A criminological analysis of the transfer of juveniles to adult correctional centre

by

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DECLARATION

I declare that Criminological Analysis of the Transfer of Juveniles to Adult Correctional Centre is my own work and that all the sources that I have used or quoted have been indicated and acknowledged by means of complete references.

Signature: __________________________   Date: _______________________

MR MP MATHABATHE
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The completion of this degree has been possible with the supreme guidance of almighty God – Glory be to God. All my prayers have been answered.
SUMMARY

Many young people in South Africa are involved in crime, especially violent crime. This statement is supported by statistics obtained from the Annual Report (2013:37) of the Judicial Inspectorate for Correctional Services which indicates that 26 282 young people were serving sentences in South African Correctional Centres at the end of the 2012/13 financial year. This annual report of the Department of Correctional Services (2013:13) indicates that at the time of the report, 11 000 offenders were sentenced to life imprisonment and a third of them were youth offenders. The majority of these young people have to be transferred from juvenile facilities to adult centres to continue their incarceration when they turn twenty one. This transition holds a number of challenges, both for these young people and the Department of Correctional Services. Young people are confronted with the reality of possibly falling victim to HIV/AIDS, gangs, sodomy and rape in overcrowded, adult correctional facilities. The Department of Correctional Services encounters problems in assisting these young people to adjust to this transition and the protection of these young people from assault and abuse by older inmates remains an institutional concern. The main aims of this research are to examine: the age at which juveniles are transferred to adult correctional centre to continue with their sentences; the factors taken into account before transfer; the challenges faced by youth offenders in adult correctional centre; and the needs of youth offenders in adult correctional facility. The study addresses the following questions:

- At what age are youth offenders transferred to adult correctional centre?
• What other factors besides age are considered before youth are transferred to adult correctional centre?

• Are there any preparatory measures in place to assist youth with the transfer?

• Are there any induction programmes available to assist youth adjusting in adult correctional facility?

• What are the challenges faced by youth in adult facility?

• What are the needs of youth offenders in adult facility?

**Key Terms:** Department of Correctional Services, White Paper on Corrections, juveniles, youth offenders, treatment programmes, induction programme, youth facility, adult correctional centre, transfer of juvenile offenders, needs of youth offenders.
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CHAPTER 1
INTRODUCTION TO THE STUDY

1.1 INTRODUCTION

A number of young people are incarcerated in South African correctional centres. The White Paper on Corrections (2005:162) states that young people are a special category in correctional facilities and this category of the incarcerated population in South Africa has grown the most since 1994. This policy document further states that, “young people fall into a category of people who, even after serving a lengthy sentence, still have the chance to make something of their lives” (White Paper on Corrections, 2005:163).

At the end of the 2012/13 financial year, the Department of Correctional Services incarcerated more than 26 000 sentenced children and juveniles between the ages of 14 and 21. These young people were incarcerated at an average cost of R9000 per month, per offender (Judicial Inspectorate for Correctional Services Annual Report, 2013:37). Available statistics from the Department of Correctional Services illustrate that the majority of young people (up to the age of 25 years) are incarcerated for aggressive crimes (26 884) followed by economic crimes (16 310) and sexual offences (1 267) (Department of Correctional Services statistics, 2011).

All efforts should be made by the criminal justice system to avoid the incarceration of these young people, especially children, as institutionalisation is not an ideal
developmental foundation for these future parents, community members and leaders of our country. Section 28(1) (g) of the Constitution (Act 108 of 1996) stipulates that children should be detained only as a measure of last resort and if detained, it should be for the shortest appropriate period of time. An important piece of legislation that gives effect to this constitutional provision and also regulates the treatment of children who are in conflict with the law, including those in correctional facilities, is the Child Justice Act, 75 of 2008 which was signed into law by the President of South Africa in May 2009 and its implementation came into force in April 2010.

The Child Justice Act, 75 of 2008 can be traced back to 1996 when an Interim-Ministerial Committee (MIC) was established recognising the need for a specialised child justice system. The following year in 1997, the South African Law Commission published an Issue Paper on Child Justice which proposed that a set of separate Bill be drafted in order to provide for a cohesive set of procedures for the management of cases in which children are accused of crime (Child Justice Act National Policy Framework, 2010:3). In 1998, a draft Child Justice Bill was produced in consultation with key government departments and Non-Government Organizations and was presented to the Minister of Justice and Constitutional Development in August 2000. It was not until August 2002 that the Bill was tabled in Parliament and in February 2003 public hearings were conducted in Parliament. Deliberations on the Bill by the Portfolio Committee on Justice and Constitutional Development followed in March 2003. Later that year the processing of the Bill was delayed for a variety of reasons and only in 2007 were some amendments to
the Bill proposed by the Minister of Justice and Constitutional Development (Child Justice Act National Policy Framework, 2010:4).

In 2008 the Portfolio Committee on Justice and Constitutional Development deliberated extensively on the Bill until it was adopted in June of the same year by the National Assembly, and the National Council of Provinces adopted the Bill later that year in September. This Bill was finally passed in September 2008 (Child Justice Act National Policy Framework, 2010:4). One of the main principles of the latter Act is to minimise children’s contact with the criminal justice system and to use detention only as a measure of last resort and for the shortest appropriate period of time as stipulated in the Constitution (1996). Despite this principle contained in the Child Justice Act, 75 of 2008, Ahmed, Levin, May and Sebasa (2001:55) indicate that there will always be children and young offenders who have committed very serious crimes and will need to serve sentences of imprisonment. Therefore, this study examined those children who did not escape contact with the criminal justice system due to the nature of their crimes and who were sentenced to serve a term of imprisonment within a correctional facility.

This study focused on youth offenders, who upon reaching a particular age, are transferred to an adult facility in order to continue serving their sentences. The study paid attention to certain relevant factors prior to the transfer of youth offenders to adult correctional facilities, and in addition preparatory measures to help these offenders adapt in adult correctional facilities were investigated. Youth offenders who are transferred to adult correctional facilities are confronted with a number of challenges in this new environment. These challenges range from:
overcrowding, gang activities, sodomy and rape, the risk of exposure to HIV/AIDS and well as the risk of contracting communicable diseases such as TB. Young people in correctional facilities have different needs to those of adult offenders. This study examined those needs of youth offenders, particularly in adult correctional facilities.

1.2 AIMS OF THE RESEARCH

A criminological analysis of the transfer of juveniles to adult correctional centres is a descriptive study of the personal experiences of youth offenders while transferring from juvenile institutions to adult facilities. The study analyzes the process that unfolds during the transfer of juvenile offenders to adult correctional facilities and their related subjective experiences. The main aims of the study were to: establish the age at which youth offenders are transferred to adult correctional facilities; investigate factors taken into account before the transfer; examine challenges faced by the youth in adult facilities as well as the needs of youth offenders in adult facilities. The study also answered the following questions:

- At what age are youth offenders transferred to adult correctional facilities?
- What other factors are taken into account before the transfer to adult correctional facilities?
- Are there any preparatory measures in place to assist youth with the transfer?
- Are there any induction programmes available to assist youth in adjusting to adult correctional facilities?
- What are the challenges faced by youth in adult facilities?
What are the needs of youth offenders in adult facilities?

1.3 OPERATIONAL DEFINITIONS

The study refers to certain important concepts which should be defined from the onset. In many instances when the topic of young people in conflict with the law arises, many writers use terms such as: juvenile, child or young people. In this study, the focus was particularly on youth offenders who have been incarcerated in correctional centres. Therefore the terms: juvenile, child and youth are defined specifically.

1.3.1 Juvenile

The term juvenile is used differently by different sources. For instance, Section 71 of the Criminal Procedure Act (Act no 51 of 1977) defines a juvenile as a person under the age of 18, whereas the old Correctional Services Act (Act 8 of 1959) defines juveniles as those who are below the age of 21. The current Correctional Services Act (Act 111 of 1998) does not make provision for the term juvenile, but defines a child as a person under the age of 18. Thus for the purpose of this study, the operational definition of juvenile incorporates those offenders who are between the ages of 18 to 21 in correctional centres.

1.3.2 Child

The South African Constitution, Act 101 of 1996 (1996:4) defines a child as a person under the age of 18 years. In line with the South African Constitution, the Children’s Act, no 33 of 1960 as well as the Child Justice Act, no 75 of 2008 both
define a child as any person under the age of 18 years. In addition, the Child Justice Act, 75 of 2008 states that in certain circumstances a child means a person who is 18 years or older but under the age of 21 years, whose matter is dealt with in terms of Section 4(2) of the Act. The Convention on the Rights of the Child (1990) also defines a child as a person under the age of 18 years. For the purpose of this study, when the term child is used, it refers to those people who are under the age of 18 and can be held accountable for their actions which are in conflict with the law.

1.3.3 Delinquency

Bartol and Bartol (1989:8) as well as Trojanowich, Morash and Schram (2001:4) define delinquency as “behaviour against the criminal code committed by an individual who has not reached adulthood as defined by state or federal law”. However, Thompson and Byrum (1989:3) indicate that “juvenile delinquency refers to those actions that are illegal for juveniles that place juveniles in the delinquent role and result in society regarding juveniles as delinquent”. For the purpose of this study, delinquency refers to all actions which place young people in trouble with the law.

1.3.4 Youth

In South Africa, the age category in which the term youth is used differs from one institution to another. The White Paper on Social Development (1997) defines a young person as a woman or man aged between 16 and 30 years. On the other hand, the National Youth Commission Act, no 19 of 1996 defines a youth as a person between the ages of 14 and 35. Of importance is the White Paper on
Corrections (2005:165) which classifies youth offenders as those who are between the ages of 18 and 25. For the purpose of this study, the terms young people and youth are used interchangeably and it refers to those people between the ages of 18 and 25 who are incarcerated in correctional centres and are the focus of this study.

1.3.5 Diversion

According to the Child Justice Act, 75 of 2008, diversion means “diversion of a matter involving a child away from the formal court procedures in a criminal matter by means of procedures established by chapter 6 and chapter 8 of the Act”. Munting and Shapiro (1993:7) describe diversion as the channelling of prima facie cases away from the formal criminal justice system under certain conditions to extra-judicial programmes at the discretion of the prosecutor. According to the authors, diversionary options do not intend to make offenders less accountable or not responsible for their actions, but rather to provide them with the opportunity to re-evaluate their lives without receiving a criminal record (Munting and Shapiro, 1993:7).

1.4 OVERVIEW OF DIFFERENT CHAPTERS IN THIS STUDY

This study is divided into six chapters with each chapter focusing on a specific topic relevant to the study. The following provides a brief overview of each chapter contained in this study:

- Chapter 1: Introduction to the study. This chapter provides a brief introduction and an overview of the study. In addition the aims of the study
are outlined in this chapter as well as the operational definitions of concepts used in this study.

- **Chapter 2**: Theories of Crime and Punishment. This chapter focuses on theories of crime and punishment. In particular, this chapter describes youth offending in South Africa.

- **Chapter 3**: Juvenile Offenders in South African Correctional Centres. This chapter provides a profile of youth in South African correctional facilities and highlights the treatment, programmes and conditions of youth in correctional facilities. This chapter also provides a brief comparative analysis of international policies and practices relating to transfer of youth.

- **Chapter 4**: Methodological Orientation. This chapter provides the methodological framework utilised in this study and in particular provides the background to the research problem, aims and objectives of the study as well as key research questions for this particular study.

- **Chapter 5**: Findings and Data Analysis. Chapter 5 provides the method of analysing data for this particular study. The chapter further provides the findings of this study.

- **Chapter 6**: Conclusion and Recommendations. This chapter pays attention to key conclusions of the study and in addition provides recommendations emanating from this research.

### 1.5 CONCLUSION

This chapter provided an introduction to this study as well as an overview of the topic of this research. The main aims of the study were also provided which
provide a guide as to what the study aims to achieve. The key aim of the study is to establishing the age in which juveniles are transferred to adult correctional facility. In addition, the study will also provide answers to several key questions including; (a) what are the needs of youth in adult facilities? (b) what are the challenges faced by youth in adult correctional facilities?. This chapter also provided operational definitions for some of the key concepts used in this study including; juvenile, child, youth and diversion. An overview of different chapter included in this study was also provided for easy reference. The next chapter will deal with theories of crime and punishment.
CHAPTER 2
THEORIES OF CRIME AND PUNISHMENT

2.1 INTRODUCTION

A number of explanations can be provided regarding the reasons juveniles become involved in crime in South Africa. In attempting to describe the involvement of juveniles in crime, risk factors as well as theories of crime can be used to provide some explanation of causal factors in juvenile criminality. The researcher believes that some of the risk factors might be unique to South Africa, which is explained further on, while others might be universal. Risk factors discussed in the study are divided into: family, school and community risk factors (Bezuidenhout and Joubert, 2003). This chapter includes risk factors contributing to juvenile involvement in crime in South Africa, followed by a theoretical explanation of juvenile offending and then theories of punishment are discussed.

2.2 RISK FACTORS CONTRIBUTING TO JUVENILE OFFENDING IN SOUTH AFRICA

2.2.1 Family risk factors

According to Bezuidenhout and Joubert (2003:58) the family is usually the first institution that a child will interact with. Therefore the importance of the family in socialising young people, teaching them the rules of behaviour in society and taking appropriate steps to keep them within those rules cannot be over emphasised. If these tasks are not successfully accomplished, it creates the risk of
youths coming into conflict with the law (Bezuidenhout and Joubert, 2003:58). If a parent serves as a good role model to a young person, the likelihood of anti-social behaviour is diminished. However parents’ pro-violence attitudes, and familial conflict and violence are said to be well-established risk factors or predictors of anti-social behaviour among young people (Van der Merwe and Dawes, 2007:98; Clark, 2012:78; Collins, 2013:34). Young people in South Africa are often exposed to alarmingly high rates of violence within their families (Basson and Mawson, 2011:3).

Writers of the School-based Violence Report (2011:25) and Clark (2012:83) mention that while the causes of violence within families require further research, exposure to such violence appears to have a significant influence on the behaviour of young people in South Africa. Other family members, including siblings, can also have a negative influence on young people in the family (Bezuidenhout and Joubert, 2003:60). Farrington (n.d.: 205) mentions that young male siblings tend to imitate the anti-social behaviour of older male siblings, or perhaps the older siblings encourage younger ones to be anti-social. Other family risk factors of juvenile offending in South Africa are documented by Padayache, Shaw and Tshiwula (in Bezuidenhout and Joubert, 2003:75) and these include: family structure and family background; limited provision for the basic needs of children; harsh or erratic parenting; various forms of abuse perpetrated against the youth; poor supervision; low socio-economic status and overcrowding.
2.2.2 School risk factors

The school is usually regarded as the second most important socialising agent of children (School-based Violence Report, 2011:4). In the school environment children are exposed to crime and violence both as perpetrators, as well as victims of crime. Even though incidents of violence at schools are reported daily in South African media (Human Sciences Research Council, 2001:9), the School-based Violence Report (2011:12) indicates that the exact prevalence of school-based violence in South Africa is unknown.

On 29 November 2014, the Sowetan Live reported a stabbing of a pupil by a fellow learner at the same school, which lead to the pupil’s subsequent death, with the following headline: “Pupil stabbed to death in Matric Classroom”. The facts of the incident revealed that: “It is alleged that the deceased, 20 year old Nathi Mbindela pulled out a panga in the exam room and approached classmate Athenkosi Tyutu, 21. Tyutu allegedly retaliated, stabbing Mbindela in the head. He died on the scene.” (Sowetan Live, November 2014).

In another incident the City Press reported in 2014, about a primary school pupil who was arrested for stabbing another pupil to death with the following headline: “Boy arrested after primary school pupil (12) stabbed to death”. In this incident, it is reported that “a boy was arrested after he allegedly stabbed a 12 year old grade 6 pupil to death at the school” (City Press, October 2014).

These incidents support the findings of research on “Crime and violence in Gauteng schools” conducted by the Human Sciences Research Council (2001:6)
which revealed that beatings and fights become more problematic in schools when there is greater access to guns and knives.

Various authors such as: Human Sciences Research Council (2001:21); Bezuidenhout and Joubert (2003:62); School-based Violence Report (2011:27); Burton and Leoschut (2013:47) and Mncube and Harber (2013:51) agree that the main causes of crime in South African schools include: involvement of learners in gang activities; lack of transformation in schools; availability of drugs and alcohol; overcrowding; inadequate security measures; negative perception amongst black, coloured and white learners; the presence of guns and other dangerous weapons at school; a lack of counselling services; intolerance towards learners of other races, religion and gender and parental apathy. In addition to these, Ncontsa and Shumba (2013:12) identify the following additional causes of school violence which include: high levels of violence and crime in the community; poor discipline; school premises without proper access control to protect learners and staff; unemployment and a lack of recreational activities within communities. Research of Bezuidenhourt and Joubert (2003:62); South African Human Rights Commission (2006:41) and Burton and Leoschut (2013:12) indicate that violence in schools appears to be escalating, aggravating the lack of discipline and impacting negatively on learners. The 2012 National School Violence Study (NSVS) revealed an increase in school violence, compared to the first survey conducted in 2008 (Burton and Leoschut, 2013:12). The exposure of young people to direct violence in schools can be one of the main causes of young peoples’ involvement in crime, especially violent crime in society (Clark, 2012:1).
According to Gever and Flisher (Ward, van der Merwe and Dawes, 2013:177), the nature of violence in South African schools takes many forms, including: corporal punishment; bullying; gang-related behaviour; sexual abuse; physical assault; verbal abuse; theft; robbery and threat of assault. Key findings of the National School Violence Study (Burton and Leoschut, 2013:16) conducted in all South African provinces, targeted learners (5 939), principals (121) and educators (239) revealed that:

• 12.2% of learners had been threatened with violence by someone at school.
• 6.3% had been assaulted.
• 4.7% had been sexually assaulted or raped.
• 4.5% had been robbed at school.

School violence is mostly perpetrated by other pupils, either a classmate of the victim or other learners at the school (Pelser, 2008:3; The Social Development Department, 2012:9). The National School Violence Study (Burton and Leoschut, 2013:40) showed that school pupils were responsible for approximately 90% of threats, sexual assaults, robberies and thefts of personal belongings reported. In the case of assaults, only 69.8% of crimes were perpetrated by fellow learners at school while the remaining cases of assaults were perpetrated by either: the teacher (25%); family member (0.9%); other persons of authority (3.7%); or someone outside the school (0.6%). However, the risk of violence is wider than the school environment and contact with the community exposes juveniles to further risk.
2.2.3 Community risk factors

2.2.3.1 The climate of violence in the community

Research suggests that the South African political history has created a society characterised by political struggles and many forms of violence (National Crime Prevention Strategy, 2006; Isaacs, Savahl, Rule, Amos, Arendse, Lambert, Majozi, Ritacco and Samuels, 2011:58). As a result, many South African children live in communities in which violence is endemic (Van der Merwe and Dawes, 2007:98) and forms part of everyday life for many of them (Hamber and Lewis, 1997; School-based Violence Report, 2011:27). According to Barbarin, Richter and De Wet (2001:16) South African children have been exposed to different forms of violence, such as: political, familial and community violence. Violence between parents in the family and violence against children by parents or siblings are some of the factors that contribute to violence being regarded as a normal form of behaviour (Centre for the Study of Violence and Reconciliation, 2007:170). The negative social effects of exposure to violence include: aggressive and violent behaviour, altered socio-emotional functioning and academic achievement affected (Isaacs et al. 2011:59). According to Pelser (2008:8), Collins (2013:34) and Leibowitz-Levy (n.d.: 10), children who grow up in communities where violence is the norm begin to see violence as an effective and socially acceptable form of negotiation. This may be why such a large number of young people engage in violent conduct. Other forms of violence experienced in South African communities and which have an influence on youth include those related to service delivery protests as well as what Hamber and Lewis (1997) call vigilantism or self-administered “justice”. The researcher has observed, when viewing
television reports or reading newspaper headlines, that many young people either participate or are observers of extreme violent conduct.

2.2.3.2 *Availability of firearms*

The proliferation of legal and illegal firearms available in South Africa significantly impacts on the overall level of violence in a community and contributes to the level of destruction caused by violence (Centre for the Study of Violence and Reconciliation, 2007:174). Lamb (2008:1) mentions that findings from a survey conducted in 2006, indicate that South Africa had the third highest annual rate of reported firearm deaths (26.8% per 100 000 people) after Columbia and Venezuela, among 112 countries surveyed. A study conducted by the Medical Research Council in 2008 (Annual Report for South Africa based on the National Injury Mortality Surveillance System, 2009:8) reports that 29.4% of all violent deaths in South Africa were caused by firearms. The report further mentions that violence was the leading manner of death for young people between the ages of 15-29.

Gun ownership is said to be mainly a male phenomenon, a means to demonstrate manhood particularly among young men (Abrahams, Jewkes and Mathews, 2010: 586). In contrast, other people’s fear of violence or their feelings of vulnerability towards violence reinforce the demand for firearms and this signals their preparedness in using violence as a necessary means of survival (Centre for the Study of Violence and Reconciliation, 2007:168). The researcher believes that there are various reasons why people, especially young people carry firearms. Most of the illegal guns circulating in the country might have been stolen from legal
owners or from the police. There exact number of illegal weapons circulating in South Africa is not known, however the Annual Report of the South African Police Services (2013/14:99) shows that a total of 10 113 firearms which were reported stolen or lost, were recovered including 99 SAPS firearms. In addition, the report further indicates that the South African Police Services recorded a total of 15 420 cases of illegal possession of firearms in the 2013/14 financial year. According to Gun Free South Africa (2014) “guns are a robust commodity, which means that every gun leaked by police to criminals can be used to commit crimes over and over again”.

2.2.3.3 Availability of alcohol and drugs

The impact of alcohol and substance abuse continues to destroy families, communities and society in general (Williams, 2013:1). The youth of South Africa are particularly affected due to increases in the harmful use of alcohol and the use and abuse of illicit drugs (National Drug Master Plan, 2013:2). Cannabis is regarded as the most prevalent illicit drug used in South Africa followed by Mandrax (Methaqualone) (United Nations Office on Drugs and Crime, 2003:3). In a study conducted by the Central Drug Authority (2013:10), alcohol was regarded as the most abused substance in South Africa. The same study also noted that cannabis was rated high after alcohol.

According to Bezuidenhout and Joubert (2003:56), high levels of substance abuse contribute to crime. In 2013/14 the South African Police Services recorded a total of 260 732 cases of drug related crimes. Leggett (2002:5) highlights three possible ways in which drugs can affect crime:
- People who use drugs and alcohol, experience a change in their behaviour. Alcohol is used to provide an excuse for certain behaviour or people use alcohol to gain courage in order to perform acts they would not usually engage in, such as committing robbery. Drugs can also be used in the same way.

- Since drugs are illegal, the price usually exceeds the production costs. Prohibition creates a very lucrative market for those willing to take a chance with incarceration. This group would generally include those who are otherwise criminally inclined, including violent offenders.

- Some drugs are regarded as very addictive or are considered to be dependent substances. This means that users believe they cannot survive without these types of drugs. Feeding this type of addiction requires a lot of money and people who are dependent on drugs often have difficulty in acquiring a stable job. As the urgency of addiction increases, the user needs cash and sometimes the only means to obtain money can result in violent actions. Illegal drugs are expensive and can only be obtained from criminals (Leggett, 2002:5).

2.3 THEORETICAL EXPLANATIONS OF JUVENILE CRIME

Criminological and penological research is critical in order to gain a better understanding of why South Africa has such a high rate of violent and interpersonal crime. Due to the limited number of African theories (Ovens, 2009:3) a number of Eurocentric theories will be discussed to explain the involvement of juveniles in criminal activities. These current theories explain the phenomenon of
crime and criminality from a western, first world perspective however they are still relevant in understanding juvenile crime. The first theory to be discussed is Labelling Theory.

2.3.1 Labelling Theory

Labelling Theory is a product of the Social Response Theory (Siegel, 2010:230). This theory is also known as the Social Reaction Theory (Siegel, 2010:230) and the person mostly associated with this theory is Edwin Lemert (Trojanowics, Morash and Schram, 2001:73). Whitehead and Lab (2013:90) believe that this is one of the theories that place the blame for deviance on society rather than on the individual.

The basic assumption of Labelling Theory is that being labelled as deviant by social control agents, forces the person to act according to the label which has been attached to that person (Whitehead and Lab, 2013:90). According to Conklin (1997:232), people initially violate a norm by chance or for various unexpected reasons. This initial act of deviance sometimes elicits reactions from others and those reactions often take the form of stereotyping and rejection of the deviant. This is why Lemert (Adler, Mueller and Laufer, 2013:186) proposed the concept of primary and secondary deviance. According to Lemert (Siegel, 2010:233) primary deviance involves norm violations or crimes that have very little influence on the offender and can be forgotten quickly. Secondary deviance on the other hand occurs when a deviant act comes to the attention of significant others or social control agents, who apply a negative label (Siegel, 2011:188). Fagin (2003:96) states that the label that society attaches to such a child becomes true, like a self-
fulfilling prophecy. Binder, Geis and Bruce (2001:156) support this assertion when they state that, Labelling Theory rests on the supposition that human beings respond to the definition placed upon their behaviour by others. These authors provide the following example:

“… if a child is called a ‘bad boy’ and treated as such, he comes to accept that image of himself and behaves in the manner that others have maintained in his mode.” (Binder, Geis and Bruce, 2001:156).

There are a number of negative consequences when a person is labelled. According to Cordella and Siegel (1996:175), being labelled as a deviant has three main consequences: alteration of personal identity; exclusion from conventional opportunities and an increase in the probability of further deviance. Labelling might frustrate the smooth integration of an offender back into the community. One might expect the community to treat the ex-offender with suspicion all of the time as a result of this label. This Eurocentric theory is still relevant within the African context.

2.3.1.1 Labelling and juveniles

Garfinkel (Adams, 2003) believes that contact with social control agencies stigmatises juveniles. Bernburg, Krohn and Rivera (2006:69) support this statement and state that formal adjudication for an offense may create or enhance the reputation of a juvenile as a criminal within a community, mostly among other teenagers in the school and among parents in the community.
Siegel, Welsh and Senna (2003:126) emphasize that a system designed to reduce delinquency may inadvertently produce young criminals. Blame is placed on social control agencies, particularly the criminal justice system, for turning the self-perception of a youthful suspect into that of a delinquent (Siegel et al., 2003:126). Thus, diversion as a means of reducing the development of a criminal identity within young people can be considered. Diversion can play a role in addressing problems identified by the theory of labelling, particularly with regard to secondary deviance. This, for instance can assist first time youth offenders who are diverted from the formal criminal justice system. These youth will not have a criminal record and will not be exposed to prison conditions as alluded to in the South African Law Commission (2000:92) which states that, “diversion affords a child the opportunity to avoid the stigmatising, and brutalising effect of the criminal justice system, and to avoid the enduring disadvantage of a criminal record”.

2.3.2 Differential Association Theory

Differential Association Theory is regarded as one of the most influential theories of criminal behaviour (Hagan, 2013: 167). This theory is located under the banner of social learning theories (Conklin, 1995; Reid, 2009; Siegel, 2010; Whitehead and Lab, 2013). The main focus of this theory is the individual rather than the environment (Fagin, 2001:93). In addition, Hagan (2013:169) mentions that this theory is not directed at the issue of the origin of crime in society but focuses on the transmission of criminal attitudes and behaviour. Drislane and Parkison (2002:2) provide a simple explanation of the term ‘differential association’. These authors state that differential association simply means that people have different social situations and thus learn different things.
The theory of differential association postulates that criminal behaviour is learned in the same way as any other behaviour is learned (Reid, 2009:147; Schmalleger, 2012:176). According to this theory, the learning process occurs in the context of intimate personal groups (Bartollas and Dinitz, 1989:198). Barlow (1990:74) emphasizes that criminal behavioural patterns are acquired through the processes of interaction and communication in intimate personal groups, just as those of other behavioural patterns.

There are nine propositions contained in the theory of differential association that help explain the process of learning criminal behaviour (Reid, 1994:233; Schmalleger, 2012:178; Whitehead and Lab, 2013:78). These nine propositions will be discussed in full detail in the next section under juvenile delinquency and differential association principles. Briefly, the first principle indicates that criminal behaviour is learned. According to Conklin (1995:255), this assertion denies the possibility that individual pathology or biological factors cause crime. It also claims that criminal behaviour is not unique to or invented originally by individuals, but instead learned from others. The second major statement of Differential Association Theory is that most learning of criminal behaviour takes place in face-to-face interaction with other people. This means that Differential Association Theory regards the mass media as unimportant in the causation of criminal behaviour (Conklin, 1995:255).
2.3.2.1 Differential Association Theory and Juvenile Delinquency

According to Conklin (1992:287), juvenile gangs stimulate and reinforce delinquency by supporting law-violating behaviour and by offering protection from outsiders to gang members who break the law. Belson in Conklin (1992:288) refers to a study of juvenile theft in Great Britain which found that association with other adolescents who had stolen property played an important role in leading to theft by boys, especially if that association began when a boy was young, continued over a long time and involved boys who stole frequently. Erickson and Jensen (Conklin 1992:288) also indicate that research in the United States reveals that much delinquency takes place in groups, although the extent to which this is true varies with the specific offense and the sex of the offender.

According to Bartollas and Dinitz (1989:196), Sutherland’s Differential Association Theory comprises nine propositions, whereby the learning of criminal behaviour by juveniles can be explained as follows:

- Criminal behaviour is learned. This means that juveniles do not inherit delinquent behaviour but they learn it the same way they learn other normal behaviour such as writing, painting or reading (Siegel, 2010: 219).
- Criminal behaviour is learned in interaction with other persons in a process of communication. According to Reid (2009:149) this process involves gestures as well as verbal interactions. Through interaction with other delinquent friends, youth can learn criminal behaviour by observing what is being done or listening to what is being said by others and then model that behaviour.
• The principal learning of criminal behaviour occurs within intimate personal groups. Bartollas (1997:165) states that the meanings derived from these intimate relationships are far more influential for adolescents than any other form of communication such as movies and newspapers. Young people tend to learn delinquent behaviour from their peers rather than from parents or other family members. Young people will prefer to learn about sex, smoking and drinking from friends than from parents.

• When criminal behaviour is learned, the learning includes techniques of committing crime. According to Siegel (2011:174), “... young delinquents learn from their associates the proper way to pick a lock, shoplift, and obtain and use narcotics.”

• The specific direction of motives and drives is learned from definitions of legal codes as favourable and unfavourable. Adolescents come into contact both with people who define the legal codes as rules to be observed and with those definitions of reality which favour the violation of the legal codes (Bartollas, 1997:165). Since adolescents feel a need to be accepted by their peers, they will take serious definitions of legal codes as unfavourable.

• A person becomes delinquent because of an excess of definitions that are favourable to the violation of laws over definitions that are unfavourable to the violation of laws. Since juveniles spend most of their time with delinquent peers who favour breaking the law, one will assume that they will automatically be influenced to break the law.

• Differential association may vary in frequency, duration, priority and intensity. Bartollas (1997:166) believes that the impact that delinquent peers or groups have on a young person depends on the frequency of the
social contact, the length of the period of time over which the contact takes place, the age at which a person experiences these contacts and the intensity of these social interactions. It is for this reason that Conklin (2007:224) mentions that the nature of the association is important rather than the mere association itself.

- The process of learning criminal behaviour by association with criminal and anti-criminal patterns involves all of the mechanisms that are involved in any other learning. The approach which juveniles employ to learn the techniques of car hijacking for instance, is the same approach used to learn any other normal behaviour. Siegel (2011:175) states that learning of delinquent behaviour is not restricted to mere imitation of another person’s behaviour.

- Although criminal behaviour is an expression of general needs and values, it cannot be explained by these general needs and values. Bartollas (1997:166) further indicates that the motives for delinquent behaviour are different from those for conventional behaviour because they are based on an excess of delinquent definitions learnt from others.

2.3.3 Hirschi’s Social Bond Theory

Hirschi’s Social Bond Theory is a product of Social Control Theory, and is widely known (Whitehead and Lab, 2013:88). Adler, Mueller and Laufer (2013:166) mention that Hirschi was not the first scholar to examine the extent of individual social control and its relationship to delinquency. According to these authors, in 1957 Jackson Toby introduced the notion of individual commitment as a powerful determining force in the social control of behaviour.
According to Trojanowics, Morash and Schram (2001:72) Hirschi, unlike other theorists, did not attempt to explain why some adolescents break the law, but instead he focused on explaining why others do not. This statement is supported by Tierney (2009:49) who mentions that control theories do not investigate the reasons for people breaking the law, but rather they examine why some people do not break the law. Hirschi links delinquent behaviour to the quality of the bond an individual maintains with society, stating that, “delinquent acts result when an individual's bond to society is weak or broken”. Hirschi’s Control Theory of delinquency proposes that people who engage in delinquency are free of intimate attachment, aspiration and moral beliefs that bind them to a conventional and law-abiding way of life (Siegel, 2010:226). Hirschi’s Social Bond Theory identifies four key variables constituting social control namely: attachment, involvement, commitment and belief. According to Tierney (2009:50) these variables are known as ‘bonds’, in other words mechanisms that connect an individual to conventional society and ultimately prevent delinquent behaviour. Fagin (2003:95) states that these four variables lead to strong social and emotional ties to social values, norms and to the community, which have the effect of lessening deviant behaviour. The four elements (attachment, involvement, commitment and belief) of social bonds are explained.

**Attachment**

Attachment is the most important element because it enjoys the most attention in Hirschi’s theory. According to Adler, Mueller and Laufer (2013:167) attachment takes three forms: attachment to parents, to school (teachers) and to peers. The
more a person cares about what others think of him/her, the less likely that person will engage in negative behaviour (Whitehead and Lab, 2013:89). Bartollas and Dinitz (1989:205) believe that attachment helps a person to adhere to behavioural prescriptions of society because significant others also conform to that behaviour. Therefore the individual would not want to disappoint significant others as a result of being caught stealing (Bartollas and Dinitz, 1989:205).

**Commitment**

Commitment to conventional activities and values is the second element of the social bond. Reid (2009:154) refers to commitment as an investment an individual has in activities such as obtaining an education. Bartollas (1997:179) believes that people with such an investment have too much to lose should they be arrested for criminal activities.

**Involvement**

Involvement has to do with participation in activities related to future goals and objectives such as sport, clubs and school that might leave less time for delinquent behaviour (Binder, Geis and Bruce, 2001:182; Siegel, 2011: 181; Hagan, 2013: 174). According to Ronzetti, Curran and Carr (2003:122), a person involved in conventional activities is connected to appointments, deadlines, working hours, plans and the likes, so the opportunity to engage in deviant acts rarely arises. Involvement stresses the fact that too much spare time on a person’s hands might contribute to delinquency since the person might not think of any constructive ideas.
Belief

Belief is the last element in the social bond. Belief is described as the existence of a common value system within society or a group that binds people together (Whitehead and Lab, 2013:89). Hagan mentions that belief in the value system of society and the law acts as a bond to society. Hirschi (Bartollas and Dinitz, 1989:205) contend that delinquency results from the absence of effective beliefs which forbid socially unacceptable behaviour. If a person believes in the norms and values of society and has respect for authority, that person is less likely to engage in criminal activities.

2.3.3.1 Social bond and juveniles

Hirschi’s elements of social bond can be regarded as interrelated. This means that one element cannot function well without others. These elements can be applied to juveniles to show how they end up engaging in delinquent acts or why they engage in conventional activities. Conklin (1992:257) believes that the attachment of a child to caring parents and parental supervision of that child seem to be more important factors in preventing delinquency than the simple presence of two parents in the home. Parental supervision might ensure that a child is committed to academic activities and the child might be encouraged to be involved in extramural activities such as sports, drama, music, etc. Renzetti, Curran and Carr (2003:122) state that a child involved in such activities simply has less time to be engaged in delinquent behaviour. A child raised in a stable family, who is taught good morals and values, will believe in and respect those morals and will always have respect for authority figures.
2.4 THEORIES OF PUNISHMENT

Different theories of punishment have been developed as moral justification of punishment and have been instrumental in clarifying the nature of punishment. According to Silverman (2001:21) these justifications of punishment have varied over time from one society to another. It is necessary to define the term punishment as a foundation for the following discussion on theories of punishment. Du Toit (Neser, 1993:18) defines the concept of punishment as “the disadvantageous action imposed on the convicted guilty person by a court of law after a trial and conviction of an offence and which is carried out by the state without the offender having any control over it”. Schicher (2006:9) states that punishment is simply a societal reaction to an act that is regarded as harmful to the entire society.

Various theories of punishment exist, some of which will be discussed in this study. Cavadino and Dignan (1992:32) state that punishing people needs to be justified since it is more often something that is harmful, painful or unpleasant to the recipient. These authors further indicate that deliberately inflicting suffering on people is, at least, prima facie immoral, and needs some special justification. Neser and Cilliers (1982:36) indicate that even though the punishment of criminals has been in existence for thousands of years and is regarded as essential to the existence of society, the reasoning for inflicting punishment needs to be questioned. In response to this, Rabie and Strauss (1994:55) believe that the most obvious ultimate justification for the imposition of punishment would seem to be
that organised society has the right to protect itself and that punishment is considered the most suitable weapon against criminals.

“History proves that the motives of punishment have varied over the ages. In primitive tribal life, the main consideration was blood revenge and atonement to the gods. During the middle ages the emphasis shifted to deterrence. As the idea of the classical school gained ground, punishment came to be seen as atonement, and retribution became the dominant factor in penal policy. Later with the positivist approach, the emphasis shifted once more, to the offender this time, with an increased stress on rehabilitation and on the protection of society” (Neser and Cilliers, 1982:21).

2.4.1 Retribution

Although retribution is regarded as one of the oldest justifications of punishment (Labane, 2012:28), the term ‘retribution’ itself still causes a certain amount of conceptual confusion, mainly because different writers use it with different meanings. This confusion is attributed to the fact that revenge and retribution as penal objectives refer back to the past or the crime, whereas other writers believe that often the two motives are simultaneous as a penal objective and have a special complementary relation (Neser and Cilliers, 1982:37). With retribution, punishment is administered by an independent party in the form of the state, whereas with revenge, punishment is administered by the aggrieved party which then becomes private and personal (Conklin, 2007:398). Schmalleger and Smykla (2005:74) explain the concept of revenge by stating that revenge is normally emotional and it is an act in response to victimization. These authors further
mention that victims feel as though an injury or insult requires punishment and when they act on that feeling, they have taken revenge.

Retribution generally means getting even with the perpetrator (Allen, Latessa and Ponder, 2013: 44). However, Schmalleger and Smykla (2005:74) view retribution as ‘paying back’ the offender for what he or she has done. They believe that the criminal should be punished as payback for their misdeed and this is regarded as one of the oldest reactions to wrong doing (Fox and Stinchcomb, 1994:54). According to Siegel and Bartollas (2011:54), supporters of retribution believe that punishment is justified if and only if it is deserved because of the past crime not because of some future outcomes.

2.4.2 Retribution and juveniles

Since juvenile offenders have free will to obey or disobey the law and may, choose to follow the latter, they deserve a reward (punishment) for the act (crime) they performed. Brinks (2004) states that, for a variety of reasons children tend to be less competent in distinguishing right from wrong and in being able to successfully regulate their actions in accordance with these distinctions. If they are less competent, then they are less responsible. Contrary to the belief that offenders should be punished as severely as they deserve, juveniles tend to be punished less severely than adult offenders because age is a factor in considering punishment by the presiding officer. An example is a case against the Waterkloof Four (Christoff Becker, Frikkie du Preez, Gert van Schalkwyk and Reinach Tiedt) who killed a man and assaulted another person in December 2001. According to reports: “The High Court referred the case back to the Regional Court for
sentencing because the offenders were under age at the time of the crime and as a result could not face life sentences, which can only be imposed by the High Court,” (SAPA, 2006).

2.4.3 Deterrence

Deterrence is regarded as a crime control strategy that uses punishment to prevent the individual offenders and others from committing similar crimes in future. Punishment under deterrence is therefore not an end in itself but a means to achieve certain outcomes such as deterring crime and protecting the social order (Siegel and Bartollas, 2011: 50). Schmalleger and Smykla (2005:75) describe deterrence as the discouragement or prevention of crime similar to the one for which an offender is being punished. These scholars further mention that, unlike retribution, deterrence is future oriented in that it seeks to prevent crimes from occurring (Schmalleger and Smykla, 2005:75). Fox and Stinchcomb (1994:57) provide another perspective in comparing deterrence and retribution. The authors highlight that, although retribution is considered reactive and deterrence proactive, there is a common understanding between the two theories because both theories contain the principle of holding the offender accountable for his/her actions.

Deterrence is essentially based on the simple idea that the incidence of crime is reduced because of people's fear of apprehension and the punishment they may receive if they offend (Cavadino and Dignan, 1997:33). If deterrence is to be effective, two important elements should be considered, that is, certainty and severity. The offender should be certain that he or she will be arrested and that the
punishment will be severe. This view is supported by Allen et al., (2013:45), when they state that, “In order for punishment to serve as deterrence, it must be swift, visible to others, closely linked to the forbidden action so that it discourages future recurrence of that crime”.

Deterrence as a theory of punishment is divided into two categories, namely individual or specific deterrence and general deterrence. According to Allen et al., (2013:45) individual deterrence is when punishment is imposed on an actual offender with the belief that it will prevent him/her from committing further crimes. The philosophy of this theory focuses on the fact that individual offenders should learn that crime does not pay when they encounter harsh punishment (Siegel and Bartollas, 2011:51).

General deterrence on the other hand occurs when the punishment of an individual offender serves as an example to others who might be thinking of committing a crime, thereby dissuading them from their planned actions (Schmalleger and Smykla, 2005:76). The underlying assumption of this theory is that crime will be reduced by “... terrorizing by-standing citizens so much that they will be afraid to break the law,” (Fox and Stinchcomb, 1994:57).

2.4.4 Deterrence and juveniles

Due to the loss of freedom coupled with conditions in correctional facilities such as overcrowding, the spread of HIV/AIDS, gangs, sodomy and rape, one can assume that a prison sentence as a form of punishment can be a deterrent to juvenile offenders. This type of punishment can play a role, both as a specific and a
general deterrent for juvenile offenders. Juveniles who have been in prison will be conditioned to refrain from committing crimes in the future because of their experiences in prison. The exposure of prison conditions by the media and through the experience of others could deter the would-be juvenile offenders from engaging in criminal activities. This does not mean the encouragement of bad treatment of offenders in correctional centres as this would be against their constitutional rights. An example of a fear of prison was the case of 20 year old William Kekana who killed baby Kayla Rowstone and other family members in July 2003. After being convicted of all charges, Kekana told the Court, “I prefer death than being in jail, it is not nice in jail,” (SAPA, 2004).

2.4.5 Incapacitation

Fox and Stinchcomb (1994:59) indicate that if retribution is viewed as reactive and deterrence as proactive, incapacitation could be characterised as somewhat in between, or perhaps a combination of both. Incapacitation is an object of punishment that has been known since early times. Silverman (2001:24) refers to incapacitation as the prevention of potential crime by physically restraining the offender. However, Cavadino and Dignan (1992:37) state that incapacitation simply means that the offender is prevented from re-offending by the punishment imposed either temporarily or permanently. Therefore, imprisonment ensures that juvenile offenders are deprived of the opportunity to commit at least some types of offences for a period of time.

According to this theory, the best way to limit offenders’ ability to break the law is to incapacitate them, usually by locking them up for long periods of time (Allen,
Latessa and Ponder, 2013:45). Siegel and Bartollas (2011:51) support this notion by stating that, offenders should be sent to prison in order to stop them from physically offending while they are confined. While incarceration is considered the best option to incapacitate offenders, it is not the only available option. According to Fox and Stinchcomb (1994:59), incapacitation could also be extended to include community-based controls such as probation, home confinement or electronic monitoring.

2.4.5.1 Incapacitation and juveniles
Incapacitation in correctional facilities can serve a dual purpose particularly for juvenile offenders. Firstly, it will prevent juvenile offenders from committing further crimes while they are incarcerated. Secondly, during their incarceration, juveniles can get an opportunity to attend rehabilitation programmes in correctional facilities. As highlighted by Fox and Stinchcomb (1994:59), incapacitation could be extended to include community-based controls imposed through probation such as home confinement or electronic monitoring. These methods of punishment can be useful for juvenile offenders who do not pose a serious risk to society. Through such punishment, juveniles can get the opportunity to mend their ways and be able to attend school in a suitable environment unlike that found in overcrowded correctional centres. Community-based punishment for juvenile offenders can also facilitate the smooth reintegration of juveniles into the community.

2.4.6 Rehabilitation
According to Schmalleger and Smykla (2005:79), rehabilitation refers to the notion of treatment in the belief that offenders who receive appropriate counselling,
psychological treatment, psychiatric intervention, or drug therapy will be less prone to repeat offending. Another view on rehabilitation is shared by Edgar and Newell (2006:11) when they state that, rehabilitation is about treatment intervention, correction and development to reform criminal and anti-social behaviour. Cavadino and Dignana (1997:36) mention that there are people who believe that the sentence of imprisonment can be used effectively to implement treatment programmes to change the offending behaviour of an individual. Incarceration is therefore seen not so much as retributive or deterrent punishment but as an opportunity to provide effective reformative training and treatment.

Under the Department of Correctional Services budget programmes, Programme Three focuses only on rehabilitation of offenders. The purpose of this programme is “To provide offenders with needs based programmes and interventions to facilitate their rehabilitation and enable their social reintegration,” (Estimates of National Expenditure, 2013:476). For the financial year of 2013/14, this programme was allocated a budget amount of R1.1 billion. This amount was channelled towards: addressing factors that lead to offending; providing offenders with opportunities for personal development and providing psychological, social work and spiritual care services (Estimates of National Expenditure, 2013:488).

2.4.6.1 Rehabilitation and juveniles

Imprisonment provides an opportunity to change the offender’s behaviour through treatment programmes available in correctional facilities. Juvenile offenders can therefore take advantage of treatment programs available in correctional facilities. According to Rabie and Strauss (1994:29), rehabilitation has so far been applied,
possibly with the greatest success among youthful offenders. These authors believe that youth are in fact, generally more susceptible to influence than adult offenders who have already developed their personalities.

Among other interest groups dealing with the rehabilitation of juvenile offenders in South African correctional facilities, is a non-government organization called Khulisa. Khulisa is a Section 21 organization, dedicated to the reduction of crime in South Africa. Khulisa’s programs are largely facilitated by former offenders and graduates from their youth development programs. It is believed that this approach is highly effective in providing young people with positive role models with whom they can identify. Offenders are not only provided with in-prison support, but they are also provided with post-release support and are assisted in family and community reintegration (Van Selm, 1998:1).

In order to provide needs-based rehabilitation programmes for offenders, Section 38(1A) of the Correctional Services Act, 111 of 1998 makes provision for the implementation of the Correctional Sentence Plan for offenders serving sentences of more than 24 months in correctional centres. At the end of the 2011/12 financial year, there were 90 385 such offenders (Department of Correctional Services Statistics, 2012). Section 38(1A) (b) states that the Correctional Sentence Plan must address each of the needs of the offender and must in particular:

- Contain the proposed intervention aimed at addressing the risk and needs of the sentenced offender, as identified during an in-depth risk assessment, to correct the offending behaviour.
• Clearly indicate the specific services and programmes required to target offending behaviour and to help the sentenced offender develop skills to handle the socio-economic conditions that led to criminality.

• Determine the services and programmes needed to enhance the sentence offender’s social functioning.

• Set time frames and specify responsibilities to ensure that the intended services and programmes are offered to the sentenced offender.

2.5 CONCLUSION

In this chapter risk factors of juvenile offending, as well as both theories of crime and punishment were discussed with emphasis on juvenile offenders. With regard to punishment theories, four theories were discussed, namely: retribution, incapacitation, deterrence and rehabilitation. In all of these theories, emphasis was placed on punishing juvenile offenders through imprisonment. Retribution theory states that as juvenile offenders have free will to obey or disobey the law and they choose to disobey the law, the result of their choices (criminal actions) would be punishment as a reward for their actions. This reward would be imprisonment which ensures they are incapacitated from committing further crimes for a certain period of time. Imprisonment as a form of punishment would also deter the individual juvenile offender from committing crime in future and those who might want to imitate him or her. Again, through this type of punishment, imprisonment provides juveniles with opportunities to change their offending behaviour through treatment programmes available in correctional facilities. A Correctional Sentence
Plan would have to be developed for each youth offender in order to ensure that treatment programs are focusing on the needs of the youth offender.

With regards to theories of crime, three theories were discussed namely: Labelling Theory, Differential Association Theory and Social Bond Theory. All of these theories fall under Social Process Theories. These theories indicate that crime can result from personal traits and the environment, but specifically from factors such as the family, peers, education and social reactions. After examining all of these criminological theories, it becomes apparent that theories of punishment could be applied to addressing offending behaviour. This could be accomplished by assessing the correct type of punishment suitable to the individual juvenile offender based on the applicable theory explaining the conduct of that specific juvenile. It is therefore important to indicate that there is a link between theories of crime and theories of punishment.

With regards to risk factors of juvenile offending, focus was placed on factors contributing to juvenile offending in South Africa. Various factors were identified including, factors within the family, the school as well as the community. Community factors included: climate of violence in society, availability of firearms as well as availability of alcohol and drugs. It has been noted that exposure to violence at home or in the community plays a significant role in contributing to the involvement of youth in crime and violence. Many young people in South Africa are generally exposed to violence either at home, school, while incarcerated as well as in the community. It is therefore important that correctional programmes should be tailored to teach young people alternative ways of dealing with violence.
CHAPTER 3

JUVENILE OFFENDERS IN SOUTH AFRICAN CORRECTIONAL FACILITIES

3.1 INTRODUCTION

Despite international law requirements that child offenders should not be detained, except as a measure of last resort, “The number of young people in South African correctional facilities continues to increase,” (White Paper on Corrections in South Africa, 2005:165). According to the Annual Report of the Judicial Inspectorate of Correctional Services (2013:37), young offenders under the age of 21 constitute 25% of the total sentenced prison population. Odongo and Galinetti (2005:8) correctly state that the number of children in correctional facilities can be seen as an indication of whether the principle of detention as a measure of last resort and for the shortest period of time is being given practical effect.

This chapter will provide an overview of the legislation and policies governing the treatment of juvenile offenders in South African correctional facilities, followed by a synopsis of the juvenile population and their conditions in South African Correctional Facilities and the treatment programmes available to this population. In addition, the chapter will also examine international practices related to the transfer of youth. In this regard, a brief outline on youth offenders in England and Wales is provided, including guidelines related to the transfer of youth from under 18 to Young Adult Offender Institutions. England and Wales are included since the
United Kingdom is the only country from where information is readily available as compared to other countries.

### 3.2 SOUTH AFRICAN LEGISLATION

Various pieces of legislation and policies exist which serve as guiding tools to the treatment of youth offenders in correctional facilities. Over the years new legislation have been drafted and implemented while others have been amended to be in line with international regulations. The greatest change to legislation was as a result of the new constitution enacted in 1996.

#### 3.2.1 South African Constitution, Act 108 of 1996

Chapter two (Bill of Rights) of the South African Constitution (1996) is the fundamental basis of democracy in South Africa. This chapter has a special section focusing on the rights of children and emphasises that children need special care and protection. In relation to the detention of children, Section 28(1) asserts that such children have the right:

- not to be detained except as a measure of last resort,
- if detained, to be detained only for the shortest appropriate period of time,
- to be kept separate from detained persons over the age of 18 years,
- to be treated in a manner, and kept in conditions that take account of their age,
- to have a legal practitioner assigned to them by the State, and at State expense, in civil proceedings affecting them, if substantial injustice would otherwise result.
Apart from these fundamental rights, children also enjoy other rights afforded to all offenders as outlined in Section 35(2) of the South African Constitution (1996). These rights include the following:

- The right to be informed properly of the reason for being detained and challenge the lawfulness of detention in court.
- The right to consult with a legal practitioner (of choice or assigned by the State).
- The right to conditions of detention consistent with human dignity, including exercise, the provision (at State’s expense) of adequate accommodation, nutrition, reading material and medical treatment.
- The right to communicate with and be visited by spouse/partner, next of kin, chosen religious counsellor and medical practitioner.
- Any additional rights as stipulated in the constitution.

### 3.2.2 Correctional Services Act, 111 of 1998

Section 19 of the Correctional Services Act (Act 111 of 1998) speaks volumes about the treatment of child offenders. This section makes the following provisions:

- every prisoner who is a child and is subjected to compulsory education must attend and have access to such educational programmes,
- where practicable, all children who are prisoners not subjected to compulsory education must be allowed access to educational programmes,
• the commissioner must, if practical, ensure that prisoners who are children should remain in contact with their families through additional visits and by other means.

Most importantly, Section 7(2) (c) stipulates that prisoners who are children must be kept separate from adult prisoners and in accommodation appropriate to their age. The following policy further examines the treatment of youth offenders in correctional facilities.

3.2.3 White Paper on Corrections in South Africa (2005)

Chapter Eleven (11) of the White Paper on Corrections in South Africa (2005:165) regards youth offenders as a special category of offenders. This policy document highlights the vision of the Department of Correctional Services with regard to youth offenders. Amongst other things, the White Paper on Corrections (2005) provides that the Department of Correctional Services should have a specific policy for youth offenders, aimed at service delivery and correction of offenders between the ages of 18 and 25. This policy document also acknowledges that youth offenders are a special category of the South African incarcerated population that has been growing rapidly in the first decade of a democratic South Africa.

The White Paper on Corrections in South Africa (2005:165) further provides that the United Nations' Rules for the Protection of Juveniles Deprived of their Liberty should be adopted as a minimum standard with which correctional centres for the youth should comply. This policy also emphasise that correctional centres for the
youth should be designed to accommodate the building and strengthening of family ties. This should be done through “... using a smaller and more community-based system where youth are not moved far from their families,” (White Paper on Corrections in South Africa, 2005:165). The White Paper on Corrections in South Africa (2005:165) also states that services and programmes provided to the youth should assist them in their transition to full adulthood.

3.2.4 Correctional Services Youth Policy (2006)

The Correctional Services Youth Policy provides guidelines on key components of youth matters in the South African correctional setting. The policy also embraces an effective rehabilitation system that is based on principles and practices of equity, redress, development, reconstruction, access, integration, partnership, sustainable use of resources, needs-based programmes and the recognition of human rights of the youth as enshrined in the Constitution (Youth Policy, 2006:1). This policy is aimed at youths who are classified as being between the ages of 18-25. Among others, this policy derives its mandate from the Constitution of South Africa (1996), the Correctional Services Act (Act 111 of 1998), the South African White Paper on Corrections (2005), the National Youth Commission Act (Act no. 19 of 1996), and the South African Children’s Charter (Article 5).

Policy Objectives

The objectives of the youth policy are:

(a) to cater for the needs of youth offenders’ basic individual and age-appropriate needs by developing and providing needs-based rehabilitation programmes;
(b) to promote societal responsibility in the rehabilitation of youthful offenders by linking them with their families and communities for successful reintegration into their communities after placement;

(c) to develop youthful offenders by providing them with life skills, formal education and vocational training during their term of incarceration;

(d) to assist youthful offenders explore their capabilities and discover their potential in order to function adequately after their incarceration as law-abiding citizens.

Policy Principles

- Administration
  Youthful offenders will be kept separate from adult offenders and female youth will be accommodated in separate correctional centres/sections from male youth.

- General principles
  (a) All youthful offenders will undergo an induction/orientation programme with regards to corrections administration procedures.
  (b) Classification of youth will be done to facilitate the separation of youths according to age group, gender, special needs and risks.
  (c) A multi-disciplinary approach with the involvement of a variety of professionals will be maintained in guiding the rehabilitation process.
  (d) The restorative justice approach will be adopted to facilitate the rehabilitation and successful reintegration of youthful offenders.
  (e) Youths will be involved in manual work which is age-appropriate and which facilitates skills development and training.
Programmes and Services

(a) Upon admission, all youthful offenders will undergo comprehensive assessment undertaken by the multidisciplinary team to identify special needs, basic needs and high-risk areas.

(b) A profile of all youthful offenders and an individual sentence plan that sets out intervention services will be developed, including a profile of their communities.

(c) Needs-based programmes will be provided to address the specific needs of youthful offenders.

(d) An evaluation mechanism to measure the impact of programmes on the youthful offenders will be developed.

(e) All services/interventions provided will be documented and reports kept confidential.

Facilities and structure

(a) The department will endeavour to ensure that youth facilities/centres are established and adequately resourced to meet the needs of young offenders.

(b) Correctional centres will be accessible to youthful offenders with disabilities.

This policy appears very good in theory, but implementation can be impeded by the state of correctional facilities in South Africa which are mostly old and dilapidated: “Many of these facilities were designed and built in a previous era and require drastic reconstruction and refurbishment if they are to be used for presenting practically implementable rehabilitation programmes,” (Van Zyl,
In this instance, the Portfolio Committee on Correctional Services proposed that the two existing private prisons in Bloemfontein and Limpopo, Mangaung and Kutama-Senthumule Correctional Centres be converted into dedicated juvenile facilities given their state of the art infrastructure which enables the rehabilitation needs of juvenile offenders to be accommodated (Parliamentary Monitoring Group, 2008:1).

3.3 OVERVIEW OF JUVENILE POPULATION AND CONDITIONS OF INCARCERATION IN SOUTH AFRICAN CORRECTIONAL FACILITIES

3.3.1 Juvenile population

Statistics from the Annual Report of the Judicial Inspectorate for Correctional Services (JICS) (2014:39) shows that there were 26 810 sentenced juveniles (between the ages of 18-21) and 235 sentenced children under the age of 18 in correctional centres at the end of March 2014. The number of children sentenced to incarceration seems to be increasing when comparing figures from the Judicial Inspectorate of Correctional Services and those from the 2nd Annual Report on the Intersectoral Implementation of the Child Justice Act, 75 of 2008 (2011/12:33) which shows that in 2011/12, there were only 94 children sentenced to incarceration. This increase can signal a worrying trend that shows that more children are committing serious offences that warrant sentences of incarceration. Young people in correctional facilities are incarcerated for various crimes.
Table 3.1: Youth 18-25

<table>
<thead>
<tr>
<th>Crime categories</th>
<th>Remand Detainees</th>
<th>Sentenced</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Economical</td>
<td>6315</td>
<td>8815</td>
<td>15130</td>
</tr>
<tr>
<td>Aggressive</td>
<td>10421</td>
<td>15065</td>
<td>25486</td>
</tr>
<tr>
<td>Sexual</td>
<td>2737</td>
<td>4147</td>
<td>6884</td>
</tr>
<tr>
<td>Narcotics</td>
<td>638</td>
<td>632</td>
<td>1270</td>
</tr>
<tr>
<td>Other</td>
<td>809</td>
<td>1659</td>
<td>2468</td>
</tr>
<tr>
<td>Total</td>
<td>20920</td>
<td>30318</td>
<td>51238</td>
</tr>
</tbody>
</table>

Source: Department of Correctional Services Statistics (2012)

The 2012 statistics from the Department of Correctional Services shows that the majority (15 065) of young people under the age of 25 were incarcerated for aggressive crimes, followed by economic crimes (8 815) then sexual offences (4 147).

### 3.3.2 Conditions of incarceration

Section 35 (2) (e) of the South African Constitution (Act 108 of 1996) stipulates 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".

In addition to this constitutional provision, Section 7(2) (c) of the Correctional Services Act, 111 of 1998 stipulates that prisoners who are children must be separated from adult prisoners and be kept in conditions that take into account
their age. According to the Judicial Inspectorate for Correctional Service (2012/13:34), conditions of inmates in general, including those of juveniles differ from region to region and from one correctional centre to the other. However, there is no contact between children, juveniles and adults. In correctional centres where there are no facilities for children, single cells are used to accommodate children. During movements for meals and recreation, children do not come into contact with other inmates or adult offenders (2nd Annual Report on the Intersectoral Implementation of the Child Justice Act, 75 of 2008, 2011/12:27).

3.3.3 Educational programmes

Section 29(1) (a) of the South African Constitution, Act 101 of 1996 stipulates that: “Everyone has the right to basic education, including adult basic education and to further education, which the State, through reasonable measures, must make progressively available and accessible”. This means that education is a right which even incarceration does not take away. Furthermore, Section 19 (1) (a) of the Correctional Services Act (Act 111 of 1998) stipulates that: “Every prisoner who is a child and is subject to compulsory education must attend and have access to such educational programmes”. Section 19 (1) (b) further states that: “Where practical, all children who are prisoners not subject to compulsory education must be allowed access to educational programmes”.

The majority of youth offenders incarcerated in South African youth development centres do not have a good academic background and in most cases have not completed grade 12 (Matshaba, 2011:60). According to the Minister of Correctional Services, “An average inmate is a young substance abuser who
dropped out of school before high school, is functionally illiterate, and more often than not, homeless,” (Minister of Correctional Services, Honourable Sibusiso Ndebele, 2013:13). In his 2013 Budget Vote Speech, the Minister of Correctional Services Honourable Sibusiso Ndebele, mentioned that as from April 2014, it would be compulsory for every inmate without a qualification equivalent to Grade 9, to complete Adult Education and Training level 1-4.

In 2011, the Department of Correctional Services had six centres registered as full time schools and another seven centres were in the process of being registered (Briefing by DCS on Correctional Centre Schools and its Further Education Policy, 2011). In addition to these initiatives, the Deputy Minister of Correctional Services, Adv Ngoako Ramathloedi (2012:14), mentioned that, “Going forward, the department will ensure that more facilities will be made available to allow access to education for youth offenders”. It is therefore important that young people should be afforded the opportunity to improve their education whilst incarcerated in order to become productive members of society once released. Research conducted by Muntingh and Ballard (2012:35) shows that the majority of centres accommodating children provide either daily or weekly educational programmes, although there is some deviation in a few centres. For instance, their research shows that in Durban-Westville, children go to school daily but only those who are serving sentences longer than a certain period receive education.

The number of youth offenders attending educational programmes has dropped significantly from 3,318 (in 2012) to 2,935 (in 2013) (Annual Report of the Department of Correctional Services, 2012/13:66). In May 2012, a total of 416
youth offenders graduated with their International Computer Driver Licence (ICDL) Certificates (Minister of Correctional Services, Honorable Sbusiso Ndebele, 2013). Apart from formal education programmes, youth offenders should also be afforded the opportunity to take part in vocational training programmes provided by the Department of Correctional Services.

3.3.4 Vocational training

Fox and Stinchcomb (1994:341) refer to the former Governor of Wisconsin who stated that: “Making inmates productive is the first step to keeping them out of prison”. This is relevant in the South African context, as prison labour forms part of the treatment and training programmes provided to offenders during incarceration. The Standard Minimum Rules for the Treatment of Prisoners (1995) indicates that sufficient work of useful nature should be provided to keep prisoners actively employed for a normal working day and it should be beneficial to prisoners, especially young offenders.

In line with this principle, Section 40 (1) of the Correctional Services Act (Act 111 of 1998) also stipulates that: “Sufficient work must as far as practicable, be provided to keep prisoners active for a normal working day and a prisoner may be compelled to do such work”. Section 40 (3) further stipulates that: “A sentenced prisoner may elect the type of work he or she prefers to perform, if such choice is practicable and is accordance with an appropriate vocational programme”.

Through budget programme development, the Department of Correctional Services provides needs-based educational, skills and other development related
programmes, to facilitate the reintegration of all offenders into communities (Annual Report of the Department of Correctional Services, 2010/11:63). The Annual Report of the Department of Correctional Services (2012/13:67) indicates that a total of 4 188 offenders, including youths, were involved in various skills development programmes in the 2012/13 financial year. The Department of Correctional Services signed an agreement with the Department of Higher Education and Training for 2012/13 to 2015/16 for accredited vocational and basic occupational skills programmes through the National Skills Fund. An amount of R66 424 million was spent on training 5 837 offenders including scarce skills such as welding, plumbing, bricklaying, plastering, electrical, carpentry and agricultural skills programmes (Minister of Correctional Services, Honourable Sibusiso Ndebele, 2013).

3.3.5 Religious services

A right to practice religion is afforded to everybody by the South African Constitution (Act 108 of 1996) including offenders. This is stipulated in Section 15 (1) of the Constitution, Act 108 of 1996 which states that: “Everybody has the right to freedom of conscience, religion, belief and opinion”. Section 15(2) further states that: “Religions observation may be conducted at state-aided institutions under rules established by an appropriate authority for that purpose, provided that such religious observances are conducted on an equitable basis and attendance is free and voluntary”.

The Department of Correctional Services is one such state-aided institution referred to by the constitution and as such, religious practices can be conducted.
The Correctional Services Act (Act 111 of 1998) gives effect to such practices in correctional facilities. Section 14 (1-4) of the Act states that:

- A prisoner must be allowed freedom of conscience, religion, belief and opinion.
- A prisoner may attend religious services and meetings held in the prison freely and voluntarily and may have in his possession religious instruction.
- Where practicable, places of worship must be provided at every prison for prisoners of all religious denominations.
- No prisoner may be compelled to attend religious services or meetings or take part in religious practices.

The Second Annual Report on Intersectoral Implementation of the Child Justice Act, 75 of 2008 (2012:69) indicates that spiritual care services and programmes are provided to both sentenced and remand detainee children in correctional facilities. The report highlights that a dedicated team of chaplains, spiritual and moral development coordinators and spiritual workers renders services and programmes to child offenders on a daily basis which include: orientation of child offenders to make them aware of the available spiritual care services and programmes for their upliftment and enlightenment, and provision of spiritual care literature such as Bibles, Quran and spiritual enlightenment materials for their nurturance and growth. Faith-based organizations, NGO’s and CBO’s and other service providers deliver structured programmes to child offenders which include: Alpha Course, New Life Behaviour, Kairos for young offenders, Ukuphula Iketange (breaking the chains) (2nd Annual Report on Intersectoral Implementation of the Child Justice Act, 75 of 2008, 2011/12:69).
3.3.6 Sports, arts, culture and recreational programmes

According to Fox and Stinchcomb (1994:351), “Not everyone can participate in vocational training. However, all inmates are entitled to some form of recreation”. This statement is given effect by Section 11 of the Correctional Services Act (Act 111 of 1998), which states that: “Every prisoner must be given the opportunity to exercise sufficiently in order to remain healthy and is entitled to at least one hour of exercise daily. If the weather permits, this exercise must take place in the open air”.

Section 19(2) of the same Act (Correctional Services Act 111 of 1998) is relevant in relation to recreational activities of children in correctional institutions. Under this provision: “The Commissioner must provide a child with social work services, religious care and recreational programmes and psychological services”.

Muntingh and Ballard (2012:36) note that there is variety of sports activities, board games and other recreational activities available to sentenced children. The Department of Correctional Services provides the following programmes, amongst others, to all offenders including youth in correctional facilities: soccer, rugby, volleyball, table-tennis, athletics, recreational board games, traditional dancing and choral music (Department of Correctional Services, 2014). According to the 2012/13 Annual Report of the Department of Correctional Services (2013:73), a total of 26 401 offenders (including youth) participated in sports, 19 296 participated in recreation programmes, 2 529 participated in arts and 6 491 offenders participated in cultural activities.
3.3.7 Correctional programmes targeting offending behaviour

The Department of Correctional Services provides a number of correctional programmes to all offenders incarcerated in correctional facilities across the country, including juvenile offenders which target offending behaviour. Correctional programmes are needs-based programmes that address offending behaviour. These programmes are considered to be compulsory for all sentenced offenders serving a sentence of 24 months and longer in a correctional centre (Department of Correctional Services, 2014:8). The following seven correctional programmes are discussed below:

3.3.7.1 Anger management

This programme is aimed at raising offenders’ awareness of the causes and symptoms of anger and teaching them how to manage their anger. It also helps offenders to unlearn old habits associated with aggression and learn or unlearn healthy ways of dealing with and expressing anger. The goals of this programme are to:

- Provide participants with information on the restoration of relationships.
- Enable participants to compile and implement a personal anger coping plan to deal with and manage future anger response behaviour.

3.3.7.2 Crossroads Correctional Programme

The main purpose of this programme is to target offending behaviour through the implementation of basic behaviour modification techniques. The programme focuses on the causes and consequences of alcohol and drug abuse and of criminal behaviour. It seeks to provide offenders with information concerning
alternatives to criminal behaviour and sources for treatment of alcoholism and
drug dependence. It also provides offenders with information on sexually
transmitted infections and sources of treatment for them. Among other things, the
goals of this programme include:

- Equipping case officers with the necessary skills to enable them to identify
  the need for social work, psychological, educational and spiritual or religious
  interventions and to refer offenders for such treatment.
- Facilitating the implementation of the Unit Management System which is
  aimed at affecting change in the lives of offenders who are entrusted to the
  care of the Department of Correctional Services.
- Equipping offenders with the necessary knowledge and skills to enable
  them to become responsible, law-abiding and productive citizens in order to
  ensure their successful reintegration into society.

3.3.7.3 Preparatory Programme on Sexual Offences
The main objective of the Preparatory Programme on Sexual Offences is to
involve sexual offenders in a correctional programme addressing their sexual
offending behaviour through the acquisition of the relevant knowledge and skills.
Among others, the goals of this programme are to:

- Assist offenders to identify the possible causes of their deviant sexual
  behaviour.
- Change the offenders’ negative behaviour and to prevent further sexual
  offences.
• Empower offenders with information on the biological development of human beings and the phases of the sexual response cycle.
• Assist offenders in the identification of possible precursors to sexual offending and to provide them with strategies to cope with these triggers.
• Broaden offenders’ knowledge of the legal implications of sexual offences.

3.3.7.4  Pre-release Programme

The objective of the Pre-release Programme is to prepare offenders for successful re-integration into society by providing them with the skills and information to enable them to cope with possible challenges they may have to face after their release. The goals of this programme include:
• Prepare offenders for successful reintegration into society.
• Provide offenders with the skills necessary to overcome difficulties associated with reintegration.
• Prevent re-offending and relapse.
• Ensure that proper support systems are in place before placement.
• Teach offenders to take responsibility for their own behaviour.
• Build self-esteem and self-confidence.

3.3.7.5  Substance Abuse Correctional Programme

The main purpose of the Substance Abuse Correctional Programme is to help participants gain insight into the negative effects of substance abuse. The goals of this programme are to:
• Help offenders overcome alcohol and drug addiction.
• Empower participants with information related to substance abuse and the addiction process.
• Educate participants on the signs and symptoms of substance addiction.
• Enable participants to have a better understanding of themselves.
• Empower participants with coping skills.
• Provide participants with information on how to restore broken relationships.

3.3.7.6 Restorative Justice Orientation Programme

The main objective of this programme is to orientate offenders in respect of restorative justice and to prepare them for further intervention through the restorative justice programme. This programme can be presented to sentenced offenders as well as probationers after they have undergone programmes addressing their offending behaviour. It could also be used for all special categories of offenders including youth offenders, guided by the needs and risks identified in their individual correctional sentence plan. The goals of the programme are to:

• Empower offenders in respect of the basic concepts in restorative justice.
• Orientate offenders regarding the various programmes in restorative justice.
• Illustrate the relationship between restorative justice and rehabilitation.
• Introduce the concept of victim empowerment.
• Emphasise the importance of support systems.
• Illustrate the link between restorative justice and reintegration.
3.3.7.7  *New Beginnings Orientation Programme*

The New Beginnings Orientation Programme is aimed at empowering offenders to be more aware of themselves and situation around them. The programme also allows for offenders’ transition into and adjustment to the correctional centre. The goals of this programme are to:

- Empower offenders to be more aware of themselves and the situation around them.
- Serve as an orientation correctional programme which will help offenders to adjust properly within correctional facilities by focusing on self-esteem, decision-making, gangsterism, smuggling and services available in the correctional centre (Department of Correctional Services, 2014: 8-18). This programme can assist juvenile offenders who are transferred into adult correctional facilities since the majority of offenders in this study indicated that they did not receive any induction about the adult facility when they first arrived.

3.4  **A comparative analysis of international policy and practice**

3.4.1  **Overview of children and young offenders in prisons**

The number of children and young people held in custody across England and Wales has seen a sustained decline in recent years. Despite this decline, England and Wales continue to have some of the highest child imprisonment rates in Western Europe (The Standing Committee for Youth Justice, 2010:1). According to Murray (2012:17) the total number of 15 to 17 years old detainees in Young Offender Institutions (YOIs) has fallen from 2 365 in March 2009 to 1 543 in March
2012, a decrease of over a third (35%) of the population. Recent statistics indicate that Secure Estates for children and young people had a population of 1,346 in custody in June 2013. The official accommodation capacity for these facilities is 1,952, which means that the facilities were not overcrowded at the time of the report (Monthly data and analysis custody report, 2013:1).

Young people in England and Wales are held in three types of institutions known as Secure Estates for Children (SHCs), Secure Training Centres (STCs), and Young Offender Institutions (YOIs) (Children and Young People in Youth Justice System, 2010:6). According to Gyateng, Moretti, May and Turnbull (2013:9) these facilities accommodate children between the ages of 10 to 17 years old who have been sentenced to custody in England and Wales. Children in these facilities who reach the age of 18 are transferred to Young Adult Offender Institutions to continue their sentences.

3.4.2 Guidelines for the transfer of youth from under 18 facilities to young adult offender institutions

The HM Prison System has developed guidelines on how the transition from under 18 facilities to Young Adult Offender Institutions should be managed. Among other key elements identified in this model are the following three phases of transition:

- Transitional Process

According to the Transition Process Model, the transitional process should begin as soon as a sentenced young person enters the custodial system. This should be done during the initial assessment and sentence planning process where it
should be determined whether or not the specific youth will still be in custody after turning 18. This will ensure that a suitable placement within a young adult institution can be identified early, enabling staff from both the current juvenile facility and the adult prison to which the youth will be transferred, to be involved in the planning, process and support as well as with the appropriate and timely sharing of information (The Transition Process, 2012:3).

It is further indicated that when identifying a suitable institution for placement of a youth who has become an adult, staff should be proactive and identify an institution of first and second choice. In addition to this, the model suggests that early discussions must take place with potential receiving institutions to confirm that the young person meets the entrance criteria of the particular facility (The Transition Process, 2012:3).

**Preparing Young Offenders for Transition**

According to the Transition Process Model, planning for the transition of youth to adult facilities should be part of regular planning meetings. It is also recommended that young people should be involved in discussions about transfers, that the transition processes should be explained to the young people involved and fully understood by them. Another important consideration noted from this model is that prior to the transition taking place, young people should be provided with information about the young adult institution in order to ensure that they understand how the regime differs and that they are aware of what to expect (The Transition Process, 2012:4).

**Post Transition**
According to the Transition Process Model, it is recommended that full induction should be provided to young people arriving to ensure they are aware of the regime change and services available in the new facilities. This should include making checks to ensure that these young people understand the information provided. In addition to this, it is recommended that young people should be given an induction pack about the Young Adult Offender Institution, which has been specifically tailored for this purpose prior to transfer taking place (The Transition Process, 2012:5).

3.5 CONCLUSION

This chapter examined the conditions of young people in South Africa who are incarcerated. The chapter further provided a brief overview of young people in custody in England and Wales. England and Wales was chosen because of accessibility and availability of information on this topic as compared to other countries. Particular attention was paid to the transfer of youth from under 18 facilities to Young Adult Offender Institutions. In England and Wales, guidelines are provided detailing how the process of transfer of youth to Young Adult Offender Institutions should be managed in order to assist young offenders to cope with the transfer. The Department of Correctional Services can consider these guidelines as a model which can be implemented in South Africa.

In addition, this chapter also highlighted the fact that a number of young people who are incarcerated in correctional centres across the country are afforded the opportunity to participate in various developmental programmes. These
programmes are designed to equip them with skills that can be used in the community upon release after serving their sentences. These programmes range from sports, arts and cultural activities; religious programmes; vocational training; and most importantly educational programmes. Young people are also afforded the opportunity to consult with social workers and psychologists in correctional centres when needs arise. The Department of Correctional Services should make a concerted effort to encourage young people in particular, in correctional centres to make use of available skills development programmes. This can be done through the provision of incentives for those attending skills development programmes in correctional facilities.
CHAPTER 4
METHODOLOGICAL ORIENTATION

4.1 INTRODUCTION

This chapter focuses on the methodology employed in conducting this research. This is a descriptive study on the personal experience of youth who have been transferred to adult correctional facilities to continue with their sentences. In addition, this chapter provides a background and outline of the research problem, followed by the aims and objectives of the study and an important section on the key research questions for this study. The chapter also includes a description of the methodology employed to collect and analyse the data. A section detailing the target population for this study as well as the sampling procedures employed is included.

4.2 BACKGROUND AND OUTLINE OF THE RESEARCH PROBLEM

Research in the area of children and youth in conflict with the law have focused mostly on children awaiting trial in correctional facilities, while research on those who have been sentenced to serve a term of imprisonment has been neglected somewhat, with little or no research being conducted. This was confirmed by the dearth of information available in South African literature on children serving sentences in correctional centres.
This is mainly because only since 1996 has the department built correctional facilities specifically designed to accommodate young people such as Emthonjeni in Baviaanspoort Medium Security Prison (Gauteng) and Ekuseni Youth Facility in Kwazulu-Natal. Most of the traditional facilities where young people are incarcerated also accommodate adult offenders or are attached to facilities housing adult offenders. A number of challenges face young people who are serving prison sentences in South Africa. The White Paper on Corrections (2005:161) states that: “There is a tendency to regard all offenders in correctional centres as being a uniform entity and this has resulted in correctional centres being organised in the interest of the majority, usually adult male offenders from main ethnic, cultural and religious groupings in the country”.

This statement is also reflected in the structure of the majority of South African correctional centres. Young people have different needs from adult offenders and as such provisions should be made for appropriate facilities and treatment that take their needs into account. Section 7 (2) (c) of the Correctional Services Act (111 of 1998) stipulates that: “Prisoners who are children should be kept separate from adult prisoners and in accommodation appropriate to their age”.

When they are first sentenced for their crimes, young people under the age of 21 are incarcerated in 13 dedicated youth facilities across the country to begin serving their sentences (South African Yearbook, 2012/13). According to Villa (2004:1), these young people are ultimately transferred to an overcrowded correctional system that largely overlooks their unique needs. They spend their formative years in a punitive environment meant for adults, where rehabilitation is
typically an afterthought. They grow up in a culture where gang violence is the norm and are exposed to antisocial behaviour which becomes the norm for them within a short period of time (Villa, 2004:1). The rationale for this study can be underscored by the way in which young offenders adapt in an institutional environment characterised by gangs, sodomy and rape, overcrowding and a high risk of exposure to HIV/AIDS. Thus an analysis of the transfer of youth to adult correctional centres: a criminological perspective, highlights the need for correctional administrators to examine the challenges faced by young people who are transferred to adult prisons. After highlighting the rationale of the research it becomes logical to clearly indicate the research aims and research questions of the research which the next section will explore.

4.3 RESEARCH AIMS, OBJECTIVES AND KEY RESEARCH QUESTIONS

A criminological analysis of the transfer of youths to adult correctional centres is a descriptive study of youth offenders’ personal experiences of their transfers from juvenile institutions to adult correctional facilities. The study analysed the process that unfolds during the transfer of juvenile offenders to adult correctional facilities and their subjective experiences thereof.

The main aims of this study were to: determine the age at which juveniles are transferred to adult correctional facilities to continue with their sentences; establish factors taken into account before the transfer; examine challenges faced by youth offenders in adult correctional facilities; and investigate the needs of youth
offenders in adult correctional centres. The study addressed the following key questions:

- At what age are youth offenders transferred to adult correctional facilities?
- What other factors are considered before youth are transferred to adult facilities?
- Are there any preparatory measures in place to assist youth with the transfer?
- Are there any induction programmes available to assist youth adjust in adult facilities?
- What are the challenges faced by youth in adult facilities?
- What are the needs of youth offenders in adult facilities?

The study also addressed the following actuating questions:

- Can the existing criminological and penological theories be used to explain risk factors associated with juvenile crime and form a framework for the treatment of juveniles in correctional facilities?
- Can the existing body of knowledge regarding the treatment of juveniles be utilised to develop a meaningful programme for the treatment and adjustment of young offenders in adult prisons?
- Does existing literature fully explain the process of transferring youth offenders to adult correctional institutions?
- Does the Department of Correctional Services prepare youth offenders for this transition to an adult facility?
4.4 RELEVANCE AND VALUE OF THE STUDY

The literature search revealed that information on this particular topic is scarce and largely unavailable. Therefore it is proposed that this research will provide a good foundation for other researchers interested in conducting research on this specific topic. Various data collection and analysis methods, as well as challenges experienced during this study can offer valuable lessons to those researchers interested in expanding this topic. This research can make a significant contribution to the Department of Correctional Services in terms of highlighting factors related to the transfer of youth offenders to adult correctional facilities.

4.5 RESEARCH APPROACH AND DESIGN

Different methods are employed in research. These methods differ in respect of qualitative or quantitative research. In this study the researcher used qualitative methods. Creswell (2003:58) provides the following definition of qualitative research:

“... an inquiry approach useful for exploring and understanding a phenomenon, the inquiry asks participants broad general questions, collects their detailed views in the form of words or images, and analyses the information for description and themes. From this data, the researcher interprets the meaning of the information drawing on personal reflections and past research. The structure of the final report is flexible, and it displays the researcher’s biases and thoughts”.

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According to Joyce (2009:101), the aim of qualitative research methods is to collect data that seeks to provide an understanding of a criminological issue from the perspective of those who have first-hand experience of the issue, such as prisoners in this particular research study. This statement is also shared by Bouma and Ling (2010:165) when they state that a qualitative researcher exercises great discipline to determine events and the reasons for the occurrence of events, from the perspective of the research subjects.

With regard to the design of the research, Kumar (2011:94) describes it as a procedural plan that is adopted by the researcher to answer questions in a valid, objective, accurate and economical way. Sarantakos (2013:120) mentions that the design explains how the researcher intends to conduct the study. Durrheim (in Terre Blanche and Durrheim, 1999:29) on the other hand, define research design as a strategic framework for action that serves as a bridge between the research question and the execution or implementation of the research. Research design normally assists the researcher by clearly stipulating what is under investigation and to ascertain the best way to reach a reliable conclusion (Babbie, 2001:91). According to Sarantakos (2013:121), there are many forms of research design, some focus on data collection only, while others include analysis also.

In this study of a “Criminological analysis of the transfer of juveniles to adult correctional centres”, the focus was on the issues related to the transfer of youth offenders to adult correctional facilities. The researcher reviewed literature on related topics and on issues of juvenile justice as there is no tangible, existing
literature on the transfer of youth offenders to adult correctional facilities. This study which specifically focused on the process of transferring youth offenders to adult correctional facilities, aimed to create a frame of reference for practitioners in the field of criminal justice and for other researchers who will study this problem in the future. An empirical study was conducted in the form of interviews with experts in the juvenile justice system, correctional officials responsible for the transfer of young offenders to adult correctional facilities, and most importantly with young offenders who had already been transferred to adult correctional facilities.

4.6 LITERATURE REVIEW

According to Lanier and Briggs (2014:36), a literature review is an important aspect of any research. Burns and Grove (Van der Walt and Van Rensburg, 2006:67) describe the process of a literature review as an organised written presentation of what has been published on a topic by scholars. There are many reasons that a literature review is conducted before commencement of an empirical portion of a study. One of the reasons is provided by Mouton (2001:87) who states that, “... literature review is conducted to determine the research which has already been done and to see how other scholars have investigated the research problem that the researcher is interested in”. The literature review serves a number of purposes including the following:

- To show a path of prior research and how a current research project is linked to it (Neuman, 2012:74).
• Assist in identifying and preparing a good research question, and to define central variables (Bouma, Ling and Wilkinson, 2012:31).

• Broaden the researcher’s knowledge base in his or her research area (Kumar, 2011:32).

• To place the study in the context of the general body of knowledge which minimises the possibility of unintentional duplication and increases the probability that the new study makes a valuable contribution (McMillan and Schumacher, 2001:109).

The researcher is not aware of any research that has been conducted specifically on the transfer of youth offenders to adult correctional facilities as literature on this topic is scarce. Literature on related topics such as children in adult prisons and children in prison was found and utilised to gain a basis on which to start this explorative study. The unavailability of literature on this topic was confirmed during an interview conducted with Ann Skelton, a leading expert on the issues related to juvenile justice in South Africa (e-mail correspondence, 23/01/2005). An extensive library catalogue search conducted by Ms T.A. Burger, the subject librarian at the University of South Africa also revealed that no literature were available on the specific topic.

Sources consulted during this study included both primary and secondary sources. According to Kumar (2011:139) primary sources include observations, interviews and questionnaires whereas secondary sources include government publications, census data, service records and client histories.
Very little research has been conducted on sentenced juvenile offenders in South Africa. According to Diessel (1999:1), the volume of research in the area of juvenile justice has centred on the place of the child within the criminal justice system, focusing largely on awaiting trial children. Research in this field, has up until presently focused, largely on legislation pertaining to the rights of juveniles within the different stages of the criminal justice process. The reason for the limited research available on sentenced juveniles may be attributed to the fact that the Department of Correctional Services focuses its attention mostly on sentenced offenders in their care and as a result researchers may focus their attention on remand detainees who are perceived to be neglected within the criminal justice system.

Leading researchers in this field include among others, Ann Skelton, a human rights lawyer specialising in the rights of children within the criminal justice system. She has published extensively on the topic of juvenile and restorative justice. Another researcher is Julia Sloth-Nielson, Dean of Law at the University of the Western Cape. She is an expert on children’s rights and has published widely. She teaches international family law and children’s rights modules in the LLM programme. Amanda Diessel, previously the programme manager of the criminal justice programme at the Centre of Violence and Reconciliation is another forerunner in the field. Lukas Muntingh, the manager for the Civic Society Prison Reform Initiative (CSPRI) has been involved in criminal justice reform and has also published on child justice and the reintegration of offenders.
Among other limited and relevant research in this area is: “The treatment of children in South African prisons - A report on the applicable domestic and international minimum standards,” conducted by Odongo and Gallinetti (2005). The above mentioned research aimed to describe the compliance requirements in terms of domestic and international law for the Department of Correctional Services as it pertains to the treatment of children in prison. This research is relevant because it relates to sentenced children in South African correctional facilities. Other research conducted in this area is: “Juvenile corrections in South Africa - From punishment to hope,” by Roper and Van Rooyen (2003). This research is relevant as well, as it focuses on the treatment of juveniles and programmes for youths in South African correctional facilities. Recently, another research study was conducted by Muntingh and Ballard (2012) entitled: “Report on children in prison in South Africa”. This research shed light on the often desperate situation of children in prisons in South Africa. The research focused on both sentenced and un-sentenced children in prisons in South Africa.

4.7 DATA COLLECTION (INTERVIEWS)

According to Sarantakos (2013:277), an interview is one of the most common methods of data collection. De Vos, Strydom, Fouché and Delport (2007:287) further state that this is one of the leading methods of data collection in qualitative research. In defining the meaning of an interview conducted for research purposes, Newman (1997:254) as well as Maree (2007:5) states that it is: “... a short-term secondary interaction between two strangers with the explicit purpose of one person obtaining specific information from the other”. Interviews are most
often conducted on a face-to-face basis, although they can be carried out over the telephone or by e-mail (Van Der Walt and Van Rensburg, 2006:151; Joyce, 2009:106). Van Der Walt and Van Rensburg (2006:151) further state that this method of data collection is frequently used in exploratory and descriptive research, as well as in case studies.

In this study the researcher employed semi-structured, in-depth interviews as means of data collection (see Annexure: Questionnaire). According to different scholars (Joyce, 2009:106; May, 2011:134; Satantakos, 2013:278), this type of data collection method is in between that of a structured and unstructured interview. Denscombe (2008:176) states that in semi-structured interviews the interviewer still has a clear list of issues to be addressed and questions to be answered, however the interviewer is prepared to be flexible in terms of the order in which the topics are considered. For purposes of this research study, the researcher interviewed two categories of respondents: correctional officials as well as offenders. The first set of interviews with officials focused on those officials responsible for the admission and release of offenders at Emthojeni Youth Facility. This was a face-to-face informal interview where officials were asked the following three questions:

- At what age are youth offenders transferred to an adult correctional facility?
- What other requirements, besides age, are considered before youth are transferred to an adult facility?
- Are there any preparatory measures in place to assist youth with this transfer?
Another set of interviews with officials consisted of telephonic interviews with officials in different centres where youth offenders are detained. The purpose of these interviews was to compare the ages of transfer for youth at different facilities to adult correctional facilities. These telephonic interviews focused on one question namely: At what age are youth offenders transferred to adult correctional facilities in that particular centre?

Another category of respondents interviewed was that of offenders. The researcher conducted face-to-face interviews with offenders who were transferred to Bavianspoort Medium Security Prison from Emthonjeni Youth Correctional Centre. The researcher used a combination of closed and open ended questions with this group of respondents. The purpose of open ended questions was to allow respondents to express their views about a particular topic, whereas for closed questions the purpose was to restrict respondents to a particular category of responses.

4.8 DATA ANALYSIS

Cohen, Manion and Morrison (2007:461) mention that there is no single or correct way to analyse and present qualitative data. The process should be guided by the issue of fitness for purpose. These authors believe that in abiding by the principle of fitness for purpose, the researcher must be clear about the rationale of the data analysis, as this will determine the type of analysis undertaken. In this study, data was organised by a research question. This is one approach of organising data as highlighted by Cohen, Manion and Morrison (2007:465). The authors indicate that
this is a very useful method of organising data, as it combines all of the relevant data for the specific issue of interest to the researcher and preserves the coherence of the material. This approach is said to collate all of the relevant data from various data streams in order to provide a collective answer to a research question (Cohen, Manion and Morrison, 2007:465). In this study, the researcher collected all the responses related to a question, such as: “At what age were you transferred to an adult correctional facility?” All responses to this question were grouped together and analysed to determine the average age of transfer of juveniles to an adult facility. This approach was followed in collating data obtained from all of the other questions. This was undertaken to provide a collective answer to a specific question. The same method was used for both open ended and closed ended questions in the research study.

4.9 DEMARCATION OF THE STUDY

According to Silverman (2000:88), demarcation refers to the nominal reduction of the research group or phenomenon. In other words, the quality of the group or phenomenon that is being researched is purified. As this study dealt with a "Criminological analysis of the transfer of juvenile offenders to adult correctional facilities", it focused only on juvenile offenders who have been sentenced to correctional institutions by a court of law. Geographically, the research was limited to Baviaanspoort Management Area in the province of Gauteng. This management area has a number of correctional centres including a juvenile correctional facility and an adult facility. The researcher was granted permission by the Department of Correctional Services to conduct the research in these correctional centres (see
Annexure A: Approval Letter). However, the literature study included a number of
countries to enable a comparison of the treatment of youth offenders in different
countries in order to establish best practices which could be used as a benchmark
for South Africa. Countries selected included the United Kingdom (England and
Wales), New Zealand and the United States of America. These countries were
selected randomly based on the availability of information. The following section
indicates how the sample for this study was selected.

4.10 TARGET POPULATION

According to Babbie and Benaquisto (2010:108), a population of a study, “... is that
group about whom we want to draw conclusions”. However, David and Sutton
(2011:226) state that it is simply every possible case that could be included in a
study. In addition to these definitions, Babbie (2007:111) indicates that a
population includes every person, object or place from which the researcher draws
the sample. The target population for this research study is sentenced youth
offenders who have been transferred from juvenile correctional centres to adult
correctional facilities to complete their sentences. The researcher selected the
Baviaanspoort Management Area because it has both a juvenile facility and an
adult facility within the same area. It was also convenient and cost effective for the
researcher to conduct research in this management area.
4.11 SAMPLING PROCEDURE

Lanier and Briggs (2014:298) describe a sample as a subgroup of the total population. Sarantakos (2013:167) states that it is a part of the target population that is to be studied. According to Creswell (2014:189), qualitative research is normally characterised by a small sample size. Yin (1994:39) supports this statement by stating that the sample size should not be too large and ultimately distract from the main purpose of the study. The sample size of this research is twenty youth offenders who have already been transferred to an adult correctional facility. In the sample, 15 youth were transferred in 2011, four were transferred in 2010 and one was transferred in 2009.

The researcher employed a non-probability sampling technique, namely purposive sampling in selecting the sample of this population. According to Sarantakos (2013:178), purposive sampling is sometimes called judgemental sampling. This type of sampling is usually based entirely on the judgement of the researcher, in that, a sample is composed of elements that contain the most characteristics, typical attributes or is representative of the population (Cohen, Manion and Morris, 2007:114; Maxfield and Babbie, 2011:244). Bless, Higson-Smith and Kagee (2006:105) also support this explanation and further indicate that a sample is chosen on the basis of what the researcher considers to be typical units. In using this sampling technique, the research used his judgement and examined the following factors in selecting the sample:

- Offenders who were transferred from Emthonjeni Youth Correctional Centre to Bavianspoort Medium Security Prison as a result of age expiry.
• Different periods when offenders were transferred, in order to check if there is consistency with the procedure employed by the Department of Correctional Services when transferring youth offenders and whether there has been any improvement over the years.

4.12 CASE STUDIES

The use of case study analysis is regarded as a very popular type of research design used by criminologists and other social scientists (Champion, 1993:65). Thomas (2013:62) mentions that a case study involves in-depth research into one case or a small set of cases. The aim is to gain a rich, detailed understanding by thoroughly examining certain aspects of a case. Hitchcock and Hughes (Cohen, Manion and Morrison, 2007: 253) provide the following hallmarks about case study:

• It is concerned with a rich and vivid description of events around the case.
• It provides a chronological narrative of events relevant to the case.
• It focuses on individual actors or group of actors and seeks to understand their perceptions of events.
• It highlights specific events relevant to the case.

In this study two case studies were examined, based on information provided by respondents. The purpose was to investigate the life history of each of the respondents including family history, educational background and their involvement in criminal activities. These case studies provided valuable
information with regards to what might have contributed to the involvement of the respondents in criminal activities.

4.13 ACCESS AND ETHICAL CONSIDERATIONS

Access and ethical considerations form an important component of a well-researched scientific study. This is especially pertinent to criminological research as alluded to by Yeboah (2008:148) who mentions the following:

“Ethics are of particular importance in criminological research. Criminological research by and large, involves direct or indirect contact with offenders, one of the most vulnerable and disadvantaged subgroups of many populations. There is always a potential and tendency to take advantage of the unique disadvantageous position of offenders during the research process, especially those incarcerated in prison, hence the need to apply the prevailing ethical standards in research involving offenders”.

This statement by Yeboah (2008) is reinforced by Dantzker and Hunter (2012:20) when they mention that criminology and criminal justice are virtual playgrounds of ethical confrontations, with opportunity for many ethical questions or dilemmas to abound, especially in the conducting of research. Access and ethics are two key factors that confront researchers from the onset of any research project. For this reason, Callahan and Hobbs (1998:1) mention the following points concerning ethics:
• Disclosure: the potential participant must as far as possible, be fully informed about the nature and purpose of the research, the procedure(s) to be used and the possible or expected benefits to the participants and/or society. In addition the potential participants must be fully informed of the potential of reasonable foreseeable risk, stress, discomfort and available alternatives to participating in the research.

• Understanding: the participant’s consent to participate in the research must be voluntary, free of any coercion or promises of benefits likely to result from participation.

• Competence: the participant must be competent to give consent.

• Consent: the potential human subject must authorise his/her participation in the research study, preferably in writing, although at times an oral consent or assent may be appropriate.

For this study, permission was obtained to conduct the research and the Department of Correctional Services approved the researcher’s application to conduct research in their correctional facilities (Annexure A: Approval Letter). At the start of the process, the purpose of this research was clearly stated to the offenders and they were informed that their participation was on a voluntary basis. The offenders were guaranteed confidentiality and anonymity and they were informed not to disclose their names. The Head of the Correctional Centre informed the researcher that a social worker was available in the correctional centre should an offender need one as a result of this research. Fortunately none of the participants experienced any harm or discomfort during the course of the
interview. The participants were also provided with an informed consent form to sign and a copy of this is attached as Annexure C.

4.14 VALIDITY AND RELIABILITY

According to Dantzker and Hunter (2012:188), validity refers to whether the instrument used accurately represents the concept it is meant to measure. Another interesting explanation of validity is shared by Cook and Campbell (Lenier and Brigs, 2014:82) when they say, “... it is the best available approximation to the truth”. Reliability on the other hand is said to measure the extent to which the analysis of data yields reliable results that can be replicated at different times or by different researchers (Ellis, Hartley and Walsh, 2010:117; Maxfield and Babbie, 2012:85). The input of Bouma, Ling and Wilkinson (2012:98) on reliability is that the methodology employed by the researcher during the research process must be clearly defined in such a way that another researcher who might repeat the same study is able to attain the same results. In this study, the researcher applied scientific research methods used to gather data relevant to social science research especially with the use of qualitative methods. In addition, the researcher conducted both the pilot study and the main study using the same methods and the same results from the pilot study were also observed in the main study. Therefore the researcher is confident that, should another researcher use the same methods for a similar study the same results will be produced. Therefore it can be said that the researcher adhered to the principles of validity and reliability in this study.
4.15 THE PILOT STUDY

Stangor (2004:95) describes a pilot study as a process whereby a researcher conducts a pre-testing of the study by using only a few subjects in order to estimate a reaction before commencing with the main study. According to Strydom (2000:178), a pilot study usually forms an integral part of the research process. It is for this reason that Glesne (2006:43) states that a pilot study is useful for testing many aspects of one’s proposed research. The pilot study proved to be useful for the researcher in this study. In this case the pilot study helped the researcher to devise probing questions which were not included in the original interview schedule. In addition, the pilot study assisted the researcher to prepare well for the main study. The pilot study was conducted with four youth offenders in the Baviaanspoort Correctional Centre. This took place on the 4th of April 2007.

4.16 LIMITATIONS OF THE STUDY

The researcher encountered various problems concerning the study. These obstacles are highlighted below:

- Initially the researcher planned to limit the study to two correctional centres in Gauteng namely, Baviaanspoort Medium Security Prison and Pretoria Correctional Centre. Based on this, the proposed sample size of the research would have been larger than the actual sample size used in the study. However, this did not materialise because Pretoria Central indicated that they did not have a system in place whereby offenders who had been
transferred from a juvenile correctional centre could be identified. As a result of this obstacle the researcher limited the study only to Bavianaanspoort Medium Security Prison which did keep records of juvenile transfers. Bavianaanspoort Management Area includes both a youth and an adult correctional centre, namely Emthonjeni Youth Correctional Centre and Bavianaanspoort Medium Security Prison. As a result of this proximity, most youth offenders from Emthonjeni Youth Correctional Centre are transferred to Bavianaanspoort Medium Security Prison which is in walking distance.

- Another problem was that, in the letter of approval from the Department of Correctional Services enabling research to be conducted in the correctional centres, it was stated clearly that “relevant Area and Regional Commissioners will be informed of your pending research project”. However, on the first visit for the main study, the Area Commissioner was unaware of the project and had to phone the assigned internal guide within the Department of Correctional Services to confirm the intended research.

- A third challenge relates to the literature on the transfer of youth offenders to adult correctional centres. In spite of exhaustive efforts, the researcher could not find any literature, either nationally or internationally specifically related to the topic under discussion. This confirms that no prior research on the transfer of youth offenders to adult correctional centres had been conducted.
4.17 CONCLUSION

In this chapter a background and an outline for the research problem was provided. This was immediately followed by research aims and objectives and key research questions. The primary question being; “at what age are youth offenders transferred to an adult correctional facility?” This study takes a qualitative approach because it provides a descriptive experience of youth offenders’ personal experience of their transfer to an adult correctional facility. The research methodology used in this study has been fully provided in this chapter. The chapter concludes with a narrative of problems encountered when conducting this study. The next chapter analyses data gathered for this study during interviews with respondents.
CHAPTER 5
FINDINGS AND DATA ANALYSIS

5.1 INTRODUCTION

This chapter provides an analysis of data collected through interviews with officials and offenders during this study. As discussed in chapter four, data for this study was organised by a research question. This chapter will provide an overview of the profile of youth offenders who were interviewed for this study including their age, offence type and sentence length. This will be followed by an overview of the research objectives of the study which include amongst others the investigation into the age at which these offenders were transferred to adult correctional facilities, the factors taken into account before their transfer and the challenges faced by youth offenders in adult correctional facilities.

5.2 PROFILE OF YOUTH OFFENDERS

Results of the study indicated the age of the respondents, the age at which offenders were transferred to an adult facility and the age at which they were arrested for the crime which led to their current imprisonment.

The researcher interviewed a total of twenty (20) youth male offenders who were transferred from Emthonjeni Youth Correctional Centre to Baviaspoort Medium
Security Prison. All interviewees were over the age of 21 and almost all of them were Black with only one being Coloured.

5.2.1 Age

Table 5.1: Age

<table>
<thead>
<tr>
<th>Age group</th>
<th>Age of respondents %</th>
<th>No</th>
<th>Age when transferred to adult facility %</th>
<th>No</th>
<th>Age when arrested for current crime %</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>15-18</td>
<td>0%</td>
<td>0</td>
<td>0%</td>
<td>0</td>
<td>45%</td>
<td>9</td>
</tr>
<tr>
<td>19-20</td>
<td>0%</td>
<td>0</td>
<td>0%</td>
<td>0</td>
<td>55%</td>
<td>11</td>
</tr>
<tr>
<td>21-22</td>
<td>75%</td>
<td>15</td>
<td>85%</td>
<td>17</td>
<td>0%</td>
<td>0</td>
</tr>
<tr>
<td>23-24</td>
<td>20%</td>
<td>4</td>
<td>15%</td>
<td>3</td>
<td>0%</td>
<td>0</td>
</tr>
<tr>
<td>25-26</td>
<td>5%</td>
<td>1</td>
<td>0%</td>
<td>0</td>
<td>0%</td>
<td>0</td>
</tr>
</tbody>
</table>

One of the sampling criteria used in the study, was that all respondents should have been transferred to an adult correctional facility after reaching the age of 21 years, as required by the Department of Correctional Services. The age group represented in this study ranged from 21 to 26 years. The majority (15) of interviewees were in the age group twenty-one to twenty-two followed by the slightly older group, consisting of offenders between the ages of twenty-three to twenty-four (4). Older offenders in this study consisted of those in the age group twenty-five to twenty-six (1).
One of the objectives of this research study was to determine the age of transfer of offenders from juvenile facilities to adult correctional facilities. The majority (17) of offenders were transferred when they were between the ages of twenty-one and twenty-two followed by those who were transferred when they were between ages of twenty-three to twenty-four (3). The reason these offenders were transferred at the ages of 23 to 24, is that they did not provide the correct age when they were arrested and sentenced. It was also revealed that the majority (11) of offenders in the study were arrested (for the current crime) when they were between the ages of 19 and 20 years followed by those who were arrested when they were between the ages of 15 to 18 years (9).

5.2.2 Offence type

Figure: 5.1 Offence type
Nine of the offenders in this study were sentenced for house breaking/robbery and theft followed by those (5) sentenced for armed robbery (of which four committed crimes with firearms and one with a knife). The remainder were those sentenced for murder and rape (3), hijacking (2) and drug trafficking (1). According to statistics obtained from the Department of Correctional Services (2011), by the end of February 2011, a total of 9 099 youth offenders (between the ages of 18-25) were sentenced for economic crimes, while 15 766 were sentenced for aggressive crimes and 4 160 were sentenced for sexual offences. The statistics show that more young people are involved in serious crimes. This trend begs investigation and appropriate intervention should be made at community level in order to provide suitable alternatives for young people.

5.2.3 Sentence length

Table 5.2: Sentence length

<table>
<thead>
<tr>
<th>Sentence length</th>
<th>%</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>2-3 years</td>
<td>10%</td>
<td>2</td>
</tr>
<tr>
<td>4-6 years</td>
<td>30%</td>
<td>6</td>
</tr>
<tr>
<td>7-10 years</td>
<td>60%</td>
<td>12</td>
</tr>
</tbody>
</table>

Offenders in this study were serving sentences ranging from two (2) to ten (10) years. The majority (12) of them were sentenced to a prison term of between seven to ten years, followed by those who were sentenced to a term of between four to six years (6), and then those serving a term of two to three years (2). Many
of the offenders serving sentences of seven to ten years were sentenced for crimes ranging from murder, rape, hijacking to armed robbery.

5.2.4 Educational qualifications

Table 5.3: Education

<table>
<thead>
<tr>
<th>Highest educational qualification completed</th>
<th>%</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>No Schooling</td>
<td>5%</td>
<td>1</td>
</tr>
<tr>
<td>Grade 6-9</td>
<td>20%</td>
<td>4</td>
</tr>
<tr>
<td>Grade 10-11</td>
<td>55%</td>
<td>11</td>
</tr>
<tr>
<td>Grade 12</td>
<td>20%</td>
<td>4</td>
</tr>
</tbody>
</table>

Educational qualifications of those interviewed were also investigated. It emerged that the majority (11) of the offenders in this study had only completed grades 10 or 11, followed by those who had completed grade 12 (4) and those who completed grades six, seven, eight or nine (4). Only one of those interviewed had no formal schooling. This indicates a tendency among young people who are engaged in criminal activities, to drop out of school at an early age and not complete their secondary education.
5.3 AGE AT WHICH JUVENILE OFFENDERS ARE TRANSFERRED TO ADULT CORRECTIONAL CENTRE

One of the objectives of this study was to establish the age of transfer for youth offenders. An interview in 2007 with correctional officials, who are responsible for the admission and transfer of offenders at Emthonjeni Youth Correctional Centre in Baviaanspoort, revealed that youth offenders are transferred after reaching the age of 21 years. This was also confirmed through the interviews with offenders in this study. Table 5.4 shows that the majority (17) of those interviewed were transferred when they were between the ages of twenty-one and twenty-three, while only three of those interviewed were transferred between the ages of twenty-three and twenty-four, as they had given the incorrect age when they were arrested and sentenced in the hope of a lesser sentence due to age. It was also revealed during the interviews with offenders that at the Emthonjeni Youth Correctional Centre, offenders are usually only transferred when the numbers of those to be transferred reach about 18 to 20. Offenders are not transferred, for instance if there are only five or ten of them. No reason or explanation was provided for this.

This procedure regarding juvenile transfer does not seem to be uniformly applied at all youth correctional centres. For instance in Rustenburg youth facilities, offenders are only transferred after reaching the age of 25 years (Mathabathe, 2010).
Table 5.4: Age transfer at different correctional centres

<table>
<thead>
<tr>
<th>Correctional Facility and location</th>
<th>Age of transfer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ekuseni youth centre - (KZN)</td>
<td>25yrs</td>
</tr>
<tr>
<td>Brandvlei - (WC)</td>
<td>21yrs</td>
</tr>
<tr>
<td>Drakenstein - (WC)</td>
<td>25yrs</td>
</tr>
<tr>
<td>Hawequa - (WC)</td>
<td>25yrs</td>
</tr>
<tr>
<td>Pollsmoor - (WC)</td>
<td>21yrs</td>
</tr>
<tr>
<td>Mdantsane - (EC)</td>
<td>25yrs</td>
</tr>
<tr>
<td>Kroonstad - (FS&amp;NC)</td>
<td>21yrs</td>
</tr>
<tr>
<td>Boksburg - (GP)</td>
<td>23-34yrs</td>
</tr>
<tr>
<td>Groenpunt - (FS&amp;NC)</td>
<td>21yrs</td>
</tr>
<tr>
<td>Cradock - (EC)</td>
<td>21yrs</td>
</tr>
</tbody>
</table>

The researcher conducted telephonic interviews in May 2011 with officials at different centres accommodating juveniles. Out of a total of 13 centres housing juveniles, ten centres were randomly selected. The centres were randomly selected so that all of the centres had an equal opportunity of being selected. Table 5.4 above reflects the age at which the different centres transfer youth offenders to adult facilities. Five centres listed in the table transfer youth offenders at the age of twenty one (21) while another three transfer at the age of 25. The correctional centre in Boksburg transfers offenders between the ages of twenty three and twenty four (23 and 24). In Hawequa, an official indicated that youths are transferred at the age of 25, but sometimes at their own request they are transferred at the age of 23.
The Department of Correctional Services and the White Paper on Corrections (2005) regards youth offenders as those people who are between the ages of 18 and 25. This simply means that even though offenders at the age of 21 are transferred to adult prisons, they are still considered to be youth offenders. It is unfortunate that these young people in adult prisons are still not treated according to their age and they receive the same treatment as all adult offenders within these adult institutions.

5.4 FACTORS THAT ARE TAKEN INTO ACCOUNT BEFORE TRANSFER

Among the objectives of this research, the researcher endeavoured to determine the factors taken into account before a youth is transferred to an adult prison. The age of the offender is the only factor taken into account before transfer to an adult facility. This was confirmed by an official through e-mail correspondence (Centre Coordinator Corrections) on July 16 2011. The official also confirmed that there are instances where, even if the offender has reached the age of transfer, a youth offender is allowed to remain in the youth facility in order to continue with rehabilitation programmes that he is busy with before transfer, unless those programmes are also offered in the adult facility to which the offender will be transferred. In this study none of the young offenders interviewed had their programmes affected as a result of the transfer and all of them (20) confirmed that they were transferred only because of their age. One offender replied when asked why he was transferred: “My age has expired”. 

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The researcher noted that two (2) offenders were transferred despite the fact that they were about to be released from prison in the following six months. This means that these offenders were unnecessarily exposed to the harsh realities experienced in adult prisons such as gangs, sodomy, rape and overcrowding.

5.5 PREPARATION OF YOUTH OFFENDERS BEFORE TRANSFER

Two officials who are responsible for the admission and release of these juveniles were interviewed at Emthonjeni Youth Correctional Centre on 3 April 2007. They are involved in the process whereby young offenders are prepared and transferred to an adult facility. It emerged from the interview with these officials that there is little or no formal preparation at all before youth offenders are transferred to adult facilities. In most cases, individual officials would have a casual talk with a youth offender before transfer telling him that “... must behave himself well and be good when he gets to the adult facility”. It also emerged from the interview that there is no standard procedure on the preparation of youth offenders for their transition to an adult prison (personal interview on 2 April 2007).

Offenders who were interviewed were asked when they were informed that they would be transferred. The majority (12) of offenders responded that they were officially informed a day before the transfer took place, while four offenders mentioned that they were only informed a few days before (without being specific), another two offenders said they were informed two days before the transfer and two offenders said they were told a week before the move.
Youth offenders who are transferred to adult prisons face a variety of challenges when they arrive at the facility. Some of these challenges relate to induction and overcrowding. Depending on how correctional staff addresses these challenges, this might pose incarceration problems for these offenders in the new facility.

### 5.6.1 Induction

Induction is not an event but a process. In this study the researcher explained to the respondents what induction is and what it should entail in the prison setting. Most of the offenders interviewed had received little or no induction at all when they were admitted into the adult facility. Most indicated that they had to find most of the places on their own. In this study, the majority (12) of offenders indicated that they were only informed about the rules, with specific instructions not to get involved with gangs in the adult prison when they were placed, while eight offenders said they were not given any induction at all when they arrived.

The majority (18) of the respondents said they had to find out for themselves or rely on other offenders for information regarding programmes and other facilities in the prison while two offenders said they were given the information by officials. The Prison Service Induction Booklet of the United Kingdom Prison (Prison Service Order, order number 0550) indicates that other offenders, if carefully selected and supervised, can play a valuable role in settling the prisoner into the life of the establishment by contributing to the induction process.
Some of the information regarding services and facilities available to offenders which they had to find out on their own, instead of through formal induction included the following:

- Case Management Committees.
- Social Workers.
- Sport facilities.
- Rehabilitation programmes including schooling.
- Canteen including buying time.
- When they may use the telephone and how to make an application to make phone calls.
- Visits.
- Kitchen facilities.
- Library facilities.

Not knowing or being poorly informed of these services and facilities made their incarceration harder for them to cope with. This finding is also shared by Muntingh (2009:9) in his study when he states that “... the orientation of new admission appears to be done in a fairly superficial manner, and little is done to explain to new prisoners how to stay and not be entrapped by older and more experienced prisoners”. It is important for offenders to be informed about all these services as they form part of their daily routine and are an integral part of their incarceration.
5.6.2 Overcrowding

Overcrowding is another challenge experienced by youth offenders in adult facilities. Emthonjeni Youth Correctional Centre is built to accommodate 640 youth offenders in single cells rather than communal cells. The official accommodation capacity of Emthonjeni Youth Correctional Centre is 640 but at the time of the research, Emthonjeni Youth Correctional Centre accommodated only 328 youth offenders. This shows that the facility was under-utilised. A telephonic interview (29 April 2013) with the Head of Emthonjeni Youth Correctional Centre revealed that there were two units that were utilized and other units were under renovation. The majority (12) of the respondents indicated that they had to share a cell with one other inmate, followed by those who said they had to share a cell with two other inmates (6) and only two offenders said they occupied a cell on their own.

In contrast to a youth facility, offenders at Baviaanspoort Medium Security Prison had to share a communal cell with a large number of other inmates using only one shower and a toilet. At the time of the research, Baviaanspoort Medium Security Prison accommodated 966 offenders. The majority (11) of those interviewed reported that at the time they were sharing a cell with between ten to 20 other inmates while five offenders reported that they were sharing a cell with between 21 to 30 inmates. The remaining four offenders said they were occupying a cell with between 31 to 40 other offenders.

Offenders interviewed indicated that another challenge brought on by overcrowding is that the food given to them is insufficient to feed them all and many offenders only eat bread. They also complained about the long queues for
food every day. This is also noted by the Judicial Inspectorate for Correctional Services’ Annual Report (2012:30) when it states that, “... high capacity correctional centres present a range of logistical challenges, for example, around food preparations”.

5.7 NEEDS OF YOUTH OFFENDERS IN AN ADULT FACILITY

Needs of offenders were assessed in terms of the following:

- Education.
- Family.
- Personal development.
- Incarceration.

5.7.1 Education

Providing education to offenders is not a right which is limited by incarceration. This right is given a priority by the Department of Correctional Services and the Department of Education as outlined in the White Paper on Corrections (2005:138). The White Paper further emphasises that “... in order to improve the levels of literacy amongst offenders in South Africa, and in particular the youth, the Department places significant emphasis on the provision of literacy classes and basic schooling for offenders” (White Paper on Corrections, 2005:138).

In this study, the majority (12) of offenders interviewed were attending school in prison while the remaining eight offenders were not attending any educational programme. The majority (8) of those who were studying were registered for Abet
(Adult Basic Education and Training) on levels two to four and the remaining four offenders were doing N4 courses.

Of those who were not studying, five indicated that they would register the following year because they had been transferred in the middle of the academic year (2011). The other two offenders indicated that they did not feel like studying while one offender has already completed grade 12.

Respondents were asked about their needs relating to education while still incarcerated. A number of options related to education were provided for offenders to choose from. The majority (12) indicated that they need motivation, guidance and study space, while six offenders said they needed materials or stationery and educators. The remaining two offenders mentioned that they did not need anything regarding education. This shows that a number of offenders need to improve their educational qualification but there is a severe lack of resources in providing education in prison.

5.7.2 Family

The Department of Correctional Services encourages the building and strengthening of family ties especially for youth offenders in correctional facilities (White Paper on Corrections, 2005:163). Family is an important source of support for youths who are incarcerated. In order to facilitate smooth reintegration back to society, youths should be accommodated in facilities close to their families.
With regard to family, the majority (12) of offenders indicated that they need forgiveness, frequent visits and acceptance from their families, while four offenders said they did not require anything from their families. Two offenders stated that they needed frequent visits and the remaining two offenders mentioned that they needed emotional support. Family support is important while the offender is incarcerated and this helps particularly with reintegration of offenders back into the community upon release.

5.7.3 Personal development
The Department of Correctional Services provides needs-based personal development programmes and services to all offenders (DCS Annual Report, 2009/10:81). For their personal development, the majority (8) of the respondents indicated that they need computer training, followed by six offenders who mentioned that they need labour training (including woodwork, textile and steel training). Four offenders stated that they need financial management skills while the remaining two offenders indicated that they need problem solving skills.

5.7.4 Incarceration
Among other things, the mandate of the department is to detain offenders in safe custody while maintaining their human dignity and developing their sense of social responsibility. This can be done by providing conditions of detention that are consistent with human dignity as provided for in the constitution (1996:88) of our country.
With regards to their incarceration, seven offenders indicated that they need better food, psychological help and protection, followed by five offenders who said they only need better food and three offenders who said they require only protection. The other two offenders stated they need psychological help and the remaining three offenders said they did not need anything regarding their incarceration.

5.8 DIFFERENCES BETWEEN THE YOUTH AND ADULT CORRECTIONAL FACILITY

Since respondents had the opportunity to experience life in both a juvenile facility and an adult facility, they were asked to list some of the differences they experienced in both types of institutions. What came to the fore was that while there were major disadvantages to being moved to an adult facility there were also positives.

The following were highlighted as differences which made detention harder for these transferred juveniles or which might impede their rehabilitation efforts:

- The Emthonjeni Youth Correctional Centre accommodated 328 offenders while the Baviaanspoort Medium Security Prison accommodated 966 offenders.

- There were single cells accommodating one to three offenders at the youth facility while the adult facility uses communal cells accommodating more than ten offenders.
• Gangsterism is rife at Baviaanspoort Medium Security Prison but limited at Emthonjeni Youth Correctional Centre.

• At Emthonjeni Youth Correctional Centre, education and other programmes are facilitated by officials but at Baviaanspoort Medium Security Prison it is mostly other offenders who facilitate education and other programmes.

• The youth facility provides more rehabilitation programmes than the adult facility.

• At the adult facility there is sometimes a shortage of food but at the youth facility everybody gets his share of food.

Negative aspects of the youth facility as perceived by the respondents included:

• There is lot more fighting at the youth facility than at the adult facility.

• No smoking is allowed at the youth facility, but it is allowed at the adult facility.

• Television time is limited at the youth facility – more so than at the adult facility.

• “Treatment is not fair at juvenile because you suffer for the mistakes of others, but it is fair at adult prison”. This means there is collective punishment at the youth facility.

• At the youth facility the structure of the prison makes it difficult to see the sun, at Baviaanspoort Medium Security Prison the structure allows for more sunlight.

• The sports ground is open every weekend at Baviaanspoort Medium Security Prison but at the youth facility, once in a while.
“At adult we spend more time outside the cells than at juvenile”.

There is limited information on academic studies at the youth facility and more at Baviaanspoort Medium Security Prison.

“You can register for University and Technikon at Medium but not at juvenile”.

Access to work is very limited at the youth facility compared to Baviaanspoort Medium Security Prison.

At the youth facility, officials take decision on the offender’s behalf but at Baviaanspoort Medium Security Prison they are independent.

In the next section a few case studies are presented. These case studies illustrate the experiences of these juvenile offenders and contextualise their experiences. Furthermore, insight is provided on how the offenders perceive their incarceration.

5.9 CASE STUDIES

Case 1: Offender X is 21 years old (turning 22 later this year, 2011). He is from Ga-rankuwa in Pretoria and he is currently serving a prison term at Baviaanspoort Medium Security Prison. X was raised by his grandparents before his father took him in. His grandparents passed on in 1999.

X said that as a child both sides of his family (mother and father) fought for him, but he wanted to stay with mother’s family. Eventually his father took him by force to stay with him at Atteridgeville and that is when he started interacting with bad friends. Although X was attending school, he started smoking cigarettes and
X mentioned that he shared a cell with another inmate at the youth facility. He attended a number of programmes including HIV/AIDS awareness, life skills, anger management and pre-release which were offered by NGO representatives.

He mentioned that treatment by officials was bad at the youth centre and at one stage he was beaten by four officials because he was accused of smuggling cigarettes into the prison. At the juvenile centre smoking is not allowed.
X indicated that he was not frightened by the idea of going to adult prison because “most offenders are from Emthonjeni so it’s a continuation of some sort”. He said that when he arrived at the adult prison, treatment by other offenders was good, although he observed that other youth offenders were frightened by the experience. He also stated that there was no induction when they arrived at Baviaanspoort Medium Security Prison and he had to learn and find out about some of the things through other inmates. X admitted that gangs are common at the Medium prison, whereas they do not operate effectively at Emthonjeni Youth Correctional Centre because officials can control gang activities. “In the Medium prison it is uncontrollable” He said he is not a member of a gang and was never part of a gang at the youth centre. He has witnessed sodomy happening in the Medium prison but that has never affected him. X says he does not think it will happen to him because he will never allow such a thing to happen. Offender X indicated that he was to be released on the 18 July 2011 (Mandela’s birthday).

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Case 2: Offender Y is 21 years old from Temba, in Hammanskraal who is also serving a prison term in Baviaanspoort Medium Security Prison. Y comes from a family of five siblings and a mother and father. However his mother passed on in 1996. His father bought another house and is staying with another woman somewhere in Pretoria. Y’s sister is a police officer and his older brother is a bus inspector in Botswana, while the other two (brothers) are driving taxis.

Y left school while in grade eight after getting involved with bad company. Y indicates that his mother (before she died) asked his grandmother to stay with him because of witchcraft in their area. Y said he was well-behaved while staying with
his grandmother, and he always went to church and attended school. Y mentioned that he stayed with his grandmother, grandfather and other grandchildren. In fact, all of the grandchildren in their family were staying with the grandmother and grandfather.

Y said he started doing bad things in standard five (grade seven). He used to steal money from his grandmother. Y was taken by his sister to boarding school in Benoni, near to where she was staying. While at boarding school, Y started smoking, stealing clothes and play stations from other learners, using dagga, benzene and glue. Y said his sister was called three (3) times to the school because of his behaviour. He told his sister he wanted to go back to Hammanskraal.

He stopped going to school while in Hammanskraal and stayed home. The following year he went back to school, after his sister pleaded with him to go back. He passed grade seven then proceeded to grade eight. He failed grade eight then left school again. The following year he went to an adult school but did not finish the year there. He started mixing with people of bad influence at street corners.

It was at this stage that Y started committing house break-ins at surrounding townships, but he was never arrested. He stopped doing housebreak-ins after his father took him to Zion Christian Church (ZCC). He also mentioned that it was in 2007 when his crime spree started and he began to be involved with friends who carried guns. At this time he started to be involved in hijackings and business robberies. Y mentioned that they rented a backroom in another section of their
towndship just for purposes of crime. Although he was arrested in 2007 for the possession of a firearm, the case was smuggled and the charges were subsequently dropped.

He was arrested in 2008 for hijacking, house robbery and the possession of a firearm. He awaited trial in prison for eleven months and was in due course sentenced to ten years of which four years were suspended. He started serving his sentence at Emthonjeni Youth Correctional Centre in 2009. Y said he fought with officials and other inmates at Emthonjeni Youth Correctional Centre and at one stage he stabbed an inmate. His family requested that the prison authorities move him to another prison because he was always contravening the prison rules.

He said he was “moved with special draft (special transfer) to Baviaanspoort in March 2011”. Y indicated that he was informed a month before that he would be transferred to Baviaanspoort Medium Security Prison. Even though he was informed a month before, he received no preparation before the transfer to adult prison. When he arrived at the adult facility, no formal induction was given to Y and as a result he had to find out, like many others, most of the things in prison. Y indicated that he will be released in 2012.

5.10 ACTUATING QUESTIONS

The following are the actuating questions that the study had to respond to:
Can the existing criminological and penological theories be used to explain risk factors associated with juvenile crime and form a framework for the treatment of juveniles in correctional facilities?

It is believed that existing criminological and penological theories can be used to explain the risk factors associated with juvenile crime and form a framework for the treatment of juveniles in correctional facilities, especially the Differential Association Theory of Sutherland. This theory adequately explains why youth offenders engage in criminal behaviour. This will inform penological theories such as those related to rehabilitation theories, in forming a clear framework of the treatment programmes available to youth offenders in correctional centres. Rehabilitation programmes for youth offenders should be modified to suit the individual needs of youth offenders and should be designed to address the criminal risk of offenders. In this case, the Correctional Sentence Plans are good instruments in channelling youth offenders towards rehabilitation.

Can the existing body of knowledge regarding the treatment of juveniles be utilised to develop a meaningful programme for the treatment and adjustment of young offenders in adult prisons?

The literature search revealed a lack of knowledge regarding the treatment of youth offenders, particularly in adult prisons. This can be ascribed to the lack of research conducted on the treatment of youth offenders in adult facilities. The available literature reveals that youth in adult facilities are not given special treatment to suit their individual needs. This was also confirmed by an official at
Baviaanspoort Medium B where the research was conducted. Due to overcrowding, among other things, there is no special treatment for those regarded as youth in adult facilities. In fact, the youth are treated as adults from the time they arrive at the adult facility.

- Does the existing literature fully explain the process of transferring youth offenders to adult correctional institutions?

No, there is no existing literature specifically on the transfer of youth offenders to adult correctional facilities.

- Does the Department of Correctional Services prepare youth offenders for this transition to an adult facility?

No, the research revealed that there is no standard procedure in preparing youth offenders for their transfer into adult correctional facilities.

5.11 CONCLUSION

The chapter presented the data analysis of the information provided by respondents in this study. This research study investigated questions around the transfer process of youth offenders to adult correctional facilities. Up until now, this area has not been researched. The literature revealed nothing in particular on the transfer of youth to adult prisons, and there is limited research on the treatment of youth in adult prisons. The aims of the study were to understand:
1. Factors taken into account before young people are transferred to adult facilities.

2. The age of transfer of juvenile offenders.

3. The type of preparatory mechanisms (if any) is in place before transfer occurs and whether these young people are given enough induction when they arrive at an adult facility.

4. The needs of youth offenders in adult correctional facilities.

5. The challenges faced by youth offenders when they arrive at adult correctional facilities.

The study revealed that youth offenders are transferred from a juvenile correctional centre to an adult correctional facility when they reach the age of 21 and there is little if any preparation for these young people before their transfer. The study also revealed inconsistencies in the induction provided to young people arriving at the adult correctional facility. Young people face a number of challenges when they are accommodated in an adult correctional facility, including overcrowding, which they do not experience in the youth facility; shortages of food; gangs; and a lack of variety in rehabilitation programmes. The study also revealed that there were instances where youth offenders were transferred to the adult prison six months before their sentences expired. In instances such as these, these offenders should not be exposed to the harsh conditions of an adult correctional facility for such a short period of time. Such young people could be accommodated in a separate section of the juvenile facility until their sentences expire. The researcher hopes that since this study has revealed new knowledge with regards to the transfer of youth to adult correctional centres, researchers in
the future will be able to identify other aspects within this area needing further scrutiny. The next chapter concludes the study and offers recommendations.
CHAPTER 6
CONCLUSION AND RECOMMENDATIONS

6.1 INTRODUCTION

This chapter will provide the general conclusion and recommendations for each research question that formed part of the study. The Department of Correctional Services may find recommendations in this study valuable for the implementation of a system which can alleviate some of the challenges faced by youth offenders during the transition from juvenile facilities to adult correctional facilities.

6.2 CONCLUSION AND RECOMMENDATIONS

The following conclusions and recommendations are made with regard to themes which arose from the findings of this study. These were introduced in the data analysis chapter.

6.2.1 Age at which youth offenders are transferred to adult correctional facility

The study on the transfer of youth from a juvenile correctional centre to an adult correctional facility has revealed that youth offenders are transferred from juvenile to adult facilities when they reach the age of twenty one (21) years. However, there seem to be inconsistencies with regards to this transfer age. For example, in Ekuseni (KZN) and Drakenstein (WC), youths are transferred at the age of twenty
five (25) years while at Pollsmoor (WC) and Cradock (EC), the transfer of youths take place at the age of twenty one (21) years. It is therefore recommended that the Department of Correctional Services investigate this matter and apply the procedure uniformly in all facilities, unless exceptional circumstances exist which necessitate the transfer of the youth at the age of 25. The department should develop a policy specifically dealing with the transfer of youth offenders and the policy should clearly state at which age youth offenders should be transferred. The guidelines as implemented by the HM Prison Service can serve as a useful tool in developing a policy for the Department of Correctional Services. This policy should be implemented in all youth facilities.

6.2.2 Factors to be taken into account before transfer

The study revealed that age is the only factor taken into account before the transfer of young offenders from Emthonjeni Youth Correctional Centre to Baviaanspoort Medium Security Prison for adults. It is recommended that other physical features such as the physical appearance, size and strength of the youth should also be considered. Identifying vulnerable, weak or physically small youths, and keeping them in juvenile facilities if they do not pose a threat to other juveniles, may prevent possible victimization. Merely using age as a criterion for transferring youths to adult correctional facilities may expose vulnerable youths to violence and subjugation. The small physique of a youth can make him vulnerable to assault, physical or sexual abuse by older offenders at an adult facility. It is also recommended that the level of mental stability of a youth should be assessed prior to transfer as well as his level of maturity and ability to adapt in a new environment. Vulnerable or young offenders perceived to be helpless,
inexperienced or weak may become victims of abuse and assault. These offenders may also be susceptible to the negative influences of older offenders. Interventions after transfer to an adult facility would have to include continuous assessment, evaluation and the implementation of immediate interventions where there is risk of victimisation and exploitation by older offenders.

6.2.3 Preparation for youth offenders before transfer

With regards to the preparation of the young offender before transfer, the findings of the study indicate that there is no formal or official preparation of youth offenders for their transfer to an adult correctional facility. It is therefore recommended that the Department of Correctional Services institute research initiatives into this matter and develop a standard protocol with specific procedures which should be used to prepare youth offenders awaiting transfer to an adult facility. This protocol can also be used to identify young offenders who may be deemed vulnerable to abuse and exploitation when transferring to an adult facility. Among other things, the department could take inmates due for transfer, for a visit to an adult facility prior to their eventual transfer as part of their induction into an adult facility. Afterwards, the young offender can be debriefed about the visit and an assessment can be done to determine how the youth will integrate and adapt into the new system. These intervention strategies may assist in preparing these young people psychologically for their transfer to an adult facility. The assessment must be based on the youth’s strengths, weaknesses and factors which make him prone to committing crime. These factors must be integrated into the offender’s correctional sentence plan. It is important for the Department of Correctional
Services to consider at the guidelines from the HM Prison Services with regards to the preparation and transfer of youth offenders to an adult correctional facility.

### 6.2.4 Challenges faced by youth in an adult correctional centre

In this study the youth offenders highlighted some of the challenges they faced in an adult facility. These challenges included a lack of induction upon arrival at the adult correctional facility and overcrowding. The following recommendations are provided for these challenges.

#### 6.2.4.1 Induction

According to the majority (12) of the respondents, there were no formal induction programmes at the adult correctional facility. These respondents had to find out for themselves or rely on other offenders for information. This finding supports the recommendation for the introduction of an induction programme for all newly transferred young offenders. This should be compulsory. As part of the orientation, all offenders should be given an information package or orientation manual, for which they should acknowledge receipt by signing when receiving the manual. This will ensure that new inmates do not claim that they were not informed about the rules and regulation of the adult prison. The manual should contain information about: all of the programmes available at the facility, the rules and regulation of the facility, and facilities available in the correctional centre including sports facilities, library, the canteen and dining area. The manual should be written in the official South African languages so that each offender is able to understand the content. Illiterate offenders must be assisted to access the contents.
In addition offenders should be informed about their rights in prison and of any recourse available to them to address situations in which their rights to safety and security are undermined. They must be informed of the complaints procedure and who they can approach if they are having problems with adult offenders.

6.2.4.2 Overcrowding

The study revealed that youth offenders are exposed to higher levels of overcrowding in the adult correctional facility compared to that of the youth facility. For instance, in the youth correctional facility, they shared a cell with one or two other inmates while at the adult correctional facility they share a cell with more than twenty or thirty other inmates. According to Neser (1993:280) prison overcrowding leads to higher cell temperature and noise levels, poor ventilation in cells, idleness, disagreement and irritation among the prisoners. The Judicial Inspectorate for Correctional Services (2011/12:29) also acknowledges the problem of overcrowding in correctional centres when they state that, “... the problem of chronic overcrowding and its deleterious effects on inmates in some correctional centres has resulted in the treatment of inmates and conditions of detention falling short of desired levels”.

As a result of the negatives associated with overcrowding as highlighted above, it is recommended that departmental strategies to reduce overcrowding include an application to the original court to convert the remainder of the sentences to correctional supervision for those who have serve six to twelve months left of their sentence.
The Judicial Inspectorate for Correctional Services has recommended that the prison cells should be used for sleeping purposes only and those offenders should go out and engage in meaningful work programmes during the day (Judicial Inspectorate of Correctional Centres, 2009). The department should consider this recommendation with reference to young offenders. This will enhance their meaningful and constructive participation in activities and counteract idleness and boredom.

6.2.5 Needs of youth offenders in an adult correctional facility

The unique and specific needs of younger offenders, versus those of older inmates formed an integral component of the research. Age related needs of youth offenders in an adult correctional facility were identified and discussed in chapter five. The following section provides recommendations to the Department of Correctional Services on how these needs could be met.

6.2.5.1 Education

In the study, 12 offenders were registered for some form of education while the remaining eight offenders were not registered or studying at all. It is recommended that offenders should be encouraged to study while incarcerated. This can be done by converting a part of their sentence to correctional supervision if they progress well in their studies. Motivational speakers and educationalists should be scheduled to visit youth offenders on a regular basis to inform them about the importance of education and educational opportunities available to them. The department should regularly assess offenders’ needs with regard to both training and education and try to meet those needs.
6.2.5.2  Family

Family is an important source of support for offenders in correctional facilities. The majority (12) of the young offenders indicated that they needed forgiveness, frequent visits and acceptance from their families. It is recommended that social workers should be used effectively in correctional centres. Social workers must liaise with families of offenders to create awareness about the importance of visits and the need for them to forgive their children. Restorative justice should also be implemented for youth offenders and their families, with the subsequent involvement and inclusion of victims and/or the community. Maepa (2005:22) defines restorative justice as a means of addressing the hurts and the needs of both victims and offenders in such a way that both parties, as well as the communities which they are part of, are healed. Family Group Conferencing, one of the programmes within restorative justice, can be used in this instance.

This model is considered to be widely used in a modified form as a police initiated diversion approach in South Africa, Lesotho, South Australia and Ireland (Hand Book on Restorative Justice Programme, 2006:20). As they involve a wider circle of concerned people, including individuals who may be in a position to work with and support the offender, these conferencing processes are particularly effective as a means of ensuring that the offender follows through on agreed outcomes. In fact, other members of the circle frequently have a continuous role to play in monitoring the offender’s behaviour in future and ensuring that he or she complies with the rehabilitative and reparative measures that he or she has agreed to (Hand Book on Restorative Justice Programmes, 2006:20).
The initiative described above, will also enhance young offenders’ chances of successful reintegration and minimise recidivism rates among this vulnerable population. In her article in the Mail and Guardian, Rawoot (2012:1) mentions that young people leaving South Africa’s prisons have an estimated recidivism rate of fifty percent.

6.2.5.3 Personal development

Offenders have identified different needs with regards to their personal development including: computer training; labour training; financial management skills and problem solving skills. It is recommended that more opportunities be made available for offenders to acquire skills and/or to be trained in a trade. This will empower the individual upon release. Offenders should not spend their time just watching television in their cells, but should be engaged in more meaningful activities while incarcerated. Section 3(b) of the Correctional Services Act, 111 of 1998 requires that the department must: “... as far as practicable, be self sufficient and operate according to business principles”. This means the department must utilise its available resources, including prisoners, effectively and efficiently to create the maximum benefit for itself and society. Section 40 (1) of the same Act deals with labour performed by sentenced offenders and it states that:

“... sufficient work must as far as is practicable be provided to keep offenders active for a normal working day and a sentenced offender may be compelled to do such work”.

Section 40(3) further states that,
“A sentenced prisoner may elect the type of work he or she prefers to perform, if such choice is practicable and in accordance with an appropriate vocational programme”.

The Department of Correctional Services provides a variety of programmes offenders can choose from and these include: educational programmes; agriculture and production workshops; sports; recreation; arts and culture (Annual Report of the Department of Correctional Services, 2012/13:66-73). In terms of educational programmes, offenders can choose from the following: ABET programmes; FET college programmes and formal education. Young offenders should be encouraged and motivated to enter and complete programmes available in the various centres.

6.2.5.4 Incarceration

Offenders in the sample indicated their needs with regards to their incarceration, including better quality and quantity of food, psychological support and assistance and protection. With regards to nutrition it is recommended that the department conduct a survey to assess the quality of food offenders receive in order to improve on the quality and quantity. Menus should meet the needs of young adults who may require different nutrition than that of older inmates. The importance of nutrition is evident in a prison study which investigated the link between junk food and violence (Laurance, 2008).

“Some of Britain’s most challenging young prisoners are to be given food supplements in a study aimed at curbing violent behaviour. Scientists from
Oxford University say the effect of nutrition on behaviour has been underestimated. They say increases in the consumption of 'junk' food over the past 50 years have contributed to a rise in violence. The university will lead the £1.4m study in which 1,000 males aged 16 to 21 from three young offenders' institutions in England and Scotland will be randomly allocated either the vitamin-and-mineral supplements or a placebo, and followed over 12 months.

In a pilot study of 231 prisoners by the same researchers, published in 2002, violent incidents while in custody were cut by a more than a third among those given the supplements. Overall, offences recorded by the prison authorities fell by a quarter. John Stein, professor of physiology at Oxford University, said:

"If you could extrapolate from those results you would see a reduction of a quarter to a third in violent offences in prison. You could reduce violent offences in the community by a third. That would have a huge economic benefit."

"Our initial findings indicated that improving what people eat could lead them to behave more sociably as well as improving their health. This is not an area currently considered in standards of dietary adequacy. We are not saying nutrition is the only influence on behaviour but we seem to have seriously underestimated its importance" (Laurance, 2008).

Mark Walport, head of the Welcome Trust, which funded the three-year study, said:
"If this study shows that nutritional supplementation affects behaviour it could have profound significance for nutritional guidelines, not only within the criminal justice system but in the wider community – in schools, for example. We are all used to nutritional guidelines for our physical health but this study could lead to revisions taking account of our mental health."

The theory on which the trial is based, postulates that when the brain is starved of essential nutrients, especially omega-3 fatty acids which are a central building block of brain neurons, it loses flexibility. This shortens attention span and undermines self-control. Even though prison food is nutritious, prisoners tend to make unhealthy choices and need supplements, according to the researchers (Laurance, 2008).

Bernard Gesch, a senior research scientist in the department of physiology and the director of Natural Justice, a charity that investigates the causes of offending, stated that prisoners would be given the supplement containing 100 per cent of the recommended daily amount of more than 30 vitamins and minerals plus three fish-oil capsules totalling 2.25g in addition to their normal diet.

"We are trying to rehabilitate the brain to criminal justice. The law assumes crime is a matter of free will. But you can't exercise free will without involving your brain and the brain can't function properly without an adequate nutrient supply. It may have an important influence on behaviour."
“This is a positive approach to preventing the problems of anti-social and criminal behaviour. It is simple, it seems to be highly effective and the only ‘risk’ from a better diet is better health. It is a rare win-win situation in criminal justice” (Laurance, 2008).

It is thus critical to acknowledge the link between nutrition and behaviour. Correctional services should provide nutritious meals which would allow the prisoner to thrive physically and maintain a healthy emotional state of mind, which supports DCS’s rehabilitative efforts. With regards to the psychological needs, the Department of Correctional Services should effectively utilize health care staff such as psychologists, social workers and case managers to afford offenders the help they require with regards to their psychological needs. Efforts must be made to recognise the process of institutionalisation and to reduce the damage caused among young offenders in prisons. According to Haney (2001):

“... the process of institutionalization is facilitated in cases in which persons enter institutional settings at an early age, before they have formed the ability and expectation to control their own life choices. Because there is less tension between the demands of the institution and the autonomy of a mature adult, institutionalization proceeds more quickly and less problematically with at least some younger inmates. Moreover, younger inmates have little in the way of already developed independent judgment, so they have little if anything to revert to or rely upon if and when the institutional structure is removed. And the longer someone remains in an institution, the greater the likelihood that the process will transform them”.
DCS must therefore reduce the process of institutionalisation by providing the emotional and psychological support required by these youths. Cognitive restructuring should be the essence of treatment programmes which allow the offender to successfully return to society upon release.

Research studies by Mark Lipsey of Vanderbilt University (Clark, 2011) examine the effectiveness of various approaches to interventions with young offenders. His review analyzed the results of 548 studies from 1958 to 2002 that assessed intervention policies, practices and programmes. The study found that cognitive behavioural therapy significantly reduced recidivism, even among high-risk offenders (Clark, 2011:2).

Beliefs, attitudes and values affect the way offenders think and how they view problems. These beliefs can distort their view of reality, influence their interactions with other people and determine how they experience everyday life. By means of cognitive behavioural therapy, restructuring of distorted thinking and perception takes place, changing behaviour.

The department should also ensure the safety and security of all offenders in correctional facilities at all times. The department’s budget programme on security states that the purpose is: “... to provide safe and secure conditions for all persons incarcerated, consistent with human dignity, and thereby provide security for personnel and the public.” (DCS Annual Report, 2010/11:18). While incarcerated in correctional centres, inmates are at risk of being assaulted or killed. For the 2010/11 financial year, the Department of Correctional Services recorded 317
alleged assaults per 10 000 inmates (prison population 160 545) (DCS Annual Report, 2010/11:47). With regards to death in correctional centres, the Annual Report of the Judicial Inspectorate for Correctional Centres (2010/11:75) recorded a total of 48 unnatural deaths in correctional centres across the country. The majority of these deaths (31) were a result of inmates committing suicide and the remainder (17) were a result of inmates killed by officials or other inmates.

In February 2009, the department organized a round table discussion to address issues of gang violence in prison. From this discussion, a task team consisting of internal and external role players was appointed in June 2009 to develop and draft a Gang Management Strategy (Minutes of the Parliamentary Monitoring Group, 11 May, 2010:26). This strategy consisted of short, medium and long term actions. The following are the short term actions within this strategy:

- Initial and continuous risk assessment, supervision and separation of predatory and vulnerable inmates.
- Increased access control, movement control and searching.
- Creating an environment that encourages the reporting of victimization/bullying and abuse.
- Rendering support to the victims of violence.
- Strict enforcement of disciplinary and criminal procedures.
- Providing inmates at admission with accurate information on their rights, responsibilities and risks.
The medium and long term actions of the strategy include the following:

- Training of staff on recognizing and understanding different forms of violence, coercion, abuse and threats.
- Training of staff on effective handling of complaints.
- Training of staff on conflict resolution.
- Training of staff on dealing with incidents of violence.
- Establish a structure and data base at all levels to identify collect and analyze data on gangs.
- Fully implement sentence and development plans for offenders.
- Research and record good practice in respect of prevention, code enforcement and victim support.
- Legislative provisions.
- Criminal reporting.
- Reclassification.
- Transfer of gangsters to maximum facilities (Minutes of the Parliamentary Monitoring Group, 2010:26).

It is therefore recommended that the department fully implement this strategy in all correctional centres with continuous monitoring and evaluation of this strategy.

6.2.5.5 Specialised youth-centred assessment

The offender needs to be assessed and closely monitored in the transfer phase. This is critical in ensuring the successful integration of the young offender into the new and perhaps threatening environment. An individualised risk and needs
assessment tool for young offenders must be developed to meet the needs of these offenders. This must be done in conjunction with the existing assessment process and treatment plan for adult offenders.

A report on Youth Offenders Assessment Profile (Asset-Young Offender Assessment Profile, 2011:1) shows that youths who come into contact with the criminal justice system often have multiple needs and difficulties which must be identified and addressed in order to reduce their chances of re-offending. The report highlights that a comprehensive assessment of the offender can pinpoint these factors. Furthermore this assessment should take into account the nature of the young person’s offence, their personal circumstances as well as their attitude and belief system. According to the report, this will provide a clear indication of the type of intervention needed to help a young person lead a law-abiding life in future (Asset-Young Offender Assessment Profile, 2011:1).

Hesselink-Louw (2009:1) shares the same view that the assessment of criminal behaviour is a reliable practice to challenge, address and correct criminal behaviour in the custodial setting. This leading criminologist indicates that the assessment of criminal behaviour is a key element and the first and most important step in addressing and correcting offending behaviour. In addition, she states that offender assessment guides custodial therapists such as educators, psychologists and social workers to purposefully target individualised needs and risk in order to correct anti-social and criminal behaviour (Hesselink-Louw, 2009:335).
The Department of Correctional Services provides sentence plans to offenders who are serving sentences of more than twenty-four months (Department of Correctional Services, Offender Rehabilitation Path, 2010:7). However, in the United Kingdom, sentence plans are developed for offenders serving sentences of more than twelve months. An offender is assessed in order for a sentence plan to be developed. The Prison and Probation Services use the Offender Assessment System (OASys) to help the authorities understand: reasons for offending and what a person needs in order to stop offending. This system can also be used to determine if they are likely to harm themselves or others and to prevent future harm inflicted either on themselves or others. Furthermore, the assessment can be used to develop an action plan or sentence plan (Offender management, sentence planning and getting ready for release, 2011:1).

In addition to the assessment of adult offenders, a specialised assessment framework specifically targeting young offenders needs to be developed. This framework can be used to assess young offenders in adult prisons and it is important to consider their specific needs in adult prisons when developing the framework. This assessment framework should therefore inform the nature of rehabilitation programmes, in terms of structure and content, designed for young people in adult prisons. It will further be important for the programme to consider the profile of young people in adult prisons. The emphasis should be on a made to measure assessment tool which will inform both the sentence plan of young offenders as well as the specific programme designed to meet the needs of these offenders. In addition to this, officials who provide these programmes should be trained to work with young people.
6.3 CONCLUSION

This chapter provided a conclusion of the study and important recommendations aimed at the Department of Correctional Services. This department could find these recommendations useful in dealing with the transfer of youth offenders to adult correctional centres in general. It has been highlighted that there is a need to provide specialised assessment of youth offenders who have been transferred to adult correctional centres. In addition to this assessment, there must be a continuous monitoring of youth offenders in adult correctional centres to ensure that they integrate successfully in the new and threatening environment.

The needs, as well as the challenges of young people in an adult correctional centre have been identified. It is therefore important for correctional services authorities to develop an individualised risk and assessment tool for young people to ensure that these needs and challenges are addressed. In terms of preparation before transfer, guidelines should be developed to prepare these young people for their transfer to adult correctional centres. Those who may be deemed vulnerable to abuse and exploitation should be identified and specific procedures to manage these situations, should be developed. The Department of Correctional Services should examine additional factors to be taken into account before the transfer of youth offenders to adult correctional centres. In addition to this, there must be consistency in all youth centres with regards to the age of transfer. Currently, there seems to be a lack of uniformity in different regions and correctional centres regarding the age of transfer of youth to adult correctional centres.
It is believed that this research has laid the foundation for other researchers who are interested in both the treatment and handling of youth offenders especially in adult correctional centres. Ample opportunity exists for further research of the transfer of youth offenders to adult correctional facilities to continue their sentences. There is so much scope for research in this particular area in order to improve the management of this vulnerable category of offender.
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Annexure A: Approval letter from the Department of Correctional Services
DEPARTMENT: CORRECTIONAL SERVICES
REPUBLIC OF SOUTH AFRICA

Mr. MP Mathabatho
Fax: 0124296609

A criminological analysis of the transfer of youth offenders to adult correctional institutions.

It is with pleasure that I wish to inform you that your request to conduct research in the Department of Correctional Services on the above topic has been approved.

Your attention is drawn to the terminology used in the White Paper on Corrections in South Africa (February 2005).

Regional Head: Corrections-Gauteng, Ms. M Mabuza has been appointed as your internal guide. You are requested to contact her at telephone number 0124200216/ 6193 before the commencement of your research project.

The relevant Area and Regional Commissioners will be informed of your pending research project. It is your responsibility to make arrangements for your visiting times. It is recommended that your identity document and this approval letter be in your possession when visiting the center.

Should you have any enquiries regarding this process, please contact the Directorate Research for assistance at telephone number 012-305 8820/305 9619/307 2359

Thank you for your application and interest to conduct research in the Department of Correctional Services.

Yours faithfully

CHIEF DEPUTY COMMISSIONER: CENTRAL SERVICES
TJ Motseki (Mr.)
Annexure B: Questionnaire

Questionnaire on the transfer of youth offenders to adult Correctional Institutions

For official use only

Questionnaire number

Date

Q1. How old are you?

1. Under 20 years  
2. 20-22 years  
3. 23-24  
4. 25-26  
5. Older

Q2. How old were you when you were transferred to the current facility?

1. Under 16  
2. 20-22  
3. 23-24  
4. 25-26

Q3. How old were you when you were arrested for the current crime?

1. Under 16  
2. 16-18  
3. 19-21  
4. 22-24  
5. Older

Q4. How old were you when you were sentenced for the current crime?

1. Under 16  
2. 16-18  
3. 19-21  
4. 22-24  
5. Older
Q5  For which crime have you been sentenced?

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<table>
<thead>
<tr>
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<tbody>
<tr>
<td>1</td>
<td>Shop lifting</td>
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<tr>
<td>2</td>
<td>House robbery</td>
</tr>
<tr>
<td>3</td>
<td>Assault</td>
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<tr>
<td>4</td>
<td>Rape</td>
</tr>
<tr>
<td>5</td>
<td>Embezzlement</td>
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<tr>
<td>6</td>
<td>Hijacking</td>
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<td>7</td>
<td>Murder</td>
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<td>8</td>
<td>Kidnapping</td>
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<td>9</td>
<td>Attempted murder</td>
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<td>10</td>
<td>Other, please explain below</td>
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Q6  When were you sentenced?

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<tbody>
<tr>
<td>1</td>
<td>2000/earlier</td>
<td>2</td>
<td>2001</td>
<td>3</td>
<td>2002</td>
<td>4</td>
<td>2003</td>
</tr>
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</table>

Q7  For how long have you been sentenced?
(Please state years only. For example 18 months will be rounded to two years, 15 months to 1 year)

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Q8  Have you been sentenced to prison before?

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<td>1</td>
<td>Yes</td>
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<tr>
<td>2</td>
<td>No</td>
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</table>

15
16
17
18
Q8.b  If yes for which crime?

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<tbody>
<tr>
<td>1</td>
<td>Shoplifting</td>
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<tr>
<td>2</td>
<td>House robbery</td>
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<tr>
<td>3</td>
<td>Assault</td>
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<td>4</td>
<td>Rape</td>
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<td>Embezzlement</td>
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<td>Hijacking</td>
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<td>Kidnapping</td>
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<td>Attempted murder</td>
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<td>10</td>
<td>Other, please explain below</td>
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</table>

Q8.c  And for how long? Please indicate years

[ ] [ ]

Q9. When were you transferred to the current facility?

<table>
<thead>
<tr>
<th></th>
<th>2000 or earlier</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
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Q10. Do you know why you were transferred?

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<td>Yes</td>
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<td>2</td>
<td>No</td>
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</table>

Q10.b  If yes indicate.

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<tbody>
<tr>
<td>1</td>
<td>Because of Prison Overcrowding</td>
<td>2</td>
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</tbody>
</table>

[ ] [ ]
Q11. If you had a choice, would you agree to be transferred?

1 Yes  2 No

Q11.b Indicate why

Q12. Were you informed that you would be transferred to adult Correctional facility?

1 Yes  2 No

Q13. In your view, do you think you were ready to be transferred to an adult Correctional Facility?

1 Yes  2 No

Q14. Do you understand what an induction program is?

1 Yes  2 No

Q15. When you arrived in this Correctional Center were you inducted/orientated about the Prison rules and regulations and the facilities?

1 Yes  2 No
Q15.b If yes, did this assist you in adapting to the prison environment?

\[
\begin{array}{cc}
1 & Yes \\
2 & No \\
\end{array}
\]

\[
30
\]

Q15. c If no, how did you know about those things?

\[
\begin{array}{cccc}
1 & Told by fellow prisoner \\
2 & Told by certain Correctional official \\
3 & Found out myself \\
4 & Other, explain \\
\end{array}
\]

\[
31
\]

Q16. Are there things that you were not orientated about that you had to find out for yourself?

\[
\begin{array}{cc}
1 & Yes \\
2 & No \\
\end{array}
\]

\[
32
\]

Q16.b If yes, what are those things? Please explain

\[
33
\]

Q17. Was there anyone (another inmate) showing you what to do and not to do and what to avoid when you arrived here?

\[
\begin{array}{cc}
1 & Yes \\
2 & No \\
\end{array}
\]

\[
34
\]

Q17.b If yes, did it help you avoid trouble?

\[
\begin{array}{cc}
1 & Yes \\
2 & No \\
\end{array}
\]

\[
35
\]
Q17. a. If no, do you believe this could have helped you?

1 Yes 2 No

36

Q18. What do you think should also be included in an induction programme?

.................................................................................................................................

.................................................................................................................................

37

Q19. Do you think new offenders (transferred) should be isolated from the general prison population during an orientation period?

1 Yes 2 No

38

Q19.b Please explain your reasons.

.................................................................................................................................

.................................................................................................................................

.................................................................................................................................

39

Q20. Do you think it would be helpful for new offenders to receive an orientation in terms of facilities available to them?

1 Yes 2 No

40
Q.21. What do you think are the major difference between youth and adult correctional facilities?

__________________________________________________________

__________________________________________________________

__________________________________________________________

41

Q.22. How do you describe the treatment by other offenders when you first arrived here?


42

Q.23. How do you describe the treatment by Correctional officials when you first arrived here?


43

Q.24. Do you think you are vulnerable to sexual abuse by older prisoners in here?

1. Yes 2. No

44

Q.25. Do you think you are vulnerable to physical abuse by older prisoners?

1. Yes 2. No

45

8
Q. 26. Were you a member of a prison gang while you were incarcerated in a juvenile institution?

1. Yes  2. No

Q. 27. Are you a member of a prison gang currently?

1. Yes  2. No

Q. 27 b. If yes why did you join?

<table>
<thead>
<tr>
<th></th>
<th>Protection</th>
<th>Forced to join</th>
<th>To belong somewhere</th>
<th>Other, explain</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
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<td>2</td>
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</table>

Q. 28. Have you experienced any gang related violence since you arrived here?

1. Yes  2. No

Q. 28 b. If yes, how did it affect you?

<table>
<thead>
<tr>
<th></th>
<th>Traumatized</th>
<th>Scared</th>
<th>Indifferent</th>
<th>Other, please explain</th>
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<tbody>
<tr>
<td>1</td>
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<td>2</td>
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</tbody>
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Q 29. Were you ever harassed, intimidated, threatened or assaulted since you arrived here?

1. Yes 2. No

Q 29 b. If yes by whom?

1. Correctional officials 2. Other prisoners

Q 29 c. And how?

1. Verbally abused 2. Physically abused 3. Other, please explain

Q 30. Are you being treated differently by Correctional officials here as compared to juvenile facility?

1. Yes 2. No

Q 31. How many are you in a cell currently?

Q 32. How many were you in a cell in a juvenile facility?
Q 33. Are you attending any prison/rehabilitation program currently?

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<tbody>
<tr>
<td>1</td>
<td>Yes</td>
<td>2</td>
<td>No</td>
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</table>

Q 33 b. If yes which one

<p>| | | | |</p>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Educational</td>
<td>2</td>
<td>Life skills</td>
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Q 34. Is this programme specifically for youth offenders or is it for all offenders?

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<tbody>
<tr>
<td>1</td>
<td>Youth</td>
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Q 35. Was there any programme that you could not complete at a juvenile facility as a result of the transfer?

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<tr>
<td>1</td>
<td>Yes</td>
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<td>No</td>
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</table>

Q 35 b. If yes which one?

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<tbody>
<tr>
<td>1</td>
<td>Educational</td>
<td>2</td>
<td>Life skills</td>
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Q 35. c Are you continuing with it now?

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<tr>
<td>1</td>
<td>Yes</td>
<td>2</td>
</tr>
<tr>
<td>3</td>
<td>Busy with it</td>
<td>4</td>
</tr>
</tbody>
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82

Q 36. If you could not continue with it why?

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<tbody>
<tr>
<td>1</td>
<td>Not provided</td>
<td>2</td>
</tr>
<tr>
<td>3</td>
<td>Other, explain</td>
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63

Q 37. What is the highest educational qualifications you completed?

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<tbody>
<tr>
<td>1</td>
<td>No schooling</td>
</tr>
<tr>
<td>2</td>
<td>Grades 1-3</td>
</tr>
<tr>
<td>3</td>
<td>Grades 4-7</td>
</tr>
<tr>
<td>4</td>
<td>Grade 8</td>
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<tr>
<td>5</td>
<td>Grade 9</td>
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<td>6</td>
<td>Grade 10</td>
</tr>
<tr>
<td>7</td>
<td>Grade 11</td>
</tr>
<tr>
<td>8</td>
<td>Grade 12</td>
</tr>
<tr>
<td>9</td>
<td>Tertiary qualification</td>
</tr>
</tbody>
</table>

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Q 38. Are you registered for any educational qualification currently?

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<tr>
<td>1</td>
<td>Yes</td>
</tr>
<tr>
<td>2</td>
<td>No</td>
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65

Q 38 b. If yes which one?

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<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Primary education</td>
<td>2</td>
<td>Secondary education</td>
<td>3</td>
</tr>
<tr>
<td>4</td>
<td>Technical/Apprenticeship</td>
<td>5</td>
<td>Other</td>
<td></td>
</tr>
</tbody>
</table>

66
Q 38. c. If not why not?

<table>
<thead>
<tr>
<th>Reason</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lack financial assistance</td>
<td>1</td>
</tr>
<tr>
<td>Don't feel like studying</td>
<td>2</td>
</tr>
<tr>
<td>Discouraged to study</td>
<td>3</td>
</tr>
<tr>
<td>Can't study in prison</td>
<td>4</td>
</tr>
<tr>
<td>Other</td>
<td>5</td>
</tr>
</tbody>
</table>

Please specify: ____________________________________________

Q 39. What are your needs with regard to education?

<table>
<thead>
<tr>
<th>Need</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Finance</td>
<td>1</td>
</tr>
<tr>
<td>Guidance</td>
<td>2</td>
</tr>
<tr>
<td>Motivation</td>
<td>3</td>
</tr>
<tr>
<td>Study space</td>
<td>4</td>
</tr>
<tr>
<td>All of the above</td>
<td>5</td>
</tr>
<tr>
<td>Other, specify</td>
<td>6</td>
</tr>
</tbody>
</table>

Q 40. What are your needs with regard to your family?

<table>
<thead>
<tr>
<th>Need</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Frequent visits</td>
<td>1</td>
</tr>
<tr>
<td>Acceptance</td>
<td>2</td>
</tr>
<tr>
<td>Emotional support</td>
<td>3</td>
</tr>
<tr>
<td>Forgiveness</td>
<td>4</td>
</tr>
<tr>
<td>All of the above</td>
<td>5</td>
</tr>
<tr>
<td>Other, specify</td>
<td>6</td>
</tr>
</tbody>
</table>
Q 41. What are your needs with regard to your personal development?

<table>
<thead>
<tr>
<th>Needs</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Labour training</td>
<td>1</td>
</tr>
<tr>
<td>Computer skills</td>
<td>2</td>
</tr>
<tr>
<td>Problem solving skills</td>
<td>3</td>
</tr>
<tr>
<td>Financial skills</td>
<td>4</td>
</tr>
<tr>
<td>All of the above</td>
<td>5</td>
</tr>
<tr>
<td>Other, specify</td>
<td>6</td>
</tr>
</tbody>
</table>

Q 41. What are your needs with regard to your incarceration?

<table>
<thead>
<tr>
<th>Needs</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Better food</td>
<td>1</td>
</tr>
<tr>
<td>Psychological help</td>
<td>2</td>
</tr>
<tr>
<td>Protection</td>
<td>3</td>
</tr>
<tr>
<td>All of the above</td>
<td>4</td>
</tr>
<tr>
<td>Other, specify</td>
<td>5</td>
</tr>
</tbody>
</table>

Q 42. What do you hope to achieve at the end of your sentence?

<table>
<thead>
<tr>
<th>Needs</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Educational qualification</td>
<td>1</td>
</tr>
<tr>
<td>Stop the life of crime</td>
<td>2</td>
</tr>
<tr>
<td>Being feared by my peers</td>
<td>3</td>
</tr>
<tr>
<td>Able to contribute positively to society</td>
<td>4</td>
</tr>
<tr>
<td>Other, specify</td>
<td>5</td>
</tr>
</tbody>
</table>
Informed Consent form

Criminological Analysis of the transfer of Juveniles to adult correctional centre

I, the undersigned, conform that:

1. I have read and understood the information about the research, as provided in the cover sheet of the questionnaire and the information was also explained to me in my mother-tongue

2. I have been given the opportunity to ask questions about the project and my participation

3. I voluntarily agree to participate in this research project

4. I understand I can withdraw at any time without giving reasons and that I will not be penalised either by the researcher or the prison authorities for withdrawing and I will not be asked questions on why I have withdrawn

5. The procedure regarding confidentiality have been clearly explained to me and I was given the assurance that my name will not be published and I was requested not to write my name in the
<table>
<thead>
<tr>
<th>questionnaire form</th>
</tr>
</thead>
<tbody>
<tr>
<td>6. The use of data in research, publication, sharing and archiving has been explained to me</td>
</tr>
<tr>
<td>7. I agree to sign and date this informed consent form together with the researcher</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Participant</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Researcher</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name</td>
</tr>
</tbody>
</table>