

Community Law Centre

CHILDREN

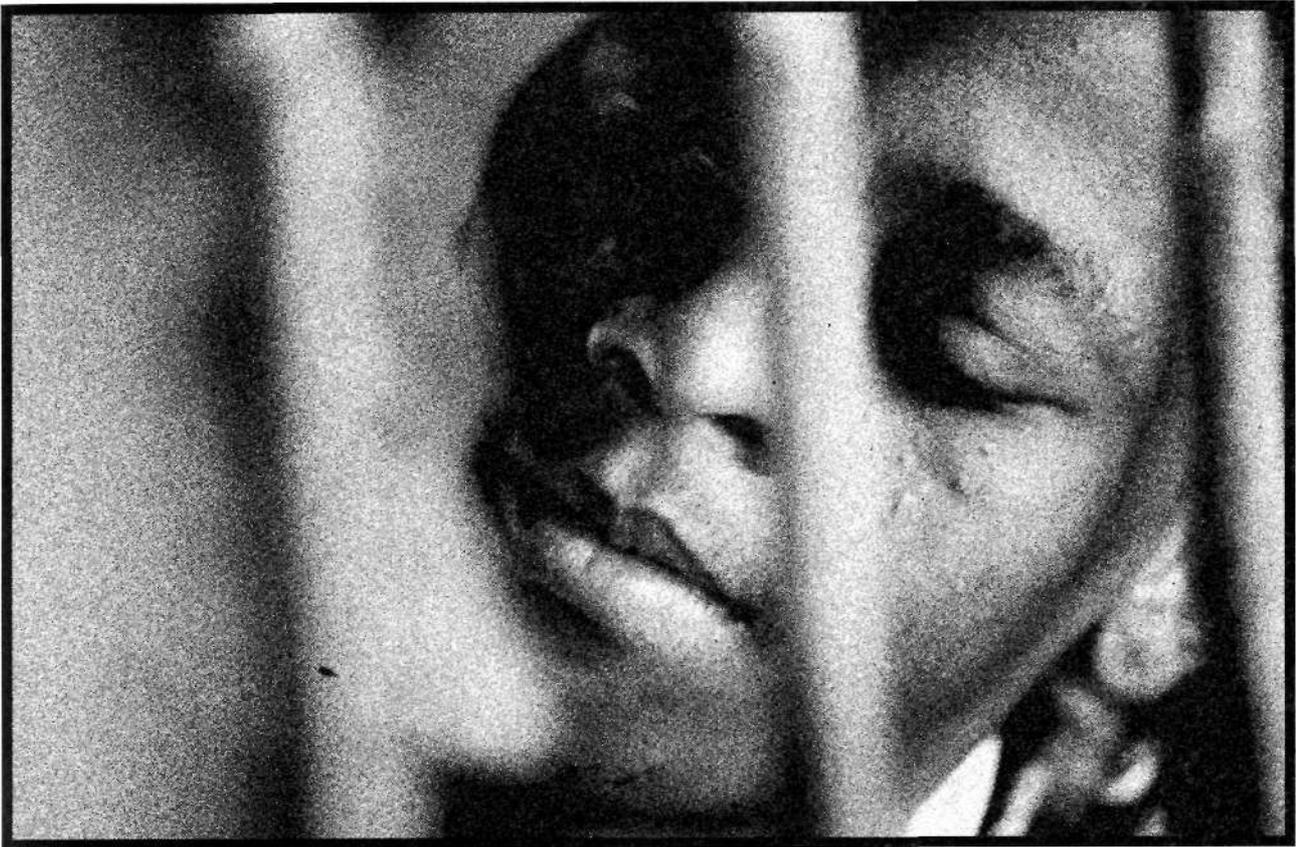
IN PRISON

IN SOUTH AFRICA

*A Situational
Analysis*

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Introduction

"Every child has the right... not to be detained except as a measure of last resort, in which case, in addition to the rights a child enjoys under sections 12 and 35, the child may be, detained only for the shortest appropriate period of time, and has a right to be ... treated in a manner, and kept in conditions, that take account of the child's age." 1

(SA CONSTITUTION, SECTION 28)

"Children in Prison in South Africa" attempts to shed light on the often desperate situation of children in prisons in this country. In order to conduct the study, researchers visited prisons all over the country and prepared reports on the conditions they found.

Certain key human rights principles and documents provided the framework for the report and are listed

in order of relative status. They are: the Bill of Rights (Chapter 2) of the South African Constitution (1996), particularly section 28 which describes the rights of the child and section 35 which describes the rights of arrested, detained and convicted persons; the UN Convention on the Rights of the Child (1989) which was ratified by South Africa and is also binding; and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990) which provides guidelines but is not binding.

The information was compiled mainly through interviews with the children. Thus, although some of the information relies on individual accounts, its value is that it presents, through the eyes of the children, the often shocking conditions in which they are kept. The balance of the information is derived from observation by the researchers and interviews with staff. Statistics were provided by the Department of Correctional Services.

In the majority of institutions visited, the children were bored, listless and demotivated. Often they were terrified, although they proved extremely reluctant to talk about the violence they experience in prison,

1 The Constitution of the Republic of South Africa (Act 108 of 1996).



almost certainly because they fear reprisals. Some of the stories they told gave us a hint of just how frightened some of these children are and how alone and vulnerable they feel.

The obvious isolation of the children is compounded by the fact that "very, very few of them are in regular touch with their families. Often they have been moved so far away from the family home that nobody can afford to visit them. Sometimes, even though the families live close by, they do not come, and the children are unable to explain why. On many occasions, the children said that their families do not even know they are in prison or where they are being held. The social workers at most of the prisons report that the greatest preoccupation of the children is to get in touch with their families, and it is clear that these long separations are a great cause of unhappiness.

Against the clearly unsatisfactory conditions in which many of the children are kept, must be weighed the difficulties of providing for the special needs of children in 230 prisons across a vast geographical area, each of which accommodates only a few children. Out of a daily average of some 135 000 prisoners in South Africa, some 1 100 are children. The real question is, of course, whether many of those children should be

in prison at all, or whether other options could have been found for children convicted of non-aggressive crimes or serving short sentences.

The information about the children's experiences during their trials and the pre-trial period is gleaned partly from the records available at the prison and partly from the children themselves. It is a feature of our criminal justice system that information about trials and the reasoning behind judgements and sentencing is impossible to obtain without going back, in each case, to the physical records of the trial in court.

We have thus been forced to rely on generalities and, more pertinently, on the patterns presented when looking at different aspects of the children's experiences in court. Hence, when looking at the issue of legal representation, the sheer numbers of children who express the view that they have no confidence in 'state lawyers' allow one to conclude that this is the general trend. The repeated remands, which bring a child back to court sometimes as often as 25 times, tell their own tale. Sentencing, too, occurs in patterns, although certain information - such as the age of co-accused, the factors driving the judgement in each case, and so on - remains tantalisingly elusive.

Because this study leans so heavily on interviews with the children, one is also driven to search for the meaning behind the words. In their accounts, or in their silence, about violence in the prisons, fear leaks through their allusions and denials. The lethargy and boredom that chain them to their beds barely conceals the depression and anxiety of children whose families, all too often, seem to have abandoned them. One can only imagine the petty humiliations of their daily lives, the lice in the blankets, the clothes stiff with dirt and sweat, the freezing nights in the cell, the bullying, the grey lumpy porridge, the terror and the stench of the latrines.

Some of these children have done things that cannot be tolerated by society and for which society must find answers. Others have taken a path that cries out for restorative justice, for rehabilitation and a shifting of the balance of their lives. Some have simply stolen to eat, to provide for younger siblings, to survive.

The purpose of the research was to compile information on sentenced prisoners, but because considerable work has been done on awaiting trial children, some information on these unsentenced children is included in the report by way of comparison. Indeed, many of the researchers on the present project were involved in a prior monitoring project undertaken on behalf of the Inter-Ministerial Committee on Young People at Risk (IMC). The IMC monitoring project, which took place between August 1996 and May 1997, was designed to ensure compliance with the limitations built into the prescriptions contained in an amendment to section 29 of the Correctional Services Act (Act 8 of 1959) which provides for exceptions to the general rule that children should not be detained in prisons or police cells. It needs to be noted that awaiting trial children are the responsibility of the Department of Welfare, with the Department of Correctional Services responsible only for their safe custody. By appointing people who had been involved in the Section 29 investigation, the current project gained researchers who were familiar with the prisons and were able to focus strategically on areas crucial to this report.

The problems arising from collective responsibility for children in prison are manifest. Currently, the responsibility is shared between the Departments of Correctional Services, Welfare, Justice, Health and Education. The Department of Correctional Services

is responsible for sentenced children and for the safe custody of awaiting trial children in prisons. The Department of Welfare is responsible for the welfare of all awaiting trial children. The Department of Health is responsible for health services in prisons. The Department of Education is responsible for reform schools. The Department of Justice is responsible for signing the warrants. It is clear that these arrangements result in a lack of coordination which impacts on the best interests of the child.

Some significant patterns emerge from statistics obtained from the Department of Correctional Services. Figure 1 shows that a considerably larger number of children is sentenced for economic crimes (48.0%) than aggressive crimes (32.0%), suggesting that alternative forms of punishment (diversion) could have been applied in at least some of these cases. Figures are drawn from the statistics supplied to the researchers by the Department of Correctional Services for children in prison on 6 August 1997 (they are figures for one day as opposed to a national annual figure). All figures relate to children under the age of 18.

FIGURE 1

NUMBER OF CHILDREN SENTENCED TO IMPRISONMENT BY TYPE OF CRIME 6 AUGUST 1997

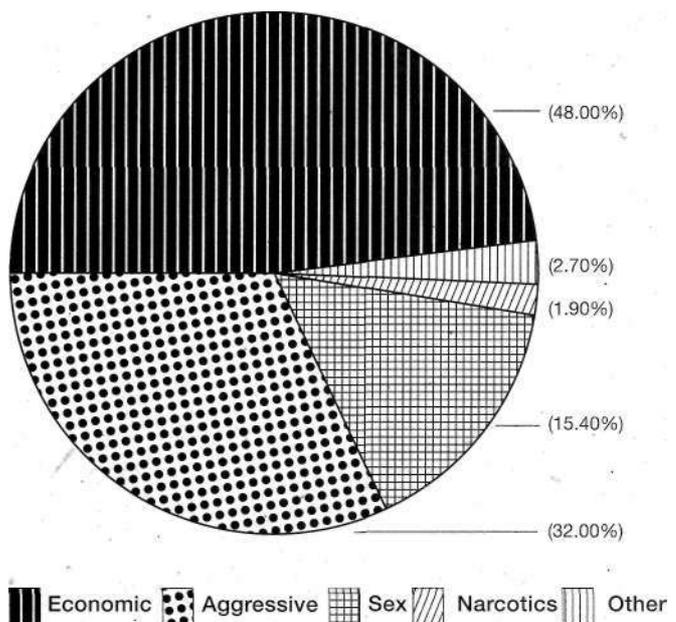
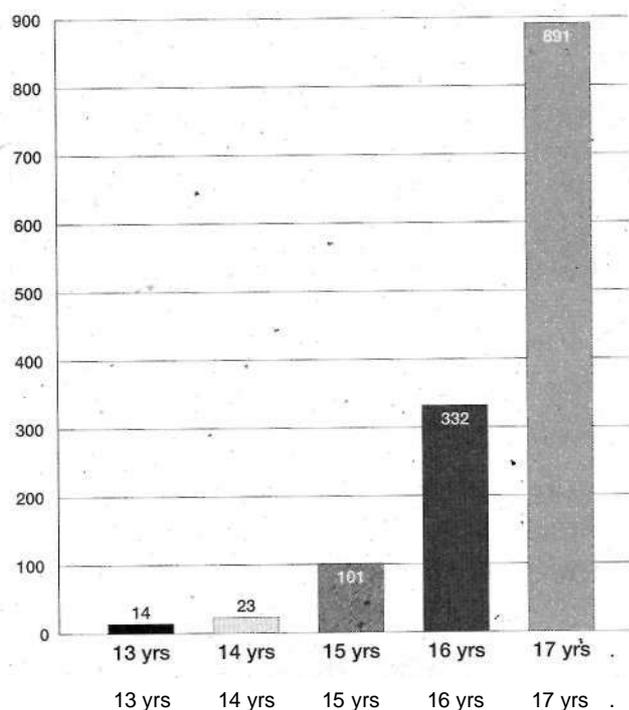


Figure 2 gives a breakdown of children in prison per age as at 30 September 1997 and reflects that the number of children in prison increases according to age. However, although the number of children in the 7-14 year group is small, some of the sentences they are serving seem very heavy. The figures are extracted from statistics given to the Community Law Centre by the Director of Correctional Services. The statistics reflect the position on 30 September 1997, some months after the research took place.

FIGURE 2

TOTAL NUMBER OF CHILDREN SERVING SENTENCES BY AGE AS AT 30/9/1997



In addition, and revealingly, a comparison of the total number of children in prison in 1996 with that of the period January to August 1997 demonstrates that there has been a considerable increase in the number of children sentenced to prison. Figure 3 shows the total at the end of the eight month period (January to August 1997) as 9152, compared to the 1996 full year figure of 9893. A projection based on figures received for the first eight months of 1997 indicates that the likely figure for 1997 would be almost 14 000 children, assuming that the rate of increase does not escalate further.

FIGURE 3

NUMBER OF CHILDREN SENTENCED TO IMPRISONMENT T96 - 1997

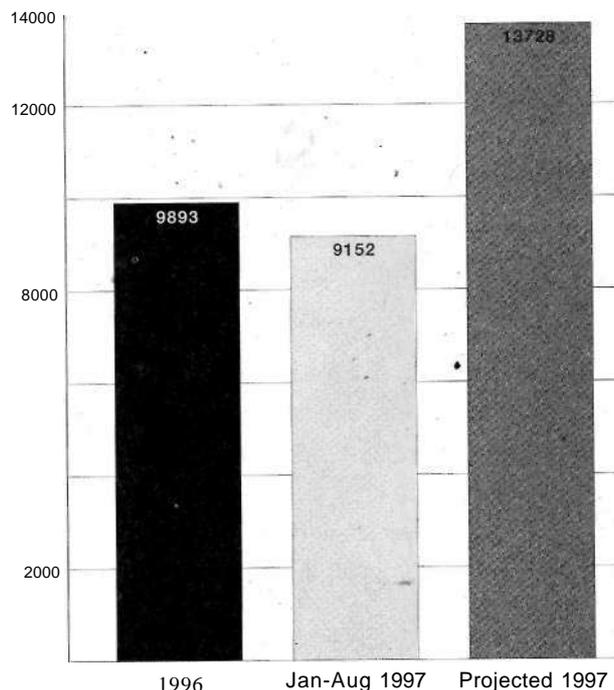
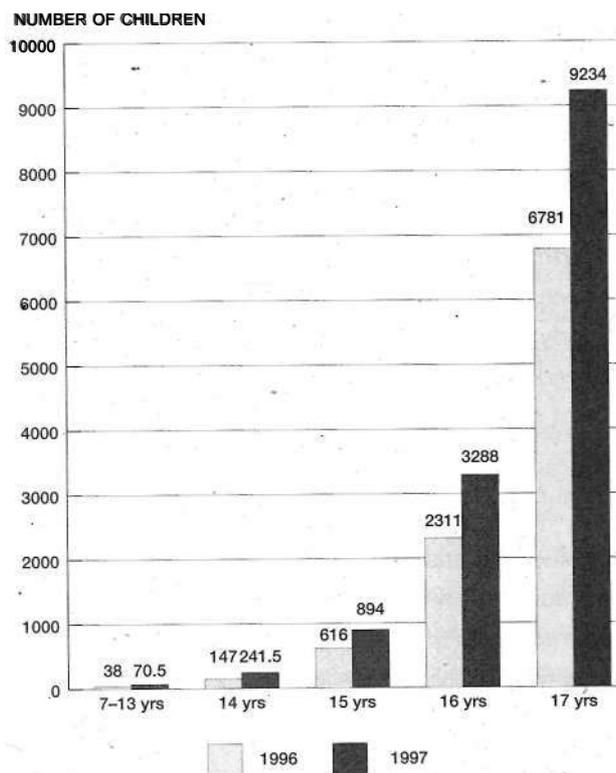


Figure 4 provides a comparison of children committed to prison in the course of 1996 with a projection (again based on figures received for the first eight months of 1997) per age group.

FIGURE 4

1996 - 1997 (PROJECTED)



In addition, figures obtained from the Department of Correctional Services reflecting the number of children in prison on a single day, show a 51,9% increase in the number of children sentenced to terms of imprisonment from 896 in July 1996 to 1361 in September 1997.

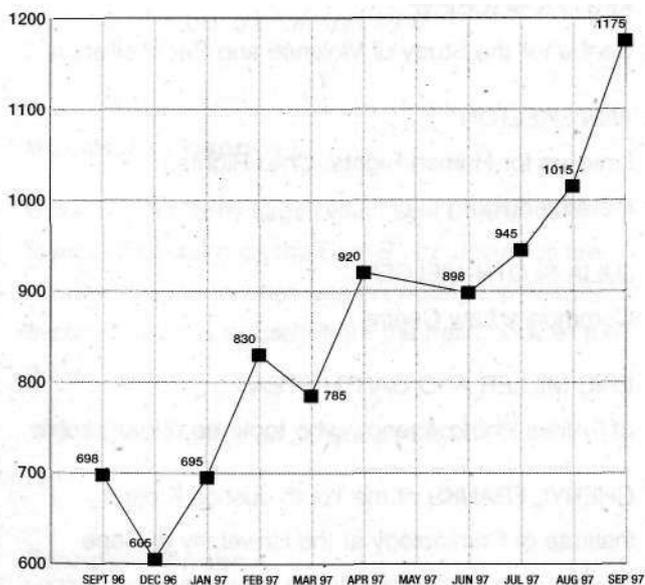
By contrast to the high number of juveniles in prison, it needs to be noted that NICRO, which runs formal diversion programmes for juvenile offenders, has indicated that the total number of children who were referred to the YES programme, pre-trial community service and other options offered by the organisation for the year 1996 was 4421, less than half the number (9893) sentenced to imprisonment that year.

There has been a similar substantial increase in the number of children awaiting trial in prisons. On 31st December 1996, there was a total of 604 children awaiting trial in prisons. By 30th September 1997 this figure had almost doubled to 1182 children.

FIGURE 5

NUMBER OF CHILDREN AWAITING TRIAL IN PRISONS

SEPTEMBER 1996 - SEPTEMBER 1997

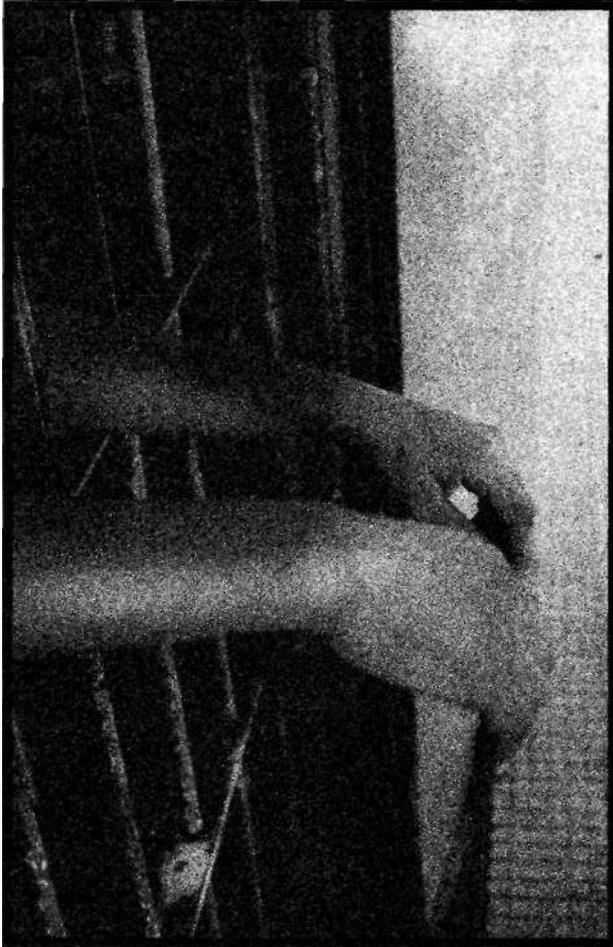


The sharp increases in imprisonment of children, both to await trial and to serve sentences must be a source of concern in the new constitutional democracy in South Africa. While policy initiatives and legal development proceed towards institutional reform and the creation of a new juvenile justice system that

will comply with international law and South Africa's international commitments following ratification of the UN Convention on the Rights of the Child (1989), in practice children are being incarcerated at an ever increasing rate. Given the conditions under which most children are held, there is little hope of rehabilitation or educational and vocational development taking place, especially if most children are destined to serve short sentences. Clearly, the focus needs to turn to diversion options, where at all appropriate and possible, and to better utilisation of alternative sentencing options.

It is often said that prison is no place for a child. Despite commendable individual efforts by officials at all levels of the system, many of prisons visited by the researchers on this project are dehumanising places and must, by their very nature, produce hardened, bitter children without faith in the goodness of society. And yet, disturbingly, what happens in these places, - their very disorder and cruelty, is largely hidden from view.

This is why this survey has been important, because it opens the window just a little on what really happens to the children we send to prison: It provides a hint of what life is really like for those who society is too inclined to throw away. And in doing so, it may just breed the realisation that what is required is a gentler approach - an approach which seeks to restore, to rehabilitate and to save our children from the crime into which they are, too-often, driven by the poverty and disadvantage of their lives.



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• Prisons Visited

Please note that in some cases, there is more than one facility for juveniles in one complex. For example, Westville Youth Centre has sections for sentenced and unsentenced male and female children. The prisons visited were as follows:

Barberton Juvenile Prison

Barberton Juvenile Prison is situated in 'beautiful mountainous surroundings' just outside the town of Barberton in Mpumalanga. The juvenile prison is completely separate. The adult and maximum prisons are on a farm some distance away.

The prison building is very old and used to accommodate prisoners who worked in the stone quarry many decades ago. Much of the stone has been used in the construction of the prison. Although old and shabby, the prison is fairly clean and well-maintained. Efforts have been made to 'brighten up' the class; rooms and workshops.

The visit took place on 9 April 1997.

Boksburg Prison

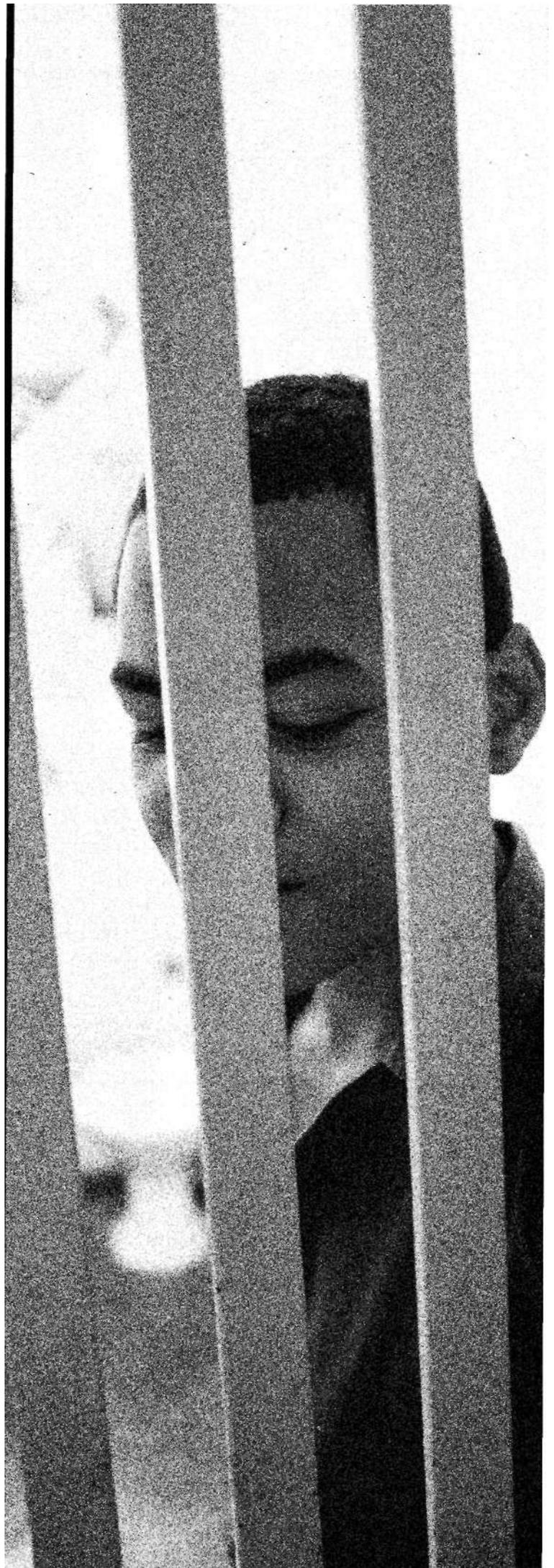
Boksburg is a fairly large prison built outside the town of Boksburg on the East Rand. Juveniles are accommodated in what was previously the hospital section, which is discrete from the main body of the prison.

The visit took place on 20 March 1997.

Brandvlei Prison

Brandvlei Prison is outside the town of Worcester in the Western Cape. It has a separate youth section. It has a dedicated staff who deal only with the juvenile prisoners. The school, too, caters only for juveniles.

The visit took place on 11 June 1997





Ekuseni Youth Centre

The Ekuseni Youth Development Centre, outside Newcastle in KwaZulu/Natal, is a project of the Ministry of Correctional Services, the President Mandela Children's Fund and the private sector and education institutions. It is a pilot project which aims to reflect the progression "from an ethos of military style management to one concerned with rehabilitation and more in line with civil society" %

Johannesburg Medium A Juvenile Prison

Johannesburg Prison is situated five kilometres from Soweto, between the Chris Hani Baragwanath Hospital and the new Soweto suburb of Naturena. The unsentenced juveniles are housed in Medium A in a four storey wagon wheel building.

The visit took place on 17 March 1997.

Kroonstad Prison

Kroonstad Prison in the Free State is situated on the outskirts of the town of kroonstad. The building is not modern, but a new section is being built which is intended to house sentenced prisoners under the age of 18 years as well as a school. The prison has accommodation for both male and female prisoners.

The visit took place on 17 July 1997.

Leeuwkop Medium B Prison

Leeuwkop Medium B is some 20 kilometres north of Johannesburg on a large farm. Like Barberton, it is part of a large prison complex and is situated at some distance from the other adult prisons from which it is completely separate.

The prison consists of 30 communal cells built around a courtyard or 'binneplaas', the size of two soccer fields. The walls are prefabricated and faced with corrugated iron. A double security fence surrounds the prison.

The visit took place on 14 February 1997.

2 Statement by Minister of Correctional Services, Dr Sipo Mzimela, promotional package, Ekuseni Youth Development Centre (undated)

Malmesbury Prison

Malmesbury Prison is in the Western Cape Province. The prison is chronically overcrowded. Although it has a maximum capacity of 198 prisoners, there were 353 prisoners on the day of the visit. As a result, all juveniles under the age of 18 (both sentenced and unsentenced) are housed in a single cell.

The authorities said that their cells are always full because they continually receive juveniles from other centres. Some of them remain in prison for long periods while waiting placement in reform schools. There are no programmes of any kind, no education, and there is no social worker for the children.

The visit took place on 7 July 1997.

North-End Prison

North-End Prison is in the town of Port Elizabeth in the Eastern Cape Province. It is a small prison which caters for short to medium term offenders.

The visit took place on 25 February 1997.

Odi Prison

Odi is in the town of Shosanguve, north of Pretoria. It is a relatively new prison, built in 1983, and is in good structural condition. It is built on the model of large communal cells. Attempts have been made to make certain parts of the prison attractive. The courtyard through which visitors walk is paved and have container plants, and some of the courtyards are grassed and planted. Generally, however, the internal passages are dark.

The juveniles are kept in a separate section of the prison, with the younger juveniles further separated by gates and a corridor. The cells were crowded and the stench from the toilets overwhelming.

The visit took place on the 15 April 1997.

Pietermaritzburg Prison

Pietermaritzburg Prison is on the outskirts of the town of Pietermaritzburg. Although a relatively new prison, it shows signs of deterioration and the cells

are in poor condition. Mainly a prison for sentenced adult males, facilities for juvenile prisoners are poor.

The visit took place on 18 March 1997.

Pietersburg Prison

Pietersburg Prison is in the Northern Province. It contains a section for male and a section for female offenders. These are divided into two sections, one for sentenced and one for unsentenced offenders. In the female section, there is no separation according to age.

The visits took place during April/May 1997

Pollsmoor Medium A Section & Admission Centre

Pollsmoor Prison is in the Western Cape, in a suburb just outside Cape Town. The Medium A Section houses the sentenced male juvenile prisoners, and the Admission Centre contains a section which houses sentenced juveniles under 21 years of age. The Admission Centre is where juveniles are kept pending their transfer elsewhere. As such, it offers no programmes, although children often spend up to a year in this facility. It is chronically overcrowded.

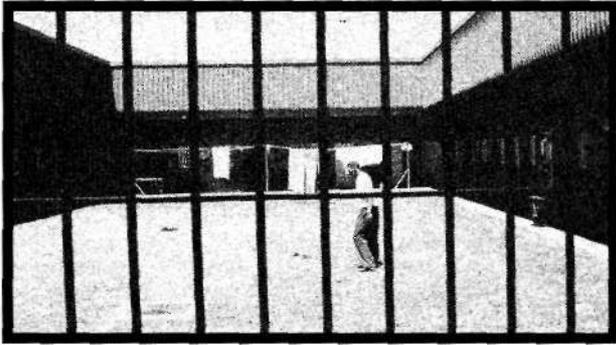
The visits took place on 16 and 22 April 1997.

Pretoria Central Medium B Juvenile Prison

Pretoria Prison is situated in Pretoria, alongside one of the major access routes. The section for sentenced juveniles is administered by the Pretoria Central Prison, although the boys are accommodated in a block behind the main prison (Medium B). This is a four storey building which commenced construction in 1993, using prison labour. At the time of the visit, it had not been completed. Adult male prisoners who are teachers and monitors as well as those on the work teams are accommodated on the bottom floor, while the juveniles are housed on the middle two floors.

The top floor is used for their education and training.

The visit took place on 17 February 1997.



Pretoria Local

Pretoria Local is a large prison which accommodates both sentenced and unsentenced juveniles. Only short term prisoners are accommodated at the prison. They are referred here for treatment or if they are not 'cooperating'. Because of the small number of escapes from the prison, it is seen as a suitable place to send dangerous offenders.

The visit took place on 27 April 1997.

Rustenburg Prison

Rustenburg Prison in the Northern Province has been converted from a reformatory school into a prison for juveniles under the age of 21. It was reported that the building has not been altered to make it look more 'prison-like' and, in this sense, it is very unlike other prisons. It has dormitories rather than cells. There appears to be free movement between the rooms. The facility is secured with a control security door at the entrance and steel bars on the windows. The prison accommodates male prisoners under the age of 21.

Rustenburg holds juvenile offenders from all over the North West Province and a few from Gauteng. The juveniles are all serving sentences of under five years and are selected from different prisons and brought here for rehabilitation and training. The aim is to provide the boys with skills they will be able to use on their release.

The visit took place on 16 April 1997.

St Albans Prison

St Albans Prison is in an agricultural area outside Port Elizabeth in the Eastern Cape Province. The prison has no separate facility for sentenced juveniles.

The juveniles are housed in a separate section within the adult prison.

Three visits took place on 5 December 1996, 30 January 1997 and 17 June 1997.

Thohoyandou Prison

Thohoyandou Prison is in the far northern part of the Northern Province. It consists of three prisons: Thohoyandou Medium A for sentenced prisoners, Medium B for awaiting trial or unsentenced prisoners and a women's prison, also divided between sentenced and unsentenced offenders. •

The visits took place in April/May 1997.

Upington Prison

Upington Prison is in the Northern Cape. It is situated in rural surroundings with adjacent farmland.

The visit took place on 3 December 1996.

Virginia Prison

Virginia Prison in the Free State is a small prison set in a rural area surrounded by agricultural fields which are worked by the prisoners. The prison tends to be used for prisoners serving shorter prison terms; long term prisoners are usually transferred to other prisons in the province. •

The visit took place on 17 July 1997.

Wellington

Wellington Prison is situated just outside the town of Umtata and built in the form of a fort. It is regarded as the main prison in the former Transkei.

The visit took place from 2-4 July 1997.

Westville Youth Centre

Westville Youth Centre is in Durban, KwaZulu/Natal. The Centre is part of a prison complex which includes a section for children awaiting trial, and sections for male and female juveniles.



1 • Definition of Children and Juveniles in South African Prisons

"In this section 'child' means a person under the age of 18 years", (SA CONSTITUTION)

"The Convention defines as a child every human being under 18, unless national laws recognise the age of majority earlier", (UN CONVENTION)²

"A juvenile is every person under the age of 18. The age limit below which it should not be permitted to deprive a child of his or her liberty should be determined by law ..." (UNRULES 11 (A)).⁴

The Age Question

The Department of Correctional Services has a definition for "juvenile" that is different from that of the United Nations Convention on the Rights of the Child (1989) and the South African Constitution (1996). The Department of Correctional Services defines a juvenile as a young person under the age of 21. The UN Convention and South African Constitution define a child as a young person under the age of 18 years.

This complicated the task of collecting data. It also, frequently, results in the imprisonment of children together with older persons between the ages of 18 and 21.

Determining correct age

Another difficulty is the fact that prisoners sometimes falsely claim to be under 18 years of age. At St Albans, one of the 'children' said he had forged his

³ The United Nations Convention on the Rights of the Child (1989), ratified by South Africa in 1995.

⁴ United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990).

• **A YOUTH WHO HAD BEEN ADMITTED AS A 17 YEAR OLD at St Albans claimed that it was very easy to change a birth certificate by pasting the age you want to be and photocopying it. He said he was really 19 years old and that the police do not check the birth certificates to see if they are fraudulent. He also boasted that it is very easy to do crime and to bribe the police. In order to hi-jack a car, he said, you need R700 cash and a bottle of brandy.**

birth certificate (by pasting on a new age and photocopying the original) and was, in fact, 19 years old. It was found that other adult prisoners had also lied about their age at this prison. On interviewing inmates at Barberton, the researcher found that many of the so-called children had lied about their ages in order to obtain "free" bail from the courts or to secure lighter sentences.

This has had repercussions at the Youth Centre at St Albans, where the adults (claiming to be youth) intimidate the children.

Sometimes, the error is made by the prisons themselves, even when children are open and honest about their age. One inmate said he was not 17 but 14 and that this could be verified by his mother, although he has no birth certificate to prove it.

In many of the cells at Leeuwkop, young people of 17 years of age were being held with older prisoners. The authorities at Leeuwkop said this was because prisoners falsely represent themselves as juveniles; yet the researchers reported that they found these older boys quite candid about their ages. Two young men of 23 and 26 years of age in the admittance cell said they did not know why they had been sent to the juvenile section, and others interviewed openly admitted to being 21 and 22 years of age.

At Pretoria Local, considered a suitable place to send 'dangerous' accused because of the low number of escapes, a contrary trend emerged. Here, it became apparent that many of the unsentenced children

under 18 had been admitted as juveniles over the age of 18. The head of the prison expressed himself worried by this and had adopted the practice of referring boys who looked very small and young to a doctor for an assessment. He produced records of children he had referred in this way.

Separating Adults from Children

"Every child has the right... to be kept separately from detained persons over the age of 18 years ..."

(SA CONSTITUTION, SECTION 28)

"Any child deprived of liberty shall be separated from adults unless it is considered in the child's best interests not to do so. "

•(UN CONVENTION, ARTICLE 37)

"The principal criterion for the separation of different categories of juveniles deprived of their liberty should be the provision of the type of care best suited to the particular needs of the individuals concerned and the protection of their physical, mental and moral integrity and well-being. In all detention centres juveniles should be separated from adults, unless they are members of the same family. " (UN RULES, 28-29)

International guidelines and the South African Constitution require that children under the age of 18 must be kept separately from adults. It is normally considered permissible for juveniles to be brought together with adults for education and vocational training, but they must be separated at night.

In the majority of facilities, juveniles under the age of 21 are kept separately from adults over this age, although children under the age of 18 are frequently to be found in cells with juveniles over this age.

At Leeuwkop, which consists of several prisons at a distance from each other, the juvenile section (Medium B) is physically at a distance from the adult male prisons and completely separate. The authorities at this prison were in disagreement about what the regulations say about the accommodation of all prisoners under the

age of 18 with their own age groups. The social worker was of the opinion that all age groups should be held together, while the institutional committee person thought the policy was to separate the younger inmates from the older ones.

Despite this, most of the really young boys were held in one cell, although the cell also contained juveniles of 18 years old. At the time of the visit, this cell, designed for 28 prisoners, had a population of 36. In most of the other cells, the ages were mixed and included 17 year olds to juveniles aged 21 and older.

' At Pretoria Central, all the juveniles are accommodated on two floors of the prison. Each cell is spacious and houses 11 or 12 inmates. However, no attempt had been made to separate the young children from the older juveniles, and there were many prisoners there who were older than 21 years. Despite this, the children interviewed did not complain of harassment by the older inmates.

At Malmesbury, juveniles are locked up after a short recreation period in the morning to avoid association with adults.

At Pretoria Central, the sentenced male juveniles are accommodated in a block behind the main prison in Medium B. This a four-storey building which, at the time of the visit, had not been completed. Juveniles are accommodated on the middle two floors. The top floor is used for education and training. Adult males

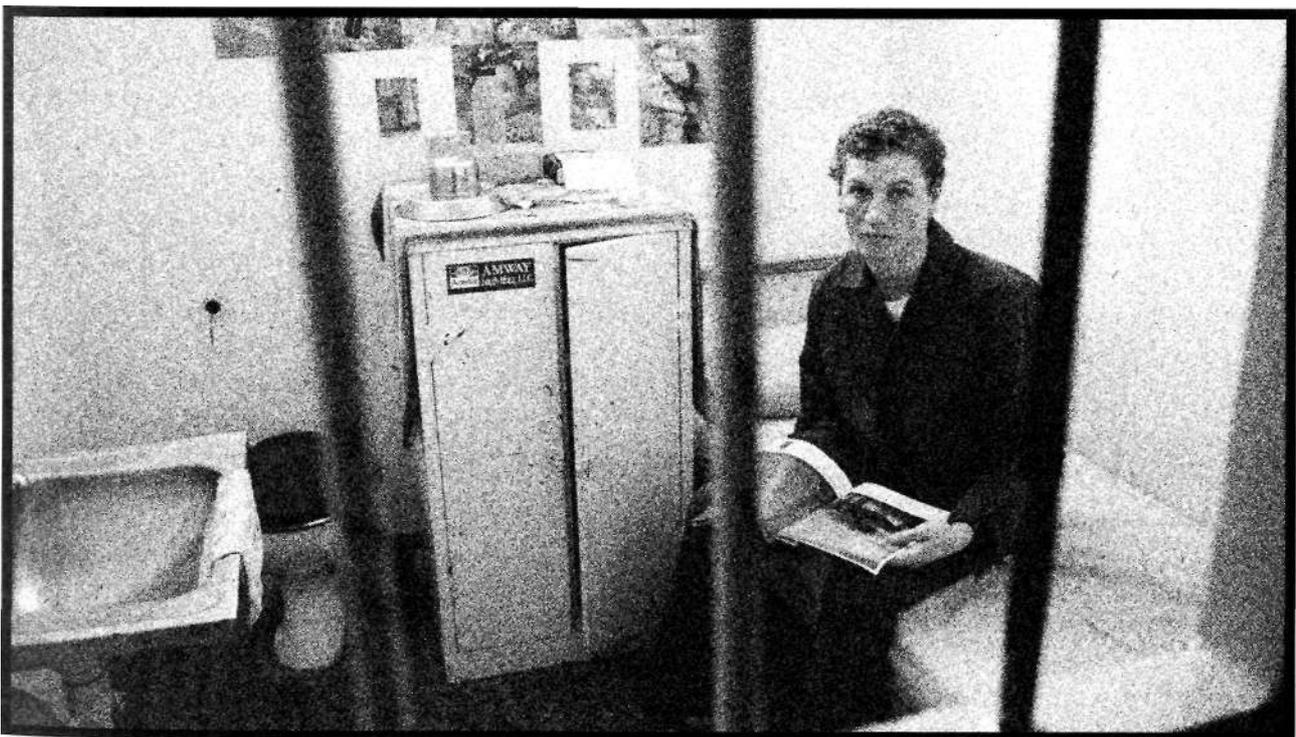
who are teachers, monitors and on work teams are accommodated on the ground floor. In Barberton, the juvenile prison is situated just outside the town, while the adult and maximum security prisons are on a farm some distance away. In Boksburg, sentenced juveniles are accommodated in the former hospital section, separate from the main body of the prison. Within this section, juveniles are accommodated in a separate cell.

In contrast, it was clear that at other prisons that insufficient efforts had been made to keep children apart from adults.

At Odi Prison, one young boy was in a cell with 39 other youth, some aged 22 or even 25. He said he had been told that the juvenile section was full. Another boy of 15 was accommodated with 40 inmates of different ages. Although he said he was not badly treated, he would have preferred to be with children of the same age as himself. A third boy was in a smaller cell with two boys aged .20. He had been moved there because he had been "called names" in his previous cell.

Sometimes the prison is organised in a way that makes complete separation impossible.

At Pollsmoor Medium A, despite the separation of sections, juveniles have to pass through the adult section on their way out of the prison, or when attending school or visiting the doctor. They also



• A 17 YEAR OLD GIRL was interviewed in the Female unsentenced section of Thohoyandou Prison where she was in a cell with her baby. She had been arrested for shoplifting goods to the value of R170. The interview revealed that she was an orphan who had never been to school and had been brought up by her grandmother on a farm. At an early age, she too became a farm labourer. Her bail had been set at R500 and her case postponed. She was initially kept in the Phalaborwa police cells for two weeks after which her case was further postponed and she was transferred to Thohoyandou Prison, more than 400 km away from her home. Although a postponement of over a month is a contravention of the Section 29 provisions, no reason was given for the postponement. At no stage had the girl seen a social worker or probation officer, nor had she been visited by relatives or friends. She was in custody in a cell of women as old as 35 years of age.

share a visiting area with the adults where they claim they are often robbed of their possessions by adult prisoners.

At St Albans Prison in Port Elizabeth, the same problem exists. Although juveniles are accommodated separately, they are nevertheless housed in the main prison. All visits, even visits to social workers, are made via the adult section. Adults also speak to juveniles through the walls and sometimes under toilets doors. Both adults and juveniles are educated together in the prison school. Although juveniles are supposed to have a distinguishing uniform, they had not yet been given different clothing.

- At Rustenburg no attempt had been made to separate the inmates according to their ages, but no-one complained of assault or intimidation.

Similar problems exist at facilities for unsentenced juveniles. At Pretoria Local, unsentenced juveniles are held on a separate floor of the prison and are separated from the adults only by a gate and a guard. The children are held in a separate cell. At Johannesburg Medium B, Section A (for unsentenced male juveniles), there was no concerted attempt to separate the juveniles according to their ages, and older juveniles were accommodated in the same cells as the younger boys.

At Odi Prison, the unsentenced juveniles are accommodated in the same section as unsentenced male adults. They are, however, housed in separate communal cells and are allowed out of the cells at different times to the adults. At the same prison, sentenced juveniles are accommodated in a separate section, although one boy was discovered in a cell with 39 other young people, some of whom were aged 22 and 25. He had been told that the juvenile section was full. Arrangements are also made to keep the younger children in a separate part of the juvenile section, segregated from the others by gates and a corridor.

Children in Women's Prisons

Girl children and juveniles are accommodated in women's prisons or sections of prisons. Often, however, they are placed in cells with women much older than themselves. In Johannesburg, where all the females are kept in the women's prison, there were one sentenced and five unsentenced children out of a total of some 600 prisoners. The sentenced child was accommodated with the older (between 18 and 21) juveniles in a single cell section which holds 39 juveniles. In the unsentenced section, juveniles and children are held together in a communal cell. The cells are unlocked during the day, and there is no segregation between adults and juveniles. In the sentenced section, there is no attempt to separate the young children from the older juveniles. There did not seem to be much of a problem with harassment.

The female section at Leeuwkop is divided into two sections: one for sentenced and one for awaiting trial juveniles. This is the only separation that is made; age is not considered.

Dedicated facilities for Juveniles

Three of the facilities visited are dedicated juvenile prisons. Rustenburg prison was formerly a reformatory school and now only accommodates sentenced male prisoners under the age of 21. The prison has a capacity of 110 and was below capacity on the day of the visit. The main purpose of the prison is to rehabilitate and train offenders sentenced to a maximum term of less than five years.

Brandvlei is a model facility, with a broad programme of educational and rehabilitative facilities for juveniles prisoners. It is the policy of the Department of Correctional Services to build similar youth centres in other provinces, for example the planned facilities at Baviaanspoort.

Despite its status as a model Youth Development Centre, Ekuseni was found to accommodate persons up to 25 years of age, as well as juveniles under 21 and children. Children are housed in a separate village, but mix with adults for vocational and educational training. The selection of prisoners for Ekuseni appears to be inconsistent with the aims of the Centre. Many prisoners are serving very long sentences - up to 30 years - which raises some important questions about the purpose of the Centre, and its ability to continue providing youth-centred services.

Records

"In every place where juveniles are detained, a complete and secure record of the following information should be kept concerning each juvenile received:

- a) *The fact and reasons for commitment and the authority there for;*
- b) *The day and hour of admission, transfer and release;*

c) *Details of the notifications to parents and guardians on every admission, transfer or release of the juvenile in their care at the time of commitment;*

d) *Details of known physical and mental health problems, including drug and alcohol abuse. "*

(UN RULES 21)

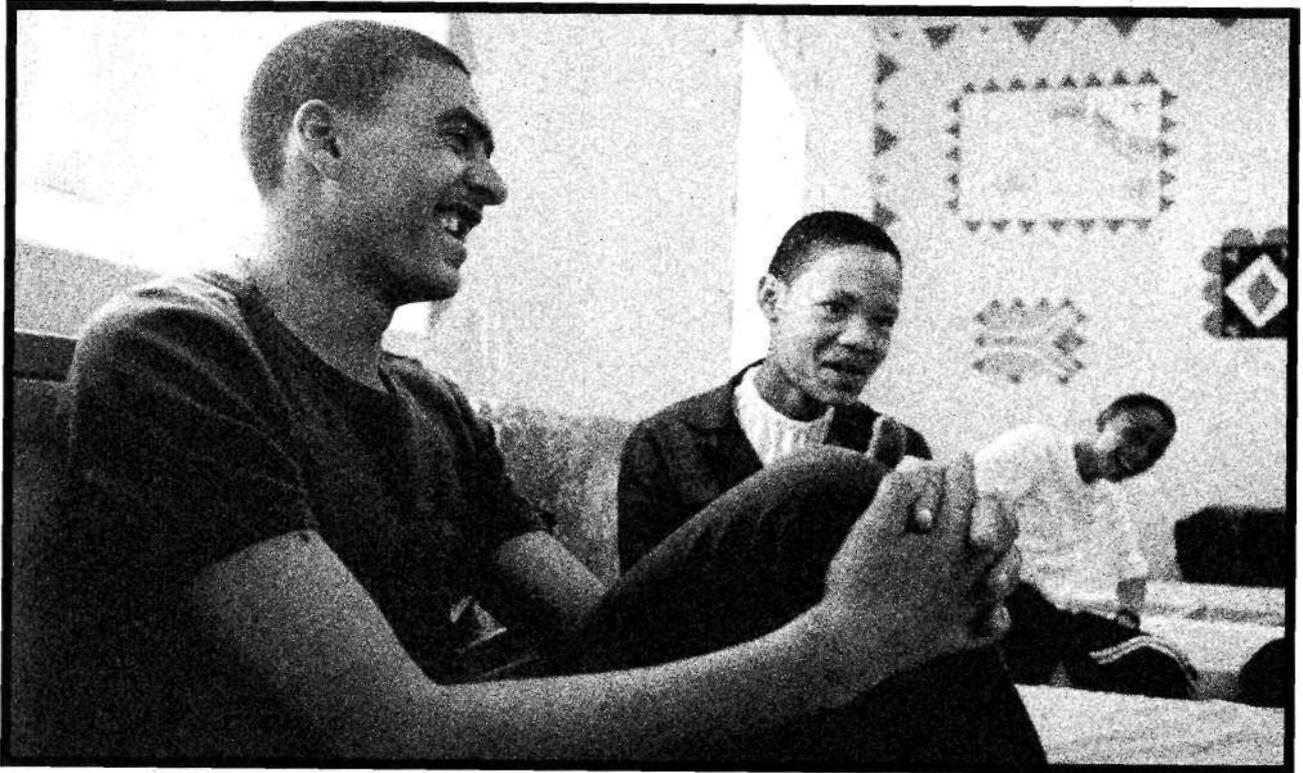
During the visits, the prison records were frequently found to be out of date or inaccurate. Often, researchers had to 'dig around' all over the prison to find the children housed there. This made accurate figures difficult to gauge.

At Odi Prison, where the authorities said there were no children awaiting trial, the researchers came into contact with a 17 year old boy. In the sentenced section, where the authorities claimed they were holding only 11 children under the age of 18, researchers were introduced to a group of 44 young boys alleged to be under the age of 18. It was explained that they had just arrived and that their details had not been entered in the official records. On interviewing the boys, however, it was apparent that some of them had been in custody for over a week.

At Pretoria Central, although the researchers were presented with a computerised list purporting to represent all children accommodated at time of visit, only one name corresponded with the names of children interviewed. Although the authorities admitted that the records were "not up to date", it became clear that they were, in fact, completely out of date. An updated list was requested.

At Uppington, the researchers were initially told there were no sentenced children in the prison, but five were eventually found. These children reported that others were to be found in the section for sentenced juveniles.

• A BOY in Pretoria Central Medium B told researchers that he lived with his mother and father. His father had been arrested for robbery and was in prison. He said he had engaged in housebreaking in order to help support his mother. He knew several boys who had decorated their homes with music systems and video machines with the proceeds of housebreaking. "I thought that I can do the same because my mother wasn't earning enough to furnish our home and support us."



2 • Conditions in the Prisons

"Every child has the right... to be treated in a manner, and kept in conditions, that take account of the child's age. " (SA CONSTITUTION)

"... Children who come in conflict with the law have the right to treatment that promotes their dignity and self-worth, and also takes the child's age into account and aims at his or her reintegration into society."

(UN CONVENTION)

"Juveniles deprived of their liberty have the right to facilities and services that meet all the requirements of health and human dignity. The design of detention facilities for juveniles and the physical environment should be in keeping with the rehabilitative aim of residential treatment, with due regard to the need for privacy, sensory stimuli, opportunities for association with peers and participation in sports, physical exercise and leisure-time activities ..."

(UN RULES 31-32)

Cell Accommodation

"Sleeping accommodation should normally consist of small group dormitories or individual bedrooms, while bearing in mind local standards. "

(UN RULES, 33)

The tendency in South Africa is towards large communal cells of up to 50 juveniles per cell. At Pollsmoor Medium A, the juveniles occupy cells in groups of 42. At St Albans, the juvenile cells sleep about 40, and conditions are cramped with little space between the beds. In rare cases, cells are more spacious, as at Pretoria Central where only 11 or 12 juveniles share sleeping accommodation.

Cells are also frequently overcrowded, containing sometimes twice as many young persons as they were designed for. At Stanger, for example, some of the children sleep on stretchers or blankets. 'Beds' are rolled up during the day to create sitting space. At Thohoyandou, 25 male unsentenced juveniles occupied communal cells designed for far fewer inmates, while the single cells were occupied by as many as five to ten juveniles at one time. At Virginia, prisoners under the age of 18 years were sleeping three to a bed.

At the Pollsmoor Admission Centre, where children await placement elsewhere, communal cells with a capacity of 16 or 28 held between 28 to 33 youth. At the time of the visit, each single cell housed three inmates. At Leeuwkop, the cells were larger than usual and generally held about 28 prisoners. At the time of the visit, however, there were 36 prisoners in the cell in which the children were kept. At the Johannesburg Medium A Prison, cells designed for 32 prisoners accommodated over 36 occupants.

Boksburg Prison also suffers from overcrowding. At the time of the visit, the juvenile section was 200% full. Communal cells in E1 are designed to accommodate 17 prisoners each, but were sleeping 38 people at the time of the visit. E2 had 21 prisoners in cells built for 11 inmates, while the larger cells, intended for 19 prisoners, slept 38 inmates. In Section E3, the communal cells built for 11 inmates slept 21, and section E4 accommodated 25 prisoners in 21 single cells.

At Barberton, researchers noted that the prison had a population of 493 prisoners, in accommodation designed for 450. 99 of these prisoners were adult males awaiting trial, who were being held in two cramped, airless cells without beds. Of the 394 sentenced prisoners, thirty nine were on the records as children.

There were, however, exceptions. At Barberton, again, the cell in which most of the children were accommodated was approximately 23 metres in length and occupied by 28 prisoners. It is authorised to hold up to 43. At Rustenburg Juvenile Prison, the prison was below capacity on the day of the visit.

Other ways of segregating prisoners

In addition to the separation of juveniles from adults by age, as discussed in the previous chapter, prisons use other criteria when allocating young inmates to particular cells.

Thus, in the section of Pollsmoor set aside for juveniles awaiting trial, youth are separated into cells according to their age and size, keeping the small boys kept together. In contrast to this, convicted children are divided between two cells: one for those who cooperate and attend school, and another for the so-called 'difficult' juveniles. This latter is also considered to be a punishment cell.

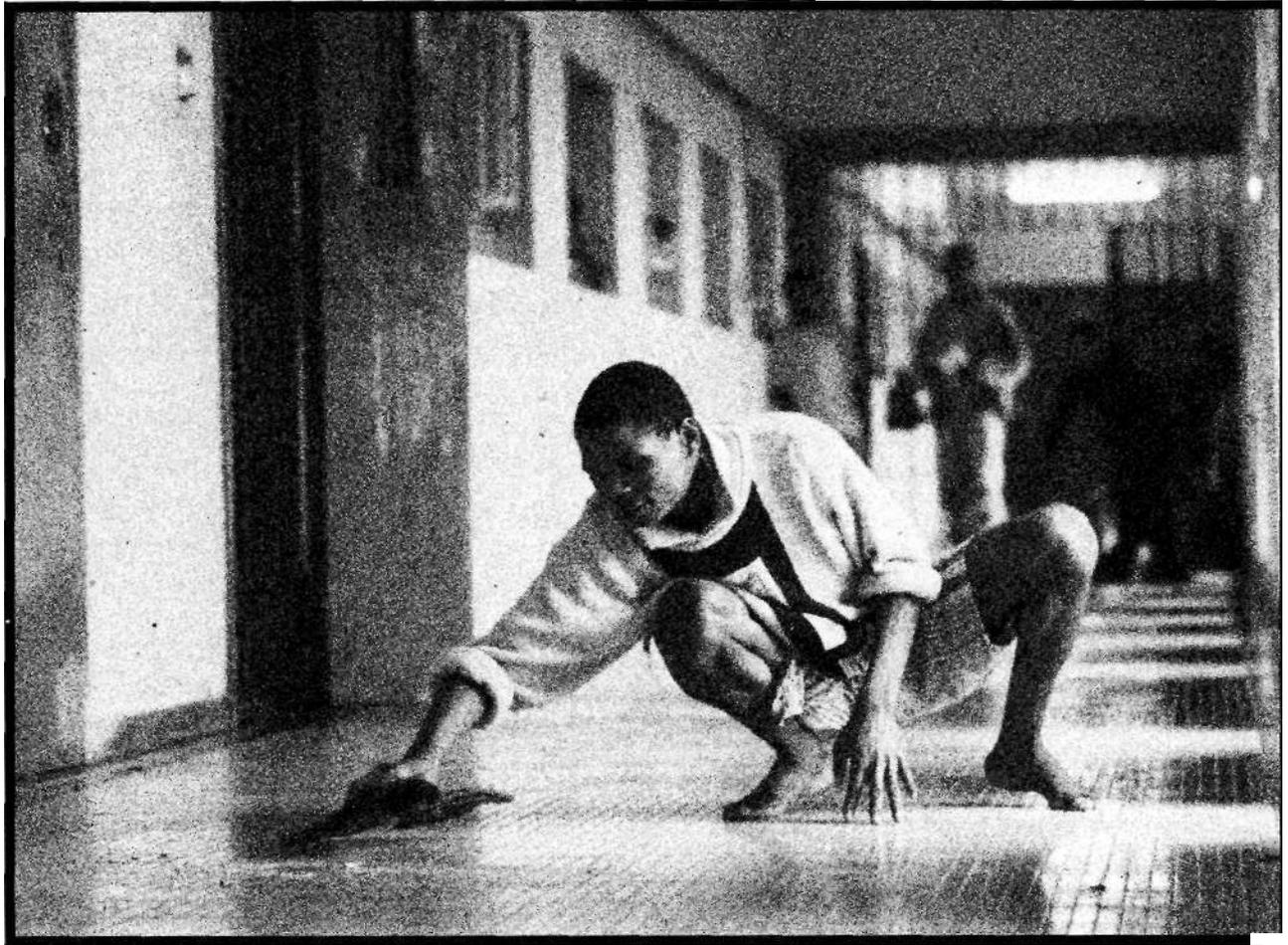
Often the prisoners responsible for cooking sleep in a separate room, on the grounds that they keep different hours. At Rustenburg, they share a separate room for seven which is furnished with two television sets, a video cassette recorder (VCR) and a small stereo music system. They are allowed to watch television all day provided they have finished their duties.

At Leeuwkop Medium B, prisoners playing in a band are accommodated in one cell, and members of the choir in another. The ages of youth in these cells also varied. The band members were anxious that it be explained to the community that they are trying to take steps to rehabilitate themselves and that they did not want to go back to crime. A large 'Don't do Crime' poster was hanging in the choir cell.

Generally, it appears that staff at some of the prisons also separate juveniles according to gang membership in an attempt to control gang activity. At St Albans, youth awaiting trial are separated first according to gang membership and second according to age and size.

At Barberton, in addition to the large cells described in the section on Cell Accommodation, there are 32 single cells in which prisoners on further charges are segregated. These have only a tiny window high in the wall.

• THE UN RULES STIPULATE THAT: "The possession of personal effects is a basic element of the right to privacy and essential to the psychological well-being of the juvenile. The right of every juvenile to possess personal effects and to have adequate storage facilities for them should be fully recognised and respected ..." However, although sometimes available, there are seldom sufficient lockers to provide private space for the belongings of the children. At some of the better facilities, such as Rustenburg, each 12 bed cell has six lockers. At Pretoria Central, unusually, each prisoner was equipped with a locker and a lock-up cupboard. At many facilities, the children have no private space at all.



Separation by offences

"The detention of juveniles should only take place under conditions that take full account of their ... type of offence ... and which ensure their protection from harmful influences and risk situations." (UN RULES, 28)

Despite the obvious disadvantages of keeping serious offenders in cells with relatively minor offenders, the visits produced little evidence of separation by offences. At the Pollsmoor Admission Centre, the authorities admitted that the prison is so full that it is impossible to separate prisoners according to the types of crimes committed. For example, researchers were told that a prisoner serving a sentenced of 34 years may be placed in a cell with another serving 12 months. The Admission Centre is where juveniles are kept pending, their transfer to other sections of the prison or to other prisons. Some of the inmates had been awaiting placement for over 9 months to a year. On the day-of the visit, there were 288 juveniles under the age of 21, 28 of whom were under 18 years of age. Most of these were awaiting the finalisation of other charges.

Malmesbury is likewise used as a 'halfway house' facility. Juveniles are kept here, often for long periods, while awaiting placement in reform schools. The length of time for which children await placement should not be underestimated. In the Northern Cape, placement takes not less than five months. In certain instances, children wait twelve months for the education authorities to designate a place in a reform school. It appears, furthermore, that the time spent awaiting placement is not taken off the sentence to be served. At the time of the visits, for example, there were 30-40 children awaiting transfer in Westville, 20-30 in Pollsmoor and also a few in Kimberley.

At Boksburg Prison, the juvenile prison is divided into four sections, with the prisoners placed according to categories. Section E1 accommodates 160 long term medium security working prisoners (the A group). Section E2 accommodates those who are not working or attending school, although some of the prisoners in this section are employed as cleaners. New prisoners are admitted into this section. The maximum security prisoners are kept in E3. Section E4 consists of five single cells and accommodates the school going prisoners.

Separation of sentenced and unsentenced children

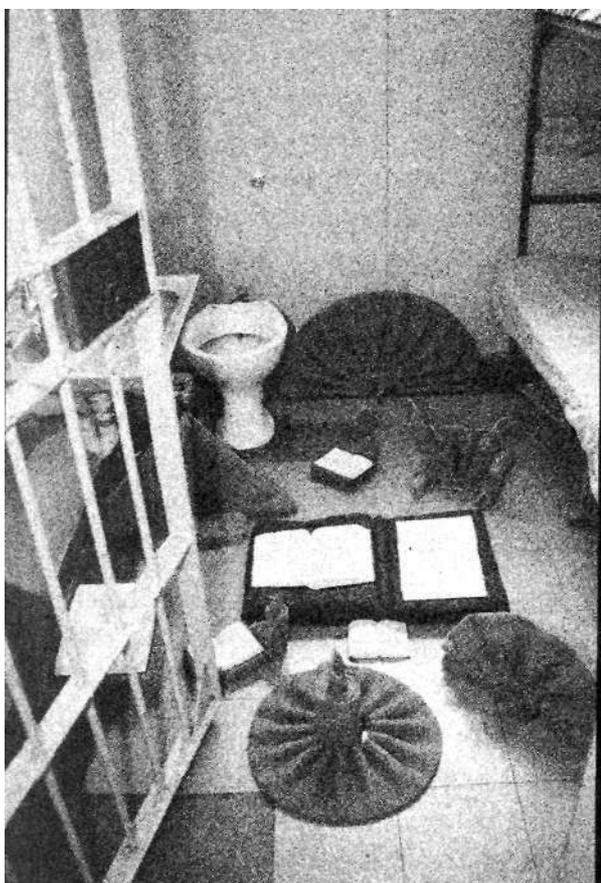
"Untied detainees should be separated from convicted juveniles." (UN RULES U)

Generally, where unsentenced and sentenced children are accommodated in the same facility, they are kept separately. In Johannesburg Prison, sentenced and unsentenced juveniles are held in separate prisons and in separate sections. The juveniles awaiting trial are held on the ground floor of their section. The sentenced juveniles are accommodated on three storeys, or one spoke, of the wagon wheel building.

At Upington, the unsentenced children are kept in a large cell. At Thohoyandou, it was reported that the unsentenced male juveniles never come into contact with the adults.

However, no prison in the Northern Province has discrete facilities for sentenced and unsentenced juveniles.

At Malmesbury, at the time of the visit, sentenced and unsentenced juveniles under 18 were being kept together in one cell because of lack of space. As



• RESEARCHERS visiting at Pollsmoor and St Albans noted that the noise levels were very high and a constant source of stress.

noted earlier, the authorities reported that this prison is constantly receiving juveniles from other centres. This, they said, creates problems as their cells are always full.

At Thohoyandou Female Prison, unsentenced female children are kept separately from sentenced offenders, but occupy cells with women up to approximately 35 years of age. At the time of the visit, there were five babies in one of the cells. Cots are provided.

Cell conditions

"Everyone who is detained, including every sentenced prisoner has the right ...to conditions of detention that are consistent with human dignity, including at least... the provision, at state expense, of adequate accommodation." (SA CONSTITUTION, SECTION 35)

"Juveniles deprived of their liberty have the right to facilities and services that meet all the requirements of health and human dignity." (UN RULES, 31)

The conditions of the cells vary from prison to prison. In some cases, as at the Westville Youth Centre, cells were described as "scruffy but clean". At Stanger, cells were reported to be unclean, with walls and paintwork in poor condition. At Leeuwkop, the cell walls were drab and unpainted, and some of the cells fairly dark.

At the Johannesburg Medium A Juvenile Prison, the cell for unsentenced children is dark with no outward facing windows. On one side it overlooks sewerage pipes, and on the other a corridor. The lights are on all day. At St Albans, the walls are dull and unpainted. In the Westville Women's Prison, the girls complained of old and peeling paintwork! and it was noted that one of the cells was damp and leaking.



Some of the prison cells presented better conditions.

At Pretoria Central, the cells are spacious and well ventilated with painted walls and clean floors. At Rustenburg, converted from a reformatory school, the cells are quite neat and "like ordinary rooms, apart from the burglar bars". Here the children sleep 12 to a room. At this facility, the inmates are allowed to keep keys to their own rooms. At Barberton, the cell was fairly clean; the section had recently been rebuilt after being burnt down by prisoners a couple of months before the visit.

Cleaning is generally done by the juveniles themselves, and they are provided either with soap or cleaning agents (such as Vim, sheep dip) to do the cleaning. In some instances, as at Westville Women's Prison, the juveniles complained of insufficient cleaning materials. At the Johannesburg Medium A prison for unsentenced juveniles, the cells are poorly maintained, and there is no organised programme for cleaning the cells.

The walls of the cells are seldom decorated and are

in varying conditions, sometimes the children are allowed to stick up drawings and pictures, and there is occasionally graffiti. At the Westville Youth Centre, the children have drawn on the sheets, decorating them with political slogans and poems. In the Westville Women's Prison, Juvenile Section, however, prisoners are not allowed to decorate their cells, although they said they would like to do so. At Pretoria Central, the blankets had been removed from the beds and had been folded to decorate the cell. At this facility, there were no paintings, murals or posters in the cells, although there were several murals in the section.

At Leeuwkop, all of the cells communicate with one another via barred windows in the internal cell walls. At Pietermaritzburg, alarm bells and intercoms are provided.

In Johannesburg Medium B, Section A the cells have no electricity sockets, and the inmates have tapped the overhead light sources, and unauthorised power lines run from the ceiling to various electrical appliances in the cells.

Beds and bedding

"Every juvenile should, in accordance with local or national standards, be provided with, separate and sufficient bedding, which should be clean when issued, kept in good order and changed often enough to ensure cleanliness ... The right of every juvenile to possess personal effects and have adequate storage for them should be full recognised and respected." (UN RULES 33 & 35)

Generally the beds are bunk beds, although in some prisons the children sleep on the floor, either on stretchers, foam rubber or blankets.

At Leeuwkop and at Pretoria Central, the inmates sleep on single beds. At Stanger, although there are some mattresses, some of the children sleep on stretchers or blankets on the floor due to overcrowding.

At the time of the Upington visit, the awaiting trial children were sleeping on foam mattresses in an unfloored cell. The cell had allegedly been burnt down by former (adult) inmates. At Thohoyandou, where accommodation for male unsentenced juveniles is chronically overcrowded, most of the children sleep on the floor and have one blanket only.

The provision of bed clothes varies widely. In some cases, children have adequate bedclothes, such as at the Westville Youth Centre where they have three blankets and two sheets each. However, although the children all said they had sufficient blankets to keep warm, they complained that the blankets were dirty and 'were washed only about every three months. The unsentenced juveniles at Westville were not, however, provided with sheets. Children at the Pollsmoor Admission Centre also complained that no sheets were provided.

At Odi, many of the beds had no sheets. The inmates claimed that sheets had not been issued, but the prison authorities said they had been removed for washing.-At this prison there was also a shortage of blankets which had allegedly been 'ordered'. The inmates reported that the warders sometimes remove blankets as punishment.

At Rustenburg, most inmates had clean sheets, bed covers and pillows. Blankets were either on the beds

or had been putaway in lockers. The admission cell at Leeuwkop was not equipped with beds or bedding.

Generally, the washing of bed linen seems to be irregular and inadequate and, at many of the prisons, there were complaints about lice in the blankets.

Ablution areas

"Sanitary installations should be so located and of a sufficient standard to enable every juvenile to comply, as required, with their physical needs in privacy and in a clean and decent manner", (UN RULES 34)

Ablution areas are often cause for concern, even in facilities which otherwise present comparatively reasonable conditions. At Rustenburg, there was a 'terrible dispelling stench of urine' in all the toilets, a striking contrast to the 'sparkling' floors in the adjacent corridor and dormitory.

Lack of privacy is frequently a problem. For example, at Johannesburg Section A, Medium B, the toilets, although in a separate area of the cell, are not screened and are located in the opening of the cell.

Often visits revealed smelly, filthy conditions. At Odi, an overwhelming smell from the toilets pervaded the cells. When the head of the prison was asked about this, he became defensive and said they had been cleaned on the morning before the visit and had become smelly through constant use. At Thohoyandou, toilets for the male unsentenced juveniles 'smelt

• AT KROONSTAD PRISON, one of the boys said that he was sleeping in a cell with 34 other youths, under the age of 21. He said he likes being in a cell with others. He had had experience of being in a single cell when he was serving his 90 days and still awaiting trial on a charge of robbery and assault. At this time he was kept separately from other prisoners and locked in a single cell, except during the day when, from 7am to 2.30pm he was allowed in the courtyard with the other prisoners.

• **CHILDREN AWAITING TRIAL** in the Johannesburg Female Section faced far harsher conditions than those who had been sentenced to prison. The researcher reported that the section housing sentenced girls was: "neat and spotlessly clean. Window panes had been painted a cheerful yellow and the kitchen had been prepared for a party for one of the inmates. Each prisoner had decorated her (own) cell, and each had been issued with clean blue sheets and blankets". In contrast, all the girls awaiting trial were held in one communal cell: "the windows of the prison cell open onto the corridor with all the sewerage pipes, and on the other side, the windows open onto a corridor which is closed, except for latticed brickwork. Natural light is limited ... This section was not as clean or well-maintained as the single cell section for (sentenced) juveniles ... The juvenile's cell was large and dirty and the beds covered with old grey sheets and blankets."

terrible'. The prison official's comment was that it was up to the inmates to keep their cells and toilets clean. At Johannesburg Medium A for unsentenced juveniles, the smell of toilets was 'all pervasive'. •

Overcrowded conditions exacerbate these problems and ablution facilities are shared by far more people than they were intended for. At St Albans, cells accommodating 40 children are provided with only two toilets and two sinks. At Pollsmoor juvenile section, cells occupied by 42 juveniles have two toilets. At North-End, the cells have one toilet per 20 inmates, but no shower or wash basin. In Thohoyandou, male unsentenced juveniles share one toilet, one hand basin and one shower.

Sometimes, as at Pretoria Central Medium B Prison, the toilets and taps function properly, and sometimes

the problem simply related to damp, as at Westville Youth Centre.

- Sometimes, however, there were problems with water, or boilers that were out of service. In the Westville Women's Prison, at the time of the visit, there was only hot water, and the children were using buckets to bath in as the shower water was too hot. At Leeuwkop, one of the prisoners complained that the showers in his cell had not been working since his arrival two weeks before! At Rustenburg, there were leaks from taps and showers on both floors of the building. At St Albans, the children complained that the sinks leaked and to use them they had to seal the leaks with soap. This problem, they said, had been reported to the authorities during the previous year. In two of the single cells in the Thohoyandou male unsentenced section, there was no hand basin; in another the basin was broken, and in two others the taps were leaking.

Generally the children are provided with toilet paper, towels, soap, toothpaste and toothbrushes. At Stanger, however, the unsentenced children complained of insufficient toilet paper. The group receives one roll a day which, they say, runs out in about four hours. Hand towels are generally provided, although in certain facilities such as Westville Women's Prison, unsentenced children may have to supply their own. At the same institution, unsentenced juveniles complain that they are given approximately one third of the amount of toilet paper and soap as the sentenced juveniles. They are also only supplied with three sanitary towels a day, whereas sentenced girls are given a larger number.





3 ● How the Children are cared for

"Every child has the right ...to appropriate alternative care when removed from the family environment [and to] basic nutrition, shelter, basic health care services and social services, (SA CONSTITUTION, SECTION- 28)

"Everyone who is detained, including every sentenced prisoner, has the right to conditions of detention that are consistent with human dignity including at least ... the provision at state expense, of adequate ... nutrition, reading matter and medical treatment".

(SA CONSTITUTION, SECTION 35)

Clothing

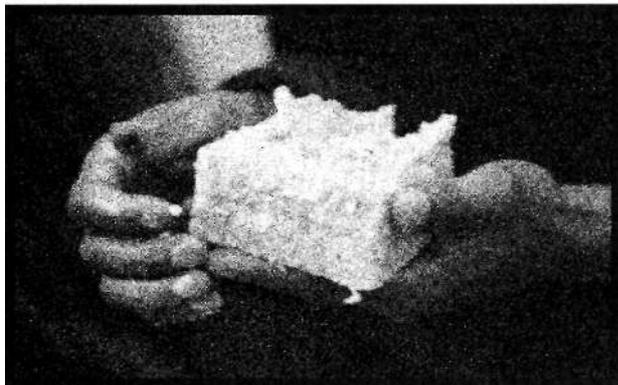
"To the extent possible juveniles should have the right to use their own clothing. Detention facilities should ensure that each juvenile has personal clothing suitable

for the climate and adequate to ensure good health and which should in no manner be degrading or humiliating. Juveniles removed from or leaving a facility for any purpose should be allowed to wear " their own clothing. " (UN RULES 36)

The shortage and poor condition of clothing occurs in almost every prison. This almost certainly affects the children's personal dignity and feelings of self-worth.

Frequently/convicted children had been supplied with only one set of clothes, sometimes two. At Odi, many of the inmates complained about being issued with only one set of clothing, which they said made it impossible for them to wash their clothes. At this facility, the researchers heard from the authorities that more clothing had been ordered.

At Thohoyandou Prison, each child was issued with 'at least one' set of ordinary green clothes. They are given soap with which they must wash their bodies and their clothes. Most seemed to be having difficulty in washing their clothes and appeared quite dirty. They told the researcher that they either washed one piece at a time at night or borrowed from those who have more items of clothing.



At Pietersburg, the boys have one set of clothes. When, they are dirty, they wash them at night or borrow from other prisoners while they are drying. Soap and washing basins are available. However "most of the children interviewed were quite scruffy and alleged they do not have soap to wash their clothes."

At Rustenburg, each child has on average one and a half sets of clothing. They are provided with soap and are able to wash their clothes at night or over weekends, and use night clothes to change.

Juveniles at Rustenburg complained of insufficient soap to do their washing and said that there was nowhere to dry their clothes. At Stanger, the children said they had to hang them on the windows and that they took a long time to dry.

At Ekuseni, juveniles are issued with attractive tracksuits. At St Albans, a decision had been made to distinguish the juveniles from older prisoners by giving them a uniform different to that of the adults, but this had not happened at the time of the visit. At other prisons, like Thohoyandou, however, juveniles are issued ordinary green clothes.

The girls seemed to be slightly better off than the boys.

At Pietersburg, the sentenced girls each have at least two sets of prison clothes. They are also allowed to keep their own civilian clothes for use when prison clothes are dirty. Inmates have access to clean water and soap. At Thohoyandou Women's Prison, each girl had at least three sets of clothes. Soap was available for washing.

At the Westville Women's Prison, the sentenced girls are given clothes and towels but say that the jerseys are 'too thin'.

Clothing for unsentenced children is the responsibility of the Department of Welfare. In all but a few cases, the children had been given no clothes or towels.

At Pietersburg, the researcher was struck by the fact that several of the unsentenced children were wearing the same set of clothes in which they had been arrested. The children said they had no opportunity to wash them and had no soap. Two of them, however, said it was possible to wash clothes and that they had managed to get soap for the purpose.

At Westville Prison, it appears that the clothes that were provided for this section before 1994 were taken out by the released children, and the stock has not been replaced. The warders at this facility have suggested that they would like to issue children with underwear, tracksuits, shorts, t-shirts and shoes on arrival and keep the children's own clothes in safekeeping until they return to court. At present the children wear what they arrive in, unless families bring them clothes. Many Of the children have no shoes, and some have worn torn t-shirts for months. The clothes are washed with bath soap and hung out of the window to dry. There are no laundry facilities, and it is up to the children to keep their own clothes clean. The researcher expressed concern about the situation, stressing that the approach of winter and the fact that the sleeping quarters are below ground made it extremely urgent that warm clothes be provided for the children. Following this visit, the Department of Welfare provided 250 tracksuits, blankets and eight oil heaters for the children awaiting trial.

Many other unsentenced children are not so fortunate. The children awaiting trial at Pollsmoor, for example, wear their own often 'bedraggled' clothes, and often have no shoes, even in the cold of winter.

Diet and Meals

"Every detention facility shall ensure that every juvenile receives food that is suitably prepared and presented at normal meal times and of a quality and quantity to satisfy the standards of dietetics, hygiene and health..." (UN RULES 37)

There were complaints about food and meals at almost all the prisons.

One of the most persistent complaints, and indeed a cause for some considerable concern is that, at most, prisons, the last meal of the day is served in the early

• THE PARLIAMENTARY RESEARCH UNIT underlined various factors that impact on the health of juveniles in detention.

"FIRST, there are no mandatory medical examinations of juveniles before or during detention. Assessment of health at Pollsmoor, for example, is done during a daily assembly where children are allowed to voice their complaints which are noted. The resulting medical intervention, usually undertaken by a nurse, consists of administering analgesics (pain killers) irrespective of the medical condition, even reportedly, for conditions such as broken limbs.

SECOND, overcrowding in cells leads to poor hygiene. Hygiene in some prisons was reported to be 'appalling'. Shortage of clothing meant children had to go naked if they wished to wash their clothes. Clothing was sometimes washed in toilets because of an absence or shortage of adequate laundry facilities.

THIRD, sleeping areas are often overcrowded and, at least in some places, lack adequate ventilation or, due to broken windows, are exposed to wind and rain. There is also a lack of heating in cells housing juvenile inmates. All of these conditions make juveniles vulnerable to colds and influenza.

FOURTH, many juveniles in prisons are housed in run-down buildings where they sleep under soiled sheets with too few blankets. Often toilets are in the cells themselves. Blankets may be in short supply and infested with lice. At Pollsmoor, children are not allowed to wash their blankets. These conditions expose children to conditions like typhus, relapsing fever and trench fever.

FIFTH, children generally complain of hunger and very often receive meals only twice a day.

SIXTH, non-consensual sodomy may lead to the spread of HIV Aids.

SEVENTH, tattooing done in the cells using aseptic techniques can increase the risk of sepsis.

The facilities and expertise to treat the resulting lesions may not be immediately accessible.

EIGHTH, the mental health of juveniles in prison is not catered for and their condition is aggravated by the lack of recreational and educational programmes.

LASTLY, prisons offer no programmes on general health, personal hygiene or reproductive health/sex education."

• AT WESTVILLE YOUTH CENTRE, the children complained that there was a powder that was being added to their cool drink and tea and coffee which leaves a residue which they can see. They say the powder exacerbates the symptoms of venereal disease, makes them sleep half the time, reduces their sexual feelings and makes them lazy. The researchers handed the powder over for analysis at the state's expense (November 1996), but have received no report as yet. Indeed, the national office of Correctional Services seems reluctant to pursue the analysis of the sample given to them by the researchers, although they are examining the powder itself. One of the staff alleged that children have drugs smuggled in by relatives and friends and that they put these in the juice to make the staff look bad.

• ONE INMATE HAD A VERY SWOLLEN WRIST which he had sustained in a fall. He said he had been to doctor who had given him pills. When head of prison was asked by researchers to investigate, he became very defensive. He agreed to contact the nursing sister but said there would be trouble if the boy was exaggerating.



to mid-afternoon. This is usually a combination of lunch and supper at which bread is provided to take to the cells to be eaten later.

At the Pollsmoor Admission Centre, the last meal of the day is served as early as 1pm, and in the Pollsmoor juvenile section at any time between 11am and 2 pm. At the Westville Women's Prison it was reported that, if warders leave early, for example on public holidays, the last meal of the day may be served as early as 11 am.

The reason for this is that the night shift, which begins at 4pm, consists of a skeleton staff of, sometimes, only one person. The day staff lock up the prisoners before they go. Whatever meal the prisoners are given - usually five pieces of bread - must last them until the following morning. In some cases, such as at Thohoyandou, male sentenced children who tried to save their food to eat later were harassed by older inmates who wanted to 'share' it with them.

There have been recommendations that the system be changed so that the children can eat three meals a day. The Department of Correctional Services, however, reports that, in November 1996, they asked the children if they would prefer this, but the children said that if they ate 'supper separately, they would not feel full 'even once a day'. It is, however, recommended that the Department urgently discuss the problem of the third daily meal, especially in smaller prisons where the numbers make it manageable.

In some facilities, such as Ekuseni, the new pilot youth development centre recently launched by the Ministry, the Nelson Mandela Children's Fund, the private sector, the Rand Afrikaans University and other stakeholders,

the children are given three full meals a day at reasonable intervals. Catering is carried out by the private sector. Although some of the other prisons serve three meals a day, the times are often peculiar and, as elsewhere, designed to tie in with the day shift. For example, at Kroonstad Prison, breakfast is at 8am, followed by a lunch of soup and bread at 11 am, with supper at 1pm.

Children in prison generally complained of being hungry and,

at some facilities, such as Odi, of losing weight. When asked about this, the head of the prison said: "It is because we Africans are used to eating such big meals that they expect to get a lot of food".

The menus seem to be extremely monotonous.

In the few cases where three meals, a day are served, the first meal was breakfast which typically consists of two or more slices of bread, porridge and tea. Lunch, served at about 12 noon, consists of five slices of bread and orange squash. Supper, served at about 3pm, consists of pap or samp, meat or eggs, vegetables and tea.

Where only two meals are served (with lunch and supper served as one meal), the menu is much the same, although the cooked meal is served at midday. Additional bread is then given to the children to take to their cells for the evening meal.

However, at Stanger, the children said they were opposed to the idea of being given their 'supper' bread at a different time as they would then 'never be full'. Here the children also complained that the porridge they were given for breakfast was inadequate, and that they were hungry again an hour later.

At some institutions the children complained that the food was tasteless and insufficient and that they felt hungry all the time, and at others that the same food was served every day. One of the researchers observed that children often experienced boredom as hunger and, while not denying that the children may be genuinely hungry, the fact that the majority of them

are virtually unoccupied for long periods of the day may exacerbate their feelings of hunger.

In certain prisons, particularly the women's prisons, the children did not complain of hunger. At the Pietersburg Female Prison, for example, the children did not complain of being hungry and said they could save bread for when they felt hungry. In one or two cases, such as at the Thohoyandou Female Prison, the meals were reported to be filling and adequate. The member of staff in charge of the kitchen at this prison agreed that the food was adequate, but said he would like a larger- budget in order to make it tastier.

At Pietersburg, where the third meal was served later than elsewhere (at 5pm), the food was agreed to be nutritious, balanced and filling. This was one of the very few prisons in which there were no complaints about the food.

There were many complaints about porridge, which the children complained gave them sores or made them sick. At both Pretoria Local and Central, the children claimed the porridge gives them 'sores on their skins'.

At Pretoria Local, the children said the food served to them was 'unhealthy' and sometimes contained hair and nails. The food at Barberton was described as dirty and smelly. At the Johannesburg Medium A facility, the children said that it tasted bad and was not well cooked, and one boy complained that it had given him a stomach ache. At Pretoria Central, a boy also said that the food was bad for his stomach and another said he did not like steamed food. One of the boys said he had found worms in his food but had been told not to complain. At Stanger, too, the boys complained of worms in their food.

There were repeated complaints about the juice powder. At the Westville Women's Prison, the girls-linked it to outbreaks of vaginal discharge, and at the Westville Youth Centre to symptoms of sexually transmitted diseases. The girls at Westville told researchers that the district surgeon had advised them not to take the powder. The researchers submitted a sample for testing but reported that this had

been difficult to follow up and that they were awaiting a report from the Department of Correctional Services which was investigating the issue.

There appear to be differing policies about allowing food in from outside the prison. At Pretoria Local, sentenced juveniles said they were not allowed to accept food from their families. At Stanger, children are not allowed to receive food from their families, although certain warders allow the children to receive uncooked food. At the Rustenburg Jgvenile Section, only tinned fruit may be taken into the rooms.

In some facilities, unsentenced children may receive food, and some share what has been brought to them. At Thohoyandou, for example, the unsentenced male children were allowed to keep food in their cells.

Cooking is frequently done by inmates who usually occupy a separate cell and may enjoy special privileges. At Rustenburg Juvenile Prison, the seven prisoners who do the cooking have two television sets, a video cassette recorder (VCR) and a small stereo. Unlike other prisoners they are allowed to watch television during the day if they have finished their duties. Sometimes food is prepared elsewhere in the prison and brought to the juvenile section by other prisoners. At Thohoyandou, for example, meals are prepared by twenty-two adult long-term prisoners who are HIV-free. These prisoners work in shifts and live in a separate cell.

At Ekuseni, by contrast, catering is contracted out to a private company.

According to the chef in charge of the kitchen, the food is of a much better quality and variety than in normal prisons. As mentioned earlier, three full meals a day are served at 'reasonable intervals'.

The children are usually served separately from adults. Sometimes they eat outside in an open courtyard or, if it rains, under shelter near the cells. In rare cases, the prison may serve meals in the dining hall. In Thohoyandou and at Pietersburg, the sentenced prisoners eat in the dining hall, but the unsentenced male prisoners said that their dining hall had been shut because of fights during mealtimes.



• AN ACADEMIC STUDY published in the late 1980s indicated that individual gang members were assigned the role of doctors and were responsible for attending to sick and injured gang members in prison. (Lötter 1988)

At Barberton, the "researchers were told that the prison had requested a dining hall, but this had not yet materialised. At the Pollsmoor Admission Centre, it was reported that the kitchen had been out of use for two years.

In the women's prisons, the girls typically ate in the dining hall with the adult prisoners. As observed earlier, the girl children were usually to be found sharing cells with older prisoners, and there were often babies in the cells.

It was the assessment of the KwaZulu/Natal research team that the prison diet appears to contain too much refined starch and too few complex carbohydrates which may be why the children complain of getting hungry so quickly. According to them, the Medical Association of South Africa (MASA) recommendations for the nutritional needs of children are 1-2g protein per kg of body mass, 4200kj per day plus 420kj for every year after the age one.

the researchers who visited Pretoria Local Prison also recommended that the daily nutritional rations should be investigated, along with methods of preparation, and storage of food.

It is important to state that the generally poor nutritional quality of the food given to the children, together with long periods during which they do not eat at all, mean that the children are hungry all the time.

Medical Treatment

"Every juvenile shall receive adequate medical care, both preventive and remedial, including dental, ophthalmological and mental health care, as well as pharmaceutical products and special diets as

medically indicated. All such medical care should, where possible, be provided to detained juveniles through the appropriate health facilities and services of the community in which the detention facility is located in order to prevent stigmatization of the juvenile and promote self-respect and integration. Every detention facility for juveniles should have immediate access to adequate medical facilities and equipment appropriate to the number and requirements of its residents and staff trained in preventive health care and the handling of medical emergencies. Every juvenile who is ill, who complains of illness or who demonstrates symptoms of physical or mental difficulties, should be examined promptly by a medical officer." (UN RULES 49-51)

The general condition of the children in South African prisons is poor. Often they exhibit symptoms of malnutrition, injuries from household accidents and abusive families. Many of them are covered with sores, are stunted in growth and display many of the symptoms of children from poor and disadvantaged backgrounds, such as marks of previous physical violence.

All of the prisons had some medical staff and facilities. In some cases, there were clinic or hospital facilities at the prison.

At some prisons, such as St Albans, a nurse does rounds in the morning. In the Pollsmoor juvenile section, the nurse makes rounds after breakfast and provides medication to anyone who needs it. This happens three times a week.

At Pietermaritzburg, the prison hospital caters for the ailments of the prisoners.

At Thohoyandou, there is a clinic for inmates who are ill. However, none of the children interviewed had been treated for ailments at this clinic. The officer in charge of the children said that the doctor examines and treats patients twice a week, but none of the children interviewed had ever received treatment. Seriously ill prisoners are sent to the local hospital. Juveniles at Pietermaritzburg are catered for in the prison hospital, but are taken to the provincial hospitals if seriously ill.

At Rustenburg, a qualified, nurse is in charge of the clinic. Serious conditions are referred to the local hospital. A doctor visits once a week.

At the Thohoyandou Female Prison, medical treatment is available on request for the babies of the prisoners.

At Pretoria Central Medium B, an HIV positive prisoner said he had received no counselling or special diet since he was admitted to prison. He had been told the authorities would 'call him' but they had not done so. Although most prisoners were satisfied with the medical treatment, one complained that the doctor was never available when he required treatment or went to see him. Another said that the medicine they had given him to clean his stomach had not worked.

At Leeuwkop, the prison has a hospital section with a number of beds; patients with serious conditions are transferred to main hospital. Three full time nursing staff are employed and a doctor visits the prison twice a week. A dentist is available on a part time basis.

Facilities in most of the prisons were similar. There were few complaints. However, it must be assumed that the children, coming as many of them do from poor socio-economic backgrounds, are unaccustomed to receiving medical attention when they are ill or hurt.

Recreation

"Everyone who is detained, including every sentenced prisoner, has the right - to conditions of detention that are consistent with human dignity, including at least exercise and the provision, at state expense of ... reading material..." (SA CONSTITUTION, SECTION 35)

"Every juvenile should have the right to a suitable amount of time for daily free exercise, in the open air whenever weather permits, during which time appropriate recreational and physical training should normally be provided. Adequate space, installations and equipment should be provided for these activities. Every juvenile should have additional time for daily leisure

activities... The detention facility should ensure that each juvenile is physically able to participate in the available programmes of physical education." (UN RULES 47)

In most of the prisons, the boys displayed extreme lethargy during the day. Even where there are activities, few seem to wish to participate.

At Pretoria Local, unsentenced boys complained of boredom. "Usually cells are locked all day. There is nothing to do. I only sleep, otherwise I am worried thinking about my case. You end up going crazy. Here they make you a 'bandiet'". 5

Often there were discrepancies between what the juveniles and the authorities had to say. At Johannesburg Medium A, for example, the authorities told researchers that the unsentenced boys are allowed to exercise every day, but the boys said this only occurred once or twice a week. They said they were only released from their cells in order to collect their food, - and some, complained that they were locked in their cells the whole day. Other prisoners interviewed said they did not see the need to participate in the activities of the prison because they were not guilty and hoped that they would be released. The majority were seen sleeping and lying on their beds.

At Wellington Prison, although some of the children had access to sport, boxing, gumboot dancing and gospel singing, others did not take part in these activities.

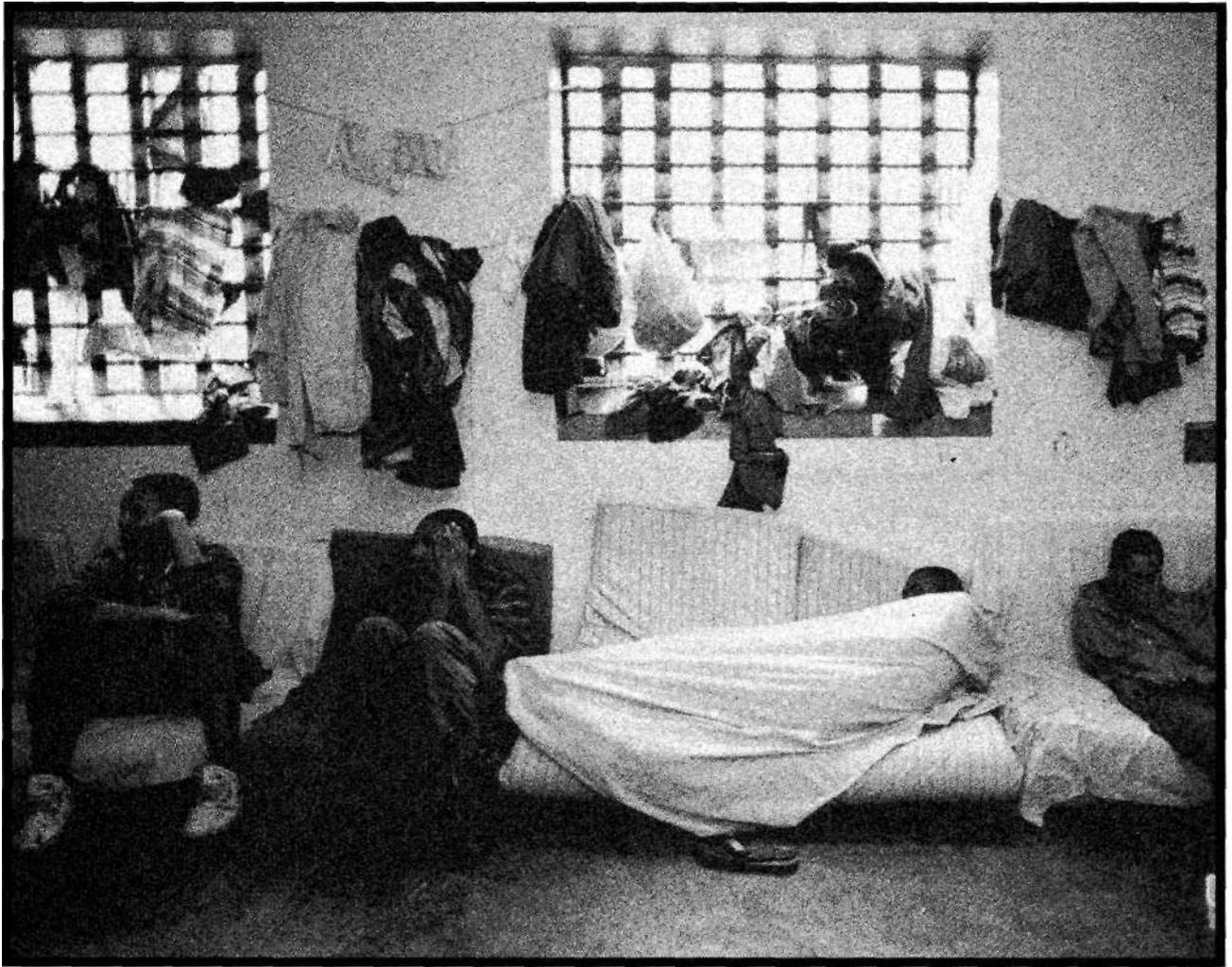
At other facilities, opportunities for recreation are extremely limited.

At Pollsmoor Admission Centre, the children can only exercise if warders are available, otherwise they remain locked up during the day.

Television is watched in a number of the prisons. The general rule seems to be that the children can watch until 22h00 on week days and until midnight at weekends. Often there are not enough television sets to allow one for each cell so there is a system of rotation between cells. In some prisons, the removal of television privileges is used as a punishment and form of control.

At Thohoyandou, the children may walk about the courtyard. The only sport the children play is soccer.

5 A prisoner, derived from bandit. Used colloquially to describe a hoodlum or gangster.



At weekends they attend church and play soccer. At night they are allowed to watch television until 22h00 during the week, and until midnight at weekends. The television sets are shared between the cells.

At Leeuwkop Medium B Section, some of the cells were locked up during the visit. The researchers were told that the prisoners were made to choose whether or not they wished to go out or remain locked up in the cells, except during meal times. It was explained this procedure was followed in order to keep a check on sodomy, assaults and gang activities during the day. However, some of the cells were completely unlocked, and prisoners were free to walk around the courtyard.

One of the exceptions to this pattern was Boksburg where the researchers said they saw only one boy sleeping during the visit. Most of the prisoners were outside in the courtyard or engaged in some activity. Boksburg prison had apparently made an effort to provide juveniles with developmental programmes and some kind of stimulation. However, with the increasing number of boys being sentenced to imprisonment, the ability to render this kind of service is decreasing.

Without a simultaneous increase in the number of support staff, it is feared that the prison will not be able to provide even a small fraction of the prisoners in residence with developmental opportunities.

At Barberton, too, the prisoners interviewed seem to participate enthusiastically in soccer and karate. There are six different soccer clubs, and prisoners play soccer on the sports field regularly. There is also boxing, karate and gumboot dancing. There is sufficient space for sporting activities at Barberton. Inmates are given time to exercise after finishing work or to train in the courtyards. There were no prisoners in the cells during the visit.

There is a limited number of television sets which are rotated between the cells.

At Brandvlei, a model facility, the prison has started a radio project: Basic Radio. The station is run by the juveniles themselves, with the help of a coordinator. There are 12 presenters.

Some of the obstacles to outdoor exercise and recreation relate to the poverty of outdoor facilities for the prisoners.

At Pretoria Central, a new prison, the boys are only allowed to exercise in the open air once a week. The rest of the week they must exercise in the internal passage between the cells. The weather in South Africa usually permits exercise outdoors at least once a day. It is, therefore, quite inexplicable why this brand new prison (construction was not even complete at the time of the visit) has no outdoor exercise facility. The prison is considering building a larger indoor exercise facility for the juveniles.

According to the authorities, a Physical Education instructor does physical training each day with the juveniles in the section. However, not all the juveniles agreed that this happened.

At Pretoria Local, the sentenced juveniles are allowed to play soccer and volleyball twice a week. It seems, however, that the tiled courtyard is unsafe in wet weather.

At Virginia, the boys said they could 'walk around in the courtyard', or play ball, from 8h00 until 15h00 when they are locked up. There is no organised sport.

At Rustenburg, the majority of the boys prefer football which they play over weekends only. They may also play volleyball, cricket, softball or join the choir. For the rest of the weekend, they watch television and attend church. There is a library which appeared to be in use by some of the juveniles and which employs a qualified librarian.

At St Alban's Prison, the juveniles are 'sometimes' allowed to play soccer, volleyball and rugby. There is a choir, and a library which is funded by donations from the community. At the time of the visit, there was no recreation provided whatsoever in the unsentenced section, not even a ball for the children to kick.

At Pietersburg Women's Prison, the sentenced offenders (including the adults) share a television set. They are allowed to watch until 22h00 on weekdays and until midnight on weekends. The rest of the time is spent reading outdated books and magazines lent to them by the officers or other prisoners, or basking in the sun in their courtyard. Juvenile girls at this prison were not aware that they could borrow books from the library. However, they said that they participated in the choir and played basketball after church at the weekends. At Thohoyandou, the unsentenced girl children have no recreation at all. This is the case in many facilities for unsentenced children. A similar situation prevails at institutions where children are kept while waiting placement elsewhere.

At Westville, however, an inter-sectoral group and the Department of Welfare have recently attempted to provide some activities for children awaiting trial. This has drawn in NGOs and religious groups who organise activities, such as gumboot dancing.

At Malmesbury, where many of the children await placement in reform schools, there is no form of activity at all for the children. In the morning, they spend about one and a half hours in the courtyard, after which they are again locked up for the day. During the recreation period they may play cards, keirim and drafts. They have recently been provided with a volley ball net. Because the authorities wish to avoid contact between the juveniles and the adults, the juveniles spend most of the day in their cells, and leave them only for meals.

At the Pollsmoor Admission Centre where, as at Malmesbury, children were said to be awaiting placement elsewhere, the children are sometimes allowed to exercise for about 45 minutes after breakfast. If warders are not available to assist, the juveniles are kept locked up in their cells and may only leave them at mealtimes. No programmes are available for the children.

At Odi, the authorities said that the sentenced juveniles can attend classes, participate in programmes, play sport and participate in arts and crafts. Juveniles were no longer allowed to sing in the choir because it would enable them to associate with adult prisoners. The juveniles spoken to said they had not attended and were not aware of any programmes.

Such discrepancies were common. The authorities and the children frequently gave conflicting versions during the research project.





4 • Contact with Families

"States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis ... " (UN CONVENTION, ARTICLE 9[3D

"Every means should be provided to ensure that juveniles have adequate communication with the outside world, which is an integral part of the right to fair and humane treatment and is essential in the preparation of juveniles for their return to society... "
(UN RULES 59 [59])

According to prison regulations, 'A' rated prisoners get 40 minute visits, five times a month. 'C' rated prisoners get 30 minutes three times a month. These are frequently monitored, non-contact visits during which the prisoners sit behind glass.

At Rustenburg, where juveniles serving sentences of under five years are brought for rehabilitation and training, the children are moved far from their homes

and families. Some of them live as far as 300 kilometres from their homes. Most said that they were not aware, when they were brought to Rustenburg, that they would be going so far away from their families and friends and that this was not properly explained to them. They said they were simply asked if they would like to receive training and, because they assented, were transferred 'in no time' to Rustenburg. The children all complained of missing their families, despite the fact that the prison

• A BOY INTERVIEWED AT VIRGINIA PRISON had been sentenced to 90 days or a R700 fine for trespass. It emerged that he was from Botshabelo, near Bloemfontein but had left when his father became ill and his mother lost her job. He came to the mines to look for work but was arrested in the mine compound for trespassing. He was terrified and very unhappy. A social worker called in by the researcher was reduced to tears by his story. The researcher approached the Department of Justice who arranged for the boy to be released.

offers them a 'good opportunity of being skilled in one way or the other'.

At Odi Prison, distance was a major impediment to contact with families. Half of the prisoners said they lived more than a two hour drive from the prison. The other half lived in the surrounding community. Despite this, one child had not received a visit since the previous December (the visit to the prison took place on 15 April). Another had never been visited and didn't know why. He supposed his family did not know where he was. A child who lived with his sister said he had received food and money but that he did not know why she had not visited. Two of the children received regular visits.

At this prison, the head said he would like to meet parents but that few parents were willing meet with him. Come of the juveniles said they did not want their parents to meet the head or visit the prison.

The majority of the children at Thohoyandou were over 200 km from home, a three hour drive from the prison. Most of them had not been visited by their relatives or friends.

At Pietersburg, the girls receive no visits. Neither of the girls' parents knew they were in the prison. One of the girl's parents live some 100 kms away. She last saw them in court when she was sentenced. She had no way of communicating with them, nor did she know why they have not bothered to visit her. The other girl was also far from her home in Johannesburg and had received no visits. At Malmesbury, no social worker is allocated to the children, and most of the boys had not been visited by their families. One said his mother had died recently.



• MANY OF THE CHILDREN WERE DESPERATELY HOMESICK. One, who had said to the social worker that he wanted to be transferred to a prison nearer to his mother, was told that he should not "chase after his mother, but should concentrate on education." Another simply said: "I just want to go home."

At the Pollsmoor Admission Centre, several of the boys received no visits. Two of them said their parents could not afford to visit; two said they received visits occasionally. Only one said that his mother visited him 'very often.'

Few children had visitors at St Albans. One said that his family did not come to visit him and that he 'does not really mind'. The other said that his brother, with whom he lives, did not know he had been sent to Port Elizabeth from Patensie - some 90 kms (a car ride of one hour or more) away.

Some of the boys at Kroonstad Prison had family in Kroonstad who visited them from time to time: once, twice or three times a month. Some had received no visits as their parents lived too far away.

At Barberton, all the interviewees lived more than 20 km from the prison, and some came from as far as the Free State and KwaZulu/Natal. Only one prisoner had received family visits. Other inmates claimed Barberton was too far from home, and they were never visited. Some said their families did not know they were in the prison. The social worker said she was attending to this problem. All had been living in the family home prior to arrest, most of them in large families with small incomes.

At Rustenburg, two open family days provide for contact visits when family can visit the children in the cells and have an opportunity to spend time with relatives travelling from far away/ These are in addition to the normal visits during regular visiting hours. Despite this, the three children interviewed said they had never had any visits from their families.

At St Albans, the visiting section is shared with the adults. At Pollsmoor, too, juveniles share the visiting



- **A BOY OF 17 YEARS OLD at Kroonstad Prison said his mother had died in 1996 and that he does not know his father. He had family living in Phillipolis but they did not visit him.**

- **A YOUNG GIRL IN PIETERSBURG PRISON said that she had been used by shoplifters to steal for them from shops in and around Johannesburg. She had been caught in Pietersburg where she had travelled with them. After pointing out the goods they wanted stolen, they disappeared. Although she claims they saw her when she was arrested, she has not seen them since.**

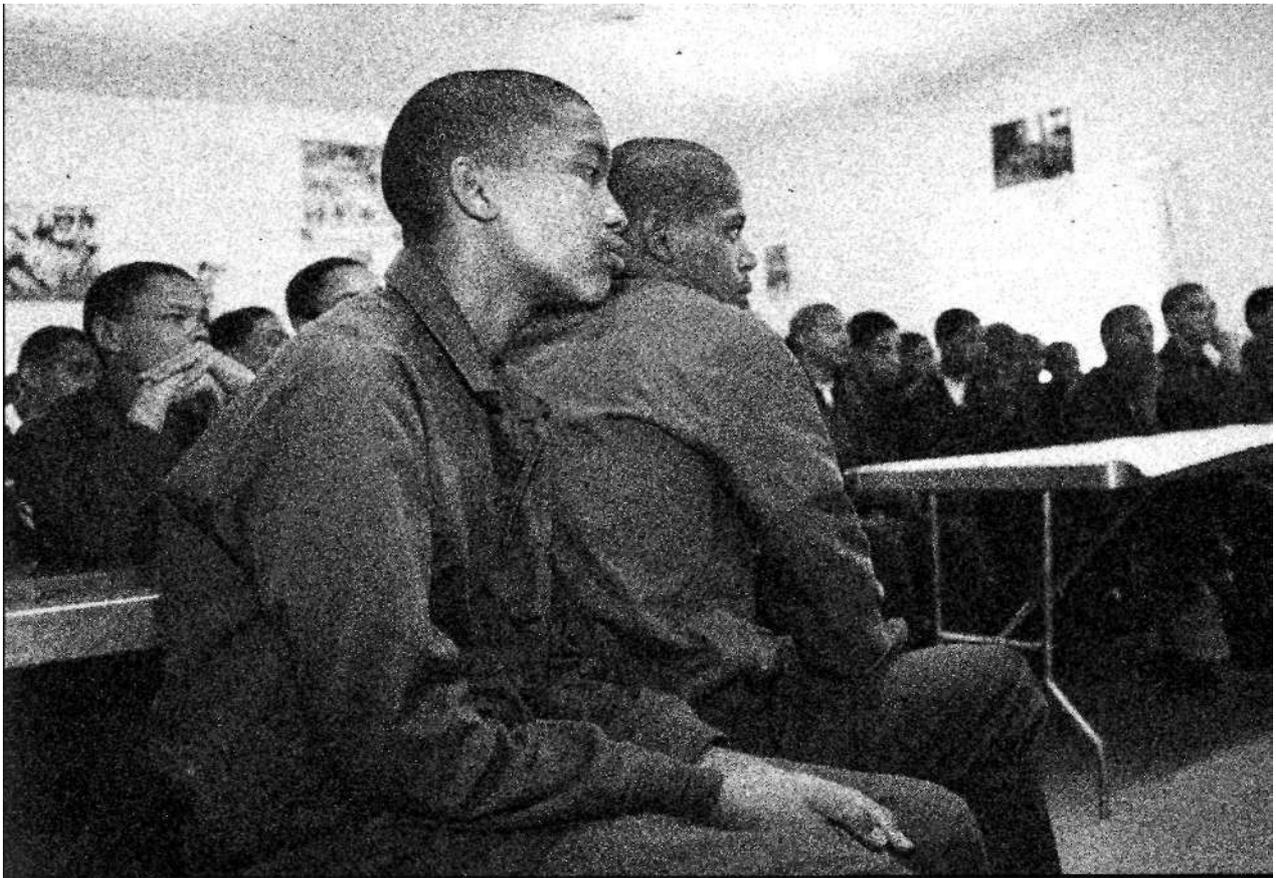
area with adults and allege that they get robbed of 'their possessions as a result.

Very often the parents of Section 29 - children did not know which prison their children were in. A social worker at Pretoria Local tried to help the children contact their families, but said it was "hard to find families living in shacks". The majority of the boys had no visits at all, despite the fact that, quite often, the parents had been present in court when the children appeared.

Researchers found generally that juveniles in prison felt separated from their families and deprived of family support because of the infrequency of family visits. Interviews with social workers revealed that the most common request from children is to help them get in touch with their families. Often the problem cited was the fact that children are imprisoned far from home and parents are not able to visit them. Sometimes

- families living quite close by do not visit the children. Sometimes the children say, or assume, that nobody knows where they are.

6 Section 29 of the Correctional Services Act 8 of 1959 was amended in 1996 to provide for the detention of juveniles in prisons or police cells, under prescribed conditions and where no alternative exists.



5 • Education & Training

Schooling Provision

"Everyone has the right... to a basic education".

(SA CONSTITUTION, SECTION 29)

- *"Every juvenile of compulsory school age has the right to education suited to his or her needs and abilities and designed to prepare him or her for return to society. Such education should be provided outside the detention facility in community schools wherever possible and, in any case, by qualified teachers... Juveniles above compulsory school age who wish to continue their education should be permitted and encouraged to do so, and every effort should be made to provide them with access to appropriate educational programmes." (UN RULES, 3SFF & 39)*

The South African Constitution enshrines the right to education and the South African Schools Act (1996) makes education compulsory up to the age of 15.

However, the provision of education for children in prison is as uneven as many of the other services provided. A very few prisons have complete school facilities and cater for formal school education. Others are beset by staff shortages, overcrowding and inadequate facilities and resources.

At some of the prisons there are no facilities at all. At Stanger Prison, no education or training is offered. There are no teachers, and there is no access to books. At Malmesbury, likewise, no education is provided. At this prison, nobody is trained to work with juveniles, there is no social worker, and there are no programmes for children at all. Pietermaritzburg Prison provides no educational programmes for the children.

At some of the prisons, some provision is made. At St Albans in Port Elizabeth, researchers were told that education is free up to Standard Five. After this, the children have to pay 'subject money'. The authorities claim that they assist children in getting funding when it is needed. The Department of Correctional Services provides them with the materials they need, and a

- **A BOY AT RUSTENBURG** with a list of convictions came from a deprived background. He said his mother was an alcoholic and buys alcohol with whatever money is given to her. His stepfather regularly beats him. He had never attended school as there had never been enough money to pay for it. At prison he was enrolled in the Read and Write course and was learning basic maths.

- **AT ODI PRISON**, one of the boys said that if he goes to school, the other inmates will "irritate him".

- **A 17 YEAR OLD** left the Kroonstad prison school after three months "to think about what I am going to do when I come out". "So what are you going to do", asked the researcher. "I intend to go back to school", he replied. "So would it not have been better to continue at the school at the prison?" "I thought it was better to have a rest."

- **AT BRANDVLEI**, where there is a fully equipped and staffed school, it was reported that half the youth in the prison are prepared to attend. The Parole Board has told the children that, if they did not attend school, it would count against them when their parole is considered. This resulted in several children attending school who would not otherwise have done so.

- **BRANDVLEI PRISON**, one of the model youth facilities, has a project called Basic Radio. This is a well-equipped radio station run by the juveniles themselves, with the help of a coordinator.

- **"WE ARE BEING HARDENED**, whereas we were not hard before. I am like a tiger now. There is no education here. We are learning criminal activities more than anything."





library is kept alive by donations from the community. In Pretoria Central, a new prison, education is only provided up to Standard 5. Researchers were told that schooling had not begun (February 1997) 'because books hadn't arrived from Gauteng' Education Department'.

At Kroonstad, the prison provides education from Grade One to Matric. The authorities complained of a lack of resources, including books. There are no classrooms or equipment. At Virginia, only boys with sentences of six months or more are accepted for schooling.

At Pietersburg, there is one educationist for the entire male prison population. Two of the children interviewed said they were interested in continuing their studies and said that the prison officers are supportive, help them get books and assist them when they have difficulties. The older juveniles also help them with their studies.

Some of the prisons, however, have well equipped schools.

At Brandvlei, ten teachers are provided by the Department of Correctional Services, and the school is attended by half the juveniles at the prison. In 1-996, the prison reported a 70% pass rate for the matriculation examination. The school caters for the entire spectrum - from literacy teaching to the upper high school classes, up to matric. The educationist said that all children are welcome at the school, although some of the prisoners contested this and said they had not been allowed to go. The school also invites outsiders to give lectures at the school, particularly in the life skills area.

At Brandvlei, prisoners not involved in education and training programmes are required to work. They do gardening, painting and agricultural work. Some of the children complained that they are forced to work and not allowed to attend school, but the educationist reiterated that all prisoners interested in learning could attend school.

Barberton provides a comprehensive education programme, ranging from literacy teaching to matriculation level. As there are six qualified teachers and only 12 pupils per class, children are likely to get plenty of individual attention. The teachers are assisted by staff trained as teachers and inmate tutors. Life skills training is also provided. Researchers were told that a computer room is planned for the learning centre at this prison.

At the Ekuseni Youth Development Centre, a full educational and vocational training programme is being piloted. However, during a visit on a Friday, during ordinary school hours, neither vocational nor educational programmes were in progress.

The Westville Youth Centre employs eight teachers and uses two others from the adult section of the prison. At this institution, researchers were told that just over half the sentenced children attend school. School is, however, voluntary, and the authorities say they have no way to guarantee attendance.

At Thohoyandou, three qualified teachers serve 1000 prisoners, helped by prison officers who have attended a 'two week training programme'. Education is provided



from Grade 1 to matriculation every week day. However, researchers were told that teaching materials are limited and outdated. At this facility, the authorities also said that they help prisoners access tertiary education by obtaining application forms, submitting assignments and so on. Assistance is sometimes given by the Department of Education.

At Pretoria Local, researchers were told that seven juveniles attend school four times a week. Although there are two qualified teachers and six unqualified staff, and five prisoners also assist with the teaching, there are no classrooms and lessons are taught in divided corridors. Prisoners may also register for correspondence studies.

There are libraries at many of the prisons, including Pollsmoor, Barberton and Thohoyandou where there is one library in each of the four sections. Often books are donated and some are provided by Correctional Services.

Obstacles to delivering educational programmes

At Leeuwkop, researchers were told that the school failed to operate between November 1996 and March 1997 because 'they were waiting for the new syllabus and text books' which the Gauteng Education Department was supposed to have sent. When asked why they did not proceed, they were told that the prisoners had refused to attend school until the new materials had arrived. One teacher, however, said that the school had not been functioning since she arrived in 1994 due to staff problems and failure to report for work. As observed elsewhere, the staff at

Leeuwkop were extremely demotivated. Researchers were also told that prisoners had a low level of literacy and were unfamiliar with the discipline and routine of a school environment. This, coupled with the lack of motivation and regular attendance of staff, made it difficult to initiate children in a learning culture.

Sometimes, researchers were told, 'no staff were available to take the children from their cells to school on a regular basis. At St Albans, where the children attend school with the adults, the authorities said there was

a problem finding staff to take the children to the school. At Pollsmoor, where the school is reached through the adult section, researchers were advised that, when the prison does not have enough functional staff members to escort the children, they are not able to attend.

At many prisons, it seems, there is a complete failure to provide a regular daily school programme for the children.

Some sense of the chaos surrounding education provision was obtained at Odi Prison. One child said he attends school three times a week. A second said that he had wanted to register but had been told to 'wait until his name is called'. Another said he had been informed that he had to buy his own books which he said his family could not afford. Two juveniles said they were not interested in attending school because they were serving such short sentences. Another boy had tried to put his name down for arts and crafts but said that authorities 'hadn't taken his name'. A boy said he wanted to visit the library, but reported that it was always locked. The library was indeed locked on the day of the visit.

At Pollsmoor, researchers were told that school starts in January, and children could only attend if they registered at the beginning of the year. Programmes run for only three hours a morning up to standard 6. There are also insufficient places at the school which takes only 150 children and juveniles. No programmes at all are provided at the Pollsmoor Admission Centre on the grounds that the children here are waiting placement in other parts of the prison or other prisons altogether. It was noted, however, that children at the Admission Centre often wait from nine months to a

year before they are transferred, and that children serving short sentences may complete them here. At Pollsmoor, the sentenced prisoners are allowed to study by correspondence but must pay for it themselves.

At the Westville Women's Prison, the girls said they would like to attend school but there were no teachers. Although there is an examination centre, adults who had tried to study by correspondence said that the tutorial material always arrived too late and that there was no opportunity to write exams. The girls spend their days working with the adults - mainly sewing.

Reluctance to attend school

The children themselves are often reluctant to attend school.

At Kimberley, teachers complained that the children were not interested in attending classes. At Thohoyandou, the authorities said they had difficulty in persuading the children to attend school as they do not 'see it as a reality'. None of the children interviewed was attending school. Some said they would have joined if they had been told how to enrol. It was not clear to the researchers why some of the children did not know about the school as they had been in prison for a long time. At this prison, the educationist thought children should be compelled to attend

school but, due to the shortage of teachers, was doubtful as to whether this would work.

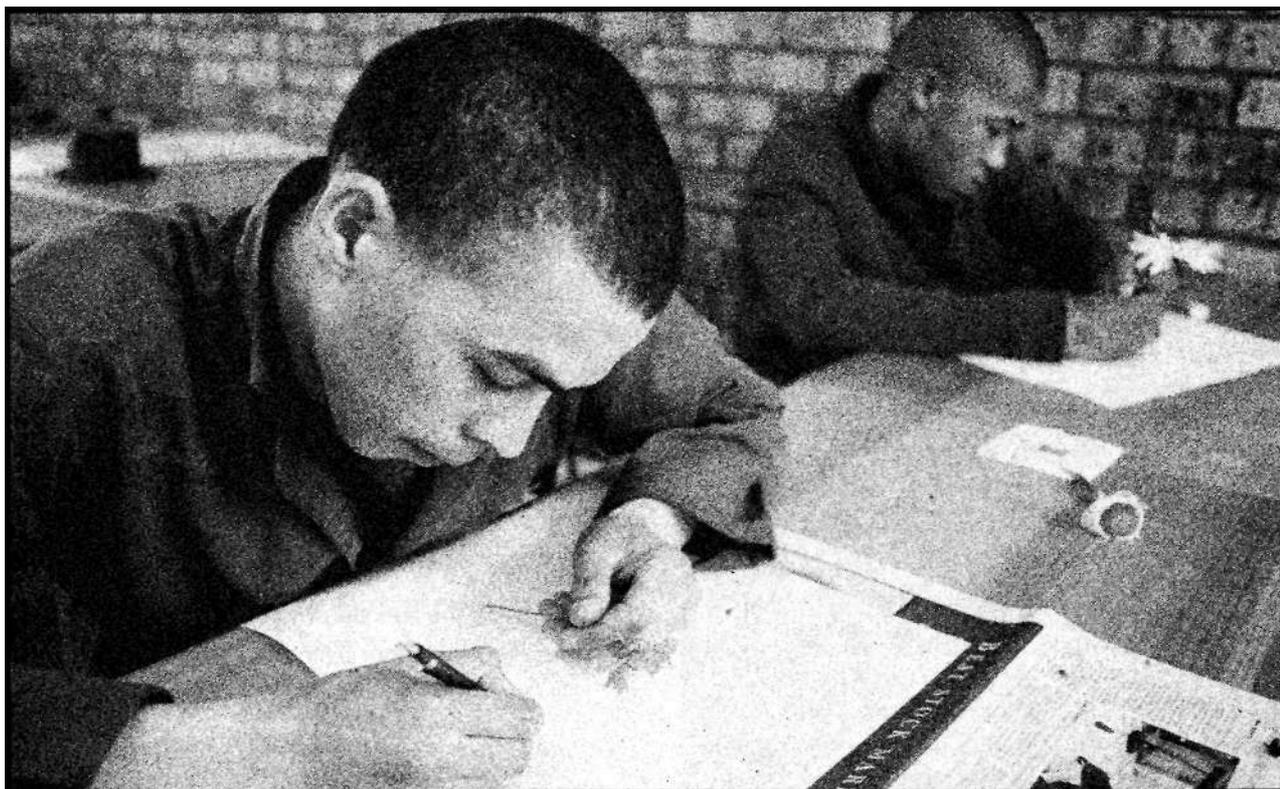
The five girl children at Thohoyandou reportedly attended school every day. They said they had 'enough' books. However, the authorities said they cannot accommodate children who come to the prison after the beginning of the school year.

At Brandvlei, the children had been told that the parole board would take into account their participation in education programmes at the prison. As a result, attendance is comparatively high with half the youth in the prison attending school.

Unsentenced children

"(Unsentenced) Juveniles should be provided, where possible, with opportunities to pursue work, with remuneration, and continue education or training, but should not be required to do so." (UNRULES IBBJ

No education at all is provided for unsentenced children. Because many of these children spend months in prison awaiting the finalisation of their cases, it was noted with concern that they often lose a year or more of their education. As mentioned, children awaiting



trial- are the responsibility of the Department of Welfare. The Department of Correctional Services is responsible only for their-safe custody.

An exception to this is North-End Prison in Port Elizabeth where all prisoners, including those who were unsentenced and awaiting trial, are given the opportunity to attend school. There are limited facilities provided, although researchers were told that the prison receives assistance from Adult Basic Education and Training (ABET) which provides resources, training and teaching equipment. Prisoners at North End are also allowed to apply for \ correspondence courses, and high school students are registered at the school in Magxaki and may write the examinations. The school provides the syllabus, exam papers and monitors the exams.

Technical training opportunities

"Every juvenile should have the right to receive vocational training in occupations likely to prepare him or her for future employment." (UN RULES 42)

At some institutions, technical education and training is provided.

At Barberton, for example, there is an 'impressive range' of training and production workshops where courses in metal work, sisal work, needlework, knitting, woodwork and building are offered. At this facility, staff said that they hoped to introduce electrical and plumbing workshops in due course. External examiners evaluate the work of prisoners. Some of the products made are sold at markets and the money used to develop the recreation facilities. In the woodwork section, prisoners were making finger boards for recreational purposes. Prisoners were also paid between R7 and R30 for their work.

At Barberton, all interviewees were involved in training or education, or were working in the fields. Only one complained, saying that the trade he wished to pursue was not offered at the prison. Most said they wanted to improve themselves in prison and learn a skill which . they could apply when they were released.

At the Westville Vocational Centre, courses were offered in bricklaying, carpentry, welding and joinery. At Pollsmoor, National Technical Training Certificates through

levels N1 to N4 were offered. However, researchers were told that to go beyond N1, prisoners have to be transferred to the Medium B prison. At Leeuwkop, the researcher commented on impressive workshops where carpentry, wire work, clay work, metal work, and brick laying are amongst the trades taught. At Virginia, however, although some of the boys expressed an interest in learning trades, no facilities were available.

The Ekuseni Youth Development Centre was supposed to have embarked on a major educational and vocational programme, with a variety of trades to be offered to children. At the time of the visit, however, it was not clear that this had materialised to the extent planned.

External assistance

Sometimes NGOs, educational institutions and religious organisations provide programmes for the prisoners.

Graceways, a Christian organisation, offers both vocational training and arts and crafts classes at the Westville Youth Centre. By these means, the organisation aims to contribute to the rehabilitation of juveniles through the development of skills. Graceways also runs a halfway house from which they organise contract work. It was noted that the Christian aspect of their mission is 'underplayed'.

At North End Prison, the Eastern Cape Training College provides training programmes in carpentry, plastering, building and bus driving.

At the Westville Women's Prison, although a legal skills course is provided to adults, it is not available to juveniles or children.

At Rustenburg prison, where there is a primary school, NICRO and the public education department assist students to continue their studies through correspondence.

At Thohoyandou, the University of Venda plans to provide a Prison Extension Programme, teaching music and street law, and providing social work services.

Top students at Brandvlei and prisoners elsewhere participate in Presidential Awards projects which may involve, amongst other things, outside field trips.

6 • Rehabilitation Programmes

"Juveniles detained in facilities should be guaranteed the benefit of meaningful activities and programmes which would serve to promote and sustain their health and self-respect, to foster their sense of responsibility and encourage those attitudes and skills that will assist them in developing their potential as members of society... As soon as possible after the moment of admission, each juvenile should be interviewed and a psychological and social report identifying any factors relevant to the specific type and level of care and programme required by the juvenile should be prepared... When special rehabilitative treatment is required, and the length of stay in the facility permits, trained personnel of the facility should prepare a written, individualized treatment plan..." (UN RULES, 12&27)

Prisons were found to vary greatly in the provision and quality of rehabilitation programmes they offer to juveniles in their care. Many prisons, such as Malmesbury, reported that they offer no social work or rehabilitation programmes at all for juveniles. The Pollsmoor Admission Centre (which, like the Malmesbury Prison, accommodates children awaiting transfer elsewhere), similarly offers no rehabilitation programmes. Despite the excuse made that they simply house children who are awaiting placement in another area of the prison or in other prisons, interviews with the children revealed that some had been in the Admission Centre, without programmes, for as long as a year.

At Pietermaritzburg, there are no rehabilitation programmes. Here, too, the imminence of transfers was used as the excuse. It was reported to the researchers that 'a couple' of the juveniles were awaiting transfer to Ekuseni Youth Development Centre, where there were programmes in place.

At Stanger Prison, there are no rehabilitation or psycho-social programmes. There is no attempt to do case work or group work, nor are there pre-release programmes.

• ONE OF THE RESEARCHERS, ANNE MCKAY (MA Clinical Psychology) suggests that a basic package of rehabilitation programmes for awaiting trial children could include:

- sexuality education and HIV prevention
- substance abuse
- rehabilitation relating to criminal/anti-social/self-destructive activities
- building self-esteem, values, processing emotions (anger and depression management, assertiveness training)
- conflict resolution, democracy and civic training
- 'street law' and legal education, life skills training, career and educational counselling, evaluation of economic alternatives to crime
- evaluation of progress, fostering of personal responsibility, active involvement in decision-making, taking responsibility for own progress, fostering of leadership, community involvement

Where programmes are in place

In some of the prisons, the social workers reported that programmes were in place.

At Rustenburg, the social workers reported that they aim to put the children through at least three social work programmes before they complete half of their sentence. Researchers were told that, within ten days of arrival, Rustenburg prisoners are interviewed by the social workers. Prisoners then undergo an orientation programme to prepare them for their stay. They are also asked to provide their parents contact details so they could be informed of the whereabouts of their children. This information is then sent to parents through the South African Police Service.

Social workers at Rustenburg also claimed that they inform the prisoners about the support systems available to them, both inside and outside prison, including psychological and medical services. Life skills programmes provided include health programmes on sexual orientation and drug and alcohol abuse and programmes on responsibility and conflict resolution. Once the juveniles have completed these programmes, they are channelled either to the school or the training workshops, depending on their levels of education and interest.

Near the completion of their sentences, the prisoners undergo community reintegration programmes. The social workers assist the juveniles in looking for jobs and inform their parents of their imminent release.

At Pollsmoor Medium A Section, the social worker says that each juvenile is placed in a programme based on his needs. Programmes offered include a drug and alcohol programme (which about 25 juveniles were attending at the time of the visit); an aggression programme (which very few juveniles seemed interested in joining); a life skills programme; a peer pressure programme; a sexual offenders programme and an economic programme focusing mainly on petty crime. The social worker said that the most common problems she encountered were the lack of communication and interaction skills.

Sentenced children at Westville Youth Centre are offered several programmes, including group therapy. Group therapy is usually conducted over ten sessions with children referred by the probation board or the prison staff. The group meets two or three times a week,

and work covers issues such as how children have contributed to their problems, rational behaviour therapy, understanding cognitive processes and taking control over their lives. These groups often inspire the juveniles to approach the social workers for individual sessions to discuss family problems.

What the children say

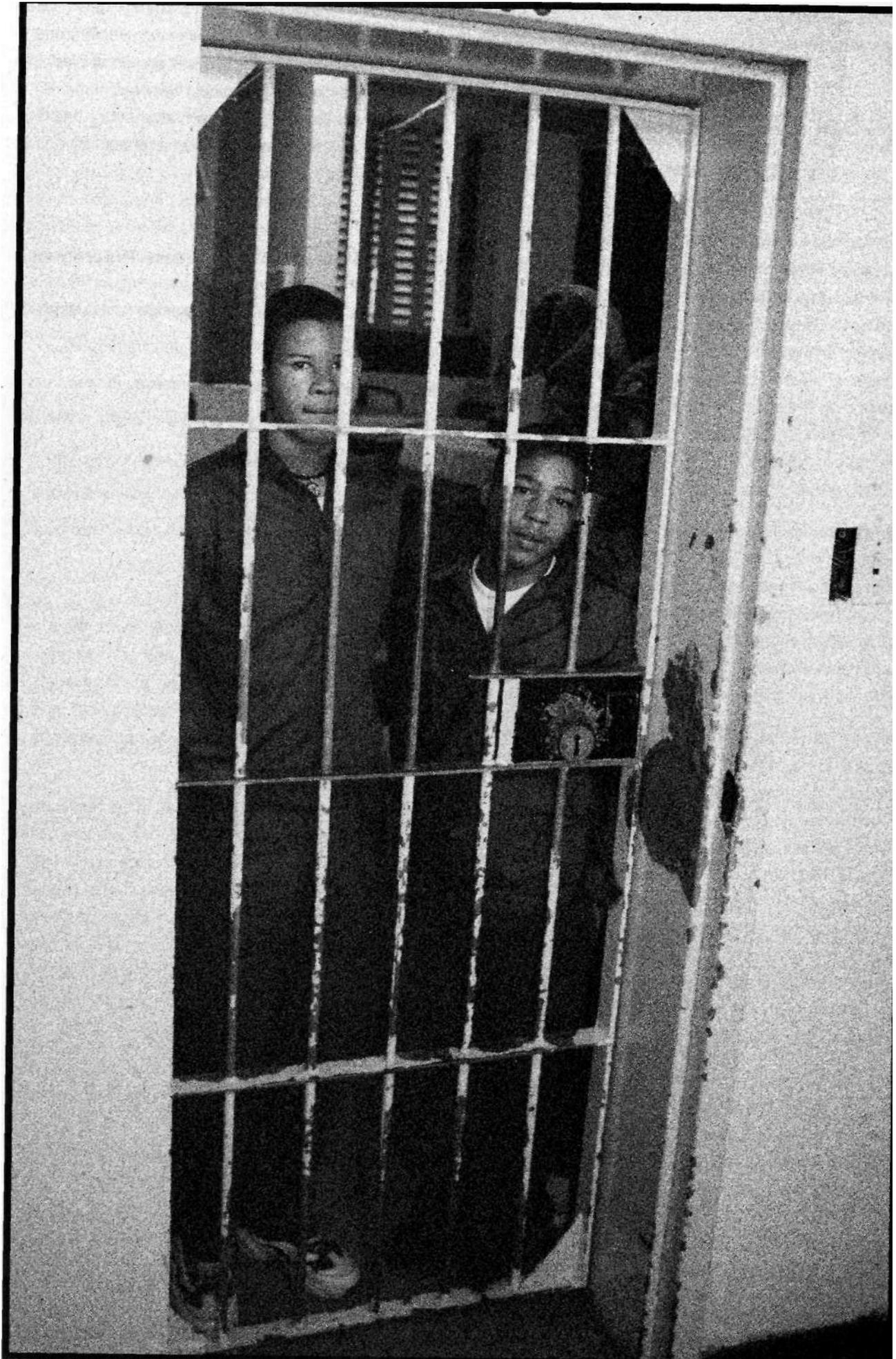
Although social workers at Rustenburg Prison provided a detailed description of their programme at the prisons, only one of the eight children interviewed said he had seen the social worker in connection with contacting his parents, and one other said he had attended a six day preparation for release programme. However, it was noted that there is one social worker and one auxiliary allocated to the entire juvenile section - 99 juveniles and 19 children under the age of 18 on the day of the visit.

Discrepancies such as this emerged frequently during the visits.

In some cases, the children indicated that they did not wish to participate in such programmes.

At Leeuwkop Medium B, rehabilitation programmes include: programmes on alcohol and drug abuse, programmes for sex offenders, a pre-release programme, life skills and coping skills and reality therapy. In addition, researchers were told that each prisoner undergoes an orientation programme on arrival. However, only a small number of prisoners, about 30%, participate in programmes. The staff said children were more likely to participate if they join up at the beginning of their period of imprisonment; otherwise they become demotivated and soon join the 'culture of inactivity'. Only five of the fifteen prisoners interviewed said they had taken part in programmes. Most complained that prison was a bad place, that there was a lack of stimulation and that they spent their days sleeping or lying on their beds.

The life skills facilitators at Westville Youth Centre said that is not always easy to keep children focused during group work. They try to use videos on topics that interest the children in order to keep them active and avoid using a lecturing approach. In this way they hope to alleviate some of the boredom of prison life and give the children something to think about "beyond things like breaking cell windows". They work with children in one cell at



a time. The programme is voluntary and anything from two to thirty children attend at any one time.

Help from outside the prisons

At some prisons, NGOs and outside organisations arrange programmes for young prisoners.

At Pollsmoor, 'outside' community projects aimed at helping juveniles, include visits to the prisons, addressing the children and organising events like talent competitions. The prison is also involved in the Presidential Awards, a project of the Nelson Mandela Children's Fund, which consist of a series of 'stepped' programmes aimed at developing the social, physical and intellectual well-being of youth. They include, for example, courses in karate, business and hiking. Bronze, silver and gold medals are awarded on completion of each course.

At Pretoria Central Medium B, there are also 'outside' programmes. NICRO, for example, offers life skills classes and a pre-release programme. However, not one of the boys interviewed said he had attended a social work programme, although some said they had been interviewed by social workers, either in the Pretoria or Johannesburg prison.

At the Westville Youth Centre, NICRO runs morning life skills programmes for unsentenced children, focusing on decision-making and consequences, assertiveness training and cultural activities. The KwaZulu/Natal Youth Builders Association, an NGO from the Verulam area, has also been brought in because of its experience in working with politicised youth in areas affected by violence. Its programmes involve helping youth organise cultural activities such as gumboot dancing, gospel singing and sports. The social workers in the Youth Centre have bought 12 pairs of gumboots for the children.

The NICRO programmes cover some of the aspects recommended by researcher Anne McKay, but she comments that, at one hour a week, they are unlikely to be effective. She notes that, in any case: "Rutter (1983) suggests that it is not only, or even primarily in the content of a rehabilitation programme that rehabilitation occurs, but also in the structure of an institution, and in its officials having an understanding of their role in

understanding delinquency and promoting pro-social Behaviour." The small number of social workers and the overcrowding of the awaiting trial section at Westville Youth Centre keeps Correctional Services staff from being actively involved in rehabilitative work, undercutting their ability to make prison a rehabilitative experience for the children.

Release Policy and Pre-Release Programmes

"All juveniles should benefit from arrangements designed to assist them in returning to society, family life, education or employment after release. Procedures, including early release, and special courses should be devised to this end... Competent authorities should provide or ensure services to assist juveniles in re-establishing themselves in society and to lessen prejudice against such juveniles...." (ON RULES 79 & aoj

At many prisons, such as Pietermaritzburg, there are no separate release procedures, and children are subject to the same procedures as adults. The Department of Correctional Services does not have a separate policy for children on remission, parole or other related issues.

At the time of the research, the Head of the Rustenburg Prison advised the researchers that the inmates qualify for parole after serving one third of their sentences. ⁷ However, because most relatives either cannot be traced or because of the time taken to trace them, the juveniles may end up serving longer periods. To qualify for parole the prisoner must either have demonstrated 'sterling' good behaviour throughout his stay in prison or be serving a sentence for a minor crime.

At this prison, as mentioned above, the social worker reported that inmates undergo a community re-integration programme. At Barberton, it was reported that the community re-integration department is supposed to run a pre-release programme but has not done so. Pretoria Central Medium B offers a pre-release programme which commences six weeks before release.

⁷ A subsequent amendment to the Correctional Services Act, however, now requires that at least half a sentence be served before parole can be considered.

At Westville Youth Centre, there is no pre-release programme for the awaiting trial and unsentenced children. The social workers say they do not know when a child will be sentenced or released. The children go to court and may or may not come back to the prison. Those who are sentenced to reform schools are sent back to prison and may wait many weeks or even months to be transferred without any programme in place for them. Some of the sentenced children at the Youth Centre, however, are helped by the social workers during the pre-release period, although they are greatly constrained by a shortage of staff as mentioned above.

There is no pre-release policy at the Westville Women's Prison due to the fact that no social worker is employed at the prison at all.

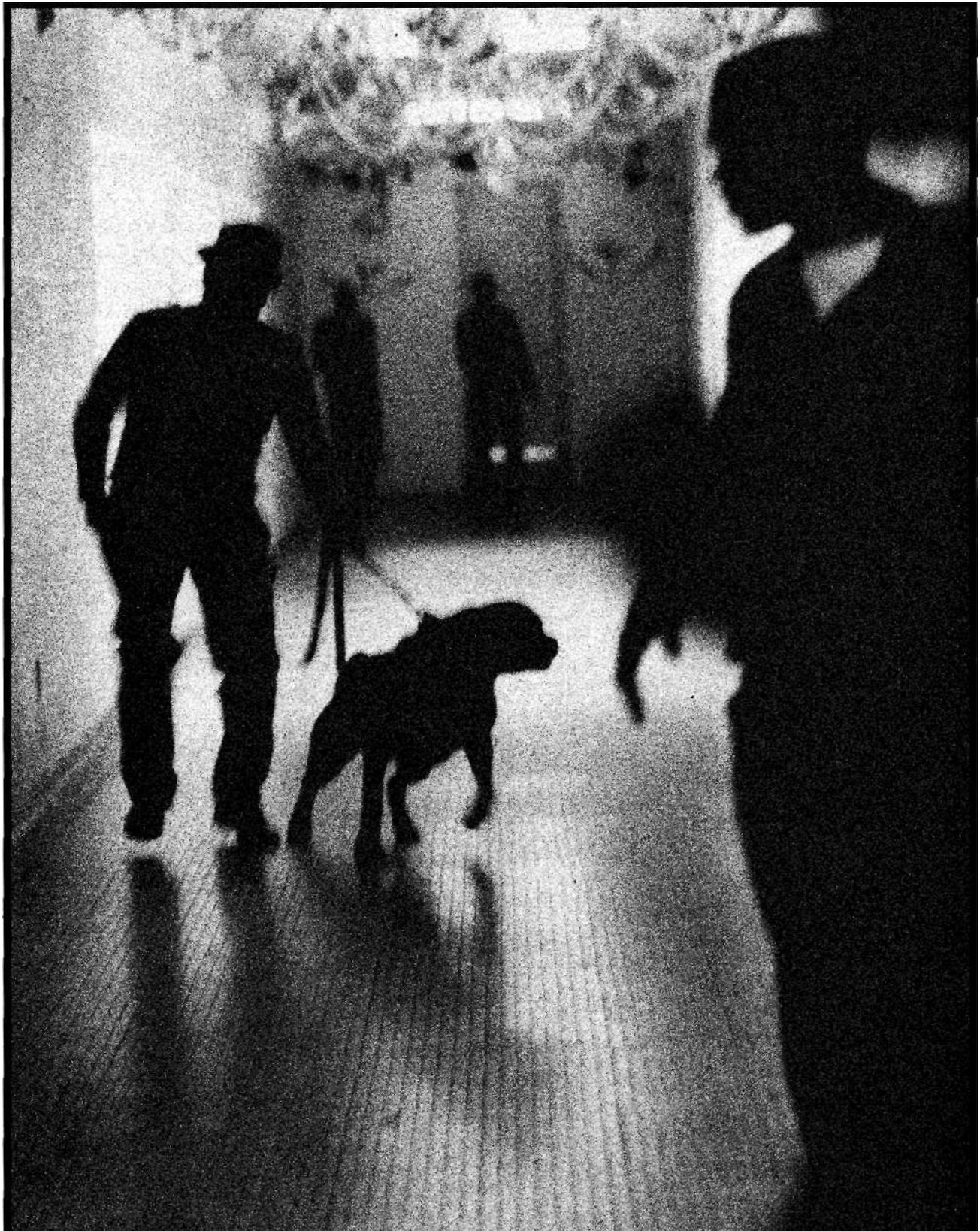
At Stanger, such systems as had existed, such as the pre-release programme, had collapsed due to the staff/management programmes.

The monitor who visited the Westville Women's Prison conducted the following checklist against international standards for conditions of imprisonment of children:

Social Work and Rehabilitation: Checklist against International Standards

ASSESSMENT AND INDIVIDUAL TREATMENT PROGRAMME	Not done
REFERRAL SYSTEM TO OTHER PROFESSIONALS	Can be done if necessary by hospital, a warder, the head of prison, social worker or parole officers
CASEWORK AND GROUP WORK	No group work done, some casework with some juveniles. Social workers only have capacity to deal with specific problems.
LIAISON WITH CHILD'S PARENTS	Not unless complete communication breakdown.
SUPERVISION OF LEISURE ACTIVITIES	Leisure unsupervised, although warders in approximate vicinity. No interaction or stimulation.
PREPARATION OF CHILDREN AND THEIR FAMILIES PRE-RELEASE	Not done
OPPORTUNITIES FOR MENTAL AND SPIRITUAL GROWTH	Not done
REINTEGRATION INTO SOCIETY	Although officer newly appointed, nothing yet done or planned.
ESTABLISH MENTAL AND EMOTIONAL STATE ON ADMISSION	Institutional Committee is supposed to do this.
ALLEVIATION OF TRAUMA OF IMPRISONMENT	Not done
INFORMATION ON CHILD'S STATE PRIOR TO ADMISSION	Usually only arrives 3 months after admission. Most information gained from children themselves. ⁸
MULTI-DISCIPLINARY CASE CONFERENCES	Not done
REHABILITATION PROGRAMMES	Beyond a few hours on HIV awareness run for all prisoners, none of the required programmes had been conducted.

⁸ In most of the interviews conducted across the country, according to the children, no probation officer had seen the child during his or her hearings.



• "IT TURNED OUT that the children in that cell belonged to the gang, the Joint. As soon as the warder walked out of the cell and had disappeared from sight, the gang members started to assault me. They slapped and kicked me all over my body. Then these gang members sodomised me. All the time I was screaming for help at the top of my voice, hoping that the warders would hear me. No one came to help me. I am sure that the warder who was in charge must have heard my screams but he never came to help me."

7 • Violence in Prisons

"Every child has the right... to be protected from maltreatment, neglect, abuse or degradation".

(SA CONSTITUTION, SECTION 33)

"Every one has the right to freedom and security of the person, which includes the right... not to be tortured in any way; [and] not to be treated or punished in a cruel, inhuman or degrading way. "

(SA CONSTITUTION, SECTION 12)

"All personnel should ensure the full protection of the, physical and mental health of juveniles, including protection from physical, sexual and emotional abuse or exploitation." (UNRULES, 87)

Gangs

Although it is believed that gangs operate in the majority of prisons, many of the children interviewed were not frank about their activities. Some children admitted to belonging to gangs. Others said they belonged to gangs outside but had decided not to join while in prison. Most said that the gangs were 'no problem'.

It is therefore difficult to develop a clear picture of what gangs exist, how strong they are, and the degree to which they terrorise the prison population. In some prisons, the interviews reveal that the children, although they do not give details, were extremely fearful. One suspects that, in prisons where the children reveal no information at all about gang activities, or say there are none, that they are often motivated by fear of reprisal.

Thus at Barberton, although no-one complained of intimidation by gangs, several of the interviewees complained of fighting between the prisoners.

The authorities said that there had been quite a lot of violence amongst the juveniles, although it had decreased. They also said the young prisoners are naughty and difficult to manage.

At Stanger, once again, it was clear from the children's body language that they did not feel free to talk and were withholding information. They claimed that they were not abused by their fellow inmates, although they knew it happened in other prisons. Warders did rounds every half hour, although one of them intimated that this might not happen as regularly as may appear in the records. There was also apparently access to a warder in an emergency. The juveniles claimed there are no gangs in their section, although the adults belonged to gangs.

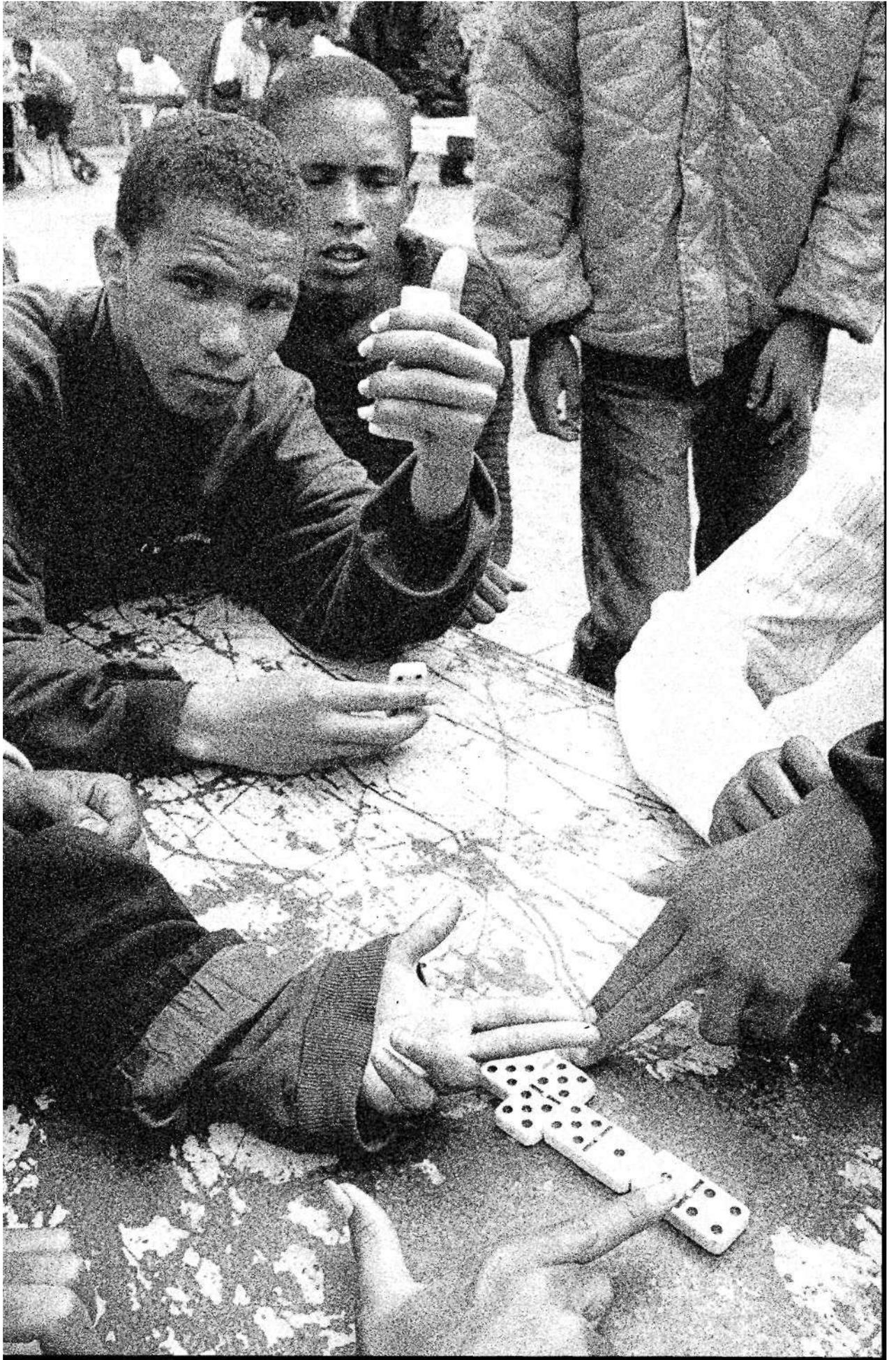
At Leeuwkop, one child had a black eye inflicted by a cell mate. Others had been forced to do dirty work in the cell by the older inmates and sometimes by the gangs. The gangs were reported to be a problem and were often the instigators of the many fights. The youngest prisoner said he was often mistreated and verbally abused by the other prisoners.

There are several gangs. At the juvenile section at Pollsmoor, the 26s and 28s were reported to be a problem. One boy said he was a member of the Americans. At St Albans, there are several gangs: the Boom Shakas, the 26s, the 28s, the Untouchables, the Invincibles and the Airforce. At Malmesbury, one boy said he was a member of the Ice Boy gang outside the prison, another that he belonged to the Born Free Kids. Both had joined the 28s inside the prison.

At Johannesburg Medium A prison, gangs in the prison are called Ma-China and Japan. One boy said that when he first arrived he had been forced to do washing for the Ma-China gang in order to buy protection. He was also woken up in the middle of the night to get water for the leader of the gang. He said this was a form of initiation; now that he is part of the gang he is no longer maltreated.

Another inmate says he does not experience problems because he is always in the company of his friends, and the gangs do not talk to them.

At Pretoria Central Medium B, one of the children said he had felt scared when he arrived at the prison, but was no longer scared. Although there were gang members at the prison, most inmates reported that they had not experienced any problems with them. However, one of the older boys said that the inmates sometimes fight. One of the gang members had beaten him 'with fists'. He also said:



"Someone tried to influence me to join the gangs. There are a lot of gangs here. I am afraid of them. More than I was in Johannesburg."

In certain instances, warders expressed their concern about gang activities.

At Odi, the warder in charge of the juveniles said he had tried to deal with the problem by bringing the leaders of the 28s and 29s to a meeting, after which a truce was declared and knives and weapons handed over. He did not, however, believe that the peace would last.

At the Malmesbury prison, the boys pointed out how trapped they felt about reporting offences. They said they were told to point out suspected offenders amongst the prisoners. If they did so, they said, they were intimidated by the inmates. If they did not, the entire group would be punished.

In certain instances, children were prepared to report on gang activities. At Pretoria Local, one boy said he had been held in a cell with older boys (up to the age of 27) and had been abused, beaten and forced to join a gang. At Brandvlei, several of the children interviewed said they did not want to belong to gangs. One said this was because "it is not worthwhile all the trouble you get". Another felt it would affect his chances of parole.

At Pollsmoor, an attempt is to keep the 'difficult' juveniles away from the rest. The juveniles are housed in two cells - one for those who cooperate and attend school and another for the so-called 'difficult' juveniles. This is also a punishment cell.

At North-End in Port Elizabeth, the prison authorities reported that in 1992 they decided to allocate cells to prisoners according to their gang membership. They would ask each prisoner whether they belonged to a gang and, if so, which gang. Gang members would be put in the cell allocated for the gang to which they belonged. Those who did not belong to a gang would be put in a neutral cell. Should a prisoner fall out with his gang and wish to be moved, he has to make the request in writing.

In the St Albans, sentenced section, on the other hand, the authorities do not allocate prisoners to cells according to gang affiliation. This they said is to prevent juvenile gang members from acquiring too much authority over non-gang members. They also reported that, if gangs are put together, they become

• GANG CODES require members to be loyal and obedient and share everything they have with gang members. They must love their fellow gang members. They must not 'snitch' or co-operate with the authorities. Violations of gang codes are punishable by warnings, assault, gang rape, stabbing or death.
(Schurink 1989)

more powerful, and it becomes more difficult for the authorities to deal with them. At this prison, the authorities said there is an intercom in each cell. However, in the very first cell visited, the intercom was not working. During another visit, some six months later, all the intercoms in the cells visited were reported to be out of order.

it was reported that, at this prison, juveniles often intimidate each other during exercise time. Generally non-gang members are intimidated by gang members who force them to wash their clothes.

In some prisons, younger children are kept separate from older children to minimise bullying. However, the system of locking up all the children and juveniles (often-together) from early to mid-afternoon until the following morning obviously provides an environment in which violence flourishes. The fact that there is often no more than one warder on duty during the long night shift means that he himself is under threat and unlikely to open the cells in the case of an outbreak of violence.

(In contrast, facilities for female juveniles seldom reported on gang activities. The girl prisoners said there were no gangs at the Westville Female Prison. The authorities at North-End (who spoke openly about gangs in the male section of the prison) said there was no gangsterism in the women's section. However, in the Johannesburg prison, the girls in the awaiting trial section referred to gang activity, notably the 'amachina' gang. Fights amongst the gangs and the unaffiliated women were prevalent, and one child had sustained a black eye as a result of an assault by a fellow inmate.

• **“THE CODES OF NUMBER GANGS ... stipulate that their members may 'live off' unaligned prisoners or impatas. Obtaining goods and sometimes services from impatas by trickery, threats or violence are seen as legitimate. Informants belonging to gangs frequently stressed that impatas are entitled to nothing.”**
(Lötter 1988)

• **“MY CLOTHES AND MY SHOES were also taken away from me. After the assault, the gang members ordered me to join their gang. They said that if I agreed that I would be protected by them from being assaulted again the way they had assaulted me. I had no choice but to join. This was the only way I could survive. I learnt that after just one night. I was immediately tattooed with the gang's logo on my right hand and welcomed into the gang.”**

“The warden came to open the cell the following morning. There was no way I could tell him what had happened because it was very obvious that there was nothing he could or wanted to do for me. Anyway, I had already solved the problem myself – I had become one of the members of 'The Joint'.”

Assault

As part of their mission statement, the Department of Correctional Services commits itself to the safe custody of prisoners.

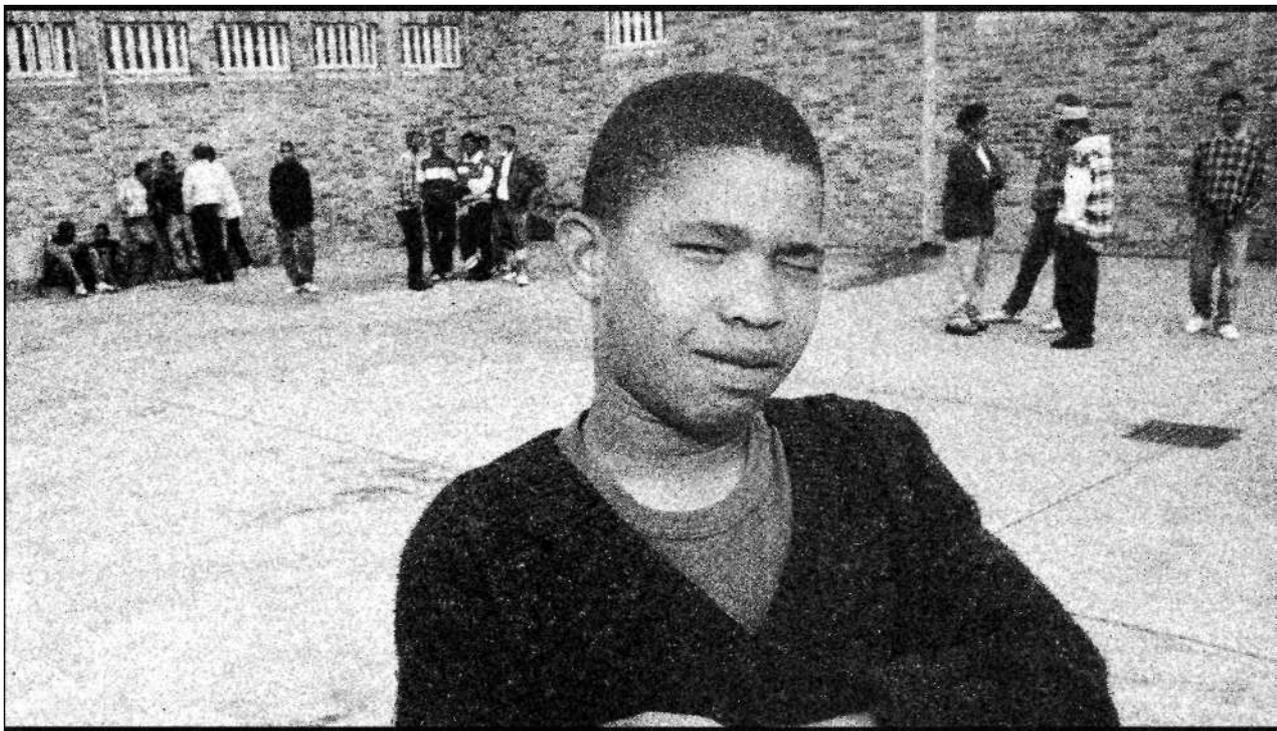
Yet, at many of the prisons, the children seem to live in fear,

At Leeuwkop, almost every inmate mentioned his fear of something happening to him. Some of them felt the 'binneplaas' (courtyard) is not safe: 'anything can happen'. Others spoke of the threat of assault and rape. Three said they had been raped by others in the prison. Others said they had witnessed rapes, sodomy, assaults and stabbings. As mentioned earlier, one child had a black eye which he said had been inflicted by a cell mate. Others are forced to do work by older cell mates, and sometimes by gangs. Many of the fights are instigated by gangs. At the Westville Youth Centre, the staff said that assault by fellow prisoners was a major problem, but its extent is difficult to assess. The staff thought that it happened during the afternoon lock up and at night, although the children deny it. The staff said that they separate the children by age and keep the 14 and 15 year olds together and separate from the 16 and 17 year olds and that, despite this, there are many assaults. They say their only means of control is to remove the television.

It seems that the children will come forward when injured but will not give the name of the assailant. The researcher at this prison checked the complaints book: "assault by unknown prisoner" was a frequent entry.

The Head of the Youth Centre has a collection of weapons made from sharpened toothbrushes, glass, razor blades tied together with plastic bags, metal plates from the soles of shoes, the inside of a door lock etc.

At Westville Women's Prison, the juveniles say they are not abused or assaulted by anybody. There is occasional fighting amongst the inmates, but this is rare. It is also alleged that there is no access to weapons, although the female prisoners do sometimes have or make weapons. Searches only occur if something is suspected, and there are no regular searches for contraband or weapons. It was reported that the warders do rounds approximately twice a night. They remain within earshot so that they can be called in an emergency.



Rape and forced sodomy

"Every child has the right... to be protected from maltreatment, neglect, abuse, or degradation; ...to be protected from maltreatment, neglect, abuse, or degradation..." (SA CONSTITUTION, SECTION 28)

"Everyone has the right to freedom and security of the person which includes the right to be free from all forms of violence from either private or public sources." (SA CONSTITUTION, SECTION 12)

"During sleeping hours there should be regular, unobtrusive supervision of all sleeping areas, including individual rooms and group dormitories, in order to ensure the protection of each juvenile." (UN RULES 33)

Rape or forced sodomy is a major problem in many prisons. At Leeuwkop, if a rape is reported, the-victim is removed, although the boys say this may only be for a 'very short period of time.' According to the authorities, the perpetrator is removed from the cell and the victim attended by a social worker or psychologist. However, although many prisoners said they had been victims of sodomy and rape, few had any contact with a social worker.

Very often, the problem occurs when children come into contact with older juveniles or adults.

One of the boys at Pretoria Central said he had been raped twice by someone in the adult section of the prison. He had been put there, he said, because the warders did not believe he was a juvenile. After he complained of the rape, he was transferred back to the juvenile section, and the rapist was disciplined.

At Pollsmoor, the social workers said that 'sodomy happens every week', but is often not reported. If it does finally get reported, it is usually by a third party. Sometimes an anonymous, letter is received. When the victim is called in by the prison warders and asked about the incident, he often admits he has been sodomised. The offender is then moved into a cell 'with other hardened offenders who are not prepared to cooperate'. At Pollsmoor, juveniles who are 'difficult' or need to be punished are sent to H cell.

The warders must then decide whether to lay a charge. If a charge is laid, the offender is sent back to the Admission Centre while his case is finalised. At some of the prisons, such as Stanger, measures taken by warders to safeguard the younger prisoners

"I HAVE CHOSEN TO WORK in the fields because I feel safe in the fields the warders are watching all the time."

RESEARCHER ANNE MCKAY says: "It is common knowledge that assault by fellow-prisoners is a major problem in South African prisons. The difficulty is in finding evidence of how widespread it is, who is doing it and then making disciplinary charges stick. I have interviewed children of all age and cultural backgrounds, and have been told: 'no, it's not a problem'."

may be inadequate. At this prison, there are no regular searches. Although the warders record that they make rounds every half hour, one of the warders interviewed indicated non-verbally that this might not happen as regularly as claimed. Again at this prison, the children said there were no gangs or abuse. However, it was in this prison that researchers noted that it was 'obvious from body language' that they did not feel free to talk and were withholding information.

At Malmesbury, the authorities said that most of the problems are caused by the adult prisoners and that there are not many cases of sodomy. The juveniles are, however, locked up early to avoid their mixing with the adults. At St Albans, the warders said that there are sometimes older children in the juvenile section who pretend to be younger than they are. The warders say it is difficult to 'rehabilitate' them "because you have these adults intimidating you and daring you to touch them".

Consensual sodomy

At Westville Youth Centre, the authorities said that there had been frequent reports of sodomy before 1994 - about five a day - but now they could find no one willing to comment on it. The children say it does not happen. The social workers say that it does, but not often. The medical staff say that there is sodomy, but it is not as frequent as in the adult sections. The Head of the Youth Section, however, had recorded the activities of gangs and their practice of making the younger or prettier boys into 'wyvies' (little wives).

The researcher concluded that it was possible that the fact that children are locked up for 17 hours out

of 24, sometimes without even a television to watch (televisions rotate from cell to cell) encouraged sodomy amongst the boys. This may be both consensual and forced.

At Pietersburg Prison, although it was admitted that sexual assault was prevalent, only one of the boys interviewed mentioned this. The researcher at Wellington prison in the Transkei observed that embarrassment may be one of the reasons why the boys would not admit to being sodomised.

At Kroonstad, researchers were told that the boys don't rape each other but "on Saturdays they go to the adult section where they get raped and where they exchange sex for food and other things." "Hulle soek vir jou boude en iemand hou cavey" (They seek your thighs and then someone keeps a look out).

One boy said that he had seen four big boys try to rape a smaller boy, but that other boys intervened. Another said a younger boy had had sex with an older one in exchange for a cigarette.

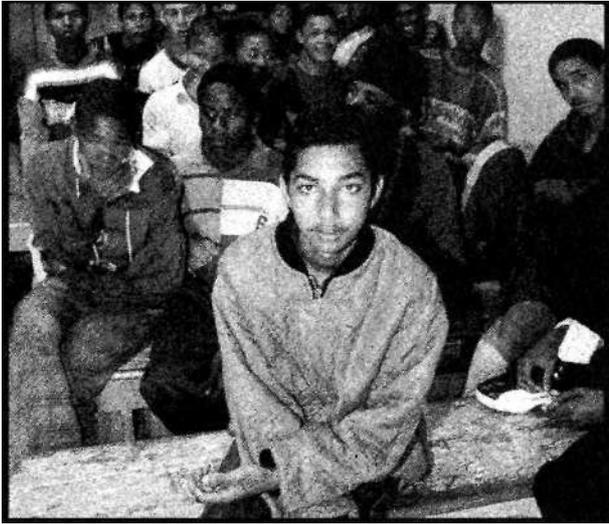
Fighting

At Kroonstad, the boys said there was no fighting and 'no problems during the night', but the warders maintained that there was fighting, stealing and sodomy in the cells.

At Barberton, some of the boys complained of fighting amongst the inmates. One child had scars on his body which he alleged were the result of fighting off other boys and resisting sodomy. It seemed, however, that this child had been removed from the cell he shared with other boys as he himself had been accused of fighting with them. -

At Pretoria Local Juvenile Section Medium B, one boy said he had been abused and beaten, other inmates had tried to make him join the gang and 'sleep' with the other inmates.'

Another boy complained that the older boys beat him whenever he went near their cells.



Assaults by warders

"All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement." (UN RULES 67)

Some of the boys reported the use of corporal punishment by warders. At Barberton, for example, although the boys said that, on the whole, their relationships with the warders were good, several complained that the warders beat them or threatened to beat them.

At Kroonstad, problems seemed to be more serious. The boys spoke of a 'white warder who does weighlifting' who had 'shocked them with a machine'. Ironically, this had happened on June 16 which is Youth Day. When pressed for details, the boys were vague about the incident, although it was confirmed by a number of others.

In another incident, they said that there was a power failure in their cells. When they called the warders, they 'just swore at us' and eventually sprayed tear-gas into the cell. At this prison, some of the boys said the warders hit them if they fought or stole.

Some claimed that the warders in the juvenile section were not bad, although the boys complained that "the warders don't respect us and use bad language". Others said, "when we go to the adult section, the warders beat us with batons if they catch us doing something wrong".

At Westville, the staff say that some of the children try to set them up for complaints of assault.

Violence in women's prisons

At the women's prisons, such as Pietersburg Female Prison, there were no complaints of assault. At the women's section at Thohoyandou, although the children shared cells with older prisoners, there were no problems reported.

At Westville Female Prison, there were no complaints of assault or abuse. It was reported, however, that there is occasional fighting. Apparently some of the older prisoners have access to weapons. At this prison, warders do rounds twice a night and are in shouting distance if they are needed.

Drugs

It was reported that there was almost continual access to drugs in the awaiting trial section of the Westville Youth Centre where warders have picked up bags of dagga smuggled in by visitors or thrown over the fence. Some children interviewed said they had easier access to mandrax while awaiting trial than outside prison. Staff said that drugs and weapons can be smuggled in with food and that this is impossible to prevent because it is 'against prisoners' rights to have food opened up'.

It was possible to see a gang element in the smuggling of drugs, with gang members buying loyalty by supplying their members. Although there are rumours of staff complicity, these need further investigation.

• **"ON ONE VISIT to the Westville Youth Centre, the staff person brought two youths to see us one with a 20cm cut across his chest and one with cut hands. The weapon was a piece of glass with cloth wrapped around it."**

• **AT NORTH-END PRISON, a 17 year old youth member of 26s "joined to ensure his safety during his stay in prison".**



8 • People who work in prisons

"Personnel should be qualified and include a sufficient number of specialists such as educators, vocational instructors, counsellors, social workers, psychiatrists and psychologists." (UN RULES, si)

Prison Officials

"The administration should provide for the careful selection and recruitment of every grade and type of personnel, since the proper management of detention facilities depends on their integrity, humanity, ability and professional capacity to deal with juveniles, as well as personal suitability for the work." (UN RULES, 82)

The staff component in most of the prisons visited is well below what is necessary for the proper care and management of children in prison. The shortage of staff is compounded by the fact that many staff have taken advantage of the early retirement packages offered to the civil service.

At Malmesbury, 56 warders are responsible for the entire • prison population of 353, including the juveniles and

children. At Pretoria Local, 350 full time and 90 outside staff serve a prison population of 3 939. At this facility, 28 members of staff had been assigned to the juvenile section which, at the time of the visit, housed 519 unsentenced juveniles, nine of whom are children under 18. At Pollsmoor Medium A Section for sentenced juveniles, 327 juveniles (including 21 children) were found to be in the charge of 10 warders.

During the night shift, the staff shortages are even more chronic. Often only one warder is on duty. At St Albans, there are 4 or 5 warders in charge of the prisoners during the day, while in the evening one warder takes responsibility for 300 prisoners. Similar staff shortages were noted at Kroonstad.

At some institutions, such as Rustenburg, a dedicated facility for male prisoners under the age of 21, there is a larger staff component. This institution is designed for the rehabilitation and training of juvenile offenders sentenced to a maximum term of under five years. It has a staff complement of 54, including teachers, trainers, nurses, warders, social workers, a librarian and senior officers. Barberton, too, is comparatively well serviced with 143 staff to 493 prisoners. At this institution, there are ten to twelve disciplinary members on watch duty at a time. Such institutions are, however, the exception.

Prison staff often reported high levels of stress. At Pretoria Local, the authorities told researchers that they received about 250 complaints in a single week-end, and that they just cannot cope.

At Malmesbury, the authorities in charge of the sentenced juvenile prisoners said that the cells are always" full, and juveniles are constantly being sent to them from other centres. On the day of the visit, the prison population was 353 in a facility that has a capacity for 198 prisoners in total; these included 11 sentenced and 14 unsentenced juveniles.

In some instances, such as at Pretoria Local, the authorities complained that corruption amongst staff is a serious problem. Allegations of corruption have included money passing hands for trade in sex with children, involving older prisoners.

-At the Westville Women's Prison, the researcher reported an apparent lack of commitment from many members of staff, exacerbated by the fact that many of the older staff felt they deserved promotion. Due to apartheid policies, they were not promoted to senior positions in the past and now do not have the necessary training. The older staff resent the fact that young people are entering the service and getting better positions. The social worker reported that there is little accountability amongst the staff, with a tendency to blame other people for tasks not done. Case management and multi-disciplinary cooperation does not really take place. There are no staff specifically allocated to juveniles, and the staff are responsible for the entire prison and complain of overwork.

The staff at Stanger Prison demonstrated a similar lack of commitment. The prison was experiencing a labour problem, and there had been frequent strikes. Two heads of prison had been found unsatisfactory by the other staff who had called for their resignation. Warders reportedly stayed away from work for many days, claiming sick leave, although it was known that they were not in fact sick. There was little accountability, and many systems had simply collapsed as a result of staff/management problems.

At Ekuseni, there is a high staff ratio of 160 to 500 (and up to 600) prisoners. Yet there are allegations that 60 resignations were threatened in one month, due to demotivation and management problems. One head has left since the time of its inception, and staff have voiced serious complaints about their own lack of authority at the centre.

In general, prison staff seem very demotivated, stressed and overwhelmed by the work load, particularly where the prison population exceeds the numbers that the prison was built to hold.

The Shift System

The day shift starts at 7am and ends at 4pm at which time the night staff comes on duty.

At Pollsmoor, while there are 10 warders to supervise 327 young prisoners (21 of whom are under the age of 18) during the day, there is only one staff member on duty at night. At Malmesbury, 4 night staff are responsible for a prison population of 353, accommodated in extremely crowded conditions.

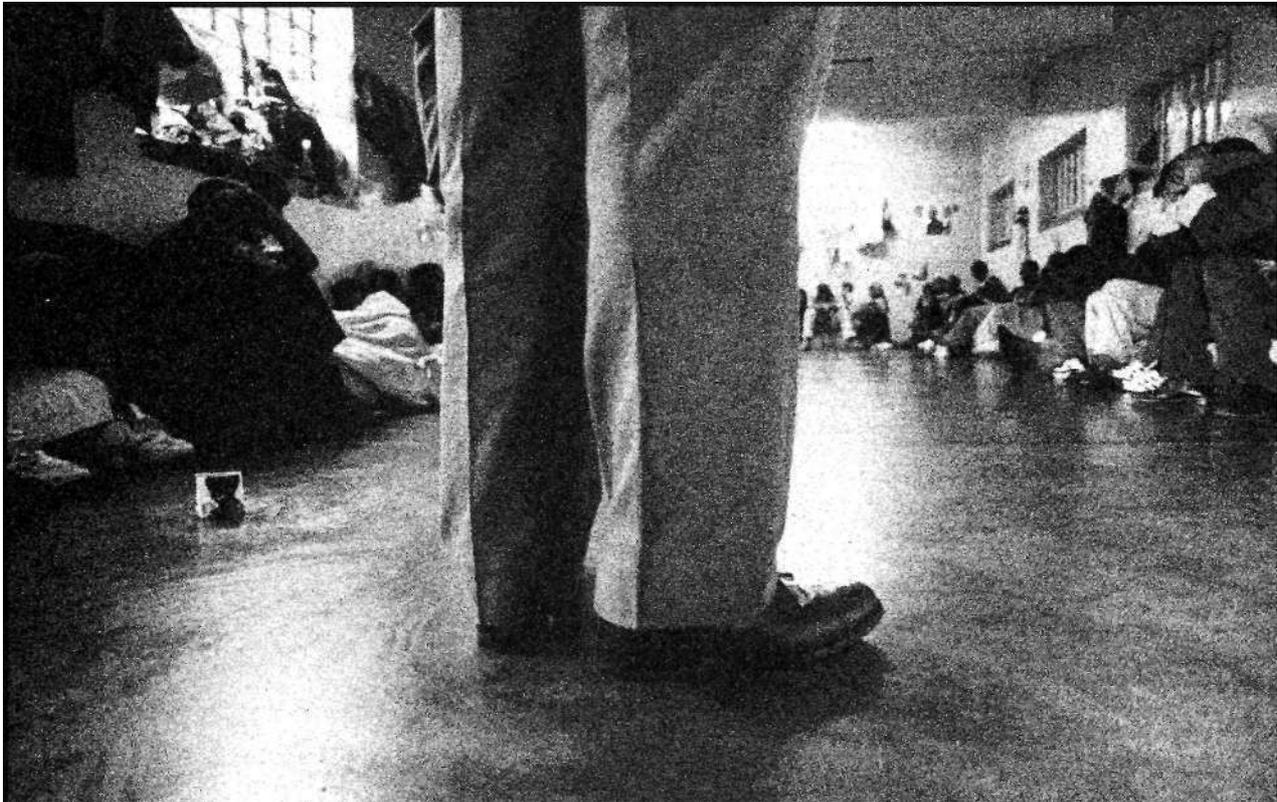
At St Albans, 4 or 5 warders look after 300 juvenile prisoners during the day, while at night only two warders are on duty. At this prison there are no posts at all for warders in the juvenile section. The warder who had been placed in charge of the juveniles expressed concern. He said that not only did they require further posts, but also financial backing and programmes to keep the juveniles busy.

At the Westville Youth Centre, the warders and social workers who look after awaiting trial children are bitter about the lack of budget for proper recreational facilities. Because there were no child care workers to supervise the children during the recreation period at the time of the visit, equipment is damaged.

It is apparent that many of the peculiar timing arrangements in the prison are the result of the fact that, over the long night shift, the prisons are chronically short-staffed.

As discussed earlier, the final meal is usually served before staff go off duty at 4pm. The children are then locked up in their cells until the following morning. At St Albans, for example, the children are locked up for

• **"I WAS CONCERNED about the very defensive attitude of the head of the prison," reported the researcher who visited Odi Prison. "When one of the other staff members attempted to answer a question, he did not allow it. Although he had asked for a report back at the end of our visit, he was not interested in accepting the challenge of our concerns."**



the night at 3pm. In some institutions they are locked up even earlier, spending up to 18 hours in the cells.

As has been mentioned, very often juvenile prisoners are locked up during the day as well, particularly where there are no programmes, schooling or other facilities for them, or where they do not wish to participate in activities provided. In some instances, juveniles are locked up in order to avoid contact with adult prisoners. No programmes were available to awaiting trial prisoners at the time of this study, so that those in school 'outside' have no access to education. In theory, the Department of Welfare is responsible for children awaiting trial in prisons. Yet they are in many ways

unequipped to do so as, for example, they have no teachers to provide education.

At Malmesbury, the authorities said that the juvenile prisoners are given about one and a half hours in the courtyard after breakfast, after which they are locked in their cells in order to avoid contact with adults. At this prison, they are released for lunch and then again for supper at 3.30pm.

At the Pollsmoor Admission Centre, the juveniles are released from their cells at 7.30am, shower, eat breakfast and, if warders are available for supervision, are allowed forty-five minutes for exercise. After this they are locked up in their cells again, and are released for a combined lunch and supper at 1pm. They are then locked up for the night at 3.30pm.

At Johannesburg Medium A, the awaiting trial and unsentenced juveniles are released from their cells only in order to collect their food or when they exercise.

The boys complained about this, but expressed themselves unwilling to participate in prison activities because they said they are not guilty and are hopeful that they will be released.

At Pretoria Central Medium B Juvenile Prison, the sentenced prisoners also complained of being locked up for the whole day. After breakfast and an exercise

• **AT WESTVILLE YOUTH CENTRE, the social workers said that Correctional Services staff are responsible for security at all times, and were doing the best they could with the resources at their disposal. The Welfare Department staff are responsible for rehabilitation, care, assessment and liaison with families in the case of awaiting trial and unsentenced prisoners.**

period, they said that they are locked up until 2pm when they are released to fetch their lunch, although the warders say they do have the option of exercising or attending classes. After lunch, they are locked up again until the following morning.

Staff Training

"The personnel should receive such training as will enable them to carry out their responsibilities effectively, in particular training in child psychology, child welfare and international standards and norms of human rights and the rights of the child, including the present Rules. The personnel should maintain and improve their knowledge and professional capacity by attending courses of in-service training, to be organized at suitable intervals throughout their career." (UN RULES 85)

Training to help warders deal with juveniles is provided in some cases, although it consists, in the main, of very short courses. At Odi, for example, members of staff received training from the National Association of Child Care Workers in a two day Professional Assault Response, Training Programme. This is supposed to provide staff with the necessary skills to deal with juveniles, using non-conflictual and non-violent methods.

At Malmesbury, however, the authorities reported their concern that nobody in the prison had been trained to work with juveniles. They felt that the children needed to work with someone who understands their needs.

At Westville Youth Centre, there is in-service training for Correctional Services staff, mostly on the treatment of juveniles. The staff said that the new focus on rehabilitation has made a positive impact on their attitude to juveniles and the way they relate to them. The social workers confirmed that the younger staff who had been trained had a very much more positive attitude to the children. However one of the social workers suggested that, following the release of children in 1994 and a more rigid demarcation of duties around section 29 and sentenced youth, staff were not as forthcoming as they had been in their approach to rehabilitative work.

• **A BOY IN KROONSTAD SAID: "The warders don't respect us. They use bad language towards us."**

• **"MUCH OF THE FUNCTIONING of the system depends on the integrity and willingness of the senior staff. Discipline, responsibility and the safety of the children cannot be guaranteed without this."**

• **AT PRETORIA LOCAL, a boy awaiting trial had been hit in the face for 'being in the wrong place'. Another had been beaten on the back with a shoe. He had also been lashed 36 times with a leather belt after slashing another inmate with a razor blade. He was told that this had been done because he was too young to be charged with an offence. In the sentenced section, the older boys complained that they were hit with a 'long hard belt' when they smoke dagga.**

At Westville Women's Prison, although in-service training is provided, generally only the social workers have access to training, despite the fact that there are a number of areas in which warders could receive training, such as human rights and non-punitive discipline.

Social Workers

Social workers are a scarce commodity in the prisons visited. Sometimes there is no social worker. Often there are only one or two whose job it is to serve an entire prison population, sometimes running into thousands. At Malmesbury, at the time of the visit, there was no social worker for the juveniles, although the authorities had been promised that one would be appointed 'very soon'. The prison social worker worked 'mainly on correctional supervision cases.'

Sentenced children at the Westville Youth Centre are served by two full time social workers, assisted by students from the University of Durban-Westville. At the time of the visit, there were 435 sentenced juveniles

• THE MASA guidelines on the detention of children suggest that a psychologist should see each child on arrival at the prison to establish his or her mental and emotional state on admission. Psychological care should be available to deal with problems that arise from the experience of imprisonment. Each child should be seen by a psychologist once a fortnight at least, and within seven days of admission. There should be case conferences with social workers once a week.

under the age of 21 (50 under the age of 18^f at Westville. The researcher commented on the shortage of social work staff. The social worker interviewed reported that she would like to work with parents, especially at the pre-release stage, but that they were generally not responsive. She had also tried to refer families to other agencies but these referrals were not followed up. With more staff, she said she could run therapy groups with all sentenced juveniles, visit their families at home, and prepare families to receive the young person when he was released.

There are two social workers and one social work student at the Westville Youth Centre for an average of 200² unsentenced and awaiting trial boy children under the age of 18. NICRO sends one additional person to help one morning a week. The two social workers professed to be under great pressure and said that they could not provide the necessary supervision during the recreation period as they had children to interview and could not do everything. At this facility, the social workers were clear about the need for child care workers to supervise the children, as well as more social workers to follow up court cases and undertake individual therapeutic work. If staff were provided, they said, they would be able to concentrate on therapeutic work.

At the time of the visit, neither a social worker nor a psychologist was employed at the Westville Women's Prison. The prison population was 300, with five sentenced and three unsentenced children between

the ages of 15 and 17. In an emergency, social workers are brought in from one of the other prisons.

At Pretoria Central Medium B, there are two social workers allocated to the section, and the juveniles also have access to the five or six psychologists who serve the entire prison complex of about 5 000 prisoners. At Pietermaritzburg, researchers were told that social work services were provided by Correctional Services' and that the needs of juveniles were catered for.

At Pollsmoor Medium A Section for sentenced juveniles, one social worker deals with the 327 juveniles (including 21 children under 18). She reported that she interviewed each juvenile on his arrival and, from this, was able to assess his needs.

What the children say

Even where there are social workers, the children often said that they were either unaware of their existence or had never spoken to them. At Johannesburg Medium A, awaiting trial and unsentenced prisoners said they had never seen a social worker in their lives. They were, indeed, not aware that they were entitled to ask to see a social worker if they needed assistance. At St Albans, there were two social workers employed at the prison, one of whom worked with the juveniles. However, only one of the twelve children interviewed reported that he had met with a social worker, saying that he had asked to meet the family of his victims to apologise for what he did. He had allegedly been sentenced to two years imprisonment for murder and robbery.

In Thohoyandou Female Prison, researchers were told that the social worker had visited the cell in which the juveniles were held only once in order to check the babies. The children awaiting trial, of which there were two at the time, were not spoken to, despite the fact that one of them was a 17 year old orphan who had her own baby with her in prison.

Assistance with contacting families

More often than not, the children are preoccupied with the need to get in touch with their families.

⁹ This average refers to the period November 1996 to April 1997. This number represents an increase* from the August to October 1996 average of 120 - 140 and, by the end of April, the averages were between 230 - 245.

At Barberton Prison, at which there were only sentenced children at the time of the visit, a social worker visits the prison three mornings a week and runs one group a week. There were programmes on life skills, HIV education and an eight-week sexual offenders programme. She also reported that she attended to individual requests and complaints and occasionally gave individual counselling. She confirmed that the predominant concern of the children was making contact with their families.

As at other institutions, the children at Barberton were very concerned that they had not been visited, that their families were far away and that, in some cases, their families did not even know they were in prison. It emerged in the report on this institution that all the children interviewed had been living at home prior to their arrest. They were thus presumably in a position to furnish information about the whereabouts of their families.

At Westville, as elsewhere, most of the children's requests related to contacting their families and, in the case of awaiting trial children, to finding out about their court cases. At this facility, the social workers said this meant 30-40 phone calls a day, leaving little time for therapeutic work.

The social workers at Westville Youth Centre reported that they were very understaffed and could not keep track of so many children at once. Psychological care was only available for sentenced children, and there was no individual assessment or group therapeutic programme for awaiting trial children.

The researchers were told at Barberton that the social worker did not attend to the cases of unsentenced juveniles because these were the responsibility of the departments of Health and Welfare. They were also told that the social worker seldom visited the prisoners at the prison. Indeed, the children interviewed at Barberton said they had never attended a social work programme, nor had they ever been seen by a social worker.

At Leeuwkop Medium B Prison, there were two full time social workers in the juvenile prison, with a case load of twenty inmates at any one time. There were 785 sentenced juveniles in the prison, of which 106 were children. As at other institutions, most of the problems related to family contact and relationships with families. The social workers here also assist in securing maintenance grants for prisoners with children.

However, at this prison, a negative stigma is attached to seeking assistance from the social workers, and few of the prisoners interviewed had had contact with the social worker.

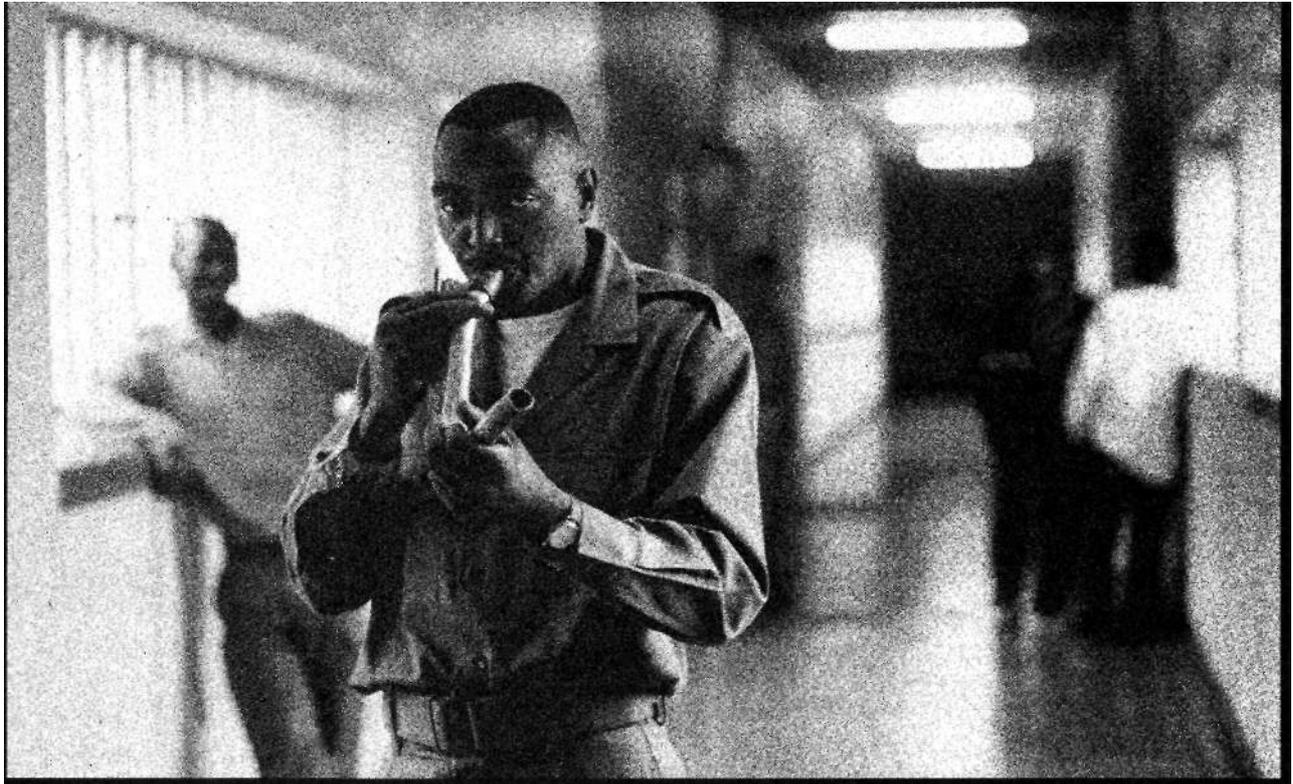
At Stanger Prison, where researchers found 3 awaiting trial and one sentenced child on the day of the visit, there was no social worker for the juveniles. Social workers are provided by Correctional Services but seemed only to attend to matters relating to correctional supervision or parole.

Medical Staff

"Every detention facility for juveniles should have immediate access to adequate medical facilities and equipment appropriate to the number and requirements of its residents and staff trained in preventive health care and the handling of medical emergencies. Every juvenile who is ill, who complains of illness or who demonstrates symptoms of physical or mental difficulties, should be examined promptly by a medical officer." (UN RULES, hi)

Most prisons appear to have a small component of medical staff, usually a qualified nurse who may run a clinic, as is the case at Rustenburg Prison. In some instances, such as at St Albans, the nurse does a daily round of the juvenile cells. At Pollsmoor Medium A, rounds are done three times a week. At the Westville - Youth Centre, the nurses take a trolley down to the dining room corridor at breakfast time. At Leeuwkop three full time nursing staff are employed, and a doctor visits the prison twice a week. A dentist also visits once a week.

At the Westville Youth Centre, there are two nurses on duty during the day and one at night, The night duty nurse serves the entire population of the prison which consists of several thousand people. There is also a doctor and a part time district surgeon on call at night. A doctor also visits twice a week and the children are referred to him if they need attention. In the Westville Women's Prison, there is a nurse about whom all the prisoners complained. (See under *How the Children, are Cared For* (pg 28) medical treatment section).



Generally, serious problems are referred to the nearest hospital, although at the Pietermaritzburg Prison, prisoners are catered for in the prison hospital, except in the case of serious illness.

At Leeuwkop Medium B, a psychiatrist and a psychologist work in the prison on a sessional basis.

At the Westville Youth Centre, there is no psychological service available to the awaiting trial children. This is the case at most prisons.

Relationships between children and staff

"No member of the detention facility or institutional personnel may inflict, instigate or tolerate any act of torture or any form of harsh, cruel, inhuman or degrading treatment", (UN RULES, 87)

On the whole, the prisoners reported no serious problems with the staff at prisons. At Rustenburg the children said the staff were generally helpful when they had problems.

At Barberton, similarly, the children reported generally good relationships with the warders who helped them with their problems. Several complained, however,

that the warders beat them; others complained that the warders were always threatening to beat them.

At Pretoria Central Medium B, most of the prisoners said they had no problems with the warders, but two said they had been caned. One said he had been caned because he had complained that he had no access to a lawyer or anyone to advise him what to do, and that he didn't know what he had been found guilty of. The other inmate, an 18 year old, told a rather bizarre story. He said that one of his visitors had thrown him a cigarette, which he had caught. The warder had reported this to the deputy head of the section who had taken the cigarette away and made him touch his toes while he hit him on the buttocks eleven times with a stick. He then returned the cigarette and told him he should not throw things around in the prison.

At some prisons, such as at St Albans, there is an opportunity for children to make complaints, usually in the morning after they have been released from their cells. The cells are also checked for 'problems'.

At Odi, however, the prisoners complained that the staff did not assist them with their complaints and tried to evade their requests. The children said that some of them shouted at the inmates. At St Albans, the children had complained of leaking sinks during the previous year and no action had been taken.

Discipline

"Any disciplinary measures and procedures should maintain the interest of safety and an ordered community life and should be consistent with the upholding of the inherent dignity of the juvenile and the fundamental objective of institutional care, namely, instilling a sense of justice, self-respect and respect for the basic rights of every person." (UN RULES 66)

"No member of the detention facility or institutional personnel may inflict, instigate or tolerate any act of torture or any form of harsh, cruel, inhuman or degrading treatment, punishment, correction or discipline under any pretext or circumstance whatsoever." (UN RULES m)

The South African Constitution and international instruments require that disciplinary procedures should be consistent with upholding the dignity and the rights of juveniles and respecting the basic rights of all. Cruel, inhuman and degrading treatment is prohibited, including corporal punishment, placement in a dark cell, closed, or solitary confinement, restriction of diet or restriction of family contacts. In *S v Williams*, the Constitutional Court ruled that juvenile whipping was unconstitutional and ordered the removal of the relevant sections from the Criminal Procedure Act (1977).¹⁰ Whipping as a punishment for prison offences was abolished earlier by legislation.-

Although very few of the children said they had been seriously ill treated by staff, interviews revealed incidents in clear breach of international rules. At Rustenburg there were no records of disciplinary measures against inmates, and only one of the children complained of a 'mild open-hand slapping' administered for disobedience.

At Malmesbury, the authorities said there is no formal disciplinary process for juveniles. Where juveniles need to be disciplined, they are warned after the first offence and, if they continue to be 'unruly', they are put in solitary confinement for about a week.

At Pietermaritzburg, the authorities said that there are no separate structures for disciplinary enquiries to those used for adult prisoners. Contraventions of prison rules and regulations are punished by solitary confinement.

At Leeuwkop Medium B, one of the senior officials said that prison policy provides for either the formal or informal disciplining of prisoners. If they are formally charged with an offence and found guilty, certain of their privileges are removed, and they are held in the segregation cells where their punishment is 'monitored'. If prisoners engage in violent or dangerous activities, they may be immediately removed from their cells. An informal form of discipline would be the issuing of a warning.

However, it seems that none of the boys at Leeuwkop had been formally disciplined at the time of the research. Although, generally, the inmates did not report mistreatment by the warders, one 15 year old complained that, on being found in possession of an 'unauthorised' spoon, the assistant head had attempted to put him and his friend in the boiler. Another stated that he had a good relationships with the warders because they "only beat the prisoners who fight amongst each other." The assistant head admitted that he did beat prisoners who fought with each other and was of the opinion that the regulations allowed him to use 'necessary force.'¹¹

At Johannesburg Medium A, where the awaiting trial¹ and unsentenced juveniles are kept, one of the inmates said he had been 'disciplined' by being made to do exercises (twenty-five press ups) and by being deprived of his lunch. This was punishment for throwing food at a boy who had stolen his meat while they were eating lunch.

At Pollsmoor, as previously mentioned, there are regular incidents of sodomy, but only a few are reported, mainly through a third party or an anonymous letter. In such cases, offenders are removed from the cell where the incident occurred and put in a cell with hardened criminal offenders 'who are not prepared to cooperate'. There is one cell at Pollsmoor which houses the so-called 'difficult' juveniles, and it is to this cell that most juveniles are sent for punishment.

¹⁰ *Abolition of whipping as-m sentence was achieved as a result of the Constitutional Court decision in S v Williams 1995 (7) BCLR 861.*

¹¹ *In legislation, the use of 'necessary force' is allowed for specific purposes, e.g. to prevent escape, but not as a form of discipline.*

Alternatively, if a charge is to be laid, the offender is placed in a single cell and, once a case has been established against him, he is sent back to the Admission Centre until his case has been finalised.

In the Westville Prison Awaiting Trial Section, the television is used as a major means of social control. Assaults and gang activities are punished by the withdrawal of the television from the cell in question. This, according to the warders, has reduced assaults tremendously. At this prison it was reported that there are formal disciplinary procedures for offences such as carrying a concealed weapon or injuring or assaulting another prisoner or member of staff. The most common category of offence is assault, and the types of punishment administered include solitary confinement or the removal of privileges.

At Westville, as at all prisons, all complaints are entered in a complaints book. If a complaint is laid against a child or staff member, a sworn statement must be made. A hearing is then held in the office of the chairperson of the Disciplinary Committee where a decision is made either to investigate further, to send the accused for trial or to abandon the inquiry. Parents are not informed or drawn in to disciplinary inquiries.

At the Westville Youth Centre, both the sentenced and unsentenced children said that the warders treated them 'OK'. There were, however, signs that there had been assaults by staff on the children. The researcher was told that the children assault each other much more than the staff do, which indicates at least some level of staff assault. Some staff admitted that rude and insulting behaviour by children had provoked physical violence (being 'Mapped'.) — Some of the staff reported that the children try to set them up for a complaint of assault and, if they speak roughly to a prisoner, or if a prisoner is hit by another and has a bruise, he will get the others to 'witness' that he was assaulted by a staff member. Although such complaints are recorded and investigated, it is unclear what the results are.

The procedure is that, if a staff member is accused of assaulting a prisoner, it is entered into the complaints register. The prisoner is examined by the medical staff, a form is filled in, and the matter is put before the

doctor. It may then be referred to the police. However, both children and staff say that is extremely rare for a case to be followed up. Although there is no internal disciplinary procedure, the head of the prison may write a letter reprimanding the staff member. Although there is a possibility of dismissal, it is more likely to affect the staff member's chance of promotion.

At the Westville Women's Prison, juveniles are punished in a variety of ways. These include the removal of privileges, being locked up in cells during the day, scrubbing the ramp, the removal of visits and being hit on the hand with key belts.

At the Ekuseni Youth Development Centre, staff reported that they were not allowed to discipline the children at all. Observers noted litter lying around and dirty floors in the communal rooms. They asked staff about this and were told that they could not even ask the youth to clean the floors or pick up litter. Observers reported that the atmosphere was very undisciplined and gave an impression of total breakdown in relations between staff and 'students'. It seemed that there was no culture of responsibility amongst the pupils.

New legislation on Correctional Services is planned in the near future and will set down disciplinary policy. In the meantime, it must be concluded that disciplinary practice seems to operate on an ad hoc basis, without a clear direction and, often, in conflict with international principles and departmental policy.

Staff Conditions of Service

"To secure the foregoing ends, personnel should be appointed as professional officers with adequate remuneration to attract and retain suitable women and men." (UN RULES 83)

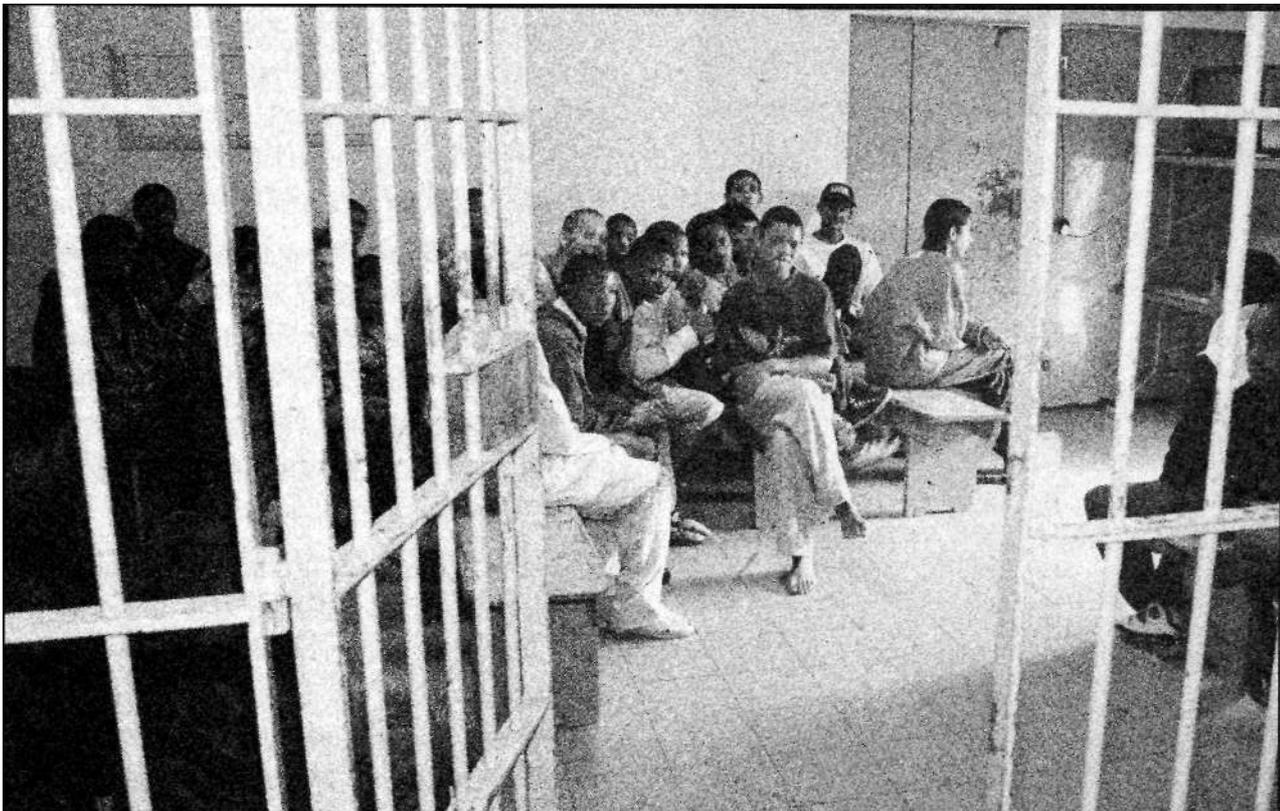
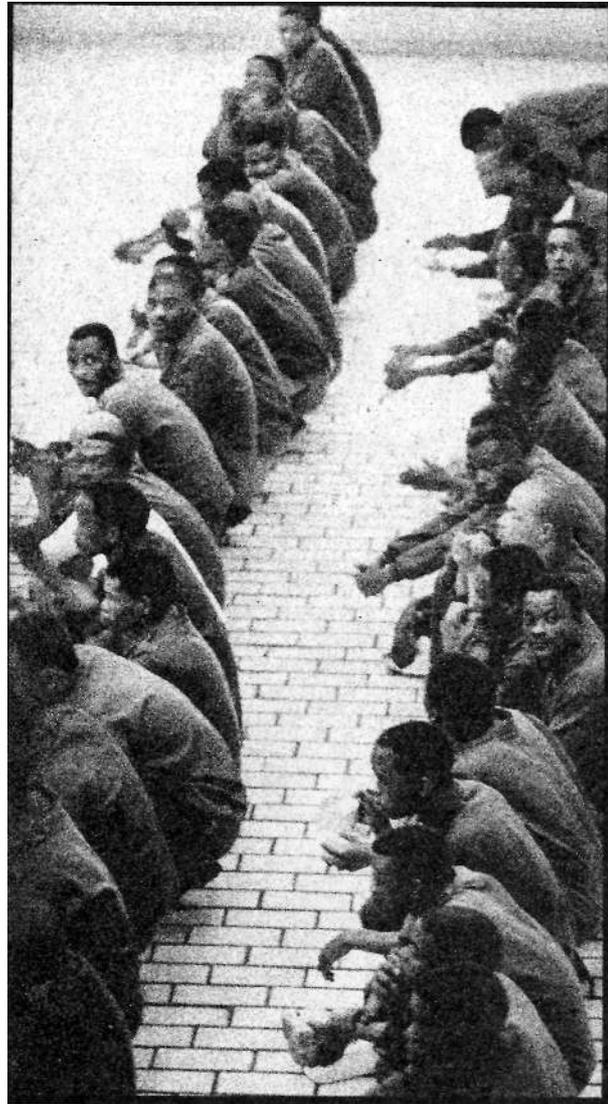
At Rustenburg, where the staff complement is 54 for 110 prisoners when the prison is at full capacity, the researchers reported on deficiencies in warder accommodation. While the senior staff live in 'respectable' houses on the premises, many of the remaining staff live in a building alongside the prison.

The member of staff conducting the tour said that the building had been declared unfit for human habitation, the imprisoned children had been moved out, and the accommodation allocated to the staff.

The researchers agreed that the rooms, shared by three warders each, were stuffy and too small. Metal cupboards had been provided for their personnel effects. There was a large hole in the ceiling and staff were expected to cook in the rooms they slept in. There were no facilities for married personnel, and staff members were obliged to live separately from their families whom they only see once or twice a month.

As indicated earlier, staff are frequently overworked and prisons understaffed. This is a source of grievance. In some prisons, staff report high levels of stress.

At Ekuseni, staff are selected - some from the Department of Correctional Services and some from outside. At this centre (a pilot project), the regime is very different to that at other prisons. Yet there are indications of high levels of staff dissatisfaction, evidenced by a high number of threatened resignations. There are also reports of an attempted rape of a female teacher and of fear amongst the staff.





9 ● Children in the Criminal Justice System

Legal Representation and the Best Interests of the Child

"Everyone yvho is detained, including every sentenced prisoner, has the right ...to have a legal practitioner assigned to the detained person by the state and at state expense if substantial injustice would otherwise result, and to be informed of this right promptly", (SA CONSTITUTION, SECTION 33)

"Juveniles should have the right of legal counsel and be enabled to apply for free legal aid, where such aid is available; and to communicate regularly with their legal advisors. Privacy and confidentiality shall be ensured for such communications. " (UN RULES 1 TA)

One of the consistent patterns that emerges from the reports on prison visits is that the legal aid system is not working in the best interests of the child.

In a number of instances, the children interviewed said they were not informed of their right to legal assistance. Although by far the largest number of these were found in prisons in rural areas, over half the children at Pretoria Central said they had not been told of their right to legal representation.

In many more cases, children believe that 'state' lawyers would work against, and not for, them. Several of the children were of the "view that lawyers work in collusion with prosecutors to ensure that the child is sentenced. Others believed that lawyers were not being paid for the work and were therefore not interested.

Quite frequently, parents, usually mothers, have told children that they should conduct their own defence. It is not reported whether this is because of a widespread belief that state-provided lawyers do not have the interests of their clients at heart, but the indications are that the children are being told by adults and their peers alike that it is better "to speak for yourself".

Certainly, the standard of legal assistance seems to be unsatisfactory. Frequently children who had legal representation were quite unaware of the names of their lawyers, and had not been contacted while in prison to receive progress reports, let alone to check on their well-being.

Some of the children's negative attitudes towards Legal Aid Board attorneys might be attributed to their perception of themselves as victims of the system. These views were, in fact, supported by professionals from the departments of Justice, Welfare and Correctional Services and the South African Police Services/Indeed, most of the professionals spoken to said that the legal aid system is the single biggest cause of delay in bringing children's cases to trial. Incessant remands result in children appearing in court every 14 days, over periods of six months or even more.

If a child is not represented at the first hearing, there is a strong chance that s/he will spend the awaiting trial period in jail, although this also depends on whether or not the parents are in court and the seriousness of the offence.

Legal experts give a number of reasons given for the poor functioning of the legal aid system. Firms give cases to clerks who do not have transport and find it difficult to visit children in custody. Principals do not support or supervise clerks as this is "non-billable" time. Firms do not name the clerks, making it impossible for the courts to locate the person responsible for the case. Sometimes the firms, themselves, claim not to know the name of the clerk appointed. Legal aid clinic students take on too much work and do not give efficient service. The quality of the representation is poor, as the work is allocated to people with the least training and experience. Legal aid attorneys have insufficient or no information on alternative sentencing options.

Other problems cited are the complaints by the children that they are not consulted, that they are only interviewed at the court itself, that lawyers do not speak their home language, that lawyers are not interested in them, that lawyers put pressure on their clients to plead guilty, their cases go on for too long, and that they don't even know the names of their lawyers.

Another problem that arises is the question of who should be appointed 'in loco parentis' if the guardians are not in court at the first appearance.

• **RESEARCHER AMANDA DISSEL NOTED:**

"One area for concern is that female children are being sent to prison for minor offences as it seems there is no other accommodation available."

• **IN 1997, the court of review examined the trial proceedings of a 15 year old girl, convicted of dealing in dagga. She was arrested, arraigned, convicted and sentenced to a fine which she could not pay. She was therefore serving the alternative sentence of imprisonment. She was unrepresented and neither her parents nor guardians were present. The court found that, in view of the fact that the question of parental assistance was left entirely to her, a gross irregularity had been committed by proceeding in their absence. Fairness, said the court, is the most fundamental requirement in modern criminal law jurisprudence. The charge was serious and it was probable that the accused did not know this, nor the nature of the punishment she was likely to receive. She was obviously disadvantaged in the trial process, and there was no evidence that she was mature enough to conduct her defence as if she were an adult person (S v N 1997(1) SACR 84)**

• **ONE BOY SAID, whenever he tried to say anything in court or protest his innocence, the magistrate refused to let him speak, saying that too many juveniles were committing crimes.**

• **A 16 YEAR OLD at the Pollsmoor Admission Centre said he sold dagga and mandrax to sailors on the docks. He said he was 'dealing' to support his family.**

• **TWO 17 YEAR OLD UNSENTENCED GIRLS** were interviewed at Thohoyandou Prison. One had been charged, by her mother, with abandoning her baby. Her bail was set at R200 which she could not afford to pay. At the time of her arrest she had just written her Standard 10 Supplementary Examination and was awaiting the results. She and her 23 month old child were in a cell with women aged up to 35 years and five other babies. Another young girl also had her baby with her. She had been arrested for shoplifting goods to the value of R170. An orphan without access to schooling, she had become a farm labourer at an early age. Her bail was set at R500 and the case postponed. After two weeks in Phalaborwa police cells her case was further postponed, and she was transferred to Thohoyandou Prison, more than 400 km away from her home. Neither girl had been seen by a social worker or probation officer.

• **ONE OF THE PRISONERS** had been 12 years old when he was sentenced to imprisonment. He said he had two prior convictions. In 1993, he had stolen a bicycle and in 1995 he had broken into a shop. In each case, he had been sentenced to four strokes and a five year suspended sentence. On this occasion he had been sentenced to four years imprisonment for breaking into a shop and stealing eight cartons of cigarettes and some money. He told the researcher that his family is impoverished and his father an alcoholic. He described himself as not having any friends, being 'short tempered' and not having much to do with the other prisoners. He felt that he is picked on and verbally abused because he is the youngest.

Often children say that they are, not told of their rights: that legal aid entitles them to free access to a lawyer and that the Constitution protects their right to legal representation.

Where children do ask for lawyers, they sometimes do not receive any response. An example of this was found in Johannesburg Medium A, where an unsentenced boy reported that no-one had followed up on his request for representation.

The Rural Areas

In rural areas, large numbers of children were found who had not had access to a lawyer. The Northern Province had the poorest record,. At the Thohoyandou Prison, which houses both sentenced and unsentenced female and male children, none of the children were legally represented. At Pietersburg, only one of the sentenced and unsentenced children interviewed had had access to legal aid.

At Wellington Prison in Umtata, none of the children were represented. At Leeuwkop, only four out of seventeen had been represented.

A fairly typical cross-section of attitudes and experiences was obtained at Odi Prison. None of the children interviewed had been legally represented in court. Two of the boys said the court had not offered them legal assistance. Another said that the court had asked him if he could afford it and, when he said he could not, had not been offered a state lawyer. Another boy said he did not need a lawyer because he knew he was guilty. Two others said they did not need lawyers because they were innocent. In these latter cases, the children said they had been 'looking after (stolen) property for a friend' and seemed not to realise that this was an offence.

At Barberton, most of the children interviewed had not been represented in court. Some had decided to represent themselves, others said they did not want a state lawyer, and one said he had not been informed of his right to a lawyer. Two had been represented by the public defender and the Legal Aid Board.

At Malmesbury, where eight children were interviewed, six had chosen to "speak for myself", one at the instigation of his mother.

At Rustenburg, the majority of the children interviewed did not understand that they did not have to pay for a lawyer. Others were unable to see that they might be prejudiced without one. Again, one refused a lawyer because he believed he would be acquitted; another because he had no faith in legal aid lawyers.

At Stanger, four children were interviewed - one sentenced and three awaiting trial. All three of the sentenced children had legal representation. One said the lawyer had never spoken to him. Each of the other two had spent one hour with 'their lawyers and were not satisfied with the service they were receiving. Neither of them had received the services of an interpreter when speaking to their lawyers. The sentenced child, who was serving three years for theft of a motor vehicle, said that he does not trust state attorneys.

It was clear from the interviews that children have a poor understanding of court procedures, particularly of the potential value of a legal representative. Many are poorly educated and have little skill in argument or presentation. Despite their belief, or the belief of their parents, that the children are able to defend

themselves, this is clearly not the case.

The urban areas

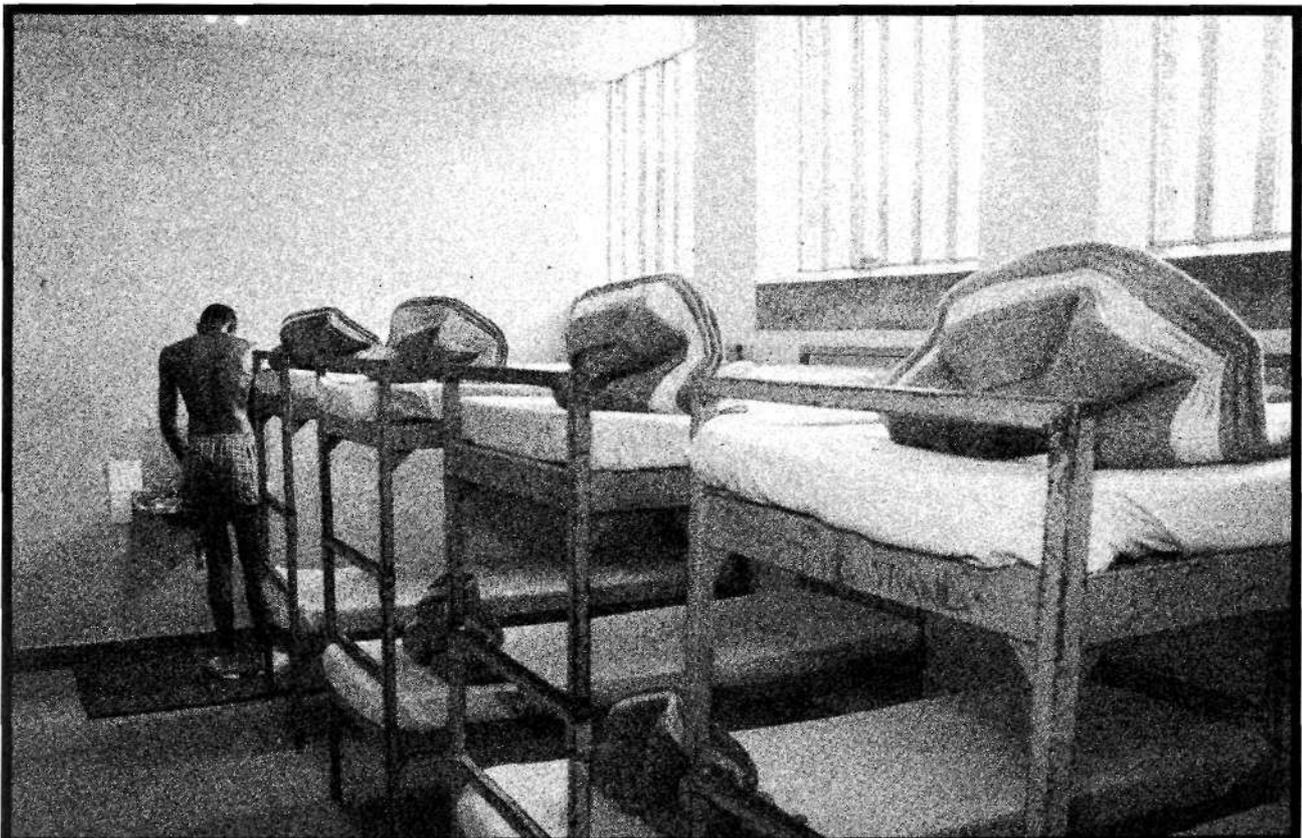
In urban prisons, a marginally better picture emerges.

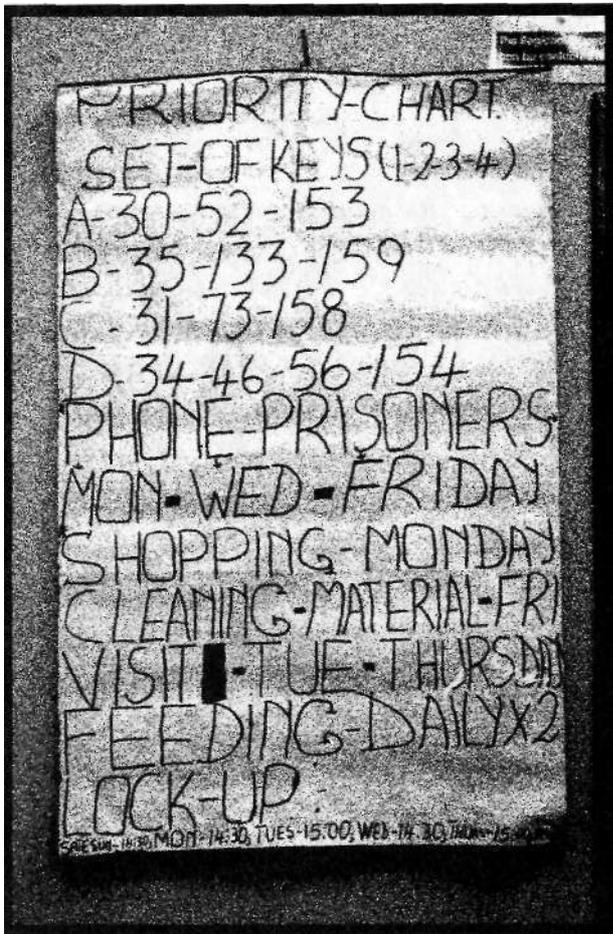
At Pollsmoor, of the five boys interviewed, two were represented by private attorneys, and one by a legal aid attorney. However, one of the remaining boys said that his mother felt that a lawyer was not necessary and "would not help his case". The fifth boy said he had been represented by his mother and that: "lawyers are not good for your case". This was an opinion he had heard from adults and his friends.

At the Pollsmoor Admission Centre, a similar pattern emerged. Of six boys interviewed, three had been allocated a legal aid lawyer, one had a private legal representative, and one said his parents did not want him to have a lawyer. Only one was unaware of his rights in this regard and said that he would get a lawyer for his pending cases.

In Gauteng, where a public defender pilot project is running, some of the children had been defended by this office. 12

13 A number of other pilots aimed at introducing the public defender system are planned. There is also proposed legislation to add a practical year to the LLB degree, requiring students to work in the justice system either as public defenders or as prosecutors before they qualify.





Daily activity schedule for staff at Pietermaritzburg Prison.

At Johannesburg Medium A, two of the unsentenced boys-interviewed were being represented by the public defender, two had no representation and one has asked for representation but "no-one had seen him yet". The other three told the court that they would speak for themselves.

At Pretoria Central Medium A, however, eight of the fifteen children interviewed said they had not been advised of their right to see a lawyer. At this prison, only one juvenile had been represented by the public defender, and three of the older boys had been defended, one of them only during sentencing. Three of the children had been offered lawyers and had refused. One thought that if he was represented, he would receive a much longer sentence.

At Pietermaritzburg, two of the children were unrepresented, and three had received legal aid assistance. Two of these said they did not know

the names of their lawyers. Three of the other children interviewed, however, were able to name their lawyers.

At Westville, on the other hand, all five of the girl children had been legally represented in cases that ranged from murder to shoplifting, and an interpreter was provided in three out of the five cases. At Thohoyandou Women's Prison, neither of the two unsentenced girls were represented. In one instance, the charges had been laid against her by her mother for abandoning her child.

Children's experiences before sentencing

"Juveniles who are detained under arrest or awaiting trial... are presumed innocent and shall be treated as such. Detention before trial shall be avoided to the extent possible and limited to exceptional circumstances.

Therefore, all efforts shall be made to apply alternative measures. When preventive detention is nevertheless used, juvenile courts and investigative bodies shall give the highest priority to the most expeditious processing of such cases to ensure the shortest possible duration of detention... " (UN RULES 17) ¹⁴

It is widely recognised that the pre-trial detention of children is undesirable. Amongst the reasons for this, according to the South African Law Commission Juvenile Justice Issue Paper, are the "adverse results of institutionalisation, as shown internationally by criminological research, and possible further introduction to delinquency, as well as the undesirability of separation of children from their families, which inhibits re-integration of the child into society."¹⁵

The Constitution, which mirrors the provisions found in international instruments, says that the detention of children should be used as a matter of last resort only, and for the shortest appropriate period of time. An additional point made in the Constitution is that the child should be "treated in a manner and kept in conditions, that take account of the child's age".

¹⁴ See too Section 28 (1) g of the SA Constitution.

¹⁵ South African Law Commission Issue Paper No 9 on Juvenile Justice, page 27.

In looking at the reports in this study, a number of other recommendations and existing legal provisions should also be born in mind.

First is the provision in the Criminal Procedure Act (s72) which provides that juveniles under the age of 18 may be released into the custody of the person in whose custody he or she is, and that that person may be warned to return the accused to court as required.

Second is the observation that some children await trial in prison after high monetary bail has been set, which they or their parents are unable to pay. The Juvenile Justice Issue Paper, for example, proposes the option of excluding monetary payments of bail by children from the proposed future Juvenile Justice legislation. Third is the proposal of the South African Law Commission Project Committee on Juvenile Justice that children should be individually assessed before a decision is taken to detain them -either during the awaiting trial period or before sentencing. The Constitution requires, further, that imprisonment of children should be only a measure of last resort.

At Pietersburg, out of 9 male sentenced prisoners interviewed about their pre-sentencing experiences,

parents were present in six of the cases and the children were released into the custody of the guardian(s). One of the boys, a 15 year old, had been assaulted in police cells. One of the children was released into the custody of his grandmother, failed to appear in court and was then remanded in custody. The parents of the other three children were not in court and they were all held in custody until the end of their trial. None of the children remanded in custody were granted bail. All three had been involved in economic crimes.

Children with prior convictions

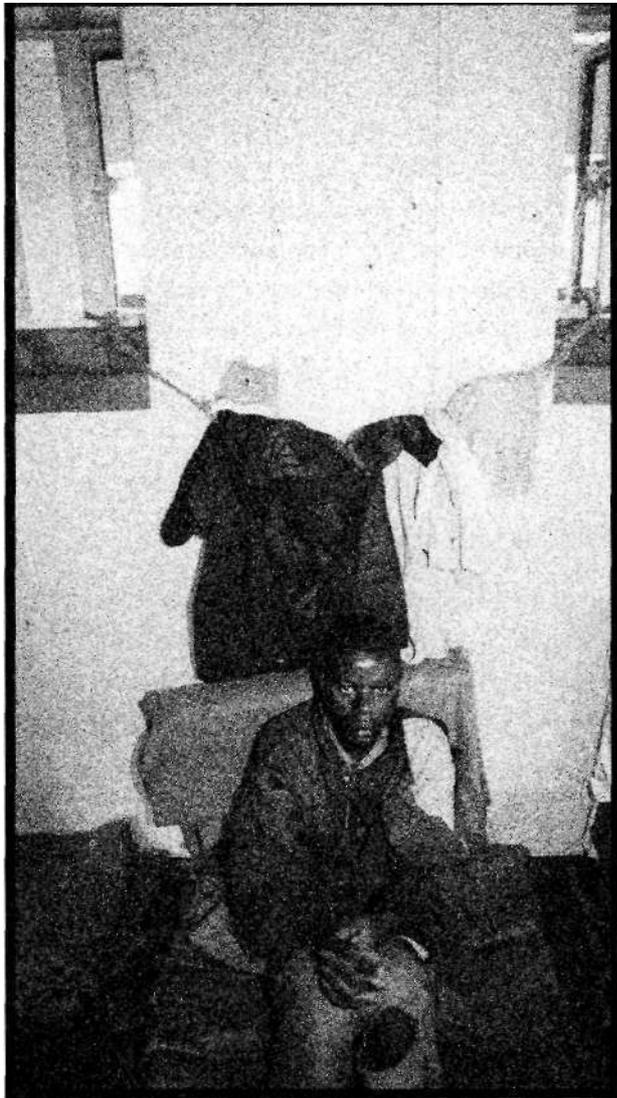
One of the boys at Rustenburg had a list of previous convictions. He told the researcher that his mother is an alcoholic and spends all her money on drink. His stepfather beats him regularly. He has never attended school as there was "never enough money to pay for his schooling". At the prison he was enrolled in the Read and Write course and was learning basic maths.

At the Pollsmoor Admission Centre, seven out of eight of the boys interviewed had previous convictions.

• IN 1996, a sentence of 12 months imprisonment for a first offence of robbery, later changed to theft, was ruled by the court of review as shockingly inappropriate. (S v M 1996 (2) SACR 127 (T)) In another case, where a 16 year old was sentenced to R300 or three months imprisonment for failing to appear in court, the judge said: "it seems to me, taking into account the age of the present accused and the fact that he was a first offender, that an appropriate sentence would have been a suspended term of imprisonment." (S v Tokota 1997 (2) SACR 367).

Julia Sloth-Nielsen comments: "The continued practice of sentencing first offenders of a young age to direct imprisonment, without the consideration of alternatives, and without social history evidence being presented, is likely to fall foul of the constitutional requirement that detention for children be considered a matter of last resort. Had these principles been referred to, this could have contributed to a benchmark in the law relating to the sentencing of juveniles, thereby obviating the need for individual review of each and every sentence."

• THREE GIRLS AWAITING TRIAL in the Johannesburg Prison were not represented by lawyers. The researcher said that they "seem to think that if they are represented by a lawyer, this means they are acknowledging their guilt."



Quite frequently, there was a history, of corporal punishment. One boy at the Pollsmoor Admission Centre told the researcher that he had been whipped on four occasions. A 16 year old boy at St Albans said he had previously been sentenced to whipping for stealing a pair of shoes. Another boy, in prison in Umtata, told the story of how he had been whipped at the Uitenhage Court for stealing sweets.

At St Albans, a boy of 14 who had been sentenced to eight months for assault with intent to do grievous bodily harm said he had received three cuts "in 1993 or 1994" for stealing clothes. At Brandvlei, a boy said he had been sjambokked at the age of 14.

16 See footnote 10. .

17 It has been estimated that 80% of South African families have incomes of less than R800 per month (Institute for Social Development, University of the Western Cape).

18 Which provides for and lays down the conditions under which children may be temporarily detained in prisons or police cells where no other alternative is available.

Bail

"Every child has the right not to be detained except as a measure of last resort, in which case, in addition to the rights a child enjoys under sections 12 and 35, the child may be detained only for the shortest appropriate period of time" (SA CONSTITUTION, SECTION 28)

... all efforts shall be made to apply alternative measures [to detention]", (UN RULES 17)

Although some of the children had been granted bail during their trials, often they had not been able to pay it. Sometimes it seemed unreasonably high. At Rustenburg, for example, the bail of one of the boys had been set at R800. ^

The researcher who visited Rustenburg observed that, although the provisions of Section 29 of the Correctional Services Act 18 had been in operation for a year, most of the Northern Province courts were not observing them.

Of six male unsentenced prisoners being held at Pietersburg prison, three had been granted bail which they had not been able to afford to pay. In the case of one of the boys, charged with "rape together with an 18 year old co-accused, bail had been set at R1D00. He had requested that his bail be reduced so that he could go back to school, but said that the magistrate concluded that: "in court there are no scholars but only criminals".

One of the boys had stolen compact discs (CDS) to the value of R295 from a supermarket chain store. It appeared that, although the address of the parents was known, they had not been informed by the investigating officer of the arrest of their child. The magistrate did not enquire why they were not there, but simply set bail at R500 which the boy clearly could not afford. In not one of the cases had there

been a probation officers report, nor any visit by a social worker to the boys or their relatives.

Two unsentenced girls held at the Pietersburg Female Prison, both first offenders, had been granted bail of R300 each which neither could afford. Both their trials had been finalised in the absence of their guardians.

In the Thohoyandou complex of prisons, of the seven children interviewed only one had been granted bail - which neither he nor his parents could afford. The parents of a 14 year'old boy had not been informed of his transfer to the prison.

One child, a boy of 15, had been reported by his own mother for theft of food from her house.

One of-the boys interviewed at Johannesburg Medium A was not granted bail at all. Two were granted

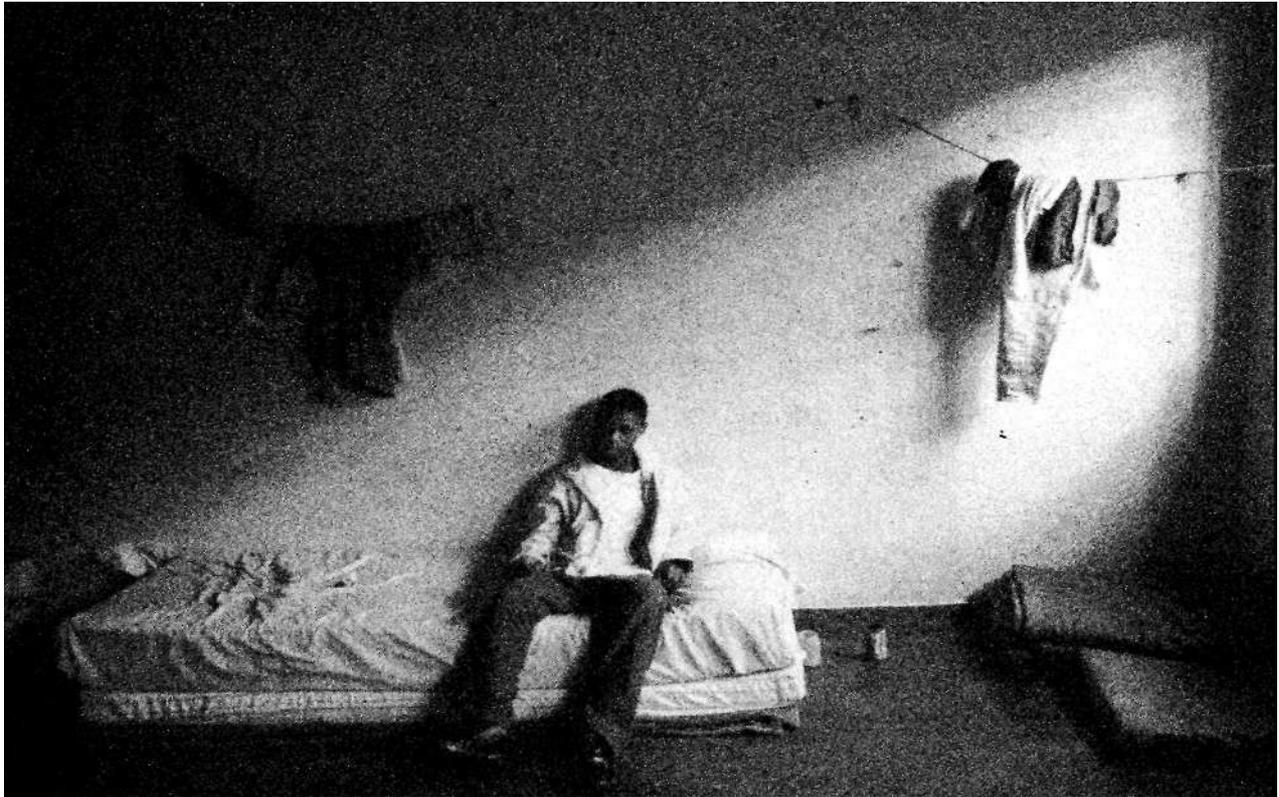
bail of R400and R500 each which they were unable to pay. The other four were granted bail of R1500/R2000, R4000 and R5800 which they were also unable to pay. Five of them had been sent directly to prison after their arrest. They were told that there was no space in the Places of Safety. Apparently, some of the warrants indicating that they should be sent to Places of Safety had been change!.

Data collected at the Westville Youth Centre

showed that, according to warrants available for analysis on 10 January 1997, 32.63% of the children were held in prison awaiting trial for over three months. Some spent twenty months awaiting trial.

• AWAITING TRIAL CHILDREN at Westville Youth Centre said they found Legal Aid Board attorneys "unhelpful, biased against them, not listening to them, inaccessible, and not forthcoming with information." The children said they hadn't seen their attorneys in six months, didn't know what was happening with their cases, didn't know why bail had been refused or set at over R1000. They complained that the lawyers did not understand their language or listen to their stories.





Postponements and finalisation of cases

"When preventive detention is ... used, juvenile courts and investigative bodies shall give the highest priority to the most expeditious processing of such cases to ensure the shortest possible duration of detention. "

(UN RULES 17)

The length of time it takes to finalise cases accounts for the sometimes extremely long periods children spend in detention before sentencing.

At Pietersburg, cases had been postponed several times. One had been postponed four times, two five times. One had taken 10 months to be finalised. One of the boys whose elderly

grandmother had appeared on the first day after having being informed of his arrest, said she could not keep up with the number of times the case was postponed. She was absent on one occasion and arrested and kept in custody for a whole day for

failing to ensure that the boy appeared in court. After this he was remanded in custody and transferred to Pietersburg where nobody can visit him. At the time of the research, the case had been pending over a period of eight months.

In the cases of the Pietersburg unsentenced children, the period of postponement was far in excess of the

fourteen days provided in the amending legislation. In contrast, it was noted that, in respect of the girls, the process was "amazingly swift".

At St Albans, one of the boys had been an awaiting trial prisoner for seven months; another had been awaiting finalisation of his case for nine months.

Sentences

"Deprivation of the liberty of a juvenile should be a disposition of last resort and for the minimum necessary period and should be limited to exceptional cases. " (UN RULES 2)

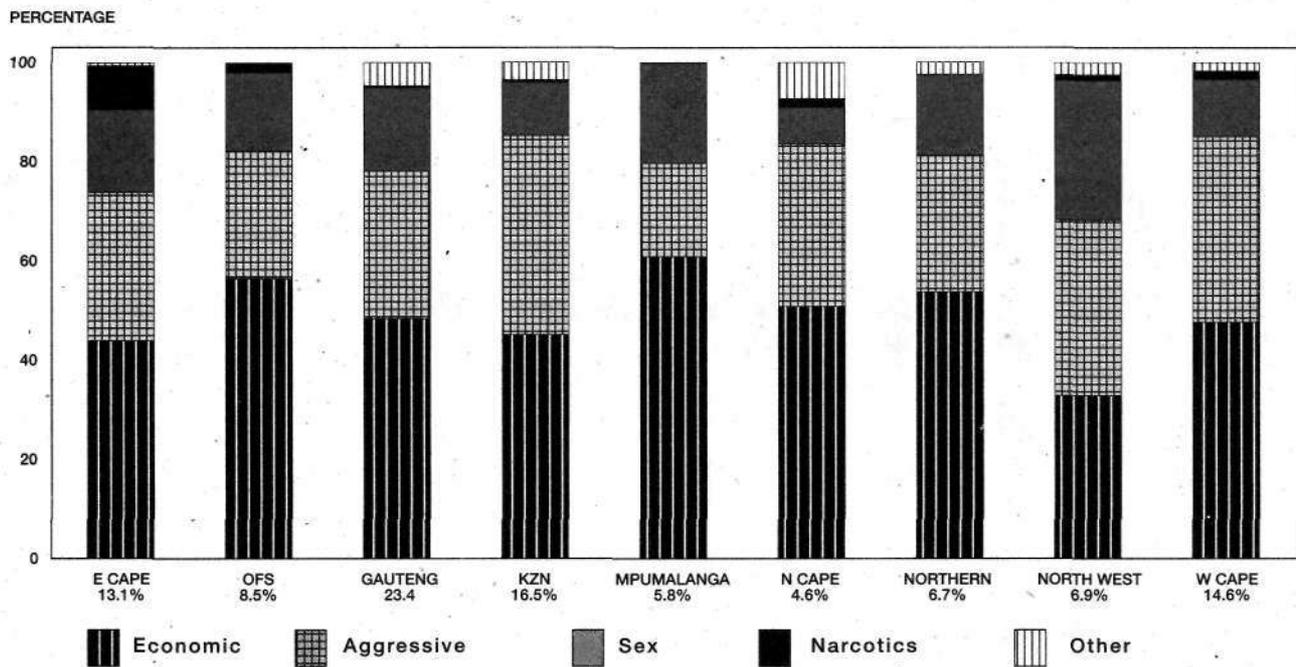
• A BOY OF 17 being held at the Pollsmoor Admission Centre had been sentenced to one year's imprisonment for the theft of a motor vehicle. He was 15 years old at the time of the offence and had spent two years awaiting trial at Pollsmoor Prison. He received no visits in prison as his mother could not afford to come and see him.

Offences committed ranged from minor economic crimes to rape, armed robbery and murder. Figure 1 (Introduction) demonstrates that the greater number of crimes committed by children under the age of 18 are economic (48%) rather than aggressive crimes (32%) and sex crimes (15%), and that this finding is fairly consistent across provinces. Significant divergences may be found in Mpumlanga, where 61 % of crimes

are economic as opposed to 19% aggressive. In the Northern Cape, 28% of crimes are sex crimes, and in the Eastern Cape, there are a high number of crimes related to narcotics. 23.4% of the total of children sentenced are in the Gauteng province. A disproportionate number of the offenders are found in the Western and Northern Cape,

FIGURE 6

PERCENTAGE OF CHILDREN SENTENCED BY CRIME AS AT 6/8/97



In the interviews, in the sample obtained during the period of research, children who had committed murder received sentences ranging from 5 years to 17 years. Children who had been found guilty of rape had received sentences ranging from 3 to 1 years. Armed robbery sentences were generally 8 to 10 years. Being in possession of an unlicensed firearm attracted sentences between 18 months (with half suspended) to 2 years. Assault with intent to do grievous bodily harm, however attracted sentences of 5, 6 and 9 months, although one child was sentenced to 3 years in Umtata.

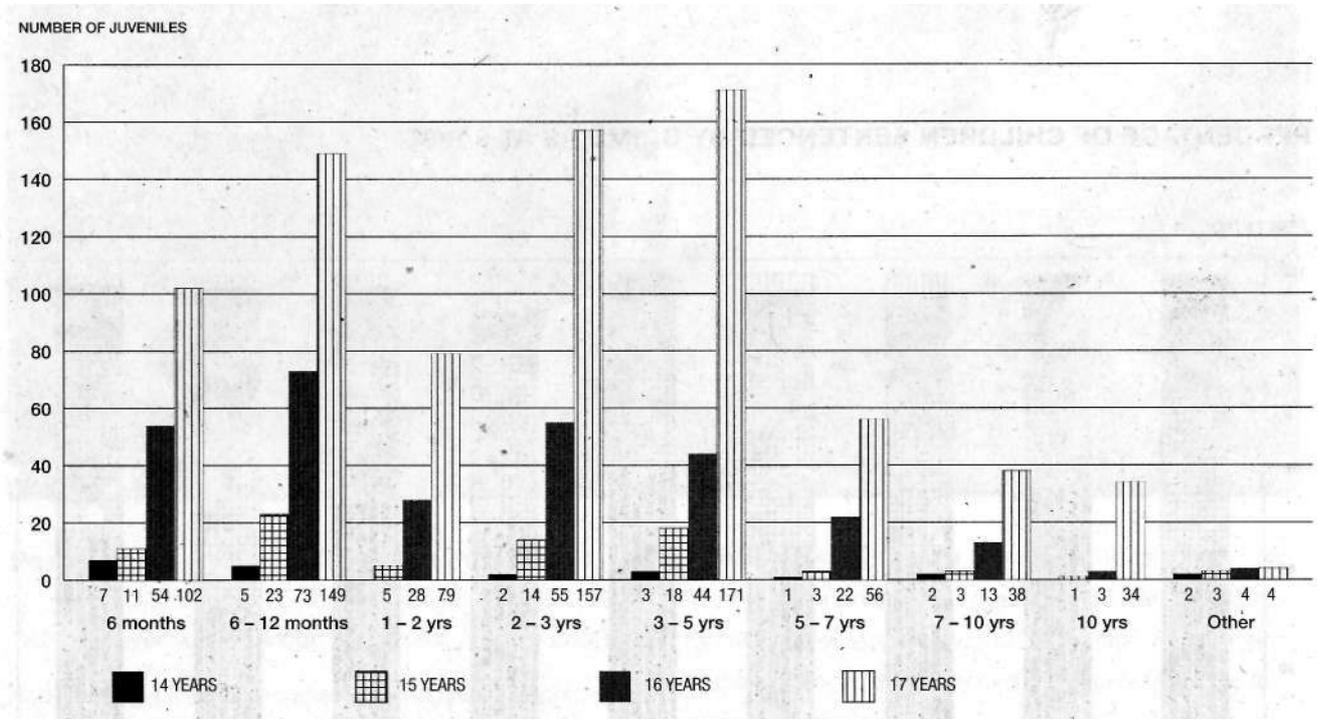
In relation to this, some sentences handed down for economic crimes seemed disproportionately

high. Theft of cell phones, for example, attracted sentences of three years in a number of cases. Vehicle thefts, likewise attracted sentences of three to four years. Dealing in dagga was given a two year sentence, while a boy convicted of rape was given one year's sentence. One boy was given a two year sentence for 'borrowing a motor vehicle'. He said he was helping a friend to ferry commuters from Umtata to Ngobezi and didn't know they were using the car without permission. Another was sentenced to one year's imprisonment for stealing fishing rods worth R2500, which he sold for R200. Shoplifting attracted sentences of about one year to eighteen months.

Figure 7 shows the length of sentences being served by children aged 14 to 17 years by age on 6 August 1997.

FIGURE 7

CHILDREN AGED 14-17 YEARS SERVING SENTENCES ON 6/8/97



The researcher who visited Odi Prison at North West Province interviewed six prisoners whose sentences appeared to vary dramatically, and sometimes seemed disproportionate in relation to the offences of which they had been convicted. Four of the boys had been convicted of housebreaking and theft. In all cases the amounts had been small (R200 and clothes, a television and shoes, clothes, food from a shop). One boy was sentenced to seven years imprisonment, of which four were suspended. One received two years and another a twelve month sentence. The boy who had stolen cool drinks, sweets and chips from a shop had been sentenced to eight years, no portion of which was suspended, although there may have been previous convictions.

At the same prison, a boy was serving a sentence of 21 months (to run concurrently with another sentence) for possession of an unlicensed firearm and ammunition. Another had been convicted of assault and had received a sentence involving six months in prison and six months under correctional supervision.

Where there were co-accused

Many of the children were sentenced with co-accused, some of them much older than themselves. At Leeuwkop Medium B, a 16 year old child first offender was serving a 10 year sentence for robbery and vehicle theft. He is a homeless person with no education and his co-accused was a 46 year old man who, he said, had instigated the crime.

At St Albans, a boy of 14 years old had been sentenced for housebreaking and theft. He had a previous conviction for housebreaking and was given four cuts. On both occasions he had an older co-accused. He said he lived in Walmer in a shack. His mother had died in 1990 and he is supported by his father who receives a disability grant. He had not been visited since he was in prison.

At Odi, (see above for some detailed discussion of sentences at this prison), most of the crimes had been committed with at least one co-accused. Most of the co-accused were 22 or 23 years of age.



Children in limbo

At a number of prisons, children are kept while a place is being found for them in a reformatory. At Malmesbury, one of the places where such children are sent, two fifteen year olds, one 16 year old, and one 17 year old out of the eight children interviewed had been sent to the prison to await placement. This is the pattern throughout the country, as children are detained in prisons pending the designation of a suitable reform school by provincial departments of education.

Similarly, the Pollsmoor Admission Centre keeps children pending their transfer to other sections within the prison, or to other prisons. In interviews, it was stated that some of the children had been waiting placement for over 9 months to a year.

Neither of these institutions offered any programmes to the children pending their transfer.

Very young children

Some of the children were extremely young. Amongst the sentenced male children interviewed at Thohoyandou Prison, there was one child of 14 and

four 15 year olds. The 14 year old said he was serving a prison term of 90 days for possession of stolen goods. He had conducted his own trial and had never seen a social worker. He had no contact with his relatives as they live approximately 150 kilometres from the prison. At Leeuwkop Medium B, the youngest child interviewed was 12 years old at the time of being sentenced. A 13 year old, two 14 year olds and four 15 year old children were also interviewed at this prison.

At Pollsmoor, a 14 year old boy interviewed had been convicted for theft. He had two previous convictions, both with suspended sentences.

Separation of Children from Adults and older Youth

1. There should be strict segregation according to age in prison, except where prisoners are sharing educational and training facilities during the day.
2. Prisons should be more proactive in their efforts to check ages of prisoners and to ensure that they are not kept with adults, nor with older youth over the age of 18.

Conditions in the Prison

The following are general problems in prisons, but have a particularly negative impact on children. Urgent steps need to be taken to ensure they are addressed.

3. There should be higher staff ratios, especially at night.
4. The physical conditions of prisons must be upgraded.
5. Overcrowding in prisons must be alleviated.
6. The head of the prison, or possibly the area manager should inspect prisons housing children on a regular basis to ensure that they comply with the basic standards of hygiene. The cleanliness of cells should be maintained in accordance with basic standards of hygiene.
7. Adequate blankets, sheets and clothing must be issued to sentenced juveniles immediately on admission to prison. Facilities must be available for children to do their washing at least once a week: this requires that children should have more than one set of clothing. Blankets should be kept clean and in a lice-free condition.

How the Children are Cared For

8. An effort must be made to ensure that three meals are served per day at reasonable intervals.
9. The children's diet should be investigated and improved. Complaints of continual hunger suggest that the children are insufficiently fed or receive an incorrect nutritional balance.

Recreation

10. There should be greater involvement of the outside community in prisons, for example through recreational programmes.
11. Prisoners' recreational initiatives should be - encouraged and opportunities should be sought to showcase their talents.
12. Children must be allowed regular exercise, sport, art and music, etc. and must not be confined to just watching television. A standard recommended minimum for children's exercise should be set.

Contact with Families

13. All efforts should be made to ensure that children are in contact with their families and that visits take place.

Violence in Prisons

14. Senior management in the prisons should be counselled about the use of violence and solitary confinement against misbehaving children.

People who work in Prisons

15. The Correctional Services Department should train staff who will be oriented towards child care work.
16. An effort should be made to employ staff, especially social workers, who can communicate with juvenile offenders in their own language.
17. Social workers, trained in children's rights, should be assigned to large prisons to work with

sentenced and unsentenced children to facilitate reintegration and community contact.

18. Staff need to be better trained, disciplined and their morale improved.

19. Staff need to be encouraged to approach their work in innovative ways.

20. Social workers should be encouraged to respond to the requests of juveniles.

21. Social workers should be required to run group work programmes on a variety of topics.

22. Prison staff should be obliged to motivate prisoners to attend programmes and devise new and interesting programmes to meet the needs of prisoners.

23. Children's rights training, including awareness of international rules, should be provided for staff working with children in prison.

24. The Department of Correctional Services should ensure dedicated social welfare appointments in larger prisons where children are found, to cater specifically for their needs.

Réhabilitation

25. Social workers should work on a more regular basis with the children and take steps to cater for their emotional requirements.

26. Special rehabilitation programmes should be provided for child sex offenders.

27. Programmes focussing specifically on the rehabilitation of young offenders should be developed.

Education and Training

28. Children should be encouraged to register in school or at least to be engaged in some form of daily activity.

29. Children should have a structured daily programme, involving at least four hours of education and participation in social education programmes, organised recreation and exercise.

30. Adequate books and other relevant materials should be provided.

31. Children should receive such legal education in prison as may help them to understand their rights.

Children and the Criminal Justice System

32. National monitoring of the conditions under which juveniles are held via a Judicial Inspectorate should be established.

33. All court records as they relate to children should be urgently computerised in all the different provinces, so that they can be tracked as they move through the system.

34. Social welfare services should be extended to all areas where there are courts, especially those dealing with juvenile offenders.

Legal aid

35. There needs to be a special focus on the readaptation of legal aid so it is better able to cater effectively for the needs of the child in conflict with the law.

36. There should be a greater onus on the judiciary to explain the right to legal representation in a way that enables offenders and their parents to understand their rights and take suitable decisions.

Awaiting trial

37. There should be a speedy establishment of alternative facilities for awaiting trial children and the continued development of correctional facilities dedicated to children and youth, as at Brandvlei.

38. Children sentenced to educational institutions such as reform schools should not be held in prison.

39. Cases should be speedily finalised.

Trial

40. Parents or guardians should be traced before matters are finalised.
41. A separate juvenile court is required as part of the new juvenile justice system, using less formal and more appropriate procedures.

Sentencing

42. No child should be admitted to prison without a probation officer's report (as discussed in the Issue Paper on Juvenile Justice).
43. The custodial sentences of children should be reviewed on a regular basis by a competent authority (see the Juvenile Justice Issue Paper).
44. Awareness of and facilities for alternative sentencing and community based alternatives should be developed.
45. The bar council and the law society need to be more involved in educating their members about the needs of the child who is in conflict with the law. They have to be informed about the alternatives available to imprisonment.
46. Release policy in respect of children should be formulated to assist, inter alia, with early reintegration into society.
47. Correctional supervision, a community based option for sentenced children, needs to be explored and, if necessary, adaptations made to allow this punishment to suit children's needs.
48. The problems of making children in prison the collective responsibility of several government departments needs to be re-examined and rational solutions sought.

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