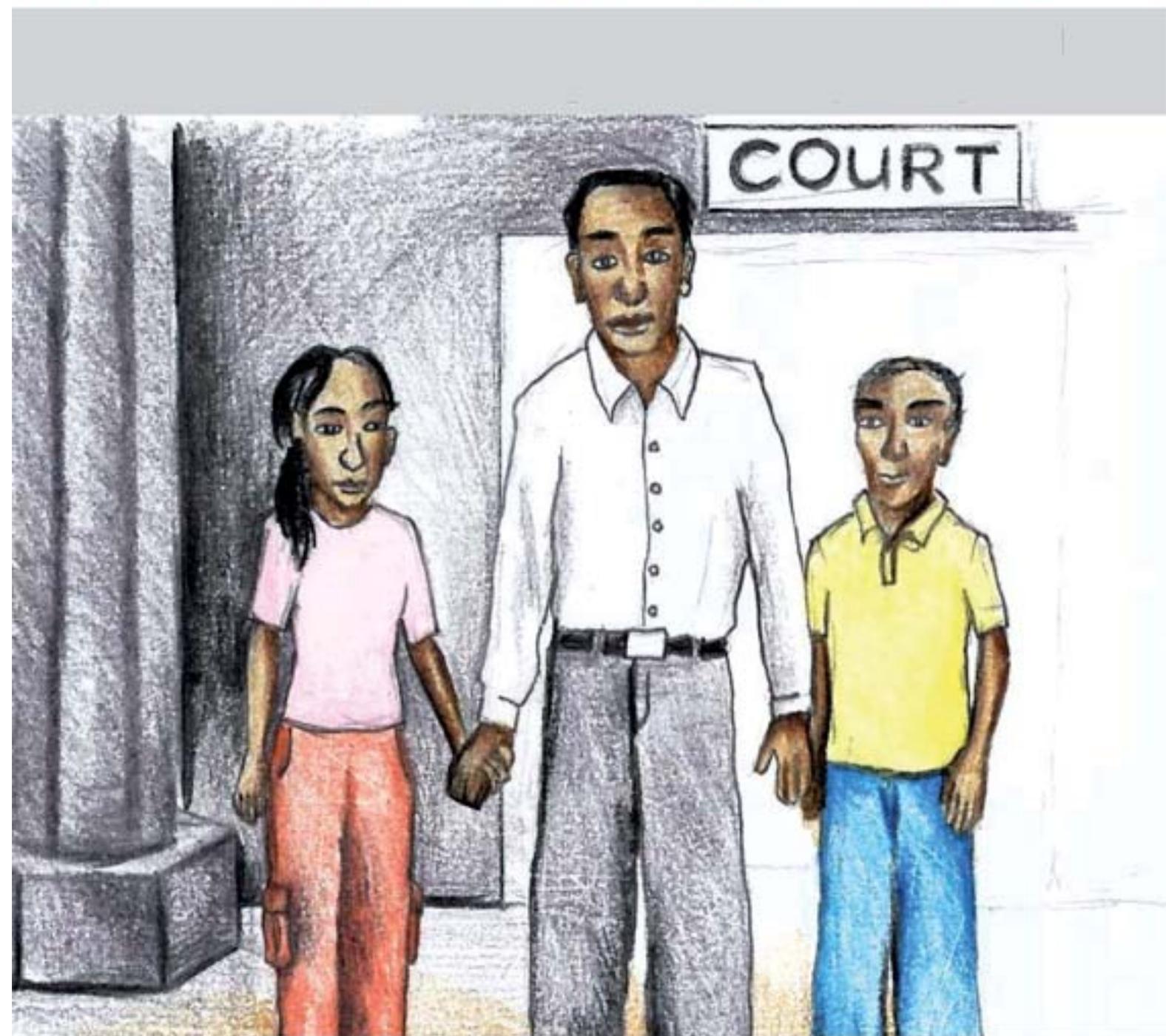


Annual report on the implementation of the Child Justice Act, 2008 (Act No 75 of 2008)



the doj & cd

Department
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

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**FOREWORD: THE HONOURABLE MINISTER J.T. RADEBE
DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT**

On 1 April 2010 South Africa implemented the Child Justice Act, 2008 (Act No. 75 of 2008) (hereinafter referred to as “the Act”) as part of an ongoing effort to promote and protect the constitutional rights of children in conflict with law. The Act provides special measures for children in conflict with the law, designed to break the cycle of crime so as to restore in these children a lifestyle that is law-abiding and productive.

The report is a consolidated account of collaborative efforts by the Justice, Crime Prevention and Security Cluster Departments in realising the objectives of the Act. It relates to the progressive work done by the integrated child justice governance structures aimed at achieving the effective and cost-efficient implementation of the Act throughout the child justice sector.

The report further details the successful development of legislative supporting documentation that was approved, published and taken through the implementation process throughout the country. A notable achievement in this regard was the finalization of the National Policy Framework, which was tabled in Parliament in June 2010, and published in August 2010.

The remarkable decline in the number of children awaiting trial in prisons, marks a further success in the implementation of the Act. The 502 children between the ages of 14 to 17 years, who were awaiting trial in prisons in April 2010, were dramatically reduced to 298 in December 2010.

However, as in any new execution process, the first year of implementation of this legislation had its challenges and shortcomings. The report highlights a number of these challenges, and identifies the steps taken to address or minimize their effect.

This report is by no means an all-embracing account of all the activities embarked upon by the individual Departments, but a collective impression of the key deliverables achieved during the period under review.

Many children have felt the positive impact of this legislation, and this would not have been possible without the work of this Parliament. I therefore wish to extend my deep gratitude to my ministerial colleagues and the members of this Parliament for having ensured that South Africa has

this progressive legislation, which the implementation thereof has made a difference in the lives of many children in conflict with law.

My further appreciation is extended to the Directors-General Intersectoral Committee for the strategic guidance they stalwartly gave to make the implementation process in this first year so astoundingly productive. The devoted leadership of my Director-General to this Committee is noted with great commendation. My deep gratitude further goes to the various implementing departments, the Non-Governmental Organizations and the Civil Society for their outstanding contributions in making child justice real in South Africa. It is through the united and collaborated efforts with the specialist Non-Government Organizations and the Civil Society that our government will continue to produce admirable results in the improvement of the child justice system in our country. I therefore urge the willing and devoted participation of the Non-Governmental Organizations and the Civil Society to continue in making the implementation of this legislation more achievable and successful.

I therefore take great pleasure in submitting this joint report, because it is only through collaborative endeavours that we can make a significant difference in the lives of all children, particularly children in conflict with law. Together, we can ensure that our children feel and are safe in South Africa.

Minister JT Radebe, MP
Minister of Justice and Constitutional Development

**MESSAGE FROM THE CHAIRPERSON
INTERSECTORAL COMMITTEE FOR CHILD JUSTICE
DIRECTOR-GENERAL, Ms N SINDANE
DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT**

The first year of the implementation of any legislation is indeed a gigantic task that requires proficient thoughts and dedicated hands to translate it into practical reality for the nation. It is, however, a task that becomes more doable and achievable when it is driven by collaborative endeavours and coordinated resources of all those involved in the implementation process.

The Child Justice Act, 2008 provides a supportive foundation for the integrated implementation of the legislation. Its concerted approach to implementation is expressly demonstrated by its requirement for the establishment of the Intersectoral Committee, as an executive structure with a mandate to provide oversight in the implementation of the Act. This Committee is founded on a representation of the National Director of Public Prosecutions, National Commissioner of the South African Police Service, National Commissioner of Correctional Services, and the Directors-General of the National Departments of Social Development, Education and Health, and is chaired by myself, as the Director-General of the Department of Justice and Constitutional Development.

To ensure that the culture of united efforts exists at all levels of implementation, the Directors-General Intersectoral Committee mandated the establishment of the National Operational Intersectoral Committee to manage all implementation operations at national level. At regional and local level, the Child Justice Fora were established as operational management structures that report progress directly to the National Operational Intersectoral Committee.



It is through the dedicated and ardent work of these governance structures that the implementation of this Act has become possible to the great extent expounded in this Progress Report. The outstanding efforts made by the implementing departments and institutions to collectively realize the objectives of this Act in the midst of challenges cannot be overstated.

In submitting this Consolidated Annual Report, I wish to express my deep gratitude to the respective Honourable Ministers and Members of this Parliament for having afforded us an opportunity to create a child justice system for the children of this country through this legislation.

My further appreciation goes to my colleagues and members of the Directors-General Intersectoral Committee for their selfless support in making the work of this Committee realizable and progressively successful in its very first year of operation.

I further wish to thank the members of the Child Justice Alliance, National Operational Intersectoral Committee, the Provincial Child Justice Fora, the Non-Governmental Organizations and the Civil Society for their devoted efforts in making the first annual implementation of this Act the tremendous success it turned to be. Indeed, it is through joined hands that we can create a safe country for our children.

I need to thank Parliament and the respective Ministers for their guidance through the implementation of the Act.

MS. N SINDANE

**DIRECTOR-GENERAL: DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT
AND CHAIR OF THE DIRECTORS-GENERAL INTERSECTORAL COMMITTEE FOR CHILD
JUSTICE**

1. INTRODUCTION

Section 96(3) provides that the first report on the implementation of the Child Justice Act, 2008 (Act No. 75 of 2008)(hereinafter referred to as “the Act”) must be submitted to Parliament within one year after commencement of the Act, by each Department or institution referred to in section 94(2). The Departments or institutions referred to in this provision are: the Department of Justice and Constitutional Development, the National Prosecuting Authority, the South African Police Service, Department of Correctional Services, Department of Social Development, Department of Basic Education and the Department of Health.

One of the key aims of the Act is to promote co-operation and collaboration between government Departments and institutions to ensure an integrated and holistic approach in the implementation of the Act. In the realization of this imperative, section 94(1) of the Act makes provision for the establishment of the Intersectoral Committee for Child Justice. This is the high level committee constituted by the Directors-General and Heads of the various Departments referred to above. In the furtherance of the notion of collaboration and teamwork, the Intersectoral Committee for Child Justice found it apt and most resourceful to provide a consolidated interdepartmental Annual Report on the implementation progress of the Act for submission to Parliament. This is mainly to ensure that Parliament has a holistic and inclusive view of the successes and challenges of this legislation.

This consolidated Annual Report is therefore submitted to Parliament in compliance with the provision of section 96(3) of the Act. It is accompanied by individual Departmental reports referred to in section 96(3) of the Act, as source and supporting documents.

The objectives of this report are to:-

- Report on the progress made towards the implementation of the Act;
- Highlight the achievements made during the implementation process of the Act;
- Identify the challenges encountered during the implementation process; and
- Elaborate on future strategies, initiatives and actions to address these challenges.

This combined Annual Report was presented and approved by the Intersectoral Child Justice Steering Committee in a meeting convened on 25 March 2011.

2. OVERVIEW AND SUMMARY OF CHILD JUSTICE ACT, 2008

On the 1st April 2010, the Child Justice Act, 2008 was officially launched and implemented throughout the country. This legislation is largely viewed as the historic herald to achieve the greater protection of the rights and best interests of children in conflict with the law, as enshrined in the Constitution, 1996 and international law.

2.1 *The Child Justice Act, 2008 (Act No. 75 of 2008)*

The aims of the Act are to:

- Establish a criminal justice system for children, who are in conflict with the law, in accordance with the values underpinning our Constitution and our international obligations, by, among others, creating, as a central feature of this new criminal justice system for children, the possibility of diverting matters involving children who have committed offences away from the criminal justice system, in appropriate circumstances, while children whose matters are not diverted, are to be dealt with in the criminal justice system in child justice courts;
- Expand and entrench the principles of restorative justice in the criminal justice system for children who are in conflict with the law, while ensuring their responsibility and accountability for crimes committed;

- Recognise the present realities of crime in the country and the need to be proactive in crime prevention by placing increased emphasis on the effective rehabilitation and reintegration of children in order to minimise the potential for re-offending;
- Balance the interests of children and those of society, with due regard to the rights of victims;
- Create incrementally, where appropriate, special mechanisms, processes or procedures for children in conflict with the law, in specific terms by:
 - raising the minimum age of criminal capacity for children from the age of 7 years to 10 years;
 - ensuring that the individual needs and circumstances of children in conflict with the law are assessed;
 - providing for special processes or procedures for securing attendance at court of, the release or detention and placement of, children;
 - creating an informal, inquisitorial, pre-trial procedure designed to facilitate the disposal of cases in the best interests of children by allowing for the diversion of matters involving children away from formal criminal proceedings in appropriate cases;
 - providing for the adjudication of matters involving children which are not diverted in child justice courts; and
 - providing for a wide range of appropriate sentencing options, specifically suited to the needs of children,

The Act also places emphasis on the effective monitoring of children going through the child justice system by requiring the establishment of an integrated information management system to enable such monitoring and analysis of trends and interventions, through the collection of both qualitative and quantitative data.

2.2. Supportive Legislation

The implementation of the Act is supplemented and supported by the following legislation:

- The Constitution of the Republic of South Africa, 1996;
- The Criminal Procedure Act, 1977 (Act No. 51 of 1977);
- The Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007);

- The Children’s Act, 2005 (Act No. 38 of 2005), which provides for the care and protection of children, as well as the referral of children to Children’s Courts from the Child Justice Courts, if they are children in need of care and protection. The Children’s Act, 2005 further provides for the establishment, structures and norms and standards of Child and Youth Care Facilities;
- The Probation Services Act, 1991 (Act No. 116 of 1991);
- The Probation Services Amendment Act, 2002 (Act No. 35 of 2002), which provides for the appointment and duties of Probation Officers; and
- The Correctional Services Act, 1998 (Act No. 111 of 1998) and the Amendment Bill, which relates to the management of children in correctional facilities.

3. THE NATIONAL POLICY FRAMEWORK

Section 93 of the Act requires the Minister of Justice and Constitutional Development to, after consultation with the Ministers responsible for Safety and Security, Correctional Services, Social Development, Education and Health, adopt a national policy framework, relating to all matters dealt with in the Act, in order to:

- ensure the uniform, coordinated and cooperative approach by all government Departments, organs of state and institutions dealing with matters relating to child justice;
- guide the implementation and administration of the Act;
- promote co-operation and communication with the non-governmental sector and civil society in order to ensure effective partnerships for the strengthening of the child justice system; and
- enhance service delivery as envisaged in the Act through the development of a plan within available resources.

Section 93(2) (a) and (b) stipulates that the Minister of Justice and Constitutional Development must:

- within two months after the commencement of the Act, adopt and table the policy framework in Parliament; and
- publish the policy framework in the *Gazette* for public comment two months after it has been tabled in Parliament.

In June 2010, the National Policy Framework was tabled in Parliament and published in the *Gazette* in August 2010 for public comments. The public was given until 01 October 2010 to make

submissions. The process of evaluation and incorporation of inputs received from the public is currently in progress. In compliance with section 93(2) (d) of the Act, the amended National Policy Framework will be tabled before Parliament as soon as it is finalized and approved by the Intersectoral Child Justice Steering Committee. It is believed that this amended version will be the full reflection of the aspirations of the government and its people so as to ensure maximum cooperation between government and civil society in the full realization of the objectives of this legislation.

4. REGULATIONS, DIRECTIVES, NATIONAL INSTRUCTIONS AND REGISTER

Section 97 of the Act provides for the issuing of child justice Regulations, Directives, National Instructions, and the establishment of a Register for children under the age of 10 years accused of committing an offence.

4.1 **The Regulations:** The Regulations relating to child justice, as provided for in section 97(1) of the Act, were tabled in and approved by Parliament and *Gazetted* in March 2010. However, two (2) representations for possible amendments of the Regulations have since been received, and are being dealt with by the Legislative and Constitutional Development Branch of the Department of Justice and Constitutional Development.

4.2 **Notice for Persons Competent to Evaluate Criminal Capacity:** In terms of Section 97(3) (a) of the Act, the Minister of Justice and Constitutional Development had to, through a notice in the *Government Gazette*:

- determine the category or class of persons who are competent to conduct the evaluation of the criminal capacity of children who are 10 years or older but under the age of 14 years, accused of committing an offence; and
- in consultation with the Minister of Finance, determine the allowances and remuneration of those persons.

The *Government Gazette* notice determining the above was published on 1 April 2010.

The Department of Health has since submitted a request for the amendment of this notice. The concern relates to paragraph 2(a) of the notice, which provides that a person who evaluates a child in terms of section 11 of the Act and who is in the full-time or part-time

employment of the State is not entitled to remuneration. The Department of Health proposes that this paragraph be deleted since there are policies regarding the reimbursement for intergovernmental services through the Uniform Patient Fee Schedule (UPFS) rates. The matter is receiving the urgent attention of the Legislation Development Branch of the Department of Justice and Constitutional Development.

- 4.3 **Directives:** Section 97(4) of the Act provides that the National Director of Public Prosecutions must, in consultation with the Minister of Justice and Constitutional Development, issue directives regarding all matters which are reasonably necessary or expedient to be provided for in order to achieve the objectives of the Act.

The Directives, in full compliance with the requirements of the Act, were approved by Parliament and *Gazetted* in March 2010.

- 4.4 **National Instructions:** According to section 97(5) (a) of the Act, the National Commissioner of the South African Police Service must, after consultation with the Directors-General: Social Development, Justice and Constitutional Development and Education and the National Commissioner of Correctional Services, issue national instructions regulating the various processes and procedures applicable when dealing with children in conflict with the law.

The first National Instructions by the South African Police Service were submitted to Parliament in March 2010, before the commencement of the Act, as contemplated by section 97(5)(c) of the Act. The final National Instructions 2/2010 Children in Conflict with the Law, conforming to the requirements set out in the Act, were subsequently approved by Parliament before being *gazetted* on the 2nd September 2010.

- 4.5 **Register:** In terms of section 97(6)(a) of the Act, the Department of Social Development must keep a register of children in respect of whom the probation officer made and recorded a decision in terms of section 9(6) of the Act. A total of **112** children, under the age of 10 years suspected of having committed offences, have been recorded in the manual register kept by the Department of Social Development, since the implementation of the Act. The Department of Social Development is currently developing an electronic register that will have the capability to track past records, and to receive notification from the South African Police Service when new cases are registered.

5. PROVISION AND ACCREDITATION OF DIVERSION PROGRAMMES AND DIVERSION SERVICE PROVIDERS

Section 56(2)(a) of the Act requires the Minister of Social Development, in consultation with the Ministers of Justice and Constitutional Development, Education, Correctional Services, Safety and Security and Health, to:

- Create a policy framework to develop the capacity within all levels of Government and the non-governmental sector to establish, maintain and develop programmes for diversion;
- Establish and maintain a system for accreditation, as prescribed, of programmes for diversion and diversion service providers; and
- Ensure the availability of resources to implement diversion programmes, as prescribed.

The Diversion Accreditation Policy Framework was tabled in Parliament in June 2010 and a notice in the *Gazette* inviting applications for the accreditation of diversion programmes and diversion service providers was published in August 2010, in compliance with section 56(2)(c)(ii) of the Act. All the applications received are being considered and decided on by the Department of Social Development.

6. INTERSECTORAL COMMITTEE FOR CHILD JUSTICE

One of the aims of the Act is to promote co-operation and collaboration between government Departments, and between government Departments and the non-governmental sector and civil society, to ensure an integrated and holistic approach in the implementation of the Act. To achieve this outcome, section 94(1) of the Act requires the establishment of the Intersectoral Committee for Child Justice (hereinafter referred to as “the Directors-General Intersectoral Committee for Child Justice”).

6.1 *Establishment of the Directors-General Intersectoral Committee for Child Justice*

In terms of section 94(1) of the Act, the Directors-General Intersectoral Committee for Child Justice must consist of or have representation from the:

- Director-General: Justice and Constitutional Development, who is the Chairperson of the Committee;
- National Director of Public Prosecutions;

- National Commissioner of the South African Police Service;
- National Commissioner of Correctional Services;
- Director-General: Social Development, who has been elected as the deputy Chair of the Committee;
- Director-General: Education; and
- Director-General: Health.

6.2 Governance and Operation of the Directors-General Intersectoral Committee for Child Justice

6.2.1 Directors-General Intersectoral Committee for Child Justice

In order to achieve guided, focussed and constructive management of the committee, the Directors-General Intersectoral Child Justice Steering Committee, developed Terms of Reference to govern issues, such as the Committee’s legislative mandate, attendance of quarterly meetings, delegations, as well as the responsibilities and functions of the Secretariat of the Committee.

The Act provides for the Intersectoral Committee to invite representatives from the non-governmental and civil society to its meetings to foster co-operation between Government and civil society in the implementation of the Act. This was not achieved this year as the primary focus was to set up the governance processes to enable these meetings to provide meaningful contribution and oversight.

According to section 95 of the Act, the Intersectoral Committee must meet at least twice a year and must also report in writing to the Minister of Justice and Constitutional Development within one (1) month of every meeting.

The Intersectoral Committee met six (6) times during the period February 2010 to March 2011. The dates and important items on the agendas can be tabulated as follows:

Table 1: Dates of Directors-General Intersectoral Committee for Child Justice Meetings and important items on the agenda

Date of the meeting	Important items on agenda
Feb 2010	Development of a mandate and governance structure for the Committee
19 May 2010	Consideration of draft national policy framework and accreditation framework for diversion, before tabling in Parliament

19 Aug 2010	Consideration of the impact of the implementation of the Act and approval of the proposed Guidelines for the Establishment and Management of One Stop Child Justice Centres.
19 Nov 2010	Consideration of the progress reports on the implementation of the Act received from the various Departments. Challenges in relation to budgets and information management, including statistics, were discussed. Decision made to incorporate the proposed amendments received from non-governmental organisations, into the Child Justice National Policy Framework, by the National Operational Intersectoral Committee for Child Justice.
8 March 2011	Reviewing the progress and challenges by various Departments on the implementation of the Act. Discussion of issues relating to the re-assessments of children awaiting trial in prison and the possibility of utilizing the available bed spaces in Child and Youth Care Facilities. The format and development of this report was discussed and agreed upon. Decision to convene a special meeting on 25 March 2011 to review the final draft of this consolidated report, before submission to the various Ministers for approval and tabling in Parliament.
25 March 2011	Presentation and approval of the consolidated Annual Report on the Implementation of the Child Justice Act, with request to take the document through the editorial process, as well as the lay-out and design.

6.2.2 *National Operational Intersectoral Committee for Child Justice*

In an effort to ensure the early detection of and swift action against the operational challenges faced by the various Departments tasked with the implementation of the Act, a National Operational Intersectoral Committee for Child Justice was established by the Directors-General Intersectoral Child Justice Steering Committee. This Committee operates as an extension of the Directors-General Intersectoral Child Justice Steering Committee, and is tasked to manage the operational issues relating to the implementation of the Act and its National Policy Framework. It is also mandated to make high-level operational decisions about the implementation process and to make recommendations to the Intersectoral Committee for Child Justice regarding activities related to the implementation of the Act. It is further tasked to monitor progress and achievements made by the implementing Departments and institutions during the execution process.

The National Operational Intersectoral Child Justice Steering Committee meets on a monthly basis and reports to the Directors-General Child Justice Steering Committee through the office of the Secretariat to the Directors-General Child Justice Steering Committee. This National Committee is chaired by the Department of Justice and Constitutional Development and the Department of Social Development functions as the deputy Chair. Members of the National Operational Child Justice Steering Committee include representatives from the nine (9) Provincial Child Justice Fora,

the magistracy, Chapter 9 institutions, the Child Justice Alliance and the other key non-governmental and civil society organisations working in the child justice sector.

6.2.3 Provincial Child Justice Fora

In order to further enhance the successful implementation of the Act and to ensure effective monitoring of the implementation process at regional and local levels, nine (9) Provincial Child Justice Fora have been established, one for each province. Members of the Provincial Child Justice Fora include: Provincial representatives from the Departments of Justice and Constitutional Development, Social Development, Basic Education, Correctional Services, South African Police Service, National Prosecuting Authority, Legal Aid South Africa, the magistracy, the Chapter 9 institutions, the Child Justice Alliance and other non-governmental and civil society organisations working in the child justice sector.

The primary role of the Provincial Child Justice Fora is to monitor the implementation of the Act at provincial and local levels. These Forums report directly to the National Operational Intersectoral Committee for Child Justice.

6.3 Responsibilities, Functions and Duties of the Intersectoral Committee

Section 96 of the Act describes the responsibilities, functions and duties of the Intersectoral Committee and these include:

- Developing a draft national policy framework, for adoption by the Minister of Justice and Constitutional Development and tabling in Parliament. In terms of section 96(1) of the Act the national policy framework must include guidelines for:
 - the implementation of the priorities and strategies contained in the national policy framework;
 - measuring progress on the achievement of the national policy framework objectives;
 - ensuring that the different organs of state comply with the primary and supporting roles and responsibilities allocated to them in terms of the national policy framework and the Act;
 - monitoring the implementation of the national policy framework and the Act; and
 - the establishment of an integrated information management system to enable effective monitoring, analysis of trends and interventions, to map the flow of children through the child justice system and to provide quantitative and

qualitative data relating to various processes and procedures followed in terms of the Act.

- Forwarding recommendations to the Minister of Justice and Constitutional Development with regard to the amendment of the national policy framework.
- Submitting a report to Parliament, including statistics, not later than five (5) years after the implementation of the Act, on various aspects relating to children in the child justice system in order to enable Parliament to review the minimum age of criminal capacity.

In the execution of its key functions and duties, the Directors-General Intersectoral Child Justice Steering Committee took great strides in securing a number of momentous achievements. As indicated earlier, the tabling and the gazetting of the National Policy Framework in August 2010 stand out as the noteworthy accomplishment of this Committee and its supporting structures. The gazetting of Regulations, Directives, National Instructions and the establishment of the Department of Social Development National Children's Register mark further promptness and serious approach by the Directors-General Intersectoral Child Justice Steering Committee in its operations. All the remarkable achievements of the Directors-General Child Justice Steering Committee and its operational components are enumerated below.

6.4 Implementation Progress and Achievements by the Directors-General Intersectoral Committee for Child Justice

6.4.1 Directors-General Intersectoral Committee for Child Justice

Further notable achievements by the Directors-General Intersectoral Committee for Child Justice towards effective implementation of the Act include the following:

- Through the Directors-General Intersectoral Committee for Child Justice, the Department of Social Development requested an amendment to the Act to allow the Minister of Social Development to delegate the signature of the certificates for accredited diversion programs and diversion service providers to the members of the Executive Council for Welfare in each province for the purposes of fast-tracking the implementation of the Act in this regard.
- The Intersectoral Committee further considered a report compiled by the Department of Correctional Services for submission to Cabinet, which related to the assessment and

status of correctional facilities in the country. One of the critical issues that the Committee identified was the need for the training of correctional officials on the provisions and requirements of the Act pertaining to their specific roles and responsibilities.

- The Intersectoral Committee further identified certain challenges regarding the issue of children awaiting trial in correctional facilities. In addressing this matter, it required the Departments of Correctional Services, Basic Education and Social Development to develop a collective intervention plan to ensure that all children in correctional facilities participate in appropriate educational programmes.

6.4.2 National Operational Intersectoral Committee for Child Justice

The achievements by the National Operational Intersectoral Committee for Child Justice during the first year of implementation of the Act include:

- Drafting of the National Policy Framework for Child Justice, which was later approved by the Directors-General Intersectoral Child Justice Steering Committee and Parliament;
- Drafting the Guidelines for the Establishment and Management of One Stop Child Justice Centres, which were subsequently approved by the Directors-General Intersectoral Child Justice Steering Committee. The National Operational Committee currently monitors the implementation of these Guidelines under the direction and guidance of the Directors-General Child Justice Steering Committee;
- Taking an initiative to draft an Intersectoral Protocol/ Guidelines for the purposes of addressing challenges relating to the transportation of children to and from service points.

The devoted work of the Provincial Child Justice Fora at regional and local levels is depicted in the successful achievements made by the Directors-General Intersectoral Child Justice Steering Committee and the National Operational Child Justice Steering Committee.

6.5 *Priorities identified by the Directors-General Intersectoral Committee for Child Justice for 2011/2012*

Various priorities have been identified by the Directors-General Intersectoral Committee for Child Justice for attention and action during 2011/2012, and these include:

- Introducing various mechanisms to intensify the implementation process of the Act;
- Developing and implementing mechanisms and tools to monitor and evaluate the impact of the implementation of the Act;

- Monitoring the application of the provisions of the Act that are already identified as flawed so as to determine the need to request amendments to the legislation, regulations and/ or National Policy Framework, where necessary;
- Ensuring improved and continued training of the service providers on the provisions of the Act and related matters;
- Improving and intensifying the implementation of the child justice communication strategy linked to the Justice, Crime Prevention and Security Cluster Communication Strategy;
- Conducting random visits at facilities where children are detained to ensure their compliance with norms and standards;
- Increasing the number of designated One Stop Child Justice Centres;
- Intensifying focus on the development of the Information Management Systems for gathering of data and analysis of statistics;
- Monitoring the mental health and the evaluation process of criminal capacity for children; and
- Addressing challenges relating to the transportation of children in detention, especially in rural areas. A Transportation Task Team has since been established within the National Operational Intersectoral Committee for Child Justice to develop Transportation Guidelines for children in conflict with the law.

6.6 *The Implementation of the Priorities and Strategies Contained in the National Policy Framework and Measuring Progress on the Achievement of the National Policy Framework Objectives*

The National Policy Framework identifies ten (10) key priorities of the Act. The implementation progress and implementation challenges will be discussed with reference to these key priorities:

6.6.1 Building Capacity in the Sector

The National Policy Framework accentuates capacity building within the child justice sector as the key requirement in the effective implementation of the Act. It highlights capacity building as focussing on the numerical increase of human resources, as well as the enhancement of skills and knowledge. Capacity building includes the availability of the required physical infrastructure.

Capacity building in terms of human resources, further implies that the various Departments will prioritise the allocation of additional resources and budgets, where necessary, to appoint, train and

capacitate the dedicated personnel and officials necessary to ensure the protection of the rights of vulnerable children.

The development of training courses and learning programmes by the various government Departments and institutions, as provided for in terms of section 97 of the Act, forms an integral part of the successful implementation of the Act. The intersectoral nature of the Act necessitates that the relevant Departments and institutions conduct intersectoral training together and focus training specifically on the roles and responsibilities of the officials in each Department.

6.6.1.1 Implementation Progress

- **Infrastructure and human resources**

Department of Justice and Constitutional Development: The Act and Regulations provide for specific duties for child justice court clerks, which include the monitoring of the placement of the children, whilst awaiting trial, as well as placing the matters back on the court roll for the magistrates to follow-up the placement of the children and compliance with any sentencing order. A total of one hundred and eleven (**111**) child justice court clerks have been appointed on contract for the 2010/11 and 2011/12 financial years. The Department, through its Human Resource Branch, is in the process of finalising a work-study investigation to facilitate the conversion of these contract positions into permanent posts.

Department of Health: Sixty-four (**64**) health establishments have been designated as psychiatric hospitals, care and rehabilitation centres, in terms of section 5 of the Mental Health Care Act, 2002 (Act No. 17 of 2002). Fifteen (**15**) health establishments have been designated to care and admit State patients and mentally ill prisoners.

Implementation challenges

Overall capacity building in the sector requires more attention, including the continued appointment of dedicated staff within the available resources and continued intersectoral and Departmental training.

- **Intersectoral Training**

In 2009/10, an intersectoral training manual was developed for all the Departments involved in the implementation of the Act by Street Law, supported by the Training and core Business units of the various Departments.

The outline of the manual includes:

- social context training in respect of child justice, and
- training on the various roles and responsibilities of the Departments participating in the implementation of this Act.

The various Departments use this manual to provide training to their officials.

Before 1 April 2010, nine **(9)** intersectoral training sessions were conducted under the leadership of the various Provincial Child Justice Fora, to prepare for the implementation of the Act. A total of **315** officials from the various Departments, as well as magistrates, attended these sessions. Street Law was appointed to provide facilitation services in all these intersectoral training sessions, and Justice College of the Department of Justice & Constitutional Development provided support in this regard.

- **Departmental training**

Each Department offers training to its officials on a continuous basis. Training provided to officials by their various Departments since 1 April 2010 can be tabulated as follows:

Table 2: Total number of officials trained by their various Departments since 1 April 2010:

Department/ Organisation	Capacity of Persons trained	Province of training	Total trained
South African Police Service	Police officials	All provinces	15 891
Department of Social Development	Probation Officers and Assistant Probation Officers	All provinces	854
National Prosecuting Authority	Prosecutors	All provinces	698
Legal Aid SA	Senior practitioners, admitted legal practitioners, and candidate attorneys at all		64
			1174

	Justice Centres		
Magistracy/ Judiciary (Judicial Education Institute)	Magistrates	Decentralised and ad hoc training in all 9 provinces	567
Department of Justice and Constitutional Development	Clerks of the court	Decentralised: in all 9 provinces	395
Department of Correctional Services	Correctional officials, unit managers, social workers, heads of correctional centres	All provinces	146
Department of Basic Education	Officials from the Department, principals, educators, reform school principals and provincial co- ordinators of reforms schools	All provinces	53
Total trained			19 842

* For detailed information on the training referred to in table 2, refer to annexure A and the individual reports by the relevant Departments or institutions

Implementation challenges: Training

- **South African Police Service:** The need for the training of more police officers has been identified as a challenge. During the period under review, the South African Police Service could only reach a total of **15 891** police officers through its 3 phased training programme. This output is still far beyond the expected number of officers who require training in this regard. As a measure of meeting this demand, informal training is also being conducted at station level during lectures and station meetings.

6.6.1.2 Implementation Challenges: Infrastructure

- **Department of Justice and Constitutional Development:** In terms of the Act, all courts are deemed to be child justice courts. However, not all of these courtrooms are child-friendly. In these instances, the magistrates' chambers or court boardrooms are utilised as preliminary inquiry rooms. Additional microphones and recording machines are needed to record the proceedings of the preliminary inquiries. More dedicated child justice court clerks are also needed to ensure that every court has this capacity.

The Department has requested additional budgetary allocations to ensure that every court establishment has a dedicated child justice court, and that every dedicated child justice court has a dedicated child justice clerk.

The Department further needs additional budget to establish and designate more One Stop Child Justice Centres, in areas where the need is prioritised, by targeting areas where most children are in conflict with the law. From the 2011/ 2012 budget, the Department will only be able to designate two (2) more One Stop Child Justice Centres to bring the total of the designated Centres to four (4) in the whole country.

- **Department of Health:** There is a need to audit the health establishments designated to care and admit State patients and mentally ill prisoners and those designated as psychiatric hospitals, care and rehabilitation centres to ensure that they comply with the requirements for detention of children. During the financial year 2011/2012, these facilities will be audited to ensure that they are fit for the purposes of the Act. Structural changes and renovations are being prioritised, where necessary to ensure that the facilities are well-equipped.
- There is a need to visit each of the facilities offering services to children in conflict with the law, to ensure that they adhere to the provisions and requirements in terms of the Act and to mitigate any risks which may be identified.
- Challenges relating to the issue of mentally-ill child-offenders, as a priority area, will receive attention during the financial year 2011/2012.

6.6.2 Ensuring Assessment of Children

Section 34(1) of the Act provides that every child who is alleged to have committed an offence must be assessed by a probation officer, unless assessment has been dispensed with. If a child has not been assessed, the prosecutor or magistrate may dispense with the assessment, if it is in the best interests of the child to do so: Provided that the reasons for dispensing with the assessment must be entered on the record of the proceedings by the magistrate in chambers.

According to section 34(2), a probation officer, who has been notified by a police official that a child has been handed a written notice, served with a summons or arrested, must assess the child before the child appears at a preliminary inquiry within the time periods provided for in the Act.

6.6.2.1 Implementation Progress

The Department of Social Development reported that a total of **32 494** children were assessed during the period 1 April 2010 until 31 March 2011.

Lists of the available probation officers to conduct assessments have been disseminated to provinces and all e-mail users within the South African Police Service.

6.6.2.2 Implementation Challenges

There are **484** probation officers and **370** assistant probation officers in the employment of the Department of Social Development. There is still a need to appoint additional probation officers, and the Department of Social Development has developed a plan for the progressive appointment of such probation officers. In an effort to increase its numerical human resource capacity, the Department of Social Development continues to recruit and provide scholarships to students interested in making Social Work a profession.

The Department of Health has been requested to assist with the assessment of criminal capacity of children who are 10 years or older, but under 14 years of age. The suitable qualified persons in terms of the Act have been identified as psychiatrists and psychologists registered with the Health Profession's councils. To mitigate the shortage of psychiatrists and psychologists in the public sector, private psychologists and psychiatrists will also be requested to conduct such evaluations and be remunerated according to the tariffs that are established by the Department of Justice and Constitutional Development. A further challenge experienced in this regard during 2010/11, was that the allocation of funds for expert witness' fees for the assessment of the criminal capacity of children had to be sourced from the mainstream budget allocated to witness' fees. No dedicated ring-fenced budget was available for the 2010/11 financial year for this purpose. Additional budgetary allocations to cover these costs are constantly sought and motivated for. The Department has during 2011/12, allocated dedicated funding to each Regional Office of the National Department of Justice and Constitutional Development, to pay for the expert witnesses for the evaluation of the criminal capacity of children from the ages of 10 to 13 years.

6.6.3 Preliminary Inquiries

A preliminary inquiry is an informal pre-trial procedure which is inquisitorial in nature. It may be conducted in a court or any other suitable place.

A preliminary inquiry must be held in respect of every child who is alleged to have committed an offence, except where the:-

- Matter has been diverted by a prosecutor;
- Child is under the age of 10 years; or
- Matter has been withdrawn.

A child's appearance at a preliminary inquiry is regarded as his or her first appearance before a lower court, in terms of section 50 of the Criminal Procedure Act, 1977, read with section 43 of the Child Justice Act, 2008.

6.6.3.1 Implementation Progress

**Table 3: Preliminary inquiries conducted during the period
Updated: 01 April 2010 until 31 March 2011:**

Provinces	Preliminary inquiries
Eastern Cape	1445
Free State	808
Gauteng	1463
KwaZulu-Natal	3843
Limpopo	422
Mpumalanga	698
North West	691
Northern Cape	307
Western Cape	4794
Total	14471
	<i>Source: DoJCD NOC</i>

6.6.4 Sentencing

The objectives of sentencing in terms of the Act include to:

- Encourage the child to understand the implications of and be accountable for the harm caused;
- Promote an individualized response which strikes a balance between the circumstances of the child, the nature of the offence and the interests of society;
- Promote the reintegration of the child into the family and community; and
- Use imprisonment only as a measure of last resort and only for the shortest appropriate period of time.

The Act provides for various sentencing options as follows:-

- Community-based sentences;
- Restorative justice sentences;
- Fines or alternatives to fines;
- Correctional supervision;
- Postponement or suspension of passing of sentence;
- Compulsory residence in a child and youth care centre; and
- Imprisonment.

6.6.4.1 Implementation Progress

- **Community-based sentences**

A community-based sentence is a sentence which allows a child to remain in the community.

The number of children that were sentenced to community-based sentences during the period 1 April 2010 to 31 December 2010 can be tabulated as follows:

Table 4: Children serving community-based sentences during the period 1 April 2010 to 31 March 2011

Apr '10	May '10	June '10	July '10	Aug '10	Sept '10	Oct '10	Nov '10	Dec '10	Jan '10	Feb '11	Marc '11
83	88	92	81	52	57	75	71	59	40	46	60

Source: DCS MIS

- **Restorative justice sentences**

A child justice court that convicts a child of an offence may refer the matter:

- To a family group conference;
- For victim-offender mediation; or
- To any other restorative justice process which is in accordance with the definition of restorative justice.

For the purposes of monitoring the implementation of the Act, the Department of Justice and Constitutional Development commenced with the manual system of collecting data on child justice matters from the date of the operation of the Act, i.e. 01 April 2010. However, the matrix that was utilized for this purpose inadvertently left out a variable that will give the statistical account of restorative justice sentences imposed by courts on children.

The manual statistical system operated from April to November 2010. It was in December 2010 that the Department of Justice and Constitutional Development improved its information management system by introducing a more comprehensive electronic statistical tool that includes a variable on restorative justice sentences. It is for this reason that the Table 5, below reflects statistics in this regard with effect from 01 December 2010.

Table 5: Number of restorative justice sentences imposed from December 2010 to March 2011

Province	Number of Restorative Justice Sentences
Eastern Cape	15
Free State	2
Gauteng	46
KZN	21
Limpopo	5
Mpumalanga	0
North West	4
Northern Cape	5
Western Cape	39
Total	137

- **Fines or alternatives to fines**

A child justice court convicting a child of an offence for which a fine is appropriate must before imposing a fine:

- Inquire into the ability of the child or his or her parents, an appropriate adult or a guardian to pay the fine, whether in full or in instalments; and
- Consider whether the failure to pay the fine may cause the child to be imprisoned.

Any of the following options may be imposed as an alternative to the payment of a fine:

- Symbolic restitution to a specified person, persons, group of persons or community, charity or welfare organisation or institution;
- Payment of compensation to a specified person, persons, group of persons or community, charity or welfare organisation or institution where the child or his or her family is able to afford this;
- An obligation on the child to provide some service or benefit to a specified person, persons, group of persons or community, charity or welfare organisation or institution: Provided that an obligation to provide some service or benefit may only be imposed on a child who is 15 years or older; or
- Any other option that the child justice court considers to be appropriate in the circumstances.

The statistical tool of National Operational Centre of the Department of Justice and Constitutional Development was amended during December 2010 to provide for these statistics.

A total of **34** fines were imposed on children after conviction during the period 1 December 2010 to 31 March 2011

Province	Fine or Alternatives to Fine (December 2010 to March 2011)
Eastern Cape	8
Free State	0
Gauteng	12
KZN	5
Limpopo	0
Mpumalanga	0
North West	1
Northern Cape	0
Western Cape	8
Total	34

Source: DOJ&CD NOC

- **Correctional supervision**

A total of **804** children have been sentenced to correctional supervision.

- **Compulsory residence in a Child and Youth Care Centre**

When considering a sentence involving compulsory residence in a Child and Youth Care Centre, the child justice court must consider the following additional factors:

- The seriousness of the offence with due regard to the amount of harm done and risked through the offence and the culpability of the child in causing or risking the harm;
- The protection of the community;
- The severity of the impact of the offence on the victim;
- Previous failure of the child to respond to non-residential alternatives; and
- The desirability of keeping the child out of prison.

The children that have been admitted into reform schools (Child and Youth Care Centres for sentenced children) during the period 1 April 2010 to 31 March 2011 can be tabulated as follows:

Table 6: Total number of children admitted into reform school during the period 1 April 2010 – 31 March 2011:

Quarter	Ethokomala Reform School Mpumalanga	Eureka Reform School Western Cape	Gali Tembani Reform School Eastern Cape	Newcastle Reform School KwaZulu-Natal	Total
April-June 2010	13	8	0	4	25
July-September 2010	7	19	2	4	32
October-December 2010	6	17	2	1	26
January – March 2011	10	13	3	1	27
TOTAL	36	57	7	10	110

Source: DBE

- **Imprisonment**

When considering a sentence involving imprisonment, the child justice court must take the following additional factors into account:

- The seriousness of the offence with due regard to the amount of harm done and risked through the offence and the culpability of the child in causing or risking the harm;
- The protection of the community;
- The severity of the impact of the offence on the victim;
- Previous failure of the child to respond to non-residential alternatives; and
- The desirability of keeping the child out of prison.

In terms of section 77(1) (a) of the Act, a child under the age of 14 years, at the time of being sentenced for the offence, may not be sentenced to imprisonment.

Table 7: The number of children in prison serving sentences of imprisonment during the period 1 April 2010 to 31 March 2011

Apr '10	May '10	June '10	July '10	Aug '10	Sept '10	Oct '10	Nov '10	Dec '10	Jan '11	Feb '11	Mar '11
717	711	678	695	667	664	632	602	576	565	541	536

Source: MIS DCS

From Table 7, it is clear that there was a decrease in the number of sentenced children in prisons from **717** in April 2010 to **536** in March 2011. This represents a decrease of just over nineteen percent (19, 81%).

Various services and programmes are being offered to children serving sentences in prisons. Details of these services and programmes are reflected in Annexure B.

6.6.5 Provision of Diversion and Alternative Sentencing Services

One of the primary objectives of the Act, is to divert children in conflict with the law away from the formal criminal justice system, where appropriate.

In terms of section 51 of the Act, the objectives of diversion are to:

- Deal with a child outside the formal criminal justice system in appropriate cases;
- Encourage the child to be accountable for the harm caused by him or her;
- Meet the particular needs of the individual child;

- Promote the reintegration of the child into his or her family and community;
- Provide an opportunity to those affected by the harm to express their views on its impact on them;
- Encourage the rendering to the victim of some symbolic benefit or the delivery of some object as compensation for the harm;
- Promote reconciliation between the child and the person or community affected by the harm caused by the child;
- Prevent stigmatising the child and prevent the adverse consequences flowing from being subject to the criminal justice system;
- Reduce the potential for re-offending;
- Prevent the child from having a criminal record; and
- Promote the dignity and well-being of the child, and the development of his or her sense of self-worth and ability to contribute to society.

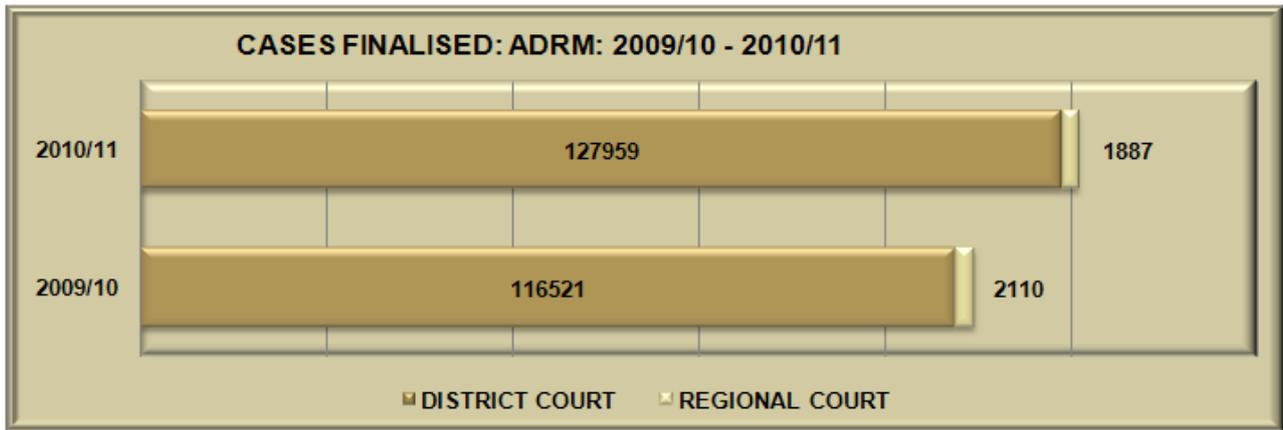
A matter may, after consideration of all relevant information presented at a preliminary inquiry, or during a trial, including whether the child has a record of previous diversions, be considered for diversion if:

- The child acknowledges responsibility for the offence;
- The child has not been unduly influenced to acknowledge responsibility;
- There is a *prima facie* case against the child;
- The child and, if available, his or her parent, an appropriate adult or a guardian, consent to diversion; and
- The Prosecutor or the Director of Public Prosecutions indicates that the matter may be diverted.

6.6.5.1 Implementation Progress

According to the National Prosecuting Authority (NPA) a total of **9 325** children have been diverted during the period 1 April 2010 until 31 December 2010.

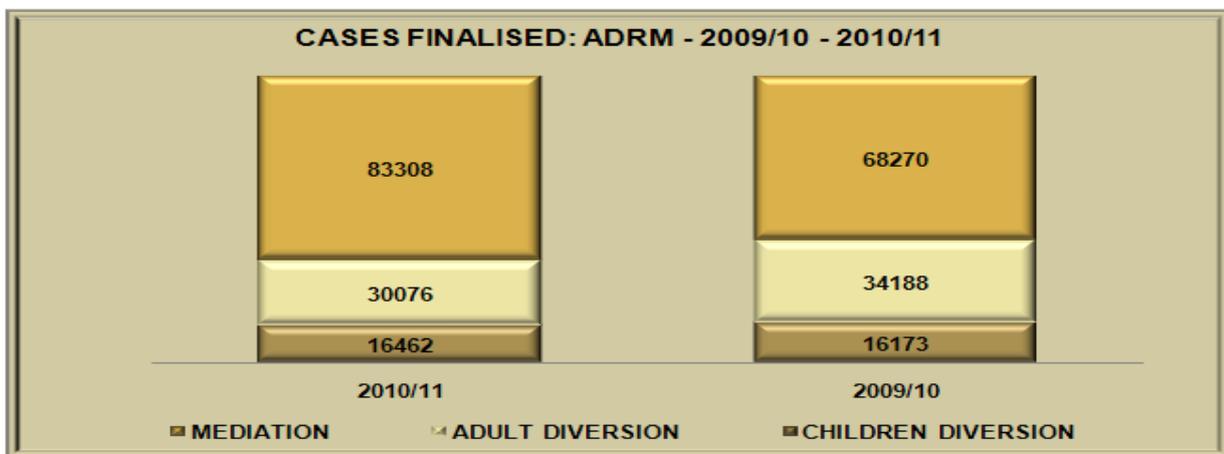
Table 8: Children diverted in terms of Act during the period 1 April 2010 to 31 March 2011



Source: NPA

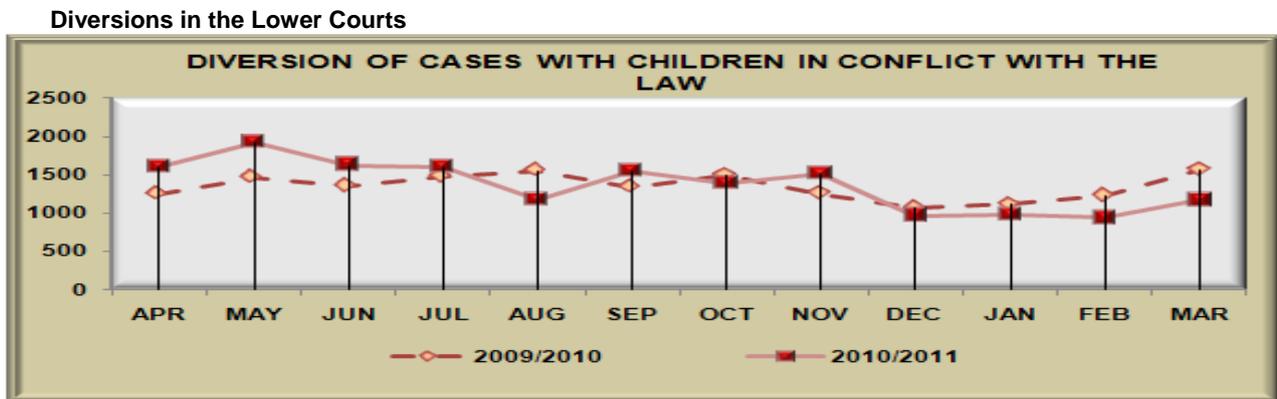
Alternative dispute resolution encompasses diversion and informal mediation as methods of resolution of disputes between the parties. During the current reporting period, a total of 38 669 cases were diverted after enrolment, a total of 7 869 cases were diverted before enrolment in terms of the Child Justice Act, and 83 308 cases were successfully mediated on an informal basis.

The total number of diversions comprised of 30 076 cases (64.6% of national total) with adult offenders and 16 462 cases (35.4% of national total) with children in conflict with the law (of which a total of 15 588 comprised children dealt with in term of the CJA). A total of 7 869 (47.8%) children matters were diverted before enrolment and 8 593 (52.2%) cases with children were diverted after enrolment. The number of diversions of children in conflict with the law after enrolment has significantly been reduced since the implementation of the Child Justice Act which created a new procedural framework for dealing with children who come into conflict with the law.



A trend analysis indicates the decline in the number of cases with children in conflict with the law diverted during the fourth quarter compared to the cases diverted during the same period in the

previous year. A downward trend is also noted in the adult diversions since the second quarter compared to the previous year – see figures below.



6.6.5.2 Implementation Challenges

According to the available information, there appears to be a decrease in the number of children being diverted out of the formal criminal justice system. As indicated above, a comparative analysis of the two periods, i.e. April 2009 to December 2009 and April 2010 to December 2010 shows a decrease of 24%.

Although the reasons for the above decline are not clear, the following may have been contributing factors:-

- The impact of the implementation of the Act from 1 April 2010 (with particular reference to the provisions that stipulate that children may only be arrested and charged as a measure of last resort);
- The resulting decrease in the number of children arrested, thus reducing the number of potential diversions;
- An analysis of the impact of the 2010 FIFA World Cup crime prevention measures during June 2010 indicated a decrease in crime, also amongst children; and
- The seasonal effect and a cyclical decrease of crimes, arrests and diversions during the winter months.

However, the Director-General of the Department of Justice and Constitutional Development, as Chair of the Cluster, has directed that a research project and statistical analysis be undertaken to ascertain the reasons for the major decline in diversions. The report on the findings of this research is expected in June 2011.

6.6.6 Establishment of Child and Youth Care Centres (also referred to as Secure Care Facilities)

In terms of section 29 of the Act, children not released into the care of their parents or care-givers, may be placed in Child and Youth Care Facilities managed by the Department of Social Development. Section 76 of the Act also provides for the sentencing of children to compulsory residence in a Child and Youth Care Facility. The purpose of these provisions is to prevent children from being detained in prisons.

6.6.6.1 Implementation Progress

Currently, there are twenty-eight (**28**) Child and Youth Care Facilities (also referred to as Secure Care Facilities) countrywide. The establishment of three (**3**) additional facilities has been completed, but all 3 facilities are not yet operational. They are based at De Aar, Rustenburg and Newcastle. In November 2010, the total bed capacity of the Child and Youth Care Facilities was **3 272** beds.

Lists of the available Child and Youth Care Centres have been disseminated to Provinces and all e-mail users within the South African Police Service. A list of the Child and Youth Care Centres, their location and capacity is attached hereto as Annexure C.

The Department of Social Development finalised and circulated norms and standards for Child and Youth Care Facilities. These norms and standards meet the requirements of the Act and relate to, amongst others, the size and fixtures of the facilities, the personnel needed to run the facilities, and the programs and services available to the children concerned.

The Departments of Social Development and Basic Education are in the process of executing the handover of the five (**5**) existing Reform Schools to the Department of Social Development, in terms of the Children's Act, 2005 (Act No. 38 of 2005). The deadline for the finalisation of this process is 1 April 2012. A task team has been established to spearhead the transitional arrangements for the handover process, led by the Department of Basic Education.

An audit of all the Reform Schools in the country was completed in March 2010, in conjunction with the Department of Basic Education. The findings of the audit will be used during the transfer process of these schools to the Department of Social Development.

The Department of Social Development will also utilize this audit report as a baseline to guide the transformation process of these schools into Child and Youth Care Centres.

The Department of Social Development is also planning to use one wing of one Child and Youth Care Facility per province for sentenced children in line with the approved blueprint on the minimum norms and standards for secure care facilities.

6.6.6.2 Implementation Challenges

The following challenges relating to the transfer of the Reform Schools from the Department of Basic Education to the Department of Social Development have been identified by the Department of Basic Education:

- **Transfer of Staff**

The relocation of staff following the transfer of reform schools from the Department of Basic Education to the Department of Social Development will be done consistent with the law.

The Department of Basic Education recommends that:

- Only the Public Service staff be transferred in terms of the regulations as indicated in terms of the Public Service Act;
- All educators be re-deployed to a special school on the premises of the Child and Youth Care Centres for provisioning of education. This should be done in terms of the Educators Employment Act; and
- All specialist personnel such as psychologists, therapists and social workers be transferred to the Education District Offices to support all learners in the District as part of the District Based Support Teams.

- **Transfer of Facilities**

There are strategic and logistical considerations to be made in the transfer of facilities such as whether the whole facility or only a portion thereof will be transferred to the Department of Social Development.

These considerations will be guided by the broader issues of governance including accountability arrangements for the facility to be transferred. Equally, the practicality of access for the use of the facility will be taken into account when final decisions are made.

The Department of Basic Education recommends that:

- The whole facility be transferred to the Department of Social Development in terms of the provisions of the Children's Act of 2005; and
- The Department of Basic Education enters into a Memorandum of Understanding that it would utilize part of the buildings where education can be provided.

- **Education Provisioning**

Another question relates to: *What education provisioning will be made for the learners sentenced to these schools?*

The Department of Basic Education recommends that a special school be established on the premises of the Child and Youth Care Centres to provide education to the learners sentenced to the Child and Youth Care Centres.

All the above matters are being managed as part of the Task Team's work in terms of the handover processes, scheduled for completion by 1st April 2012.

6.6.7 Establishment of One Stop Child Justice Centres

Section 89 of the Act provides that the Minister of Justice and Constitutional Development, after consultation with the Ministers responsible for Social Development, Safety and Security and Correctional Services, may establish One Stop Child Justice Centres to ensure a holistic, one stop service for children in conflict with the law. The objective of One Stop Child Justice Centres is to promote co-operation between government Departments and between government Departments and the non-governmental sector and civil society to ensure an integrated and holistic approach in the implementation of the Act.

6.6.7.1 Implementation Progress

Currently, there are two (2) existing One Stop Child Justice Centres, the one in Mangaung, Bloemfontein, Free State, and the other at Nerina in Port Elizabeth, Eastern Cape.

6.6.7.2 Implementation Challenges

The Department of Justice and Constitutional Development has received requests for the establishment and designation of additional One Stop Child Justice Centres from two (2) Provincial Child Justice Fora, with business plans and requests for funding for four (4) additional One Stop Child Justice Centres, in two (2) provinces, namely Limpopo and the North-West. Five (5) Provincial Child Justice Fora are in the process of investigating the feasibility of One Stop Child Justice Centres and the submission of the relevant business plans. However, budgetary constraints have confined the establishment of more of these Centres to a limited number of two (2) during 2011/12. The Department of Justice and Constitutional Development in conjunction with the Department of Social Development, is also exploring the possibility of converting certain existing Child and Youth Care Facilities into One-Stop Child Justice Centres, where feasible. The feasibility of this option will be investigated and considered in 2011/2012.

In places where there are no One-Stop Child Justice Centres designated as yet, children's cases are being heard in child justice courts. The implications for service delivery in these cases are that children need to be transported to and back from the police station, the probation officer, the court and the place of detention or back to their parents, where applicable, and the transportation of these children poses challenges.

6.6.8 Resources and Budgets

As indicated earlier, all implementing Departments and institutions have experienced lack of or insufficient resources and budgets in many areas, which consequently reduced the capacity of deliverables in the implementation process. However, recognising the depressed economic climate, it is clear that we have to utilize the limited resources optimally. Better partnerships and pooling of resources in certain areas will assist us to deliver the services mandated by the Act.

6.6.8.1 Implementation Progress

Financial year 2010/11

The relevant Departments have been implementing the Act mostly within the existing budget baselines.

The Justice, Crime Prevention and Security Cluster requested from the National Treasury a budget of **R338 272 299** for the period 2010/11, and **R2 216 547 400** for the period 2011/12 to 2013/14. However, an amount of **R30 million** was received to implement the Act during 2010/11, and this was distributed to:

- Department of Justice and Constitutional Development for the appointment of dedicated child justice court clerks, the effective functioning of intersectoral governance structures, training and public education and awareness-raising;
- National Prosecuting Authority for the appointment of additional dedicated prosecutors; and
- Legal Aid SA for the appointment of dedicated child justice attorneys.

The other Cluster Departments will report separately upon the budgets received and spent in this regard, from their strategic plans and annual reports.

Financial year 2011/12

The Justice, Crime Prevention and Security Cluster received an amount of **R52 230 661** to implement the Act during the 2011/12 financial year. This budget will be distributed to:

- Department of Justice and Constitutional Development for the continued appointment of dedicated child justice court clerks, the continued functioning of intersectoral governance structures, training interventions, implementation of the Intersectoral Communication Strategy for public education and awareness raising initiatives, and the implementation and monitoring of the Interdepartmental Annual Implementation Plan for Child Justice, which includes the establishment and designation of two (2) more One Stop Child Justice Centres.
- National Prosecuting Authority for the continued appointment of additional dedicated prosecutors; and
- Legal Aid SA for the continued appointment of dedicated child justice attorneys.

6.6.8.2 Implementation Challenges

Adequate funding remains a challenge in the implementation of the Act. However, the Department of Justice and Constitutional Development, as Chair of the Justice, Crime Prevention and Security

Cluster, is in the process of submitting another updated bid for additional funding as an Unfunded Priority Project to National Treasury for the next three (3) financial years.

In addition, the Department of Justice and Constitutional Development, in its capacity as Chair of the Cluster, is in the process of applying for donor funding for once-off expenditures, such as training, awareness-raising and technical expertise with research and reports.

6.6.9 Public Education and Communication

The Act established a separate child justice system in South Africa and radically changed the way in which children in conflict with the law are being treated in the criminal justice system. It creates opportunities which afford children in conflict with the law a second chance to become constructive and valued contributing members of the community.

One of the central objectives of the Act, is to effectively rehabilitate and reintegrate children in conflict with the law back into their families and communities. An integral part of achieving this objective depends on the co-operation of and acceptance of children in conflict with the law by their families, communities and society in general. Effective public education on and communication and awareness raising about the new child justice system and its benefits, not only to the children but to society in general, becomes an ongoing imperative for the achievement of significant success in the implementation of the Act.

6.6.9.1 Implementation Progress

The Departments of Justice and Constitutional Development, Social Development, Health, Correctional Services and Education together with the South African Police Service and the National Prosecuting Authority, collectively developed an intersectoral Communication Strategy, under the leadership of the Department of Justice and Constitutional Development.

Some of the public outreach initiatives since 1 April 2010 include:-

- **Department of Justice and Constitutional Development**

- On 01 April 2010, the Act was successfully launched in Soweto by the Minister of Justice and Constitutional Development, supported by his Deputy Minister, as well as the Ministers of Social Development and Women, Children and People with Disabilities. The launch included a tour of the Walter Sisulu Child and Youth Care Facility in Soweto, as well as interactions with the public with regard to the new issues introduced by the Act.
- On 29 October 2010, the Minister of Justice and Constitutional Development launched the integrated Communication Strategy at the Mangaung One Stop Child Justice Centre in Bloemfontein. On this date the Minister also visited the Centre to highlight the successes of the Centre and its intersectoral management. The event was attended by community members and learners from local schools.
- The Department further developed a child-friendly booklet to inform children and the general public about the rights of children provided for in the Act, as well as the protective mechanisms, processes and procedures aimed at promoting and protecting the constitutional rights of children in conflict with the law. This booklet was distributed to Provinces and other Cluster Departments for use during training, communication and awareness-raising initiatives focussing on children, families and the stakeholders in the child justice sector. A further distribution of this booklet was made to the child justice courts and other service points for the purposes of widening the scope of its accessibility to children and the general public.
- The Department further developed information banners on the Act, and distributed them to courts and other public facilities for public display.

- **South African Police Service**

A total of **24** crime prevention initiatives were implemented during the period July to December 2010 to address crimes against women and children. These programmes included public awareness-raising on both the Child Justice Act, 2008 and the Children's Act, 2005.

6.6.9.2 Implementation Challenges

There is a need for a more intensive communication strategy for all sectoral partners, especially in light of several high profile cases which brought the Act under public scrutiny, such as the Jules High School Sex/Rape Case in Johannesburg and the Terre'Blanche murder case in the North

West. During the financial year 2011/12, the communication and awareness-raising initiatives need to be intensified and the impact thereof measured.

Public comments by Departments on specific cases where children are involved should be avoided as such comments may jeopardize sensitive issues related to the management of cases involving children.

A need to partner with the Social Protection and Community Development Cluster to consider issues relating to social crime prevention has also been identified. Initiatives to support families and children in need of care must be addressed to prevent child offending. Opportunities and possibilities of collaboration in this regard are being investigated by the Justice, Crime Prevention and Security Cluster, and the Social Protection and Community Development Cluster.

6.6.10 Development of necessary IT and Integrated Justice Systems to Support Information Management Systems

Section 96(1) (e) provides that the Intersectoral Child Justice Steering Committee, must implement and monitor the establishment of an integrated information management system to enable effective monitoring, analysis of trends and interventions, to map the flow of children through the child justice system and to provide quantitative and qualitative data relating to the various processes followed in terms of the Act.

6.6.10.1 Implementation Progress

The Intersectoral Committee for Child Justice has established an Information Management Sub-Task Team led by the Integrated Justice System, where a 3-phase process is currently followed to establish the Integrated Information Management System, as prescribed.

Phase 1: All relevant Departments developed manual statistical tools to gather the required data. These tools are currently shared between Departments on a monthly basis, in order to monitor, fast-track and prioritise cases of children in conflict with the law. This is the short-term plan.

Phase 2: The Departments started with the development of an integrated justice system, which will require them to submit their manual statistics to the Integrated Justice System. This system will make the statistics available to all the relevant Departments on a web-based portal. This is the medium-term plan.

Phase 3: During this phase the relevant Departments' Electronic Information Management Systems, will be linked with one another through the Integrated Justice System. This will also enable an automatic analysis of the information received. This is the long-term plan.

The Department of Justice and Constitutional Development also followed a 3-phased process to gather and monitor the number of children appearing before preliminary inquiries and going through the courts:

Phase 1: A manual statistical tool was developed based on the case flow of children through the system as provided for in the Act. This tool was rolled-out to all courts in May 2010, and the courts were requested to submit the completed excel-sheets for analysis to the National Operational Centre on a monthly basis. However, the implementation process of this tool is currently faced with some teething challenges, which are receiving the urgent attention of the Department.

Phase 2: The National Operational Centre statistical tool was developed and rolled-out in November 2010 to measure the main elements as prescribed in terms of section 96(1)(e) of the Act.

Phase 3: An electronic Integrated Case Management System on Child Justice was also developed by the Department, supported by SITA during 2010. It has been tested and signed-off, and will now be piloted in 2 or 3 courts in the country, before being rolled-out countrywide during 2011. This electronic system will assist with Case-flow Management. The electronic reminders of the due dates for children's cases will be managed, monitored and prioritised, as well as the gathering of monthly statistical reports, which will result in more accurate and verified statistics at court level.

6.6.10.2 Implementation Challenges

The need to find the most viable and easiest way of establishing an integrated electronic information management system has been identified as a priority for execution early in the next financial year.

6.7 Statistics in terms of Section 96(1)(e) of Act

The existing manual statistical tool was utilised to gather information as required in terms of section 96(1)(e) of the Act. There are some overlaps between the ten (10) key priorities of the Act, identified in the National Policy Framework (addressed above) and the statistics required in terms of section 96(1)(e) of the Act. The statistical issues not referred to during the discussion of the ten (10) key priorities of the Act in paragraph 6.6 above, will be dealt with in this section.

Due to the fact that the information management systems are still being implemented, as indicated in paragraph 6.6.10 above, the statistical information furnished hereunder only refers to available statistics from 1 April 2010 to the date specified. Additional statistics on the outstanding months within the period under review will be made available in a supplementary report once all the information and data have been received, verified and approved.

6.7.1 Arrest or methods of securing attendance at criminal proceedings

In terms of section 17 (1) of the Act, the following methods of securing the child's attendance at a preliminary inquiry are available:

- A written notice;
- A summons; or
- Arrest.

Section 20(1) of the Act provides that a child may not be arrested for an offence referred to in Schedule 1, unless there are compelling reasons justifying the arrest, which may include the following circumstances:

- Where the police official has reason to believe that the child does not have a fixed residential address;
 - Where the police official has reason to believe that the child will continue to commit offences, unless he or she is arrested;
 - Where the police official has reason to believe that the child poses a danger to any person;
- or

- Where the offence is in the process of being committed.

The total number of children that have been charged by the South African Police Service during the period April 2010 until 31 March 2011 can be tabulated as follows:

Table 9: Total number of children charged by the South African Police Service during the period 1 April 2010 to 31 March 2011

Gender	Apr '10	May '10	Jun '10	Jul '10	Aug '10	Sept '10	Oct '10	Nov '10	Dec '10	Jan '11	Feb '11	Mar '11
Male	5359	6122	5434	5714	5696	5868	5933	5349	5620	5222	5002	5406
Female	1069	742	690	667	696	832	762	706	670	640	554	685
Total	6428	6864	6121	6381	6392	6700	6695	6055	6290	5862	5556	6091

Source: SAPS GIAC

According to the South African Police Service, a total of **75 435** children have been charged during the period 1 April 2010 to 31 March 2011. This total represents all the children charged by the South African Police Service and no distinction has been made between the children arrested, warned or summoned to appear in court. The South African Police Service is still in the process of amending their Criminal Administration System to gather statistics on summonses and warnings to appear in court.

6.7.2 Children awaiting trial

One of the guiding principles of the Act requires that all procedures in terms of the Act should be conducted and completed without unreasonable delay. To ensure compliance in this regard, it is necessary to monitor the number of children awaiting trial and the reasons for postponements and delays.

During December 2010 to March 2011 there were a total of **2 171** children awaiting trial.

Table 10: Number of children awaiting trial from December 2010 to March 2011

Province	Children awaiting trial
Eastern Cape	177
Free State	51
Gauteng	188
KwaZulu-Natal	642
Limpopo	104
Mpumalanga	65
North West	263
Northern Cape	57
Western Cape	624
Total	2171

Source: DoJ&CD NOC

6.7.3 Bail and placement whilst awaiting trial:

When a child is arrested, consideration must be given to the circumstances of the alleged criminal case and the child concerned to determine whether the child must be released or detained. Preference must be given to releasing the child.

The child may be released on one of the following options:

- On bail;
- Into the care of his or her parent, an appropriate adult or guardian; or
- On his or her own recognisance.

If after due consideration of the options for release, a decision is made that the child is to be detained or is to remain in detention, preference must be given to the least restrictive option possible in the circumstances.

The child (depending on his or her age) may be detained in:

- A suitable child and youth care centre;
- In a police cell or lock-up; or
- In a correctional facility.

- **Released on bail**

When considering the release of a child on bail, the following must be taken into account:

- Whether the interests of justice permit the release of the child on bail; and

- If so, a separate inquiry must be held into the ability of the child and his or her parent, an appropriate adult or guardian to pay the amount of money being considered or any other appropriate amount; and

If after an inquiry it is found that the child and his or her parent, an appropriate adult or guardian are:

- Unable to pay any amount of money, the presiding officer must set appropriate conditions that do not include an amount of money for the release of the child on bail; or
- Able to pay an amount of money, the presiding officer must set conditions for the release of the child on bail and an amount which is appropriate in the circumstances.

A total of **161** children had been released on bail during December 2010 to March 2011.

Table 11: Total number of children released on bail from December 2010 to March 2011

Provinces	Released on bail whilst awaiting trial
Eastern Cape	5
Free State	1
Gauteng	3
KwaZulu-Natal	64
Limpopo	49
Mpumalanga	4
North West	12
Northern Cape	1
Western Cape	22
Total	161

Source: DoJ&CD NOC

- **Released into the care of a parent, appropriate adult or guardian**

In terms of section 21(3) of the Act, a presiding officer may, at a child's first appearance at a preliminary inquiry or thereafter at a child justice court:

- In respect of any offence, release a child into the care of a parent, an appropriate adult or guardian; or
- In respect of an offence referred to in Schedule 1 or 2, release a child on his or her own recognisance.

The total number of children released into the care of their parents, appropriate adults or guardians in the different provinces from December 2010 until March 2011 are reflected in Table 12:

Table 12: Total number of children released into the care of their parents, appropriate adults or guardians during the period December 2010 until March 2011

Provinces	By Prosecutors	While awaiting Trial	During Diversions	Total
Eastern Cape	192	112	129	433
Free State	34	59	71	164
Gauteng	131	167	179	477
KwaZulu-Natal	85	184	127	396
Limpopo	100	83	26	209
Mpumalanga	73	51	67	191
North West	163	62	79	304
Northern Cape	26	38	53	117
Western Cape	325	418	336	1079
Total	1490	1381	1304	4175

Source: DoJ&CD NOC

- **Child and Youth Care Facilities/ Secure Care Facilities**

In terms of section 29(1) of the Act, a presiding officer may order the detention of a child who is alleged to have committed any offence in a specified child and youth care centre.

There are twenty eight (**28**) Secure Care facilities countrywide with a total bed capacity of **3 272** beds.

Table 13: Monthly admissions and releases during the period April to October 2010:

Monthly Admissions:	1 April to 31 October 2010
Average per month	3599
Releases	3470
Overall Admission	8879

Source: DSD MIS

- **Police cell or lock-up**

If, at any stage before a child's first appearance at a preliminary inquiry, the child has not been released from detention in police custody and is charged, in the case of a child who is:

- 10 years or older but under the age of 14 years, with any offence; or
- 14 years or older, with an offence referred to in Schedule 1 or 2,

the police official must give consideration to the detention of the child in an appropriate child and youth care centre, if a centre is available and there is a vacancy, or if a centre or vacancy is not available, in a police cell or lock-up.

If the child is 14 years or older and charged with an offence referred to in Schedule 3, the police official must cause the child to be detained in a police cell or lock-up.

The station commissioner of each police station must keep a register in which prescribed details regarding the detention of all children in police cells or lock-ups must be recorded in a manner that entries regarding the detention of children are clearly distinguishable from those of adults. The register may be examined by any person, as may be prescribed.

The South African Police Service is in the process to amend their CAS system to gather statistics of children in police cells. Manual registers are currently being used to record admissions to police cells.

- **Correctional facilities**

The Department of Correctional Services refers to children awaiting trial in correctional facilities as 'remand detainee children in Correctional facilities'.

Section 30 of the Act provides that children may be detained in correctional facilities, as awaiting trial, only where:

- An application for bail has been postponed or refused or bail has been granted, but one or more conditions have not been complied with;
- The child is 14 years or older;
- The child is accused of having committed an offence referred to in Schedule 3;

- The detention is necessary in the interests of the administration of justice or the safety or protection of the public or the child or another child in detention; and
- There is likelihood that the child, if convicted, could be sentenced to imprisonment.

The Act concisely provides that cases involving children must be fast-tracked and prioritised, especially when such children are awaiting trial in detention. The Act also requires the children detained in correctional facilities, must be brought before court every 14 days to reconsider the detention order.

Before the implementation of the Act the statistical account of detained awaiting trial children was as follows:

- During 2002, the Department of Correctional Services reported that their facilities recorded an average of **2269** children awaiting trial on a monthly basis; and
- During 2007, the number of detained awaiting trial children marked a significant decline to an average of **1192**.

From the information in Table 14, it is clear that the average number of remand detainee children under 18 years decreased by 439 (59, 57%) from 737 in the 1st quarter of 2009/2010 to 298 at the end of the 3rd quarter of 2010/2011. The statistics for children detained in Correctional facilities, display a further a decrease by 204 children from April 2010 to December 2010 and this represents a decrease of just over forty percent (40, 64%).

Table 14: The total number of remand detainee children in correctional facilities during the period 1 April 2009 until 31 March 2011

1 st Quarter 09/10	2 ND Quarter 09/10	3 rd Quarter 09/10	4 th Quarter 09/10	1 st Quarter 10/11	2 nd Quarter 10/11	3 rd Quarter 10/11	4 th Quarter 10/11
737	664	564	497	502	302	298	863

Source: DCS MIS

On 31 December 2010, the average number of remand detainee (awaiting trial) children in Correctional facilities was **298**, and these were mostly children awaiting trial for serious and violent crimes. This figure signifies a significant decrease from **502** children who were recorded as awaiting trial in correctional facilities on 30 April 2010.

The continued decline in the number of detained children in Correctional facilities is considered as a major achievement that depicts success in the implementation of the Act.

The current decline in the number of detained children in Correctional facilities is as a result of the collaborated efforts of the Cluster Departments. The Department of Correctional Services chairs the Children Awaiting Trial Sub-Task Team, which monitors children in prison and provides information, on a regular basis, to all Departments and Provincial Child Justice Fora, to fast-track and prioritise such cases.

Programme provisioning is a challenge for children waiting trial in prisons. Various programmes are being offered to these children. Details of these programmes are reflected in Annexure D.

6.7.4 Home-Based Supervision

Home-based supervision is defined in terms of section 1(c) of the Probation Services Amendment Act, 2002 (Act No. 35 of 2002) as supervision under certain conditions where an arrested, accused, or sentenced child in the care of his or her parents or guardians or in the custody of any other person, is monitored by an Assistant Probation Officer. It applies to children at risk and those who allegedly have committed a criminal offence. This program plays an important role in the notion of family preservation and children staying with their families in their communities while being monitored.

During the period under review, a total of **4664** children were placed under home-based supervision.

6.7.5 Trials in Child Justice Courts

If a criminal case against a child has not been diverted, withdrawn or referred to the Children's Court during the preliminary inquiry, it must be referred to the child justice court for plea and trial.

Table 15: Total number of trials conducted in child justice courts during the period 1 April 2010 to 31 March 2011

Provinces	Trials
Eastern Cape	296
Free State	121
Gauteng	342
KwaZulu-Natal	597

Limpopo	87
Mpumalanga	60
North West	159
Northern Cape	161
Western Cape	1393
Total	3216

Source: DoJ & CD: NOC

A total of **3 216** trials have been conducted in child justice courts since the implementation of the Act until 31 March 2011. The majority of these trials were conducted in the Western Cape, followed by KwaZulu-Natal.

6.7.6 Appeals and Reviews

- **Appeal**

An appeal by a child against a conviction, sentence or order as provided for in the Act must be noted and dealt with in terms of the provisions of Chapters 30 and 31 of the Criminal Procedure Act, 1977 (Act No.51 of 1977) .

However if that child was, at the time of the commission of the alleged offence:

- Under the age of 16 years; or
- 16 years or older, but under the age of 18 years and has been sentenced to any form of imprisonment that was not wholly suspended,
he or she may note the appeal without having to apply for leave.

The presiding officer must inform the child of his or her rights in respect of appeal and legal representation and of the correct procedures.

During this period of reporting, only one appeal matter involving a child was noted.

- **Reviews**

The provisions of Chapter 30 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) dealing with the review of criminal proceedings in the lower courts, applies in respect of all children convicted in terms of the Act.

Provided that if a child was, at the time of the commission of the alleged offence:

- Under the age of 16 years; or
- 16 years or older but under the age of 18 years, and has been sentenced to any form of imprisonment that was not wholly suspended, or any sentence of compulsory residence in a child and youth care centre,

the sentence is subject to review irrespective of the duration of the sentence.

During this reporting period, forty four **(44)** cases involving children were sent on review.

6.7.7 Sexual Offences Committed by Children

In terms of section 96(1)(e)(x) of the Act, quantitative and qualitative data relating to, among others, sexual offences committed by children should be gathered through the integrated information management system.

According to the available information, a total of **4 671** children have been charged by the South African Police Service, for committing sexual offences during the period 1 April 2010 until 31 March 2011.

Table 16: Total number of children charged for committing sexual offences during the period 1 April 2010 to 31 March 2011

Gender	Apr' 10	May '10	Jun '10	Jul '10	Aug '10	Sept '10	Oct '10	Nov '10	Dec '10	Jan '11	Feb '11	Mar '11
Male	324	403	316	412	322	433	429	446	381	434	318	421
Female	4	1	6	3	4	6	4	1	4	2	1	6
Total	328	404	312	415	326	439	433	447	385	436	319	427

Source: SAPS CIAC

According to the National Operational Centre of the Department of Justice and Constitutional Development, a total of **1 587** children appeared in court on sexual offences charges.

6.7.8 Children who Lack Criminal Capacity (children who are under 10 years of age)

The Act raised the minimum age of criminal capacity from 7 years to 10 years. The position at present is that a child, who commits an offence while under the age of 10 years, does not have criminal capacity and cannot be prosecuted.

A police official may not arrest a child under the age of 10 years, suspected of having committed an offence. The police official must hand the child over to his or her parent, appropriate adult or guardian. If the latter is not available or if it is not in the best interest of the child to be handed over to his or her parent, appropriate adult or guardian, the child must be handed over to a suitable Child and Youth Care Centre.

The police official must inform a probation officer about the handing over and the latter must assess the child as soon as possible but not later than five (5) days after being notified. After the assessment, the probation officer must make a decision to, among others,

- Refer the child to the children's court, if the child is in need of care and protection,
- Refer the child for counselling or therapy, or
- Arrange support services for the child.

The probation officer may also decide to take no action. He/she must record, with reasons, the outcome of the assessment and the decision made.

As indicated, the Department of Social Development must keep a register of children in respect of whom the probation officer made and recorded a decision.

A total of **112** children, under the age of 10 years suspected of having committed offences, have been recorded in the register kept by the Department of Social Development, since the implementation of the Act.

6.7.9 Children Used by Adults to Commit Crime

The Act provides that if it comes to the attention of any court official or probation officer that a child has been used by an adult to commit a crime, that adult must be reported to the South African Police Service for consideration of a prosecution.

The Act furthermore provides that the fact of the adult's involvement must be taken into account when determining the treatment of the child in the child justice system.

A total of **342** children have been used by adults to commit crime during the period 1 April 2010 to 31 March 2011.

Table 17: Children used by adult to commit crime during the period 1 April 2010 to 31 March 2011

Provinces	Children used by adults to commit crime
Eastern Cape	17
Free State	10
Gauteng	18
KwaZulu-Natal	97
Limpopo	33
Mpumalanga	13
North West	14
Northern Cape	9
Western Cape	131
Total	342

Source: DoJ & CD NOC

7. CONCLUSION

During the year under review, optimal performance was recorded by the various implementing Departments and institutions. Many provisions of the Act found implementation with favourable results, in the midst of trial and error. The Directors-General Intersectoral Child Justice Steering Committee and its operational structures made commendable work which resulted in numerous concrete deliverables within the initial year of implementation.

However, the implementation process was not without teething challenges. The report has highlighted a number of challenges in service delivery, and also identified the key intervention areas targeted by the Directors-General Intersectoral Child Justice Steering Committee as priorities in the second year of implementation.

The coordinated and joint approach that the Cluster Departments and the Non-Governmental organizations (represented in the National Operational Intersectoral Steering Committee on Child Justice) demonstrated in the implementation of this Act, laid a concrete basis for success in many areas of service delivery. It is a foundation that the Directors-General Intersectoral Child Justice Steering Committee seeks to foster for greater achievements in the future.



It is only by working together that Government and civil society can succeed in creating a South Africa where all children, including children in conflict with law, are and feel safe!

ANNEXURE A: DETAILED INFORMATION ON TRAINING PROVIDED BY THE VARIOUS DEPARTMENTS

Department of Justice and Constitutional Development

Clerks of the Child Justice Courts:

- Justice College has been training Child Justice Court Clerks in all 9 provinces, since May 2010. By the end of October 2010, 395 clerks were trained. Clerks are trained in social context, the specific obligations given to Child Justice Court Clerks in terms of the Child Justice Act, 2008 and its Regulations, the circulars on implementation of the Act, Regulations and National Policy Framework, as well as the forms and referral systems involved. The training of child justice court clerks is on-going.

Judges and Magistracy:

- In May 2010, a 2-day workshop was conducted for the Gauteng Magistrates, pursuant to their special request. 80 Magistrates attended this workshop.
- A Seminar on Preliminary Inquiries was held on 29 October 2010 for 54 Magistrates to determine the best practice in this regard.
- Twenty-five (25) Judges of the North Gauteng High Court were also assisted to hold an information session on the Child Justice Act, 2008. This session was held on the 8th September 2010, and it focused on the appeals and review processes and implications in terms of the Act.

Training of magistrates remains in the hands of the South African Judicial Education Institute and Justice College, and the Department is committed to provide support whenever it is required.

South African Police Service

Three (3) training programmes are currently being implemented for the SAPS officials:

- One-day Workshop: A total of 9 653 members attended the work sessions at national, provincial and station level.
- Two-day Workshop: A total of 5 070 members attended the work sessions at national, provincial and station level.
- 5 Day Training Course: A total of 1 168 members attended the work sessions at national, provincial and station level.

These training interventions have been registered with the South African Qualifications Authority (SAQA).

National Prosecuting Authority

Training was conducted in two (2) phases:

Phase 1 training sessions were finalised before implementation of the Act on the 1st April 2010. The total number of prosecutors trained during this phase, is 349.

The training sessions for phase 2 are decentralised over a period of 3 days in all provinces. The total number of prosecutors trained during this phase, is 349.

The curriculum of the training includes the following:

- Social Context; Criminal Capacity; Assessments, Age Determination, Securing Attendance & Placement; Diversion; Preliminary Inquiry; Trial; Sentencing, Legal Representation, Reviews, Appeals & Expungement; Child Justice Process Maps; NPA Policy Directives; and Child Justice Directives

Training was conducted in all provinces. The total number of prosecutors trained on the Act is 698.

Department of Social Development:

- The National Department of Social Development has completed training of all key stakeholders in relation to the Child Justice Act.
- Probation Practice Guidelines have been developed and Probation practitioners trained.
- All funded and unfunded NGOs and diversion service providers have been trained and retrained on the Minimum Norms and Standards for Diversion Services. Training was conducted nationally and provincially.

Legal Aid SA

Legal Aid SA has trained their practitioners using a “train-the-trainer” method and has rolled out training on the Child Justice Act internally using in-house capacity, as well as service providers. The service provider used in this regard was Street Law, which developed the intersectoral manual

on Child Justice. The training covered both legal practitioners and candidate attorneys. The training material is made available to all practitioners via intranet.

In addition to this, Legal Aid SA has a dedicated Child Law Expert Panel email group that handles queries from practitioners on all aspects of child law.

Department of Basic Education

Department of Basic Education officials, principals and educators attended provincial consultative workshops on skills programmes and therapeutic programmes for sentenced learners.

Capacity building training was also conducted in November 2010. All Reform School principals as well as the Provincial Coordinators of Reform Schools attended this training. The focus of the training also included the provisions of Chapter 13 of the Children's Act, 2005.

81 participants attended the transformation workshop of Child and Youth Care Centres.

Department of Correctional Services

In ensuring that the Child Justice Act is implemented, the following training has been done:

- Correctional Officials, Unit Managers and Social Workers from three Regions (KwaZulu-Natal, Western Cape & Eastern Cape) were trained on the 15th-19th November 2010 on the approved Child Offender Policy and Policy Procedures, and orientated on the Child Justice Act in line with the relevant sections to the Department in preparation for the Implementation of the Child Justice Act. A total number of fifty five (55) Officials were targeted from the three coastal Regions.
- Thirty-five (35) Social Workers trained on Anger Management and Substance Abuse programmes that will be presented to Child offenders.
- DCS officials including Correctional Officials based at Youth centres, mother and child units, Unit Managers, Heads of Correctional Centres, Human Resource Practitioners and Social Workers were trained on the Child Justice Act and orientated on the Children's Act.

Further training in regions was conducted as follows:

- 02-03/12/2010 -Twenty one (21) officials from Limpopo, North West and Mpumalanga;
- 06-07/12/2010 –Twenty four (24) officials targeted from Northern Cape and Free State Region
- 08-09/12/2010 –Twenty five (25) officials from KZN Region were targeted.
- 20-21/01/2011- Twenty eight (28) officials from Gauteng Region
- 24-25/01/2011- Twenty three (23) officials from Eastern Cape Region
- 27-28/01/2011- Twenty five (25) officials from Western Cape Region.

A total number of one hundred and forty six (146) officials were involved in the training, comprising of Social Workers, Unit Managers, Heads of Correctional Centres, Legal services, Human Resource Practitioners, Correctional Officials and Coordinators of Care Development and Care. The training will be cascaded within the Management areas across the Regions by Human Resource Development Practitioners to ensure that all officials are orientated.

Training continues.

Intersectoral refresher training will be prioritised for the 2011/12 financial year.

ANNEXURE B: PROGRAMMES PRESENTED TO SENTENCED CHILDREN IN THE DEPARTMENT OF CORRECTIONAL SERVICES (DCS') FACILITIES

- **Social Programmes**

Therapeutic programmes are rendered to child offenders in terms of their identified needs. The interventions are rendered in partnership with external stakeholders. A total number of **1 674** sentenced child offenders within Department of Correctional Services' facilities were involved in Social Work Services and programmes from April to December 2010¹. Additional interventions are rendered by External Service Providers.

PROGRAMMES AND SERVICES PRESENTED	TOTAL CHILDREN
Life Skills, Supportive services, Family Care, Crime Prevention, Placement preparatory, Alternative placement, After Care services, Substance Abuse and Sexual Offender Programmes.	532
Substance Abuse, Family Care, Support Services, Assessment, Crime prevention, Sexual Offender Programme, Youth Resilience Programme, Placement preparatory, Reconstruction Services, Life Skills, Family Care and Anger Management.	475
HIV& AIDS awareness, Substance Abuse, Family Care, Support Services, Assessment, Crime prevention, Sexual Offender Programme, Youth Resilience Programme, Placement preparatory, Reconstruction Services, Life Skills, Family Care and Anger Management, Crime prevention awareness campaign- community project.	667
TOTAL	1674

External services providers also render services and programmes to children. Comprehensive Social Work Assessment is conducted through a Model of Intervention assessment tool to identify the child offender's needs and problems and involve them in relevant services as outlined in the Intervention plans.

The following social work service programmes are available and being rendered to these children:

- Life Skills
- Anger management
- Substance Abuse
- Orientation Programme

- Sexual Offender Treatment

Services- individual interventions:

- Counselling
- Trauma debriefing
- Supportive services
- Marriage and Family Care
- Placement preparation
- HIV and AIDS counselling (support services to the affected)

- ***Formal education offered during April 2010 to December 2010:***

Adult Education and Training (AET) Levels 1-4: 10 827

Further Education and Training (FET) Grades 10: 4 653

- ***Correctional programmes***

The following correctional programmes are available:

- Pre-Release;
- New Beginnings;
- Cross Roads;
- Sexual Offences Programme;
- Anger Management;
- Substance Abuse;
- Orientation on Restorative Justice ;and
- Behaviour Modification on Gangsterism.

ANNEXURE C: LIST OF EXISTING AND PLANNED CHILD AND YOUTH CARE FACILITIES (SECURE CARE FACILITIES) DESIGNATED FOR AWAITING TRIAL AND SENTENCED CHILDREN

PROVINCE	NAME OF THE FACILITY AND LOCATION	BED CAPACITY
EASTERN CAPE	Enkuselweni Secure Care Centre in PE	60
	John X Merriman in East London	50
	Sikhuselekile SC in UMthata	50
FREE STATE	Bloemfontein Secure Care	50
	Matete Matches Secure Care Centre in Kroonstad	40
GAUTENG	Mogale City Youth Centre	450
	Walter Sisulu Child and Youth Care Centre in Noordgesig	110
	Protem Detention Centre in Cullinan	120
KWAZULU-NATAL	Excelsior Place of Safety in Pinetown	74
	Valley View Place of Safety in Sydenham Durban (Verulam)	20
	Ocean View Place of Safety in Bluff Durban	15
	Sinethemba Child and Youth Care Centre	39
LIMPOPO	Polokwane Secure Care	120
	Malamulele Mavambe Secure Centre	70
MPUMALANGA	Hendrina Child and Youth Care Centre (Hendrina)	60
NORTHERN CAPE	Molehe Mampe Secure Care Centre in Galeshewe, Kimberley	60
	Marcus Mbetha Sindisa Secure Care Centre in Upington	70
	Lerato Place of Safety in Kimberley	60
	Namaqua Secure Centre	51
	De Aar Secure care centre	60
NORTH WEST	Reamogetswe Secure Care Centre in Brits	35
	Mafikeng Secure Care	48
	Matlosana Secure Care	48
	Rustenburg	60
WESTERN CAPE	Bonnytown House in Wynberg, Cape Town	190
	Outeniequa House in George	77
	The Horizon Youth Centre in Faure Klaver	185
	Vredelust House in Elsie's River	30
	Lindelani Place of Safety, Stellenbosch	60
	Clanwilliam Secure Care Centre	60
Total bed capacity		3272

Source: DSD

**ANNEXURE D: PROGRAMMES PRESENTED TO REMAND DETAINEE CHILDREN
(CHILDREN AWAITING TRIAL) IN DEPARTMENT OF CORRECTIONAL
SERVICES (DCS') FACILITIES:**

- **Social Services**

Programmes and services are offered to remand detainee children in Correctional facilities as per identified needs and referrals are made to external service providers to ensure that their identified needs are addressed.

Crisis intervention services are offered to remand detainee children in Correctional facilities'as per identified need. A supportive service in terms of family consultation is rendered for re-unification and to strengthen family ties. Other interventions are rendered by external service providers to ensure that services and programmes are availed to Remand Detainees per identified needs.

The total number of remand detainee children receiving in interventions rendered by external stakeholders and social workers during the period April 2010 to March 2011:

PROGRAMMES AND SERVICES PRESENTED	SERVICE PROVIDER	NUMBER OF CHILDREN
Life Skills	Dr Van Onsellen (NGO)	09
Crisis Intervention	DCS Social Workers	03
Mirror programme	KHULISA	11
Crisis Intervention.	DCS Social Workers	20
Drug Awareness Programme.	Youth advisory Forum	26
Crime prevention awareness programme	SAPS	16
Family care, supportive services, orientation, Crime prevention awareness campaign Community project	DCS Social Workers	64
Crime Prevention Awareness	SAPS	06
Mirror Programme	KHULISA	21
TOTAL		176



- **Health Services/Programmes**

Continuous health assessment for the children who are sick and those that are on continuous medication for illnesses such as epilepsy and other chronic and communicable diseases, are given their daily treatment in the centres' clinics. Services that are rendered in the clinics include treatment and prevention programmes on communicable and non-communicable diseases, such as management of TB and HIV, and prevention of STI's.

ⁱ Statistics for the period January 2011 to March 2011 is still under verification.