

**PRISON OVERCROWDING IN THE SOUTH AFRICAN
CORRECTIONAL SERVICES: A PENOLOGICAL PERSPECTIVE
BY
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**SUBMITTED IN FULFILMENT OF THE REQUIREMENTS FOR
THE DEGREE OF MASTER OF ARTS**

IN THE SUBJECT

PENOLOGY

AT THE

UNIVERSITY OF SOUTH AFRICA.

SUPERVISOR: PROFESSOR C.H. CILLIERS.

NOVEMBER 2006.

ACKNOWLEDGEMENT.

My greatest honour and appreciation has to go to God the All Mighty who I believe made it possible for both my beloved wife Sonto and my son Blessing for their patience, time and support they gave me through the years to accomplish this task..

My promoter Prof. Cilliers is nothing more than a star, and would like him to note that the entire Shabangu family cannot over emphasize their appreciation of his undivided and unlimited support throughout the years of this piece of work..

To Dr. Nxumalo and his family who stood by my side day and night, with the eventual completion of this Article. May God bless you and befall countless blessings to you and your family.

Of course not forgetting those who directly and indirectly contributed and encouraged me not to give up when the going was so tough. To list them all would be a very lengthy exercise, but the under-mentioned deserve to be mentioned, for the assistance and support they provided during this study:

Mr. Kotze B.M	Department of Correctional Services.
Mr. Lottering H	Department of Correctional Services.
Ms. Faber M	Department of Correctional Services.
Mr. Kekana S.M	Unisa Library.
Dr. Hlongwane A.L	Department of Correctional Services.
Ms Maisa M.J.	Typist.
Mr Radebe M.P.	Department of Correctional Services.
Advocate Mphaga M.	Department of Justice.

SUMMARY.

Incarceration of offenders has been relied upon as the dominant sentence option through the years to address the objectives of punishment.

Research has shown that the above-mentioned approach does not match the current lifestyle anymore. Correctional centres (prisons) not only in South Africa, but across the board are faced with the same challenge.

This is of course not a problem of the Department of Correctional Services alone, but that of the entire justice system. It is therefore obligatory for Justice to join hands with society in accordance with the White Paper on Corrections in South Africa (2005:63-68).

Playing a major role in all above-mentioned bodies is Parliament, without which the whole justice system would not exist, let alone functioning.

The victims of crime would most probably not condone any soft approach towards treating offenders, worse with alleviating overpopulation by releasing inmates from correctional centres.

It is the researcher's submission that the effects of overpopulation coupled with inmate's human rights, as entrenched in the Constitution becomes the major driving force to address overcrowding in our correctional centres.

TITLE OF ARTICLE:

Prison Overcrowding

In The

South African Correctional Services: A Penological Perspective.

KEY TERMS:

Prison, corrections, probation, parole, Criminal Justice, community corrections, community re-integration, diversion, rehabilitation, and overpopulation.

I, KOSABO ISAAC SHABANGU, declare that Prison Overcrowding In The South African Correctional Services A Penological Perspective (title of article) is my own work and that all sources that I have used or quoted have been indicated and acknowledged by means of complete references.

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CHAPTER ONE.

GENERAL ORIENTATION TO THE STUDY.

CONTENTS.

1.1 INTRODUCTION.

Overcrowding has various sources, the most important being the high rate of recidivism in this country. Overcrowding is one among many problems that has proved to be a “headache” in the Department of Correctional Services.

The researcher relates overcrowding as a disease to be cured. It is common knowledge that for every disease to be cured, the analyses of its causes are of cardinal importance.

For one to can identify the causes, we definitely have to look into the underlying motives behind crime commission. What will then be of importance in the above case shall most probably be the profile of the offender.

Hardy & Cull (1973:140) predicts the offender at the end of the road in prison being the member of the lowest social and economic groups, poorly educated and perhaps unemployed, unmarried, reared in a broken home and likely to have prior criminal record.

It is the researcher’s submission that the social background of the offender has some bearing on his crime commission.

The researcher is of the opinion that the current reformative and rehabilitative programmes need to be revisited so as to suite the individual profiles of inmates. If the set programmes are inline with the various profiles of inmates, better will the Department of Correctional Services correct those entrusted to its care.

McGuire (1995:117) shares the same sentiments in that; he quotes the work of Robert Ross, Elizabeth Fabiano and their colleagues in probation services in Ontario. He says that his work suggested that, for many persistent offenders a central problem limited to their re-offending is lack or failure to apply a number of problem solving skills.

It is the researcher's understandings that not all sex offenders are to be subjected to the same reformative or rehabilitative programmes.

This is said with the understanding the each case has its own merits, and has to be approach accordingly, so is the case with offenders. This is to justify the fact that offenders should be treated as individuals as far as practically possible.

In the researcher's opinion, lack of intensive or detailed social background of the offender, plus various other factors that might have played a role in his crime commission as indicated above, diverge the rehabilitative treatment with the result of re-offending on the part of the inmate.

Correctional Services is not there to punish, but to address the attitude and behavior by means of treatment and programmes, thus indirectly addressing overcrowding and recidivism. McGuire (1995:4) says that,

measures of reducing re-offending should not be punitive in nature, but should rather address the factors, which have played a role in the offending act, or that, which would place the offender at risk of re-offending in future.

Coffey (1975:59) is of the opinion that conceiving of the causes of juvenile delinquency as the basis for their corrections, holds numerous advantages. He maintains that correcting delinquency must either eliminate or substitute other influences in place of those causes. It thus remains clear that understanding the causes of delinquency improves the chances that corrections can succeed.

1.2 HYPOTHESIS.

Questions are often asked, to quote but one, “Does Correctional Services really reform or rehabilitate inmates?” In the majority of cases the answer would be in the negative.

In the researcher’s opinion, this is attributed to the high rate of overcrowding and recidivism. It is the researcher’s believe that something went wrong with our justice system, and that it needs to be identified and corrective measures be brought about to normalize the situation.

The fact of importance being the Bill of Rights in Act 108 of 1996, Section 35 and the whole concept of the rights of inmates.

If one looks into the entire legal process with the above clause inclusive,

the rights of the victims of crime are ignored. The researcher is of the opinion that a balance be struck between both rights.

The issue of catering for inmates materially and otherwise while the victims of crime are ignored is in the mind of the researcher another factor, which contributes to recidivism and eventually overpopulation.

The underlying reason in the abolition of the death penalty is all about the rights of offenders to life (Constitution, Act 108 of 1996, Chapter Two, Section 11).

The offenders are catered for by the very taxpayers who are the victims of their crimes. Offenders sleep with clear conscious that they will definitely receive breakfast the following morning, so with other meals, clothing, medication, shelter and the rest free of charge. Law abiders are to pay for all these material needs irrespective of the fact that they are employed or not.

The researcher would like to propose a change in this regard as it has an indirect bearing on overpopulation.

The figures of recidivism shall form part of this research to prove this point.

The researcher is a strong advocate of aligning the treatment programmes with both the crime committed and the motive or motives or causal factors behind the various offences. It is the researcher's submission that the government should only assist with boarding and lodging, plus other

material needs of inmates in extremely deserving cases.

It is the researcher's view that inmates be held responsible for their own individual institutional costs, as in the outside world. This proposal is fortunately practiced in other countries like Denmark, as shall be discussed in chapter seven.

Convicted inmates are sent to correctional centres as punishment and not to be punished as such. The basic objective of punishment is among others to apply such treatment to effect behavioral change upon them, which shall be of significance after release (Act 111 of 1998).

1.3 SIGNIFICANCE OF THE STUDY.

What triggered my mind to embark on this study is the high rate of overpopulation and recidivism this country is faced with.

The identification of whatever went wrong as highlighted in the introduction of this chapter, with the end result of workable solutions within the Department working hand in glove with other stakeholders and inmates in a manner which will endeavour to influence change in their future behavior, thus indirectly addressing the problem of overpopulation and recidivism.

The researcher seeks to emphasize accountability on the shoulders of Correctional Services as a Department, to really bring about the desired behavioural change upon individuals who happen to fall prey of the law.

If one looks into other underlying factors contributing to overpopulation, you will realize that a significant number are ex-inmates, who have relapsed into crime. The researcher would like to see a changed situation where our correctional centres should not be seen being so overpopulated. The researcher would further like to see very few ex-inmates re-admitted into our penal system.

Offenders are in my opinion taking advantage of the penal system in South Africa. The researcher would like to influence change in this field, so as to give the taxpayer the worth of his money. On the other hand, law abiding citizens will be encouraged to continue along those lines, while discouraging criminals in their criminal activities.

It is the researcher's submission that, our correctional centres in South Africa should be seen as universities where criminals graduate as law-abiding citizens who have learned socially acceptable and crime free lifestyles.

1.4 AIMS AND OBJECTIVES OF THE STUDY.

In accordance with Cilliers (1980:4) in Nxumalo (2000:4), the main objective behind a penological investigation is inter alia, knowledge and insight into the phenomenon of punishment with a view to the application of such acquired knowledge.

The researcher's primary objective is to acquire knowledge of the current reformative or rehabilitative programmes with a view to criticize the

validity in relation to their objectives and eventually propose programmes which will better address reformative and rehabilitative measures for both adult and juvenile offenders.

Crime has proved to be a problem in South Africa. A prove to this effect is the current total of plus minus 165301 sentenced and plus minus 49176 un-sentenced prisoners within our correctional institutions during March 2001. Crime has a lot of negative implications in this Country, more especially as it became internationally recognized in terms of trade and industry.

Crime has far reaching outcomes than disturbing public order and causing harm to the victims of crime. On the other hand, to the whole country, crime impacts very negatively on the investors overseas and elsewhere. If investors withdraw their monies and companies in this country, the end result is a very high rate of joblessness. Joblessness breeds poverty, which in turn breeds crime, crime eventually causes overpopulation. The researcher would like to avoid this situation.

Glaser (1977:2) points out an example about the Florida effect of crime that the state lost an estimate of millions of dollars in cancelled reservations due to the effect of crime. He further states that large numbers of Florida-bound tourists decided to avoid potential problems altogether by vacationing elsewhere.

The researcher takes this to shall be the state of affairs in South Africa, something which the researcher would like to influence otherwise. It is as well an undisputed fact that other people commit crimes not because they

are criminals, but because of the surrounding circumstances, some by the effects brought about by the influences in the process of their upbringing (Walters, 1994:16-17).

From the discussion above, the wing aims are identified:

AIM 1.

To revisit the current reformative and or rehabilitative programmes.

AIM 2.

To propose elements or factors to be considered when compiling policy regarding reformative and or rehabilitative or treatment programmes for both adult and juvenile offenders.

AIM 3.

To make recommendations based on the findings, with regard to the implementation of the programmes or treatment programmes, which will eventually, lower the rate of recidivism and overpopulation in our penal institutions.

1.5 RESEARCH METHODOLOGY.

The nature of the research, namely an investigation into the possible solutions to overcrowding and recidivism in the South African Department of Correctional Services, is the principal determinant of the methods chosen by the researcher.

The methods to be used in this research were manifold, given the various aspects that need to be discussed before embarking on the possible solutions to the problem of overcrowding and recidivism are:

- Literature surveys;
- Interviews with functionaries, professionals in the criminal justice system, the ordinary man in the street, the very offenders with the view to obtain their various profiles and causes of lapsing and or relapsing into crime, to can work out possible solutions to this problem, plus the victims of crime, and
- Perusal of statutes.

1.5.1 LITERATURE STUDY

It would have been an almost impossible exercise to compile this piece of work, without the researcher consulting the under-mentioned sources, namely :

- ❖ Books,
- ❖ Periodicals,
- ❖ Government Reports ,and
- ❖ Internet source materials.

The availability of the above-mentioned source materials have been the inspiration for the researcher to complete this study. Both International and National sources debated the topic on discussion, thou the topic focuses on the South African set-up of overcrowdedness.

It has been an extremely fortunate situation that, the researcher could find no difficulty in establishing facts to debate this topic. This was made possible by the fact that overcrowding has turned to be an international concern.

It is a given fact that South Africa varies in a majority of aspects regarding its justice system in relation to that of other countries.

With transformation of the justice system in South Africa, the researcher had to concur with, and dispute some approaches in dealing with the penalization of offenders respectively. Both National and International sources gave birth to this piece of work.

1.6. Definition of concepts.

1.6.1 Concepts.

- Overcrowding-the state of accommodating more than 100% of the prison capacity or approved accommodation per cell.
- Recidivism-proneness of many criminals to continue a life of crime (Barnes & Teeters, 1959:58).
- Community Corrections-Boone et al. (1995) in Champion (1999:269) define this concept as any community-based program designed to supervise convicted offenders in lieu of incarceration.
- Halfway houses-Fox (1977:60) defines the concept as relatively small facilities either residential or non-residential that may serve persons who are released from prison or directly from court to facilitate the processes of rehabilitation in the community.

- Rehabilitation-Nxumalo (2000:204) defines the above concept in line with (Callison, 1983:5 Mcshane and Krause, 1993:10), being the use of therapy, education and training for managing offenders with a view to change them to law abiding.
- Probation-the releasing of convicted offenders into the community under a conditional suspended sentence, avoiding incarceration for those showing good behavior under the supervision of a probation officer. (Black, 1990:1202) in Champion (1999:75).
- Diversion-temporary suspension of a prosecution where suspects are required to remain law-abiding for specified periods (Champion, 1999:14). On the other hand this concept extends its meaning to the official halting or suspension of legal proceedings against a criminal defendant or juvenile after a recorded justice system entry and possible referral to treatment or care programmes administered by a non justice agency or private agency. (Federal Judicial Center, 1997) in (Champion, 1999:124).
- Parole-a form of a conditional release granted after an inmate has served a portion of his sentence in a correctional institution (Barnes & Teeters, 1959:566).
- Act 108 of 1996- Constitution of the Republic of South Africa.

1.6.2 Synonyms.

The following concepts will be used as synonyms:

- Prison, correctional institution, custody, correctional centre, institution, corrections.

- Staff, members, personnel, correctional officials, officers, wardens.
- Prisoners, inmates, offenders, convicts, lawbreakers, residents.
- Citizens, law-abiders, people, ordinary man in the street.
- Department of Corrections, Department of Correctional Services, DCS.

1.6.3 Gender sensitivity.

To avoid the laborious usage of words such as “ he, she, him, and her”, the masculine pronoun will be used throughout the text.

The researcher’s aim is not to offend anybody by so doing, but to let the research be an interesting piece of work to peruse.

1.7 Delimitation of the study.

This study is aimed at exploring the Correctional Services rehabilitative and or reformative, otherwise treatment programmes, with the eventual objective of addressing the problem of overcrowding and recidivism.

The role to be played by the stake holders, such as the community, NGO’s, the government and the victims of crime in addressing this challenge shall be highlighted.

Chapter one shall comprise of a methodological account and the domain to be researched, the significance of the study, the choice of the research and how the research is perused and embarked

on. This chapter shall as well reveal the foundation upon which the research is based.

Chapter two shall focus on the historical background and development of the Correctional System in South Africa.

Chapter three shall reveal the overcrowding statistics in the South African Correctional Services Centres at a specific period.

Chapter four shall look at who goes to prison, i.e. the profile of the offenders, factors surrounding their involvement in crime or motive behind crime commission.

Chapter five shall focus on causal factors to overpopulation. The alternatives to imprisonment, which impacts on the criminal justice system to reduce overcrowding. And the concept of the rights of inmates and their impact on overcrowding.

Chapter six shall discuss the effects of overcrowding.

Chapter seven shall have to look at the various factors which are real in community life versus the artificial prison life, to can design rehabilitative and or treatment programmes which will most probably have a better influence in addressing change in the past behaviour and attitude of the offenders, a balance between social and institutional life shall have to be considered, with the end result of a law-abiding citizenship and zero tolerance to re-offending.

Chapter eight shall look at possible solutions to overcrowding and recidivism, and eventually Chapter nine which will be the last of this research. It's focal point being the conclusion and recommendations.

1.8 Conclusion and Recommendations.

1.8.1 Conclusion.

The Department of Correctional Services is under the extreme pressure of overcrowding in almost all its correctional institutions in South Africa. The efforts to reform or rehabilitate inmates becomes as a result of that, a major problem.

To address this problem the department must partner with other bodies, like society, the NGO's and others. Of importance in my opinion are the victims of crime without which the process will be incomplete should they be ignored.

Political changes have in the researcher's opinion contributed to some extent to this overcrowding. Looking into the issue of the abolition of the death penalty. All those who are found guilty of murder with extenuating circumstances, and other criminal offences which fall within schedule five of the CPA ,51 of 1977, will instead of being executed be sent to prison for a lengthy period of time (causing overcrowding), while their victims rot in the graveyards. One such a person in our correctional institutions in one too many.

1.8.2 Recommendations.

The researcher would recommend that policy makers limit and adjust treatment and or rehabilitative programmes to individual treatment, based on the profile of the inmate. This will bring about the desired change or influence in behaviour on the part of the offender to can better address change in him with the end result of indirectly addressing overcrowding which might have been as a result of recidivism.

In cases of group therapy, it be done for instance to the same category as per category of adult and juvenile inmates, which as well needs to be broken down to other aspects like, factors that led to or played a casual role in crime commission as highlighted by McGuire (1995:4).

Further more it is recommended that the correctional environment be more real than its current artificial state, so as to better effect the rehabilitation of offenders. What should not be sacrificed of course is the security of our institutions and the safety of society upon whom the Department has an obligation to protect, more especially against hardened offenders. Muncie et al.(1996:328-329) express the same sentiments.

Most inmates with minor offences, more especially first offenders who are in our institutions facilitate overcrowding instead of being placed in community corrections and other most appropriate sanctions like reparation, fines or any sanction which should be appropriate in the circumstances , as recommended in chapter eight.

CHAPTER TWO.

HISTORICAL BACKGROUND AND DEVELOPMENT OF THE CORRECTIONAL SYSTEM IN SOUTH AFRICA.

2.1 INTRODUCTION.

It would of course be common knowledge that one cannot expect the set up and functioning of the then Department (Prisons) and today's (Corrections) to be the same, with a margin of more than ninety-five years difference.

It would therefore be very obvious that the state of affairs of overpopulation and the causes thereof will not have the same shape.

Political change and the introduction of new legislation are viewed as the most significant by the researcher, as shall be seen down the discussion of this chapter.

This chapter shall basically focus on the development of the correctional system through the years since the eighteenth century up to the twenty first century in relation to overpopulation.

2.2 ORIGIN AND DEVELOPMENT UP TO 1910.

The prison system in South Africa has undergone substantial change since the establishment of the first refreshment post at the Cape in 1652. Before the Union of South Africa was established in 1910, the current Republic of South Africa consisted of two Boer Republics, namely the Free State and the Zuid-Afrikaanse Republiek (Transvaal), and the two English colonies namely the Cape of Good Hope and Natal.

With the establishment of the Union of South Africa in 1910, these four arrears were granted the status of provinces, each with its own geographical area and provincial government.

When South Africa became a Republic in 1961, the provincial system was retained. Control was exercised by the central government. In accordance with Cilliers (1999:9-10) the most important penal measures during this era were based under these norms:

- ❖ The primary objective of punishment was deterrence. As a result, punishment was meted out in public in order to achieve maximum effect.
- ❖ Considering capital punishment, nothing was done to alleviate the suffering of inmates condemned to death. It could in certain instances, even take days before the inmate finally died. The death penalty was generally carried out in one of the under mentioned ways:

❖ **THE GALLOWS.**

Offenders were hanged at prominent places in public and members of the public were even forced to witness the event.

❖ **CRUCIFIXION.**

In cases where the offender was a slave, the body part used to commit the offence used to be hacked off and nailed in above the offender's head. Offenders normally died due to privation.

Sometimes the offenders were shown some sort of mercy and beheaded so as to spare them further pain and suffering.

❖ **BREAKING OF THE LIMBS.**

This entails physically breaking the offender's body. The offender's body was placed on a double cross or wheel and crushed with an iron.

Unless shown clemency, he would die of privation, otherwise by hitting him on the chest with a heavy object, or beheaded him.

❖ **IMPALING ON AN IRON POLE.**

The pole was used in two different ways. The most merciful method having being used was to drive the iron pole through the offender's heart. The other application entailed impaling the offender's body on the iron pole from below. The pole could be driven into the ground and the offender died of privation.

❖ **STRANGULATION.**

This is a method derived from the Spanish, whereby the strangling post was used. Wet animal hides were used to bind the offender's neck to a post. In accordance with Vender (1959:15-16), this method was applied in an extremely cruel manner in the Cape. The thongs shrunk as they dried, and the offender died of strangulation.

Incarceration itself was initially not recognized as a form of penalty. It was made possible once the fort and later the castle was built in the Cape. Imprisonment was as such not the usual method of punishment, as places of detention were used as methods of torture to extract confessions. The under mentioned are examples of the cruel forms used during this period:

❖ **RACK.**

The offender's wrists and ankles were tied to the rack. The body of the offender was gradually stretched until one or more of his limbs were broken, with the result that the offender was crippled or killed in this manner.

❖ **VICE (SKROEFLEMME).**

About this method, the offender's thumbs were crushed in a vice.

❖ **RED-HOT IRONS.**

Red-hot irons were placed against the offender's body to injure or brand him (Cilliers, 1999:9).

❖ **CORPORAL PUNISHMENT.**

This kind of punishment was meted out mercilessly. It was therefore normal to inflict one hundred lashes or strokes upon an offender.

❖ **DETENTION.**

Detention in the castle was normally accompanied by meager rations. Detention was mainly reserved for offenders who had received the death penalty, otherwise were awaiting-trial or for debtors.

In accordance with Cilliers (1999:11) the most important reforms with respect of punishment and assessment of sentence during this period took place after English occupation of the Cape in 1775 to 1803. Forms of punishment that caused physical suffering were abolished. Public prosecutions were only banned as late as 1869, for the English law was also mainly geared towards deterring potential offenders.

Cilliers (1999) brings to light that, at the time of the final British occupation of the Cape in 1806, there was a single prison in the country, a prison that was established in 1781.

Control of the institution was transferred to the Colonial Secretary in England, resulting in the influence of the English system coming to the fore in the Cape Colony.

Decentralization is said to have proceeded rapidly, and that by 1948 there were twenty-two (22) prisons in use outside Cape Town. The administration of penal institutions in the Cape Colony was transferred to the Colonial Secretary until South Africa became a Union.

The first prison in Natal was constructed between 1838–1842 in Pietermaritzburg during the Republic of the Natal era. After the British occupation in 1842, a clay building with a thatched roof was inaugurated as the prison in Durban in 1849. Control over the prison in Natal initially was also vested in the Colonial Secretary, but in 1849 control was transferred to the High Commissioner of the Police.

Cilliers (1999) further points out that, the first prison in the Orange Free State was established in Bloemfontein shortly after 1854. It is said that an additional thirteen (13) institutions were already in use by 1873. It is worth mentioning that after the British occupation in 1902, the prison system in force in the Cape and Natal was as well implemented in the Orange Free State.

This history would be incomplete without mention of the fact that, the administration of prisoners in the Zuid- Afrikaanse Republic was originally the responsibility of the State Attorney in Pretoria. The first prison in Pretoria was constructed in 1865 and by 1893 there were already thirty-three (33) penal institutions in the Transvaal. The British system was also applied here after the occupation of 1902 (Cilliers, 1999:11).

2.3 STATUS AFTER THE UNION OF SOUTH AFRICA.

Singh (2004:78-82) points out 1910 as the year of the unification of South Africa where there was an endeavour at creating a penal and prison policy for the Country as a whole. She maintains that an attempt at this was embodied in the Prison and Reformatories Act, Act 13 of 1911 and the institution of a Department of Prisons.

The above-mentioned Act is said to have partly or wholly repealed all the legislation pertaining to the penal system, which have been in force in the four colonies before the union, i.e. 1902-1910. In terms of this Act, the management of reformatories was the responsibility of the prison system.

In accordance with the Annual Report of the Department of Correctional Services (1999:1) inmates who are awaiting trial may not be detained in solitary confinement, unless of course due to security and or medical grounds. Inmates are granted a further lawful complaint channel of approaching courts of law in cases they feel unfairly treated. Singh (2004:78) shares the same sentiments.

In accordance with Singh (2004) Jacob de Villiers Roos who was knowledgeable in the penological ideas of his time was appointed Director of Prisons in 1908. It is further mentioned that Roos paraphrased the key findings of the Congress coded.

The essential principles on which the modern reformatory system should be based are:

- ❖ That no person, no matter what his age or past record, should be assumed to be incapable of improvement.
- ❖ That it is in the interest of the public, not merely to impose a sentence which is retributive and deterrent, but also to make an earnest effort to reform the offender, which is not likely to be achieved by religious and moral instruction, mental quickening, physical development, and such work as will best enable the prisoner to gain his livelihood in the future.
- ❖ That the reformatory system is incompatible with short sentences, and that a long period of reformatory treatment is more likely to be beneficial than repeated short terms of rigorous imprisonment.
- ❖ That reformatory treatment should be continued with a system of liberation and parole under suitable guardianship and supervision on advice of a board.
- ❖ The researcher would like to align him to what Cavadino & Dignan, (1992:36) in Singh (2004:79) advocate; in that, rehabilitation is ideal in crime reduction as it addresses the offender's character with the end result of a less likelihood of re-offending in future. It is further mentioned that the system of handling habitual and long-term offenders was part of the new legislation.

According to section 45 of the Prisons and Reformatories Act, Act no.13 of 1911, a prison board was instituted to ensure more effective treatment of offenders, and to promote better guidance concerning conditions upon which inmates should be granted remission of sentence.

Contrary to what is mentioned in accordance with the Annual Report of the DCS (1999:1) above, section 25 (3) of the new Act makes provision for the isolation of the ATD's and their subjection to mechanical restraints, if the police authorities in the interest of justice request the isolation or restraint.

Singh (2004:80) identifies the guiding principles of the Union penal system as to rescue the child from a criminal environment, and to prevent it from becoming a criminal. She further substantiates by saying that it is to build up and supplement in the criminal the elements necessary to prevent re-occurrence of crime, and where reasonably justifiable, by means of the determinate sentence to remove the criminal from society, thus prevent his remaining a menace to it, but even then to allow him an opportunity for self-redemption. The last mentioned Singh derived from "The Official Year Book of the Union of South Africa" (1918:362).

In this regard Singh (2004:80) refers to the Draft Green Paper of DCS (2003) and relate certain elements contained in the Prisons Act.

The current policies are influenced by the last mentioned. Mention is here made of remission of sentence based on good conduct on the part of inmates, and the application of probation, which allows the release of offenders directly to communities.

This approach has according to the researcher, potential to reduce overcrowding simultaneously alleviating the stigma of imprisonment, plus possible poisoning of first offenders by hardened and habitual criminals.

In line with what is said by Singh (2004:81) that rehabilitation was not in actual fact the core business of this era, as very little in this regard really materialized. Looking into the focus and approach of imprisonment, one will realize that it was overwhelmed by “apartheid” and punishment of inmates, rather than rehabilitation.

Punishment consisted of whipping, solitary confinement, dietary punishment and additional labour. In terms of section 91(1) of the Prisons and Reformatories Act, Act 13 of 1911:

- ❖ White and coloured convicts and prisoners were confined in separate parts of the prison, in such a way so as to prevent them from being within view of each other.
- ❖ This Act further provided for separation of coloured convicts or prisoners of different races.

The above mentioned set up resulted in the overpopulation of African inmates; fore they happened to be in the majority. Substance to this effect is highlighted as follows, in May 1910 there were four (4) million Africans, 500 000 Coloureds, 150 000 Indians and 1275 000 Whites (U.S. Library of Congress in Singh, 2004:81).

It is further mentioned by Singh (2004:82) that whenever imprisonment was employed, it was disproportionately against the poor, the powerless, the marginalized or those whom the depressive government deemed expedient to eliminate from society.

The researcher would concur with the notion that, the development of the prison system was closely linked to the progressive institutionalization of racial discrimination of South Africa. This was done from the time that widely enforced “pass” laws were introduced for Africans in the 1870’s; to the elaboration of an official theory and systematized practice of apartheid, following the victory of the National Party in the election of 1948.

Van Zyl Smit (1992:40) points out very crucial factors which brought about drastic amendments in the prison legislation. Amongst others the removal of racial discrimination and apartheid in the prison system.

Most importantly, the removal of the requirements that “white” and “non-white” had to be housed separately. Furthermore that, the requirement that “white “ prisoners should at all times be in the safe custody and under guard of a “white” member or “white” temporary warder, was as well removed from the regulations. These significant changes took place in 1990.

2.4 TRANSFORMATION OF DCS IN THE DEMOCRATIC SOUTH AFRICA.

In accordance with the White Paper on Corrections in South Africa (2005:48-53), the Interim Constitution of the Country (1993) embodied the fundamental rights of the country's citizens, including those of offenders. This resulted in the introduction of a human rights culture into the correctional system in South Africa.

The strategic direction of the Department (DCS) was to ensure that incarceration entailed safe and secure custody under humane conditions. On the 21st October 1994, a White Paper on Policy of DCS should provide the foundation for a correctional system appropriate to a constitutional state, based on the principles of freedom and equality.

The transformation of DCS in the first five years of democracy entailed:

- Significant changes in the representativity of the personnel and management.
- The demilitarization of the correctional system in order to enhance the Department's rehabilitation responsibilities in the beginning of April 1996.
- Progressive efforts to align itself with correctional practices and processes that had proved to be effective in the international correctional arena.

- The appointment of the Inspecting Judge with the correctional system in South Africa.

The immediate post 1994 transformation of DCS focused on safe custody. However, the National Crime Prevention Strategy (NCPS) approved by Cabinet in 1996, adopted an Integrated Justice System (IJS) approach that aimed at making the Criminal Justice System more efficient and effective.

It is said to provide a sure and clear deterrent for criminals and reduce the risk of re-offending.

The key aims of programmes being to:

- ◆ Increase the efficiency and effectiveness of the criminal justice system as a deterrent to crime and as a source of relieve and support to victims.
- ◆ Improve the access vulnerable groups to the criminal justice process, including women, children and victims of crime in general.
- ◆ Focus the resources of the criminal justice system on priority crimes.
- ◆ Forged inter-departmental integration of policy and management, in the interest of co-coordinated planning, coherent action and the effective use of resources.
- ◆ Improve the service delivered by the criminal justice process to victims and through increasing accessibility to victims and sensitivity to their needs.

The national programmes of the NCPS are identified as:

- ◆ Re-engineering of the Criminal Justice Process.
- ◆ Crime Information and intelligence.
- ◆ Prosecutorial Policy.
- ◆ Appropriate Community Sentencing.
- ◆ A Diversion programme for minor offenders.
- ◆ Secure care for juveniles.
- ◆ Rationalization of Legislation.
- ◆ A Victim Empowerment Programme.

In accordance with the National Program on Appropriate Community Sentencing, the available correctional resources must be used to deal with more serious offenders. The imposition of custodial sentences upon minor offenders is seen as reducing the likelihood of their reintegration into society, otherwise burdens the criminal justice system.

Community sentencing is seen as the best option in as far as sentencing minor offenders is concerned, for it is viewed as increasing the humane treatment thus improve the effectiveness of corrections. This approach is viewed as having an additional advantage of reducing repeat offending.

The National Programme on Diversion for minor offenders aimed at diverting petty offenders and juveniles out of the criminal justice system.

The Lead Agency was Welfare, assisted by the Departments of Correctional Services, Justice, Defence, Safety and Security, and Non – Governmental Organizations whose concern is the child’s welfare and the rehabilitation of offenders. The key actions were to extend the existing capacity for diversion on the bases of agreed national guidelines and criteria to develop a standardized referral system in consultation with Attorneys – General and the South Africa Police Services.

The approach of the National Programme in relation to Secure Care for Juveniles is that youthful offenders suspected of serious offences should not be held in standard prisons or police cells. Consideration of a secure environment that would limit unnecessary trauma and strengthens the likelihood of eventual reintegration into society is done.

Obviously, this would require the creation of special secure care facilities for young suspects and offenders. In this particular case the Lead Agency has been Welfare through the inter-ministerial committee on young people at Risk, which included the Departments of Justice, Safety and Security and Correctional Services.

The above mentioned team was to be assisted by the Department of Public Works, NGO’s and the private sector in speeding up the completion or conversion of necessary buildings for secure facilities in this regard, and to implement legislative steps and special programmes to discourage the exploitation of juveniles by criminal syndicates.

With regard to the above mentioned, the researcher would have a critical outlook of the approach by the said National Programme. Amongst others that, there seem to be a lot of financial implications in addressing this identified problem. It is the researcher's view that, this approach would only look at the criminal syndicate's exploitation of juveniles as it is said by the White Paper on Corrections (2005).

Regard should as well be directed at the victims of crime, and the interests of society irrespective of the fact that focus is on young and juvenile offenders. The researcher does not deny the fact that the emphasis should be on correction of offending behavior and rehabilitation, but simply that there need to be a balance between the last mentioned and other penal objectives. The researcher is for precautionary measures at the primary stages before crime commission, than rehabilitation of offenders, i.e. addressing individuals who have already offended. This, the researcher aligns with the principle of "Prevention is better than cure" principle.

Over and above the last mentioned, those young and juvenile offenders who have already fallen pray of the justice system, should be strictly subjected to the correctional sentence plan, in centres proclaimed as juvenile centres, further than erecting special and knew youth and juvenile facilities. The latter will definitely not be cost effective more especially given the socio-economic status of South Africa. Besides, young offenders need far much more support from parents, family and friends than adult offenders.

This means therefore that, where practically possible, the DCS must try all in its power to detain juveniles and young offenders as near possible to their homes or residential areas.

In as far as the National Crime Prevention Strategy is concerned, it persuaded the Department to re-examine its core objectives and reprioritize its resources. The focus being to shift from “**universities of crime**” or “criminal headquarters” if our prisons are to be effective rehabilitation centres, that produce skilled and reformed individuals who are capable of successful reintegration into communities as law abiders.

This period also saw the demilitarization process from a Para-military structure with military ranks, drill, and parades, and a military command structure to a civilian government department. The 1994 White Paper reluctantly acknowledged that the militarized character of the Department may need reconsideration but within the Department resistance to this direction amongst senior management resulted in a flawed process of demilitarization. As a result, there was inadequate preparation for and consequences of demilitarization.

This precipitous demilitarization coincided with the implementation of affirmative action in the Department, which was carried out without due consideration of training and development of affirmed appointees.

Demilitarization required that a new form of basic promotional and management training be put in place, but the manner of demilitarization resulted in a hiatus in human resource development.

The confused notion that demilitarization meant a retreat from discipline and security further negatively impacted on the functioning of the Department.

During the period of the above process, the passing of the Constitution in 1996 took place. It provided the overall framework for governance in the democratic South Africa, enshrined the Bill of Rights, and obliged all government departments to align their core business with the Constitution and their modus operandi with the framework of governance.

The Department had to take a massive legislative reform in the period leading up to the passing of the Correctional Services Act, Act 111 of 1998 by Parliament. This Act embarked on a modern, internationally acceptable correctional system designed within the framework of the Constitution of South Africa.

The most important features of the Correctional Services Act, Act 111 of 1998 are:

- The entrenchment of the fundamental rights of offenders.
- Special emphasis on the rights of women and children.
- New disciplinary system for offenders.
- Various safeguards regarding the use of segregation and of force.
- A framework for treatment, development and support services.
- A refined community – involved release policy.
- Extensive external monitoring mechanisms; and
- Provision for public and private sector partnerships in terms of the building and operating of correctional centres.

2.5 STRATEGIC REALIGNMENT OF THE DEPARTMENT OF CORRECTIONAL SERVICES SINCE 2000.

According to the White Paper on Corrections in South Africa (2002:53-56) the period between 2000–2003 has been marked by consistent engagement with the strategic direction of DCS. This was done to necessitate the successful delivery of rehabilitation and the prevention of recidivism.

The Department hosted a National Symposium on Correctional Services on the 1st and 2nd August 2000. The symposium represented approximately 160 participants which were representative of almost seventy (70) stakeholders organizations. The need to promote a collective social responsibility for the rehabilitation and reintegration of a “Partnership forum for Correctional Services” was as well recommended.

The objectives focused on by the National Symposium were to:

- ❖ Develop a clearly articulated national strategy to attain the desired fundamental transformation of Correctional Services;
- ❖ Create a common understanding of the purpose of the correction system;
- ❖ Create a strong foundation for coherent and cohesive role playing by all sectors of society , and
- ❖ Achieve national consensus on the human development and rehabilitation of all offenders and their integration into the community as productive and law – abiding citizens.

As a result of a re-examination of the Department's strategic role in the fight against crime within the broader context of the criminal justice system, and in terms of the priority programmes presented by the justice Crime Prevention and Security cluster to the cabinet (Lekhotla) held on the 22nd and 23rd January 2001, the Department committed itself to step up its activities, by identifying the enhancement of rehabilitation services as a key departmental objective for the Medium Term Expenditure Framework (MTEF) period.

Government acknowledged the critical role played by the Department of Correctional Services in the long-term strategy of crime prevention through the reduction of recidivism, and through the provisioning of effective rehabilitation services to offenders.

The Department identified the enhancement of rehabilitation services as a key starting point in contributing towards a crime free society.

The strategies employed towards this endeavour were the :

- Development of individualized need-based rehabilitation programmes;
- Marketing rehabilitation services to increase offender participation;
- Establishment of formal partnership with the community to strengthen the rehabilitation programmes, and to create a common understanding;

- Promotion of a restorative approach to justice to create a platform for dialogue for the victim, the offender and the community, facilitating the healing process;
- Combating illiteracy in correctional centres by providing ABET to offenders;
- Increment of production to enhance self sufficiency and to contribute to the Integrated Sustainable Rural Development strategy, and
- Increment of training facilities for the development of skills.
- To fully implement the Correctional Services Act, Act 111 of 1998, the Correctional Services Amendment Act, 2001 had to be promulgated so as to comply with the provisions of Act 108 of 1996 (Constitution).

These adjustments covered: -

- Treatment of offenders.
- Accommodation of disabled offenders and gender considerations.
- Disciplinary procedures for offenders.
- New parole system.
- Treatment of child offenders, and
- Use of fire-arms and other non-lethal incapacitating devices.

The internal 2001 strategic planning session of October 2002 resulted in the adoption of the Mvelaphanda strategic plan for 2002 – 2005. The trust of this endeavour has been to put rehabilitation at the center of all DCS's activities.

2.6 SUMMARY.

This chapter marks a remarkable history of the South African Correctional System. There has been a lot of transformation when one considers what was taking place in Correctional Centres, and developments since 1959, during the 1980's, 1990' and the transformation of the South African Correctional Services in the democratic dispensation.

The approach and attitude of the Department of Prisons in relation to the Department of Correctional Services are two departments with an extremely huge difference. It is a given fact that Correctional Services' operation is influenced by a lot of legislation, with the government of the day playing a significant role.

During the apartheid era, Correctional Services in South Africa was run and managed in accordance with polices marked by apartheid.

The researcher maintains that, it would be a miracle during that era to run and manage DCS along democratic lines.

In accordance with Stinchcomb & Fox (1999:120) we need to adapt to more punitive sanctions. The researcher would rather prefer penalties with a correcting influence, as shall be proposed in chapter eight. These would be penalties in context, and with the objective of letting the offender realize his mistakes and endeavour to change.

When looking at all these ancient penal methodologies, one will realize that, they had a greater overcrowding influence in relation to the correctional system. To mention but one example, incarceration under pass laws, and any sanction that was imposed upon people based on apartheid legislations.

The following chapter shall focus on the statistics of the South African correctional centres, for a better understanding of, and alignment of overpopulation in these centres.

CHAPTER THREE.

OVERCROWDING STATISTICS IN CORRECTIONAL CENTRES IN SOUTH AFRICA.

3.1 INTRODUCTION.

At this stage the reader is acquainted with the foundation upon which the research is based as laid down in the previous chapter.

For the fact that the theme of the research is overcrowding, the researcher deems it fitting and proper to introduce the reader to the state of affairs in the South African Correctional Services in as far as the overcrowding status is concerned as at 31 July 2002.

This abnormal state of affairs justifies some measures to be embarked on with the basic objective of alleviating this problem. The significance of chapter eight shall then be to address this pandemic.

It is as well of significance to mention that overcrowding has a lot of negative implications, which shall be detailed in chapter six.

In accordance with Van Zyl Smit (1992:49-50) the negative characteristics of prisons as total institutions are aggravated by overcrowding. He points out that in recent years the rate of overcrowding at individual prisons has exceeded 100%, which means that half the prescribed space per prisoner has been available.

The researcher would agree with Van Zyl Smit when he says that, in practical terms such overcrowding has meant forty-five (45) metres by five (5) metres. Van Zyl Smit says that any attempts to control gangs or improve prison conditions by modifying the prison regime will have to deal in the first instance with the problems of overcrowding.

3.2 THE SET-UP OF CORRECTIONAL INSTITUTIONS **AS AT 31 JULY 2002.**

The correctional institutions are categorized the same way as the South African government. This means that every province is capacitated with a number of correctional institutions, all of which are governed by a Provincial Commissioner. The Provincial Commissioner in each province then reports to the National Commissioner, who in turn reports to the Minister of Correctional Services.

Each Provincial Commissioner has several management areas under the charge of an Area Manager who reports to him. A management area may have one or more correctional institutions under the jurisdiction of a Head of Prison per institution, which is then expected to report to the Area Manager.

Furthermore the Department of Correctional Services has a responsibility of the privately run correctional institutions. There are currently two such institutions, i.e. one at Louis Trichardt, named Kutama- Sinthumule APPOPS prison. The other is at Bloemfontein in Mangaung and is known to be Mangaung APPOPS prison.

In accordance with the Correctional Services Act of 1998 (CSA, 111 of 1998) chapter XIV, section 103(1): *“The Minister may, subject to any law governing the award of contracts by the State, with the concurrence of the Minister of Finance and the Minister of Public Works, enter into a contract with any party to design, construct finance and operate any prison or part of a prison established or to be established.”*

Both these institutions fall under the jurisdiction of the Chief Deputy Commissioner Operational Support Services.

In accordance with Act 111 of 1998, the conditions and requirements of private prisons are that:

- Contracts cannot exceed twenty five (25) years.
- The contractor must "contribute to maintaining and protecting a just, peaceful and safe society"
- The contractor is responsible for enforcing the sentences of courts by detaining inmates in safe custody, ensuring the inmates human dignity and promoting the human development of all inmates.
- The contractor is explicitly prohibited from taking disciplinary action against inmates or from involvement in determining the computation of sentences, deciding at which prison any inmate will be detained, deciding on the placement or release of an inmate or grant temporary leave.

It is also of significance to note that the Correctional Services Act, Act 111 of 1998 (CSA 1998) explicitly forbids private contractors from becoming involved in the implementation of community corrections.

Figure 1 indicates the institutions which were closed temporarily due to repairs and renovation during the time of the research, i.e. 31 July 2002. These institutions were then falling within four (04) provinces as reflected in the said figure.

Figure one (1)

3.2.1 PRISONS TEMPORARY CLOSED AS AT: 31 July 2002

PROVINCE	PRISON	REASON
PC FREE STATE	LINDLEY PRISON	Repairs and renovation.
PC KWAZULU-NATAL	EMPANGENI PRISON	Repairs and renovation
	IXOPO PRISON	Repairs and renovation.
PC EASTERN CAPE	COFIMVABA PRISON	Repairs and renovation
	ENGCOBO PRISON	Repairs and renovation
	FLAGSTAFF PRISON	Repairs and renovation
	LADY FRERE PRISON	Repairs and renovation
	MQANDULI PRISON	Repairs and renovation
	NGQELENI PRISON	Repairs and renovation
	NQAMAKWE PRISON	Repairs and renovation
	TABANKULU PRISON	Repairs and renovation
	UMZIMKULU PRISON	Repairs and renovation
PC NORTH WEST	MAFIKENG PRISON	Repairs and renovation
	WOLMARANSSTAD PRISON	Repairs and renovation

The implication of this figure (one) is that the total number of inmates who ought to have been accommodated in these institutions have obviously created a threat of overpopulation in Correctional Centres in these specific Regions.

Figure two (2)

3.2.2 NUMBER OF PRISONS PER PROVINCE: 31 July 2002

Province.	Active Prisons.	Temp Closed.	Total.
CDC OPERATIONAL SUPPORT	2	0	2
PC EASTERN CAPE	37	9	46
PC FREE STATE	33	1	34
PC GAUTENG	26	0	26
PC KWAZULU-NATAL	38	2	40
PC LIMPOPO	7	0	7
PC MPUMALANGA	17	0	17
PC NORTH WEST	13	2	15
PC NORTHERN CAPE	12	0	12
PC WESTERN CAPE	42	0	42
RSA Total	227	14	241

The Eastern Cape province had a total of forty-six (46) prisons out of which nine (9) were temporarily closed as at the above mentioned time. It is very obvious that, the thirty-seven (37) active one's were over-populated.

The Eastern Cape had a larger number of prisons as compared to the rest of the other provinces, followed by the Western Cape with forty-two (42) ,of which none was temporarily closed at the time.

Out of an overall total of two-hundred –and- forty-one (241) out of which fourteen (14) were temporarily closed. You can imagine how overpopulated were the remaining two-hundred-and- twenty-seven (227).

Figure three (3)

3.2.3 CATEGORY OF PRISONS PER PROVINCE: 31 July 2002

Province	Female Only	YDC	Male Only	Male and Female	Temp Closed	Total
CDC OPERATIONAL SUPPORT	0	0	2	0	0	2
PC EASTERN CAPE	0	0	27	10	9	46
PC FREE STATE	1	2	23	7	1	34
PC GAUTENG	2	3	20	1	0	26
PC KWAZULU-NATAL	2	2	12	22	2	40
PC LIMPOPO	1	0	6	0	0	7
PC MPUMALANGA	0	1	11	5	0	17
PC NORTH WEST	0	1	6	6	2	15
PC NORTHERN CAPE	0	0	1	11	0	12
PC WESTERN CAPE	2	4	26	10	0	42
RSA Total	8	13	134	72	14	241

The figures in this table tell that out of the total of two-hundred-and-forty-one (241) prisons country wide, a total of only eight (8) catered for female inmates only. Out of this total, seventy-two (72) catered for both males and females. This does not mean that male and female inmates were accommodated together, but that in the same Management Area both were counted in the overall total but in separate sections as prescribed.

Male youth detention centres were thirteen (13) at this time. These tables reveal that male youth crime commission is higher in relation to that of females.

Figure four (4)

**3.2.4 APPROVED ACCOMMODATION VERSUS PRISONER POPULATION
PER PROVINCE: 31 July 2002**

Province	Capacity	Un-sentenced	Sentenced	In Custody Total	% Occupation
CDC OPERATIONAL SUPPORT	5952	0	5388	5388	90%
PC EASTERN CAPE	12030	6103	15527	21630	179%
PC FREE STATE	9919	3187	10829	14016	141%
PC GAUTENG	25274	16941	28640	45581	180%
PC KWAZULU-NATAL	18551	10443	18850	29293	157%
PC LIMPOPO	2315	825	4685	5510	238%
PC MPUMALANGA	7550	1873	7300	9173	121%
PC NORTH WEST	6146	2446	9122	11568	188%
PC NORTHERN CAPE	3055	1350	5154	6504	212%
PC WESTERN CAPE	19383	7590	21367	28957	149%
Total	110175	50758	126862	177620	161%

The above figures indicate a far more than 100% overpopulation rate with the exception of institutions falling under the CDC Operational Support, which reflect a 90% occupation rate.

The Limpopo province was the highest with the population rate of two-hundred-and-thirty-eight percent (238%) at this specified time. Comparing it's approved capacity, it was the lowest. This simply means that it had fewer inmates in relation to the other provinces, including the two (02) private prisons which were the responsibility of CDC Operational Support Services. The average population rate nationally was one-hundred-and-sixty-one percent (161%).

Figure five (5)

**3.2.5 CDC OPERATIONAL SUPPORT – APPROVED ACCOMMODATION
VERSUS PRISONER POPULATION AND OCCUPANCY LEVELS
PER PRISON: 31 July 2002**

2 – Prisons	Capacity	Un-sentenced	Sentenced	In Custody Total	% Occupation
KUTAMA- SINTHUMULE APOPS PRISON	3024	0	2460	2460	81%
MANGAUNG APOPS PRISON	2928	0	2928	2928	100%
CDC OPERATIONAL SUPPORT	5952	0	5388	5388	90%

The above category of prisons are those correctional institutions owned and governed by private bodies (APPOPS - Asset Procurement and Operating Partnership). The buildings and maintenance thereof, plus staff are of APPOPS. The inmates still belong to the South African Correctional Services.

It is the researcher's opinion that the above mentioned private prisons are not overcrowded, and if it so happens that they be overcrowded, the state of their overcrowding shall most probably not compare with that of the public prisons, because:-

- As already mentioned, their source of supply is the public prisons.
- Almost all of their sentences are extremely long in relation to most of those incarcerated in public institutions.
- Almost all inmates in these institutions are convicted of very serious offences like murder, rape with aggravating circumstances, high treason, etc.
- The last mentioned category of inmates is in the minority in relation to the rest of the inmate population.

Correctional Services has to apply its mind in consideration of supplying these private prisons with inmates, as the clause of rehabilitation demands that inmates reintegrate gradually with the outside world in the facilitation of socialization with friends, and relatives before release.

Now the greatest problem faced by the department is that of referring inmates for argument sake, from Johannesburg prison to Louis Trichardt, and so forth.

It therefore becomes a huge problem, as the support system in terms of visitations becomes very scares to these inmates, if not impossible because of factors such as the traveling distance and the expenses to reach out to those people.

After interviewing some of the executive members of the Kutama - Sinthumule APPOPS prison, namely Messrs. Mthethwa, Makgaila and Maja it became very clear that inmates embark on hunger strikes and go out of control, in demand of being placed back to the public prisons of origin. These officials maintain that among other reasons, lack of visitations by friends and relatives as a result of the place being far from reach are being voiced as reasons.

It is the researcher's view that, if it was practically possible to build such prisons in every province, it was going to change this picture.

Figure six (6)

3.2.6 FREE STATE – APPROVED ACCOMMODATION VERSUS PRISONER POPULATION AND OCCUPANCY LEVELS

PER PRISON: 31 July 2002

34 - Prisons	Capacity	Un-sentenced	Sentenced	In Custody Total	% Occupation
BETHLEHEM PRISON	211	42	171	213	100%
BETHULIE PRISON	42	0	55	55	130%
BOSHOF PRISON	60	52	3	115	191%
BRANDFORT PRISON	132	31	119	150	113%
EDENBURG PRISON	44	13	75	88	200%
FAURESMITH PRISON	57	26	57	83	145%
FICKSBURG PRISON	77	0	126	126	163%
FRANKFORT PRISON	59	0	11	11	18%
GOEDEMOED MED. A PRISON	780	0	1128	1128	144%
GOEDEMOED MED. B PRISON	621	0	908	908	146%
GROENPUNT JUVENILE CENTRE	255	0	186	186	72%
GROENPUNT MAX. PRISON	1193	3	1664	1667	139%
GROENPUNT MED. PRISON	739	0	1056	1056	142%
GROOTVLEI MAX. PRISON	918	1261	720	1981	215%
GROOTVLEI MED. PRISON	266	0	365	365	137%
HARRISMITH PRISON	255	0	122	122	47%
HEILBRON PRISON	47	33	40	73	155%
HENNENMAN PRISON	210	57	91	148	70%
HOOPSTAD PRISON	76	25	84	109	143%
KROONSTAD MED. A PRISON	1176	224	1442	1666	141%

KROONSTAD MED. B PRISON	535	84	547	631	117%
KROONSTAD MED. C PRISON	215	26	203	229	106%
KROONSTAD YOUTH PRISON	67	0	80	80	119%
LADYBRAND PRISON	54	0	69	69	127%
LINDLEY PRISON (Temp. Closed)	0	0	13	13	0%
ODENDAALSRUS PRISON	350	429	132	561	160%
PARYS PRISON	87	31	70	101	116%
SASOLBURG PRISON	309	190	223	413	133%
SENEKAL PRISON	134	23	145	168	125%
VIRGINIA PRISON	444	426	418	844	190%
VENTERSBURG PRISON	191	130	131	261	136%
WEPENER PRISON	103	35	81	116	112%
WINBURG PRISON	148	41	165	206	139%
ZASTRON PRISON	64	5	69	74	115%
PC FREE STATE	9919	3187	10829	14016	141%

The overall population rate in this province as indicated above was 141%. Edenburg and Grootvlei prisons reflect a worse situation as they reflect a 200% plus population rate respectively.

This is in contrast with Section 2 of the South African Correctional Services Act (Act no. 111 of 1998), which stipulates “detaining all prisoners in safe custody whilst ensuring their human dignity”.

The above state of overpopulation declares the Act unrealistic, in that it becomes impossible to attain and maintain the requirements of the Act. This is said with the understanding that the Act is written in the liberal human rights-based tradition of the South African Constitution (Act 108 of 1996).

Figure seven (7)
3.2.7 MPUMALANGA – APPROVED ACCOMMODATION
VERSUS PRISONER POPULATION AND OCCUPANCY
LEVELS PER PRISON: 31 July 2002

17 - Prisons	Capacity	Un-sentenced	Sentenced	In Custody Total	% Occupation
BABERTON FARM MAX. PRISON	845	6	1140	1146	135%
BABERTON FARM MED. A PRISON	137	0	174	174	127%
BABERTON FARM MED. B PRISON	631	1	746	747	118%
BABERTON TOWN PRISON	517	0	370	370	71%
BELFAST PRISON	61	27	89	116	190%
BETHAL PRISON	771	262	911	1173	152%
GELUK PRISON	296	0	195	195	65%
CAROLINA PRISON	102	63	141	204	200%
ERMELO PRISON	513	216	291	507	98%
LYDENBURG PRISON	81	18	113	131	161%
MIDDELBURG PRISON (MP)	337	183	277	460	136%
NELSPRUIT PRISON	828	660	589	1249	150%
PIET RETIEF PRISON	261	100	314	414	158%
STANDERTON MED. A PRISON	265	148	140	288	108%
STANDERTON MED. B PRISON	416	0	511	511	122%
VOLKSRUST PRISON	211	76	175	251	118%
WITBANK PRISON	1278	113	1124	1237	96%
PC MPUMALANGA	7550	1873	7300	9173	121%

This province is experiencing the same problem of overpopulation, with most of its institutions being more than 100% populated. Carolina reflects a worse situation as it stood at 200% by the above date.

Figure Eight (8)

**3.2.8 KWAZULU-NATAL– APPROVED ACCOMMODATION
VERSUS PRISONER POPULATION AND OCCUPANCY
LEVELS PER PRISON: 31 July 2002**

39 - Prisons	Capacity	Un-sentenced	Sentenced	In Custody Total	% Occupation
DURBAN FEMALE PRISON	244	169	240	409	167%
DURBAN JUVENILE CENTRE	629	606	504	1110	176%
DURBAN MED. A PRISON	2308	3544	51	3595	155%
DURBAN MED. B PRISON	2050	0	3721	3721	181%
DURBAN MED. C PRISON	671	1556	366	1922	286%
EKUSENI YOUTH DEV. CENTRE	600	0	628	628	104%
EMPAGENI QALAKABUSHA PRISON	1392	934	846	1780	127%
MTUNZINI PRISON	94	44	56	100	106%
ESHOWE PRISON	449	242	326	568	126%
MELMOTH PRISON	44	16	64	80	181%
NKANDLA PRISON	54	20	73	93	172%
ESTCOURT PRISON	203	294	151	445	219%
DUNDEE PRISON	95	181	16	197	207%
GLENCOE PRISON	669	1	879	880	131%
POMEROY PRISON	90	26	47	73	81%
EBONGWENI (KOKSTAD)	1440	0	98	98	6%
KOKSTAD MEDIUM PRISON	325	0	349	349	107%
BERGVILLE PRISON	31	0	38	38	122%
LADYSMITH PRISON	326	414	207	621	190%
INGWAVUMA PRISON	84	39	135	174	207%
NCOME MED. A PRISON	480	70	949	1019	212%
NCOME MED. B PRISON	753	0	1215	1215	161%
GREYTOWN PRISON	76	17	88	105	138%

KRANSKOP PRISON	32	14	53	67	209%
NEW HANOVER PRISON	151	3	238	241	159%
NEWCASTLE PRISON	263	464	47	511	194%
MATATIELE PRISON	56	0	85	85	151%
PIETERMARITZBURG FEMALE	125	30	21	51	40%
PIETERMARITZBURG PRISON	1330	1218	1707	2925	219%
PORT SHEPSTONE PRISON	214	73	363	436	203%
SEVONTEIN PRISON	842	0	1358	1358	161%
MAPUMULO PRISON	46	59	92	151	328%
STANGER PRISON	115	16	186	202	175%
UMZINTO PRISON	445	207	638	845	189%
NONGOMA PRISON	65	31	82	113	173%
VRYHEID PRISON	251	129	203	332	132%
UTRECHT PRISON	41	26	84	110	268%
WATERVAL MED. A PRISON	682	0	1113	1113	163%
WATERVAL MED. B PRISON	786	0	1533	1533	195%
PC KWAZULU-NATAL	18551	10443	18850	29293	157%

There are a number of institutions in the above province which reflected an overpopulation rate of more than 200%.

Mapumulo was worse with 328%, followed by Durban medium “C” with 286% then Utrecht prison with 268%.

As at 31st July 2002 there were only three institutions who’s population was less than 100%. These have been Pomeroy, Ebongweni maximum (Kokstad) and Pietermaritzburg female prison respectively. The total population rate as at the above date reflected 157% in this province.

Figure Nine (9)

3.2.9 EASTERN CAPE – APPROVED ACCOMMODATION VERSUS PRISONER POPULATION AND OCCUPANCY LEVELS PER PRISON: 31 July 2002

36 - Prisons	Capacity	Un-sentenced	Sentenced	In Custody Total	% Occupation
BARKLY EAST PRISON	68	23	96	119	175%
STERKSPRUIT PRISON	73	0	122	122	167%
BURGERSDORP PRISON	197	138	210	348	176%
BUTTERWORTH PRISON	136	27	244	271	199%
IDUTYWA PRISON	100	0	200	200	200%
WILLOWVALE PRISON	52	0	131	131	251%
CRADOCK PRISON	245	83	324	407	166%
DORDRECHT PRISON	89	0	31	31	34%
EAST LONDON MED. A PRISON	846	5	1447	1452	171%
EAST LONDON MED. B PRISON	543	1091	18	1109	204%
EAST LONDON MED. C PRISON	273	52	308	360	131%
FORT BEAUFORT PRISON	162	140	154	294	181%
GRAHAMSTOWN PRISON	343	262	382	644	187%
KING WILLIAM'S TOWN PRISON	301	349	232	581	193%
JANSENVILLE PRISON	35	4	56	60	171%
KIRKWOOD PRISON	787	0	1112	1112	141%
BIZANA PRISON	54	150	75	225	416%

LUSIKISIKI PRISON	148	2	373	375	253%
MOUNT AYLIFF PRISON	85	0	200	200	235%
MOUNT FLETCHER PRISON	122	24	255	279	228%
MOUNT FRERE PRISON	42	0	135	135	321%
MDANTSANE PRISON	582	371	723	1094	187%
MIDDELBURG PRISON (EC)	317	51	383	434	136%
MIDDLEDRIFT PRISON	411	0	1080	1080	262%
PATENSIE PRISON	361	0	548	548	151%
PORT ELIZABETH PRISON	632	261	426	687	108%
QUEENSTOWN PRISON	120	10	83	93	77%
SADA PRISON	261	151	344	495	189%
SOMERSET EAST PRISON	77	19	94	113	146%
ST. ALBANS MAX. PRISON	717	0	1395	1395	194%
ST. ALBANS MED. A PRISON	1446	2480	74	2554	176%
ST. ALBANS MED. B PRISON	923	0	1485	1485	160%
STUTTERHEIM PRISON	50	16	75	91	182%
ELLIOTDALE PRISON	53	0	113	113	213%
UMTATA MAX. PRISON	720	0	1242	1242	172%
UMTATA MED. PRISON	580	394	1357	1751	301%
PC EASTERN CAPE	12030	6103	15527	21630	179%

This province is seriously faced with overpopulation as only 6% of its institutions functioned at less than 100% population rate, while 94% functioned far above 100%.

An extremely unacceptable state of affairs where some institutions functioned at 200% population.

Idutywa, Willowvale, East London med. B, Lusikisiki, Mount Ayliff, Mount Fletcher, Mount Frere, Middledrift, Elliotdale, Umtata Medium prison and Bizana prison with 416%. The total population percentage of this province was then totaling 179%.

Figure Ten (10)

3.2.10 WESTERN CAPE – APPROVED ACCOMMODATION VERSUS PRISONER POPULATION AND OCCUPANCY LEVELS PER PRISON: 31 July 2002

42 - Prisons	Capacity	Un-sentenced	Sentenced	In Custody Total	% Occupation
ALLANDALE PRISON	342	405	261	666	194%
BEAUFORT WEST PRISON	76	51	111	162	213%
BRANDVLEI JUVENILE PRISON	348	0	369	369	106%
BRANDVLEI MAX. PRISON	690	2	1198	1200	173%
BRANDVLEI MED. PRISON	654	0	1111	1111	169%
CALEDON PRISON	215	329	97	426	198%
DRAKENSTEIN MAX. PRISON	386	5	668	673	174%
DRAKENSTEIN MED. A PRISON	576	0	847	847	147%
DRAKENSTEIN MED. B PRISON	474	0	673	673	141%
DWARSRIVIER PRISON	236	0	425	425	180%
GEORGE PRISON	533	319	753	1072	201%
GOODWOOD PRISON	2115	979	893	1872	88%
HAVEQUA PRISON	225	0	380	380	168%
HELDERSTROOM MAX. PRISON	589	9	1081	1090	185%
HELDERSTROOM MED. PRISON	755	0	1326	1326	175%
KNYSNA PRISON	179	181	100	281	156%
LADISMITH PRISON	54	18	94	112	207%
MALMESBURY MEDIUM A PRISON	1010	12	1299	1311	129%
MALMESBURY MEDIUM B PRISON	207	385	66	451	217%
MOSSELBAAI PRISON	346	133	476	609	176%
OBIQUA PRISON	239	0	331	331	138%
ODTSHOORN MED. A PRISON	312	126	463	589	188%

OUDTSHOORN MED. B PRISON	71	56	94	150	211%
POLLSMOOR FEMALE PRISON	245	112	215	327	133%
POLLSMOOR MAX. PRISON	1872	2366	716	3082	164%
POLLSMOOR MED. A PRISON	1111	1316	641	1957	176%
POLLSMOOR MED. B PRISON	534	0	833	833	155%
POLLSMOOR MED. C PRISON	574	0	704	704	122%
PRINCE ALBERT PRISON	47	24	73	97	206%
RIEBEECK WEST PRISON	256	0	450	450	175%
ROBERTSON PRISON	234	65	320	385	164%
STAART VAN PAARDEBERG PRISON	276	0	430	430	155%
STELLENBOSCH PRISON	74	64	62	126	170%
BUFFELS JAGSRIVIER PRISON	245	0	448	448	182%
SWELLENDAM PRISON	72	100	37	137	190%
UNIONDALE PRISON	45	4	29	33	73%
VAN RHYNSDORP PRISON	202	110	214	324	160%
VOORBERG MED A PRISON	534	0	528	528	98%
VOORBERG MED B PRISON	1560	125	1448	1573	100%
WARMBOKVELD PRISON	238	136	219	355	149%
WORCESTER FEMALE PRISON	142	7	212	219	154%
WORCESTER MALE PRISON	490	151	672	823	167%
PC WESTERN CAPE	19383	7590	21367	28957	149%

The Western Cape Province had only three (03) out of the forty two (42) institutions which operated below 100%. The rest were 100% and plus percentage as at the date above. The average population in this province was thus 149% at the time. In figures this percentage meant **9574** over the approved capacity.

Figure Eleven (11)

**3.2.11 NORTH WEST – APPROVED ACCOMMODATION
VERSUS PRISONER POPULATION AND
OCCUPANCY LEVELS PER PRISON: 31 July 2002**

13 - Prisons	Capacity	Un-sentenced	Sentenced	In Custody Total	% Occupation
CHRISTIANA PRISON	107	0	245	245	228%
KLERKSDORP PRISON	594	661	433	1094	184%
LICHTENBURG PRISON	291	49	520	569	195%
BRITS PRISON	157	1	289	290	184%
LOSPERFONTEIN PRISON	808	228	1399	1627	201%
MOGWASE PRISON	572	68	980	1048	183%
ODI PRISON	891	868	1018	1886	211%
POTCHEFSTROOM PRISON	867	342	1250	1592	183%
ROOIGROND MEDIUM A PRISON	648	8	1312	1320	203%
ROOIGROND MEDIUM B PRISON	244	0	423	423	173%
RUSTENBURG JUVENILE PRISON	182	0	150	150	82%
RUSTENBURG PRISON	629	218	818	1036	164%
ZEERUST PRISON	156	3	285	288	184%
PC NORTH WEST	6146	2446	9122	11568	188%

This province was also confronted with a very high percentage rate of overpopulation as indicated above.

One (01) institution operated at under 100%, which is Rustenburg Juvenile prison with 82% population. The rest operated at far above 100% to a maximum of 228% as at the date above.

Figure Twelve (12)

**3.2.12 NORTHERN CAPE – APPROVED ACCOMMODATION
VERSUS PRISONER POPULATION AND OCCUPANCY
LEVELS PER PRISON: 31 July 2002**

12 - Prisons	Capacity	Un-sentenced	Sentenced	In Custody Total	% Occupation
BARKLY WEST PRISON	74	6	119	125	168%
CALVINIA PRISON	34	9	63	72	211%
COLESBERG PRISON	186	59	309	368	197%
DE AAR PRISON	297	45	543	588	197%
DOUGLAS PRISON	297	97	559	656	220%
HOPETOWN PRISON	64	29	89	118	184%
KIMBERLEY PRISON	801	520	1241	1761	219%
KURUMAN PRISON	307	132	501	633	206%
RICHMOND PRISON	43	11	66	77	179%
SPRINGBOK PRISON	83	86	99	185	222%
UPINGTON PRISON	800	304	1472	1776	222%
VICTORIA WEST PRISON	69	52	93	145	210%
PC NORTHERN CAPE	3055	1350	5154	6504	212%

This province had a total of over 200% overpopulation as at the date above. All institutions operated at far above 100% population, with Springbok and Upington prison having been at 222%. This state of affairs is unacceptable and unhealthy. The province operated at 212% population rate. Instead of 3055 it had to cater for 6504, which is a chaotic situation.

Figure Thirteen (13)

3.2.13 LIMPOPO – APPROVED ACCOMMODATION VERSUS PRISONER POPULATION AND OCCUPANCY LEVELS PER PRISON: 31 July 2002

7 - Prisons	Capacity	Un-sentenced	Sentenced	In Custody Total	% Occupation
LOUIS TRICHARDT PRISON	324	153	717	870	268%
MODIMOLLE PRISON	341	71	814	885	259%
POLOKWANE PRISON	539	135	1070	1205	223%
THOHOYANDOU FEMALE PRISON	134	21	443	464	346%
THOHOYANDOU MEDIUM A PRISON	691	3	1509	1512	218%
THOHOYANDOU MEDIUM B PRISON	219	442	22	464	211%
TZANEEN PRISON	67	0	110	110	164%
PC LIMPOPO	2315	825	4685	5510	238%

The Limpopo province is having the least correctional institutions in relation to all other provinces, which is seven (07). The only snack as one can see is that these institutions are far over 150% populated with Thohoyandou female prison rating at 346%, which is a red mark. The result is that this province was at an overall overpopulation of 138%, with the average of 241% population, and occupation rate of 238% on the date above.

Figure Fourteen (14)

3.2.14 GAUTENG – APPROVED ACCOMMODATION VERSUS PRISONER POPULATION AND OCCUPANCY LEVELS PER PRISON: 31 July 2002

26 - Prisons	Capacity	Un-sentenced	Sentenced	In Custody Total	% Occupation
BAVIAANSPOORT EMTHONJENI JUVEN	640	0	573	573	89%
BAVIAANSPOORT MAX. PRISON	355	0	506	506	142%
BAVIAANSPOORT MED. PRISON	618	0	1192	1192	192%
BOKSBURG JUVENILE PRISON	274	0	386	386	140%
BOKSBURG PRISON	2012	1931	2214	4145	206%
DEVON PRISON	632	0	423	423	66%
HEIDELBERG PRISON	443	202	680	882	199%
JOHANNESBURG FEMALE PRISON	605	278	557	835	138%
JOHANNESBURG MED. A PRISON	2630	6479	154	6633	252%
JOHANNESBURG MED. B PRISON	1300	0	3542	3542	272%
JOHANNESBURG MED. C PRISON	329	4	521	525	159%
KRUGERSDORP PRISON	1757	1518	1795	3313	188%
LEEUWKOP JUVENILE CENTER	723	1	790	791	109%
LEEUWKOP MAX. PRISON	763	0	1454	1454	190%
LEEUWKOP MED. A PRISON	911	0	1229	1229	134%
LEEUWKOP MED. C PRISON	692	3	1299	1302	188%
MODDERBEE PRISON	2993	1662	3354	5016	167%

NIGEL MALE PRISON	349	203	445	648	185%
ATTERIDGEVILLE PRISON	609	0	995	995	163%
PRETORIA CENTRAL PRISON	1563	0	2458	2458	157%
PRETORIA FEMALE PRISON	166	83	134	217	130%
PRETORIA LOCAL PRISON	2171	3399	683	4082	188%
PRETORIA MAX. PRISON	281	15	195	210	74%
VEREENIGING PRISON	786	1155	458	1613	205%
ZONDERWATER MED. A PRISON	877	0	1414	1414	161%
ZONDERWATER MED. B PRISON	795	8	1189	1197	150%
PC GAUTENG	25274	16941	28640	45581	180%

Only three (03) out of the total of twenty six (26) institutions operated below 100%, i.e. Baviaanspoort Emthonjeni Juvenile, Devon and Pretoria maximum institutions as indicated above.

The remaining twenty three (23) operated at a minimum of 100% to a maximum of two-hundred-and-fifty-two percent (252%) population rate as indicated above. Like the others, this is a very unhealthy state of affairs.

Figure Fifteen (15)

3.2.15 SENTENCE CATEGORIES IN CUSTODY: 31 July 2002.

Sentence Groups	Female	Male	All Genders
Un-sentenced	1105	49653	50758
>0-6 Months	559	6075	6634
>6-12 Months	288	6545	6833
>12<24 Months	177	6164	6341
>2-3 Years	466	16923	17389
>3-5 Years	484	16559	17043
>5-7 Years	286	12539	12825
>7-10 Years	367	20924	21291
>10-15 Years	270	17404	17674
>15-20 Years	79	7622	7701
>20 Years to life	121	10845	10966
Other Sentenced	22	2143	2165
Total Sentenced	3119	123743	126862
Grand Total	4224	173396	177620
Approved Accommodation	4098	106077	110175
% Occupation	103.07%	163.46%	161.22%
Accommodation Need	126	67319	67445

The above statistics show that most inmates serve between seven (07) and ten (10) years imprisonment followed by between ten (10) and fifteen (15) years, followed by between two (02) and three (03) and three (03) and five (05) years respectively. In all the above categories, i.e. male and female, male inmates represent the highest percentage of 163,46% as compared to 103,07% of female offenders.

Figure Sixteen (16)

3.2.16 CRIME CATEGORIES: PRISONERS IN CUSTODY: 31 July 2002

Crime Categories	Un-sentenced	Sentenced	Total
Economical	17602	39295	56897
Aggressive	21991	60066	82057
Sexual	7778	15631	23409
Narcotics	894	3851	4745
Other	2493	8019	10512
Total	50758	126862	177620

The above statistics sends a message that aggressive crimes hold the upper hand, followed by economic, secondly, narcotic and others respectively.

Figure Seventeen (17)

3.2.17 PRISONERS IN CUSTODY: PER RACE/GENDER AND SENTENCE GROUP : 31 July 2002.

Races		Un-sentenced	Sentenced	All Sentence Groups
Asian	Female	10	23	33
	Male	122	586	708
	All Genders	132	609	741
Black	Female	884	2187	3071
	Male	41458	94154	135612
	All Genders	42342	96341	138683
Coloured	Female	153	633	786
	Male	7360	26121	33481
	All Genders	7513	26754	34267
White	Female	58	276	334
	Male	713	2882	3595
	All Genders	771	3158	3929
All Races	All Genders	50758	126862	177620

In accordance with the above figures, male black offenders prove to be in the majority in relation to all the other categories (96341). In the contrary, female offenders prove the opposite with the Asian female offenders being only 5% of the total population whether sentenced or un-sentenced.

Figure Eighteen (18)

**3.2.18 SECURITY CLASSIFICATION: PRISONERS IN CUSTODY:
31 July 2002.**

Province	Capacity	Un-sentence	Non-Board	Mini-mum	Me-dium	Maxi-mum	Sentenced Total	Grand Total
CDC OPERATIONAL SUPPORT	5952	0	42	1	62	5283	5388	5388
PC EASTERN CAPE	12030	6103	3165	293	8684	3385	15527	21630
PC FREE STATE	9919	3187	1366	395	7788	1280	10829	14016
PC GAUTENG	25274	16941	2179	340	19326	6795	28640	45581
PC KWAZULU-NATAL	18551	10443	2670	229	10790	5161	18850	29293
PC LIMPOPO	2315	825	900	233	3049	503	4685	5510
PC MPUMALANGA	7550	1873	1155	70	4970	1105	7300	9173
PC NORTH WEST	6146	2446	2153	48	5015	1906	9122	11568
PC NORTHERN CAPE	3055	1350	1655	91	3103	305	5154	6504
PC WESTERN CAPE	19383	7590	2886	449	13871	4161	21367	28957
Rsa	110175	50758	18171	2149	76658	29884	126862	177620

The above figures reflect the Gauteng province to be incarcerating a far greater number of inmates in relation to all other provinces, followed by Kwazulu-Natal, with the Western Cape Province being third.

With the exception of institutions falling under the jurisdiction of the CDC Operational Support, all the others housed far above their respective capacity.

Figure Nineteen (19)

3.2.19 AGE CATEGORIES: UNSENTENCED PRISONERS IN CUSTODY: 31 July 2002.

Gender	<18 Years	18 to 21 Years	21 to 25 Years	>25 years	Total
Female	52	175	271	607	1105
Male	2105	10546	13735	23267	49653
All Genders	2157	10721	14006	23874	50758

Figure Twenty (20)

3.2.20 AGE CATEGORIES: SENTENCED PRISONERS IN CUSTODY: 31 July 2002.

Gender	<18 Years	18 to 21 Years	21 to 25 Years	>25 years	Total
Female	42	261	494	2322	3119
Male	1762	12832	30345	78804	123743
All Genders	1804	13093	30839	81126	126862

Figure Twenty One (21)

3.2.21 AGE CATEGORIES: PRISONERS IN CUSTODY: 31 July 2002.

Gender	<18 Years	18 to 21 Years	21 to 25 Years	>25 years	Total
Female	94	436	765	2929	4224
Male	3867	23378	44080	102071	173396
All Genders	3961	23814	44845	105000	177620

A deduction which one comes up to when looking at the above figures, is that females are in the minority at all age categories. The age group 25 and above seem to be dominant in all categories. Female inmates of 18 years and below in all categories are in the minority. This is in relation to figures nineteen (19) to twenty-one (21) above.

Figure Twenty Two (22)

3.2.22 UNSENTENCED CHILDREN (YOUNGER THAN 18 YEARS) IN CUSTODY: 31 July 2002.

Gender	7 – 13 Years	14 Years	15 Years	16 Years	17 Years	Total
Female	1	4	14	17	16	52
Male	6	137	346	685	931	2105
All Genders	7	141	360	702	947	2157

Figure Twenty Three (23)

3.2.23 SENTENCED CHILDREN (YOUNGER THAN 18 YEARS) IN CUSTODY: 31 July 2002.

Gender	7 – 13 Years	14 Years	15 Years	16 Years	17 Years	Total
Female	0	0	1	15	26	42
Male	9	34	175	506	1038	1762
All Genders	9	34	176	521	1064	1804

Figure Twenty Four (24)

3.2.24 CHILDREN (YOUNGER THAN 18 YEARS) IN CUSTODY: 31 July 2002.

Gender	7 – 13 Years	14 Years	15 Years	16 Years	17 Years	Total
Female	1	4	15	32	42	94
Male	15	171	521	1191	1969	3867
All Genders	16	175	536	1223	2011	3961

The above statistics show that females, both sentenced and un-sentenced are in the minority irrespective of age. And in the contrary, males are in the majority. The age of seventeen (17) in both male and female juveniles are in the majority, with the exception of the un-sentenced female juveniles of sixteen (16) as reflected above. This discussion covers figures twenty-two (22) to twenty-four (24) above.

Figure Twenty Five (25)

3.2.25 UNSENTENCED CHILDREN (YOUNGER THAN 18 YEARS) IN CUSTODY PER CRIME CATEGORY: 31 July 2002.

Crime Categories	7 – 13 Years	14 Years	15 Years	16 Years	17 Years	Total
Economical	4	92	192	301	361	950
Aggressive	2	39	122	283	436	882
Sexual	1	8	35	87	116	247
Narcotics	0	2	6	10	10	28
Other	0	0	5	21	24	50
All Crime Categories	7	141	360	702	947	2157

Figure Twenty Six (26)

3.2.26 SENTENCED CHILDREN (YOUNGER THAN 18 YEARS) IN CUSTODY PER CRIME CATEGORY: 31 July 2002.

Crime Categories	7 – 13 Years	14 Years	15 Years	16 Years	17 Years	Total
Economical	3	17	82	259	435	796
Aggressive	3	6	55	189	436	689
Sexual	1	8	33	54	157	253
Narcotics	0	0	1	1	7	9
Other	2	3	5	18	29	57
All Crime Categories	9	34	176	521	1064	1804

Figure Twenty Seven (27)

3.2.27 CHILDREN (YOUNGER THAN 18 YEARS) IN CUSTODY PER CRIME CATEGORY: 31 July 2002.

Crime Categories	7 – 13 Years	14 Years	15 Years	16 Years	17 Years	Total
Economical	7	109	274	560	796	1746
Aggressive	5	45	177	472	872	1571
Sexual	2	16	68	141	273	500
Narcotics	0	2	7	11	17	37
Other	2	3	10	39	53	107
All Crime Categories	16	175	536	1223	2011	3961

In accordance with the above statistics, juveniles of seventeen (17) prove to be more prone to aggressive behaviour in relation to other crime categories. Economical crimes turn to be second, with sexual offences lying third, other crime categories fourth with narcotic offences lying last. This conclusion is reached with consideration of the statistics in figures twenty-five (25) to twenty-seven (27) above.

Figure Twenty Eight (28)

3.2.28 UNSENTENCED PRISONERS IN CUSTODY LONGER THAN 3 MONTHS PER PROVINCE: 31 July 2002.

Province	3-6 Months	>6-9 Months	>9-12 Months	>12-15 Months	>15-18 Months	>18-24 Months	>24 Months	All Duration
CDC OPERATIONAL SUPPORT	0	0	0	0	0	0	0	0
PC EASTERN CAPE	1004	499	263	108	69	105	93	2141
PC FREE STATE	501	277	145	76	36	74	45	1154
PC GAUTENG	3163	1679	1001	574	429	493	562	7901
PC KWAZULU-NATAL	2013	1113	712	372	226	255	256	4947
PC LIMPOPO	120	94	41	32	24	48	54	413
PC MPUMALANGA	399	144	71	39	18	27	22	720
PC NORTH WEST	495	263	144	64	46	49	37	1098
PC NORTHERN CAPE	232	145	42	26	20	21	21	507
PC WESTERN CAPE	1292	611	422	230	224	246	286	3311
Rsa	9219	4825	2841	1521	1092	1318	1376	22192

In terms of the above figures, Gauteng province proves to be topping the other provinces. It should not be a surprise or be presumed a mistake that the CDC Operational Support prisons reflected zero in all blocks/columns. It is because they cater for very long sentenced prisoners only. Out of the global total of 177620 inmates in custody as at the above date twenty-two-thousand-one-hundred-and-ninety-two (22192) were unsentenced.

Figure Twenty Nine (29)

3.2.29 UNSENTENCED PRISONERS IN CUSTODY LONGER THAN 3 MONTHS PER MONTH: 31 July 2002.

Province	3-6 Months	>6-9 Months	>9-12 Months	>12-15 Months	>15-18 Months	>18-24 Months	>24 Months	All Duration
2001/07	9362	4783	3001	1805	1224	1643	1173	22991
2001/08	9038	4649	2929	1934	1139	1625	1197	22511
2001/09	8171	4506	2793	1861	1210	1495	1230	21266
2001/10	7774	3948	2412	1687	1059	1381	1184	19445
2001/11	8420	4058	2522	1813	1178	1349	1281	20621
2001/12	9850	4271	2604	1871	1220	1318	1413	22547
2002/01	10483	4348	2678	1771	1209	1386	1412	23287
2002/02	11001	4514	2631	1659	1263	1390	1436	23894
2002/03	11105	4856	2629	1739	1207	1385	1396	24317
2002/04	10432	4961	2512	1696	1155	1386	1403	23545
2002/05	9648	5167	2506	1571	1060	1373	1348	22673
2002/06	9089	4985	2683	1551	1120	1368	1326	22122
2002/07	9219	4825	2841	1521	1092	1318	1376	22192

In terms of figure twenty-nine (29) above, more inmates prove to be incarcerated between three (03) and six (06) months, followed by between six (06) and nine (09) months, a year and three (03) months, and a year and six (06) months, then a year and six (06) months and two years, then two years plus respectively.

Figure Thirty (30)

**3.2.30 APPROVED ACCOMMODATION VERSUS PRISONER POPULATION
AND OCCUPANCY LEVELS PER PRISON:
31 July 2002**

228 - Prisons	Capacity	Un-sentenced	Sentenced	In Custody Total	% Occupation
LINDLEY PRISON (Temp. Closed)	0	0	13	13	0%
EBONGWENI MAXIMUM (KOKSTAD)	1440	0	98	98	6%
FRANKFORT PRISON	59	0	11	11	18%
DORDRECHT PRISON	89	0	31	31	34%
PIETERMARITZBURG FEMALE	125	30	21	51	40%
HARRISMITH PRISON	255	0	122	122	47%
GELUK PRISON	296	0	195	195	65%
DEVON PRISON	632	0	423	423	66%
HENNENMAN PRISON	210	57	91	148	70%
BABERTON TOWN PRISON	517	0	370	370	71%
GROENPUNT JUVENILE CENTRE	255	0	186	186	72%
UNIONDALE PRISON	45	4	29	33	73%
PRETORIA MAX. PRISON	281	15	195	210	74%
QUEENSTOWN PRISON	120	10	83	93	77%
POMEROY PRISON	90	26	47	73	81%
KUTAMA-SINTHUMULE APOPS PRISON	3024	0	2460	2460	81%
RUSTENBURG JUVENILE PRISON	182	0	150	150	82%
GOODWOOD PRISON	2115	979	893	1872	88%
BAVIAANSPOORT EMTTHONJENI JUVEN	640	0	573	573	89%
WITBANK PRISON	1278	113	1124	1237	96%
ERMELO PRISON	513	216	291	507	98%
VOORBERG MED. A PRISON	534	0	528	528	98%

MANGAUNG APOPS PRISON	2928	0	2928	2928	100%
VOORBERG MED. B PRISON	1560	125	1448	1573	100%
BETHLEHEM PRISON	211	42	171	213	100%
EKUSENI YOUTH DEV. CENTRE	600	0	628	628	104%
BRANDVLEI JUVENILE PRISON	348	0	369	369	106%
MTUNZINI PRISON	94	44	56	100	106%
KROONSTAD MED. C PRISON	215	26	203	229	106%
KOKSTAD MEDIUM PRISON	325	0	349	349	107%
STANDERTON MED. A PRISON	265	148	140	288	108%
PORT ELIZABETH PRISON	632	261	426	687	108%
LEEUEWKOP JUVENILE CENTER	723	1	790	791	109%
WEPENER PRISON	103	35	81	116	112%
BRANDFORT PRISON	132	31	119	150	113%
ZASTRON PRISON	64	5	69	74	115%
PARYS PRISON	87	31	70	101	116%
KROONSTAD MED. B PRISON	535	84	547	631	117%
BABERTON FARM MED. B PRISON	631	1	746	747	118%
VOLKSRUST PRISON	211	76	175	251	118%
KROONSTAD YOUTH PRISON	67	0	80	80	119%
BERGVILLE PRISON	31	0	38	38	122%
POLLSMOOR MED. C PRISON	574	0	704	704	122%
STANDERTON MED. B PRISON	416	0	511	511	122%
SENEKAL PRISON	134	23	145	168	125%
ESHOWE PRISON	449	242	326	568	126%
BABERTON FARM MED. A PRISON	137	0	174	174	127%
LADYBRAND PRISON	54	0	69	69	127%
EMPAGENI QALAKABUSHA PRISON	1392	934	846	1780	127%
MALMESBURY MEDIUM A PRISON	1010	12	1299	1311	129%
PRETORIA FEMALE PRISON	166	83	134	217	130%
BETHULIE PRISON	42	0	55	55	130%
GLENCOE PRISON	669	1	879	880	131%
EAST LONDON MED. C PRISON	273	52	308	360	131%
VRYHEID PRISON	251	129	203	332	132%

POLLSMOOR FEMALE PRISON	245	112	215	327	133%
SASOLBURG PRISON	309	190	223	413	133%
LEEUEWKOP MED. A PRISON	911	0	1229	1229	134%
BABERTON FARM MAX. PRISON	845	6	1140	1146	135%
MIDDELBURG PRISON (MP)	337	183	277	460	136%
VENTERSBURG PRISON (EC)	191	130	131	261	136%
	317	51	383	434	136%
GROOTVLEI MED. PRISON	266	0	365	365	137%
JOHANNESBURG FEMALE PRISON	605	278	557	835	138%
GREYTOWN PRISON	76	17	88	105	138%
OBQUA PRISON	239	0	331	331	138%
WINBURG PRISON	148	41	165	206	139%
GROENPUNT MAX. PRISON	1193	3	1664	1667	139%
BOKSBURG JUVENILE PRISON	274	0	386	386	140%
KIRKWOOD PRISON	787	0	1112	1112	141%
KROONSTAD MED. A PRISON	1176	224	1442	1666	141%
DRAKENSTEIN MED. B PRISON	474	0	673	673	141%
BAVIAANSPOORT MAX. PRISON	355	0	506	506	142%
GROENPUNT MED. PRISON	739	0	1056	1056	142%
HOOPSTAD PRISON	76	25	84	109	143%
GOEDEMOED MED. A PRISON	780	0	1128	1128	144%
FAURESMITH PRISON	57	26	57	83	145%
GOEDEMOED MED. B PRISON	621	0	908	908	146%
SOMERSET EAST PRISON	77	19	94	113	146%
DRAKENSTEIN MED. A PRISON	576	0	847	847	147%
WARMBOKVELD PRISON	238	136	219	355	149%
ZONDERWATER MED. B PRISON	795	8	1189	1197	150%
NELSPRUIT PRISON	828	660	589	1249	150%
MATATIELE PRISON	56	0	85	85	151%
PATENSIE PRISON	361	0	548	548	151%
BETHAL PRISON	771	262	911	1173	152%
WORCESTER FEMALE PRISON	142	7	212	219	154%
HEILBRON PRISON	47	33	40	73	155%
DURBAN MED. A PRISON	2308	3544	51	3595	155%
STAART VAN PAARDEBERG PRISON	276	0	430	430	155%
POLLSMOOR MED. B PRISON	534	0	833	833	155%

KNYSNA PRISON	179	181	100	281	156%
PRETORIA CENTRAL PRISON	1563	0	2458	2458	157%
PIET RETIEF PRISON	261	100	314	414	158%
JOHANNESBURG MED. C PRISON	329	4	521	525	159%
NEW HANOVER PRISON	151	3	238	241	159%
ODENDAALS RUS PRISON	350	429	132	561	160%
VANRHYNSDORP PRISON	202	110	214	324	160%
ST. ALBANS MED. B PRISON	923	0	1485	1485	160%
ZONDERWATER MED. A PRISON	877	0	1414	1414	161%
SEVONTEIN PRISON	842	0	1358	1358	161%
NCOME MED. B PRISON	753	0	1215	1215	161%
LYDENBURG PRISON	81	18	113	131	161%
WATERVAL MED. A PRISON	682	0	1113	1113	163%
ATTERIDGEVILLE PRISON	609	0	995	995	163%
FICKSBURG PRISON	77	0	126	126	163%
TZANEEN PRISON	67	0	110	110	164%
ROBERTSON PRISON	234	65	320	385	164%
POLLSMOOR MAX. PRISON	1872	2366	716	3082	164%
RUSTENBURG PRISON	629	218	818	1036	164%
CRADOCK PRISON	245	83	324	407	166%
STERKSPRUIT PRISON	73	0	122	122	167%
MODDERBEE PRISON	2993	1662	3354	5016	167%
DURBAN FEMALE PRISON	244	169	240	409	167%
WORCESTER MALE PRISON	490	151	672	823	167%
HAVEQUA PRISON	225	0	380	380	168%
BARKLY WEST PRISON	74	6	119	125	168%
BRANDVLEI MED. PRISON	654	0	1111	1111	169%
STELLENBOSCH PRISON	74	64	62	126	170%
JANSENVILLE PRISON	35	4	56	60	171%
EAST LONDON MED. A PRISON	846	5	1447	1452	171%
NKANDLA PRISON	54	20	73	93	172%
UMTATA MAX. PRISON	720	0	1242	1242	172%
ROOIGROND MEDIUM B PRISON	244	0	423	423	173%
NONGOMA PRISON	65	31	82	113	173%
BRANDVLEI MAX. PRISON	690	2	1198	1200	173%
DRAKENSTEIN MAX. PRISON	386	5	668	673	174%
BARKLY EAST PRISON	68	23	96	119	175%

HELDERSTROOM MED. PRISON	755	0	1326	1326	175%
STANGER PRISON	115	16	186	202	175%
RIEBEECK WEST PRISON	256	0	450	450	175%
MOSELBAAI PRISON	346	133	476	609	176%
POLLSMOOR MED. A PRISON	1111	1316	641	1957	176%
DURBAN JUVENILE CENTRE PRISON	629	606	504	1110	176%
ST. ALBANS MED. A PRISON	1446	2480	74	2554	176%
BURGERSDORP PRISON	197	138	210	348	176%
RICHMOND PRISON	43	11	66	77	179%
DWARSRIVIER PRISON	236	0	425	425	180%
FORT BEAUFORT PRISON	162	140	154	294	181%
DURBAN MED. B PRISON	2050	0	3721	3721	181%
MELMOTH PRISON	44	16	64	80	181%
STUTTERHEIM PRISON	50	16	75	91	182%
BUFFELJAGSRIVIER PRISON	245	0	448	448	182%
MOGWASE PRISON	572	68	980	1048	183%
POTCHEFSTROOM PRISON	867	342	1250	1592	183%
KLERKSDORP PRISON	594	661	433	1094	184%
HOPETOWN PRISON	64	29	89	118	184%
ZEERUST PRISON	156	3	285	288	184%
BRITS PRISON	157	1	289	290	184%
HELDERSTROOM MAX. PRISON	589	9	1081	1090	185%
NIGEL MALE PRISON	349	203	445	648	185%
GRAHAMSTOWN PRISON	343	262	382	644	187%
MDANTSANE PRISON	582	371	723	1094	187%
PRETORIA LOCAL PRISON	2171	3399	683	4082	188%
LEEUEWKOP MED. C PRISON	692	3	1299	1302	188%
KRUGERSDORP PRISON	1757	1518	1795	3313	188%
ODTSHOORN MED. A PRISON	312	126	463	589	188%
SADA PRISON	261	151	344	495	189%
UMZINTO PRISON	445	207	638	845	189%
VIRGINIA PRISON	444	426	418	844	190%
BELFAST PRISON	61	27	89	116	190%
SWELLENDAM PRISON	72	100	37	137	190%
LADYSMITH PRISON	326	414	207	621	190%
LEEUEWKOP MAX. PRISON	763	0	1454	1454	190%
BOSHOF PRISON	60	52	63	115	191%
BAVIAANSPOORT MED. PRISON	618	0	1192	1192	192%

KING WILLIAM'S TOWN PRISON	301	349	232	581	193%
NEWCASTLE PRISON	263	464	47	511	194%
ST. ALBANS MAX. PRISON	717	0	1395	1395	194%
ALLANDALE PRISON	342	405	261	666	194%
WATERVAL MED. B PRISON	786	0	1533	1533	195%
LICHTENBURG PRISON	291	49	520	569	195%
COLESBERG PRISON	186	59	309	368	197%
DE AAR PRISON	297	45	543	588	197%
CALEDON PRISON	215	329	97	426	198%
HEIDELBERG PRISON	443	202	680	882	199%
BUTTERWORTH PRISON	136	27	244	271	199%
IDUTYWA PRISON	100	0	200	200	200%
EDENBURG PRISON	44	13	75	88	200%
CAROLINA PRISON	102	63	141	204	200%
GEORGE PRISON	533	319	753	1072	201%
LOSPERFONTEIN PRISON	808	228	1399	1627	201%
ROOIGROND MEDIUM A PRISON	648	8	1312	1320	203%
PORT SHEPSTONE PRISON	214	73	363	436	203%
EAST LONDON MED. B PRISON	543	1091	18	1109	204%
VEREENIGING PRISON	786	1155	458	1613	205%
BOKSBURG PRISON	2012	1931	2214	4145	206%
KURUMAN PRISON	307	132	501	633	206%
PRINCE ALBERT PRISON	47	24	73	97	206%
INGWAVUMA PRISON	84	39	135	174	207%
DUNDEE PRISON	95	181	16	197	207%
LADISMITH PRISON	54	18	94	112	207%
KRANSKOP PRISON	32	14	53	67	209%
VICTORIA WEST PRISON	69	52	93	145	210%
ODTSHOORN MED. B PRISON	71	56	94	150	211%
ODI PRISON	891	868	1018	1886	211%
CALVINIA PRISON	34	9	63	72	211%
THOHOYANDOU MEDIUM B PRISON	219	442	22	464	211%
NCOME MED. A PRISON	480	70	949	1019	212%
BEAUFORT WEST PRISON	76	51	111	162	213%
ELLIOTDALE PRISON	53	0	113	113	213%
GROOTVLEI MAX. PRISON	918	1261	720	1981	215%
MALMESBURY MEDIUM B PRISON	207	385	66	451	217%
THOHOYANDOU MEDIUM A PRISON	691	3	1509	1512	218%

ESTCOURT PRISON	203	294	151	445	219%
KIMBERLEY PRISON	801	520	1241	1761	219%
PIETERMARITZBURG PRISON	1330	1218	1707	2925	219%
DOUGLAS PRISON	297	97	559	656	220%
UPINGTON PRISON	800	304	1472	1776	222%
SPRINGBOK PRISON	83	86	99	185	222%
POLOKWANE PRISON	539	135	1070	1205	223%
MOUNT FLETCHER PRISON	122	24	255	279	228%
CHRISTIANA PRISON	107	0	245	245	228%
MOUNT AYLIFF PRISON	85	0	200	200	235%
WILLOWVALE PRISON	52	0	131	131	251%
JOHANNESBURG MED. A PRISON	2630	6479	154	6633	252%
LUSIKISIKI PRISON	148	2	373	375	253%
MODIMOLLE PRISON	341	71	814	885	259%
MIDDLEDRIFT PRISON	411	0	1080	1080	262%
UTRECHT PRISON	41	26	84	110	268%
LOUIS TRICHARDT PRISON	324	153	717	870	268%
JOHANNESBURG MED. B PRISON	1300	0	3542	3542	272%
DURBAN MED. C PRISON	671	1556	366	1922	286%
UMTATA MED. PRISON	580	394	1357	1751	301%
MOUNT FRERE PRISON	42	0	135	135	321%
MAPUMULO PRISON	46	59	92	151	328%
THOHOYANDOU FEMALE PRISON	134	21	443	464	346%
BIZANA PRISON	54	150	75	225	416%
RSA	110175	50758	126862	177620	161%

Figure thirty (30) provides the statistical occupancy levels of all prisons which were occupied as at 31 July 2002 in the chronological order.

The percentage figures reflect to be plus minus 150% high, but above 151% to 200% is unacceptable. Worse with those above 200%.

3.3 SUMMARY.

With reference to figure one (01) of this chapter, one will realize that there were fourteen (14) correctional institutions in the Free State, Kwazulu-Natal, Eastern Cape and North West provinces as at 31 July 2002 respectively which were under repairs and renovation.

A deduction which one comes up to with regard to the above mentioned state of affairs is that, other institutions in these provinces had obviously to be overcrowded to cope with their intakes. On the contrary should these institutions be completed, the rate of overcrowding will of course drop.

Based on the figures above, it is an undisputed fact that the South African Correctional Institutions are overpopulated. This is a matter of concern to the government of the day, as well to concerned individuals, locally and elsewhere.

The above state of affairs is contrary to rule 10 of the United Nations standards minimum rules. According to this rule, all accommodation provided for housing inmates, particularly sleeping accommodation, shall meet the requirements of health, due regard be paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation. These requirements cannot be met under such overcrowded conditions.

These statistics further revealed clearly the fact that juvenile offenders have a significant role they play in crime in this country. Figures nineteen (19) up to twenty-seven (27) is testimony to this. This was for a specific period, i.e. 31 July 2002 but common sense should tell that it goes beyond the said date.

The basic objective of this research is to come up with proposed solutions to better or otherwise improve the state of overcrowding in this country's correctional centres. Chapter eight has possible answers to this challenge.

CHAPTER FOUR.

HIS PROFILE, INVOLVEMENT IN CRIME AND MOTIVES BEHIND CRIME COMMISSION.

4.1 INTRODUCTION.

The previous chapter pointed out very clearly the status of the South African Correctional Services state of overcrowding. This is a very unhealthy state of affairs with a lot of negative implications as shall be discussed in chapter five.

The stipulations of Act 108 of 1996, chapter two, has more serious legal implications as highlighted in the previous chapter.

The main focal points of this chapter shall be the profile of the offender, factors surrounding his involvement in crime, and motives behind his crime commission.

4.2 THE PROFILE OF THE OFFENDER.

The researcher would like to attribute the offender to his development in terms of his upbringing and the surrounding circumstances. In accordance with Louw [1991:458] the socialization of adults is influenced by factors some of which relate to particular characteristics of the individual, such as sex and age, while others relate to environmental influences such as the composition of the population in terms of groups or cultural prescriptions of socially acceptable behaviour.

Louw (1991) maintains constant interaction between the individual characteristics and environmental influences as crucial in adult socialization. Cloete, et al. [1983:48] identify the misplaced love of parents who spare the child trouble, and unpleasant feelings and make all kinds of allowances for his immature desires and shower him with pocket money and gifts for no mention worthy efforts on the part of the child.

It is as well an undisputed fact that, the past relates to the future in one way or the other. In the above highlighted case, the child is not willing to make any efforts towards fulfilling the demands set by the outside world. At a later stage, such a person persists in living on a "pleasure level" when a sense of responsibility is required of him [Cloete, et al.1983: 48].

4.2.1 The profile of inmates in the South African Corrections as at 2003/02/03.

Figure 1.

MARITAL STATUS - PER PROVINCE.

Province	Marital Status	Sentenced	Un-sentenced	Total
PC EASTERN CAPE	DIVORCED	47	1	48
	ESTRANGED	4	-	4
	LIVING TOGETHER	63	7	70
	MARRIED	1746	411	2157
	SINGLE	13598	6181	19779
	WIDOW	8	1	9
	WIDOWER	39	5	44
		15505	6606	22111
PC FREE STATE	DIVORCED	81	17	98
	ESTRANGED	2	-	2
	LIVING TOGETHER	204	14	218
	MARRIED	2920	964	3884
	SINGLE	10508	2930	13438
	WIDOW	5	-	5
	WIDOWER	37	8	45
		13757	3933	17690
PC GAUTENG	DIVORCED	240	34	274
	ESTRANGED	2	-	2
	LIVING TOGETHER	15	-	15
	MARRIED	4295	1324	5619
	SINGLE	24309	18024	42333
	WIDOW	29	14	43
	WIDOWER	28	4	32
		28918	19400	48318
PC KWAZULU - NATAL	DIVORCED	16	6	22
	LIVING TOGETHER	30	9	39
	MARRIED	1444	366	1810
	SINGLE	17847	11281	29128

	WIDOW	16	6	22
	WIDOWER	10	4	14
		19363	11672	31035
PC LIMPOPO	DIVORCED	28	-	28
	ESTRANGED	2	-	2
	LIVING TOGETHER	14	-	14
	MARRIED	1531	243	1774
	SINGLE	5653	841	6494
	WIDOW	5	2	7
	WIDOWER	14	-	14
		7247	1086	8333
PC MPUMALANGA	DIVORCED	30	5	35
	LIVING TOGETHER	102	23	125
	MARRIED	1273	302	1575
	SINGLE	5922	2027	7949
	WIDOW	2	-	2
	WIDOWER	23	5	28
		7352	2362	9714
PC NORTH WEST	DIVORCED	53	3	56
	ESTRANGED	-	1	1
	LIVING TOGETHER	12	-	12
	MARRIED	1105	274	1379
	SINGLE	7904	2515	10419
	WIDOW	1	-	1
	WIDOWER	27	2	29
		9102	2795	11897
PC NORTHERN CAPE	DIVORCED	14	3	17
	ESTRANGED	2	-	2
	LIVING TOGETHER	150	41	191
	MARRIED	358	128	486
	SINGLE	4590	1438	6028
	WIDOW	2	-	2
	WIDOWER	12	4	16
		5128	1614	6742
PC EASTERN CAPE	DIVORCED	123	22	145
	ESTRANGED	8	1	9
	LIVING TOGETHER	73	9	82
	MARRIED	2383	884	3267
	SINGLE	18480	7759	26239
	WIDOW	24	7	31
	WIDOWER	36	8	44
		21127	8690	29817
		127499	58158	185657

QUALIFICATIONS - PER PROVINCE.

Province	Qualifications	Sentenced	Un-sentence	Total
PC EASTERN CAPE	ILLITERATE	483	2	485
	MATRIC	266	2	268
	NO QUALIFICATION	693	3	696
	NO QUALIFICATION	10772	6582	17354
	PRIMARY/ELEMENTARY	1659	8	1667
	STD 6	1003	6	1009
	STD 8	629	3	632
		1505	6606	22111
PC FREE STATE	ILLITERATE	448	-	448
	MATRIC	963	3	966
	NO QUALIFICATION	1599	4	1603
	NO QUALIFICATION	2665	3911	6576
	PRIMARY/ELEMENTARY	3165	7	3172
	STD 6	2501	4	2505
	STD 8	2416	4	2420
		13757	3933	17690
PC GAUTENG	ILLITERATE	645	3	648
	MATRIC	2766	3	2769
	NO QUALIFICATION	3389	11	3400
	NO QUALIFICATION	6468	19354	25822
	PRIMARY/ELEMENTARY	4199	7	4206
	STD 6	4995	11	5006
	STD 8	6456	11	6467
		28918	19400	48318
PC KWAZULU NATAL	ILLITERATE	743	2	745
	MATRIC	1306	4	1310
	NO QUALIFICATION	2661	11	2672
	NO QUALIFICATION	3236	11625	14861
	PRIMARY/ELEMENTARY	4907	15	4922
	STD 6	3197	7	3204
	STD 8	3313	8	3321
		19363	11672	31035
PC LIMPOPO	ILLITERATE	182	-	182
	MATRIC	668	2	670
	NO QUALIFICATION	890	3	893
	NO QUALIFICATION	533	1069	1602
	PRIMARY/ELEMENTARY	1430	2	1432
	STD 6	1626	4	1630
	STD 8	1918	6	1924
		7247	1086	8333
PC MPUMALANGA	ILLITERATE	272	1	273

	MATRIC	531	2	533
	NO QUALIFICATION	1470	7	1477
	NO QUALIFICATION	600	2339	2939
	PRIMARY/ELEMENTARY	1580	7	1587
	STD 6	1430	3	1433
	STD 8	1469	3	1472
		7352	2362	9714
PC WEST NORTH	ILLITERATE	512	1	513
	MATRIC	847	1	848
	NO QUALIFICATION	829	3	832
	NO QUALIFICATION	1292	2784	4076
	PRIMARY/ELEMENTARY	2111	5	2116
	STD 6	1671	-	1671
	STD 8	1840	1	1841
		9102	2795	11897
PC NORTHERN CAPE	ILLITERATE	146	1	147
	MATRIC	144	-	144
	NO QUALIFICATION	587	4	591
	NO QUALIFICATION	1969	1585	3554
	PRIMARY/ELEMENTARY	1024	10	1034
	STD 6	774	10	784
	STD 8	484	4	488
		5128	1614	6742
PC EASTERN CAPE	ILLITERATE	1121	15	1136
	MATRIC	857	25	882
	NO QUALIFICATION	1193	32	1225
	NO QUALIFICATION	2554	8276	10830
	PRIMARY/ELEMENTARY	6718	169	6887
	STD 6	5519	104	5623
	STD 8	3165	69	3234
		21127	8690	29817
		127499	58158	185657

AGE GROUPS - PER PROVINCE.

Provi	Province	Qualifications	Sentenced	Un-sentenced	Total
PC EASTERN CAPE		17 UNDER	296	424	720
		18-24	4645	2925	7570
		25-34	5952	2045	7997
		35-44	3200	901	4101
		45-54	1090	241	1331
		55 & OLDER	322	70	392
			15505	6606	22111
PC STATE FREE		17 UNDER	133	141	274
		18-24	3415	1618	5033
		25-34	5966	1311	7277
		35-44	3091	625	3716
		45-54	945	184	1129
		55 & OLDER	207	54	261
			13757	3933	17690
PC GAUTENG		17 UNDER	290	462	752
		18-24	7825	7967	15792
		25-34	13356	7714	21070
		35-44	5458	2419	7877
		45-54	1585	686	2271
		55 & OLDER	404	152	556
			28918	19400	48318
PC KWAZULU - NATAL		17 UNDER	295	716	1011
		18-24	6527	5512	12039
		25-34	7998	3918	11916
		35-44	3307	1151	4458
		45-54	989	283	1272
		55 & OLDER	247	92	339
			19363	11672	31035
PC LIMPOPO		17 UNDER	90	4	94
		18-24	2427	453	2880
		25-34	3259	433	3692
		35-44	1060	155	1215
		45-54	313	33	346
		55 & OLDER	98	8	106
			7247	1086	8333
PC MPUMALANGA		17 UNDER	80	58	138
		18-24	2161	1088	3249
		25-34	3260	836	4096
		35-44	1298	275	1573
		45-54	446	80	526
		55 & OLDER	107	25	132

		7352	2362	9714
PC NORTH WEST	17 UNDER	115	70	185
	18-24	2783	1217	4000
	25-34	3742	979	4721
	35-44	1749	385	2134
	45-54	546	112	658
	55 & OLDER	167	32	199
		9102	2795	11897
PC NORTHERN CAPE	17 UNDER	123	71	194
	18-24	1685	644	2329
	25-34	1931	573	2504
	35-44	1021	243	1264
	45-54	285	66	351
	55 & OLDER	83	17	100
		5128	1614	6742
PC WESTERN CAPE	17 UNDER	317	547	864
	18-24	5792	3715	9507
	25-34	8785	2839	11624
	35-44	4689	1211	5900
	45-54	1291	308	1599
	55 & OLDER	253	70	323
		21127	8690	29817
		127499	58158	185657

The above-mentioned survey provides ample evidence about our inmate's profiles. A deduction one comes up to is that, many are unskilled, uneducated, young, black who are mostly from broken homes, single or not committed to any sort of official marital relationship, and reside in the lower socio-economic surroundings of our country.

The greater majority of our prison population is black. From an obvious point of view, the above picture depicts the causes of overpopulation in our correctional centres indirectly.

4.2.2 MOTIVES BEHIND CRIME COMMISSION.

It is the researcher's believe and understanding that, any human behaviour is triggered by one or more external or internal stimuli. Such stimuli can either be natural or unnatural.

The motive behind crime commission will most obviously be no exception to the above mentioned.

In accordance with Van der Walt et al. [1985:115] every criminal action aims at attainment of some goal. Van der Walt et al. [1985:116] see the Anti-social behaviour of the offender as meaningful when he plans and perpetrates, because it is the meaning that life has for him at that moment.

John Steward et al. [1994, pp.17-23] categorize the motives behind crime commission into six dimensions, namely, self-expression, social activity, social norm, coping, life-stile and professionalism.

4.2.2.1 SELF-EXPRESSION.

Offending is seen as a response to frustration or resentment and a reaction to stress; expression of anti-authority feelings and a product of mental health problems. It is further highlighted that no predominant type of offences whether against property or persons are generally committed for material gain.

4.2.2.2 SOCIAL ACTIVITY.

Under this dimension, offending is seen in a social context; in which an individual is influenced by peer pressure. The rationale for the motive of crime commission will vary in accordance with the interests of the subculture to which the individual or group is loosely or strongly affiliated.

Steward et al. [1994:18] says that [Braithwaite,1989] maintains that subcultures provide for the satisfaction of a range of interests like car theft, criminal damage, drugs and racist violence.

4.2.2.3 SOCIAL NORM.

In accordance with Foster, [1990] in [Steward et al.1994:18] norms favourable to offending may be those of relatively stable and organized criminal areas, or more often of neighbourhoods where the population is transient, but new recruits to criminal involvement are readily supplied.

4.2.2.4 COPING.

Offending is seen as a response to poverty and severe financial pressure. They declare it to be described in terms of survival sometimes. It is further maintained as an utilitarian reaction to an immediate situation, which would otherwise be intolerable. Offenders in this category are said to be more likely young and women who are more likely homeless and insecure.

4.2.2.5 LIFE STYLE.

Steward et al.(1994) are of the opinion that offending is somehow bound up with other aspects of an individual's live, which in this context may entail illegality and that all the illustrative cases include some form of substance [mis] use. The actual offences are seen to cover a wide range of crimes, including property crimes to procure money for drugs and violence when under the influence of alcohol.

4.2.2.6 PROFESSIONALISM.

Under this dimension, offending is seen as a means of earning a living, and a form of employment, which may mean serious property offences. Prostitutes are one good example in this respect.

In this category crime is normal and rational, utilitarian and consciously chosen as a feasible way of life.

Drug dealing is no exception in this regard. Victim apathy is an aim in this respect.

Prins [1973:34-35] identifies a relationship between the physical environment and crime. He maintains that in summer there are more crimes against the person, and in winter more against property. This is justified by the fact that people have most contact with each other in summer than in winter, because of weather or climatic conditions.

Prins [1973:7] quotes the sociologically sophisticated approach adopted by Cohen, Cloward and Ohlin, that delinquency is a form of collective

solution adopted by young, lower-class males to the frustration caused by lack of opportunities for advancement.

Hargreaves in Prins [1973:40] argues that, the school is one of the most important places where adolescents from the lower-class backgrounds may fail to attain status.

He maintains that the adolescent may fail to accept values regarded as legitimate by his teachers and thereby become the object of invidious comparison with others, with the result that he becomes increasingly negative towards teachers, school and what the school offers, after which he may drift into association with delinquent groups in order to obtain status and involvement he does not achieve at school.

It is the researcher's understanding in line with the labelling theory that, bad labelling most likely sticks to the individual who strives towards aligning himself with such a label, which becomes the motive behind crime commission. The above school of thought is seconded by Prins [1973, pp. 40-42] as he explains the implications of, I quote "giving a dog a bad name" unquote.

It is said that, once labelled a delinquent, a person may either find it very difficult to locate away from the label given to him by society; alternatively he may even wish to cling to the label as it may provide him with the identity that he cannot acquire by any other means; therefore becomes important to maintain it.

Prins [49-56] explains criminal behaviour in terms of genes and chromosomes, nature v. nurture, physique and crime, physical illness and crime, endocrine disturbances and crime, and physical handicaps and crime.

4.2.2.7 Genes and chromosomes.

Prins [1973:49] maintains that if the normal patterning of chromosomes is altered with a result of an extra X or Y, the individual may reveal certain characteristics of an anti-social kind. Males with more than the usual share of X chromosomes runs a greater risk of becoming anti-social than do other males, and that men with the double Y chromosomes, show no significant family history of crime or mental disease.

4.2.2.8 Mature v. nurture.

Focus is hereby trying to assess the relative importance to be attached to heredity and constitution on the one hand, and the environment on the other with regard to crime commission.

In this regard, reference is made to Lange who studied or examined thirty [30] pairs of adult male criminal twins, of whom thirteen [13] were identical and seventeen [17] fraternal.

The outcome of this study is that seventy-seven [77%] percent of the identical twins were criminal and in the fraternal group only twelve [12%] percent were criminal.

Rosanoffs later confirmed Lange's work; thou criticized because of the sample size. Christiansen studied six- hundred pairs [600] pairs of twins in Denmark with the result that there is a higher degree of more serious crimes amongst identical twins than among non-identical twins [Prins,1973].

It is also important to note what is said by Prins [1973:51] that, twin's studies are inconclusive as indicators of the importance of nature over nurture in relation to crime at present.

4.2.2.9 Physique and crime.

Prins [1973:51-52] refers us to Sheldon's suggestion that, there are correlations between endomorphs, ectomorphs and mesomorphs. Mesormorphs proved to be more highly represented amongst criminals than do the endo and ectomorphs.

It is the researcher's view that this is because of their aggressive personality and for the fact that they are more muscular and less sensitive to pain.

4.2.2.10 Physical illness and crime.

According to Prins [1973:52-53] certain diseases such as Huntingtions Chorea, a disease that produces a progressive deterioration of mental and emotional illness functioning, in addition to very serious physical disability, has a delinquent potential upon people suffering from it.

Epilepsy is said to be having some relationship to crimes of violence. Prins (1973) refers to the study of De Haas [1963, pp. 248-256] when saying that, there is no positive link between these two phenomena, and that background conditions are mainly responsible for the behavioural disturbances observed in epileptics.

He further refers to the study of Gunn [1971] who discovered that, a large number of epileptic males are received in custody than would be expected by chances, and that in idispathic epilepsy, the offender was likely to have received previous convictions for violence.

Prins (1973) maintains that, there is evidence that there is a higher proportion of epileptics among murderers than among the general population.

He further points out that, aggressive psychopaths are often found to have abnormal brain rhythms as recorded by electroencephalogram.

Stafford Clark et al.[1951] in Prins,1973, p. 53. is said to have made a study of psychopaths in prison. He concluded that E.E.G. abnormalities seemed to be most common in aggressive psychopaths, less common in the inadequate psychopath, less common still in the ordinary prisoner and least common amongst non-offenders.

4.2.2.11 Organic (Physical) illness.

It really makes sense to align certain physical diseases with certain unbecoming behaviour. In line with the above mentioned, Prins [1973, pp.53-54] specifies an example of an elderly man charged for indecent exposure, and upon examination it was discovered that, he has been suffering from an enlargement of the prostate gland.

He further points out that, a person can be found to have been suffering from the long-term effects of taking some toxic compound, or some metabolic upset such as evidenced in diabetes or thyroid disorders, and extreme fatigue may induce irritability with a result of behaving impulsively.

4.2.2.12 Stress, illness and injury during pregnancy.

Much as have been reason or sense in the above-mentioned ailments, so it is with these under discussion.

An association between pre-natal or birth injury and delinquency in later life is made in this regard. Prins[1973, p.54] points out a study by Stott [1963] who discovered some evidence of a congenital defect in juvenile behaviour disturbances and that it is prone to juvenile delinquency.

Stott (1963) is seen to have further come up with evidence that, stress or anxiety during pregnancy may result in mental retardation or

maladjustment in the child. Children who are neurally impaired are said to be often unforthcoming in their social relationships, easily frustrated and show a very low stress tolerance. The entire above mentioned are said to could set up hostile responses in such children's parents.

4.2.2.13 Endocrine disturbances and crime.

It is the researcher's view that changes taking place in our bodies have to some extent bearing in our or people's behaviour.

Within this behaviour, mischievous or criminal behaviour being no exception. The turmoil's of adolescence and to a lesser extent menopause are singled out as examples.

Prins[1973, pp.54-55] refers to Gibbens et al. [1971] who's evidence show that the female shoplifter is of a typically mixed variety of physical and mental symptoms.

The menstrual cycle is said to have been important in relation to stress reactions in women. Evidence in support of this discovery is related to studies which proved that a high percentage of women were found to be menstruating at the time of their offences. Law recognizes changes in hormone balance after birth as they create a special offence of infanticide for women who kill their children within a year of birth.

4.2.2.14 Physical handicaps and crime.

In a layman's reasoning, it is unlikely that he will most probably not align any mischief or criminal activities with physically handicapped people. In the contrary, Prins [1973, pp.55-57] in line with writers like Marberly [1950] Scott [1962] Eilenberg [1961] Ogden [1959] and West [1967] explain the causes of crime seen in the light of the physically handicapped.

The motive behind the involvement of a school child who suffers from a running nose or discharging ears, inflamed tonsils or an ear infection, turns to be generally disobedient, inattentive and unco-operative and hardly likely to give of his best. His drifting into delinquency is another way of drawing attention to his plight.

It makes sense to say that defects such as deafness, poor vision, squints and so forth, may certainly give rise to feelings of inferiority.

Marberly, in Prins [1973, p.55] explains how physical handicaps cause a far greater sense of inferiority. He maintains that physically handicapped children are likely to embark on efforts to compensate or overcome social ostracism, which may give rise to delinquent behaviour.

In accordance with Ogden [1959] in Prins [1973:56] surgery on facial scars, squints and nasal deformities can bring about improvements in attitudes, which result in the lessening of criminal conduct.

Miethe [2001, pp.13-14] distinguishes between "instrumental" and "expressive" motives for crime commission. Instrumental motives are said to reflect some future goals or ends. Under this category; money, revenge, status enhancement, control and domination are often considered instrumental goals of crime.

On the contrary, expressive motives are aligned with spontaneous and impulsive acts that are done in anger, with little thought of the consequences.

Terance et al. [2001:241-242] outline the needs or goals of criminal activity in accordance with the type of crime.

Sexual assaults are often said to be motivated by sexual conquest, dominance, power and control.

Robberies, burglaries, occupational and organizational crimes and an increasing number of auto thefts are primarily motivated by economic rewards. It is also said that these crimes may as well be seen fulfilling other desires such as revenge, cheap thrills and status enhancement.

Homicides are seen in contrast. They are seen as expressive acts that occur in the heat of passion with little deliberation about instrumental needs.

Fishbein in Conklin [1996:27-50] outlines a lot of motives behind crime commission. He does not isolate the environmental from biological influences.

He as well tries to distinguish reasons why other individuals within the same given environment are not vulnerable to antisocial behaviour while others do.

Conklin [1996:27] makes reference to the diathesis-stress model, which explains many forms of antisocial behaviour. In accordance with this model, individuals differ considerably with respect to their biological strengths and weaknesses. It is said that biological weaknesses which are referred to as "vulnerabilities" are influential in an individual's risk for antisocial behaviour.

These biological features are said to operate by setting the stage for how adaptively an individual will respond to personal stressors. In explanation, it is said that a stressful environment is more likely to contribute to some form of psychopathology when received by a biological system, which is somehow compromised.

Learning disability, brain damage or functional irregularity, drug exposure, genetic predisposition to temperamental disturbances, and other biological disadvantages are said to be laying groundwork for a pathological response to a stressful environment. Prior learning experiences and situational factors are seen to either increase or decrease the risk.

With the pathological response being a function of a number of the above mentioned risk factors, the probability is said to become even greater in the presence of an adverse environment with severe stressors like poverty,

unemployment, crime and drug infestation, poor parenting, lack of education, abuse or neglect and social immobility, are examples of hyperactive children who may function well, if given appropriate intervention.

Fishbein in Conklin [1996] maintains that in the absence of family instability, alcoholism, absence of educational programmes and a delinquent peer group, the child may be more prone to antisocial behaviour, with a possibility of criminal acts. Environmental factors are thus seen playing a facilitating role in determining antisocial outcome in vulnerable persons.

Environmental factors may even be more potent determinants of anti-sociality than strictly biological vulnerability when the environment is unusually harsh or conducive to such behaviour. Substantiation of this statement is realized when we readily observe in our inner cities. It is important to note that; not all inner city residents engage in antisocial behaviour as that outcome remains somewhat dependent on individual vulnerability.

Fishbein (1996) sees the reverse as a possibility, even in the presence of a protective environment in terms of a biological disadvantage, which may be so severe as to overwhelm a positive biological influence. In line with the above explanation, fetal alcohol syndrome is quoted as an example. This outcome is seen when biological odds frequently outweigh pro-social influences.

Fishbein in Conklin [1996:28-29] explains antisocial behaviour on the basis of evolutionary dictates. She maintains that most behaviours have some adaptive significance and thus can be studied in an evolutionary context. She identifies aggression as one form of behaviour that facilitates adaptation to the environment and is under normal conditions functional. Aggressive behaviour is said to can become dysfunctional under "abnormal" environmental conditions, particularly conditions that have been associated with a display of extreme, overt aggression because they are perceived as threats to survival.

The above explanation may be experienced in the administration of an electrical shock, loud noises, extreme heat, starvation, crowding and other conditions elicit or exacerbate fighting behaviours in many primate species, including humans [Carlson, 1977; Thiessen, 1976; Valzelli, 1981] in Conklin [1996, p. 28.].

Similar responses are elicited by stimulating areas that are responsible for the perception and assimilation of pain stimuli, enabling the identification of neural mechanisms involved.

It is very interesting that, Fishbein marries abnormal environmental conditions with the artificial prison environment that may contribute to the incidence of overt aggressive behaviour among inmates, and the rates of recidivism.

Fishbein in Conklin [1996:29] explains antisocial behaviour or motive

behind crime commission in terms of genetic contributions. She makes it clear that which is inherited is not a behaviour, but the way in which an individual responds to the environment, and that it provides an orientation, predisposition or tendency to behave in a certain fashion. She maintains that genetic influences on human behaviour are polygenic; meaning that no single gene effect can be identified for most behaviours.

The bulk of genetic research on various aspects of antisocial behaviour are said to indicate that, traits predisposing to anti-sociality which may be inherited are behavioral, temperamental and personality dispositions, and include irritability, proness to anger, high activity levels, low arousal levels, dominance, mania, impulsivity, extraversion, depressed mood and negative effect.

Anti-social behaviour is more likely to result under conditions of stress in the presence of a negative mood state. Intellectual deficits, having a large degree of heritability, is said to have shown an increase in the risk for antisocial behaviour. Individuals with several of these traits are said to be reporting an increased familial incidence of behavioural problems, and show differences along with their family members in certain biochemical, neuropsychological and physiological parameters.

In as far as twin studies are concerned, Fishbein in Conklin [1996:30] maintains and explains the situation in terms of monozygotic and dizygotic twins. It is said that twin studies provide strong evidence for a genetic-environment interaction, showing that monozygotic twins were more alike in their antisocial activities than dizygotic twins.

Significant genetic effects are said to have been found for both self-report and official rates of delinquent or criminal behaviour, and personality or temperamental traits related to criminal behaviour, like aggression of which the results were highly inconsistent, possibly because no uniform measure of self reported aggression and its constructs have been applied.

With regard to adoption studies, fourteen (14) adoption studies indicate noteworthy genetic effects on criminal or and related psychopathology. What is brought to light by these studies according to Fishbein in Conklin [1996,p.31] is that, biological relatives of antisocial or criminal probands have a greater history of criminal convictions or antisocial behavior than the biological relatives of non-criminal control adoptees. In general terms, family environment including such indices as social class, rearing styles, and parental attitudes, played a smaller role than did purported genetic effects.

Bohman et al., 1982; Mednick et al., 1984; and Sigvardpson et al., 1982, in Conklin [1996, p.31] share the same sentiments in as far as property offending is concerned. Their respective outcome or finding is that property offending is more heritable than violent offending.

The researcher would like to align himself with the sentiments shared by Bohman et al.[1982] in Conklin [1996] when he says that, genetic influences on criminality may differ from those who are also alcoholic, more especially when the biological parents are both criminal and alcoholic, as their crimes turn to be more violent.

Mednick et al.(1984) in Conklin [1996,p.31] point out that those who inherited certain antisocial personality and temperamental traits, are more likely to manifest criminal behaviours in the presence of deleterious environmental conditions [criminal parents].

Antisocial behaviour went to an extent of being looked into in terms of molecular genetics. Molecular genetic techniques are said to increase our understanding of causal links between genetics, brain function, temperament and the behavioural outcome.

Genetic defects in two neurotransmitters, i.e. dopamine and serotonin are said to have been identified in certain drug abusers, and that they appear to play a role in forms of excessive and compulsive behaviours, including aggressive, conduct disorder, obsessive-compulsive disorder, and post-traumatic stress disorder. The entire last mentioned are said to be associated with violence.

Fishbein [1996:32] points out that, the genetic studies of criminal behaviour have been criticized by other authors like Mednick et al., [1987]; Plomin et al., [1990] and others on the basis of the fact that criminal behaviour is a legalistic label, which is in actual fact not descriptive of actual behaviour.

In another study, it was found that there are a number of biochemical differences between the control and individuals with psychopathy, antisocial personality, violent behaviour, conduct disorder and other behaviours associated with criminal behaviour.

In accordance with Brown et al., [1979]; Coulings et al.(1994) Davis et al.(1983) and others who shared the same sentiments in Conklin [1996:32-33] the control and the experiment groups have been discriminated against, on the basis of levels of certain hormones, neurotransmitters, peptides, toxins and metabolic processes. An example is hereby made of studies that were conducted by Muhlbauer, 1985; Soubrie, 1986; and van Praag et al.; 1987, that animal and human studies consistently indicate that serotonin globally inhibits behavioural responses to emotional stimuli and modulates aggression.

Several indicators of lower levels of serotonin activity in individuals characterized as violent or impulsive in comparison with those who are not, have been reported. These studies are said to indicate that serotonin functioning is altered in some types of human aggression and violent suicidal behaviour. The outcome is therefore that, a decrease in serotonin activity produces disinhibition in both brain mechanisms and behaviour, resulting in increased aggressiveness and impulsivity.

For the sole purpose of understanding, it is important to explain in simple terms the interaction and influence these biochemicals have on human behaviour. It is therefore important to understand that, the dopamine (DA) and norepinephrine (NE) are excitatory transmitters that counterbalance the inhibiting influence of serotonin.

DA and NE can be seen operating as a “fuel” while serotonin provides “brakes” for behavioural responses. The understanding should therefore be

that an imbalance between the activities of these chemicals might lead to a psychiatric disorder, mood disturbance or behavioural dysfunction.

It should also be noted that low levels of norepinephrine are associated with clinical depression, and that many antidepressants work by raising the norepinephrine activity. The high levels of DA on the other hand are associated with certain mood disorders and behavioural agitations. It is therefore crucial to understand that the location of an imbalance within the brain determines the behavioural outcome. Alcohol can substantially contribute to antisocial behaviours by its influence on these systems as it lowers the serotonin activity while raising dopamine (Conklin,1996:33).

Socio-environmental influences may differentially interact with biological sex differences to produce variations in male and female criminality. The latter is justified by high levels of the sex hormone, i.e. testosterone that has a potential of increasing aggressive behaviour in males.

Premenstrual and postpartum period in some women has also been associated with elevated levels of aggressivity and irritability. In accordance with Ginsburn and Cabster [1987] in Conklin (1996:34) a significant number of females were imprisoned for aggressive behaviour during this period.

Psycho-physiological correlates are other factors studied and found to be having some form of influence on human behaviour, in particular antisocial or criminal behaviour. Psycho-physiological variables are quantifiable indices of the nervous system which function like, heart rate, blood

pressure, attention and arousal levels, skin conductance and brain waves.

Conklin (1996:34) says that, studies have repeatedly discovered psychophysiological evidence for mental abnormality and central nervous system disturbances, as putative markers for antisocial behaviour.

Psychopaths, who are relatively unemotional, impulsive, immature, thrill-sacking and unconditional, have been characterized by showing low levels of perceptible anxiety and physiological responses during stressful events. Mample and Hirschel (1988:78-81) explain exactly the same tendencies and influences as expressed by Conklin (1996) above.

Conklin [1996, pp.35-36] highlights the effects of drugs on the brain and their psychological and behavioural consequences. This type of study is referred to as psychopharmacology. Certain drugs are said to increase aggressive responses, like amphetamines, cocaine, alcohol, and pheucyclidine (PCP).

It is logical to say that, the actual expression of aggressive behaviour depends on the dose, route of administration, genetic factors and type of aggression. In the same breath, it should be understood that alcohol does not cause aggression, but rather permits its expression under specific circumstances and biological conditions. The understanding should therefore be that alcohol and drugs simply act as a trigger for underlying tendencies to be expressed.

If the previous explanation was understood about serotonin, it will make sense to say that, serotonin plays a modulating role in drinking behaviour. Individuals with low serotonin are more likely to drink to excess and also to exhibit aggressive behaviour under the influence.

Condella & Siegel (1996:110-118) see factors playing a role in antisocial behaviour in six categories, namely:-

- Antisocial child behaviour, including troublesomeness in school, dishonesty and aggressiveness.
- Hyperactivity - impulsivity - attention deficit, including poor concentration, restlessness, daring and psychomotor impulsivity.
- Low intelligence and poor school attainment.
- Family criminality, including convicted parents and delinquent older siblings.
- Family poverty, including low family income, large family size, and poor housing.
- Poor parent-child-rearing behaviour, including harsh and authoritarian discipline, poor supervision, parental conflict, and separation from parents.

Cloete and Conradie (1983:43-51) share almost the same sentiments with Cordell and Siegel(1996) in their views or explanation of factors playing role in offending or antisocial conduct.

Peter Cordell and Larry Siegel (1996) underlines the motives behind crime commission as desires for material goods, excitement and status among intimate friends and relatives.

These desires are predicted to be greater among children from poor families, perhaps because material goods, excitement and status are more highly valued by poorer families. These motives are said to produce antisocial tendencies if illegal methods of satisfying them are habitually chosen.

They further maintain that children who are exposed to poor parental-rearing behaviour, disharmony or separation are likely to offend because they do not build up anti-social behaviour. The researcher would like to express the same sentiments as expressed by Cordella et al. (1996:112) when saying that, children from criminal families and those with delinquent friends tend to offend because they build up anti-establishment attitudes and belief that offending is unjustifiable.

Anti-social personality is said be another contributing factor to criminality. Barton and Barton (1986, pp.21-47) identify the motives or factors playing a role in crime commission in almost the same light as Prins (1973) and Conklin (1996) as highlighted above. There are a few interesting and worth mentioning.

The researcher is not an advocate of aligning anti-social or criminal behaviour with heredity. Reasons behind this kind of reasoning are that

there will be problems in terms of drawing a line between anti-social behaviour. If heredity should be considered contributory to criminal or antisocial behaviour, it implies that such behaviour is unavoidable, inevitable consequences of the “bad seed” “bad blood” or “mark of Cain” as expressed by Barton & Barton (1986:21).

This further implies that little or almost nothing could be done to influence the offender otherwise as heredity is destiny. The researcher does not share the same sentiments with Cesare Lombroso (1911) in that, criminals are born that way. In legal jargon it implies that such individuals are justified to act or do as they please, and would be declared not guilty of their offences. The mesomorph, who needs vigorous physical activity, risk taking, and adventure. This person would be indifferent to pain and aggressive, callous, even ruthless in relationship with others. The third category, which they named the ectomorph. This is a person who is inhibited, reserved, self-conscious and afraid of people. It would therefore be common knowledge that this type of person would commit any aggressive related offences.

The Bartons, in pages (24-28) align physique to crime. The researcher concurs with this alignment.

This discussion is in terms of Sheldon (1949) whose method he named somatotyping. He delineated three basic body builds, namely, the endomorphic, characterized by a soft, fat and round body build. This type is said to be sociable and loves eating (viscerotonic). Common sense must tell therefore that this person would not hesitate to steal foodstuff in any given chance.

Johnson (1978, p.83) sees lawbreakers as may be the products of broken homes and victims of the failure of society to produce sufficient employment and decent living conditions.

All personalities are said to be influenced by inherited gene structure, qualities of physique, physiological process, personality traits acquired in earlier life experiences, and past and present social experiences, all coming in various combinations and uniqueness to the guilty human-being (Johnson,1978).

Mass communication media has a significant role it plays in antisocial behaviour. This is confirmed by Johnson (1978,p.126) when saying that, scenes of violence, successful crimes, and sexual eroticism are stimulative to the epidemic of anti-social behaviour. The blame carried by the mass media is therefore that it teaches the techniques of delinquency and crime.

In the researcher's opinion, youth and adults who lack direction are prone to fall prey of the last mentioned scenario as a full-time occupation and are committed to a criminal value system. Johnson (1978) sees professional criminals as having no sense of guilt concerning the victims.

The researcher would like to point out, in line with the motive explanation of crime commission by Johnson that, among other motives why criminals turn to murder is to elude identification, prosecution, conviction and obviously sanction.

As explained by Conklin (1996) people in the low socio- economic class feel disadvantaged and unfairly treated by the government, thus resort to unlawful or illegal means to let ends meet.

Lillyquist (1980, p.3) outlines various theorists' explanations for crime. He says that some have attributed it to demons which enter people and express their perverted forces through them, others to inherited biological forces which determine the person's behaviour.

Others to such things as the personal will or lack thereof of the criminal, mental illness, the person's conditioning, one's family, the economy unconscious impulses, a "sick society" which frustrates the aspirations of some, the weather, the climate, the stage of the moon and so forth.

Lillyquist (1980) explains crime in terms of three broadly based pluralistic models, namely:-

- the person-centered,
- the situation-centered, and
- the interactionist models.

4.2.2.15 PERSON-CENTERED MODEL.

This is a model which have been extensively used within the criminal justice field, thou it has attracted so much criticism. The medical model is a major variety of a person-centered explanation. In other words, this approach explains criminal behaviour along the medical model.

In accordance with this approach, people who commit crime are labelled to be “sick” the usage of the word “sick” in quotes indicates that the usage is metaphorical that the illness in question is mental and not physical.

The medical model of crime calls for a diagnosis of the underlying personal disturbance that led to the crime, and recommends a treatment of this disturbance. The medical model is based upon the (DSM) Diagnostic and Statistical Manual of the American Psychiatric Association. The usage of this approach has been successful in the medical field.

The most important part of crime control, is to gather enough information about offenders to place them in a diagnostic category, thus identifying and recommending the most appropriate treatment. The reasoning behind this model is the identification of differentiation and classification of abnormal behaviour, of course with psychotherapeutic techniques, depending on the diagnosis (Lillyquist, 1980, p.6).

Social Learning is described as an Alternative Person- Centered Theory (Lillyquist, 1980,pp.9-10). This model tends to focus on the person and his past social environment. The person is seen as an embodiment of past experiences, which are incorporated in accordance with the principles of learning.

Criminal behaviour is presumed to result from the person’s learning that he will be rewarded for. In the variant of this theory, the person has failed to learn controls that would help in avoiding criminal behaviour.

The medical model treats criminal behaviour as a mere symptom of an

underlying problem. Changing the surface behaviour would, in this view leave the underlying problem untouched. Lillyquist(1980) maintains that if we think that crime is caused by poor self-control, poor ego development, an unwillingness to delay gratification, greed, poor conscience development, unresolved personality conflicts, neuroticism, psychoticism or character disorders, then we are appealing to person- centered constructs.

4.2.2.16 THE SITUATION-CENTERED MODEL.

This model suggests that we must take the context of the action, and the situation, into account if we are to explain a person's behaviour. The extreme situationist completely discounts anything that might be occurring inside the person and looks only to the environmental forces that direct behaviour (Lillyquist, 1980. p.11).

The researcher would be prone to criticize this model on the basis that, human behaviour, in this particular case criminal behaviour, cannot emerge from one single source (environment or situation) one happens to find himself into any given moment.

Conklin (1996) rightfully maintains that a number of factors, with the situation being part, will most probably influence a person's behaviour. Radical situations do not need to know the person's attitudes, beliefs, moral system, or any other internal variable to predict behaviour. In as far as they are concerned, only the historical relationship between a given behaviour and a reward matters. This model fails to account for individual

differences in response to similar situations.

4.2.2.17 THE INTERACTIONIST MODEL.

This is a model, which considers behaviour being a function of both person and situation. Personality traits are related to situations. A person is therefore considered in a situation.

In this case, a person is a way of representing everything than an individual is at the particular moment: dispositions, genetic potential, social experiences and so forth.

The present situation with these factors, will most probably determine a person's behaviour. It is also important to understand that, there are certain kinds of people who will behave in certain ways irrespective of the situations he finds himself in, nor are the situations to which all people, regardless of personality, must respond to in certain ways.

There are therefore some people who respond to certain classes of situations in predictable ways (Lillyquist, 1980.p.16).

The understanding brought about by this model is simply that, behaviour is a product of the transaction between person and situation and that situation unusually influence one another. One can further substantiate by saying that, people act as they do because of who they are and where they happen to find themselves.

In accordance with Gibbons, (1977. pp. 215-217) deviant acts often develop in situations where individuals are pulled and tugged by competing interests and values. Edwin Lemert who is the advocate of the labelling theory, points out that many occurrences of deviant subcultures, follow a limited or circumscribed set of deviant mores, for most values of the members are those of the dominant culture. Hence, drug addicts, homosexuals, or other social outcasts tend to hold allegiance to most conventional values of society, with a few specific deviant beliefs and conducts.

In Lemert's theory, initial acts of deviant behaviours are frequently instances of "risk taking" representing tentative flirtations with forbidden behavioural patterns (p. 219).

Sutherland's Theory of Differential Association studied professional theft as a behavioural system and the development of the concept of "white-collar crime". In Sutherland's view, differential association is universally linked to criminal behaviour.

Social and economic changes involved in industrialization of the Western world, are believed to have generated a pervasive individualism and other conditions conducive to criminality.

The social influences persons encounter through their lifetimes are seen as being inharmonious, and inconsistent so that many individuals become involved in contacts with carriers of criminalistic norms and became criminals as a consequence.

The principles of criminology in as far as Sutherland is concerned are that:

- Criminal behaviour is learned. The implication of this statement is that criminal behaviours is not inherited. Sutherland maintains that a person who is not exposed to or trained in crime does not invent criminal behaviours.
- Criminal behaviour is learned in the process of communication and interaction with others.
- The principal part of the learning occurs within intimate personal groups. The understanding of this statement is that, the impersonal agencies of communication, like the movies and newspapers, play no significant part in the genesis of criminal behaviour.
- When criminal behaviour is learned, techniques of committing crime, which are very complicated at times, otherwise simple, form part of the game. Other techniques include the specific direction of motives, drives, rationalizations and attitudes.
- The specific direction of motives and drives is learned from definitions of the legal code as favourable or unfavourable.
- A person becomes delinquent because of an excess of definitions favourable to the violation of law over definitions unfavourable to the law violation.

- Differential association may vary in frequency, duration, priority and intensity. This means that associations with criminal and anti-criminal behaviour vary in those respects.
- The process of learning criminal behaviours by association with criminal and anti-criminal patterns, involves all of the mechanisms in any other learning.
- While criminal behaviour is the expression of general needs and values, it is not explained by those general needs and values since non-criminal behaviour is an expression of the same needs and values.

Gibbons (1977,p.228) is of opinion that many offender's law breaking behaviour may arise out of some combinations of situational pressures, and circumstances along with opportunities for criminality, which are totally outside the actor. He says that, Sutherland noted that differential association was a specific case of historical or genetic views of consultation, which he contrasted to mechanistic or situational perspective.

The genetic approach is said to have looked for factors operating in the earlier life history of the criminal or delinquent, that can be linked to his lawbreaking. He views criminality in many cases being a response to nothing more temporal than the provocations and attractions bound up in the immediate circumstance of which deviant acts arise.

Aggressive behaviour or lawbreaking often labelled "psychopathic"

appears to be another form of criminality arising out of genetic factors. An example relevant in this regard includes severe and early parental rejection.

Gibbons (1997) considers the report in “Tally’s Corner” that the incidence of burglary and other property crimes increase remarkably during winter in Washington, D.C., when black construction workers are laid off and turn to be out of a living. This report is criticized to be having very little suggestion that criminality is a preferred pattern of behaviour; that these persons are favourable to law violation, or that their law violation is the outgrowth of a lengthy genetic process of differential socialization.

In accordance with George Camp in Gibbons (1977,p.230) bank robberies are usually the work of desperate men, representing a last resort designed to solve some perceived crisis in the life of a robber.

Another case of situational factors is found in Lamert’s report on “naive cheque forgery”, which he contends is an outgrowth of the process of “risk taking”.

Situations where both the genetic factors and situational contingencies are significant are for argument sake, acts of murder, which appears to be mostly frequent among individuals who have grown up in a “subculture of violence,” who have been subjected to a number of disorganizing social influences over an extended period of time, and who look at others as potential assailants.

It is of significance to note that, not all individuals who share these experiences commit acts of homicide. Those who engage in murder often do so within situations of marital discord or tavern fights, in which a number of provocative moves and countermoves of interaction of partners culminate in acts of homicide. Like in the above scenario, not all will choose to act in this fashion.

As already mentioned previously, criminality is as a result of a conglomeration of factors. Family factors and criminality are having the under mentioned influences or motives.

A great many psychiatrists, psychologists and sociologists generally agreed that the family dimension is critical in the genesis of patterns of lawbreaking (Gibbons, 1977:233).

For the fact that the family has the most intense and consistent contact with children from infantile dependence through at least the preadolescent stage of life, the family has the greatest influence on the behaviour of all youngsters, delinquents or non-delinquents.

Gibbons (1977) maintains that the family is an important force in adult criminality. He is of the opinion that some forms of adult lawbreaking may result from distortions and pathologies in the offender's childhood experiences in his family. Gibbons (1977) makes reference to a wealth of evidence which indicates that the family is the major anchorage point for most adults, given that, an individual is in a stable family unit, his behaviour is said to be likely conventional.

Disruptions of marital relationships often seem implicated in a host of forms of aberrant, deviant, or otherwise unusual behaviour, some kind of criminality may represent responses and distorted family relationships. To the effect of the last mentioned, instances wherein family variables may be importantly involved, are father, daughter, incest, acts of victim precipitated homicide, carried out on marital partners and exhibitionism.

Sutherland and Cressey in Gibbons (1997, p.234) share the same sentiments as Cloete (1977) with the researcher deriving a lot of sense in what they advocate. They identify delinquents as coming from homes characterized by one or more of the under mentioned factors, namely:

- Other members of the family are criminal, delinquent or alcoholic.
- One or both parents are absent from home through divorce, desertion or death.
- The home is marked by a lack of parental control.
- Home un-congeniality is evidenced by such things as domination by one member.
- Favouritism, over solicitude, severity, neglect or jealousy.
- Racial or religious differences in conventions and standards.
- Foster home or institutional home situations.
- Economic pressures stemming from unemployment or insufficient income.

In Gibbons (1977, p.234) the Gluceck's study of five hundred (500) delinquents and five hundred (500) non-delinquents brought about the under mentioned results, namely that:-

- Offenders were commonly from homes in which the parents had a

- history of serious physical ailments,
- mental retardation,
 - emotional disturbance,
 - drunkenness,
 - criminality,
 - the social climate of delinquent's homes was wretched in other ways too,
 - the parents of delinquents are identified to be poor financial managers,
 - relatively poor planners of home routine, and
 - exhibited less self-respect than parents of non-offenders.

The same parents are seen to be less ambitious, had poor conduct standards and poorer conjugal relations. The mother of delinquents is blamed for poor supervision of their children. Parents of delinquents are further seen to have showed less cohesiveness than their counterparts. Being frequently lax, over strict, or erratic in disciplining their children, further marks parents of delinquents.

Siegel (1995:60-61) aligns crime to social class, in that he points out that people of the lowest lungs of the social structure, have the greatest incentive to commit crimes. Those who are unable to obtain goods and services through conventional means may consequently resort to theft and other illegal activities. These illicit activities may among others be, the sale of narcotics or otherwise illicit activities to obtain them (instrumental crimes).

Those living in poverty stricken areas, are believed to emerge in disproportionate amounts of violence, as a means of expressing their rage, frustration and anger against society. In as far as expressive crimes like rape and assault are concerned, may also be higher in poverty stricken areas, fore those engaging in violence, have a likelihood of developing an alternative source of positive self-image by viewing themselves as tough, strong or “bad”.

Siegel (1995:96) identifies the recent trend towards modernization and suburbanization, as having created new everyday opportunities for crime. The suburban shopping mall, where strangers converge in large numbers and youth hang out, is aligned to the above mentioned. The fact that the interior is filled with people, makes it conducive that drug deals can be concealed in the pedestrian flow. Stores have attractively displayed goods that encourage shoplifting and employee pilferage. Substantial numbers of cars are parked in areas that make larceny and car theft virtually undetectable.

To carry away stolen goods became easy, fore a lot many people are placing merchandise in their respective cars and are seen by almost everybody including criminals who end up committing all sorts of crimes. A vast number of shoppers are seen in isolation to and from their respective cars, thus turn to be easy crime victims.

The researcher derives a lot of sense in what is pointed out by Siegel (1995:96) by stating that, for the American suburbs and so are other geographical areas, to have grown, labour and family life have dispersed from the household, decreasing guardianship.

The microwaves, freezers, and automatic dishwashers have freed adolescents from common household chores. This is substantiated by the fact that, rather than help prepare the family dinner and wash dishes afterwards, suburban adolescents have the freedom to meet with their peers and avoid parental guidance and controls.

The other crucial factor is the one of the increased car ownership. It becomes therefore easy for teens to have greater access to transportation outside of parental control. Greater mobility makes it impossible for neighbours to know whether a teen belongs to that particular area or is planning to commit crime.

Change in the educational system is seen by Siegel (1995) as another contributing factor in creating criminal activities. For schools to become large and more complex, provides ideal sites for crime. The many hallways and corridors prevent teachers from knowing who belongs where; spacious school grounds reduce teacher supervision. Helson in Siegel (1995:96) sees the last mentioned changes and functions of society to have helped to increase and sustain crime rates.

For criminals to think about crime, Siegel (1995:111) maintains that, lack of inhibition against misconduct, value the excitement and thrills of breaking the law, have a low stake in conformity, and are willing to take greater chances than an average person. Should they be convinced that their actions might bring about severe punishment, only the totally irrational would be willing to engage in crime.

From what is highlighted by Siegel(1995) above, the researcher comes to the inference that crime commission goes hand-in-glove with choice, rational and or irrational thinking to commit or not to commit crime on the part of the offender. There is also this element of being prepared to and to some extent, ready to take any risk which would form part of embarking on crime eventually.

Before committing crime, I quote “the reasoning criminal evaluates the risk of apprehension, the seriousness of expected punishment, the potential value of criminal enterprise, and his immediate need for criminal gain” unquote (Siegel,1995:111).

Like Conklin (1997) Siegel outlines factors surrounding crime motives in almost similar terms. Siegel maintains that rational offenders might be induced to commit crime if they perceive that crime pays more than they could possibly earn from legitimate jobs.

Crime is in one-way or another to be measured whether it pays or not. This is done by taking into account the probability of arrest and the cost of punishment, the benefits of employment being lower than the expected benefits of theft.

Other motives pointed out by Siegel (1995, p.112) are that criminals tend to overestimate the money they can earn from crime. Some criminals are under the impression or believe that, legitimate work is unavailable. Criminals have this perception that eventually everyone is caught and punished, so what. They happen to be overly optimistic about getting away

with each individual crime.

Criminals have mostly a belief that, the odds of getting caught for a particular crime are rather small, and being impulsive, they take the short-term view that each particular crime is worth the risk. They know and understand that they may be caught, but maybe at a later stage, not now.

Among other motives to commit crime, is that criminals evaluate the prospect of success. In terms of theft, they are likely to look into the availability of resources, such as a getaway car and the probability of being caught by police.

Before deciding to partake in crime, they analyze whether they have the prerequisites for committing a criminal act, including skills, motives, needs, and fears. Siegel (1995) maintains that, criminals may refrain from crime if they perceive that, they can reach a desired personal goal through legitimate means. Otherwise if they are too afraid of being caught, they would refrain as well.

Criminals turn to apply their minds before committing crime, thus derive motives of various kinds for their actions. Research indicates that the criminal choice is influenced by the perceptions of target vulnerability. Paul Cromwell in Siegel (1995:113) found that corner homes, usually near traffic lights or stop signs are the ones most likely to be burglarized.

It is said that stop signs give criminals a legitimate reason to stop their cars and look for an attractive target. Burglars are said to prefer secluded

homes, such as those at the end of a cul-de-sac, surrounded by wooded areas. Thieves are said to be concerned about the convenience of their targets. The motive being that they choose sites for burglaries and robberies that are familiar to and that are located in easily accessible and open areas.

Potential escape routes are amongst other motives why criminals turn to crime. The more suitable and accessible the target, the more likely that crime will occur.

From the discussion above, it is clear that criminals are motivated by the surrounding circumstances to or not to commit crimes.

As Siegel(1995) puts it in (p.113-114) that criminals tend to shy away from victims who are perceived to be armed and potentially dangerous. Kenneth Tunnell is said to have found that burglars will avoid targets if they feel that, there are police in the area or if “noisy neighbours” might be suspicious and cause trouble.

In surroundings where criminals happen to be aware of law enforcement capabilities to be tied, they most likely avoid such areas. Areas with a reputation of employing aggressive “crime fighting” cops, potential offenders turn to avoid.

In the contrary, areas perceived to have passive law enforces, potential offenders take advantage.

Rational offenders may be less likely to commit crime if they believe that they can achieve personal goals by legitimate means such as the

availability of jobs. Criminal motivation would increase when there is a need to accumulate wealth; such as the fall of foreign currency.

Criminal motivation may be reduced if potential offenders perceive alternatives to crime. Tunnell's "career criminals" are said to have committed crimes because they considered legitimate opportunities unavailable to people with their limited education and background.

When interviewed, one offender explained how he eventually turned to crime after having been incarcerated being youth and come out an adult with no specific employment resume to submit. After seeking for employment and with no employer wanting to employ him, the eventual alternative was to resort to crime; namely robbing, with the eventual outcome of incarceration.

On the contrary, potential offenders who perceive legitimate alternatives, such as high-paying jobs, are less likely to choose crime. At the same time, kids who are attached to their parents and spend their weekends at home find their criminal motivation reduced. And those whose parental relations are strained, are more likely to become attached to peers who increase their criminal motivation (Siegel, 1995:114).

Motives behind certain people committing crime encompass reasoning why they choose to act like wise. As Siegel (1995, pp.114-115) puts it that, some thought, especially when they involve in an ongoing criminal conspiracy centered on economic gain, crime is worth committing.

Siegel (1995) draws our attention to the findings of Ronald Clarke and

Patricia Harris, that auto thieves are very selective in their choice of targets. Vehicle selection seem to be mostly based on the attractive cars that are selected for stripping because they usually have high-quality audio equipments that have good value on the second-hand market.

In their choice of targets, criminals are said to be rational in that, high-income households are the most likely targets of property crimes; and in contrast, the wealthy are rarely victims of violent crimes. Burglars seem to be mostly careful when embarking on their moves, in that they are likely to check and ensure that no one is home before they enter a residence. Some call ahead, while others ring the doorbell, preparing to claim that they had the wrong address if someone answers.

Some are said to check on which families have star high school athletes, since those that do have, are sure to be at the game leaving their houses unguarded. If it is rational that others would seek for the unlocked doors and avoid the ones with dead bolt; houses with dogs are usually considered off limits.

Burglars would avoid freestanding buildings, because they can more easily be surrounded by police, while others select targets that are known to do primary cash business, such as bars, supermarkets and restaurants. They would most likely prefer “working” between 9 a.m. and 11 a.m. and in mid-afternoon, when parents are either working, or dropping off or picking up kids at schools. They would avoid Saturdays as most families are home. Sunday mornings are most preferred as most families are considered to be attending church services.

In as far as violent crimes are concerned, Siegel (1995) draws our focus on the findings of James Wright and Peter Rossin, who found that violent offenders avoid victims who may be armed and dangerous. Serial killers are said to pick their victims with care. Most of them choose victims who are either defenceless or cannot count on police protection; prostitutes, gay men, hitchhikers, children, hospital patients, the elderly and the homeless.

Siegel (1995) maintains that it is very rare that serial killers would target weightlifters, martial arts experts, or any other potentially powerful group. It is therefore clear that if any situation appears to be irrational or unfavourable even dangerous, they would involve a calculation of risk and reward.

Jack Katz in Siegel (1995) maintains that, other people choose to commit crime as it satisfied personal needs. It is therefore that, for some people shoplifting and vandalism are attractive because getting away with it is a thrilling demonstration of personal competence, as monetary gain is not their prime motive.

In the same breath, Katz is said to have found that situational inducements created from emotional upheaval can also structure a decision to commit crime. When an individual is faced with humiliation, righteousness, arrogance, or ridicule, violent reactions seem a natural response.

Another motive is derived from a situation of public embarrassment at a party, I would further maintain that at a sports field, a person must, as

Siegel puts it “sacrifice” or injure the body of the victim to maintain his or honour.

As pointed out by other researchers like Prins (1996) and others previously, Johnson (1978:73-220) finds the rationale for motives behind crime commission based on the same fields, with some differences here and there of course.

Johnson (1978) sees lawbreakers as mostly the “products of broken homes” and victims of the failures of society to provide sufficient employment and decent living conditions as they put it. The understanding is therefore that, lack of other resources like parental love, guidance, control and related dimensions if one could put it that way, disbanded them with acceptable special norms and behaviour.

Unemployment and indecent living conditions made those so affected to feel rejected and inferior to the rest of society. The end result being to resort to a subculture or subcultures that would cluster to satisfy the dimension of belonging and satisfaction.

One can therefore imagine that their order of the day would most probably be crime and nothing else.

Johnson supra,(p.92) maintains that urban areas offer greater opportunities for theft and robbery because wealth is available in larger amounts, and in more concentrated and more portable forms than wealth that is normally found in rural areas.

Furthermore, Johnson views population density as favouring anonymity instead of social intimacy, cultural heterogeneity instead of the sharing of a single normative system, and spatial mobility instead of long-term relations among neighbours a motivation towards crime commission. He adds on by pointing out that the detection of the urban criminal is made more difficult by the insulating effects of population density and the weakening of normative consensus.

The researcher finds it very interesting to bring in the taste of Emile Durkheim (1858-1917) one of the founders of sociology and a significant contributor to criminology.

According to his vision of social positivism, crime is part of human nature, for it has existed in every age, in both poverty and prosperity.

According to him, crime is normal and would like to draw our attention to imagine society without crime. He says that, such society would almost demand that all people be and act exactly alike. The researcher would regard this as humanly impossible in practical terms.

Durkheim saw the inevitability of crime as linked to the heterogeneity within society. For the mere fact that people are so different to one another, and employ such a variety of methods and forms of behaviour to meet their respective needs, it is not surprising that some will resort in crime.

Durkheim linked crime with human existence in that, he advocates crime as inevitable and one of the fundamental conditions of social life. He argues that crime could also be useful and on occasion even healthy for a society to experience.

Crime implies that a way is open for the rigid or inflexible (Siegel, 1995. p.12).

Durkheim further argues that crime is beneficial as it calls attention to social ills. The researcher would not dispute the fact that a rising crime rate can signal the need for social change and promote a variety of programmes designed to relieve the human suffering that may have to cancel crime.

Imagine a situation that crime did not exist. It would mean that everybody would behave the same way and agree totally on what is right and wrong. Such universal conformity would stifle creativity and independent thinking.

In accordance with the White Paper on Corrections (2005:103-105) the under-mentioned are unique causal factors to crime in South Africa:

- Rapid transition from apartheid to democracy, which resulted in the existing (and illegitimate) mechanisms of social control being broken down without immediately replacing them with the legitimate and credible alternative.
- The 1993 Government of National Unity inherited the entire public service with the racially based, disproportionate distribution of the Criminal Justice resources. Personnel insufficiency and ill-equipped,

systems outdated and departments fragmented. The end result being the system which could not cope with the demands created by the need to provide services to all South Africans.

- Political transition generated substantial material expectations which the Government could not deliver immediately. These very high and often unrealistic expectations associated with transition, have contributed to the justification of crime.
- South Africa's violent history has left this country with a culture of violence "which contributes to the high levels of violence associated with criminal activities" in South Africa. Violence in South Africa has come to be regarded as an acceptable means in resolving social, political and even domestic conflicts.
- Poverty together with a range of other social, political and cultural factors, and the social wealth differential contributes to conditions conducive for an increase in crime and growth of criminal syndicates and gang.
- The historically marginalized youth of this country, combined with the slow growth in the job market, contributed to the creation of a large pool of young people who are considered to be at risk.
- The absence of appropriate role models for youth, combined with substance abuse, gender violence and immorality amongst youth, have a significant impact on crime amongst the young generation.

4.3 SUMMARY.

As highlighted in this chapter, there are various causes or rather motives behind crime commission. Some of these factors can be successfully addressed when tackled at the right stage and or time.

Juvenile delinquency, when addressed at its primary stage for argument sake, a lot of difference can be achieved. The involvement of all role players in the child's upbringing, i.e. parents working hand-in-glove with teachers, officials at crèches and other bodies like churches, can bring about a lot of positive contribution in lowering, even combating crime at an early stage of life. Other factors that attributed to the mental state of the offender can unfortunately not be combated, but instead controlled, by among others, restricting those so affected to safeguard the innocent. The given figures relate the various categories of inmates incarcerated as per figure 1.

The researcher would like to draw concern to the figures of juveniles. In the researcher's opinion, poor parenting during child upbringing seem to be the major cause of this state of affairs. There are of course circumstances where it becomes extremely intricate to control the situation. In cases where a parent or both are unavailable due to some measures beyond control, e.g. the death of one or both parents, temporary or permanent absence of one or both parents due to divorce or desertion.

The South African political past has a large bearing on crime commission. The White Paper on Corrections in South Africa, 2005). The next chapter will embark on causal factors to overcrowding, which has a huge bearing on this very chapter. Addressing of the above-mentioned contributing factors to crime, overcrowding would obviously not be so worse.

CHAPTER FIVE

CAUSAL FACTORS TO OVERCROWDING.

5.1 INTRODUCTION.

The previous chapter focused mainly on the profile of the offender and the causal or contributing factors to crime commission. The researcher is of opinion that if the reader knows and understands the motives behind crime commission, it would be of significance to address crime in a broader spectrum, with focus being such contributing factors.

The above understanding would bring about a change in one's approach and attitude towards inmates. If the latter then be the result, one will most probably be in a better position to apply corrective measures in line with gearing for rehabilitation. Furthermore, the categorization of inmates in terms of location and attendance of programmes shall then be more appropriate in gearing for rehabilitation.

Without forgetting what Durkheim in Siegel (1995) maintains, that crime should be seen to be normal in any given society, recidivism rate will most probably be much lower than the current state of affairs. Overcrowding will as a result be less, as those who would relapse into crime and return to prison would be lesser.

The next question we need to ask ourselves at this stage should be, what contributes to prison overpopulation? After deriving answers to this question, we need to try and establish the role played by the rights of inmates as laid down by the Constitution, with special reference to the role these rights play or contribute to prison overpopulation.

5.2 WHAT CAUSES OVERCROWDING?

5.2.1 RECIDIVISM.

What is the state of affairs in the South African Correctional Services as at 10 July 2001? In accordance with the Directorate: Prison Services at the National Office, the reality is that out of a total of 142 580 sentenced inmates, the under mentioned state of recidivism prevailed.

5.2.1.1 11255 inmates had one previous conviction each.

5.2.1.2. 6229 inmates had two previous convictions each.

5.2.1.3. 4615 inmates had three previous convictions each.

5.2.1.4. 3639 inmates had four previous convictions each.

5.2.1.5. 2840 inmates had five previous convictions each.

5.2.1.6 2471 inmates had six previous convictions each.

5.2.1.7 2053 inmates had seven previous convictions each.

5.2.1.8 1756 inmates had eight previous convictions each.

5.2.1.9 1560 inmates had nine previous convictions each.

5.2.1.10 1328 inmates had ten previous convictions each.

5.2.1.11 1066 inmates had eleven previous convictions each.

5.2.1.12 964 inmates had twelve previous convictions each.

- 5.2.1.13 749 inmates had thirteen previous convictions each.
- 5.2.1.14 638 inmates had fourteen previous convictions each.
- 5.2.1.15 463 inmates had fifteen previous convictions each.
- 5.2.1.16 360 inmates had sixteen previous convictions each.
- 5.2.1.17 269 inmates had seventeen previous convictions each.
- 5.2.1.18 234 inmates had eighteen previous convictions each.
- 5.2.1.19 145 inmates had nineteen previous convictions each.
- 5.2.1.20 139 inmates had twenty previous convictions each.
- 5.2.1.21 105 inmates had twenty one previous convictions each.
- 5.2.1.22 68 inmates had twenty-two previous convictions each.
- 5.2.1.23 57 inmates had twenty-three previous convictions each.
- 5.2.1.24 39 inmates had twenty-four previous convictions each.
- 5.2.1.25 33 inmates had twenty-five previous convictions each.
- 5.2.1.26 22 inmates had twenty-six previous convictions each.
- 5.2.1.27 19 inmates had twenty-seven previous convictions each.
- 5.2.1.28 08 inmates had twenty-eight previous convictions each.
- 5.2.1.29 10 inmates had twenty-nine previous convictions each.
- 5.2.1.30 05 inmates had thirty previous convictions each.
- 5.2.1.31 08 inmates had thirty-one previous convictions each.
- 5.2.1.32 05 inmates had thirty-two previous convictions each.
- 5.2.1.33 02 inmates had thirty-three previous convictions each.
- 5.2.1.34 03 inmates had thirty-four previous convictions each.
- 5.2.1.35 04 inmates had thirty-five previous convictions each.
- 5.2.1.36 02 inmates had thirty-six previous convictions each.
- 5.2.1.37 04 inmates had thirty-seven previous convictions each.
- 5.2.1.38 03 inmates had thirty- eight previous convictions each.

The above figures depict recidivism as a problem area, and one among other factors, which contributes to overcrowding. It is interesting to note that no inmate was without at least one previous conviction. The next question we need to ask ourselves is, why such a high rate of recidivism? A further question we need to ask ourselves is, is the department of corrections really contributing to rehabilitation of offenders, or is it indirectly contributing to further crime commission?

The answers to these questions will most definitely be addressed in the last chapter of this piece of work.

5.2.2 STRUCTURE.

In accordance with Champion (1999:181) proposals for resolving jail and prison problems, are (1) to create new jails and prisons constructed in ways that will conserve scarce space and require fewer correctional officers, and (2) to reconstruct existing facilities to minimize prison violence and house more inmates.

The researcher would like to base this discussion on the South African current state of affairs. Most Correctional Centres in this country are still of the old design in that, inmates are housed in communal cells which are mostly build to cater for between twenty and thirty-eight, to fifty plus cellmates.

The understanding should therefore be that the structure itself is manipulative of overcrowding. With the removal of beds and letting inmates occupy floor space without beds facilitates overcrowding.

5.2.3 CRIME RATE.

The commission of crime is another factor, which plays a very significant role in overcrowding in prisons. Before any person could be brought to prison, crime is a requirement. The rate of overcrowding referred to in this chapter, covers both the awaiting trial detainees and the sentenced. The essence being the high rate at which people are committing crime.

Among other factors conducive to overpopulation, the White Paper on Corrections in South Africa (2005:57) the under mentioned are pointed out, the:

- Inefficient functioning of the CJS,
- High incarceration rate in South Africa when compared to international trends,
- Introduction of minimum sentences for particular categories of serious crimes in 1997, resulting in an increase in the proportion of long term offenders in DCS facilities that will affect the availability of bed space in the coming decade,
- Crime trends in South Africa, particularly in relation to serious violent crimes and serious economic offences,
- Levels of awaiting trial detainees in Correctional Services in South Africa, and
- Inadequate needs-driver facility planning in the Integrated Justice System.

In accordance with Smith & Berlin (1988) a majority of most serious offenders "violent predators" among the inmates in prisons and jails of three states had histories of heroin use, frequently in with a combination of alcohol and other drugs. They further maintain that the usage of these substances impacts on violent reactions to any possible might be situation.

With reference to the figures reflected in paragraph 5.2.1. above, you became aware of the seriousness of the in and out situation in our correctional centers. In addition to these figures, one does not have to forget the first offenders and the awaiting trails.

It becomes therefore a clear and undisputable fact that crime commission, or rather crime is our major contributing factor to the challenge not faced by South Africa only, but other countries out there as well.

5.2.4 BUDGET.

It is the researcher's view that no rational thinking government can afford to spend more of its budget on the management and running of prisons, rather than on the education and training of its citizens.

The researcher wish to highlight that with the country's continual population growth, crime commission will most probably be on the increase. The implication is therefore that, the status quo will increase when looking at the above-mentioned rationale. At the same time, it is empirical to note that, if the existing facilities were larger, the state of overcrowding would most probably not have been as indicated in chapter

two. Larger facilities have further financial implications, like increased human resources to can plus minus match the inmate population rate. The latter takes a lion's share of the department of correctional services budget, in terms of salaries.

In accordance with the Budget Vote Speech by the Minister for Correctional Services, Mr. Ben Skhosana on the 4th June 2002, R 6,8 billion was requested. Out of this budget, an estimate of 66,26%, which represents R 4,5 billion was to be spend on human resources. According to his speech, the Minister said that the Department will spend an amount of R 353 million on rehabilitation programmes. He further said that about R 586 million would be spend on the general provision of health and physical care needs for offenders.

The costs for keeping a single inmate behind bars fluctuate with the inflation rate. In the financial year 2001\ 2002, it amounted to ninety-four rand sixteen cents (R94,16) a day. It is imperative to note that our inmate's numbers vary almost on a daily basis. According to the department of correctional services - Directorate Prison Services, the national figure of inmates as at 12 July 2001 was 165301.

To keep this total of inmates within our walls for a single day meant R 1'556'474'216M. You can just imagine how much does crime cost the taxpayers every day of our lives.

The researcher would like us not to forget the other costs related to crime at the secondary stage immediately after crime commission. Reference is hereby made to the administrative costs involved from the charge office,

the ups and downs made by the police in the process of arrests, investigations, the trial costs, which in the majority of cases takes a very lengthy period of time.

The element of the constitutional rights of inmates in terms of the Bill Of Rights (Act 108 of 1996) has in some instances a vast financial implication. This is seen in cases where alleged transgressors are granted bail, with the understanding that they will obey the bail conditions. Some of these people end up not honouring the conditions, with the result that they have to be searched for after absconding. There are obviously a lot of financial implications involved.

Within the budget aspect, the researcher would like to include the burial costs incurred by the state in cases of deaths of inmates who happen to die while incarcerated. The researcher's submission is that, if these people were in free society, these costs would have been incurred by their respective next of kin and or their insurances.

One would therefore agree that, it is an extremely expensive exercise to run and manage a department such as Correctional Services, and that as long as the crime rate is so high, the tax payer shall suffer the consequences, unless of course something is done or measures are embarked on as shall be recommended and suggested in chapter eight.

5.2.5 PRISON VERSUS OUTSIDE LIFE.

The researcher would like to mention that, it is a fact that prison life is unpleasant. But one has to further ask oneself this question, “If that is the case, why such high rate of recidivism?” Besides any other problem, which might be aligned to crime, such as lack of employment, the researcher would like to attribute overcrowding and recidivism to the artificial prison life.

Prison life is extremely artificial. The gap between social and prison life is enormous. It is the researcher’s submissions that, the differences between these types of lives have a very crucial role in recidivism, which bears overcrowding eventually.

Buzzwords in the department of corrections have been deterrence, protection of society, rehabilitation and “just desert” “Now off late, it has turned to be "Gearing the department of corrections for rehabilitation".

The researcher’s understanding is that if this department is to succeed in gearing for rehabilitation, a massive mind frame change needs to take place.

The researcher is a strong advocate of closing the gap between social and prison life. We need to socialize the artificialised prison life by creating the prison environment that would be as much close to social life as possible. That will most probably facilitate, a better and speedy acclimatization after incarceration.

It is my submission that for any student, who has enrolled for biology, for argument sake, needs to be in a biology class. He is to be exposed to the environment which is biology oriented, and write biology tests to can cope with the biology examination at the end of the year. The contrary will most definitely not work.

In our correctional institutions inmates are kept in different and separate environments. This is done in accordance with their group classifications, male and female inmates are housed in separate sections of the prison, they wear prison clothes, they are being catered for boarding and lodging at the expense of the tax payer, their medical costs are paid by the very tax payer he has offended, except in very rare cases where those who can afford would apply to carry their medical costs.

If one compares the above version of life with real social life, you will be convinced and understand why such high rate of recidivism. To have a total change of this scenario, as mentioned before, members of this department, both the most junior up to the most senior, need to forget about the past and inject their minds with a total understanding that, **people sent to prison are not sent there for punishment, but as punishment.** That being the case, it shall make sense that the sole purpose of sentencing and imprisonment should be aimed at successful reintegration of offenders into society. And that cannot be successfully accomplished in an artificial environment.

The researcher would like to align himself with the situation in Denmark. What the researcher advocates to take place in the South African

Correctional Services, already takes place in Denmark. Inmates have a lot to loose if law abiding in the South African prison set-up in relation to the Denmark approach for example. Inmates are responsible for their boarding and lodging and have to take responsibility for their respective actions as in our respective lives in free society. This policy encourages self-reliance and aims at moving inmates away from the social welfare mentality.

In normal social life there is no way that people would wake up and queue for food, medication and clothes, or else get free lodging. It is common knowledge that offenders will take advantage of such facilities as there is very little, if any to loose. The end result is of course recidivism with the ultimate result of overcrowding and recidivism.

This aspect shall be revisited in the second last chapter, where focus are the solutions to the problem of overcrowding and recidivism.

5.2.6 COURTS.

Courts of law supply the Department of Corrections with inmates, whether convicted or not. The awaiting trial or un-sentenced inmates are in actual fact, the responsibility of the South African Police Services to keep and detain in the police cells pending the finalization of their respective cases.

After arrest, the police will normally charge the suspects and send them to prison for detention while awaiting trial or sentence in cases where there are no facilities.

For the fact that the justice system is a cluster of the Police Services, the courts of law and Correctional Services, it becomes an obvious fact that un-sentenced inmates have to be the responsibility of this department as well. As a result, one finds a lot of awaiting- trial or sentence inmates in our correctional centres.

In accordance with the Judicial Inspectorate of Prisons' Annual Report of 2002 June 06, p. 5. almost a third (55 285) of the prison population, which was 175 290 as at 31 December 2001, were awaiting trial detainees.

This report further indicated that almost 40% (20 692) as at 23 January 2002 were in prison because of poverty. It is said that in each case, bail was fixed in amounts from under R50 upwards. It is of significance to mention that, of the above figure, the magistrates found that these inmates posed no threat to the community should they have waited their respective trials outside.

Besides, there is a lot of time wasted within the trial process. Some cases have to be postponed due to the non-availability of witnesses, or that of suspects after being granted bail, further investigations, consideration of verdict by the court, procurement of previous conviction records, in a number of cases, consideration of an appropriate sanction and any other cause the magistrates or judges may deem fit in the circumstances. In the meantime these multitudes consume in the region of R94,16 of the taxpayers money per inmate per day.

In accordance with Solomon (Jr), (1983: 51) in Nxumalo (2000:208) an analysis of delay in the criminal courts must begin with the concept of "delay". He maintains that, for one to say that a particular case has been delayed, one needs a standard against which to evaluate its length. He says that an efficiency expert might assume that the faster a case was concluded, the better, but that this standard of judgment does not match well with the notions of justice and fair play upon which the Common Law is based. It is said that the conduct of the defense requires time, whether to exercise legal rights, to arrange a settlement or both. It is therefore difficult if not impossible, to supply a standard that indicates when a single case has become delayed or when the whole courtroom manifests delay.

In accordance with Lea (1991: 221) in Nxumalo (2000:209-210) for the courts to consider the sentencing options, it must fulfill certain requirements:

- there must be good understanding of the offender's circumstances, background and history,
- there must be a familiarity with the sentencing resources and alternatives available, the variety of services, programmes and opportunities for an offender, given his peculiar circumstances,
- the courts should seek for creative ways for sentence guided by a frame of reference that seeks to minimize the destructiveness of punishment for the offender and the victim,
- the courts should seek ways to avoid the extreme punishment of imprisonment and the often-inadequate option of traditional probation or correctional supervision. It is the search for the creative,

appropriate sentencing that can make the difference to the overcrowding in South Africa.

5.2.7 INMATES RIGHTS.

It may sound surprising how the inmate's rights may have an influence in overcrowding and recidivism. The researcher would like to draw attention to the rate of recidivism as at 31 July 2002. If you calculate the recidivism rate of the total inmates of the above-mentioned date, you will realize that it is twenty-six (26%) percent.

The researcher would like to focus on Chapter two of Act 108 of 1996, the Bill of Rights, section 35 (2). In accordance with this Act, both sentenced and un-sentenced inmates enjoy or has to enjoy certain rights, namely:-

- = to be informed promptly of the reason for being detained,
- = to choose, and to consult with a legal practitioner,
- = to be informed of his rights promptly,
- = to challenge the lawfulness of the detention in prison, before a court and, if unlawful, to be released,
- = to conditions of detention that are consistent with human dignity, including an exercise and the provision of adequate accommodation, nutrition, reading material and medical treatment at state expense,
- = to communicate with, and to be visited by, that person's :
 - * spouse or partner,
 - * next- of- kin,
 - * chosen religious counselor, and
 - * chosen medical practitioner.

In addition, section 11(2) of the above Act, provides that no person shall be subject to torture of any kind, whether physical, mental or emotional, nor shall any person be subjected to cruel, inhuman or degrading treatment or punishment, Krautkramer, (1994:4) and Bassioni, (1995:22).

The researcher has no problem with section 35 sub-sections (3, 4 and 5), of the said Act. Yes, South Africa has attained a democratic status after the 1994 elections and the researcher has no problem with that, but is of opinion that a thin line between your law-abiding citizens and violators should be drawn. The current state of the majority of the South African citizens in accordance with the mass media and individual citizens when interviewed in general terms, feel that law violators enjoy an upper hand in relation to law-abiding citizens.

The researcher would like to draw attention to the fact that any law violated, is violated against the taxpayer. Now, the shocking and heart-breaking thing is that, the very tax payer who's rights are violated, at times very seriously for that matter, must in addition pay the price of catering for that or those individuals while incarcerated. The high rate of recidivism as reflected above; i.e., 26% sends a message, amongst others that something is not right and needs to be corrected. The above may be attributed to a number of factors, such as:-

- inmates taking advantage of the system,
- inmates not made to be responsible for their respective actions, and take punch therefore, but instead are guarded almost all the time,
- the artificial prison life which varies extremely from normal societal life, and
- the luxury of committing crimes.

5.2.8 THE LEGISLATION AND THE POLICE ATTITUDE TOWARDS SUSPECTS.

Legislation has an indirect bearing on overcrowding. If one looks at the Criminal Procedure Act, Act 51 of 1977, more especially section 40(1) you will realize that there are a lot of acts declared to be criminal, which from the look of things facilitates overcrowding.

5.2.8.1 PUBLIC INDECENCY.

This takes place in cases where a person drinks liquor in public and or otherwise urinates in public and related offences.

With the current state of overcrowding as displayed in chapter two, plus other related factors like budgetary constricts, it becomes rational to deal with the above misdemeanors in a different way.

These offences are more unethical than criminal and the researcher would rather recommend that such acts be diverted from being criminal acts and be approached and treated otherwise.

5.2.8.2 PUBLIC DISTURBANCE.

Acts like when people are drunk in public and do not pose any danger to others or property. The other example is when people are making noise in the neighbourhood. Police have a tendency of arresting such people and locking them up. There are instances where such people are denied bail, but simply locked up. The above-mentioned category of offenders and others falling within this type, are simply one-way of unnecessarily crowding our correctional institutions.

5.2.8.3 BLASPHEMY.

Blasphemy consists in the unlawful and intentional publication of words or conduct whereby God is slandered (Snyman, 1989 p.399). The above-mentioned offence does not disturb public peace or individual safety, or otherwise is a danger or threat to human life or limb. This conduct contravenes human religious beliefs. Based on the last mentioned, the researcher would propose that perpetrators of this offence be subjected to any other kind of penalty rather than incarceration.

5.2.8.4 SODOMY.

This conduct as described by Snyman, (1989.p.378.) is the unlawful and intentional intimate relations between two male persons. The researcher would maintain the same reasoning as in the above cases.

Looking into this conduct, it was declared to be immoral and unnatural by our law some time back. If one peruses the Constitution, Act 108 of 1996, chapter two, you will realize that one has a choice to practice some of these things.

The researcher is of opinion that the South African legislation is still in doubt about this offence. This is derived from the fact that there is some debate in parliament in this regard, amongst others whether lesbianism be validated or not. If that was not the case, there would not have been any debate of this nature.

5.2.8.5 PROSTITUTION.

By law, the above act constitutes an offence. It is the researcher's opinion that the arrest of prostitutes becomes another way of overpopulating the correctional system. The South African socio-economic status is such that one would advocate prostitution. Hand- in- glove with the last mentioned, there would therefore not be necessary to apprehend prostitutes. Furthermore, the nature of the act is such that there is no complainant between the parties involved in this act, but the legislator.

5.2.8.6 BIGAMY.

Almost like most of the above-mentioned offences, there is in actual fact no such impact which constitutes danger to such an extent that human life or property is endangered. The only infringement is immoral in terms of western culture. Again, looking into the South African Constitution, one will realize that the Bill of Rights, section (31) (1) gives recognition to cultural practices, of which bigamy is part.

The researcher would be comfortable with bigamy, as long as there is no formal complaint on the part of either of the spouses. It therefore goes without saying that, arresting and apprehending people for this offence would just be a mechanism of unnecessary overloading the judicial system, eventually overpopulation.

5.2.8.7 GAMBLING.

In terms of section 40(1)(i) of the Criminal Procedure Act, Act 51 of 1977, any person who is found in any gambling house or at any gambling table in contravention of any law relating to the prevention or suppression of gambling or games of chance, is guilty of an offence.

It is the researcher's submission that, this misconduct was coined out of ethics and moral conduct. This is said with the understanding that the State and or any other person are not harmed in the process. The individual and or maybe his social responsibility in the form of his family, may be the harmed should he do it out of the scope of responsibly.

With cognizance of the above reasoning, the researcher would maintain the same attitude as with the above-mentioned offences.

5.2.8.8 TRESPASSING.

It is common knowledge that, the South African legislator declared trespassing as an offence punishable by an option of a fine, and alternatively imprisonment in default of payment. (CPA, 51 OF 1977). The researcher's view would be different for the following reason, trespassing on its own, i.e. with the motive of taking a short cut is quite frankly not offensive as such. But, where there are reasons to believe that such trespassing has some alteria motives, it would honesty be a different case. It would therefore be obvious that incarcerating trespassers unnecessarily overpopulates the correctional system.

5.3 SUMMARY.

This chapter focused on the causes of overcrowding and in a nutshell what the researcher deems fit in the contrary.

There are a lot other legal stipulations, which still forms part of our legal system and indirect conflict with the Constitution (Act 108 of 1996) of this country, which in the researcher's mind, need to be reviewed.

Many shall be, or have to be considered in line with the African tradition and cultural ways of going about doing things in line the Supreme law of South Africa.

The attitude and approach of some South African Police Services officials and some of our magistrates and judges shall as well have to change. Among other reasons contributive to prison overpopulation amounts to their outdated approach and attitude towards suspects and accused persons respectively.

The overall justice system shall as well have to look into the issue of de-institutionalizing some of these offences, with the automatic downloading the correctional system.

Political change or instability in South Africa proved to be causal to this challenge of overpopulation in one way or another as pointed out by the White Paper on Corrections in South Africa (2005).

The structure of the correctional institutions has started to be looked into, taking into cognizance institutions like Kokstad, Emthonjeni and Malmesbury.

The coming chapter shall have a bearing on the effects of overpopulation.

CHAPTER SIX.

EFFECTS OF OVERCROWDING.

6.1 INTRODUCTION.

This whole research revolves around prison overpopulation. It is therefore obvious that this state of affairs shall have some sort of negative implications upon both the inmates and authorities.

This chapter shall focus on the effects of overcrowding. Overpopulation of not only human beings, but that of almost any organic creature be it mankind, animal kingdom, water species or plant kingdom, has a lot of negative impacting aspects which in one way or another makes survival extremely difficult.

The approach of this part of the research will be to look at overcrowding in line with the Constitution of South Africa versus what the Correctional Services is said to offer in terms of Act 111 of 1998.

It would further be of significance to look at factors, which would affect the social and psychological lives of inmates. The buzzword in the South African Correctional Services in this century is “Gearing the department for rehabilitation”. It would therefore be very obvious that these factors will hinder this intended process.

6.2 THE STIPULATIONS OF THE CONSTITUTION VERSUS THOSE OF THE CORRECTIONAL SERVICES ACT.

Act 108 of 1996 chapter two section 35(2) (e) prescribes that :-

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

Hand-in-glove with the above-mentioned stipulation, the Correctional Services Act, Act 111 of 1998, section 2 (b) and (c) align to the constitutional stipulation.

According to section 2 (b), the purpose of the correctional system is to contribute to maintaining and protecting a just, peaceful and safe society by, detaining all prisoners in safe custody whilst ensuring their human dignity. Section 2 (c) stipulates, "promoting the social responsibility and human development of all prisoners and persons subject to community corrections "

Taking the above stipulations into consideration, one wonders whether the Constitution read together with the Correctional Services Act is realistic. There is as well the human element, which need not be forgotten.

The right to be detained in an adequate accommodation, provided with adequate nutrition that meets the health standards, reading material and medical treatment.

The interpretation of the last mentioned may be easily manipulated by the inmates, relatives, friends and legal representatives.

Adequate accommodation will always differ from one person to the next. Now, the question is, where do we draw the line? The same question should then be asked with regard to nutrition, reading materials and medical treatment.

The next matter of concern is, if the stipulations of the Act are seen in the context of the available resources and capacity of the Department of Corrections in South Africa, how realistic is both the Constitution and Correctional Services Act? It is really questionable whether the Department of Corrections can cope; otherwise comply with these standards, however good its objectives may be.

It is the researcher's opinion that these standards as set by both the Constitution and Correctional Services Act, are binding to the government of the day and Department of Corrections. It is therefore common knowledge that the Department is duty bound to deliver these services, failing which the inmates and or other stakeholders, may take legal action of demand.

Given the above-mentioned scenario, the researcher would rather design the Constitution and the Correctional Services Act as follows, namely:

Regarding section 35(2)(e) of the Constitution "Everyone who is detained including sentenced prisoners has the right to;

(a) Conditions of detention that would, where practically possible and practicable, take into cognizance their human dignity, accommodation, nutrition, reading material and medical treatment "

In as far as the Correctional Services Act, Act 111 of 1998 section 2 (b) is concerned; I would rather prefer " The purpose of the correctional system is to contribute to maintaining and protecting a reasonable, peaceful and safe society where practically possible and practicable by:

(a) Enforcing sentences of the courts in the manner prescribed in this Act.

(b) Detaining all prisoners in custody whilst considering their human dignity, and

(c) Promoting the social responsibility and human development of those prisoners and persons subject to community corrections who shall be willing to form part and co-operate".

From a practical point of view, prisoners are not always willing to form part of and participate in programmes, let alone co-operation. With the Act stipulated in this fashion, all what practically takes place or otherwise does not take place, as the authorities would wish, is covered. If the Department is confronted with a state of overcrowding and inhumane conditions, it

shall then have to be taken as is, without any legal obligations on the part of the state or Department.

The researcher would like to align what is suggested above with the fact that, I quote "the conditions of incarceration can be so bad that the imprisonment may become cruel and inhumane. In the United States of America the courts do not regard overcrowding as unconstitutional per se. Prisoners lose only those basic rights, which are inevitably lost as a result of incarceration" unquote. Stephan Terblanche & Bobby Naude, 1997 (60) THRHR. p. 58.

The researcher would like to give tribute to some of the stipulations of the old Act (Act 8 of 1959). This is considered on the basis or the fact that, at least to some extent there was consideration of humane treatment and fairness, thou limited in relation to the current Act.

Regulation 89 (3) “ Manner and purpose of search”

This regulation of the Act prescribed that, the search of a prisoner shall be conducted in a seemingly manner and, as far as is practicable or reasonably necessary in the circumstances, without injury to the self-respect of the prisoner, and shall only serve, and be sufficiently thorough, to detect any unauthorized articles”

Regulation 89 (4) “ Stripping”

Consideration of humane treatment was the order of this regulation, in that, I quote, “ A prisoner shall, as far as practicable, not be stripped and searched in the presence and in sight of other prisoners” unquote.

It is of significance to the reader, let alone the researcher to note that, the most important features of Act 111 of 1998 are laid out in page thirty-three of this piece of work.

It is common cause that there will definitely be a gap between these two Acts, i.e. **Act 8 of 1959** and **Act 111 of 1998**. The distinction between these Acts is marked by two crucial factors namely that :

- ❖ The former is grounded on apartheid's principles which had no Constitutional background;
- ❖ The latter is grounded on the Constitution (**Act 108 of 1996**) which is the foundation of democracy and recognition of humane treatment and approach.

To mention but a few, **section 35** of the old Act advocated a death penalty, while the current one makes no provision or mention of death penalty.

Hand in glove with **section 35**, was **Regulation 139** which dealt with the specification in this regard, i.e. Regulation (1) "Place of execution" Regulation 139 (2) "Searching", Regulation 139 (3) "Segregation", Regulation 139 (4) "Special security measures", Regulation 139 (5) "Diet scale", Regulation 139 (6) "Provision of stimulants", Regulation 139 (7) "Visits and religious ministrations", and "Regulation 139 (8) "Work and physical exercise".

Section 36 authorized the prison (old concept) authorities to inflict corporal punishment upon inmates (below forty) found guilty of disciplinary infringements.

It is worth mentioning that, there was at least some measure of being considerate of women inmates. **Section 37** disqualified the infliction of corporal punishment upon female inmates irrespective of age.

The rationale behind the abolition of the corporal punishment is that it is considered barbaric, inhumane and dehumanizing.

In accordance with the human rights approach, for an inmate to receive food is considered a right rather than a privilege as it was practiced in the old Act.

Section 54 of the former Act, prescribed a deprivation of meals (spare diet) between five (05) up to thirty (30) days. This penalty could range up to sixty (60) days depending on the seriousness of the disciplinary infringement in question. In most instances it was imposed upon repeated and or extremely serious disciplinary cases.

In cases of sixty (60) days, there would at least be a break of fourteen (14) days in between the first thirty (30) days and the next.

The head of prison had discretion to impose a deprivation of one or more meals on any one day, in cases of minor disciplinary offences (**Section 54**). With Act 111 of 1998, all the above mentioned sections of the old Act, Act 8 of 1959 were repealed. The main motive behind these amendments is attributed to the concept of human rights as enshrined in Chapter Two of the Constitution of South Africa.

It is therefore clear, when considering the above mentioned changes that, Act 111 of 1998 embarks on a modern, internationally acceptable correctional system designed within the constraints of the Bill of Rights.

The above mentioned should therefore be considered to have breached the gap between the two above mentioned Acts of Parliament.

6.3 SOCIOLOGICAL EFFECTS OF OVERCROWDING.

The researcher does not in any way dispute the fact that suspects or otherwise inmates are human, like any of us. But the fact of the matter is that a balance needs to be struck between law abiders and offenders. It is the researcher's opinion that, if that approach is adopted, law abiders are thus encouraged to continue abiding by the law while law breakers are discouraged to do so.

6.3.1 PRIVACY.

As already mentioned that, the fact that inmates are human like any of us is no dispute, they like any of us need privacy when embarking on activities like, washing or bathing themselves, dressing themselves up, using the toilet facilities, practicing some of their traditional and or religious customs, etc.

Overcrowding deprives inmates these rights to privacy. There is therefore disturbance and a lot of loss of concentration in the exercise of these activities. In addition, there is a feeling of disrespect of the inmate's fundamental rights by the authorities, which is contrary to the Constitution.

Terbanche & Naude, 1997. (60) THRHR. p. 58. substantiate by saying that overcrowding is not simply a matter of space, but also impacts on matters such as the availability of ablution facilities, hospital cells, kitchen and hot water.

In accordance with Inciardi, (1987:531), common open toilets prevent personal privacy.

6.3.2 VIOLENT AND AGGRESSIVE BEHAVIOUR.

In accordance with Reid (1988:492–494) crowded prisons have more violence, deaths, and uncontrolled homosexual assaults. She goes further to say that crowded conditions lead to more contact among inmates. A study that revealed that inmates were more assertive and aggressive, displayed force more often, were more quickly tempered, and were more bothered by minor incidents is justified. An example to this effect is, according to Reid, one inmate who did not receive his medication on time stabbed another prisoner several times with a pencil.

Reid (1988) further draws our attention to Ruiz v. Estelle, where the Texas Department of Corrections was faced with a severe state of overcrowding. It is mentioned that inmates were routinely subjected to brutality, extortion and rape at the hands of their cellmates. It is further mentioned that inmates sleep with the knowledge that they may be molested or assaulted by their fellows at any time.

Reid (1987:476-479) quotes the case of Abdul Walt v. Coughlin of the Attica maximum-security correctional facility in New York. The uprising in this institution resulted in the death of forty-three (43) people; i.e. thirty- two (32) inmates and eleven (11) correctional officials.

The Commissioner of Corrections cussed the blame of the strike on overcrowding. The effects being amongst others, idleness, as inmates could not be kept constructively busy due to lack of enough staff, facilities and obviously space.

Emphasis could therefore not be placed on rehabilitation, but confinement and security, otherwise inadequate medical care, facilities in the law library and problems regarding visitation privileges.

6.3.3 HYGIENIC IMPLICATIONS.

It is an undisputed fact that overcrowding has negative implications upon the hygienic conditions in the institution. Both Reid (1998,p.493) and Bartollas & Dinitz, (1989.p.469) share the same sentiments in that, overcrowded prisons may induce stress in both inmates and staff and lead to physical and mental problems. Disease is said to spread more quickly. More mental health problems turn to emerge under such conditions. Boredom is attributed to stress in prison.

The incremental exposure to disease and infection from other inmates cannot be avoided. Inmates are thus compelled to urinate and defecate unscreened in the presence of the others. Overcrowding is said to force inmates to live and sleep inches away from toilets.

Keve (1981:147) points out unsatisfactory hygienic conditions brought about by overcrowded conditions of the Alabama prison. Conditions are

said to have been such that the institution was generally filthy, shower rooms so porous that it was impossible to keep clean. Plumbing facilities were in an exceptional state of disrepair. Keve (1981) points at one area at Draper, which housed over two-hundred (200) men with only one (01) functioning toilet. Many toilets in this centre are said to have been out of order and overflowing.

Some showers could not be turned off and continuously dripped or even poured water. It is further said that there was a continuous lack of hot water. A state of overpowering odour emanating from these facilities became a reality. Food service conditions were said to be equally unsanitary. Food service conditions were said to have been improperly stored in dirty storage units and often infested with insects.

In accordance with SACJ (1992) 3. SAS, pp. 235-236, many prisoners, because of their overcrowded, cramped conditions and sparse vitamin-deficiency diet, suffer from recurrent illnesses. Diseases such as beriberi, scurvy, malaria and chronic dysentery are common, and so also are rheumatism, skin infections and hypertension.

Another interesting fact is that of medical facilities which were almost non-existent, and that no attempts seem to have been made by the authorities to isolate prisoners with infectious illnesses.

An incident quoted in this respect is the one where it is said that one eyewitness reported that in 1974 at Camp Boiro, twenty-five (25) prisoners were packed into a cell in which a prisoner has died from

tuberculosis. It is very interesting to note that seven inmates were subsequently moved to other cells, but that sixteen of the remaining eighteen died within six months. Mention is as well made of S.K. Acquaye who was a former chief manager of the Bank of Ghana and two Afro-Americans who died of exhaustion.

In accordance with Durham (1994:51-52) I.W.Brewer's study of a 1918 influenza outbreak, discovered that, as the density of beds per unit living space increased, rates of infections also increased.

An inference drawn by Bailus Walker and Theodore Gordon is that, crowding people in small areas where they are forced to breath and too often to cough into each other's faces, favours the transmission of disease-producing organisms because it increases the likelihood of the organisms finding a new person and reducing the distance they (germs) must travel between persons.

It is further stated that, with the other non-prison research, there exist a relationship between stress and physical well-being. It is of significance to note that physical responses to stress include a wide range of physical maladies, such as suppression of the immune system, blood pressure variegation and illness.

Accordingly Durham brings to light that, a survey of federal prisons discovered that population increases without facility expansion were related to psychiatric commitments. This has relevancy in that, in accordance with the I. W. Brewer's study, the Mississippi state prison inmate population reduction was related to a decline in attempted suicides and self-mutilations.

Durham (1994) states without hesitation in page 54. that, tuberculosis which is more easily transmitted, represent yet another menace associated with overpopulation.

The researcher derives sense in the statement that, " If a strong relationship exists between crowding and various aspects of physical and mental health, the costs of responding to health problems may eventually dwarf current expenditures " (Durham, 1994).

It is also a fact that, the indirect costs of widespread health problems among inmates, such as those associated with lawsuits against the government may be substantial.

In accordance with Inciardi (1987,p.531) common open toilets prevent personal privacy, and that large percentages of drunks and others who spew vomit and urine on the toilets and floors make for unhealthy and unwholesome circumstances.

Poor plumbing is said to often result in repeated break- downs and clogged facilities. The inadequate availability of showers and washrooms inhibits personal cleanliness.

In his sixth edition Inciardi (1999:438) still shares the same sentiments.

6.3.4 ANTISOCIAL ACTIVITIES.

Antisocial activities such as sodomy, gang activities, theft of other inmate's personal and or private properties, otherwise swapping each other's similar properties like foodstuffs and or prison clothes turn to be the order of the day.

Ried (1991:591-592) aligns overcrowded institutions with more violence, deaths and homosexual assaults. She further maintains that the overcrowded prison condition like that of Texas causes more physical problems among inmates.

Reid (1991:595) identifies obtaining and using drugs and making alcoholic beverages by inmates, as significant because of life behind bars. She further draws our attention to inmate gangs (Reid,p.599). Reid identifies prison gangs with drug sales, gambling, sexual exploitation, extortion and murder. It is an obvious fact that the greater the number of prison gang members in our institutions, the more gang related problems are encountered.

Management of the prison gangs by the prison authorities cannot be overemphasized, more especially concentration of potentially violent individuals. She maintains therefore that, it is not unreasonable to expect explosive and bloody behaviour from them. Another element pointed out by Reid, is a number of escapes, suicides and murders. Homicides and suicides are aligned to overpopulation. Reid (1991:600) explains this situation in page 600. She maintains that inmates who are threatened with

homosexual rape or other violence, often become depressed and desperate about their physical safety. Victims are said to may lack the interpersonal skills and resources that would fend off would be aggressors.

From a practical and experience point of view, the researcher would without any doubt marry prison riots to overpopulation and gangsterism. It is clear, given the prison set-up that, it becomes an extremely difficult exercise to maintain proper order and control in overpopulated institutions. Staff shortage is another challenge the Department of Corrections is faced with, more especially now off late with such a large number of inmates intake as indicated in chapter two.

Keve (1991:145-147) maintains that, the rapid prisoner population increases because of desperate management problems for some prison administrators. Keve (1991) further points out that overcrowding bears on filth, lack of privacy, little if any space to call one's own. He maintains that overcrowded institutions create a tense environment and significantly increase the probability of riots and disturbances .

Keve (1991) identifies amongst other problems related to overpopulation, the fact that more inmates are idle as workshops and industries cannot be expanded to accommodate more workers. With this problem (overpopulation) inmates have less recreation, as space for outdoor play, and even space for indoor day rooms and libraries is inadequate.

The researcher concurs with Keve (1991) when he says that, because of the said problem, security is jeopardized and that the strain on staff contributes to more stressful relations with inmates.

In the case of *Pugh v. Locke* in Alabama, it was decided that the authorities rectify the overcrowded conditions that had resulted in inmates sleeping on the floors and in some instances even in the toilet areas.

Keve (1991) further draws our attention to a similar suit, *Bobby Battle v. Park J. Anderson*, that was brought against the Oklahoma prisons. The ruling was that the usual standards of single-occupancy cells and minimum allowances of floor space should be maintained. It was further ordered that the old cell- blocks be replaced, and directed that those old facilities be closed by June 1981.

Keve (1991) refers us to Mississippi, Delaware, Arkansas and Rhode Island that the federal court ordered reduced populations and substantial physical improvements, due to overpopulation.

Bartollas & Dinitz (1989:459-460) outline amongst other effects of overcrowding as a cause that prisoners be double and triple-celled, and to be forced to sleep in shower rooms, corridors, dayrooms, infirmaries, gymnasiums and vocational shops. Florida, Texas and other states are said to have bought army tents and placed inmates in prison yards as a result of overpopulation.

Peak (2001:234) mentions that researchers have viewed the problem of overcrowding as a complex phenomenon, with most agreeing that overcrowding is a psychological response to high population density that is often viewed as stressful. Peak links the effects of overcrowding in prisons

and jails to physiological and psychological stress among many inmates. He quotes Bonta & Gendreau, who discovered that inmate's age play an important role and that the relationship between misconduct and population density was more profound in institutions housing young offenders.

The other effect of overcrowding is when it tempers with the humane detention conditions as outlined by Section 35(2)(e) of Act 108 of 1996 (Constitution).

In accordance with Pursley (1994:465) densely packed together with no recreational outlet, work programmes, or other activities, pressures begin to mount and that potential for problems increases.

Bartollas & Conrad (1992:308-309) emphasize violence among other effects of overcrowding. Overcrowding and idleness among heterogeneous populations is said to provide an ideal setting for a lawless society in which; the strong take advantage of the weak. In addition, physical assaults, including sexual rapes, are said to be more frequent.

Bartollas & Conrad (1992:322-325) mention that empirical research indicates that prison crowding has an adverse effect on both institutional management and maintenance, and on employee satisfaction and stress. Crowding is seen as promoting rule infractions by inmates. Inmates transmission of diseases, mental-health problems, collective and interpersonal violence are seen as additional problems in this regard. They further point out lawsuits that were as a result of crowding.

Muntingh (2001:76) says that overcrowding, violence, riots, gangs, rape, corruption, drugs and insufficient resources are characteristic of most prisons around the world, and South Africa is no exception.

Muntingh (2001) further criticizes a situation where a communal cell meant for twenty inmates would be overcrowded with double the number. This set-up is viewed as unacceptable, especially if there is only one toilet, which is in order. There seem to have been instances where inmates had to relieve one another and sleep in shifts because of crowdedness.

The latter is a very serious effect of overpopulation, and in the researcher's view, a grave infringement of the prisoner's basic rights.

Another significant factor highlighted by Muntingh is that, overpopulation is such that; it is nearly impossible to create an environment that will be conducive to preparations for life outside prison.

Terblanch & Naude, 1997 (60)THRHR. Pp. 62-63 quoted " Die selle in gevangenis is ontwerp om spesifieke aantal gevangenis te huisves. Sodra hierdie getal gevangenes vermeerder weens oorbevolking, het dit outomaties 'n negatiewe invloed op die lewensomstandighede van die gevangenes, omdat die normale vloerspasie en ligruimte wat vir die gevangenes beskikbaar is, daardeur versteur word. Dit plaas verder ook druk op ablusiefasiliteite in selle en die res van die gevangenis infrastruktuur, wat kombuis, hospitaalafdelings, warmwaterstelsels, waskamers, ens. insluit. Dit is ook 'n negatiewe invloed op toesig-en-beheerfunksies, en benadeel die gestelde veiligheidstandaarde. "

It is an undisputed fact that because of overpopulation, a lot of factors become negatively affected. By mere looking at the conditions of overpopulation, one will realize that inmates get it very tough to survive, hence these irregularities as mentioned above. In the researcher's opinion, prison is another society behind closed doors. It is my understanding that prison is a place where inmates are to be coined into better and law-abiding citizens.

It is the researcher's submission that, as mentioned by Muntingh (2001) the prison environment is supposed to be positively influential towards life after release. It becomes therefore common knowledge that, the opposite will most probably have negative implications, with the result that inmates would be inclined towards been hardened with the end result of recidivism.

Gerald Gaes in Adler et al. (1994:416-417) reports the major findings about overcrowding as being:

- (1) Inmates housed in large dormitories are more likely to have high blood pressure than inmates in other housing arrangements such as single-bunked cells and small dormitories.
- (2) Prisons that use dormitories have higher assault rates than those with cells.
- (3) Those housing significantly more inmates than designed capacity based on sixty feet per inmate have higher assaults than other prisons.

Adler et al. point out a study of four (04) Virginia institutions with a prison assault rate of 9.96 attacks per hundred (100) inmates each year. Hans Toch in Adler et al. is quoted having said that many inmates spend many

years in fear of harm. Some inmates requested to be segregated while others locked themselves in, and that some are hermits by choice. Violence is said to continue to escalate as prison population grows.

Hartinger et al. (1973:318-319) maintain that, because of the number of inmates may already have emotional problems that cause them to see them in a distorted manner; perhaps they perceive almost all treatment by prison personnel as unfair. They are of the understanding that, because of that, it may be inevitable that no matter how well trained the institutional personnel are, or how efficient and how fair an institution is run, there will still be tensions that can turn into a riot.

Reid (1987:475-476) outlines the effects of overcrowding with special focus on the Texas Department of Corrections. In accordance with *Ruiz v. Estelle*, personal living space allotted to inmates was severely restricted. Inmates were in the constant presence of others. Although there is some degree of regimentation and loss of privacy in normal life, it is worse in any prison. The high population density at TDC left inmates with virtually no privacy at any time of the day or night.

In accordance with Elliston & Bowie (1982:185-186) because of overcrowding in state penal institutions, county sheriffs became unable to transport prisoners to state facilities; because of federal court orders prohibiting admission of new prisoners into these facilities.

Due to the above-mentioned dilemma, county jails have become storehouses for state prisons. It is mentioned that sheriffs have

communicated with the sentencing judges their woes concerning problems of discipline, medical attention and housing facilities. Some judges who were unwilling to employ alternatives to confinement, were at last faced with the fact that they must use probation as a sole vehicle of sentencing, or seek alternatives to penitentiary confinement.

Elliston & Bowie (1982) further point out that, because of crowding, some sentencing judges who had in the past professed to believe in the rehabilitation of both the state and the county penal facilities, to admit to themselves that rehabilitation occurs rarely within these penal institutions.

The shortage of funding for the rehabilitation programmes within the penal institutions and the overcrowding of these facilities is seen to have made rehabilitation little more than a trite phrase with no substance a far cry from the goal of modern corrections.

It is said that judges had to seek alternatives if rehabilitation is to be retained in the judicial sentencing philosophy. Sentencing judges had been forced to face one additional problem of the premature release of inmates housed in state penal facilities.

As a result of federal court orders prohibiting overcrowding in penal facilities, state correctional personnel have sought to alleviate the overcrowding problem by means of premature release of inmates. This is said to have caused many citizens to feel that criminals are being dumped back into society.

Ellison & Bowie (1982) identify the overcrowding of penal facilities and the resultant early release of inmates, as other means of additional anxiety upon sentencing judges.

The researcher shares the same sentiments as Ellison and Bowie (1982) in that, one of the basic principles used to justify penitentiary confinement have been a believe in deterrence. Now, because of the overcrowding problem, some sincere sentencing judges have been forced to abandon the deterrent principle as a justification for penitentiary confinement.

This is as a result of them having been unable to get prisoners into the penal institution, or because of those inmates who happen to be referred to penal institutions are released in a relatively short period. It is the submission of these authors that, because of the last mentioned, any deterrent effect that might have existed has been reduced or otherwise destroyed completely.

The researcher would further like to believe that; judges who have once relied heavily on penitentiary confinement, have found themselves stripped of one of their major sources of criminal control.

This problem of overpopulation is believed to have caused greater reliance upon the probation system. This however, is seen not to have solved the problem; fore the probation system was overburdened even before this increased case- load.

Durham (1994:47-54) aligns overcrowding with increased violence, which he declares to be most unavoidable. There is as well another very crucial

fact brought to light by Durham that, some effects of overcrowding may not manifest themselves within the institution, but appear after the inmate has returned to society, and no longer under careful observation. These shall most probably be the psychological impacts of living in crowded conditions.

The writer quotes an example of the behaviour of rats under crowded conditions. He says that rats appear to become more aggressive, and have an elevated level of altercations with other rats.

The above scenario seems to be having a bearing upon human beings as well. In our own personal lives, many of us are said to have experienced circumstances where we felt disturbed by the crush of too many people. Examples to this effect are that of a crowded bus, a packed party, or a jammed rest room.

Another scenario is that of large cities, like New York City, which has a reputation of being crowded as well as generally aggressive and hyperactive places.

The researcher would share the same sentiments with Durham (1994) when he says that, crowding creates elevated levels of uncertainty, unpredictability and interference with goal achievements. It is argued that, this in turn creates heightened anxiety and fear, which lead to acts of aggression.

Durham codes Obie Clayton and Tim Carr in page 48. of his text in this regard. He says that after examining prison rule infractions, including those involving violence, found them to be strongly related to crowding.

A further study was conducted in Mississippi prison at Parchman. The finding was that inmate-on-inmate assaults decreased when prison population dropped significantly. Based on this information, one would be correct to predict that most crowded institutions has a likelihood of a high misconduct rate in general terms.

Durham casts no doubt on the fact that increased prison population without increased facilities has association with increased deaths, suicides, disciplinary infractions and psychiatric commitment rates.

He further draws our attention to a study conducted by Gerald Gaes and W.G. McGuire who compared inmate age composition and the rate of inmate turnover with population density to explain prison violence. They found crowding to be the most significant factor.

It shall therefore make sense to any rational thinking person that, institutions housing significantly more inmates than the designed capacity, would more likely have high assault rates.

It is of significance to note that, all the above-mentioned are based on research findings. It is a given fact that most of these studies have been challenged, and that not all on overpopulation would find it to be a major factor responsible for increased violence.

A comparison of two possible explanations for increased violence conducted by Sheldon Ekland-Olson in the crowded Texas penal system,

based on crowding and the breakdown in social control, found the contrary. This study concluded that both inmate-on-inmate, and inmate-on-staff assaults were more heavily attributed to the breakdown in social control subsequent to court-ordered changes in prison conditions, and operations than by crowding alone. Nonetheless, more weight on current evidence suggests that violence and crowding are related.

Durham (1994) relates overcrowding with early release. This makes sense to the researcher, and so will it make sense to any rational person, as the rationale behind is simply to create space for new admissions.

As stated by Durham (1994:52) the public has not always been delighted with the practice. An excellent example to this effect is the early release of Willie Horton, which was questioned by George Bush when he challenged the democratic candidate from Massachusetts, Michael Dukakis, to explain why Massachusetts released Horton on furlough before conclusion of sentence. This was questioned after Horton went to Maryland and committed serious crimes during his furlough.

Another effect of overcrowding would be the effect of expensive litigation. This would result from inmate's suits against the state as court rulings have created a variety of legal obligations to meet basic living standards within penal institutions (Durham 1994).

Bartollas et al. (1983:232) are of opinion that overpopulation impinges on everything else. They make mention of high level of control needed with rather double than single ceiling. It is said that there is more idleness

among inmates because of insufficient jobs and programmes. Institutions are said to deteriorate more quickly when overcrowded, and more dietary and medical problems exist in overpopulated facilities.

The researcher would concur with the statement that inmates turn to have a higher degree of frustration, and hostility while staff turn to have lower morale and less job satisfaction. Our attention is further drawn to maximum-security prisons. It is said that they turn to be commonly dark, dingy, deteriorating, depressing dungeons, and turn to be more difficult to manage.

Carney (1980:178) identifies idleness as always having been the bane of prison existence. He maintains that overcrowding strains programme resources, exacerbates discontent, worsens tensions, and delimits the participation of inmates in treatment programming.

Like other authors referred to previously, Carney (1980:183-187) shares the same understanding by aligning overpopulation with violence, which in his particular instance categorizes violence in; sexual violence, gang violence, the aggressive altercations which are a feature of prison existence, and the violence by the system against the captive inmate population, and prison gangs.

6.4 SUMMARY.

The focus of this chapter has been the effects of overpopulation. As stated in the introduction, overcrowding has negative effects not only upon human beings or inmates, but almost every species.

The stipulations of the Constitution versus those of the Correctional Services Act, Act 111 of 1998, received some attention. It became therefore clear that; overcrowding clashes with the clause of humane detention and or treatment of inmates in terms of both the Act and the Constitution.

It is because of the above mentioned that, inmates as in the cases of Ruiz v. Estelle, Abdul Walt v. Coughlin and others had justification in taking legal steps against the respective Departments of Corrections.

On the other hand, it is the researcher's submission that a balance needs to be struck between the various objectives of incarceration, i.e. protection of society, deterrence, rehabilitation and or reformation, and "just desert", which is retribution, and alleviating overcrowding.

It is the researcher's further submission that, any government of the day should be very careful not to sacrifice the tax payers safety; upon which any government has an obligation to protect, at the expense of law breakers.

It is a very scary situation which overwhelms the mind of the researcher if, the South African government will ever be blinded by overcrowding at the expense of its citizens.

The researcher's fear is that law-abiding citizens will eventually lose faith and trust in the government's maintenance of law and order. Eventually, people will resort to revenge, avenge, while others will turn to be law-breakers, for a greater majority of society has already this concept that crime pays.

This is said for those incarcerated are set free for the sole purpose of creating space for other lawbreakers, as that is the last resort or option.

The next chapter will pay attention to factors, that makes a difference between the artificial prison life, and real social life, which the researcher aligns to this problem of overcrowding.

CHAPTER SEVEN.

SOCIAL VERSUS ARTIFICIAL PRISON LIFE.

7.1 INTRODUCTION.

In the previous chapter focus has been on the effects of overcrowding. It became very clear that overcrowding is not just unhealthy in the prison set up, but in any sphere of life as outlined in the said chapter. The message to be derived out of this lesson is that, overcrowding should be avoided at all costs.

Technically speaking, the artificial prison life turns to be another contributory factor to overcrowding. It is the researcher's submission that the environment (prison) in which inmates are to be rehabilitated is far different from real social life. It is therefore sense making to close this gap for realistic reintegration; furthermore, to inflict punishment in context as shall be proposed in chapter nine.

This chapter compares social life with the artificial prison life, and analyzes possible contributory factors, which most probably play a crucial role in recidivism with the end result of overcrowding.

The bottom line that the reader should not make a mistake of forgetting, is the fact that inmates are human and hold human dignity and need to be treated with the necessary dignity and respect, as stipulated in Act 108 of 1996 (Constitution).

The research will look beyond the South African borders and compare the state of affairs in places like Belgium, and others with the aim of influencing the South African Corrections otherwise.

7.2 LOSS OF FREEDOM.

The researcher would, without any doubt in mind mention that, the first loss of an inmate's freedom was even before he could be admitted into the correctional system. Reference is hereby made to the moment of his apprehension, let alone being admitted as an awaiting trial inmate, even worse when admitted as a convicted one.

I would align myself to what is seen as the greatest single deprivation suffered by an inmate in prison, being his freedom. Besides being locked up behind bars, the inmate has further restrictions besides being confined to the prison environment. His movements are further restricted by control and security.

This is in the light of authors like Johnson 1978, p. 447; Berkley, 1976, p. 389. in Nesor et al. (1982, p. 60).

In accordance with Inciardi & Haas (1978, p. 321) the fact of being restricted is not so hard on the prisoner as the awareness of being cut off from family and friends. Rightfully so, as they maintain that it is not by voluntary isolation of the hermit, but against his will isolated in the community of criminals.

It is the researcher's submission that outside, i.e., free social life is quite different in relation to life behind bars. One does not live in a community or society in which people are classified as criminals, though it is an undisputed fact that there is a significant number of criminals in free society.

If other people are or may be criminals in any given space, where one might find himself that may not be known. If it does happen, it will most probably be in isolated instances.

Social life is very diverse in terms of sex, race, colour, belief or in any material dimension. It is only in a prison criminal gang and police-lock ups where one would find people with almost one mind frame, i.e. criminal. Naser et al. (1982, p. 60) view such an isolation as frustrating and painful in terms of emotional relationships, loneliness and boredom.

What is termed to be worse is the fact that, imprisonment represents deliberate moral rejection by society. Peterson & Thomas (1975, p.15) maintain that this moral condemnation forms a considerable part of the psychic hardship that punishment involves.

The researcher is of the same understanding as Naser et al. (1982, p. 60) that to be trusted by one's fellow-men is a basic human need, and society's skepticism is brought home very forcibly by a term of imprisonment.

How do you as a rational reader, isolate yourself from the fact that loss of status and of civil rights and privileges are potent factors, but that the most grievous loss is the confidence of one's fellow-men.

The above-mentioned loss can, in a majority of cases do great harm to the confidence of the inmate's ego. Based on the fact that people have been and shall ever have different viewpoints, some may differ, but to the vast majority, it is without any doubt a real deprivation.

7.3 LOSS OF GOODS AND SERVICES.

No inmate is by prison law allowed to have his personal belongings in prison. Reference is hereby made to huge personal belongings like motorcars, bikes, furnisher, and caravans, ect.

These are material possessions, which have much to do with a person's self-esteem.

In accordance with Berkley, 1976, p. 389; Sykes, 1971, p. 69, in Nesor et al. (1982) many inmates are better off in goal than in the competitive outside world. Nesor et al. (1982, p. 60) maintain that, the prison environment meets only the most basic physical and psychological needs.

Levine et al. (1980, p. 324) who shares the same sentiments with Peterson & Thomas (1975, p. 55) maintain that the living standard in prison is totally inadequate as it fails to supply that little bit extra that suits the inmate' personality or gratifies his personal taste.

Chamelin et al. (1979, p. 402) see the deprivation of goods and services as a blow struck at the very essence of that person's being.

Neser et al. (1982, p. 61) confirms the above to be true on the basis of the fact that when poverty or loss of possessions and services cannot be blamed on "fate" or on a general catastrophe. It makes sense to understand that, when poverty or loss is as a result of his behavior or misconduct; it becomes an indictment of his fundamental self-esteem.

The researcher would align with the fact that few can assimilate to make their peace with a disappointment of this kind, therefore would rather tend to rationalize. Inmates are no exception to this reality.

7.4 LOSS OF HETEROSEXUAL RELATIONS.

Reid (1976, p. 610) sees the inmate in a very difficult situation by being rejected by society and deprived of possessions and simultaneously being in a figurative sense emasculated by his enforced isolation from the opposite sex.

There is according to Sykes (1971, p. 69; Inciardi & Haas 1978.p. 34) this school of thought that sex drive is weakened by captivity and that the sexual frustration of convicts is therefore less powerful than it would appear.

In accordance with Linder (1951, pp. 5- 20) this view is derived from studies of the sex drive in extreme conditions of captivity such as concentration camps.

It would therefore be correct to say that in such a case, life is reduced to a mere battle for survival by factors such as torture, famine and physical exhaustion.

It is confirmed that such conditions may indeed result in apathy; but they are definitely not characteristic of modern prisons or correctional centres. The understanding should therefore be that, there is no justification for concluding that captivity in general reduces the captive's sexual motivation.

Berkley (1975, p. 390) maintains that access to mass media, contraband pornography circulating among inmates, and such like stimuli, result in a constant activation of sexual impulses.

The researcher would quite concur with this author on the fact that, the absence of heterosexual intercourse is a frustration that inmates find very difficult to accept; equally correct to understand that a small group of homosexuals among them would, of course not be affected.

Neser et al. (1982, p. 61) see the latter as victims or safety valves of dominant aggressors who temporarily resort to this kind of malpractice to relieve their personal frustrations and sexual needs.

Reid (1976, p.614) refers to marital visits having being hailed to try to resolve the problem, but turned not to be an ideal solution.

The researcher would share the same sentiments with Reid; in that, such a

practice might offend public opinion, and that it may even aggravate the tension caused by sexual frustration.

Sykes (1978, p.524) sees the psychological problems resulting from a loss of heterosexual relationships far worse than sexual frustration.

He maintains that in an exclusively male community, men become uneasy about their own masculinity, even if they have not been coerced, bribed or seduced into open homosexuality.

It is further mentioned that latent homosexual inclinations may be activated, even if not openly expressed, and that guilt feelings may result.

The researcher cannot argue the fact that when an inmate resorts to a homosexual act under the pressure of sexual tensions, guilt feelings may have a powerful effect on his self- image (Sykes ,1978).

Johnson (1978, pp.400-401) says that, over and above the problems arising from sexual frustration, lack of normal heterosexual relations can threaten an inmate's self-image in various ways. He states, rightfully so that, he is cut off from the world of the opposite sex, lives, moves, and has its being, and by its very dissimilarity does much to confer meaning on a man's existence.

The researcher finds it equally true that, like most other men, the inmate must find his identity not only in himself, but also in the image of himself that he finds reflected in the eyes of others. Johnson (1978) maintains that when a significant portion of his "audience" is missing, a possible risk that

his self-image may-be incomplete, broken, monochrome and devoid of the nuances of reality exists.

An inmate's self-image is limited to that part of his personality that is recognized and appreciated by others, and that his partial identity, becomes confused for lack of the contrast provided by the opposite sex.

In accordance with Judith Resnik in James W. Doig (1983, pp. 109-120) the physical separation by gender corresponds to notions that women and men are different "kinds" of prisoners and need different facilities.

It is mentioned that these concepts are relatively modern, before prior to the early 1870's inmates were not classified by sex in the United States Corrections, nor in most instances by other criteria, and that they were not housed in separate facilities.

Judith Resnik maintains that sexual segregation of inmates does not advance any appropriate purpose that underlies incarceration. She is of the opinion that, sexual segregation does harm to the emerging, but still fragile societal value of sexual equality. She sees the policy of separating male and female inmates working to deprive both male and female inmates of a full range of facilities, services, and opportunities.

She maintains that segregation is generally rationalized as necessary for women, the objects and victims who must be removed from men.

She further maintains that, even if equality of services were achieved in sex-separated facilities, the continuation of gender-based classifications

would continue to cause harm by perpetuating sexual stereotypes that degrades both sexes.

7.5 LOSS OF SECURITY.

It is the researcher's submission that there is a technical difference with regard to loss of security, i.e. comparatively speaking between social and institutional life. The understanding should therefore be that, normal life in broader society bears some measure of insecurity in relation to life behind bars, which is also not hundred percent secure.

The reader is therefore urged to see the above aspect in the light of Daudistel et al. (1979, p. 321), and Caldwell & Nardini (1977:293). They maintain that society restrains the offender's criminality by confining him for varying periods in the company of other criminals. It is equally true that some of them are veterans of a lifetime of violence and aggression.

Neser et al. (1982) draw attention to the fact that it becomes a nerve-racking affair to be consistent in the company of professional thieves, rapists, murderers, aggressive homosexuals and other hardened criminals.

In the light of the above mentioned, Inciardi & Haas (1978, p. 327) and Berkley (1976, p. 391) see the crucial aspect of this reality as the inmate's strong awareness that at some point he is going to be put to some test.

Given the above scenario, it therefore becomes obvious that he shall have to defend his person and or possessions. Failure on his part would most

probably turn him to become an object of derision and contempt. Reality is that he can expect to be constantly under attack. Social life would not necessarily carry the same danger. At the same time, one cannot guarantee a hundred percent safe environment in the correctional centres, with the exception of an inmate placed in an isolation cell for a specific period for some reason of course.

7.6 THE CONTAMINATION PROBLEM.

The Correctional Services Acts, i.e. Act 8 of 1959, 2(b)(a) and Act 111 of 1998 (3)(2)(a), advocate the establishment of, otherwise the mandate for the existence of Department of Corrections in South Africa.

It is the researcher's opinion therefore that, amongst other obligations of this Department, is ensuring that there is no contamination problem within its correctional centres. Should there be any, it should be kept to its minimum and be managed accordingly.

One would most likely ask this question; as to how does Correctional Services see to the realization of the last mentioned situation. The answer is very simple; inmates are according to both Acts, i.e., (CSA ACTS 8 & 111) respectively, to be separated accordingly.

Males and females, youth and adults, awaiting trial and sentenced, and where practicable, first offenders and hardened offenders, those with further charges from the rest, and those with contaminatory diseases from the others, ect.

The above-mentioned endeavours are among other measures used to avoid the contamination problem. One would of course not be telling the truth to say that it does not happen. Among other reasons why the Department cannot guarantee a hundred percent compliance, is the budgetary constraints that makes it extremely difficult as it disallows proper and adequate facilities, infrastructure and human resources.

Neser (1982) maintains that prison conditioning may be either positive, or negative. He justifies the negative conditioning in the assimilation of prison culture by the inmates, and the positive expressed in efforts to influence the prisoner to be law-abiding. He further mentions that inmates begin to attach new meanings to things that used to be taken for granted, for reasons, amongst others of having been stripped of many of the symbols of personal identity.

In accordance with Bersani (1970, p. 484) the under mentioned factors highlighted the risks of negative prison conditioning, namely:

- Long sentence, which means a protected term of subjection to negative prison conditioning.
- Instability in the personality.
- Lack of positive relationships with anyone outside the prison.
- Readiness to be absorbed into a primary group within the prison community.
- Blind or literal acceptance of the morals and dogmas of such a group.
- Risk of being placed with other prisoners with a similar orientation.

- Readiness to take in deviant behaviour in the prison community, like gambling or abnormal sexual relationships.

The researcher has no reason to dispute the fact that, the overall effect of negative prison conditioning is to shape a personality that generally conforms to prison demands and expectations which, on release will be in conflict with law-abiding norms.

Peterson & Thomas (1975, pp.127-129) maintains that prison life is generally felt to be an experience of criminality. And further see prison as a breeding place of delinquent behavior.

Prison experience is therefore aligned with the experience of a child in the family and in society. It is said that, like the experience of a child in the family and society, may be enough to form attitudes, values, behavioral patterns and related experiences.

7.7 LOSS OF AUTONOMY.

Along with loss of physical freedom, goods and services, heterosexual relationships, and security, is deprivation for one to decide for himself and make own decisions. As an inmate the prison authorities must decide for you, you liking it or not.

Honestly speaking this does not promote a sense of responsibility in an inmate, as he should, in a majority of cases to wait to be told what, how and when to do something.

It is the researcher's submission that this is frustrating, belittling, degrading and stressful, more especially as there would most probably be instances where one would take better decisions, but because of being a prisoner you find yourself being bound to conform to these conditions.

It is the researcher's view that; inmates should be given responsibilities and be let to account for their respective actions, as in outside life. The above scenario has, in the researcher's opinion, a stereotyping effect that turns an inmate into being too dependent. Social life is the direct opposite of this culture.

The above-mentioned set-up has a recidivistic effect upon inmates in that; officials are not there in the prisoner's social encounter, so as to tell him what, how, when and so forth. It is the researcher's view that the poor ex-inmate feels psychologically lost and lonely thus easily becomes pray to crime.

In accordance with the Viljoen Commission (1976,p.76) institutionalization deprives man of his sense of responsibility, initiative, drive and self-discipline, with the result that one becomes a passenger for the duration of his incarceration.

The above mentioned confirms the researcher's submission that, normal free communal life is the direct opposite of prison life, and that this kind of life conditions inmates to be extraordinarily dependent. More especially to those who find themselves having to serve lengthy sentences.

Sykes (1978, p. 524) sees a welcome relief to a person who is suffering the effects of his own lack of self-control. He sees a requirement upon the comprehensive control by the superego that relieves many of the anxieties spawned by an awareness of impulses that constitute a threat.

Neser et al. (1982) point out that there may be a prisoner here and there who welcomes strict control, as a restraint on deviant behaviour over which he himself has no control. On the other hand, the vast majority is seen to be hostile or negative towards this far-reaching dependence.

7.8 STIGMA AND DISGRACE.

In as far as the above is concerned, Singh (2004:170) sees the whole process of being arrested, court appearance and being sentenced to prison as traumatic, more especially for first offenders. She further says that, it is a deeply humiliating and degrading ordeal for many.

Besides being the layman's understanding that imprisonment is for protection of society, it has been one of the main objectives of incarceration before the twenty-first century. In line with what is said by Singh (2004), that the offender who is sentenced to imprisonment becomes aware of his low status to which he has sunk, and of the stigma that is attached to imprisonment, and that he, as society would view him, would regard himself as worthless and being rejected.

The researcher would match that with first offenders who mostly fall prey to crime commission due to forces beyond control, i.e. those who do not feel proud of committing crime and gain status by so doing. Significant hero criminals label those who do, heroes.

The researcher would technically differ with the views of Holt and Miller in Singh (2004:170) when saying that, the involvement with the criminal justice system affects the inmate's social relations negatively. Mention is hereby made of former friends and family members being less willing to become involved as a result of the arrests and conviction that brings about a certain social stigma.

As already mentioned above, the researcher would fully concur with the above statement only in cases of those family and friends who are law-abiding, and do not align themselves with any anti-social activities.

Contrary to what is quoted as stated by Steyn in Singh (2004:171), the researcher would like to advance an opposite approach. In accordance with Steyn therefore, I quote "There can be little doubt that the fact of incarceration, and deprivation of freedom, the awesome discipline of the prison within the impersonal institutional environment, the stigma of having been in jail, and the separation from family and friends, are consequences of a prison sentence which almost all accused persons try anxiously to avoid" unquote.

It is the researcher's view that, the above dispositions are, rather than being the consequences of the prison sentence, the consequences of the

respective offenders crime commission. The researcher maintains that, imprisonment is a “conditio sene qua non” of crime commission.

The researcher fully concurs with what is stated by Singh (2004:171), supplemented by Howard (1994:1) and Flanagan (1995:149) that, families feel stigmatized by the incarceration of a family member. Examples cited in this regard are namely wives of spouses incarcerated, and those who are of ex-convicts become stigmatized, unless of course they live in crime familiar communities.

The researcher would like to extend this stigma to the kids and the extended family members of such people. This becomes a worse scenario in cases of school going kids as it has potential of juvenile delinquency. The child feels different from other children whose parents are prominent and law abiding. In the process, the affected child feels embarrassed, ashamed and an outcast, thus lose concentration and becomes upside minded. Most obviously such a child would eventually perform bad and become a laugh stock of his peers. The end result of this scenario would without any doubt be to dodge school and join those in the streets; fore they would be inclined to talk the same language. Imprisonment of such a child becomes the end reality.

From the above background, it is empirical that parents, close relatives and adult citizens be role models of the young ones at all times.

7.9 SUMMARY.

The reader will realize that, after having perused this chapter, one becomes aware how much difference prison life versus normal communal life entails. This will trigger a rationally thinking reader to understand, among other reasons why such a high rate of recidivism.

The researcher is an advocate of bringing this huge gap between institutional and free social life as close as possible, with the end result of lowering the recidivism rate and endeavour to rehabilitate inmates in an environment which does not much vary from real social life.

It is the researcher's submission that, the South African inmates have a lot to lose by law-abiding. As mentioned previously, the very victims of crime must maintain the inmates and cater for all their material needs while incarcerated, instead of them paying for their respective needs and fully contributing to the victims of their respective crimes, like those in Denmark and elsewhere.

Another major right they have in the South African context is the fact that they still have a right to vote, as it happened in 1994.

If one looks at the situation of Denmark, you will understand that Ringe Prison is on the right track, and that it is possible that some of these restrictions can be lifted. You will as well understand that, most of these restrictions are not in any way enhancing rehabilitation, but contribute to the contrary.

In conclusion, the researcher would like to refer to Roberts (1974, p. 143) who happen to share the same sentiments, namely that, the Reintegration Model possesses a complex and dynamic structure, as well as the under mentioned characteristics:

- Concerning the inmate's change of attitude and behaviour, strong reliance is placed on correctional internalization.
- There is close liaison between the institution and the community.
- The need for social reform in institutions in order to narrow the gap between institutional life and the community.
- The inmate becomes involved in decision-making.
- Both professional and custodial personnel are involved in the treatment process, and that this forms the basis for the development of a therapeutic community in the institution.
- The community is implicated in attempts to successfully reintegrate the offender into society upon release.

The next chapter will look into possible solutions to overcrowding and recidivism.

CHAPTER EIGHT.

POSSIBLE SOLUTIONS TO OVERCROWDING AND RECIDIVISM.

8.1 INTRODUCTION.

The overcrowded correctional centres in South Africa have proved to have hampered, and still hampers the application of the rehabilitation programmes, the assurance of a higher degree of the inmates personal safety, spreading of incurable diseases and a lot other anti-social behavioural tendencies, such as gangsterism and others.

This state of affairs cannot continue indefinitely without being addressed. This chapter will therefore try and address this problem and propose possible solutions in this regard.

In so doing, focus shall most definitely be on the justice system, the Department of Correctional Services, the community, and all stakeholders composed of in the community, like families, victims of crime, educational institutions, other government departments, e.g. Departments of Social Welfare, Labour, Health, etc.

It is the researcher's opinion that, it is not every inmate who by all fairness, should be incarcerated. Reference is intended to mainly minor first

offenders, convicted of non-serious offences and adults convicted for first minor offences. Justice Cohn in SACJ (1992) 3 SAS. p. 237. is of the same opinion.

The researcher would like to extend this concession to awaiting trial inmates who do not pose a threat to society, and for whom there seem to be some measure of hope; that they will most probably not evade bail conditions should they be granted bail. Besides, a further focus shall be on alternatives to incarceration as a vehicle to address overcrowding. A further look at the current rehabilitation programmes, as highlighted in chapter eight of the research proposal.

8.2 THE JUSTICE SYSTEM.

It is an undisputable fact that, for any person to be in prison he must have been either convicted or otherwise accused of having contravened one or more of the laws of this country.

A challenge is hereby put to the Department of Justice to consider decriminalizing some of the offences in terms of the Criminal Procedure Act, Act 51 of 1977, section 40 (1) and or in terms of Civil Law, other omissions and or actions of any relevant stipulation, which has a potential of placing someone behind bars on conviction.

The above mentioned has a clear potential of indirectly addressing overcrowding at a primary stage. Should these proposals be considered, the reader can be assured that it will not be the first with South Africa to resort to these solutions.

Neser & Takoulas in the (Magistrate - Prison overcrowding, pp. 139-140) support this argument. They are of the opinion that, decriminalization or depenalization of petty offences, such as possession of small amounts of cannabis and other misdemeanors may contribute towards lowering overpopulation. They go on to say that; decriminalization (*rescinding illegality*) may be defined as a process whereby previously legally culpable behaviour loses its unlawfulness. What is important with the above proposal is that, the system of depenalization may then be applied whereby the form of behaviour is still an offence, but the reaction to it takes a non-legal route.

They maintain that this system have been advocated since the 1976 Viljoen Commission, but was never implemented. They are of the opinion that the control of victimless crimes by criminal sanctions and jailing is singularly ineffective and corrupting.

It is therefore the researcher's submission that, the Judiciary consider the possibility of abolishing some of the offences as criminal and if not, look into the passing of legislation, which shall exonerate individuals convicted of those misdemeanors from incarceration and alternative penalties be the answer.

Regarding the above mentioned, the researcher would rather propose the under mentioned:

- Smoking or dealing in dagga, but punish unlawful acts committed under the influence of dagga. The researcher would like to mention

that, there are instances where some people who have smoked dagga act lawfully, like singing, playing sports, sleeping, being friendly and joking, ect., even thou this category of people are in the minority;

- Trespassing without any additional offence committed;
- Perjury of a non-serious nature;
- Public disturbance, e.g. urinating in public, two people fighting bare handed with minor injuries on the other party;
- Contravention of section 9 of Act 16 of 1963, in minor or less serious cases;
- Contravention of section 319 (3) of Act 56 of 1955,
- Bribery of a non- serious nature,
- Public indecency,
- Keeping a brothel, (possibility of legalizing brothels),
- Prostitution,
- Violating a grave (culprit to pay for damage and or work at graveyard as penalty),
- Bigamy,
- Common assault, (culprit fined otherwise compensate crime victim),
- Rape in cases of married couples,
- Malicious injury to property (compensate victim monetary or ordered to replace damaged property, if property belongs to the victim, he be ordered to pay court costs, and that the insurance claim in that respect not be settled),
- Same as above in cases of Arson, and the
- Unlawful cutting of trees, ect.

Among other alternatives and possible solutions towards the above challenge of overcrowding, Naser & Takoulas (1980) propose the under mentioned:

- That focus be on the sentencing policy, and that the need be to extend the range of penalties to have a continuum of sentences, correctional supervision and other options.
- That sentencing policies provide a strong fiscal and penological rationale for making less use of imprisonment.

As in the case of the American Ribbon Commission, increase emphasis on intermediate sanctions as would suggest four practical strategies, namely:

- To keep less serious offenders out of secure facilities,
- Make more programmes available for those in custody and for working with offenders in the community,
- To establish new community correctional centres, and
- Day centres be established and that offenders be obliged to attend, which may include community service; the result being that magistrates and judges be able to select the precise form of punishment best suited to each offender, relating to the severity of the offence.

Relating to the above mentioned, courts in the United Kingdom could refer offenders to a day training centre, which was operated by a probation service, and permitted the police to take drunken offenders to a treatment centre for detoxification rather than to court, of course depending on the crime committed.

These centres are designed primarily to remove persistently petty offenders with a range of social problems from prisons.

Among other advantages aligned to alternative sanctions instead of imprisonment is that, it has a financial saving potential.

As pointed out in this text, South Africa has not kept pace with international trends and developments regarding alternative sanctions:

- Restitution and victim compensation schemes.
- Probation, suspended sentences and community service orders particularly for first offenders.
- A marketing campaign to increase awareness of the need for alternative sentences. The central theme is therefore to educate the public on the benefits of community involvement in corrections, among others; the fact that it obviates the inherent compounding negative effects of imprisonment.
- Release of inmates on correctional supervision.
- Release of non-violent offenders up to six months before actual date of release.

- Sentencers impose shorter prison terms.
- It is further stated that research findings indicate that longer prison terms proved to have a less crime reducing effect than shorter sanctions, and that positive consequences of imprisonment occurs in its early stages.

8.2.1 THE USAGE OF COMMUNITY COURTS.

This alternative, Naser&Takoulas (1980) maintain; may alleviate unnecessary pressure on the criminal justice system in South Africa.

With regard to awaiting-trial inmates, the under mentioned are recommended, namely:

- 1) The introduction of an easier-accessible *legal aid system*. In explaining the above mentioned, the researcher would say that, it is a system used in the United Kingdom whereby lawyers are on call so as to consult with a defendant as soon as possible after arrest (services paid at state expense), and negotiate his immediate discharge in deserving cases instead of locking him up at that point.
- 2) Creating a system whereby independent and or private bailsmen can operate in attempting to obtain bail for the accused. This system is used in the United States.
- 3) The creation of posts for state-appointed bail officers, whose task shall therefore be to assist the accused in securing bail and verifying information supplied by the accused person as in the United Kingdom.

- 4) Bail-hostels to be introduced in the community for the benefit of the awaiting-trial accused who do not meet bail requirements.
- 5) Shortening the period between admission and judgment or sentence.
- 6) Applying better methods of selection or assessment.
- 7) Encouraging an arrested person to make further application after an original rejected of bail or release on own resources.
- 8) Consideration of the population-sensitive inflow strategy, and
- 9) Prison accommodation be used or reserved for the most serious cases and be used only as a last resort, and as a means of incapacitating dangerous criminal elements.

In line with what Bowker (1982, pp.20-21) highlights, the researcher finds it another very viable solution of reducing crowding at a stage immediately after apprehension. What happens here is that suspects enter the courts at a point of their initial appearance, which occurs very quickly following arrest. The initial appearance is conducted before a commissioner, magistrate, or justice of the peace. The formal notice is then filed, and the suspect is advised of his rights. Bail is set where appropriate and deserving. It is important to mention that; if the offence is a minor one, a summary trial may be conducted at this point without further processing in the criminal justice system.

In cases of juveniles (Bowker) says that they enter the judicial system in the intake hearing, at which a probation officer decides upon the desirability of continued criminal justice system. The latter is the practice in the United States.

The researcher would further recommend work-release programmes. Bowker (1982, pp. 374-375) points out that work release is generally used in the final six (06) or twelve (12) months before release. Another argument may be that these offenders may commit offences before their actual releases, which is a possibility of course; but if one looks into the risk involved, you will realize that the risk may be very minimal.

There has to be a certain criteria attached to this type of option, as common sense should tell that it should not be applied blindly.

In accordance with Jarvis (1978:259-270) the following need to be considered:

8.2.2 FINES.

Reference is hereby made to Denmark who due to the same problem (crowding) faced by South Africa currently, resorted to fines as an alternative to incarceration to reduce overcrowding.

It is said that fines were firstly applied to supplement short-term incarceration, but that fines became an alternative even in felons as a result of overpopulation.

It makes sense to the researcher that in cases of felons, double-fines became the answer. The fact that if they fail to make the court-ordered payments, makes sense if institutionalization becomes obvious.

The researcher deems it of importance to note that such sanctions were imposed for serious offences against persons.

The same measures are recommended for the South African set-up, for the same reasons as the Danish.

As already stated previously, fines are commonly imposed on offenders as an immediate punishment for their unlawful acts or omissions.

In accordance with Senna & Siegel (1990), fines are mostly imposed for misdemeanors, but that there are instances where fines are also used in felonies where the offender benefited financially.

It should be understood that fines may be used as a sole sanction, or combined with other sanctions such as probation or confinement. Senna & Siegel (1990) point out that, judges quite commonly levy other monetary sanctions along with fines, such as court costs, public defender fees, probation and treatment fees, and victim restitution in order to increase the force of the financial punishment.

The researcher has no problem with the imposition of fines upon offenders, but would strongly recommend that courts look deeper into the potential or ability of the offender to can pay the fine so imposed, otherwise further arrangements be considered to pay the said fine in terms.

The researcher is of the last mentioned view on the basis of the fact that, this whole research is about possible solutions to overcrowding. Should fines be unaffordable, the objective aimed at will not be achieved.

One needs to further mention that before a fine is imposed, the court has an obligation of some homework, amongst others:

- The seriousness of the offence.
- The interest of society.
- Previous convictions.
- The prospects of the offender committing the offence in question, ect.

It is the researcher's submission that fines should only be considered in deserving cases. It would therefore make sense to say that fines should be considered without endangering those to be protected by law, simultaneously not making those who cannot afford to feel that law and order is only meant for the poor.

The message the researcher would like to send to the legislature is that, a balance needs to be struck between the objectives of punishment and alleviating overpopulation in our respective correctional centres.

8.2.3 GROUP COUNSELLING.

In the above category, lesser offences that resulted in incarceration such as shoplifting, driving under the influence of alcohol, obviously without any

offence committed, and numerous traffic violations are presently treated with success by the dynamics of group counseling, or encounter sessions.

As is the case with the category above, for repeated offences, the offender faces serious measures, as the court for such offences would fine them.

Jarvis (1978) brings to light that their incarceration is then suspended if they enroll in and attend an established encounter group.

Group counseling entails a weekly attendance by the offender and participation in such group meetings until the group leader shows evidence of the offender making progress towards self-mastery and self-understanding.

The offender is then to demonstrate to the court that he has successfully undergone the programme, and then the active sentence is dropped.

8.2.4 COMMUNITY ADJUSTMENT TRAINING.

The above is applicable to offenders who the court considers worthwhile to divert from incarceration, of course these shall be less serious crimes were offenders are send to a non-residence training programme once a week.

It needs to be understood that this route is followed after the offender is convicted, but before sanction is imposed. The probation officer, with the result that eventually, these offenders are sentenced to the above training, conducts some sort of investigation.

This category is applicable to young first offenders of non-serious misdemeanors. Instead of incarceration, these offenders are sent to community adjustment training. It involves group-counseling sessions with other offenders and participation in a pre-release training programme. Offenders receive in addition, twenty-seven hours of classroom training. Jarvis (1978) points North Carolina where this method is used with success.

Chapter three of this research bares enough evidence that South Africa faces a huge number of young offenders, most of whom are according to the researcher, do not belong to prison. It is therefore worthwhile to recommend the above method for our youth of the same category as highlighted above.

8.2.5 COMMUNITY SERVICE TEAM: PROBATION.

Jarvis (1978) points out probation as an alternative to incarceration. This alternative is used by the South African courts to some extend. The researcher would like an extended application of this option as pointed out by Jarvis, with its basic elements being:

- 1) Suspension of sentence.
- 2) A probationary period in the community.
- 3) The probationer's observance of the law and the conditions imposed by the court, and,
- 4) Supervision by a probation officer.

A lot other authors would most probably opt for the same sentence option for the same reasons and elements as mentioned above.

The researcher would like to highlight the advantages of the above sentence option, namely that:

- 1) It is a substitute for committal to a correctional institution.
- 2) Most persons committed to such institutions do return to the community, often comparatively soon.
- 3) The offender remains in the society where he can lead a normal social life and assume the responsibilities of law-abiding citizens.
- 4) There is a scope of contact with the opposite sex, family and relatives, plus various other social bodies that has potential of positive social influence than a correctional institution.
- 5) He can continue to support himself, fulfill his family obligations and compensate the victim of his crime should it be the ruling.
- 6) He is free from being stigmatized as a convict and prison life which might leave him better acquainted with the techniques and methods of crime.
- 7) His family and relatives who are probably the hardest hit by his imprisonment are spared the stigma of disgrace.
- 8) The offender does not stand alone in his efforts to adjust to society, but has the advantage of the probation officer, family and friends, and most probably other social bodies as well.
- 9) This option is cost-effective.
- 10) The offender is saved from contamination and possible institutional insecure environment.

It would therefore be obvious that a number of questions would ring in the minds of our courts before opting for probation, namely:

- How dangerous can he be to society?
- Would incarceration be beneficial to him, or would he be harmed by incarceration?
- Would probation be an acceptable and or constructive plan of action in the case concerned?
- Is his mental and emotional state such that he is likely to benefit from probation?
- Is he of the right attitude to probation and society so as to justify probation in his case?
- Would society, otherwise benefit by probation?
- What would society's attitude be towards his probation?
- What are the offender's future plans?
- Has he got any support system to make an appropriate start?

It is the researcher's submission as indicated in the previous chapters that, it is not only the attitude of the police that needs to change, but of a vast majority of magistrates and judges towards suspects and persons on trial respectively.

It is the researcher's wish that each arrest and sanction by the respective bodies be objective based. That can help prison population down and indirectly ensure that imprisonment be used as a last resort and in deserving cases only.

8.2.6 NONSECURE DETENTIONS.

With regard to juvenile offenders, Jarvis (1978) recommends the under mentioned:

Under this option, housing is either purchased or leased, and staffed by trained house parents, preferably young couples who can identify with the problems of juveniles in trouble.

These juvenile offenders are then brought to the home to become temporary family members. These non-secure detention homes are located in residential neighbourhoods. The youth assigned to them have the same privileges and responsibilities as they would have in their own homes.

They would therefore be managed by people who care for them and who are trained to assist them. From a common sense point of view, one will realize that these centres have a humane, compassionate and considerate approach in relation to jails or secure detention centres.

The researcher does not see any reason why South Africa cannot adopt this option, as this option bares all factors conducive to influence positive change in the youthful offender.

The researcher would further like to mention that the element of love, which most young offenders lack in the upbringing process, is supplemented. The latter is currently not the case in our South African set-up.

8.2.7 FOSTER HOME CARE.

Jarvis (1978) gives an outline of how this facility works. He mentions that experience has shown that in some situations antisocial behaviour can be treated in a home environment, and that in such cases, foster home care becomes the answer.

Common sense will tell that, this option is for those juvenile offenders without homes, otherwise single or both parental neglect or lack of the necessary resources to effect proper upbringing.

It is the researcher's believe that there are many such cases in our system. The negative influence that might be brought about by the stigma of incarceration and possible schooling by hardened criminals and habitual offenders is eliminated.

8.2.8 GROUP TREATMENT HOMES.

This option resembles the foster home care with the exception that, trained professionals who offer residents educational, psychological, and social treatment programmes operate it.

Among other advantages of this option is that, there is no overcrowding as it houses between five and nine residents within a treatment environment. In addition, the environment is as close to normal as possible, and the school experience is in the neighbourhood (Jarvis, 1978). For the fact that treatment homes are run by a group of professionals, it becomes obvious that it will be more impressive than the foster home care centres.

It should as well be clear to the reader that, treatment homes are often operated by a private agency that leases space to Corrections, or may be operated by Corrections in areas with many juvenile problems.

It is further pointed out that such homes offer courts additional facilities for troubled youths (Jarvis,1978).

For the same reasons, the researcher would advocate this option as an alternative in our South African Corrections.

8.2.9 COMMUNITY- BASED CORRECTIONS.

Jarvis (1978) points community-based corrections as the most viable option, given the dehumanizing effects of traditional prisons.

It is of course a known fact that, these kinds of alternatives face a lot of criticisms, fear, resentment and rejection from the public.

In his approach, Jarvis refers to halfway houses, Chemical Dependency Centres and group homes.

8.2.9.1 HALFWAY HOUSES.

In providing the reader with some background about the origin of halfway houses, Jarvis (1978) points out that they were residents for former offenders who had no families or homes to return to after release from prison.

It is also mentioned that they were privately financed houses for the

homeless who did not want to return to crime.

One will realize that during recent years, halfway houses have taken on new purposes and meanings. It would therefore make sense to say that their variety and roles are expanding as we seek alternatives to incarceration.

Jarvis provides the reader with the United States perspective in this regard. As a result, he mentions that the Federal Bureau of Prisons uses halfway houses as short-term community residences for offenders about to be released.

The researcher is delighted by the fact that, other agencies use them to house offenders participating in work release programmes. Halfway houses are as well seen solving specific problems, such as alcohol and or narcotic addiction.

Halfway houses are said to offer adult offenders an environment like the group treatment homes for juveniles. Contrary to our South African prison set-up, offenders are grouped between twenty and thirty. This would be offenders with common problems and goals, and that they offer a twenty-four-hour treatment environment.

We (South African Corrections) house an unlimited number of inmates in one cell, due to overpopulation, and disregard their specific treatment or rehabilitative needs.

The above mentioned has a lot of negative outcomes as pointed out in chapter six.

Among other advantages, halfway houses are said to center on group counseling and peer pressure, or on some form of behaviour modification. The community is said to offer professional help for these programmes.

A major problem of the operation of halfway houses is the fact that they operate mostly on a voluntary basis, which does not necessarily guarantee consistency, maintenance of standards and so forth.

The researcher would recommend the usage of halfway houses for the same advantages mentioned above, and that society be schooled and encouraged to offer both financial and professional assistance as far as possible. The researcher would further suggest that the offenders who are qualified and skillful be utilised as well with some sort of benefit on those concerned. It would further be appreciated if the offenders make monetary contributions were practically possible for their own respective benefits.

8.2.9.2 CHEMICAL DEPENDENCY CENTRES.

As an alternative to incarceration of offenders who are dependent on chemicals, the above mentioned option turns to be the answer, given the South African set-up, which is a mixture as explained in the previous chapters.

Jarvis (1978) puts it very clear that, for offenders who are convicted of crimes relating to drugs and alcohol, but do not need hospitalization, this option can serve their correctional needs. The fact that these centres are partly staffed by former addicts makes it even more interesting. The researcher would align this set-up with a "*set a thief to catch a thief*" principle.

8.2.9.3 GROUP HOMES.

Jarvis (1978) distinguishes between group homes and group treatment homes. He refers to a group home as a facility that has a larger population than a group treatment home, but fewer offenders than in an institution.

Group homes are said to be mostly designed to house juveniles or older youth, but also used in adult programmes. A group home is described as a small institution with a high ratio of trained staff to offenders. Programs are often operated by private agencies that sell their services to Corrections. Other group homes are said to be operated by the state for special offenders.

It is very interesting to learn that these programmes can be run in buildings no longer needed for their respective original functions. Reference is hereby made to military bases, nurse's quarters or a state hospital, school complex, a resort or farm. An example of Florida that extensively uses group homes for juvenile offenders is quoted. One similar experiment is said to be in use for both juveniles and adult offenders in Minnesota.

Port is what it is referred to.

The researcher is of opinion that this option can be successfully used in this country; moreover as there are many such buildings in South Africa.

8.2.10 PARTIAL INCARCERATION.

Jarvis (1978) makes reference to four (04) options, namely:

8.2.10.1 SPLIT SENTENCING.

A court may split a sentence into a short active period along with probation. It should be understood that this option would be applicable to minor first offenders only, preferably older youth.

The incarceration varies between thirty (30) and ninety (90) days, after which the offender returns home to complete the remainder of the sentence on probation.

If one looks at the advantages thereof, amongst others placing the youthful offenders into the institutional correctional environment, allowing them to experience some loss of freedom and the hardships of prison life for the said short period before being placed on probation, it simultaneously becomes a lesson to the offender.

This option has another very important objective of not exposing these young offenders to a school of crime, as would be the case should they be

incarcerated for years.

In addition to the above mentioned, the offender may be ordered to compensate the victim of his crime by the court.

The researcher does not see any good reason for not adopting the option, as it would address the problem of recidivism and overcrowding at the same time.

The role played by Correctional Services is that, these offenders are sent through the diagnostic process and treatment programmes. The treatment programme returns the offender to the community under probation. The probation officer and the community agencies develop a program to treat the offender locally.

8.2.10.2 WORK RELEASE.

This option is according to Jarvis (1978) allowing offenders to work during the day and return to prison after work. What is interesting with this option is that, it adapts the offender to real outside life by letting them to pay for their boarding and lodging to the local government and to earn money for their respective personal needs, and support their families.

The above mentioned are the realities of real outside life. Chapter two of the research proposal (pp.5-6) brings to light the same approach with criticisms to the contrary.

The researcher is a strong advocate of bringing outside life as close as

possible to institutional life, to avoid the current artificial institutional life; which has so many disadvantages which negatively affects the tax payers and victims of crime so drastically.

The researcher would therefore equally approve of this option, as it has been the researcher's dream to influence such changes in the current South African set-up. The victim of crime is not left out, as the offender becomes obliged to compensate him accordingly. Simultaneously, the offender gains his confidence and self-esteem, which are so crucial in the remobilization process. Readjustment becomes therefore an automatic thing.

The researcher would strongly recommend the above option as it has proved to be having so many advantages.

8.2.10.3 EDUCATION RELEASE.

Amongst other reasons why other people commit economic offences, more especially theft, as proven by a lot of research findings, is the fact that most are illiterate, unskilled or under qualified to find professional or well paying jobs.

Given the motives behind education release, one would understand why it is so important to consider this option. Jarvis (1978) gives the reader the North Carolina perspective in this regard and guarantees its success.

8.2.10.4 FURLOUGH.

The South African correctional system operates under very strict security measures, in that the above alternative is seldom considered. In certain practical situations, it happened many times that various an inmate's next-of-kin were buried with the inmate refused permission, the main reason being security.

Just imagine the psychological trauma faced by such a person, for as long as he exists. Let alone the antagonism and controversy he is subjected to because of such a deprivation to bury and pay his last respect to his loved one.

With the current approach of this department towards offenders, i.e. "every correctional official, a rehabilitator" this option needs to be considered, so as not to harden offenders up, but to allow them such chances. This should of course not be done blindly, but with due consideration of factors such as the relationship itself, the profile of the inmate for the period he shall have spent incarcerated at that time, ect.

It is common human error, to want to consider the inmate's past, before the current incarceration at the expense of his possible success chances currently.

The researcher would like to remind every stakeholder in the correctional business, and every interested party, not to forget that every inmate has potential to change, given the necessary support in all possible material respects.

8.2.11 PAROLE.

The researcher is not going to embark on parole as it is South Africa's most effective tool in the alleviation of overpopulation, and is comfortable with it.

The Minister of Correctional Services, Mr. Ben Skhosana had a serious problem with overcrowding and had to embark on measures to address this problem. In his budget vote speech, attended by the National Council of Provinces on 2000 June 08th, he pointed out some alternatives to incarceration, among others:

- Community corrections,
- Electronic monitoring,
- Multi-sectoral teams to identify blockages and devise solutions to the awaiting trial prisoner problem,
- Early release of offenders who have committed less serious crimes, after they have served a set minimum period of their respective sentences,
- Alternatives to imprisonment, which involves serving sentences in the community under supervision, and,
- Fast tracking of prison construction projects currently under way, and the use of Public-Private Partnership initiatives for provision of additional accommodation (APOPS).

8.2.12 SHOCK INCARCERATION.

Peak (2001:287) explains the above alternative by mentioning that it is a form of correction that, combines a brief exposure to incarceration with subsequent release on probation.

This option allows judges to reconsider the original sentence to imprisonment, and upon motion, to recall the inmate and place him on probation under conditions deemed fit by the court.

The idea behind this decision is to inflict "shock" of a short stay in prison, and deter offenders of institutional life, so as to avoid the negative effects of lengthy incarceration.

The researcher would recommend this option for first offenders convicted of non-serious offences.

8.3 CORRECTIONAL SERVICES ACT, ACT 111 OF 1998.

The State President may at any time authorize the placement on parole or unconditional release of any inmate, and may remit any part of the said inmate's sentence.

The Correctional Services Act, Act 111 of 1998 has means to address overcrowding. The stipulations of sections 79, 80, 81, and 82, are discussed hereunder:

8.3.1 SECTION 79: PLACEMENT ON MEDICAL GROUNDS.

The Commissioner has powers to release a prisoner serving any sentence on condition he;

- (a) Suffers from a dangerous, infectious or contagious disease; or
- (b) Whose placement on parole is expedient on the grounds of his physical condition, or in the case of a woman, her advanced pregnancy.

The above placement shall of course have to be on the recommendation of the medical officer. It should therefore be common knowledge that overcrowding is simultaneously addressed by this arrangement.

8.3.2 SECTION 80. SPECIAL REMISSION OF SENTENCE FOR HIGHLY MERITORIOUS SERVICE.

The above section is aimed at condoning inmates who displays extraordinary good behaviour or highly meritorious services. This special remission shall not exceed two (02) years either unconditionally or on such conditions as the Commissioner may determine.

It is the researcher's view that such remission would open some space of those so affected, and obviously address overpopulation to some extent.

**8.3.3 SECTION 81: SPECIAL MEASURES FOR THE
REDUCTION OF THE PRISON
POPULATION.**

This section has a direct bearing on overcrowding as it aims at reducing overcrowding.

Accordingly, if the Minister is satisfied that the prison population in general, or the population of a particular prison is reaching such proportions that the safety, human dignity and physical care of prisoners are being materially affected detrimentally, he may on the recommendation of the National Advisory Council, advance the date of placement of any prisoner or a group of prisoners on parole, subject to any condition he may determine.

8.3.4 SECTION 82: POWERS OF STATE PRESIDENT.

According to section (1) (a) + (b) of the above section of the Act, nothing in the Act shall affect the power of the State President to pardon or reprieve offenders.

This is another exercise that would indirectly address overcrowding.

Overcrowding is at times addressed on political grounds. One such example is attributed to the amnesty that was initially directed at political inmates in 1994, which ended up accommodating common law inmates as well.

The then State President, President Mandela decided eventually to restrict

amnesty to six-months general remission of sentence, which was granted in 1994.

It is common sense therefore that, this exercise alleviated overpopulation to a large extent.

8.4 PRESSURE TO BUILD NEW PRISONS TO ALLEVIATE OVERCROWDING.

The researcher would concur with the idea of building new prisons, as it was the case in 1995 when Paarl, Worcester and Umzinto prisons were built with the estimate of R50 000 000, and were completed in September of the same year. These institutions had to house an estimate of one thousand, one-hundred-and-fourty-eighty (1148) inmates.

A further four were to be built at Porterville, Goodwood, Malmesbury and Pietermaritzburg at an estimate of four-hundred-and-seventy-four million rand (R474 000 000). These institutions were projected to house five-thousand, five hundred-and-fifty (5 550) inmates Steve Pete, (SACJ.1998, p.11. SAS.p.60).

The understanding should therefore be that, the government is obliged to protect its law-abiding and tax paying citizens against any criminal and or civil activities.

8.5 PRIVATIZATION AS A MEANS TO ALLEVIATE OVERCROWDING.

The Minister of Correctional Services raised the issue of privatization of prisons for public debate in May 1996.

The researcher would like to bring about proper understanding of what entails prison privatization to the reader.

Prison privatization refers to varying types of and degrees of private sector involvement. The general format is that the state pays for the costs of incarceration and the private sector provides various services.

The most limited form of privatization is contracting, where a private entity is hired to perform specific services. The correctional system can use contracts with the private sector to provide ancillary services such as catering, health care, laundry and janitorial services. Private companies can also be hired to provide correctional services, like drug rehabilitation and job training, which may be provided by non-profit or non-government organizations.

Prison privatization may as well entail contracting private entities to provide management services such as staffing, administration and security.

Operational privatization is engulfed under the umbrella of privatization in

that, the private company is contracted to run the entire prison including the core and non-core functions. It should however be mentioned that, the Department of Correctional Services is still entrusted with policy-making, and the monitoring of its performance.

Depending on the size of such a facility, one will realize that many inmates accommodated therein, alleviate a lot of the overcrowding problem.

One facility was built in Bloemfontein in 2001 and one the following year in Louis Trichart.

8.6 ELECTRONIC"TAGGING" AS A MEANS TO ENABLE GREATER NUMBERS OF INMATES TO BE PLACED UNDER CORRECTIONAL SUPERVISION.

There has been a lot of debate around this option to be implemented in South Africa, amongst others as stated in (SACJ. (1998) 11.SAS.pp.61-62), that the experiment had the "Stangely Orwellian" nature, there is as well the element of human rights which had to be looked into. Brought to light as well was that many members of the Portfolio Committee on Correctional Services felt that the system of "tagging" people was extremely sensitive in South Africa, in view of the country's historical background.

There was as well debate around the manner in which the tender had been awarded and concerns that, the outdated electronic monitoring equipment was being "dumped" on to the South African market.

When this issue was debated in Parliament, there was absence of clarity as

to whether or not the electronic monitoring was constitutional.

The researcher would recommend that the above unanswered questions and concerns be thoroughly looked into, and be cleared accordingly, with the view of eventually looking at its eventual implementation. It is the researcher's view that if the option would be viewed as outdated, means can be devised to modernize it.

Quoting the Judicial Inspectorate of Prisons annual report for the period 1st January 2001 to 31st March 2002, pp.6-7, some measures to address the problem under discussion were looked into.

8.7 POSITIVE STEPS TO REDUCE OVERCROWDING.

On 28th May 2001, Section 15 of the Judicial Matters Amendment Act 62 of 2000 came into operation.

It empowers the police to release a suspect at the police station on bail for theft of goods up to an amount of R2500 in value (formerly R200), and when found in possession of dagga up to 115grams ,formerly not at all.

Saturday courts continued co-operation with Business Against Crime in the Integrated Justice System Program, and more particularly its Awaiting Trial Prisoner Project; opening of new Justice Centers; and opening of courts in two more prisons.

Mention is made of the DCS in collaboration with the SAPS, Department

of Justice and Constitutional Development that, they introduce measures to reduce delays, inter alia, in ten large prisons, electronic tracking of prisoners to ensure their attendance of court hearings, and greater use of placement of accused persons awaiting trial under the supervision of correctional officials.

Mention is made of the Mangaung private prison at Bloemfontein with a capacity of 2 928 and the Kutama Sinthumule private prison at Louis Richard, with a capacity of 3 024 in February 2002. The Ebongweni High Security prison at Kokstad with a capacity of 1 536, together with the nearby Medium prison with a capacity of 294 inmates.

8.8 LEGISLATIVE AMENDMENTS.

The Judicial Matters Amendment Act 42 of 2001 inserted section 63A of the Criminal Procedure Act 51 of 1977, which authorize the head of prison to release the awaiting-trial detainees on account of prison conditions.

The researcher would urge the heads of correctional centres to make use of this option as frequently as practicable to address overcrowding.

The above mentioned section of the said Act, stipulates that, should the head of a correctional centre be satisfied that overcrowding is constituting an imminent threat to the human dignity, physical health or safety of the awaiting-trial detainees who were granted bail, but were unable to pay it, he can apply to the magistrate courts for the release of such detainees on warning in lieu of bail or knew bail conditions.

It would of course make sense to mention that, the section is sensitive to serious offences such as murder and or rape.

In this process, the prosecuting authority forms part. The magistrate in chambers is said to may consider such an application.

Plea-bargaining was introduced by the insertion of section 105A of the Criminal Procedure Act, Act 51 of 1977. The Criminal Procedure Second Amendment Act 62 of 2001 made this possible.

In terms of the above-mentioned section, accused persons may negotiate with prosecutors through their legal representatives, and agree on a plea of guilty and an appropriate sanction. It is as well within limits that the court may convict and sentence the accused without a trial.

8.9 MEASURES SUGGESTED BY THE MINISTER OF CORRECTIONAL SERVICES.

8.9.1 AWAITING TRIAL DETAINEES.

The Minister thanked all efforts implemented during 2001 to lower the number of the awaiting-trial detainees and aligned them to:

- The media for informing the public of the dire conditions caused by overcrowding;
- The NGO's and the members of the public for helping in the awareness campaign;
- The police for using their extended powers to bail for drug offences

and theft of articles to R2 500 in value;

- The prosecutors for greater use of diversion, admission of guilt, withdrawal of weak and trivial cases, and expediting trials of those in prison;
- The magistrates for sitting extra hours and on Saturdays;
- More placement under supervision of correctional officials, and for greater use of community based sentences.

Pursuant to the objective of further reducing the number of awaiting-trial detainees, the Minister suggested the under mentioned:

- (1) More pre-trial diversion, especially for juveniles;
- (2) Increased use by police of their powers to release arrested persons on bail;
- (3) Wider use of prosecutors and clerks of the court of the procedure of admission of guilt and payment of a fine without court appearance;
- (4) More assistance by investigating officers to prosecutors to enable them to place adequate information before the court for determining whether it would be necessary to detain the suspect pending trial;
- (5) Intensive use of plea-bargaining in all types of cases so as to expedite matters;
- (6) Greater use by courts of alternatives to imprisonment for the awaiting-trial detainees, viz. release on warning, bail of affordable amounts, placement under supervision by correctional officials, electronic monitoring (when introduced);
- (7) Children under the age of eighteen (18) to be placed in the care of

- parents and guardians, or that they be placed in places of safety;
- (8) Courts on remand dates to consider alternatives to further imprisonment;
 - (9) Cases of awaiting-trial detainees be given preference over those sentenced, and those awaiting-trial outside prison walls;
 - (10) Consideration to be given to ways of expediting trials of the awaiting-trial detainees for example additional presiding officers and prosecutors, additional courts and Saturday courts.
 - (11) Withdrawal by prosecutors of trivial, weak and cases where accused had been awaiting-trial for long periods, with the understanding that any withdrawn case may be reopened at any other time; and
 - (12) That heads of correctional centres apply for the release of the awaiting-trial detainees in terms of section 63A of the Criminal Procedure Act, Act 51 of 1977 as amended.

8.9.2 SENTENCED INMATES.

In terms of the above category of inmates, the Minister pointed out the number of sentenced inmates then being 120 005 and directed that efforts be employed to reduce the number to at most 100 000.

The under mentioned are encouraged:

- (1) Use of diversion, not only for juveniles.
- (2) Use of non-custodial sentence options, viz.

- (a) Pots Conditions set out in section 297(i) (a) (1) of the Criminal Procedure Act, Act 51 of 1977, of sentences with or without the option of a fine. e.g. compensation to the victim of crime in monetary terms or services and submission to an institution or treatment.
- (b) Suspended sentences with or without conditions.
- (c) Discharge with a reprimand, with the understanding that the conviction shall be recorded as a previous conviction.
- (d) Affordable fines.
- (e) Community based sentences under correctional supervision.
- (f) Juveniles be placed in the custody of a suitable person and or under the supervision of a probation officer or correctional officials.
- (g) Application of section 285 of the Criminal Procedure Act (periodical imprisonment).
- (h) Application of section 287(4)(a) of the Criminal Procedure Act (failure to pay the fine where imprisonment is an option immediate release by the Commissioner under correctional supervision).
- (i) Application of section 286A (3) of the Criminal Procedure Act (application to court by the Commissioner for conversion of sentences of imprisonment into correctional supervision or another non-custodial sentence) and,
- (j) Increased use of parole.

According to Kenneth J. Peak (2001:285-288), the under mentioned options are in New Jersey, and the researcher would like to recommend that the South African Correctional Services consider these options with recommendations as shall be deemed fit by the researcher, namely:

8.10 INTENSIVE SUPERVISION.

In the South African context, offenders are basically placed on either parole or probation for purposes of keeping them out of the prison system. The conditions usually laid do not necessarily send the message in the interest of justice as such.

The researcher would recommend the consideration of the intensive supervision probation/parole programmes (ISPs). In this case the offender serves two years under this alternative.

During that period, a probation officer would visit the offender two or three times a week, and phones on the other days.

The offender is subjected to unannounced searches of his home for drugs and have his urine tested regularly for alcohol and drugs.

In addition the offender must strictly abide by other conditions as set by the court. **These conditions would include:**

- Not carrying weapons,
- Not socializing with certain persons,
- Must perform community service,
- Employed or participate in training or education programmes, and
- Attend counseling and or other treatment programmes particularly if he is a drug offender.

8.11 HOUSE ARREST.

The researcher has looked into the use of electronic monitoring and related politics surrounding it in the South African context, and would therefore not revert to it.

House arrest is currently practiced in this country to some extent as in accordance with community corrections principles. The correctional monitoring officials would visit the parolee at work during working hours and at home or residential place when not at work.

In cases where the parolee is granted permission to leave his home or residence, otherwise his work place for a good cause, arrangements are made with the neighbouring community corrections office or police station for monitoring.

Any parolee under house arrest is given conditions to abide by, e.g. not to leave his residential place without prior approval, not to partake in alcoholic beverages or to visit such places, failing which he shall have to face the consequences, depending on the severity of the violation, and previous warnings, should there be any.

All the above are in accordance with the Correctional Services Act, Act 111 of 1998 and the Criminal Procedure Act 51 of 1977 sections 276(1)(i), and 276(3)(h) respectively.

The researcher is comfortable with this option, except that it should be intensified by amongst others, testing the parolee for drugs and alcohol content in his blood, and subject him to some kind of search for unauthorized articles when physically visited. The researcher would further recommend that the parolee be given the burden of phoning the officials of correctional services on the days he is not visited physically, and report to these officials accordingly.

The rationale behind this is to save a lot of the taxpayer's money and simultaneously turn the parolee to be responsible, and contribute to his own freedom positively. In this whole process, the victim of crime should not be forgotten.

8.12 BOOT CAMPS.

In accordance with Peak (2001) this option offers quasi-military programme similar to a military basic training programme, to instill discipline.

This approach is derived from the understanding that juvenile's crime commission is mostly due to lack of discipline, respect and are unable to structure their lives, hence the boot camp model targets young offenders who seem to be embarking on a path to sustained criminality.

Amongst other things, the model exposes these young offenders to relevant educational opportunities, vocational training, drug treatment and general

counseling. It would therefore be obvious that these offenders may experience improvements in self-esteem, educational achievement, and physical fitness.

The researcher would not recommend the boot camp approach raw as laid down by Peak (2001), but some options of this approach. Most of the South African military and semi-military bodies have demilitarized, while some are in the process of doing the same.

The military approach will therefore be discarded, with the remaining portion recommended.

Senna & Siegel (1990:505-510), advocates fines, forfeiture, restitution, shock probation, split sentencing and the Intensive Probation Supervision as alternative sentence options than incarceration.

8.13 RESTITUTION.

Senna & Siegel (1990) see restitution as another alternative to incarceration. In this option, convicted offenders are required either to pay back the victims of crime (monetary restitution) or to serve the community to compensate for their criminal acts (community service restitution).

This alternative has among other advantages that; the offender waives incarceration while sparing convicted offenders a criminal label. Ordinary restitution programmes require offenders to compensate the victims of crime, or to serve the community as a condition of probation.

Among other advantages of this option, the convicted offender is offered a

chance to avoid a prison sentence or a more lengthy probation period. This option may also be used as a diversionary device that offers some offenders a chance to avoid a criminal record altogether.

From the information above, one will realize that restitution is inexpensive, avoids stigma, and helps compensate victims of crime. It therefore goes without any say that, the alleviation of overpopulation will be another advantage added to the above mentioned.

8.14 FORFEITURE.

Senna & Siegel (1990) point another alternative out with a financial basis, and therefore similar to a fine as criminal (in personam) and civil (in rem) forfeiture.

Mention is hereby made that, both involve the seizure of goods and instrumentalities related to the commission or outcome of the criminal act. For clarity sake, an example of a drug dealer is made. The court may seize the boat used to import the narcotics, the car used to carry the drugs overland, the warehouse in which the drugs are stored, and the home paid for with the drugs money.

The understanding should therefore be that upon conviction, the drug dealer loses permanent ownership of these instrumentalities of crime.

The researcher would strongly recommend the sanction as an alternative to incarceration, with the end result of addressing overpopulation.

Senna & Siegel (1990:514) advocate Residential Community Corrections. Reference is hereby made to freestanding non-secure building that is not part of a prison or jail, and houses pre-trial and adjudicated adults. The residents regularly depart to work, attend school, and or participate in community corrections activities and programmes.

The above option is very accommodative in that, it endeavours to keep the offender out of the prison subculture as far as possible. One would strongly recommend this option for juvenile non-serious and adult non-serious offenders who would most probably not be of any danger to society.

Adler et al. (1994:445) point out numerous alternatives to incarceration. Like the previous other authors in this regard, mention is made of parole, pardon, fines, restitution of victims, Intensive Supervision Programs, shock probation, shock incarceration, halfway houses, home confinement (house arrest), electronic monitoring, and community services.

It would be a duplication of one and the same concepts should one discuss all the above mentioned concepts in this regard, as the approach and advantages highlighted herein are exactly the same as stated by others such as, Peak (2001), Senna & Siegel (1990), Reid (1987), Keve (1981) and various others.

The researcher would therefore maintain the same approaches adopted by other states with adjustments to suite the South African environment as per sanction option.

8.15 PARDONS.

The researcher would like to refer to the above alternative as it is done in the U.S., for interest sake.

Reference is hereby made to a release from legal penalties of an offence. It is further mentioned that pardons are either full (absolute) or conditional. A pardon is said to be conditional when its effectiveness depends on the fulfillment of a condition, e.g. serving a lesser sentence.

A conditional pardon may be revoked for violation of the conditions imposed, where else a full pardon cannot be revoked.

Mention is hereby made of 1867 in the United States, where the Supreme Court decreed that a pardon makes the offender as innocent as if he had never committed any offence (Ex par-et Garland). But in the same States, and for other reasons, a pardoned conviction may count as a previous conviction.

It is further explained as to how the pardon is executed in the United States. Namely that, the power to pardon is exercised by the President of the United States in federal cases and the governor in state cases.

The Correctional Services Act as explained, caters for pardons and the researcher has peace with the set-up, consideration of its constant

implementation_in deserving cases is recommended.

Bowker (1982) does not differ with other authors regarding the alternatives to incarceration. With regard to fines, emphasis is put on the fact that, fines be permitted to be paid on an installment basis. With regard to work release, it is said that it is generally used in the final six (06) to twelve (12) months before release.

Among other advantages, it is said that it cannot constitute a grave risk to the community, but that if they abscond, it should simply be a matter of shortening of their respective sentences by a few months.

In as far as the alternatives of incarceration are concerned, Reid (1987:482-484) shares the same sentiments as the previous other authors. Mention is made of probation, parole and community corrections.

As stated previously, the researcher would strongly recommend these options in deserving cases.

Chamelin et al. (1979:418-422) advocate diversion programmes, halfway houses, private community-based corrections, parole (pp.437-442) and pardons (p.449).

Types of pardon referred to here are commutations and amnesty. The reader's understanding should therefore be that a frequent type of commutation is reducing a life sentence to a specific number of years or the death penalty, then in South Africa to a life sentence. Amnesty should

be clear at this stage as it was discussed at length previously.

In both above-mentioned cases, the inmates so affected end up released accordingly.

The researcher would like to mention that, before the abolition of the death penalty in South Africa, death penalty had an automatic alleviation of overpopulation and recidivism.

Courtless (1998:318) refer to halfway houses as facilities that operate as residential alternatives to incarceration, and that community correctional centres are sometimes referred to as halfway houses.

The researcher has expressed his viewpoint regarding halfway houses, and would maintain the same viewpoint.

Reference is further made of work release centres, which are complete residential facilities. The facility is used as a diversion programme for the fact that it would cater for offenders who are either sent directly from court, or those who are from prison.

As stated by Courtless (1998) the researcher would be more comfortable if the two categories are separated for reasons best known by us all, I suppose..

If one looks deeper into the above-mentioned set-up, you will realize that these facilities have to be catered for in terms of, other resources to make them operational. It becomes therefore obvious that this has a financial

implication.

Given the main objective why should offenders be punished, you will most probably succumb to the fact that rehabilitation should take the upper hand; eventually the element of overpopulation is addressed.

Courtless (1998:336-356) sees numerous advantages of boot camps as an alternative to ordinary incarceration, and points out its advantages as shock incarceration by its method of operation among others.

Inmates are subjected to strict rules and discipline, are required to participate in military drills and physical training, separated from other offenders in the programmes from other prison inmates and are considered alternative to longer prison terms.

Among other advantages of boot camps as an alternative to incarceration, Courtless maintains that it has an impact on reducing recidivism and overcrowding, and that it is cost-effective in relation to ordinary incarceration, and has potential to change the attitudes and behaviour of those offenders subjected to it.

The researcher would not dispute the above-mentioned advantages, but would rather recommend some kind of modification, which would more or less be in line with the South African human rights and humble approach in terms of the Constitution. The researcher mentioned previously that, most of the South African military and semi-military bodies have demilitarized, and have changed attitude and approach. It would therefore be naive to

adopt the military structure raw as it is.

Courtless (1998) like many others, advocates home detention with and or without electronic surveillance, depending on the possible threat the offender might pose to society.

Mention is also made of Intensive Supervision without electronic monitoring. Fines are also another alternative pointed out with its advantages and disadvantages, among others that:

They can act as deterrents and deprive offenders their required criminally acquired assets

- They can easily be combined with other sanctions.
- They can be adjusted to fit specific crimes.
- They are relatively inexpensive to administer.
- They produce revenue.

In the contrary fines:

- Do not incapacitate and therefore cannot be used with offenders who pose a risk to soul.
- As a general rule, fines are set by statute and are too low to produce a punitive effect.
- Fines that are sufficiently high to produce deterrence, pose a difficult collection problem, and thus increase administrative costs.
- The poor face an increased risk of imprisonment (Courtless,1998:p.373).

The research would maintain the same stand with regard to fines as previously mentioned.

Petersen & Thomas (1975:245-246) relates shock incarceration and probation in no way different from the previous other authors.

The researcher would maintain the same stands in the above respective regards as mentioned accordingly.

A combination of incarceration and probation is another alternative said to exist in a modified form in Sweden and Denmark. Federal courts in the United States and in the States of Ohio, Maine California and Wisconsin embark on this option with success.

The operation of this office is done in that; the offender is incarcerated for part of his sentence, with the remainder suspended, and is then placed on probation.

It is significant for the reader to note that, the decision about this option does not lie with Correctional Services, but with the judiciary.

The advantages aligned to this option are that:

It attempts to avoid the long-term prison commitment and subsequent hardening of attitudes, while at the same time,

- Provides constant supervision for a short period of time.
- The offender experiences the hardships and psychological problems of isolation and prison life.

- It permits the offender to remain in his local community and close to his family, simultaneously experiencing the negative aspects of incarceration (Petersen 1975:247).

The researcher has no good reason why this option cannot be adopted in our South African context.

8.16 UNIT MANAGEMENT SYSTEM.

Unit management is defined as a system of dividing the correctional centre into smaller, more manageable units where officials have direct supervision over inmates per unit (White Paper on Corrections in South Africa, 2005:43).

As another tool to address overpopulation, unit management has proved to have the under mentioned advantages:

- Only a limited or specified number of inmates may be incarcerated per unit, maybe less but not more due to the unit capacity.
- Achievements are visible, thus the good of subordinates receive recognition from unit managers.
- Personnel share decision-making and participate in the policy process.
- Staff are involved in the total functioning of the institution, thus job satisfaction.
- The multidisciplinary approach of the unit management improves communication between staff and inmates, as well as between management and subordinates.

- Inmates in a unit develop a common identity and close association with each other and their unit personnel.
- Unit management divides a large number of inmates into small well-defined and manageable groups.
- Increase the frequency of contacts between personnel and inmates, resulting in more intensified relations.
- Better communication and understanding between all individuals.
- More individualized classification and programme planning.
- More valuable program reviews and programme adjustments.
- Better observation of inmates, enabling early detection of problems before reaching critical proportions.
- Development of common goals that encourages positive unit cohesiveness.
- A more positive working and living environment for personnel and inmates are established.
- Quality and swiftness of decision-making is increased (decisions are made by unit staff closely associated with inmates).
- Officials are familiar with the background, problems, aspirations and needs of inmates.
- Any anticipated change would only be done in a specific unit without necessarily affecting the whole institution (flexibility).
- Units may be used for various reasons (normal custody, substance abuse cases, management of problematic inmates, ect.),
- Enhance a culture of acknowledgement of human rights and dignity (Houston, 1995:260).

8.17 SUMMARY.

Focus of this chapter was to look at alternative sanctions rather than the traditional incarceration. The significance of the study is overpopulation in the South African Correctional centres.

With this challenge of overpopulation, a solution or series of solutions has to be considered to address it, as its causes are a series of factors as pointed out in chapter five above.

One might ask a question in line with the objectives of punishment, as to, are we not obstructing the ends of justice by implementing the above-mentioned alternatives? The researcher would direct the answers to this question to the various recommendations made after each option.

But over and above the above-mentioned, the researcher would derive some sense in the concept of punishment that says, "punishment should be unpleasant for the person undergoing it". Otherwise crime would be committed at random to experience the pleasure thereof, and at the same time, the reader should not forget that offenders are sent for incarceration as punishment and not to be punished as such.

The driving force behind these alternatives is overpopulation in correctional centres in South Africa, which tempers with chapter two (Bill of Rights) i.e. section 35 of the South African Constitution (Act 108 of 1996).

It has been clearly spelt out in chapter six how overpopulation affects human habitation in the institutions. It would therefore make sense that, the state of these overcrowded institutions be addressed as a matter of urgency, to realize rehabilitation.

CHAPTER NINE.

CONCLUSION AND RECOMMENDATIONS.

9.1 CONCLUSION.

The South African Correctional Services is under extreme pressure of overcrowdedness, which deflects the rehabilitation and or reformation process to a large extent.

Nxumalo (2000:292) sees the changes within the socio-political structure of society having contributed to the increase in crime in various communities. He further points a finger at governmental policies that resulted in less funding of the criminal justice system, which I believe, makes the justice system to be less operational. This has an impact on overpopulation as a result. Based on the last mentioned facts, the researcher's submission would be that, this would be one among other reasons that declares the justice system to be under performing.

In line with the above quote, the researcher would maintain that, hand-in-glove with the increase mentioned, a contribution to overpopulation of some sort becomes a reality.

As already mentioned previously, the general negativity within society, and feelings of hostility towards offenders, makes it extremely difficult for reintegration of offenders, the repercussion being relapse into crime, with the end result being that of overpopulation and recivism.

It is therefore of great significance that society understands and realize its contribution to overpopulation by not openly accepting offenders within its mist without any labels.

It needs to be mentioned that, a few individuals interviewed in respect of incarceration and overpopulation and recidivism, gave the under mentioned respective responses:

- Imprisonment should be scary to offenders.
- Inmates should not have the same rights as the law-abiders or ordinary citizens.
- More prisons should be building to secure society from criminals.
- Taxpayers should not be seen funding the training and development of offenders at the expense of law-abiders.
- Inmates should not be paid any gratuity, but work for free.
- The Department of Corrections should not be responsible for determining how inmates should be treated, but society, which would include most of the victims of their respective crimes.
- Death penalty should be re-introduced, more especially to those convicted for murder, child molestation, child abuse, and rape of senior citizens and children.

The above-mentioned contributions are from various functionaries and ordinary men in the street.

The researcher would consider some of the submissions made, more especially on the basis of the fact that South Africa is governed by a

democratic political set-up, Democracy that entails "THE PEOPLE SHALL GOVERN!"

One had to look into other approaches adopted by other countries in respect of their overpopulation and general treatment of inmates.

It is clear that various beliefs and related factors would breed various approaches. If one looks at Denmark as already mentioned in chapter seven above, the approach is more social and relaxed. The correctional institution resembles more or less social life than the artificial institutional life we find ourselves in this country.

9.2 RECOMMENDATIONS FOR POSSIBLE SOLUTIONS TO OVERCROWDING AND RECIDIVISM.

9.2.1 Recommendation 1.

Rehabilitation\ Reformation programmes be based on policy that would address the causes and motives behind crime commission upon individual offenders.

The profile of each specific offender, which shall provide his social background and other factors be the guideline for his individual rehabilitation, even before being placed on any programme.

9.2.2 Recommendation 2.

There should be a distinction between programmes addressing specific offenders, e.g. first offenders convicted of a specific offence and recidivists of the same offence. They should be subjected to two different programmes respectively.

9.2.3 Recommendation 3.

Punishment be considered in context where practically possible, e.g. those convicted of murder or culpable homicide be placed under programmes addressing aggressive behaviour, in addition be involved in the funeral arrangements of the deceased, and be compelled to render material and financial support to the family or families which shall be so affected.

So should it be with other offences.

**"MAY THIS DISSERTATION BE OF USE, NOT ONLY IN DCS, BUT THE
BROADER JUSTICE SYSTEM"**

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