Profile of Existing Diversion Programmes in Nigeria
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<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>ANPPCAN</td>
<td>African Network for the Prevention and Protection against Child Abuse and Neglect</td>
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<td>CBO</td>
<td>Community Based Organizations</td>
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<td>CIRDDOC</td>
<td>Civil Resource Development and Documentation Centre</td>
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<td>CRA</td>
<td>Child’s Rights Act 2003</td>
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<td>CRC</td>
<td>Convention on the Rights of the Child</td>
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<td>CRL</td>
<td>Child Rights Laws</td>
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<td>CRIN</td>
<td>Child Rights Information Network</td>
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<td>CSOs</td>
<td>Civil Society Organizations</td>
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<td>CYPAs</td>
<td>Children and Young Person’s Laws</td>
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<td>EU</td>
<td>European Union</td>
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<td>FBO</td>
<td>Faith Based Organisations</td>
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<td>FCT</td>
<td>Federal Capital Territory</td>
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<td>FDI</td>
<td>Focus Group Discussions</td>
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<td>FIDA</td>
<td>Federation of Women Lawyers</td>
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<td>IDI</td>
<td>In-depth Interviews</td>
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<tr>
<td>IHRHL</td>
<td>Institute of Human Rights and Humanitarian Law</td>
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<td>NBA</td>
<td>Nigerian Bar Association</td>
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<tr>
<td>NCWS</td>
<td>National Council of Women Societies</td>
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<tr>
<td>NGO</td>
<td>Non Governmental Organizations</td>
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<tr>
<td>PRAWA</td>
<td>Prisons Rehabilitation and Welfare Action</td>
</tr>
<tr>
<td>PRI</td>
<td>Penal Reform International</td>
</tr>
<tr>
<td>SWEWP</td>
<td>Society for the Welfare of Women Prisoners</td>
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<tr>
<td>WACOL</td>
<td>Women’s Aid Collective</td>
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<tr>
<td>PADEC</td>
<td>Poverty Alleviation and Development Centre</td>
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CHAPTER 1

Introduction

A standard youth justice text book defines diversion as “strategies developed in the youth justice system to prevent young people from committing crime or to ensure that they avoid formal court action and custody if they are arrested and prosecuted”\(^1\) These strategies to divert children out of the formal justice system can encompass a variety of programmes, from school based crime prevention programmes through to community-based programmes used as an alternative to custody. Diversion does not necessarily require a child to be placed in a formal programme. In some countries diversion could include: receiving a police caution, writing an apology letter, participating in an alternative dispute resolution forum or being placed under supervision. The practice of diversion is believed to promote more humanitarian and less stigmatizing responses to child offenders than punitive sentences.

In Nigeria, the provisional withdrawal of charges against a child offender, on the condition that the child performs a community service or makes reparation to the complainant, seems to be a novel practice. Although there were some provisions in the Children’s and Young Persons Act (CYPA) that could be used as diversion, the attitude of the Courts was more punitive and custodial sentences were the norm.

However, the CYPA did not reflect the guidelines in the International Conventions and Standards for the treatment of juvenile offenders, especially in employing diversion options. Prior to the passage of the Child’s Rights Act, 2003, (CRA) Nigerian children in conflict with the law were often tried like adults, especially for crimes like murder, robbery with aggravating circumstances, rape or similar serious offences. Some children were sentenced to jail and incarcerated with adults instead of going to juvenile institutions or being given more reform-oriented, non-custodial dispositions. Juvenile cases are heard in regular court buildings due to lack of juvenile courts.

With the enactment of the CRA in September 2003, by the Federal Government of Nigeria, there is now an innovative legal framework to entrench the rights of children including those in conflict with the law. There are clear provisions for creating a child justice administration. The provisions of the CRA supersede all other legislation that have a bearing on the rights of the child.

As the CRA has been enacted at the National level, the States are expected to formally adopt and adapt the CRA for domestication at the State Houses of Assembly as state laws. This is because issues of child rights protection are on the residual list of the Nigerian Constitution, giving states exclusive responsibility and jurisdiction to make laws relevant to their specific situations. State laws inimical to the rights of the child are also to be amended or annulled as may be required, to conform to the CRA and the Convention on the Rights of the Child (CRC). Presently the CRA has been passed in Anambra, Imo, Ebonyi, Plateau, Nassarawa, Jigawa, Kwara, Lagos, Ondo, Rivers, Bayelsa, Ebonyi, Ekiti, Abia and Ogun states respectively. It is hoped that all the other States of the Federation will pass it soon.

With the CRA’s specific provisions for creating a separate child justice administration, the practice of diversion in Nigeria is expected to expand and develop. The option for diverting children out of the child justice system is clearly entrenched in CRA in several different provisions, for example: the prosecutor and police are empowered

to dispose of the case without resorting to formal trial by using other means of settlement, including supervision, guidance, restitution and compensation of victims; the prosecutor can withdraw the charges against a child offender; the magistrate or the judge sitting in the 'Family Courts' can impose a range of non-custodial orders or to convert the trial into a child in need of care and protection proceedings.

1.1 Justification

A child justice system or administration is based on the premise that the mental and intellectual, emotional physical and psychological capacity of children should not be equated with that of an adult. The state should not expose children to the formal criminal process. However, in Nigeria they are exposed.

In some states of the Federation, there are no specific buildings designated as juvenile courts, and as such, child offenders are sometimes tried in regular court buildings. The magistrates play a dual role of being a judge for the adult offender and at the same time for the child offenders. Other role players, such as, the police, probation officers, legal counsel and other assessors are often not trained in the particular differences of a child/juvenile justice administration or in dealing with children. There is also insufficient training in human rights based approach to handling juvenile cases for all the role players in juvenile justice administration. The problem is further compounded by inadequate number of social welfare officers and/or probation officers.

Prior to the passage of the CRA, Nigerian children in conflict with the law were often tried like adults, especially for crimes like murder, robbery with aggravating circumstances, rape or similar serious offences. Some children have been sentenced to jail and incarcerated with adults instead of going to juvenile institutions or being given more reform-oriented, non custodial dispositions.

One of the characteristics of the Nigerian child justice system before the enactment of the CRA is that children are held in custody for long periods. This happens for many reasons. In addition these children are being held in prison with adults. The study (listed in footnote 6) also found that “93% of the juveniles were detained for the first time, and as such they were first offenders”.

Many diversion programmes are specifically designed for first time offenders. If there were diversion programmes in place and alternative custodial holding places, children could be diverted out of these prisons and holding cells.

This study is then conducted to provide an assessment and an inventory of the seemingly low and uncoordinated existing diversion programmes in some selected states in Nigeria, identify role players in support of a systematic development of programmes at all levels of diversion, and indicate how the coordination between those involved in diversion programmes within the child justice systems, can help in improving the lot of child offenders who are presently suffering from the gaps of the former Child Justice System.

It is hoped that interventions under the new diversion programmes developed in Nigeria under the CRA will be community-based, where families, professionals and community members can help children to understand the impact of their actions on

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3 Ibid. at p.86.
others, make restitution where appropriate and become productive members of society.

1.2 Objectives of the study
The study has a broad based objective: to set up an inventory of diversion programmes within selected states in Nigeria. It is to:

- Identify and assess the role-players and institutions providing diversion programmes in some selected states in Nigeria;
- Identify the types of facilities available for all levels of diversion programmes;
- Identify the collaborative initiatives in the diversion area;
- Obtain a children’s view/experience of diversion programmes;
- Identify the challenges to create and maintain diversion programmes; and
- Make recommendations to overcome these challenges.

The inventory will provide a map of what diversion services are, and the facilities available for use by the police, prosecutors and judges in some states in Nigeria. It will also indicate, how and if there is any co-ordination between the role-players involved in diversion programmes. This information will contribute towards the development of a knowledge/data base which is the first necessary step in reforming and building a diversion system based on the CRA.

1.3 Methodology
The study was conducted in the six geo-political zones by selecting one state from each zone: Kaduna in North West, Bauchi in North East, Plateau and FCT 4 in the North Central, Lagos in South West, Enugu in the South East, and Rivers in South-South. Consultations with a wide range of role-players were held. A list of non-governmental organizations engaged in diversion programmes was developed for each sample State.

Two sets of standard questionnaires were administered. The first was to determine an inventory of diversion programmes and who facilitates them, and the other was applied to determine the profile of the children who have participated in the diversion programmes. A purposive sampling approach was used to ensure a good representation of what exists in each sample state/zone in Nigeria.

In addition to the questionnaires, focus group discussions were held where permitted. A desk review of existing literature and reports on diversion programmes in Nigeria was also conducted to complete this study.

1.4 Peer Review of findings
Subsequent to the completion of the study, a draft report was produced. A workshop to review the report held from 11th to 15th October 2005 at Confluence Hotel Lokoja, Kogi State, Nigeria. The participants invited were representatives of role-players involved in diversion programmes from the states where the study was conducted. Further review of the document was done in August 2006 by representatives of the National Juvenile Justice Administration Working Group. The report was collectively reviewed and critiqued in terms of the structure, approaches employed, data documented and content delivery. The input and recommendations from these meetings were incorporated into this document.

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4 Due to the fact that the CRA was passed in FCT.
CHAPTER 2

Diversion Programmes in Perspective

2.1. International Frameworks and Standards of Child Justice Systems

“The child by reason of his physical and mental immaturity needs special safeguards and care, including appropriate legal protection against all forms of discrimination, exploitation, abuse or neglect, before as well as after birth”5. “The need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child made as far back as 1924, and in the Declaration of the Rights of the Child adopted by the U.N. General Assembly in 1959. This was recognized in the Universal Declarations of Human Rights, the International Covenant on Economic, Social, and Cultural Rights6 and most importantly in the United Nations Convention on the Rights of the Child, 1990 the most widely ratified Convention ever recorded of any human rights instruments in the history of the United Nations; and the African Charter on the Rights and Welfare of the Child.

In 1985, the General Assembly also passed the “United Nations Standard Minimum Rules for the Administration of Juvenile Justice otherwise called the Beijing Rules. As part of its provisions, Rule 5 stipulates that the ‘aim of juvenile justice should be an emphasis on the well being of the juvenile and to ensure that any reaction to juvenile offenders shall always be in the proportion to the circumstances of both the offender and the offence’.7

Rule 7 of the Beijing Rules further stipulates that juvenile cases should be guided by basic procedural rights, such as presumption of innocence, the right to be notified of the charges, the right to remain silent, the right to counsel, the right to presence of parents or guardian, the right to confront and cross examine witnesses and the right to appeal to a higher authority.

Since its adoption, the 1959 Declaration has served as a platform for public and private initiatives employed in the interests of children all over the world. These initiatives affirm a strong desire to bring an end to the sufferings of children. However, a Declaration is only a statement of principles and not a legally binding document. It will only become binding after the member states take positive steps to ratify and domesticate it within their countries.

The era of declarations on children’s issues changed in 1989 with the drafting of the UN Convention on the Rights of the Child (CRC). It was adopted by the Heads of Government at the UN World Summit for Children in 1990. The Convention ratified by 191 countries out of 193 countries in the world became one of the foremost legal instruments to guide treatment of children globally.

Articles 37 and 40 of the CRC articulated how governments, state parties and juvenile justice agencies should deal with and treat juvenile offenders. These provisions serve as the benchmark for the handling of juvenile offenders by member nations. Principally, the contents of Articles 37 and 40 of the Convention on the

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5 Preamble, Declaration of the Rights of the Child, UN, 1959
7 Ibid. Footnote 2 at. p.22
Rights of the Child, (CRC) and Article 17 of the AU Charter on the Rights and Welfare of the Child, deal directly with the treatment of child/juvenile offenders by government and its juvenile justice officers, agencies and administrators.\(^8\) The CRC specifically stipulates that alternative sentences or diversion options should be employed in the formal processing of child offenders through the criminal justice system, and consideration should be given to dealing with juvenile offenders without resorting to formal trial.

Another instructive international standard on juvenile justice is the Riyadh Guidelines.\(^9\) These guidelines represent a comprehensive review by the international community of the problems of children in conflict with the law from a human rights perspective. It states in section 52 that "Governments should enact and enforce specific laws and procedures to promote and protect the rights and well-being of all young persons."

By these international standards, children in conflict with the law are entitled to fair and humane treatment, the right to visits, privacy, communication with the outside world, daily exercise; education (provided outside the detention facility by qualified teachers) suited to the child's needs and designed to prepare them for return to society; and generally ensures that children are detained separately from adults.

The Guidelines also state that a child in conflict with the law has the right to treatment that promotes the child's sense of dignity and worth that takes the child's age into account, and aims at his or her reintegration into, and assuming a constructive role in society. The placement of a juvenile in a closed facility (prison, detention centre, detention cell, rehabilitation centre for children or any other closed institution) should be avoided whenever possible, and deprivation of liberty should be a measure of last resort, limited to exceptional cases and for the shortest time possible.

The detention of children is often severely distressing for them and disruptive for their families. Recent estimates\(^10\) indicate that more than 1 million children worldwide are deprived of their liberty by law enforcement officials; and most of the children in detention are non serious offenders. A large number of children who are detained have not even committed a criminal offence. They are deprived of their liberty for what are called 'status offences' such as vagrancy, begging, smoking, dropping out of school, or alcohol/drug use. Although girls generally make up less than 10 per cent of juvenile offenders, they can come into conflict with the law as a consequence of criminal acts against them such as rape and sexual exploitation.

Globally, there are a number of fundamental principles underlying any approach to issues of juvenile justice, many of which are common to basic human rights standards for all people coming into conflict with the law. For children deprived of their liberty, these include: legal protection and due process guarantees, immediate notification of parents or guardians upon the apprehension of a juvenile, and the right of the child to be in contact with his or her family; deprivation of liberty should always be a measure of last resort and for the shortest time possible; right to facilities and services that meet all the requirement of health and human dignity and to provision of adequate medical care, both preventive and remedial. All disciplinary measures constituting cruel, inhumane or degrading treatment, including corporal punishment

\(^8\) Ibid. Footnote 2 at p.23.  
that may compromise the physical or mental health of the juvenile concerned should be prohibited.

The Committee on the Rights of the Child is an elected committee of international experts that was established in 1991 in accordance with Article 43 of the CRC. Its functions are to: monitor State Parties’ implementation of the CRC; to ensure that global international standards on juvenile justice system is complied with; and to obtain country reports on implementation of the Convention. Almost all States/Parties who have reported to this Committee have been encouraged to review their juvenile justice system. One of the major concerns of the Committee is that deprivation of liberty is not being used as a measure of last resort or used for the shortest time possible, as required by the CRC.

2.2 Some Practices within the African Region


State Parties are obliged in Article 4 of the CRC to “undertake all appropriate legislative, administrative and other measures in the implementation of the rights recognized in the present Convention”. Article 1(1) of the AU Charter stipulates that “the member States of the OAU (AU), parties to the present Charter, shall recognize the rights, freedoms, and duties enshrined in this Charter and shall undertake to take necessary steps, in accordance with their Constitutional processes and with the provisions of the present Charter, to adopt such legislative or other measures as may be necessary to give effect to the provisions of this charter”.

The Charter in Article XVII (1) provides that “every child accused or found guilty of having infringed penal law shall have the right to special treatment in a manner consistent with the child’s sense of dignity and worth and which reinforces the child’s respect for human rights and fundamental reforms” and Article states (3) that “the essential aim of treatment of every child during the trial and also if found guilty of infringing the penal law shall be his or her reformation, reintegration into his family and social rehabilitation”.

2.2.1. South Africa

Since the early 1990’s, South Africa has experienced a significant growth in the number, scope and intensity of diversion programmes for children.11 Children have expressed their support for these developments and see the diversion interventions as more beneficial than punitive sentences. This was encouraged “by the South Africa’s ratification of the CRC in 1995.”12 “From 1996 onwards, a substantial growth in the number of children referred to diversion programmes has been noted. This practice has occurred in the absence of a regulating legislative framework and consequently has been implemented in a selective and disjointed manner, until the drafting of the Child Justice Bill.”13

12 Ibid footnote 2 at p. 47
13 Ibid.footnote 17 at p.1
“The Bill opened with a set of objectives and principles that includes the promotion of the procedural rights of children who are subjects to provisions of the Act. The Child Justice System promotes fostering of children’s sense of dignity” and the fundamental freedoms of others by holding children accountable for their actions and safeguarding victims” interest of the community.

It supports reconciliation by means of a restorative justice response involving parents, families, victims and communities in child justice processes in order to encourage the reintegration of children.”

Section 48 of the Bill addresses the purpose of Diversion to include: (a) encouraging the child to be accountable for the harm caused by him or her, (b) providing opportunities for victims to express their views, (c) encouraging restitution and (d) promoting reconciliation; and (e) reintegrating the child into his or her own family and community, (f) preventing the child from stigmatization and (g) acquiring a criminal record

“Diversion for a child suspected of an offence can only be considered if: the child voluntarily acknowledges responsibility for the alleged offence; the child understands his or her rights; there is sufficient evidence to prosecute the child and his or her parents or an appropriate adult consent to diversion and the diversion option.”

The new Bill also makes provisions for the Child Justice courts that operate at the district level. It has jurisdiction to adjudicate in respect of all offences except treason, murder and rape.

However in event of any other court that is not a child justice court, hearing the case of a child, such a court is required to apply provisions of the Child Justice Bill. This obtains in the case of regional courts that are empowered to hear children’s cases involving rape or murder. Also a district court has jurisdiction in matters where a child is co-accused with an adult.

In sentencing of a child, the bill provides that the following purposes should form the basis of such sentencing: encourage the child to be accountable for the harm caused him or her; promote an individualized response which is appropriate to the child’s circumstances and proportionate to the circumstances surrounding the harm caused; promote the reintegration of the child into the family and community; and ensure that any necessary supervision, guidance, treatment or services which forms part of the sentence can assist the child in the process of reintegration.

2.2.2 Malawi

The government of Malawi ratified the CRC in 1991 and the AU Charter. It follows a draft model for juvenile justice administration based on these charters, which deemphasises the use of the police and prison custody for the children. “The model in its provisions emphasizes various principles for the handling of juvenile cases which borders on community based approaches including: prevention measures, diversion and non-custodial sentencing as well as restorative justice.”

On the adoption of diversion as a measure, it is required that the assessment of every case should be aimed at diverting all cases to pre-trial diversion programmes. Part of this process requires that where diversion is deemed necessary, the case

14 Ibid footnote 2 at p.48
15 Ibid at p. 51.
16 Ibid at p.52.
17 Ibid.at p.53
18 Ibid at p.54.
19 Ibid at p.42
should be withdrawn on condition that the juvenile complete the diversion programme successfully or the case should be postponed until the completion of the diversion programme, after which it can be withdrawn.

Diversion programmes targeted at the needs of the victims, the offenders and the community includes pre-trial community service, vocational or life skills training programmes, victim-offender mediation or family group conferences.\(^{20}\)

In the case of Juvenile Court Procedures, the draft model recommends for a greater use of less formal approach in court procedures when dealing with juveniles. It also calls for special training for magistrates who should handle juvenile cases among other recommendations. The model advocates for the involvement of social workers in court processes involving juveniles, prescribes that children below 10yeras should be deemed to have no criminal capacity and urged that proceedings in the juvenile courts should be held in camera.

It further prescribes that judicial officers and law enforcement officers should receive training in the care and treatment of juveniles; courts pay particular attention to the rights to bail in all juvenile cases and relax the usual conditions of surety.” The draft also recommends for increased cooperation between criminal justice agencies, NGOs and civil society groups.\(^{21}\)

2.2.3. Namibia

The establishment of the juvenile justice system in Namibia\(^ {22}\) “is anchored on the activities of the Juvenile Justice Project of the Legal Assistance Centre which was established in 1995.” It is anchored on what is regarded as pre-trial diversion programme” and has “wide objectives including mobilizing, advocating and lobbying for the establishment and implementation of a comprehensive and sustainable juvenile justice system in Namibia. It is to develop and promote non-custodial measures or programmes for children in conflict with the law which includes diversion at different stages of the criminal justice proceedings; to advocate for the protection of the best interest of the child in conflict with the law at all times; and to promote the application of restorative justice in cases involving children.\(^ {23}\)

The project has three components comprising crime prevention, service delivery and monitoring and treatment of children in conflict with the law. In its pre-trial diversion programmes, the most used are life skills programme, pre-trial community service, counseling, attending a substance abuse group and prosecutors warning.

Basic requirements for the pre-trial diversion include: the child must be under 18 years of age; must admit freely to having committed the offence and is prepared to make amends and willing to comply with the conditions for pre-trial diversion; the pre-trial diversion programme must be proportional to the offence; and the complainant or victim must agree with the decision to divert the child and be informed fully of what pre-trial diversion entails.\(^ {24}\)

\(^{20}\) Ibid at p.43
\(^{21}\) Ibid at p.44
\(^{22}\) Ibid at p.45
\(^{23}\) Ibid at p.46
\(^{24}\) Ibid at p.46,47
2.3 National situation

The essence of the CRC and OAU (AU) Charter is to lay down uniform international standards for children’s rights. When Nigeria ratified both documents, it signaled to the world its intention to protect the rights and welfare of children and to domesticate them into national laws. Article 4 of the CRC specifically imposes the obligation that “State parties shall undertake all appropriate legislative, administrative and other measures in the implementation of the rights recognized in the present Convention”

The CRA is Nigeria’s effort at meeting the provisions of these international standards.

The CRA provides for Child Justice Administration, to replace the Juvenile Justice Administration found in the CYPA, “The CYPA has its root to an Ordinance of 1943.” The Law was extended to the Eastern and Western regions of Nigeria in 1946 and enacted in the Northern Region in 1958 and was subsequently constituted the Children and Young Persons Law Cap 21 of Northern Nigeria in 1963. Lagos State adopted its own Children and Young Persons Law (now Cap 10 in Laws of Lagos State 2003). The CYPA (in all the states of the Federation still) remains till date the most important (popular) legislation pertaining to the treatment of juvenile offenders.25

2.3.1. Pre-CRA concerns

These are the major areas of concern in the child justice system pre-CRA:

- wide disparities in States concerning the minimum age of criminal responsibility.
- placement of children (under age 18) in adult detention and prison facilities
- excessive length of detention, delay in the hearing of children’s cases
- children often tried in adult courts, without legal representation.
- children frequently subjected to physical assaults by the police and custodial officers.
- serious overcrowding and poor conditions in custodial homes, remand centres and prisons.
- absence of assistance towards rehabilitation and reintegration following judicial proceedings.
- no sufficiently trained professionals working in the juvenile/child institutions
- many children detained for “status offences” such as vagrancy, truancy or wandering, or at the request of parents for ‘stubbornness or for being beyond parental control’.

2.3.2. Components of Part XX of CRA, Child Justice Administration

The CRA introduces provisions that comply with international standards. For example: it prohibits any child to be subjected to the criminal justice process; guarantees due process be given to any child, at all the stages of child justice system of investigation, adjudication and disposition; prohibits the use of capital punishment, imprisonment and corporal punishment for children under 18 years; and further provides for the use of scientific tests in deciding paternity cases.

The gateway to a new Child Justice Administration in the CRA is Section 204. It introduces the term ‘Child’ justice system to replace ‘Juvenile’ justice system, ensures that the minimum age for criminal responsibility is applicable in all 36 states and guarantees the right to appropriate legal assistance and defense. Speedier fair trials are required by the provision of alternative measures for deprivation of liberty.

Detention was initiated as a measure of last resort for the shortest possible time where deprivation of liberty is unavoidable.

The CRA stipulates that the conditions of detention must be in full compliance with the law. There are specific provisions for training programmes for all professionals involved in child justice system. It also provides for the establishment of special units within the police for the handling of cases of children in conflict with the law and the establishment of family courts to hear and determine all matters relating to children.

The Child Justice Administration in Sections 211 to 259 covers the procedure for handling cases of children in conflict with the Law. These include: investigation, adjudication, non-institutional treatment, research, planning, policy formulation and evaluation supervision, as well as release and post-release supervision.

The CRA further spells out the rights of a child that has been apprehended, stipulating that there should be presumption of innocence, notification of charges, a right to remain silent, a right to legal representation and free legal aid, a right to have the parents present. The use of the terms ‘conviction’ and ‘sentence’ is prohibited, and only a finding of guilt may be made. The proceedings must comply with due process and the child’s family must be allowed to participate in the trial. A social inquiry report must be brought to the attention of the court before final disposition of each case.

As most states in the federation have no functional remand homes or institutions to keep child offenders, the CRA stipulates specific institutions to be established and equipped by government. These are Children Attendance Centre; Children Centre; Children Residential Centre; Special Children Correctional Centre; Emergency Protection Centre; Special Mothers Centre and other children institutions.

Specific officers Manning these centers are mandated by the CRA to be trained in criminology, sociology, psychology, guidance and counseling, or social work. Visitors and Visiting Committees must be appointed to all institutions; voluntary visitors may be authorized and release and post-release supervision must be provided.

The wide objective is to provide treatment with a view to enable the child play a constructive and productive role in society.

**Diversion sections**

Persons who make determinations on child offenders, are required to use discretion by viewing the special needs of children and the variety of measures available. They are to use this discretion at all stages of the proceedings. They, like others who make determinations, are to be “specially qualified or trained to exercise the discretion judiciously and in accordance with their functions and powers.”

In exercising their discretion, the police, prosecutors and any person dealing with a case involving a child offender are given the power to dispose of cases involving child offenders without resorting to a formal trial. They are to use other means of settlement, including supervision, guidance, restitution and compensation of victims. They are also to encourage parties to settle the dispute. They can use this power if the case is for an offence of a non-serious nature and if there is a need for

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26 See Boxes 1-6 in the appendix, culled from 2003, UNICEF- Nigeria, Juvenile Justice Administration Training Manual.
reconciliation; or if the family, school or others involved have reacted in an appropriate or constructive manner; or if they think it appropriate in the interest of the child and offender and parties involved. (209)

Detention pending trial shall be used only as a measure of last resort and for the shortest possible period of time. Wherever possible, detention pending trial should be replaced by alternative measures including close supervision, care by and placement with a family, in an educational setting or home. (212(1))

Disposition sections

The CRA in section 213 does not permit the use of the terms “conviction” or “sentence” to be used in relation to a child dealt with in the court. No child shall be ordered to be imprisoned, subjected to corporal punishment or subjected to the death penalty. (221(1))

Before final disposition of a case other than a minor offence, the courts shall be informed of all the relevant facts relating to the child, including his social and family background, school career and educational experience. The information is put before the Court in the form of social enquiry report investigated by an officer into the background of the child, the circumstances in which the child is living and the conditions under which the offence has been committed.(219)

The court shall consider the well-being of the child to be the guiding factor in the consideration of the case. ((215(1)(e)), Also the Court must ensure that the reaction taken is always in proportion not only to the circumstances and the gravity of the offence but also to the circumstances and ends of the child and the needs of the society. ((215(1)(b)) The court shall ensure that a child is not deprived of his personal liberty, unless he is found guilty of a serious offence involving violence against another person or is persistent in committing serious offences and there is no appropriate response that will protect public safety. (215(1)(d))

Placement of a child in an approved Government institution shall be a disposition of last resort and not ordered unless there is no other way of dealing with the child. (223(2). The court may deal with a child offender, by choosing one of the following alternatives to institutional custody: (223)(1)

- Dismissal
- Discharge with recognizance
- Place under care order, guidance order and supervision order, corrective order
- Order participation in group counseling or similar
- Order to pay fine damages, costs compensation, undertake community service under supervision
- Order parents to pay restitution
- Make hospital order for treatment
- Order foster care, guardianship living in community or educational setting.
CHAPTER 3

Diversion Programmes in Nigeria

3.1 Levels of Diversion Options

Diversion is usually premised on an acknowledgment of responsibility for the offence, and an agreement to make amends for the crime, usually by performing community service or compensating the victim. Sometimes the offender is sent to a course or programme to deal with a specific problem (e.g. drug addiction, sexual offences, anger management, self-esteem). In some systems the referral for diversion is to a mediation process, where the victim and the offender (and in some models, other members of the community) meet face to face and a plan is made about how the offender will put the wrong right. This kind of interaction between victims and offenders is the basis of restorative justice, an approach that has gained popularity in many systems throughout the world in the past few decades.

Diversion may occur at different stages in different systems. In its classic form it occurs prior to the trial and avoids the trial process altogether. In some systems a matter that is diverted does not come to court at all, in others the performance of the diversion conditions is overseen by the court.

There are many advantages inherent in the process of diversion. For the offender, he or she may avoid a criminal record (and avoid the negative effects of coming into close contact with the criminal justice system), he or she will learn things from the programmes that are specifically relevant, he or she may make direct amends to the victim and through this may learn empathy and a sense of social responsibility. In restorative justice processes, victims often express high levels of victim satisfaction. Diversion may allow for involvement of communities and a role for traditional conflict resolution processes. For the prosecutor and the court there is a benefit, too, in that the court’s time is freed up to deal with more serious or complex matters.

One of the central objectives of the enactment of CRA and in particular Part XX Child Justice Administration, is to increase the number of cases diverted away from the formal court procedures. In sections 206-209, the CRA provides for a number of new procedures to facilitate referral of children into suitable diversion options in a consistent and just manner.

In some countries, diversion options are categorized into three levels, depending on the seriousness of the offence. ²⁷

“Level one option is the least onerous and includes oral apologies, formal cautions and a variety of orders which the Act does not specify the time limit. Level two orders include all the level one orders, but they may be applied for a longer duration.

Level two also includes a few additional restorative justice diversion options such as family group conferences, victim offender mediation and other restorative justice process.

Level three orders are for matters involving serious or repeat offending and include possible residential element.”²⁸

“These levels intended to provide for the adopting of an individualized response while simultaneously balancing proportionality in the selection of diversion options.”²⁹

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²⁷ Ibid. footnote 17 p.6.
²⁸ Id.
²⁹ Id.
The CRA provides for a number of new, inexpensive diversion orders which are outlined in Table 1 below.

In sections 204-238, the CRA makes provisions for diversionary programmes to be employed. Section 209 empowers the police, prosecutors or “any other person dealing with a case involving a child offender” to dispose of cases without resorting to formal trial by using other means of settlement, including supervision, guidance, restitution and compensation of victims. Also they are to encourage the parties involved in the case to settle amicably. The police have the first opportunity to divert child offenders from the formal court system. Next in line are the prosecutors and then the magistrates and judges who are empowered to operate a model of justice that is restorative then rehabilitative and in the least retributive.

The Judges are empowered under section 223 to dispose of cases where they are satisfied that an offence has been committed, with alternatives to custodial or institutional placement. In some countries alternative dispositions are not referred to as diversion.

Restorative justice has the characteristics of traditional African jurisprudence, where the central concern is not retribution or punishment, but the healing of breaches, the redressing of imbalances, and the restoration of broken relationships.

Table 1: Levels of Diversion Options

<table>
<thead>
<tr>
<th>Diversion Options</th>
<th>Level One</th>
<th>Level Two</th>
<th>Level Three</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oral or written apology</td>
<td>Oral or written apology</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Supervision or guidance order</td>
<td>Supervision or guidance order</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Compulsory School attendance order</td>
<td>Compulsory School attendance order</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Counseling or therapy</td>
<td>Counseling or therapy</td>
<td>Referral to a programme with a residential element</td>
<td></td>
</tr>
<tr>
<td>Vocational or educational centre placement order</td>
<td>Vocational or educational centre placement order</td>
<td>Vocational or educational centre placement order</td>
<td></td>
</tr>
<tr>
<td>Restitution of specific object</td>
<td>Community service</td>
<td>Community service</td>
<td></td>
</tr>
<tr>
<td>Service or benefit to victim</td>
<td>Compensation Payment</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Service or benefit to an organization</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Family group conferencing or victim offender</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Combination of any two of the above options</td>
<td>Counseling or therapy in conjunction with any of the above option</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

29 Id.
31 Publication of Massey University New Zealand, Centre For Justice and Peace Development; Restorative Justice in New Zealand: Current Practice, Future Possibilities
3.2 Methodology for the Study

Currently, the Federal Government recognizes six geopolitical zones, each comprising of five to seven States, and a Federal Capital territory. These are North Central, North East, North West, South East, South West and South-South. The States comprising these zones are shown in Table 2 below.

For the purpose of identifying and comparing institutions carrying out diversion programmes in Nigeria, the study was conducted in the six geo-political zones by selecting one state from each zone, which was Kaduna in North West, Bauchi in North East, Plateau and FCT (due to the fact that the CRA was passed in the FCT) in the North Central, Lagos in South West, Enugu in the South East, and Rivers in South-South.

Table 2: Distribution of states by official geo-political zones

<table>
<thead>
<tr>
<th>Name of zone</th>
<th>Geo-political zones</th>
</tr>
</thead>
<tbody>
<tr>
<td>South West</td>
<td>Ekiti, Lagos, Ogun, Ondo, Osun, Oyo</td>
</tr>
<tr>
<td>South East</td>
<td>Abia, Anambra, Ebonyi, Enugu, Imo</td>
</tr>
<tr>
<td>South –South</td>
<td>Akwa-Ibom, Bayelsa, Cross-River Delta, Edo, Rivers</td>
</tr>
<tr>
<td>North Central</td>
<td>Benue, FCT, Kogi, Kwara, Nassarawa, Niger, Plateau</td>
</tr>
<tr>
<td>North East</td>
<td>Adamawa, Bauchi, Borno, Yobe, Gombe, Taraba</td>
</tr>
<tr>
<td>North West</td>
<td>Sokoto, Kebbi, Kano, Kaduna, Katsina, Zamfara, Jigawa</td>
</tr>
</tbody>
</table>

NOTE: Red indicates states selected for the study

A list of non-governmental organizations engaged in the programme was sought for each sample State. Subsequently, identified organizations, including urban and community based organizations providing diversion programmes in the selected states, were visited.

Two sets of standard questionnaires were administered. Focus group discussions were held where permitted. The first was for the inventory of diversion programs and who facilitates them, and the other was applied to determine the profile of children who have participated in the diversion programmes.

The questionnaire for the inventory of programmes/institutions consisted of 16 areas of information including: name of institution; address; year established; background
information, aims and scope of existing diversionary work, facilities available; diversionary levels employed, programme content, follow up mechanisms, and collaborative initiatives. (See appendix I)

The questionnaire for the child participant consisted of 11 areas, including: their name, address, age, sex, state of origin, educational background, offence committed, status of parents, diversion option preferred and benefit of the programme for the child. (See appendix II)

Interviews were conducted with the following group of Children: those in prison and awaiting trial; those committed to the remand homes and approved institutions; and those who have been placed in diversion programmes by the NGOs and CBOs. The interviews were to determine the effects of the diversion programme on the child and to document his opinion and preferences on diversion programmes.

Information was further obtained specifically from government officials of the Ministry of Justice, Child Development Directors in the Ministry of Women Affairs, Police officers/Commissioners, Law enforcement officials, social welfare officers, members of the Nigerian Bar Association, National and State Human Right Commission officers, child psychologists, staff of non-governmental organizations and faith based organisations running various institutions involved in diversion programmes.

Data collected from the field was collated, sorted and subjected to analysis. The entries from the questionnaires were presented in tables and charts indicated in this report. Calculations were based on proportions and percentages. The qualitative data collected during the In-depth Interviews (IDIs) and Focus Group Discussions (FGDs) were content-analyzed as well as desk review of existing literature and reports on diversion programmes in Nigeria and in some African Countries.

In all, a purposive sampling approach was used that ensured, a good representation of what exists in each States/zones in the whole country, in terms of institutions and organizations, year of establishment, aims and scope of the diversion scheme, programme content, diversion options employed, and effect of programme on the child/children.

3.3 Consultation with and participation of Children

Consultations were held with two categories of children to ascertain their opinions and or experience of diversion programmes. It was to provide children with a forum to voice their opinion on matters affecting them, as provided in Article 12 of the CRC. It is also to provide an opportunity to gather from the children their opinion on which of the diversion options would have benefited their lives. Table 4 outlines the children responses to the diversion options that would have benefited them.

The researcher explained to the children involved, the principles underpinning diversion, the minimum standards for diversion, and the levels of diversion options/orders. A. discussion around specific questions in the questionnaires was then facilitated and the children were helped to fill in their responses. (see Appendix II)

For ease of collation, two states are merged together under three zones tagged the North, East and West, in assessing the children already committed to the different institutions/remand homes and the prisons, as shown in Table 3. The Borstal home in Kaduna hosts children from all over Nigeria. Some boys from Oyo, Osun and Ogun states were found in the Enugu prison. The Lagos remand home has children from Edo, Delta, Ondo, Ogun, Enugu, Anambra and Port Harcourt. There is uniformity in
the kinds of offences committed even though the children were divided by zones. The results indicate that the majority of the children supported the proposed diversion orders and options, despite the fact that they had been committed to the various institutions. During the focus group discussions some children, especially those institutionalized in the prisons and remand homes, expressed such despair about their state and opted for such diversion options indicated in table 4. A total of sixty children were interviewed 73 percent were found in the various institutions including the prison while 27 percent attended programmes in the NGOs.

Table 3: Places where children are found

<table>
<thead>
<tr>
<th>Zones</th>
<th>Places where children are found</th>
<th>Outside the institutions</th>
<th>Inside the institutions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eastern States</td>
<td></td>
<td>6</td>
<td>10</td>
</tr>
<tr>
<td>Northern States</td>
<td></td>
<td>6</td>
<td>14</td>
</tr>
<tr>
<td>Western States</td>
<td></td>
<td>4</td>
<td>20</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>16</td>
<td>44</td>
</tr>
</tbody>
</table>

The majority of the children in the criminal justice system groups felt that if they had received one of the diversion options outlined in the CRA, this would have assisted them to change their lives.

The children in the groups who had not been diverted felt that, given the opportunity of diversion when they first committed an offence, they: would have realized what was wrong with their behaviour and changed. They believed they could have learned decision making skills and the consequences of the crime. Some thought that they could have completed school and realize some of their ambitions. They believed that they could have spent their time better than being in prison and remand homes; and would have had a more meaningful life.

Table 4: Diversion Options Supported by Children

<table>
<thead>
<tr>
<th>Diversion Options</th>
<th>Positive Support</th>
</tr>
</thead>
<tbody>
<tr>
<td>Good behaviour Order</td>
<td>8</td>
</tr>
<tr>
<td>Counseling or Therapy</td>
<td>9</td>
</tr>
<tr>
<td>Restitution of Specific object</td>
<td>2</td>
</tr>
<tr>
<td>Vocational Centre Placement</td>
<td>29</td>
</tr>
<tr>
<td>Community Service</td>
<td>1</td>
</tr>
<tr>
<td>Educational Centre Placement</td>
<td>10</td>
</tr>
<tr>
<td>Referral to a programme with a Residential element</td>
<td>1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>60</strong></td>
</tr>
</tbody>
</table>

It was found that children, who had committed minor offences (including stealing/house breaking, assault - where grievous bodily harm has not been inflicted; malicious damage to property; theft, possession of suspected stolen goods; truancy) and those beyond parental control, were referred to the NGOs with diversion programmes, or were settled at the police station or through victim/offender mediation or family conferencing.

Four children interviewed in the Lagos remand home did not commit any offence. They were lost and could not trace their family, and were kept for care and protection. Next in the schedule of offences committed are culpable homicide/murder, assault occasioning grievous bodily harm, arson, robbery/armed
robbery, illicit possession of drugs and rape. The most serious offences committed by children under the study is captured in Table 5.

Table 5: Offences committed

<table>
<thead>
<tr>
<th>Zones</th>
<th>Offences Committed</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Stealing</td>
</tr>
<tr>
<td>Eastern States</td>
<td>3</td>
</tr>
<tr>
<td>Northern States</td>
<td>4</td>
</tr>
<tr>
<td>Western States</td>
<td>14</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>21</strong></td>
</tr>
</tbody>
</table>

In most of the institutions visited, it was found that boys formed the majority of offenders. The number of girls were so insignificant that the researcher found it unnecessary to report the girl-child situation.

The age range of children interviewed was between 12 and 19 years. Some children found in Enugu prisons that have committed robbery and drug peddling have been institutionalized since age 14 and 15, and have now turned 18 and 19. They are still in prison because the offences committed are serious offences, and there are no alternative institutions to place them. Handling of their cases is slow, and extremely retributive.

Table 6: Educational Background

<table>
<thead>
<tr>
<th>Zones</th>
<th>Educational Background</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>School drop outs</td>
</tr>
<tr>
<td>Eastern States</td>
<td>14</td>
</tr>
<tr>
<td>Northern States</td>
<td>7</td>
</tr>
<tr>
<td>Western States</td>
<td>11</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>34</strong></td>
</tr>
</tbody>
</table>

The children in this study are either uneducated or out of school. Most have no parental care and suffer from extreme poverty. Sixty-five percent of the children from the northern states of Kaduna and Bauchi have attended koranic schools only. Some children involved in cattle rearing and farming were amongst those found in Bauchi Government remand home. They had committed murder/culpable homicide, as indicated in Table 6 above.

3.4 Existing Diversion Programmes

3.4.1 Facilities

Twenty-two NGOs and CBOs from the six states were visited. Based on a common checklist of programmes available for each level of diversion options, the study assessed the availability of counseling rooms, educational and vocational facilities, library, staff strength and personnel, and programme content.
Ninety-five percent of those organizations have facilities for level one option programmes. They include adequate and comfortable counseling rooms, conference rooms for family conferences, well equipped library, resource centres, classrooms and recreation materials. Most organizations have computers, television and video films and Instructional, Educational and Communication materials on children developmental issues.

Thirty-one percent of the organizations were equipped to offer vocational and educational programmes required under level two options where children can be exposed to vocational skills acquisition and other forms of rehabilitation processes. Some of these institutions are equipped with soap making equipment, knitting machines, honey processing and modern beehives keeping equipment, agricultural processing machine, solar dryer and maize sheller.

There is no NGO that is giving accommodation or providing a residential based programme for children in conflict with the law. There are, however, shelter homes for street children, and those vulnerable children who have been abused, violated or trafficked, and those in need of care and protection.

Private individuals or organizations are not permitted, under the Borstal Institutions and Remand Centres Act Cap 38, Laws of the Federation of Nigeria, 1990, to run detention centres. Under the law, the states have ownership of remand homes and correctional centres. There is no private institution running a remand home. All of the 44 remand homes/centres across the country are state owned.

Sections 247-250 of the CRA stipulate the creation of approved institutions and children correctional/residential centres for child offenders. It mandates and empowers only the Minister to designate appropriate building, set up, run, and oversee such approved institutions to the exclusion of private individuals.

3.4.2 Programme Content and Implementation

Diversion programmes must be able to address the particular situation of the child offender. Therefore, a variety of interventions focused on rehabilitation, deterrence and restoration, need to be offered. These programmes may include a wide range of life skills education covering topics like personal awareness and growth, self esteem, communication skills, conflict resolution, sexuality, crime awareness and prevention, gender sensitivity and leadership development. Many life skill programmes are packaged in a ‘course’ which can last a few hours to a number of days, weeks or months.

In most of the institutions visited, the programme content is loose and unstructured, with very few employing the use of training manuals, aids or any structured course content. Programme applications are flexible and simply adapted to the needs of the child or the initiative of the facilitator or counselor. Few of the NGOs employ training manuals in teaching life skill programmes.

Some of the NGOs visited, offer vocational skills training, such as computer training, arts and crafts, hairdressing, catering and furniture making. Presently, these are targeted at unemployed and out-of-school children, with occasional involvement of

32 Appendix IV
34 See Boxes 7, 8a and 8b, culled from 2003, UNICEF- Nigeria, Juvenile Justice Administration Training Manual.
35 Appendix III and IV
children in conflict with the law. Some of these programmes are run through the institution’s residential facilities and have been identified as suitable for level three diversion options.

Restorative justice programmes employed by most of the institutions studied include family group conferencing, and victim offender mediation interventions. These are the two most offered restorative justice processes in these institutions. These interventions require highly skilled facilitators and unfortunately are only available in limited institutions visited.

NGOs offering diversion programmes are not spread consistently across the country and does not employ the use of any course content or formal programme.

3.4.3 Referrals to diversion programmes

Children alleged to have committed an offence or those that are beyond parental control can be offered diversion programmes. The CRA provides for this referral to be made at any stage of the child justice process and can be done either by the judges/magistrates, the prosecutor or the police. In some instances the parents/guardian of the child makes a referral.

In section 223, where there is sufficient evidence to prosecute, and where decision have been taken to proceed to trial, it states that diversion must be considered in each and every case. This is done to meet the needs of the child and encourage the child to be accountable to the harm caused.

In addition to the inquiries made by the probation officers and the courts before making diversion orders, the NGOs embark on a more detailed assessment of the referred children. Attempts are made to identify the underlying causes of the offence.

Information gathered from parents of child offenders for the pre-programme assessment informs the officers about the specific needs of the referred child offender. The assessment gathers information regarding nature of the offence/misbehavior, responses by friends/family members; family dynamics in the area of composition of household and nature of relationships; educational background; peer groups and communication; and child’s interests and motivation.

Out of the twenty two institutions studied, 23 percent were referred by the court; 28 percent by the police and 49 percent were referred by parents.

3.4.4. Collaborative initiatives

Diversion programmes foster close working relationships with the police, probation officers, the magistrate or judge and NGOs and CBOs. Collaborative relationships are required to ensure the easy flow of diversion referrals and facilitate communication regarding progress made by each child referred to a programme.

Close working relationships between probation officers, welfare officers and the NGOs are needed for the supervision/probation orders and in all three levels of diversion options, particularly with vocational/skill training programmes. However, such relationships only exist in particular instances. NGOs working with children in police cells and prisons had a remarkably close relationship with the police and the magistrates. This was found especially in the states that have enacted the CRA, and those with functional remand centers.
There were no close relationships found in the states that are still operating the CYPA and those with non-functional or non-existing remand centres. The interviews revealed that the police still lock up children in police cells and prisons. By doing this the police frustrate attempts by NGOs and law officers to have the children released on bail, or to resolve the matter by speedy mediation between the victims and child offenders.

The police justify their actions on the basis that some of the children have committed serious crimes warranting some level of investigation. They state that the police cells or the prisons are the only available places of remand. In the course of investigations, the offender’s case file is usually sent to the office of the Director of Public Prosecution at the Ministry of Justice, whose prerogative it is to advise whether the child should be discharged or prosecuted. The office of the Director of Public Prosecution can be very slow and insensitive to the plight of the child offenders who have committed serious crimes.

There is a large gap in the collaboration between the NGOs, the judiciary, the officials of the Ministry of Justice and the police in promoting a receptive and cooperative environment for the child offender’s reintegration through the use of diversion programmes.

In most institutions studied, there exists an adequate number of staff and a motivated workforce that are dedicated and trained. There was a sense of moral duty and commitment to the plight of children in the various programmes. This is mainly due to collaborative initiatives, presently existing between NGOs and some international organizations and development partners.

In these institutions, the joint efforts and collaboration provides for services and educational materials, supply and delivery of vocational materials and information to assist, develop and train the staff. Some initiatives are being funded by private donors, like Mac Arthur Foundation, UNICEF, USAID, DFID, and Open Society Initiative for West Africa (OSIWA).

3.4.5 Follow up mechanisms and Diversion Options/Programmes Employed

Based on the needs assessment of each child, several methods are used to determine which diversion option is most suitable. These include: warning, counseling or placing the child under supervision for a couple of months. Level one options, the least onerous, that involves counseling the child, is the most commonly used by the institutions studied. Fifty-four percent employ level one options, thirty-six percent involved the children in the area of vocational or educational programmes, with only ten percent using the level three options which could involve residential care.

In the area of program design, it was reported that on first contact with the children, staff or volunteers in the institutions conduct interviews and carry out a needs assessment before deciding on the diversion programme to employ. The most commonly used mechanisms are counseling, mediation and family conferences, especially for children beyond parental control referred by parents. Some parents are counseled on parenting skills or reprimanded as the case may be for child neglect. There are occasional child offender/victim conferences with the use of alternative dispute resolution methods, and amicable settlement of cases.
In the study, some children who commit offences have co-existing behavioral and emotional problems. These children require counseling and therapeutic programmes as possible diversions. As most children are in the police cells and in prison detention, case and family tracking are part of the programmes.

When legal representation is arranged for children who have committed minor offences often the charges are withdrawn against the child. Then the children are counseled, and reconciled with their family, or reintegrated back into the society by being engaged in vocational skills or were returned to schools and their various institutions.

There are no established procedures for follow up of any cases that are settled at any point in the system. Ninety percent of the institutions studied have no standardized follow up mechanism. There are no monitoring tools or instruments to track the behavioral progress of child participants. Because some of the institutions have no proper or articulate documentation of the children in their programs, it is difficult to trace particular children or know how many have been in the programme.

3.4.6. Training of Role-Players and Staff

The 1990s featured a significant rise in the establishment of NGOs focused on child rights and developmental matters, and engaged in the provision of diversion programmes. This increase in diversion programmes was facilitated by a variety of individuals and organizations including state-employed probation/social welfare officers, concerned police officers and some enlightened magistrates.

One of the main objectives of the Child Justice Administration in the CRA, is to assist government and the civil society with developing new systems of dealing with children accused of committing offences; in terms of supporting diversion programmes, providing information, assisting with the development of training material and diversion programmes being practiced by trained and qualified personnel.

The CRA in Sections 208, 238 and 252 aims at enhancing capacity and use of programmes for diversion and appropriate sentence for children, by stipulating that every role player exercising discretion under the child justice system must be specially qualified and trained, particularly, the police, probation/social workers, magistrates, judges, lawyers and any person who makes a determination on child offenders.

It specified that officers engaged in dealing with children in approved institutions must have background training in criminology, criminal justice, sociology, psychology, social psychology, guidance and counseling, or social work. It mandates the Federal and State government to organize and promote necessary research as a basis for effective planning and policy formulation on child justice administration, review and appraise periodically the trends, problem and causes of child delinquency and crime and the varying peculiar needs of children in custody.

Majority of role players in all categories of diversion programmes need training and capacity building. The police, social workers, lawyers, paralegals, magistrates and judges are required to have specialized training which will aid in effective implementation of diversion programmes.

Programmes in the area of developmental skills for child offenders, include life skills education which features personal awareness and development, crime awareness,
responsible decision making, communication skills, conflict resolution, self esteem, sexuality, gender sensitivity and leadership development. These programs require highly skilled facilitators which may explain why such programmes are only available in a limited part in the country according to the survey of NGO’s officials studied.

Diversion programmes involving residential element that could be suitable for levels two and three diversion options like vocational skills training, restorative justice programmes, counseling and therapeutic programmes also requires the same level of skilled professionals, counselors, child psychologists and sociologist. Unfortunately, these professionals are not currently involved in the provision of diversion programmes in Nigeria as at the time of this study.

There is a great need for extensive training of all role players. It is also important to develop a continuum of diversion interventions to include more sustainable and intensive programmes for child offenders.
CHAPTER 4

Assessment of Role Players in Diversion Programmes

4. Assessment of role players

The role players that were interviewed were: the police, the judiciary, probation and social welfare workers and non-governmental organizations. Although prosecutors are clearly important role players in the child justice system, they were not interviewed because of insufficient time.

4.1. Police

Sections 207–212 of the CRA, establishes the Specialized Children Police Unit in the Nigeria Police Force and defines the scope of actions to be employed with child offenders. It states that the police may arrest, investigate, must exercise discretion judiciously, and may dispose of a case without recourse to trial by encouraging diversion options.

The police are to consider detention of child offenders as a last resort, and should subject cases to diversion as often as it is practicable. Police detention should only be employed in absence of other approved children’s centers. The police are required to provide care, protection and individual assistance to child offenders including social, educational, vocational, physical, medical and psychological assistance, having regard to his age, sex and personality. (212(2))

Even though there is insufficient training for the police on diversion programmes, they have been active in carrying out some level of diversion options in Nigeria. The police officers in the six sampled states, stated that level one and two diversion options do take place. Formal warning and cautioning, and victim/child offender conferences are being practiced at the police stations. At the point of arrest, they try to settle cases amicably without recourse to the magistrate courts.

Eighty-five per cent36 of simple offences like assault (not occasioning harm) and disturbance of public peace are settled in most police stations. Children who have committed grievous offences like, armed robbery, rape, homicide and drug peddling are committed to institutions without being considered for any diversion programmes.

In employing level two options, it was stated by the majority of the police officers interviewed, that conferences are held between the parents/guardians of the child offender, the child offender and the victim to amicably settle the cases. After the conference, some victims use court forms and sworn affidavits to indicate their intention to forgive the child and withdraw the case from the police.

In these instances, the child is warned to desist from his anti-social behaviors, and the parents are asked to apply more restraint on the child. Parents are informed that they may be held vicariously liable or responsible for the actions of their child. Restitution especially of stolen items is encouraged as well. There is however no disaggregated data to indicate the number of children being diverted using these options. Most police officers were not adequately informed about the provisions of the CRA.

36 Figure is unsubstantiated but was given in the course of interviewing police officers. There is no disaggregated data to confirm this
4.2 Judiciary

The judiciary can best be defined as “the branch of a country’s administration that is concerned with dispensing justice”. It is that body often referred to as the third arm of government. Its main function is adjudication. The magistrates are usually a type of judge in a lower court, with the powers to treat juvenile related cases or conduct trials of misdemeanors. The High Court judges handle cases of some child offenders who have committed serious crimes like murder, armed robbery, drug pushing and rape, and also review appeals from the decisions of the magistrates on juvenile matters.

Section 149 of the CRA stipulates the establishment of the “Family Court for the purpose of hearing and determining matters relating to children”. Section 141 includes both civil and criminal proceedings in its jurisdiction. This is a new innovation. It further empowers the Magistrates/High court judges that sit in the Family Courts, to operate all the three level of diversion. The courts can order parents or guardian to pay fine or give security for the child’s good behavior; dismiss and or discharge charges; and place a child under care, guidance or supervision.

A total of twelve magistrates, two from each zone of the Federation were interviewed in the course of this study. It was noted that those that have been trained in the wider areas of child and human rights based approach to justice systems are quite knowledgeable about the Juvenile Justice Administration operated under the CYPA, and the Child Justice Administration in the CRA. These are aware of the categories of diversion programmes including community service, family conferencing and the life skills programmes. The most commonly employed diversion programme is family conferencing. The community service and life skills programmes are new types of diversion programmes in Nigeria that will need to be introduced to members of the judiciary.

Children, reported by their parents for being beyond parental control, are bound over to be of good behavior instead of being committed to an institution. Depending on the child’s age they are bound for 6 months, 1 year, or 2 years. Parents are ordered to report on the child’s behavior. Where the child has committed a serious offence, supervision/probation orders are made. These orders can require the child to report consistently to a probation officer or the police, who then report back to the court on the child’s behavior.

Some magistrates still follow Section 14 of the CYPA. This section provides for eleven options as alternatives to sentencing children to correctional institutions. The legislation empowers the magistrates to dismiss the charge, discharge the offender if he or she enters into a recognizance, commit the offender by means of corrective order to the care of a relative or other fit person, send the offender by means of a corrective order to an approved institution, order the offender to be whipped, order the offender or parents or guardian to pay a fine or damages or give security for good behavior, order committal to custody or place of detention or finally sentence to imprisonment.

The magistrates interviewed admitted using these options and have frequently ordered whipping of child offenders. Most offenders were placed in the custodial institutions spread across the country.

Children, who have complied with certain orders, especially being placed under probation/police officers, have had the order reviewed, discharged or suspended. Those children who re-offend are committed to institutions like the remand home and
the borstal institution. These orders are made to ensure that the child offender continue to attend a school, or learn a vocation.

Magistrates also employ family/group conference or victim/offender mediation. Often when restitution is made by the parents of the child offender, the victims are satisfied and the case is discharged. When a case involves parental neglect, both parents and child are counseled together to impact parenting skills and improve the parent/child relationship. Despite these instances, the majority of children are being committed to institutions, and police detention.

In most of the northern states where there are no specific designated courts as juvenile courts, it was found that area courts, Sharia courts and magistrate courts have various levels of jurisdictions and legislation in handling child offenders. Apart from the CYPA, officials/grand Kadi’s and magistrates employ the Penal code and Sharia Penal code in handling child offenders, depending on the situation, offence or location. The Sharia Penal Code includes provision for handling child offenders.

Children under the Islamic law are not strictly liable for certain offences, but are punished under Ta’zir which stipulates punishment according to the discretion of the Sharia court judges, grand Kadi’s or magistrates. For example, the gravity of offence, the demeanor, age and conduct of child is considered before sentence is passed. Where the offence is a simple one, the child may be given some strokes of cane, or is sent to attend a counseling session from a religious priest, especially where the child looks remorseful.

Theft under Sharia law warrants cutting off of the hand of the offender, be it a child or an adult. For fornication/rape, the punishment is 100 strokes of the cane, while for homicide it is death. With the use of discretion, grand Kadi’s usually do not apply the strict sense of the Sharia law. They can subject the child offender to a special procedure where the child is forgiven, given some strokes of the cane, or the parents are asked to pay “blood money”37 to the relations of deceased victim in case of homicide/murder.

The use of diversion methods in the northern part of Nigeria is minimal, not institutionalized. It is employed strictly at the discretion of the magistrates or grand Kadi’s.

4.3. Probation and Social Welfare Officers

International standards state that a child should not to go through the criminal justice system without seeing a social worker or probation officer. In the CRA, the word supervision officers was used, and these have been granted a more central role. They are expected to make every effort to inform and locate the child’s parents or an appropriate adult about the court proceedings and their required presence in court. They are also responsible for investigating and preparing the social inquiry report (s.219). The report informs the court before disposition of a case other than a minor offence. It contains information about all relevant facts relating to the child, including his social and family background, school career and educational experiences. It is likely that the present probation officers will be appointed as supervision officers (under the CRA) and will monitor the alternative dispositions made under S. 223.

All twelve probation officers interviewed in each state visited are involved in counseling which is a level one option of diversion programme.

37 A designated sum of money in compensation for the offence committed
In most courts and police stations in the country, especially in the northern part, probation/social welfare officers are not employed in the court process involving child offenders. Minimal or no contact is made with the child offender at the stage of arrest, through investigation and committal. Social workers are usually brought in when the child offender is committed to an institution. They are designated to accompany the child to the remand home or the approved institution, and ensure the safe keeping of the child.

The diversion interventions given by social workers to children committed to an institution especially in the various remand homes, are basically level one options. The majority of the children who receive level two and three options are committed into borstal institutions in Kaduna.

4.4 Non Governmental Organizations
Since the 1990’s, Nigeria has great number of NGO’s and CSO’s who work with children. There has also been a significant increase in the development and provision of diversion initiatives. This increase is due to a variety of individuals and NGOs whose objectives are to assist government and the civil society with the implementation of the CRA, other legislation, and international Conventions ratified by the Federal government. Some are developing new systems for dealing with children (and sometimes women) who are accused of committing offences and are locked up in police cells and prisons.

This study chose to interview NGOs who: are in direct contact with child offenders in police cells and prisons; are offering free legal representation to child offenders; or are offering some level of diversion options in their programmes for children.

The NGO officials interviewed supporting diversions were very transparent. They expressed a desire for adequate information and requested training materials. They also supported the establishment of a monitoring process and efficient follow up mechanism for diversion programmes. The capacity of NGO’s should be enhanced to encourage more efficient use of their programmes for diversion.
CHAPTER 5

Conclusion

5.1 General Observations

This concluding section examines developments in the practice of diversion in Nigeria revealed by this study.

The use of diversion varies from state to state, as does state involvement and supervision of diversion. The Northern states have no separate juvenile courts and rely on the CYPA of 1943, Penal Code of 1958 and the Sharia Penal Codes. As mentioned before these statutes are in violation of international standards for Juvenile/Child Justice Administration and for diversion programmes particularly. It is the same situation in most of the Eastern States, with the exception of Ebonyi, Anambra, Bayelsa, Rivers, Abia, Rivers, Bayelsa and Imo where CRA has been passed to replace the CYPA and the Criminal Procedure Laws.)

It was found that, in the absence of a legal framework, child offenders are tried in open courts, sentenced as adults and are locked up in police cells, prisons and correctional institutions. Only very few, informed magistrates are employing diversion programmes. The number of these informed magistrates is negligible compared to the total number of magistrates.

It was also found that the police are employing a measure of diversion options for children that have committed minor offences. Such cases are settled in the police stations, through a form of mediation between the child offender and victim, reprimands, pre-charge warnings and cautioning. There is no practice of international standards for child offenders who have committed serious crimes. They continue to be locked up in police cells or transferred to adult prisons, especially in states where there are no existing remand homes or similar institution.

Diversion options are not usually employed with children who have committed certain serious offences. However, the interviews with children, (from prisons and remand homes) indicate that diversion opportunities should and could be extended to them, if consideration was made for their mental capability and intent/motive of committing the crime. Often these children lack of parental guidance and supervision, too much peer influence and most are from very poor backgrounds.

The interviews further revealed that 90 per cent of these children are from broken homes and have learned to fend for themselves at an early age. They have turned to crime to survive. This also explains why about 70 percent have indicated a desire for level two diversion option of educational and vocational centre placement.

Various collaborative initiatives between police, magistrates, probation officers, NGOs and CBOs is good practice that should be encouraged. Staffs have demonstrated a sense of moral duty and commitment to their different mandates and those under their care.

For the most part, diversion programmes in Nigeria lack standards in terms of: physical structure, minimum facilities, qualification of care givers, access to educational and vocational facilities, solid programme content, and personalized development plan or follow-up mechanisms. However, some NGO and CBO
programmes, in the area of vocational and educational materials and facilities, can serve as models when diversion is mainstreamed in all the states.

Progress has been made in identifying where the programmes are situated and which ones provide suitable diversion options. However, there is still a great need to develop a continuum of diversion interventions, especially more intensive programmes for children who have committed serious offences.

5.2 Challenges

The major challenge to creating a functioning diversion system is the lack of a legal framework which operationalizes international standards within the child justice administration. In the absence of a coherent and single legislation, only a few police and magistrates divert children. Many do not.

Overturning the old order is a major challenge that calls for serious advocacy and cooperative initiatives between the police, prosecutors, probation officers, magistrates, NGOs and CBOs. There is need for networking and information-sharing on prevention of crimes and reduction in the number of child offenders, and most importantly a state-wide or national strategy on crime prevention.

Attitudes to crime – restorative justice and diversion

It is critical for all role players central to the administration of child justice system to understand the need for diversion in Nigeria. There is no coherent perception of children and crime between the role-players interviewed. Some police, prosecutors and magistrates believe that children who have committed serious offences should not be treated differently from adults. They also do not apply their minds to the criminogenic factors of poverty, the broken home syndrome or the differences between adults and children. Very little is understood by magistrates about restorative justice concepts and programmes. They are more familiar with retributive methods.

For diversion to be implemented in all states and in all courts of the Federation, role-players need to be trained. The training should provide them with enough knowledge to demonstrate an acceptance of diversion to be used as an alternative to the formal system and to custodial dispositions.

Lack of training

Lack of training is a major challenge in implementing diversion programmes in the country. The need to develop the capacity of role-players and professionals to deliver effective diversion services and programmes must be acknowledged.

Life skills training/programmes are not employed as diversion options, despite its numerous benefits. Most role-players are not aware of the programme content or its benefits.

Follow up mechanisms and prevention methods are weak and sometimes non-existent in diversion programmes.

Lack of personnel and facilities

There is need for networking and information sharing on prevention of crimes and reduction in the number of child offenders in the country.

Inadequate places of safety and homes/institutions have affected the use of diversion programmes in many states of the Federation. There is an insufficient number of
probation /social welfare officers. Also they are either overworked or not trained in the application of restorative justice or diversion. Programmes with a residential component were not found in many parts of the country. Community-based diversions are the least employed diversion programmes.

**Funding**

It was observed that one of the major cross-cutting issues, among NGOs and CBOs practicing diversion options and programmes in the country, is funding. Lack of funding has limited the scope of such organizations. Most are funded by development partners and international agencies whose funds are tied to particular projects. This lack of flexibility in funding limits the scope of diversion programmes and reduces the number of children who could have benefited from them.

### 5.3 Recommendations

**Creating Legal Framework**

Promulgation of CRA in all the States of the Federation especially in the Northern States is imperative.

The ramification of this on diversion programmes will mean that diversion is endorsed and encouraged and consequently more diversion programmes and alternative disposition options will be needed. It will also mean the overturning of the current practices with its violations of international standards.

**Training and Capacity Building**

All child justice system personnel (police, social/probation workers, child development workers, lawyers, judiciary, staff in prisons and institutions, court workers, magistrates and judges) should receive rigorous initial training in human rights and children’s rights.

Such training should include: awareness and understanding of the principles of human/child rights, best interests of the child, international and local legal frameworks and guidelines in observing the rights of children and diversion programmes; dispute resolution/mediation and communication skills; diversion options and the use of detention as a last resort only for the shortest possible period of time; referral systems to NGOs, CBOs and civil society organizations; importance of speedy processing of children’s cases; compliance with due process and the requirement to inform children and their families/guardians; and finally, the importance and value of child participation (soliciting and taking into account children’s views).

The number of role players, professionals and organizations that deal with diversion programmes and who need training, should be identified and expanded. Training workshops to sensitize the police, prosecutors, magistrates, child welfare, ministry officials and the judiciary could be combined with other identified role players to promote a common understanding of diversion and its implications.

The NGOs and CBOs need to be supported and skilled in developing, delivering and sustaining quality diversion options.
Community Based Diversions

Community based diversion programmes are rarely provided or used in Nigeria. It is important that community based diversion programmes should aim at empowering the child offender with skills that would steer him/her away from committing crimes again. This form of diversion should involve families and other relevant community members, such as traditional rulers, priests, teachers, the victim and the child offender and the CBOs in the respective communities. The realities and strengths of the community should be built upon. Other religious structures or individuals in the community can play a major role in monitoring this kind of diversion.

Funding

The development of an organization which will coordinate, monitor, evaluate and source funding for diversion options, and explore intersectoral funding of programmes is imperative. The private sector, NGOs and CBOs should join forces with government institutions to improve the current situation. There is a need for the formation of a working group with leaders of civil society which will assist the government with developing a strategy for funding diversion programmes.

Monitoring and Evaluation

Ongoing monitoring, evaluation and quality control for diversion programmes should be ensured. The Child Development Department of the Ministry of Women Affairs has a role to play in this regard. The department needs to develop a system of keeping registers at all levels for children who have been diverted; issue guidelines setting out the minimum standards required for these programmes including registration, quality assurance, accountability, follow up and establishment of appropriate monitoring systems of both the government and NGOs.

Monitors should be permitted to conduct confidential interviews with detained children of their choosing, with the consent of children involved. Such monitoring should include making unannounced inspections of all detention facilities, including police cells and should be given the authority and means to intervene whenever there are reasonable grounds to believe that abuses have been committed.

Evaluation and accountability remain a gap which needs to be filled in this area. Developing clear agreements between government and the private sector on how and what to evaluate and developing systems of costing that is based on trust, equality, and accountability cannot be overemphasized. There is a need to discuss and debate viable ways and mechanisms for purchasing diversion services from NGOs and CBOs.

Diversion standards: All diversion programmes and alternative sentencing options should be registered. In addition they should adhere to prescribed minimum international standards as set out by the international conventions and the CRA. This will ensure effective delivery of programmes and evaluation of their impact.

Complaint Procedures

It may be expedient to establish a complaint system that allows children in the criminal justice system to make confidential complaints, without fear of redress. These complaints could be made to facility directors, nominated national child rights representatives or ombudsmen, or to other appropriate national or international agencies. The system should ensure that all complaints are investigated and responded to promptly.
Research and Documentation

In association with academic and civil society institutions, it is important to promote and undertake: longitudinal research on effective crime prevention and diversion strategies; participatory research involving the community, children and young people in crime prevention and rehabilitation in the community, focusing on existing structures; research on public perceptions of juvenile offenders in order to identify appropriate ‘entry points’ for influencing public opinion.

Statistical data on children in the criminal justice system should be collated and disseminated widely. Such information should be disaggregated by gender, age and geographical location and should include: number of children; the reason for detention; the length of time in detention; the disposition of the case and diversion measures employed by the Magistrates. Comprehensive official statistics properly maintained should be used to monitor and evaluate implementation of policies.

Media

Partnerships must be developed with the media to promote advocacy messages regarding child rights, restorative justice and the importance of prevention, diversion and alternatives to detention; to publicize positive outcomes with young offenders; to encourage community level – support for vulnerable children and young people.

Media training could be undertaken on the effects of criminalizing and discriminatory references on children in conflict with the law and other groups of children. Media should promote responsible, gender-sensitive and unbiased reporting that involves the voices and stories of children in their own words.
APPENDIX 1: Inventory of Diversion Programmes in Nigeria

<table>
<thead>
<tr>
<th>State:</th>
<th>Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Name of Institution/Establishment:</td>
<td></td>
</tr>
<tr>
<td>2 Full Address:</td>
<td></td>
</tr>
<tr>
<td>3 Tell:</td>
<td>Email:</td>
</tr>
<tr>
<td>4 Year of Establishment:</td>
<td></td>
</tr>
<tr>
<td>5 Background Information:</td>
<td></td>
</tr>
<tr>
<td>6 Aims and Scope of Existing Diversionary Work:</td>
<td></td>
</tr>
<tr>
<td>7 Facilities Available:</td>
<td></td>
</tr>
<tr>
<td>8 Programme Content:</td>
<td></td>
</tr>
<tr>
<td>9 Referrals from: Court: Police Officials: Parents:</td>
<td></td>
</tr>
<tr>
<td>10 Diversion Options Employed: Level 1: Level 2: Level 3:</td>
<td></td>
</tr>
<tr>
<td>11 Institutions Follow up Mechanism:</td>
<td></td>
</tr>
<tr>
<td>12 Effect of Programmes on Child:</td>
<td></td>
</tr>
<tr>
<td>13 Staff Strength and needs:</td>
<td></td>
</tr>
<tr>
<td>14 Collaborative initiatives:</td>
<td></td>
</tr>
<tr>
<td>15 General Remarks</td>
<td></td>
</tr>
<tr>
<td>16 Name and designation of officer completing form:</td>
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</tbody>
</table>

- For NGO’s, Government, Police, Judiciary/Ministry of Justice
<table>
<thead>
<tr>
<th>No.</th>
<th>Description</th>
<th>Details</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Name of Child:</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Address of Child:</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>State of Origin:</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Age: Sex:</td>
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<tr>
<td>5</td>
<td>Educational Background:</td>
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</tr>
<tr>
<td>6</td>
<td>Offence Committed:</td>
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</tr>
<tr>
<td>7</td>
<td>Diversion Options Preferred:</td>
<td>Level 1: Level 2: Level 3</td>
</tr>
<tr>
<td>8</td>
<td>Status of parents:</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>Benefit to child:</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Follow up:</td>
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</tr>
<tr>
<td>11</td>
<td>Name of child recipient completing the Form:</td>
<td></td>
</tr>
</tbody>
</table>

For NGO’s, Government, Police, Judiciary/Ministry of Justice and Child participant
### APPENDIX III: Results of Inventory of Diversion Programmes by Zones

#### South East   Enugu

<table>
<thead>
<tr>
<th>Name</th>
<th>Yr established</th>
<th>Available facilities</th>
<th>Referrals</th>
<th>Diversion options</th>
<th>Collaborative initiatives</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Court</td>
<td>Police</td>
<td>Parents</td>
</tr>
<tr>
<td>SWEWP</td>
<td>1994</td>
<td>Counseling and conference room, computers, soap making and knitting machines</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>ANPCANN</td>
<td>1986</td>
<td>Counseling room, resource library</td>
<td>-</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>CIRDOCC</td>
<td>1996</td>
<td>Library, resource centre, counseling and conference rooms</td>
<td>-</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>WACOL, Enugu</td>
<td>1997</td>
<td>Shelter home, boarding facilities, counseling room, resource library, computers</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>FIDA Enugu</td>
<td>1993</td>
<td>Counseling room</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>

#### South –South   Rivers

<table>
<thead>
<tr>
<th>Name</th>
<th>Yr established</th>
<th>Available facilities</th>
<th>Referrals</th>
<th>Diversion options</th>
<th>Collaborative initiatives</th>
</tr>
</thead>
<tbody>
<tr>
<td>Institute of Human Rights and Humanitarian Law</td>
<td>1998</td>
<td>Counseling and Conference rooms, Resource Library, Computers</td>
<td>-</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>WACOL, Port Harcourt</td>
<td>1997</td>
<td>Shelter home, boarding facilities, counseling room, resource library, computers</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>
### South –West Lagos

<table>
<thead>
<tr>
<th>Name</th>
<th>Yr established</th>
<th>Available facilities</th>
<th>Referrals</th>
<th>Diversion options</th>
<th>Collaborative initiatives</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Court</td>
<td>Police</td>
<td>Parents</td>
</tr>
<tr>
<td>Child Life Line</td>
<td>1994</td>
<td>Shelter home, vocational training equipments</td>
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<td>-</td>
<td>-</td>
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<tr>
<td>Gender and Child Rights Initiative</td>
<td>2001</td>
<td>Counseling room</td>
<td>-</td>
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<tr>
<td>Human Development Initiative</td>
<td>1996</td>
<td>Counseling/Conference Room</td>
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<td>-</td>
<td>1</td>
</tr>
<tr>
<td>PRAWA</td>
<td>1994</td>
<td>Vocational training equipment and Workshops</td>
<td>-</td>
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<td>1</td>
</tr>
<tr>
<td>FIDA Lagos</td>
<td>2001</td>
<td>Counseling room</td>
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</table>

### North –West Kaduna

<table>
<thead>
<tr>
<th>Name</th>
<th>Yr established</th>
<th>Available facilities</th>
<th>Referrals</th>
<th>Diversion options</th>
<th>Collaborative initiatives</th>
</tr>
</thead>
<tbody>
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<td></td>
<td></td>
<td></td>
<td>Court</td>
<td>Police</td>
<td>Parents</td>
</tr>
<tr>
<td>CaRE- NGO</td>
<td>1994</td>
<td>Knitting and soap making machines, honey</td>
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<td>-</td>
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</tr>
<tr>
<td></td>
<td></td>
<td>processing machine, solar dryer, multipurpose</td>
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<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>dryer, resource centre, recreational and</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>vocational equipment, computers and computer</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>training, television and video films</td>
<td></td>
<td></td>
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<tr>
<td>Poverty Alleviation and</td>
<td>1995</td>
<td>Counseling room, vocational training</td>
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</tr>
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<td>Development centre</td>
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<td>equipments</td>
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<td>League of Democratic Women</td>
<td>1997</td>
<td>Legal Resource Centre, Computers</td>
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<td>Interfaith Mediation Centre</td>
<td>1995</td>
<td>Counseling room, computers</td>
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</tr>
<tr>
<td>FIDA kaduna</td>
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<td>Counseling and conference room, IEC</td>
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</table>
## North – East  Bauchi

<table>
<thead>
<tr>
<th>Name</th>
<th>Yr established</th>
<th>Available facilities</th>
<th>Referrals</th>
<th>Diversion options</th>
<th>Collaborative initiatives</th>
</tr>
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<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Court</td>
<td>Police</td>
<td>Parents</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Christian Initiative For children Heritage development</td>
<td>2003</td>
<td>Counseling room</td>
<td>-</td>
<td>-</td>
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</tr>
<tr>
<td>League for Human Rights</td>
<td>1999</td>
<td>Conference/counseling room</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>International Centre for Peace and Charities</td>
<td>1999</td>
<td>Conference Room</td>
<td>1</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>FIDA, Jos</td>
<td>1987</td>
<td>Counseling room</td>
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## North - Central  FCT and Plateau

<table>
<thead>
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<th>Name</th>
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<th>Referrals</th>
<th>Diversion options</th>
<th>Collaborative initiatives</th>
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<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Court</td>
<td>Police</td>
<td>Parents</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Constitutional Rights Projects</td>
<td>1990</td>
<td>Conference/ Counseling room, resource centre, vocational training facilities</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>
| WACOL, Abuja | 1997 | Shelter home, boarding facilities, counseling room, resource library, computers | 1 | 1 | 1 | 1 | 1 | - | 41
## APPENDIX IV: Inventory of NGOs and CBOs Involved in the Survey

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Services Provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. SWEWP</td>
<td>43B Kenyata Street Uwani Enugu</td>
<td>Human rights services for children, vocational skill training, mediation and conflict resolution and family tracing/conferencing</td>
</tr>
<tr>
<td>2. ANPCANN</td>
<td>43 Lumumba Street, New Haven Enugu</td>
<td>Handling child rights issues and monitoring of abuses against children</td>
</tr>
<tr>
<td>3. CIRDOCC</td>
<td>16th Avenue, City Layout, New Haven Enugu</td>
<td>Resource library, counseling, investigations, mediation and conflict resolution</td>
</tr>
<tr>
<td>4. WACOL, Enugu</td>
<td>9, Umuezebi Street, New Haven, Enugu</td>
<td>Legal representation, conflict resolution, counseling and family tracing</td>
</tr>
<tr>
<td>5. FIDA</td>
<td>Akwa9, Umuezebi Street, New Haven Enugu</td>
<td>Counseling, mediation, conflict resolution, family conferencing, legal representation</td>
</tr>
<tr>
<td>6. Institute of Human Rights and Humanitarian Law</td>
<td>2d, Plyway Close, D - Line Port Harcourt</td>
<td>Legal representation, advocacy for implementation of international convention and treaties</td>
</tr>
<tr>
<td>7. WACOL, Port Harcourt</td>
<td>39 Ogbia/Mbonu street, D-line Port Harcourt</td>
<td>Legal representation, conflict resolution, counseling and family tracing</td>
</tr>
<tr>
<td>8. CaRE- NGO</td>
<td>Gidan Jan- Block, Kaguma Close, Kaduna</td>
<td>Functional literacy, IT- training, Educational and vocational skills training, micro credit schemes, counseling for child drug users</td>
</tr>
<tr>
<td>9. Poverty Alleviation and Development Centre (PADEC)</td>
<td>Ic, College Road, kurunmi Mashi, new Extension, kaura LGA, Kaduna</td>
<td>Vocational training, educational reintegration programmes psychosocial support, training of home – based care givers, micro credit schemes</td>
</tr>
<tr>
<td>10. League of Democratic Women</td>
<td>4th Floor, NNIL Building, 4 Mohammed Buhari Way, Kaduna</td>
<td>Legal representation, counseling, trauma counseling, reintegration facilitation, family conferencing,</td>
</tr>
<tr>
<td>11. Interfaith Mediation Centre</td>
<td>6th Floor, NNIL Building, 4 Mohammed Buhari Way, Kaduna</td>
<td>Trauma counseling for child offenders, reintegration facilitation, family conferencing,</td>
</tr>
<tr>
<td>12. FIDA Kaduna</td>
<td>AN 20, Lagos Keffi Road, Kaduna</td>
<td>Family tracing and conferencing, mediation, conflict resolution, counseling, legal representation</td>
</tr>
<tr>
<td>13. Christian Initiative For children Heritage development</td>
<td>ECWA Church, Bauchi</td>
<td>Rehabilitation, educational and vocational training</td>
</tr>
<tr>
<td>14. Child Life Line</td>
<td>25 Majaro Street, Onike Yaba Lagos</td>
<td>Vocational training, rehabilitation, Shelter</td>
</tr>
<tr>
<td>15. Gender and Child Rights Initiative</td>
<td>17, Chief Benson Anorie St, Ajao Estate, Lagos</td>
<td>counseling</td>
</tr>
<tr>
<td>16. Human Development Initiative</td>
<td>4B Little Road Yaba Lagos</td>
<td>Counseling, Family tracing and conferencing,</td>
</tr>
<tr>
<td>17. PRAWA</td>
<td>1A Bode Thomas Street,</td>
<td>Family tracing, rehabilitation,</td>
</tr>
<tr>
<td>Name</td>
<td>Address</td>
<td>Services Provided</td>
</tr>
<tr>
<td>-------------------------------------------</td>
<td>----------------------------------------------</td>
<td>------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>18. FIDA Lagos</td>
<td>14/16 Makoko Road, Yaba Lagos</td>
<td>Family tracing and conferencing, mediation, conflict resolution, counseling, legal representation</td>
</tr>
<tr>
<td>19. League for Human Rights</td>
<td>6, Tafawa Balewa Road Jos</td>
<td>Educational Support, Community/Volunteering Services</td>
</tr>
<tr>
<td>20. International Centre for Peace and Charities</td>
<td>13, Eyamba Street, Jos</td>
<td>Mediation, Micro Credit schemes, Educational support</td>
</tr>
<tr>
<td>21. FIDA, Jos</td>
<td>C/O of Ass Director, Citizen’s Right, Ministry of Justice, Jos</td>
<td>Legal Representation, Family Conferencing, Conflict Resolution, Counseling</td>
</tr>
<tr>
<td>22. Constitutional Rights Projects</td>
<td>21, Kwame Nkrumah, Street, Asokoro, Abuja</td>
<td>Legal representation, family tracing, vocational training, counseling</td>
</tr>
</tbody>
</table>
APPENDIX V: Boxes

Box 1

AIMS OF DIVERSION

- Prevent re-offending
- Give a second chance (criminal record is for life)
- Improve resource use (courts can concentrate on serious crime)
- Avoid delays, costs and traumas of trial
- Provide better service to victims of crime
- Improve perceptions of police (police-community relations)
- Provide help for offenders
- Voluntary alternative measure to criminal justice system.
- True diversion occurs inside the child’s mind.
- Recognizes special needs and vulnerability of young people, as well as the need to protect society.
- Can occur in more than one way and at any point in the criminal justice system.

Box 2

MODELS OF JUSTICE

Models of Justice

- Retributive Justice………….Punishes
- Rehabilitative Justice…………Treats
- Restorative Justice…………….Repairs

Categories of Diversion

- Community Service
- Group Conferencing (Victim-Offender Mediation, Family Conferencing)
- The Life-Skills Programme

Definition of Community Service

- Community service is a way in which the offender serves the community as reparation for his or her crime or offence
- May work at non-profit organization for no payment
- Non compliance may mean reinstatement of the charges and return to court

Placement and Placement Agencies

- Suitable placement agency could be any non-profit organisation, agency or institution that delivers a service to the community, for example
  - Homes or hospital for the physically challenged, public or general hospitals
  - Libraries
  - Local government councils
  - Police stations
  - Non-Governmental Organisations
- Community placements should be in the community where the person lives
- Servers should be placed in places of their interest where practicable
- Services must be seen to fit the crime
Box 4a  
GROUP CONFERENCING  

What is Group Conferencing?
- Face to face encounter between:
  - A victim or victims
  - The offender(s)
  - Individuals who support each of them
  - Others affected by the incident
- Led by a trained facilitator
- Seeks to identify, repair and prevent harm
- Based on restorative justice values including accountability

Requirements for Conferencing
- Conferences are required to take into consideration the:
  - age and level of development of the young person;
  - needs of young people who are disadvantaged or disconnected from their families;
  - needs of young people with disabilities;
  - young person's gender, race and sexuality; and
  - young person's consent, admission of guilt and legal advice.

Excluded Offences
- Certain offences should not be referred to conferencing:
  - homicide or any offence punishable by a prison sentence of over 25 years;
  - sexual offences;
  - drug offences;
  - traffic offences (if the young person is old enough when the offence occurred to obtain a license or permit); and
  - breaches of apprehended violence orders.

Box 3  
BENEFITS OF COMMUNITY SERVICE  

Benefits of community service
- Offender remains in society
- Family remains a unit
- Offenders Can still support family
- Cost to tax payer minimized
- Overcrowding in prison reduced
- Protected from negative effects of prison
- No reintegration problem
- Offender can make reparation
- Assists organizations dependent on volunteers
- Concrete way to amend wrongdoing
- Offender serves community as reparation for crime
- Non-profit organization benefits from offenders service
- No payment
- Only for Certain number of hours
- Charges finally withdrawn after service
- Links to community and personal interests
Profile of Existing Diversion Programmes in Nigeria, September, 2006

Box 4b
CONFERENCING MODELS

Conferencing Models
- Victim-Offender Mediation
- Family Group Conferencing
- Circle Sentencing – places emphasis on community involvement and includes social service personnel
- Community Reparative Boards – conducted by trained citizens who develop agreements with offenders, monitor compliance and report to the court

Victim and Offender Benefits
- Victim participates actively
- Restitution is made to victim
- Chance to confront offender with feelings
- Victim no longer marginalized
- Offender gains insight into the effect of his/her crime
- Offender can experience forgiveness
- Offender reconciles with society
- Non-violent method of solving conflict
- Offender plays role in determining own future
- Increases offender’s sense of responsibility (prevents further crime)
- Empowers community

Box 5
DEFINITION OF DIVERSION ORDERS

A supervision and guidance order: This involves placing a child under the supervision of a mentor (e.g. school teacher, probation officer, social worker, parent, relative etc) in order to monitor and guide the child’s behaviour.

A reporting order: This order requires a child to report to a specified person (e.g. police officer, school principal, probation officer, etc) at a time or at times specified in such order so as to enable such a person to monitor the child’s behaviour.

A compulsory school attendance order: This order requires a child to attend school everyday for a specified period or time. Their attendance is to be monitored by a specified person (e.g. school teacher, parents/guardian and relatives, etc).

A good behaviour order: This order requires a child to abide by an agreement made between the child and his or her family to comply with certain standards of behaviour.
Box 6
THE PURPOSE OF DIVERSION

The purposes of diversion are to:
1. Encourage the child to be accountable for the harm caused;
2. Meet the particular needs of the individual child;
3. Promote the reintegration of the child into the family and community;
4. Provide an opportunity to those affected by the harm to express their views on its impact on them;
5. Encourage the rendering to the victim of some symbolic benefit or the delivery of some object as compensation for the harm;
6. Promote reconciliation between the child and the victims or persons affected by the harm caused;
7. Prevent stigmatization of the child and prevent adverse consequences flowing from being subject to the criminal justice system; and
8. Prevent the child from having a criminal record.

Box 7
THE SKILLS THAT NEED TO BE DEVELOPED

The skills that need to be developed in young people are:
- Self-awareness (Self-esteem, Self-confidence, Cope with emotion and stress).
- Inter-personal relationships (friendship, empathy, love and sexual drive, ability to resist unhealthy pressures)
- Negotiation and refusal skills
- Critical thinking skills - Communication and listening
- Vocational Training

Life-Skills Programme: Benefits
- Offender is given second chance
- Avoids criminal record
- Avoids prison sentence
- Encouraged to take responsibility for actions – not doing the same thing again
- Society has less youth crime
- Parents and child has better relationships
- Courts have less of a burden
Box 8a

BENEFITS

Community Benefits
- The conflict resolution skills can be utilized in other forms of disputes
- Cheaper and more useful than imprisonment
- Likelihood of further crime is removed by avoiding the damaging effects of imprisonment
- Offender’s understanding of the cost of his/her crime can act as a deterrent in future

Criminal Justice System Benefits
- More cost-effective than imprisonment
- Reduction of recidivism
- Burden on criminal justice system reduced
- Good way to handle first offenders
- Time-saving device
- Public gains greater understanding of criminal justice system
- Restitution made outside court
- Way to handle cases which court cannot solve

Family Conferencing
- Similar to, but usually larger than Victim–Offender Mediation
- Families of the offender, both immediate and extended are an essential ingredient
- Victim may also bring family or other supporters
- The police also take part
- A lawyer and anyone else requested by the offender’s family
- Led by a trained facilitator

Box 8b

CONFERENCING APPROACHES

Conferencing Approaches
- Organisation and facilitation by
  - The police
  - School officials
  - Other governmental or non-governmental bodies
- Integrated system in which the police refer individuals to conference administered by a separate justice system organisation
- Referral at the pre-trial stage by the court

The Life-Skills Programme

Goals of Life-skills programme
- Encourage acceptable behaviour
- Development of leadership qualities
  - Youth aged between 12 and 18
  - Not limited to first offenders
- Based on the concept of participatory experience
- Ground rules crucially important – successful completion leads to withdrawal of charges
- Parents attend first and last sessions

What is Life Skills Programme
- Life Skills development is the most effective methodology for promoting behaviour change among adolescent and young people.
- Developing the skills related to behaviour and social interaction has a proven positive relationship to adoption of non-risky life styles.