



# REINFORCING THE RIGHTS OF CHILDREN DEPRIVED OF LIBERTY IN SECURE CARE CENTRES IN SOUTH AFRICA

A baseline study to inform a model  
for independent oversight



CENTRE FOR  
CHILD LAW



UNIVERSITEIT VAN PRETORIA  
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Global Campus  
of Human Rights

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# GLOSSARY

<b>CAT</b>	Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
<b>CCL</b>	Centre for Child Law
<b>CRC</b>	Convention on the Rights of the Child
<b>CYC</b>	Child and Youth Care
<b>CYCC</b>	Child and Youth Care Centre
<b>CYCW</b>	Child and Youth Care Worker
<b>DQA</b>	Developmental Quality Assessment
<b>HOD</b>	Head of Department
<b>IDP</b>	Individual Development Plan
<b>IPID</b>	Independent Police Investigative Directorate
<b>JICS</b>	Judicial Inspectorate for Correctional Services
<b>MDT</b>	Multi-Disciplinary Team
<b>MEC</b>	Member of the Executive Council
<b>NPM</b>	National Preventive Mechanism
<b>OMO</b>	Office of the Military Ombud
<b>OHO</b>	Office of the Health Ombud
<b>OPCAT</b>	Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
<b>SACCP</b>	South African Council for Social Service Professions
<b>SAHRC</b>	South African Human Rights Commission
<b>SCC</b>	Secure Care Centre



# EXECUTIVE SUMMARY

## Background and initiation of the project

In 2019 Professor Manfred Nowak submitted his report on the *Global Study on Children Deprived of Liberty* to the United Nations General Assembly. Information was gathered for that study during the preceding two years. In 2018 South Africa's response to the *Global Study* revealed that although South Africa had performed well in reducing the number of children in correctional centres (administered by the Department of Correctional Services) there remained a considerable number of children in Secure Care Centres (administered by the provincial Departments of Social Development).

The Centre for Child Law (CCL) had previously undertaken litigation regarding the conditions and treatment of children in SCCs. Concerns about these children, together with the new information derived through the *Global Study* was the germination of the idea for a project entitled “*Creating a model for the independent oversight mechanism to reinforce the rights of children in Secure Care Centres in South Africa*”.

This report is one of the outputs of a project under a collaboration between the Global Campus of Human Rights and the Right Livelihood Foundation.

**The Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) and oversight of Secure Care Centres and Child and Youth Care Centres for children in conflict with the law.**

On 20 June 2019 South Africa ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), which came into operation on 20 July 2019.

Under the OPCAT, states must establish, maintain, or designate a national body known as the National Preventive Mechanism (NPM) which is responsible for torture prevention, among others, through regular visits to places of deprivation of liberty. Through these visits, the NPM identifies shortcomings in the treatment of persons deprived of liberty and acts as an early warning mechanism to prevent abuses.

The South African Human Rights Commission (SAHRC) as the national human rights institution has been assigned the responsibility to coordinate the NPM and has also taken on the responsibility for the oversight of Secure Care Centres and Child and Youth Care Centres for children in conflict with the law, among others.



**Staff members from the SAHRC provincial offices and the CCL office supplemented the visit teams, to ensure gender and language representation.**

Since the ratification of the OPCAT the SAHRC has been monitoring Secure Care Centres (SCCs) in South Africa noting, in the findings of its baseline assessment, that there was no independent oversight body regularly monitoring SCCs. This project aims to capitalise on the new information revealed by the *Global Study* and to reinforce the monitoring of SCCs by the SAHRC in ensuring that they are child rights compliant. The advent of the COVID-19 pandemic revealed further problems in the system, and this led to the inclusion of this as an aspect of the project.



## Collaboration

The project was undertaken through a partnership between the SAHRC in its functional role in the NPM and the CCL. The collaboration between the SAHRC/NPM and CCL was formalised through a memorandum of agreement signed in April 2021.



## Project team

The project team was made up of the NPM co-ordination unit staff, SAHRC Children's rights unit staff and members from the Centre for Child Law, and members of the team were involved in all the visits to the SCCs. In addition, staff members from the SAHRC provincial offices and the CCL office supplemented the visit teams, to ensure gender and language representation.



## Methodology

A decision was taken to undertake announced visits to 29 SCCs in the country, as this would provide the most comprehensive baseline study to inform a model of oversight for SCCs. Before embarking on the visits, the team members were oriented through an online training on the background to the Project, the work of the NPM, the relevant legal and rights framework and an introduction to basic principles of secure care. There were debriefing meetings and meetings to review progress at various points throughout the project.

Planning for the project was done in advance to allow for travel and accommodation bookings. Formal letters were sent to relevant authorities and there was a briefing of the National Technical Intersectoral Committee for Child Justice.

The team undertook a physical inspection of the centre facilities and interviewed children and personnel both individually and in focus groups. A common framework was followed, with different questionnaires for children and adults.

At the end of each visit the team provided a high-level debriefing to the management of the Centre on findings and concerns. Following the visits, letters were sent to the SCCs and Provincial Departments of Social Development administering the SCCs, highlighting key areas of concern, impacting children's rights and wellbeing, that had to be addressed with urgency.

The SAHRC's child-friendly complaints handling procedure and the Centre for Child Law's child-safeguarding policy guided the work, together with the provisions of the Constitution, the OPCAT, the Children's Act, the Child Justice Act, and the relevant regulations.

## Objectives of the project

The project's overarching goal was to **develop a model for an independent oversight mechanism to reinforce the rights of children in secure care in South Africa.**

This report focuses on the first of three project objectives:

Undertake a base-line study of the current facilities, through visits to the Secure Care Centres and conduct interviews with children and with staff, to inform the model for an independent oversight mechanism.

## Profiles of Secure Care Centres

The following table sets out all SCCs that were visited (and the one that was not visited), their accommodation capacity and the actual numbers of children per category: awaiting trial, diverted, sentenced at the time of the visits. The numbers in most cases reflect the actual numbers at the time of the visit, but in some cases were recorded at a later date, subsequent to the visit.

Province and Centre	Registered to receive	Dates of visit (data as on date of visit unless stated otherwise)	Capacity	Actual no. Awaiting Trial	Actual no. Diversion	Actual no. Sentenced	Total actual no.
GAUTENG							
<b>Walter Sisulu CYCC</b>	Awaiting trial Diversion	12 May 2021 (data as on 20 July 2022)	114	55	20	N/A	75
<b>Soshanguve SCC</b>	Awaiting trial Diversion Sentenced	13 May 2021	120	37	4	13	54
<b>Mogale Leseding CYCC</b>	Diversion Sentenced	11 May 2021	200	N/A	13	34	47
Provincial Total – 176 children in SCCs							

Province and Centre	Registered to receive	Dates of visit (data as on date of visit unless stated otherwise)	Capacity	Actual no. Awaiting Trial	Actual no. Diversion	Actual no. Sentenced	Total actual no.
FREE STATE							
Winkie Direko SCC	Awaiting trial	17 June 2021	Not provided	8	N/A	N/A	8
Thabo Mofutsanyane SCC	Awaiting trial Sentenced	15 and 16 Sept 2021	68	17	N/A	No sentenced children at time of visit	17
Matete Matches SCC	Awaiting trial	15 and 16 Sept 2021	40	8	N/A	N/A	8
Provincial Total – 33 children in SCCs							
EASTERN CAPE							
Enkuselweni CYCC	Awaiting trial Diversion	6 and 7 Sept 2021 (data as on 19 July 2022)	50	9	17	N/A	26
John X Merriman CYCC	Awaiting trial Diversion	6 and 7 Sept 2021	100	30	30	N/A	60
Bhisho CYCC	Sentenced	8 Sept 2021	100	N/A	N/A	31	31
Lulama Futshane CYCC	Sentenced	21 and 22 April 2022	62 (but accepts 50)	N/A	N/A	40	40
Qumbu CYCC	Awaiting trial Diversion	4 and 5 May 2022	48	6	7	N/A	13
Provincial Total – 170 children in SCCs							
KWAZULU NATAL							
Sinethemba CYCC	Awaiting trial Diversion	17 Sept 2021	39	7	2	N/A	9
Valley View CYCC	Awaiting trial Diversion	14 and 15 Feb 2022	20 for SCC	10	No children on diversion at time of visit	N/A	10
Excelsior CYCC	Awaiting trial	14 and 15 Feb 2022	37	8	N/A	N/A	8
Ocean View CYCC	Awaiting trial	16 Feb 2022	15 for SCC	N/A (Centre under renovation)	N/A	N/A	N/A
Provincial Total – 27 children in SCCs							
WESTERN CAPE							
Clanwilliam CYCC	Awaiting trial Diversion	11 and 12 Oct 2021	100	20	1	N/A	21
Outeniekwa SCC	Awaiting trial Sentenced	11 and 12 Oct 2021	80	20	N/A	30	50
Bonnytown CYCC	Awaiting trial Sentenced	13 and 14 Oct 2021	130	67	N/A	28	95
Vredelus CYCC	Awaiting trial Sentenced	13 and 14 Oct 2021	30	8	N/A	3	11
Horizon CYCC	Awaiting trial Diversion Sentenced	15 and 16 Oct 2021	165	60	8	36	104
Provincial Total – 277 children in SCCs							



Province and Centre	Registered to receive	Dates of visit (data as on date of visit unless stated otherwise)	Capacity	Actual no. Awaiting Trial	Actual no. Diversion	Actual no. Sentenced	Total actual no.
<b>NORTH WEST</b>							
<b>Rustenburg CYCC</b>	Awaiting trial Diversion Sentenced	25 Oct 2021	70	7	9	1	17
<b>Matlosana SCC</b>	Awaiting trial Diversion	26 Oct 2021	60	8	8	N/A	16
<b>Provincial Total – 33 children in SCCs</b>							
<b>LIMPOPO</b>							
<b>Mavambe SCC</b>	Awaiting trial Diversion Sentenced	28 Feb and 1 March 2022	70	24	28	9	61
<b>Polokwane SCC</b>	Awaiting trial Diversion Sentenced	28 Feb and 1 March 2022	110	19	32	12	63
<b>Provincial Total – 124 children in SCCs</b>							
<b>MPUMALANGA</b>							
<b>Ethokomala SCC</b>	Sentenced	14 and 15 March 2022	60	N/A	N/A	7	7
<b>Hendrina SCC</b>	Awaiting trial	14 and 15 March 2022	50	16	N/A	N/A	16
<b>Provincial Total – 23 children in SCCs</b>							
<b>NORTHERN CAPE</b>							
<b>Marcus Mbetha Sindisa SCC</b>	Awaiting trial Diversion	7 and 8 April 2022 (data as on 19 July 2022)	40	2	11	N/A	13
<b>Namaqua SCC</b>	Awaiting trial Diversion Sentenced	5 and 6 April 2022 (data as on 19 July 2022)	40	9	25	9	43
<b>De Aar SCC</b>	Awaiting trial Diversion Sentenced	9 and 10 May 2022	51	2	17	18	37
<b>Molehe Mampe SCC</b>	Awaiting trial (boys only)	N/A	60	19	N/A	N/A	N/A
<b>PROVINCIAL TOTAL – 93 children in SCCs</b>							
<b>NATIONAL TOTALS – 970*</b> (*This national total includes 9 total children at the Sinethemba CYCC. A breakdown of the 9 children was not provided therefore they are not included in the figures below) ● Awaiting trial – 469 ● Diversion – 230 ● Sentenced – 271							



**Efforts of government departments to reduce the number of children in the system has led to a situation where there are relatively few children requiring SCCs services.**

## Key findings of the Base-Line Study



### **THEME 1: International law, legislation, regulations and policies**

- It was found that the management of and practice in SCCs is not fully aligned with international law obligations, the South African Constitution, the Children's Act and the Child Justice Act.
- The "Blueprint, Norms and Standards for Secure Care Facilities for South Africa" is not fully aligned with the regulations to the Children's Act. This leads to contradictions in the guidance provided and may be leading to some errors in practice.
- It was found that personnel working in SCCs are generally more aware of the Blueprint than the law and regulations, although it is the latter that is binding on them.



### **THEME 2: Utilisation of Secure Care Centres**

- The current SCC model maintains large buildings that are underutilised, in remote areas.
- Positive gains brought about by the Child Justice Act and the efforts of government departments to reduce the number of children in the system has led to a situation where there are relatively few children requiring SCCs services. There is a feeling of "emptiness" in these large institutions.
- Some centres are very high security, giving a "prison-like" impression, in addition to being contrary to the principle of secure care, the size of these centres and the level of security is probably not cost-effective, given the small numbers of children inside premises with extensive perimeter fencing.
- There is a higher number of awaiting trial children (469) in secure care than sentenced children (271), which is a concern, and should also cause a review of whether pre-trial detention is necessary in all cases. Home based supervision by probation officers could, in some instances, be equally effective to ensure that children stand trial.
- There is an over-utilisation of residential diversion (230 children). A close examination of a sample of selected files of diverted children indicated that they are in many cases children who are in need of care and protection, whose parents are unable or unwilling to care for and guide them during adolescence. Non-residential programmes should be considered, or care and protection measures should be expanded so that these children are not brought into the child justice system to receive services.



## THEME 3: Professional Resources

### Personnel to child ratio

- The CYCW personnel to child ratios in most centres are adequate i.e., 1 child to 4 or more personnel, but this is due to the low number of children in centres, relative to the capacity. Despite this under-utilisation of centres, the staff cohort remains the same as would be required for full capacity.

### Qualifications and registration of Child and Youth Care Workers

- Despite the requirement (included in the National Blueprint on Secure Care) that only the most highly qualified CYCWs and other professionals should be employed in SCCs, this standard is generally not met in SCCs across the country. For example, in numerous SCCs auxiliary child and youth care workers with basic qualifications are in supervisory or team leader positions.
- Most CYCWs have a basic qualification in CYC, have had very little, if any further training since starting their employment at the SCCs, and few have had specific training geared to work in Secure Care.
- According to the Council for Social Service Professionals, registration with the professional council has been a legal requirement for more than 15 years and the government may not employ unregistered Social Workers or CYCWs.

### Supervision

- Supervision, which is typically focused on personal and professional development, is absent and/or has been established as a monitoring role.
- Staff are given few opportunities to debrief after serious incidents, or to receive guidance and support on how to deal with such situations more effectively.

### Attitudes

- While there are many caring, committed, principled professional staff in many SCCs, this is not the case equally in all centres across the country. Some personnel view children in SCCs as “criminals”. There appears to be a link between these attitudes and some situations reported to the team, regarding children who are being subjected to degrading treatment, amounting to abuse, and are kept in conditions that do not take account of their age and do not promote their dignity.
- It was noted that staff members appeared to assume that all children in SCCs are males or females, and there were no policies for gender non-conforming children and there was a lack of protocols or guidance regarding the management of transgender or intersex children that might be received at SCCs.
- It was also noted that personnel were not trained to deal with sexual activity among children at the SCCs, including between children of the same gender, staff indicated that providing condoms would “encourage” sexual relations between children. This attitude may lead to poor sexual health, including STIs and HIV/AIDS.

### Teamwork among professionals

- A hierarchy was found to exist within the professional team at many SCCs, with CYCW’s left out of the MDT except to report a child who is in trouble.
- Social workers were found to be involved in “discipline” of children, with a focus on “behaviour modification” rather than care.
- Professionals who are meant to provide therapy and build trust with the child, are involved with discipline, checking on compliance with rules, and at times recommending that their client be punished.

## Security personnel

- There is a lack of clarity on the role of security personnel in SCCs, which varies across provinces and centres.
- Security personnel are often provided with inappropriate access to children and are given tasks that go beyond their role.
- The rotation of security firms and other outsourced services and personnel creates challenges regarding having adequately trained security personnel and in building working relationships with personnel across the Centre.



## THEME 4: Basic Care

### Health care and access to medical staff

- Although all SCCs had on-site clinics staffed by nurses, many reports were received of clinics being understaffed and/or not having all the necessary resources to provide the required standard of health care services to the children.
- Care by external health providers was impeded by delays in getting appointments with specialists such as mental health care professionals.
- Children complained in some cases that they must get permission from CYCWs to see the nurse.

### Hygiene, bedding and clothing

- While toiletries were provided in all SCCs, some shortages were reported.
- Some SCCs limit the provision of sanitary pads in a way that it infringes dignity and privacy and places hygiene at risk.
- Standardised clothing is provided in most, but not all, SCCs. Where it is provided, there were complaints about incorrect sizes, previously used and sometimes worn-out clothing being provided, clothes not being suitable for the weather.

### Food

- Children were found to be receiving food on a regular basis, with three full meals and snacks.
- At many centres an effort was made to determine children's allergies or food preferences for cultural or religious reasons.
- There were some complaints regarding the quality and quantity of food.
- There were some complaints of kitchen staff being abusive towards children.



## THEME 5: Safety, dignity, care and management of challenging behaviour

### Searching children

- It is a common practice in SCCs that upon arrival, and after each visit to court for children awaiting trial, children are subjected to a strip search.
- The regulations to the Children's Act do not empower officials to undertake strip searches, and this practice is currently unregulated.
- This is a serious violation of privacy and dignity, which are rights protected under the South African Constitution, and in international and regional law. Although rights may be restricted to serve a legitimate purpose, these searches are being carried out in a routine manner and are not based on any type of risk assessment.

### Complaints procedure and follow-up

- The findings were mixed, as some SCCs have clearly documented procedures that are explained and made available to children, while others do not have accessible complaints procedures.
- Good practices were found in some SCCs such as “Youth Forums”, “Imbizos” or other platforms that meet regularly where children make their complaints known to management and where they receive feedback from management.
- Some SCCs have anonymous complaints boxes.

### Professional care

- In some instances, professional care is significantly undermined by rules set up by the management of some of the SCCs, requiring CYCWs to “watch” children, to sit in adjoining rooms and observe children, punish children, make sure that they are obeying rules, and report them if they do anything wrong.
- Care routines, such as wake up and going to bed routines, as well as eating with children, that are considered as essential to the wellbeing of children within the professional purview of the CYCWs, are disregarded in many centres.
- Instead of routines, there is an emphasis on rules and punishments for breaches of rules.

### Behaviour management

- Behaviour management practices in line with child and youth care are misunderstood and have been supplanted by “behaviour modification” and punishment practices.
- Safety of children is undermined through some of these practices.
- Physical abuse of children was found to be occurring in many SCCs. There were numerous reports that CYCWs and/or security personnel and/or police officers are using physical force, beatings and other methods to punish or subdue children.
- Reports of unlawful or improper use of isolation were common in all provinces.
- Multi-disciplinary teams were found to be using “behaviour modification” approaches, instructing CYCWs to discipline children, rather than providing opportunity for therapeutic life space work by CYCWs to address concerns.
- Behaviour management in some cases includes therapists disciplining their clients, including instructing that children be subjected to punishment and isolation.
- Unlawful and harmful behaviour management practices are a result of the inadequate knowledge of SWs and CYCWs in appropriate behaviour management and strategies.



**Good practices were found in some SCCs such as “Youth Forums” and “Imbizos”.**





Some children had complaints about having their phone calls to families listened to and limited to very short durations.



## THEME 6: Treatment and development of children and youth

### Developmental assessments, Individual Development Plans (IDPs), and reviews

- It was found that full multi-disciplinary team developmental assessments (as required by Regulations and the Children's Act) are infrequent or, in some instances, do not happen at all.
- Although individual development plans (IDPs) were generally found to be in place, they are of little value if not informed by thorough developmental assessments, with the child as a full participant.

### Programmes and therapy

- Children were placed in programmes, primarily based on the category of offence, rather than based on the therapeutic needs of each individual child.
- Children who spend long periods at SCCs are "recycled" through the programmes many times.

### Family contact and reunification

- Most SCCs are attempting to keep children in contact with their families.
- Reunification work is insufficiently supported by probation officers and social workers in the community.
- Some children had complaints about having their phone calls to families listened to and limited to very short durations. For example, in some centres phone calls were limited from 1–3 minutes, once a week or once a month.

### Recreation

- In general, the visiting team noted that in most centres there were inadequate resources for recreation.



## THEME 7: Education

### Basic education

- Most of the SCCs visited provided some form of schooling and/or skills training to the children in their care, but a few SCCs lacked such educational programmes.
- Children who had no formal schooling background or dropped out of school and were sent to centres with just the formal schooling programme struggled to adapt and learn. Such barriers were addressed by centres that also run the AET or CET programmes.

- Many centres struggled with uncooperative community mainstream schools to get children's files, curriculum, tests, exams, and other information needed to ensure that the children in the centres were at the pace as their peers in community schools.
- Assessment of children with learning disabilities was found to be a gap.
- Sometimes the centres – due to either resource constraints or being understaffed – did not offer all the subjects needed particularly for the mainstream curriculum.
- Lack of necessary materials for teaching and learning.
- Insufficient support from CYCWs to assist the educators monitor the children in the classrooms.
- Consistent after-care support for children and young people to continue with the education once they leave the centres was found to be a gap.

### Vocational Training

- Several of the centres visited offered limited skills training programmes, these included: furniture making; arc welding; sewing; brick laying and in some centres, catering.
- Some centres did not offer skills training at all which was a source of frustration to the children who wanted to learn skills using their hands.
- Procurement of the necessary resources took a long time (or never arrived) requiring the instructors to be creative e.g., using their own money to purchase necessary materials; or obtaining donations.
- Several skills programmes in centres were not accredited which meant that children did not receive formal and recognised certificates as proof of the skills learnt in the centres. This was seen as a hindrance to the children's successful transition outside of the centres.
- Understaffed and under resourced skills training centres were observed in several centres.



## THEME 8: Accommodation, facilities, buildings and grounds

### Showers and ablution facilities

- Most centres had working showers in place that provided water, but availability and temperature regulation of water was found to be a problem in several centres.
- In some centres there was no hot water, and in one centre there was no water at all due to a water shortage in the area.

### Bedding and bed structure

- There were complaints of hard mattresses.
- Structure of beds differed – concrete slabs in some centres, steel frames in others

### Common areas

- Common areas were similar across the centres in that most centres had a TV room and a games room.
- Some centres had TV rooms within the dormitories, some only in the common room and this meant that after “lock up” children could not watch TV.
- Some centres had a gym or gym equipment but there were complaints that these were not accessible to every child in the centre.

### School buildings and vocation training facilities

- Schools in most centres are managed by the Department of Basic Education and the buildings were in reasonable condition. However, there is a need for improved access to vocational training facilities in all the centres.
- The few centres that did have the space or the infrastructure for skills training did not utilise these spaces effectively due to the shortage of skilled instructors and educators.

### Other facilities

- Clinics: Clinics were kept clean but, in some cases, poor infrastructure prevented a constructive environment (e.g., cracked wall and ceilings) and in some centres there was no sick bay with beds to observe children.
- Library: A limited number of centres had libraries, and books available were generally old.
- Laundry: All centres were found to have laundries.
- Kitchens: The kitchens at most centres were well-equipped, clean and efficiently run. Some were outsourced to external services providers. In most centres visited, the kitchens did not have ultraviolet (UV) light fly traps to prevent or eliminate flies, or other insects, and did not have alternative pest prevention measures.

### State of the buildings and infrastructure

- The infrastructure was a concern in almost all centres – both external and internal.
- Equipment such as security infrastructure (Close-circuit television cameras [CCTV cameras], body scanners, electric fencing, CCTV camera monitors, security tower lights) were seldom fully functioning and operational.

### Grounds and common use recreational areas

- Pools: Some centres have pools standing empty or being used as reservoirs, they were not used for recreation.
- Grounds/playing fields: The state of these was varied, with some good examples of well-tended soccer fields, but the overall impression was that too many fields and courts were not well kept and were therefore not used.
- Gardening facilities: Although most centres had some available ground, few had gardening programmes.



## THEME 9: Preparedness and management of the COVID-19 pandemic

- When children arrived at the Centres for the first time, or had to go to court while awaiting trial and return to the Centre, all Secure Care Centres adopted the practice of placing them in quarantine. The quarantine period ranged from 14 days, 10 days, and 7 days at the height of the pandemic, different time periods were utilised by different centres.
- Children who were awaiting trial spent the most time in quarantine and spent an alarming amount of time by themselves separated from the rest of the children and staff as well as not taking part in activities such as school, skills training and recreational activities.
- A few centres revealed that they had the children fully vaccinated against COVID-19 with the consent of the parent(s) and the child. Some children were hesitant about getting vaccinated and were not forced to do so.
- Some Centres had clear COVID-19 protocols or rules to be followed in relation to the screening of children, managing social distancing as much as possible, and continuous monitoring of children.
- In-person contact with family did not occur for a long time at the height of the pandemic. Children found this challenging.
- Centres that run aftercare or follow-up programmes with children that had been released could no longer provide in-person assistance or follow-up and had to do this over the phone which limited the impact of the programmes.

- Due to the uncertainty of how to run such programmes with a pandemic, contact programmes such as recreational programmes and skills training were paused often for long periods time to the frustration of the children who felt that there was little or nothing to do to fill their time.



## THEME 10: Monitoring

- Some SCCs are registered on a conditional basis, which is extended despite the structural inadequacies not being resolved.
- Internal monitoring by Provincial Departments of Social Development is not effective in all provinces, as evidence by unlawful practices being uncovered during the visits.
- Quality assurance process not being carried out in accordance with the legal requirements in all provinces, and little weight is placed on the organisational development plan.

## Recommendations

### THEME 1: International law, legislation, regulations, and policies

- The SCC system should be brought in line with international law obligations, the South African Constitution, the Children's Act and the Child Justice Act.
- The "Blueprint, Norms and Standards for Secure Care Facilities for South Africa" should either be removed, and a new policy developed, or the Blueprint be reviewed to bring it in line with the regulations, and make it easily understandable and brief, with the norms and standards for practice. The sections on the design of buildings and detailed practice should be removed.
- If there is a need for detailing the practice of secure care, that could be a separate practice handbook based on professional secure care practice and not as prescribed policy.
- The alternative is to use the Regulations as policy guidelines, together with the norms and standards that are clearly aligned with the Law, Child Rights, and the Constitution.

### THEME 2: Utilisation of Secure Care Centres

The National and Provincial Departments of Social Development, together with key partners in the Inter-sectoral Committee for Child Justice, should consider the following with a view to legal and practice reform:

- Reconsider the use of its current SCC model which maintains large buildings that are underutilised and are situated in remote areas.
- The positive gains brought about by the Child Justice Act and the efforts of government departments to reduce the number of children in the system requires a review of the appropriateness of large institutions. Smaller units, staffed by an adequate number of appropriately trained staff would serve the purpose of secure care more effectively.
- There is a higher number of awaiting trial children (469) in secure care than sentenced children (271), which is a concern. Alternatives such as home-based supervision by probation officers could, in some instances, be equally effective to ensure that children stand trial, and these measures should be strengthened.
- The utilisation of residential diversion should be considerably reduced. Non-residential programmes should be considered, or care and protection measures should be expanded so that these children are not brought into the child justice system to receive services.



469

children awaiting trial in secure care which is higher than sentenced children (271), which is a concern.

## THEME 3: Professional Resources

### Qualifications and training:

- National and Provincial Departments should work with tertiary institutions and the Social Service Professional Council and Training Institutions to upgrade the qualifications of CYCWs and the quality of CYC work in the Centres. Conduct a detailed audit of the skills, knowledge and qualifications of all CYCWs in Secure Care in each province and implement a funded human resource development plan in each province to upskill CYCWs to the point where (a) they can work effectively in secure care, and (b) each is registered as a full professional with the Council for Social Service Professions within the next 3–4 years.
- In the interim, ensure that all Auxiliary CYCWs are supervised by a professional CYCW (not a social worker) inside or outside of the Centre, and that each CYCW has a personal/professional development plan. Ensure that professional CYCWs are supervised by an experienced and/or more qualified CYCW.
- Urgently ensure that Centre managers and senior management have training in the law and child rights as they apply to CYC Centres and Secure Care, managing a SCC, and how to establish and sustain a therapeutic approach within such a centre, including Supervision, Developmental Assessment, Care, and Programmes.

### Employment procedures

- Develop a pre-employment protocol for social workers, teachers, Centre managers, and CYCWs to assess knowledge of and commitment to the Constitution, as well as an understanding of the law, child rights and professional principles.
- End the practice of employing people without a CYCW qualification into a CYCW position. For such people already employed, ensure that they become qualified.
- Ensure that attitudes of staff are assessed prior to employment, orient staff appropriately about working with children in conflict with the law, and provide protocols to deal with issues such as gender non-conforming children and sexually active children.

### Multi-disciplinary Team

- Ensure that multi-disciplinary teams are inclusive of all professionals at the centres working directly with the children and not only the management team. (This does not preclude there being a management team as a separate entity).



- Ensure the focus of the multidisciplinary team in each centre is the Developmental Assessment of each child, IDPs, accountability for professional tasks associated with the IDP, and a progress review every 3–6 months.
- Ensure that probation officers, teachers, child and youth care workers, the child and the parents are included in the MDT for the assessment. Stop the practice of using an MDT (or management team) for behaviour modification and/or behaviour management.

### Unlawful and unethical practices

- Ensure that all personnel directly working with children know the law and child rights, particularly “prohibited practices” in relation to behaviour management.
- Immediately stop (and prevent) all practices of physical punishment, withdrawal from programmes, any other punishments.
- Ensure that the widespread use of isolation is stopped, and that henceforth, separation of children away from others can only be done in a manner strictly in accordance with the Regulations to the Children’s Act. The provincial departments should strengthen the departmental monitoring of SCCs, through the DQA and other measures they deem appropriate, and should prevent harm to children by holding Centres and all personnel accountable for obeying the law and protecting the rights of children.

### Training and support

- Ensure that CYCWs and all personnel who spend substantial time with the children (such as teachers) are thoroughly trained, including but not limited to, understanding challenging behaviour, therapeutic behaviour management skills, and acceptable techniques to deal with aggression and assaults, such as Professional Assault Response Training (PART).
- Provide personnel involved in any critical incident with a “therapeutic” debriefing.
- Ensure the Centre management, CYCWs, and SWs can implement behaviour development strategies to minimize critical incidents and the need for behaviour management.

### Responsibility for behaviour management

- Recognise that behaviour management is a professional therapeutic life-space activity which is the responsibility of well-trained CYCWs (and teachers if needed) supervised by senior CYCWs who should be experts in therapeutic behaviour management.
- Ensure CYCWs work within a positive responsive relationship with the child, and within the goals and actions of the child’s assessment and IDP.

### Daily Reports

- It is recommended that the departments and centres revise reporting practices to minimize the tasks of CYCWs regarding observing and reporting on children’s behaviours daily, with (1) a critical incident report (2) a log of the CYCW’s of both concerns and positive observations.



**Security personnel should have minimal contact with children, but should be oriented to secure care, the rights of children, and how to manage dangerous or very challenging behaviour from groups or individual children ...**

### Security Personnel

- Develop a nationally defined standard on the work of security personnel in SCCs and training/capacitating security personnel on the centres' work and their role at the centre.
- Security personnel should have minimal contact with children, but should be oriented to secure care, the rights of children, and how to manage dangerous or very challenging behaviour from groups or individual children, with acceptable techniques and without excessive use of force.
- Any instances of use of force resulting in injury must be followed by mandatory reporting under section 110 of the Children's Act.
- Regulate outsourcing of services to minimise turnover so that orientation results in long-term understanding of the required tasks across the work force.

## THEME 4: Basic care

### General

The shortcomings in the knowledge of the obligations set out in the Children's Act regulations and/or inadequate implementation of these regulations indicates a need for more focus on these legal requirements in the training and orientation of personnel.

### Health care and access to medical staff

- Ensure fully staffed clinics with adequate equipment.
- Liaise with external health providers at a senior level to speed up access to health care, particularly mental health services providers.

### Hygiene, bedding and clothing

- Provide access to sanitary pads in a manner that respects dignity and allows good hygiene
- Provide appropriate bedding, clothing and footwear to all children in SCCs.

### Food

- Provide internal mechanisms for feedback relating to food and kitchen services.

## THEME 5: Safety, dignity, care, and management of challenging behaviours

- **Searching:** To comply with the South African Constitution, an urgent review of the current practice of strip searching and cavity searching in SCCs must be undertaken. General searching of children should not be invasive and should be risk assessment led. If weapon smuggling is a genuine concern, then other methods of detection should be considered. The National Department of Social Development should take the lead in the development of the national regulation of searching practices. These urgent measures should be followed by a medium-term assessment of the feasibility of technological and other solutions to reduce risk and avoid searching as far as possible.
- **Isolation:** The Department of Social Development should act immediately to stop these unlawful practices by enforcing the current laws and regulations. DSD officials undertaking regular Developmental Quality Assurance (DQA) should prioritise their monitoring regarding this practice.

### Professional care

- Ensure that professional care is not undermined by rules requiring CYCWs to “take a guarding and punishment approach to children”.
- Ensure CYC practice that builds Care routines, such as wake up and going to bed routines, as well as eating with children, as understood within the professional purview of the CYCWs, is included in secure care.

### Behaviour management

- End “behaviour modification” and punishment practices and replace these with behaviour management practices in line with CYC practice.
- Ensure that physical abuse of children is prevented, and that security personnel and police are not involved in disciplining children.
- Stop unlawful or improper use of isolation as “behaviour modification”.

## THEME 6: Treatment and development of children and youth

### Developmental assessment and individual development plans (IDPs)

In most Centres, children’s individual needs are not fully understood and are not being met. It is, therefore, recommended that:

- Train all professional staff in developmental assessment and the development of IDPs.
- Assess every child in a SCC to be undertaken by a multi-disciplinary team that develops an IDP written together with the team and child, which then gets implemented.
- Ensure quality assurance procedures monitor these MDT assessments as a priority, ensuring the file contains the full assessment, the IDPs and the progress of the developmental and therapeutic work undertaken by the team to meet the goals of the IDP.
- Tailor programmes and interventions indicated in the IDP to meet the individual needs of the child.
- Use standardized diversion programmes for young people who are in the centre for diversion and stop the practice of using these programmes as a one-size-fits-all approach.
- End the practice of rotating a child through programmes more than once, unless a second experience of a programme is indicated after an assessment.

## **THEME 7: Education**

- Ensure that barriers for children who have never been to school are addressed through AET or CET programmes.
- Ensure cooperation of community schools through liaison with the relevant provincial Department of Education and/or district office.
- Ensure cooperation of community schools through liaison with the relevant provincial department of Education.
- Provincial Departments of Social Development should “build back better” when they reinstate the vocational programmes and sporting activities that were stopped during the COVID 19 pandemic.
- Develop vocational training programmes, ensure appropriate staffing to run these programmes, and assure their accreditation.

## **THEME 8: Accommodation, facilities, buildings and grounds**

- Ensure a reliable and adequate supply of hot water. In areas where lack of water is a fundamental community issue, boreholes should be installed to ensure the efficient functioning of the centre and adequate provision of services by the Centre.
- Improve liaison with the Department of Public Works and Infrastructure (DPWI) to ensure the improvement and regular maintenance and/or repairs of infrastructure.

## **THEME 9: Preparedness and management of the COVID-19 pandemic**

- The National Department of Social Development must develop a protocol to ensure that if the country be faced with a public health crisis in the future, they will be able to ensure appropriate care and services for children in institutional care, bearing in mind international law, the Constitution and relevant legislation. Such protocol should follow the guidelines provided by the UN Committee on the Rights of the Child and the African Committee of Experts on the Rights and Welfare of the Child.

## **THEME 10: Monitoring**

- Ensure compliance with registration procedures.
- Strengthen internal monitoring by Provincial Departments of Social Development in all provinces.
- Ensure that quality assurance processes are carried out in accordance with the legal requirements in all provinces.
- Ensure that organisational development plans are actively used and updated to ensure organisational development.





# INTRODUCTION

Reinforcing the rights of children deprived of liberty in Secure Care Centres in South Africa





## 7 MILLION

Children per year remain deprived of their liberty worldwide.

## A | Background

### Global Study and initiation of the project

In 2019 Professor Manfred Nowak submitted his report on the *Global Study* on Children Deprived of Liberty to the United Nations General Assembly,<sup>1</sup> and published a 700-page open-source book<sup>2</sup> that provides in-depth insights. *The Global Study* findings revealed that at least 7 million children per year remain deprived of their liberty worldwide,<sup>3</sup> 1 410 000 of these are in the administration of child justice<sup>4</sup> and 670 000 children in institutions by decision of a State authority,<sup>5</sup> some of whom are in Secure Care Centres. Institutions are considered to be an improved alternative to prisons, but they are nevertheless places where children are deprived of their liberty, and child rights violations have been found to occur in many such institutions around the world.<sup>6</sup> Following the *Global Study*, a partnership was formed between the Global Campus of Human Rights<sup>7</sup> and the Right Livelihood Foundation,<sup>8</sup> and under this agreement various follow up projects to the *Global Study* were initiated.

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- 1 Report of the Special expert A/74/136. available at <https://documents-ddsny.un.org/doc/UNDOC/GEN/N19/213/15/PDF/N1921315.pdf?OpenElement>. The Study found that *The Global Study* report defines the term “deprivation of liberty” signifies any form of detention or imprisonment or the placement of a child in a public or private custodial setting which that child is not permitted to leave at will, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence. This definition is based on the Article 4 of the OPCAT.
  - 2 United Nations, *The United Nations Study on Children Deprived of Liberty*, November 2019, available at, <https://omnibook.com/Global-Study-2019>.
  - 3 United Nations, *The United Nations Study on Children Deprived of Liberty*, November 2019, available at <https://omnibook.com/Global-Study-2019>, page 659.
  - 4 United Nations, *The United Nations Study on Children Deprived of Liberty*, November 2019, available at <https://omnibook.com/Global-Study-2019>, page 261. This includes prisons, pre-trial detention and police custody.
  - 5 United Nations, *The United Nations Study on Children Deprived of Liberty*, November 2019, available at <https://omnibook.com/Global-Study-2019>, page 500–1.
  - 6 United Nations, *The United Nations Study on Children Deprived of Liberty*, November 2019, available at <https://omnibook.com/Global-Study-2019>, page 267–74.
  - 7 A global network of universities for education in human rights and democracy (<https://gchumanrights.org/about-us.html>).
  - 8 The Right Livelihood Foundation honours and supports courageous people offering visionary and exemplary solutions to global problems (<https://rightlivelihood.org/>).

This report is one of the outputs of a project under the Global Campus/Right Livelihood Foundation collaboration. The project was entitled “Creating a model for the independent oversight mechanism to reinforce the rights of children in Secure Care Centres in South Africa”.

## Rationale for the project

The germination of this project was a concern that arose through information provided during the *Global Study*. In its response to the *Global Study* questionnaire South Africa presented the numbers of children in detention in June 2018. Among the numbers provided was the number of children in Secure Care Centres (SCCs) falling under the management of the Department of Social Development. This revealed for the first time that the number of children in SCCs (referred by the child justice courts) was far higher than the number in correctional centres, falling under the Department of Correctional Services, and that the number of children awaiting trial in these centres was higher than the number of children sentenced in the centres. The Centre for Child Law, University of Pretoria (CCL) has previously been involved in litigation regarding neglect and ill-treatment of children in SCCs. The CCL resolved to follow up on the Global Study through a project to strengthen independent monitoring of these centres.

On 28 February 2019, Cabinet referred the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) to Parliament for ratification. The instrument of ratification was deposited with the Secretary-General of the United Nations on 20 June 2019. Under Article 28(2), the OPCAT came into effect for South Africa on 20 July 2019.

Under the OPCAT, states must establish, maintain, or designate a national body known as the National Preventive Mechanism (NPM) which is responsible for torture prevention, including through regular visits to places of deprivation of liberty. Through these visits, the NPM is in a good position to identify shortcomings in the treatment of persons deprived of liberty and act as an early warning mechanism, and therefore, prevent abuses.



**The NPM is in a good position to identify shortcomings in the treatment of persons deprived of liberty and act as an early warning mechanism, and therefore, prevent abuses.**

As a multi-body mechanism, the South African NPM consists of the Judicial Inspectorate for Correctional Services (JICS), Independent Police Investigative Directorate (IPID), Office of the Military Ombud (OMO) and the Office of the Health Ombud (OHO). The South African Human Rights Commission (SAHRC) as the national human rights institution has been assigned the responsibility to coordinate the NPM.

The SAHRC is an independent state institution, established in terms of provisions of chapter 9 of the Constitution to support constitutional democracy by promoting respect for human rights and a culture of human rights, promoting the protection, development and attainment of human rights; and monitoring and assessing the observance of human rights in the Republic of South Africa. Since the ratification of the OPCAT the SAHRC has been monitoring SCCs in South Africa noting, in the findings of its baseline assessment, that there was no independent oversight body regularly monitoring SCCs. This project aims to capitalise on the new information revealed by the *Global Study* and to reinforce the monitoring of SCCs by the SAHRC in ensuring that they are child rights compliant. The advent of the COVID-19 pandemic revealed further problems in the system, and this led to the inclusion of an aspect of the project dealing with this.



## Collaboration

The project was undertaken through a partnership between the SAHRC, under the NPM mandate and the CCL. The collaboration between the SAHRC/NPM and CCL was formalised through a memorandum of agreement signed in April 2021.



## Project team

The project team was made up of the NPM co-ordination unit staff, SAHRC Children's rights unit staff and members from the Centre for Child Law. Members of the team from the NPM, SAHRC and the CCL were involved in all the visits to the SCCs conducted for this project. In addition to the project team, staff members from the SAHRC provincial offices and the CCL office supplemented the teams visiting SCCs to ensure that each team had equal gender and language representation during the visits to the SCCs.



## Methodology

A decision was taken to visit 29 Secure Care Centres in the country, as this would provide the most comprehensive baseline study.<sup>9</sup> Before embarking on the visits, the team was oriented through an online training on the background to the Project, the work of the NPM, the relevant legal and rights framework and an introduction to basic principles of secure care. The attendees were the core project team, as well as personnel from the SAHRC provincial offices, some of whom later participated in the visits to the centres.

9 See annexure 1 for the list of Secure Care Centres and the dates of the visits.

Planning for the project was done in advance to allow for travel and accommodation bookings. Formal letters were sent by the NPM to the Members of the Executive Councils (MECs) for Social Development in the provinces, the Heads of Departments (HODs) and to the Director for Social Crime Prevention in the National Department of Social Development before the visits commenced. The letters explained the project and indicated when the visits would be carried out. Time allowing, an online presentation was made to the centre managers and their teams prior to the visits. A presentation was also made to the National Technical Intersectoral Committee for Child Justice (a body of representatives from relevant government departments, set up in accordance with the Child Justice Act 75 of 2008 to ensure the effective implementation of the Act) to engage them on the project and receive the necessary support.

Although the NPM can make unannounced or announced visits, it was decided to give a prior notification of all the visits undertaken by the project team. At every centre the team undertook a physical inspection of the centre facilities and interviewed children and personnel both individually and in focus groups. The team followed a common framework, with different questionnaires for children and adults. At the end of each visit the team provided a high-level briefing to the management of the Centre on findings and concerns.

Following the visits, the NPM, with input from the CCL and SAHRC provincial offices, addressed letters to the SCCs and Provincial Departments of Social Development, highlighting key areas of concern, impacting children's rights and wellbeing, that had to be addressed with urgency.

Towards the end of the project, after conclusion of the visits, a project report and an oversight model were developed, and finalised through a consultative approach involving the full project team.

The SAHRC has a child-friendly complaints handling procedure and the Centre for Child Law has a child-safeguarding policy. These documents guided the work, together with the provisions of the Constitution, the OPCAT, the Children's Act, the Child Justice Act, and the relevant regulations.

## Description of the objectives and activities undertaken by the project

The project's overarching goal was to **develop a model for an independent oversight mechanism to reinforce the rights of children in secure care in South Africa.**

This report focuses on the first of three project objectives: **Undertake a base-line study of the current facilities, through visits to the Secure Care Centres and conducting interviews with children and with staff, to inform the model for an independent oversight mechanism.**

**A plan and protocol<sup>10</sup>** were developed for the visits. A full day meeting was held in Johannesburg on 10 May 2021 to finalise the plan and the protocol, and to discuss the approach and methodology. There was some iteration of the plan to deal with COVID-19 restrictions, which delayed and interrupted the planned visits.

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10 See Annexure 1 for the outline of the protocol.

## Training and debriefing

Two training workshops were held with the SAHRC during the first year:

- **14 December 2020:** A workshop was held with personnel of the NPM and the CCL teams. Due to the pandemic, this was done virtually, and there is an audio-visual recording.
- **21 and 22 July 2021:** A second training workshop was held virtually with the NPM team, CCL team and with selected SAHRC colleagues from the provincial offices. These individuals joined some of the provincial visits and will be using the base-line study and the oversight model in their future work.

The project team held two virtual debriefing and two in-person meetings, in between the visits to discuss the main problems that are being uncovered, and to determine appropriate follow-up action.<sup>11</sup>

## Visits were undertaken to 29 SCCs in 9 provinces

Although the starting date was delayed by the COVID-19 restrictions, the visits commenced on 11 May 2021 and ended on 5 May 2022. See **Annexure 2** for a list of the SCCs that were visited.

This report compiles the findings of the visits to provide base-line information for the independent oversight mechanism.

The project team determined that it was necessary to bring a number of concerning observations to the immediate attention of the respective SCC managers and provincial departments of Social Development so that they could be addressed. Letters were sent to the Heads of Department and the Heads of SCCs.

The report refers to “some” SCCs, or “many” SCCs when making certain findings and recommendations. Not all criticisms are true for all centres. It is not the aim of the report to “name and shame” but rather to identify common and significant concerns that arose in the baseline study, to serve as a basis for ongoing monitoring of the improvements that are recommended. However, concerns relating to specific facilities have been presented to the centre managers and to the provincial departments of Social Development, to be acted upon in a focused manner.

The findings of this report feed into another objective of the overarching project, namely the development of a model of independent oversight, for specific application to Secure Care Centres, to reinforce the rights of children.<sup>12</sup>

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11 Virtual Project Team meeting, 17 May 2021 – debriefing from the visits and an opportunity to discuss future planning. Virtual Project Team Meeting, 24 June 2021 – debriefing from the visits and an opportunity to discuss future planning. In-person Project Team Meeting, 20 October 2021 – debriefing from the visits and the opportunity to discuss future planning.

12 In-person Project Team Meeting, 8 December 2021 – debriefing from the visits and the opportunity to discuss future planning.





## **THEME 1**

Implementation of International Law,  
South African legislation, Regulations  
and Norms and Standards

## 1.1 International law

The most relevant international instruments for this report are the UN Convention on the Rights of the Child (CRC), the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the OPCAT. These instruments have been ratified by South Africa. Reference is also made to the UN Standard Minimum Rules for the Treatment of Prisoners, also known as the “Mandela Rules”.

International law sets the benchmark for how children in institutional care, such as SCCs, should be treated, cared for and provided with the adequate support to facilitate their rehabilitation and reintegration into families, communities and society.

The preamble to the CRC provides that “for the full and harmonious development of [a child’s] personality [they] should grow up in a family environment, in an atmosphere of happiness, love and understanding”. The removal of the child from the family environment must, in terms of article 9 of the CRC, only occur when a competent authority determines, subject to judicial review, that such removal is in the child’s best interests and is in line with national laws and procedures. Article 9 goes on to state that the right of children to maintain personal relations and direct contact with their parents regularly should be respected except if it is not in the child’s best interests.

Article 3(1) of the CRC provides that in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. This amongst other things, means that when a “decision is to be made that will affect a specific child, an identified group of children or children in general, the decision-making process must include an evaluation of the possible impact (positive or negative) of the decision on the child or children concerned. ... the justification of a decision must show that the right has been explicitly taken into account ... States parties shall explain how the right has been respected in the decision”.<sup>13</sup>

Article 3(2) places the obligation on States to ensure that children receive protection and care that is necessary for their well-being. Article 3(3) further places an obligation on States to ensure that institutions, services, and facilities that are responsible for the care or protection of children conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 20 places the obligation on States to ensure alternative care for children who are deprived of their family environment or cannot remain in the family environment for their best interests. Such care includes, amongst others, suitable institutional care that is appropriate, necessary and constructive for the child concerned and in their best interests. The alternative care must affirm and implement the child’s right to safety, care, participation and development. There must also be suitable independent oversight, monitoring and complaints mechanisms.

13 UN Committee on the Rights of the Child (CRC), *General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration* (art. 3, para. 1), 29 May 2013, CRC/C/GC/14, available at: [https://www2.ohchr.org/english/bodies/crc/docs/gc/crc\\_c\\_gc\\_14\\_eng.pdf](https://www2.ohchr.org/english/bodies/crc/docs/gc/crc_c_gc_14_eng.pdf).



The CAT places the responsibility on ratifying States (in article 16) to prevent acts of cruel, inhuman or degrading treatment or punishment, and to prevent torture.<sup>14</sup> The OPCAT affirms the fact that strengthening the protection of people deprived of their liberty and the full respect for their human rights is a common responsibility shared by all. It establishes a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, to prevent torture and other cruel, inhuman or degrading treatment or punishment, namely the National Preventive Mechanism. Which has the power to carry out monitoring and oversight of places of deprivation of liberty, including Secure Care Centres. The NPM, in terms of OPCAT, has the power to carry out the following in relation to their oversight and monitoring role of places of detention such as Secure Care Centres:

- Regularly examine the treatment of the persons deprived of their liberty in places of detention with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment.
- Make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations.
- Submit proposals and observations concerning existing or draft legislation.

The UN Standard Minimum Rules for the Treatment of Prisoners applies to adult prisoners and to “young persons who come within the jurisdiction of the juvenile courts”. Preliminary observation 4 of the Rules states that although the rules do not seek to regulate the management of facilities for young offenders other than prisons, the general application aspects of the rules would be “equally applicable in such institutions”. These rules are of specific relevance to the treatment of detained persons and set out prohibitions and requirements relevant to this study, regarding practices such as strip searching, body cavity searching and the use of isolation or solitary confinement.



**The OPCAT affirms the fact that strengthening the protection of people deprived of their liberty and the full respect for their human rights is a common responsibility shared by all.**

<sup>14</sup> The International Court of Justice in the Case Concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), 26 Feb. 2007 reiterated that: “States have the primary responsibility for implementing ... articles [2 and 16 ], that strengthening the protection of people deprived of their liberty and the full respect for their human rights is a common responsibility shared by all and that international implementing bodies complement and strengthen national measures”.

## 1.2 National legal framework

### The Child Justice Act 75 of 2008

The Child Justice Act created a justice system which establishes a procedure to deal with children who are alleged to have committed crimes. This law recognises that a child should be dealt with in a child-friendly justice system to avoid the negative effects of encountering the mainstream criminal justice system. Equally, the child justice system is meant to prioritise prevention and early intervention (particularly through diversion), and to promote processes that look at the child's individual circumstances and the needs of the victim and society at the same time. The Act expressly promotes the spirit of Ubuntu, aims to break the cycle of crime in children's lives, it places emphasis on the role of the family and community to help with the child's reintegration into society, and is oriented towards restorative justice. At the same time, it has a strong human rights base, and aims to prevent deprivation of liberty by presenting alternatives to arrest, avoiding pre-trial detention and prioritizing community-based sentencing over custodial sentencing. Where children are detained – at any stage of the system – it should be as a measure of last resort and for the shortest possible period – which is also a key provision in the South African Constitution and the CRC.

The Act provides a clear procedural avenue from arrest until conviction and sentencing. This includes:

- Determination of criminal capacity of the child (whether the child has sufficient cognitive and conative ability to understand his or her actions, act in accordance with that, and understand the criminal proceedings).
- Assessment of children by a probation officer (social worker appointed to work in the child justice system).
- Diversion of the child from the criminal justice system.
- A preliminary inquiry for those not diverted by a prosecutor.
- Child Justice Courts put in place when children are criminally tried for offences.

The child justice system provides for preliminary inquiries to be held within 48 hours of a child's arrest and before their first court appearance. The magistrate at the preliminary inquiry considers the child's circumstances, family environment and the factors that may have led the child to committing a criminal offence. The magistrate may consider diverting the matter away from the criminal justice system or advancing the matter for trial in the Child Justice Court. A child can be diverted from the criminal justice system by a prosecutor before a preliminary inquiry, depending on the seriousness of the crime, or magistrate at a preliminary inquiry or child justice court. A Child Justice Court is any Magistrates Court or even a High Court that hears a trial involving a child who is alleged to have committed a criminal offence.

The Child Justice Act provides for three instances in which children in conflict with the law will be placed in residential care in SCCs:

- Awaiting trial: Section 29 of the Act states that a presiding officer may order that a child who is alleged to have committed an offence be detained in a child and youth care centre after considering certain factors.
- Diversion: Section 53(4)(b) of the Act states that children who have committed schedule 2 and 3 offences may be ordered to undergo level two diversion options which, amongst others, include compulsory attendance at a specified centre or place for a specified vocational, educational, or therapeutic purpose, which may include a period or periods of temporary residence. However, it should be noted that the primary approach to diversion should be non-custodial, and deprivation of liberty in such circumstances should be in rare circumstances.
- Sentence: Section 76(1) of the Act provides that a Child Justice Court that convicts a child of committing an offence may sentence the child to compulsory residence in a child and youth care centre that provides a programme referred to in section 191 of the Children's Act (a secure care programme).

The Child Justice Act concludes with chapters about appeals and reviews, expungement of criminal records, legal representation, and general provisions. However, it does not provide any normative guidance for the treatment of children in secure care. That guidance falls under the Children's Act 38 of 2005.

## The Children's Act 38 of 2005

Chapter 13 of the Children's Act provides for the establishment, management and running of Child and Youth Care Centres (CYCCs). A CYCC is a facility for the provision of residential care to more than six children outside the child's family environment in accordance with a residential care programme suited for the children in the facility. Section 195(3) and (4) of the Act provides that schools of industries<sup>15</sup> and reform schools<sup>16</sup>, which were run by the Department of Education, became the responsibility of the provincial departments of social development and had to be registered as CYCCs within two years of the commencement of chapter 13 of the Act.<sup>17</sup> Section 191(2) of the Act provides that a CYCC must offer a therapeutic programme designed for the residential care of children outside the family environment which may include a programme designed for children awaiting trial or sentencing (often referred to as SCCs, although technically they are CYCCs offering a secure care programme).

The regulations to the Children's Act (regulations 73 to 90) provide detailed guidance on the running of CYCCs (including SCCs) and specifically address the following:

- The rights of children in Child and Youth Care Centres;
- Complaints procedure in Child and Youth Care Centres;
- Core components and implementation of programmes relating to the developmental, therapeutic and recreational needs of children;
- Behaviour management in Child and Youth Care Centres;
- reporting responsibilities of staff; and
- Further regulations on the registration, running and management of Child and Youth Care Centres.

15 A school maintained for the reception, care, education and training of children sent or transferred thereto under the Child Care Act, Act 74 of 1983 as amended. Children placed in this residential institution must have been declared by a Children's Court as being in need of care.

16 A school maintained for the reception, care and training of children sent thereto in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), or transferred thereto under the Child Care Act, Act 74 of 1983. In other words, this is a residential institution where children who have been sentenced by courts of law are placed.

17 The deadline for the transfer was 1 April 2012.



**The Child Justice Act concludes with chapters about appeals and reviews, expungement of criminal records, legal representation, and general provisions.**

The National Norms and Standards are set out in Annexure B to the Regulations. They address numerous issues in the running of CYCCs and care of children placed within them. These include:

- Residential care programmes;
- Developmental programmes;
- Permanency plans for children;
- Individual development plans;
- Temporary safe care;
- Protection from abuse and neglect, assessment of children;
- Family reunification;
- Aftercare;
- Access to and provision of adequate health care;
- Access to schooling;
- Education and early childhood development, security measures for Child and Youth Care Centres and
- Measures for the separation of children in secure care programmes from children in other programmes.

They are referred to frequently in this report, as they prescribe the legal guidance under which the care of children in SCCs must be provided. Additionally, there are provisions in the law that require the reporting of certain rights violations of children by persons or professionals who know about or receive them. These include mandatory reporting of child abuse in terms of section 110 of the Children's Act 38 of 2005 and sexual offences in terms of section 54 of the Sexual Offences Act.

### 1.3 Blueprint, Minimum Norms and Standards for Secure Care Facilities in South Africa

In preparation for the visits, it was noted that the Provincial Departments of Social Development are working from a common policy called the “Blueprint, Minimum Norms and Standards for Secure Care Facilities in South Africa” (from now on referred to as the Blueprint), a document produced by the National Department of Social Development (NDSD). Many of the managers and practitioners the project team interviewed referred to “the Blueprint” when they were explaining their practices. Some SCCs, and the various provinces, seem to use it more than others.

Because of the discussions at the SCCs and mounting concern about practices, the project team examined the Blueprint in greater detail. Given that the Blueprint is presently the policy guiding secure care in the country, it was noted with concern that certain of the content is confusing, is causing some of the problems the team has identified, and in a number of instances is not in line with Child and Youth Care good practice e.g. professional behaviour management in the life-space of the child has been reduced to instructions on the management reviewing children's behaviour each day and deciding what the consequences will be in Child and Youth Care, or Secure Care. There are also certain references to the law that are outdated, and aspects that are not fully in line with the legal and regulatory requirements. The concern is that this document has a considerable influence on practice and the functioning of the SCCs. A detailed analysis of the concerns regarding this policy document is included as **Annexure 3**.





## **THEME 2**

Utilisation of Secure Care Centres

## 2.1 Secure Care Centres

Secure Care Centres in South Africa fall under the Department of Social Development. They accommodate children who are referred by the child justice courts, awaiting trial, sentenced and “residential” diversion. There are 30 SCCs spread across South Africa’s 9 provinces,<sup>18</sup> see **Annexure 2** for details and each provincial department has the mandate to manage SCCs within their jurisdiction, as this is a provincial competency. The provincial head of social development must:

- Maintain a record of all Child and Youth Care Centres, including SCCs, in the province and of the programmes offered by each centre.
- Provide and fund centres within their province.
- Manage and maintain the centres in accordance with the Children’s Act.<sup>19</sup>

### CHILDREN IN SECURE CARE CENTRES



#### AWAITING TRIAL

Section 29 of the  
Child Justice 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.”



#### DIVERSION

Section 53(4)(b) of the  
Child Justice Act

“Level two diversion options include ... compulsory attendance at a specified centre or a place for a specified vocational, educational or therapeutic purpose, which may include a period of periods of temporary residence.”



#### SENTENCE

Section 76(1) of the  
Child Justice Act

“A child justice court that convicts a child of an offence may sentence him or her to compulsory residence in a child and youth care centre providing a programme referred to a section 191 (2) (j) of the Children’s Act.”

<sup>18</sup> The project team visited 29 Centres but did not visit Mohele Mampe in Kimberly because the NPM had visited there recently as well as Mafikeng SCC as it was not operational during the duration of the visits.

<sup>19</sup> Section 192–3 of the Children’s Act.

South Africa has a proud record of having reduced the number of children in correctional centres by more than 80% over the past decade. Until the *Global Study*, it was impossible to assess whether this was a general reduction in detention, or just a movement of children from one type of detention to another (from prisons to secure care). The reason that it was not possible is that, until the efforts made for the *Global Study*, the annual figure reported of children in secure care was a figure that included all admissions over the course of the year. The figures presented for the *Global Study* were “snapshot” figures of all children in SCCs on 28 June 2018. This allowed for a proper comparison with other figures such as the number of children in prison, for the first time ever. What it revealed was that there were 948 children in SCCs, which was far higher than the number in prison. The figures also revealed that 273 of these children were sentenced, and 675 were awaiting trial. This is not a healthy picture – ideally the number of awaiting trial children should be lower than the number of those sentenced.

**TABLE 1:** Children in Secure Care Centres, snapshot, 26 June 2018

SCC sentenced	273
SCC awaiting trial	675
Secure Care Centres (total)	948

The number of children in prisons (which fall under the Department of Correctional Services) on 28 June 2018 was reported as a total of 242, of these, 110 were awaiting trial, and 132 were sentenced.

The number of children in SCCs visited during 2021 and 2022 remained stable. However, a direct comparison of the 2018 snapshot data with the 2021/22 data collected during the project team visits of, and interaction with, the Secure Care Centres is not possible due to the different methods of collection (i.e., snapshot on one day versus daily actual figures collected over a period of roughly 12 months). Also, this base-line study captured residential diversion numbers separately from awaiting trial numbers, which the 2018 figures did not. This being said, it is still possible to glean observations relating to trends, within the child justice system, provided by each data set. As with the 2018 snapshot data, the 2021/22 data tells us that there is still a high number of children in SCCs with the highest being those awaiting trial compared to those who have been sentenced. This continues to reflect an unhealthy picture. It begs the question whether presiding officers as well as probation officers are seriously considering the use of community and/or family-based interventions that the Child Justice Act promotes; why they are not considering these interventions; and what can be done to prevent such high use of methods that deprive children of their liberty.

**TABLE 2:** Children in Secure Care Centres, actuals collected 2022

SCC sentenced	271
SCC awaiting trial	469
Diversion	230
Secure Care Centres (total)	970

The project team carried out visits to SCCs in all the nine provinces of the country that provide care and services to children in conflict with the law who are awaiting trial, diverted, or sentenced.



The overarching findings, based on the quantitative data gathered during the visits, and the qualitative data set out below, are as follows:

- The current SCC model maintains large buildings that are underutilised, in remote areas.
- Positive gains brought about by the Child Justice Act and the efforts of government departments to reduce the number of children in the system has led to a situation where there are relatively few children requiring SCCs services. There is a feeling of “emptiness” in these large institutions.
- Some centres are very high security, giving a “prison-like” impression, and this level of security is probably not cost-effective, given the small numbers of children inside premises with extensive perimeter fencing.
- There is a higher number of awaiting trial children in secure care than sentenced children, which is a concern, and should also cause a review of whether pre-trial detention is necessary in all cases. Home based supervision by probation officers could, in some instances, be equally effective to ensure that children stand trial.
- There is an over-utilisation of residential diversion (230 children). A close examination of a sample of selected files of diverted children indicated that they are in many cases children who are in need of care and protection, whose parents are unable or unwilling to care for and guide them during adolescence. Non-residential programmes should be considered, or care and protection measures should be expanded so that these children are not brought into the child justice system to receive services.

The following are brief profiles of the SCCs visited.

## 2.2 Secure Care Centre profiles

### 2.2.1 Gauteng

The project team visited Walter Sisulu Child and Youth Care Centre, Soshanguve Child and Youth Care Centre and Mogale Child and Youth Care Centre in May and June 2021.

Walter Sisulu Child and Youth Care Centre admits children who are awaiting trial and placed on diversion, it has capacity to admit 114 children. On consultation with the Centre on 20 July 2022, it was advised that it had 55 children awaiting trial and 20 children in diversion.

Soshanguve Secure Care Centre admits children who are awaiting trial, placed on diversion and who are sentenced, it has the capacity to admit 120 children (even though it is designed to accommodate 260 children). At the time of the visit on 13 May 2021, the Centre had 54 children in its care, this included 13 boys who had been sentenced, 37 children awaiting trial, and 4 children in diversion.

Mogale Leseding Child and Youth Care Centre admits children who are sentenced and placed on diversion with a capacity to admit 200 children. At the time of the visit on 11 May 2021, the centre had 47 children in its care, this included 34 children who had been sentenced and 13 children placed on diversion. The centre was ultimately closed by the Department of Social Development in 2021 after the visit was conducted by the project team for reasons unrelated to the project.

### 2.2.2 Free State

The project team visited the Thabo Mofutsanyane Secure Centre, Matete Matches Secure Care Centre and Winkie Direko Secure Care Centre in June and September 2021.

Winkie Direko Secure Care Centre admits children who are awaiting trial. A meeting was held with Centre management on 17 June 2021. It was established that there were 8 children being cared for at the Centre at the time.

Thabo Mofutsanyane Secure Centre admits children who are awaiting trial or who have been sentenced. The centre has the capacity to receive 68 children. At the time of the visit, on 15 and 16 September 2021, the Centre had 17 children awaiting trial.

Matete Matches Secure Care Centre is registered to receive children who are awaiting trial. At the time of the visit, on 15 and 16 September 2021, the Centre had 8 children in its care who were awaiting trial.

### 2.2.3 Eastern Cape

The project team visited Enkuselweni Child and Youth Care Centre, John X Merriman Child and Youth Care Centre, Bhisho Child and Youth Care Centre, Qumbu Child and Youth Care Centre and Lulama Futshane Child and Youth Care Centre in September 2021 and April 2022.

Enkuselweni Child and Youth Care Centre admits children awaiting trial and children on diversion. On consultation with the Centre on 19 July 2022, it was advised that the Centre had 9 children awaiting trial and 17 children on diversion.

John X Merriman Child and Youth Care Centre admits children who are awaiting trial and children placed on diversion, it has capacity for 100 children, namely 80 boys and 20 girls. At the time of the visit to the Centre, on 6 and 7 September 2021, it had 60 children, namely 30 children were awaiting trial and 30 who were on diversion.

Bhisho Child and Youth Care Centre admits children who are sentenced, it has capacity for 100 children and at the time of the visit, on 8 September 2021, it had 31 children from different areas in the Eastern Cape. The Eastern Cape Department of Social Development is currently in the process of merging John X Merriman Child and Youth Care Centre with Bhiso Child and Youth Care Centre.

Lulama Futshane Child and Youth Care Centre admits children who have been sentenced. It has capacity to receive 62 children (but is licenced to accept up to 50 children). At the time of the visit, on 21 and 22 April 2022, the Centre had 40 children in its care.

Qumbu Child and Youth Care Centre admits children who are awaiting trial and children placed on diversion, it has a capacity to receive 48 children. At the time of the visit, on 4 and 5 May 2022, the Centre had 6 children awaiting trial and 7 children on diversion.

### 2.2.4 Kwa-Zulu Natal

The project team visited Sinethemba Child and Youth Care Centre, Valley View Child and Youth Care Centre, Excelsior Child and Youth Care Centre, and Ocean View Child and Youth Care Centre in September 2021 and February 2022.<sup>20</sup>

Sinethemba Child and Youth Care Centre admits children who are awaiting trial and in diversion. It has the capacity to admit 39 children, boys and girls. At the time of the visit on 17 September 2021, the Centre had 9 children.

Valley View Child and Youth Care Centre admits children who are awaiting trial and on diversion, it has the capacity to admit 20 children in its secure care centre section. At the time of the visit on 14 and 15 February 2022, it had 10 children who were awaiting trial.

Excelsior Child and Youth Care Centre admits children who are awaiting trial. The Centre has the capacity to admit 37 children and had 8 children in its care at the time of the visit on 14 and 15 February 2022.

Ocean View Child and Youth Care Centre admits girls in conflict with the law who are awaiting trial, however at the time of the visit there were no children as it was undergoing renovations. The Centre will have the capacity to admit 15 children awaiting trial.

### 2.2.5 Western Cape

The project team visited Clanwilliam Child and Youth Care Centre, Outeniekwa Secure Care Centre, Bonnytown Child and Youth Care Centre, Vredelust Child and Youth Care Centre and Horizon Child and Youth Care Centre in October 2021.

Clanwilliam Child and Youth Care Centre admits children who are awaiting trial and in diversion. It also accommodates children who are in need of care and protection in terms of the Children's Act. At the time of the visit, on 11 and 12 October 2021, it had 20 children awaiting trial and 1 child in diversion. It also had 53 children placed in terms of the Children's Act.

Outeniekwa Secure Care Centre admits children in conflict with the law who are sentenced and awaiting trial. It also accommodates children in need of care and protection in terms of the Children's Act and has the capacity to accommodate 140 children. At the time of the visit on 11 and 12 October 2021, the centre had 105 children, this included 26 sentenced children, 20 children awaiting trial and 59 children in need of care and protection.

Bonnytown Child and Youth Care Centre admits children who are awaiting trial and who have been sentenced. At the time of the visit to the Centre, on 13 and 14 October 2021, it had 67 children awaiting trial and 28 children who had been sentenced to the Centre.

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<sup>20</sup> During the visits to the abovementioned Centres, it came to the attention of the project team that the Newcastle Reform School is still functional and being run by the Department of Social Development together with the Department of Basic Education and admits children who are sentenced in terms of the Child Justice Act. The project team was unfortunately unable to conduct a visit. However, it is planned that the NPM and/or the SAHRC will conduct a visit in due course.



Vredelust Child and Youth Care Centre admits children who are sentenced, awaiting trial and children in need of care and protection placed in terms of the Children's Act. At the time of the visit on 13 and 14 October 2021, the centre had 3 sentenced girls, 8 girls awaiting trial and 31 girls in need of care and protection.

Horizon Child and Youth Care Centre admits children who are awaiting trial, on diversion and sentenced. The Centre has the capacity to admit 205 children. At the time of the visit on 15 and 16 October 2021, the Centre had 36 boys who were sentenced, 60 boys awaiting trial and, 8 boys on diversion. It also had 27 children in need of care and protection.

## 2.2.6 North West

The project team visited Rustenburg Child and Youth Care Centre and Matlosana Secure Care Centre in October 2021.

Rustenburg Child and Youth Care Centre admits children who are awaiting trial, sentenced and placed on diversion. At the time of the visit, 25 October 2021, the centre had 17 children under its care; 7 children awaiting trial, 1 sentenced child and 9 children placed on residential diversion.

Matlosana Secure Care Centre admits boys who are awaiting trial and on diversion. The Centre has the capacity to admit 60 children. At the time of the visit on 26 October 2021, the Centre had 16 children under its care: 8 children in diversion and 8 children awaiting trial.

## 2.2.7 Limpopo

The project team visited Mavambe Secure Care Centre and the Polokwane Secure Care Centre in February and March 2022.

Mavambe Secure Care Centre admits children who are awaiting trial, on diversion and are sentenced. The Centre has the capacity to admit 70 children, namely 60 boys and 10 girls. At the time of the visit on 28 February and 1 March 2022, the centre had 61 boys, namely 24 awaiting trial, 9 who had been sentenced to the Centre and 28 in diversion, it also had 6 girls all on diversion.

The Polokwane Secure Care Centre admits children who are awaiting trial, on diversion and are sentenced. The Centre has the capacity to admit 110 children, namely 100 boys and 10 girls. At the time of the visit on 28 February and 1 March 2022, the Centre had 55 children under its care, namely 19 children awaiting trial, 32 children in diversion, and 12 children sentenced.



# 205

**Horizon Child and Youth Care Centre has the capacity to admit 205 children.**

## 2.2.8 Mpumalanga

The project team visited Ethokomala Secure Care Centre and Hendrina Secure Care Centre in March 2022.

Ethokomala Secure Care Centre admits children who have been sentenced in terms of the Child Justice Act. The Centre has the capacity to admit 60 children, it had 7 children under its care at the time of the visit on 14 and 15 March 2022.

Hendrina Secure Care Centre admits children who are awaiting trial. The Centre has the capacity to admit 50 children (40 boys and 10 girls), at the time of the visit Centre on 14 and 15 March 2022, it had 16 children in its care (15 boys and 1 girl).

## 2.2.9 Northern Cape

The project team visited De Aar Secure Care Centre, Marcus Mbetha Sindisa Child and Youth Care Centre and Namaqua Secure Care Centre in April and May 2022.<sup>21</sup>

Marcus Mbetha Sindisa Secure Care Centre admits child who are awaiting trial and who are on diversion. It has the capacity to admit 40 children. On consultation with the Centre on 19 July 2022, it was advised that the Centre had 2 children awaiting trial, and 11 children on diversion.

Namaqua Secure Care Centre admits children who are on diversion, who are awaiting trial and who have been sentenced. The Centre has the capacity to admit 40 children. On consultation with the Centre on 19 July 2022, it was advised that the Centre had 9 children awaiting trial, 25 on diversion and 9 who had been sentenced to the Centre.

De Aar Secure Care Centre admits children who are awaiting trial, who have been sentenced and who are on diversion. It has the capacity to admit 51 children. At the time of the visit Centre on 9 and 10 May 2022, it had 37 children in its care, namely 2 awaiting trial, 17 on diversion and 18 sentenced children.

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21 Molehe Mampe Secure Care Centre was not visited by the NPM/CCL during the project as the NPM had conducted a visit to the centre a month prior to beginning of the joint visits. The centre detainees awaiting trial male boys in conflict with the law. It has the capacity to detain 60 children and as of 21 September 2022 the centre was detaining 19 children.



## **THEME 3**

Professional Resources





**The staff in most SCCs include the head of the SCC (usually a social worker), social workers, auxiliary social workers, occupational therapists, psychologists, teachers, child and youth care workers, and auxiliary child and youth care workers.**

### 3.1 Professional resources

The staff in most SCCs include the head of the SCC (usually a social worker), social workers, auxiliary social workers, occupational therapists, psychologists, teachers, child and youth care workers, and auxiliary child and youth care workers. The CYCWs are on duty 24-hours a day, functioning in 8-hour shifts. This is the largest group of staff and the professionals who are the subject of the staff to child ratio. Many SCC's have outsourced personnel such as security guards, gardening services, catering services, and medical staff (this varies), the focus of this thematic chapter is on professional staff employed directly by the Departments of Social Development and Education.

### 3.2 Personnel to child ratio

In all but a few SCCs, the CYCW personnel to child ratio seems adequate i.e., 1 child to 4 or more personnel. On the face of it this appears to be positive. The assessment of the team, however, is that in many instances this is linked to the low numbers of children in centres. There was a notable "emptiness" of SCCs, with most institutions being significantly larger than necessary for the current cohorts of children. The project team noted that despite under-utilisation of many centres the numbers of staff remain the same or close to the same number that would be needed should the centre be fully utilised.

### 3.3 Qualifications and registration of child and youth care workers

Since the inception of "Secure Care" during the transformation of the Child and Youth Care (CYC) system in the late nineties, standards and policy have been clear that only the most highly qualified CYCWs and other professionals should be employed in this service. This is restated in the National Blueprint on Secure Care. This is due to the complex and challenging nature of secure care practice and the complex needs of children who are served by these centres. The visiting team found that this standard is generally not met in SCCs across the country. For example, in numerous SCCs auxiliary child and youth care workers with basic qualifications are in supervisory or team leader positions.

The qualifications, competency, registration, senior posts, and salaries of CYCWs are issues that were raised by CYCWs across the country, as well as noted by the visiting team as a serious issue impacting the wellbeing of both children and CYCWs. This concern needs to be addressed by the National and Provincial Departments of Social Development, together with tertiary education institutions, the South African Council for Social Service Professions (SACSSP) and other training organizations and service providers.

Most CYCWs have a basic qualification in CYC, have had little, if any further training since starting their employment at the SCCs, and no specific training geared to work in Secure Care. It was the exception to find CYCWs with a degree or diploma and thus registered as professional CYCWs. The majority of CYCWs interviewed are committed to the children and doing the best they can to offer programmes and provide the therapeutic care and development that children need. However, many of them lack competence and knowledge and are finding the work extremely challenging and, in several instances, emotionally overwhelming. In several SCCs this is resulting in serious harm to children, and/or the neglect of children. A project team member observed as follows:

**“ In one of the centres children indicated that they deliberately find ways to get into trouble, because that is the only way they can get any attention.**

Many CYCWs have worked for over 10 years in a centre yet have been in the same role, earning the same salary, and having very little professional development and support. In the meantime, newly hired CYCWs are taking on team leader's positions with no experience at all.

As per the law on the Council for Social Service Professionals, registration with the professional council has been a legal requirement for more than 15 years and the government (or NGOs) may not employ unregistered Social Workers or CYCWs. The relevant provincial government departments have not adhered to this legal requirement. They also have not met their obligation to do in-service training or support CYCWs to gain the necessary qualifications for registration. In some instances, the team found that staff who were skilled at a certain sport or activity were holding CYCW positions without any qualification in CYC at all.

CYCWs can register as auxiliary workers with a basic qualification, but then must complete a further qualification, to become fully registered. Few have the training and experience to fulfil this requirement.



**Many CYCWs have worked for over 10 years in a centre yet have been in the same role, earning the same salary, and having very little professional development and support.**



**Provincial governments have not taken seriously the policy that the most highly qualified and experienced CYCWs should be employed in secure care.**

The project team noted that these service providers have been neglected by the government and the South African Council for Social Service Professions (SACSSP). It is also clear that provincial governments have not taken seriously the policy that the most highly qualified and experienced CYCWs should be employed in secure care. It is concerning that personnel who are harming or may harm children, either wilfully or through poor practice, are remaining in the SCCs without the necessary support to improve their performance. All the above issues have a direct bearing on the services provided to children in secure care and are considered serious matters that require urgent attention.

### 3.4 Supervision

There are some SCCs that have a system of supervision that is working well. However, the project team noted with concern that in several centres, supervision which is typically focused on personal and professional development, is absent and/or has been established as a monitoring role. Staff complained that they receive few opportunities to debrief after serious incidents, or to receive guidance and support on how to deal with such situations more effectively. This applies to both social workers and CYCWs.

### 3.5 Attitudes

It was gratifying to find many caring, committed, principled professional staff in many SCCs. This is not the case equally in all centres across the country. In several SCCs the attitudes toward the children by some management and professional staff, come across as inappropriate and unprofessional in relation to the principles in the Regulations and the Blueprint. In too many of the SCCs children are seen as “criminals” first, and then as children. Some personnel seem oblivious to children’s rights or the law. The attitude appears to be that these “criminals” can and should be treated according to the crime they have committed or are alleged to have committed. There appears to be a link between these attitudes and some situations reported to the team, regarding children are being subjected to degrading treatment, amounting to abuse, and are kept in conditions that do not take account of their age and do not promote their dignity.



It was noted that staff members appeared to assume that all children in SCCs are males or females, and there were no policies for gender non-conforming children. While no clear bias or discrimination was identified, staff did not appear to have any protocols or guidance regarding the management of transgender or intersex children that might be received at SCCs.

It was also noted that personnel were not trained to deal with sexual activity among children at the SCCs, including between children of the same gender. When asked about the availability of condoms for consensual sexual interactions, staff indicated that this would “encourage” sexual relations between children. This attitude may lead to poor sexual health, including STIs and HIV/AIDS.

### 3.6 Teamwork among professionals

While in many SCCs the teams are inclusive and respectful of each person’s discipline, there are centres where a hierarchy exists within the professional team. For example, managers, psychologists, and social workers are considered “above” CYCWs. Examples are: (a) CYCWs are left out of the MDT except to support a child who is in trouble, (b) When social workers want information from a CYCW they approach them, but information regarding the child they are caring for is not provided to them by social workers, and (c) in numerous SCCs CYCWs are supervised by social workers. In several SCCs the team found that social workers were coming into children’s bedrooms and recreation areas to “help” CYCWs with their job, tell them what to do, and decide on discipline for the children if needed. As a project team member observed:

“In one Centre the social workers were touring from dorm to dorm in the early morning to make sure the children have made their bed according to the rules, and to chastise them or decide on punishment for those children who had not. When asked why, the reply was that the CYCWs needed their support.

Not only is this not the social worker’s role, but as with the MDTs it is a focus on “behaviour modification” rather than care. It is concerning that the same professionals who are meant to provide therapy and build trust with the child, are involved with discipline, checking on compliance with rules, and at times recommending that their client be punished.



**Staff did not appear to have any protocols or guidance regarding the management of transgender or intersex children that might be received at SCCs.**



**Professional personnel should be with the children moving through the SCC. There appear to be different approaches to security and to the role of security personnel across provinces.**

### 3.7 Security personnel

It was noted that security personnel need clarification on their role in relation to children, as well as the SCC as a whole. As an example, the team found instances where security personnel were searching bedrooms or dormitories. This is considered inappropriate for their role and a violation of the children's privacy. Their role is to remain as perimeter security and not have any access to children, to children's rooms, or personal belongings unless an emergency occurs where professional personnel are unable to control a group of children or there is an immediate threat of significant harm to children in the SCC. Searching rooms would not fall into this category. Their role is, however, to be sure that children move securely from section to section in a centre i.e., manage the gates, and to ensure entrances and exits are guarded. Professional personnel should be with the children moving through the SCC. There appear to be different approaches to security and to the role of security personnel across provinces. A further concern noted by the team is the rotation of security firms and other outsourced services and personnel. This creates challenges regarding personnel being adequately trained in the specific requirements of doing their work within a SCC and in building working relationships with personnel across the Centre. Without uniformity in the supply chain management, accountability deficits tend to emerge.



## **THEME 4**

Basic Care



Regulation 73(d) to the Children's Act states that every child that is cared for in a child and youth care centre has the right to adequate nutrition, clothing, nurturing and to be given the same quality of care as other children in the child and youth care centre. The norms and standards for CYCCs, set out in Annexure B to the Regulations, further provide that all children in CYCCs must have access to health care services.

## 4.1 Basic care

### 4.1.1 Health care and access to medical staff

The SCCs had on-site clinics staffed by nurses to provide basic health care services to the children. There are instances in which centre management or the nurses themselves expressed concern about the clinics being understaffed and/or not having all the necessary resources to provide the required standard of health care services to the children. Often, when the required medical care cannot be provided by the on-site clinics, children are referred to doctors and other professionals in community clinics, hospitals, and health care centres. In some instances, it may take a long time to get an appointment with (and receive feedback from) relevant specialists such as mental health care professionals, thereby delaying children's access to medical care and support.

Engagements during the visits revealed some shortcomings in the way health care services are provided in many of the SCCs. These include the following:



Often, children must go through CYCWs to get access to the clinics and assistance from the nurses. Some children reported that when requests are made to see nurses outside of the set consulting hours it can sometimes be difficult to obtain permission to do so or they are not taken seriously.



Insufficient medical care may be provided in some instances, e.g., allegations of receiving the same medication for different health care issues. There is also a shortage of medical equipment necessary to provide basic and urgent medical care and treatment including emergency trolleys and oxygen.



Understaffing of clinics means that children are not able to access on-site medical care outside certain hours or during weekends. Access to other on-site medical professionals including doctors and other specialists such as psychologists and occupational therapists is also limited.

### 4.1.2 Hygiene, bedding, and clothing

Children in all the SCCs visited are provided with toiletries at differing intervals, depending on the centre procedures and practices. Such toiletries include, but are not limited to, toothbrush (sometimes shortened, allegedly for safety reasons, depending on centre practice) and toothpaste, toilet paper, body lotion, soap, or body wash, roll on deodorant and sanitary pads. Concerns that arose during visits related to delays, in some centres, in replacing toiletries when they finished (in a few instances children would barter with each other to replace finished items); lack of alternatives when some toiletries, e.g., soap, proved to be too harsh to the skin; and sometimes children are reluctant to ask CYCWs for more toiletries because of the responses they will receive e.g., insults. In some instances, things like lotion and toilet paper would be kept by the CYCWs and provided to the children when they showered or needed to make use of the ablution facilities.

One aspect about which the team was particularly concerned, was that some SCCs limit the provision of sanitary pads in a way that infringes dignity and privacy and places hygiene at risk. Persons deprived of their liberty do not lose their right to be treated with humanity and respect for their inherent dignity.

There were not many complaints in relation to bedding. The few complaints received related to bedding being old, not washed and replaced often enough, not warm enough and mattresses being too flat, itchy, or uncomfortable.

Clothing was a major concern raised by children interviewed during the oversight visits. Many of the SCCs require children to hand over their personal items (clothes, underwear, and shoes) at the time of admission and are given centre allocated items which are supposed to be washed regularly during the children's stay at the SCCs. Concerns were raised about the quality of the clothing given to the children in some centres, they were second-hand and old, sometimes not the right size (e.g., pants and shoes) and often difficult to have replaced on request. Sometimes the clothing items received were insufficient. In some instances, items of clothing did not adhere to needs arising due to weather changes, e.g., clothes not being warm enough. Following a visit to one of the centres where clothing was not provided, a project team member raised the following concerns:

“ *The children are not provided with standardised clothing. They wear their own clothes. Most of them had shoes that are in very bad condition, and they use nails and screws in efforts to repair the shoes. This exposes them to issues of inequality and has led to the children bartering clothes for food.* ”



**Many of the SCCs require children to hand over their personal items (clothes, underwear, and shoes) at the time of admission ...**



**At many centres, the effort was made to determine children's allergies or food preferences for cultural or religious reasons and provide them with food that met their therapeutic needs.**

### 4.1.3 Food

Ensuring children's access to food on a regular basis was an undertaking evident in all SCCs that were visited. The children had 3 full meals a day and, depending on the Centre practice, at least two snacks a day in-between the full meals. At many centres, the effort was made to determine children's allergies or food preferences for cultural or religious reasons and provide them with food that met their therapeutic needs.

In the relatively few cases where there were complaints about food these included food being stale, overcooked or undercooked, and need for a greater variety. These kinds of issues can be dealt with through improved internal mechanisms for feedback relating to food. Sometimes, attempts by the children to complain about the food resulted in them being shouted at, ignored by kitchen or dining room staff, or exposed to other inappropriate responses such as "[you] are not at a hotel" or "this is not your home". It should be noted that sometimes these negative responses came from contracted service providers of the food handling and preparation whose interactions with children should be minimal and positive.

It was noted that a few SCCs did not have certificates of acceptability for food handling and preparation in accordance with the Regulations governing general food hygiene requirements for food premises and the transportation of food. These Regulations provide sanctions for food handling and preparation without certification. Equally, some kitchens did not keep food samples.





## **THEME 5**

Safety, Dignity, Care, and Management  
of Challenging Behaviours

## 5.1 Searching children

The interviews revealed that it is a common practice in SCCs that upon arrival, and after each visit to court for children awaiting trial, children are subjected to a strip search. This involves removing clothing, and in some instances even involves more invasive searching of body cavities. When staff were interviewed about this, it was not denied. Reasons provided for this practice related to the smuggling of contraband such as drugs or cigarettes, and of weapons such as knives and razor blades.

The regulations to the Children's Act do not empower officials to undertake strip searches. This is a serious violation of privacy and dignity, which are rights protected under the South African Constitution, and in international and regional law. According to Rule 50 of the Mandela Rules, "Searches shall be conducted in a manner that is respectful of the inherent human dignity and privacy of the individual being searched, as well as the principles of proportionality, legality and necessity". Regarding strip and body cavity searches, Rule 52 requires that these be undertaken "only if absolutely necessary" and "that alternatives should be sought".

Although rights may be restricted to serve a legitimate purpose, these searches are being carried out in a routine manner and are not based on any type of risk assessment. In 2006 in the United Kingdom, the Carlisle Report into the treatment of children in UK's secure centres for youth required that searches should be risk assessment led. The Howard League in the UK has successfully campaigned to put an end to strip-searching, and this practice has now been stopped in UK's youth centres.

To comply with the South African Constitution, an urgent review of the current practice of strip searching and cavity searching in SCCs must be undertaken. General searching of children should not be invasive and should be risk-assessment led. If weapon smuggling is a genuine concern, then other methods of detection should be considered. The National Department of Social Development should take the lead in the development of the national regulation of searching practices. These urgent measures should be followed by a long-term assessment of the feasibility of technological and other solutions to reduce risk and avoid searching as far as possible.

## 5.2 Complaints procedures and follow-up

Regulation 74 of the regulations to the Children's Act requires each child and youth care centre to have a written complaints procedure, approved by the centre's management board, which must:

- a. be appropriate to the age and stage of development of the children residing at the centre;
- b. allow for children to complain about particular incidents or staff members;
- c. be accessible to the children;
- d. be structured in such a manner that it does not cause conflict;
- e. encourage restorative justice interventions, where appropriate; and
- f. allow for fair procedures for those who have allegations made against them.



A child must be informed of the complaint's procedure upon their admission at the SCC. The norms and standards for CYCCs in Annexure B to the Regulations to the Children's Act further provide that the child must be informed about policy and procedure regarding complaints and follow up action and must be provided with information and knowledge which ensure that they can use these procedures effectively when needed.

Findings in relation to the existence and/or documentation of complaints procedures are mixed. Some SCCs have clearly documented complaints procedures that are explained and made available to the children, and others do not have complaints procedures that can at least be easily referred to by the children. Below are complaints handling procedures that were noted during the visits, centres tend to use a mixture of them:

- In many instances children had to go through levels of staff members to escalate their complaints and have them heard. For instance, the first port of call is the CYCW (if a complaint is against a particular CYCW then another is to be approached by the child). If the matter cannot be resolved by the CYCW then it can be escalated to the CYCW team leader and/or a social worker during individual sessions and/or when a child asks to see a social worker (this is usually done through a CYCW). If the matter is still not resolved, then it is escalated to the centre manager or the multidisciplinary team.
- In a few SCCs, children find it easy to go to social workers and/or the centre manager directly to lay their complaints, particularly if they are of a private nature, for example if social workers made it a point to make themselves available to the children every day.
- The children are, in some SCCs, part of "Youth Forums", "Imbizos" or platforms that go by other names in which they (as a group) get together to record and report on complaints they have and make them available to centre management. Such platforms meet regularly where children make their complaints known to management and where they receive feedback from management.
- Complaint boxes are made available in some SCCs for children to make anonymous complaints. These boxes are usually accessed by the centre manager.

There are occasions in which complaints laid by children are taken up and addressed timeously and in an appropriate manner.

**“** *The children say that they complain to the CYCWs and the complaints often get sorted without having to be directed to the social worker or any third party.*



**In a few SCCs, children find it easy to go to social workers and/or the centre manager directly to lay their complaints, particularly if they are of a private nature ...**

Then there are many instances in which this does not occur, issues raised by the children may or may not be taken up or taken seriously. Children do not receive feedback when they do complain. Some children reported that when they tried to complain they receive responses that discouraged them such as the following:

- “ We try to complain/raise issues we are told by the CYCWs that we are being disrespectful.
- “ We are not taken seriously when we complain. Even by management. We are told that we want to be special.
- “ Some CYCWs are good, they help us to do better. Some are not good. They do not even listen to our complaints. We are told that this is not our home.
- “ Complaints are not adequately addressed, for example bullying, nothing happens. It takes away trust in CYCWs and the centre. It’s hard to change in this place because we could be stressing about things happening in the centre that are not addressed.

### 5.3 Professional care

“Care” is a professional area of practice undertaken by CYCWs. This goes well beyond the provision of basic care. It includes therapeutic life-space behaviour management, behaviour development, care routines, and therapeutic life-space work. All of these must be contextualised within a strong, positive relationship. CYC work is thus understood as relational work.

It was noted with concern that numerous aspects of professional care are significantly undermined by rules set up by the some of the SCCs, requiring CYCWs to “watch” children, to sit in adjoining rooms and observe children, to make sure that they are obeying rules, and reporting or punishing children who do anything wrong. Care routines, such as sitting with and engaging with children during meal times, and routines related to going to bed and waking up, are disregarded in many centres.

Children complained of being “locked up” by 5.00pm or 6.00pm with nothing to do between then and lights out at 9.00pm. They complained that although there was a TV set in their section, they could not view it after “lock up” time. In some centres there were complaints that there was nothing to do even if they were not “locked up” early, and some children indicated that if they called the CYCW to come to them at night, they did not respond.

### 5.4 Behaviour Management

Regulation 76(2) of the Regulations to the Children’s Act indicates that certain behaviour management actions are expressly prohibited. Those that are most pertinent in relation what was found by the visiting team are, (c) humiliation or ridicule; (d) physical punishment; (h) isolation, other than for medical reasons, from service providers or other children admitted to the place of care, other than for the immediate safety of those children or those service providers only after all other possibilities have been exhausted and then under strict adherence to policy,

procedure, monitoring and documentation; (i) restraint; (m) verbal, emotional or physical harm; and (o) behaviour modification such as punishment or reward systems or privilege systems, other than as a treatment or development technique within a documented individual treatment or development programme which is developed by a team including the child and monitored by an appropriately trained multi-disciplinary team.

## Behaviour Management

“ *The professional process of enabling a child to gain inner control of themselves and behave with dignity is called behaviour management. Professional behaviour management does not include any form of punishment. The elements of “influence”, relationship, respect, support, guidance, and behaviour management strategies combine to provide the developmental strength they (the children) need.*<sup>22</sup>

Behaviour management practice is the domain of the Child and Youth Care profession. The definition above, is what behaviour management is meant to reflect. The project team found, with a few exceptions, that this is not the practice that is evident in SCCs. In fact, the team found significant breaches of the regulations noted above. There are thus serious concerns regarding behaviour management practices in SCCs across the country. These concerns are as follows:

### a. Physical abuse of children

There were numerous reports by children, across several different SCCs and provinces, that CYCWs and/or security personnel and/or police officers are using physical force, beatings and other methods to punish or subdue children. Physical abuse of children takes different forms. For example, at a few centres, the visiting team were told that the local police had been called to the centre and asked to beat the children when the children misbehave. At another centre it was reported that children are handcuffed and then beaten. Two children in one of the centres reported that they were threatened by a CYCW that he or she they would make sure they would be killed the moment they left the centre. In another centre it was reported that the female personnel who were contracted to deliver and serve meals would smack children on the head or across their hands if they complained about the food or did not eat “nicely”. In many instances, managers and social workers are aware of this and have not acted to stop these practices. As indicated above, all these actions are clearly not permitted under the Children’s Act or the Regulations. They also amount to the offence of assault, and if they result in physical injury, they must be reported in terms of section 110 of the Children’s Act. Furthermore, they indicate unethical practice and in contravention of professional codes of conduct and ethics for both social workers and CYCWs.

### b. Unlawful or improper use of isolation

Regulation 76(3) of the Regulations to the Children’s Act indicates that a child may be isolated from other children, only if he or she cannot be managed and is deemed to be a danger to himself, herself or others, for a period of *no longer than two hours*, for the purposes of providing support and giving him or her time to regain control and dignity.



Regulation 76(4)(a) indicates that any child isolated from other children must be under the constant observation of a social worker, CYCW or psychologist, and must be provided with physical care, emotional support, and counselling which assists in re-integration into the group as soon as possible; (b) No child may be isolated or locked up as a form of discipline or punishment (c) The room where a child is isolated may not be a bathroom or toilet, a windowless room, a basement room, vault or store-room.

Regulation 76(5) indicates a register must be maintained which details the reasons for and the period of a child's isolation, together with a report on the support and counselling provided and the response of the child during the period of isolation.

It should further be noted that, in terms of international law, the isolation of children amounting to solitary confinement is prohibited, as observed by the UN Committee on the Rights of the Child in General Comment 24 on children's rights in child justice systems (2019).<sup>23</sup> The Mandela Rules require any use of isolation of detained persons to be regulated by the competent authorities.<sup>24</sup> Reports – many from the personnel themselves – of misuse, overuse, and illegal use of isolation were common in all provinces. Despite the clear regulations under the law, the team found that some SCCs are isolating children for durations of between 1 hour and 1 week or more, for a range of behaviours they deem to be unacceptable. Together with this illegal use of isolation, no therapist is present with children and providing them with support and counselling as is required in the regulations. In addition, the team found that in several centres the room or rooms used for isolation are dark, dirty, without line of sight from CYCWs or other professionals, and without a decent bed or bedding. In some centres, children have their food delivered to them under the door of the isolation room.

As will be referred to in point (c) below, these actions against children are, in most instances, instructions *coming from management (the Head of the Centre) and therapists*.

**c. The use of multi-disciplinary teams and “behaviour modification” to discipline children and provide instructions to CYCW’s on behaviour management**

The project team noted that multi-disciplinary teams (MDTs) are established for the purpose of behaviour modification in each of the centres. This structure and approach appear to be associated with the National DSD Blueprint and not the Regulations. According to children and staff in centres across the country, the MDT meets weekly to “adjudicate” the behaviours of children and meter out “consequences”, punishments, demerits, isolation, or withdrawal of the child from programmes or activities. This “adjudication” is framed as some form of “progress assessment”. It is the project team’s understanding that behaviour reports from CYCWs are required to be given to management and are reviewed by the MDT. The child, with their CYCW (for support), then appears before the MDT. From what the team could understand, the senior social worker is ultimately the person responsible for deciding the “behaviour modification” required for the child once the MDT has spoken to the child.

23 Para 95 (h) “Solitary confinement should not be used for a child. Any separation of the child from others should be for the shortest possible time and used only as a measure of last resort for the protection of the child or others. Where it is deemed necessary to hold a child separately, this should be one in the presence or under the close supervision of a suitably trained staff member, and the reasons and duration should be recorded”.

24 Rule 37 of the UN Standard Minimum Rules for the Treatment of Prisoners (2015), “The Mandela Rules”.

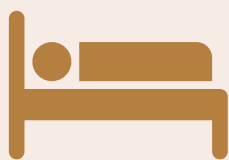
The project team's concerns in this regard are:

- Centres that follow a systemic approach of controlling children and their behaviour cannot at the same time be developmental and therapeutic, which is the aim of “care” in the title “Secure Care”. The fact that therapists are disciplining their clients, including instructing that children be subjected to punishment and isolation is of significant concern. The fact that CYCWs are spending so much time focused on behaviour and the writing of unnecessary reports can lead to them placing very little focus on developmental and therapeutic life-space work, and the team's observation is that this is the case. It also places them in the difficult situation of constantly trying to control children and focus on their negative actions. This in turn damages the relationship between CYCWs and the child, which is the central vehicle for good CYC practice.
- Having interviewed many children and staff members on this topic, the experiences of children in the MDT meetings are often humiliating and degrading. In addition, the time difference between the “behavioural incident” and the MDT meeting creates anxiety and fear for children, potentially leading to more incidents before they reach the MDT meeting, and the potential for harsher punishment.
- The MDT has taken over what is essentially a therapeutic life-space task of the CYCWs. Professional “behaviour management” is a practice which should take place only *at the time of an incident or challenging behaviour* and is a core professional task of the CYCWs.
- Only serious incidents, including accidents, in which someone has been harmed or the child or group could not be managed through therapeutic behaviour management strategies, or where any form of restraint or isolation are used, warrant a critical incident report, which should be written into the centre's critical incident register. This report should indicate what occurred, who was involved, and how the incident was resolved. Many centres were unable to produce a critical Incident register or produced one with little in it. This is particularly disturbing given the prolific use of isolation, and reports of physical abuse.

**d. The poor skill and knowledge of CYCWs (in particular) and other professionals working directly with the children, regarding therapeutic behaviour management and professional ways to respond to potentially harmful, dangerous behaviour.**

The project team's observation is that there is a link between the unlawful methods of behaviour management, the social workers' and CYCWs' inadequate knowledge and competence in appropriate behaviour management methods and strategies, including preventive and early intervention strategies and behaviour development. In focus groups and individual interviews many CYCWs and social workers indicated their sense of inadequacy and frustration when it comes to behaviour management, particularly regarding children with more challenging behaviour. They expressed the need for further training in this regard.

In a secure care centre, thoroughly trained staff, and sufficient staff on duty, can deal with challenging behaviour of children without fear for their safety. Without holistic training on behaviour management knowledge and skills, fear becomes a factor and together these make for a dangerous situation for individuals and groups of children, as well as for staff members themselves. Importantly, when CYCWs and other professionals lack these critical skills, they are more likely to react to behaviour with the unprofessional actions mentioned above, placing children at risk.



Some centres already have this kind of practice whereby youths and children are not placed in the same bedrooms or dormitories.

## 5.5 Placement of children and youth

### 5.5.1 Placement and separation of children and youth

It is inevitable a child is likely to attain the age of majority before his or her release from secure care. The team noted that there is a need for a carefully assessed separation between children and youths insofar as placement is concerned. There were reports of abuse and bullying by children and further discussion revealed that the fact that children are not separated from youths was a significant factor. Children are often the victims of abuse by their older counterparts. On the other hand, youths expressed the need to be separated from children, citing “childish behaviour” and that the younger ones can be a nuisance. In fact, during one of the visits an 18-year-old boy kept on telling a 13-year-old boy to behave himself. The 13-year-old would make jokes during the interviews and that annoyed the youth. In another, centre a 19-year-old girl in diversion said;

“ I always prefer to sleep during the day so that I can avoid this little one (referring to her 14-year-old room mate) because she is noisy, childish and has a lot of energy. I understand that she still young but I wish we were not in the same room all the time.

Furthermore, the team noted that most children were reluctant to talk until the older ones started talking, especially on issues relating to how they live together and treat each other. It is not being suggested the application of a rigid rule that once a child reaches 18 years he or she must be removed from the centre and referred to a correctional facility. Rather, placement of children and youths must be age appropriate and an individualised assessment must be conducted prior to placement and separation. Some centres already have this kind of practice whereby youths and children are not placed in the same bedrooms or dormitories. During the interviews, the team witnessed that in some of the centres children and youths were grouped according to age. It appears that those centres promote a child’s right to be kept separately from persons over the age of 18 years. Where a province has several centres, it is possible to have different centres serving different age groups.





## **THEME 6**

Treatment and Development  
of Children and Youth

## 6.1 Introduction

The Children's Act Norms and Standards for Child and Youth Care Centres include the following:

### Developmental programmes

- a. A child's development plan and programme must be based on an appropriate and competent assessment of his or her developmental needs and strengths.
- b. Every child in a child and youth care centre must have a plan and programme of care and development.
- c. Every child in a child and youth care centre must participate in formulating their care and development plans and must be informed of those plans.

### Individual development plan

- a. Every child has the right to participate in formulating his or her individual development plan and to be informed about their plan, and to be involved in decisions to make changes to their plan.
- b. The individual development plan must be based on an appropriate and competent assessment of their developmental needs and strengths and, where reasonably possible, be in the context of their family and community environments.
- c. The family of the child, or other persons with bonds to the child, must be involved in the child's individual development plan unless it is shown that this would not be in the best interests of the child.
- d. There must be a review of each child's placement and individual development plan at least once every six months while the child remains in the Centre.

## 6.2 Developmental assessments, Individual Development Plans (IDPs), and reviews

The project team reviewed files and talked to professional staff from all disciplines, and asked questions about developmental assessment, IDPs and reviews. Although approaches to the task varied, and many centres were attempting to do good work on IDPs, developmental assessment was found to be inadequate. The standards and practices in the Blueprint appear to be having an influence and because they do not line up fully with the Children's Act Norms and Standards this may be causing confusion and poor practice in some Centres (See **Annexure 3** Analysis of Blueprint). It was found that full multi-disciplinary team developmental assessments (as required by Regulations and the Children's Act) are infrequent or do not happen at all. In some of the centres social workers are assessing the children, calling this the developmental assessment, and producing an IDP that others must follow. In other centres, an IDP is handed to the centre by the probation officer, and nothing further seems to occur. IDPs were found in some files and had been formulated by the social worker, but without the backing of a comprehensive multidisciplinary developmental assessment. (These assessments may be on computers and thus not available in files, but none were described to us in our discussion). When these were asked about, the answers were either that the social worker did assessment and IDPs or the MDT dealt with IDPs. Children who were asked about their assessment and plan, seemed bewildered. The answer was typically that they go and see the social worker when they would like to, or when asked to by the social worker. They said they were told which programmes they must attend. In a few SCCs children indicated they were part of developing their IDP and knew what programmes they should attend. The challenge is not the IDPs however, but that the multidisciplinary developmental assessments are not being done. In several centres, staff indicated that the existing MDT was the assessment team and insisted that the plan of action in relation to behaviour modification was the IDP.



While the existence of an MDT is positive, these teams should focus on the central task of a care centre i.e., the developmental and therapeutic work to ensure that each child deals with their challenges, develops their strengths, has their developmental needs met, can manage their emotions and behaviour, is equipped with education and skills, and is ready to leave the centre and reintegrate into their community in a healthy manner when their time at the centre is over. This requires a comprehensive developmental assessment by an MDT with the child as a full participant, and the development of an Individual Development Plan by that team, signed off by the child.

Article 12 of the CRC clearly indicates that children have the right to participate in any decisions made regarding them, and this is directly provided for in section 10 of the Children's Act.

The assessment occurs after the child arrives and then every one to two years following, with an evaluation of progress every 3–6 months. Members of the MDT (Social workers, Child and Youth Care Workers, Psychologist, Occupational Therapist, Teachers) follow through on their allocated tasks in the IDP and report their progress to their supervisors and the team regularly. The emphasis is on the professional staff doing their therapeutic and development work within a positive therapeutic relationship and partnership with the child. Disciplining the child is not connected to this.

## 6.3 Programmes and Therapy

Most SCCs indicated that they have a list of programmes, which children are required to attend. These appear to be a common group of what are understood to be accredited programmes (accredited by the Department of Social Development) for children on diversion and are run at all or most SCCs. The visiting team was not able to witness any of these programmes in action, but both staff and children commented on them, some very positively, and others with concerns.

In exploring the IDPs on file, it was found that children were, in several instances, placed into these accredited pre-designed structured programmes based on the offence with which they were charged, diverted or convicted, rather than an assessment demonstrating conclusively that such a programme would meet their needs. This process of placement in programmes connected to offences occurs even where children are awaiting trial, and therefore presumed innocent. In addition, it was noted that in most instances children are required to attend these 6–8 programmes, which each take about 8 weeks, in consecutive order, and once all are completed, they must start again. This too is indicated in the Blueprint. Children who had been in the centres for 4–5 years and been “cycled” through these same programmes repeatedly for this time. Many children expressed frustration, anger, and hopelessness about this. Obviously, these children had not been assessed and had no IDP based on such an assessment, and they had not gone through any review of the success of cycling through the programmes. In one Centre a young person of 16 years, asked the visiting team for help. He said:

“Please help me tannie (aunty). I have anger problems and I keep getting into trouble. No one seems to help me. I have been through the anger management programme three times, and I still do not know what to do.

This indicates worrying neglect of the basic, developmental, and therapeutic needs of the *individual* child and disregard for the Regulations under the Children's Act. The programmes are not the problem, it is the manner of using them that is of concern. One-size-fits-all and cycling children through the same programme is an institutional approach and leads to institutionalization of children and not their rehabilitation and development, which is the opposite of what is required in SCCs. If thorough assessments were in place, with children participating in both the assessment and formulation of their IDP, and with a regular *review of progress*, children would develop, learn new behaviours, deal with emotional challenges and ultimately not be involved in as many incidents which require behaviour management. They would also logically not be cycling through programmes, because if the programme was unsuccessful, then the reasons would be examined, and a new plan set in place for that child.

## 6.4 Family contact and reunification

Most SCCs are attempting to keep children in contact with their families. Because family reunification depends on the probation officers and social workers in the community working with the centre social workers there are challenges in reunification. Both social workers and children complained of poor communication about what is happening in the home. Complaints from social workers indicated that some probation officers fail to work on reintegration while the child is in the centre, or after the child's release, and that they seldom hear from social workers in the community once the child is in the centre.

Most children the team spoke to were happy about the fact that they did receive visits from the parents or other caregivers. Those whose families lived far away from the SCCs were sad and felt depressed about depending on phone calls.

Children were generally positive about their meetings and discussions with social workers, but many complained that they were given very little time to speak to their family on the phone. The biggest complaint came from children who had 3 minutes for a call and that the social workers sat and listened to their call and they had no privacy.

## 6.5 Recreation and recreation equipment

The team witnessed few recreation programmes except for children kicking a ball around in the courtyard outside their dormitories. Both staff and children indicated that there was soccer, rugby, and swimming in summer if the pool was clean. Some SCCs had pool tables and indoor board and card games. In general, the visiting team noted that in most centres there were few, if any resources for recreation. Many of the rugby and soccer fields were in a state of disrepair, as were swimming pools where these exist. In several centres, TVs were out of order and had been for lengthy periods, and children complained that they had very little to do when they were not at school or in a programme or therapy with the social worker.





# THEME 7

Education



**The norms and standards for Child and Youth Care Centres provide that all children in CYCCs must have access to schooling, education, or other appropriate training skills programmes.**

## 7.1 Introduction

The regulations to the Children's Act state that every child who is cared for in a CYCC has the right to education or training appropriate to their level of maturity, aptitude, and ability. The norms and standards for Child and Youth Care Centres provide that all children in CYCCs must have access to schooling, education, or other appropriate training skills programmes. According to section 28(1)(g) of the South African Constitution, any child who is detained is entitled to be treated in a manner that takes account of his or her age, and section 29 provides everyone with the right to basic education.

The *Global Study* notes that access to education and vocational training is vital for a child's development, rehabilitation, and reintegration. The chapter on children in institutions further notes that "access to education and training was identified by young people as an important issue which affected their ability to economically and socially integrate into wider society upon reaching adulthood."

Most of the SCCs visited provided some form of schooling and/or skills training to the children in their care. A few SCCs lacked such educational programmes, this resulted in children in those centres having little to keep them occupied outside of therapeutic and (if provided) developmental programmes and had minimal support to prepare themselves for education or employment once they left the centre.

## 7.2 Education

### 7.2.1 Formal Schooling and Adult Education Training or Community Education and Training

Formal schooling – that is mainstream curriculum (CAPS) in community schools – and Adult Education Training, or Community Education and Training is offered in some SCCs. These are offered concurrently or only one of the programmes is offered depending on the approach taken by centres. Challenges observed in this regard included the following:

- Children who had no formal schooling background or dropped out of school and were sent to centres with just the formal schooling programme struggled to adapt and learn. Such barriers were addressed by centres that also run the AET or CET programmes, as the children could be placed in these programmes and essentially begin learning based on assessments done to determine their learning needs.
- Many centres struggled with uncooperative community mainstream schools to get children's files, curriculum, tests, exams, and other information needed to ensure that the children in the centres were at the same pace as their peers in community schools. Sometimes assistance could be obtained from the Department of Basic Education District offices that would instruct the schools to comply.
- Some centres complained that children are not assessed for learning disabilities prior to being sent to the centres and noted that having children assessed would assist the centres in ascertaining how to work with such children and which programmes would be better suited for them.
- Sometimes the centres – due to either resource constraints or being understaffed – did not offer all the subjects needed particularly for the mainstream curriculum.
- Lack of necessary materials for teaching and learning.
- Not enough support from CYCWs to assist the educators monitor the children in the classrooms.
- Adequate and consistent after care support needs to be provided to the children to ensure that they continue with the education once they leave the centres.



Many centres struggled with uncooperative community mainstream schools to get children's files, curriculum, tests, exams, and other information needed to ensure that the children in the centres were at the same pace as their peers in community schools.





**Procurement of the necessary resources took a long time (or the items never arrived) requiring the instructors to be creative e.g., using their own money to purchase necessary materials ...**

## 7.2.2 Vocational Training

Vocational or skills training offered to children in the SCCs serves the purpose of ensuring that the children have skills rendering them employable once they leave the centres. Several of the centres visited offered limited skills training programmes, these included: furniture making; arc welding; sewing; brick laying; and more. The challenges observed in this regard included the following:



Some centres did not offer skills training at all which was a source of frustration to the children who wanted to learn skills using their hands.



Procurement of the necessary resources took a long time (or the items never arrived) requiring the instructors to be creative e.g., using their own money to purchase necessary materials; or obtaining donations.



Several skills programmes in centres were not accredited which meant that children did not receive formal and recognised certificates as proof of the skills learnt in the centres. This was seen as a hindrance to the children's successful transition outside of the centres.



Understaffed and under resourced skills training centres were observed in several centres.



Not enough support from CYCWs to assist the educators to monitor the children in the classrooms.



## **THEME 8**

Accommodation, Facilities,  
Buildings and Grounds

## 8.1 Accommodation



### Shower and ablution facilities

Most centres had working showers in place that provided water, however, in some instances, the water was not hot for lengthy periods of time compelling care staff to adopt a system which prohibited children from showering for more than 3–5 minutes per child. In instances where the showers that did have sufficient hot water, the temperature was found to be too hot and unregulated and the children in that instance had to stop showing early to avoid getting burnt. In some centres there was no hot water at all due to geyser repair delay issues caused by the Department of Public Works and Infrastructure and in some centres, there was no water at all due to the water shortage or low water pressure in the area. In this instance the quality and safety of the water provided through water tanks by the relevant municipalities was a concern. The water tanker would deposit water in jojo tanks at the front of the centre and the children had to use water bottles and industrial dust bins to carry the water to their rooms. In these centres, toilets also did not flush, therefore children as well as staff throughout the Centre had to pour water down the toilet to flush human waste using buckets.

Access to water is a human right which when limited, must be justified accordingly. A shortage of water raises the likelihood of the spread of communicable diseases. The right to basic sanitation is thus similarly affected.



### Bedding and bed structure

As already mentioned above, some children complained of mattresses being too hard or old. It was also noted that different centres across the country provided different bed structures. Some centres had concrete slabs as the base while others had steel frames. Mattress quality was also not the same in all centres, however, most mattresses seemed hard and uncomfortable to sleep on. One centre had a mattress which was too big for the bed frame and children reported falling off the second bunk because of this. The storage of children's personal items also differed with the structure of the beds. Some children were able to keep their personal belongings including cosmetics and clothes underneath their beds in cardboard boxes while others were more suitably placed in lockers and wardrobes in their rooms.



### Common areas

Common areas were similar across the centres in that most centres had a TV room and a games room. Some centres had TV rooms within the dormitories. In some centres, as mentioned above, the TVs could only be watched by children in its line of sight once they were locked up for the day. Notably, one centre provided a games room with a PlayStation for children who were well behaved as part of their reward for good behaviour throughout the week.

It was also noted that quite a few centres had gym and gym equipment. Where these existed, children complained that only specific children had access to that facility. Similarly, children seldom had access to games and many children would reminisce about the days they would play snooker on the pool table, table tennis and foosball/table soccer.



## 8.2 Facilities



### Clinic

The nursing staff in all the centres tried to keep a clean and conducive consultation room, however, this was sometimes overshadowed by the poor infrastructure. For example, cracked walls and ceilings that leaked when it rained. Some of the clinics were also too small to allow the medical personnel to work and provide effective medical care to the children. For example, some clinics would have a sick bay with a bed or two for observation while other clinics did not have space for this.



### Library

A limited number of centres had libraries which provide books to the children for light reading or reference material. In some of the centres that did have reference books, the books were very old and could not even be used for studying current curriculum material.



### School buildings

Schools in most centres are managed by the Department of Basic Education and the buildings were in reasonable condition. However, there is a need for improved access to vocational programmes and facilities in all the centres. The children would light up when they expressed many interests in taking part invocational programmes including welding, sewing, music, barber and hairdressing services as well hospitality and furniture making. In this regard and noting the endeavour to provide the children with educational programmes, it must be noted that several some children have never been to a formal school and would benefit greatly from a space to obtain skills training once they leave the centre. The few centres that did have the space or the infrastructure for skills training did not utilise these spaces effectively due to the shortage of skilled instructors and educators.



### Laundry

All centres were found to have laundries. At many centres, the laundry staff did not have full use of all the laundry equipment and in some instances the centre had outsourced laundry services to an external service provider leaving the employed laundry staff to simply sew torn clothing and issue clothes to new admitted and current children.



### Kitchen

The kitchens at most centres were well-equipped, clean and efficiently run. Some were outsourced to external services providers. In most centres visited, the kitchens did not have ultraviolet (UV) light fly traps to prevent or eliminate flies, or other insects. The visiting team noted that these centres did not have alternative pest prevention measures The Regulations governing general hygiene requirements for food premises require a person in charge of food premises to ensure that effective measures are taken to prevent or eliminate flies, or other insects, rodents or any other pests on the food premises. Flies carry bacteria which may contaminate children's food which may lead to children falling ill. It should be noted that the use of a UV light insect killer will assist with eliminating flies in the kitchen area.



**In some centres trees and shrubs were growing out of cracks, ceilings and chimneys due to either lack of maintenance of centre grounds and/or underutilisation of the centre.**

## 8.3 State of the buildings and infrastructure

During the inspections of the centres, it was noted that each centre's infrastructure in varying degrees is in a concerning condition both externally and inside the centres. In some centres trees and shrubs were growing out of cracks, ceilings and chimneys due to either lack of maintenance of centre grounds and/or underutilisation of the centre. It was also noted that most centres were also experiencing challenges with non-operational equipment such as security infrastructure (Close-circuit television cameras [CCTV cameras], body scanners, electric fencing, CCTV camera monitors, security tower lights) were seldom fully functioning and operational.

## 8.4 Grounds and common use recreational areas



### Pools

Included in the structural make up of certain facilities were pools. Some centres advised that the pool was for the children's enjoyment on hot days while others stated that the pool was used as a reservoir. In both instances the pools were never used and were therefore redundant while also posing risks to children.



### Grounds/playing fields

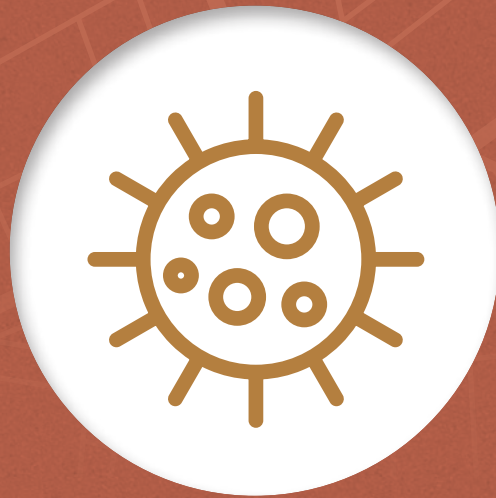
While some grounds were unkept and unattended with long growing grass, some centres had well-tended soccer fields for the children to play. Some centres even went a step further and provided soccer boots for the children to play with, which is an effort that the team applauds. Some centres had a volleyball and netball court which were sadly unkept and therefore unused.



### Gardening facilities

Although many centres lack adequate space for many activities, most centres had small patches of soil which could be used for therapeutic programmes through gardening. Very few centres were using their grounds for this purpose.





## **THEME 9**

Preparedness and Management  
of the COVID-19 Pandemic

## 9.1 Introduction

When the COVID-19 pandemic emerged in South Africa, in March 2020, government had to put measures in place to limit and manage its spread and impact. The COVID-19 pandemic was classified a national disaster by the Head of the National Disaster Management Centre<sup>25</sup> on 15 March 2020 and on the same day the Minister of Cooperative Governance and Traditional Affairs declared a national state of disaster in terms of the Disaster Management Act of 2002.<sup>26</sup> The declaration of national state of disaster allowed for the making of regulations and/or issuance of directions for the purpose of assisting and protecting the public; providing relief to the public; protecting property; preventing or combatting disruption; or dealing with the destructive and other effects of the disaster.<sup>27</sup> On 23 March 2020 the President announced that South Africa would go into lockdown to contain the spread of the virus.

## 9.2 COVID-19 Directions in relation to Child and Youth Care Centres

The Minister of Social Development issued directions in terms of the Disaster Management Act to provide directions to officials of the Department of Social Development and other organs of State, responsible for the implementation of the Social Development mandate. The first directions were issued on 30 March 2020<sup>28</sup> and they included instructions on the management of CYCCs during the National State of Disaster and National lockdown, these were as follows:

### a. Child and Youth Care Centres (CYCC):

- i. No children may be released from the facilities;
- ii. No visitation is allowed during the lockdown period;
- iii. The family reunification and interaction programme is suspended;
- iv. No new admissions are allowed, except for children in conflict with the law and children declared to be in need of care and protection in terms of the Children's Act, 2005 (Act No. 38 of 2005);
- v. A Social Worker's report is deemed to be sufficient for the removal and placement of the child in need of care and protection;
- vi. In instances where CYCCs are full, the department must identify other temporary shelters that meet the necessary and required minimum hygiene and safety standards.

25 Disaster Management Act, 2002 (Act No 57 of 2002): Classification of a National Disaster, GN 312, GG 43096, 15 March 2020 (Available at: [https://www.gov.za/sites/default/files/gcis\\_document/202003/43096gon312.pdf](https://www.gov.za/sites/default/files/gcis_document/202003/43096gon312.pdf)).

26 Disaster Management Act, 2002: Declaration of a National State of Disaster, GN 313, GG 43096, 15 March 2020 (Available at: [https://www.gov.za/sites/default/files/gcis\\_document/202003/43096gon313.pdf](https://www.gov.za/sites/default/files/gcis_document/202003/43096gon313.pdf)).

27 As above.

28 Department of Social Development: Directions issued in terms of Regulation 10(5) of the Regulations made under section 27(2) of the Disaster Management Act, 2002 (Act No. 57 of 2002): Measure to Prevent and Combat the Spread of COVID-19, GN 430, GG 43182, 30 March 2020 (Available at: [https://www.gov.za/sites/default/files/gcis\\_document/202003/43182rg11072gon430.pdf](https://www.gov.za/sites/default/files/gcis_document/202003/43182rg11072gon430.pdf)).



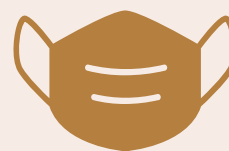
The directions were updated as the National State of Disaster continued. Of relevance to this report are the amended directions of 9 May 2020<sup>29</sup> the Minister of Social Development issued updated directions to allow for children to be released and discharged from CYCCs upon a social worker's recommendation. This also applied to family reunification and integration programmes. The amendments also required children awaiting trial at secure care facilities to be prioritised when required to attend court.

### 9.3 Lessons from international and regional bodies

The COVID-19 virus exposed the lack of preparedness that facilities such as Child and Youth Care Centres have in the face of a pandemic that affects every aspect of life for those receiving care and support in the facilities. Lessons learnt from the experiences of the COVID-19 pandemic should equip CYCCs – capacitate, equipped and supported by the National and provincial Departments of Social Development – be better prepared should another public health crises arise. International and regional bodies such as the UN Committee on the Rights of the Child and the African Committee of Experts on the Rights and Welfare of the Child have provided guidance.

- **UN Committee on the Rights of the Child: Statement on the effects of the coronavirus on children, 8 April 2020**

The Committee, concerned about the situation of children globally, particularly those in situations of vulnerability, because of the COVID-19 pandemic, called on States to consider identified principles in their application of COVID-19 related policies.<sup>30</sup> The Committee published a set of principles to guide practice during that period and in future public health pandemics.



**Lessons learnt from the experiences of the COVID-19 pandemic should equip CYCCs – capacitate, equipped and supported by the National and provincial Departments of Social Development ...**

29 Department of Social Development: Amendment to the Directions issued in terms of Regulation 4(5) of the Regulations made under Section 27(2) of the Disaster Management Act, 2002 (Act No. 57 of 2002): Measures to Prevent and Combat the spread of COVID-19, GN 517, GG 43300, 09 May 2020 (Available at: [https://www.gov.za/sites/default/files/gcis\\_document/202005/43300rg11107gon517.pdf](https://www.gov.za/sites/default/files/gcis_document/202005/43300rg11107gon517.pdf)).

30 UN Committee on the Rights of the Child, The Committee on the Rights of the Child warns of the grave physical, emotional and psychological effect of the COVID-19 pandemic on children and calls on States to protect the rights of children, 8 April 2020 (Available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT/CRC/STA/9095&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT/CRC/STA/9095&Lang=en)).



An issue that was prominent in the discussions was the impact of the COVID-19 pandemic on children living in alternative care.

- **UN Committee on the Rights of the Child 2021 Day of General Discussion on Children’s Rights and Alternative Care**

In September 2021, the UN Committee on the Rights of the Child held its Day of General Discussion and focused on children’s rights and alternative care. Children, young people and civil society took part in the discussions. An issue that was prominent in the discussions was the impact of the COVID-19 pandemic on children living in alternative care.

COVID-19 was identified as having “magnified existing challenges in alternative care as confinement measures ... increased the risk of violence, institutionalization, and deprivation of liberties of vulnerable groups of children.”<sup>31</sup> States have been abused in a manner causing physical injury, encouraged to build on innovative practices that arose during the COVID-19 pandemic to support children and prevent family separation.<sup>32</sup>

- **The African Committee of Experts on the Rights and Welfare of the Child, Guiding Note on COVID-19 and its implication on Children’s Rights and Welfare, 08 April 2020**

The African Committee of Experts on the Rights and Welfare of the Child, recognising the devastating impacts of the COVID-19 pandemic on the rights and welfare of children in Africa called on States to integrate identified child protection measures in their responses to the pandemic.<sup>33</sup>

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31 UN Committee on the Rights of the Child, Outcomes Report: 2021 Day of General Discussion Children’s Rights and Alternative Care, June 2022 at page 9 (Available at: <https://www.ohchr.org/en/events/days-general-discussion-dgd/2021/2021-day-general-discussion-childrens-rights-and>).

32 See page 35.

33 African Committee of Experts on the Rights and Welfare of the Child, COVID-19 and its Implication on children’s Rights and Welfare – Guiding Note to Member States of the African Union, 8 April 2020 (Available at: [https://www.acerwc.africa/wp-content/uploads/2020/04/Guiding-Note-on-Child-Protection-during-COVID-19\\_English.pdf](https://www.acerwc.africa/wp-content/uploads/2020/04/Guiding-Note-on-Child-Protection-during-COVID-19_English.pdf)).



## 9.4 Findings from visits to the Centres

The project team visiting the Secure Care Centres made the following findings in relation to the management of the spread of COVID-19 within the Centres:

- **Isolation for Safety/Health purposes and other health and safety measures**

When children arrived at the Centres for the first time or had to go to court while awaiting trial and return to the Centre, all Secure Care Centres adopted the practice of placing them in quarantine. The quarantine period ranged from 14 days, 10 days, and 7 days at the height of the pandemic, different time periods were utilised by different centres. The time periods reduced to 7 days or 5 days or even 2 to 3 days as measures were lessened nationally. It was reported that CYCWs and/or nurse would be assigned to monitor the children, provide them with their basic needs and interact with them. Some children complained that they did not have enough interaction with others or enough activities to keep them busy. As one boy reported:

**“ [We] do nothing in there, just get bored. No one comes to talk to us.**

Children who were awaiting trial spent the most time in quarantine and spent an alarming amount of time by themselves separated from the rest of the children and staff as well as not taking part in activities such as school, skills training and recreational activities. They were often placed in quarantine every time they returned from court (they are supposed to appear before a court every 14 days while awaiting trial). One Centre got around this problem by arranging with police officials that children would stay in the police car until they are required to go before the presiding officer, this meant that they had minimal interaction with others and do not have to be placed in quarantine when they return to the Centre.

The children would either quarantine in an assigned room in the children's sleeping quarters or in an assigned room in the clinic on centre premises. A few centres revealed that they had the children fully vaccinated against COVID-19 on the consent of the parent(s) and the child. Some children were hesitant about getting vaccinated and were not forced to do so.



**A few centres revealed that they had the children fully vaccinated against COVID-19 on the consent of the parent(s) and the child.**



**The impact of a lack of in-person visits with families was lessened with continued phone calls, however, this was dependent on how regular the phone calls were ...**

The centres ensure that children were provided with masks – mostly cloth masks – however staff at some centres raised concerns about the lack of or limited access to personal protective equipment.

Some centres had clear COVID-19 protocols or rules to be followed in relation to the screening of children, managing social distancing as much as possible, and continuous monitoring of children. Staff in a few Centres noted the need for better communication about such rules and/or haphazard compliance with protocols or rules.

- **Contact with family and other contact programmes**

In-person contact with family did not occur for a long period of time at the height of the pandemic. Children found this challenging. The impact of a lack of in-person visits with families was lessened with continued phone calls, however, this was dependent on how regular the phone calls were and for how long the children could touch base with their families.

Centres that run aftercare or follow-up programmes with children that had been released could no longer provide in-person assistance or follow-up and had to do this over the phone which limited the impact of the programmes. Due to the uncertainty of how to run such programmes with a pandemic, contact programmes such as recreational programmes and skills training were paused often for long periods time to the frustration of the children who felt like they had little or nothing to do to fill their time.



## **THEME 10**

Observations Regarding  
Monitoring





**It appears that that some centres function on a conditional registration basis for prolonged periods without remedying any structural issues for full registration.**

## 10.1 Registration of Centres

The law requires all Child and Youth Care Centres (including SCCs), to be registered in terms of Part 1 of chapter 13 of the Children's Act. This involves compliance with certain requirements such as "the structural, safety, health and other requirements of the municipality" and that each staff members employed at the centre "has the prescribed skills to assist in operating a child and youth care centre".<sup>34</sup> It appears that that some centres function on a conditional registration basis for prolonged periods without remedying any structural issues for full registration. A conditional registration should be linked to a developmental plan to allow the centre to achieve full accreditation and is meant to last for a temporary period of one year.

## 10.2 Internal monitoring and quality assurance process

The internal monitoring by the Provincial Departments of Social Development was found to be inadequate in several provinces. The fact that practices of searching, isolation and physical abuse were continuing to occur reveals a weakness in the internal oversight processes. A quality assurance process is required by section 211 of the Children's Act and is supposed to take place in accordance with the regulation 89 of the Regulations to the Act, once every three years, but this is not occurring across all the provinces.

## 10.3 Organisational development plan

According to section 211 (c) of the Children's Act, an organisational development plan should be developed for each centre, and a mentor should be appointed to oversee the implementation of the plan by the management of the centre, and the law requires that these plans be submitted to the MEC for social development in the province. It was noted that these organisational development plans – which are the key documents for monitoring improvements in centres – were rarely mentioned.

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34 Section 200 of the Children's Act.





# RECOMMENDATIONS

## Recommendations



### THEME 1: International law, legislation, regulations, and policies

- The SCC system should be brought in line with international law obligations, the South African Constitution, the Children's Act and the Child Justice Act.
- The "Blueprint, Norms and Standards for Secure Care Facilities for South Africa" should either be removed, and a new policy developed, or the Blueprint be reviewed to bring it in line with the regulations, and make it easily understandable and brief, with the norms and standards for practice. The sections on the design of buildings and detailed practice should be removed.
- If there is a need for detailing the practice of secure care, that could be a separate practice handbook based on professional secure care practice and not as prescribed policy.
- The alternative is to use the Regulations as policy guidelines, together with the norms and standards that are clearly aligned with the Law, Child Rights, and the Constitution.



### THEME 2: Utilisation of Secure Care Centres

The National and Provincial Departments of Social Development, together with key partners in the Inter-sectoral Committee for Child Justice, should consider the following with a view to legal and practice reform:

- Reconsider the use of its current SCC model which maintains large buildings that are underutilised and are situated in remote areas.
- The positive gains brought about by the Child Justice Act and the efforts of government departments to reduce the number of children in the system requires a review of the appropriateness of large institutions. Smaller units, staffed by an adequate number of appropriately trained staff would serve the purpose of secure care more effectively.
- There is a higher number of awaiting trial children (469) in secure care than sentenced children (271), which is a concern. Alternatives such as home-based supervision by probation officers could, in some instances, be equally effective to ensure that children stand trial, and these measures should be strengthened.
- The utilisation of residential diversion should be considerably reduced. Non-residential programmes should be considered, or care and protection measures should be expanded so that these children are not brought into the child justice system to receive services.



### THEME 3: Professional Resources

#### Qualifications and training

- National and Provincial Departments should work with tertiary institutions and the Social Service Professional Council and Training Institutions to upgrade the qualifications of CYCWs and the quality of CYC work in the Centres. Conduct a detailed audit of the skills, knowledge and qualifications of all CYCWs in Secure Care in each province and implement a funded human resource development plan in each province to upskill CYCWs to the point where (a) they can work effectively in secure care, and (b) each is registered as a full professional with the Council for Social Service Professions within the next 3–4 years.



- In the interim, ensure that all Auxiliary CYCWs are supervised by a professional CYCW (not a social worker) inside or outside of the Centre, and that each CYCW has a personal/professional development plan. Ensure that professional CYCWs are supervised by an experienced and/or more qualified CYCW.
- Urgently ensure that Centre managers and senior management have training in the law and child rights as they apply to CYC Centres and Secure Care, managing a SCC, and how to establish and sustain a therapeutic approach within such a centre, including Supervision, Developmental Assessment, Care, and Programmes.

### Employment procedures

- Develop a pre-employment protocol for social workers, teachers, Centre managers, and CYCWs to assess knowledge of and commitment to the Constitution, as well as an understanding of the law, child rights and professional principles.
- End the practice of employing people without a CYCW qualification into a CYCW position. For such people already employed, ensure that they become qualified.
- Ensure that attitudes of staff are assessed prior to employment, orient staff appropriately about working with children in conflict with the law, and provide protocols to deal with issues such as gender non-conforming children and sexually active children.

### Multi-disciplinary Team

- Ensure that multi-disciplinary teams are inclusive of all professionals at the centres working directly with the children and not only the management team. (This does not preclude there being a management team as a separate entity).
- Ensure the focus of the multidisciplinary team in each centre is the Developmental Assessment of each child, IDPs, accountability for professional tasks associated with the IDP, and a progress review every 3–6 months.
- Ensure that probation officers, teachers, child and youth care workers, the child and the parents are included in the MDT for the assessment. Stop the practice of using an MDT (or management team) for behaviour modification and/or behaviour management.

### Unlawful and unethical practices

- Ensure that all personnel directly working with children know the law and child rights, particularly “prohibited practices” in relation to behaviour management.
- Immediately stop (and prevent) all practices of physical punishment, withdrawal from programmes, any other punishments.
- Ensure that the widespread use of isolation is stopped, and that henceforth, separation of children away from others can only be done in a manner strictly in accordance with the Regulations to the Children’s Act. The provincial departments should strengthen the departmental monitoring of SCCs, through the DQA and other measures they deem appropriate, and should prevent harm to children by holding Centres and all personnel accountable for obeying the law and protecting the rights of children.

### Training and support

- Ensure that CYCWs and all personnel who spend substantial time with the children (such as teachers) are thoroughly trained, including but not limited to, understanding challenging behaviour, therapeutic behaviour management skills, and acceptable techniques to deal with aggression and assaults, such as Professional Assault Response Training (PART).

- Provide personnel involved in any critical incident with a “therapeutic” debriefing.
- Ensure the Centre management, CYCWs, and SWs can implement behaviour development strategies to minimize critical incidents and the need for behaviour management.

### Responsibility for behaviour management

- Recognise that behaviour management is a professional therapeutic life-space activity which is the responsibility of well-trained CYCWs (and teachers if needed) supervised by senior CYCWs who should be experts in therapeutic behaviour management.
- Ensure CYCWs work within a positive responsive relationship with the child, and within the goals and actions of the child’s assessment and IDP.

### Daily Reports

- It is recommended that the departments and centres revise reporting practices to minimize the tasks of CYCWs regarding observing and reporting on children’s behaviours daily, with (1) a critical incident report (2) a log of the CYCW’s of both concerns and positive observations.

### Security Personnel

- Develop a nationally defined standard on the work of security personnel in SCCs and training/capacitating security personnel on the centres’ work and their role at the centre.
- Security personnel should have minimal contact with children, but should be oriented to secure care, the rights of children, and how to manage dangerous or very challenging behaviour from groups or individual children, with acceptable techniques and without excessive use of force.
- Any instances of use of force resulting in injury must be followed by mandatory reporting under section 110 of the Children’s Act.
- Regulate outsourcing of services to minimise turnover so that orientation results in long-term understanding of the required tasks across the work force.



## THEME 4: Basic care

### General

The shortcomings in the knowledge of the obligations set out in the Children’s Act regulations and/or inadequate implementation of these regulations indicates a need for more focus on these legal requirements in the training and orientation of personnel.

### Health care and access to medical staff

- Ensure fully staffed clinics with adequate equipment.
- Liaise with external health providers at a senior level to speed up access to health care, particularly mental health services providers.

### Hygiene, bedding and clothing

- Provide access to sanitary pads in a manner that respects dignity and allows good hygiene.
- Provide appropriate bedding, clothing and footwear to all children in SCCs.



## Food

- Provide internal mechanisms for feedback relating to food and kitchen services.



## THEME 5: Safety, dignity, care, and management of challenging behaviours

- **Searching:** To comply with the South African Constitution, an urgent review of the current practice of strip searching and cavity searching in SCCs must be undertaken. General searching of children should not be invasive and should be risk assessment led. If weapon smuggling is a genuine concern, then other methods of detection should be considered. The National Department of Social Development should take the lead in the development of the national regulation of searching practices. These urgent measures should be followed by a medium-term assessment of the feasibility of technological and other solutions to reduce risk and avoid searching as far as possible.
- **Isolation:** The Department of Social Development should act immediately to stop these unlawful practices by enforcing the current laws and regulations. DSD officials undertaking regular Developmental Quality Assurance (DQA) should prioritise their monitoring regarding this practice.
- **Placement and separation of children and youths:** To ensure the safety of the children and curb bullying and abuse by older young persons toward children centres should place children and youths separately following an individualised assessment.

## Professional care

- Ensure that professional care is not undermined by rules requiring CYCWs to “take a guarding and punishment approach to children”.
- Ensure CYC practice that builds Care routines, such as wake up and going to bed routines, as well as eating with children, as understood within the professional purview of the CYCWs, is included in secure care.

## Behaviour management

- End “behaviour modification” and punishment practices and replace these with behaviour management practices in line with CYC practice.
- Ensure that physical abuse of children is prevented, and that security personnel and police are not involved in disciplining children.
- Stop unlawful or improper use of isolation as “behaviour modification”.



## THEME 6: Treatment and development of children and youth

### Developmental assessment and individual development plans (IDPs)

In most Centres, children’s individual needs are not fully understood and are not being met. It is, therefore, recommended that:

- Train all professional staff in developmental assessment and the development of IDPs.
- Assess every child in a SCC to be undertaken by a multi-disciplinary team that develops an IDP written together with the team and child, which then gets implemented.
- Ensure quality assurance procedures monitor these MDT assessments as a priority, ensuring the file contains the full assessment, the IDPs and the progress of the developmental and therapeutic work undertaken by the team to meet the goals of the IDP.

- Tailor programmes and interventions indicated in the IDP to meet the individual needs of the child.
- Use standardized diversion programmes for young people who are in the centre for diversion and stop the practice of using these programmes as a one-size-fits-all approach.
- End the practice of rotating a child through programmes more than once, unless a second experience of a programme is indicated after an assessment.



## THEME 7: Education

- Ensure that barriers for children who have never been to school are addressed through AET or CET programmes.
- Ensure cooperation of community schools through liaison with the relevant provincial Department of Education and/or district office.
- Ensure cooperation of community schools through liaison with the relevant provincial department of Education.
- Provincial Departments of Social Development should “build back better” when they reinstate the vocational programmes and sporting activities that were stopped during the COVID 19 pandemic.
- Develop vocational training programmes, ensure appropriate staffing to run these programmes, and assure their accreditation.



## THEME 8: Accommodation, facilities, buildings and grounds

- Ensure a reliable and adequate supply of hot water. In areas where lack of water is a fundamental community issue, boreholes should be installed to ensure the efficient functioning of the centre and adequate provision of services by the Centre.
- Improve liaison with the Department of Public Works and Infrastructure (DPWI) to ensure the improvement of infrastructure.



## THEME 9: Preparedness and management of the COVID-19 pandemic

- The National Department of Social Development must develop a protocol to ensure that if the country be faced with a public health crisis in the future, they will be able to ensure appropriate care and services for children in institutional care, bearing in mind international law, the Constitution and relevant legislation. Such protocol should follow the guidelines provided by the UN Committee on the Rights of the Child and the African Committee of Experts on the Rights and Welfare of the Child.



## THEME 10: Monitoring

- Ensure compliance with registration procedures.
- Strengthen internal monitoring by Provincial Departments of Social Development in all provinces.
- Ensure that quality assurance processes are carried out in accordance with the legal requirements in all provinces.
- Ensure that organisational development plans are actively used and updated to ensure organisational development.



# ANNEXURES

## ANNEXURE 1

### Protocol on visits to Secure Care Centres

#### 1. Principles

##### Non-judgmental Attitude

Although no evaluation process is entirely objective, the review should be based on an attitude of open-mindedness, without prejudice and preconceived ideas. The conclusions reached by the team should be the result of the comprehensive assessment by young people, staff and the team, not individual opinions and biases.

##### Strengths-based

The review should, as a matter of priority, identify and build on strengths in the Centre and staff. However, this does not preclude the identification of weaknesses, or serious violations of rights. Weaknesses are identified in the process and then become developmental areas which require attention.

##### Diversity

The team should be able to conduct the review in the language/s of the organisation and with respect for cultural norms and practices.

##### Appropriateness

Without losing its integrity, the review process and model should be adapted to be most appropriate within the environment and context of the Centre subjected to the review.

##### Competency

The review should be carried out by a team who are skilled, knowledgeable and experienced in this regard.

##### Expertise

At least one person on the review team should have specific and “expert” knowledge, skill and experience with regard to Secure Care practice with young people.



Although no evaluation process is entirely objective, the review should be based on an attitude of open-mindedness, without prejudice and preconceived ideas.

### **Rights-based**

The review should respect and protect the Human, Constitutional and special Rights of individuals throughout the process. This is the core component which is subject to monitoring and thus violations of any kind and degree, should be given priority and immediate attention over and beyond “developmental” support to the Centre.

### **Participation**

The Review is a participatory approach, where service recipients, staff and management, in partnership with the team, play an equally important role in the assessment. The Review is not something done “to” an organisation, but “with” an organisation.

## **2. Selection of interviewees**

The selection of staff and young people will be random. Centres will be required to before the visits to furnish the project team with a list of all young people in the facility together with their age, gender and first language. Young people will be selected from this list for interviews and/or for focus groups.

Similarly, Centres will be required to provide a list of management staff, professional staff and administrative staff. Staff will be selected from this list for interviews and/or for focus groups. The person in charge of the facility will be interviewed.

In relation to the Provincial Department, the Department will be asked to indicate who would be the appropriate persons to meet with the review team.

## **3. Scheduled and unscheduled visits**

These will be scheduled visits

## **4. Information Gathering**

Focus areas of the review. These will act as themes for the development of questions that will be used for individual interviews and focus groups.

- a. Implementation of the principles set out in the Blueprint on Minimum Norms and Standards for Secure Care Facilities in South Africa (indicated above).
- b. The Children’s Act 35/2005 emphasises that a secure care facility should provide programmes for the children awaiting trial. These programmes must include:
  - Therapeutic programmes
  - Developmental programmes
  - Care programmes
  - Spiritual/religious programmes
  - Cultural programmes
  - Recreational programmes
- c. Education
- d. Behaviour management strategies and techniques and treatment of children, including physical and other forms of punishment, and use of isolation.



- e. Staffing:
  - Qualifications
  - Training
  - Child: Staff Ratios
  - Duties
- f. Complaint procedures and processes for young people, records and monitoring.
- g. Physical state of the buildings and facilities.
- h. Individual Assessments, progress reports and programmes.
- i. Preparedness and Management of the COVID-19 pandemic and periods of lockdown.
  - Special Provisions for young people during COVID-19 lockdown
  - Physical care and safety
  - Psycho-social care
  - Education
- j. Access to family.
- k. General preparedness for disaster management.
- l. Care of young people – medical assistance and health, food, personal hygiene, clothing, bedding etc.
- m. Safety – physical, social, emotional, cultural. Access to therapeutic services.
- n. Children with special needs.
- o. Ideas and opinions regarding an independent oversight mechanism.
- p. Records

## 5. Persons to be interviewed

- a. Management (including Provincial Department manager)
- b. Professional staff (Child and Youth Care Workers, Social Workers, Psychologists)
- c. Administrative staff
- d. Young people who are at the time of the visit resident in the SCC.

## 6. Methodology

Framework and Themes provided for each group of persons to be interviewed.

## 7. Reporting and follow up

- a. Developmental Report on each Secure Care Centre. An organizational review and development report will be prepared after each visit and shared with the management of the Centre, as well as the provincial department, the Children's Commission and the Centre for Child Law.
- b. Reporting to the Provincial Department/s
  - In-person by the visiting team
  - In writing once reports are drafted
- c. Summary Report and Recommendations to
  - SAHRC
  - National and Provincial Departments
  - International Committees
  - CCL Project team who will use for recommendations on an independent national prevention mechanism
- d. Follow-up on immediate danger to children

## Annexure 2

### List of Secure Care Centre and visit dates

Date of Visit	Centre Name	Province	Town
11 May 2021	Mogale CYCC	Gauteng	Krugersdorp
12 May 2021	Walter Sisulu	Gauteng	Soweto
31 May 2021	Soshanguve SCC	Gauteng	Soshanguve
1 June 2021	Mogale CYCC	Gauteng	Krugersdorp
17 June 2021	Winkie Direko	Free State	Bloemfontein
6 & 7 September 2021	John X Merriman	Eastern Cape	East London
6 & 7 September 2021	Enkuselweni SCC	Eastern Cape	Gqeberha
8 & 9 September 2021	Bisho CYCC	Eastern Cape	Bisho
15 & 16 September 2021	Matete Matches SCC	Free State	Kroonstad
15 & 16 September 2021	Thabo Mofutsanyane SCC	Free State	Qwa Qwa
17 September 2021	Sinethemba SCC	Kwa-Zulu Natal	Newcastle
11 October 2021	Outeniekwa House	Western Cape	George
11 October 2021	Clanwilliam	Western Cape	Clanwilliam
13 & 14 October 2021	Vredelust House	Western Cape	Cape Town
13 & 14 October 2021	Bonnytown	Western Cape	Cape Town
15 October 2021	Horizon CYCC	Western Cape	Cape Town
25 & 26 October 2021	Rustenburg SCC	North West	Rustenburg
27 & 28 October 2021	Matlosana SCC	North West	Klerksdorp
14 & 15 February 2022	Excelsior Place of Safety	Kwa-Zulu Natal	Pine Town
14 & 15 February 2022	Valley View Place of Safety	Kwa-Zulu Natal	Durban
16 February 2022	Ocean View Place of Safety	Kwa-Zulu Natal	Durban
28 February & 1–2 March 2022	Mavambe SCC	Limpopo	Malamulele
28 February and 1 March 2022	Polokwane SCC	Limpopo	Polokwane
14 & 15 March 2022	Hendrina CYCC	Mpumalanga	Hendrina
14 & 15 March 2022	Ethokomala SCC	Mpumalanga	Zondagskraal Farm Kinross
5 & 6 April 2022	Namaqua SCC	Northern Cape	Springbok
7 & 8 April 2022	Marcus Mbetha Sindisa SCC	Northern Cape	Upington
21 & 22 April 2022	De Aar SCC	Northern Cape	De Aar
21 & 22 April 2022	Lulama Futshane CYCC	Eastern Cape	Burgersdorp
4 & 5 May 2022	Qumbu CYCC	Eastern Cape	Qumbu

## Annexure 3

### Analysis of the national department of social development's "blueprint, national norms and standards for secure care in South Africa" (blueprint)

Firstly, there are obviously good intentions behind the development and use of this document. Much of it is in line with the law, child rights, regulations and expected CYC standards. Large components state clearly what is expected as good practice for SCCs and that is appreciated.

The project team, however, does have serious concerns. Not only regarding some of the content of the Blueprint, but regarding the significant gap between this document and (a) what should be happening practice, and (b) the appalling practices that the team has observed in Secure Care Centres. Based on the monitoring visits that have been conducted, the project team draws the departments' attention to the key concerns regarding the Blueprint.

#### General concerns

1. In many instances, as indicated in this report, the law, regulations under the law, and child rights are not upheld in Secure Care Centres. It would be constructive to have a document that spells out how these and the official standards of practice under the law, should and can be upheld in practice by all professionals in every Centre, than to have a complicated, lengthy document which in many aspects allows for, or in several instances directs poor practice.
2. While the desire to have every Secure Care Centre look the same and have the same accommodations, rooms, office block, swimming pool etc., this is not practical considering the statistics on children involved in crime or the differences between provinces and the various communities in which these Centres are placed. As a result, most of the Secure Care Centres are overwhelmingly large and are under-utilized in some provinces and/or communities.
3. The Blueprint is overly prescriptive and controlling on all aspects that involve practice within secure care. Any form of residential care and especially secure care requires highly qualified, ethical, and confident professional staff who can respond to what children with emotional and behavioural challenges need, establish programmes that make sense in that context and according to comprehensive, holistic developmental assessments, and who can act in the moment and be creative and spontaneous. All this takes place within what has been indicated in point (a) above. Professionals trying to follow highly prescriptive procedures within an ever-changing context and population of children, can too easily become "robotic", trying to follow prescriptions, and find themselves unable to respond to the unique needs of the child.



**It would be constructive to have a document that spells out how these and the official standards of practice under the law, should and can be upheld in practice by all professionals in every Centre.**



**“Secure Care facilities are designed for short-term accommodation of children awaiting trial and therefore programmes designed should address the needs of children for the time spent in the facility and add value to their rehabilitation process.”**

4. The document shows inconsistency regarding philosophy and principles and between the various sections and paragraphs. A principle or description written in one section for example, is counteracted by a norm or practice guidelines in a different section. Behaviour management is a good example of this. The description on page 29 is an excellent description of what good practice requires, whereas practice guidelines in the latter part of the document do not honour this description.
5. The definitions and concept of secure care are confusing and differ throughout the document. At first, secure care (p3) is defined as a “residential facility and/or programme of intervention which ensures the appropriate physical, emotional and behavioural containment of young people charged with crimes and who are awaiting trial or sentence”. Then (under 1.1.2) a Centre “provides a milieu and programme conducive to the care, safety and healthy development of each young person”. There is a further statement which says that “secure care was set up as places where children take responsibility for their wrongdoing, that recidivism is prevented, as well as contain them, *restrict their movements* and ensure the safety of the community”. Then the statement at the top of page 32 makes the point that secure care is for “*awaiting trial and short-term only*” and continues to state that “Secure Care facilities are designed for short-term accommodation of children awaiting trial and therefore programmes designed should address the needs of children for the time spent in the facility and add value to their rehabilitation process.” Finally, on page 41, the vision describes *secure as, “a programme providing developmental and holistic intervention in an enabling, caring, safe and secure environment to ensure comprehensive and integrated services to children in conflict with the law.”* The latter is an accurate and good practice definition/vision and should be the only one (other than the legal definition if needed) to be found in the blueprint. To have different understanding of the nature and purpose of secure care is confusing to Centres and thus becomes detrimental to practice, where management and staff can pick and choose which definition applies.
6. The team notes that the Blueprint places considerable emphasis *on children awaiting trial* and at times *on children who have been diverted to secure care*, but seldom addresses the fact that Secure Care Centres are there for children who are sentenced. This may be the main reason for the common use of programmes that are accredited diversion programmes.



7. The definition of “life-space” (p 29) may be leading to some of the confusion in roles that the team found at the Centres and may in addition be impacting on how child and youth care workers are treated by their colleagues. Firstly, the definition itself does not make sense. Life-space in the professional context simply refers to “where the child is and what is going on where that child is”. There is a difference between the definition of life-space and the definition of “life-space work”. Child and youth care workers do not simply work in the life-space; they do professional *therapeutic life-space work*. We have found that in some Centres, because of the use of the term “life-space”, without the understanding of what child and youth care workers are meant to do as *professionals*, there is an expectation that CYCWs follow the children around and/or take them to school or therapy and wait outside until they are done. In several instances, the CYCWs themselves have come to believe that all they must do is be where children are and watch them. A small aspect that needs correcting is that under 5.5.1 the heading is “Child and Youth Care” and should be “CYC Centre.”
8. Under the description of the various roles, it is noted that instead of using the term Child and Youth Care Worker (CYCW), which is the professional term, the Blueprint uses the term child care workers, or care workers. As a result, in the Centres it was noted that management refers to the “care section” and to “care workers”. This terminology and the list of tasks under the role of CYCWs in the Centre, diminish child and youth care workers as professionals and give the impression to social workers and other professions that CYCWs are not equal to them. It is noted too, that in several sections where professionals are named, Child and Youth Care Workers are not listed. The team is raising these concerns because in the visits it was noted that Child and Youth Care Workers are not being treated as professionals and in several situations are not behaving as professionals. In addition, the team has noted that there is confusion in the Centres as to the role of child and youth care workers, particularly when it comes to behaviour management, assessment, or therapeutic work. This in turn is resulting in negative dynamics between staff and management, and/or among staff. More importantly it is undermining the relationship between CYCWs and the children.
9. Terminology at times is not aligned with principles and philosophy. To name a few examples, (a) the heading of PART THREE refers to Child and Youth Care *facilities*, and (b) during visits the team noted that the person at the head of the Centre is call the “Head of the *institution*”. Because there is concern that Centres are in fact running like institutions and not *Care Centres*, it is important to have terminology aligned with philosophy.



**Life-space in the professional context simply refers to “where the child is and what is going on where that child is”.**



**The IDP completed by the Probation Officer is an indication of the immediate next steps and what they recommend should occur with the family and in relation to a suitable placement/or diversion.**

10. The description of the role and responsibility of the probation officer and social worker in the centre when it comes to assessment is causing challenges in the centres. The Probation Officer is meant to do an abbreviated version of a Developmental Assessment (including risk assessment) for the purposes of the court. The Probation Officers, in the very short time they must assess, are not able to produce a comprehensive IDP that should then be implemented by the team and the child at the Centre. The IDP completed by the Probation Officer is an indication of the immediate next steps and what they recommend should occur with the family and in relation to a suitable placement/or diversion. Similarly, the Social Worker in the Centre cannot do an IDP based on the Probation Officer's assessment. They should be working with the full multi-disciplinary team (and the child) at the Centre, spending time on a holistic Developmental Assessment which also takes into consideration the initial assessment of the probation officer. This comprehensive Developmental Assessment then leads to an IDP agreed upon by the team and the child.
11. This above point on assessment leads directly to the issue of programmes. The team is unsure where the list of programmes (on page 60) originated. While there is nothing wrong with the list, the concern is that at a later stage in the document these programmes become highly prescriptive and "mandatory". A developmental assessment is meant to give rise to responsive therapeutic and developmental programmes and interventions that match the unique needs and strengths of the child who has been assessed. Young people cannot be simply slotted into a prescribed programme, or a set of sequential programmes loosely connected to the specific crime or problem behaviour. Quite often the meeting of the needs identified in the assessment requires programmes that must be flexible and designed for the child. Pre-packaged programmes can be used to some extent but in too many cases can miss the specific child's needs completely.
12. The paragraphs under "7. Services to Beneficiaries" on page 60, are problematic. The programmes identified make sense, however the description of what these are meant to be is not entirely accurate or refers to components that are not related to that programme. The prescribed nature in which this section is written and the allocation of these programmes to a specific profession or to volunteers is also a concern.

- a. Therapeutic programmes and services delivered by professionals cannot be prescribed to those professionals. The reason for the child's referral to a therapist or a therapeutic programme denotes what the therapist must achieve with the child based on their professional knowledge and skill, not what is told to them in a policy. The referral or involvement of the professional arises from the assessment. Social workers, psychologists, child and youth care workers, and occupational therapists are all professionals and able to run therapeutic programmes, but these interventions and programmes will differ from one profession to another and from one child to another. Prescribing the work of a professional is inappropriate.
- b. Developmental interventions and programmes range far beyond education. Education should stand as a critical component on its own. Developmental interventions and programmes arising from the assessment may be offered by social workers, teachers, child and youth care workers, occupational therapists and even volunteers. The information on education under this heading seems to have been drawn from another document referring to education within the CYC system.
- c. Recreational programmes and activities can be structured, but do not have to be structured. There are many times when recreation should be spontaneous and be pure fun. The whole idea behind recreation is that it is fun, developmental, and different from formal work and can in many instances be therapeutic if CYCWs use that time appropriately. These programmes are not offered as "sessions".
- d. Spiritual and religious activities do not have to be prescribed as programmes, they can also be permitted as activities and rituals. This is a poor interpretation of the Children's Act. However, if they are run as some form of programme, they can be run by volunteers, or CYCWs, or even an older youth in the Centre.
- e. Cultural programmes – the comments under recreational and spiritual programmes apply.
- f. Care programmes. These do not exist. Child and youth care workers do therapeutic life-space work and developmental activities and programmes which is professional CARE work. These can be in sessions but seldom are. They are mainly responsive activities within the life-space of the child within the context of the IDP. In addition, care is the therapeutic and developmental support CYCWs give during daily routines and activities. This is purely based on the child's needs and happens throughout the day. In CYC practice, on which secure care work is based, there is no programme that is offered as care. However, CYCWs may be trained to deliver a specific type of therapeutic activity or programme.



**Spiritual and religious activities do not have to be prescribed as programmes, they can also be permitted as activities and rituals.**



**If personnel are to be trained in any form of restraint it must be in professional/therapeutic restraint of children.**

### Concerns with Norms, Standards, and Practices

1. Consultations and inputs into the Blueprint: The team notes with concern that seemingly visits and consultations which gave rise to the Blueprint are mostly internal to the departments and centres. It is also noted with concern that any learning from other countries was dismissed. When it comes to content in section three and the reference for the development of the practice guidelines being “consultations and practice” it seems possible that managers and staff at the centres have given considerable input that does not, in several instances, reflect good practice with children, principles, regulations, or the law, but does in fact support what is presently occurring.
2. 2.3 Standards are not met.
3. 2.4 Standards are not met
4. 2.10,11,12,13,14, and 15 barely exist in many of the Centres.
5. 3.3 Regarding Searches: While the norm states that the Centre has mechanisms and procedures to regulate and monitor any searching of the children for weapons or substances in a rights-based manner, this is not what happens in practice and is of grave concern. It is also of concern that practice is based on the norms and standards for *inpatient treatment centres* and not related to children.
6. 2.9 Indicates there should be an adequate supply of recreational materials. It then goes on to prescribe what must be present and what capabilities children must have. There is no consideration for the differentiation between girls and boys, the number of children, the context in which the Centre exists, and whether children wish to swim or not. Yet with all this stipulated, very few Centres have much of this equipment and some, none.
7. With respect to 7.3, the safety of staff is appreciated, but it is important to avoid conflating staff safety with child safety. Child safety is a right. Staff safety is important. In several places in the document a statement is written about safety for children and staff, whereas it should be a statement about child safety.
8. If personnel are to be trained in any form of restraint it must be in professional/therapeutic restraint of children. Leaving it open to just “restraint” in general may lead to personnel using restraint procedures used by police, correctional officers and so on. Further, the Blueprint should stipulate those personnel who may restrain children may do so only as allowed in the Act. This means that CYCWs, teachers, and security personnel must all be trained in professional restraint measures with children and use such measures only as a last resort after they have implemented all other professional strategies.



9. With respect to 9.5 – persons not permitted to work with children – it would be good to include that security personnel and out-sourced personnel, such as those who do the catering, may not engage directly with the children unless they have been trained to work in secure care and with children, or are supervised by a CYCW, SW or manager. Caterers, for example, should have no direct control over children, other than to be friendly and serve the food. It is CYCWs who are meant to be overseeing mealtimes and spending time with children while the meal is happening, including making sure that children are treated respectfully by catering staff.
10. 9.7 indicates that staff have the correct qualifications and 9.8 speaks further to qualifications, supervision and ethics etc. An HR strategy and a Centre manager with specialized knowledge is also mentioned under 9.7. This is not happening consistently in any province and is a major concern of the visiting team.
11. 10.2 the Standards on Education, simply don't exist in practice.
12. 13.4 Is of significant concern. Child and youth care workers are required to; (a) record behaviour daily for every child, (b) record disciplinary actions in a behaviour management register, and (c) report the transgression of rules to the management of the centre daily. This is neither appropriate or good practice or required in regulations. This over emphasis on, and time allocated to, “negative” behaviour, breaking of rules, and getting rid of such behaviour through modification/punishment, is empowering of management and disempowering of child and youth care workers, and children. The Blueprint practice content is centred in control and power and not in good Child and Youth Care (CYC) or Secure Care practice, which is concerning.

CYCWs should indeed be observing the children. That observation is meant to be connected to actions, positive activities, emotions, relationships, and meeting of needs and is a natural component of professional CYC work.



**The Blueprint practice content is centred in control and power and not in good Child and Youth Care (CYC) or Secure Care practice, which is concerning.**



The critical incident book is kept by the centre manager. It records the incident, and what actions were taken to sort it out by the Centre professionals.

### Critical incident report

Critical incident reports are required by regulations. Hence this is an appropriate practice. This applies to all professionals in the centre and is not specific to CYCWs. A critical incident is a serious incident that has required a crisis intervention, and which may have caused harm in one form or another, including by accident. The critical incident book is kept by the centre manager. It records the incident, and what actions were taken to sort it out by the Centre professionals.

It is not meant to record *disciplinary actions* taken against a child. The insertion of the need for *disciplinary action* is concerning. Critical Incidents reports (and Complaints in a complaint register) are the official reports that are necessary.

### Behaviour management recording

There is no legitimate reason for CYCWs, or the Centre, to keep a behaviour management register, or for CYCWs to report infractions of rules to management daily.

“*The professional process of enabling a child to gain inner control of themselves and behave with dignity is called behaviour management. Professional behaviour management does not include any form of punishment. The elements of “influence”, relationship, respect, support, guidance, and behaviour management strategies combine to provide the developmental strength they need.” (p 29)*

The accurate definition of behaviour management above should be noted in this regard. CYCW's require the skills and knowledge to do behaviour management in the life-space when the difficult behaviour occurs. That should be the end of the intervention and reporting, and only if it escalates into a serious *critical incident* should there then be a critical incident report.

The very real problem is that these blueprint norms and standards do not support the above definition stated in the Blueprint and are inadvertently contributing to what the visiting team has witnessed in terms of abuse of children and violation of the law and regulations.





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