
***The contribution of social work to the
prevention of crime by the criminal
justice system in the Western Cape***

Chris Derby Magobotiti

***Thesis presented in partial fulfilment of the requirements for the
degree of Master of Arts in Social Work at the University of
Stellenbosch***



***Supervisor: Professor C. J. Groenewald
Co-Supervisor: Professor S. Green***

March 2001

DECLARATION

I, the undersigned, hereby declare that the work contained in this thesis is my own original work and has not previously in its entirety or in part been submitted at any University for a degree.

Signature:

Date:

SUMMARY

This study deals with crime prevention within the criminal justice system in response to the current crime situation in the Western Cape. It describes the structure and function of the criminal justice system and assesses crime prevention processes with specific reference to the role of social work within the criminal justice system. It further examines the criminal justice system as practised in the Western Cape, paying specific attention to the role of the police, criminal courts and prisons in the prevention of crime.

In line with the nature of the study an exploratory approach was used. The data was collected from both primary and secondary sources. Interviews and observations were the main research techniques used for gathering primary data. Secondary data was gathered by means of a study of the literature. Structured and unstructured interviews were conducted with social workers, magistrates, police officers, prosecutors, victims, offenders, community workers and other officials of the criminal justice system. These interviews were mainly conducted at Wynberg magistrates' court, Drakenstein Prison (formerly known as Victor Verster Prison) and organisations based in the metro areas and on the Cape Flats. The study was conducted over a period of three years with the interview schedule administered between May and August 2000.

A sample of 21 respondents was selected on the basis of a purposive approach and procedure. The comprehensive interview schedule consisted of mainly open-ended and a few closed questions, generating information on the profiles of respondents, crime dynamics in the Western Cape, the sentencing process and prevention strategies, matters related to the criminal justice system and corrections, and the role of community justice in the prevention of crime. The generated qualitative data was analysed and interpreted. The findings suggested the necessity for social work to make a contribution to the prevention of crime in a sensitive and proactive way. The analysis has shown that criminal justice approaches can significantly enhance the process of crime prevention, but that the criminal justice system requires combined

strategies and approaches for crime prevention to be effective. It is in this context that the contribution of social work can be much more effective.

The recommendations of the study have demonstrated a need for social workers to promote approaches that are premised on a broader understanding of the role of the criminal justice system in the prevention of crime. It is important to state that the study's recommendations for the prevention of crime can also be implemented by other role-players, particularly within the criminal justice system.

OPSOMMING

Hierdie ondersoek handel oor misdaadvoorkoming deur die strafregstelsel in reaksie tot die huidige misdaadsituasie in die Wes-Kaap. Dit beskryf die struktuur en funksie van die strafregstelsel en beoordeel misdaadvoorkomingsprosesse met besondere verwysing na die rol van maatskaplike werk binne die strafregstelsel. Dit ondersoek verder die strafregstelsel soos beoefen in die Wes-Kaap deur veral aandag te gee aan die rol van die polisie, die howe en gevangnisse in die voorkoming van misdaad.

Die aard van die ondersoek vereis dat 'n eksplorerende benadering gevolg is. Data is versamel uit primêre sowel as sekondêre bronne. Onderhoude en waarnemings was die hoof navorsingstegnieke wat gebruik is om primêre data te versamel. Sekondêre data is weer verkry deur 'n studie van die literatuur. Gestruktureerde en ongestruktureerde onderhoude is gevoer met maatskaplike werkers, landdroste, polisie beamptes, openbare vervolgers, slagoffers, gevonnise misdadigers, gemeenskapswerkers en ander beamptes van die strafregstelsel. Hierdie onderhoude is hoofsaaklik gevoer by die Wynbergse landdroshof, Drakenstein Gevangenis (voorheen Victor Verster Gevangenis) en organisasies werksaam in die metropolitaanse gebiede en die Kaapse Vlakte. Die ondersoek is onderneem oor 'n periode van drie jaar met die onderhoude gevoer tussen Mei en Augustus 2000.

'n Steekproef van 21 respondente is geselekteer op die grondslag van 'n doelgerigte benadering en prosedure. Die omvangryke onderhoudskedule bestaan uit oorwegend oop en 'n beperkte aantal geslote vrae, en het inligting gegeneer oor die respondent-profiel, misdaad-dinamika in die Wes-Kaap, die vonnisopleggingsproses en voorkomingstrategieë, sake rakende die strafregstelsel

en korrektiewe optrede, en die rol van gemeenskapsreg in die voorkoming van misdaad. Die verkreeë kwalitatiewe data is toe ontleed en interpreteer. Die bevindings suggereer die noodsaaklikheid daarvan vir maatskaplike werk om 'n bydrae te lewer tot die voorkoming van misdaad op 'n sensitiewe en proaktiewe wyse. Die ontledings het aangetoon dat strafregbenaderings die proses van misdaadvoorkoming beduidend kan verhoog maar om misdaadvoorkoming effektief te laat geskied, vereis die strafregstelsel gekombineerde strategieë en benaderings. Dit is binne hierdie verband dat die bydrae van maatskaplike werk baie meer effektief kan wees.

Die aanbevelings van die ondersoek wys op 'n behoefte by maatskaplike werkers om benaderings te bevorder wat gebaseer is op 'n breër begrip van die rol van die strafregstelsel in die voorkoming van misdaad. Dit is van belang om te stel dat die ondersoek se aanbevelings vir die voorkoming van misdaad ook geïmplementeer kan word deur ander rolspelers, veral binne die strafregstelsel.

ACKNOWLEDGEMENTS

Professors Cornie J. Groenewald and Sulina Green, my supervisors, for support, guidance and motivation.

The participants from the Wynberg magistrates' court, Drakenstein Prison, NGOs, CBOs, and other officials of the criminal justice system for their assistance.

The University Postgraduate Bursary Office for the financial assistance which made all of this possible.

Janneke Engelbrecht and Stephen Heyns for their help and professional editing.

My family, particularly my father, Dambile, Lozi, Nombuyiselo Rodolo and others for the encouragement and support.

Contents

CHAPTER 1	1
1 INTRODUCTION, RATIONALE AND OVERVIEW	1
1.1 INTRODUCTION	1
1.2 MOTIVATION FOR THE STUDY	1
1.3 CRIME PROFILE OF THE WESTERN CAPE	2
1.3.1 <i>Property crime</i>	2
1.3.2 <i>Violent crime</i>	3
1.3.3 <i>Crimes related to the social fabric and sexual crime</i>	3
1.4 AIM OF THE STUDY	3
1.5 OBJECTIVES OF THE STUDY	4
1.6 DEMARCATION OF THE RESEARCH FIELD	4
1.7 RESEARCH DESIGN AND METHODOLOGY	5
1.8 ANALYSIS OF DATA	7
1.9 CONCEPTUAL CLARIFICATION	7
1.9.1 <i>Definition of crime</i>	7
1.9.2 <i>Nature of crime</i>	9
1.10 THEORIES OF CRIME CAUSATION	16
1.10.1 <i>Psychoanalytic theory</i>	17
1.10.2 <i>Social learning theory</i>	18
1.10.3 <i>Labelling theory</i>	19
1.10.4 <i>Conflict theory</i>	20
1.11 THESIS OVERVIEW	20
CHAPTER 2	22
2 THE CRIMINAL JUSTICE SYSTEM IN THE WESTERN CAPE	22
2.1 INTRODUCTION	22
2.2 CRIMINAL JUSTICE THEORIES	23
2.2.1 <i>The theory of deterrence</i>	24
2.2.2 <i>Retributive theory</i>	25
2.2.3 <i>Restorative theory</i>	26

2.3	NEW APPROACHES TO CRIMINAL JUSTICE SYSTEMS.....	27
2.3.1	<i>The victims of crime</i>	28
2.3.2	<i>A victim-centred justice system</i>	31
2.3.3	<i>Access to justice</i>	31
2.4	COMPENSATION FOR VICTIMS OF CRIME.....	32
2.5	RESTITUTION AND REPARATION FOR VICTIMS OF CRIME	32
2.6	THE STRUCTURE OF THE CRIMINAL JUSTICE SYSTEM IN THE WESTERN CAPE.....	33
2.6.1	<i>The South African Police Service in the Western Cape</i>	33
2.6.2	<i>The criminal courts</i>	36
2.7	SUMMARY.....	51
CHAPTER 3.....		52
3	CRIME PREVENTION	52
3.1	INTRODUCTION	52
3.2	THE THEORY OF CRIME PREVENTION	52
3.2.1	<i>The holistic approach to preventing crime</i>	54
3.2.2	<i>Government's role in crime prevention</i>	55
3.2.3	<i>The role of business</i>	57
3.3	CRIME PREVENTION THROUGH PROSECUTION AND INVESTIGATION	58
3.3.1	<i>The role of the witness and the need for protection</i>	59
3.3.2	<i>The bail system</i>	60
3.4	CRIME PREVENTION THROUGH SENTENCING	61
3.4.1	<i>Imprisonment</i>	63
3.4.2	<i>Community service</i>	66
3.4.3	<i>Committal to an institution</i>	67
3.4.4	<i>Fines</i>	67
3.4.5	<i>Correctional supervision</i>	67
3.5	THE PAROLE SYSTEM	68
3.6	THE ROLE OF COMMUNITY POLICING IN PREVENTING CRIME	69
3.6.1	<i>Community safety through Neighbourhood Watch</i>	72
3.7	SUMMARY.....	72
4	SOCIAL WORK PRACTICE WITHIN AND OUTSIDE THE CRIMINAL JUSTICE SYSTEM IN THE PREVENTION OF CRIME	73

4.1	INTRODUCTION	73
4.2	SOCIAL WORK PRACTICE	73
4.3	THE ROLE OF SOCIAL WORK PRACTICE IN PROMOTING CRIME PREVENTION AT COMMUNITY LEVEL	74
4.3.1	<i>Building community networks</i>	75
4.3.2	<i>Advocacy and awareness of community safety</i>	76
4.3.3	<i>Community courts</i>	77
4.3.4	<i>Rehabilitation services</i>	79
4.4	THE ROLE OF SOCIAL WORK IN JUVENILE JUSTICE	80
4.4.1	<i>Diversion from the criminal justice system</i>	82
4.5	CRIME PREVENTION THROUGH A VICTIM-CENTRED APPROACH	85
4.5.1	<i>Social work therapeutic practice with the victims of crime</i>	86
4.5.2	<i>Empowering victims</i>	87
4.5.3	<i>The therapeutic role of social work with offenders</i>	90
4.6	VICTIM IMPACT STATEMENT IN SENTENCING PROCESSES	93
4.6.1	<i>Victim-offender mediation</i>	94
4.7	SUMMARY	97
CHAPTER 5		98
5 EMPIRICAL WORK: RESEARCH DESIGN AND METHODOLOGY		98
5.1	INTRODUCTION	98
5.2	RESEARCH DESIGN	98
5.3	BACKGROUND TO THE STUDY	99
5.3.1	<i>Interviews with officials and professionals</i>	100
5.3.2	<i>Interviews with victims and offenders</i>	102
5.4	INSTRUMENTS, SAMPLING, ADMINISTRATION	103
5.4.1	<i>Design of questionnaire</i>	104
5.4.2	<i>Sampling</i>	104
5.4.3	<i>Administration</i>	106
5.4.4	<i>Quality control</i>	106
5.4.5	<i>Data processing</i>	107
5.5	ANALYSIS AND INTERPRETATION OF DATA	107
5.6	SUMMARY	107

CHAPTER 6.....	109
6 PRESENTATION AND ANALYSIS OF DATA	109
6.1 INTRODUCTION	109
6.2 GENERAL IDENTIFYING PROFILE	109
6.3 CRIME DYNAMICS IN THE WESTERN CAPE	111
6.4 DEFINITION OF CRIME	111
6.5 PREVENTION STRATEGIES	112
6.6 SENTENCING	113
6.7 THE PURPOSE OF THE CRIMINAL JUSTICE SYSTEM.....	115
6.7.1 <i>Punishment or prevention</i>	116
6.8 CORRECTIONS	117
6.9 COMMUNITY JUSTICE AND PREVENTION.....	118
6.10 SUMMARY.....	119
CHAPTER 7.....	120
7 INTERPRETATION OF THE RESEARCH FINDINGS	120
7.1 INTRODUCTION	120
7.2 GENERAL IDENTIFYING PROFILE	120
7.3 CRIME DYNAMICS IN THE WESTERN CAPE	121
7.4 DEFINITION OF CRIME	122
7.5 PREVENTION STRATEGIES	123
7.6 SENTENCING	124
7.7 THE PURPOSE OF THE CRIMINAL JUSTICE SYSTEM.....	126
7.7.1 <i>Punishment or prevention</i>	127
7.8 CORRECTIONS	129
7.9 COMMUNITY JUSTICE AND PREVENTION.....	129
7.10 SUMMARY.....	130
CHAPTER 8.....	131
8 CONCLUSIONS AND RECOMMENDATIONS.....	131
8.1 INTRODUCTION	131
8.2 CONCLUSIONS OF MAJOR FINDINGS AND RECOMMENDATIONS	131

8.2.1	<i>Conceptions of crime</i>	132
8.2.2	<i>Crime awareness and prevention strategies</i>	133
8.2.3	<i>Sentencing process</i>	133
8.2.4	<i>Knowledge of the approaches of the criminal justice system</i>	135
8.2.5	<i>Punitive approaches to crime</i>	135
8.2.6	<i>Corrections</i>	136
8.2.7	<i>Community justice and prevention</i>	137
BIBLIOGRAPHY		139
APPENDIX A		148
APPENDIX B		178

List Of Figures

FIGURE 2.1 COURT ROOM	36
FIGURE 2.2 WYNBERG MAGISTRATES' COURT.....	37
FIGURE 2.3 CAPE TOWN HIGH COURT	45
FIGURE:2.4 PRISON MANAGEMENT AREA.....	47
FIGURE 3.2 DRAKENSTEIN PRISON.....	64

List Of Tables

TABLE 2.1 POPULATION FIGURES SERVED BY THE WESTERN CAPE POLICE.....	34
TABLE 2.2 STATISTICS OF VIOLENCE AND ABUSE AGAINST WOMEN AND CHILDREN IN THE WESTERN CAPE	40
TABLE 2.3 NUMBERS OF PRISONERS IN THE WESTERN CAPE	49
TABLE 2.4 NUMBER OF JUVENILES IN WESTERN CAPE PRISONS.....	50

CHAPTER 1

1 INTRODUCTION, RATIONALE AND OVERVIEW

1.1 Introduction

The study assumes that crime prevention as a function of the criminal justice system is a complex process, taking place at different levels and involving different role-players. Social workers and other role-players are found at the levels of the police, prisons, the community and the criminal courts. The increasing levels of crime in the Western Cape present challenges for the contribution of social work within the criminal justice system. Such contribution to the prevention of crime will be determined by the nature of the criminal justice system with respect to provisions for social work. There is a need to explore and gain an understanding of the function and structure of the criminal justice system in the Western Cape as it relates to the prevention of crime, in order to provide recommendations for the role of social work in crime prevention within the criminal justice system.

1.2 Motivation for the study

The researcher has been involved during 1997 in the area of crime prevention and policing in the gang-ridden communities on the Cape Flats as a social work student. This involvement took the form of a crime prevention research project with the Hard Livings gang in Manenberg and the Woodstock-Salt River area, the Firm gang, the Sexy Boys and the Fawo gang in the Belhar area under the umbrella body known as the Community Outreach Forum (CORE). People Against Gangsterism and Drugs (PAGAD) was also involved in the crime prevention study. At that time the researcher was actively involved in the Woodstock community policing forum and the Western Cape Anti-Crime Forum, which is an umbrella body for community policing forums in the Western Cape.

Further work was conducted in liaison with the National Institute for Crime Prevention and Reintegration of Offenders (NICRO) and Rape Crisis. A rural poverty study was also undertaken in the Ceres area in the Western Cape. The researcher's involvement in communities experiencing a high incidence of serious crime and with organisations has generated an academic interest in studying and exploring the role of the criminal justice system in the prevention of crime. The study should be viewed as an attempt to understand how the criminal justice system can promote crime prevention.

1.3 Crime profile of the Western Cape

According to the quarterly report of the Department of Safety and Security (May 2000), compared to other provinces, the Western Cape has the highest level of crime. With respect to specific types of crime, the Western Cape has the highest levels of property crime, violent crime, and social fabric and sexual crime. This means that, in terms of ranking* the nine provinces, the Western Cape ranks first in specific types of crime, while with respect to the incidence of other types of crime it mostly occupies second place. The report on the incidence of specific crimes is based on figures and estimates calculated from the 1996 census results when measured per 100 000 people.

1.3.1 Property crime

Of all the provinces the Western Cape has the highest incidence of housebreaking at residential level, with a number of 514.5 housebreakings per 100 000 of the population, while the figure for housebreaking at business level is 166.1. The Western Cape is in second position, after Gauteng, with regard to the incidence of other types of robbery, with 120.6. The Western Cape again occupies top place with regard to the incidence of shoplifting, with 102.6. The figure for theft of motor vehicles is 111.4, which places the Western Cape in the second position, following Gauteng. The Western Cape is in top position with regard to theft out of or from motor vehicles, with 446.9, and continues to lead in other thefts with 929.5. The Western Cape is rated in second position with regard to the incidence of fraud, with 86.7, following Gauteng province.

1.3.2 Violent crime

The incidence of murder is 29.2 and attempted murder 38.8, making the Western Cape the province with the highest incidence of these crimes. The incidence for robbery with aggravating circumstances is 92.7, and here the Western Cape is placed after Gauteng and KwaZulu-Natal.

1.3.3 Crimes related to the social fabric and sexual crime

The Western Cape is rated number two with regard to the incidence of rape, with 65.0, following the Northern Cape. It continues to take second position with regard to assault with grievous bodily harm, with 372.1, again following the Northern Cape. The Western Cape has the highest incidence of common assault, with 520.9.

The figures presented here are likely to resemble reporting rates of crime in police stations in each policing area in the Western Cape. In terms of the report of the Department of Safety and Security (January - May 2000), compared to the past four years there are few changes from previous reports, with the Western Cape showing the highest levels of crime with respect to specific types of crime.

The present crime profile of the Western Cape shows different levels for different types of crime. In order to begin a sound academic research and in line with the aim of the study a systematic picture of the crime situation of the Western Cape had to be gained.

1.4 Aim of the study

The aim of the research study was to identify, within the context of the current crime situation in the Western Cape, in what ways, to what extent and with what means social work as support system or service discipline could contribute to crime prevention as a function of the criminal justice system.

1.5 Objectives of the study

In order to achieve the aim of the study the following objectives were formulated and executed.

1. To provide a profile of the current crime situation in the Western Cape.
2. To give an overview of the structure of the criminal justice system as practised in the Western Cape, with specific reference to the role of social work in crime prevention.
3. To assess crime prevention processes within the criminal justice system in the Western Cape.
4. To look at provisions for social work practice within the criminal justice system.
5. To reflect on social work as practised outside the formal criminal justice system in relation to the criminal justice system in the prevention of crime.
6. To determine empirically an understanding of the intervention by social work in crime prevention outside and within the criminal justice system in the Western Cape.
7. To provide recommendations for the role of social work in crime prevention within the criminal justice system.

1.6 Demarcation of the research field

The sample selection had two phases in an attempt to fulfil the aim of the study. The first phase focused on the variety of role-players in the criminal justice system in the Western Cape and was mainly conducted within the jurisdiction of the Wynberg magistrates' (district) court and Stellenbosch policing area. The purpose was to gather the views of various role players in the criminal justice system on its structure, functioning and its role in crime prevention especially with respect to social work. In this regard Grinnell (1997:162) states that in purposive sampling, researchers use their own judgment in order to strategically select the sample on the basis of a small

number of key people who can give the information and broader picture of the situation. In line with the aim of the study the sample consisted of magistrates, police officers, prosecutors, probation officers, victims of murder, rape (ie violent) and robbery (property), and prisoners who had been convicted of violent and property offences in Drakenstein prison. In this phase the sample consisted of nine participants for the purposes of gathering the data.

The second phase of the sample selection focused mainly on social workers as one group of role-players practising within and outside the criminal justice system. In this phase the idea was to get social work views on how they regard their role in crime prevention from the point of view of social work profession. Participants came from NICRO, Drakenstein Prison (corrections), the juvenile court, the sexual offences court, the children's court in the Wynberg magistrates' (district) court and Stellenbosch child welfare. The other category comprised a community worker from the Catholic Justice and Peace Commission (an NGO) and a paralegal community worker from the Western Cape Anti-Crime Forum (CBO sector). The sample for data gathering in this phase consisted of twelve participants. The overall sample consists of twenty-one (21) respondents involved in crime prevention within and outside the criminal justice system in the Western Cape. The researcher had to target and maintain a narrow sample in order to manage the process of the study. Grinnell (1997:19) is of the opinion that a study must be narrowly focused for the research process to remain focused. This promotes a far more concrete process and the feasibility of the study achieving its aim.

1.7. Research design and methodology

In order to undertake a sound scientific study, a search for relevant literature was conducted. The literature study was carried out in order to promote an understanding of the research subject. Crime prevention within and outside the criminal justice system was the main focus of the surveyed literature. This was done by making use of J S Gericke Library as the main resource, as well as the Reading Room of the Department of Social Work at the University of Stellenbosch. Other resources used were from the Institute of Criminology at the University of Cape Town. Several publications from the Institute for

Security Studies and government department of criminal justice system were used. Books and journals were sources of certain significance on the subject of the study and the literature was mainly in the fields of social work, criminology, sociology, criminal law and psychology. The study had a strong emphasis on empirical research in order to gather the data and to meet the aim of the research study (see chapter 5 for details). This was also useful to establish if the literature study is supported by the empirical research.

This study is exploratory in nature. According to Grinnell (1997:136) and Babbie and Rubin (1997:108), the main aim of an exploratory study is to attain familiarity with the phenomenon through exploring and providing clarification of some phenomena where accurate information is needed. Babbie and Rubin (1997:109) state that the exploratory method of design is used when the researcher begins enquiry into a particular field. Garbers (1996:284), Meares (1995:6), Grinnell (1997:162) and Babbie and Rubin (1997:372) state that the nature of the study, problem or phenomenon under investigation should determine the selection of research methodologies. In this regard, the nature of the study is mainly qualitative with less quantitative generated data. Several research techniques were utilised in data gathering and an interview schedule questionnaire was designed and used to generate data.

Babbie and Rubin (1997:373), and Garbers (1996:284) regard the qualitative approach as less superficial, less time-consuming and more valuable because it provides the researcher with an opportunity to observe and directly participate in the process, unlike the quantitative approach which only allows the researcher indirect involvement with a strong sense of comprehensive representation. The qualitative approach focuses on a strategic or sufficient number of participants rather than a large quantity. The qualitative approach provides the researcher not only with participation but also to come to grips with and understand some philosophical questions of the study.

The first phase of the scheduled interview was phrased in a way that could generate a collective viewpoint from the specific group of participants, while the second phase required an individual viewpoint from participants. Some of the specifics will be discussed in detail in chapter 5.

1.8 Analysis of data

The analysis of data was mainly based on systematic categorisation and comparing of different responses from the respondents.

1.9 Conceptual clarification

Some key concepts and definitions used in the study are presented and explained. In order to promote a sound academic research study, it is necessary to present a theoretical framework. This is necessary as the basis in terms of which specific concepts and theories of the role of the criminal justice system in the prevention of crime can be understood. It is also important for critically rooting the research study in its proper context, considering different justice paradigms in crime prevention.

1.9.1 Definition of crime

Zehr (1995:9) and Snyman (1991:3) argue that the definition of crime is informed by different models of the criminal justice system. Quinney (1978:31) tries to define crime as a material problem caused by social structure rather than defining it as a legal problem. Quinney (1978:33) states that the basic problem in the study of the meaning of crime is that of integrating two sides of the phenomenon, that is, defining behaviour as criminal and the underlying conditions for criminality. In other words, on the one hand the act is called criminal and on the other the criminal act is the result of social structure. From the above it is clear that definitions of crime vary, but the most important definitions view crime as:

- The violation of the law, which is punishable by the state.
- The violation of people and relationships, which requires community and family-centredness in a search for solutions.

1.9.1.1 Violation of the law

Snyman (1991:2) states that crime may be defined as unlawful, blameworthy conduct. In this view crime is almost invariably injurious to the public interest

and constitutes illegal conduct which in principle can be prosecuted. Gottfredson and Hirsch (1990:15) Bezuidenhout and Rip (1988:91) concur with Snyman on the view that crime is a violation of the code of conduct. Giddens (1989:121) is also of the opinion that crime can be defined as any mode of behaviour which breaks the law. Like others, Van der Westhuizen (1982:86) states that crime can be defined as an act or omission forbidden by the law. Croall, Davies and Tyrer (1995:32) concur with the view that crime is any act or omission which contravenes the law and which may be followed by prosecution through criminal proceedings with the attendant consequence. This understanding of crime as simply violation of the law can be ineffective in terms of preventing crime and its causes. The punitive definition is somewhat mechanical, as it does not view individual conduct as a product of society. The person involved in the act is not regarded as an active agent and is not given consideration in the process. Instead, the state and its laws are the focus of attention.

1.9.1.2 Punishment by the state

Snyman (1991:2), Giddens (1989:121) Bezuidenhout and Rip (1988:91) further state that crime is punishable by the state. This view argues that the state, through its administrative agencies, prosecutes offenders, and imposes and administers punishment. Van der Westhuizen (1982:27), Davies, Croall and Tyrer (1995:32) emphasise the idea that the convicted person must be punished by the state for breaking the law. This implies that the law of the state has to retaliate through enforcing punishment as if it is a victim, and in the process other actors are not actively involved as people involved in continuing relationships.

1.9.1.3 Violation of people and relationships

Zehr (1995:10) and Galaway and Hudson (1996:2) state that crime is a violation or harm to people and relationships. In this view the aim of justice is to identify obligations in order to meet needs and to promote healing. This view argues that crime violates people and violations always create obligations. A similar argument is presented by Heidensohn, as quoted by

Zehr (1995:11), broadening the idea of crime as socially constructed. This argument criticises the view that equates crime only with law-breaking and focuses more on the harm done to people. It implies that crime results from a conflict between individuals. Zehr (1995:11) concurs with others and states that the relationship between people which has been violated by crime should be restored through the promotion of dialogue and mutual understanding. This kind of understanding of crime is broad and in order to be effective it requires co-operation among the parties involved.

1.9.1.4 Community and family-centredness in search for solutions

Zehr (1995:10), Galaway and Hudson (1996:2) are of the opinion that in terms of this understanding of crime the aim of the criminal justice process should be to create peace in communities by reconciling the parties and repairing the injuries caused by the dispute. This view further states that the criminal justice process should facilitate active participation by victims, offenders, families and their communities in order to find solutions to the conflict. Zehr (1995:12) and Galaway and Hudson (1996:5) maintain that the relational definition of crime recognises the important role of the state as a secondary one; hence crime violates the state at a secondary level. This suggests that the role of the state is less monopolistic and less top-down, thereby promoting a sense of responsibility in all parties. This view is captured very well by Muntingh and Shapiro (1997:9) in the idea that the relational definition of crime places victims, offenders and communities at centre stage. Justice is measured by assumed needs met and relationships healed. This implies that the process of justice seeks to understand the nature and causes of crime in order to reduce re-offending and vengeance.

1.9.2 Nature of crime

Understanding the nature and levels of crime in South Africa provides a perspective for elucidating the intricacies of the phenomenon. This will enhance the meaningful practice of social work within the criminal justice system. The White Paper on Social Welfare (Department of Welfare, 1997:139) states that South Africa has amongst the highest rates of



violent crime in the world. The White Paper further states that more than 16% of all deaths in South Africa are the result of trauma, compared to the World Health Organisation's global figure of 5%. This ranks trauma as the second largest cause of overall deaths (after circulatory diseases), compared to a ranking of fourth place in the USA, considered a violent society, and an even lower ranking in most other countries (Department of Welfare, 1997). Not all deaths caused by trauma are the result of crime. But in South Africa trauma is the leading cause of injury and death (Department of Welfare, 1997). In this context, violent crime takes its toll on the health and lives of the poor. For example, the death of a household member is one of the more severe shocks and can cause vulnerable households to become poverty-stricken.

Louw and Shaw (1997:7) support the above point and state that for most South Africans, particularly the poor, crime is not a recent phenomenon. They argue that extreme levels of inequality and decades of political conflict have produced a society prone to crime. The White Paper on Social Welfare (Department of Welfare, 1997:139) and Louw and Shaw (1997:8) are of the opinion that crime statistics and comparisons between areas are unreliable because of differences resulting from the previous balkanisation of the country. This argument goes on to say that police absence in many areas contributes to the fact that most people in poor areas do not trust the police, an attitude which inhibits the reporting of crime. Another view is that in situations where the offender knows the victim, particularly in the case of a non-property crime such as rape or assault, fear of reprisals may also inhibit reporting. A supporting view by Louw and Shaw (1997:9) states that in South Africa during the period 1985-1990 the state of emergency probably suppressed crime levels as well as the reporting and recording of crimes that occurred. Then early in 1990s there was a crime explosion as social controls were loosened and police released from the duties of suppressing political opposition.

The Semester Report on the Incidence of Serious Crime in South Africa (South Africa, 1998:3-11) acknowledges the complex nature of crime, and state that since 1994 violent crimes have decreased. For example, murder is

down by 14,6%, attempted murder is down by 4%, robbery is down by 23,5%, and vehicle theft is down by 15,7%. This shows that while there is a high incidence of crime in poor areas, there is no media coverage and a low level of reporting and calculating of crime in poor areas. In this regard, according to Camerer and Louw (1998:5) a survey which was conducted in the Cape Town metropolitan area, reports that poor people are exposed to and are mainly the victims of violent and property crime, while the wealthy are mainly victims of property crime. Camerer and Louw (1998:6) argue that the survey reports that the participants in this study do not regard economic offences as a serious crime.

Maclean (1986:204) agrees with the above and points out that researchers of crime have traditionally focused on violent crimes while there is also upper-world crime (corporate crime), generally known as white-collar crime. Davies (1997:2) agrees with Maclean (1986:204) and further elaborates that while robberies and murders are reported by the media as criminal acts, and while they constitute a sizeable component of overall crime, the more subtle but equally devastating act of white-collar crime is ignored. Davies (1997:2) states that huge numbers of infants are dying in South Africa every year from preventable diseases when there are plentiful medical supplies to eradicate these diseases, yet private pharmaceutical companies rake in record profits. This view further states that South Africans are jobless and destitute due to massive corporate diversion of profits outside the country rather than to socially productive domestic investment.

The danger with a one-sided view of crime is that it tends to produce one-sided solutions to crime. For example, social workers should grapple equally with the impact of violent crime, property crime and white-collar crime in society. This will help to promote effective approaches to the crime prevention process.

1.9.2.1 Violent crime

It is crucial to gain some general understanding of violent crime in order to enhance preventative approaches. For example, in some circles rape is

viewed as a biological crime, rather than a violent crime. Understanding rape as a violent crime helps to promote a gender-sensitive criminal justice system in which the crime reflects male abuse of power over women in society. In this regard, Van der Westhuizen (1982) and others define violent crime as any act of violence forbidden by law under pain of punishment by the state. *Justice Vision 2000* (Department of Justice,1997:7) states that violent crime is the most common crime in South Africa in the form of murder, rape, armed robbery, family violence and assault. Further, South Africa has the highest incidence of rape in the world. This point is captured by the Semester Report on the Incidence of Serious Crime in South Africa (South Africa, 1998:19) which locates murder, assault and rape as crimes with a higher incidence in areas with urban social problems such as unemployment and gangsterism. The incidence of these crimes in rural areas is historically associated with the phenomenon of alcohol abuse, which puts people at risk of becoming victims of murder, rape and assault.

The Semester Report (1998:19) states that at a national level crimes including attempted murder, rape, serious assault and robbery with aggravating circumstances remain stable, while the incidence of murder, common assault and other violent crimes have decreased by 25,7%. The Semester Report (1998:17) shows that the Western Cape has maintained the highest crime level in the country for three years. Although the crime figures are showing decreases generally, Western Cape remains highest as has been indicated above (see 1.3). Louw and Shaw (1997:10-11) concur with the report that Gauteng, the Northern Cape, Kwazulu-Natal and the Western Cape are the provinces with the highest rates of violent crimes. Louw and Shaw (1997:10) argue that recently the highest murder rates have been recorded by Mpumalanga, the North West and the Western Cape.

According to the Semester Report on the Incidence of Serious Crime (South Africa, 1998:19), the Western Cape, Gauteng and the Northern Cape, when measured per 100 000 of the population, now occupy the first, second and third positions in respect of serious crime. In this regard the report shows the incidence of murder in the Western Cape to be 85.1 per 100 000 of the

population, and 76.3 per 100 000 in Gauteng. In the Western Cape the number for attempted murder is 98.9 and in Gauteng 94.5. In Gauteng the incidence of robbery with aggravating circumstances is 532.0.

The Northern Cape has the highest incidence of rape and attempted rape recorded, with 169.0, while the figure for Gauteng is 152.6 and for the Western Cape 149.5. The figure for the incidence of serious assault in the Northern Cape is 1567.2 and in the Western Cape 750.7.

1.9.2.2 Property crime

Quinney (1978:240) state that property crime should be viewed as the violation of the property of an individual. This interpretation is captured in the Bill of Rights of the Constitution of the Republic of South Africa (South Africa, 1996:6), which places much more value on personal property rights. In this regard, the Semester Report on the Incidence of Crime in South Africa (South Africa, 1998:29) recorded the incidence of burglary at residential premises in the Western Cape at 1084.6, in Gauteng at 999.1, and in the Northern Cape at 660.5. The incidence of burglary at business premises in the Western Cape is 431.1, in the Northern Cape 369.3 and in Gauteng 253.8. Gauteng recorded an incidence of other robbery of 285.6 and the Western Cape of 233.3, while the Northern Cape recorded an incidence of stock theft of 248.7.

With regard to shoplifting, the Northern Cape recorded an incidence of 259.9, the Western Cape of 249.2 and Gauteng of 191.6. Gauteng recorded an incidence of 711.3 for the theft of motor vehicles and motorcycles and the Western Cape 285.2. With regard to theft out of or from motor vehicles, the Western Cape recorded an incidence of 1160.4 and Gauteng of 575.5. The Western Cape recorded an incidence of other thefts of 1691.2, Gauteng of 1576.7 and the Northern Cape of 1345.7. The figures generally indicate that property-related crimes are among the most widely committed crimes, with a significant number of victims. The Semester Report on the Incidence of Crime in South Africa (1998) pointed out that the crime categories of common robbery, residential burglary and theft showed that serious crime had increased nationally over the period from January to December 1998.

1.9.2.3 White-collar crime

Nelken, (1994:13), Croall, (1992:8-9), Giddens, (1989:144), Coleman, (1985:2), and Gottfredson, and Hirschi, (1990:182) agree that white-collar crime is a contested concept. The above authors and others are in agreement with Sutherland (in Croall, 1992:9) who first used the term "white-collar crime" and defined it as a crime committed by a person of respectability and high social status in the course of his occupation. Aubert, Braithwaite and Shapiro (in Croall, H. 1992) see this definition as a problematic one, because status or respectability cannot be measured. This view argues that individual offence should include categories from all levels of the occupational hierarchy. Fraud can be perpetrated by the caretaker or managing director of a company, and the consumer can be ripped off by small corner shops and large corporations.

Shapiro provides the popular definition (in Croall, 1992:9) that white-collar crime is crime that is committed in the course of legitimate employment and involves the abuse of an occupational role. Braithwaite, Hagan, and Quinney (in Croall, 1992) suggest that the term 'occupational', incorporating both blue-collar (poor underprivileged group) and white-collar crime. It tends to reflect the position and specific roles of people in society. This implies that white-collar offences concern an opportunity to abuse trust in pursuit of profit. Sutherland, as quoted by Croall (1992:9), found that the social status aspect in the definition serves to focus distinctly on crimes of business groups and to challenge the tendency to equate crime with lower-class offenders. This understanding is of vital importance for a broader grasp of the impact of sophisticated forms of crime rather than just common crime.

Coleman, (1985:8), Croall, (1992:10), Giddens, (1989:144), Nelken, (1994:17) state that white-collar crime include subcategories of corporate and business crime, commercial fraud, corruption, organisational crime, occupational crime, embezzlement and other common white-collar crimes. They argue that white-collar crime causes damage to the social fabric because its damage is economic in nature. Because of the complex nature of white-collar crime, it is difficult to detect for victims and law enforcers. Braithwaite and Geis (in Croall 1992:10-11) concur with the above notions of complexity and difficulty to

establish legal proof. Furthermore, key witnesses may be reluctant to divulge information to investigators.

Another problem is that the economic damage of white-collar crime is difficult to measure and hence, to a large extent, it is difficult to provide statistics. Furthermore, in some instances, even when the crime is detected, it is not so obvious that offenders will be prosecuted and punished. There is a tendency to be lenient because of the view that white-collar crime is not a serious crime. Coleman (1985:7) elaborates that the economic cost of white-collar crime is vastly greater than the economic cost of street crime. Though it is difficult to determine the number of people killed or injured as a result of white-collar crimes, it is impossible to suggest that such crimes are harmless or nonviolent. White-collar crime mainly affects people indirectly and its effects are perceived in the long term. For example, it leads to impoverishment and produces a breeding ground for street violence and property-related crimes, yet it receives less media coverage and less explanation.

Justice Vision 2000 (Department of Justice, 1997:42) broadly concurs with the above views and recognises the increase of economic crimes in South Africa. Because of this, and because white-collar crime is being taken seriously, the Office for Serious Economic Offences was created in 1992 to curb such offences through speedy and effective investigation. The 1997 Criminal Law Amendment Act, Act 105 of 1997 (South Africa, 1997) placed much value on heavy sentences for persons convicted of commercial crimes and stipulate minimum sentences for various crimes. According to Balia, and Sangweni, the South African anti-corruption summit (1998:171) reflected the extent of the problem and resolved, inter alia, to promote the moral regeneration of society. But the key challenge is to begin to identify and prosecute these offences in order to bring about a reduction. In this regard the Semester Report on the Incidence of Serious Crime (South Africa, 1998:9) states that nationally there is a decrease in serious commercial crimes, which constitute 25,7% of serious crime. The Semester Report (1998) notes that Gauteng recorded an incidence of commercial crime of 305.1 and the Western Cape recorded an

incidence of 211.6 which is the higher than elsewhere. This shows that there is a higher incidence of these crimes in the cities.

1.10 Theories of crime causation

Glanz (1996:2), Gross (1977:36-37), the National Crime Prevention Strategy (1996:18) and Pinnock (in Davis and Slabert, 1985:32-33) are of the opinion that in South Africa particularly the causes of crime are vast and complex; hence, for example, it is difficult to determine the relationship between crime and unemployment. This view maintains that a variety of factors can be associated with crime, such as social factors, psychological factors, lawlessness, drug abuse and gangsterism. The breakdown of traditional norms and values and the informal social control associated with family bonds, transition and schooling provide potential for criminality in South Africa. For example, the overcrowding on the Cape Flats provides a breeding ground for youth street gangs, and a violent way of solving differences tends to lead to the crime that is a feature of vigilantism.

Similarly, Durkheim (in Giddens, 1989:127) found that the breakdown of social norms (anomie) was something that occurred in society as a result of social changes and modernisation. In this view inequality is a natural and inevitable human condition that is associated with crime. Glanz (1996:3) similarly notes that crime causation is widely associated with different factors such as high levels of aggression, anger and frustration, all of which can lead to antisocial behaviour. For example, this has been the case in communities where people perceive the criminal justice system as ineffective and insensitive in terms of the commitment to prosecute and punish offenders severely.

Van der Hoven (in Cloete and Stevens, 1995:50), Smit, Cronje and Van der Walt, (1982:116) are of the opinion that casual explanations of criminal behaviour seek to identify contributory factors or variables associated with crime. Because of the complex nature of the phenomenon, it is crucial to examine crime causes from various angles. This approach seeks to eliminate a one-sided view of the crime phenomenon as well as one-sided intervention into the crime phenomenon. It is necessary to eliminate the tendency of some

theories to be gender-blind or class-biased in approach. Van der Hoven (in Cloete and Stevens, 1995:50) presents a variety of theories of crime causation based on, inter alia, social environment and personality as the basis to explain criminal behaviour, including psychoanalytic theory, social learning theory and conflict theory.

1.10.1 Psychoanalytic theory

This theory maintains that human behaviour is largely the result of complex inner drives and conflicts. The cause of human behaviour needs to be sought within the individual, and the development of personality during childhood is of vital importance. This theory states that the psyche consists of the id, the ego and the super ego. An antisocial personality reflects the fact that the id dominates the other two structures. This view further argues that in the antisocial personality the id insists on the immediate satisfaction of its needs, while the ego is too weak to control it. Friedlander (in Cloete and Stevens, 1995:50) is of the opinion that the criminal does not possess an independent conscience, and the instinctive impulse of the id dominates the person's action because the ego is weak. This view maintains that environmental factors are not influential to the personality. Instead, some desires tend to blind the person about the consequences of his or her criminal act.

Other varieties of the theory, however, link environmental factors with personality factors, and argue that criminal behaviour occurs when a person is unable to resist environmental factors that will lead to criminal behaviour. A similar viewpoint is presented by Erikson (in Cloete and Stevens, 1995:59), who argues that the adolescent will experience problems, particularly once he or she becomes confused in the search for his or her identity, and can come into conflict with the law. This implies that there is ongoing interaction between personality and the environment and shows that behaviour is not strictly biologically determined.

1.10.2 Social learning theory

Meyer and DiCaprio (in Cloete and Stevens, 1995:62), exponents of learning theory, are of the opinion that most learning occurs within a social context and through modelling. Learning theory focuses on an interactional or reciprocal deterministic view of human nature. According to this view, behaviour arises from the situation. This suggests that the person, the situation and behaviour are constantly interacting with one another. The theory of social learning views behaviour as the result of mutual influences, both individual and of the environment. According to this theory the individual is an active participant in a process in which he or she is influenced by environmental factors but also influences environmental factors in return.

This theory regards behaviour as acquired mainly through environmental influences, particularly social ones. This view further argues that genetic factors play a minor role in determining behaviour. Similarly, Raine (1993) states that criminal behaviour is very likely influenced by both environmental and genetic forces, as well as interaction between these factors. This implies that an offender's conduct might be carried over to a newborn baby through the influence of the environment.

This theory argues that the acquisition and maintenance of specific behaviour are conditioned classically and instrumentally in the learning process. This point emphasises the idea that, according to learning theory, behaviour is learned. In this view regular exposure to aggressive models teaches the child to act in the same aggressive way. The theory goes on to recognise the impact of influences from the environment that expose the child to family aggression. Subcultures and mass media are examples of such influences. This view argues that the child also learns from peers and his or her own experience. Violent behaviour patterns are reinforced through reward. Furthermore, the negative impact of traditional family support creates a breeding ground for deviant behaviour.

1.10.3 Labelling theory

Kratcoski, P. and Kratcoski, L. (1990:63), Giddens, (1989:129), Haralambos, and Holborn (1994:611), Bartol C. and Bartol, A. (1986:88) regard the labelling approach as having a negative effect on individual behaviour. They argue that individuals who have committed criminal acts tend to be labelled as offenders or criminals but the nature of crime itself is not understood. This argument implies that the labelling approach tends to hinder the circumstances surrounding the act. The theory tends to focus on the consequences of the criminal act and label the person associated with the criminal act as a criminal. Haralambos, and Holborn (1994:611) states that 'a label defines an individual as a particular kind of person'. It further implies that labelling depends on the angle from which one judges the act or behaviour of the person.

Giddens, (1989:129) and Haralambos, and*Holborn (1994:611) endorse the position that labels applied to other people are not neutral. In society labelling tends to be practised by the dominant group against the subordinate. They argue that the labelling of specific behaviour as deviant tends to fluctuate at times, reflecting the balance of power in society. Labelling fluctuates because of different interpretations and contexts in which labels are applied. For example, what the institutions of the criminal justice system regard as an offence which is legally punishable might be understood differently in another context.

The above authors further endorse the argument that those who are labelled as criminals, deviants or delinquents tend to assume negative character traits. They become stigmatised or painted and get isolated from those that are regarded as decent, loyal members of the community. At the level of community and family, those who feel isolated, and are treated as outsiders and demonised, can begin to accept their new identities and group themselves as deviants. In this regard the labelling approach can hinder the prevention of crime because it denies people the opportunity to restore their previous conduct in order to become loyal members of the community. The

theory adopts the assumption that once a person becomes involved in a criminal offence he or she will always remain a criminal.

1.10.4 Conflict theory

Quinney and Wildeman, as quoted by Cloete and Stevens (1995:90), maintain that crime exists because some groups with authority manipulate the social, economic and political organisation of society to the detriment of its subservient members. According to this theory a wide understanding of crime causation will lead to a more just society through social reforms. Quinney (1978:17) is of the opinion that crime should be regarded as behaviour that stems from social injustice as a result of the deprivation of economic rights. This view argues that the real criminals are individuals who deprive others of their rights or prevent them from enjoying such rights. The theory further states that crime involves acts that conflict with the interests of those who possess the power to take decisions, and administer and apply criminal law.

1.11 Thesis overview

The study of crime prevention within the criminal justice system and the contribution of social work in this regard, is presented in eight chapters.

Chapter 1 presents the conceptual framework with reference to the crime situation in the Western Cape.

In Chapter 2 criminal justice approaches are discussed and a description given of the structure of the criminal justice system in the Western Cape with reference to the role of social work.

Chapter 3 discusses crime prevention strategies within the criminal justice system.

Chapter 4 presents the role of social work within and outside the criminal justice system in the prevention of crime.

Chapter 5 presents the research design and methodology.

Chapter 6 presents data analysis of the empirical research.

Chapter 7 deals with the interpretation of the research findings of the study.

Chapter 8 presents conclusions and recommendations.

CHAPTER 2

2 THE CRIMINAL JUSTICE SYSTEM IN THE WESTERN CAPE

2.1 Introduction

This chapter discusses different approaches of the criminal justice system to the prevention of crime. A description of the structure and function of the criminal justice system in the Western Cape is given in relation to the role of social work. It is important to promote an understanding of the various criminal justice theories with a view to enhancing effective crime prevention. This is the basis from which the contribution of social work to the prevention of crime can be understood. The approaches of the criminal justice system should be sensitive, considering the fact that crime is not just a matter of law and order. More significantly, it has to be responsive to the needs and rights of victims in a way that enhances crime prevention. The needs of victims are not homogenous but rather are varied and are informed by the impact of the crime on the specific victim. It is important for the criminal justice system to meet the emotional and material needs of victims.

The theoretical premises of the criminal justice system inform its function and nature. Its function and structure, particularly in the Western Cape, reflect a wide perspective of jurisdiction, resembling the national situation. An understanding of the structure and form of the criminal justice system should deepen a significant grasp. This understanding is central to a meaningful contribution to the prevention of crime. This chapter begins with theoretical premises to lay a foundation for a concrete picture of the criminal justice system with special reference to the Western Cape. In terms of its structure and function, specific focus is given to the police, the criminal courts and prisons as key institutions of the criminal justice system.

2.2 Criminal justice theories

Maclean (1986:68) and Quinney (1978:1) are of the opinion that justice as a concept is materially based. In other words, it is an integral part of the social, economic and political structure of a society. The role of criminal justice in society is to establish and enhance social order. Criminal justice should demonstrate a commitment to protecting individual members' rights in society and maintaining order. This view departs from the premise that justice is a moral and legal concept and places great emphasis on the necessity of social order. This implies that it is through the work of the criminal justice system that criminal laws can be passed and promoted in order to curb crime.

A similar view is articulated by Omar (1995:10) with regard to the view that justice should be efficient and responsive to the different needs of different communities in South Africa. According to this view the system should be informed by an understanding of inequality, poverty and illiteracy. For example, the justice system should be accessible to poor people so that they may begin to use legal courts without the intervention of lawyers in order to promote the idea of an affordable legal process. As recognised by the *Justice Vision 2000* (Department of Justice, 1997:41), the legal system excludes or intimidates people through its technical process and language dynamics, and confidence gradually decreases.

Justice Vision 2000 (Department of Justice, 1997:42) further notes that people are concerned that the criminal justice system pays more attention and respect to the rights of the accused than the rights of the victims. Another dimension which is captured in *Justice Vision 2000* is the fact that the Constitution of the Republic of South Africa (South Africa, 1996) commits the justice system to protecting all people and to not be discriminating against any person or community. This suggests that the justice system should strike a balance or transcend the meaning of rights in the context of victim-offender in a manner that promotes a sensitive and effective justice system. *Justice Vision 2000* further recognises that justice should be predictable and act as a deterrent, so that potential criminals will be aware that they will be arrested and sentenced. This implies that the justice system commits itself to passing

harsh sentences on the offenders, but central to this theory is the ability to detect and prosecute the accused person.

The functioning of the criminal justice system is influenced by the theory of deterrence, retributive theory and restorative theory, among other theories.

2.2.1 The theory of deterrence

Clarkson, and Keating, (1984:12-13), Davies, Croall and Tyrer (1995:73), Rubin (1973:748) are of the opinion that the theory of deterrence places great emphasis on the necessity for severe punishment of offenders. The aim of the theory is to reduce future crime by the threat of punishment. In this view the justification for punishment is that it deters wrongdoing. The theory states that the principal argument in favour of the death penalty is that it deters the crime so punishable. In this view fear of punishment may keep some people from committing repeated violations of the law, while serving as an example to discourage others who may be tempted to engage in crime for the first time. This shows that deterrence theory is consequential in nature with the aim to prevent crime.

In this regard the deterrence theory departs from the understanding that fearing punishment the offender will refrain from criminal behaviour. Another point that justifies the use of harsh punishment is that punishment is executed for the protection of the society. For example, the theory states that imprisonment seeks to prevent the offender from re-offending and demonstrates to other potential offenders what will happen if they follow his or her behaviour. Zimring and Hawkins (1973:93) emphasise the idea that threat and punishment may promote moral education and values, and encourage people to respect the law. This implies that people generally commit crime intentionally as acts of disrespect to the law. This theory is not adequate, since it assumes that criminal acts are intentional in nature, although in some instances crimes such as homicide are not easy to deter. Van den Haag (in Van den Haag and Conrad, 1983:16) is of the opinion that once a convict has been sentenced to death, he or she suffers pain in terms of fear of execution, because the convict is imagining his or her dying moment and this has a

deterrent effect. But Keightley (1995:379), Makwanyane (1995:70) regard this theory as inhumane and degrading because of its emphasis on punishment and pain.

2.2.2 Retributive theory

Among others, Pettit and Braithwaite (1990:156), Morris and Frey (1991:378), Davies, Croall and Tyrer (1995:116), Rubin (1973:745), and Clarkson and Keating (1984:3) are of the opinion that retributive theory seeks vengeance upon a blameworthy person if he or she has violated the law. In terms of this theory blameworthy conduct must be punished. The above authors state that retributive theory maintains that only the guilty should be punished. This view argues that the punishment should be proportionate to the crime, that is, not more or less severe. In other words, the theory seeks to create some balance between the punishment and the crime, and is concerned that the punishment should suit the crime. According to this theory, failure to punish criminals will give rise to lawlessness and revenge from the side of the victim. According to retributive analysis, the community and the victim demand an element of vengeance against the offender. Therefore the state acts on behalf of the popular interest.

Retributive theory places emphasis on punishment and demonstrates some satisfaction in the suffering of the guilty. In this view there is less recognition for the rights of the offender on the basis that he or she is guilty of an offence and must pay for his or her conduct. In terms of this theory it is through suffering punishment that the offender can be reconciled with the victim or the community. This implies that maximum punishment is necessary to create ground for reforming the behaviour of the offender. This theory is linked to the idea of distributive justice, which maintains that those who break the law should be dealt with in equal measure to the extent of their crime. The retributive theory of justice regards punishment of the offender as the answer to the problem. In this theory the offender has to account in order to become a fully law-abiding citizen through denouncing wrongful acts.

Another viewpoint is articulated by Consedine (1997:2), who states that the theory of retributive justice is negative and backward-looking. This view argues that the theory of retributive justice stigmatises the offender for previous actions and makes the process of rehabilitation and reintegration impossible. The theory focuses on punishment by the state, yet the offender and the victim are not active in the process. This makes the process of reconciliation impossible.

2.2.3 Restorative theory

Galaway and Hudson (1996:13), Consedine (1997:7), Zehr (1995:10) state that the restorative justice approach emphasises the existential reality of crime as it represents a violation of people and their relationships. In this theory the aim is to restore peace and dignity and promote healing. Key to this theory is an attempt to build safer communities through the resolution of problems such as offences and conflicts that occur between the individuals in communities. According to this theory this is done through creating opportunities for those involved in the conflicts to have the needs that arise out of the conflicts fulfilled. The theory of restorative justice proceeds from the notion that the procedures are structured to create opportunities for offenders to accept responsibility for their behaviour in an attempt to facilitate their reintegration into the community and promote a victim-centred process.

In this regard, the victim is enabled to have his or her needs met through the provision of an opportunity to meet the offender and to receive compensation for his or her losses. The theory states that promoting reconciliation in these ways leads to the reduction of the potential for re-offending and offending among offenders. The opportunity for victims to feel that justice has been done is seen to be a large contributing factor in the creation of a peaceful and safer community. In this regard restorative theory encourages responsibility for past behaviour by focusing on the future in terms of solving problems regarding the needs and obligations resulting from the offence. Maximum participation and opportunity for dialogue should be encouraged, and should involve the victim, the offender, the family, the community and the state.

In the above analysis the role of the state is secondary and the primary role is played by other parties. Because crime violates people and relationships, people should co-operate voluntarily and learn to forgive. This theory further argues that the role of the state is limited to the needs of the victims and facilitating the justice system. In this theory, sentences are imposed on the offender, and the process is broad and inclusive in order to resolve the dispute in the interests of the victim, with the accused person taking responsibility and with his or her co-operation. Pettit and Braithwaite (1990:169) state that the restorative justice approach sounds idealistic with its notion of rights, because the process of the reconciliation of victim and offender can take place prematurely at the expense of the criminal justice system. This implies that the offender and the victim will not readily enter into negotiations and converse about their difficult experience. This argument recognises that restoring relationships requires a lot of time and co-operation among parties. The argument seems to suggest that the state has to play a central role in the criminal justice process.

2.3 New approaches to criminal justice systems

Consedine (1999:18-19, 36), *Justice Vision 2000* (1997:25-26) and Sachs (1992:204) state that new approaches should promote a human rights-based criminal justice system. In this view the criminal justice system should promote the interests of all role-players, including the victim, the offender, the community and the state. In this kind of approach the state has no monopoly on or proprietary rights to the function of the criminal justice system in the prevention of crime. This implies that the criminal justice system has to be more transparent and accessible to the community. In this regard the criminal justice system is not seen purely as a legal system. It is a broad system consisting of formal and informal structures to resolve disputes in order to prevent crime. For instance, legal courts can be complemented by informal or community courts to enhance community participation. The legal procedures of the courts can be simplified in order to allow for greater community participation and involvement.

The above authors argue that new approaches to the criminal justice system, particularly with respect to the judiciary, have to encourage accountability and independence. This implies that the judicial system has in its practice become answerable to the community. It has to remain impartial and uphold constitutional rights. This argument suggests that the judicial system is not immune from the influence of different role-players within and outside the criminal justice system. Consedine (1999:40-41) emphasises that the criminal justice system of each society has to reflect the specific history, culture and values of that specific society. The criminal justice system that reflects sectional interests will fail to make an effective and efficient contribution to crime prevention. In this regard the criminal justice system should meet the different needs and interests of the victim, the offender and the community in order to create a balanced approach and promote human rights-oriented crime prevention processes.

2.3.1 The victims of crime

The South African Law Commission define victims 'as persons who individually or collectively have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are violations of criminal laws' (1997:6). This definition shows that the needs and experiences of victims are diverse and operate at various levels, and the criminal justice system has to attempt to meet those needs. In the context of crime prevention the National Crime Prevention Strategy (1996:21) and the 1996/97 annual report of the Department of Welfare (Department of Welfare, p.8) state that South Africa's inequality and crime require a victim-centred criminal justice system that will empower the victims of crime. Through victim empowerment crime prevention will be enhanced, because victims will be deterred from becoming perpetrators of retributive violence either at the social or the domestic level.

Similarly, Karmen (1984:65), Mawby and Gill (1987:12), Louw and Shaw (1997:3) and Humphrey and Palmer (1987:48) are of the opinion that the victims are vulnerable to further victimisation if they are not supported and

protected. Vulnerability may be caused by personal and social conditions and might place individuals at risk. In this regard, Skogan (1995:9) states that victims develop a strong sense of responsibility by avoiding risky areas in order to prevent further victimisation. The South African Law Commission regards victimisation 'as a process whereby a victim, either innocently or through negligence or intentionally, is exposed to negligent and/or intentional unlawful conduct of a criminal, but it includes the feelings, responses and the attitude of the community towards the victim' (South Africa, 1997:6). In this regard, Zehr (1990:18) states that the experience of victimisation is one that is profound, even in relation to those offences that may seem minor.

The above view further holds that victimisation triggers feelings of extreme fear and vulnerability. Zehr goes on to state that victimisation results in feelings of guilt and self-blame, with victims feeling that they should have done something to prevent themselves becoming victims of crime. Zehr (1990) states that victims feel rage and anger at their families, the criminal justice system and others. The central questions from the victim are: Why did this happen to me, what did I do to deserve this, why did the offender choose me in particular? This shows that the experience of victims concretely inform their different needs at both the material and emotional levels. *Justice Vision 2000* (Department of Justice, 1997:27) postulates that in South Africa victims are not involved in the process of the administration of justice; instead in courts they are relegated to the role of witness to testify in the state's case against an offender. This view argues that the victim-centred justice process places greater emphasis on the needs of victims and requires that they should not only be included, but be central to the administration of justice.

Similarly, the National Victim Survey (1998:5-6) captures the dynamics of victims and victimisation. The survey suggests that crime in South Africa follows patterns of inequality. The survey reports that the category of respondents who earn under R2 999 a year suffered the largest overall number of crimes, while the wealthiest category who earn over R96 000 a year suffered the smallest number of crimes. The survey reflects that proportionally more people in the wealthiest category, 33%, are victimised by

crime. Thus 28,7% of wealthy households that earn R96 000 per year or more are victimised by nonviolent household crimes. Indian and white households were far more likely to experience nonviolent household crimes than were other communities. Respectively, 25,5% of Indian and 25% of White respondents had experienced such crime. The above proportion suggests that the wealthy are mainly the victims of property crimes rather than violent crimes.

The National Victim Survey (1998) states, in respect of individual crimes, that 14,6% of respondents had been victimised. Theft of personal property was recorded at 4,8%, followed by assault at 4,2%, fraud at 3%, robbery with force at 2,4% and corruption by public officials at 2%. These statistics show that different categories of people experience victimisation at different levels. The survey states that the most likely place for individuals to be victimised by crime is in their own home. Fifty per cent of all sexual offences and 30% of all assaults take place within victims' homes. This data suggest that victims are more likely to be attacked by those known to them. According to the National Victim Survey (1998:6), wealthy individuals are likely to be victims of nonviolent crime. The survey recorded that 21,8% of the highest income category had been victimised, as compared to 6,4% of the lowest income category. It also showed that 8,5% of individuals between the ages of 16 and 25 were likely to be victimised by violent crimes, while 11,7% of those between the ages of 26 and 35 were likely to be victims of individual property crimes.

The National Victim Survey (1998:7) also reflects victimisation patterns on a provincial basis. Gauteng with 20,3% and the Western Cape with 19,8% report the greatest percentages of people who have experienced nonviolent household crime. The Northern Cape with 16,9% and Mpumalanga with 14,9% are the other two provinces which report percentages above the national average of 14,7%. KwaZulu-Natal shows a lower level of victimisation in respect of household property crimes with 14,1%, lower than the national average. The survey states that violent household crimes are most common in the Free State where 5,6% of people have experienced such crime, and

Mpumalanga where 4% of the population have experienced this. The figure for KwaZulu-Natal is 3.8% and for Gauteng 3.5%. The data suggest that the experience and needs of the victims of crime are complex, and an understanding of the plight of victims is central to crime prevention. Thus, the experience and needs of victims differ at the emotional and material levels, and the contribution of social work needs to be sensitive to this.

2.3.2 A victim-centred justice system

Zehr (1990:9) and Camerer (1996:3) are of the opinion that the victim's experience and needs should be fulfilled by the criminal justice system. In this view the victim's needs are emotional and practical and require counselling, referral, and information about investigation and court procedures. They further state that services to crime victims generally reduce the level of trauma. This implies that the services should be rendered by the justice system because victims desperately need to experience justice.

In this regard, the guilt which victims experience for having become victims should be eliminated. This task requires public recognition that wrong has been done to them and prevention will be promoted. In line with the above argument, the National Crime Prevention Strategy (1996:20) states that it will provide a greater and more meaningful role for victims in the criminal justice process. The NCPS (1996:45), Camerer (1996:22) and Zehr (1990:14) concur that the criminal justice system should create space for victims to participate in the process. This implies that the victim should influence the direction of justice in favour of his or her needs.

2.3.3 Access to justice

The NCPS (1996:45), Camerer (1996:22) and *Justice Vision 2000* (Department of Justice, 1997:61) state that access to justice encourages disadvantaged groups, including women and children, to express their feelings and needs. This view recognises the fact that the above category is vulnerable to crime and victimisation. Another dynamic which is central to this point is the need to inform the public about their rights and changes within the

criminal justice system. This will enhance the contribution of people, particularly the victims of crime, in a meaningful way. *Justice Vision 2000* (Department of Justice, 1997:61) also states that access reduces helplessness. A vengeful and retributive cycle of crime can emerge if victims do not feel supported.

2.4 Compensation for victims of crime

The South African Law Commission (1997:27) states that many countries, including South Africa, recognise the principle of legal liability, that is, the idea that the victims of violent crimes should be compensated. In terms of the legal liability theory the state has a legal duty to compensate victims for all the damage and losses suffered as a result of an offence. Adapting this notion in terms of a victim-centred process means that the offender should voluntarily take responsibility for compensating the victim.

In terms of a victim-centred approach, violation creates obligations. Therefore the offender has to grasp and accept that he or she has violated a right or done something wrong. In this regard the offender has a responsibility to compensate the victim. This sense of responsibility develops out of dialogue, co-operation and respect. Another dimension is that when compensation is not fully available from the offender or the source, the state should endeavour to provide financial compensation to the victim.

2.5 Restitution and reparation for victims of crime

Zehr (1990:31) states that reparation and restitution are central concepts in the restoration of the balance between victim and offender. An offender is required to recognise the wrong he or she has done to the victim through providing reparation for harm done. In this view the offender should understand the nature of the loss to the victim through demonstrating acceptance and remorse, and apologise for having violated the rights of the victim.

Zehr (1990:31) is of the opinion that experiences from the Victim Offender Reparation Programmes (VORP) in the United States indicate that an apology

and remorse shown by the offender is as important or more important to victims than actual material compensation.

2.6 The structure of the criminal justice system in the Western Cape

The structure of the criminal justice system consists of three key institutions, namely the police, the courts and prisons. As practised in the Western Cape, the criminal justice system has to promote an integrated structure which involves some overlapping of the basic functions of these institutions.

The function of the criminal justice system and its institutions cannot simply be a matter of law enforcement but should also uphold human rights in the Western Cape. In this regard the duties and functions of the criminal justice system should be guided by the Constitution of the Republic of South Africa. The Constitution (South Africa, 1996:6-18) is premised on the principles of human rights, democracy, equality, human dignity, freedom and nondiscrimination. However, these fundamental constitutional rights must be viewed in the context of their limitations. Section 36(1) of the Constitution (1996:18) states that 'the rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom'. Based on these principles the criminal justice system has to be accountable to the citizens of the Western Cape and South Africa in general, and remain impartial, effective and efficient.

In order to promote an understanding of the role of the criminal justice system in the prevention of crime it is important to present its structure in the Western Cape. It is further important to exhibit its daily duties and how its institutions function, starting with the police, followed by the courts and prisons.

2.6.1 The South African Police Service in the Western Cape

In the Western Cape the South African Police Service (SAPS) is divided into four police metropolises: the East Metropole, the West Metropole, the Boland and the Southern Cape. According to the latest study conducted in 1996, the

Western Cape police metropole population served by the SAPS has a smaller number of police personnel compared to the rest of the population. The population figures served by the SAPS in the Western Cape are shown in the following table.

East Metropole	28.5%	1 125 173
West Metropole	31%-	1 241 992
Boland	27%	1 070 780
Southern Cape	13.5%	531 651
Total		3 969 596

Table 2.1 Population figures served by the Western Cape police

Source: Western Cape Department of Community Safety

The study states that there is a need for greater distribution of human resources to match the greater population numbers in order to provide better policing and improve the prevention of crime. This situation requires police visibility in the area in order for prevention strategies to be effective.

With respect to the structure in the Western Cape, there are three levels at which the police operate. At the top there is the Provincial Commissioner (PC). The Provincial Commissioner is in charge of all levels of policing to ensure management duties. Below the Provincial Commissioner are area officers for the East Metropole, the West Metropole, the Boland and the Southern Cape. The third and lowest level involves police stations which are connected to area commissioners. The station commissioner is in charge of a police station and accounts to an area manager. There are specialised units that fall directly under the Provincial Commissioner. These include public order policing, regular technical services (which has an inspector), the Crime Reaction Unit, the Office for Serious Economic Offences, the provincial protection services, Operation Crackdown and the gang unit. These units perform detective functions and crime prevention involving offences of a serious nature.

The local police stations are divided into different categories. The biggest stations such as Mitchells Plain, Khayelitsha and Cape Town are headed by a director. Gugulethu and Manenberg are classified as senior superintendent stations. The police stations in small areas such as Ceres are classified as captain stations. Lastly, there are inspector stations, which can be found in the smallest areas and among rural farms. Each of these police stations is generally encouraged to have its own community policing forum to ensure partnership with the community and better policing.

The broad functions of members of the police with regard to crime prevention include detection, investigation, arrest, and presentation of evidence to a court of law to secure prosecution by the court. The duty and functions of police officers are understood within the framework of the Constitution. According to section 10 of the Constitution (South Africa, 1996:7) 'everyone has inherent dignity and the right to have their dignity respected and protected'. This section specifically informs the legal duty of the police officer to respect people in all circumstances. Accordingly, a police officer cannot simply arrest a suspect without proper reasons. Nel and Bezuidenhout (1997:171) elaborate that the Criminal Procedure Act, Act 51 of 1977, which provides for detention without trial, states that the police may only arrest a person if they have a warrant, although section 40 of this Act provides for police officers to arrest a person without a warrant under lawful circumstances. In this regard section 178 of the Criminal Procedure Act of 1977 stipulates that the police officer should address the arrestee respectfully.

Another crucial provision with regard to police duties and functions is contained in section 35(1) of the Constitution (1996:16-18) which stipulates that everyone who is arrested for allegedly committing an offence has the right to remain silent. In terms of this section the police are charged with the task to bring the accused person before the court as early as possible, but not later than 48 hours after arrest. Key to human rights-based policing is the co-operation of the accused person, witnesses and the community to assist the police with evidence to be presented to the court for effective prosecution and a fair trial. The police officer will present the docket to the magistrates' court in

the district in which the offence occurred. From the beginning of the court proceedings the accused is presumed to be innocent until proven guilty by the court. Most accused persons appear in district courts. When the police investigation is finished, the prosecutor will send the docket to the Western Cape Director of Public Prosecutions (DPP). The Western Cape Director of Public Prosecutions will decide whether the case must be heard in the regional or High Court (ie, lower or higher court) The decision of the Western Cape Director of Public Prosecutions to refer the case to a lower (district) court or to the High Court is informed by the seriousness of the offence, possible appropriate sentence, facts, legalities and specific circumstances.

2.6.2 The criminal courts

The criminal courts are divided into superior courts and lower courts (Joubert, 1999:32). According to Joubert (1999:33), section 1 of the Criminal Procedure Act refers to lower courts as any court established in terms of the provisions of the Magistrates' Courts Act, Act 32 of 1944. The lower courts include regional or district courts that are established in terms of section 2 of the Magistrates' Courts Act.

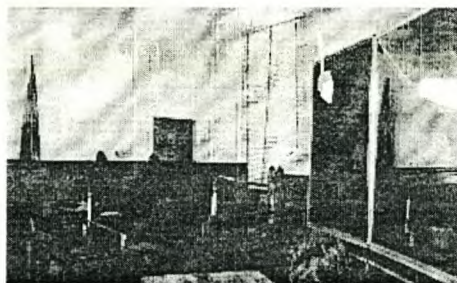


Figure 2.1 Court room

2.6.2.1 Magistrates' courts (district)

Magistrates' courts are instituted for a specific jurisdictional district. For example, in the Western Cape the Wynberg magistrates' court serves the areas including Manenberg, Nyanga, Retreat and Steenberg. The Mitchells Plain magistrates' court serves Khayelitsha and Mitchells Plain, amongst other areas. In this regard section 90 of the Magistrates' Courts Act states that

district and regional courts have jurisdiction to hear trials of persons who are charged for offences committed within the district or within the regional division. The district court has jurisdiction to try all crimes except murder, rape and treason. District courts are presided over by magistrates. The magistrates have the discretion to summon one or more assessors to help during sentencing proceedings and to take into account the social and educational background of the accused. Furthermore, magistrates have the discretion to summon probation officers to write a pre-sentence report about the circumstances of accused persons, particularly with respect to juvenile offenders. In the sentencing process the decision of the magistrate is final.

In terms of sentencing a district court may impose a maximum sentence of three years' imprisonment. Other sentences with regard to specific circumstances include period imprisonment, committal to a treatment centre, a fine not exceeding R60 000, correctional supervision, and imprisonment

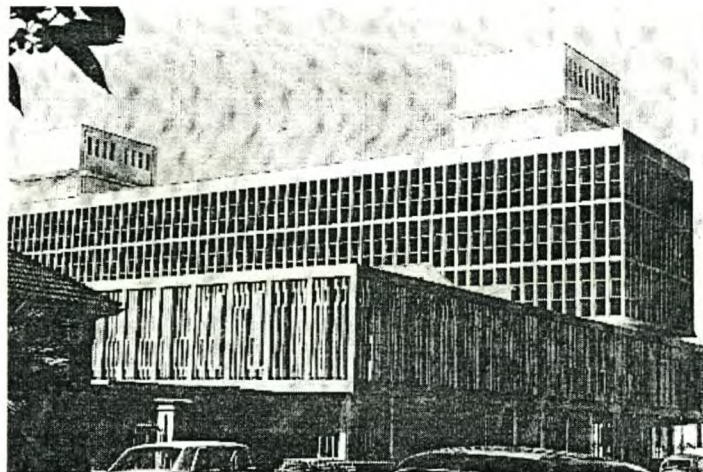


Figure 2.2 Wynberg Magistrates' Court

from which the person may be placed under correctional supervision in terms of section 276 of the Criminal Procedure Act (Joubert, 1999:35,42). Most of these sentences are discussed in chapter 3.

According to the annual report submitted by the Western Cape Director of Public Prosecutions (Director of Public Prosecutions, 1999:33), district courts

tend to be characterised by backlogs of outstanding cases. There was a backlog of 18 019 at the end of December 1999, which shows an increase from 1998 15 531. It is reported that a lack of resources, personnel and proper investigation results in backlogs in the Western Cape. These figures suggest an increase in the incidence of crime. The situation which obtains in the Western Cape is that the Wynberg magistrates' court has 10 criminal courts, the Athlone branch has five and the Philippi branch one. Altogether there are 16 criminal courts in the Wynberg magisterial district. The Wynberg magistrates' court is one of the busiest courts in the Western Cape and deals mostly with serious crimes.

2.6.2.2 Juvenile courts

A juvenile court is a district court and is presided over by magistrates. In the Western Cape's Wynberg juvenile court there are probation officers responsible for juvenile offences in line with juvenile justice requirements. The juvenile courts are established and function in line with, inter alia, Article 10 of the UN standard minimum rules for the administration of juvenile justice and the Beijing Rules which state that 'the parents or guardian of juveniles arrested have to be immediately notified of the fact of arrest' (Nel and Bezuidenhout, 1997:189). This rule goes on to say that contacts between law enforcement officers and a juvenile offender have to be managed in a way that respects the legal status of the juvenile and avoids harm to her or him with due respect to the circumstances of the case. The Convention on the Rights of the Child, adopted by the UN General Assembly, Resolution 44/25, on 25 November 1989, agrees with the above. In article 37(b) it states that 'no child shall be deprived of his or her liberty unlawfully or arbitrarily'. It also states that the arrest, detention or imprisonment of a child shall conform with the law and shall be used as a measure of last resort and for the shortest possible period of time.

In terms of the Juveniles Act, juvenile offenders are young people of not more than 17 years and 11 months of age. In the Western Cape first offenders of this age who are charged with minor offences such as shoplifting and possession of dagga are diverted from the criminal justice system to the

National Institute for Crime Prevention and Reintegration of Offenders (NICRO) and other resources. Sentencing ranges from a warning to imprisonment, and includes suspended sentences, postponed sentences, community sentences, and rehabilitation sentences on the basis of the circumstances of the offence. For instance, in the Western Cape's Wynberg magistrates' court police officers will issue a docket for specific charges to courts. The probation officer will then make an assessment and if the child is a first-time offender and pleads guilty, the probation officer will investigate the circumstances surrounding the act.

When the investigation is finished, the probation officer will present his or her recommendations to the senior prosecutor. For instance, a recommendation that the charges must be withdrawn against a child, and the case diverted to NICRO, calls for a suspended sentence or for the child to be released into the parents' custody or referred to a place of safety, based on the circumstances. But if a child pleads not guilty, he or she will appear in the formal criminal court even if the matter concerns a petty crime. This rule is also applicable to those who offend for the second time or subsequent times. Juveniles who have committed serious offences such as rape and murder are prosecuted and the sentence is normally imprisonment. It is accepted by the law that a juvenile must have a legal representative and a probation officer who takes into consideration the family circumstances of the accused. Night court is used in some districts in the Western Cape to ensure that the accused young person gets attention and, if possible, he or she will be released into his or her parents' custody or be referred to a place of safety pending further investigations.

2.6.2.3 Family violence courts

The family violence court is also a district court. It is not exclusively a criminal court because it can hear both civil and criminal cases. The family violence court is a civil court in the sense that it can issue an interdict and it is a criminal court in that it can deal with the case of someone who has breached such interdict.

The family violence court is constituted in terms of the Prevention of Family Violence Act (South Africa, 1993), Act 133 of 1993. The family violence court takes into account the increasing incidence of violence and abuse at family level. Subsequent to the creation of these courts, the new Domestic Violence Act, Act 116 of 1998 as part of Family Violence Act 133, (South Africa, 1993) came into effect to give clear guidelines for specific cases. In the Western Cape the incidence of violence and abuse against women and children has increased, a point borne out by the annual report of the Western Cape Director of Public Prosecutions (Director of Public Prosecutions, 1999:4), which quotes the following statistics:

Rape of women under 12 years	4,6%
Rape of women aged 12 to 17 years	2,6%
Assault with grievous bodily harm (GBH) of persons under 12	21,8%
Assault (GBH) of persons aged 12 to 17 years	6,5%
Common assault of persons under 12 years	9%
Common assault of persons aged 12 to 17 years	6,5%

Table 2.2 Statistics of violence and abuse against women and children in the Western Cape

Source: Director of Public Prosecutions, 1999:4

These figures suggest that the family violence court is overburdened with cases of serious domestic violence.

In terms of the Prevention of Family Violence Act, anyone or any party that experiences domestic violence can apply for an interdict not to be assaulted or abused. The court will respond by issuing an interim order for the protection of the complainant and later it can issue a formal interdict. For instance, in a particular case an interdict might be issued against a 25-year-old child not to assault or abuse his or her parents. The application can be in the form of an affidavit or sworn statement by the party who is applying for the interdict, and, in the case of a child, a guardian or parent will make such statement. In some

cases people who are involved in a domestic relationship, married or living together might apply for an interdict to prevent the other party from entering his or her house. If that party breaches the conditions of the order contained in the interdict, the magistrate can issue a warrant of arrest and order the police to bring the accused to the criminal courts to be prosecuted.

2.6.2.4 Regional courts

Joubert (1999:33) states that section 2 of the Magistrates' Courts Act institutes regional divisions, referred to as regional courts. In terms of section 89, Act 32 of 1944, the regional courts can try all crimes except treason. In other words, regional courts do try murder and rape cases (Joubert, 1999: 35). In the Western Cape the above is evident, for instance, in the Wynberg district court, where the regional court has jurisdiction to hear trials of persons charged with offences committed within the regional division.

With regard to sentencing jurisdiction, the courts have discretion which has to be informed by the rules and guidelines stipulated in the Criminal Procedure Act. These rules broadly take into account the offences committed and the circumstances in which some of the sentences may or may not be imposed. In this regard, the regional courts may impose prison sentences not exceeding a period of 15 years. Other sentences include periodic imprisonment, declaration as a habitual criminal, committal to a treatment centre, a fine not exceeding R300 000, correctional supervision, and imprisonment from which the person may be placed under correctional supervision, as stipulated in section 276 of the Criminal Procedure Act (Joubert, 1999:42).

Considering the above types of sentences, the regional courts are likely to try quite a number of cases. In the Western Cape, the Wynberg magisterial district has six regional courts. The Western Cape Director of Public Prosecutions (Director of Public Prosecutions, 1999:33) reports that there are ten regional courts and that they are overloaded. For example, the report states that the outstanding cases of the regional courts have escalated from 4 800 at the end of 1997, and 5 740 at the end of 1998, to 6 813 at the end of

1999. The report goes on to say that regional courts serve an area through a number of locally situated, decentralised offices, as well as through circuit courts which attempt to bring the courts to the community.

2.6.2.5 Sexual offences courts

According to the report of the Western Cape Director of Public Prosecutions (Director of Public Prosecutions, 1999), the increase in the incidence of sexual-related crimes with young persons has resulted in the creation of special courts in the Western Cape. There are special courts for sexual offences in Wynberg, Parow and Cape Town.

The sexual offences court is a regional court presided over by a regional magistrate. Sexual offences courts are established in terms of section 170A of the Criminal Procedure Act. These courts are mainly targeted at victims and witnesses under the age of 18 years and provides for them to give evidence in a room separate from the formal criminal courts. The process of giving evidence is called 'in camera' because it is a closed session, linked to the court via closed-circuit television cameras with the assistance of an intermediary person. This process is believed to be less traumatic for the young person, also protecting her or him from having to face the accused in the court room.

It is reported that before 1993 the criminal justice system's response to victims of rape tended to blame the victim and lacked sensitivity. This kind of treatment tends to prevent people from reporting incidents of rape and the sexual abuse of children.

The social worker at the sexual offences court is charged with the task of helping the young victims of rape by providing them with counselling services to reduce the level of trauma. In this court prosecutors also have to demonstrate a sympathetic manner when prosecuting.

The functioning of the sexual offences court, for instance in the Wynberg magistrates' court, has to minimise the level of trauma experienced by complainants. The waiting room is equipped with a television, toys, soft

cushions and books to enable the witness to be as comfortable as possible. During the trial the questions asked by people in the court are heard by the intermediary who then conveys the general purport of the questions to the witness. Both are witnessed by the people in the court through closed-circuit television cameras. Intermediaries receive ongoing supervision from the social worker at the court. They are appointed in line with regulations promulgated in Gazette R1374 of 1993. The following categories of persons qualify: psychiatrists, social workers with two years' experience, psychologists, child care workers who have done a two-year course and have four years' experience, and teachers with two years' experience.

According to the annual report of the Western Cape Director of Public Prosecutions (1999:90,92-93), both Cape Town and Wynberg sexual offences courts show fluctuating conviction rates due to the instability in the prosecuting staff and lack of training. This has resulted in consultations not being held and witnesses not being fully prepared for court. For example, in the Wynberg sexual offences court the withdrawals have numbered 171, convictions 125, acquittals 164, warrants 65 and outstanding cases 694, and the court has reported a conviction rate of 66%. The Cape Town sexual offences court has reported 50 convictions, 26 acquittals, 16 withdrawals and 11 warrants, and it also has a conviction rate of 66%. The Parow sexual offences court is reported to experience fewer problems, apart from the fact that it needs an additional prosecutor. This court has reported 53 withdrawals, 69 convictions, 29 acquittals, 83 warrants and 147 outstanding cases, and a conviction rate of 70,4%.

The sexual offences courts in the Western Cape are overloaded, as suggested by the large numbers of outstanding cases. These figures show the increased incidence of reported cases of rape and the sexual abuse of children.

2.6.2.6 Children's court

This court is not necessarily a criminal court, although it deals with criminal cases indirectly by referring offences to the criminal courts. Its regulations are

stipulated in the Child Care Act, Act 74 of 1983 (South Africa, 1983). In terms of the Child Care Act a child is in need of care if she or he has no parents or guardian, or has a parent or guardian who cannot be traced. Other circumstances determining that a child is in need of care include, inter alia, an abandoned child or circumstances where the child lives or is exposed to physical, mental or sexual abuse. These circumstances permit a social worker, police officer or authorised officer to remove a child in terms of a warrant issued under section 11(2) of the Act, or to remove, without a warrant in terms of section 12(1), the child to a place of safety or foster parent. In the Western Cape's Wynberg children's court the process of the placement of children in need of care is very carefully monitored by the commissioner.

The process of removing a child should be done with due respect to the interests and needs of all parties. For example, if the child still needs to be with his or her parents, that has to be encouraged, taking into consideration her or his interests. Children who have behavioural problems can be referred by the courts to a school of industry to be taught some behavioural skills to aid their development. The courts do not place children in need of care permanently in places of safety, shelters, custody or schools of industry without ongoing supervision by the social worker or children's court assistant authorised by the Director-General. The social worker may deem it necessary to arrange suitable conditions for the child to be reunited with his or her parent.

2.6.2.7 The High Court

According to Joubert (1999:32), section 1 of the Criminal Procedure Act, Act 51 of 1977, states that superior courts refer to a provincial or local division of the High Court which does not include the Supreme Court of Appeal. In the Western Cape this refers to the High Court.

The report of the Western Cape Director of Public Prosecutions (Director of Public Prosecutions, 1999:3) states that the High Court has ten permanent criminal divisions, while the rural areas are served by regular circuit courts and special sessions. In this scenario the division refers to the Cape of Good

Hope (Cape Town). According to the report criminal appeals are heard weekly every Friday, while full Bench appeals are heard during the first week of each term. The report of the Western Cape Director of Public Prosecutions (1999:41) reveals that in the ten criminal divisions of the High Court, 85 criminal trials were disposed of. The state secured convictions in more than 90% of criminal cases, even though there are not enough judges. Criminal trials are heard four days a week while on the fifth day five criminal appeal divisions sit. Two weeks before every recess no criminal matters can be enrolled. Furthermore, the report states that for two weeks after each long recess, full Bench appeals are set down and no criminal matters may be enrolled. There is little time for judges to look at the intricacies of each trial due to the long recess and the lack of human resources.

Joubert (1999:35) acknowledges the challenges around matters of appeal and review jurisdiction in respect of criminal proceedings emanating from lower courts.



Figure 2.3 Cape Town High Court

The Provincial Division of the High Court, when sitting as a full court with two or three judges, has appellate jurisdiction to hear an appeal in a criminal case decided by a single judge. This is possible if legalities, facts and other considerations involved in the appeal are of such a nature that the appeal does not require the attention of the Supreme Court of Appeal. Furthermore, the Provincial Divisions of the High Court has original jurisdiction in respect of all offences within their respective areas, as defined in the Supreme Court

Act, Act 59 of 1959. For example, a division of the High Court has jurisdiction to put into effect a suspended sentence imposed by another division or magistrates' court or to confirm the conviction but impose a different sentence (Joubert, 1999:41).

With respect to sentencing, the High Court has absolute jurisdiction except for the death penalty which was abolished. The High Court can impose sentences of life imprisonment, imprisonment, periodic imprisonment, declaration as a habitual criminal, committal to a treatment centre, a fine, correctional supervision, and imprisonment from which the person may be placed under correctional supervision with due respect to section 276 of the Criminal Procedure Act (Joubert, 1999:41). In the Western Cape the High Court normally tries serious offences that have been referred to it by the Western Cape Director of Public Prosecutions or the lower courts. At this level judges can also use their discretion to make use of lay assessors, which would normally be appointed academics. A judge can summon one or two assessors to assist him or her with proceedings.

During criminal proceedings the accused has to be presumed to be innocent until proven guilty by the court of law. The accused has a right to a legal representative, and if he or she cannot afford one a state advocate, an attorney or legal aid can be appointed to represent him or her. Similarly, with respect to trials in the High Court involving juveniles, the judge can summon a probation officer or social worker to investigate the social background of the accused. But the final decision on the sentence to be imposed is in the hands of the judge. For example, in the Western Cape judges and lower courts tend to refer a sentenced person to Pollsmoor Prison for referral to another prison. In certain circumstances where the safety of the convicted person is affected, judges and magistrates can specify the prison in which the sentenced person should serve his or her sentence.

2.6.3 The prison system

Prisons in the Western Cape are divided into 29 management areas, overseeing 42 prisons. The name and geographic location of prison area management in the Western Cape are as follows:

South Peninsula	Pollsmoor
Eastern Metropole	Goodwood
Boland	Voorberg, Robertson, Helderstroom, Drakenstein, Obiqua, Caledon, Warmbokveld, Hawequas, Dwarsrivier, Allandale, Worcester, Stellenbosch, Brandvlei, Paardeberg
West Coast	Van Rhynsdorp, Malmesbury, Riebeeck West
Southern Cape	Mossel Bay, Knysna, Oudtshoorn, Uniondale, George, Swellendam, Buffeljagsrivier, Ladysmith
Karoo	Prince Albert, Beaufort West

Figure 2.4 Prison Management Area

Source: Department of Correctional Services, 1999

It is important to locate the prison situation in the Western Cape in its proper context. The Correctional Services Act, Act 111 of 1998, makes provision for services with respect to correction to be executed within the framework of the Constitution (South Africa, 1998). In line with this, section 35(2) of the Constitution (South Africa, 1996:16-17) states 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 this regard the Western Cape Department of Correctional Services (Department of Correctional Services, 1999:25) provides social work and rehabilitation services, although there is a lack of personnel at some prisons. Social workers facilitate didactic and therapeutic groups in pre-release programmes. The report goes on to say that probationers and parolees are linked up with community corrections for correctional supervision by social workers. Taking into account the services of social workers, it is important to state that early release programmes should be informed by the success of the rehabilitation services and not by

overcrowding. Early release on its own can hinder the crime prevention process, while overcrowding seems to derail rehabilitation services.

The Western Cape prison figures released by the Department of Correctional Services on 7 August 2000 show high numbers of prisoners in each prison. Most prisons are overcrowded with approximately 100 prisoners too many. These are mostly unsentenced prisoners and include significant numbers of juveniles. The following table represents some of the figures released on 7 August 2000 by the Western Cape Department of Correctional Services (Department of Correctional Services, 7 August 2000).

Prison	100% approved accommodation	total 175% occupation	total unlock sentenced & unsentenced	% in reality	total sentenced	total further charges	total unsentenced	juveniles ready for transfer
Brandvlei juveniles	288	288	304	106	272	32		
medium A	632	1106	1108	175	1085	23		
Maximum	690	1208	1203	174	1160	42		
Drakenstein medium A	399	698	717	180	694	23		
medium B	432	432	437	101	409	31		
Maximum	386	676	621	161	481	139	1	
Pollsmoor medium A juvenile	1111	1899	1648	148	373	103	1172	432
Pollsmoor admission centre	1619	2833	2725	168	179	402	2144	
Pollsmoor Female	245	429	308	126	182	12	114	

Table 2.3 Numbers of prisoners in the Western Cape

Source: Department of Correctional Services, 7 August 2000

As is evident from the above, the number of prisoners in most prisons in the Western Cape exceed the official required numbers. The figures suggest alarming overcrowding. This is the broad picture in Western Cape prisons.

The Western Cape Department of Correctional Services on 7 August 2000 also presented the numbers of children or juveniles in prison.

Age in years	Sentenced	Unsentenced
14	-	13
15	22	53
16	85	117
17	216	156
18	471	735
19	658	515
20	697	459

Table 2.4 Number of juveniles in Western Cape prisons

Source: Department of Correctional Services, 7 August 2000

The total number of juveniles in Western Cape prisons is 4 197, of whom 2 159 have been sentenced and 2 038 are unsentenced.

Section 12(1)(b) of the Constitution (South Africa, 1996:7) states that everyone has the right to freedom and security of the person, including the right 'not to be detained without trial'. This section encourages the courts to detain an accused only after he or she has been convicted for an offence. Similarly, section 35(1)(e) of the Constitution (1996:16) states that the arrested person has the right 'at the first court appearance after being arrested, to be charged or to be informed of the reason for the detention to continue'. In terms of these sections unsentenced young people or awaiting-trial prisoners in Western Cape prisons can be presumed to be detained under circumstances that are justifiable in terms of the law. As such it is difficult to suggest that unsentenced prisoners should be released immediately; rather the question of sensitivity and the constitutional rights of accused persons and unsentenced prisoners should be addressed. It is important to note that the protection of these rights is limited by section 36(1) of the Constitution (South Africa, 1996:18), which permits entrenched rights to be limited by the law of general application. It must be noted that courts have wide sentencing discretion, while at the same time they have to be guided by

the principle of proportionality in sentencing decisions. For example, the principle that the punishment must fit the crime can also serve as a limitation to punishment handed down by the courts. Furthermore, the overcrowding in Western Cape prisons suggests that the incidence of serious crime is on the increase, and requires preventative approaches to crime.

2.7 Summary

This chapter has provided an insight into and an understanding of various theories of punishment in the criminal justice system. Theories have levelled the ground for an overview of the structure of the criminal justice system as practised in the Western Cape, with specific reference to the role of social work in crime prevention. Crime prevention ought to be at the centre of the criminal justice system. In focusing on the structure of the criminal justice system as practised in the Western Cape, the chapter is laying down a concrete understanding of the existence of various components of the criminal justice system. The tasks and jurisdictions of key components of the criminal justice system have been explored in a way that explains their relationships in the prevention of crime. This chapter has broadened the perspective on the notion of criminal justice and paved the way forward for an assessment of the processes of crime prevention. The next chapter will focus on crime prevention within the criminal justice system.

CHAPTER 3

3 CRIME PREVENTION

3.1 Introduction

Chapter 2 gave an overview of the criminal justice system with respect to its theories and the structure in which crime prevention has to be understood. It has provided various ways in which crime prevention can be executed at different levels. This chapter gives an assessment of crime prevention processes within the criminal justice system. The assessment takes the form of concrete approaches and measures executed by the criminal justice system in preventing crime. In this view it is important to discuss different crime prevention strategies in a manner that seeks to promote crime prevention. This involves discussions on various sentencing options to be handed down by the courts in the prevention of crime. Crime prevention should not be seen simply from one level as it requires concerted efforts. This chapter locates crime prevention at the level of community policing, prevention through sentencing by the criminal courts, and corrections.

3.2 The theory of crime prevention

Galaway (in Albrecht and Backes, 1989:103) argues that preventive processes are interventions which may be geared towards individuals or towards the improvement of social conditions. These social conditions are assumed to relate to delinquency or other social problems. This view goes on to state that interventions are responses to specific delinquent behaviour and are often regarded as preventive. The central idea in this theory is that there is no single way of preventing crime. Different views focus on the effects of severe punishment, social service, visibility of the police, a larger budget for the justice system, more prisons, rehabilitation of the offender and others in order to prevent crime.

In this regard, Mathiesen (1992:49) states that general crime prevention calls for the notion of preventing not just an individual, but others from committing acts of crime. Therefore, for prevention to occur severe punishment of the offender is necessary. In this view, when the crime rate increases, it shows that punishment has not been severe enough. Hence harsh sentencing is necessary to reduce crime. This view suggests that high crime rates support the appeal for more sentencing. The basis for this notion is that fear of unpleasant consequences is a highly motivating factor to prevent people from committing crime. The criminal act is viewed as the result of a rational choice. Hence moral education is necessary in order to avoid certain acts which are generally regarded as morally improper or wrong.

The National Crime Prevention Strategy (1996:23) and Mathiesen (1992:48) similarly argue for the preventive effect of law enforcement. Therefore criminal justice agencies should receive sufficient budgets to advance detective work, prosecution and police patrol. This view states that general education of the public about the law and legal regulation, for example penalties, should be promoted. The National Crime Prevention Strategy (NCPS,1996) further states that part of such education should focus on human rights. This view argues that an entrenched culture of human rights will contribute to the reduction of crime. This view places the rights and needs of the victims at centre. This further recognises that a human rights culture is built on an understanding of the rights and obligations of the offender. Victims of crime are vulnerable to further victimisation or revenge if their emotional and material needs are not met.

Similarly, Albrecht and Backes (1989:76-77) state that crime prevention is possible on three levels. The primary level is before there is any involvement in crime. The intervention at this level is proactive. Secondary crime prevention occurs once there has been some involvement in crime. This requires an understanding of specific common crimes and applies concrete intervention. Tertiary crime prevention takes place after there has been involvement in the criminal justice system. This level involves sentencing of the accused and the rehabilitation process to prepare the offender for

reintegration into the community. Social work practice is required to enhance successful reintegration of offenders through meeting their needs and empowering them with skills in order to reduce recidivism, which is common to juvenile offenders.

Another dimension is that crime prevention should prevent people from drifting into crime through improving social conditions. This involves strengthening community institutions, and enhancing recreational, educational and employment opportunities. This further involves rebuilding the family unit to enable it to offer support to its members. But this view further states that crime prevention does not hinge on development alone. A number of police officers and prisons are required. This view goes on to say that the police should detect crime, the courts should sentence offenders, and the prisons and probation services should discharge those sentences in order to prevent crime. Furthermore, according to this view sentences should reflect or meet the crime in order to deter people from crime (Albrecht and Backes, 1989:79; NCPS, 1996:43; Cowell and Stenson, 1991:8). This idea sounds well balanced with regard to promoting sentencing and reducing the chain of causation in the prevention of crime. It takes into account the need for social workers to enhance sentencing processes and social services to communities.

3.2.1 The holistic approach to preventing crime

Raynor (1985:39) states that social work practice has not been holistic with regard to crime prevention because of its social control role. The individual criminal conduct is viewed in isolation from other social forces. It has focused on the symptoms of crime, rather than the whole person, including mental and social factors, in order to promote crime prevention. The Draft White Paper on Safety and Security (Department of Safety and Security, 1998:10) similarly argues that to prevent crime some broader approach is required which involves an understanding of the impact of economic, psychological and social factors. This view further states that effective delivery of basic services such as housing, education, health services and job creation is important in ensuring living conditions that are less conducive to crime. In this regard a multidisciplinary approach is required to prevent crime.

In terms of the Draft White Paper on Safety and Security (Department of Safety and Security, 1998:10), to rely on law enforcement alone will incur huge costs associated with investigation, prosecution and imprisonment. The criminal justice system will be overburdened, requiring more spending on policing, the courts and correctional services. International experience suggests that it is more cost-effective in the medium to long term to invest in projects which prevent crime than simply to spend on these reactive institutions. These reactive responses to crime prove to be more expensive in the long term and do little to improve the quality of life of the people. The NCPS (1996:13) supports the above idea and emphasises that the causes of crime need to be disaggregated for the purposes of preventive interventions. This view argues that particular types of crime have different causes and may vary from locality to locality, requiring specific solutions.

The above analysis states that the approach to crime prevention should seek to reduce the socio - economic and environmental factors conducive to particular types of crime. Therefore the focus should be on the individual offender, the victim and the environment in which they live. This understanding implies that social work practice at this level will offer reintegration services to the offender, which involves education about the law, human rights and the offender's obligation to understand that he or she has done something wrong to the victim. The social worker is further required to offer help to the victim by providing him or her with an opportunity to talk about his or her experience, fear and anger in order to promote the healing process. The intervention of social work at environmental levels will be characterised by awareness of crime and education about social rights, and will take place in small committees, forums and community networks.

3.2.2 Government's role in crime prevention

The National Crime Prevention Strategy (1996:23) shows that government has a key role to play in crime prevention. In this regard effective crime prevention will be possible at local government level. A sensitive criminal justice system is required for adequate crime prevention. Harding (1987:211) argues for the necessity of justice policy to guide the process in various forms

of interventions. In this regard the Draft White Paper on Safety and Security (Department of Safety and Security, 1998) explicitly proposes that local government should be responsible for the implementation and co-ordination of social crime prevention programmes within its areas of jurisdiction. In this view it is stated that local government is close to the people and capable of redirecting the provision of services to facilitate crime prevention. For example, development projects at this level should take account of the crime prevention process.

In line with the above, Shaw (1998:2) argues that crime prevention considerations should be integrated with other aspects of local development. The White Paper also encourages local government to enter into partnerships with community-based organisations, particularly where these agencies have expertise traditionally lacking in crime prevention. Following this view, metropolitan councils have developed safer city programmes in Johannesburg, Cape Town and Pretoria. Most recorded criminal activities take place within cities, towns and urban areas. The NCPS (1996:7) argues that the provision of a safe environment at local level encourages business investment.

Another dimension is articulated by Shaw (1998:3), who argues that developing and implementing local crime prevention policy will ensure that ward councillors respond to the needs of their constituents. This is because crime varies from locality to locality. As a consequence, different approaches are needed in different areas to promote crime prevention. This implies that crime differs at the levels of the individual, the family and the group, and hence interventions should never be one-sided. Shaw (1998:6) is of the opinion that successful by-law enforcement is critical to making cities and towns cleaner and safer. Such by-laws relate to the regulation of matters such as street trading, littering and alcohol licensing, particularly in innercity areas, which are reported to contribute to high levels of crimes such as mugging and theft.

Evidence from the National Victim Survey (1998) with respect to South Africa's major cities shows that overcrowded streets increase the fear of crime

among the majority of residents. Therefore local government is better placed to design and implement programmes targeted at specific crime problems. In terms of this view, crime prevention is not funded adequately enough and some people view it as an additional burden to local government. But crime prevention needs to be integrated with the functions of municipal departments. Key to this approach is financial support, not only from government, but also from business, which can contribute significantly to crime prevention.

3.2.3 The role of business

NEDCOR (1998:11) states that in 1996 the business community grouped together and established Business Against Crime (BAC) to provide contributions to the National Crime Prevention Strategy and address local needs. Business views its role as using the expertise and resources within the business community to assist the government and certain departments. For example, it can contribute business and management skills at the level of the police service and other criminal justice departments. At present BAC is reported to have four programmes at national level which complement the current efforts of the NCPS. These programmes relate to integrated criminal justice systems, vehicle crime, border control and commercial crime. This view argues that BAC has been instrumental in providing the NCPS with necessary resources, mainly in kind, support and personnel.

NEDCOR (1998:13) also states that the Gauteng BAC has a task group in charge of formulating plans, identifying priority areas and working with organisations. The task group on local crime prevention strategy focuses on behavioural skills training, victim empowerment, community participation and fleet management. The criminal justice task group focuses mainly on court support and a partnership programme, while the anti-crime technology task group focuses mainly on violent crime, commercial crime, border control and vehicle crime with the assistance of information on its database. Furthermore, the task group creates internal communication plans and provides education for civil servants. The Gauteng BAC seeks to develop networks within communities and identify needs and priorities. It also focuses on the private

security industry to with a view to establishing a project dealing with cash-in-transit heists, guarding, investigations and armed response.

At a broader level the BAC introduces a commitment to sustained partnership between business and crime prevention agencies. The relationship between the private and public sectors is important in terms of offering an opportunity for long-term involvement in the community and capacity-building. The business community has strengths that may benefit government, for example leadership and senior management expertise. This view further emphasises that BAC projects try to promote a balance between policy and practical experience (NEDCOR, 1998:13).

3.3 Crime prevention through prosecution and investigation

Camerer (1999:7) and the Draft White Paper on Safety and Security (Department of Safety and Security; 1998:11) acknowledge the lack of proper investigation and prosecution of the accused person. With regard to investigation, the White Paper states that the quality of criminal investigation needs to improve. The capacity of the police service will be raised through the provision of sufficient resources to enhance detection work. In this view the police personnel should be equipped with relevant skills and techniques because they have the responsibility for securing a conviction once a suspect has been brought to court. However, for an investigation to be successful the police require evidence. Here community members play a central role as witnesses. The NCPS (1996:66) supports this view and also states that victims should assist the police with information, while prosecution represents a process of arguing the case. This suggests a need for co-operation between criminal justice agencies and civil society, because prosecution cannot be successful without proper evidence that will help the court to impose a preventative sentence.

Another dimension is captured by Camerer (1999:7), who states that the number of prosecutions and convictions has steadily declined between 1991-92 and 1995-96. The conviction rate for more serious crime is below average. In 1997 the conviction rate for murder was 32%, for hijacking 19% and for

rape 16%. Because of the lack of experience, skills and resources, prosecution services are not able to deal with all the cases referred to it by the police. The investigation and prosecution services need to be effective in order to prevent crime. It is through prosecution and investigation that the accused can be convicted.

3.3.1 The role of the witness and the need for protection

Justice Vision 2000 (Department of Justice, 1997:43) states that it is impossible to try cases properly without witnesses because witnesses provide evidence for the court to proceed with the case. However, if witnesses cannot come forward criminal cases will be withdrawn, or postponed indefinitely. Mawby and Gill (1987:126) concur with *Justice Vision 2000* (Department of Justice, 1997:43) on the idea that witnesses cannot come forward with information, not because they do not care about crime, but for their own safety and security they prefer to remain silent. Despite the fact that witnesses are reluctant to come to court because they are afraid of being victimised by the alleged criminal, they might have little confidence in the criminal justice system.

The above authors recognise that witnesses should be protected and encouraged by the criminal justice system through services, enhanced co-operation and greater involvement by the community in order to promote crime prevention. In this regard it seems as if the Witness Protection Act, Act 112 of 1998 (Department of Safety and Security, 1998) seeks to address problems experienced with the present South African witness protection programme, and further extends protection to witnesses, to commissions of inquiry and inquest proceedings of special tribunals. It must be borne in mind that while witnesses provide the court with information, the witness has the right to remain silent and the court should respect those rights. A witness should not be subjected to what might be regarded as interrogation. The Department of Justice (Department of Justice, 1998) reports that as a result of witness protection convictions are obtained, particularly in cases involving gang-related violence.

3.3.2 The bail system

Altbeker (1998:53) argues that bail provisions in any democracy are loaded and controversial because they are designed to balance two sometimes conflicting imperatives. They are designed to give effect to the presumption of the innocence of the accused, and to avoid punishing a person who has still to be convicted. On the other hand, society has a legitimate expectation that persons suspected of having committed a crime should not be released to interfere with the course of justice or to commit further criminal acts. This view recognises clearly that in terms of the Constitution of the Republic of South Africa (South Africa, 1996) every person arrested for the alleged commission of an offence has the right to be released from detention with or without bail, unless the interests of justice require otherwise.

But the granting of bail has the effect that an accused, after paying an amount of money or procuring a guarantee to pay, is released from custody on inter alia, the condition that he or she reports on a given date, at a given time and place, at a court in order to ensure the continuation of the proceedings against him or her. Therefore the question whether or not bail should be granted and, if it is granted, what amount it should be, is at the discretion of the court. In exercising this discretion the court seeks to maintain a balance between the protection of the individual and the maintenance of the effective administration of justice. This is crucial in practice where community members regard the courts as being lenient to the accused by easily granting them bail. The basis for this argument is that easy bail makes it difficult to prevent crime and demoralises community members in their endeavours to reduce crime.

In these circumstances, according to Altbeker (1998:54), while it may be easy to oppose bail, it can be very difficult to obtain the information needed. Hence the accused has the right to apply for bail as soon as he or she is taken into custody. But detectives argue that magistrates should refuse bail when adequate grounds prevail. This includes the possibility that the safety of the public or particular persons might be endangered. Another ground for refusal would be informed by a previous criminal record or a foreseen attempt to intimidate or influence witnesses, to conceal or destroy evidence. Because of

this dilemma there seems to be a trend for bail conditions to improve since the launch of pre-trial services, to enable the courts to make an informed decision on the bail. Furthermore, pre-trial services seek to make the justice system more accountable and provide an opportunity for community participation in the process. Social workers should promote community justice in order to enhance crime prevention and empower people to solve their own problems, hence the relevance of community courts.

3.4 Crime prevention through sentencing

In terms of the restorative justice approach sentencing is a process representing a public qualification of the individual offender's blameworthiness, determined according to acceptable standards of proportionality (South African Law Commission, 1997:2). This notion of sentencing is wide, which suggests that it involves a number of participants in the process to decide about the specific sentence. Another dimension is articulated by Chaskalson (1995), namely that in most legal systems sentences to be imposed by a court are within a range set by the legislature. In this view the wider the range, the greater scope for the sentencing court to exercise discretion about a particular offence. But key to this point is the requirement for proportional sentences to meet a specific offence.

In this regard, Raynor (1985:44-46) acknowledges the practice of social work within the penal and judicial system as the one that should provide the court with specific interventions. This view argues that social work in the sentencing process enhances wider and preventative sentences and does not simply view sentencing as a legal matter. In this view sentencing to prison on its own is not preventative, and the reactive probation services on rehabilitation based on casework are not suitable to all forms of offence. Not all offences are the result of personality problems. Instead, there are offences that are the result of lack of food, homelessness and other factors.

Raynor (1985:35) further emphasises that new sentences based on establishing responsibility rather than guilt should play a major role in diverting minor offenders from unnecessary custodial punishment. In this regard social

work probation service is correctionalist, due to its focus on adjusting the offender to the accepted rules and learning how to behave. Raynor (1985) endorses that social work mitigating intervention in the sentencing process should influence the process in the interests of society, thereby promoting the prevention of crime. In this regard social work intervention should put forward a variety of social factors and circumstances surrounding the offence to be considered in the sentencing process. This suggests that the sentence should be more effective and preventative than no sentence or unfair leniency. Failure to sentence the offender may lead to a situation where people take the law into their own hands in the form of vigilante groups. But this is not to suggest that vigilante groups are the result of lack of sentencing. Studies suggest that the vigilante approach tends to emerge in unstable periods due to ill-concealed group interests. However, lack of proper sentencing negates the interests of the victim and his or her sense of resentment, neglect and anger. The victim begins to lose confidence in the criminal justice system and a desire for revenge may develop.

The above view suggests that many people consider sentencing as necessary, particularly if the offender has committed a serious crime such as rape or murder. Dissel and Mnyani (1995:3) view the sentence as a punishment imposed by the court on a person who violates the law. This view stipulates that each and every criminal offence should be punishable by the law. Cochrane and Smit (1993:5), Dissel and Mnyani (1995:3) state that the court has sentencing options in South Africa, informed by the Bill of Rights. The Bill of Rights provides guidelines with regard to sentencing and states that 'every person shall have the right to life' (Constitution of the Republic of South Africa, 1996). Therefore, in 1995 the Constitutional Court argued that the death penalty and whipping constituted a violation of the Bill of Rights, which prohibits cruel or inhumane or degrading treatment or punishment. The decision of the Constitutional Court means that the court can no longer sentence offenders to the death penalty or to whipping. Instead, the courts can impose sentences including imprisonment, community service, committal to an institution, fines and correctional supervision.

3.4.1 Imprisonment

The decision to impose a sentence of imprisonment arises once the court finds a person guilty of a crime. Courts have broad powers to decide how long the offender shall spend in prison. The court will sentence an offender to imprisonment when he or she has committed a serious offence or if he or she has previous convictions. Regional magistrates can only send a person to a maximum of 10 years per charge, while there is no limit on the prison sentence which the High Court can impose. However, the sentence should be proportional to the crime. In this regard, the courts can send a guilty person to prison either for life or for a fixed period with a view to enhancing the correction process. In this argument the punishment of a prison sentence serves to promote deterrence by preventing an offender from repeating a crime (ie, individual deterrence) and deterring society from crime (ie. general deterrence) (Bartollas, 1981:86, Dissel and Mnyani, 1995:4; Cochrane and Smit,1993:8).

Prisons are widely reported to be overcrowded and are financially costly. Because of this problem, South Africa and the United Kingdom are reported to have been constructing and privatising certain prisons. For example, it is reported by the Department of Correctional Services (Department of Correctional Services, 1999) that South Africa is about to construct private prisons on the basis that they are less costly and will accommodate large numbers of prisoners.

Another dimension is that because of the overcrowded nature of prisons it becomes difficult for rehabilitation programmes to be successful. This view argues that in South Africa it is evident that prisons have produced more dangerous and skilful gangs. Recently prisons have become a terrain of gang consolidation, drug

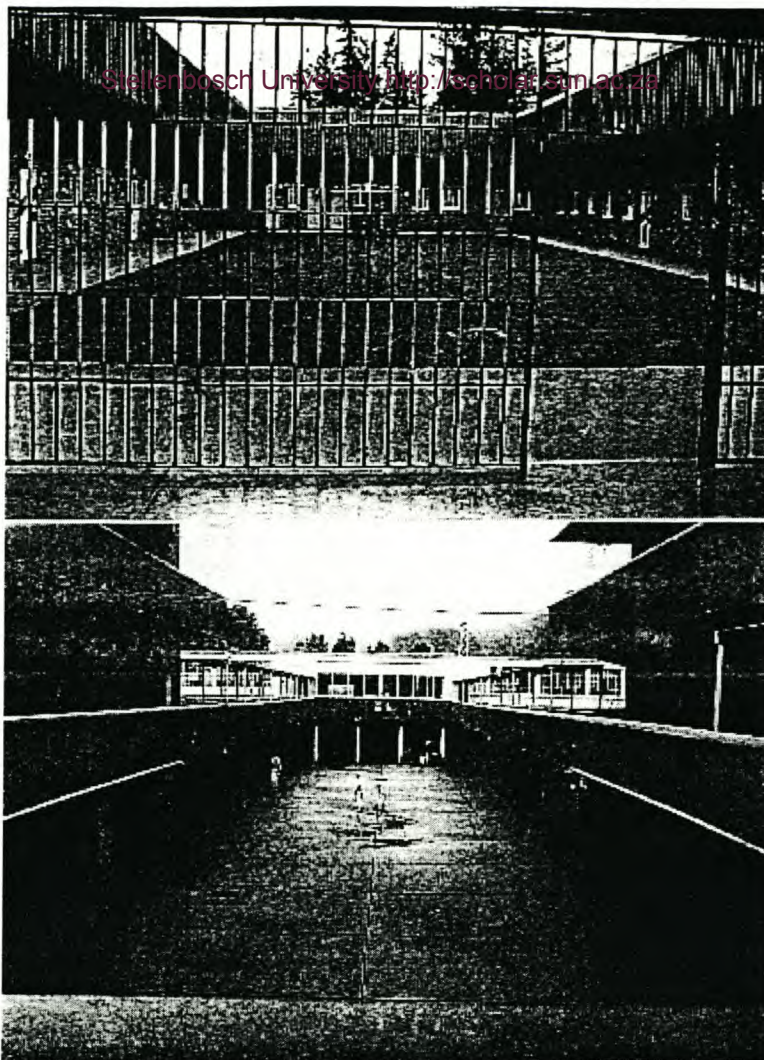


Figure 3.2 Drakenstein Prison

smuggling and recruitment among gang groups. Therefore the relationship between ex-prison gangs and prison gang members has developed around gangsterism and drug dealings (Carter, Glaser and Wilkins, 1985:130; Cochrane and Smit, 1993:8; Bartollans, 1981:26; Oppler,1998:36-37; and Dissel and Mnyani, 1995:4).

3.4.1.1 *Life imprisonment*

In South Africa, since the Constitutional Court decision to abolish the death penalty, life imprisonment is regarded as the alternative most severe punishment. In this regard, Conrad (in Van Den Haag and Conrad, 1983:56), Keightley (1995:379), Makwanyane (1995:70) broadly regard the death penalty as a cruel and inhumane punishment that no civil society can practise. There is the danger that the wrong person could be executed. This argument

goes on to say that studies do not provide evidence that the death penalty prevents people from committing murders. By contrast, Van Den Haag (in Van Den Haag and Conrad, 1983:67), King (in Bedau, 1982:312) argue that the death penalty deters people from committing similar crimes; hence it is an appropriate punishment for very serious crimes. This argument further states that the death sentence takes offenders out of the community forever, in the interests of society and the prevention process.

In line with the idea that the Constitutional Court has abolished the death penalty in South Africa, a sentence of life imprisonment should only be imposed for serious offences such as murder, rape, and armed robbery. This view states that life imprisonment imposes a severe punishment on offenders who commit serious offences and it protects society against dangerous offenders by keeping them locked away from society. In this regard South Africa's Department of Correctional Services has created C-Max prisons for so-called dangerous criminals, and others will reportedly be constructed on a privatised basis. The C-Max prison makes maximum punishment possible for so-called dangerous criminals.

However, there are concerns that the process of building privatised prisons uses resources to buy bricks and serves the interests of multinationals instead of promoting crime prevention projects. This view further claims that the notion of C-Max prisons can be contrary to the task of building a culture of human rights. Another fact which is widely acknowledged is that offenders who are sentenced to life imprisonment normally receive parole after some time rather than serving at least close to the maximum period. It is argued that the offender should at least serve close to the entire sentence.

Social workers in correctional services should use their therapeutic skills to prepare the offender emotionally to be able to meet future challenges. This involves empowering offenders with life skills. This understanding suggests that punishment should not be premised on punitive measures but should be linked with prevention processes (Oppler, 1998:47; Cochrane and Smit, 1993:6; Dissel and Mnyani, 1995:3; Bartollas, 1981:86).

The High Court is the only court that can sentence an offender to life imprisonment on the basis of the seriousness of the crime involving murder, rape or armed robbery. Life imprisonment seeks to protect society against dangerous offenders by keeping them locked away from society. Life imprisonment as a severe punishment suggests that it can deter people from crime, because the person will think about the consequences of his or her act. This view further argues that prisoners serving life sentences should not be granted parole before at least 30 years have passed (Cochrane and Smit 1993:8; Dissel and Mnyani, 1995:4-5 and Oppler, 1998:47).

3.4.2 Community service

Community service is an alternative sentencing option to imprisonment. It means that an offender is sentenced to serve time outside prison by giving free service to the community. The aim of community service is to ensure that the offender repays his or her debt to society while maintaining a normal lifestyle. Dissel and Mnyani (1995:14-16) and Cochrane and Smit (1993:14-15) further concur on the idea that community service arises when a person has been found guilty by the court. The sentence can be postponed or suspended subject to the offender rendering some services for the benefit of the community. For example, community service can be done in a hospital, at a court, at the Society for the Blind, NICRO, homes for the aged and other institutions for a certain number of hours.

The aim of community service, among other things, is to reduce the problem of overcrowding in prisons and to rehabilitate the offender in the community. In this regard community service can be imposed only on people who are 15 years and older and who are first-time offenders. This argument further states that community service may be imposed for any offence except where the law says that the offender must serve a maximum sentence. According for this point of view in South Africa community service are not used enough as an alternative to imprisonment because of the lack of community involvement. A reason for this is insufficient control and supervision by the state as well as lack of community organisations where offenders can carry out their sentences.

3.4.3 Committal to an institution

Cochrane and Smit (1993:14), Dissel and Mnyani (1995:11) are of the opinion that when alcoholics, drug addicts or people suffering from mental illness are convicted, the court may send the offender to an institution for rehabilitation, rather than prison. In this regard a probation officer's report should assist the court to explain why the offender should be sent to an institution. But one difficulty in sending an offender to an institution is that there is a lack of space in these institutions and offenders might not be rehabilitated there.

3.4.4 Fines

Bartollas (1981:90), Dissel and Mnyani (1995:13) and Cochrane and Smit (1993:12) are of the idea that fines can be imposed on their own and given as an alternative to imprisonment. But failure to pay the fine, which is money, will result in the offender going to prison. This implies that offenders receive a suspended sentence but are fined. The amount required should take into account the conditions of the offender in terms of income. This view argues that if the offender cannot pay the fine the court can issue a warrant statement to order that money be taken from the offender's salary or to remove the offender's property. But if the offender is sentenced to imprisonment for less than five years, the Commissioner of Correctional Services may change the sentence to a sentence of correctional supervision.

3.4.5 Correctional supervision

Correctional supervision is regarded as an attempt to address some of the problems of community service. It is regarded as a new form of sentencing and was introduced in South Africa in 1991. When offenders are given a sentence of correctional supervision they are required to do certain things. The correctional officers should monitor the offender by visiting him or her either at work or at home. Offenders may also report to the offices of the correctional officer at certain times. In this regard a correctional officer supervises a person and has to make sure that he or she does what is required of him or her.

The person who is sentenced to correctional supervision is called a probationer, that is, a person who is given a trial period to prove that he or she can behave. This person should be supervised by the probation officer and is usually referred to a social worker. The probationer may for instance stay in employment and repay the victim of the crime, follow a programme such as treatment for alcoholism or a training programme for job skills, be subject to house arrest at certain times and work in a community project in his or her casual time. An organisation such as the National Institute for Crime Prevention and Reintegration of Offenders (NICRO) would arrange for the probationer to do free work for a community organisation. Furthermore, prisoners who are serving terms of imprisonment of less than five years, or who have less than five years left to serve, can have their sentence of imprisonment changed to correctional supervision in the community (Cochrane and Smit, 1993:17; Bartollas, 1981:89, Dissel and Mnyani, 1995:17-19).

3.5 The parole system

Bartollas (1981:185) views parole as the release of an offender from a final or correctional institution, after he or she has served a portion of his or her sentence. The release should take place under the continued custody of the state and other conditions that permit his or her imprisonment in the event of misbehaviour. This implies that there are certain obligations which are required from the parolee (that is, the person on parole) which constitute the conditions of parole. These conditions should be assessed by the parole officer who has powers to arrest the parolee if a violation of parole occurs beyond reasonable doubt. Bartollas (1981:196) argues that the process of parole should be mutually planned and should include criteria for release. It should involve the prison authorities and take account of rehabilitative programmes and responsibility in terms of behaviour.

According to Hofmeyr (1998:18) as a result of re-offending, the new parole system in South Africa requires all prisoners to serve at least 50% of their sentence, which the court can increase to 67%. According to this view, prisoners serving life sentences will now be released on parole only if the

court agrees, and they should have served at least 25 years before they can apply to the court. It further states that the court may require prisoners serving the above minimum sentences to serve at least 67% of their sentence before qualifying for parole. In this view a key to effective parole is that prisoners are prepared emotionally and socially for release. This can be done through ongoing reintegration programmes before and after release, rather than the release of prisoners because of large numbers in prisons.

3.6 The role of community policing in preventing crime

Studies suggest that the role of the community in preventing crime is very important. Promoting a partnership between the police and the community results in more effective and efficient policing (Draft White Paper on Safety and Security, Department of Safety and Security, 1998:24; Reiss and Tonry, 1987). Both Cawthra (1994:13) and the Draft White Paper on Safety and Security (Department of Safety and Security, 1998) are of the opinion that in South Africa policing was traditionally centralised, para-military and authoritarian, and was deployed to suppress political opponents of apartheid, rather than to prevent crime in communities. These conditions do not encourage a co-operative mutual relationship between communities and the police in order to reduce the level of crime. This view goes on to say that communities are required to take charge of their own lives and rebuild a sense of community. This involves taking an active role in community policing forums at the local level to reduce top-down problem-solving approaches and work to build partnerships.

They argue that it is important to understand that policing cannot necessarily solve all types of crime. Crime in poor communities can often be traced to socio - economic circumstances which cannot be addressed by the police alone. This view suggests that different local communities have specific types of crime, which require preventive intervention that is informed by those specific needs. This also requires a multidisciplinary approach to crime prevention which involves professionals, people from various disciplines, civil society, business and government. According to case studies (Department of Welfare, 1997) conducted in the Northern, Eastern and Western Cape in

1996, people around the country have different experiences of crime. For example, alcohol is recorded as a crucial feature of crime in the Northern Cape and has been associated with violent crime.

An example of crime that is associated with socio - economic circumstances is presented by Louw and Shaw (1997), who show that at the family level parents who drink excessively become negligent and abusive, sometimes being present and intoxicated while children are molested. Young women drinking at shebeens and street parties are exposed to rape. The problem of alcohol in the rural areas of the Northern and Western Cape arises mainly from the practice of the tot system, in terms of which farmers previously provided workers with alcohol as a form of wage. This was an economic practice which caused alcohol abuse. This example indicates that there are many factors associated with the crime phenomenon. Prevention therefore requires specific interventions. Interventions may include, inter alia, programmes that discourage alcohol consumption (preventing farmers from using the tot system), developmental policy and victim support policing.

Another perspective on crime prevention is presented by Louw and Shaw (1998:2) who argue that South Africa is not underpoliced when measured against the population and compared to a number of other countries. They go on to say that South Africa has a relatively large number of police officers per head of the population, compared to Canada, the United Kingdom, Australia and Hong Kong. Louw and Shaw (1998:2) argue that South Africa's average number of civilians per police official is 321 based on the 1991 census data. But numbers of police officers alone say little about how these members are deployed or the level of service they deliver. Measures of police resource allocations do not indicate police effectiveness. This implies that the number and distribution of police officers do not automatically lead to a decrease in crime in a specific locality. This analysis recognises that it is difficult to compare numbers of police officers in relation to crime levels between these countries, due to recording processes and the quality of statistics. South Africa still shows high levels of crime and a greater proportion of violent and serious crime.

If one does an analysis of the national distribution, one finds that Gauteng, Northern Province has the highest number of civilians per police officer, followed by Mpumalanga, KwaZulu-Natal, the Eastern Cape and the Western Cape. The police in these provinces potentially face a major challenge since they serve bigger populations. Free State and the Northern Cape, by contrast, could present less of a challenge, given the low concentration of civilians to police, with a ratio below the national average. The national average number of civilians per police officer is 321. This analysis suggests that different provinces experience different specific crimes, and up to certain extent large populations and the distribution of police personnel tends to reflect the levels of crime in those specific areas. For example, Gauteng has recorded high levels of crime, and its population and police personnel is high. This further shows that large numbers of police do not necessarily prevent crime, but that crime prevention requires a combination of strategies and interventions, such as skills training programmes, education and co-operation with civil society.

One of the strategies proposed by Louw and Shaw (1998:4), the Draft White Paper on Safety and Security (Department of Safety and Security, 1998) and Besdziek (1996:10) is that community policing should be promoted at local government level, in order to integrate the process with the ongoing local services. This will strengthen partnership and accountability between the police and civil society. In this regard, the authors state that the French local municipal police service could serve as a model for interventions which could lead to crime prevention. The French municipal police seeks to facilitate communication between the local council, the mayor and civil society. Crime prevention in this view includes identification of a potential crime before it is actually perpetrated. It is the function of the municipal police services to identify problem families, problem youths, potential delinquency and social welfare agencies and to take early preventative action. This view implies that local police together with law enforcement services in themselves cannot promote crime prevention without broader involvement and concrete services.

3.6.1 Community safety through Neighbourhood Watch

The involvement of the community in crime prevention should promote safety and reduce fear of victimisation. At this level of intervention members are also required to be visible, skilful and focused on conflict resolution practice and communication skills in order to protect the community. Mere visibility in an area does not automatically deter people from committing crime; hence knowledge of the environment and trust should be developed. Neighbourhood Watches should have specific target areas. Victims and ex-offenders should be part of the processes in order to enhance co-operation and the prevention process. Neighbourhood Watches reduce crime, particularly burglary and robbery on the streets (Reiss and Tonry;1987).

3.7 Summary

This chapter has argued for a holistic approach to crime prevention. Effective crime prevention cannot occur through sectoral strategies to crime, but requires to be co-ordinated at various levels. This chapter tried to show how different preventive strategies can be executed with a view to enhancing crime prevention. Detailed measures and procedures for the prevention of crime and the involvement of the community was discussed in a way that depicted theories and the structure of the criminal justice system presented in chapter 2. It is important not to view various crime prevention approaches as contradictory, since this is necessary for an understanding of the practical aspects of crime prevention. It is at this practical level that the provisions for social work in the prevention of crime within the criminal justice system can be understood. The next chapter focuses on the role of social work practice within and outside the criminal justice system in the prevention of crime.

CHAPTER 4

4 SOCIAL WORK PRACTICE WITHIN AND OUTSIDE THE CRIMINAL JUSTICE SYSTEM IN THE PREVENTION OF CRIME

4.1 Introduction

This chapter reflects on social work as practised within and outside the formal criminal justice system in relation to the prevention of crime. Chapter 3 dealt with practical angles of prevention from which social work could be located in the criminal justice system, including community policing, correctional services and criminal courts. Social work practice can enhance crime prevention in a way that integrates community involvement with the criminal justice system. Integrated approaches to crime will enhance community justice and corrections. It is through community involvement and participation that formal courts and rehabilitation services can be consolidated and enhanced. Building community networks and projects strengthens the role of the community in the prevention of crime. For example, social workers at juvenile courts could link the juveniles with community-based prevention projects or education programmes. It is possible for the social worker to further strengthen the involvement of the community at the level of victim-offender mediation in the prevention of crime. In this regard therapeutic services to both victim and offender are key for the contribution of social to crime prevention within the criminal justice system. This is in line with helping people to help themselves, which is one of the central aspects of social work practice.

4.2 Social work practice

The practice of social work was developed to address individual and social problems. The dualistic focus on crime prevention at the level of community projects and individual or group therapeutic practice is in line with that background (McKendrick, 1990:10-13). This implies that there is no

contradiction between therapeutic and community-based social work practice in the prevention of crime. In this context an effective preventative practice of social work should be integrated with an understanding of the criminal justice system. This understanding will help to promote an accessible criminal justice system sensitive to community needs. Social work can contribute to the prevention of crime by promoting integration between the community and the criminal justice system.

4.3 The role of social work practice in promoting crime prevention at community level

The role of social work needs to be broadened to include crime prevention and community safety initiatives. The idea is to provide a service that is realistic and achievable on the basis of the available resources. This view claims that South Africa is under-resourced and therefore the determination of priorities remains essential. Resources are necessary in order for the contribution of social work to be effective and to ensure that the services and programmes offered are output-driven and have an impact. A successful programme is one which develops effective responses to needs, which is monitored and evaluated where necessary and which is adapted for future intervention. Within the field of crime prevention, the needs of offenders, victims and the public should guide decisions about strategies to be taken.

Social work, by providing an understanding of the plight of victims, offenders and the community, will eventually enhance the involvement of these groups, together with criminal justice personnel, to ensure that services and programmes are driven by needs. Another area in which social work can be effective at community level is with the revival of the traditional family unit to provide support for its members. There is a need to understand the negative social effects of the increasing levels of unemployment and to reflect on how this determine family life. In this view family life is no longer characterised by unity, mutually beneficial relationships and peace. The relationship is determined by the level of income acquired by each member. The traditional roles and values of the supportive family structure are vanishing due to westernised way of life (Consedine, 1997:6; Shapiro, 1998:169).

In line with the above argument, market-driven policies do not recognise community or collective responsibility. It recognises only a society of individuals in which those individuals with needs have to have the resources to meet those needs. Considine (1997:7) further argues that individualism attacks the very roots of community bonding by promoting competition between individuals. This point argues that the basic premise of social work practice in preventing crime should be to target and improve family relations through reintroducing support systems and a collective way of life, in order to reduce the increasing levels of homelessness and imprisonment.

4.3.1 Building community networks

Shapiro (1998:169) states that the community's responsibility for safety remains important for the prevention of crime. Social work intervention should seek to establish peace and a stable environment. This view argues that communities make important decisions on how to utilise available assets to enhance safety and feelings of security within their sphere. The role of social work is not only to work with the individual, but involves work with groups or communities, targeting the person in need. Therefore direct service should be strengthened in order to build new support networks.

Social workers need to work with networks to deal with issues pertaining to crime and community safety. The practice of social work in the crime prevention process should seek to address the causes of crime and promote changes where necessary. This understanding further requires that the development of new networks where informal community structures are already in place should be handled properly. This perspective suggests that existing networks need to be assessed as to whether they can be strengthened. Information can be gained from networks and partnerships to enhance the advocacy process for policy changes in government and the decision-making process.

4.3.2 Advocacy and awareness of community safety

Community safety awareness should not be an event, but should rather be seen as a process that seeks to encourage civil society to take a stand against crime. In order to enhance public awareness, members of the community should be educated to understand the consequences of crime. This includes educating the youth about the law and human rights, because the youth tend to be in conflict with the law. According to this view, members of the community should be encouraged to win back their community, streets and freedom of movement. Since communities experience crime differently and at various levels, the responsibility for discharging awareness programmes should rest with social workers (Shapiro,1998:160).

The above view does not suggest that communities are not aware of crime, but that communities should be mobilised and empowered in the process of creating awareness and should be equipped with problem-solving skills. In this regard individual members, at family level in particular, often resort to violent action when they are confronted with a dispute. The role of social work should be to facilitate, through the use of skills and techniques such as communication skills. In this context community safety awareness further requires social workers to target young people at schools to promote self-development. This will help to create a sense of self-respect and instil human values, which will reduce negative feelings which may lead to low self-regard and the potential for offending. Social work practice on preventive awareness should be linked with support networks to promote safety.

In order for direct service and community support networks to have an impact on both micro and macro levels it is necessary that social workers advocate for changes at both service delivery and policy levels. In the light of the national challenges, strategic interventions at the level of justice reform can have an impact in enhancing crime prevention. Advocacy is necessary to influence policies in particular hence it is at policy level where social processes germinate. According to this analysis social workers can engage in crime prevention process on three levels of intervention. Social workers could engage through direct service, strengthening or building networks and through

advocacy. Key to these activities are research processes which will inform the interventions of social work in promoting crime prevention (Shapiro, 1998:170).

4.3.3 Community courts

Scharf (1992:13) argues that community courts had been in existence in African townships when they came into being, and that the term is a general name for different kinds of courts run by the community in African townships and villages. He maintains that community courts existed because of colonial and political reasons, and were accessible to black South Africans in variety of ways such as procedure, language, location and finance. Nina (1995:3) similarly argues that at present community courts are intended to provide access to justice for the poor person. They are organised along simple lines and do not use many of the complicated legal procedures of the formal courts. Community courts normally sit in the evening to promote access to justice and allow people to take charge of their own lives by collectively seeking solutions to their disputes. This creates an environment conducive to crime prevention processes.

But Nina (1995:3) acknowledges three different views on what constitutes a community court in South Africa at present. The term 'community court' has been used to describe street committees, people's courts and disciplinary committees in many communities. Others argue that nonstate-regulated ways of solving conflict are simply one term for popular justice, which includes kangaroo courts, street committees, people's courts. A third view suggests that all these popular justice practices should be regulated by the state under the name of community courts. Nina (1995:4) and Scharf (1992:10) recognise that South Africa has not developed a model for community courts, but civics and other community organisations have been putting forward ideas as well as taking charge of the community courts process. This is happening in various communities and is informed by their specific local needs. For example, community courts will focus on disputes around family matters such as battering, assault, violation of municipal laws and interpersonal disputes.

In the light of the above analysis, community court disputes should be heard by a panel of community members. These members will require some training about court proceedings and problem-solving approaches. This implies that social workers, lawyers and others should provide help in offering training in respect of these specific needs. According to this argument, some of the approaches that can be taken to resolve disputes include fines, community work with a charity organisation, and apologies to the victim and to the community. Community courts should refer serious disputes or cases to the nearest magistrates' court. The community court should be strictly community based, so that community influence may assist to educate and easily reintegrate the wrongdoer into the community. Social workers should play an ongoing role in the reintegration of offenders, in liaison with the community court structures.

Community courts use values that are part of the culture of the group that runs the courts. But Scharf (1992:7) also states that in times of township violence community courts will be characterised by battles for power. The community might divide into different groups, which might then use these courts to dominate other groups for their own ends. In this view some members of the community court will use the court to apply heavy punishment to individuals and groups alleged to be involved in the conflict. This perspective suggests that when townships are going through unstable periods, the power of civics tends to be limited, and courts can fall into the hands of undisciplined youth or gangs and become violent. The community court can be then turned into a kangaroo court.

Scharf (1992:5) and Nina (1995:8) state that there is a big difference between community courts and kangaroo courts. Kangaroo courts are usually set up and run irregularly and infrequently. Punishments are usually very harsh, for example 400 lashes. On the other hand, community courts are normally made up of a cross section of the community (civic, youth and women's structures). Community courts have regular times and places of meeting. The above authors further state that the community court's main aim is to solve problems between individuals, within families and among community members. Another

dynamic presented by the above authors is that the notion of a people's court is similarly associated with violent actions; hence they are the exception rather than the rule. But this is not to suggest that all people's courts of the 1980s were not strong and effective. Instead, they gradually lost the image of proper justice due to violent vigilantism. Therefore the term 'community court' is currently used, in order to promote crime prevention. In community courts sentencing is not a central feature; rather members should seek a solution that resolves the dispute. However, this is not to suggest that there is absolutely no sentencing in certain circumstances.

4.3.4 Rehabilitation services

Social work practice with offenders in South Africa has been based mainly on a need to rehabilitate the offender. But the concept rehabilitation carries connotations of the offender needing 'treatment' of some kind. At present, the focus is on the successful reintegration of offenders into society, rather than on individual pathology. The idea is to focus on helping offenders to meet their own needs and take responsibility for their own actions and lives. This view postulates that encouraging responsibility in the offender reduces recidivism (Shapiro, 1998:160). Raynor (1985:38) concurs with this analysis and emphasis that social work services for offenders have traditionally been seen as offering help not as an end in itself but as a correctional technique, a means towards rehabilitation or a 'treatment' for crime. In this view rehabilitation through casework, or preventing crime by readjustment of the culprit, will not be meaningful for the probation service and other social workers in the criminal justice system. This suggests that a rehabilitation service should not be based on a purely therapeutic process but should rather be combined with interventions to reform social conditions in order to enhance crime prevention.

On the other hand, Raynor (1985:39), Bartollas (1981:87), Walker and Beumont (1985:84), Gross (1977:118) recognise the limited contribution of rehabilitation in providing a rationale for helping offenders and for persuading sentencers of the fact that helpful sentencing could serve their correctional purposes. Hence they argue for a commitment to helping by creating some

community-oriented rehabilitation process, rather than diagnostic labelling on behalf of the authoritarian conditions. This argument further states that the rehabilitation process must seek to prepare the offender to come to terms with the actual offence, and involves education and training programmes for reintegration purposes. However, family members, friends and potential victims should be part of the process for the offender to learn alternative ways of relating to others and to form alliances with them.

4.4 The role of social work in juvenile justice

The National Crime Prevention Strategy (NCPS,1996:20) and Pinnock (1997:31) are of the opinion that the youth are the most marginalised group in most societies. The marginalisation often places youth on the street corners and they gradually turn to full-fledged gang crime. The 1995 Household Survey which was conducted by the Department of Welfare (1997) shows that the youth comprise 16,2 million people, and represent 39% of the population. In this regard, Sloth-Nielsen (1997:106) notes that the figures for the statistical year 1996 show that there is a sharp increase in children between 7 and 17 years of age who commit crime. This includes both awaiting-trial children and children serving sentences. The biggest increases are in the Northern Cape with 178%, the Eastern Cape with 178%, and the Northern Province with 130%. The annual report of the Department of Welfare for the year 1996-97 acknowledges these figures and points out that young people are at risk of committing crime. The report postulates that juvenile crime requires restorative juvenile justice. In terms of this approach young people who have committed minor offences should be diverted out of the criminal justice system in order to promote crime prevention.

Jenson and Howard (1998: 324) broadly concur with the report that the increasing violent crime and the number of youth involved in crime demand a juvenile justice system that addresses known risk factors for anti-social behaviour. The conditions that place youth at risk of delinquency are poverty, a lack of family stability, anti-social peer influences and substance abuse. This view holds that preventing juvenile crime requires juvenile justice which is not one-sided in approach. They argue that juvenile justice policy should be

rehabilitative and punishment oriented in order to promote prevention. They argue that there are a number of complicated factors that hinder attempts to elucidate the causal connection between juvenile crime and public policy. In this view many types of juvenile offences have become widespread, including property offences, murder, drug use and distribution. Studies suggest that most delinquent youth are property offenders rather than violent offenders; hence Jenson and Howard (1998:324) argue that policies must be informed by that reality.

Asmal (in the Report of the International Seminar on 'Children in Trouble with the Law,' 1993:14), Gross (1985:122) and Pinnock (in Davis and Slabbert, 1985:32-33) recognise that as a result of certain social circumstances youth find themselves in conflict with the law. For example, a Cape Flats survey (in Davis and Slabbert, 1985) notes that as a result of the legacy of removals, poverty, unemployment and the breakdown of families, young people tend to join gangs in order to make friends, and to get a source of income and means of survival. This argument implies that juvenile offenders have their own specific needs and experience compared to adult offenders, and are vulnerable to delinquent conduct.

The above authors believe that the criminal justice system should not process juveniles in the same way as adults. Imprisonment of juvenile offenders does not curb crime nor does it prevent people from offending again. Instead juvenile offenders simply end up back in the system, often more brutalised by their experiences than before entering. This view is also contained in the White Paper on Social Welfare (Department of Welfare, 1997:160), which argues that the prevention of crime and recidivism is most effective when targeted at children and juvenile offenders. Miller (1993:655) argues that juvenile courts remain relevant and have the potential to undo the basic premises of the criminal justice procedure itself. Juvenile courts take into account the circumstances surrounding the offence and which resulted in criminal behaviour.

In this regard, a social worker in a juvenile court presents the social history of the offender. The social worker will carefully evaluate the social and personal

correlates and contribution in each individual offence with the purpose of solving these problems. This argument states that the social worker's perspective in the juvenile court, presenting the social history of the offender, challenges the criminal justice system's way of approach. This implies that the social worker should constructively assist the courts to take a decision that enhances the process of reintegration and crime prevention, rather than act in a manner which panders purely to matters of law enforcement.

4.4.1 Diversion from the criminal justice system

Diversion is the 'channelling of prima facie cases from the formal criminal justice system on certain conditions to extrajudicial programmes, at the discretion of the prosecution' (Muntingh and Shapiro, 1997:7). Diversion in South Africa is in line with the United Nations Convention on the Rights of the Child, the Beijing Rules and other international instruments. Young people should be diverted from the criminal justice system into effective programmes. Diversion should target young people who are not accused of serious crimes or young people who have not been prosecuted on more than two occasions.

The above authors acknowledge that diversion is not without weaknesses and a balance needs to be achieved between appropriate diversion and the idea of widening the net. They argue for the extension of the criminal justice system to persons who might not otherwise be captured, but as the system broadens its power to extra-legal standards of behaviour, it might be difficult to control. This suggests that the system must remain manageable, with the clear target goals. Therefore the control exercise of diversionary programmes should be limited to strictly curbing recidivism and should not embark on a moral process, specifying behaviour which falls outside the limits of the judicial process. In line with this argument the Report on the Pilot Projects (Report on the Pilot Projects, 1998:39) stresses that diversion options do not intend to make offenders less accountable for their actions but rather to provide offenders with the opportunity to rethink their lives without receiving a criminal record.

Muntingh and Shapiro (1997:8) suggest the following primary aims of diversion:

- ◆ To make offenders responsible and accountable for their actions.
- ◆ To provide an opportunity for reparation.
- ◆ To identify underlying problems motivating offending behaviour through personalised services provided by organisations such as NICRO.
- ◆ To prevent most first-time or petty offenders from receiving a criminal record and being labelled as criminals, as this may become a self-fulfilling prophecy.
- ◆ To provide educational and rehabilitative programmes for the benefit of all parties concerned.
- ◆ To lessen the case load of the formal justice system.

Muntingh and Shapiro (1997:14) postulate that diversion should play a key role in the juvenile justice system because it creates the opportunity for young people to repair the damage they have caused and to be accountable for their actions, rather than being labelled by a permanent criminal record, which becomes a self-fulfilling prophecy, making young people believe that they are bad and act badly as a result.

This view argues that diversion programmes should be premised on an understanding of the social background of the young people in order to meet their special needs. At present diversion programmes are limited, and young people who have been involved in violent and sexual offences are not considered for diversion, but are prosecuted by the court. The offence cases referred by the courts to NICRO in 1994-95 can be broken down as follows: 76,63% of cases referred were for property offences, 7,33% were for offences against a person, and 16,04% were for so-called victimless offences. NICRO has developed a number of diversion programmes, including pre-trial community service, victim offender mediation, family group conferences, a

lifeskills training programme called YES (Youth Empowerment Scheme), and an intensive and longer-term programme called The Journey.

In terms of The Journey programme, young people are linked to community mentors and go through a series of potentially life-changing experiences geared towards developing positive responsibility. Victim-offender mediation and family group conferences facilitate the meeting of victims and offenders. People from both sides are drawn in and a mediator facilitates discussion to repair the damage caused by the crimes and to find ways of preventing further offences.

4.4.1.1 Pre-trial referral

According to Van der Sandt and Wessels (in Muntingh and Shapiro, 1997:18-21), pre-trial referral mainly happens at the level of magistrates' courts. In this context the prosecutor, the investigating officer and the social worker should identify candidates for referral. Furthermore, a probation officer or social worker should assist young offenders and advise the prosecutor on their suitability for the programme. However, the process depends solely on the discretion of the prosecutor who decides which juvenile offenders can be referred for diversion.

4.4.1.2 Youth Empowerment Scheme

The Youth Empowerment Scheme should be used as a pre-trial option in order to avoid a criminal record at a young age, which could jeopardise an offender's future. It can also be used as part of a sentence. The Youth Empowerment Scheme is a lifeskills programme comprising six sessions per week. The programme motivates the young offender to behave within broadly acceptable societal norms in order to prevent further involvement in crime. Parents or guardians have to attend the first and last sessions. The Youth Empowerment Scheme provides an opportunity for young offenders to reflect on their behaviour and the consequences of their actions. This further involves that young offenders should constructively take responsibility for their

own lives. The programme should promote positive decision-making and the importance of behaving within acceptable societal norms.

Juveniles are encouraged to focus on the positive aspects of their personalities in an attempt to improve their self-esteem. This argument proceeds from the premise that juvenile self-esteem has been broken down by the crime, the events surrounding it and the family's and peer reaction. Another dimension is that juvenile self-esteem might be weakened not just by the crime and but also by events following it. There might be damage to an offender's self-esteem as a result of psychosocial factors and which existed long before the crime was committed. Social workers should therefore identify individuals, groups, families and communities which have potential conditions which might lead to crime, and target them for preventive actions, which include educational programmes and skills training processes.

Albrecht and Backes (1989:130) elaborate that juvenile justice does not only have the function of relieving the courts but also brings about more adequate solutions to the problems in the field of prevention than the criminal justice system will normally perform. According to this perspective, the motives of conflicts and offences should be located in a particular social context. A social worker will recognise the social facts of the offence and not reduce the case to those aspects which are relevant to judicial norms. Rather, social work practice in judicial proceedings begins to explore the circumstances of conflict or criminal offences on the basis of the sociostructural backgrounds of problems and the causes of offences. This includes, inter alia, taking into account the interests of victims (Albrecht and Backes; 1989;131).

4.5 Crime prevention through a victim-centred approach

The National Crime Prevention Strategy (1996:48) argues that the commitment to building popular respect for human rights of both victims and offenders can be achieved through victim-centred crime prevention. The civil society and agents of the criminal justice system should be mobilised around the victims of crime in order to enhance proactive crime prevention. The NCPS (1996) recognises that victimisation is concentrated among certain

sections of the population who tend to be victimised repeatedly. This view postulates that the best predictor of future victimisation is previous victimisation; hence it is proper to pre-empt certain forms of victimisation. This argument states that crime should be prevented through intervention constructed to protect victims and reduce vulnerability.

In this regard, a crime prevention programme should depart from the effective delivery of victim aid and empowerment. Such a programme should demonstrate that the human rights of victims are prioritised. Among other needs of victims, the process of counselling and access to information are central. Another dimension is presented by Camerer (1996:20), who notes that victim aid is often viewed as remedial rather than as an attempt to prevent crime. This argument postulates that victims at some stage are understood as rational actors who engage in a cost benefit analysis. This point further claims that victims are assumed to have some degree of responsibility for their own protection from victimisation. Victim status becomes a sign of failure to exercise reasonable care. Although this argument seems to warn against victim blaming, the central idea is to enhance a sense of responsibility. It promotes an awareness of the rights of victims to empowerment in order to enhance crime prevention in line with the idea of promoting genuine victim responsibility for an offender's welfare.

4.5.1 Social work therapeutic practice with the victims of crime

Zehr (1990:21) argues that the experience of victimisation is one that is particularly profound, even in relation to those offences that may be regarded as minor. Thus social work therapeutic skills should help victims to talk about their experience of victimisation. This includes the direct practice of social work where a victim should be respected as an individual who narrates his or her story of his or her grief experience, and in some cases feelings of guilt and self-blame. In this view social work has to help the victim to understand that what happened to him or her is wrong. Victims feel rage and anger directed at offenders, families, the justice system and others, and their status as victims can take over their entire identities for long periods.

In terms of this view and others, the experience of victimisation creates a certain range of needs for justice which can only be met by the fulfilment of some criminal justice process. Victims need to experience justice and to talk about their pain, suffering and losses. This involves therapeutic and material needs. A social worker should divert the victim's sense of guilt which he or she may have placed on himself or herself for having become a victim. This may involve public recognition that wrong has been done to them and that something has to be done to prevent such wrong from happening again. The process of assistance should objectively develop a working relationship and create an environment of understanding with reciprocal level empathy.

Social workers should listen and interpret the feelings of the victim in order to reflect empathically and demonstrate that the victim's innermost feelings are understood. For Zehr (1990), an empathetic response helps to demonstrate a sense of respect for others. For example, a victim will often need some respect because of his or her belief that the offenders have no respect for him or her. Therefore empathetic communication will heal the devastating experience that affects many areas of a person's life. Even minor offences can be deeply traumatic and life altering. Many can result in post-traumatic stress disorder.

4.5.2 Empowering victims

The National Crime Prevention Strategy (1996:20) regards the victim empowerment programme (VEP) as the key to enhancing sufficient recognition and services for victims in order to prevent retributive crime. In this regard, Camerer and Kotze (1998:2) are of the opinion that the victim empowerment programme departs from the idea that at present services to victims are fragmented. Hence the focus is on consolidating and strengthening the existing services. Therefore the VEP approach is based on the building and maintaining of a partnership between government, nongovernmental organisations and civil society at all levels. This argument postulates that the VEP works towards developing a deeper understanding of the plight of victims and strengthening resources in order to meet the needs of victims.

In line with the above argument, *Justice Vision 2000* (Department of Justice, 1997:42) recognises that the victim is reduced to a disposable witness in a case between the accused and the state. While the human rights of the accused are acknowledged, the human rights of victims are marginalised. *Justice Vision 2000* (Department of Justice, 1997) maintains that support services, involving medical services where necessary and rehabilitation services, are available to the accused and convicted person, but not to victims. Free legal services are provided for accused persons who cannot afford to pay for their own defence, but not to victims. The preventive mechanisms are inadequate and victims are often treated insensitively by service providers due to unsupportive attitudes and a lack of appropriate skills and knowledge.

Another concern raised around the plight of victims is that legal solutions largely suit the interests of the state as opposed to attempting to repair the actual damage occasioned upon the victim, whether directly or indirectly. In this view the state, through the prosecution and the judicial officer determines the remedy which is primarily directed at satisfying the state as representing society as a whole, rather than the specific victim and the family's victim. This point further states that the process limits victim ability to narrate their story and does not encourage informal dispute settlement. Thereby, it's fraught with the risk of upholding the law and not justice. In this context social worker, police and prosecutorial services should be adequately co-ordinated (NCPS, 1996:20; *Justice Vision 2000*, Department of Justice, 1997:42). In this regard, Camerer (1999:15), Cachalia and Holtmann (in Camerer and Kotze, 1998:11-15 & 29-32) argue that victim support services should be promoted in line with the international growing consensus on the rights of crime victims. Such rights of crime victims are as follows:

4.5.2.1 *The right to be treated with respect and dignity*

People who are working with the victims should be empowered and motivated to relate with compassion and understanding. Social workers and others should offer emotional and practical support on the basis of immediate needs. In this process the need for respectful treatment and protection of the dignity

of the victim remains valid. This right specifically refers to a situation where the victim has to identify the offender in terms of the information required during investigation and prosecution process.

4.5.2.2 *The right to receive information*

The victim needs to know what will happen, how and why it will happen, when it will happen, what will be required, who will be present. This view further states that the victim should be informed of the status of the perpetrator. This includes getting to know whether or not the offender has been arrested, charged, granted bail, sentenced, for example how long an effective sentence will be, and when parole will be granted.

4.5.2.3 *The right to legal advice*

In the process victims should be informed of their role and be guided on the basis of their rights and obligations. Victims should be helped to perform according to these rights and obligations. They should be made aware of their rights to access health and social services.

4.5.2.4 *The right to protection*

This involves protection of the privacy of the victim, family and witnesses who provide evidence on behalf of victims, and protection from intimidation and retaliation. It is recognised that the central role of victims as witness can only be required if they can be offered real protection. Victims and their families should not be exposed unnecessarily to further conflict. Another point is that informal ways for the resolution of disputes should be encouraged to promote conciliation and redress for victims.

4.5.2.5 *The right to restitution*

Victims should be repaid for expenses, provided with services, have rights restored where possible by the offender or responsible party. What has been taken from the victim should be returned. According to this view restitution

should be regarded as an available sentencing option in criminal offences in addition to other sanctions.

4.5.2.6 *The right to compensation*

Victims should be compensated for loss as a result of victimisation, regardless of the circumstances of the offender. The victim should receive material, medical, psychological and social assistance through a combination of state, parastatal and community based mechanisms in order to meet the needs of victims. The above rights should never be understood as absolute because in practice they can be very limited and at some stages be close to non existence due to lack of resources and the nature of the specific system.

4.5.3 *The therapeutic role of social work with offenders*

The therapeutic role of social work has been demonstrated in analysis of diversion programmes and juvenile justice processes. Social work intervention is central in pre-sentence processes as it influences the sentencing process in favour of the crime prevention process. Social work practice with offenders is more likely to affect future offending when this focuses on offenders' own perceptions of problems and needs. This view suggests that any progress made is likely to be in the direction of a person's own goals, or his or her own solutions to problems, rather than viewing the process as crime control (Raynor, 1985:37).

The above point maintains that correctional treatments point to some evidence that pre-release counselling in institutions can reduce recidivism. The counselling process should be geared towards the immediate problems confronted by those with criminal records who are trying to survive in the community. These immediate problems include housing, income, medical and family services. Berg and Shazer (1997:101) endorse the above position on the basis that the prison environment provides a better opportunity for the therapeutic practice of social work compared to the community. This view holds that the practice in this setting is focused and takes places under

controlled circumstances that promote accountability on the part of the offender.

This argument therefore emphasises that the assistance that individual counselling provides to offenders in the community is directed towards their immediate problems, which can be associated with a reduction of recidivism. The meaningful therapeutic practice of social work should focus on services which are sensitive to the needs of offenders rather than on a controlist perspective. This point suggests that in a social work perspective the problem should be identified by the offender; hence there is a need for focused and specific counselling methods.

According to Raynor (1985:45) social workers should demonstrate commitment to the process of assisting and recognise the perceptions of offenders in the process. This view argues that social work intervention, from the point of view of the offender, should influence sentencers to recognise that offending is not always a matter of voluntary choice. It is therefore important to encourage practice that recognises offenders' own decisions, because failure to recognise offenders' self-determination can cause the process to become a one-sided treatment model which focuses on a diagnosis approach. Raynor (1985:45) calls for concrete services which are relevant to people's needs. This view argues that in social work practice the voice of the offender should lead the process of meeting the needs. In this argument an individual might have little money, have a drug dependency and be unemployed, and individual psychotherapy geared at raising awareness of distorted thinking patterns can lead to limited progress. This suggests that in order for therapeutic interventions pragmatic orientation is required.

The above argument further calls for multifaceted interventions on the basis of collaboration, rather than one approach or method in the problem-solving process. For example, the social work counselling process should be empowering in nature and characterised by lifeskills and cognitive training. The probation services of social work could play a dualistic role which could provide a welfare service which could mitigate and humanise the impact of criminal justice for some offenders. Social work practice has to promote

conformity of offenders in order to accept authority and help to demonstrate that at least part of the criminal justice system is caring.

In this regard, Braithwaite (in Zehr, 1990) argues that social work therapeutic skills can be helpful in enhancing reintegrative shaming and accountability of offenders. Braithwaite (in Zehr, 1990) states that both retributive and restorative systems respond to crime by the shaming of offenders. In retributive justice systems the nature of shaming of offenders systematically stigmatises and degrades offenders. According to this argument, this leads to their social marginalisation and their adoption of deviant identities. Another argument presented by Braithwaite states that restorative justice can make shaming process that reintegrates offenders into their communities. This can be done by promoting responsibility by the offender for his or her actions to understand that he/she has done harm to others in order to make wrong right

The restorative justice process is fulfilled through showing disapproval for the actions of the offender and maintaining a relationship of respect and acceptance. In this view a social worker should create opportunities for offenders to accept responsibility for their actions and show remorse. In this case specific emphasis is placed on disapproval of the person himself or herself. Reintegrative shaming allows offenders to return to their communities, as opposed to stigmatising shaming which can delay the process. This implies that reintegrative shaming seek to moderate the behaviour, believing that people are not inherently criminal, but certain circumstances tend to influence the behaviour of the individual. Stigmatising shaming tends to focus mainly to the person and ignores social forces surrounding the person. Zehr (1990:112) associates this with the notion of informal control that can be exerted on offenders by the communities which can be more effective than the formal control of the state. Zehr (1990) maintains that harsh penalties, social isolation and public humiliation reduce the chances of offenders fully acknowledging their responsibility for an offence and making attempts to repair the damage done to others. This seems to lead to the deprivation of the right of offenders to take ownership for their offending behaviour and seek opportunities to change their status in society.

4.6 Victim impact statement in sentencing processes

The South African Law Commission (1997) acknowledges the importance of sentencing in order to improve the plight of victims of crime and promote the prevention process. Community participation, family and individual interest in the sentencing process is central to helping the offender take responsibility and abide by the norms of society. This includes the involvement of victims in the sentencing process, in the form of victim impact statements, victim-offender mediation and wider consultation between victims of crime and public prosecutors. In this process the victims will inform the court about their interests and rights.

In this regard, Henham (1998:592) adopts the view that enhances a rights-based approach in the sentencing process in order to prevent crime. This view exemplifies that there should be a balance between the interests of offenders, victims and community. Henham (1998:600) goes on to say that the notion of individual rights include the right not to be detained without conviction. This view further recognises the rights of victims to influence sentencing processes and to have their needs met by the offender and the criminal justice system.

According to Snyman (in the South African Law Commission, 1997), the victim impact statement, as presented by the victim and addressed to the presiding officer, should be considered in sentencing decisions. The victim impact statement consists of a description of the harm in terms of the physical, psychological, social and economical effect of the crime and for the future of the victim. It is argued that the victim impact statement takes the form of a written statement that should be presented to the court as part of the pre-sentence report. The statement can also take the form of an oral statement by the victim at the time the court makes a decision on sentencing. In other words, victims in some instances may provide oral information in court before sentencing.

The victim impact statement may include objective information, or both objective and subjective evaluation of injury, including psychological harm

suffered by the victim. But this point recognises that the content and implementation of the victim impact statement varies. For example, in the United States some jurisdictions require a written victim impact statement, attached either to the pre-sentence report or as an affidavit which becomes part of the court file. In this view the responsibility for the preparation of the victim impact statement is that of the prosecutor, the probation officer or the police and others.

Erez and Rogers (1999:227) postulate that the input of victims presents professionals with a sensitive picture of human suffering connected with crime. This argument assumes that sentencing processes could be influenced by victim's intervention. They argue that in some sentencing circles some practitioners believe that in the process victims could view sentencing as purely punitive, with retribution as the predominant factor. This view suggests that victims' input will be solely based on severe punishment of the offender, rather than examining the intricacies of the offence. For example, their interests might conflict with human rights-based sentencing which seeks to promote reconciliation between the offender and the victim.

4.6.1 Victim-offender mediation

Victim-Offender Mediation (VOM) is a process of facilitating mediation or communication between victims and offenders after an offence has been occurred. This seeks to promote wider victim participation in the justice system by permitting victims to take part in the resolution of the case. In the process of mediation facts, feelings and restitution are discussed. Mediation may be organised without face-to-face contact between the parties and one of its main aims is to redress the concerns of the victim. Mediation is considered appropriate when the offender and the victim wish to come to an agreement about the offender's future contact with the victim or the parties desire some form of compensation or reconciliation. This implies that parties should come together voluntarily, and some studies note that on some occasions victims refuse to meet offenders but the process of redress moves forward. Another view is that not all conflicts may be resolved through mediation, especially

violent crimes. Therefore studies suggest that mediation is relevant in property-related crimes.

The process has to address the needs of the victim and it may promote the restoration of the victim's losses. According to this analysis, restitution can take the form of monetary compensation, community service at an agency chosen by the victim or an apology by the offender to the victim. This point emphasises that through person-to-person communication tension can be alleviated and conflict takes a humanitarian form. Studies acknowledge that although VOM has been successful in criminal justice systems in Europe and North America, the conflict resolution that has been practised in African communities has been in the form of community courts (South Africa Law Commission, 1997; Muntingh, 1997:40).

Umbreit (1993:70) takes the above point further with regard to the process of mediation at the intake phase after the court has referred the offender. Most programmes accept referral after a formal admission of guilt has been entered with the court. But other programmes, according to Umbreit (1993), accept cases that are referred before formal admission of guilt as a different style of prosecution process. In the process of mediation the social worker has to explain his or her role, outline the agenda and the communication ground rules. In this view the focus has to be on feelings related to the crime. The process provides the victim with an opportunity to get answers to questions such as 'Why me?' and 'How did it happen?' (Umbreit, 1993:70). In the process the victim expresses feelings of anger regarding the offender's disrespectful conduct and to the criminal justice system for regarding them as mere evidence. Studies have shown that empowering victim-offender mediation is more effective than a control-based approach in dealing with the emotional needs of both parties. This requires broader involvement of family and community programmes.

4.6.1.1 Family group conferences

The South African Law Commission (1997) describes a family group conference as a meeting of the offender, the victim (if he or she agrees), the

family members of both, and a mediator. In this setting a plan for dealing with the offender is formulated. Family group conferences are mostly used to deal with juvenile offenders and may take the place of prosecution or take place prior to sentencing. It is regarded as a means to establish a greater amount of community involvement, hence its focus on reparation rather than retribution. This view argues that family group conferences are premised on the understanding that traditionally families and communities have dealt with offending and they are better placed to deal with this behaviour.

4.6.1.2 Circle sentencing

This option was first conducted in Canada in 1992. Circle sentencing is a community conference scheme which operates as a pre-sentence option for more serious adult offenders. Conferences are conducted with all participants arranged in a circle and take place within the context of court proceedings. Sentencing circles are open to the public and steps are taken to involve persons affected by the crime as well as those who can contribute resources to resolving the issues involved. In terms of the theory of circle sentencing a support group for both victims and offenders, usually relatives, neighbours and friends, should be encouraged from the early stages. A sentencing plan is devised and the offender's support group becomes responsible for the monitoring, implementation and review of the plan (South African Law Commission, 1997).

In this regard, Zehr (1995:11) recognises that the attempt to involve victims and offenders in the justice system has been shown as satisfying in many studies. For example, in the Victim-Offender Reconciliation Project (VORP) in the case of various countries both offender and victim would normally argue that they have experienced justice in their specific cases. But Zehr (1995) on the other hand acknowledges some weaknesses with regard to the role of the community and the family in sentencing. At some instances, family and community involvement is episodic rather than being structured involvement in the justice processes. Social workers should help to put in place justice structures in communities to enable processes of mediation to take place on an ongoing basis. The restorative justice theory regards sentencing to prison

as the secondary option, while the retributive theory of justice sees sentencing to prison as the primary option in order to deter people from crime.

4.7 Summary

This chapter presented the necessity for social work involvement in the prevention of crime within and outside the criminal justice system. This has been portrayed by placing the community at the centre of crime prevention. In this view the notion of community justice and community corrections are premised within the criminal justice system. Social workers in criminal courts and prisons are well placed to build strong links with the community to prevent crime and recidivism. It must be noted that counselling services to victims and juveniles, as well as helping the courts to understand the circumstances of the accused person, are of tremendous importance in the prevention of crime. It has been shown in the presentation that the needs and rights of victims need to be promoted in the criminal justice system. It is through a criminal justice system that is sensitive to the victim-offender relationship that social work can effectively contribute to crime prevention. The study of the literature is now complete, which has laid the basis for the next chapter on empirical work in the prevention of crime within and outside the criminal justice system in the Western Cape. The following chapter presents empirical work, research design and methodology.

CHAPTER 5

5 EMPIRICAL WORK: RESEARCH DESIGN AND METHODOLOGY

5.1 Introduction

This chapter describes the design of the empirical research, as well as the research procedures and methods utilised in the process of data gathering. Different research techniques were applied in the study and both primary and secondary data sources were used. It is at this level that the relevance of the methodological approach was put into practice. The collection of data was made possible by the systematic implementation of the research procedures.

Research techniques used for data generation were informed by the specific requirements of the study. It is important to state that research instruments used were those best suited to the purpose of the study. The data was presented in line with the themes in the questionnaire in order to promote a systematic process of comparing the different responses of the participants when interpreting the study.

5.2 Research design

This study is exploratory in nature (see chapter 1, 1.7). According to Grinnell (1997:136), and Babbie and Rubin (1997:108) the main aim of an exploratory study is to achieve familiarity with the phenomenon of exploring and to provide clarification of some phenomena where accurate information is needed. Babbie and Rubin (1997:109) state that the exploratory method of design is used when the researcher begins enquiry into a particular field. Babbie and Rubin (1997:372), Meares (1995:6), Garbers (1996:284) and Grinnell (1997:162) state that the nature of the study, problem or phenomenon should determine the selection of the research methodologies. They regard the qualitative approach as less superficial and less time-consuming because it provides the researcher with an opportunity to observe

and participate in the process. An exploratory design was used in this study to explore how social work could contribute to crime prevention as a function of the criminal justice system in the Western Cape. The researcher undertook to explore crime prevention within and outside the criminal justice system by developing the following broad themes from which specific questions were developed (see Appendix A):

- (a) General profile of interviewees
- (b) Crime dynamics in the Western Cape
- (c) Sentencing process and prevention strategies
- (d) Criminal justice matters and corrections
- (e) Community justice and prevention

The study was undertaken to explore how the criminal justice system can promote approaches that take into account the contribution of social work to crime prevention.

5.3 Background to the study

With respect to empirical research, primary data was gathered through observational enquiry and interviews. Grinnell (1997:162), Babbie and Rubin (1997:373) and Garbers (1996:284) regard observation, as a technique, as one of the most appropriate means of gathering data since it provides the researcher with an opportunity to participate directly in the process, unlike the quantitative approach which gives the researcher indirect involvement with a strong sense of comprehensive representation. The nature of the study was mainly qualitative and little in the way of quantitative data was generated in order to be analysed and interpreted. Several research steps were carried out, such as gathering background information, design of the data-gathering instrument, interviewing the respondents, administering the interview schedule, analysis and interpretation of the data.

At the same time that the information gathering took place, several visits were paid to the Wynberg magistrates' court to observe criminal court proceedings in both regional and magistrates' courts. The purpose was to observe in order to gain an understanding of how criminal courts function and of the procedures followed on a daily basis with regard to criminal trials. Two visits were also undertaken to the High Court in order to get a better understanding of the role and structure of the criminal courts, particularly in the Western Cape. The research technique of a structured interview schedule was used to generate data with regard to crime prevention within and outside the criminal justice system. An unstructured interview schedule was drafted with a view to gathering information on the structure of the criminal justice system in the Western Cape.

5.3.1 Interviews with officials and professionals

With respect to the structured interview schedule (Appendix A), both supervisors of the researcher approved the questionnaire. An official letter requesting permission for the research study was faxed to the departments and organisations together with the questionnaire and to the various participants in the study. The letter introduced the researcher and the aim of the research study. Prior to the scheduled interviews, a letter and questionnaire were faxed to each participant after telephone arrangements with the researcher. Telephonically the researcher further requested whether participants were comfortable with the interview being tape-recorded. The researcher used public transport and this was also conveyed to the interviewees to make sure that interviews were scheduled appropriately.

At this phase the participants were the following (see chapter 1, 1.6): a magistrate, a probation officer and one prosecutor, three social workers, mainly from the Wynberg magistrates' court, the National Institute for Crime Prevention and Reintegration of Offenders (NICRO), a social worker from Child Welfare, a police officer in the Stellenbosch area, three social workers from the Department of Correctional Services at Drakenstein Prison, a paralegal community worker from the Western Cape Anti-Crime Forum, which is a community-based organisation (CBO), and a community worker for the

Catholic Justice and Peace Commission, which is a nongovernmental organisation like NICRO. The interviews were meant to gather data on crime prevention within and outside the criminal justice system (see Appendices A and B).

It should be noted that additional research was undertaken in the form of an unstructured questionnaire interview, scheduled and conducted mainly with the purpose of gathering information regarding the structure and function of the criminal justice system in the Western Cape. Respondents included two senior magistrates in the Wynberg magistrates' court, an official of the High Court, an official from community and safety police, a NICRO senior researcher and an advocate from the Office for Serious Economic Offences. Other respondents included a media official from the Department of Correctional Services and an advocate at the office of the Western Cape Director of Public Prosecutions (DPP).

Before the interviews the researcher introduced himself to each participant while recognising that an introduction had already been done in the form of a letter. The researcher recorded the interviews with the permission of the participants for the purpose of data gathering. According to Babbie and Rubin (1997:392), when conducting qualitative, open-ended questions a tape-recorder is an essential tool in order to capture the verbatim account of participants (see Appendix B). Tape-recording also provides the researcher with an opportunity to listen carefully, to observe and to ask probing questions during the interview.

The scheduled interviews took one hour, as was decided at the introduction, although in some instances it took a few minutes more or less than an hour. After each interview the researcher would request the participant for one or two minutes to replay in order to make sure that the data had been recorded. It was also of vital importance to record the participants clearly in order to gain accurate data.

5.3.2 Interviews with victims and offenders

The interview schedule (Appendix A) was conducted with the victims of property and violent crime at the Wynberg magistrates' court. The researcher asked permission from the Chief Magistrate in order to get access to the participants. The request was in the form of a formal letter accompanied by a questionnaire. The magistrate summoned the prosecutor to assist the researcher while noting that the researcher's request would be determined by the complainants (court name for referring to victims) and whether they were willing to participate in the research study. Subsequently, the researcher was introduced by the prosecutor to the victims of robbery and relatives of a murdered person, who asked them whether they would talk to the researcher about the study. They agreed to be participants and the scheduled interviews with respective witnesses or victims were conducted at the office of the prosecutor at Wynberg magistrates' court. The respondents further agreed to the interviews being tape-recorded. In the process it was possible to assess the feelings of the interviewee and gain knowledge about crime and the criminal justice system through observation while data was recorded.

With regard to the interview schedule being administered to the victims of rape and kidnapping and to witnesses, the researcher was assisted by the social worker at the sexual offences court. The researcher and the study was introduced to the victims by the social worker, and they agreed to participate in the study. The interview took almost an hour at the office of the social worker at the Wynberg sexual offences court. The researcher's observation was that, although there were reports that the alleged perpetrators were in the foyer of the court, the data collection process was not hindered by this. Data gathered from the participants was accurate because they were familiar with the processes of the criminal justice system due to the lengthy nature of their cases.

An interview schedule (Appendix A) with two offenders was conducted in Drakenstein Prison. The researcher submitted a formal application to the Western Cape Department of Correctional Services to get access to offenders for data gathering. An application was accepted, and interviews scheduled

were carried out with the assistance of the head of social work services and social workers from the offenders' prison. The interviews were conducted at the offices of the respective social workers. The interviews were geared towards gaining a broader view of prisoners. The first interview schedule was conducted with a juvenile offender convicted for property crime, while the second interview schedule was conducted with an offender convicted for violent crime. Both interviews were worthwhile, with high levels of data generation. This might be attributed to the fact that both interviewees had served long periods of their sentence in prison. It must be noted that the researcher did not ask permission for the use of a tape-recorder, and data was written down in a notebook. Babbie and Rubin (1997:393) regard note-taking as an important research tool in data gathering which can suit different contexts and which can allow the researcher to raise the pace of the interview process.

5.4 Instruments, sampling, administration

The research instrument was designed with a view to obtaining data on issues affecting crime prevention inside and outside the criminal justice system. The research instrument was structured in such a way that specific questions could be phrased to gain a broader view of the crime situation in the Western Cape (Appendix A). The research instrument dealing with crime prevention outside the criminal justice system was mainly phrased in a direct way. This was meant to generate information on the role of social work in crime prevention. Both styles of questionnaire were guided by five sections on crime prevention within and outside the criminal justice system (Appendix A).

In order to obtain the required information, and taking into account the nature of the study, questions were mainly open-ended, with only a few closed questions. Grinnell (1997:228) states that open-ended questions tend to allow the respondents to respond in great detail and add value to the data. In this regard the open-ended questions were asked to provide participants with an opportunity to express themselves in detail on aspects of crime prevention and the criminal justice system.

The research instrument consisted of several pages, and is contained in the appendix. The research instrument consisted of simple questions on how people perceived crime and the criminal justice system. The instrument was administered during a face-to-face interview and the interview schedule required no longer than approximately one hour. The copies of the research instruments were numbered in order to ensure the smooth processing of the gathered data. The research instrument was pre-tested on students of social work and sociology, mainly with regard to its approach and the time it took to complete, after which it was adjusted.

5.4.1 Design of questionnaire

The design of the questionnaire (Appendix A) was informed by the purposive sampling. The first phase of the questionnaire was phrased mainly with structured, open-ended questions to capture the broader views of participants. The focus was on crime prevention within the criminal justice system in the Western Cape. The structured, closed questions were mainly contained in the section on a general identifying profile. The second phase of the questionnaire was phrased mainly in order to generate data from each participant on crime prevention within and outside the criminal justice system (Appendix A).

5.4.2 Sampling

Sample selection consisted of two phases in an attempt to fulfil the aim of the study. The first phase focused on the variety of role-players in the criminal justice system in the Western Cape. As has been explained (chapter 1, 1.6), the phases should not be seen as separate entities but rather constitute aspects of the study informed by the objectives (1.5, 2, 4, 5, and 6) of the research study. The purpose of the selection of the sample was to gather information from key people involved in the prevention of crime within the criminal justice system in the Western Cape (Appendices A and B). In order to gain a broader understanding of the function and structure of the criminal justice system with regard to crime prevention, particularly with respect to the role of social work, questions were phrased with the purpose of generating a

wider viewpoint with regard to the Western Cape situation (Appendix A). Grinnell (1997:162) states that in purposive sampling, researchers use their own judgment in order to select the sample on the basis of a small number of key persons who can give information and a broader picture of the situation. In line with the aim of the study, the first phase of the sample consisted of the following participants: a magistrate, a probation officer, a prosecutor, a police officer, three victims and two offenders. At this phase participants consisted of nine respondents for the purposes of gathering the data on crime prevention within the criminal justice system.

The second phase of the purposive sample was geared towards gathering data on crime prevention within and outside the criminal justice system. The purpose of selection in this phase (see 1.5 - Objectives) was specifically to determine how social workers regard their role in crime prevention from the viewpoint of the social work profession (Appendices A and B). The sample consisted of the following participants: a juvenile court probation officer, a children's court social worker, a sexual offences court social worker, three NICRO social workers, a Child Welfare social worker, three social workers from Drakenstein Prison, a community worker from the Catholic Justice and Peace Commission, and a paralegal community worker from the Western Cape Anti-Crime Forum. The sample at this phase consisted of twelve participants.

The total number of participants from whom data was gathered on crime prevention within and outside the criminal justice system in the Western Cape was 21. Babbie and Rubin (1997:373) state that the qualitative approach focuses on a sufficient number of participants rather than a large quantity. This suggests that the involvement of a strategic number of social workers outside and within the criminal justice system necessitated mainly a qualitative rather than a quantitative approach. This approach helped the researcher not only with direct participation and time management but also to come to grips with some philosophical questions regarding the study. This was to promote an understanding of the intervention of social work outside and within the criminal justice system in the Western Cape in crime

prevention. More importantly, because of the different locations of participants it was necessary for the researcher to administer the research process.

5.4.3 Administration

The empirical work was carried out between May and August 2000. The interview schedule was designed in such a way that the participants would first be asked general questions and then move towards complex questions as the interview proceeded. The interview process was facilitated by the official letter of request from the university, which was concise in introducing the researcher and the study to the participants. Ethical matters and matters of human rights were recognised and taken into account in the sense that consent had to be given by the participants. The participants were assured that their participation was respected and the identifying profile section did not include their names and home address details, because that was confidential (Appendices A and B). Participants were treated as anonymous respondents. Their names and contact addresses were required by the researcher for the purposes of a check-up and possible follow-up in case there was missing information or gaps in the data or the questionnaire. The research was carried out during the week, at a time most suitable for the participants.

5.4.4 Quality control

The researcher enhanced quality control by making sure that the respondents had a full grasp of the questions in the questionnaire. This was done through faxing questionnaires from the Department of Sociology to the participants. More importantly, with respect to the participants within the criminal justice system it was of vital importance for participants to receive the questionnaires as early as possible to allow discussions. For instance, the magistrates, probation officers, prosecutors and police officers had to choose one respondent to act on their behalf. After faxing the questionnaire, the researcher would follow this up telephonically to establish if the questionnaire was received. In the interview schedule the researcher would clarify the questionnaire and go over various themes with the participant before the actual interview. When the interviews were finished the researcher would

replay the tape-recorder with the participant for two minutes. The researcher transcribed the verbatim account of the recording on paper to document recorded data. This was a quality control mechanism to ensure that quality and accurate data was gathered from the participants. Babbie and Rubin (1997:177) associate this mechanism with reliability and validity in the interview process and data gathering.

5.4.5 Data processing

The data was processed in line with the structure of the questionnaires to make sure that it could be managed. The open-ended questions were coded and categorised to enable the researcher to compare the different responses of the respondents. The frequency of respondents' responses was established. In this regard, various procedures (see chapter 6 and 7) were utilised to analyse and interpret the data.

5.5 Analysis and interpretation of data

The study was mainly a qualitative one, which required systematic analysis and interpretation of the data. The open-ended questions were grouped into categories to allow proper comparison and inferences. For purposes of comparing responses to different questions, bivariate and multivariate distributions were drawn up. According to Babbie and Rubin (1997:473) bivariate and multivariate analyses are appropriate for the analysis of particularly philosophical questions. The interpretation of the empirical findings was informed by the frequencies of the different responses of the participants (Appendix B).

5.6 Summary

This chapter presented the details of how the research was carried out. Chapter 5 has generated a significant level of comprehension in the researcher since the research process had to germinate from a proper grasp of the research method and design (chapter 1, 1.7). This chapter described the two phases of the empirical research study on crime prevention as a build-up in order to add value to the process of data gathering. It has brought an

understanding and deeper insight into crime prevention within and outside the criminal justice system in the Western Cape through the guide of research principles. The role and function of the criminal justice system in the Western Cape have been explored through proper research design. Through the use of research instruments and sample selection significant information from the respondents (Appendix B) was gathered by the researcher, which has been synthesised with the literature study. Such information on how the contribution of social work to crime prevention is perceived within the criminal justice system has been used in the design and generation of recommendations for the role of social work inside the criminal justice system. These recommendations are presented in chapter 8. Chapter 6 focuses on presentation and analysis of data.

CHAPTER 6

6 PRESENTATION AND ANALYSIS OF DATA

6.1 Introduction

This chapter presents a data analysis of the empirical research on crime prevention within and outside the criminal justice in the Western Cape. The research was designed in a way that permitted the data to be analysed using a multivariate approach. This chapter lays the basis for deeper interpretation. The chapter presents the data systematically, using a multivariate approach by categorising the different responses of the respondents to key questions (Babbie and Rubin, 1997:480). The classification of the qualitative data promotes a significant level of understanding, familiarity and synthesis rather than just interpretation.

The data is presented in this chapter according to the sections and key questions of the interview schedule (see Appendix A). Questions were designed in a manner that made provision for major categories, apart from the data on the general identifying profile of participants, which was presented and analysed mainly through closed questions. This will be followed by categories and major questions pertaining to crime prevention within and outside the criminal justice system in the Western Cape (see Appendix A and B).

6.2 General identifying profile

Most respondents were asked their organisation's address or their workplace address and other particulars in order to know them better, more importantly with respect to their background and to place their responses in a proper context (see Appendix A, A). The majority of respondents were social workers within the criminal justice system and a few operated outside the criminal justice system (see Appendix B). As already noted, the respondents were mainly from the Wynberg magistrates' court, and included senior magistrates,

probation officers, prosecutors, social workers. Other respondents were police officers and a Child Welfare social worker in the Stellenbosch area, NICRO social workers in Woodstock and Mitchells Plain area and correctional social workers at Drakenstein Prison. Most of the respondents were relatively experienced although a few respondents had only one year's experience in the field of crime prevention and the criminal justice system.

Respondents who were victims of violent and property crime and offenders were asked their area addresses to determine if they were from communities associated with high levels of crime. Victims of murdered person were from Steenberg, victims of rape and abduction were from Ocean View, while victims of robbery were from Retreat. All the victim respondents were encountered at the Wynberg magistrates' court because their respective communities fall under the Wynberg magisterial district. Most of the victim respondents were female and under 20 years of age with school education, except the respondents who were the parents of a deceased 7-year-old child, who had little education. All the victims who participated said the accused persons or perpetrators were known to them before the incidents.

Both respondents who were offenders were from Drakenstein Prison in Paarl. One respondent was a male juvenile from Khayelitsha serving a sentence of six years for housebreaking in 1997. The other respondent was a male from Lambert's Bay who had been convicted previously for assault and had been sentenced to three months' imprisonment. For the present sentence the respondent was convicted in 1986 for two counts of murder and received a double death sentence. At present the respondent is serving a life sentence because the death sentence was converted to double life sentence. The respondent lived on death row for two years in Pretoria Maximum Central Prison. At the time of his conviction the respondent was 17 years and later the court handed down the double death sentence when he was 18 years old. It must be noted that both juvenile respondents were juveniles at the time of their conviction for serious offences. This further shows that serious offences are committed by young persons (see Appendix B, A).

6.3 Crime dynamics in the Western Cape

Most respondents within and outside the criminal justice system perceive crime to be on the increase in the Western Cape at present (see Appendix B, B. 2.). Characteristics tended to be seen in the form of vigilantism and gang-related crimes, particularly on the Cape Flats and in the metro areas. The types of crimes mentioned by the respondents as being prevalent in many areas broadly ranged from shoplifting to theft, robbery, assault, rape, kidnapping, murder and other crimes. The respondents who are social workers in prisons, as well as offenders reported a relatively low incidence of crime in prisons, and this crime took the form of common crime. These crimes include assault, theft, drug smuggling, gangsterism and gang recruitment. Prison respondents attribute most of these common crimes to a lack of family financial support and frustrations. Most of the respondents within and outside the criminal justice system associate the causes of crime with a lack of proper education, drug and alcohol abuse, unemployment, low self-esteem, peer pressure, lawlessness, and lack of proper investigation. Causal factors were understood by the respondents to have come from different angles (see Appendix B, B. 2.1).

6.4 Definition of crime

Respondents were asked to define crime (see Appendix A, B. 2.1). The majority of respondents, particularly social workers and other officials within the criminal justice system, responded in legalistic terms (see Appendix B, B. 2.1). They define crime as an unlawful act, violation of the law or a breakdown of law and order, which must be punished by the courts because it is against the laws of the country or state. A minority of respondents responded differently, including victims and offenders. One social worker, two community workers and victims of violent and property crime saw crime as the violation of people's dignity, harm to people and the community. When the respondents were asked what type of sentence should be imposed and by whom, they responded that offenders must be punished by the criminal justice system in a manner that accommodates community needs and victims. In this definition, people's needs come first, followed by the sentencing process.

Respondents who were offenders involving both property and violent crime did not perceive crime as law-breaking, or aimed against people or the laws of the state (see Appendix B, B. 2). Respondents who were offenders involving both property and violent crime they defined crime as a way of life in order to meet their needs. This definition suggests that these offender respondents are aware of crime and its consequences but their thinking and conduct is based on satisfying their needs and interests (see Appendix B).

6.5 Prevention strategies

A significant number of respondents viewed better policing with community partnership as the most effective prevention strategy to crime (see Appendix B, C. 3.1, 3.3). However, social worker respondents emphasised the need to build a community network and awareness programmes. Most respondents indicated that community courts and other prevention measures should be encouraged, particularly for minor disputes and crimes, to reduce backlogs in the formal criminal courts. Most respondents were asked what was required of the court in order to secure a conviction of the accused person in the prevention of crime. Social workers and other respondents mainly felt that there should be proper investigation by social workers and police officers in order to present enough evidence before the courts. They argued that it was through sufficient evidence that the courts were able to conduct successful prosecutions in order to convict and sentence the guilty person. Most respondents recognised the crucial role of the victims, witnesses and the community in bringing the information to the attention of the police. A minority of respondents felt that more prisons should be built in order to reduce overcrowding in prisons and for rehabilitation services to occur in line with the prevention of crime. The majority of respondents did not simply want victims, witnesses, and the community to be contacted when the courts and the police required information, but also to be involved in sentencing and other processes (see Appendix B, C. 3.1, 3.9).

6.6 Sentencing

The majority of respondents believed that levels of crime were influenced by sentences handed down by the courts at present. A significant number of respondents believed that sentences handed down by the courts were too lenient and did not match the severity and the crime committed by the convicted person and that accused persons were granted bail too easily (see Appendix B, C. 3.2). This position was strongly presented by victim respondents and half the number of social workers, whereas the rest of the social workers, the magistrates and other participants thought that present sentences handed down by the criminal courts better suited the crimes, unlike three years ago. Although there was no specific question on capital punishment, a significant minority thought that the death penalty should be reintroduced for serious heinous crimes such as rape and murder (see Appendix A and B, C. 3).

Most respondents felt that courts should impose harsh sentences involving imprisonment for serious crimes such as rape, murder and armed robbery, even if the offender was a juvenile, while with regard to petty crimes such as shoplifting and theft they believed that courts should look to non-custodial sentences or community-based sentences (see Appendix B, C. 3). With regard to the diversion of juveniles convicted for petty crimes from the criminal justice system in order to prevent them from re-offending through educational programmes about the law, skills training and the building of self-esteem, self-respect and respect for others, most respondents who were probation officers and prosecutors applauded the process of diverting minor offences committed by children away from the criminal courts. They believed that it gave the first-time offender a chance to restore his or her dignity, to make wrong things right and to take responsibility for his or her actions. They further stated that one of the problems was that once a young person was prosecuted in a criminal court he or she adopted new perceptions and regard himself or herself as a criminal. In this view diversion is regarded as an appropriate sentence for minor offences committed by children for the first time.

When asked how a social worker's or probation officer's report could help the courts in the sentencing of the accused and the prevention of crime, the majority of respondents believed that a social work pre-sentence report had to focus on the personal and social circumstances of the accused person (see Appendix B, C. 3.4, 3.5). Each case must be judged on merit and therefore the social worker has to investigate the family and social history of the accused person to help the courts better to know the circumstances of the accused. They believed that the report of a social worker and recommendations could add value to the evidence before the court during sentencing. Most respondents thought that the most key area for a contribution by social workers or probation officers was at the level of the juvenile courts which deal with juvenile offences with regard to sentencing (see Appendix B, C. 3). A significant number of respondents further argued that each crime has its own specific circumstances, which requires social workers to be effective in helping magistrates with sentencing, because they know the community circumstances where crime occurs better. Respondents who were magistrates and probation officers concurred that they do not always agree with the recommendations presented by the probation officers, because sometimes the pre - sentence report is not comprehensive enough or does not capture legalities and certain circumstances required by the Bench (see Appendix B, C. 3).

When asked whether the victims should be part of the sentencing of the convicted person to further the prevention of crime, the majority of respondents believed that victims should be involved in the sentencing process. But this is not to suggest that victims should be part of the Bench. A minority felt that victims were involved when they testified before the courts and further involvement might delay the court proceedings. Another crucial point presented by the majority of the probation officers, social workers and a few other participants was that victims might be vindictive.

When asked to what extent the victim could be involved, many respondents felt that those who had suffered serious crimes should be psychologically prepared and be consulted about the status of the case (see Appendix B, C,

3.5, 3.8, 3.9). They argued that, at the discretion of the courts and based on the seriousness of the offence, the victim should be permitted to express a wish on the type of sentence. On the other hand, many respondents were concerned about the courts' postponement of cases with respect to the needs and rights of the victims which have to be respected. Other social worker respondents felt that the involvement of the victim could delay the court proceedings. The majority of respondents believed that most victims might seek revenge and be less legalistic in the sentencing of the accused person. Significantly, most victims did not purely express interest in direct sentencing of the accused but rather wanted to be informed about how the case unfolded and witness justice carried out by the criminal justice system (see Appendix B, C. 3.2).

6.7 The purpose of the criminal justice system

All respondents were asked about the purpose of the criminal justice system (see Appendix A). Most respondents, particularly social workers, magistrates, police officers, prosecutors, NICRO social workers and prison social workers believed that the purpose of the criminal justice system was to keep or maintain law and order. Offenders similarly associated the purpose of the criminal justice system with punishment. Other respondents from the NGO and CBO sector felt that the purpose of the criminal justice system was to deal with the accused and the victim in a fair and just way. Victims similarly felt that the purpose of the criminal justice system was to protect people from crime or criminals (see Appendix B, D. 4).

When they were asked whether the involvement of social workers in the criminal proceedings should be at the discretion of the courts or should be a more structured, standing requirement, many respondents felt that the involvement of social workers in the criminal courts should be a standing requirement (see Appendix B, D. 4.1). They argued that social workers should help the magistrates to be better acquainted with the circumstances of both the accused and the victim, in order to present a balanced report and recommendations for the courts to take an informed decision in sentencing the accused person. According to the respondents, the shortcoming of this

idea would be the lack of personnel and recruitment of more social workers in the interests mainly of victims. A minority view felt that it should be at the discretion of the courts to involve social workers in their proceedings (see Appendix B, D. 4.1). This view argues that courts are presumable aware of the circumstances of the victims on the basis of the seriousness of the offence. These respondents believe that when the magistrate is handing down a sentence for serious offences he or she addresses the court and states that the offence has caused an effect to the victim and therefore the convicted person has to be punished.

6.7.1 Punishment or prevention

When asked to comment whether the criminal justice system was currently based on punishment or prevention, few respondents who are social workers and magistrates believed that the criminal justice was currently based on both punishment and prevention (see Appendix A, C.3 and B, C. 3). They thought that the criminal justice system took into account several sentencing options and the specific circumstances of the offence but tended to focus on punishment rather than prevention. On the other hand, the majority of social workers, offenders and other respondents felt that the criminal justice system was mainly based on punishment. They believed that elements of prevention were evident, particularly with the diversion of children charged with shoplifting and other minor crimes away from the criminal courts. Most respondents generally felt that most noncustodial forms of sentencing were not explored by the courts, and that the courts mainly imposed custodial sentences, even in cases where they could have looked for other sentencing options. Respondents further stated that the criminal justice system did not have its own prevention programmes except for referral services.

A significant number of social workers, victims and other participants felt that the preventative criminal justice system would be sensitive to the emotional and material needs of victims. Other respondents, particularly from NGOs and CBOs, felt that the present criminal justice system sought to find the accused person guilty on behalf of the victim without knowing his or her needs (see Appendix B, D. 4.5). They stated that some victims of rape might not be

interested in sending the perpetrator to jail. While the perpetrator is taken to jail, they might ask: "What about us? Is it not possible to get access to AZT treatment and to assess if HIV/AIDS was not transmitted by the rapist?"

Most respondents, including prisoners, felt that prison overcrowding and awaiting-trial prisoners, particularly juveniles, suggest that the criminal justice system is based on punishment (see Appendix B, C. 3.2). Many respondents thought that the criminal justice system had to be sensitive to the needs and rights of the accused to a fair trial. They felt that awaiting-trial periods for juveniles took a long time, even for minor offences, because of the fact that the investigation process was premised on the presumption that the accused might be linked to other offences.

6.8 Corrections

The majority of respondents believed that most prisons in the Western Cape are overcrowded (see Appendix B, D. 4). Most respondents argued that effective rehabilitation services by social workers seemed to be difficult under overcrowding conditions in many prisons. Social workers at Drakenstein Prison were generally positive about their rehabilitation role, due to the lack of overcrowding in many of their prison cells. Prison social workers stated that rehabilitation services were rendered on the basis of prisoners' sentences. If the sentence was shorter they involved the prisoner in far more programmes before his or her release, while if it was a longer sentence, programmes tended to be applied infrequently. Respondents felt that it was difficult concretely to evaluate the effectiveness of the rehabilitation services because offenders tended not to co-operate at the early stages of their sentence, then behave better towards the end of their sentences. They argued that it was not clear whether their behaviour was motivated by a desire to qualify for parole.

Prisoner respondents similarly thought that inmates tended to behave themselves when they were about to finish their sentences while they were difficult at the early stages of their sentences. They argued that it was difficult to attribute their observations to rehabilitation services. Many respondents perceived the age element as a contributing factor to rehabilitation services in

the sense that young offenders tended to respond more positively than their counterparts. Social workers, prisoners and other respondents thought that rehabilitation services should not be carried out only inside prison. Most respondents felt that community corrections should be encouraged to facilitate a process towards adjusting ex-prisoners into the community. They believed that stereotypes and labelling approaches to parolees and probationers should be eliminated at community level in order to promote the prevention of crime (see Appendix B, E. 5.1).

6.9 Community justice and prevention

Respondents who were prisoners believed that various rehabilitation programmes took into consideration the specific offences and duration of sentence of a prisoner (see Appendix B, D. 4.2, and 4.3). Respondents stated that therapeutic group skills were taught, as well as conflict resolution for violent offenders, sexual programmes for sexual offenders, community corrections and others. Respondents from NICRO, the Western Cape Anti-Crime Forum, the Catholic Justice and Peace Commission and police officers stated that their projects involved community courts, community policing forums, Neighbourhood Watches, street committees, skills training, the reintegration of offenders, and pre-trial services, specifically those rendered by NICRO, while social workers in formal courts and from Child Welfare stated that their agencies were involved in child sexual abuse forums or protocols. The majority of respondents believed that community involvement and participation was difficult. Most responded that communities tended to be involved when crime affected them directly (see Appendix B, E. 5.2).

All respondents generally felt that families should support the accused, the victim and the sentenced member. Many social workers, prosecutors, magistrates and other respondents believed that a meeting between victim and offender as part of crime prevention and reconciliation could be facilitated, depending on whether the parties were willing to meet. They believed that informal ways of resolving conflicts, even minor crime, could reduce the burden of the formal criminal courts. Some of the victim respondents were willing to meet their offenders, while others were not. While

some respondents who were offenders were not willing to meet their victims, others had no objections to a meeting. Those offenders who did not want a meeting had fears about how the crime was viewed by the victim and punishment imposed by the courts on them. They felt that they were sorry about their actions and could not become involved again in criminal activities. Those victims who wanted a meeting wanted to ask certain questions or just observe the occasion of meeting the offender. Others from both sides were undecided (see Appendix B, D. 4.5).

6.10 Summary

This chapter presented data analysis on the prevention of crime within and outside the criminal justice system in the Western Cape. The presentation focused on major questions to grapple with an understanding of social workers, criminal justice officials, community workers, victims and offenders in the prevention of crime as a function of the criminal justice system. This chapter tried to present the responses of different respondents and locate these into their proper perspective. This lays the foundation for an interpretation within the scope of the presented analysed data. The next chapter focuses on the interpretation of the research findings of the study.

CHAPTER 7

7 INTERPRETATION OF THE RESEARCH FINDINGS

7.1 Introduction

This chapter deals with the interpretation of the research findings in the prevention of crime within and outside the criminal justice system in the Western Cape. The analysis will compare and interpret different responses with respect to specific categories and themes. This will serve as a guide and enhance a deeper analysis of crime prevention within and outside the criminal justice system. It must be noted that the research findings should not be interpreted separate from the literature study in order to meet the aim of the study. The interpretation of the research study should follow the trend of the participants' responses.

7.2 General identifying profile

All the respondents presented their general identifying profile and some closed questions were asked to the respondents. This was meant to better understand the background of the respondents in line with the research study. Based on this information with respect to prisoner respondents, it must be noted that there are serious offences committed by persons under the age of 18 years who are convicted by the courts. This has far-reaching implications for how the criminal justice system should deal with young persons convicted for offences. Both offender respondents felt very sorry about their crimes. More significantly, the respondent who lived on death row for two years felt that the life imprisonment sentence give him hope and a chance of retaining his dignity, of reflecting on his conduct and of returning to society as a full participant. The respondent stated that living on death row was a terrible and traumatic experience. From the day the judge handed down the sentence of death he was not sure in his cell whether prison warders were about to take him to the gallows in order to be hanged to death. The respondent experience

on death row agrees with the argument advocated by Van Den Haag (in Van Den Haag and Conrad, 1983) on the effect of capital punishment to the convict to inflict pain and fear for execution. The experience of the respondent suggests that the death penalty inflicts pain and is one of the most harsh forms of punishment. While it is theoretically meant to take the offender away from society for life, and to act as a general deterrence to crime, it also stigmatises and depersonalises the offender as a person whose conduct can no longer meet the expectations and general rules of society. This point and the experience of the offender respondent converge with the theory and argument against the death penalty by Makwanyane (1995) and Chaskalson (1995) that the death penalty is a cruel, degrading treatment and is a violation of human rights and human dignity.

Another meaningful point was stated by the victim respondents regarding the fact that the accused or perpetrators were known to them before the crime was committed. This point agrees with the findings of the National Victim Survey (10 December 1998).

7.3 Crime dynamics in the Western Cape

Most respondents perceived crime to be on the increase, including the incidence of violent crime, in the Western Cape. The high level of crime in the Western Cape was identified by respondents to be prevalent mostly on the Cape Flats and in the metro areas. Many respondents saw the crime in the metro areas and on the Cape Flats areas of the Western Cape as being gang-related and taking some form or characteristics of vigilantism. The increase in the incidence of crime in the Western Cape is confirmed by the Monthly Bulletin on Reported Crime in South Africa (January – May 2000) of the Department of Safety and Security (see chapter 1 of the thesis). In the report specific types of crime which are on the increase include, inter alia, housebreaking - residential, housebreaking - business, murder and attempted murder. Compared to other provinces the Western Cape has the highest incidence of mostly violent and property crimes.

Most respondents in prison acknowledged the incidence of crime in prison, although this was not on the increase. Respondents in prison perceived drug smuggling, theft and common assault to be the most common crimes among the inmates. Respondents in prison recognised gangsterism and gang recruitment to be common mostly among juvenile inmates. The majority of respondents suggested that people were aware about the levels of crime and its causes. Respondents associated causes with lack of investigation and proper policing, drug and alcohol abuse, unemployment and lack of proper education. A significant number of respondents stated that it was difficult to say that social factors had a causal effect with regard to specific crimes. This indicates that not all crimes are viewed as the result of social factors. There are crimes of negligence and disrespect for the law and human rights, as demonstrated by the incidence of vigilantism. This point is captured by the National Crime Prevention Strategy (1996:18) and Coleman (1985:7) regarding the idea that hunger, unemployment and homelessness do not necessarily lead to criminality, while other types of crime include white-collar crime which tends to be committed by the elite, rich and powerful people. Understanding diverse views on the nature and causes of crime can promote effective combined strategies of crime prevention.

7.4 Definition of crime

Most respondents within the criminal justice system defined crime in legalistic terms. They perceived crime as an intentional unlawful act against the state or country or as law-breaking which has to be punished by the courts. This definition may hinder other actors involved in the act of crime such as victims, offenders and the community. The approaches to crime prevention will tend to be based on law enforcement rather than combined preventative programmes that impact on the main actors in the crime act. This argument is endorsed by Considine (1999:18) with regard to the idea that a legalistic understanding of crime endorses punishment as the main approach in the prevention of crime. The other conceptions of crime that are nonlegalistic are relegated to an inferior position or forgotten by the proponents of this definition, in the name of the law.

Other respondents who held a minority view were mainly from outside the criminal justice system. They defined crime as the violation of other people's rights and their dignity. A similar response was given by the victim participants who defined crime as a harm or wrongful behaviour against other people. This indicates that feelings, rights and relationships are central to this group of respondents. It is a kind of relational definition. Most victims of property and violent crime conceived crime as something perpetrated against them by offenders. This suggests that victims did not believe that crime was committed by offenders against the laws of the state. While most offenders of property and violent crimes responded that they did not conceive crime as against people or laws of the government, they perceived crime as a way of life to satisfy or meet their needs. This conception of crime suggests that an understanding of the different respondents' views on crime can enhance effective prevention strategies and reduce one-sided approaches to crime. The above conceptions to crime resemble the major arguments of the criminal justice paradigms described by Howard Zehr (1995).

7.5 Prevention strategies

Many respondents regarded better policing with community partnership of vital importance for an effective prevention strategy. A large number of social worker respondents thought that building a community network and prevention programmes enhanced the involvement of communities against crime. This suggests that the community requires to be organised and not to be taken for granted in the task of crime prevention. Taking cognisance of policing, together with community partnership educational programmes on policing, could minimise perceptions of prevention as only the task of the police. Through community partnership the police can improve the operational effectiveness of its detective services. Respondents further indicated that effective prevention strategies could not occur through sectional approaches to crime, but that this required co-ordinated and holistic programmes. This point is captured in the literature review (National Crime Prevention Strategy, 1996).

Many respondents regarded community courts as a preventative strategy to reduce the numbers of cases tried in the formal criminal courts. If there is a bundle of criminal dockets then courts tend to postpone hearing of cases persistently. This situation tends to affect levels of crime reporting to the police stations and confidence generally decreases in the criminal justice system. Respondents who were magistrates and prosecutors mostly placed much value on the police and social workers in their investigation role for specific cases. Courts delays also suggest that the fact that cases of the complainants end up in courts does not guarantee a prosecution process. Some cases get closed or postponed because there is not enough evidence. This suggests that investigation officers should be skilful and build strong links with the community. The criminal justice system can develop harsh measures on sentencing but if there is a lack of evidence to secure prosecution and in the end it would be impossible for the courts to convict the accused person. This dilemma is captured in the report of the Western Cape Director of Public Prosecutions (1999:40). The DPP report (1999:96) further recognises the ineffectiveness of the witness protection services in promoting the gathering of evidence and protection of witnesses.

7.6 Sentencing

Most respondents placed great value on the influence of harsh sentences as an effective strategy to prevent crime. This position is difficult because most perpetrators seem not to be arrested, nor convicted and sentenced by the courts. This is due to a lack of successful investigation and lack of evidence for proper prosecution. This is also evident in the report of the Western Cape Director of Public Prosecutions (1999:90-93) regarding the fact that in some courts there is a general decline in the conviction rate followed by increasing numbers of outstanding cases. It is not so obvious that tougher sentences could directly impact on criminal conduct. Another view was presented, mostly by social workers in courts and magistrates, indicating general satisfaction with the recent proportional sentences handed down by the courts.

The above shows that court officials might struggle to meet the concerns and interests of those who are outside the criminal justice system. For example,

probation officers, social workers, magistrates and prosecutors are charged with the task of upholding legal facts, the circumstances of the offence and theories, while at the same time they should take into consideration the genuine needs and interests of victims, offenders and the community. This requires the highest levels of sensitivity and an inclusive approach, rather than negating other conceptions in sentencing. In this regard the South African Criminal Law Amendment Act, Act 105 of 1997, provides for minimum sentences to be imposed by the courts on persons convicted of certain offences. Respondents argued for various sentencing options to promote deterrence to crime. The majority of respondents felt that armed robbery, murder and rape required harsh imprisonment sentences, including for persons under the age of 18 years convicted for serious crime. Young persons under the age of 18 years convicted of minor offences such as shoplifting and petty theft needed to be diverted from the criminal justice system. This indicates that criminal courts should evaluate each offence on the basis of a range of factors and circumstances. This resembles South Africa's 1997 Criminal Law Amendment Act, Act 105 (South Africa, 1997) which created a range of minimum sentences ranging from life imprisonment for specified aggravated forms of murder and rape to set numbers of years for first-time offenders and recidivists in respect of specific offences. In this regard courts have wide sentencing discretion to impose specific sentences or less on the basis of compelling circumstances which justify the sentence.

Although there was no specific question on capital punishment, a significant minority thought that the death penalty should be reintroduced for serious heinous crimes such as murder and rape.

It must be noted that it is not only the criminal justice system which could be associated with punitive measures. Respondents outside the criminal justice system sometimes asked for harsh penal measures in the prevention of crime.

Based on an analysis of data, it seems, however, that most respondents put much faith in the ability and the role of social workers in pre-sentence report in the sentencing of accused persons by the courts. Most respondents perceived

social workers as persons who are better placed to draw the attention of the criminal courts to the personal, legal and social circumstances surrounding the offence. This was applauded especially in juvenile courts, particularly with regard to children facing minor charges. However, at the level of serious offences facing children, the role of social work seems not to be well structured. It looks as if its role depends most on the discretion of the courts. The pre-sentence report and the recommendations of social workers on the circumstances of the accused person are not presented as final. They are presented before the courts as optional sentences. It is the magistrates who have the final decision on sentencing. This view is captured by the Juvenile Justice Report (South African Law Commission, 2000).

A high number of respondents expressed sympathy with regard to the plight of victims. Yet, most respondents equate victim involvement in the sentencing process with revenge, while victims seem to be mostly interested in witnessing the justice process to restore the wrongs by making things right. There seems to be an indication that different victims have different conceptions of sentencing. This does not mean to say that the involvement of victims in sentencing is about severe punishment. For example, victims of property crime might still hope to get back their stolen property from the accused person. Yet, other victims, particularly of violent crime, might need extensive counselling services. In the process, some victims might develop confidence and knowledge about the criminal justice system in a way that allows them to contribute to the prevention of crime.

7.7 The purpose of the criminal justice system

Based on the analysis of data, there seems to be two major conceptions of the purpose of the criminal justice system. Social workers, police officers, prosecutors, and magistrates viewed the purpose of the criminal justice system in purely legal terms. The law enforcement description of the criminal justice system does not specifically involve other role-players in the system, while a minority of respondents, including a few NICRO social workers, community workers and victims, included offenders, victims and the protection of the community, and, in the case of victims, their understanding of the

purpose of the criminal justice. They believed that restoring injustices and building people's relationships and the dignity that was damaged by the crime were the purposes of the criminal justice system. The legalistic and non-legalistic or human rights understanding of criminal justice are well captured by Zehr (1995) who describes that the theory of a retributive criminal justice system places the state and law enforcement at the centre, while a restorative theory of justice regards victim and offender to be the main actors in the act of crime, followed by the state.

According to Raynor (1985:59), the involvement of the social worker in the criminal courts should be better structured to facilitate a meaningful contribution, particularly with regard to the sentencing of the accused person. This position is supported by the data on the fact that each criminal case has its own specific circumstances which must be viewed from different backgrounds to enhance a fair trial. This suggests that social workers must study theories of punishment and the criminal justice system in order to help the courts when sentencing an accused. Moreover, it is possible for a social work report to focus on both the accused's and the victim's circumstances in order to assist the court to take a balanced decision. The other reason for this could be, among others, an attempt to promote a criminal justice system sensitive to the emotional and material needs of victims. The needs of victims are not the same as some might require different interventions to others. The needs and rights of the victim must not be equated with punishment. Counselling services can be provided by social workers. The above point is argued by Henham (1998:598) who states that the criminal courts are recently faced with the challenge of creating a balance between the interests and needs of the offender, the victim and the community in the sentencing process or punishment.

7.7.1 Punishment or prevention

A significant number of the respondents felt that the criminal justice system was based mainly on punishment and less on prevention. This implies that punishment is imposed by the courts in order to deter other people from committing crime. This theory of criminal justice is premised on proportional

measures that suggest that punishments handed down by the courts should equally meet the extent of the crime committed by the convicted person. For example, proportional principles hold that the punishment should meet the offence, and in the case of a serious offence the court can impose a sentence of life imprisonment, which is a harsh form of punishment. The circumstances of imprisonment may suggest that the offender loses his or her liberty and his or her human dignity is infringed. This further portrays the retributive nature of the criminal justice system as practised in the Western Cape. There seems to be a minority view of respondents who believed that criminal justice was based on both punishment and prevention in the sense that it considers various sentencing options when dealing with the accused person.

Although there are alternative forms of punishment such as non-custodial measures, most types of crimes tend to receive custodial punishment. This point is captured by the recent numbers released by the Department of Correctional Services (Department of Correctional Services, 7 August 2000) on the overcrowding in Western Cape prisons, particularly with regard to sentenced and unsentenced persons under the age of 18 years. According to the Constitution (South Africa, 1996:13), 'every child has a right not to be detained except as a measure of last resort', in which case, in addition to the rights a child enjoys under sections 12 and 35, the child may be detained only for the shortest appropriate period of time, and has a right to be kept separately from detained persons over the age of 18 years. With due respect to these rights, the criminal courts seem to grapple with how to deal with various offences committed by young persons, while it must be borne in mind that the above rights of accused persons coexist with a wide range options and that it is at the courts' discretion to select appropriate sentences or decisions. The accused's fundamental rights and the courts' wide discretion are constrained by section 36(1) of the Constitution (South Africa, 1996:18) on the grounds of legality and other circumstances. This suggests that the Bill of Rights, enshrined in chapter 2 of the Constitution, is not without limitations in practice when it comes to promoting a balanced punishment by the courts.

7.8 Corrections

Most of the respondents placed faith in the rehabilitation services rendered by social workers in prisons, although overcrowding in prison is generally seen to be a matter of concern to many respondents. Respondents, including prisoners, thought that alternative ways of imprisonment should be based on specific offences committed by the convicted person. This included community-based punishment for minor offences and imprisonment for serious offences. It is possible that successful rehabilitation services could follow the offender's acceptance of his or her punishment. The feeling of remorse might develop during the later stages of an offender's sentence, not because there is going to be a parole. Similarly, ages seem to be the contributing factor in the rehabilitation services. It implies that the younger the inmates the easier they can learn new forms of behaviour compared to older inmates. Carter, Glaser and Wilkins (1985) confirms the necessity for less overcrowding conditions for effective rehabilitation services to occur in prisons.

7.9 Community justice and prevention

A significant number of respondents placed much more value on the community role in rehabilitation services. This position recognises that prisoners come from communities. It is possible that a successful reintegration of ex-prisoners, parolees and probationers can reduce levels of recidivism. It is important to explore different programmes within and outside prison, based on therapeutic and community orientation. This shows that social workers and other respondents do not simply lump together the interests and needs of inmates. Their interests and needs are different, and are informed by the specific challenges that have to be met in various ways.

Alternative forms of justice to traditional or formal justice are rendered at community level. This is likely to enhance community involvement and participation in resolving the community's own disputes in the prevention of crime. Community justice requires to be managed and members should get ongoing skills training, to be able to deal with matters of dispute in an impartial

way. For example, projects such as community courts should be monitored by professionals with dispute resolution skills and legal procedures in order not to degenerate into kangaroo courts or be taken over by vigilantes. Most respondents support victim-offender mediation, and added that it should be facilitated by a skilful person on the basis of the consent of both parties, to promote the prevention of crime and reconciliation. Based on conducted studies victim – offender mediation seem to be successful (Albrecht and Backes, 1989).

7.10 Summary

This chapter dealt with the interpretation of the research findings. The interpretation focused on the major questions in terms of which the contribution of social work to the prevention of crime within the criminal justice can be realised. Major points and data during interpretation tended to converge and diverge with certain theories and arguments of the previous chapters on the literature study. This shows that different approaches engage with the same subject from different perspectives. Interpretation should pave the way forward towards conclusions and recommendations. The following chapter presents conclusions and recommendations for the role of social work in crime prevention within the criminal justice system.

CHAPTER 8

8 CONCLUSIONS AND RECOMMENDATIONS

8.1 Introduction

In line with the aim of this study, as presented in chapter 1, the researcher sought to identify, within the context of the current crime situation in the Western Cape, in what ways, to what extent and with what means social work as a support system or service discipline could contribute to crime prevention as a function of the criminal justice system. This study has provided insight into and a perspective on the criminal justice system and the ways in which social work can contribute to crime prevention.

In this chapter a discussion of the findings of the study is presented, as well as conclusions and recommendations. In order to promote coherence and understanding of the discussion, conclusions should not be viewed as separate entities. The conclusions of the major findings of the study are presented in order to present the background to the recommendations. The role of social work in crime prevention cannot be understood separate from the nature of the criminal justice system. Its contribution to the criminal justice system requires a broader understanding in order to determine a way forward. In this regard chapters 6 and 7 clearly illustrate the need for the intervention of social work in the criminal justice system. The recommendations will identify some specific areas where social work could play a role. The recommendations will further highlight requirements that could strengthen the role that social work could play within the criminal justice system to promote the prevention of crime.

8.2 Conclusions of major findings and recommendations

Based on the interpretation of the findings with regard to crime prevention as a function of the criminal justice system, there are areas of both convergence and divergence. The study has depicted that the contribution of social work to the prevention of crime within the criminal justice system is of vital

importance. It has also demonstrated that the role of social work in crime prevention will be determined by the form and nature of the criminal justice system. A rigid form of the criminal justice which does not take into consideration a wide range of factors surrounding an offence, and the personal and social circumstances of the offender, could constrain the role of social work in the prevention of crime within the criminal justice system.

8.2.1 Conceptions of crime

Conceptions of crime tended to take mostly two approaches. A significant number of respondents conceived crime purely in legal terms. They conceived of crime as the breaking of the law which was punishable by the state. This view is premised on the understanding that if crime is an intentional act against the laws of the state, then the state must punish the perpetrator on behalf of society and punishment must appropriately fit the crime. This is a reflection of the retributive paradigm of the criminal justice system. In terms of this theory the state and its institutions play a monopolistic role in the prevention of crime. Other actors in the process do not feature; instead, the state reacts on their behalf in the interests of the law. This understanding resembles section 9 of the Constitution (South Africa, 1996:7) with regard to the fact that there must be equal protection in terms of the law, penalties must be informed by legal rules, and the law must be reasonable and clear.

Another understanding of crime was presented by a minority of respondents based on a restorative justice perspective. Looking at the findings, this group of respondents agreed with the paradigm of a restorative justice system. Restorative justice conceptualises crime as a violation of people's rights and relationships, and harm to their dignity. Major actors in this theory regarding the prevention of crime are the victim, the offender and the community, while the role of the state is secondary because crime affects the relationship of people, and the state is only drawn in later to facilitate peace. From the findings it appears that reactions to crime are likely to be premised one-sidedly on one or the other paradigm.

In view of the above, it is recommended that social workers should read theories of criminal justice in order to promote balanced approaches to crime prevention.

8.2.2 Crime awareness and prevention strategies

From the findings it is apparent that the majority of people are aware of the levels of crime. All respondents perceived crime to be on the increase in the Western Cape. Respondents mostly placed great emphasis on partnership between the police and the community as the best strategy to prevent crime. Some respondents felt that proper investigation to secure prosecution was of tremendous importance. This could reduce the backlog of cases in the criminal courts, the number of postponements and awaiting-trial prisoners. In most areas in the Western Cape, particularly on the Cape Flats and in the metro areas, crime takes a variety of different forms. These include drug-related offences, gang violence and taxi violence. Others include vigilantism, property-related crimes and violent crime. While in some areas, including the suburbs, there is family violence, property-related crime is also prevalent. Crime manifests in different forms in different areas, also reflecting levels of crime reporting.

In view of the above, it is recommended that concerted, holistic preventative programmes involving education on conflict resolution, human rights, and self-respect and others should be developed and implemented by social workers.

It is also recommended that the education of the building of self-esteem, as well as the consequences of crime, should be targeted at youth in schools and should be promoted by social workers to prevent crime.

8.2.3 Sentencing process

The majority of respondents wanted a far greater contribution by social work in the pre-sentencing process in the criminal justice system. They regarded social workers as better placed to bring criminal courts closer to community circumstances. Most respondents believed that social work in the criminal courts should be a standing requirement and should be better structured,

particularly with respect to offences committed by young persons. A social work pre-sentence report could promote a fair trial by presenting the circumstances surrounding an offence. It must be noted that most respondents, including magistrates, placed faith in a social work pre-sentence report on the personal and social circumstances of an accused person. The pre-sentence report and recommendations of a social worker on the sentence options to be imposed by the court are not always adopted by magistrates. This is because of certain legal facts, circumstances, and theories held by magistrates. Yet magistrates and judges in the criminal courts have the power to take a final decision in sentencing. Most respondents recognised that the sentence to be imposed by the courts for a specific offence is determined within a set range of sentencing guidelines. It is important to state that almost half the number of social workers and other respondents, and more importantly magistrates, felt that when they structure a sentence it would be helpful to know the effects of the crime on the victim. The plight of the victim is not known by the criminal courts as they mostly come to court only once when they testify.

In view of the above, it is recommended that social workers in criminal courts should read theories of punishment or sentencing to help the courts to consider sentencing options on the basis of the specific circumstances of the offence in preventing crime.

It is recommended that the role of social work should be better structured in the criminal courts, so that each juvenile offender will have a probation officer's pre-sentence report, particularly in cases of serious offences.

It is also recommended that the pre-sentence report of the social worker in sentencing of the accused person must be comprehensive to provide the courts with extenuating circumstances for crime prevention.

It is furthermore recommended that social work should assist the courts through report presentation to know the personal and social circumstances of the victim, particularly those that experienced serious crime, in order for the courts to impose a balanced and proper sentence.

8.2.4 Knowledge of the approaches of the criminal justice system

The majority of respondents seemed to exhibit a one-sided view of the criminal justice system. Most of the social worker respondents demonstrated a narrow view of knowledge of the criminal justice system on the basis of experience in the criminal courts or as widely practised by the courts. Social workers, particularly those that work in the criminal courts, should demonstrate a broader understanding of the theories of justice in order to enable them to make an effective contribution. The majority of the respondents equated the involvement of the victims in the criminal justice system with punishment and revenge. Yet, it is widely accepted that the criminal justice system is not sensitive enough to the needs and rights of victims in the prevention of crime.

In view of the above, it is recommended that a criminal justice course, involving criminal law and criminal procedure, should be part of the university curriculum for social work students, starting from undergraduate level, in order to promote the prevention of crime.

It is also recommended that in the criminal courts social workers can provide counselling services to victims, particularly those that are young and have been brutalised by violent crimes such as rape and murder.

8.2.5 Punitive approaches to crime

Based on the findings of the study, the criminal justice system is premised on punitive measures in the prevention of crime. Sentencing trends are based on punishment with the emphasis on imprisonment. Overcrowding in most of the Western Cape prisons by mostly children awaiting trial confirms punitive approaches to crime. It is difficult to suggest concrete alternative measures with regard to specific offences, the age factor and sentences handed down by the courts. It is possible that the criminal justice system is grappling with approaches with respect to offences committed by young people.

In view of the above, it is recommended that further research be conducted in order to explore less punitive or other new ways of crime prevention by the criminal justice system.

8.2.6 Corrections

All respondents placed great value on rehabilitation services by social workers in prison. In terms of the prevention of crime, rehabilitation services should not be seen in correctionalistic terms. It requires community involvement in order to promote reintegration of the offender into the community. Effective rehabilitation requires less overcrowding in prison cells because overcrowding hinders the development of responsive forms of behaviour and a sense of accountability. The conditions of overcrowding have the potential to produce hardened criminals or recidivists, people whose conduct cannot adapt outside prison. It is important to state that community corrections should be premised on reducing levels of labelling by communities of ex-prisoners. This is possible through educational programmes about the constraints of labelling to the prevention of crime as well as to the rights and dignity of the person. The abilities of offenders must be known by social workers to make use of their skills to help to strengthen rehabilitation services. It is crucial to state that offenders must be grouped on the basis of age and offences in prison cells in order to facilitate a favourable environment for rehabilitation. More importantly, a culture of human rights must be promoted in prison because most of the crimes are the result of disrespect for others. Rehabilitation services should take into account the diverse needs of prisoners. In this regard, rehabilitation services should include therapeutic and community or group orientation.

In view of the above, it is recommended that social workers in prison should involve other role-players, among others religious groups, NICRO and human rights organisations, and make use of fellow offenders to take responsibility or lead some programmes in order to strengthen rehabilitation services in the prevention of crime.

It is also recommended that therapeutic group skills, conflict resolution training and antidrug-related services be intensified in line with the prevention of crime.

8.2.7 Community justice and prevention

The community forms of justice were widely supported by the respondents. The notion of community justice involves community courts, Neighbourhood Watch, street committees and anticrime projects that place the role of the community central in the prevention of crime. However, it must be borne in mind that the community requires educational support based on human rights in order to be able to mediate their own disputes impartially. Community justice has to operate within the legal framework and should not be equated with vigilante type justice. Most respondents felt that victim-offender mediation should depend on the willingness of the parties concerned. Mediation services require a skilful mediator in order to keep the focus of the meeting. It was broadly articulated that mediation services provide victim and offender with an opportunity to confront the crime in order to rise against it. More significantly, the victim gets an opportunity to vent his or her anger and to ask the offender questions. This is perceived to be a healing, reconciling and preventative process to crime. It is further argued that mediation also gives the offender an opportunity to express his or her sense of remorse. It must be noted that the decision by both victim and offender to meet, and their feelings, tend to be informed by the nature of the crime or dispute. Other informal structures in crime prevention and dispute resolution involve community courts that tend to have fewer legal procedures than formal criminal courts. Respondents generally supported the effective use of community policing forums in crime prevention.

In view of the above, it is recommended that the social worker should provide facilitating services, skills training with regard to conflict mediation, referral and monitoring services to strengthen community justice in the prevention of crime.

It is also recommended that the social worker should encourage victim-offender mediation, and prepare both parties emotionally through counselling if they are willing to meet.

BIBLIOGRAPHY

- Albrecht, P. and Backes, O. 1989. **Crime Prevention and Intervention, Legal and Ethical Problems.** New York, de Gruyter.
- Altbeker, A. 1998. **Solving Crime, The State of the SAPS Detective Service.** Pretoria: ISS Monograph Series, 31.
- Babbie, E. and Rubin, A. 1997. **Research Methods for Social Work.** 3rd edition, USA, Brooks/Cole Publishing Company.
- Balia, D. and Sangweni, S. 1998. **Fighting Corruption: Strategies for Prevention.** Pretoria, University of South Africa.
- Bartollas, C. 1981. **Introduction to Corrections.** New York, Harper and Row Publishers.
- Bartol, C. and Bartol, A. 1986. **Criminal Behaviour A Psychological Approach.** 2nd edition, New Jersey, Prentice Hall.
- Bedau, H. 1982. **The Death Penalty in America.** 3rd edition. New York, Oxford University Press.
- Berg, K. and de Shazer, S. 1997. **Contemporary Family Therapy.** National Council for Crime Prevention, An International Journal, 19(1): 89-103.
- Besdziek, D. 1996. **Expanding Crime Prevention-City Policing and the French Experience.** Gauteng Government.
- Bezuidenhout, F. and Rip, L. 1988. **Contemporary Social Pathology.** 4th edition, Cape Town, Academica.
- Camerer, L. 1999. **What About the Victims?** Nedcor ISS Crime Index 2.
- Camerer, L. and Kotze, S. 1998. **Special Report on Victim Empowerment in South Africa. Victim Empowerment Programme (VEP).** Johannesburg, Institute for Security Studies and Department of Welfare.

Camerer, L and Louw, A. 1998. **Perception and Reality: Surveying Crime in Cape Town**. Nedcor ISS Crime Index 2.

Camerer, L. 1996. **A Victim-Centric Approach to Crime Prevention**. African Security Review. Vol 5, No 4.

Carter, R. Glaser, D. and Wilkins, T. 1985. **Correctional Institutions**. 3rd edition. New York, Harper and Row Publishers.

Cawthra, G. 1994. **Policing South Africa. The South African Police and the Transition from Apartheid**. Cape Town, Zed Books Ltd. David Phillip.

Clarkson, C. and Keating, H. 1984. **Criminal Law: Text and Materials**. London, Sweet and Maxwell.

Chaskalson, M. ed. 1995. **Constitutional Law of South Africa**. Pretoria, Juta.

Cloete, M. and Stevens, R. 1995. **Criminology**. Cape Town, Southern Book Publishers.

Cochrane, R. and Smit, D. 1993. **Punishment**. Cape Town, Social Justice Project and the Legal Education Action Project. Institute of Criminology.

Coleman, J. 1985. **The Criminal Elite, The Sociology of the White Collar Crime**. New York, St. Martin's Press.

Consedine, J. 1999. **Restorative Justice, Healing the Effects of Crime, New Zealand**. New Zealand, Ploughshares.

Consedine, J. 1997. **Building A Better Future**. New Zealand, Unpublished Paper.

Cowell, D. and Stenson, K. 1991. **The Politics of Crime Control**. New Delhi, Sage Publications.

Croall, H. 1992. **White Collar Crime. Criminal Justice and Criminology**. Philadelphia, Open University Press.

Davies, R. 1997. **Rethinking Crime and Punishment. The Need for Serious Reform in the Criminal Justice System.** Unpublished Paper.

Davies, M. Croall, H. and Tyrer, J. 1995. **Criminal Justice: An Introduction to the Criminal Justice System in England and Wales.** London and New York, Longman.

Davis, D. and Slabbert, M. 1985. **Crime and Power in South Africa. Critical Studies in Criminology,** Cape Town, David Phillip.

Department of Justice. 1998. **National Crime Prevention Strategy.** Pretoria, Government Printers.

Department of Justice. 1997. **Justice Vision 2000 and Justice for All.** Republic of South Africa.

Department of Welfare. 1997. **White Paper for Social Welfare .** Republic of South Africa, Government Gazette.

Department of Welfare. 1996/97. **Annual Report.** Republic of South Africa. Pretoria, CTP Books.

Department of Safety and Security. 1998. **Draft White Paper on Safety and Security.** Pretoria, Secretariat for Safety and Security.

Department of Safety and Security. January – May 2000. **The Monthly Bulletin on Reported Crime in South Africa.** Pretoria.

Department of Correctional Services. 1999. **Annual Report.** Western Cape Province.

Department of Correctional Services. 7 August 2000. **Prisons Statistics.** Western Cape Province.

Director of Public Prosecutions. 1999. **Annual Report.** Cape of Good Hope.

Dissel, A. and Mnyani, M. 1995. **Sentencing Options in South Africa.** Cape Town, Social Justice Resource Project.

Erez, E. and Rogers, L. 1999. Victim Impact Statements and Sentencing Outcomes and Processes. The Perspectives of Legal Professionals. **British Journal of Criminology**, 39(2):216-235, Oxford University Press.

Galaway, B. and Hudson, J., eds. 1996. **Restorative Justice: International Perspectives**. Monsey, USA, Criminal Justice Press.

Garbers, J. 1996. **Effective Research in the Human Sciences, research management for researchers, supervisors and masters and doctoral candidates**, J. L. van Schaik: Academic.

Giddens, A. 1989. **Sociology**. UK, Polity Press.

Glanz, L. 1996. **The Causes of Crime in South Africa**. Paper presented at the Crimsa International Conference on Crime and Justice in the Nineties. Pretoria, (HSRC) UNISA.

Gottfredson, M. and Hirschi, T. 1990. **A General Theory of Crime**. California, Stanford University Press.

Grinnell, R. 1997. **Social Work Research and Evaluation**. 4th edition, USA, Peacock Publishers, Inc.

Gross, F. 1977. **Crime A Universal Problem**. Cape Town, Juta and Company Ltd.

Gross, F. 1985. **Youth in Crisis**. Cape Town, Juta and Company Ltd.

Haralambos, M. and Holborn, 1994. **Sociology Themes and Perspectives**. third edition, London: Collins Educational.

Harding, J. 1987. **Probation and the Community. A Practice and Policy Reader**. London and New York, Tavistock Publications.

Henham, R. 1998. Human Rights, Due Process and Sentencing. **British Journal of Criminology**, 38(4): 592-608. Oxford University Press.

Hofmeyr, W. 1998. **New Anti-Crime Laws**. Nedcor ISS Crime Index 2.

Humphrey, J. and Palmer, S. 1987. Race, Sex and Criminal Homicide Offender-Victim Relationships. **Journal of Black Studies**, 18(1): 45-57.

Jenson, J.M. and Howard, M.O. 1998. Youth Crime, Public Policy and Practice in the Juvenile Justice System: Recent Trends and Needed Reforms. **Journal of the National Association of Social Workers**, 43(4): 324-333.

Joubert, J. 1999. **Criminal Procedure Handbook**. 4th edition, Cape Town, Juta and Co, Ltd.

Karmen, A. 1984. **Crime Victims. An Introduction to Victimology**. California, Brooks/Cole Publishing Company.

Keightley, R. 1995. **Torture and Cruel, Inhuman and Degrading Treatment or Punishment in a Convention against Torture and other Instruments of International Law: Recent Developments in South Africa**. Copyright Jutastat (Pty) Ltd. SAJhR 379.

Kratcoski, L.D. and Kratcoski, P. C. 1990. **Juvenile Delinquency**. 3rd edition, New Jersey, Prentice Hall.

Louw, A. and Shaw, M. 1998. **Putting the Police in Place: The Distribution of Policing Resources in South Africa**. Nedcor ISS Crime Index 2.

Louw, A. and Shaw, M. 1997. **Stolen Opportunities: The Impact of Crime on South Africa's Poor**. ISS Monograph Series 14.

Macleane, B. 1986. **The Political Economy of Crime. Reading for a Critical Criminology**. Ontario, Canada, Prentice-Hall Inc.

Makwanyane, S. 1995. **The Death Penalty and Public Opinion**. Copyright Jutastat (Pty) Ltd. (1) SAJhR 70.

Mathiesen, T. 1992. **Prison on Trial. A Critical Assessment**. New Delhi, Sage Publications.

Mawby, R. and Gill, M. 1987. **Crime Victims, Needs, Services and the Voluntary Sector**. London and New York, Tavistock Publications.

- Meares, P. 1995. Application for Qualitative Research: Let the Work Begin. **Social Work Research**, 19 (1): 5-7.
- McKendrick, B. 1990. The Future of Social Work in South Africa. **Maatskaplike Werk/Social Work**, 26 (1):10-18.
- Miller, J. 1993. **Criminal Justice: Social Work Roles**. London, Unpublished Paper.
- Morris, C. and Frey, R., eds. 1991. **Liability and Responsibility**. New York, California University Press.
- Muntingh, L.M. and Shapiro, R.J. 1997. **An Introduction to Diversion from the Criminal Justice System**. Cape Town, NICRO.
- National Victim Survey. 1998. (December) **Victims of Crime**. Pretoria, Statistics South Africa.
- National Crime Prevention Strategy**. 1996 (May). Pretoria, Government Printers.
- NEDCOR, 1998. **Business Against Crime: Partnership on Crime Prevention**. Nedcor ISS Crime Index 6.
- Nelken, D. 1994. **White Collar Crime. Criminal Justice and Penology**. USA, Dartmouth Publishing Company Limited.
- Nel, F. and Bezuidenhout, J. 1997: **Policing and Human Rights**. Juta and Co Ltd.
- Nina, D. 1995. **Community Courts in South Africa**. Cape Town, Social Justice Resource Project.
- Omar, A. 1995. **Extract From: Transformation of the Justice System in South Africa. Legal forum on Access to Justice**. Durban, 17-19 November 1995.
- Oppler, S. 1998. **Correcting Corrections Prospects for South Africa's Prisons**. ISS Monograph Series 29.

Pettit, P. and Braithwaite, J. 1990. **Republican Theory of Criminal Justice**. New York, Oxford University Press.

Pinnock, D. 1997. **Gangs, Rituals and Rites of Passage**. The Institute of Criminology, University of Cape Town, African Sun Press.

Quinney, R. 1978. **Class, State and Crime: On the Theory and Practice of Criminal Justice System**. New York, Longman Inc.

Raine, A. 1993. **The Psychopathology of Crime. Critical Behaviour as a Clinical Disorder**. Toronto, Academic Press, Inc.

Raynor, P. 1985. **Social Work, Justice and Control**. London, Basil Blackwell.

Reiss, A. and Tonry, M. 1987. **Communities and Crime**. Chicago and London, The University of Chicago Press.

Report on the Pilot Projects. 1998. **The Inter-Ministerial Committee on Young People at Risk**. Pretoria, Government Printer.

Report of the International Seminar on 'Children in Trouble with the Law'. Held in Cape Town, South Africa, from 15 to 17 October 1993.

Rubin, S. 1973. **The Law of Criminal Correction**. 2nd edition. London, West Publishing Co.

Sachs, A. 1992. **Advancing Human Rights in South Africa, Contemporary South African Debates**, Cape Town, Oxford University Press.

Scharf, W. 1992. **Community Courts**. Cape Town, Social Justice Resource Project.

Semester Report 1/98. **The Incidence of Serious Crime in South Africa between January and December 1998**. Pretoria, Crime Information Analysis Centre.

Shapiro, R. 1998. **Responding to Crime: Social Work and the Criminal Justice System**. Cape Town, David Phillip.

Shaw, M. 1998. **The Role of Local Government in Crime Prevention in South Africa**. Pretoria, Institute for Security Studies Paper 33.

Skogan, W.G. 1995. Reactions to Crime and Violence. **The Annals of the American Academy of Political and Social Science**, 539: 9-13.

Sloth-Nielsen, J. 1997. **Juvenile Justice Review**. Cape Town, Community Law Centre, University of the Western Cape.

Smit, B. Cronje, G. and Van der Walt, P. 1982. **Criminology. An Introduction**. Pretoria, Haum.

Snyman, C.R. 1991. **Criminal Law**. 2nd edition. Durban, Butterworths (Pty) Ltd.

South African Law Commission. 2000. **Juvenile Justice Report**. Project 106. Pretoria.

South African Law Commission. 1997. **Sentencing Restorative Justice**. ISSUE Paper 7 Project 82.

South Africa. 1983. **Child Care Act, Act 74 of 1983**.

South Africa. 1997. **Criminal Law Amendment Act, Act 105 of 1997**.

South Africa. 1993. **Prevention of Family Violence Act, Act 133 of 1993**.

South Africa. 1998. **Correctional Services Act, Act 111 of 1998**.

South Africa. 1996. **The Constitution of the Republic of South Africa Act, Act 108 of 1996**.

Umbreit, M.S. 1993. Crime Victims and Offenders in Mediation: An Emerging Area of Social Work Practice. **Journal of the National Association of Social Workers**, 38(1): 69-73.

Van den Haag, E. and Conrad, J. 1983. **The Death Penalty. A Debate**. New York and London, Plenum Press.

Van der Westhuizen, J. 1982. **Crimes of Violence in South Africa**. Pretoria, University of South Africa.

Walker, H. and Beaumont, B. 1985. **Working with Offenders, Practical Social Work**. Hong Kong, Macmillan.

Zehr, H. 1995. **Rethinking Criminal Justice System: Restorative Justice**. Auckland, Herald Press. (Unpublished Paper).

Zehr, H. 1990. **Mediating the Victim-Offender Conflict**. Akron, Mennonite Central Committee.

Zimring, F. and Hawkins, G. 1973. **Deterrence. The Legal Threat in Crime Control**. London, Chicago Press.

APPENDIX A

An Interview Schedule: Crime Prevention within the Criminal Justice System

An interview with the Magistrates

A General Identifying Profile	
1.1 Address:	
1.2 Age:	
1.3 How long have you been on the bench?	
1.4 Gender:	
Female	
Male	

B Crime Dynamics in the Western Cape	
2.1 How would you define crime from the point of view of magistrate?	

2.2 What do you consider to be the main causes of crime as magistrate?	

C Sentencing Process and Prevention Strategies

3.1 What is the purpose of the criminal justice system from the point of view of magistrates? Comment whether it is meant for punishment or prevention.

3.2 Which of the following among the magistrates view point would be most effective in preventing crime? Explain.

More prisons	
More police	
Social service delivery	
Harsh sentencing	

Other (Specify)	
<p>3.3 Do the magistrates believe that sentencing at present is too lenient with regard to the prevention of crime? Explain.</p>	
<p>3.4 Do you think as magistrate the victim should be part of sentencing of the convicted person in the prevention of crime? Explain.</p>	
<p>3.5 In your view in what ways can the magistrate be more or less sensitive to the needs of victims in the prevention of crime? Explain.</p>	
<p>3.6 In your view as magistrate in what ways does the probation officer or</p>	

social worker influence the pre-sentencing in the prevention of crime? Explain.

3.7 According to magistrate's view point how does the social worker influence the post sentencing process? Explain.

3.8 Among magistrates do you think that social workers as a matter of procedure should be involved in sentencing in a more structured way in line with the prevention of crime? Explain.

D Criminal Justice Matters

4.1 As magistrate do you think the criminal justice system at present is preventative? Briefly comment on the involvement of the state and community in the system.

4.2 From the point of view of the magistrate how does the court procedure contribute to the conviction of the accused in preventing crime? Explain.
4.3 Do magistrates believe that bail is too easily granted and what is the effect on the prevention of crime? Explain.

An interview with the Probation Officers

A. General Identifying Profile

1.1 Address:

1.2 Age:

1.3 How long have you served as a probation officer?

1.4 Gender:

B. Crime Dynamics in the Western Cape

2.1 From the point of view of social work how would you define crime?

2.2 What do you consider to be the causes of crime as probation officers?

Sentencing Process and Prevention Strategies

3.1 What is the purpose of the criminal justice system from the point of view of the probation officers or social workers? Comment whether it is meant for

punishment or prevention.	
3.2 Which of the following among probation officer's view point would be most effective in preventing crime? Explain.	
More prisons	
More police	
Social service delivery	
Harsh sentencing	
Other (Specify)	
3.3 In your view as probation officers in what ways can sentencing rehabilitate the convicted person in preventing crime? Explain.	
3.4 Among probation officers in what ways does your report on the accused person influence the pre sentencing process in the prevention of crime? Explain.	

3.5 How does your report on the convicted person influence the post sentencing process in the prevention of crime? Explain.

3.6 Do probation officers believe that victims ought to be part of sentencing of the accused person in line with the prevention of crime? Explain.

3.7 As probation officers do you regard diversion programmes of the juvenile offenders preventative to crime or re-offending ? Explain.

3.8 How could family support be improved according to the probation officers in the prevention of juvenile offenders and crime in general? Explain.

C. Criminal Justice Matters and Corrections

4.1 Among social workers in what ways could social work role be better structured effectively in the prevention of crime within the criminal justice system? Explain.

4.2 In your view as probation officers or social workers to what extent can the justice system and correctional service be more sensitive to the needs and rights of the offenders? Explain.

4.3 Do social workers or probation officers believe that parole is too easily granted in line with the prevention of recidivism? Explain.

An Interview with the Victims

A. General Identifying Profile
1.1 Address:
1.2 Gender:
1.3 Age:
1.4 What is your level of education?
1.5 Have you ever experienced crime before?
1.6 If yes, what type of crime?
1.7 What type of crime has just been perpetrated against you?

B. Crime Dynamics in the Western Cape
2.1 How would you define crime from the victim's point of view?
2.2 What do you consider to be the main causes of crime as victims?

C. Sentencing Process and Prevention Strategies	
3.1 Which of the following from the victims view point would be most effective in preventing crime? Explain.	
More prisons	
More police	
Social service delivery	
Harsh sentencing	
Other (Specify)	
+	
3.2 Do victims generally believe that sentencing is too lenient at present in line with the prevention of crime? Explain.	
3.3 Do victims have a role to play in the sentencing of the accused person? Explain.	

D. Criminal Justice Matters and Corrections

4.1 To what extent, according to the victims, is the criminal justice system sensitive to their needs in the prevention of crime? Comment on emotional and material needs.

4.2 According to the victims, how can social work service be more empowering in preventing crime? Explain.

4.3 Do the victims generally believe that their rights to protection and dignity in the process of giving evidence for the prevention of crime are respected by the criminal justice system? Explain.

4.4 As victims, do you think the courts easily grant bail to the accused person in line with the prevention of crime? Explain.

4.5 As victims, do you believe that parole is easily granted in line with the prevention of re-offending or recidivism? Explain.

4.6 In line with prevention process and reconciliation how do you feel about meeting the offender? Explain.

An Interview with the Prosecutors

A. General Identifying Profile
1.1 Address:
1.2 Gender:
1.3 Age:
1.4 How long have you served as a prosecutor?

B. Crime Dynamics in the Western Cape
2.1 Among prosecutors how would you define crime?
2.2 What do you consider to be the main causes of crime as prosecutors?

C. Sentencing Process and Prevention Strategies

3.1 In your view as prosecutors, is the function of the criminal justice system at present based on punishment or prevention? Explain.

3.2 Which of the following among prosecutors would be most effective in preventing crime? Explain.

More prisons	
More police	
Social service delivery	
Harsh sentencing	
Other (Specify)	

3.3 From prosecutors view point, in what ways can sentencing promote deterrence as a crime prevention strategy? Explain.

D. Prosecution Process and Justice for Prevention of Crime

4.1 According to the prosecutors, how does the court make sure that the prosecution process contributes to crime prevention? Explain.

4.2 In your view as prosecutors how does the criminal justice system protect and encourage the witnesses and victims to come forward with the information required for prosecution and prevention of crime? Explain.

An Interview with the Police Officers

A. General Identifying Profile

1.1 Address:

1.2 Gender:

1.3 Age:

1.4 How long have you been in this area as a police officer?

B. Crime Dynamics in the Western Cape

2.1 How would you define crime from the point of view of police officers?

2.2 What do you consider to be the main causes of crime as police officers?

C. Sentencing Process and Prevention Strategies

3.1 Which of the following from police officers view point would be most effective in preventing crime? Explain.

More prisons	
More police	
Social Service delivery	
Harsh sentencing	
Other (Specify)	

D. Policing and Prevention Strategies

4.1 In line with crime prevention, what is the general view of the police officers in making sure that their investigation leads to the arrest of the suspected person so as to secure prosecution by the courts? Explain.

4.2 From police view point, who should take primary responsibility for the prevention of crime? Explain.

4.3 According to the general view of the police in your area what is the role of community and their attitude to crime prevention? Explain.

4.4 In your view as police officers, how active is the community policing forum in addressing matters of crime prevention in your area? Comment on issues commonly addressed by the forum: involvement of women, youth and membership in general?

4.5 As police officers, do you collaborate with social workers? Explain.

4.6 What is the view of the police officers with regard to the role and attitude of the business sector in the prevention of crime? Explain.

An Interview with the Offenders

A. General Identifying Profile	
1.1 Address:	
1.2 Gender:	
1.3 Age:	
1.4 Have you been convicted before?	
1.5 If yes, for what type of crime and what was the sentence?	
1.6 What type of crime and sentence for the present conviction?	

B. Crime Dynamics in the Western Cape	
2.1 As prisoners how would you define crime?	
2.2 As prisoners what do you consider to be the main causes of crime?	

--

C. Prevention Strategies

3.1 Which of the following as prison inmates would be most effective in preventing crime? Explain.

More prisons	
---------------------	--

More police	
--------------------	--

Social service delivery	
--------------------------------	--

Harsh sentencing	
-------------------------	--

Other (Specify)	
-----------------	--

3.2 As prisoners do you think the criminal justice system is based on punishment or prevention? Explain.

D. Offenders Perception and Corrections

--

4.1 As prisoners, do you think when people commit crime they are acting against the law of the state or against other person? Explain.

4.2 In prisoners view, is the rehabilitation process preventative and helpful in the prevention of crime? Explain.

4.3 As prisoners how do you regard the services of social workers in preventing crime? Explain.

4.4 Do you think prison inmates are under pressure to become gang members and get involved in crime? Explain.

4.5 In line with prevention of crime, what is the general opinion among prisoners about the requirements for the qualification for parole? Explain.
4.6 Do prisoners believe that it is good idea to meet victims of their crime in line with the prevention of crime? Explain.
4.7 As prison inmates do you believe that there are alternatives to imprisonment in preventing crime? Explain.

An Interview with the Social Workers

A. General Identifying Profile

1.1 Organisational address and place:

1.2 Age:

1.3 Gender:

1.4 How long have you offer programmes in the prevention of crime as a social worker?

B. Crime Dynamics in the Western Cape

2.1 From the point of view of social work how would you define crime?

2.2 In the area where your agency is rendering services, what is the level of crime rate at present?

2.3 What do you consider to be the main causes of crime?

2.4 Are there any types of crime characteristics of the area?

--

C. Sentencing Process and Prevention Strategies

3.1 What is the purpose of the criminal justice system from the point of view of social workers?

--

--

3.2 Is the criminal justice system at present based on punishment or prevention? Explain.

--

--

3.3 Among social workers what considered to be the most effective prevention strategies in reducing crime? Explain.

--

--

3.4 What type of sentencing would be the most effective in the prevention of crime or deterrence? Please refer to different types of crime in your answer.

--

--

3.5 To what extent will the social work report on the accused person influence

the sentence by the court to promote the prevention of crime? Explain.

3.6 What type of services do your agency render in the post-sentencing phase in preventing crime? Explain.

3.7 As a social worker do you regard diversion programmes to the juvenile offenders to be successful in the prevention of crime? Explain.

3.8 As a social worker do you believe that victims should be involved or consulted by the court in the sentencing of the accused person to promote prevention of crime? Explain.

3.9 As a social worker do you think that the court should take into consideration the personal and social circumstances of the victim when sentencing the accused person? Explain.

D. Criminal Justice Matters and Corrections

4.1 At present the court has discretion in calling on the services of a social worker in its proceedings. An opinion has been expressed that it should be a standing requirement that social workers be involved in court proceedings. What is your opinion?
4.2 In your view as a social worker can the criminal justice system be more sensitive to the needs and the rights of the accused person? If yes, How?.
4.3 In your view as a social worker can the correctional system be more effective in rendering rehabilitation services in prisons to prevent crime? If yes, How?
4.4 In your view as a social worker how could the correctional system be more effective in the rehabilitation of youth committed to youth centres? Explain.

4.5 As a social worker do you believe that as part of the strategy to prevent crime the criminal justice system is sensitive to the needs and rights of the victims, if yes, in what ways can a social worker address these rights and needs?

E. Community Justice and Prevention

5.1 What type of preventative programmes do you and your agency render in your area in preventing crime? Comment on projects, community courts, committees, forums and others.

5.2 In what ways can community participation and involvement be enhanced in the prevention of crime?

5.3 In what ways can the affected family be supportive to a victim, accused person and the sentenced member?

5.4 How can your agency or social worker empower such families in their task of preventing crime?

5.5 As a social worker do you believe in facilitating a meeting between victim and offender as part of crime prevention and reconciliation?

APPENDIX B

VERBATIM ACCOUNT

An Interview Schedule: Crime Prevention within the Criminal Justice System

This report seek to present a verbatim of the accounts and explore commonalities and differences of the respondents. The report goes on to look for possible gaps in the data in order to revisit where necessary.

A. General Identifying Profile

Magistrates	Probation Officers/Social Workers
1.Address: Wynberg magistrate court	1.Wynberg magistrate court
1.1. Age: 43 years	1.1 41 years
1.2 13 and the half years on the bench	1.2 Served for 14 years
1.3 Gender: Female	1.3 Male

B. Crime Dynamics in the Western Cape

Magistrates	Probation Officers/Social Workers
2. Define crime in legal terms, as unlawful act, intention and other requirements for specific cases. Not necessary have a victim because there are crimes without a victim.	2. Define crime in conflict with the law, community expectations within the framework of the law.
2.1 Crime rate is perceived to be high. Causes are associated mainly with lack of investigation and prosecution, unemployment, lawlessness from the public, pit holes of the new constitution, transitional process tend to open up for criminality.	2.1 Crime rate is perceived to be high. Causes are associated with lack of education, breakdown and overcrowded families, lack of skills, feeling of insecurity, low self esteem.

C. Sentencing Process and Prevention Strategies

Magistrates	Probation Officers/Social Workers
3.Criminal justice system is seen to be meant for both punishment and prevention. Prevention to serve as a	3. The purpose seem to be based on punishment rather than prevention. Taking into account the general trend

<p>general and individual deterrence on the basis of seriousness of specific crimes. The emphasis on punishment can be understood from the pressure by the community, courts and victims.</p>	<p>where the probation officer will recommend some non –custodial sentence, but the magistrates tend to see differently imposing imprisonment and rehabilitation.</p>
<p>3.1 More and better policing, better prosecution and cases have to be properly investigated so that convictions can take place. Social service delivery particularly with employment opportunities. Harsh sentencing is not necessarily lead to the prevention of crime hence prisons are full. But criminals must be taught lessons and be punished for the purposes of deterrence.</p>	<p>3.1 Visible policing and social service delivery seem to be associated with prevention. Other prevention strategies seem to be required not just harsh sentencing but various forms should be explored like restorative sentencing which is less punitive. Restorative help the offender to take responsibility for his crime, to be aware of the wrongs he has done. Its not just to punish but to make wrong right. Harsh sentencing seem to make a person harden and feel rejected by society.</p>
<p>3.2 Sentencing is not too lenient, there was leniency at some stages in the past two years or more, but at present it has changed. Sentences that are being passed at the moment better suit the seriousness of the offence. The high court and magistrate have decided to pass harsher sentences because of lawlessness and pressure from communities.</p>	<p>3.2 Restorative sentencing could help the person to understand the impact of his crime. The offender should get an opportunity to do something about his offence in order to promote forgiveness.</p>
<p>3.3 The victim should be heard. But the tendency is that victims comes to lay a complaint, then the court proceed without victim involvement up to the conviction stage. The court tend not to know circumstances, needs of the victims,</p>	<p>3.3 Pre-sentence report on request by the court is based on certain standard area of focus and write findings after investigation to help the court to take an informed decision.</p>

<p>while the attorney will present the personal and social circumstances of the accused. What happened to the victims no-one knows and its commonly not told about the case. If the accused plead guilty then the victim tend not to appear, and if the accused plead not guilty then the victim will testify. How one structure the sentence sometime the victim needs to be part of the process particularly with regard to losses and see how the court has dealt with the case.</p>	
<p>3.4 There is an on-going education to sensitise magistrate for example project to inform them among others about the impact of crime to women and trauma suffered by black victims. But magistrate are used to make pronouncement on the bench that they think are right, not always take into account the needs of victims.</p>	<p>3.4 Post- sentencing mainly depend on non-custodial sentence – then supervision services, group work taught the offender how crime affects people’s lives in conjunction with NICRO and other rehabilitation services. Probation work goes beyond court work to community level. Non-custodial recommendations are not automatically followed by the court because some magistrates tend to prefer imprisonment on the basis of certain consideration. The final decision on sentencing depend to the magistrates. But the accused can appeal against his sentence and in some cases the highest court will rule out in favour of the recommendations of the social workers/probation officers.</p>
<p>3.5 Probation officers work with the juveniles as the case comes to court to take them out of the criminal justice</p>	<p>3.5 Victims should be part of sentencing, but there is a feeling that some victims can be revengeful. Victims of rape in</p>

<p>system. There are social workers who among others provide counselling services to the victims of rape at sexual offences court. With regard to the accused person it would be appreciated if each of the accused person could be known in terms of his or her personal and social circumstances before sentencing. But it is not feasible financially, and lack of man power. Social work pre-sentence report tend to be required in special cases like drug dependency, alcohol, juvenile serious crimes that can require imprisonment. The involvement is not structured rather it is in the discretion of the court (either magistrate, prosecutor, attorney) to ask for the intervention of social worker. The court does not necessarily follow recommendations by social workers and sometimes the report is not comprehensive or it is vague, although there is a general format but the content is important.</p>	<p>particular requires to be consulted as to how is the impact of crime to her and how should justice be done in order to write a balanced report/recommendations.</p>
<p>3.6 Post – sentencing would be better under the supervision of the social worker or probation officer if there can be resources. Home visit on regular basis with alcohol related cases.</p>	<p>3.6 Diversion programmes seem to be preventative from the observation in Wynberg court. Re-offending seem to be a seldom incident. Programmes broadly involves self esteem building, pre-trial services, educate about the law, crime prevention – not to re-offend, otherwise they will get a criminal record and others.</p>
<p>3.7 In an ideal situation it will be better</p>	<p>3.7 Indirectly probation work tend to link</p>

for social workers to intervene in serious cases, where the court might look for imprisonment or non-imprisonment sentence.	up or refer cases to outside organisations for example sections dealing with family support services.
---	---

D. Criminal Justice Matters and Correction

Magistrates	Probation Officers/Social Workers
<p>4. At present the criminal justice system seem not to be preventative, falling apart, under staff, many cases in court, too many people in prisons, not certain for possible reasons. Probably the system should be reviewed. The restorative justice has been used to some degree especially with juvenile offenders to try and keep them out of the system.</p> <p>To some degree new measures are being involved in the system based on community role like community courts, street committees as elements of restorative justice particularly in less serious crimes.</p>	<p>4. Social work role in the criminal justice system seem to hinge mostly in the discretion of the court at the level of sentencing. But with juveniles the system requires probation officer's role.</p>
<p>4.1 The procedure of the court entails proper evidence for its proceedings to occur in order to secure conviction. The court procedure is seen to be traumatic, cumbersome and not preventative. The procedure should be simplified. The other short comings of the court procedure revolves on the right of the accused to remain silent. There seem to be a process to obliged the accused to explain the basis for his defence. The procedure of</p>	<p>4.1 With regard to the rights of the offenders there seem to be a process to eliminate arrest before conviction like awaiting trial. The accused should appear before the court within 24 hours. Cases not to be postponed frequently. Sentences be backed up by preventative services.</p>

<p>the court tend to frightened the victims and witnesses not to come forward with the information required. Sometimes they testify in front of the alleged person and intimidation occurs particularly in gang related crimes and gang ridden communities. But raped victims mainly children testifies on camera not to be scared of their alleged rapist. In most cases victims sit in court passages, not informed about the status of their case. Some cases get postponed, withdrawn, closed without being informed.</p>	
<p>4.2 Bail used to be easily granted in 2-3 years ago, at present it is tough for the accused to get bail. Reasons are associated with perpetual re-offending where in certain cases an offender received bail for almost three consecutive offences. New legislation seem to be preventative to crime and serious crime such as murder and child rape it is very difficult to get bail.</p>	<p>4.2 Not certain about the specific impact of parole. Probation officers are not commonly involved with offences committed under parole.</p>

Police Officers	Prosecutors
-----------------	-------------

A. General Identifying Profile

1.Address: Stellenbosch	1. Wynberg magistrate court P/bag x 3 Wynberg
1.1 Gender: Male	1.1 Gender: Male
1.2 Age: 31 years	1.2 Age: 30 years
1.3 8 years experience in the jurisdiction of Stellenbosch involving Cloetesville, Khayamandi and Idas Vallei	1.3 8 years experience as a prosecutor

B. Crime Dynamics in the Western Cape

Police Officers	Prosecutors
2. Crime rate is perceived to be high. Define crime as unlawful act, breaking the law	2. Crime levels are high. Define crime as against certain laws, somebody does something wrong that must be prosecuted
2.1 Causes are associated with personal and social factors. Such as failure to abide the law, unemployment, self greedy, low self esteem family problems.	2.1 Causes are associated with lack of proper education, lack of job opportunity, overcrowded prisons lead to further crime and offenders learn some sophisticated activities. Lack of role models, for example in Manenberg gangsters are regarded as heroes by some other people where they sell drugs and distribute food, and provide other forms of family support. But to join gangsters the person is generally required to have criminal record and to become a gang boss one has to kill other persons.

C. Sentencing Process and Prevention Strategies

Police Officers	Prosecutors
3. More police for better policing and more prisons to reduce overcrowded prisons for the rehabilitation services to occur. Harsh sentencing be combined with social service delivery such as education about crime prevention.	3. Justice system seem to be based mainly on punishment than prevention at the moment. But each sentence has various forms of punishment based on the seriousness of crime. In this regard custodial and non – custodial for example juveniles are diverted from the criminal justice system. The tendency is that once they are prosecuted they believe that they are criminals. Petty crimes such as shoplifting the juvenile commonly get a

	<p>warning not to do something wrong again otherwise she/he will be prosecuted. The court tend to take into account the seriousness of the offence and the personal circumstances of the accused. Victims statement is often taken once when the victims testifies facts of the case. The involvement of victims and witnesses could delay court progress hence most of the time sentences are handed over in their absence.</p>
<p>D. Policing and Prevention Strategies</p>	<p>3.1 Harsh sentencing should be supplemented by more prisons as to reduce overcrowded prisons for effective rehabilitation services to occur. Visibility of police in the area may promote crime prevention. Social services in the form of education on prevention is necessary as one of the strategies. More courts and more people in the court, courts are overloaded with a bulk of dockets. This is associated with endless postponement of trials, not to be qualitative, sometimes not even taking place.</p> <p>Community courts as part of informal justice are associated with the prevention of crime and could reduce formal courts load. Community courts are required particularly with small cases, dispute but it must be structured not to degenerate to kangaroo courts or courts that are dominated by the traditional chief which tend to proceed from rumours than clear</p>

	evidence.
<p>4. Police officers lack capacity to investigate crime. The investigation has to lead to the arrest of the suspected person and brought her/him to court. The detection work by the police has to present enough evidence to secure prosecution by the court. The process of getting evidence is difficult because people tend to fear to expose criminality.</p>	<p>3.2 Sentence requires harsh punishment to promote deterrence. The court sentence should be published to deter the public from crime. Others must be scared by making example of one person. Non-custodial sentence can serve as a deterrence. For example X has committed robbery the court will not sentence you to jail today or give you a criminal record (suspended sentence) or correctional supervision but if you commit crime again the court will sentence you double (ie. present and future crime).</p>
<p>4.1 Community has to play primary responsibility because both perpetrators and victims of crime are commonly known by the community.</p>	<p>D. Prosecution Process and Justice for Prevention of Crime</p>
<p>4.2 Community role is important in partnership with the police. At present the community is not really involved particularly with regard to the re-launch of the policing forum.</p> <p>4.3 Women and the youth are not really involved but there are preventive projects like youth development captain crime stop at schools, leadership youth development, youth against crime age 8-15 years.</p> <p>4.4 Collaboration with social workers in the field of child welfare on issues such</p>	<p>4. Prosecution process does not mean to prosecute the accused person to prove that he/she is guilty. The prosecutor has to provide facts, evidence to be available in an impartial way for the court to take a proper decision. It can lead to an accused person sometimes having vindicated. The information is sometimes shared with the defended of the accused for the court to make a finding. Prosecutors, probation officers, victims, defended in some circumstances do address the court about their feelings and suggest specific sentence but the court will make a final decision. The magistrate is the boss of</p>

<p>as violence against children. Social work services tend to supplement police role in the area.</p>	<p>sentencing. The process of prosecution requires evidence which start with the police who will hand over the docket to the prosecutor, then the court will decide if there is enough evidence for prosecution. At this level the police will get witnesses so that the court could prove whether the accused is guilty or not guilty.</p>
<p>4.5 Business sector is not really involved because among themselves they can not come together. Initiatives have been taken in writing inviting them to meetings, including other role players like church organisations and others, but there has not been progress.</p>	<p>4.1 For serious cases involving organised crime, gangsters, Pagad cases at present there is witness protection plan to take the witnesses away from the area in which the incident occurred. At this level the witness is safe guarded by the police and get paid or provided with a job. He/She must be known by one person in terms of the details. Lack of resources restrict this plan. Victims of rape who are mainly children testify on camera at sexual offences court, even other serious cases if the victim/witness is scared to testify.</p>

Victims of Murder	Victims of Rape
-------------------	-----------------

A. General Identifying Profile

1.Address: Steenberg – Wynberg magistrate jurisdiction	1. Ocean View – Wynberg magisterial district (Wynberg sexual offences court)
1.2 Gender: Parents of the deceased child	1.2 Female
1.3 Age: Father: 37 years, mother:32 years	1.3 16 years
1.4 Education: Father: Std 6, mother: Std 4	1.4 Std 6

1.5 No experience of crime by the father	1.5 No
1.6 The mother had an indirect experience of crime at a family level where her brother was involved in gang related crime	1.6 N/A
1.7 Death of the 7 years son	1.7 (Abduction) Rape

B. Crime Dynamics in the Western Cape

Victims of murder	Victims of Rape
2. Define crime as wrongful against other people. Crime rate seem to be high	2. Define crime as a harm or hurt other people and perpetrators do not think about how others feel about crime
2.1 Causes can be associated with family breakdown, lack of income, lack of education, drug use	2.1 Causes are associated with individual desire to offend other people

C. Sentencing Process and Prevention Strategies

Victims of Murder	Victims of Rape
3. Effective prevention requires among other things more courts and people to promote speedier work. For example the case has been dragging since 1998 without a progress. Bring back death penalty. The wife was not sure about death penalty, but felt that perpetrators must be punished. Police visibility.	3. Harsh sentencing can be the most effective to taught perpetrators of crime a lesson.
3.1 Sentences tend to be lenient and prison sentence is not followed up properly in terms of rehabilitation. Instead offenders learn hard forms of re-offending some become 28 and 26 gangs when they get out of prisons.	3.1 Sentences mainly passed by the courts are not tough, they need to prevent perpetrators.
3.2 Victims should play a role and what	3.2 Victims should play a role in the

<p>is important is for justice to play its part. For example the case of the deceased, nothing is being done, while after the incident the police took statement and nothing is being done to bring the accused to court for prosecution.</p>	<p>sentencing because the court might not realise the impact of crime to the victims.</p>
---	---

D. Criminal Justice Matters and Correction

Victims of Murder	Victims of Rape
<p>4. There is no emotional support received from the system. No information provided about the status of the case instead initiatives are conducted by the family.</p>	<p>4. The justice system has to provide services based on emotional needs and have more social workers.</p>
<p>4.1 Social work services are generally perceived help to the victims.</p>	<p>4.1 One of the things is to give finance to sexual offences court to develop facilities</p>
<p>4.2 Criminal justice is seen to be less caring for victims hence some informal justice has to be promoted. For example in cases of property crime the offender might return back the stolen property in the resolution of the case. Sentenced to prison offenders the victim tend not to get his/her property back. Victims feel not respected and not involved. Feelings of neglect tend to lead to situation where communities take the law into their own hands.</p>	<p>4.2 The criminal justice is viewed as less sensitive. The witness reflected that the case has been postponed at the last hour when it was supposed to start on the day and there was no information provided before hand by the court.</p>
<p>4.3 The grounds of bail should not be easily granted. At present bail is seen to weakens prevention and community involvement because of fear of victimization. It is easily granted</p>	<p>4.3 Bail is understood to be easily granted. The victim and the witness confess that they are under fear because the accused is out on bail and is an alleged drug dealer. He has been trying to</p>

particularly for rich people.	bribe them to withdraw the case. On this day it was communicated with a social worker that the gangsters are outside the court waiting for the victims and family. Then social worker had to organise police officers to provide protection for the family and the victims back home.
4.4 Parole conditions are not well prepared, some parolee get released having grown up into gang ranking.	4.4 Parole is associated with the rate of recidivism
4.5 Victims are fearless to meet the accused because the incident has occurred. They feel that they are not about vengeance instead justice has to be done.	4.5 Victims generally want to meet the accused rapist - drug dealer and asked how does he feel about raping her. How would he feel if his daughter can be raped one day.

Victims of Robbery (property crime)

A. General Identifying Profile

1. Address: Retreat (Wynberg magisterial district)
- 1.2 Gender: Female
- 1.3 Age: 19 years
- 1.4 Education: Std 10
- 1.5 Experience of victimization : None
- 1.6 No
- 1.7 Present perpetrated crime: Robbery

B. Crime Dynamics in the Western Cape

2. Define crime as criminal offence against people
 - 2.1 Causes are associated with bad behaviour driven by desire to rob other people.

C. Sentencing Process and Prevention Strategies

3. Both victims and witnesses regard harsh sentencing to be the most effective prevention strategy to give the offender a lesson for deterrence.

3.1 They believe that the present sentences that are handed by the courts tend to be light because offenders tend to reoffend.

3.2 They further believe that victims should play a role in the sentencing process of the accused because victims have felt the crime.

D. Criminal Justice Matters and Correction

4. Her loss property is important and she is angry when someone takes that away. Although the perpetrator has been sentenced to prison he is not going to return back her property. The witness insisted that victim has to get something from the offender to pay for his crime. Because of the anger of loosing something belongs to you, there must be a space to talk about it.

4.1 Social workers have to do much preventative work in the criminal justice system because these crimes occurs to other people.

4.2 The respondents feel protected and respected by the system because the offender is in jail.

4.3 Bail is generally seen to be easily granted.

4.4 Parole is seen as a measure that gives rise to recidivism, for example her offender should serve full sentence in prison.

4.5 The moment of meeting is perceived to be a moment to ask if he can return back her property. There is not much to talk with him.

Commonalities and Differences

A. General Identifying Profile

The data was mainly collected in the jurisdiction of Wynberg magistrate court. While the police officers were drawn from Stellenbosch area because the area seem to have the tradition of a working community policing forum in the prevention of crime. Respondents mainly had spokes person and sometimes two participants. Victims were mainly with their witnesses. In terms of age and gender victim respondents were

mainly young females and in case of the deceased, it is a young person. While other respondents holds key position in the criminal justice system, experienced and educated.

B. Crime Dynamics in the Western Cape

Crime definition is mainly tend to be understood in legal terms (unlawful) by many respondents. While victims seem to view crime in terms of their feelings, rights and as harm against them (people).

Causes of crime are associated with personal and social circumstances. There is general convergence among respondents that crime rate is high in the Western Cape.

C. Sentencing Process and Prevention Strategies

The respondents generally converge that the criminal justice system at present is mainly based on punishment rather than prevention which is retributive in nature. But different respondents recognises the preventive elements in each specific sentence handed by the court as a form of punishment.

Prevention strategies associated with the visibility of the police seem to be popular as part of service delivery. Custodial and non custodial sentencing seem to be supported where necessary on specific cases and to be backed up by preventative services. For example most respondents acknowledge the fact that prisons are overcrowded and for rehabilitation to occur there must be more prisons. More courts and personnel to promote better service delivery has been the common idea. Victims tend to call for harsh sentencing and other respondents too, although to some extent acknowledge that severe sentencing is not necessarily preventative but the law, and community should be respected through punishment.

Responses to leniency of sentences tend to vary on the basis of specific experiences. Community role is generally seen as important in the policing forum for the purposes of partnership and prevention of crime. There seem to be general apathy in the involvement of community in policing involving helping the police to get information as to arrest the suspected person.

In the sentencing process there is broadly an acknowledgement of the victims lack of involvement among other things due to lack of funds to get more social workers who can help the court to know the circumstances of the victims before sentencing. Broadly the involvement of victims in sentencing is seen not to be feasible. The other common idea is that victims might be vindictive while the bench may want to follow and be guided by legal framework.

Respondents commonly acknowledge the importance of social work role in the sentencing process mainly in pre-sentence report, the other level is juvenile justice and the sexual offences court. Although some respondents point out to lack of resources for possible bigger space for social workers, they recognise that the pre-sentence report would cover circumstances of the accused person and victims in order to help the court to impose a balanced sentence.

The respondents converged that at present social workers or probation officer's pre-sentence report is in the discretion of the court mainly with the accused special cases not with victims. The process seem to be episodic than structured. Respondents broadly acknowledge common differences in the report recommendations presented by social workers before the court. They pertain to custodial and non-custodial sentence. It is reflected that in most cases probation officer will recommend a non-custodial sentence such as suspended sentence, community service, and others. While the magistrate will impose a custodial sentence on the basis of certain circumstances. In some cases the accused appeal to the high court and judge could be in favour of the recommendations of the social worker based on non imprisonment.

D. Criminal Justice Matters and Correction

Respondents generally view the criminal justice system being not preventative and reasons are not clear whether the system must be reviewed. Another common view is that the criminal justice at present tries to improve for instance the creation of sexual offences court for social workers to provide counselling to mainly raped children among other things. But the other common view is that on the whole the system is not victim centred. Other area of convergence involves the acknowledgement of element of restorative justice with juvenile offenders. Social workers at the level of juvenile

justice are commonly seen as rendering preventative services to divert the youth from the criminal justice system.

Respondents generally holds different views on bail conditions. Victims of rape stated that the accused rapist and drug dealer is out on bail since June 1999 and they keep intimidating them (and her family and witnesses) with their fellow gangsters. The family of the deceased child responded that the accused person has never prosecuted. While the magistrates generally believe that at present unlike in 2-3 years back, legislation is getting tough, where there will be no blanket right of the accused to remain silent and other short comings of the constitution are revisited. Respondents generally associate parole with recidivism and prisons are seen as less rehabilitative.

Victims participants generally believe that meeting the offender could provide an opportunity to ask specific questions about the crime that has been perpetrated against them. They commonly believe that the setting of the meeting should be clearly defined. Respondents commonly agree that meaningful prevention of crime also requires informal justice such as community courts and street committees. Respondents reflected that community courts should be structured involving professionals, legal understanding, human rights oriented people, to navigate these structures not to degenerate to some kangaroo courts and vigilantism.

Gaps in the Data

The researcher identified the importance of involving different categories of victims of crime including rape and property crime to supplement the earlier on victims in line with the study. Other gabs might be identified as the research process proceed forward.

Offenders of violent crime	Offenders of property crime
----------------------------	-----------------------------

A. General Identifying Profile

1.1 Address and Place: Drakenstein prison, medium A, P/bag x 6005, Paarl – Home: Lambertsbay	1.1 Address and Place: Drakenstein prison, medium B, P/bag x 6005, Paarl – Home: Khayelitsha
1.2 Gender: Male	1.2 Male
1.3 Age: 34 years	1.3 20 years (juvenile)
1.4 Have you been convicted before? Yes	1.4 No conviction before
1.5 The type of crime before was assault and I was sentenced to 3 months imprisonment.	1.5 N/A
1.6 Present type of crime and sentence: In 1986 I was doing Std 9 I received double death sentence for two accounts of murder (one attempted murder) then served two years on death row in Pretoria maximum central prison. The regional Vanrhynsdorp court convicted me when I was 17 years in 1985 then impose death sentence when I was 18 years I had a lawyer but not a social worker/probation officer. The death sentence was changed, then presently I am serving double life sentence which is 16 years period of imprisonment.	1.6 Convicted for housebreaking and sentenced to 6 years imprisonment in 1997 when I was doing Std 9. When I was sentenced I had state lawyer and a probation officer and I was 17 years (juvenile).

B. Crime Dynamics in the Western Cape

Offenders of violent crime	Offenders of property crime
2.1 Some prisoners see crime as a kind of living because they rob people in order to get money. Some like me because they are serving sentence for violent crimes they could not really see other non	2.1 As prisoners we do not really see crime as crime but as the way of life. We do not see it as law breaking but as a way of life to satisfy our needs.

aggressive ways of resolving differences or meeting their needs.	
2.2 Main causes can be associated with drugs and alcohol, unemployment, gangsterism, frustrations.	2.2 Peer group pressure for competition for high status, alcohol and drugs, unemployment

C. Prevention Strategies

Offenders of violent crime	Offenders of property crime
3.1 Prisoners tend to think for work opportunities, education, business courses, life skills programmes, and conflict resolution should be encouraged inside and outside prisons.	3.1 Prison inmates believe that the effective prevention strategies should start at community level in the form of education and crime awareness projects.
3.2 The criminal justice system is based on punishment for instance in 1986 the court sentenced me to double death sentence then changed to double life sentence. But the prison board is not consistent about when is the first life sentence ends as to begin the second round. It is more punitive than rehabilitative. There are prisoners who are serving sentences for minor first time offences and some are juveniles. And we also had on TV and radios in Pollsmoor and other prisons being overcrowded and awaiting trials.	3.2 It is based on punishment due to harsh sentencing measures. For example in our case all the guys were sentenced to imprisonment being juveniles although the property of the person was found and I was sentenced harshly by the court than others. In our case there was heavy staff and we damaged the house but at least if one steals minor thing one can not get three years imprisonment, rather 6 months imprisonment or community sentence.

D. Offenders Perception and Corrections

Offenders of violent crime	Offenders of property crime
4.1 When people commit crime they do so against other people whether aggressive or non – aggressive. Crime is	4.1 People who commit crime are acting against other people not against the laws. They want to grab the moment to be

<p>aggressive or non – aggressive. Crime is determined by the circumstances, needs not by previous knowledge and experience about prison and sentences. They think what they want at that point in time for instance one would be brutally cutting someone’s throat and taking out his/her eyes during the act.</p>	<p>They want to grab the moment to be successful in the deal. They do not see the consequences of their acts nor thinking about the other person.</p>
<p>4.2 It is difficult to agree that rehabilitation services are successful and helpful because some prisoners behave badly in their early stages of imprisonment. Then when they are towards finishing their sentences they behave friendly to other inmates and prison officials in order to meet parole conditions. Prisoner’s view point is that rehabilitation should begin with mind set. The tendency here is that they focus to safety than rehabilitation of offenders.</p>	<p>4.2 There are a variety of programmes such as crime prevention, AIDS awareness, computer education, sport once a month. Formal education is very poor, there are no teachers for certain subjects, no stationary then I have not been able to complete Std 9. Rehabilitation in terms discipline is encouraged through charges with regard to misconduct. All charges whether from formal court or inside prison they are written to your record which make chances for parole to be very difficult or the court add up another sentence.</p>
<p>4.3 Social work services have been helpful particularly in conflict resolution course. Every week 28 prisoners mainly convicted for murder go to conflict resolution course.</p>	<p>4.3 They are helpful in rendering services on crime prevention, group rehabilitative programmes, drugs awareness, conflict management.</p>
<p>4.4 There is crime in prisons and gangs in prisons have everything. Some inmates are under pressure to be involved in gang activities but others it is a fashion particularly juvenile inmates, others it is circumstantial. This means that some</p>	<p>4.4 Yes they are under pressure because we are about 18 in a cell as you newly arrived one gang group approach you. They asked where do you come from and what are you convicted for? Then on the basis of your offence you will be referred</p>

<p>inmates get involved in gang ties to look after him because there is no support from his family. Presently the outside gangs have infiltrated prison gangs for smuggling drugs and gang recruits. Gangs affiliation can vacillate from 27 or 26 gangs to 28 gangs and vice versa on the basis of support and life in prisons (involving Hardlivings, Sexy boys, Firm gangs, etc).</p>	<p>to 26 gangs (property related offences). And referred to 28 gangs (violent offences - blood). Some inmates are serving offences such as robbery, rape, murder, theft. If you do not belong somewhere you get isolated and threatened. These activities are known here in prison by the authorities and if one reports them he is regarded as an informer. Some of the practices are involving taking away your nice things like food, clothes, money from home, sodomy.</p>
<p>4.5 The requirement for the parole is clean card. There must be no conviction record and good manners give rise to qualification for parole.</p>	<p>4.5 Most people do want and recognise parole. The condition for a parole is discipline and co-operation.</p>
<p>4.6 Some prisoners do want to meet victims of their crime. Some do not because they are afraid and embarrassed particularly those who are convicted for rape even in prison rapist are not respected by their fellow prisoners. They are isolated and threatened. During maximum period (early stages) prisoners tend not to communicate their inner feelings about the crime and the surroundings. Then in the minimum (later stages of sentence) period they tend to want to meet the victims and feel sorry about their crime.</p>	<p>4.6 Not certain about other prisoners but from my side I do not wish to meet them, not because I hate them. It is because I do not know whether they want to revenge or unhappy about the punishment by the court.</p>
<p>4.7 The alternative to imprisonment should be informed by seriousness of the</p>	<p>4.7 Community based sentences are an alternative for petty crimes such as</p>

offence. Crimes like murder, rape, armed robbery, such people must be given imprisonment. Other crimes such as stolen property (which is the majority here) should get one year 6 months imprisonment. Minor offences should get community based sentences if they re – offend then they can get imprisonment sentence. You get a number of people who are convicted for minor offences although convicted for the first time. The other approach which is sometime practiced here is to give offenders task to perform to encourage responsibility on the basis of one’s offence. For example some prisoners who are convicted for property related crimes can run a business or tuck shop and demonstrate level of trust to them. People must be given a chance to change their behaviour and develop. For instance I was very young when I was sentenced to death and to live on death row is a terrible experience, it is a nightmare. Because when prison official pass or come around your cell, you are not sure whether they are about to take you to gallows to be hanged to death. From the day the judge or courts handing down the sentence of death to you, hsopes, everything becomes shattered. The death row prisoners regard life imprisonment as hope and chance to restore and reconsider their acts while

shoplifting, etc. I accept my punishment although I feel that the court was harsh in its decision because every stolen property was founded but the house was damaged. Housebreaking is a serious offence but it is my first offence. Other serious offences like murder and rape should get imprisonment because they affect the person directly.

<p>they are in prison in their relationship with other people. For instance I am running a tuck shop. Most prisoners feel sorry about their crimes that led them to death row and to life imprisonment.</p>	
---	--

Verbatim of the accounts: Crime Prevention within and outside the Criminal Justice System

A. General/Identifying Profile

Social Worker (Child welfare)	Social Worker (Children's court)
1.1 Organisational address & place: Child welfare society, Stellenbosch	1.1 Children's court, Magistrate court, Wynberg
1.2 Age: 25 years	1.2 29 years
1.3 Gender: Female	1.3 Female
1.4 2 years of service in crime prevention and justice	1.4 9 years

B. Crime Dynamics in the Western Cape

Social Worker (Child welfare)	Social Worker (Children's court)
2.1 Define crime as something a person does which is in conflict with the law and is not acceptable in the community.	2.1 Define crime as something that the person or child does which is not right according to the law of the country.
2.2 The rate is high mainly in the area of Khayamandi, Cloetesville and Idas Villei	2.2 Very high percentage
2.3 Major causes of crime can be associated with lack of parenting skills, lack of proper education.	2.3 Main causes are related to social problems like drug abuse, alcohol abuse and unemployment.
2.4 In terms of crime characteristics sexual abuse is very common to children in the area. Age group of 10-15 years, children tend to be involved in housebreaking.	2.4 The crime characteristics are mainly gang driven, peer – pressure, alcohol and drug related crime. The court deals with children cases from birth to 18 years. Common types of crime are theft, housebreaking, attempted rape or rape.

C. Sentencing Process and Prevention Strategies

Social Worker (Child welfare)	Social Worker (Children's court)
3.1 The purpose of the criminal justice system is based on punishment and	3.1 The criminal justice system is supposed to be a combined system with

prosecution of the offender.	the welfare of the person and the law.
3.2 At present the criminal justice system is based on punishment than prevention. It tends to reacts after crime has been committed.	3.2 On the whole the system is retributive. But from the side of the children's court the approach tends to be preventative. For example on certain circumstances children with behavioural problems are sent to school of industry to learn some rules. In some circumstances others would be normally referred to children's home or place of safety.
3.3 Community involvement is important in the strategy to prevent crime. Because the perpetrators and victims belong to the community.	3.3 Community involvement, social workers and criminal justice system will be one of the best strategies to prevent crime.
3.4 Children at the age of 10-15 years tend to be involved in housebreaking and petty crime in the area. Then the children's court tends to refer them to youth schools of industry on the basis of their age. This strategy seems to be ineffective because they re-offend. With regard to sentencing on cases of child sexual abuse, social workers are not commonly aware about what happened to the perpetrator because they often deal with the referred child.	3.4 Sentencing should be informed by specific circumstances. For example if the perpetrator tend to repeat the crime then a prison sentence is required on merit. If it is first offence then a sentence can be based on rehabilitation to provide counselling to the perpetrator.
3.5 The report is not really with the accused person in the agency.	3.5 Up to large extent the magistrates consider the importance of social work report on the circumstances of the accused.
3.6 In case of the sentenced parent (breadwinner) or the family in need of care services are based on referral for the	3.6 If the child is placed in the school of industry, they get education, skills on manual work, self esteem building. When

<p>maintenance of the young child. In case of the sentence mother the young child will be placed in foster care within the community than in institutions. Foster care supervision is rendered to assess adjustment of the child.</p>	<p>the child reaches 18 years then she/he is referred back to community and continues with normal life having been prepared for.</p>
<p>3.7 Not certain about diversion programmes of the juvenile offenders.</p>	<p>3.7 From the court side diversion programmes are successful.</p>
<p>3.8 Victims should be consulted and be involved in the court proceedings to develop trust in the system that justice is rendered.</p>	<p>3.8 Victims must be consulted and be involved as part of healing. They have to see the whole process through.</p>
<p>3.9 The personal and social circumstances of the victim particularly children should be known by the court</p>	<p>3.9 What the victim went through should be taken into consideration by the court. For example brutally raped or assaulted person tend not to recover fully.</p>

D. Criminal Justice Matters and Correction

Social Worker (Child welfare)	Social Worker (Children's court)
<p>4.1 The involvement of social workers in the criminal court should be a standing requirement to be consistently part of proceedings of the court.</p>	<p>4.1 Social workers involvement in the criminal court proceedings is of vital importance because they are the ones who investigate personal and social circumstances of the accused person. Similarly with court assessors who help the magistrates in sentencing because they are appointed on the basis of knowing and also known by the specific community.</p>
<p>4.2 Rights for the accused person should depend on certain cases. For example there must be no rights for the person who has raped the child. The perpetrator</p>	<p>4.2 The accused should be treated with sensitivity, sometimes people do not receive a fair trial. When they appear in court they are seen as the perpetrators</p>

<p>must be prosecuted and be punished. The court duty should not be equated with issues of fair trial. The awaiting trial are necessary pending on the investigation of the accused person because his/her release might jeopardise the investigation process and re-arrest might be impossible.</p>	<p>before they are proven guilty. The awaiting trial should not be placed in prisons (Pollsmoor). They should be separated in terms of age and offences accused for. The other problem is that the awaiting trial becomes long because social workers, investigating officers and the police tend not to be able to provide evidence about the person on awaiting trial, then cases get postponed more than once.</p>
<p>4.3 Not really aware about the services in prisons. But the correctional system should make use of social workers to render rehabilitation services.</p>	<p>4.3 There seem to be 15 social workers in each prison in the Western Cape while there are big numbers of prisoners. Couple to this difficulty offenders tend to take long to come to terms that what they did is wrong in order for rehabilitation process to flow or occurs.</p>
<p>4.4 Not certain about rehabilitation services and it seems as if social workers are at management level than direct programmes. Another point is that youth centres tend to cultivate some deviant behaviour among the inmates.</p>	<p>4.4 There is a need for more rehabilitative youth centres rather than just locking up on cells.</p>
<p>4.5 Social workers can promote the rights of the victims to information about the status of the case. They can provide counselling to help the victims to speak about their emotional needs. Referral services in cases of physical harm.</p>	<p>4.5 Social workers are necessary to promote a responsive caring justice system for victims of crime. There are special courts for the victims of sexual offences. But there are other victims who undergo criminal court proceedings and treated as if they are the accused person.</p>

E. Community Justice and Prevention

Social Worker (Child welfare)	Social Worker (Children's court)
<p>5.1 Prevention projects are not much due to lack of community support. There is child abuse protocol.</p>	<p>5.1 From the side of children's court there is a forum called child abuse protection. In this case if the child is in need of care he/she can be removed to a place safety.</p>
<p>5.2 Community tend to see crime prevention as a work of social workers. Attempts have been made to call meetings even at street level, but they do not turn up.</p>	<p>5.2 More awareness programmes should be implemented in the community.</p>
<p>5.3 Families must accept the fact that the accused and sentenced member has to undergo justice process and learn from it. Also victims should not be blamed and they need to be taught including the family not to blame themselves.</p>	<p>5.3 Family support is vital to the victim, accused and the sentenced member to provide space for talking about crime experience than abandoning the person.</p>
<p>5.4 Social worker should go to the family of the accused, victim and sentenced member to inform them about their supportive role.</p>	<p>5.4 Social workers can provide counselling services to the family members on how to deal with the trauma or stress. Involving them in group sessions to show the family that they are not alone.</p>
<p>5.5 Reconciliation services are necessary and required to be managed. Some where some how they might remind the victim about what happened which can be very difficult.</p>	<p>5.5 Yes the children's court does not want to separate the child from the parent or perpetrator because of the bond between parties. The courts make sure that it acts on the interests of the child particularly if the child is prepared to meet the perpetrator. Normally the court asks for legal aid attorney to facilitate the meeting.</p>

Probation Officer (Juvenile court)	Social Worker (Sexual offences court)
------------------------------------	---------------------------------------

A. General Identifying Profile

1.1 Organisational address & place: PAWC, Juvenile court, Magistrate court, Wynberg	1.1 Sexual offences court, Magistrate court, Wynberg
1.2 Age: 39 years	1.2 33 years
1.3 Gender: Female	1.3 Female
1.4 Services: 10 years	1.4 11 years

B. Crime Dynamics in the Western Cape

Probation Officer (Juvenile court)	Social Worker (Sexual offences court)
2.1 Define crime as the violation of the law and community.	2.1 Define crime as the contravention of the law and human rights.
2.2 Crime rate is very high in the area.	2.2 Crime rate is seen to be very high.
2.3 Main causes are associated with lack of parenting, lack of education.	2.3 Causes are associated with unemployment, lack of supervision of children, gangsterism, gender inequality pertains to little respect for women.
2.4 Characteristics are seen to take a form of gang related offence, shoplifting, theft out of motor vehicle, robbery and assault.	2.4 Rape with neighbours as a main perpetrator, Gang related offences.

C. Sentencing Process and Prevention Strategies

Probation Officer (Juvenile court)	Social Worker (Sexual offences court)
3.1 The purpose of the criminal justice system is to prevent and punish the offence on the basis of circumstances.	3.1 The purpose is associated with the exercise of punitive measures against those who contravenes the law to prevent recidivism. Further it is associated with the idea of protecting communities from harm or harmful people.
3.2 At present the criminal justice system is mainly based on punishment, although it takes into consideration certain	3.2 Criminal justice system seems to take punishment as a priority. While there are other sentencing options such as non-

<p>circumstances. For example juvenile first offenders and petty crime like shoplifting are diverted. But serious crimes and second offenders tend to receive a custodial punishment.</p>	<p>custodial measures.</p>
<p>3.3 The most effective prevention strategies are concerted programmes based in the community than in the offices. Programmes will keep young people occupied after schools and those who can not go to school must get access to educational programmes.</p>	<p>3.3 Effective prevention strategies can be associated with gender equity, prevention programmes be part of school curriculum. Education on issues of conflict resolution and mediation are important.</p>
<p>3.4 Sentencing should be based on circumstances. In cases of shoplifting, theft out of motor vehicle, robbery, then the child can be referred to juvenile school. NICRO programmes as part of sentence has to be utilised. In cases of rape and murder the court has to look at specific circumstances to take a custodial and non-custodial sentence being aware about community interest and needs.</p>	<p>3.4 Offences such as theft requires a sentence of community service. In robbery and assault offences, the court should sentence an accused to correctional supervision. In cases of rape and murder the court should impose an imprisonment sentence. There must be very harsh sentences for rapists (excluding statutory rapists).</p>
<p>3.5 The report has to cover the personal and social circumstances of the accused child. The social history of the child must be gathered through intense interviews with the parents and relevant people to make informed recommendations for the proper sentence by the court. For example to recommend for the postponement of sentence. Sometimes in the process the court would call the probation officer for cross questioning</p>	<p>3.5 The report of the social worker has to highlight extenuating circumstances. Reports are often taken into consideration in sentencing by the court.</p>

<p>about his/her report. At the end the magistrate would decide for instance handing down suspended sentence. In this sentence if the child re-offend he/she will get imprisonment sentence.</p>	
<p>3.6 After sentencing the juvenile court normally refers the juvenile to NICRO programmes as part of sentencing. At this level there are no follow-ups.</p>	<p>3.6 In the post sentencing phase the court would refer the offender to diversion programmes at NICRO.</p>
<p>3.7 Yes diversion programmes seem to be successful. But there are cases of re-offending. In such cases you asked the child – did you learn something from NICRO? The child would say: I learnt something but the situation at home is bad. In unstable families with drug alcohol abuse and hunger you tend to have cases of re-offending.</p>	<p>3.7 Yes, but diversion in its own can not be successful. It has to be coupled with a programme of monitoring and not to be done in isolation. Diversion programmes must be link up with community mentor and it needs parents co-operation.</p>
<p>3.8 The victim tends to think punishment than prevention. The involvement can be limited whereby in special circumstances they can be consulted. Non-custodial sentences are not seen as punishment by the victim.</p>	<p>3.8 The victim should be consulted and be involved when the court sentencing an accused for healing process. This is also for retribution and appropriate sentence.</p>
<p>3.9 If the court has to take into consideration the circumstances of the victims, it requires more social workers for victims inquiry. At present the court assumes about the effects of crime to the victims on the basis of seriousness of the offence. When the magistrates hand down the sentence she/he acknowledge that the crime is serious and has done harm to the</p>	<p>3.9 Not in all cases, in instances when the victim of rape is under 16 years, there must be a victim report. In cases of housebreaking and less serious crimes, it is not necessary to present personal and social circumstances of the victim.</p>

victim hence justice has to be done.	
--------------------------------------	--

D. Criminal Justice Matters and Correction

Probation Officer (Juvenile court)	Social Worker (Sexual offences court)
4.1 The ongoing involvement of social workers in court proceedings is a good idea, but manpower is a problem. The role of social worker in that regard should be spelt clearly in the sense that it does not duplicate or seen as taking over from other court officials like prosecutors, etc.	4.1 No, social workers as expert witnesses should be called by the court where necessary. The entire involvement in the criminal court proceedings should be encouraged but not enforced.
4.2 The criminal justice system tends to treat the accused as the guilty party before the person is proved by the court. The accused person tends to sit on the court passages from the morning and only to find out in the afternoon the case has been postponed. During court – night if the child has been arrested by the police, sometimes the probation officer would recommend that the child be placed in parents custody or place of safety while investigation would take place. But the police officer and the prosecutor would rule for imprisonment or awaiting trial pending investigation or he/she might be linked to other cases.	4.2 Children do not belong in prisons. In South Africa and the Western Cape there is high recognition of human rights in the legislation. The problem is lack of implementation. There is a need for training of SAPS on how to conduct successful investigations in order to reduce long court rolls and bundle of dockets.
4.3 Yes, there is a need for a significant number of social workers to render rehabilitation services in prisons. The problem with juvenile awaiting trial is that they do not get rehabilitation services. Correctional system give	4.3 Yes, prisons should be humanised to combat gangsterism and anti-social behaviour. For lessons to be successful prison cells should not be overcrowded.

services to the serving sentence person, juvenile awaiting trial are perceived to belong to welfare.	
4.4 The youth committed to centres and reform school requires rehabilitation services and to be followed up after the release for adjustment.	4.4 There must be holistic approach to provide services on building self-esteem, life skills, jobs training and reconstruction services with families.
4.5 The criminal court tend to assume about the rights and needs of the victims. The probation work focuses on the accused person not on the victim person. More social workers will be required for victim's circumstances.	4.5 Yes at sexual offences court each victim receive counselling and focus is on prevention of sexual abuse. Referral is done for other needs and rights of the victim. For example young victims testify on camera (ie. informal closed setting) to be protected from the perpetrator and formal criminal court when giving evidence.

E. Community Justice and Prevention

Probation Officer (Juvenile court)	Social Worker (Sexual offences court)
5.1 There is a forum for child abuse protocol. There is an oncoming programme which will be based on multi-disciplinary approach to reduce level of trauma to the child. This seems to be meant for a joint interview rather than a child rotating from one agency or person to another in the investigation.	5.1 There is child sexual abuse forum directed at crèches and schools. Teach parents capacity skills to manage cases of abuse.
5.2 The involvement of community requires different programmes targeting parents and children. They have to be given opportunity to take responsibility for their own lives than listening to the social worker.	5.2 All stakeholders in community need to be involved at initial stages of the programmes or project for more participation. New programmes should be linked up with the existing ones.

5.3 The affected family has to talk about the incident with the victim, and the sentenced member to deal with the feelings. The family must learn to accept and trust the child in case of the offender.	5.3 The family has to talk about the incident or crime for healing process to take place.
5.4 Social workers can involve the parents in programmes to enhance their sense of responsibility.	5.4 Social workers can provide the affected families with training skills on how to manage traumatic events.
5.5 Victim – offender mediation is important if the parties are ready to talk about what happened. The setting should be well represented by social workers and parties involved.	5.5 Yes victim mediation can be very fruitful. But they depend on circumstances because each case is different.

Social Worker (NICRO)	Social Worker (NICRO)
-----------------------	-----------------------

A. General Identifying Profile

1.1 Organisational address and place: NICRO, Mitchell's Plain, 2 Palestrina street, Eastridge, Mitchell's Plain	1.1 NICRO, 2 Chestin road, Woodstock
1.2 Age: 24 years	1.2 64 years
1.3 Gender: Female	1.3 Female
1.4 2 years of service in crime prevention	1.4 12 years

B. Crime Dynamics in the Western Cape

Social Worker (NICRO)	Social Worker (NICRO)
2.1 Define crime as any activity that is in conflict with the law.	2.1 Crime is a breakdown of law and order whereby the law is broken because the criminal justice system is seen as ineffective.
2.2 Crime is very high in the area.	2.2 The area is Cape Town and Cape Peninsula including Cape flats. The level of crime is extremely high. Although no up to date stats available.

2.3 Main causes of crime are associated with unemployment, lack of proper education, breakdown of social morals.	2.3 Lack of education, lack of employment, disrespect for the law, big gap between the 'haves' and the have not.
2.4 Crime characteristics are associated with gang activities and drug dealings.	2.4 Characteristics are of violent nature involving murder, rape, armed robbery. There is car theft, housebreaking and hijacking. Mostly they are drug and gang motivated.

C. Sentencing Process and Prevention Strategies

Social Worker (NICRO)	Social Worker (NICRO)
3.1 The purpose of the criminal justice system is about to keep law and order.	3.1 The purpose of the criminal justice system is to maintain law and order by imposing sanctions such as imprisonment, fines, suspended sentences on those found guilty of committing crime.
3.2 The criminal justice system is based on punishment at present. Because of the emphasis on the fact that each crime must be punished by imprisonment or non-imprisonment.	3.2 Our criminal justice system is a retributive one at present, it is based on punishment of the offender.
3.3 Effective prevention strategies should start at early stages of the child in terms of facilitating good morals and values.	3.3 Social workers at NICRO believe that work with juvenile first offenders or youth at risk of committing crimes seem to be the most effective strategy in reducing crime. Most crimes are committed by young people under the age of 25 years.
3.4 Petty crimes should receive non-custodial sentence like community service to pay back to community. In a sense sentencing strategy will depend to	3.4 Diversion out of the criminal justice system into community based sentences is necessary for the first offenders. Minor offences like petty theft, possession of

the type of specific crime.	dagga, shoplifting, vandalism, reckless driving and drunken driving should receive community based sentence.
3.5 The social work report should serve as a guide to the court and reflect levels of person's development.	3.5 Not certain about the report because it is not the area of focus.
3.6 Programmes on youth empowerment skills, self esteem building are rendered by NICRO. Serving sentence persons, their families receive consultation from NICRO. This counselling process would want to establish responsibilities they have when the person comes out from prison.	3.6 The organisation assesses sentenced offenders to a community based punishment. For example to do community service and also supervising community services.
3.7 Diversions are successful and need co-operation of the juvenile offender.	3.7 Yes, one need to be positive as a social worker diversion programmes do seem to change the juvenile offender in many instances. There is no long term research into recidivism as yet.
3.8 The victim should be consulted or involved up to certain extent in an objective way than bias punitive measures. The victim has to see the process of the case finished and to allow the offender to come to terms that what he/she did was wrong.	3.8 Yes, victims should be involved or consulted by the courts. NICRO is running a project at present to support victims of crime.
3.9 The victim social circumstances and trauma has to be presented to inform the court when sentencing an accused	3.9 Not possible for the court to consider such circumstances of the victim, except in the case of rape. Courts and probation officers do not have time.

D. Criminal Justice Matters and Correction

Social Worker (NICRO)	Social Worker (NICRO)
-----------------------	-----------------------

<p>4.1 Social workers should be involved in criminal court proceedings to give an alternative opinion particularly with sentencing.</p>	<p>4.1 It is not possible to involve social workers because the criminal justice system are not considerate of time waisted by social workers. However they have probation officers for juvenile and sexual offences court.</p>
<p>4.2 Criminal justice system should promote fair trials and not postpone cases because this tends to lead to long awaiting trial. Investigations need to be intensified to eliminate awaiting trial.</p>	<p>4.2 No, the criminal justice system is lenient towards the accused person's rights. This is common in cases of the wealthy persons who can afford to bribe, or intimidate or even get a bail and good lawyer, while poor accused can not afford these possibilities.</p>
<p>4.3 Correctional system has to use more outside people like NICRO, human rights commission or organisations to run programmes. Rehabilitation services can be successful if prisons can be less overcrowded.</p>	<p>4.3 Not certain about prison situation.</p>
<p>4.4 Not very sure, but social workers suppose to prevent youth in entering the correctional system. This can be done by targeting children at early stages in the prevention of crime.</p>	<p>4.4 Not really certain but some youth schools or centres are good.</p>
<p>4.5 NICRO is involved in victim support services. Social workers can identify emotional and material needs of the victims to promote a caring criminal justice system. Victim has a right to know about the case for his/her dignity which should be encouraged.</p>	<p>4.5 The criminal justice system does not officially address the needs and rights of the victims. But NICRO is involved in this work.</p>

E. Community Justice and Prevention

Social Worker (NICRO)	Social Worker (NICRO)
5.1 The organisation is running a project on economic opportunity to train people with the idea to own their own jobs. NICRO is also involved in community policing forum and court project particularly in Mitchell's Plain magistrate court.	5.1 Not the area of focus as an individual social worker.
5.2 The economic opportunity project is supported by the community. Communities need to be encouraged to drive and own prevention projects.	5.2 Non - governmental organisations need to train volunteers to assist in community projects.
5.3 Families should receive some education not to neglect or blame the victim, accused and the sentenced member.	5.3 Families should visit regularly the sentenced member and support the accused. Families of the victim should receive social work assistance.
5.4 NICRO has a programme based on working with the person in prison and the family outside to prepare for reintegration back to community. Rebuilding trust is central in this programme.	5.4 Social worker can provide counselling services to the family and utilise resources such as NICRO women's support centre and family - offender programme.
5.5 Reconciliation of the victim – offender is important for healing process if the affected parties are willing. The composition should be constituted by victim, offender, families, NICRO and correctional social workers.	5.5 Victim – offender mediation is a good idea if the mediator is well trained.

Community Worker (Justice and Peace)	Social Worker (NICRO)
--------------------------------------	-----------------------

A. General Identifying Profile

1.1 Organisational address and place: Catholic justice and peace commission,	1.1 NICRO, Mitchell's Plain, 2 Palestrina street, Eastridge, Mitchell's Plain
---	---

12 Bouquet street, Cape Town	
1.2 Age: 41 years	1.2 30 years
1.3 Gender: Male	1.3 Female
1.4 Services: 11 years	1.4 7 years

B. Crime Dynamics in the Western Cape

Community Worker (Justice and Peace)	Social Worker (NICRO)
2.1 Define crime as when people unjustly taking away the rights of other people and their human dignity.	2.1 Define crime as an act or behaviour that violates the rights of others and go against the law of the country.
2.2 Looking at categories of crime at metro areas it is very high.	2.2 Mitchell's Plain and Cape flats area are seen to have highest crime rate in the Western Cape.
2.3 Main causes are associated with breakdown of moral fibre, unemployment, peer pressure for juvenile crime, lack of education, transitional challenges which weakens traditional roles of institutions like the police, family and school. People seem to be prone to violent ways of meeting their needs or solving their differences.	2.3 The main causes are associated with unemployment, lack of recreational facilities, access to drugs.
2.4 In some areas particularly in the Cape flats township crime tend to take some form of gangsterism, taxi violence, drugs and alcohol, vigilantism. In the suburbs area family violence seem to be common.	2.4 Crime characteristics are gang related, drugs and vandalism.

C. Sentencing Process and Prevention Strategies

Community Worker (Justice and Peace)	Social Worker (NICRO)
3.1 The purpose of the criminal justice system is to deal with the accused and the victim in a very fair and human way.	3.1 The purpose of the criminal justice system would be to promote social justice.
3.2 At present the criminal justice system	3.2 Criminal justice system seem to be

<p>is punitive than preventative. The preventative criminal justice system has to restore the damage which has to be done through community based type of sentencing. The punishment at present tends to be based on imprisonment which is stigmatises the offender even after serving his/her sentence. Community tends to label them as criminals and that make prevention to be difficult. Communities should be educated and be prepared to accept offenders back to their communities.</p>	<p>punitive because of emphasis on punishment. Although the are elements of prevention or restorative justice.</p>
<p>3.3 The effective prevention strategies have to begin to know the profile of the person to restore people's dignity. Programmes have to be directed at building self esteem of the people.</p>	<p>3.3 The most effective prevention strategy is the holistic approach to crime. Involving victim, offender, family, professionals and community on how to restore injustices.</p>
<p>3.4 Any type of sentence must know the accused person's character in both custodial and non-custodial sentence. Sentencing in its own is not a deterrent. Preventative sentence has to know the accused person in terms of his/her background, skills, strength and weaknesses for him to contribute to prevention process. The sentence should suit the crime to respect the victim.</p>	<p>3.4 The court should impose educational sentences in nature particularly for minor offences like shoplifting. For serious offences the perpetrator must get harsh sentence. In other words the sentence must suit the offence</p>
<p>3.5 Social work report on the accused person should present clear detailed profile of the person. Key question is: who is this person, what type of crime has he/she committed and why? The</p>	<p>3.5 The report must be comprehensive and be holistic. It must reflect on where the person is coming from, what are the resources within the person's capacity, what brought about this behaviour, Is it</p>

<p>report has to help the court to hand down a sentence that will give the accused person an opportunity to restore his or her dignity that has been taken away by the offence.</p>	<p>normal within the area or the house. Then the report can determine the type of punishment for the person or what kind of resource can a person be referred to. For example if its minor offence he/she can be referred to resources, then serious offences should get punishment that suit the offence.</p>
<p>3.6 The organisation do educate people about human rights and respect about other peoples dignity. The organisation also does talk about values to enhance people's identity and morality.</p>	<p>3.6 Life skills programmes, community services are rendered by the organisation. Reintegration programmes are offered through counselling to adjust the ex-prisoner back to community after release from prison. Another programme in this regard is business and training of NICRO.</p>
<p>3.7 Diversions seem not to be successful at some levels. For example the recent big numbers of juveniles in Pollsmoor prison locked up with adult people and minor offences with serious crimes. Even how serious crime is, the person's human rights should be respected in prisons and outside prisons. The case of juvenile offenders should be dealt with on the basis of seriousness of the offence.</p>	<p>3.7 In two years ago NICRO did some research on diversion progress and it has been revealed that diversions are successful. The ongoing evaluations after sessions are positive.</p>
<p>3.8 Victims should be consulted or be involved by the court as part of healing. In other communities like Botswana the community courts are utilised and do not just involved the victim but also the perpetrator and the community. In this form of justice parties tend to resolve that</p>	<p>3.8 The victim should be prepared emotionally if he/she is going to say something on sentencing. This entails that the victim should follow the entire case and receive counselling in the process. Preparing the victim in the sentencing process means that he/she has to be less</p>

<p>the offender has to pay back for crime damage to the victim. The idea of victim being consulted hinders healing process. An expression of a wish about the sentence is not entirely addressing the needs and rights of the victim. For example the victim of rape would want to know whether the rapist has transmitted AIDS and HIV disease to her, if yes what can be done. Victims want to be involved in the case proceedings to witness that justice has been done of course this is not to be part of the bench. Consultation should be regarded as a process than just asking what sentence do you want.</p>	<p>revengeful and objective.</p>
<p>3.9 The court should consider not just personal and social circumstances of the victim. The court has to get the profile of the person to establish exactly who is this person (victim). Some victims might not be consent about sending the offender to jail or retributive justice. They might have other needs that should be known by the courts for effective prevention.</p>	<p>3.9 Justice for the victims means that the court has to take into consideration the personal and social circumstances of the victim person.</p>

D. Criminal Justice Matters and Correction

Community Worker (Justice and Peace)	Social Worker (NICRO)
<p>4.1 The involvement of social workers in court proceedings should be a standing requirement. Taking into account their role in the social history of the accused person. Social workers and assessors know community better. Magistrates and</p>	<p>4.1 Social workers need to be involved on daily basis. They suppose to do assessment and investigation of the circumstances of each crime.</p>

<p>judges tend to focus to the law, while they are dealing with people.</p>	
<p>4.2 The criminal justice system can only be sensitive if it begins to know the person, not just crime which was committed. Getting to know the accused person enhances a fair trial. The criminal justice system will be sensitive when it reduces levels of postponement of the trials and awaiting trials.</p>	<p>4.2 A proper investigation need to recognise that every person has a right to a fair trial. The issue of rights of the accused person and the community is sensitive. The reasons for awaiting trial is to protect the community while investigation continues.</p>
<p>4.3 The correctional system could render effective rehabilitation services if the programmes are coupled with an understanding of the skills of the prisoners themselves. The social workers in the correctional system should assess prisoners capabilities to help other prisoners as part of rehabilitation and prevention of crime. It is of vital importance to encourage people to study.</p>	<p>4.3 The correctional system can render rehabilitation services if they outsource their services and privatise prisons. Building more prisons can reduce overcrowding in prisons for effective services to occur.</p>
<p>4.4 The rehabilitation service with the youth should encourage children to study in what ever direction in the interest they show. And even curriculum to guide and find out what is the child really want to study.</p>	<p>4.4 There must be educational programmes for the youth offenders. They must be grouped on the basis of the same age and similar offences. It is unjust to group them across. It is unjust to place minor juvenile offences on long awaiting trial.</p>
<p>4.5 At the moment the criminal justice system is not sensitive to the needs and rights of the victims. The only thing, it seem to focus upon, is to find the perpetrator guilty and send him/her to prison. The system is not victim friendly.</p>	<p>4.5 The criminal justice is not entirely sensitive nor otherwise because it does not force the victim to be part of any programme if she/he do not want to. NICRO and other private organisations do offer specialised services like</p>

<p>When the convicted person is sent to jail, the victims tend to ask, what about us, what happens if the AIDS and HIV has been transmitted to me by the rapist, where is AZT?</p>	<p>counselling.</p>
--	---------------------

E. Community Justice and Prevention

Community Worker (Justice and Peace)	Social Worker (NICRO)
<p>5.1 A number of the members of the organisation do act as court assessors. This help the courts to come closer to communities and assist the magistrates and judges to lay sentence on the bench. Court assessors seem to be recognised and seen as members of that specific community. The other project is on non-deterrent role of the death penalty. Some kind of awareness education is done to lobby government that if the constitution of the country upholds human rights, then the death penalty is unconstitutional in South Africa and the Western Cape. Community courts are encouraged by the organisation for informal justice.</p>	<p>5.1 The are diversion programmes which are restorative and rehabilitative in nature. Pre-trial services are offered to help the court to withdraw criminal charges against the accused in a preventative way.</p>
<p>5.2 Communities need to be properly organised. The organisation need to run educational programmes within the community to eliminate xenophobic tendencies. For example community tend to believe that once he/she is a criminal, always a criminal.</p>	<p>5.2 Community can help to provide good mentors for the youth. Community could be part of the programmes to offer placement agencies for people to do community services, getting contact or be accessible.</p>
<p>5.3 The affected families have to create human conduct. Families have to talk</p>	<p>5.3 Families have to talk about what happened. The offender or accused</p>

<p>about their experience, history, situation and see the accused, victim and sentenced member as part of that history.</p>	<p>person should be given a chance to restore the damage. The victim must be given respect and be encouraged to talk about his or her experience of victimisation.</p>
<p>5.4 The organisation has to contact the family with the view to encourage them to talk about the incident. Further to accept that it has happened and how to rise above it.</p>	<p>5.4 Families of the accused, victim and the sentenced member need to come together. Social worker needs to facilitate that process. To jointly do something about the incident of crime like building a kind of trust fund.</p>
<p>5.5 The two parties (ie offender-victim) should be given an opportunity to meet and confront their feelings. In the process they might find that there's a lot which is common between them and find one another. The setting need to be informal and be less intimidating having parents of both parties - families, social worker, lawyer or prosecutor. It helps the perpetrator to rediscover himself/herself and restore dignity. For example to show remorse and assume responsibility to repay or restore damage. During mediation most of the time the victim get first opportunity to vent that anger and undergo healing process.</p>	<p>5.5 The victim - offender meeting is important to establish responsibilities. The mediator must be a skillful person because the event is sensitive. The goals should be clearly defined also depending if the parties are willing to meet.</p>

Para-Legal Community Worker (Western Cape Anti-Crime Forum)

A. General Identifying Profile

<p>1.1 Organisational address and Place:</p>	<p>Western Cape Anti-Crime Forum, Heideveld centre, no.4, Ascension Rd, Heideveld</p>
--	---

1.2 AGE:	45 years
1.3 GENDER	Female
1.4 Experience in the prevention of crime	10 years

B. Crime Dynamics in the Western Cape

2.1 Define crime as a violation of anyone's rights including when a community feels threaten by gangs, taxi violence, family violence and so on.

2.2 The level of crime is too high particularly in the Cape flats.

2.3 Main causes are associated with lack of proper education, unemployment, unstable families, disintegration of values and morals, drug and alcohol abuse.

2.4 Crime characteristics in Cape flats areas are gang related crimes, taxi and family violence, vigilantism.

C. Sentencing Process and Prevention Strategies

3.1 The criminal justice system suppose to restore order by means of prevention and sentencing in a fair way.

3.2 Presently the system is based on punishment although there seem to be a process towards prevention accessible justice to community. Courts should be built in communities to be accessible and each court supposed to make use of court lay assessors to build confidence or trust and partnership with the community.

3.3 There is a need for holistic approach and partnership involving CBO's, government, NGO's and others. The effective prevention strategy also should target the youth below 18 years to raise awareness education on the consequences of crime. Young people are used by drug syndicates and gangs simple because they can not receive harsh sentences from the court when they get arrested.

3.4 The sentence should suit the crime and sentencing guidelines should be used properly in preventing crime. For serious crimes like rape, murder, child abuse,

assault, there must be harsh sentence. Minor crimes like shoplifting, petty theft, non-imprisonment sentence must be handed down by the courts.

3.5 From the point of view as a lay assessor the court need more social workers to do proper investigation with the family and other sources related to the accused person. From the experience, probation officers do not get enough time with the family of the accused for a comprehensive report.

3.6 The forum has no direct involvement with individuals after sentencing. The forum is involved in prevention processes and pre-sentencing of the accused in court.

3.7 Diversion programmes are excellent and need to be monitored whether there is enough time for the programme sessions.

3.8 Victims should be consulted by the court about the status of the case. Victims involvement in actual sentencing is complicated in maintaining non-bias measures. Their involvement should depend on the nature of the trial. Victim must get access to victim's fund for compensation and restitution. Mediation programmes can be linked to diversions and family conferences to enhance informal justice and reduce case load in the formal criminal court.. Then serious trials can be handled in a formal criminal court.

3.9 Absolutely, the court should take into consideration the personal and social circumstances of the victim and that is lacking in the criminal justice system. This is because victims of crime have got different needs and experience.

D. Criminal Justice Matters and Correction

4.1 Social work role in the criminal justice system is important but they need to be creative and proactive. There are different specific circumstances for each case then the standing involvement of social workers will help or assist the court to judge each case on merit based on social workers investigation. And not only social workers should be the standing requirement at the court but lay assessors and para-legal community workers should promote preventative judgement and sentencing.

4.2 Constitutionally the accused has rights to a fair trial, lawyer, but the problem is implementation of these rights. There should be time limit for the awaiting trial - eg. not more than two months. Investigation should be conducted quicker to reduce courts bag log and postponement of the cases.

4.3 The correctional system should be accessible to NGO's, CBO's, and other parties to offer rehabilitation services and support. They can be effective if they do not lock together about fifty prisoners in one cell. Rehabilitation services requires grouping of the same prisoners of the same or similar age group, separate 'hard criminals' from first offenders and the type of crime should determine the placement. It has been evident that in corrections there are prison gangs, gang recruits, drug smuggling and dealings, which make crime prevention and rehabilitation services to be difficult to succeed.

4.4 The youth in centres should be engaged in educational programmes and be separated from adult youth. Overcrowding need to be reduced for effective rehabilitation services.

4.5 Social workers can not work in isolation, what is needed is to promote a holistic approach and educational awareness about the rights of the victims. Social workers need to engage other stakeholders to implement and practice on the basis of the rights and needs of the victims which are enshrined in the constitution.

E. Community Justice and Prevention

5.1 The organisation do work with community project on youth against crime, adult against crime, sport against crime, mothers against crime, community courts are popular in the townships, street committees, neighbourhood watch, and community policing forums. The organisation as an umbrella structure of these projects and forums offers co-ordination and training for local communities to carry on with crime prevention work. Some of the members of the Anti-crime forum do work as court lay assessors.

5.2 Community tends to be actively involved when crime directly affects them. To keep momentum going the organisation must be able to monitor or interact with local communities to assess if there are frustrations and progress on the ground.

5.3 Families should not shy away from talking about the incident in a caring supportive way. Families should be careful of blaming themselves and the victim. They should not label the accused or sentenced member because all these attitudes prevent the process of prevention to occur. The forum encourage particularly victim's family to go to court during trial because courts tend to be full of gangs and their families to make threats to victims and the witnesses. Witness protection is not really strong and visible.

5.4 The organisation encourages families to stand up for themselves and support one another. In programmes and meetings families are alert not to easily open the door without getting to know the person and not to walk alone in strange areas. The forum informs them about counselling services by relevant organisations.

5.5 Mediation services between victim and offender should be encouraged depending on the type of crime. Minor crimes must be mediated outside the formal court. The criminal justice system tends to speak on behalf of the victim and ignore his/her specific circumstances before and after the crime. Victim - offender mediation process allows the victim to speak for herself or himself to take out aggrieved feelings. Mediation should be in a neutral place or sometimes within the community if parties feel comfortable. The facilitators should be trained people either from NGO's, CBO's and professional individuals. In the victim - offender mediation process families of the parties involved get opportunity to say something about the offence to encourage prevention and reconciliation.

Social worker (Correctional services)	Social worker (Correctional services)
---------------------------------------	---------------------------------------

A. General Identifying Profile

1.1 Organisational address and place: Drakenstein prison, maximum B, P/bag x 6005, Paarl 7620	1.1 Drakenstein medium B prison, P/bag x 6005, Paarl South
1.2 Age: 28 years	1.2 Age: 30 years
1.3 Gender: Female	1.3 Female
1.4 Involvement: 1 year and 4 months in the prevention of crime.	1.4 1 year -5 months

B. Crime Dynamics in the Western Cape

2.1 Define crime as the performance of the illegal deeds	2.1 Define crime a an act that is committed against someone or things and violate their rights
2.2 The are incidence of crime but it is not high.	2.2 The level of crime is high depending on different types of crime.
2.3 Main causes are homelessness, joblessness, involvement in gangsters.	2.3 Causes mainly can be unemployment, lack of proper education
2.4 Gang related, alcohol and drug abuse, stealing from each other, smuggling dagga	2.4 Characteristics of crime are gang related

C. Sentencing Process and Prevention Strategies

3.1 The purpose of the criminal justice system is to punish offenders and it has to make sure that it cares for juveniles.	3.1 Is to prevent crime and to reduce injustices in society.
3.2 It is based on punishment. Harsher sentences must be given for it to be preventative.	3.2 It is based on prevention as the rehabilitation is the main focus more than just punishing.
3.3 The most effective prevention strategies is to give a long sentence and combined with programmes that they must attend.	3.3 Group work programmes with the purpose of rehabilitation seem to be the effective strategy as the inmates learn more about living a crime free life style.

<p>3.4 Deterrence could be promoted through community based sentencing for first offenders and juveniles. Serious crimes should get imprisonment and second offenders.</p>	<p>3.4 Considering the nature of crime it could help for the courts to impose harsh sentences for horrible crimes.</p>
<p>3.5 Social work report on the accused would help the court to know the circumstances around the crime and understand emotional state of the person at the time.</p>	<p>3.5 The social work report can provide the courts with the background of the accused person. It can present information that can give reasons for crime.</p>
<p>3.6 The correctional services involve life skills programmes, teaching the inmates some trade like panel beating.</p>	<p>3.6 Rehabilitation programmes are the main services to prevent crime. They must be enhanced than just punishment.</p>
<p>3.7 Diversion programmes can be successful and not successful. They tend to learn more skills that can be positive, but they go back to the same circumstances and are forced to commit crime again.</p>	<p>3.7 Sometimes diversions are successful but in some instances there are incidents of recidivism.</p>
<p>3.8 No if the victims are much involved in sentencing process there can be prejudice.</p>	<p>3.8 The involvement of victims might not help in the prevention of crime. They might not be happy with the sentences given by the courts because they want to revenge.</p>
<p>3.9 Circumstances of the victim can give the courts a clear view of the crime.</p>	<p>3.9 It will be difficult for the courts to know the circumstances of the victim although it can play a crucial role.</p>

D. Criminal Justice Matters and Corrections

<p>4.1 Yes social workers in their involvement in court proceedings can help the courts to be much accurate with sentencing.</p>	<p>4.1 It is not necessary for social workers to be involved in court proceedings. The present approach based on the use of the probation officers by the courts in its</p>
--	---

	discretion is right.
4.2 Sometimes the criminal justice system has to treat the accused with dignity as humans.	4.2 It cannot because the accused person has not been sensitive to the victim. The main person to be considered is the victim and the community.
4.3 Yes rehabilitation services in prisons can be effective by keeping the offenders occupied all the time through programmes.	4.3 Rehabilitation services need to be assessed ongoingly to make sure that they remain goal oriented. Long sentence prisoners (maximum) tend to be difficult when it comes to rehabilitation as compared to minimum prisoners. Age plays a role in the sense that maximum juvenile are less difficult compared to maximum adult offenders. Awaiting trials and overcrowding is not very much. Juveniles tend to be involved in gang activities.
4.4 The youth in centres should be involved in school education, life skills training to remain occupied.	4.4 Correctional system can be effective by correcting the behaviour of the youth through educational programmes. This should also involve rewarding them for positive behaviours.
4.5 The criminal justice system is not sensitive to the needs and rights of victims. Social workers should be present in each police station and courts to assist traumatised victims.	4.5 The criminal justice system seems not to be sensitive enough particularly with offences like rape and murder. These are horrible crimes against the life of the victims. The system is not supposed to grant paroles for such offences.

E. Community Justice and Prevention

5.1 Programmes rendered in the institution are life skills, therapeutic groups particularly for sexual offenders.	5.1 Inside prison community there are rehabilitative projects that seek to help the offenders. Outside there are
---	--

	community corrections to help the parolee, probationers, and ex - offenders to adapt to the community. Community corrections also facilitate community awareness about the dangers of labelling and stereotypes against the person. Such attitudes are against crime prevention.
5.2 The involvement of community can be strengthened at the level of community corrections that seek to help the parolees, probationers, ex - prisoners to adapt to community. Communities must be sensitised by means of educational projects to accept these people as members of community.	5.2 Community must get facilities and projects to target youth mainly to keep them busy.
5.3 Families should not be blaming or accusing the sentenced or victims. They need to support these members.	5.3 The family has to be with the victim or the accused and accompany them to courts. In the case of the sentenced member the family has to pay visit and show them positive side of life.
5.4 Social worker can provide life skills training, and give the family information about prisons. This can stimulate support of the family.	5.4 Community corrections social workers could work close with families by showing their important contribution in preventing crime.
5.5 The victim – offender meeting is very sensitive. It can be dangerous if it is forced to them.	5.5 Reconciliation process should depend to both parties. If the victim and offender are willing to meet that is fine.

Social Worker (Correctional Services)

A. General Identifying Profile

1.1 Organisational address and place:	Drakenstein prison, medium A, P/bag x 6005 Paarl
1.2 AGE:	26 years

1.3 GENDER:	Male
1.4 EXPERIENCE:	3 years

B. Crime Dynamics in the Western Cape

2.1 Define crime as an act of someone against the norms or laws of the country.

2.2 The level of crime is stable.

2.3 Causes of crime can be associated with financial constraints

2.4 Gang related characteristics – 26, 27, 28 gangs, frustration related crimes, smuggling, theft, assault can be attributed to financial limitations and lack of family support inside prison.

C. Sentencing Process and Prevention Strategies

3.1 The purpose of the criminal justice system is to ensure that people who commit crime or offenders are sentenced to protect the community.

3.2 The criminal justice system is mostly punitive because there are no prevention programmes within except from NGOs like NICRO.

3.3 Educational programmes seem to be the most effective prevention strategies in order to make people to understand the consequences and effects of their wrongfulness. Effective preventative programmes could help the offender to develop sense of remorse about his/her wrongfulness.

3.4 Diversion programmes are important. Sentences should be rehabilitative by means of educational programmes to give offender a chance to further his/her studies. Custodial sentences for serious crimes should be followed up by programmes to help the person to develop victim empathy and understand that what he has done is wrong.

3.5 The social work report can help by looking at all factors that contributed to the person's development. Schooling, social background, home circumstances can be assessed if they have not been detrimental to his behaviour. This will help the court to understand this person and his or her act better in the sentencing process.

3.6 Social work services in prison are offered in the form of analysis of the prisoners needs. From the start the social worker look at his sentence and plan for the services. For example if the sentence is longer then try to involve the person to a programme once a year while if is shorter sentence, then we organise more programmes. Services are planned according to the sentence of each prisoner. There are programmes like drug abuse, human rights, life skills, conflict resolution, sexual offender programmes, trade oriented programmes and get certificate when the course is received. School education is poor not structured. Sentence tends to determine prisoner's behaviour. Long serving sentence prisoners tend not to cooperate at the initial stages of their sentences but towards completion they behave well sometimes because they want to get parole. Age is important as well for instance juvenile offenders often get involved in gang activities for fun.

3.7 With regard to diversions there are incidents of recidivism due to lack of support by families and communities. Re - integration of offender back to community tends to be difficult due to pressures experienced by ex - prisoners from communities and families labelling them as criminals.

3.8 Yes victims should be involved and evidence the effectiveness of the criminal justice system in dealing with the case. This can help the victim to develop confidence to the criminal justice system.

3.9 The personal and social circumstances of the victim are not necessarily need to be looked at when the court sentencing an accused person. The courts have to do what is fair for the victims. The victim has to understand that something has been done by the court. The courts have also to make the offender to realise that he/she has done something wrong to the victim.

D. Criminal Justice Matters and Corrections

4.1 Social workers should be involved in court proceedings because sometimes they are the ones who provide the court with the report during sentencing process.

4.2 The criminal justice system needs to be sensitive and promote a fair judgment of the accused. It also needs to help the accused to accept that she/he did something wrong by promoting a fair trial and access to a lawyer. Awaiting trial should be eliminated to make sure that people are brought to justice as quicker as possible.

4.3 Rehabilitation services should be strengthened through multi disciplinary thing. Involving offender's family, community to facilitate effective re – integration. Rehabilitation cannot just be looked at inside the prison as an institution because communities tend not to accept ex – prisoners back. This tends to lead to recidivism, communities need to be sensitised. In medium -A prison there is no overcrowding. Offences inside the prison are not common at medium -A because most of them have been in prison for sometime, then some of them have parole dates, etc.

4.4 Youth centres should be developed to enhance youth skills. Proper facilities are required to help rehabilitation services to be successful not to be like prisons.

4.5 Social workers can play a role to ensure that the rights of the victims are protected. Witnesses also need to be protected because most of the time they are scared to come forward with the information. They should get access to information about the status of the case to ensure that they develop trust in the criminal justice system.

E. Community Justice and Prevention

5.1 Programmes in prison also involves inviting of organisations on human rights, AIDS/HIV, NICRO, etc. Such ties should be strengthened to involve community more in prisons. Parents also to be involved in parole board.

5.2 Community participation is crucial to ensure that prisoners are accepted by the community. Prison conditions should be known by community. Community corrections need to ensure that parolees, probationers or early release prisoners are linked up with resources and relevant structures. For instance community correctional social workers in Mitchell's Plain offices do render services to help the parolees and probationers to adapt in community. To forge good relationship with business and community to relate fairly with ex-prisoners.

5.3 It is not to encourage criminality if families support the accused and the sentenced member. Some of the prisoners who are not supported by the families tend to be involved in crime within prison cells. Such offences include smuggling drugs, assault, sodomy, (selling themselves) in order to get money. Family must pay visit to prison to help him/her to understand that crime is wrong. Also family support is central to victims to help him/her to undergo healing process.

5.4 Social workers have to make families to understand their role in changing the person. Some families tend to bitter towards the prisoner that they do not want to hear about the offender, he/she is bad, embarrassing. Social workers have to deal with the situation by doing a kind of outreach to inform the family about their contribution in rehabilitation services.

5.5 Both parties should be willing for family conference for reconciliation and prevention of crime. Social workers can facilitate an understanding for the importance of the meeting of the parties.