



What does the Child Justice Bill expect of the police?

The majority of children consulted in the drafting process to the Child Justice Bill by the South African Law Reform Commission, that had been through the criminal justice system, reported that police had physically assaulted them. More than half said they had witnessed or experienced excessive force being used on arrest of a child. Some of the most shocking examples included placing a child in a plastic bag and pushing him under water, a child who had been given electric shocks, and two children who had been assaulted and then placed in the boot of a car.

The Child Justice Bill says that on arresting a child a police officer must

- Tell the child with what crime he or she is being charged
- Inform the child of his or her rights in the prescribed way
- Explain to the child what procedures will follow

The requirement that the child be informed is very important, as ignorance of what is occurring can only lead to further trauma for the child. Some 40% of children consulted, who had previously been arrested, said they had not been informed of their rights as an arrested person; they were informed only of the charges against them.

Police must inform a probation officer within 24 hours of a child's arrest or whether the child has been summonsed or warned to appear in court. Police must release a child in detention for a Schedule 1 offence (minor offences such as ordinary assault or trespass) into his or her parents' or guardian's custody before the preliminary enquiry, except in exceptional circumstances.

A police official must notify the parents of an arrested child, or an appropriate adult, where circumstances permit. Almost 60% of the children consulted in the drafting process, that had been arrested previously, said they saw their parents only after more than a day had elapsed.

The 2002 version of the Child Justice Bill provided that a police officer must have due regard for the dignity and well being of a child, when arresting him or her. In addition it provided that minimum force to affect an arrest must be used. Any use of force must be reasonably necessary and proportional to circumstances. Deadly force is prohibited except where there is a threat of imminent death or serious bodily harm. However these provisions are missing from the 2007 version and this is unfortunate as these provisions would serve to create a framework which would guide police on their treatment of children.

The Bill also provides for the protection of children who are detained in police custody, which includes:

- Children must be detained separately from adults and boys separately from

girls

- Children must be detained in conditions which will reduce the risk of harm to that child, including risk of harm by other children
- A complaints mechanism regarding injuries
- A record procedure to detail the children detained in police custody at each police station