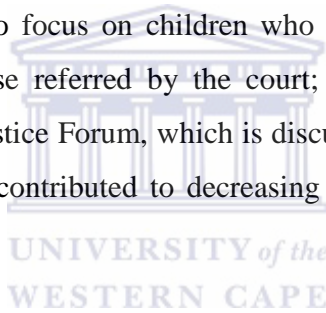
**Figure 3.2: Proportion of Children in Diversion Programmes**



(Source: Mangaung One Stop Centre, Annual Reports, 2004-2009)

### **3.2.2 Achievements of the Centre**

The main objective of the Centre is “to provide prevention and intervention programmes, care and support services to children in conflict with the law” (Centre Annual planning session, December 2006). This strategy entails assessing all arrested children and diverting those that qualify. Children who qualify for diversion are placed in one or more of the seven diversion programmes, which were discussed in Section 2.5.6 above, most of which are presented by the Assistant Probation Officers. As the previous section of the report shows, excluding the rather anomalous increase in arrests during 2007-08, there has been an encouraging overall decline in the number of children arrested and prosecuted in the period since 2004. This can be attributed in part to a number of additional interventions the Centre introduced during this period. These included (i) the launch of two new crime prevention programmes namely Social Clubs and the Speak-Out competition that were discussed in the previous Chapter; (ii) the move to focus on children who are at risk of breaking the law rather than just dealing with those referred by the court; and (iii) the introduction of a functioning inter-sectoral Child Justice Forum, which is discussed below. The focus on these types of programmes has clearly contributed to decreasing the chances of those at risk of breaking the law actually doing so.



One of the first major achievements of the Centre was to forge links between the different stakeholders at the Centre. Section 159 (e) of the 1997 White Paper for Social Welfare points out the need to enhance service delivery through collaborative efforts between Government Departments and other stakeholders in all spheres of society. In terms of this the stakeholders at the centre were able to reinforce already existing relationships with role-players from different government Departments and the NGO sector, in particular through the establishment and maintenance of a Child Justice Forum. The purpose of the Forum is to further strengthen the monitoring of the implementation of the White Paper by looking at compliance issues for each role-player. The Forum at the Centre typically consists of representatives from the departments of Social Development, Justice, Education, National Prosecuting Authority, SAPS, and NICRO and has regularly bi-monthly meetings. The stakeholders involved have adopted the following common goal which is “to empower our

children, combat crime in every possible way, giving protection to the community and to adhere to the best interest of the child principle at all relevant times.”

According to the representatives from the Departments of Justice, NPA, Social Development and the SAPS a second achievement of the Centre is the contribution that it has made to the reduction in the occurrence of recidivism in comparison to the period before the centre was established. Where re-offending does take place it is mostly children who were acquitted for technical reason and have now committed more serious first offences. As a result some children go undetected through the system and do not have the benefit of the Centre and its diversion programmes. Research conducted in South Africa context (Du Preez et al, 2005) has shown that children who clash with the law early on in their lives are prone to commit more serious and violent crimes later on in life. The experience of the Centre, however, is that this tendency can be reversed if appropriate diversion programmes are put in place at an early stage.

The third achievement according to the respondents is that children are not kept in police cells unnecessarily anymore but brought straight to the Centre for processing within 24 hours (for children less than 14 years), and within forty eight hours (for children over 14 years).

At the more general level, it is important to note that the Centre’s achievements have been recognised both within and outside South Africa. One of the respondents indicated that:

*“We have been nominated by the United Nations as a Centre for best practice in terms of services rendered to children in conflict with the law. The model we are using here will be used in other countries in working with children in conflict with the law.”*

The United Nations Human Settlements Programme (UN-HABITAT) annually gives a Certificate of Recognition for excellence in urban safety, crime prevention and youth. In 2008 this International award was granted to the One Stop Centre in Bloemfontein, together with an acknowledgement that the model currently used by the Centre will be exported to

and used in other countries. In addition the Centre has also been recognised by the South African Parliament as a best practice model.

### **3.2.3 Limitations of the Centre**

The research revealed a number of limitations in the operations at the Centre. The first of these concerns information management and record keeping. The Centre does not have an effective information management system in place and accurate and up-to-date records are not kept on the number of children who go through the system. Policy output and outcomes are therefore impossible to measure precisely. Poor record keeping, according to Patel et al (2008), is endemic throughout government and has “hampered attempts at an empirical assessment in the post-1994 context.” (Patel et al, 2008:2) An example of this is that the statistics provided to the researcher by the Chief Probation Officer at the Centre also included the sub-offices of the Mangaung district situated in the towns of Thaba Nchu and Botshabelo. The researcher was informed that the Centre does not keep separate records from the different sub-offices in the district. After consolidation and presenting the districts total numbers in each category the separate records are discarded.

A second limitation concerns the human resource capacity at the Centre. The lack of sufficient staff, especially in terms of Social Workers/Probation Officers has been a major issue curtailing the Centre’s ability to deliver a fully efficient service to the public. Staff shortages have been highlighted regularly in the Centre’s quarterly reports since 2004. One of the respondents argued that this was largely because the Government had underestimated the number of Probation Officers required to render an effective service. One result of this is that the Probation Officers at the Centre have very high caseloads. On average each Officer handles approximately seventy cases per month. This means that insufficient attention can be given to each individual case, and has an obvious knock-on effect on the quality of service delivery to clients.

In addition to the lack of sufficient probation officers, another concern is whether they are utilised effectively and according to their professional speciality. Given the large case loads

and their associated reporting requirements, probation officers are forced to spend an inordinate amount of time on administration, leaving less time available to address important professional issues such as prevention, early intervention, and after care.

An additional problem is that there is a distinct lack of facilities to meet the needs of staff and their clients at the Centre. One example is the lack of office space as is evident from the continued requests made over the past four or five years for more office space by stakeholders at the Centre. The lack of sufficient accommodation means that officials are forced to share an office. According to a respondent from Department of Social Development *“This not only hampers service delivery but also disturbs the smooth running of the office.”* The situation could become more serious as plans are underfoot to have an additional magistrate and prosecutor at the Centre. This would mean that the additional magistrate and prosecutor will require an extra court and extra offices and though this would mean more effective service to children it would put further strain on the existing infrastructure. This lack of office space has a limiting effect on the delivery of services to clients because the sharing of offices, for example by for Social Workers and Legal Aid advocates, can easily compromise client confidentiality. Though there are plans to extend the existing building to create more office space neither the Department of Social Development nor Public Works wants to accept responsibility for this. Until additional offices are added staff will have to juggle their daily programmes to accommodate each other in terms of time spent with clients in their offices.

Another weakness on the part of the Centre is the failure to establish a Reception, Assessment and Referral Centre. Such centres were seen by the Ministry of Justice as integral to the speedy ‘processing’ of children at police stations and Courts. A pilot project was tested in Durban in 1996. The aim of a RAR Centre is to provide early intervention services to arrested children. As a result it functions twenty four hours a day to assess children, locate parents or guardians, consider diversion, and make recommendations for consideration by the prosecutor and magistrate. The Mangaung Centre stated five years ago that it wanted to establish such a RAR Centre but has so far failed to do so. No explanation

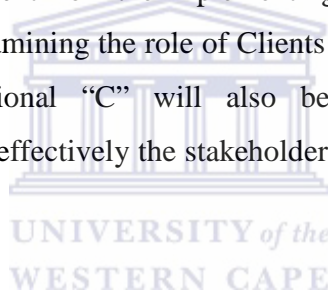


was provided to the researcher for the failure to establish such a Centre, but it could well be that the necessary financial resources were not made available by Government.

### **3.3 ANALYSIS OF FINDINGS**

#### **3.3.1 Introduction**

In this section of the report an analysis of the findings will be provided in relation to the two key models outlined in Chapter one. These are the 5C Protocol and the Top-Down and Bottom-Up approaches to policy implementation analysis. In terms of the 5C approach five different variables are identifiable and need to be considered when one conducts research on policy implementation. The variables include dissecting the Content of the policy, analysing the institutional Context into which it will be introduced, considering Capacity by looking at both tangible and intangible resources at the disposal of the implementing agency, ascertaining the level of Commitment from the implementing agency and its staff, as well as government more broadly, and examining the role of Clients and Coalitions. As indicated in the previous chapter, an additional “C” will also be considered, namely Change Management, which looks at how effectively the stakeholders at the Centre have handled the change process.



#### **3.3.2 Content**

This section will focus on the Content of the policy by paying attention to the theoretical framework of the policy, the principles on which it is based, its features and types of intervention it advocates. It will also pay attention to strengths and weaknesses of the policy. The Welfare model used by the South African government prior to the 1994 elections in the country was inequitable and discriminatory. The country had to move away from a model that smacked of racism and inequity, and favoured only a few, to one that was based on inclusion and equal access to services. As mentioned earlier, in 1995 the country adopted the developmental approach benchmarking itself against international best practice by taking its direction from the approach of the United Nations World Summit for Social Development.

This new approach gave effect to the writing of a new social welfare policy and resulted in the 1997 White Paper for Social Welfare. One could possibly argue that in terms of the

typology of policies the 1997 Welfare White Paper on Social Welfare is a distributive policy in its content and what it sets out to achieve. The motivation for this claim is that it seeks to improve the general welfare of the population through a system of services that are available to them at no cost.

Like many policies the world over it is difficult to point to one specific approach that was used formulating this policy. However, it is likely that given the time constraints and the issue of political expediency at the time that the policy was informed by a combination of perspectives such as the Rational, Incremental, and Interest Group models of policy-making. The Rational model aims to identify a number of processes and skills designed to assist policy-makers in making more informed choices based on rational analysis rather than political expediency. The Incremental approach maintains that policy making in most societies and in most circumstances will take the form of a continuation of past government institutional activities, with only incremental adjustments and modifications. The Interest group model views policy not as a pursuit of the most rational choice or option, but as an essentially political process that seeks through bargaining and compromise to balance the various vested interests put forward by different groups. Given the need for a paradigm shift in the field of social development, the rational model was perhaps paramount. This is because the policy expressed the values of the society based on a common rejection of the system of Apartheid. It reflected the view that most welfare problems in the country were as a result of unequal distribution of services and opportunities, and was not based on the philosophical principle of utilitarianism, which translates into the greatest good for the greatest number of people. It further made important changes to the apartheid model of having many different departments based on race by replacing them with one National Department, together with provincial departments in the different provinces, all following the same national policy.

There were, however, elements of incrementalism as well, largely because of the continuation of some pre-1994 legislation. There were also elements of an interest group model because the majority party had a vested interest in satisfying those who elected it into power.

The standard procedure, before a policy can be implemented, is that regulations would be drafted at National level which provides guidelines for implementation. According to an official from the Department of Social Development who worked on the formulation of the White Paper the drafting of regulations for the White Paper was devolved to the Provincial Departments of Social Development under the supervision of the National Department. This did not happen however, and as a result implementers were largely left to their own devices. At the same time no performance measures were set out nationally. Patel et al (2008: 4) concur with this and writes that:

There is no nationally agreed set of welfare indicators to measure the nature and extent of the implementation of the national welfare policy.

As a result specific objectives and goals are lacking and the inputs, outcomes and outputs of the policy are difficult to measure. Except for stating generally that other initiatives will be developed in order to achieve certain recommendations, no time frames were given. The lack of performance indicators to measure progress makes it difficult to determine whether goals have been achieved or not. This makes it difficult to evaluate the policy's performance, as well as the performance of those tasked with implementing it.

A related issue is that the policy lacks detail on the how of what it sets out to do. One example of this is the statement: "and the capacity of such families and communities to provide support and care will be promoted". Another example was the statement that "the emotional bonds between the child, the parent, the school, the community and the religious community, will be strengthened" (White Paper for Social Welfare, 1997: 84) However, little or no detail was provided on how these objectives were to be achieved in practice.

Examining the policy holistically it becomes clear that it is based on principles of diversity, equity, access and redress. The policy advocates that diverse groupings should benefit from one welfare system instead of the fourteen separate systems that existed before the 1994 elections, that beneficiaries ought to have equitable access to services, and that services previously reserved for a minority should be expanded to include historically disadvantaged communities and groups. These principles point to a policy directed at distributing welfare

services to as many people as possible at zero or low cost to them.

Section 4 of Chapter 8 of the 1997 White Paper that deals with children in conflict with the law stresses the fact that services to people in conflict with the law are under severe pressure because of several reasons. The reality that crime had reached almost epidemic proportions, and was on the increase among youth at the time, and that the probation services were understaffed, emphasizes the seriousness of the problem. Only qualified social workers may become probation officers, and there was and still is a huge shortage of qualified social workers in the country. In 2006 there were 12 600 registered social workers in the country, yet it has been estimated that a minimum of 33 000 would be needed to effectively implement the 1997 White Paper and subsequent legislation (such as the 2008 Child Care Act)<sup>5</sup>

Having acknowledged these problems the White Paper then outlines a multi-disciplinary approach to confront the issue at hand. Different departments and stakeholders were to develop crime prevention and restorative justice programmes to address crime. Little specific information was provided, however, to guide departments and stakeholders in doing so. A related issue with the White Paper is that it sought to address the transformation of the child and youth care system, especially with regard to juvenile justice, as part of a broader approach to social development. In many ways a more singular focus on children in conflict with the law was required. This perhaps explains why the Department of Justice has seen fit to introduce more specific legislation dealing with children, notably the Child Justice Act of 2008.

Upon asking the respondents about the vision and direction of the policy, as well as unintended consequences of its implementation, it became apparent from their responses that it was only the respondents from the Department of Social Development who had any

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<sup>5</sup> These figures were cited by Crystal Theron (Le-Shahika; Development and Training Consulting) at a workshop conducted in April 2008 in Bloemfontein, preparing Social Workers for the implementation of the Children's Act, Act 38 of 2005.

detailed knowledge about the policy and its content. It is clear from the responses of the respondents from other Departments that there was little awareness of the policy and that little or no training had been conducted with them on the policy. The respondent from the SAPS stated that everyone should be trained in policies and laws that are of common interest to those at the Centre, but indicated that this had not as yet happened. The Magistrate, when interviewed, candidly indicated that he has no knowledge of any White Paper for Social Welfare.

*“It’s not clear to me what the goals and objectives of the White Paper are you refer to. I am not conversant with any White Paper.”*

Of the respondents interviewed only the Centre Manager and the Chief Probation Officer (both social workers) who were able to provide concrete answers to questions about the policy’s contents. This therefore suggests that the communication of the policy and the training of stakeholders have been carried out poorly. Most of the respondents indicated that the Probation Services Act and the Child Justice Bill/Act are clearly more important in setting the parameters within which the Centre operates.

In responding to questions about possible unintended consequences of the policy, the probation officers identified one such consequence which is that they now also have to work with so-called uncontrollable children. Uncontrollable children are those that challenge figures of authority, especially their parents or guardians. As a result the parents or guardians frequently report such cases to Social Development Offices which are then referred to the Probation Services because such children are considered to be at risk of breaking the law. This has added quite significantly to the already pressurised workloads of the probation officers at the Centre.

### **3.3.3 Context**

In relation to the context of the policy this section of the report will focus on themes related to the coordination of policy implementation, the extent of co-operation between stakeholders, and the level of cohesiveness in the context of a multi-agency approach to

service delivery.

The context, within which the policy at the Centre has been introduced, in line with the recommendations of the 1997 White Paper, is that an integrated approach be adopted to address the problem of juvenile justice. The Departments of Social Development, Justice, South African Police Services (SAPS), National Prosecuting Authority (NPA), Legal Aid Board, and NICRO all have a presence at the Centre. When asked about what integrated service delivery means to them some of the responses were as follows:

*“We have the same goal in mind, (which is) to serve the public and to serve the children” (Legal Aid respondent)*

*“Exactly what we are doing here” (Prosecutor)*

*“The Centre should have at its disposal trained and child-friendly police officials and an adequate number of Social Workers.” (Magistrate)*

From these responses and other responses it is clear that most respondents have some idea of what integrated service delivery mean and that they have embraced the concept. It further suggests that they understand that the organizational culture at the Centre should be collaborative in nature. One can deduce from their responses that there is some synergy between stakeholders at the Centre which is brought about by their close proximity to each other not only in terms of physical space but also in their shared mission at the Centre. Stakeholders from Social Development went as far as saying that:

*“The team approach, is the key to the whole idea behind the One Stop Centre”*

*“We actually forget we are from different Departments, we are one big family.”*

This view was endorsed by one of the prosecutors who stressed that:

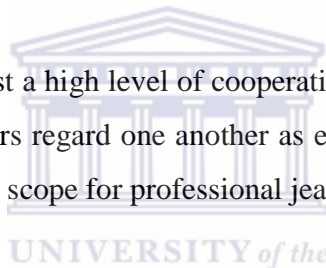
*“ We integrate Social Development, Justice and SAPS, as we all work together here as a unit and we are working perfectly well.”*

These responses indicate that all parties concerned are aware that they complement each other and in order to achieve the vision of a comprehensive service to children it is

paramount that they continue to work together. With a view to expanding services at the Centre, stakeholders recognise the role that other government Departments like the Department of Health and the community can play in rendering an even more comprehensive and complete service to the children and their families. They would also like to see social workers rendering a more effective after-care service to reduce offending but more so, curtail instances of re-offending.

Collaboration at the Centre is at a premium and has assisted with the effective delivery of services. Although the stakeholders have their own departmental objectives, these have been aligned to the broader objectives of the Centre as a whole. According to one of the respondents, this is one of the most important reasons the Centre was given an accolade by the United Nations for the manner in which they deliver services to children.

The responses set out above suggest a high level of cooperation at the Centre. One reason for this is that the different stakeholders regard one another as experts in their specialised fields of proficiency, thus minimising the scope for professional jealousy and conflict.



*“It’s the same with the other stake-holders; each one is an expert in their own field. So in that manner the potential for conflict is reduced.”*

Cooperation between the different stakeholders has been fostered in part by the weekly meetings which take place and involve all the role players. In these meetings everyone has the opportunity to participate in discussions and raise issues that affect their work. Another factor that seems to have further augmented the cooperation between stakeholders is the fact that they annually have joint team building sessions. The team approach allows for the Centre Manager, who is a Social Worker, to also coordinate services and get an idea if all stakeholders are doing what is required of them in terms of the policy recommendations. From responses collected it appears that all sections do their best in collaborating with each other to keep children out of prison. Each of the stakeholders recognises the fact that they can only do so much by themselves and beyond a certain point they need the assistance of the

others. Without an elementary level of trust none of this would be possible and from the interviews this definitely appears to be a facet in interactions between role-players.

This apparent synergy between stakeholders at the Centre could be seen as having both positive and negative connotations. On the positive side it gives an indication of the level of trust each of the stakeholders have in the other. Trust is an essential principle in any working situation and more so in a multi-disciplinary environment such as one find at the One Stop Centre. So too is the confidence demonstrated by Centre stakeholders in each other's ability and competence.

On the negative side, however, the kind of harmony that seems to have been developed at the Centre may inhibit dissent and disagreement, a certain amount of which is to a certain extent healthy in any organisation. Disagreement among diverse role-players intending to accomplish one goal occurs in most organisations from time to time. Through rational discussion and resolution of such diverse points of view, decision-making will often be more informed. Where dissent is looked down upon as un-collegiate, unhealthy working relations might develop and be to the detriment of both client and service delivery. Another possible negative aspect is that the stakeholders at the Centre may come to view themselves as a law unto themselves rather than being accountable to their different departments or agencies.

In many situations that require multi-agency collaboration for effective implementation, the necessary cooperation is often compromised because of inter-department rivalry. In such situations Brynard and De Coning (2006:180) argue that "effective working relations typically result from bargaining, cajoling, accommodation, threats, gestures of respect, and related transactions." From the responses from Centre stakeholders, it seems clear that, despite some early teething problems, associated in particular with the somewhat autocratic management style of the first Centre Manager, the One Stop Centre has proved more successful than many organizations in fostering a genuinely collaborative and integrated approach to service delivery.



### 3.3.4 Capacity

For effective policy implementation to take place there needs to be sufficient implementing capacity within the implementing agency. The extent to which resources, characterised as either tangible or intangible, are available goes a long way in determining the level of implementation success. Tangible resources include those which can be measured such as human, financial, and other material resources; whereas intangible resources are those that cannot be accurately quantified such as leadership, commitment, and motivation.

With respect to the human resources, much of the work falls on the social workers/probation officers. This is because the main area of operation for the Centre is aiming at behaviour modification and this task falls mainly on the social workers. The Centre recruits only qualified social workers to be probation officers, and there is no doubt that there are an inadequate number of probation officers to cope effectively with the workload. This is part of a broader national problem. As noted earlier in this report, in 2006 there were 12600 registered Social Workers in the country, with each of the twenty training institution, Universities and Colleges, graduating an average of thirty-six qualified Social Worker each year. However, it has been estimated that South Africa would need 33 000 qualified social workers in order to implement effectively the new Children's Act (2005) and the Child Justice Act (2008). Given, the relatively low number of social work graduates being produced annually at national level this shortage is unlikely to change in the near future. The current ratio in the country is one social worker for every ten thousand clients while the ideal number would be in the region of one social worker to three thousand clients.<sup>6</sup>

Being a microcosm of broader society, the Centre is no different in this respect, as the caseloads of the probation officers seriously exceed the human capacity available. The respondent from the Department of Justice concurred with this when saying:

*“I think one fundamental mistake was made in terms of human resources, because I*

*think there are too few Social Workers. There should be more in terms of allocation of Social Workers to the Centre because of the case loads they are under a lot of pressure.”*

In terms of the Government's commitment to capacitate Centres such as the One Stop Centre, it is difficult to say whether there is a lack of commitment or whether there is a lack of political will from the elected officials. What is clear though is that the Centre is under-resourced to meet the needs of the children and their families who come to it. This shortage of probation officers has clearly placed a damper on the Government's promise of effective service delivery. It means that the case-loads of probation officers have increased especially with the number of new cases reported each year. The probation officers are under so much pressure from courts and management that children diverted from the criminal justice system go through programmes which are not effectively presented and monitored. The effect is that children have 'gone' through the programmes (requirement from court) but have not really learnt any new behaviour patterns. As a result they fall back into the same old habits that brought them to the Centre in the first place. The apparent lack of financial commitment in providing human resources from the Provincial Government undermines the intentions of the White Paper in providing an effective child justice system, and compromises efforts to meet the requirements of International instruments such as the Beijing Rules and the Convention on the Rights of the Child.

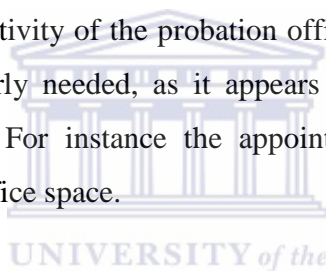
A related resource problem is the chronic shortage of office space at the Centre. Some of the probation officers are forced to share office facilities which obviously compromise their work ethic and performance. They have to take turns in using the office for assessing clients and since this is such a time consuming process it suggests that fewer clients are assessed than would be the case if more space was available. This lack of office space has negative implications for the probation officers and legal aid officers in terms of client confidentiality. It not only hampers service delivery but also disturbs the smooth running of the office. Though there are plans to extend the existing building to create more office space these are still in the planning phase. Until then probation officers will have to juggle their daily

programmes to accommodate each other in terms of time spent with clients in their offices.

As far as the SAPS are concerned they also feel that they lack certain facilities. As one of the SAPS respondents states:

*“We don’t have enough space to detain the children and we must refer them to other Police Stations.”*

Referrals to other police stations mean that the police officers from the Centre are no longer in control of the situation and that these children may be placed in the same cells as hardened criminals, thus compromising the work of the Centre. In addition, the shortage of vehicles to transport clients and also to undertake home-visits, which is such a necessary part of the overall service, curtails the productivity of the probation officers. A comprehensive strategy to address such problems is clearly needed, as it appears that when trying to solve one problem another one is created. For instance the appointment of new staff will cause problems because of the lack of office space.



In terms of skills and experience all stakeholders believes that the staff from their respective sections have the necessary technical know-how and experience in dealing with children in conflict with the law. Examples of this can be seen in the following statements:

*“I think that everyone has got adequate training and I think everyone respects what others are doing” (Legal Aid Lawyer)*

*“I consider them to be individuals who are highly skilled and therefore able to perform at the optimum level” (Magistrate)*

*“When the centre was opened in 2002/2003 our staff members went on training and there was only a few that were picked to be here” (Police Officer).*

The only respondent who disagreed to some extent was the Prosecutor who had only been at the Centre for two months at the time of the interviews. She stated that:

*“Like I said, this is still very new and I think there is still a lot of learning to do by all stakeholders.”*

Most of the respondents indicated that they received on-going training to improve their knowledge and skills. The probation officers, for example, receive continuous training on important elements of their jobs such as report writing, developmental assessment and related legislation. The same goes for some of the other role-players, with the legal aid advocate having to have seventy five hours training annually on facets of the work such as legislation and mediation. The SAPS devised a special training programme prior to the establishment of the Centre to handpick those who would be stationed at the Centre, and the police at the Centre receive regular training to update their skills. The Magistrate and Prosecutor are the only two respondents who stated that they did not require any additional training except for the odd refresher course on changing legislation.

With the new developmental approach came new demands one of which was an increase in resources to ensure effective implementation of the White Paper. So, in this instance, though the White Paper mentions the serious shortage of Probation Officers, government pressed ahead with the transformation agenda, anyhow. Government also did not take any proactive measures to remedy the situation. There was no large-scale encouragement of new students into the Social Work profession in terms of offering financial incentives or study opportunities. This developmental approach to Social Services caught training institutions off-guard and had to be incorporated into the curriculum of Universities and Colleges. The White Paper refers to the fact that qualified social workers had to be retrained in this new approach as they have previously been trained on the diagnostic models which looked at people as being powerless and needy instead of people with skill and life-experience able to solve their own problems.

In addition to adequate levels of training those tasked with service delivery also need sufficient practical experience to assist their clients. Some members of the Management have been working with children in conflict with the law as far back as 1994. Figure 3 shows that

the Centre Management has the necessary qualifications and with the exception of the prosecutor they possess extensive experience of working with troubled youth.

**Figure 3.3: Experience of Management at the Centre**

Official	Qualification	Total experience	Time at One Stop	Department
Centre Manager	B. Soc Sc	13 years	5 years	Social Development
Chief Probation Officer	B. Soc Sc	14 years	6 years	Social Development
Magistrate	B Juris & LLB	20 years	6 years	Justice
Legal Aid Lawyer	B. Proc & LLB	8 years	3 years	Legal Aid
Prosecutor	LLB	3 years	2 months	NPA
Police Officer	National Diploma in Policing	19 years	5 years	SAPS

This experience of the management has over the years translated into credible leadership at the Centre. This is one of the factors that have contributed to the successes at the Centre. When looking at Figure 3 it is immediately evident that the staff turnover from a management perspective is rather low at the Centre. The number of years that each of the management spent at the Centre is an indication of the trust that each of the Departments have in the employees they deployed at the Centre. The fact that they also chose to remain here is another indication that in spite of the difficult working conditions loyalty is high among staff at the Centre. In the six years that the Centre has been in operation only one Probation officer has left the Centre after five years of service.

Three important elements need to be considered when assessing intangible resources. These are leadership provided by management, and motivation and commitment from all stakeholders to the goals and objectives of the White Paper. Leadership cannot be measured but may be implied and as such it appears to be a pertinent feature of the management at the Centre. The management at the Centre consists of highly qualified individuals who have extensive experience in their respective fields. The fact that the Centre has received a major award from an International organization (UN) implies that decisions taken by management have contributed to the success of the Centre and it has effective leadership.

There seems to be a high level of commitment by the management team to working with children in conflict with the law. Many of them have worked with juvenile offenders even before the creation of enabling legislature and often under severely challenging circumstances. The Magistrate, Centre Manager, Chief Probation Officer and the Station Commissioner have all been at the Centre since its inception and from their responses it seems that they have a passion for working with children. This commitment is also reflected in the fact that they have developed their own goals and objectives without the guidance of any regulations. It is easier to commit one-self to goals developed by yourself and others within a team setting than to do so if they were imposed or made from a distance by someone else.

The level of commitment from the management, however, appears not to have been passed on fully to their sub-ordinates particularly in the case of probation officers, according to the responses from a certain section of clients pertaining to services rendered (see for more details Section 3.3.5 below). A possible explanation for the apparent lower levels of commitment amongst some of the probation officers could well be the perceived lack of career progression opportunities. If more Chief Probation Officers posts were created this could well incentivise the probation officers to improve their performance and levels of commitment. This would have a subsidiary effect as clients would benefit from this and consequently service delivery would improve.

### **3.3.5 Clients and Coalitions**

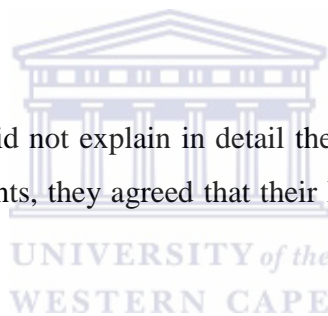
Juvenile justice requires a multi-agency approach in order to be effective and for efficient utilisation of scarce resources. The nature of work with children in conflict with the law requires that government departments collaborate with each other but it is equally important that communities also become involved. This is necessary since the children come from these communities and have to return here. The parents of the children involved in criminal activities form an integral part of the system but a much wider network needs to be established, which would include community and faith based organisations. In this section the spotlight will fall on efforts to bring on board all relevant stakeholders, whether in

government or among civic organisations. In addition it also looks at the response of the parents of clients with regard to service delivery and the possibility of establishing lasting relationships.

The One Stop Child Justice Centre appears to have worked rather well in bringing together diverse services to children, quite literally under one roof. Support from their respective Departments is an important element in motivating stakeholders to work together. Most of the respondents, with the exception of one, state that they have the full support of their Departments. The one dissenting opinion is from the Legal Aid Advocate who claims that her superiors do not have any idea of what is happening at the Centre:

*“You know, if I can be frank with you, I don’t think they understand what we really do here.”*

Although the other stakeholders did not explain in detail the manner or form of the support they received from their departments, they agreed that their Departments were supportive in general:



*“If I need something and I call them they are there for me” (Legal Aid Lawyer)*

*“I have been absolutely one hundred percent supported by the Department of Justice. I can say yes, I have got all the support from my head office and from the top” (Magistrate).*

What becomes obvious from respondents is that, in a situation which requires professionals from diverse field to co-operate, mutual respect for each other’s profession is an essential ingredient of success. The evidence suggests that such mutual respect has been an important feature of the Centre’s performance and success. Stakeholders at the Centre work closely together and have taken ownership of the recommendations from the White Paper and associated legislation and translated them into mutually agreed objectives for the Centre.

However two respondents (SAPS and Legal Aid) felt that, while there was agreement on the objectives of the Centre, the practical application of these objectives was sometimes a cause for disagreement. The Magistrate made it clear that as this was a pioneer project and they did not have any model to base their work on:

*“We have learnt through trial and error what works and what does not.”*

In that way objectives were rewritten but still within the framework and broader intention of the White Paper, related laws and their accompanying regulations. However, if and when disagreements do occur between stakeholders, weekly meetings create a forum where issues can be sorted out. If any urgent matter arise that needs immediate attention a meeting is convened and it is dealt with promptly with input from all stakeholders at the Centre.

South Africa is a multi-cultural society and this is reflected in the clientele of the Centre. All the interviewed parents or guardians of the English/Afrikaans children dealt with by the Centre were happy with the overall services they received, whereas the opposite was true of most of the parents or guardians of the Sotho/Xhosa speaking children. The Afrikaans/English speaking parents in general found their interaction with the staff to be very helpful and enabling:

*“They really understand, yes they are sympathetic”*

*“They are very understanding and they are willing to help”*

*“The people who work here do give a lot of support”*

*“They changed the children a little especially their attitude towards me”*

*“Yes, they are very nice people; they understand what I was going through.”*

In contrast the Sotho / Xhosa speaking parents were frustrated by the level of services they received. In fact, for the most part their experiences have been disempowering and negative. Whereas the English / Afrikaans speaking parents felt they had access to the staff if the need



arose, the Sotho / Xhosa speaking group felt there was not enough support forthcoming. They felt that they were left alone and helpless at times in dealing with the behaviour of their children:

*“No, we did not get any support from them”*

*“They did not even come to my house to see where we are living or anything like that”*

*“When you look for her (probation officer) she was not available”*

*“The attitude of Probation Officers towards me was not very helpful.”*

Among the Afrikaans/English respondents it became clear that they were informed every step of the way of the processes and procedures at the Centre. They felt that they were included in the decision-making about their children and their opinions were taken into account:

*“I had no clue on how to handle the situation, but just by talking to them is already a big help”*

*“What I like as well is that they try to understand the situation of the parents and they listen to the parents and as well the youngsters. Another thing is that when I want to talk to someone about something that is bothering me about my children and I speak to a Probation Officer about it I feel very satisfied after that.”*

In addition they also felt that they could call on the probation officers at any time (they are available or on call twenty four hours a day), in particular those with whom they had developed a trusting relationship. Further, in their experience, the Afrikaans/English speaking staff members at the Centre often go beyond the call of duty. This is demonstrated in the following extracts from a number of family members:

*“I can phone them any time and ask them for advice and they will assist you”*

*“Sometimes when things become too much for me I will pick up the phone and call Probation Officer and tell him that I cannot cope.”*

In contrast, the Sotho/Xhosa speaking parents surveyed by the researcher regarded the relationship between themselves and the Sotho/Xhosa speaking staff (as well as, in some cases, Afrikaans/English speaking staff) as superficial. They felt that they did not receive

much support from the staff at the Centre, something that is integral to establishing trust and a healthy helping relationship. They felt that they were often ignored and sometimes bypassed by the Centre staff, and were not informed about court appearances or consulted about the needs of their children.

*“The people at the Centre do not talk to me; they don’t tell me what the children were doing in Botshabelo<sup>7</sup>. Later on I complained and the Probation Officer intervened.”*

Another factor in the poor relations between Sotho / Xhosa speaking parents and staff was that they felt less welcome at the Centre and therefore felt less inclined to call the staff if they needed assistance. One possible explanation for this is that the more senior staff tended to deal with the Afrikaans / English speaking children because they are not conversant in Sotho or Xhosa. This then meant that the less experienced junior staff members were given the task to handle cases from the Sotho / Xhosa children because they are able to communicate with the clients in their own language.

### **3.3.6 Commitment**

According to Brynard and De Coning (2006), commitment can be looked at from two angles, namely the street level and the government level. In this instance the street level refers to the stakeholders at the Centre and the government level refers to National and Provincial Government.

#### ***Street level commitment***

Though one cannot necessarily quantify commitment it is possible to identify indicators that give some idea of the level of their commitment. One of these is buy-in into the policy by the stakeholders. With respect to the Centre such buy-in is evident from the fact that the stakeholders all sat together and discussed and formulated objectives for the Centre in line with government policy and legislation with regard to juvenile justice. By taking part in this exercise the different stakeholders committed their departments or sections to the agreed objectives for the Centre. With the exception of the Prosecutor, all the stakeholders

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<sup>7</sup> Botshabelo is a town situated 60 kilometres East of Bloemfontein

interviewed indicated that they have bought into the idea of a One Stop Centre, emphasising their commitment to the team approach:

*“All differences with regard to the work we do here were sorted out when the Centre was started”*

*“I think all the components like Justice, SAPS and Social Welfare and the Legal Aid too are on board here, and know and understand what is their commitment here at the Centre”*

*“I think the biggest thing was that in the beginning we had a workshop and we asked each other what the overall objectives of the Centre will be.”*

However, the Prosecutor, who was quite new to the Centre and its operations, did not feel the same commitment or part of the team:

*“No, I’m just a prosecutor and my work is just to prosecute ....sometimes I feel like running away. I hate working with naughty kids, especially a re-offender.”*

It is understandable that after only spending two months at the Centre this respondent would feel like an outsider but management needs to take cognisance of this and work on making the respondent feel more welcome and supported.

A second type of indicator is the number of years each of the individuals has spent working with children in conflict with the law before and after the establishment of the Centre. Most members of the Management at the Centre, including the Magistrate, the Chief Probation Officer, and the Station Commissioner have been working with juvenile offenders as far back as 1994 and were involved in initial informal interdepartmental agreements on how each stakeholder should work with arrested children. Their commitment to services to children was evident by their advocacy, in collaboration with other organisations such as NICRO, for

a separate justice system. They played a role in the drafting of the Child Justice Bill by making submissions to the committee tasked with its drafting. All this suggests that they have a strong commitment to the implementation of the recommendations in the White Paper and subsequent legislation relating to children in conflict with the law.

In order to implement a policy successfully, a minimum requirement is that those tasked with implementation should buy into that policy, and secondly that they should have the available resources to enhance their capacity to implement the policy. But before one can buy into a given policy it is logical that one should have some knowledge of the policy content. From the responses of the stakeholders interviewed, as noted earlier in this report, it is clear that several of them do not have a good idea about the requirements of the White Paper. In fact the documents they view as primary documents for implementation are the Child Justice Bill/Act and the Probation Services Amendment Act, 2002 (Act 35 of 2002). Incidentally, the Probation Services Amendment Act, 2002 (Act 35 of 2002) came about as a direct result of the formulation of the White Paper and should therefore rather be seen as supplementing the White Paper instead of stand-alone laws.

#### ***Government level commitment***

Government has done well in developing a separate juvenile justice system, introducing new legislation, and launching Centres to serve the needs of children in conflict with the law. When it comes to getting the Centre in Bloemfontein functioning effectively, however, it has not shown the same level of commitment. Instead, as earlier noted in this Chapter, the Centre is lacking in terms of human and physical resources. In order to implement a policy it is essential that those tasked with such implementation be provided with the necessary resources to succeed. Stakeholders at the Centre need to firstly be empowered with regard to the objectives of the White Paper. Secondly, they need to be provided with the necessary human, financial and physical resources to carry out their work optimally and successfully.

#### **3.3.7 Change Management**

Managing change means developing a strategy to introduce change as effectively and

painlessly as possible for everyone involved. With change comes the need for developing new skills and capabilities and this inevitably causes uncertainty among employees. Sharing information with everyone, systematically, will reduce feelings of anxiety and assist with getting people to buy into the new direction the organisation is taking. In order to get this off the ground though it is important to identify groups of individuals, integral to the organisation, and convince them of the need to change. It is imperative that those at the top buy into this need for change first as they will be providing leadership to effect change.

It is also essential that those lower down the organisational ladder, the street level workers, are involved positively in the change process. If valid information is not forthcoming they may well question the change, or even develop resistance to it. Information, support and guidance from the leadership will therefore be essential to address this. From the interviews with Centre management and clients, it appears that there was some initial resistance to some of the changes introduced by the Centre from those lower down, especially amongst new recruits to the probation section who were obviously not used to the practices and culture of the Centre. However, it is also apparent from the interviews that these problems have been addressed through regular meetings and joint teambuilding sessions at the Centre.

The third group of people who needed to be informed of the changes introduced by the Centre were the community, the intended beneficiaries of this change. They needed to be assured that their inputs are valued and that they are an important component in the success of the Centre. The change strategy would need in particular to address feelings of uncertainty and anxiety over how children will be affected by the new direction taken. In the interviews and documents provided by the Centre it was clear that some attempts were made to introduce outreach programmes and involve communities in the work of the Centre. Such programmes have had mixed fortunes, however. Although five outreach programmes were planned for each of the years since 2006, only one or two actually materialised.

In their response to the questions about managing change at the Centre, respondents from the Department of Social Development differed somewhat in their responses, some indicating

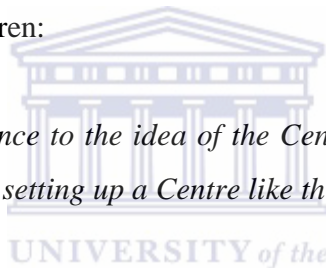
that there was some initial resistance to change, and others suggesting that the change process proceeded smoothly:

*“At the beginning, yes there were challenges; there were some difficulties because some people did not want to understand the way they were now expected to behave”*

*“We started working this way before the policy was ready way back in 1994 and 1995. So we developed with the policy so that by the time we moved in here there were no major issues.”*

The respondent from Justice claims that the only reason his Department initially resisted the new approach was the costs involved in setting up a One Stop Centre, not because it opposed the new way of working with children:

*“Initially there was resistance to the idea of the Centre, but this was because of the envisaged costs involved in setting up a Centre like this.”*



In terms of the SAPS, it was acknowledged that most police officers are inadequately prepared to relate to children. A training programme was therefore designed and introduced for officers serving at the Centre, designed to foster a more child-friendly approach.

In general the responses to questions around change management suggest that uncertainty about change, or resistance to it, was not handled in a conventional manner, through the creation of necessary levels of buy-in. Instead, management and staff learned to adapt and change through a process of trial and error. This implies that the transition was not handled as well as it might have been. In terms of mobilising support for the changes introduced by the Centre, there are therefore doubts as to whether Centre staff and beneficiaries had genuine opportunities for discussing, clarifying and debating the policy, and whether sufficiently effective support strategies for managing people’s anxiety about resistance to change were put in place.

Another concern that some of the respondents referred to were that insufficient attention was initially paid to attitudinal changes required of staff members from all sections, especially on how they regarded children in conflict with the law. Looking at a child purely in terms of rules and regulations, and in isolation from their upbringing and environment meant that insufficient consideration was given at times to extenuating circumstances. Over time the Centre has tried to address such attitudinal concerns through regular meetings and training sessions. In conclusion, although not all the respondents agreed that the changes at the Centre have been handled as well as they might, it seems clear that, over time, a sense of unity and commitment to the objectives and values of the Centre has certainly been fostered.

### **3.3.8 Top Down Approaches to policy implementation**

As stated earlier in this report, the top-down approach to policy analysis is underpinned by five interrelated assumptions, namely that there are clearly defined goals against which performance can be measured, that tools for successful implementation are clearly defined and available, that there is a single law or policy that directs implementation, that implementation occurs in a chain from top to bottom, and that designers have a good knowledge of the capacity of implementers (Birkland, 2001).

In the case of the Mangaung Centre the evidence suggests there has been a lack of clearly defined goals, especially in relation to the White Paper for Social Welfare. The White Paper does contain policy objectives but these are stated in general terms and lack specific detail when it comes to implementation. In terms of time-lines there are no specific dates against which performance can be assessed. In addition, the lack of performance indicators means that neither individual nor institution performances can be measured with any degree of certainty.

In terms of the policy tools necessary to achieve the effective implementation of the White Paper, there has been a degree of intangible resources identifiable at the Centre. These are in the form of leadership, commitment, endurance, and motivation, especially from the

management of the Centre. On the other hand, however, these have not been matched by necessary tangible resources such as adequate office space, sufficient human resources, or sufficient service vehicles and holding facilities. There seems to be no doubt that the lack of such tangible resources has curtailed the capacity of the Centre to function optimally.

In terms of the policy framework within which the Centre functions, most Centre staff members regard the Probation Services Act and the Child Justice Bill/Act as the primary statutes under which they operate. The White Paper was not regarded very highly by any of the respondents, or even the Department of Social Development, but rather considered as a secondary policy. If the Department had in fact held the White Paper in higher esteem it would undoubtedly have arranged for officials at the Centre to be trained on the requirements of the White Paper and be better prepared for its implementation. It is clear from the responses of the respondents interviewed for this report that several of them had not even heard of the White Paper.

From the responses of the parents and guardians it also seems clear that there is a lack of an effective 'implementation chain' at the Centre, from senior to junior staff. Whilst satisfaction was generally expressed with the services provided by the Centre management and senior officials, this was not the case with the more junior staff.

In terms of knowledge of the implementers' commitment and capacity one can state that the designers correctly judged the level of commitment from the management at the Centre. However, it erred in its assessment of commitment from the Government's side, particularly regarding the provision of the necessary human, financial and physical resources to enable the Centre to function optimally.

### **3.3.9 Bottom-up Approaches to policy implementation:**

Bottom-up approaches are based on a different set of assumptions, in particular that those at the coal-face of service delivery, such as police officers and social workers, need to be given more decision-making responsibility as they understand the local circumstances better. By



giving such ‘street-level workers’ greater day-to-day discretion, proponents of the bottom-up approach argue that policy implementation processes will be improved due to the experience and local knowledge of such workers.

In the case of the Mangaung Centre, the lack of specific government regulations and guidelines to accompany the White Paper has encouraged or forced the management of the Centre to take the initiative in developing their own guidelines, peculiar to their own situation.

:

*“...We have from the White Paper our own things that we have developed in terms of objectives that we want to reach. These are the same objectives that the Police, Justice, and NPA on the premises are trying to achieve.”*

Credit should therefore go the Centre management for the fact that, despite the lack of regulations or performance indicators, they have taken the initiative in developing their own goals and objectives. These are peculiar to the Centre and are focussed on the existing limited resources. One may state that in spite of this lack of resources the Centre management has shown an encouraging resolve to be successful

In terms of allowing for lower level officials to use their discretion it seems clear that the Centre has made considerable strides. When a child is arrested the case is passed onto the Probation Officer and they do an investigation into the circumstances of the particular child. A report is then written on the findings and a recommendation is made by the probation officers with regard to diverting the child from the criminal justice system or allowing the law to take its course. The ultimate decision therefore rests with the probation officers who use their discretion to either refer a child for diversion programmes or for the child to be formally charged. This not only recognizes the experience of the probation officers but also the fact that they have more intimate knowledge of the circumstances that have led to particular children committing an offence.

### **3.4 SUMMARY**

This chapter reveals that, whilst there have been definite successes in the work of the Centre; there is scope for improvement in a number of key areas. One of the first major achievements of the Centre was to create cooperation and buy in from all the major role-players. In addition, despite concerns about the reliability of the record keeping at the Centre, there seems to have been definite signs of progress in terms of an overall reduction in the number of children arrested and brought to the Centre, as well as an increase in the percentage of children placed in diversion programmes. There is also evidence of a reduction in recidivism as well as in the time children spend in custody. The dedication and commitment from the management at the Centre has been admirable. And the work of the Centre has been recognised by the United Nations.

However, on the other hand, the findings of this report indicate a number of areas where improvement is necessary. One of these is the lack of accurate record keeping. Equally if not more important is the lack of government commitment in providing the necessary human, financial and physical resources to ensure that the Centre performs its work optimally. The lack of the necessary skills and commitment by junior staff in dealing with Xhosa and Sotho clients has also been a weakness. Finally, a major problem has been the lack of government guidelines and regulations to guide the work of the centre and the role of the different stakeholders, as well as the lack of an adequate monitoring and evaluation system to assess progress.

## **CHAPTER 4**

### **SUMMARY, CONCLUSIONS AND RECOMMENDATIONS**

#### **4.1 INTRODUCTION**

This Chapter summarises the key findings of the study, draws conclusions and makes recommendations both for the operation of the Centre and more generally for improving policy development and implementation processes.

#### **4.2 SUMMARY**

In order for successful implementation of policies to be achieved, certain elements need to be present in close synergy to each other. Theorists such as Brynard and de Coning have argued that there are five salient features that need to be in close synergy to achieve successful implementation. These have come to be known as the 5C Protocol and will, as a result, be reflected throughout the conclusions drawn and recommendations that will be made. In addition comments will also be made with regard to the other “C”, change management, as well as to top-down and bottom-up approaches to policy implementation.

##### **4.2.1 The 5C Protocol**

With respect to the first “C,” namely *content*, the findings casts some doubts on the popularly held belief that the post 1994 policy scene in South Africa has been characterised by good policy and poor execution. The developmental approach outlined in the White Paper for Social Welfare was undoubtedly progressive and in line with internationally accepted principles and conventions concerning children in conflict with the law. However, conventional practice in the policy development process requires that policies should usually be accompanied by guidelines, regulations, performance indicators and a monitoring and evaluation framework. With respect to the White Paper it was the original intention of the policy makers that regulations would be drawn up and circulated to provide guidelines for implementation. So too would nationally agreed upon social welfare indicators. Although a draft national plan of action was developed in 1997/1998 to implement the policy, this was never formally adopted and implemented, however. The impact of this on policy

implementation is that it has been difficult if not impossible to measure the extent of success or failure of the implementation of the White Paper.

Without nationally agreed-upon regulations, performance indicators and an effective monitoring and evaluation framework, there can be no standardised practice models and therefore no measurement of the extent of either success or failure. In addition, there is no way of holding implementation agencies, individually or severally, responsible for not following regulations if these are non-existent.

With respect to *context*, the multi-disciplinary setting into which the policy was implemented at the Mangaung Centre has resulted in a number of benefits to clients. Diverse services are delivered at one central point and collaboration between stakeholders has assisted in breaking down barriers that one normally associated with a multi-agency approach to implementing policy, such as uncooperative team members, team leadership problems and possible hidden agendas.

With respect to *capacity*, there is no doubt that the Centre's activities have been compromised by the lack of sufficient human and physical resources. In terms of human resources, the ratio of probation officers to clients at the Centre has been insufficient to meet the needs of clients. In addition, none of the probation officers have a specialised qualification in terms of delivering probation services to the children. This has been compensated, to some extent, by the experience and the commitment shown by the Centre managers, most of who have been involved with children in conflict with the law for over ten years. In terms of physical resources there is a lack of adequate office space, a lack of holding facilities for arrested children, and a lack of motor vehicles. In addition the lack of experience and commitment from the more junior probation officers who deal with Sotho/Xhosa speaking clients has had a negative impact on how these clients view the Centre.

The finding by Patel et al (2008) that government institutions seldom keep accurate records of their progress has been confirmed in the case of the Centre. This can be attributed partly to

the lack of sufficient human resources at the Centre. If accurate records were kept this would assist with the measurement of the work carried out, as well as with the tracking of trends and improved forecasting which should be an important part of the Centre's crime prevention strategy.

The fact that South Africa has adopted the developmental approach to Social Welfare, in line with international conventions, has obvious implications for the training and re-training of social service professionals. Although the need for new and specialised forms of training is pointed out in the White Paper, training institutions have lagged behind in restructuring their curricula to fit the new approach.

With respect to *clients and coalitions*, although the institutional stakeholders at the Centre have established quite effective working relations with each other, the same cannot be said about the relation between the Centre and its clients and other associated partners. Community involvement in the Centre activities is crucial if offenders are to be successfully re-integrated into their respective communities. However, the Centre has not fully succeeded as yet in establishing meaningful relationships with the clients and communities it serves.

With respect to *commitment*, there is no doubt that commitment from the staff serving on the management to the Centre is unquestionable. At the national and provincial level government have shown its commitment by introducing new policies and legislation and launching Centres such as the Mangaung Centre to deal with children in conflict with the law. However it has not shown similar levels of commitment in providing the required level of resource to enable the Centre to perform optimally.

#### **4.2.2. Change Management**

With respect to change management, the evidence suggests that this aspect of the implementation process in the organisation has not been well planned. The induction programmes that the Centre has introduced to integrate new appointees are inadequate and does not cater effectively for their needs. The relatively poor performance of the staff working with Sotho/Xhosa speaking clients is indicative of an unwillingness to change, and

has so far been handled ineffectively by the Centre management.

#### **4.2.3 Top-down vs. Bottom -up approaches**

Evidence of both approaches has been visible at the Centre. In terms of the top-down approach, one may argue that the development and provision of legislation and resources for the implementation of the policy has been largely an initiative from National and Provincial government. However, the lack of regulations to guide the implementation of the policy has meant that the Centre had to take the lead and develop and set their own objectives and standards. The setting of targets, development of diversion programmes for children, provision of continuing training has largely fell at the feet of the management of the Centre. In this manner they have been able to show that they possess the necessary motivation and commitment to try and make the policy work as effectively as possible under the circumstances.

### **4.3 ACHIEVEMENTS, LIMITATIONS, CHALLENGES AND CONSTRAINTS**

#### *Achievements*

Credit has to be given to the adaptability and resourcefulness of the Centre management for the development of a shared vision for the Centre. At the same time, although the Centre's resources are limited, they have been shared amongst the various stakeholders when the need has arisen, as is the case with motor vehicles shared by members to transport offenders. Co-operation between the stakeholders has also been a prominent feature of the Centre. Despite concerns about the reliability of the record keeping at the Centre, there seems to have been an overall reduction in the number of children arrested and brought to the Centre, as well as an increase in the percentage of children placed in diversion programmes. In addition, the award from the United Nations Human Settlements Programme (UN-HABITAT) in 2008 represents an important acknowledgement for the pioneering work of the Centre.

#### *Limitations*

The weakness in the area of policy can have an important knock-on effect in the area of implementation. In terms of the Mangaung Centre the lack of clear policy guidelines and regulations from the National Government has meant that there have been no set standards of

operation, role clarity or performance management. The Centre Management have had to develop their own objectives and measures to gauge the performance of staff. The Centre has also had to operate in a somewhat limited capacity as it has not been provided with sufficient human and physical resources to carry out its work optimally. The lack of sufficient resources has placed obvious pressure on the workloads of the current staff complement. The lack of physical resources such as office space, motor vehicles and sufficient holding cells has also limited the impact the Centre could have made in the communities it serves. The lack of the necessary skills and commitment by many of the junior staff in dealing with the Xhosa and Sotho clients of the Centre has also been a weakness.

#### *Challenges and Constraints*

From its inception the Centre has faced a number of challenges, including the unwillingness on the part of the Provincial Government to commit sufficient personnel to the Centre, the lack of a clear legislative framework in which to operate, and the lack of clear role-definition. The Centre has also been forced to function below its capacity because of a lack of resources, both tangible and intangible. In terms of tangible resources productivity of the Centre has been compromised by the lack of sufficient probation officers, office space, holding facilities and motor vehicles. The Centre's ability to fully implement the White Paper has also been compromised by the lack of motivation, commitment and practical experience of some of the junior staff, in particular probation officers.

#### **4.4 RECOMMENDATIONS**

In the light of the above findings, the following recommendations are made:

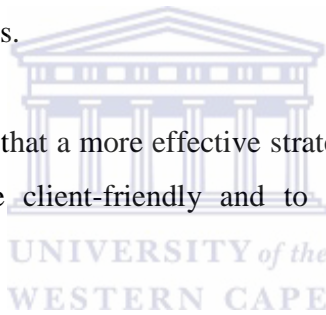
- It is important that implementation of policies be monitored and evaluated at all times. It is therefore recommended that a policy and evaluation unit be established within the Office of the Premier of each Province to specifically focus on monitoring and evaluation of policy implementation and to recommend corrective action where necessary.

- At present social workers cannot be said to have specialised fields of practice as all of them follow the same curriculum during their training. It is therefore recommended that the social work profession be diversified in terms of specialised fields of practice to allow students to follow specialised career paths. It is further recommended that the National Department of Social Development engage training institutions to offer more specialised fields of training to students.
- Presently the required number of years experience to be considered for a probation officer's post is three years practical experience. This is inadequate, especially considering the fact that they have to work in a field which requires specialist knowledge of legislation, policy and practice. In the light of this it is recommended that the number of years required to work in this area be increased from three to five.
- With regard to the lack of experience of probation officers, it needs to be noted that on the job training by itself will not lead to better service delivery. There is an additional need for attitudinal change, especially from those who work with clients who speak Sotho / Xhosa or other African languages. It is therefore recommended that such staff undergo race sensitivity and language training, and that recruitment and selection policies are reviewed accordingly.
- It is recommended that the Mangaung Centre develops an effective strategy for dealing with change and puts this into practice. This could be achieved through the development and introduction of a comprehensive socialisation programme which helps new appointees to adopt the organisational values of the Centre as their own. Together with an effective mentoring programme this should help to ensure that newcomers feel part of the organization and buy-in to its values and practices.
- Probation officers have very high caseloads at the Centre and since much of their time is taken up by administration they do not get to spend sufficient time in assisting with behaviour modification and capacitating clients. Together with the lack of a sufficient number of probation officers, this clearly hampers service delivery. In addition to



motivating for additional staff, it is recommended that probation officers should be enrolled in mandatory courses in office administration in order to help improve the turn-around times for finalising cases.

- It is also recommended that additional probation officers be appointed as a matter of urgency to alleviate the current problems surrounding their case loads. This will have the benefit of freeing up time for them to engage in prevention activities in the local communities.
- In terms of the lack of adequate resources, both human and physical, it is recommended that the Provincial Government commit more resources to the Centre for staff development, the appointment of additional staff, and the acquisition of the necessary physical resources.
- Finally, it is recommended that a more effective strategy is designed and put in place to make the Centre more client-friendly and to encourage the involvement of communities in its work.



#### **4.5 CONCLUSIONS**

With respect to the implementation by the Mangaung One Stop Child Justice Centre of the White Paper for Social Welfare and associated policy and legislation, the findings of this research cast doubt on the generally accepted wisdom that South Africa has been characterised by good policy but poor execution in the period since 1994. Good policy involves the development of clear guidelines and regulations to guide and inform the work of policy implementers, as well as appropriate monitoring and evaluation mechanisms to assess progress. However, this has not been the case with respect to the policy objectives of the White Paper relating to children in conflict with the law. Regulations to guide the work of implementers were promised but were never forthcoming. This has meant that the Centre Management has had to struggle to develop its own vision, objectives and guidelines. An effective monitoring and evaluation system has also not been put in place.

The conditions for successful implementation were also not created before or after the enactment of the policy. This was exposed in this research report through the use of the 5C Protocol which highlighted a number of important shortcomings, particularly with respect to the lack of sufficient human, financial and physical resources.

Another shortcoming in the operation of the Centre is the lack of a system for maintenance of accurate records. Such a system is essential for the monitoring and evaluation of progress. If accurate records are not kept it is impossible to keep track of trends, to carry out forecasting and work on prevention strategies. It is also difficult to provide convincing data to justify increases in the Centre's budget. Another aspect of the Centre's work that needs to be improved concerns the establishment of more effective links with the communities that it serves. This is to ensure the Centre's legitimacy in the eyes of such communities.

Despite such shortcomings, the Mangaung One Stop Child Justice Centre has still managed to play an important and internationally recognised role in the provision of prevention and intervention programmes, as well as care and support services to children in conflict with the law. Although clear national guidelines and regulations for the operation of one stop centres have not been forthcoming, the Centre has developed its own vision and objectives. Cooperative linkages have also been forged amongst all the departments involved in the Centre's work. And despite concerns about the reliability of the record keeping at the Centre, there does seem to have been an overall reduction in the number of children arrested and brought to the Centre, as well as an increase in the percentage of children placed in diversion programmes.

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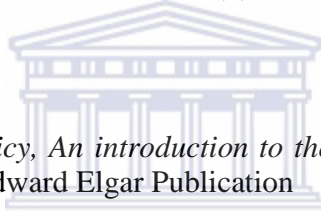
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## APPENDIX 1

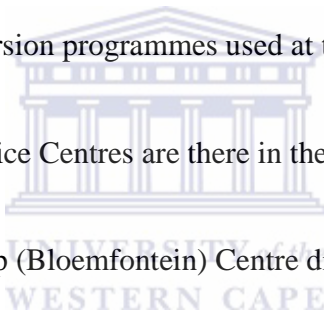
### Interview Schedule for Centre Management and Staff

1. To what extent is there a clear vision and direction about the implementation of the 1997 White Paper for Social Welfare with regard to beneficiaries?
2. To what extent is there adequate understanding and agreement on the key goals and objectives among the role players and key external stakeholders at the OSCJC of this policy?
3. To what extent do you feel that you get support from above and /or below?
4. To what extent does the staff dealing with implementation have the necessary skills to achieve successful implementation?
5. What training, if any, is provided to staff to develop their skills in this respect?
6. Can you identify any unintended consequences from the implementation of this policy?
7. To what extent is there buy-in into the policy and what it intends to achieve from the role-players and key external stakeholders at the centre?
8. To what extent are the tasks, roles and responsibilities allocated to each of the role players and key external stakeholders defined?
9. To what extent has there been resistance to the change in the objectives and goals of the policy among role-players?
10. To what extent has the Department of Social Development anticipated the problems that might hinder successful implementation?
11. To what extent has the policy achieved its envisaged objectives and consequences?
12. What does the concept 'integrated service delivery' mean to you?
13. To what extent is there collaboration among the different role-players and external stakeholders at the OSCJC?
14. To what extent have there been differences in interpreting the policy objectives between role-players and external stakeholders? If there were any how were these resolved?
15. What have been the key change management issues in implementing the new policy?

16. How successful has the management at the OSCJC handled these change management issues?

**Additional questions for Social Development Section**

1. Please give an Organogram of the Centre.
2. How many Social Workers are presently stationed at the Centre?
3. What has the staff turnover been over the past three years?
4. Have those Social Workers who have left been replaced?
5. What do you consider to be less serious crimes?
6. What are the sentencing options available to a magistrate?
7. What is the number of diversion programmes used at the Centre? Please list them by name and purpose.
8. How many other Child Justice Centres are there in the country and in which Provinces are they located?
9. In what respects is One Stop (Bloemfontein) Centre different from these other Centres?
10. What is the role of the Assistant Probation Officers?





## **APPENDIX 2**

### **Interview Schedule for Parents/Guardians**

1. When were you first involved with the One Stop Child Justice Centre?
2. What were the reasons for your involvement with the Centre?
3. On how many occasions have you been involved with the Centre?
4. What kinds of support were you given by staff at the Centre?
5. Did you feel that the staff were helpful and sympathetic to your situation?
6. Can you describe any positive experiences you had at the Centre?
7. How have your child's behaviour changed, if at all, since being on the programme at the Centre?
8. Are there things that you did not like about the Centre and/or its staff?

