

## CHAPTER TWO

### 2. INTERNATIONAL AND NATIONAL TRENDS AND PERSPECTIVES ON OFFENDER REHABILITATION AND ASSESSMENT PRACTICES

#### 2.1 Introduction

Imprisonment as a form of punishment has developed over the last 200 years. One of the forerunners of prisoner reformers is John Howard (Luyt 1999a:1). Howard's aim was to provide prisoners with opportunities for personal reform. Luyt (1999a:1) cites that:

"Today, more than 200 years later, it is almost certain that John Howard would comment that the most striking aspect of prison reform over the last two centuries is how little of it there has been, not only in the South African field of incarceration, but also in most of the other parts of the world".

It is generally agreed that prisons have five major purposes, namely rehabilitation, retribution, deterrence, incapacitation and justice (Coetzee 2003b:2-3). However, what has not been agreed upon, is whether these objectives are actually met by imprisonment (Mubangizi 2001:120). As a punitive measure, the use of imprisonment gained popularity during the 20th century (Luyt 1999a:25). As a rehabilitative measure, imprisonment should be used as a starting point for the development and healing of offenders with the aim of preparing them to return successfully to society (Luyt 2001:31; Ramafoko 1998a:8; Riley 1999:19). This means that "punishment" should ultimately reshape the offenders' attitudes.

In the 1970s, and 1980s, nothing that therapists did in prison was successful, which supports Martinson's view of "nothing works" regarding prison and the reformation of prisoners (Duguid 2000:72; Hollin 2001:9). Martinson (1974) concluded that, "the rehabilitative efforts that have been reported so far have had no appreciable effect on recidivism" (Alexander 2000:9; McMurrin & Hodge 1994:2). The reviews conducted by Martinson and his colleagues provided a summary of 231 controlled studies that were reviewed, described and tabulated. The conclusions drawn by Martinson and his colleagues took various forms, both in the original review articles and in subsequent commentaries, but the dominant message remained that "nothing works" (Alexander 2000:9; Andrews & Bonta 1998:254; Duguid 2000:72-73). Martinson stated that "there is no evidence that treatment programmes influence aggregated crime rates ... correctional treatment in general is nine-tenths pageantry, rumination, and rubbish" therefore, offender rehabilitation is ineffective and 'not working' (Andrews & Bonta 1998:255).

According to Bonta (1997b:2) and Gillis, Motiuk and Belcourt (1998:6), the “nothing works” perspective was a prevailing myth in corrections. A close examination of the literature reviews indicates that many treatments do, indeed, work. Consideration of the evidence demonstrates that the rehabilitation of offenders can “work”, providing that corrections focus on offender assessments and risk assessments to guide therapeutic interventions and offender management practices (Bonta 1997b:1-2; Hollin 2001:12; Seiter 2002:88-89). It is further suggested by Simourd and Hoge (2000:270) that the concepts “nothing works” and “what works” (in offender treatment and rehabilitation) be replaced by reality - the “how it works” notion. Since the “nothing works” era, research has subsequently demonstrated that some things do work provided that they are done in the right order, with the right people, and for the right length of time (Papps 1999:42; Seiter 2002:88-89).

Correctional institutions are a reflection of a society in conflict with itself, and prisoners are perceived to be one of the most vulnerable sectors of society (Coetzee 2003b:2; Dissel & Kollapen 2002:5-6, 7). This conflict is evident in South Africa’s long history of discrimination. For almost 50 years a supremacist white minority dominated corrections and little was known of the conditions and treatment meted out to prisoners (Coetzee 2003b:1-2, 6; Dissel & Kollapen 2002:6, 8). In South Africa, prisons were employed as places of incarceration and punishment. This meant that punishment commenced when the sentence was passed, and the task of the Department of Correctional Services was to ensure that sentences were carried out, and to assist prisoners to return to society (Coetzee 2003b:6). During this era, little was done to promote the effective treatment and rehabilitation of offenders (Draft White Paper on Corrections in South Africa 2003:16-21).

However, prisons are also public institutions and therefore, the politics of the day must influence the management and administration of prisons, and the way in which inmates are treated (Coetzee 2003b:1). In the light of this, it is important to examine all relevant historic events that influenced the contemporary correctional “frame of operation”, the current shift to the rehabilitation and assessment of offenders.

This chapter explores historic and modern views on the treatment of offenders as well as the rehabilitation of offenders within in the Department of Correctional Services. Important precursors (such as Apartheid, demilitarisation, Act 111 of 1998, restorative justice and unit management) that stimulated change and influenced the Department of Correctional Services to shift from a “mode of detention” to a “mode of rehabilitation” (and currently, the need for “offender assessment”) are also included in this chapter. In closing, this chapter examines the current rehabilitation policy and the need for offender assessment as envisaged by the Department of Correctional Services.

## 2.2 Historical and modern views on the treatment of offenders

The following section underlines important historic and modern views on prisons, imprisonment and the treatment of offenders. These views outline the necessity of effective treatment and assessment of offenders.

According to Sir Winston Churchill (speech as Home Secretary in a Liberal Government, 1910):

“We must not forget that whenever material improvement has been effected in Prisons, when the temperature has been rightly adjusted, when the proper food to maintain health and strength has been given, when the Doctors, Chaplains, and Prison Visitors have come and gone, the prisoner stands deprived of everything a free man calls life” (Papps 1999:42).

Later on in 1923, Churchill proclaimed that:

“... a desire and eagerness to rehabilitate in the world of industry those who have paid their due in the hard coinage of punishment, tireless efforts towards the discovery of curative and regenerative processes, unflinching faith that there is a treasure, if you can only find it, in the heart of every man. These are the symbols, which, in the treatment of crime and the criminal, mark and measure the stored-up strength of a nation” (Mbeti *et al* 2001:4).

During an address to the Department of Correctional Services in June 1998, former President Mandela expressed himself as follows about imprisonment in South Africa:

“The way that society treats its prisoners is a reflection of its character. The contribution that prisons can make towards a reduction in the country's crime rate lies in the way in which society treats prisoners. Professionalism and respect for human rights are important to create a climate that is conducive to prisoners becoming law-abiding citizens. If prisons are to become places of rehabilitation, officials need to be equipped to perform their duties professionally and effectively. Prisoners and correctional officials should share an understanding of human rights and of their respective responsibilities. Treatment programmes can be the drive to secure prisons with an environment that assist inmates to develop to their potential and assume their responsibility to become valued members of the society” (Luyt 1999a:2-3; Papps 1999:43; Witbooi & Ramafoko 1998:8-10).

During a public address on 16 February 1996, the then Minister of Correctional Services, Mr. Ben Skosana, acknowledged that imprisonment in South Africa is still in what can be described as the "Howard era". The Minister concedes that:

“If we tell people that they are awful and irredeemable, then we will frequently have self-fulfilling prophecies. When we act as if we really believe that someone can be better, is better, and then they will often rise to our expectations” (Department of Correctional Services, Launch of Restorative Justice Programme).

The Minister furthermore professed that:

“That no person, no matter what his age or past record, should be assumed to be incapable of improvement, that it is in the interest of the public, not merely to impose a sentence which is retributive and deterrent, but also to make an earnest effort to reform the criminal, which is most likely to be attained by religious and moral instruction, mental quickening, physical development, and such work as will best enable the prisoner to gain his livelihood in the future. And that the reformatory system is incompatible with short sentences, and that a long period of reformatory treatment is more likely to be beneficial than repeated short terms of rigorous imprisonment. That reformatory treatment should be continued with a system of liberation and parole under suitable guardianship and supervision on advice of a board” (Department of Correctional Services, Launch of Restorative Justice Programme).

At the launch of the Restorative Justice approach within the Department of Correctional Services, the Minister of Correctional Services stated:

“I believe that a good part of our failure to make more substantial gains in rehabilitation even in this country, is simply because we are not facing the truth and a few people care to look into the matter. Due to a mixture of ignorance, politics, dysfunctional systems, and monetary influence we are unable to see many of the treatment issues of these populations in the light of the day. Since these populations are a closed, dark society, little understood by the outside world, the problems faced with rehabilitating prisoners are not understood by many on the outside. On the inside there is little accountability with regard to rehabilitation programmes and the problems associated with turning current rehabilitation programmes into something that would have a realistic impact on prisoners. This practice is costing our society billions of rands. As a matter of fact, what we get in return for the investment is a product that is in worse shape when it comes out as when it went in” (Department of Correctional Services, Launch of Restorative Justice Programme).

An American psychologist, Jerry Marzinsky, describes his experience in working at one of the jails in America as:

“I am also part of a small team charged with attempting to rehabilitate some of these people (prisoners). After 16 years on the front line fighting a war to rehabilitate instead of just settling for the incarceration of the people, it is clear to me that we are badly losing this war, as evidenced by both our incarceration and recidivism rates” (Department of Correctional Services, Restorative Justice, Centurion).

Another popular view is that of Muntingh (Mbetse *et al* 2001:88) who argues that:

“It is known that imprisonment *per se* does not rehabilitate people nor does it facilitate the ultimate goal of reintegration. It contributes to the formation of a prison sub-culture within an environment where social relations are based on survival, violence and hierarchy. Society should not continue to incarcerate people for periods of time and then expect them to have transformed themselves by some miracle”.

The enhancement of rehabilitation in prisons is also a topic that frequently features in the South African media (Department of Correctional Services Annual Report 2000/2001:48).

The following newspaper articles, court cases and expert opinions reflect society's lack of

faith in the rehabilitation of prisoners:

Eight psychologists attached to the Department of Correctional Services are quoted as saying:

"Prisoners in South African prisons are not rehabilitated. On the contrary, most fall further into crime. In some prisons inmates have access to more drugs and alcohol than they had whilst they were in the community. Ms Lorinda Bergh, Director of Psychological Services in the Department of Correctional Services, confirmed yesterday that all the fires cannot be extinguished any longer and that social workers and teachers were also too few" (Beeld, 5 August 1997:2).

Another newspaper, the Volksblad (14 January 1999:4), quoted Mr. Justice GA Hattingh as saying:

"... with regard to the personal circumstances of the criminal, the reform potential of imprisonment is a myth. Despite the dedication of the Department of Correctional Services and the clean - sounding rationale, it is the regrettable truth, however, that significant rehabilitation in most prisons today is an impossible task".

This statement is also supported by Van Wyk (2002:2).

A lack of faith in the rehabilitation of prisoners is also reflected in reported judgments. In *S v Nel* (1995(2) SACR 362 (W)), Streicher J (as he was then) said that:

"On the other hand, should the appellant receive a sentence of imprisonment, the chances are good that he will come out of there a worse person than he was before he went in. The community has an interest in the fact that the appellant be reformed. This can be done more effectively within the community (at own cost) rather than in prison (at the cost of the community).

In my opinion the interest of the community will not be served by the imprisonment of this appellant and correctional supervision will, in the case of the informed members of the community, not be seen as an unsuitable sentence - especially in the light of the fact that prisons are overcrowded. Some prisons now function on a population of 175%. In some cases a prisoner has to share a cell with more than 30 other inmates. This overcrowding causes various problems. One of those problems is sodomy. The seriousness of this problem cannot be over accentuated, especially in view of the AIDS danger. Gang activities are rife in prisons and pose dangers to other prisoners. Intimidation takes place and prisoners are too afraid to complain. The availability of drugs within the prisons is a known fact and, despite valiant efforts on the side of the prison authorities, drugs are freely available in most prisons. As a result of the ready availability of drugs coupled with the many empty and idle hours, a person may become a drug addict within the prison walls".

Furthermore, Inspecting Judge of Prisons, Fagan J (2002:7) also believed that: "We do not need more prisons, we need less prisoners" while forensic criminologist, Irma Labuschagne

(2002:17) and Van Wyk (2002:2) postulated that:

"Prisons have a climate of violence which has no free-world counterpart. People are terrorised by other inmates, spend years in fear of harm. Many injure themselves or commit suicide. Biological, psychological, economical and social victimisation is part and parcel of the prison experience." And, "Prisoners are not rehabilitated in South African prisons. The majority of inmates reoffend and it is a known fact that illegal substances and alcohol are more available in prison than inside the community".

The abovementioned statements emphasise the importance of the assessment of inmates and a holistic and integrated approach (social work, psychology and criminology expertise) to combat crime and to rehabilitate, treat and empower offenders to successfully reintegrate into society (Department of Correctional Services, Annual Report 2001:8).

### **2.3 The Department of Correctional Services: Punishment as a deterrence mechanism to achieve rehabilitation**

In the past, South African prison policy focused on the punishment of inmates. Conditions in prisons were often traumatic and this undermined any attempts at a positive outcome from imprisonment (Muntingh 2004, Alternative Sentencing Review Seminar). These conditions were linked to the conditions in society (Draft White Paper on Corrections in South Africa 2003:1-2). In this regard, Coetzee (2003b:4) and Mbetse *et al* (2001:78) state that no prison can succeed where society has failed. Once the ideal of prisoner reformation was abandoned in South Africa, then prisons became storage warehouses for society's rejects.

May and Pitts (2000:153) describe the South African scenario pertaining to prison reform as:

"The reality in South African prisons, however, is still a stark contrast to the prison reform legislation. Fear of crime in South Africa has been intense, and since the fall of apartheid South Africans have witnessed a rise of serious crimes. Upscale residential neighborhoods in urban areas resemble fortified enclaves, and episodes of random violence and robbery are rife throughout the country. Given this environment, few rally to the cause of prisoners' rights. South Africa has several hundred jails and prisons administered by a centralised agency, the Department of Correctional Services, but day-to-day activities are conducted by strong, independent, provincial directorates. The facilities house a diverse population, including individuals awaiting sentencing, those already sentenced, juveniles, men, and women. Overcrowding is endemic, a daily average of 110,000 individuals housed in a space designed for roughly 88,000. Naturally, this compromises security. Escapes are rampant, estimated at more than 95 per month. Violence is a common occurrence and often attributed to long-standing prison gang rivalries. These day-to-day realities divert attention from any prison administration attempting to introduce fundamental reform focusing on prisoners' rights".

Throughout history all societies have experienced the costly and direful effects of crime. It is therefore reasonable to assume that crime will always be a part of any society. Hollin (2001:4-5) declares that: "If we accept this assumption, then the crime problem can be perceived as a management problem: As a society, how are we best to contain and reduce the harm and costs of crime?" In South Africa, the answer to this question lies in the hope that imprisonment can have a rehabilitative function. Imprisonment with rehabilitation as a priority is re-emerging in the Department of Correctional Services, but the rehabilitative efforts of the past had no appreciable effect on recidivism (Draft White Paper on Corrections in South Africa 2003:3-4; Kriek, 2004). In this regard, Hollin (2001:19) states that changes in the recidivism rate are the primary criterion by which the effectiveness of rehabilitation is judged.

Her Honourable Ladyship, Ms Justice S Snyders, Judge of the High Court of South Africa (WLD), advocates that the South African society should urgently address the high crime rate, recidivism and expanding prison population. According to the honourable Judge, society should illustrate a balance by treating both victims and perpetrators (on whatever level necessary) to accomplish rehabilitation. She holds that: "The rehabilitation of offenders is an idealistic approach ... but, if we dream about the future (effective rehabilitation), then we shall see it grow up as a reality" (Snyders, The South African Professional Society on the Abuse of Children (SAPSAC), 4<sup>th</sup> Annual National Conference, 13 May 2003). Incarceration without reformation therefore, has been proven to not deter or reduce crime.

### **2.3.1 The history of rehabilitation within South African prisons**

A dearth of studies explains the history of rehabilitation in South African prisons. According to history, prisons worldwide are approximately over 250 years old (Coetzee, *et al* 1995:1; Coetzee 2003b:9). The first South African prison was built in 1781 (in the Cape) and in 1848 there were approximately 22 prisons in South Africa (Coetzee *et al* 1995:1). There was a time when convicted prisoners were considered to be social outcasts, and were treated as such. Prisons in Africa have their genesis in colonialism and the treatment of offenders (mostly Africans), had nothing to do with rehabilitation (Sitole 1998:14). Incarceration of prisoners in isolated places like Robben Island is an infamous example of this (Bukurura 2003:82).

The early part of the century saw the prison system regulated mainly by various Provincial Ordinances (Draft White Paper on Corrections, December 2003:16). It was not until South Africa became a Union (31 May 1910), that important developments regarding the prison system occurred. Under the leadership of Roos (the then Secretary of Justice and Director of Prisons), corrections were managed according to Article 13 of the Prisons and

Reformatory Act (1911). During this era the humane treatment, and the rehabilitation of prisoners, were severely ignored (Draft White Paper on Corrections in South Africa 2003:16).

Developments during 1945 held much promise. The Landsdowne Commission on Penal and Prison Reform (1947) found that the Prisons and Reformatory Act of 1911 had not introduced a new era in South African prisons, but that it had in fact been a vehicle for maintaining the previous harsh and inequitable prison system that preceded it (Draft White Paper on Corrections in South Africa 2003:16). This Commission held the view that more emphasis should be placed on rehabilitation and the need to extend literacy amongst prisoners, in particular black prisoners. It further highlighted the need to address the causes of crime to reduce the prison population and the recidivism rate (Coetzee *et al* 1995:6, 9; Draft White Paper on Corrections in South Africa 2003:16).

The Department of Corrections in South Africa have been run on military lines since its inception (Coetzee 2003b:2). The Landsdowne Commission was critical of the Government's decision to reorganise the prison service on full military lines, which was perceived to be an attempt to increase the control it had over prison officials. It cautioned that such a militarised system would not be conducive to the various rehabilitative influences which modern views deemed essential (Coetzee 2003b:2; Draft White Paper on Corrections in South Africa 2003:16-17). Sadly, nothing much came of it.

### **2.3.1.1 The influence of Apartheid on South African corrections**

During the Apartheid era, South Africa had one of the highest imprisonment and conviction rates in the world (Coetzee 2003b:1-2; Draft White Paper on Corrections in South Africa 2003:17). Pass-law offences and offences against the Immorality Act, as well as forms of opposition to Apartheid, were responsible for a large proportion of people sent to prison (Dissel & Ellis 2002:1-2). Imprisonment was harsh and brand new prison legislation in the form of the Prison's Act, Act 8 of 1959, was introduced. For the first time, the treatment of prisoners was compulsory as prescribed by Act 8 of 1959. The classification of prisoners was an important function, and individualised treatment and programmes according to the specific needs of convicted prisoners were goals in the rehabilitation of prisoners (Coetzee 2003b:21-25). The individual classification of offenders was included here and focused on an "analysis and assessment of the inmate's previous record, aptitude, qualification, previous training, ability and other personal factors" (Coetzee 2003b:37). At the time, it promised major transformation within prisons, but did not result in significant improvement. The new legislation continued - and even extended - racial segregation within prisons. It abandoned prison labour and replaced it with a system of parole (Draft White Paper on Corrections in South Africa 2003:17). The new legislation took cognisance of the United Nations' Standard Minimum Rules for the Treatment of Prisoners as far as the emphasis on rehabilitation was concerned, but it ignored other crucial aspects, such as the prohibition of corporal punishment for prison offences (Coetzee 2003b:28-29; Draft White Paper on Corrections in South Africa 2003:59-60).

As indicated above, before 1959 hard labour, religious practice and strict discipline supported the fundamental treatment of prisoners. During the Apartheid years, the nature and extent of prisoner treatment, development and rehabilitation were not clearly stipulated in the law as it is in the recent Constitution (Coetzee 2003b:1-2; Draft White Paper on Corrections in South Africa 2003:17). During the 1960s, prisons were used to detain prisoners on a large scale as a means of controlling political unrest and the incarceration of political detainees and sentenced political prisoners, became a significant feature of prison reality (Coetzee 2003b:2; Draft White Paper on Corrections in South Africa 2003:16-17). This led to an increasing attack on the legitimacy of the prison system. The response by the government at the time was to grant even more extended powers to prison authorities. Prisons, however, mainly remained overcrowded places of security and not much more. Although some rehabilitative processes were taking place, they were insignificant. In the beginning of the 1970s, offenders were classified according to their intellectual abilities and personality traits. The aim of this classification system was to establish different institutions for different types of offenders, and to separate these offenders from one another (Coetzee 2003b:21-25; Draft White Paper on Corrections in South Africa 2003:17).

These marginal improvements in the prison system were unfortunately soon overshadowed by the declaration of the State of Emergency on 21 July 1985, which lasted until 1990. The mass detention of political prisoners during this period further inflated the already problematic prison population (Dissel 1997:2-3). During 1988, important amendments were made to prison legislation. By excluding all references to race, a reversal of the almost total racial segregation of the prison population was brought about. Transformation, it seemed, was at last becoming a real prospect (Draft White Paper on Corrections in South Africa 2003:17-18). Late in 1990, the government announced that it planned to introduce extensive reforms to the prison system. The Prison Service was separated from the Department of Justice and renamed the Department of Correctional Services, and this triggered important changes to prison legislation. Both the Interim Constitution of the country, introduced in 1993, and the post-election Constitution - introduced in 1996 - embodied the fundamental rights of the country's citizens, including prisoners (Draft White Paper on Corrections in South Africa 2003:19).

#### **2.3.1.2 Transformation and demilitarisation in South African prisons**

With the transformation in the 1990s, South Africans had the opportunity to alter their perceptions on crime and punishment. Initiatives to reform have been blunted by an increase in prisoners and a resistance to reform. During this time, powerful gangs that maintained absolute control of daily life in prisons dominated the prison sphere. The features of South African prisons were therefore related to conditions in society at large (Dissel & Ellis 2002:2).

On 1 April 1996, the correctional system was demilitarised - a step that has been necessary for the Department to be able to carry out its responsibilities with regard to the development and rehabilitation of offenders (Coetzee 2003b:8; Draft White Paper on Corrections in South Africa 2003:21; Luyt 1999a:3; Witbooi & Ramafoko 1998:8). Demilitarisation focussed on the removal of all visible signs of militarism: Ranks, titles, military hierarchy and uniforms were changed (Dissel & Kollapen 2002:39; Draft White Paper on Corrections in South Africa 2003:52; Luyt 2001:27). Some of the key issues related to demilitarisation were: To have a holistic management, rehabilitation and treatment approach, to identify core values, to drive cultural change and to develop a new disciplinary system to deal with misconduct (Botha 1998c:30; Draft White Paper on Corrections in South Africa 2003:21, 52).

After years of political inequality, South Africa became a democracy in 1994. These changes had a influence on the imprisonment and treatment of offenders (Luyt 1999a:4). Serious reform started with the advent of the Constitution of the Republic of South Africa,

post 1994, that led to the promulgation of the Correctional Services Act, Act 111 of 1998. The development of this Act came after the demilitarisation of the Department of Prisons and a change of name to the “Department of Correctional Services” (Draft White Paper on Corrections in South Africa 2003:19). The intention of these policies and legislative changes was to capture the spirit of the Constitution of Human Rights in terms of the Bill of Rights (Coetzee 2003b:8-9; Department of Correctional Services, Restorative Justice). The Department became officially committed to a policy that promotes humane treatment and conditions conducive to supporting human rights. This policy is in line with one of the world’s most liberal constitutions that emphasises the rehabilitation and reintegration of offenders into society (Coetzee 2003b:5-7; Dissel & Ellis 2002:2).

### **2.3.1.3 Prisons in the New South Africa**

The Department of Correctional Services focuses on the principles of “Batho Pele” (*People first*) in the transformation of service delivery. These principles are based on consultation, service standards, access, courtesy, information, openness and transparency, redress and value for money (Botha 1998b:17). The focus at present is on transforming South African prisons from being so-called “universities of crime” or “criminal headquarters”, into effective rehabilitation centres that produce skilled and reformed individuals who are capable of successful reintegration into their communities as law-abiding citizens (Coetzee 2003b:5-7; Draft White Paper on Corrections in South Africa 2003:21, 24). The Department has therefore, identified the enhancement of rehabilitation and rehabilitation programmes as a key fundamental starting point in contributing towards a crime free society (Coetzee 2003b:5-7).

### **2.3.1.4 The new Correctional Services Act: Act 111 of 1998**

The much-amended Prisons Act of 1959, which was renamed the Correctional Services Act, did not provide an appropriate legal framework for concretising and explaining the rights of prisoners (Coetzee 2003b:8; Draft White Paper on Corrections in South Africa 2003:21). The White Paper on the Policy of the Department of Correctional Services in the new South Africa, which was released on 21 October 1994, was the first official response to the changed circumstances in which the Department found itself (Botha 1998c:28).

A milestone in the history of the Department was the promulgation of new legislation in the form of the Correctional Services Act, Act 111 of 1998. This legislation represented a total departure from the 1959 Act and embarked on a modern, internationally acceptable prison system, designed within the framework of the 1996 Constitution (Draft White Paper on Corrections in South Africa 2003:21). One of the most important features of this Act is a framework for the treatment, development and support services that enhance the correction of offending behaviour (Coetzee 2003b:8-9; Draft White Paper on Corrections

in South Africa 2003:21).

The Correctional Services Act 111 of 1998 is an enabling policy, which formally came into force on 19 November 1998 and aims to facilitate offender development and rehabilitation (Coetzee 2003b:8-9; Luyt 1999a:6). According to Section 2(c) of the Act, the purpose of the correctional system is to contribute to the maintenance and protection of a just, peaceful and safe society by: "Promoting the social responsibility and human development of all prisoners and persons subject to community corrections" (Coetzee 2003b:16; Dissel & Ellis 2002:4; Mbete *et al* 2001:87; Mubangizi 2001:123; Tshiwula 2001:136). This means that the new Act promotes a collective (holistic) responsibility towards the treatment, development and rehabilitation of sentenced offenders. The collective and holistic responsibility includes all relevant practitioners (such as criminologists, social workers, religious workers, educationalists and psychologists) working with offenders (Coetzee 2003b:16, 45-47).

#### **2.3.1.5 Restorative Justice as a cornerstone of rehabilitation in South African corrections**

Restorative justice offers hope to offenders and supports the belief that even the worst offender can become a better person. It does not mean being "soft" on crime, as it focuses on what needs to be healed, repaid and learned in the wake of crime. It looks at what needs to be strengthened to reduce and diminish criminal conduct (Draft White Paper on Corrections in South Africa 2003:32). Within the context of Correctional Services, *Restorative Justice* is a restorative response to crime. It emphasises the importance of the role of the victims, families and community members by more actively involving them in the justice process. It holds offenders directly accountable to the victims that they have violated, and at the restoring of the losses and harm suffered by the victims (Correctional Services Portfolio Committee, Restorative Workshop Review; Draft White Paper on Corrections in South Africa 2003:5).

Important questions asked by restorative justice include: "Can we change people by intentionally inflicting pain upon them?", "Can we change them by just punishing them?", "Will they change if they have reason to hope for a better life?", "How do we want criminals to change?", "Do we want them to be determined not to get caught next time (the likeliest result of a punitive approach)?", or "Do we want them to develop an internal self-discipline to control their behaviour?" (Hutchison & Wray 1999:2).

Restorative justice has a more holistic approach to the commission of crime - it focuses on the needs of the victim, the offender and the community, taking social, economic and political factors into consideration. It challenges therapists to examine the root causes of

violence and crime in order to break these cycles (Draft White Paper on Corrections in South Africa 2003:22; Hutchison & Wray 1999:3). Restorative justice does not deal with issues of guilt or innocence, nor does it remove prisons from available sanctions when parties to the restorative justice process agree to them (Morris & Young 2000:24-25).

Offender empowerment, rehabilitation and reintegration into society are key issues incorporated into the principles of restorative justice. The purpose of restorative justice is to identify responsibilities of offenders and to promote healing (Draft White Paper on Corrections in South Africa 2003:33). Offenders are encouraged to work at restoring their victim's and the community's sense of peace. It is premised on the belief that the reasons behind offending and the solutions to it, lie within the community (Draft White Paper on Corrections in South Africa 2003:33; Morris & Young 2000:14). It further seeks to restore responsibility to offenders for their offence(s) and its consequences, to restore a sense of control to them, to make amends for what they have done, and to restore a belief in them that the process and outcomes were fair and just (Morris & Young 2000:14). Offenders are expected to participate directly in the process, to speak about their offence and matters associated with it, to interact with the victim, to express their remorse about what has occurred, to apologise for what they have done, and to contribute to decisions about the eventual outcome (Draft White Paper on Corrections in South Africa 2003:32-34). From all this, offenders are expected to have a better understanding of their offence and its consequences, to become accountable for their offence in ways which they understand, and to contribute to making amends to the victim (Draft White Paper on Corrections in South Africa 2003:32-34; Morris & Young 2000:17-18; Tshiwula 2001:140).

The social values underlying restorative justice therefore rely on connections - connections between offenders, victims and communities, rather than on exclusion (Draft White Paper on Corrections in South Africa 2003:32; Morris & Young 2000:15). The aim of restorative justice meetings are primarily to hold offenders accountable for their offence in meaningful ways and to make amends to victims in a symbolic sense (an apology) and where possible, in a real sense (reparation, restoring of stolen property, compensating the victim for injuries endured) too (Draft White Paper on Corrections in South Africa 2003:32-34; Morris & Young 2000:16). The aim is furthermore to build bridges between the offenders, victims, families of victims and the community, in the context of "Restorative Justice" (Edgar 1999:18; Draft White Paper on Corrections in South Africa 2003:32-34; GCIS Media Briefing, Correctional Services Briefing).

Restorative justice offers to the offender:

- ❑ Increased awareness of the impact of his crime on other people;
- ❑ Increased capacity to contribute productively to the community;

- ❑ Higher educational status and improved occupational, social and decision-making skills;
- ❑ Improved self-image and improved public image;
- ❑ Increased sense of belonging to the community;
- ❑ Improved generosity of the community towards the offender (Correctional Services Portfolio Committee, Restorative Workshop Review; Draft White Paper on Corrections in South Africa 2003:32-34).

It is with this understanding that Correctional Services has decided to put rehabilitation and Restorative Justice at the centre of its operations. Dealing with criminal behaviour is a very complex social matter that cannot be dealt with effectively through retributive justice alone (Draft White Paper on Corrections in South Africa 2003:32-34).

### **2.3.1.6 The implementation of Unit Management within the Department of Correctional Services**

The Department embarked on the establishment of “New Generation Prisons” (Botha 1998b:17; Draft White Paper on Corrections in South Africa 2003:24; Kriek, 2004). A new-generation prison is a prison where professional, multi-skilled and emotionally balanced personnel and management as well as effective therapy, assessment and rehabilitation services, are envisaged (Department of Correctional Services, Annual Report 2001/2002:38; Du Preez 2003:224). In an effort to bring about substantial changes in an unacceptable prison system, it was then announced that all future developments in South African prisons would be carried out according to the principles of unit management which support the assessment of offenders and a multi-dimensional treatment approach (Draft White Paper on Corrections in South Africa 2003:34-35; Luyt 1999a:3).

The unit management approach was adopted by the Department of Correctional Services to enhance the implementation of rehabilitation (Coetzee 2003b:7; Draft White Paper on Corrections in South Africa 2003:6). This approach entails the grouping of prisoners into small, manageable units, to improve supervision and treatment (Draft White Paper on Corrections in South Africa 2003:34).

Unit management was first explored by the South African Department of Correctional Services in 1995 and offers an opportunity to effectively carry out their 'rehabilitation mandate' within the principles of this approach (Coetzee 2003b:7, 9; Correctional Services Portfolio Committee, Unit Management in Prisons; Department of Correctional Services, Annual Report 2001 / 2002:6). The Department of Correctional Services has set a target to implement Unit Management in 80% of South African prisons by the end of the March 2005 (Draft White Paper on Corrections in South Africa 2003:22).

In essence, unit management focuses on more efficient programme delivery to inmate populations, better utilising of staff resources and enhancing of the institutional environment. It provides scope for the development of assessment tools and increased participation in rehabilitation programmes (Coetzee 2003b:7; Draft White Paper on Corrections in South Africa 2003:35; Luyt 2001:30).

Unit management makes provision for enhanced teamwork and a holistic approach to offender rehabilitation (Draft White Paper on Corrections in South Africa 2003:34-35). This management approach is a modern correctional style, developed to promote a safe, humane environment (for both staff and prisoners), which minimises the effects of confinement (Coetzee 2003b:7, 9; Draft White Paper on Corrections in South Africa 2003:34-35; Luyt 2001:30).

The objectives of the unit management include:

- ❑ Enhancing an integrated and team approach;
- ❑ Incorporating all aspects of the prisoner's life for effective rehabilitation;
- ❑ Providing different programmes, strategies and interventions for each prisoner depending on his ability, needs and ambitions (Coetzee 2003b:36; Department of Correctional Services, The Concept of Unit Management in South African Prisons; Draft White Paper on Corrections in South Africa 2003:35).

Coetzee (2003b:9) summarises the effectiveness of unit management in South Africa as:

“ ... due to various factors, only a very limited number of prisons are managed according to the principles of unit management. Some of the reasons for not implementing unit management are due to circumstances like overcrowding, architecture, lack of experience in implementing the unit management approach, *and lack of a scientific assessment instrument suitable for the South African context*”.

## **2.4 Correctional Services and the shift to rehabilitation**

It was decided with the transformation process that rehabilitation will be a long-term strategy in crime prevention for Correctional Services, and a need was pronounced by the Minister of Correctional Services to develop a White Paper process to review existing policies, including the policy on rehabilitation (Coetzee 2003b:5-7; Department of Correctional Services, Restorative Justice, Centurion ; Draft White Paper on Corrections in South Africa 2003:2-3). The Department of Correctional Services therefore, committed itself to step up its campaign to put rehabilitation at the centre of all its activities. This is a result of a re-examination of the Department's strategic role in the fight against crime, the critical role played by the Department in crime prevention and in the reduction of recidivism (Draft

White Paper on Corrections in South Africa 2003:2-3, 22).

One of the major challenges facing the Department of Correctional Services is to ensure that as much as possible is being done with regard to the development and support of prisoners while they are in the care of Correctional Services (Draft White Paper on Corrections in South Africa 2003:2-5). Purposeful intervention by specialised professionals is therefore necessary to enable, assist and empower offenders to improve their total functioning in order to optimise their potential. The shift of treatment and rehabilitation is to collectively rehabilitate offenders to become law-abiding citizens (Coetzee 2003b:5-7; Draft White Paper on Corrections in South Africa 2003:3-4; Mbetse *et al* 2001:79).

Rehabilitation is envisaged (by the Department of Correctional Services) to occur in a safe and appropriate environment conducive to influencing offenders to learn and adopt positive and appropriate value systems. The purpose with the current shift to rehabilitation is therefore, to create and support a desire in prisoners to lead productive and law-abiding lives when they are released within the community (Coetzee 2003b:5-6; Draft White Paper on Corrections in South Africa 2003:3-4).

#### **2.4.1 The need for offender assessment within the Department of Correctional Services**

Rule 66 of the Standard Minimum Rules for the Treatment of Offenders states that:

“ ... all appropriate means shall be used, including religious care, education, employment counselling, physical development and strengthening of moral character, in accordance with the individual needs of each inmate, taking into account ... social and criminal history, his physical and mental capacities and aptitudes, his personal temperament, the length of his sentence and his prospects after release” (Coetzee 2003b:28; Draft White Paper on Corrections in South Africa 2003:59).

This Rule underscores important assessment areas, the vital function of assessment, and the positive contribution thereof in the rehabilitation of offenders.

According to Rule 69 of the Standard Minimum Rules for the Treatment of Offenders:

“As soon as possible after the admission and *after a study* of the personality of each prisoner with a sentence of suitable length, a programme of treatment shall be prepared for him in the light of the knowledge obtained about his *individual needs, his capacities and dispositions*” (Coetzee 2003b:29; Luyt 1999a:171).

This Rule also supports the necessity of offender assessment (specifically individual assessment) to enhance custodial intervention, the management of clients, and rehabilitation efforts. The importance of offender assessment is also outlined in the Arusha

Declaration which states that “Good prison practice is not possible without the proper assessment of inmates” (Coetzee 2003b:36-37).

The need and importance of offender assessment in South African prisons are stipulated by the Prisons Act 8 of 1959, Article 94 and the Departmental Orders – Divisions A and B (Du Toit 1998:21). Chapter IV of Act 111 of 1998, Sections 3.6 and 3.7 (relating to sentenced prisoners) state that the objective of sentence implementation is firstly to enable the sentenced prisoner to lead a socially responsible and crime-free life in the future, and secondly to enable every sentenced prisoner *to participate in the assessment process* and in the design and implementation of a development plan or programme aimed at achieving this objective (Tshiwula 2001:136). Section 2 of Correctional Services Act 111 of 1998 provides guidelines on how to implement treatment and rehabilitation of prisoners and this section also states that each prisoner should be assessed (Dissel & Ellis 2002:5).

The general principles of offender assessment are described in Sections 37, 38 and 42 of the Correctional Services Act 111 of 1998 (Coetzee 2003b:38). Section 37(1)(a) holds that every sentenced inmate must “Participate in the assessment process and the design and implementation of any development plan or programme aimed at achieving the said objective ... [rehabilitation]” (Coetzee 2003b:38). According to Section 38 (1), each sentenced inmate must be assessed as soon as possible, after admission, to determine his:

- (a) Security classification for purposes of custody;
- (b) Health needs;
- (c) Educational needs;
- (d) Social and psychological needs;
- (e) Religious needs;
- (f) Specific development programme needs;
- (g) Work allocation;
- (h) Allocation to a specific prison;
- (i) Needs regarding reintegration into the community (Coetzee 2003b:38-39).

In addition, Section 42(2)(a) regulates that the Case Management Committee must “ensure that each sentenced prisoner has been assessed” (Coetzee 2003b:39). However, the abovementioned Departmental regulations on offender assessment do not specify the “who” (such as specific practitioners) and the “what” (for example specific assessment structure, and assessment targets for different offenders) regarding offender assessment. Up to April 2003, no assessment structure existed in the Department of Correctional Services to specifically address the needs, risk, responsivity, motives and causes of crime for the effective treatment of offenders (Hesselink-Louw & Schoeman 2003:162-163). According to Dr. Lorinda Bergh, Director of Psychological Services and Head of the

Assessment Tools Committee, the Department is still in the process of developing a basic and comprehensive assessment tool structure, but this process is on hold until the finalisation of the Department's restructuring process (Bergh, personal interview 23 April 2003).

Luyt (1999a:26) elaborates on the necessity of offender assessment by stating that:

“Against the background of greater emphasis on human rights, visible and working treatment and development programmes and greater efforts to reduce recidivism in a country where crime is a growing business, time has arrived to look into offender assessment as a basis and foundation of treatment and development of offenders”.

Both Du Preez (2003:181, 184, 186) and Luyt (1999a:71, 102) further argue that safe and progressive prisons cannot exist without proper classification and assessment systems. Assessment should be the first step in the development of an inmate, and the needs of the offender should be matched with the resources to ensure maximum support (Draft White Paper on Corrections in South Africa 2003:59-61; Du Preez 2003:181, 184). It is further suggested that assessment and programme review decisions should be made by appropriate specialists, and all relevant experts should have the opportunity to contribute to the assessment process (Du Preez 2003:263; Luyt 1999a:64-65). In other words, all relevant practitioners (including criminologists) should have a stake and an interest in the assessment of an offender (Du Preez 2003:263).

In addition, Du Toit (1998:5) believes that a scientifically approved assessment structure would assist and guide the management and application of rehabilitation within the Department of Correctional Services. This means that an assessment structure will contribute to a more cost-effective and reliable rehabilitation strategy and will ultimately reduce the reoffending rate (Draft White Paper on Corrections in South Africa 2003:59-61). Du Toit (1998:41) cites that potential users of an assessment structure could include, amongst others: Social workers, psychologists, Parole Boards, information committees, sociologists as well as criminologists (Du Preez 2003:263).

Coetzee (2003b:40-43) posits that “The question could rightfully be asked why offender assessment in South Africa did not work?” The answer to this question lies in:

- *The application of the Medical Model:* Earlier assessment and rehabilitation instruments in South African custodial settings were based on the conviction that certain causes of criminal behaviour can be diagnosed and treated (the basic principle of the Medical Model).
- *Subjective assessment practices:* Coetzee (2003b:40) states that every expert (working with offenders) bases his / her conclusion upon his / her own

judgement, experience and bias. That is, different experts arrive at different conclusions on the classification and treatment of a given offender.

- *The attitude of staff regarding assessment and treatment.* Ongoing conflict between custodial, professional, and among the different professional groups, often result because of their different perspectives regarding the safeguarding and treatment of offenders. Coetzee (2003b:41) propounds that such differences cause personnel to work against one another and that assessment is thwarted in the process.
- *Compartmentalisation of assessment and treatment.* Independent assessments were made by the various expert disciplines (such as psychologists, social workers and educationalists) and were also executed independently. These had a counter-productive effect and proved to be a disadvantage to the fulfilment of the mission of the Department of Correctional Services.
- *Assessments were based on European Models:* Coetzee (2003b:42) notes that the broad principle of assessment instruments of the past was in line with what is being done in other leading prison systems worldwide. The majority of these instruments were based on white European males, while the greatest total of offenders in South African prisons are black and coloured individuals.
- *Cultural deprivation:* Unique sub-cultures exist in South Africa and this affects the nature and focus of assessment instruments required here. Coetzee (2003b:42) suggests that a Third World assessment instrument should be developed and modified for the South African context.
- *Emphasis on security assessment and treatment.* Safe custody is a priority to the Department of Correctional Services. Coetzee (2003b:42) states that “One could argue that the safest prison is the one in which inmates are locked in their cells all day long. The old saying in corrections come to the fore here, namely ‘we lock our problems up’.” Coetzee (2003b:42-43) posits that there will be scope for assessment practices in South Africa if security and the treatment of offenders are balanced.
- *Passive vs. active custody:* Passive supervision (locking up prisoners, handcuffing in the correct manner and preventing escapes) was practiced to rehabilitate offenders. Currently, active custody ensures that offenders are empowered through constructive programmes such as life skills and education programmes (Coetzee 2003b:40-43).

However, the current Draft White Paper on Corrections in South Africa (2003:59-61, 73) holds much promise for the implementation of offender needs and risk assessments in order to identify, analyse, evaluate, assess and profile criminal behaviour.

#### **2.4.2 The need for individual assessment and treatment of offenders**

According to Tshiwula (2001:138), individual treatment of offenders is not the norm and that a “one-size-fits-all” programme is being pursued by South African corrections. Several South African experts on corrections (Luyt 1999a:157; Papps 1999:43; Tshiwula 2001:137) as well as the Draft White Paper on Corrections in South Africa (2003:22), stress that there is a definite need to introduce more individualised treatment and individualised assessment of offenders to coordinate and facilitate effective rehabilitation efforts. Other South African authors confirm that individualised assessment measures need to be developed to ensure the most effective and judicious use of rehabilitation programmes, to positively influence offender behaviour (Du Preez 2003:190, 223; Mbetse *et al* 2001:81).

The need for individualised assessment of offenders is further supported by the new Correctional Services Act, Act 111 of 1998 (in particular Section 38(2)), that stipulates that individual assessments are important for the development of individualised treatment programmes for offenders who have a right to an individualised, assessment-based development plan (Coetzee 2003b:21; Tshiwula 2001:136, 38). According to Bergh (Personal interview 23 April 2003), the assessment tools developed by the Department cannot be utilised for individualised assessment of specific offenders such as serial killers, sex offenders and economic offenders. The aim of this Departmental assessment structure is to address comprehensive and basic needs of offenders. This structure is based on a questionnaire. This means that specific assessment targets, specific offender needs (for different categories of offenders such as sex offenders or economic offenders), risks, causes and responsivity are not determined and/or assessed (Draft White Paper on Corrections in South Africa 2003:59-61).

Individual assessment is necessary among other things, to verify the type of crime committed, the criminal history, the offenders’ needs and risks, the motives and causes of criminal behaviour, predictors for reoffending and the individuals’ responsivity to treatment (Draft White Paper on Corrections in South Africa 2003:59-61; Hesselink-Louw & Schoeman 2003:171; Hollin 2001:123; Myer 2001:7, 9). The implementation of individualised assessment is therefore an important benefit for offender rehabilitation (Draft White Paper on Corrections in South Africa 2003:22, 30-31, 59).

#### **2.4.3 Requirements for an effective assessment system**

Coetzee (2003b:44) and the Draft White Paper on Corrections in South Africa (2003:22, 30-31, 59-61) advocate the following requirements to implement an effective offender assessment structure in South Africa:

- The system should be comprehensive and include all classification categories of

prisoners;

- The system should be reliable so that different experts would come to the same conclusion about a given prisoner;
- The system should be valid so that every individual who is placed within a specific classification would possess all the characteristics required for that category;
- A dynamic system is needed that will reflect individual change and improvement;
- Assessment should have definite practical implications and should lead to effective intervention and treatment of offenders;
- The system should be economical, so that large numbers of offenders may be classified accurately with the minimum expenditure and personnel in the shortest possible period of time;
- The rationale of the assessment system must be clear, and all experts and staff should attach the same meaning to it;
- The system should be fair so that all inmates experience it as reasonable, impartial and fair (Coetzee 2003b:44).

#### **2.4.4 The need for a multi-dimensional approach to offender treatment in South Africa**

There is no general agreement as to how institutional treatment should be achieved (Neser 1989:223). It is however argued that the most effective environment to rehabilitate offenders is one where different therapy techniques are utilised (Hesselink-Louw & Schoeman 2003:158; Hollin 2001:123; Luyt 1999a:31, 104, 169; Mbetse *et al* 2001:32, 52, 57; Myer 2001:9; Tshiwula 2001:138). A multi-disciplinary approach should ultimately render an inter-related service to prisoners and should be representative of all the different disciplines and available expertise relevant to offender treatment (Draft White Paper on Corrections in South Africa 2003:2-3, 23, 29, 45; Neser 1989:319). However, the Department of Correctional Services has to date excluded the role of criminologists in the evaluation, analysis and assessment of offenders (Hesselink-Louw, Joubert & Maree 2003:91-98; Maree *et al* 2003a:73-81).

A multi-skilled offender team (teamwork) offers the following benefits regarding the treatment of offenders: It establishes effective cooperation, increases productivity, improves the quality of service and employee morale, draws more widely on the talents available, requires multi-skills, experience and judgment, and enhances group cohesion (Ellis & Sowers 2001: 29, 53). Holistic treatment of offenders enhances greater involvement and interaction between Correctional Services and various role-players in society to effectively address treatment issues collectively (Draft White Paper on Corrections in South Africa 2003:2-3, 23, 29, 45; Hesselink-Louw *et al* 2003:91-98; Hesselink-Louw & Schoeman 2003:158; Mbetse *et al* 2001:32, 49; Tshiwula 2001:138).

There is an increased need worldwide for multi-disciplinary treatment of offenders (Ellis & Sowers 2001:1, 29; Hollin 2001:29; Myer 2001:26). According to a South African article on corrections (Anonym 1998:12), intervention strategies with regard to the treatment of offenders should preferably occur in a multi-professional capacity. Other South African researchers (Hesselink-Louw & Schoeman 2003:158; Luyt 1999a:183) as well as the Draft White Paper on Corrections in South Africa (2003:2-3, 23, 29, 45), concur with this statement by stating that a holistic approach in offender treatment will enhance and enrich the development and rehabilitation of inmates. At an international workshop on "Crime Science" (Jill Dando International Crime Science Workshop, November 2003), professionals working with crime and correctional clients proposed a "burden sharing" (multi-disciplinary) approach to effectively address crime and recidivism.

The call for a cross-disciplinary approach to offender treatment is further supported by the United Nations Standard Minimum Rules for the Treatment of Offenders. Rule 59 states that an institution should utilise all the remedial, educational, moral, spiritual and other forces and forms of assistance which are appropriate and available, and should seek to apply them to the individual treatment needs of the prisoners (Luyt 1999a:168-169).

The Department of Correctional Services also identified the need for an inter-disciplinary and collective offender treatment approach (Draft White Paper on Corrections in South Africa 2003:2-3, 23, 29, 45). According to the Departmental Annual Report (2001 / 2002:70, 81), new policies were introduced that allow for, and promote the involvement of all relevant role-players in the rehabilitation process to be part of a multi-disciplinary team that deal with the treatment and rehabilitation of offenders, but there are still obstacles to overcome.

A lack of finances, experts and manpower within the Department of Correctional Services contribute to the separate functioning of practitioners (social workers, psychologists and criminologists) associated with offender treatment. Offenders in South African prisons rarely receive multi-skilled treatment. Mostert, chief psychologist at Leeuwkop Prison Management Area, (the DCS, Gauteng) confirms that inter-disciplinary treatment is limited to social work and psychological services. Mostert further states that due to staff shortages and excess workloads, Departmental practitioners (social workers and psychologists) are not utilised in inter-disciplinary treatment teams (Personal interview 18 March 2004).

This means that due to staff shortages, only severe cases (such as suicide cases, psychiatric and mentally ill offenders) qualify for psychological intervention and treatment, while social workers mostly offer support to offenders on coping with familial matters which

is often attempted through group therapy. A holistic treatment approach has yet to be implemented within the Department of Correctional Services. In this regard, Witbooi and Ramafoko (1998:10) posit that, "If our prisons are to become places of rehabilitation, we need to equip the men and women who work in them to do the job professionally and effectively".

Criminologists have a comprehensive role to play in the assessment, analysis and treatment of offenders (Cornwell 2003a:1-20; 2003b:84-89; Du Preez 2003:263; Maree *et al* 2003a:73-81). Besides the academic and forensic role of the criminologist, his/her skills can be practically applied to the treatment of offenders in prisons (Jill Dando International Crime Science Workshop, November 2003). This task would include applying knowledge and an understanding of criminal behaviour, analysing the criminal mind, profiling, the identification of causes and motives of crime, a scientific explanation of criminal behaviour, empowerment and the reintegration of offenders (Andrews & Bonta 1998:iii, 10, 14-15; Hesselink-Louw & Schoeman 2003:171; Jill Dando International Crime Science Workshop, November 2003; Maree *et al* 2003a:73-81). The utilisation of criminologists in corrections are also supported by Du Preez (2003:263) and Mbetse *et al* (2001:54-55) who profess that the Department of Correctional Services should aim to identify causes of crime (the field of expertise of criminologists) rather than treat the symptoms, and that this strategy needs a holistic approach to share collective responsibility. In relation to this, Sheley (2000:2) and Siegel (2004:3-4) affirm that criminologists are equipped and trained to identify causes of criminal behaviour.

A social worker can address family and marital difficulties, the psychologist can assist in the identification and treatment of personality insecurities, while the criminologist could understand, recognise and acknowledge criminal behaviour and contributing influences thereto. The criminologist can also analyse and scientifically explain deviant behaviour in order to rehabilitate and empower the offender to successfully reintegrate into society (Hesselink-Louw *et al* 2003:91-98; Maree *et al* 2003a:73-81).

## **2.5 Service delivery in the Department of Correctional Services: Relevant role players responsible for the treatment of offenders**

Worldwide, the skills, knowledge, experience and expertise attached to offender rehabilitation and treatment are linked to various experts, including social workers, educationalists, psychiatrists, psychologists, religious workers and criminologists (Hollin 2001:4-12; Myer 2001:xiii-xiv, 9; Sheley 2000:1-3, 8-9). In South Africa, social workers and psychologists are mainly responsible for the therapy, treatment and rehabilitation of

offenders within the Department of Correctional Services (Coetzee 2003b:18-19; Hesselink-Louw & Schoeman 2003:162).

The following section will explore the roles and responsibilities of social workers and psychologists attached to the Department of Correctional Services. The role, contribution and benefits in utilising criminologists in corrections will also be addressed.

### **2.5.1 Social work services**

Social work services are accessible to all prisoners and probationers. The service is aimed at maintaining and improving social functioning and contributing to the prisoner's reintegration into the community. Social work treatment covers a wide spectrum of social problems and this treatment ranges from supportive services to intensive counselling provided mostly by means of case or group work. Social workers act as a link in maintaining family and social ties (Coetzee 2003b:18-19; Department of Correctional Services Annual Report 1998:21).

Treatment programmes offered by social workers focus predominantly on areas such as life skills programmes and the maintenance of family and social relationships. Other areas of concern are orientation of imprisonment, AIDS counselling, substance abuse, adaptation problems, marital and family problems, aggressive and sexual behaviour, life skills training, support services, trauma debriefing, and preparation, release and after-care services (Coetzee 2003b:18-19; Department of Correctional Services, Annual Report 2001 / 2002:86; Mohajane 1998:9).

During 2002, the Department of Correctional Services employed approximately 480 social workers to work with an estimated prison population of 178 998 prisoners (Department of Correctional Services, Annual Report 2001 / 2002:66; Hesselink-Louw & Schoeman 2003:162). This means that there was one social worker available for every 373 prisoners (nationally). During August 2004, there were 450 social workers in the employ of the Department of Correctional Services (De Bod, personal interview 6 August 2004). The shortage of social workers underlines the limitations for individualised treatment and assessment. This staff-prisoner ratio supports the belief in group therapy as an ideal method to address the needs of the 'masses'.

### **2.5.2 Psychological services**

Correctional psychologists primarily focus on the mental health functioning of sentenced prisoners (Coetzee 2003b:18). The task of the psychologist includes the diagnosis and treatment of sentenced prisoners and persons under correctional supervision or parole. Target groups for psychological services include suicide risk management, psychological

intervention when requested by courts of law, psychological counselling of prisoners who are mentally ill and who were previously under psychiatric / psychological treatment, risk management of persons under supervision inside the community, and offenders guilty of aggressive and sexual offences (Coetzee 2003b:18; Department of Correctional Services, Annual Report 2001/2002:85; Mohajane 1998:9).

During 2002, the Department of Correctional Services employed approximately 43 psychologists to work with an estimated prison population of 178 998 prisoners (Department of Correctional Services, Annual Report 2001 / 2002:66; Hesselink-Louw & Schoeman 2003:162). An evaluation of these figures means that there was approximately one psychologist available for every 4 163 prisoners. During August 2004, there were 23 psychologists in the employ of the Department of Correctional Services (De Bod, personal interview 6 August 2004). This staff-prisoner ratio supports crisis-intervention as a preferred method of offender treatment, rather than individualised therapy and assessments.

### **2.5.3 The need for criminological services in corrections**

It is evident from Section 2.4.3 to 2.4.4 (pages 70 to 74) of this chapter that the role, scientific scope, relevance and benefits in utilising criminology as a science (and criminologists as practitioners) within corrections must be verified.

Bergh (Personal interview 23 April 2003), Cornwell (2003b:84-89) and Du Preez (2003:263) are of the opinion that criminologists can be utilised in an integrated assessment approach for research regarding offenders, the profiling of offenders, intervention programmes, and the treatment and rehabilitation of offenders. Cornwell (2003b:89) states that:

“It is difficult to understand why employment of criminologists within prisons has been neglected to such an extent in the past ... the principal reason for this may lie in a general lack of understanding of what the discipline of criminology actually has to offer in a practical dimension within prisons”.

Criminologists are mostly utilised in advisory positions in the Department of Correctional Services, where they serve as professionals on the National Council of Correctional Services, advising the Minister on matters such as overcrowding, rehabilitation and the reintegration of prisoners into society (Hesselink-Louw 2001:37-40). Significant questions arise such as “What is the field and scope of criminology as a science?”, “How can criminology and criminologists be relevant and applicable to offender treatment and corrections?” and “How can corrections benefit by the utilisation of criminologists regarding offender treatment and rehabilitation?” This section will attempt to answer these questions by focussing among other things on criminology as a science, and the skills and expertise

of criminologists.

### **2.5.3.1 The field and scope of criminology as a science**

A plethora of data exists regarding the scope and practical significance of criminology. Although the emergence of criminology was in the late 1960s, Hunter and Dantzker (2002:23) and Siegel (2004:4-9) state that criminology has existed for more than two hundred years - yet, as an academic field of study, it is still relatively new.

The term *criminology* originated from the Latin word *crimen*, which means “offence”. Paul Topinard (1889) was the first person to coin the word “criminology” (Maguire & Radosh 1999:4). Criminology encompasses a variety of social sciences, such as anthropology, biology, economics, history, sociology, law, psychology, social work and political science (Cornwell 2003b:84; Siegel 2004:4). It is a cross-disciplinary and a multi-disciplinary science (Hunter & Dantzker 2002:24; Siegel 2004:4; Jill Dando International Workshop on Crime Science, November 2003).

However, Siegel (2004:4) cautions that: “Criminology has evolved into an independent field of study, although it is still sometimes mistakenly confused with the related disciplines (such as Psychology or Sociology) of criminal justice and deviance.” This science encapsulates every facet of the issue of crime – from predispositions to criminality and the commencement of criminal behaviour, to the correction of offenders (Cornwell 2003b:84; Siegel 2004:4). In essence, this means that criminology is the scientific study of crime as a social phenomenon (Brown *et al* 2001:1-2, 19; Hunter & Dantzker 2002:24; Winfree & Abadinsky 2003:3).

In addition, Maguire and Radosh (1999:6) summarise criminology as a science that provides the best available answers to questions about crime. The claim to be scientists set criminologists apart from others (such as journalists and social commentators), who think and write about crime (Sheley 2000:1; Siegel 2004:4-5). According to Brown *et al* (2001:3, 11-31), Hunter and Dantzker (2002:24), Siegel (2004:4-6), and White and Haines (2001:1-3), criminologists objectively address, analyse, evaluate, examine and study the nature, incidence, extent and consequences of crime, criminals and criminal behaviour.

Criminologists furthermore endeavour to scientifically explain crime through research and theories, they answer the “whys” (causes) of crime, address and identify specific causes and motives of crime, make relevant predictions regarding potential offending and recidivism, understand the values, thoughts and incentives of those who commit offences, and help to promote the control of crime (Siegel 2004:3-4). This is supported by international professionals working with crime and offender interventions (Jill Dando International Workshop on Crime Science, November 2003).

Brown *et al* (2001:18, 30, 51-52), Cornwell (2003b:88), Hunter and Dantzker (2002:24-25), Maguire and Radosh (1999:4-7), Sheley (2000:2), Siegel (2004:3-4, 11-22), White and Haines (2001:3, 10-12, 40) and Winfree and Abadinsky (2003:30, 302, 306, 310) claim that criminologists are concerned with the following issues:

- *The creation and use of laws in society.* Criminologists are concerned in part with the development of laws, the roles of law in a society, law as an instrument of social change, and the functions of legislation and law enforcement for various interest groups within a society.
- *Patterns of crime.* Some criminologists study patterns of crime for a society or community at a given point in time and other various periods. This area of criminology involves the study of trends and the impact of crime on a population. It also examines the way criminal behaviour is distributed among people – by, for example, gender, age and race.
- *Causation of crime and criminality.* Criminologists also study the aetiology of crime, or the conditions affecting societal crime rates and the causes of individual and group involvement in crime. This study of causes and/or the contributory factors to crime also attempts to identify distinctive types of criminal careers and their development. The identification and scientific understanding and explanation of causes of crime is an important and vital function ascribed to criminologists. In addition, Brown *et al* (2001:30) and White and Haines (2001:3) declare that criminologists can provide insight regarding the causes of crime. International professionals in the field of crime and criminal justice concur that qualified criminologists have the necessary knowledge, skills and background to understand and analyse the aetiology of criminal behaviour (Jill Dando International Workshop on Crime Science, November 2003).
- *Societal response and reaction to crime.* Criminology also focuses on the forces influencing a society’s definitions of certain behaviours as criminal, the ways in which a society responds to individuals and their activities, the process by which individuals come to be called criminals, and individuals’ reactions to society’s definition of them.
- *Criminal statistics.* The sub-area of criminal statistics involves measuring the

amount and trends of criminal activity. Here, criminologists would attempt to answer the following questions: “How much crime occurs annually?”, “Who commits it?”, “When and where does it occur?” and “Which crimes are the most serious?” (Siegel 2004:4). Criminologists interested in criminal statistics attempt to create valid and reliable measurements of criminal behaviour.

- *Empirical research.* Some criminologists want to determine the direct effect of one factor on another (such as the effect of poverty and/or unemployment on crime)- this requires specialised experimental research (Siegel 2001:21). According to Siegel (2001:22-23), criminological research is an important source of criminological data and criminology relies on empirical research to achieve the goals of criminological inquiry.
- *The administration of criminal justice.* Many criminologists focus on the criminal justice system and its organisational and bureaucratic processes, the police and the legal profession as occupational categories, and the criminal justice system as the primary shaper of a community’s criminal population and crime rates.
- *Custody and punishment of accused and convicted individuals.* Another branch of criminology is the study of society’s methods of dealing with criminals. Most research in this area is designed to evaluate and address the success and deterrent effects of correctional programmes.
- *Rehabilitation and treatment of offenders.* Hunter and Dantzker (2002:24) promulgate that the treatment and rehabilitation of offenders are of vital importance to criminologists. According to Siegel (2004:3-12), some criminologists direct their efforts toward providing behaviour alternatives for potential criminals and treating offenders who violated the law. In addition, Cornwell (2003b:88) indicates that criminologists can play a vital role in needs and risk assessments of criminal behaviour (the driving force behind the rehabilitation of offenders).
- *Criminological theory.* Much of criminological research is supported and explained by empirical research and scientific theories (Winfrey & Abadinsky 2003:30, 310). According to Brown *et al* (2001:18) and White and Haines (2001:10-12), theory is the fundamental foundation of criminology and most of these theories focus on the causes and consequences of crime and criminal behaviour (Hunter & Dantzker 2002:24).
- *Consideration and treatment for victims of crime.* Some criminologists study crime victims, the relationship with offenders and how society responds to their needs (Hunter & Dantzker 2002:25). Victimologists are mainly interested in victim surveys (to measure the nature and extent of criminality), creating probabilities of victimisation risk, studying victim precipitation and designing services for crime victims (Siegel 2004:82).

In conclusion, Siegel (2001:11) professes that: "A criminologist is one whose professional training, occupational role, and pecuniary reward are primarily concentrated on a scientific approach to, and study and analysis of, the phenomenon of crime and criminal behaviour". Also, Coetzee (2003b:45) defers that:

"Contrary to what might be widely believed, criminology does not work in an academic vacuum: Neither is it secretive about its social agenda. It may be analytical but it retains a scientific base that is interpretative in a social rather than an entirely mechanistic context. It seeks to explain not only the extent of crime, but also the causes of crime within our societies, and it is, perhaps in this instance that Criminology can play a major role in developing a scientifically based assessment instrument for inmates".

### **2.5.3.2 The relevance and applicability of criminology and criminologists to assessment, treatment and corrections**

Criminologists have reached little consensus about what members of their discipline should be doing today (Maguire & Radosh 1999:6-7; Sheley 2000:7). Criminology is not just a technical discipline based on theoretical issues and theories (Sheley 2000:8). It is an integrated, multi-disciplinary field that integrates academic criminology with contemporary social concerns about crime. International professionals concerned with crime and criminal justice (Jill Dando International Workshop on Crime Science, November 2003) and Sheley (2000:8) suggest that criminologists should pay their dues and move beyond the academic side to the practical application (such as offender assessment and criminological profiling of offenders) of criminological knowledge. This is supported by Cornwell (2003b:85-89), Maree, Joubert and Ladikos (2003b:115, 119, 122-124), who affirm that numerous practicalities and various specialisation fields (such as offender assessment, victim empowerment and criminological profiling) exist for criminologists. Coetzee (2003b:45), Cornwell (2003:85-89), Du Preez (2003:263) and Maree *et al* (2003b:122-124) proclaim that criminology and criminologists can improve the effectiveness and professionalism of assessment through an awareness of the potential benefits of using assessment skills and through an understanding of criminal behaviour.

The role of the criminologist in corrections is to obtain a scientific understanding of how the world looks from the client or the offender's perception of the world. This understanding will ultimately contribute to the effective rehabilitation, reintegration and empowerment of offenders (Cornwell 2003b:84-89; Du Preez 2003:263; Maree *et al* 2003b: 122-124). The criminologist focuses specifically on the offender's culture, customs, personal history, criminal history, causes and motives for crime, family / extended family system, support structures, education, political and economical circumstances that could have played a role in "shaping" the offender as an unique individual (Hesselink-Louw & Schoeman 2003: 171; Sheley 2000:2; Siegel 2004:3-4). Thus, the criminologist's role can be described as the

acknowledgement, recognition and understanding of *the good within the bad* (Cornwell 2003b:84-89; Hesselink-Louw 2001:39).

Coetzee (2003b:45), Cornwell (2003b:84-89) and Du Preez (2003:263) argue that criminologists can offer particular skills and competencies that will assist correctional agencies to undertake their tasks and to ensure that they will enhance their performance in the process. These authors furthermore postulate that criminologists can assist in criminal profiling, needs and risk assessment, statistical collection and the interpretation of research findings and security data, and the assessment of dangerousness for parole purposes. Coetzee (2003b:45) even suggests that similar analysis can be profitable in other sectors of the criminal justice system, such as the police service, courts and non-custodial corrections.

### **2.5.3.3 The benefit of the utilisation of criminologists regarding offender treatment and rehabilitation to corrections**

Criminologists employ scientific methods in their work: Testable hypotheses, rigorous and replicable forms of direct observation of the empirical world and the formation, interpretation and explanation of criminal conduct (Sheley 2000:1). According to Andrews and Bonta (1998:iii, 14-15), Coetzee (2003b:45-47), Cornwell (2003b:83-89), Du Preez (2003:263), Hesselink-Louw and Schoeman (2003:171), Hollin (2001:8-9), Maree *et al* (2003a:122-123), Sheley (2000:2) and Siegel (2004:3-12), corrections can benefit in the utilisation of criminologists in the following ways:

- Criminologists focus on both theoretical and practical levels. That is, criminologists can assist in the development of a scientific, practical assessment structure, acceptable to all role players;
- Practitioners of criminology can assist in forming a partnership between universities and criminal justice agencies. This could be established to ensure that prepared students assist in the assessment of inmates, which might lead to their actual employment. Coetzee (2003b:46) is of the opinion that success will depend upon both sides being satisfied that the needs of the other are being met and that both sides enjoy beneficial outcomes. This pre-supposes a constant flow of trained criminologists, and that Correctional Services' professional performance would be enhanced by employing such persons;
- Individual criminological offender assessment for treatment and development referrals;
- An analysis and identification of specific offender needs and risks (escape, reoffending and suicide risks);
- Interpretation of security intelligence;

- ❑ Statistical analysis of assessment outcomes;
- ❑ Submission of expert evidence (for the police, courts, Correctional Services and non-custodial correctional organisations);
- ❑ Identification of causes, motives and *modus operandi* of criminal behaviour;
- ❑ Scientific explanation of criminal behaviour;
- ❑ Compilation of criminal profiles for effective group therapy;
- ❑ Assistance in the development of effective rehabilitation programmes;
- ❑ Assistance to Parole Boards in the prediction, evaluation and analysis of criminal behaviour;
- ❑ Evaluation of the effectiveness of rehabilitation programmes;
- ❑ Appropriate management of offenders;
- ❑ Finally, criminologists can be utilised to relieve the heavy workload of therapists (social workers and psychologists) within the Department of Correctional services.

Criminologists are utilised in Europe and Canada to assist in the assessment and rehabilitation of offenders, as well as the development of offender-treatment programmes (Bonta, personal interview 14 August 2002; Hollin, personal interview 11 July 2002). In South Africa, the role of criminologists regarding the assessment and rehabilitation of offenders, and the development of intervention programmes, have been ignored and overlooked (Bergh, personal interview 27 August 2002; Holtzhausen, 2003; Schreiner, personal interview 27 May 2002; Venter, personal interview 26 August 2002).

According to Kriek (National Director of Remission and Parole, DCS), it is the vision of the Department to utilise criminological services in corrections to assist with the rehabilitation of offenders (Addressing Overcrowding in South African Prisons: An Introduction to New Generation Prisons, 9 May 2003). This is supported by Bergh (Personal interview 27 August 2002), De Klerk (Personal interview 27 March 2003), Holtzhausen (2003), Kriek (2004) and Sishuba (2002), who are of the opinion that there is a definite need in South Africa for criminologists within the Department of Correctional Services.

It is evident from the above (Sections 2.5.3.1 – 2.5.3.3) discussion that criminology as a science, and criminologists as practitioners, can contribute to a better understanding of crime and criminal behaviour, and supplement the enhancement of a cross-disciplinary treatment approach to offenders. Hollin (2001:2) concedes that: "It might be hoped that there might be a rapprochement between psychology and criminology, so that both sides can constructively engage in the study and prevention of criminal behaviour". Thus, corrections can benefit from criminology and the utilisation of criminologists within custodial settings.

## **2.6 Conclusion**

This chapter highlighted the historical relevance of the rehabilitation of offenders in South Africa. The need for offender assessment and relevant role players responsible for treatment and intervention of offenders in corrections, were outlined. Furthermore, the role, relevance and benefit of criminologists were examined to illustrate the importance of a multi-dimensional intervention approach to address offending behaviour and to ensure that offenders return to the community as better persons where they can adapt to society's rules and integrate with constructive law-abiding norms. The following chapter will address national and international research on the assessment of offenders. Special attention will also be paid to assessment targets, structures, need and risk assessments.