

THEME 1: THE EVOLUTION, DEVELOPMENT & APPLICATION OF CRIME PREVENTION APPROACHES, MODELS AND STRUCTURES

1. PREVENTION AND CONTROL OF CRIME

- **Crime prevention:** all measures taken by way of government policy and private initiative to prevent crime, with the exception of the criminal justice system.
- Crime prevention models are usually based on specific theories or factors of crime that may have played a part in the commission of crime or victimization, while programs have no theoretical basis.
- 1971: USA established the National Crime Prevention Institute under the auspices of the Law Enforcement Assistance Administration in the Department of Justice. Federal government took charge of NCPI in 1986 to involve communities in crime prevention.
- **England:**
 - Local crime prevention panels existed from 1966.
 - 1975: Home Office Committee on Crime Prevention.
 - 1983: establishment of the Home Office Crime Prevention Centre and the Research and Planning Unit.
- **France:** prevention councils have been operating at local, regional and national levels since 1983.
- **Sweden and Denmark:** national crime prevention councils since late 1970s.
- **SA:** National Crime Prevention Policy – 22 May 1996. Advocates an integrated, multidimensional crime prevention model for interdepartmental cooperation at central, regional and local authority levels. **Four pillars:**
 - The reduction of crime through effective environmental planning and design focusing on designing systems to reduce the opportunity for crime and increase the ease of detection and identification of criminals.
 - The enhancement of community values and campaigns to educate the community aimed at changing the way communities react to crime and violence. It involves programs that make use of public education and information to facilitate meaningful citizen participation in crime prevention.
 - Transnational crime prevention for the specific purpose of crime across the borders.
 - An effective and integrated criminal justice system. It must provide a sure, clear deterrent for criminals and reduce the risks of reoffending.
- **Factors crucial to successful crime prevention:**
 - State and community involvement in implementing a comprehensive crime prevention policy.
 - A multidimensional crime prevention approach, which incorporates a number of crime prevention models and their programs.
 - Crime prevention models and programs based on causation theories and factors which may be operative in crime and victimization.

- Attention to the uniqueness of crime patterns and causes peculiar to a country or neighbourhood.
- Proper planning and the evaluation of crime prevention programs (which must also be cost-effective).
- **Crime prevention approaches:**
 - **Social crime prevention model (by Graham):**
 - Socioeconomic structures/systems (families, schools, churches, recreational facilities, jobs) are important socialization structures.
 - Shortcomings in these structures may contribute to crime.
 - Social crime prevention programs are therefore designed to help vulnerable groups, and to eradicate poor socioeconomic conditions and social inequalities.
 - **Limiting opportunities for crime model:**
 - Focus on potential victims, community and the physical environment.
 - Includes effective urban and environmental planning; publicity campaigns aimed at making people more security conscious; target reinforcement; CCTV.
 - Successful in preventing crimes against property and people (robbery, pickpocketing).
 - **Community-based crime prevention model:**
 - Make offenders aware of the risk of being caught in specific neighbourhoods.
 - Examples: neighbourhood watches, safe houses, etc.
 - Successful in preventing robbery, pickpocketing, burglary, crimes against property and car theft.
 - **Biophysical prevention model:**
 - Early identification and treatment (esp. in children) may play an important role in preventing crime.
 - Examples: vitamin supplements, diet adjustments, medication, therapy.
 - **Psychological prevention model**
 - Focus on inner psychological needs and disorders that may give rise to criminal behaviour.
 - Interpersonal problems and poor communication, particularly within the family, may contribute to criminal behaviour.
 - Psychological treatments: psychological tests, psychotherapy, social casework.
 - **Integrated crime prevention models**
 - Prevention of specific crime:
 - A number of factors are seen as contributing to the particular crime.
 - These factors are treated using appropriate crime prevention programs.
 - Examples: rehabilitation, training in family and social skills, psychological treatment, techniques for coping with frustration and assistance with finding employment.
 - Crime prevention and control by means of the criminal justice system:
 - Law regulates human behaviour and must, therefore, be just.
 - **Successful programmes:**
 - Sherman, Gottfredson, MacKenzie, Eck, Reuter and Bushway found that the following worked well in USA:
 - Regular home visits by nurses and other professionals, and weekly home visits by teachers of preschool children to combat child abuse.

- Family therapy and parental guidance for families with at-risk youths and adolescents.
- School programs, such as innovative development programs, the reinforcement of accepted norms and education in social skills.
- Trade apprenticeships for former offenders.
- Increased policing of crime risk areas.
- Monitoring and detaining high-risk recidivists.
- Arresting professional men who abuse their families.
- Rehab for convicted offenders aimed at risk treatment.
- Therapeutic community treatment programmes for drug users in prisons.

2. PROPERTY CRIMES 1: SHOP THEFT AND EMPLOYEE THEFT

- Property crime is an umbrella term for crimes that are committed with fiscal gain as the primary motive.
- Includes fraud, shop theft, employee theft, common theft, vehicle theft, theft out of vehicles, computer theft, stock theft, burglary, arson and vandalism.
- **Malicious shrinkage**: an umbrella term relating to the losses that occur while companies are producing, distributing and eventually selling goods to customers. Includes shoplifting and employee theft.
- In the case of **employee theft**, the following elements are identified:
 - Unlawfulness: authorisation is absent during the taking of the money/merchandise.
 - An actual deed: the taking and appropriation of a moveable corporeal thing.
 - The intention of depriving the employer permanently of his property.
- **Determinants** that often lead to arrest in cases of shop theft include the value and resale price of the item, as well as whether the item was stolen in a professional and adroit manner.
- Internationally, department stores and pharmacies suffer the greatest losses from shoplifting.
- In SA, food retailers suffer the greatest losses, while factories suffer the least losses.
- Britain has the highest worldwide level of stock losses, followed by Germany. Switzerland is the country with the least shop theft.
- According to the CGCSA, there has been a definite increase in shoplifting incidents over the years, which cost the SA retail industry R6 million annually in 2004.
- Research by Hollinger shows that \pm a third of the employees interviewed acknowledged having stolen goods from their employers during the preceding year. More than 2/3 of the research group reported counterproductive behaviour such as alcohol or drug abuse while on duty, misuse of sick leave, prolonged breaks and lunchtimes, as well as slow or poor workmanship.
- Hefter reports that:
 - 1 in 3 employees is actively involved in employee theft.
 - The majority of employees steal once a year.
 - 9% of employees steal from their employers between 4 and 12 times a year.
 - Employee theft is investigated by security managers more often than any other breach of security.
 - 1 in 3 bankruptcies may be directly attributed to or is a direct consequence of employee theft.

- The 2001 National Retail Security Survey in the USA showed that employee theft makes up 46% of inventory shrinkage.
- The most frequently occurring offence by employees was theft of cash followed by theft of merchandise.
- Most likely places for staff offending: tills and back areas.

3. NATURE AND CHARACTERISTICS OF SHOP AND EMPLOYEE THEFT

3.1. THE NATURE AND CHARACTERISTICS OF SHOP THEFT:

- **Common characteristics:**
 - Does not contain element/threat of violence.
 - No need to gain unauthorised access to a building/premises.
 - Most commonly an opportunistic crime.
- **Shoplifter motives and typology:**
 - Butler: people who shoplift are motivated by a series of socioeconomic and/or personal factors, including temptation, psychological/psychiatric problems (depression, stress, senility, effects of pregnancy, cerebral arteriosclerosis), poverty, a desire for excitement, peer pressure, and the need to outsmart adults.
 - Shop theft can also occur owing to political considerations – actions aimed against capitalist institutions.
 - Caputo's motives: simple greed, reactions to personal crisis situations, low self-control, unemployment, drug abuse, divorce and relationship separation, perceived low risk of apprehension, and eating disorders.
 - According to Smith, **4 types of shoplifter can be identified:**
 - **Amateur:** steals on impulse, because he desires and wants to use the item (food, clothing). Easiest to detect due to lack of planning.
 - **Juvenile:** steals for thrill and status among peers. Amateurs and juveniles may eventually become professionals.
 - **Professional:** steals for economic gain. Chooses smaller items with high resale value. Frequently involved in other crimes (credit card fraud, drug use). 10% of all shoplifters.
 - **Kleptomaniac:** rare. Usually steals low-value items because of psychological urges. Often feels guilty. Essential feature is the recurrent failure to resist impulses to steal objects that are not needed for personal use or their monetary value. Items are often discarded, given away or returned.
- **Modus operandi:**
 - **Methods of concealment:** dropping items from the shelf into open bags waiting at the shoplifters feet, putting items in handbags or baby carriages, hiding items in rolled up newspapers and making use of false compartments in items of clothing (jackets, soles of shoes).
 - In groups, they often distract store personnel by entering the shop in a group and splitting up in different directions, or sending an employee into the stores storage area to find something.

- **Items most commonly shoplifted:**

- Products with high resale value, small size, and designer brands.
- CGCSA: toiletries (esp. expensive perfumes), razor blades, camera film, batteries, videos, DVDs, CDs, tobacco products, jewellery.
- Items are usually sold at flea markets.

3.2. THE NATURE AND CHARACTERISTICS OF EMPLOYEE THEFT

- **Common characteristics:** Few employees who steal from employers have a long-term commitment to their employers or find themselves in dire financial straits at the time of the offence.

- **Motives for employee theft:**

- Explanations of offending differ between types of staff and their circumstances.
- Debt
- Opportunities that staff are exposed to in the course of daily duties
- Workers who are unhappy with their working environment/circumstances have a higher tendency to offend, and rationalise the offence, lowering guilt levels.
- Hollinger and Clark's survey: feelings of unfair treatment were among the strongest predictors of employee theft. Strong link between theft and feelings of injustice in workplace.
- Fischer and Green:
 - Revenge for (perceived) injustices.
 - Inadequate remuneration.
 - Self-enrichment (goods are easy to resell).
 - Assistance to others.
- Offenders themselves give the following reasons (Lydon):
 - Awareness of other employees stealing
 - Personal financial difficulty
 - Remoteness of being caught
 - Belief that if they are caught they will not be prosecuted/punished.
- Joubert, Maree and Hesselting-Louw:
 - Economic pressure
 - Demographic aspects (many thefts by young inexperienced part-time employees)
 - Opportunity
 - Dissatisfaction
 - Norms
 - Attitudes towards theft
 - Power through theft
 - Theft as a safety valve (working out their frustrations)
 - Instability (emotional)

4. EXPLANATION OF SHOP AND EMPLOYEE THEFT

4.1. THEORETICAL EXPLANATIONS FOR SHOP THEFT

- **Rational choice perspective**
 - Identifies the human will as a predisposing factor in the decision to commit crime.
 - Potential offenders calculate the costs and benefits of crime, and select the alternative with the highest utility.
 - Evidence of decision making: importance of means of escape; contemplation of various tactics/means of committing the crime.
- **Routine activity theory (by Cohen and Felson)**
 - Also known as lifestyle approach, and is related to the rational decision-making perspective.
 - Likelihood of crime is increased by the presence of three variables: the motivated offender, suitable targets, and insufficient guards.
 - People are inherently self-centred and hedonistic.
- **Shoplifting as consumer behaviour**
 - It is part of people's conduct in their role as consumer. Shoplifting results from the coincidence of 3 factors: a motivated consumer (shoplifter), desirable products and the opportunity to steal them.
 - The majority of shoplifters do not have a record of prior criminal behaviour. Over 30% of respondents in self-report surveys admit to being involved in shoplifting.

4.2. THEORETICAL EXPLANATIONS FOR EMPLOYEE THEFT

- **Social control theory**
 - People are greedy and, therefore, steal as soon as the opportunity presents itself.
 - Focus on formal and informal social structures in the workplace. The role of such structures is to limit criminal behaviour by means of determination and regulation.
 - **Normative support:** the standards, perceptions and values the work group has established for itself (group norms).
 - Employees tend to impose their own informal normative sanctions, which, in turn, determine and regulate acceptable behaviour. Some types of theft are acceptable and not seen as theft.
 - The generally negative public perception of the ethical standards of business executives has contributed to the problem by helping workers feel that employee theft is simply a natural part of business.

5. PREVENTION AND CONTROL OF SHOP AND EMPLOYEE THEFT

5.1. PREVENTION OF SHOP THEFT

- All shoplifters should be reported to the police in order to raise public awareness. Potential offenders may decide that the risk of the crime outweighs the benefits.
- Staff should be continually alert to shoplifters' psychological traits and patterns of behaviour (excessive nervousness, aimlessly wandering up and down aisles, looking around repeatedly, re-examining an article from time to time, repeatedly leaving and re-entering the store).

- Staff should observe people with slings for broken arms, large shopping bags, parcels that apparently have to be posted, coats carried over the arm and briefcases or rucksacks.
- Layout of the shop: use of mirrors, strategic positioning of checkouts, good lighting, a minimum number of cross aisles, parcel counters, avoiding high shelves which shield offenders.
- Roving guards or store detectives are more effective than guards only at entrance.
- Connect valuable items to an alarm system.
- CCTV is effective as a deterrent, and also serves as evidence.
- Notices/warnings indicating that shoplifters will be prosecuted have little effect.
- The banning of free (non-biodegradable) plastic bags in SA has increased shoplifting (tripled).

5.2. PREVENTION OF EMPLOYEE THEFT

- **Personnel selection:**
 - Normally be well presented, but not judged on appearance alone.
 - Questions should focus on inner qualities and characteristics (integrity, temperament, tact and perseverance).
 - Background should be carefully checked.
 - Ask probing questions, note incoherent/ambiguous answers.
 - Job experience is important.
 - Polygraph may be undertaken.
- **Personnel training:** make clear the policy on employee theft and consequences. Crime prevention in the workplace may form part of follow-up in-service training.
- **Creating a positive work environment:**
 - Reasonable salaries
 - Fairness – equal benefits.
 - Sound human relations – no impersonal and negative attitudes towards employees.
 - Employee loyalty
 - Reward/recognition for performance.
- **Reducing opportunities for theft:**
 - Strict audit controls by external auditors.
 - Stringent security measures when employees leave the building.
 - Checking employees' purchases (may not sell goods to themselves).
 - Providing all staff members with identification tags
 - Monitoring supervisors, deliveries, use of keys.
 - Surprise cash counts
 - Escorting visitors while on premises
 - Banning 'gifts' from suppliers
 - Strictly controlling stockroom areas and the receipt of goods
 - Develop a system of control for staff shopping and refunds, charge accounts, discounts
 - Clearly define staff responsibilities and organise how cash registers, safes and banking will be organised.
 - Operating a petty cash system (stationery, cleaning materials, etc)

- Periodic polygraph screening examinations
- **Determining clear policies:** distribute clear written policies on ethical behaviour to each employee. Each employee should sign it, incl. owner. Employees need to know that a uniform ethical standard applies to everyone in the firm.

6. PROPERTY CRIMES II: THEFT, BURGLARY, VEHICLE THEFT AND COMPUTER CRIME

6.1. KEY CONCEPTS

- **Theft:** the unlawful taking, carrying, leading or driving away of property from the possession or constructive possession of another.
- **Snyman – four key requirements for being guilty of theft:**
 - The act of appropriation of a
 - Certain kind of property which is
 - Committed unlawfully and
 - Intentionally.
- **Vehicle theft:** actual/attempted theft of a motor vehicle (not hijacking – robbery).

6.2. THEFT

- **General characteristics:**
 - **Occasional offenders:** opportunistic. Involvement in crime is sporadic and unsystematic. Limited skills.
 - **Professional/career thieves:** highly skilled techniques, manipulate people. Plan. Sympathetic toward other thieves. Special techniques. Lifestyle, social institution of sorts.
 - Typical urban habitat of professional thieves: gambling and dance halls, cheap hotels, brothels, and third-rate pubs, pawnshops, restaurants or theatres. Young women attract clients who become victims.
 - Professional thieves do not regard themselves as deviant/immoral. Try to avoid prison by bribes.
 - **Fence:** person who receives the stolen property and sells it after the thief has been compensated.
- **Selection of targets:**
 - Form and value of possessions to be stolen are important.
 - Men carry more money on them than women.
 - Older people carry more money than young people.
 - White people have the most money.
- **Motives for stealing:**
 - According to Merton's **anomie theory**, a **nation with high rates of theft has these characteristics:**
 - An emphasis on material values
 - Manifestation of great material differences between the rich and poor

- Prominent display of possessions by the affluent
- Portrayal of the possessions of the affluent as being attainable by everyone
- It is difficult, if not impossible, for many to attain these possessions legally.
- Poverty can be considered a major cause of theft.
- People also steal because their jobs are boring/demeaning. Want to be their own boss.
- Affluence means there is more to steal.

6.3. VEHICLE THEFT

- **General characteristics:**
 - USA 1980s: 91% of arrestees were men. Of these, 64% were white and the rest black. 58% were under the age of 18 years.
 - Car thieves are more intelligent than other offenders, show greater residential mobility, are more likely to have performed military duty or to have been detained before, and have a poor work record.
 - Car thieves struggle to adjust to prison life, and have high recidivism rates.
- **Motives for vehicle theft:**
 - Vetter and Silverman:
 - Joyriding (between 15-19 years old, for fun, prestige, gang initiation)
 - Transportation (hitchhikers, runaways)
 - Profit (sell the vehicle/parts)
 - Use in the commission of a crime (transport to/from crime scenes).
 - Professionals approach car dealer for a test drive, and copy the serial number of the ignition key to have a duplicate made. Return later, steal vehicle.
 - In SA, we distinguish between 4 types of professional vehicle theft:
 - Organised theft of luxury vehicles (criminals are paid to steal the vehicles so that the owner can make a fraudulent insurance claim)
 - Increasing activities of both local and international crime syndicates
 - "Chop shops" (selling parts or rebuilding vehicles)
 - For use in other crimes (robbing a bank, cash-in-transit heist)
- **Modus operandi:**
 - Many car thieves use keys obtained in collaboration with drivers/mechanics at service stations.
 - Vehicles are reported stolen fraudulently in collaboration with the owner.
 - Vehicle registration numbers are changed and false identification documents corresponding with those of the stolen vehicle are obtained.
 - Car thieves have developed a system whereby expired licence disks are collected and forged by removing certain details and inserting false details that correspond with the registration plate of the stolen vehicle.
 - Some scrap yards use spray painters to change the colour of stolen vehicles.

6.4. COMPUTER CRIME

- **Types of computer crime:**

- Can be aimed at military intelligence, business links and computer fraud.
- Includes physical theft and destruction of equipment, the electronic sabotage and misappropriation of data and systems, and the outright theft of money through electronic means.
- **Theft of hardware:** basic desktop/laptop, computer terminals, printers, external modems, disks and drives.
- **Theft of software:** operating system software, application programs. Thieves may take disks containing copies of commercial software, or steal copies of privately developed software.
- Theft of data.
- **Sabotage by computer:** incl. planting a virus in an organisation's computer system.
- **Theft of assets:** billions in monetary value can be stolen by diverting electronic fund transfers, directly stealing from banks and pension funds, and committing various other types of online fraud.
- **Phishing:** online identity theft that employs an approach to a potential victim via email in order to steal both a recipient's personal identity data and financial account credentials.
- **Theft of output:** picking up valuable data on disk, tape or paper and walking away with it.
- **Unauthorised use:** hackers/crackers abuse a computer system and/or intentionally damage it. Employees may also use the computer for personal use.
- **Computer criminals:** the typical "criminal" category focuses on 2 types of criminal behaviour, namely, espionage, and fraud and abuse.
 - **Espionage:** international spies and their contractors who steal secrets from defence, academic and laboratory research facility computers. Includes industrial espionage agents who work for competitive companies or foreign governments that are willing to pay for information.
 - **Fraud and abuse:** self-explanatory.
 - **Vandals:** can be divided into two groups, namely, users and strangers. Users: authorised to use the system they abuse. Feel wronged, and attack company's assets. Strangers: not authorised to use the system. Relatively scarce. Use password sniffers, outright extortion, or bribery of authorised users.
- **Prevention of computer crime:** combine physical security with operations security in order to become less predictable.
 - **Identifying risks/risk analysis:** identifying threats to a system, vulnerabilities of that system, and measures that can be taken to protect the system.
 - **Physical security:** protect building, computer room and equipment.
 - **Personnel security:** includes the prevention of employee theft and workplace violence. Background checks and careful monitoring (eg routine polygraphs).
 - **Computer security:** protection of mail, fax, telephone and voicemail communications, and also data transmitted through computer network.
 - **Operations security:** incl. 2 major aspects of computer security, namely:

- Ways to increase awareness among potential victims of possible computer crimes
- Ways to keep computer criminals from actually committing a computer crime.

7. BURGLARY (HOUSEBREAKING)

7.1. KEY CONCEPT

- Bartollos and Dinitz: unlawful access to a structure in order to commit theft.
- Snyman: housebreaking with the intent to commit a crime is unlawfully and intentionally breaking into and entering a building/structure with the intention of committing some crime in it.
- Conklin: unlawful entry of a building to commit a serious crime, usually the theft of property. Burglary might turn into a robbery if the burglar confronts the occupants of the building and uses force to steal, but most burglary involves no such confrontation.

7.2. BURGLARY

- **General characteristics:**
 - Almost 2/3 of offenders arrested for burglary were younger than 25.
 - Many older burglars progress from residential burglaries to shoplifting (less risk, cost-effective).
 - Only 9% of burglars arrested in the USA are women.
 - 2/3 of burglaries occur at residential homes, and occur any time of the week.
 - Businesses are usually burgled at night.
 - Passive crime – offender selects a time and place that minimise the possibility of contact with the victim.
 - Burglary offers greatest chance of success with least risk.
 - Juveniles tend to burgle in the day (15:00-18:00).
 - Females usually burgle between 10:00-11:00 and 13:00-15:00.
 - Often enter via sliding door (lift off track with crowbar/screwdriver) or window.
 - Most burglars report moderate intake of alcohol prior to burglary.
 - More than half of arrested burglars had accomplices.
 - Almost 2/3 of burglars work in groups of 2+ people (usually not more than 3). Younger offenders and women use accomplices more than older males.
 - Burglars usually do not travel great distances to commit offences.
 - **Amateur burglars:** money/personal items for own needs.
 - **Professional burglars:** items with high resale value (electronic equipment, jewellery). Sell to fence.
 - Burglars often sell to pawnshops, friends/acquaintances, or exchange with strangers.
- **Selection of targets:**
 - Nee and Taylor: **four broad categories of indicators used by burglars:**
 - **Occupancy:** post has been delivered, parked vehicles, blinds and curtains are opened and closed, and lights are turned on and off.

- **Affluence:** appearance of house, its surroundings, quality of landscaping, visible furniture, type of vehicle.
 - **Layout of the house:** how difficult will it be to reach the house.
 - **Security:** fences, palisades, alarm systems, etc.
- In addition of the above, Walker et al are of the opinion that there are various **characteristics associated with elevated burglary risk**, namely:
 - Households without security measures are 10 times more likely to be burgled.
 - Households in own-occupied properties have much lower risk of victimisation.
 - Households that are left unoccupied for more than 5 hours per day.
 - Households with a higher income.
 - Households in areas where perceived physical disorder is high.
- Bennet and Wright: virtually all burglaries are planned in advance.
- Burglars take two important aspects into account when selecting a target: **surveillance** and **occupancy**. **Surveillance:** accessibility of the house/premises, proximity of neighbours, whether or not the burglar can observe the house, esp. rear. **Occupation:** occupancy is indicated by lawns being mowed, mail collected, parked cars, etc. Continual occupation is deterrent.
- **Vulnerability:** supermarkets are easy targets, exclusive male clothing stores not.
- **Motives for stealing:**
 - **Primary motive:** financial gain.
 - **Professional burglars:** money, but also sense of self-satisfaction and accomplishment.

8. CRIMES AIMED AT PROPERTY: VANDALISM

8.1. KEY CONCEPT

- Conklin: vandalism is the wilful or malicious destruction, injury, disfigurement, or defacement of property without the consent of the owner.
- Snyman: vandalism is "malicious injury to property". A person commits malicious injury to property if he unlawfully and unintentionally damages
 - Movable or immovable property belonging to another; or
 - His or her own insured property, intending to claim the value of the property from the insurer.
- The crime cannot be committed in respect of property which belongs to nobody.

8.2. MOTIVES FOR VANDALISM

- Revenge
- Anger
- Boredom
- Acquisition
- Exploration
- Aesthetic experience
- Existential exploration

- A number of factors.

8.3. TYPES OF VANDALISM

- **Wilson and Healy categorise vandalism as follows:**
 - **Acquisitive vandalism:** to acquire money/property (damage to ATMs).
 - **Tactical vandalism:** conscious tactic to achieve another end (divert attention away from a particular area so that a crime can be committed unhindered).
 - **Ideological vandalism:** to further a cause or communicate a message (slogans on buildings).
 - **Vindictive vandalism:** revenge (breaking school windows because of unfairness).
 - **Play vandalism:** incidental or deliberate as part of a game/competition (seeing who can break the most windows).
 - **Malicious vandalism:** expression of rage/ frustration (scratching car's paintwork).
 - **Innocuous vandalism:** damage is caused to property that is regarded by youths as being unimportant or having no value (slashing train/bus seats).

8.4. THE VANDAL

- Usually boys aged 11-15, usually not alone.
- Girls do commit vandalism, but boys tend to be more aggressive.
- Adults also commit vandalism by littering the environment with beer cans/cigarette butts.

8.5. CAUSES OF AND AN EXPLANATION OF VANDALISM

Various theories:

- **Intrapsychic explanation:** (Levy-Leboyer) it is very difficult to identify a direct cause because of the intrapsychic or subconscious factors which are often involved. Through acts of vandalism, youths convey their disaffection with the world.
- **Search for adventure, excitement and identity:** (Nilsson) Vandalism is not committed with the exclusive aim of causing damage but rather to derive excitement and pleasure. Adolescents also like to play pranks on people and may cause a great deal of damage to property. Adolescents leave their own unique mark and reveal their own identity through graffiti. They also test society's reaction to their behaviour. When young people are bored, they tend to vandalise for fun.
- **Influence of the peer group:** (Haskell and Yablonsky) Vandalism is a form of social behaviour. By committing acts of vandalism, the group's members are tied more closely together and the individual member obtains status within the group. As a result of the interaction within the peer group, the group's norms and values become more important than those of society. In addition, membership of the peer group ensures immunity to individual feelings of guilt.
- **Neighbourhood characteristics:** Public property may have some negative symbolic meaning for the vandal, which may contribute to the building or other object being damaged. Malfunctioning of a public telephone/parking meter may cause such frustration that the object is attacked and damaged. The impersonal nature of public buildings can also

contribute to vandalism when people feel they have no share in these buildings. Neighbourhood characteristics are also determined by, among other things, the number of people per household, the number of single parent families, unemployment, the high mobility of the inhabitants, a negative attitude towards school, a preference for outdoor activities, problems within the family/school, and the abuse of alcohol. Schools that are vandalised are usually in lower socioeconomic areas.

9. CRIMES AIMED AT PROPERTY: ARSON

9.1. KEY CONCEPTS

- The American Uniform Crime Reports defines arson as any wilful or malicious burning or attempt to burn with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.
- **Snyman:** A person commits arson if he/she unlawfully and intentionally sets fire to:
 - Immovable property belonging to another; or
 - His/her own immovable insured property, intending to claim the value of the property from the insurer.
- **SA:** arson can be committed only in respect of immovable property, such as a building. When moveable property is set on fire, it is classified as injury to property or malicious injury to property.
- **Pyromania:** a psychological concept that refers to an irresistible urge/passion to start fires, accompanied by an intense fascination with the flames.

9.2. GENERAL CHARACTERISTICS

- Most arsonists are young; approximately 2/3 are under 25.
- Often single young males with an alcohol/drug problem.
- Female arsonists: usually older than the males; history of alcohol/drug abuse; low level of education; unmarried; dependent on state support.

9.3. MOTIVES FOR ARSON

- **Icove and Estep** reported in 1987 that vandalism was the most common motive (49%), followed by excitement (25%), revenge (14%), concealment of the crime (2%), profit (1%) and other unspecified motives (8%).
- Research shows that most juvenile arsonists are motivated by the desire for revenge against authority figures, for the status that they will gain or to satisfy a desire for excitement.
- Juveniles – excitement; Adults – revenge.
- **Boundreau and associates identify 6 primary motives for arson:**
 - Revenge, malice and jealousy (incl. jilted lovers, hostile neighbours, disillusioned employees, people who want to exact revenge for perceived unfair treatment, fraud

- or abuse). Incl. alcohol and drugs. 2/3 of revenge arsonists had a criminal record. Females: mainly revenge; often set fire to their own accommodation.
- Vandalism or wilful mischief (challenge authority, relieve boredom. Mainly juvenile).
 - Concealment of a crime or a diversionary tactic. 7 – 9% start fire to destroy evidence of burglary, theft, or murder. Some arsonists attempt to conceal their suicides by means of a fire so that their next of kin can claim life insurance. Concealment: mainly young male adults from low socio-economic background; use alcohol/drugs prior to crime. Virtually all arsonists of this type have previous criminal records.
 - Profit and insurance fraud. Includes residential dwellings, businesses, vehicles, boats and aircraft. Primary offenders: dominant personality in committing the crime. Secondary offender: “torch for hire”, usually male aged 25-40, unemployed, criminal record for variety of offences (burglary, assault, public intoxication).
 - Intimidation, blackmail, terrorism and sabotage. Such arsonists are extremists intent on promoting some social, political or religious cause.
 - Pyromania and other psychological motives. Prior to starting fire, a pyromaniac experiences a build-up of tension. Once the fire is burning, he or she experiences intense pleasure and relief. Often leaves clear evidence at the scene. Usually mingle with the crowd at the fire. Arsonists may be classified as pyromaniacs if they deliberately started a fire on more than one occasion. Rare disorder. More common in men. Sometimes accompanied by history of enuresis (bed-wetting) and learning problems. Usually unemployed juveniles/young adults living with their parents. Socially inadequate, display poor interpersonal skills. Icove and Estep: only two offenders out of 1016 arsonists could be classified as pyromaniacs.

9.4. THEORETICAL EXPLANATION FOR PYROMANIA

- Areas to which theorists look for an explanation include the offender's personality composition, such as inadequate/poor interpersonal skills.
- People who start fires repeatedly feel that they have little control over their environments or in their personal lives. Come from socially disadvantaged backgrounds; variety of physical, mental and psychological problems; low levels of intelligence and educational achievements, leading to poor self-image; depression and suicidal tendencies.
- Overall image of pyromaniac: someone who is inadequate, has failed repeatedly, is socially passive and isolated.
- Pyromania is precipitated by events that exacerbated his/her poor self-image and feelings of sadness and depression.
- Arson is only 1 component in the constellation of maladjusted behaviour in these individuals. Many were burnt/abused as children and learned that fire is an acceptable means of retribution.
- Orthodox psychoanalytical theorists link sexual excitement to pyromania.

10. GENERAL CAUSES OF AND AN EXPLANATION FOR PROPERTY CRIMES

10.1. SOCIOECONOMIC FACTORS

- Crime is related to the socioeconomic conditions in the community.
- Crime is higher in societies characterised by low minimum wages and high unemployment among young people.
- Unemployment = poverty = lack of social standing and self-respect, feelings of helplessness and of having nothing left to lose = easier to commit crime such as theft.

10.2. RELATIVE DEPRIVATION

- Poor people living in a wealthy nation resent poverty more than poor people living in a poor nation.
- The highest crime rates are in cities where the differences in income between the poor and rich are the greatest.
- The discrepancy between people's expectations and their abilities may motivate them to break the law.
- Relative deprivation increases as expectations rise or when the available means diminish.

10.3. OPPORTUNITY AND THE ECONOMY

- Opportunity determines what can be stolen. The current market determines whether or not it is worthwhile stealing a particular article.
- Property crime increases as the economy develops, perhaps due to increased opportunities to commit crimes such as theft.
- According to Cohen and Felson's **opportunity theory**, crime is determined by:
 - A motivated offender
 - A suitable target and
 - The absence of capable guardians.
- **Four dimensions of a suitable target:**
 - Exposure of the target (visibility, physical accessibility)
 - Guardianship (people/devices preventing the crime)
 - Attractiveness of the target (material/symbolic value)
 - Proximity (physical distance between target and offender)
- Lynch and Cantor: theft is largely a function of exposure, and burglary, of guardianship.
- Theft is a matter of opportunity. Burglaries are planned.

10.4. THE THEORY OF DIFFERENTIAL ASSOCIATION

- 9 principles/tenets. Developed by Edwin Sutherland.
- Attempts to explain why the incidence of crime differs in different groups and why one person turns to crime while another becomes a law-abiding citizen.
- First 3 principles: criminal behaviour is acquired; it takes place in interaction with other people during a process of communication; it takes place in intimate personal groups.

- Professional thieves teach skills to new recruits.
- Early involvement in juvenile delinquency is a prerequisite for an adult career as a professional criminal. Thieves learn as juveniles how to avoid attracting attention, and what police reaction is likely to be.
- Research shows that criminal behaviour is influenced more strongly by learning from direct observation of the peer group's behaviour than by learning from the peer group's attitude.

10.5. SYKES AND MATZA'S NEUTRALISATION THEORY

- **Distinguish between 5 neutralisation techniques by which criminals try to justify their actions:**
 - **Denial of responsibility:** accidental; caused by factors beyond their control (broken homes, parental neglect, poverty, dependence on alcohol and drugs); feel they're not in control of their lives.
 - **Denial of injury:** deny that harm has been done; see victim as object/means to achieving goals, not as a human who suffers; argue that victim is insured.
 - **Denial of the victim:** crime is justified revenge against the victim, whose actions are considered wrong by the criminal.
 - **Condemnation of the condemners:** assume that the motives and behaviour of those who denounce criminals, rather than the motives and behaviour of criminals themselves, should be condemned; police brutality and political corruption are used to justify crimes; looting of shops during protest marches.
 - **Appealing to a higher loyalty:** juvenile offenders rationalise their actions by blaming them on peer pressure and the need not to let their friends down.
- Tunnel: repeat offenders use neutralisation techniques before committing offences; in this way they neutralise their concerns, fears and worries.
- 90% of offenders interviewed by Tunnel indicated that older offenders had encouraged them by flaunting their successes.
- Drugs and alcohol are also a neutralising technique.
- Another neutralisation technique: discuss decision to commit crime with other offenders.
- "Putting risks out of mind": refuse to think about negative consequences.
- Neutralisation techniques are incompatible with rational decision-making theories.

10.6. WILSON AND HERRNSTEIN'S THEORY

- A person's actions are guided by the anticipated consequences of the chosen action.
- The possible consequences are a reward (reinforcer) or punishment.
- Rewards and risks that are more certain will have a greater influence on behaviour than ones that are experienced less directly.
- Individuals who commit a crime in spite of strong scruples are people who have difficulty imagining the future consequences of their present actions. Another possibility is that they are so impulsive that they disregard the anticipated future consequences of their actions.

10.7. RATIONAL DECISION-MAKING PERSPECTIVE

- Concentrates on the offender's strategic thinking, his or her processing of information and his/her evaluation of the opportunities and alternatives.
- Stresses calculated decision making and is based on the premise that the offender decides how to act after establishing the probable reward resulting from the particular behaviour, for example, burglary.
- Pays special attention to specific crimes, because different crimes satisfy different needs.
- People who repeatedly commit property crimes do not formally calculate the risks involved in theft or consider the legal alternatives. Their actions relate to their lifestyle (to seek pleasure with a minimum of care about duties and commitments that fall outside their social sphere). Prison is seen as a non-threatening environment.
- Chronic property offenders believe they will not be apprehended, or that their prison sentences would be short.

Reward	Risks
Money earned from crime	Being apprehended and punished Loss of freedom if sentenced or a lack of money if a fine is imposed
Tax free	Loss of benefits from a legal profession (paid vacation leave and medical security)
Excitement derived from committing the crime	Time needed to acquire criminal skills
Satisfaction of successfully carrying out crime	Cost of equipment needed to commit crime
Much free time	Risk of injury in the course of committing crime (inflicted by police or victim)
Reputation as a successful criminal	Work involved in identifying a target and carrying out the crime
Free lodgings if prison sentence is imposed	Anxiety over punishment Stigma of being labelled a criminal

11. PREVENTION OF PROPERTY CRIMES

11.1. IMPROVING SOCIOECONOMIC CONDITIONS

- Look at countries with low crime rates, determine what they do differently. Try to copy their approach.
- Create employment, stabilise economy, provide technical skills. Job training should include socialisation in work-related skills as well as work techniques.
- Policies that reduce employee turnover and promote workplace loyalty are important in the fight against crime.
- Relative deprivation needs to be lessened.

- High relative deprivation leads to conventional property crimes. Policymaking should focus on reducing the emphasis on material prosperity as an indicator of personal worth.
- Apartheid resulted in high levels of relative deprivation and inequality.

11.2. SITUATIONAL CRIME PREVENTION

- Fairly recent concept.
- Preventative approach that aims to limit (reduce) opportunities to commit crime.
- Newburn suggests the following 25 techniques for situational crime prevention:

Increase the effort	Increase the risks	Reduce the rewards	Reduce provocations	Remove excuses
1. target hardening <ul style="list-style-type: none"> • Steering column locks; immobilisers • Anti-robbery screens • Tamper-proof packaging 	6. extended guardianship <ul style="list-style-type: none"> • Go out in groups at night • Leave signs of occupancy • Carry mobile phone 	11. conceal targets <ul style="list-style-type: none"> • Off-street parking • Gender neutral telephone directories • Unmarked armoured trucks 	16. reduce frustrations and stress <ul style="list-style-type: none"> • Efficient queues • Polite service • Expanding seating • Soothing music or muted lighting 	21. set rules <ul style="list-style-type: none"> • Rental agreements • Harassment codes • Hotel registration
2. control access to facilities <ul style="list-style-type: none"> • Entry phones • Electric card access • Baggage screening 	7. Assist natural surveillance <ul style="list-style-type: none"> • Improved street lighting • Defensible space design • Support whistle-blowers 	12. remove targets <ul style="list-style-type: none"> • Removable car radio • Women's shelters • Pre-paid cards for pay phones 	17. avoid disputes <ul style="list-style-type: none"> • Separate seating for rival sports fans • Reduce crowding in bars • Fixed taxi fares 	22. display instructions <ul style="list-style-type: none"> • No parking • Private property • Extinguish camp fires
3. screen exits <ul style="list-style-type: none"> • ticket needed for exit • export documents • electronic merchandise tags 	8. reduce anonymity <ul style="list-style-type: none"> • taxi driver IDs • 'how's my driving?' deals • School uniforms 	13. identify property <ul style="list-style-type: none"> • Property marking • Vehicle licensing and parts marking • Cattle branding 	18. reduce temptation and arousal <ul style="list-style-type: none"> • Controls on violent pornography • Enforce good behaviour on sports fields • Prohibit racial slurs 	23. alert conscience <ul style="list-style-type: none"> • Roadside speed display boards • Signatures for customs declarations • 'Shoplifting' is stealing
4. deflect offenders <ul style="list-style-type: none"> • street closures • separate bathrooms for women • disperse pubs 	9. use place managers <ul style="list-style-type: none"> • CCTV for double-decker buses • Two clerks for convenience stores • Reward vigilance 	14. disrupt markets <ul style="list-style-type: none"> • Monitor pawn shops • Control on classified ads • Licensed street vendors 	19. neutralise peer pressure <ul style="list-style-type: none"> • 'Idiots drink and drive' • 'It's OK to say No' • Disperse troublemakers at school 	24. assist compliance <ul style="list-style-type: none"> • Easy library checkout • Public lavatories • Litter receptacles
5. control tools or weapons <ul style="list-style-type: none"> • 'smart guns' • Disabling stolen mobile phones 	10. strengthen formal surveillance <ul style="list-style-type: none"> • Infrared cameras • Burglar alarms • Security guards 	15. deny benefits <ul style="list-style-type: none"> • Ink merchandise tags • Graffiti cleaning • Disabling stolen mobile phones 	20. discourage imitation <ul style="list-style-type: none"> • Rapid repair of vandalism • V-chips in TVs 	25. control drugs and alcohol <ul style="list-style-type: none"> • Breathalysers in bars • Server (waiter) intervention programmes

• Restrict spray paint sales to juveniles			• Censor details of <i>modus operandi</i>	• Alcohol-free events
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11.3. EFFECTIVENESS OF SITUATIONAL CRIME PREVENTION

- Research has proven that situational crime prevention measures prevent theft and burglaries to a large extent.
- “Achilles heel”: Critics say that situational crime prevention causes displacement (moving the crimes to another location).
- **Different forms of possible displacement:**
 - **Temporal:** committing the intended crime at a different time.
 - **Spatial:** committing the intended crime in a different place.
 - **Target:** switching the crime focus from one target to another.
 - **Tactical:** committing the intended crime using a different method.
 - **Functional:** committing a different type of crime from the type initially intended.
- Identifying displacement (or lack thereof) is difficult.
- **Crime deflection:** when, as a result of preventative efforts, there is change in criminal activities that makes them less harmful (moving the site of a drug market/red light area for example).
- Whether or not displacement is likely depends on a number of factors, including “choice structuring properties” – the differential nature of the choices faced by offenders under differing circumstances.
- Preventative efforts may also have positive consequences in places that were not initially targeted (**diffusion of benefits**):
 - Security added to houses in a residential estate that had been repeatedly burgled reduced burglaries for the whole estate.
 - Improved street lighting in a housing estate caused crime to decline in both the estate and a nearby one.

THEME 2: THE ROLE OF THE NATIONAL CRIME PREVENTION STRATEGY IN THE SUCCESSFUL PREVENTION OF CRIME

1. THE ROLE OF THE NATIONAL CRIME PREVENTION STRATEGY IN THE SUCCESSFUL PREVENTION OF CRIME

1.1. BASIC PREMISES OF THE NATIONAL CRIME PREVENION STRATEGY

- Comprehensive multi-agency approach that aims to influence the operations of the Department of Safety, Justice, Correctional Services, Welfare, Defence, Intelligence, Health and Education. This includes joint decision making by directors-general and ministers of NCPS departments.
- **The following issues are emphasised:**
 - Crime prevention requires the cooperation of all roleplayers, including politicians, government departments and members of the community.
 - Crime prevention has to operate at various levels – state, provincial and local – in order to cater for the unique needs of the various regions and communities.
 - Crime prevention programmes must be based on the fundamental causes of crime.
 - Crime prevention programmes have to focus on the crime, the offender and the victim.
- Focuses on 4 prevention models (pillars), in addition to the crime prevention models already applied by government departments.
- Responsibility for implementation resides in the office of the minister charged with the National Growth and Development Strategy.
- The various programmes must be evaluated on an ongoing bases.
- Specific departments must be identified as being responsible for planning and implementing the programmes in cooperation with other government departments.
- **Fundamental shift from reactive crime control to proactive crime prevention.**

1.2. FUNCTIONING OF THE SOUTH AFRICAN NATIONAL CRIME PREVENTION STRATEGY

- The **Minister of Safety and Security** has the overall responsibility for the NCPS.
- The initial participants were the Departments of Correctional Services, Social Development, Justice, Safety and Security, Defence, Intelligence and Interior, but subsequently the Departments of Art, Culture, Science and Technology, Education, Transport, Health and Provincial Affairs have also become involved.
- Most of the programmes span more than one department, but a particular department takes responsibility for its overall operation by

- Identifying the roleplayers involved
- Ensuring the coordination of roleplayers' plans and compliance with the objectives of the programmes
- Ensuring that the various roleplayers' budgets make provision for the programmes
- Making the necessary resources available for the programmes
- Disseminating information on the programmes
- Reporting to the relevant ministers and directors general as well as to the Cabinet Committee for Safety and Security.
- **The Ministry of Safety and Security's main objective:** ensure that all state and local institutions provide effective services at national, provincial and local levels.
- 1998: Cabinet decides that violent crime and corruption should be the NCPS's focus.
- **Factors which play a role in crime in SA,** according to the NCPS:
 - Disintegration of social control and the negotiated transition to democracy
 - The political culture of violence and crime
 - Justification of crime in political terms
 - Political conflict and rivalry
 - Lack of a national consensus on crime
 - Poverty, unemployment and relative deprivation as a result of apartheid
 - Particular economic developments in SA
 - Marginalisation of youth
 - Inadequate support and services for victims of crime
 - Vigilantism, revenge and self-defence units
 - Specific socio-psychological factors in SA
 - Free access to firearms as a result of wars of liberation in SA and neighbouring countries
 - Gender inequality

1.3. THE FOUR CRIME PREVENTION PILLARS OR MODELS

- **The integrated criminal justice model**
 - **Objectives:**
 - To promote the effectiveness of the criminal justice system by focusing on the needs of offenders and victims to improve the credibility of the criminal justice system.
 - To make the courts accessible to all, especially the relatively powerless.
 - To promote good interdepartmental liaison, especially in the interests of preventing and controlling crimes identified as high-priority crime.
 - To develop an integrated management system in order to promote the successful investigation, prosecution and punishment of high priority crimes.
 - **Recommended programmes:**
 - Effective management and control of the criminal justice system
 - An inclusive crime information and intelligence service
 - An effective prosecution policy
 - Appropriate community service programmes

- Diversion programmes for juveniles
 - The safe detention of juveniles
 - The coordination and rationalisation of laws
 - The support and empowerment of crime victims
- **Crime prevention by means of environmental design and control**
 - **Focus:**
 - Restricting the opportunities to commit crimes, especially those where the rates of detection and prosecution are low
 - Security for homes and shopping centres, upgrading existing areas and security for new structures
 - Encouraging overall environmental security by means of information and publicity campaigns, especially in the media
 - Urban development, transport systems and residential areas
 - **Programmes:**
 - An effective administration and communication programme
 - An identification system for marking articles in order to prevent fraud and theft
 - A programme for combating vehicle theft
 - A programme that focuses on corruption and commercial crime
- **Promotion of community values and education**
 - **Basic premises:**
 - Inform the community about how the criminal justice system functions
 - Promote community values and norms that reject crime and violence
 - Teach non-violent solutions to conflict in the community
 - Make members of the community aware of steps they themselves can take to reduce the risk of victimisation
 - Implement school-based programmes that teach life skills, non-violent problem-solving techniques, how the criminal justice system functions and respect for human rights
 - **Programmes:**
 - Public education programmes
 - School programmes
 - Information disseminated via the media
 - Mediation programmes
- **Prevention of transnational crimes**
 - **Objectives:**
 - Control the smuggling of various commodities, such as drugs and diamonds, and to control the trade in protected species
 - Control the influx of illegal immigrants
 - Prevent organised crime
 - Prevent money laundering
 - **Programmes:**
 - Cooperation with neighbouring states and international organisations such as Interpol

- Cooperation with other departments and the public
- Increased policing and intelligence control

1.4. POINTS OF CRITICISM AGAINST THE SOUTH AFRICAN NATIONAL CRIME PREVENTION STRATEGY

- There is no proper infrastructure for implementing crime prevention programmes. It is difficult to establish which department is responsible for the various programmes.
- A number of problems may arise when interdepartmental cooperation is required, such as inadequate coordination, conflicting priorities, differences between experts on the nature of the problem and how to deal with it, perceived threats in issues of professional autonomy and areas of responsibility, and a lack of knowledge of the role and responsibility of each group.
- Central government should provide comprehensive training for key people, focusing on planning, implementation, affordability and the evaluation of crime prevention programmes.
- The feasibility of some crime prevention programmes in a relatively underdeveloped and poor country such as SA which lacks both expert human resources and funds are often questioned.
- Funding of programmes is a concern. Funding has to come from the budgets of the participating departments and provincial governments, but they may not be able to fit it into their budgets, especially since they might have other priorities.
- The NCPS is not linked to a time frame and this is detrimental to the implementation of crime prevention programmes. Consequently, community members may lose faith in the strategy.
- Although the NCPS identifies factors that contribute to crime in SA, no attempt has been made to link these factors to the 4 crime prevention models that have been developed. The strategy also ignores the many universal factors which give rise to crime. The 4 models can be described as being aimed at controlling crime in order to prevent it, instead of addressing the causes.
- The NCPS is narrow when compared with the large number of crime prevention models that are being applied globally.
- Not enough attention is given to the involvement of youth in crime, especially violent crime.

THEME 3: ROLEPLAYERS IN THE CRIMINAL JUSTICE SYSTEM: THE SOUTH AFRICAN POLICE SERVICE AND CORRECTIONAL SERVICES

1. THE DEPARTMENT OF SAFETY AND SECURITY

1.1. KEY CONCEPTS

- **Department of Police:** government structure responsible for overseeing the SAPS and the Independent Complaints Directorate.
- **The South African Police Service:** Safety and Security structure. Primarily responsible for crime prevention and the safeguarding of all people in SA. Regulated by the Constitution and the South African Police Service Act (Act 68 of 1995).
- **The Independent Complaints Directorate:** governed by the SAPS Act. Responsible for ensuring the proper and effective investigation of reports of misconduct and offences by the members of the SAPS.
- **Police Civilian Secretariat:** established by the Constitution to keep a watchful eye on the management, service delivery and the way in which resources are used by the police service.

1.2. STRUCTURES FALLING UNDER THE DEPARTMENT OF SAFETY AND SECURITY

- **Department of Police** (formerly known as the Secretariat for Safety and Security; government department; oversees Independent Complaints Directorate and SAPS; Minister of Police is Nathi Mthethwa).
- **Independent Complaints Directorate** (ICD; governed by chapter 10 of the SAPS Act of 1995; reports to parliament through Minister of Safety and Security). **Tasks:**
 - Ensures that reports of offences and misconduct committed by the SAPS are investigated effectively.
 - Investigate all deaths in police custody or that result from police action. If there are no indications of criminal conduct by the police, the police must investigate the matter while the ICD monitors/supervises the investigation. If there is indication of criminal conduct by the police, the ICD conducts a full investigation, which may result in the ICD recommending to the Directorate of Public Prosecutions and to the SAPS management that the member be prosecuted.
- **South African Police Service** (SAPS; internal security and crime prevention; governed by the South African Police Service Act; structured at both national and provincial levels).
 - **Aims:**

- Ensuring the safety and security of all people and property in SA.
- Upholding and safeguarding the fundamental rights of every person as guaranteed by Chapter 3 of the Constitution.
- Ensuring cooperation between the SAPS and the communities it serves in the combating of crime.
- Reflecting respect for the victims of crime and an understanding of their needs.
- Ensuring the effective supervision of the SAPS.
- **Objectives** (section 205(3) of the Constitution):
 - Prevent, combat and investigate crime
 - Maintain public order
 - Protect and safeguard the people (inhabitants) of the country and their property
 - Uphold and enforce the law
- **The Police Civilian Secretariat:**
 - Established in terms of section 208 of the Constitution, and Chapter 2, section 2(1) of the South African Police Service Act 68 of 1995.
 - Serves as a principal advisor to the Minister.
 - Provides civilian oversight of the governance, service delivery and resourcing of the SAPS.
 - Ensures that the monitoring and evaluation of the SAPS is free from undue influence and that unbiased and transparent reporting is ensured.

1.3. THE STRUCTURE OF THE SOUTH AFRICAN POLICE SERVICE

- **National level**
 - **National commissioner** – head of the SAPS. Responsible for its control and management. Has the power/duty/function to:
 - Develop a plan before the end of each financial year in which he or she sets out the priorities and objectives of policing for the following financial year.
 - Determine the fixed establishment of the SAPS and the number and grading of posts.
 - Determine, after consultation with the board (consisting of the national and provincial commissioners), where members of the SAPS should be located.
 - Organise/reorganise the SAPS at national level into various components, units or groups.
 - Establish and maintain training institutions or centres for the training of students and other members.
 - Establish and maintain bureaus, depots, quarters, workshops or any other institutions of any nature whatsoever which may be expedient for the general management, control and maintenance of the SAPS.
 - Perform any legal act or act in any legal capacity on behalf of the SAPS.
 - **Six deputy national commissioners** - responsible for the following portfolios:
 - Crime Intelligence and Crime Detection
 - Operational Services

- Management, Financial and Administration Services
 - Human Resource Management and Legal Services
 - Logistical, Evaluation, Security and Protection Services
 - Internal Audit.
- **Provincial level** – the functioning of the SAPS on this level is set out as follows:
 - **Functional activities of the provincial commissioner** – deputy provincial commissioners assist the provincial commissioner with his/her responsibilities within the province as determined by national directives.
 - **Accountability** – the provincial commissioner reports directly to the national commissioner.
 - **Purpose** – overall purpose of provincial commissioner is to ensure a safe and secure environment in the province by means of efficient policing as required by relevant legislation, as well as government and departmental policies and directives.
 - **Functions of the provincial minister:**
 - primary function of provincial commissioner is to manage the following crime combating and crime detection functions effectively in the province:
 - Crime prevention
 - Community service centres
 - Detective services
 - Crime intelligence
 - Secondary function of provincial commissioner is to effectively manage the following functions in support of the above primary responsibilities:
 - Legal services
 - Logistics
 - Financial services
 - Auxiliary services
 - Communication and liaison services
 - Human resource management
 - Management services
 - Evaluation services
- **Station level** – ensure a safe and secure environment in the station area by means of efficient policing as required by relevant legislation, as well as by government and departmental policies and directives. The station commissioner is also responsible for managing the following crime combating and crime detection functions within the station area:
 - **Crime prevention:**
 - Visible policing
 - Community service centres
 - Detective services
 - A crime information analysis centre (CIAC)
 - **Support services:**
 - Logistics
 - Financial services
 - Administrative services

- Human resource management
- Management information office

1.4. FUNCTIONS OF DIVISIONS WITHIN THE SAPS

Operational services respond reactively after a member of the public has reported a crime or the unit has uncovered a crime on its own initiative (crime prevention and control). **Crime intelligence and crime detection services** investigate crimes and give additional assistance in the investigation of such cases by providing crime intelligence. **Support services** such as management; financial and administration services; human resource management and legal services; and logistical, evaluation, security and protection services fulfil a support function in order to assist members of the operational and investigative units and to ensure that they have the necessary training, logistical support, finances and services to perform their functions effectively.

- **Crime intelligence and crime detection**
 - **Detective services:**
 - Organised crime units (focus mainly on crime syndicates)
 - Commercial branches
 - Serious economic offences unit
 - Detective services at police station level
 - Interpol
 - Criminal records centre (identify criminals and offenders, verify previous convictions, identify and link firearms to crime scenes by means of the Integrated Ballistics Identification System. The Automated Fingerprint Identification System, a computerised database containing details of convicted criminals, was launched in 2002. The Morpho Touch is equipped with a scanner which scans fingerprints and compares them with prints held in the AFIS database.
 - Forensic Science Laboratory (IBIS, DNA Criminal Intelligence Database, Voice Comparison System Operative, National Drug Intelligence Database, and the National Photo Image System have been incorporated into the scientific support environment of the SAPS)
 - National Bureau for Missing Persons (render support service to investigating officer; database stores all particulars of a missing person which can be accessed by police officials)
 - **Crime intelligence** (information that the police obtain to help them combat crime):
 - Task: manage the crime intelligence capacity of the SAPS.
 - Functions: drawing up strategic crime reports and establishing crime-pattern analysis capabilities at all levels in the SAPS; establishing and maintaining the network, as well as the undercover crime intelligence-gathering capacity of the SAPS; managing and coordinating crime information by establishing crime desk support for identified clients; introducing counterintelligence measures to ensure that information and personnel are secured; managing the Secret Services Account; establishing and maintaining an effective performance

evaluation and inspection capacity; and establishing and maintaining an effective technical support capacity in the SAPS.

▪ **Operational services**

- **Crime Prevention:** Reduce opportunities to commit crime by optimising visible policing and cooperating with the Division: Operational Response Services during the policing of important events. This division is responsible for developing and maintaining a safe working environment for members of the SAPS; developing, maintaining and monitoring policy standards and directives regarding crime prevention and uniformed services in general; and running victim support programmes. It also pays special attention to the following:
 - Community policing
 - Captain crime stop and adopt-a-cop programmes
 - Sector policing (replaced the commando system)
 - Partnership policing – responsibility of the Division: Crime Prevention. This division is responsible for monitoring the implementation of the Domestic Violence Act and for submitting biannual reports to parliament; optimising community service centres and police emergency services such as 10111 call centres, flying squad, and highway patrol.
 - Police safety – the Directorate: Police Safety is responsible for developing safety measures to protect the lives of police officials.
 - Reservists – the National Instruction for the South African Reserve Police Service focuses on all issues related to reservists. There are 4 categories of reservists:
 - *Category A: Functional policing.* Reservists will perform functions in all operational areas of policing (station, area, provincial levels).
 - *Category B: Support services.* Reservists will perform a specific support function at national, provincial, area and station level and may not be used to perform functional police duties
 - *Category C: Specialised functional policing.* Reservists must have particular skills or expertise which can be used operationally by the SAPS.
 - *Category D: Rural and urban sector policing.* Reservists will perform functions in operational facets of policing relating to sector policing in urban and rural areas at station level.
 - Hostage negotiation – negotiators are deployed nationally at station level and ensure quick response to suicide matters.
- **Operational response:** include maintaining public order, managing crowds, preventing cross-border crime by policing all ports of entry into South Africa and facilitating interdepartmental cooperation. Includes:
 - Air-supported reaction forces (serious and violent crimes – bank robberies, hijackings, farm attacks, aerial surveillance)
 - Police divers and the water wing (primarily drowning incidents, but also crime prevention and community safety activities, assist in flood-stricken areas, provide support service at Midmar Mile and Berg River and Duzi canoe marathons.

- **Operational coordination:** manage and coordinate big events (World Summit, World Cups)
- **Management, financial and administration services**
 - Aim: ensure that SAPS functions according to its mission, priorities and objectives. Management advisory services, development and maintenance of a strategic plan for the SAPS, rendering of internal and external communication and liaison services, management of information technology.
 - Service Delivery Improvement Process (SDIP): Aims: improving service at all levels of the organisation. Ensures availability of trained facilitators and management teams, and development of strategic and implementation plans at various levels within SAPS. Primarily station level. Purpose: develop the skills and knowledge required by members during the rendering of services, thereby enabling them to consistently provide policing services of a high standard in a responsible, confident and independent manner and to approach issues requiring policing from a client-centred and problem-solving perspective.
- **Human resource management and legal services**
 - **Career management:** function: to render a people-centred human resource service to all personnel. Personnel planning and development, performance and remuneration management.
 - **Personnel services:** function: manage all personnel-related matters in support of the operational priorities of the SAPS. Duties: administration of employment practices; promotion of fair labour practices; prevention and effective resolution of disputes or grievances; investigation and monitoring of alleged incidents of discrimination and racism.
 - **Training:** duties: all training. Examples: optimisation of crime statistics, detective training, crime intelligence, crime prevention, operational response and human resource development.
 - **Legal services:** duties: implementation of government legislation and the enforcement of government policy. Ensure that SAPS regulates its members' conduct.
- **Logistical, evaluation, security and protection services**
 - **Security and protection services:** Functions: render strict (close) protection services and static guard duties.
 - **Logistics:** Functions: ensure that procurement and inventory are managed in a cost effective way; manage accommodation and radio communication; construction support and expert services for the SAPS; ensure that SAPS's vehicle fleet is managed in a cost-effective way.
 - **Evaluation services:** Functions: evaluating the quality of service rendered by the SAPS (evaluate operational and organisational functions of SAPS, report findings and recommendations on remedial measures directly to top management, undertake internal investigation of priority cases of misconduct by SAPS members, investigate complaints of poor service delivery, perform internal audits and inspections with regard to occupational health and safety standards within the SAPS).

1.5. RANK STRUCTURE OF THE SOUTH AFRICAN POLICE SERVICE

- **Non-commissioned officers:**
 - Constable
 - Sergeant
 - Warrant officer
- **Commissioned officers:**
 - Lieutenant
 - Captain
 - Major
 - Lieutenant-colonel
 - Colonel
 - Brigadier-general
 - Major-general
 - Lieutenant-general
 - general

2. THE DEPARTMENT OF CORRECTIONAL SERVICES

- 34 000 staff responsible for 165 230 inmates in 239 facilities.
- 8 female centres, 13 youth centres, 130 male centres, 86 mixed centres.
- There are 2 private prisons in SA.
- Minister of Correctional Services: Ms Nosiviwe Mapisa-Nqakula.

2.1. VISION

- To be one of the best in the world in delivering correctional services with integrity and commitment to excellence.

2.2. MISSION

- In partnership with external stakeholders, to place rehabilitation at the centre of all activities of the Department through
 - “the integrated application and direction of all departmental resources to focus on the correction of offending behaviour, the promotion of social responsibility and the overall development of the person under correction;
 - The cost effective provision of correctional facilities that will promote efficient security, corrections, care and development services within an enabling human rights environment;
 - Progressive and ethical management and staff practices within which every correctional official performs an effective and encouraging role”

2.3. BUSINESS PHILOSOPHY

- Ensure the safe custody of offenders
- Ensure the effective management of risks
- Ensure that human rights are upheld and that the principle of human dignity is acknowledged
- The development of offenders based on the belief that they have the potential to function as law-abiding citizens.

2.4. PURPOSE

- To contribute to maintaining and protecting a just, peaceful and safe society by enforcing sentences in the prescribed manner, detaining prisoners in safe custody and respecting their human dignity, and by contributing to the social responsibility and development of all prisoners.
- In 2003 the DCS published a draft **White Paper**. It's objectives are the:
 - Safe custody of prisoners
 - Supervision and control of probationers and parolees in the community
 - Humane detention and treatment of prisoners
 - Provision of development services
 - Reintegration of prisoners into the community
 - Effective utilisation and management of resources
- **Projects based on the White Paper:**
 - Infrastructure development (procure and manage new facilities and maintain all facilities)
 - Social reintegration (strengthen offenders' support system for effective reintegration)
 - Offender rehabilitation path (analyse infrastructure of identified areas in terms of the human resources (HR), policies, procedures and budget needed to implement the offender rehabilitation path requirements)
 - Security enhancement (improve safety and security for offenders, personnel, service providers and the public)
 - Management of awaiting trial detainees (to improve safety and management of remand detainees)
 - Monitoring, evaluation and reporting (to develop a monitoring, evaluation and support system for the DCS)
 - Seven-day establishment and job-refinement (provide the necessary capacity to HR)
 - Centres of excellence (provide holistic, integrated and needs-based services that are aimed at creating socially responsible people).

2.5. STRUCTURE

- The Department is headed by a commissioner, who reports directly to the Minister of CS.
- Commissioner is assisted by 3 chief deputy commissioners at the national level (who have specific chief directorates allocated to them).
- Commissioner is also assisted by 9 commissioners at the provincial (executive) level, who are responsible for the implementation and execution of policy in their provinces.

- **Heads of prisons:** administration of prisons.
- **Heads of community corrections offices:** administration of said offices.
- **Compliance Improvement Plan:** regional offices must submit bimonthly reports on the performance of their areas.
- **3 main subdivisions in DCS:**
 - **CDC Functional Services**
 - Offender control section: control of prison administration, physical care of prisoners, control of the system of correctional supervision, operation of juvenile offender services.
 - Development programmes section: psychological and social services, education and religious care.
 - **CDC Operational Support**
 - Ensure that support services are provided and that the Department is evaluated by means of inspections and special investigations.
 - Judicial Inspectorate (independent office, under control of inspecting judge) facilitates the inspection of prisons to ensure that offenders' rights are respected. Reports on corrupt/dishonest practices.
 - Inspecting Judge reports the findings of the Judicial Inspectorate to the Minister of Correctional Services.
 - Support services section: promote department's image, provide legal and logistical services, promote efficiency within department.
 - **CDC Resource Management**
 - Purpose: manage resources by providing skilled personnel
 - Human resources management section: development and training of personnel; effective deployment and maintenance of staff.
 - Integrated Human Resource Strategy: effective work organisation, recruitment and retention and the development of employees.
 - The Asset Procurement and Operating Partnership Systems: part of a public-private partnership initiative which involves a contract between the public and the private sectors. A private sector organisation designs, builds, finances and operates a prison, and is paid by government for the available prisoner accommodation.

2.6. UNIT MANAGEMENT APPROACH

- Divides prisons into smaller, more manageable units, allowing better control over prisoners and promoting interaction between inmates and officials.
- Each unit comprises 40 inmates who are directly supervised by a single member of staff at any given time. The member of staff can see all cells that comprise a unit from any position within the unit.
- UMA promotes a holistic management approach:
 - More effective observation of prisoner activities with problems being identified in a timely manner

- Increasing prisoners' involvement in their own development and encouraging accountability
- Providing programmes and interventions that deal with every prisoner's unique needs
- Institutional adjustment is targeted, and vocational skills and community reintegration mechanisms are acquired.
- Benefits of UMA:
 - Less guards are needed to guard the inmates.
 - All problems are confined to the unit in which they originate.
 - The approach is cost effective.
 - It reduces the levels of gangsterism and corruption.

2.7. SPECIAL CATEGORIES OF PEOPLE IN PRISON

- Includes: child offenders, female offenders, the disabled, the aged, the mentally disabled, first offenders, those with long or life sentences, detained offenders who are foreign nationals.
- **Children in detention**
 - In terms of section 28(l) of the South African Constitution children have a right:
 - "not to be detained except as a measure of last resort;
 - If detained, to be detained only for the shortest period of time;
 - To be kept separately from detained persons over the age of 18 years;
 - To be treated in a manner, and kept in conditions, that take account of their age;
 - To have a legal practitioner assigned to them by the state, and at state expense, in civil proceedings affecting them, if substantial injustice would otherwise result."
 - Children with serious behavioural problems and who pose a risk to others should be detained separately for behaviour management.
 - The Department endeavours to:
 - Establish separate facilities for young offenders
 - Foster the co-responsibility of parents or peers and other significant people
 - Promote a culture of development and learning
 - Follow a holistic approach aimed at the total development of the young person
 - Follow a structured daily programme
 - Develop detention packages that accommodate the specific needs and interests of young offenders
 - Follow a unit management approach with direct supervision
 - Foster personal responsibility
 - Foster leadership
 - Make use of community resources
 - Establish effective human resource components
 - **Development programmes for youths in detention:**

- Education (mainstream and ABET)
 - Occupational skills training
 - Vocational training
 - Entrepreneurial skills development
 - Recreational programmes
 - Library services
 - Social work services
 - Psychological services
 - Religious care programmes
- Special measures: distinct uniform for children, as well as a nutrition package specifically tailored for a growing person.
- **Female offenders**
 - The new Act, the Correctional Services Amendment Bill (2007), provides for the incarceration of women with babies in facilities which are separate from those of other females. Child-friendly surroundings are conducive to physical, social and mental care.
 - Institutionalisation: due to being exposed to 'prison life'. Example: a child's preoccupation with keys, which are used to open doors in prison so that they can pass from one area to another.
 - Mothers with infants are allowed to keep their babies with them up to the age of 2 years.
 - DCS introduced the Early Child Development Programme for these babies.
- **Prisoners with HIV/AIDS**
 - If a prisoner is housed separately, their right to privacy might be encroached upon. Separation may also restrict their access to work, education and recreation programmes, religious services, etc.
 - Programmes should be aimed at reducing high-risk activity and providing better access to medical care for those who gradually become more ill and frail.
 - There are 16 facilities accredited for the provision of ARVs.

2.8. FUNCTIONS OF THE DCS

- **Managing offenders**
 - The safe custody of prisoners
 - The supervision and control of probationers and parolees in the community
 - The human detention and treatment of prisoners
 - The provision of development services
 - The reintegration of prisoners into the community
- **Safe custody of prisoners**
 - **Prison security:**
 - Layout, CCTV, security fences, alarms and detection systems.
 - New security fencing (since 1996): outer electric fencing with alarm detection system and security lighting, which is linked to a central control centre. Walk-

through metal detectors and x-ray scanners will be installed at certain identified high-risk prisons.

- By mid-2009, security fences with motion detectors and CCTV had been installed at 46 centres.
- **Classification of prisoners:**
 - Prisoners are categorised according to the risk they pose to other prisoners, staff and the community.
 - Custodial classification: Maximum, medium, or minimum security categories.
 - In addition to the above, prisoners are further classified into privilege groups, with prisoners in group A receiving most privileges and group D the least.
 - Prisons are overcrowded, and there is a lack of maximum prisons.
 - DCS also introduced the following categories of prisons: Closed Maximum Security Unit (C-Max) and Super Maximum Prison (Super Max).
 - Pollsmoor Prison (Western Cape): biggest maximum security prison in SA.
- **The rehabilitation and development of prisoners**
 - **Health and physical care services:**
 - Upon admission prisoners are screened for early identification of ill-health and treatment.
 - If necessary, the prisoner can be hospitalised within the prison or referred to external public health facilities.
 - Prisoners receive information on personal hygiene, general health and medical care.
 - AIDS awareness is emphasised.
 - Prisoners receive a balanced and nutritious diet, consisting of 3 meals a day. Provision is made for those with special dietary needs.
 - **Development and support services:**
 - Religious care: religious services are held for all prisoners on a weekly basis.
 - Social work services: Life skills programmes (family and social relationships); substance abuse programmes; release preparation programmes.
 - Psychological services:
 - Suicide risk management
 - Psychological intervention when requested by courts of law
 - Psychological counselling of prisoners who are mentally ill and who were previously under psychiatric/psychological treatment
 - The risk management of people who are under supervision inside the community.
 - There is insufficient psychological help available.
 - Education and training: empowerment of inmates. The following programmes that focus on market-related skills, needs-driven competencies and usable knowledge are provided:
 - Literacy and ABET (Adult Basic Education and Training) education. 37% of the prison population is illiterate, and 45% is functionally illiterate.

- Vocational, basic occupational training and entrepreneurial skills training. Correctional Services aims to involve 80% of juveniles and 45% of adults with a sentence of 2 years or less in at least 1 skills development course.
- Mainstream education in line with NQF (National Qualifications Framework) levels 2 to 4. This provides individuals with the opportunity to study a course of their choice through a correspondence institution.
- Schooling in recreation, which includes the establishment of at least 1 library in every management area (prison complex) and instruction on healthy recreation for inmates.
- Labour supply: aim is to create work opportunities for at least 70% of inmates. Children under 18 are not expected to do work that is inappropriate for their age. Disabled people are placed in suitable posts.
- Industrial products and services: includes the production of food for consumption by offenders, the manufacture of workshop items used by the Department or other government departments, the maintenance of departmental equipment and buildings, and the procurement of accommodation. DCS strives to meet 60% of its own industrial products and services needs, and to provide for 30% of the needs of other government departments.

2.9. APPROACHES TO COMBATING CRIME

Various services are made available to prisoners in order to provide for their personal needs and to give them a better chance at a productive life post-release.

- **Education and training**
 - Community corrections programmes are alternative forms of sentencing, and offer job creation and rehabilitation. Incarceration in prison is linked to recidivism.
 - Community should be encouraged to offer support to parolees and probationers.
- **Religious care**
- **Social work services**
 - Life skills programmes: how to learn; interpersonal relationships; problem-solving skills; decision making; functioning in groups; actively participating in social settings.
 - Alcohol abuse programmes
 - Drug abuse programmes
 - Sexual offender's programme: gender, moral and cultural issues; improve offender's social functioning.
 - Trauma programmes: improve traumatised offenders' mental health and emotional wellbeing.
- **Development programmes**: DCS provides services to inmates with the aim of enhancing their emotional wellbeing.

THEME 4: THE ROLE, FUNCTION AND JURISDICTION OF CRIMINAL COURTS IN THE RSA

RECAP: Separation of powers

Power is divided between the legislative, the executive and the judiciary.

The **legislature** enacts (makes/writes) legislation.

National legislature: Parliament

Provincial Legislatures: legislative bodies of the 9 provinces

Local government legislature: municipal councils

The **executive authority** implements legislation and policies on all levels.

The **judiciary (courts)** interprets and applies the law of the land. Includes:

Constitutional Court

Supreme Court of Appeal

High Court (various provincial and local divisions)

Magistrates Court (in various magisterial districts)

Other courts set up by Acts of Parliament

Note: judges are appointed by the President in consultation with the Judicial Services Commission.

1. THE ROLE OF THE COURTS IN THE JUDICIAL PROCESS

1.1. DEFINITIONS

- **Court:** a body, often a government institution, with the authority to adjudicate legal disputes and dispense civil, criminal or administrative justice in accordance with the law.
- **Due process:** the principle that the government must respect all the legal rights that are owed to a person according to the law. Due process holds the government is subservient to the law of the land, protecting individual persons from the state.
- **Burden of proof:** the state (public prosecutor) must present sufficient and clear-cut evidence to the court that the accused is guilty.

- **Kangaroo courts:** Assessors are usually advocates or retired magistrates who assist presiding officers in High Courts. They sit with the judge during the court case and listen to all the evidence presented to the court.
- **In camera:** the situation where the court orders that the general public be removed from court. Only court officials are then allowed to be present during that specific period of the court case.
- **Bill of rights:** a document that sets out the rights of the individual in relation to the state (and, sometimes, in relation to other individuals and corporations), and which may also provide for the enforcement of such rights. The South African Bill of Rights is contained in chapter 2 of the 1996 Constitution.
- **Vigilantism:** the illegal actions of complainants against the transgressors – taking the law into their own hands by punishing transgressors without a trial.
- **Constitutional supremacy:** the Constitution is the highest law in the land. Although parliament remains the highest legislative body in a system of government with a supreme constitution, any legislation or act of any government body (including parliament) which is in conflict with the Constitution is invalid. However, constitutional supremacy does not imply judicial supremacy. The courts also have to follow the rules of the Constitution, and merely act as the final guardians of the values and principles embodied in the Constitution. The constitutions of the USA, Canada, and Germany, as well as the SA Constitutions of 1993 and 1996 are examples of supreme constitutions.
- **Law suits:** civil action brought before a court of law in which a plaintiff (a party who claims to have received damages from a defendant's actions) seeks a legal or equitable remedy.

1.2. THE ROLE OF THE COURTS IN THE JUDICIAL PROCESS

- SA has criminal and civil courts.
- In a criminal trial, the court must make a decision on 2 matters:
 - To determine the culpability (guilt/innocence) of the accused
 - To determine an appropriate sentence.
- Culpability (guilt)
 - Action (assault)
 - Failure to perform an action (negligence)

1.3. THE PRESUMPTION OF INNOCENCE

- No one, including government, may interfere in the adjudication of a case.
- Everyone is deemed to be innocent until they have been found guilty by a court of law.
- An accused may be found guilty by a trial court and then be found to be not guilty by a court of appeal.

1.4. THE CRIMINAL COURTS OF THE REPUBLIC OF SOUTH AFRICA

- **Trial courts** (courts of first instance): a court where a court case begins. Evidence is presented to establish the facts of the case, and a verdict is reached by applying the law to those facts.

- **An appeal court:** higher status than trial court. Judge / panel of judges must decide whether the trial court made any mistakes in the application of the law, and whether those mistakes are of such a nature that the court's ruling should be changed.

Criminal courts in SA are further classified into lower and higher courts.

1.5. DIFFERENT COURTS IN SOUTH AFRICA

- **The regular (ordinary) criminal courts**
 - Constitutional Court
 - Supreme (highest) Court of Appeal
 - High courts
 - High courts in different provinces (Provincial distinctions)
 - Local divisions
 - Magistrates' courts
 - Regional magistrate's courts
 - District magistrate's courts
 - Small claims court
 - Any other court established/recognised in terms of an Act of Parliament, including any court of a status similar to either the high courts or the magistrate's courts.
- **Extraordinary (special) courts**
 - Land Claims Court
 - Family courts (divorce, domestic violence, child support, etc.)
 - Tax courts
 - Water courts
 - Equality courts (gender inequality)
 - Disputed resolution committees (in the rural areas, customary chiefs' or headmen's courts still hear disputes, such as disputes over the ownership of cattle.

1.6. THE JURISDICTION OF THE COURTS

- **The jurisdictions and functions of the criminal courts in SA:**
 - **The Constitutional Court (Johannesburg).**
 - Consists of:
 - 11 judges
 - A chief justice
 - A deputy chief justice and 9 other judges
 - Duties of Constitutional Court Judges:
 - They are all independent.
 - Their duty is to uphold the law and the Constitution, which they must apply impartially and without fear, favour or prejudice.
 - Any matter must be heard by at least 8 judges. In practice, all 11 judges hear every case.
 - A decision of the Court is reached by a majority vote of the judges sitting in that particular case.

- Each judge must indicate his/her decision.
 - The reasons for the decision are published in written agreement.
- Consequences of a decision of the Constitutional Court:
 - No one, not even parliament, can change a Constitutional Court judgement.
- Jurisdiction of the Constitutional Court:
 - Highest court in all constitutional matters.
 - Inherent power to regulate process and develop common law.
- Functions:
 - Anyone wishing to bring a case before the Constitutional Court usually has to start in the High Court. The case will then be dealt with by the High Court, which has the power to award relief, including the invalidation of provincial or parliamentary legislation.
 - Should the High Court invalidate provincial/parliamentary legislation, the order of invalidity must be confirmed by the Constitutional Court before it has any effect. Should the High Court decide not to award the relief sought, the Constitutional Court may be approached on appeal.
 - The Court does not hear evidence or question witnesses, nor does it decide directly whether accused persons are guilty or whether damages should be awarded to an injured person; these are matters for the ordinary courts.
 - Its function is to determine the meaning of the Constitution in relation to matters in dispute. The Court works largely with written arguments presented to it by the parties. The hearings of the Court are intended to address particularly difficult issues raised by the written arguments of the parties.
 - The hearings of the Court are open to the public and the press.
- **The Supreme Court of Appeal (Bloemfontein)**
 - It only hears appeals from the High Court.
 - Consists of:
 - A president
 - A deputy president
 - A number of judges of appeal. All cases are heard by 3 or 5 judges.
 - Jurisdiction:
 - Highest court of appeal in all except constitutional matters.
 - Except for the Constitutional Court, no other court can vary a judgement of the Supreme Court.
 - Only the Supreme Court can vary one of its own decisions. However, if parliament does not like the way the Supreme Court has interpreted a law, it can simply change that law.
- **The High Courts**
 - Composition and structure of provincial divisions:

- Cape of Good Hope High Court – Cape Town
- Eastern Cape High Court – Grahamstown
- Northern Cape High Court – Kimberley
- Orange Free State High Court – Bloemfontein
- Natal High Court – Pietermaritzburg – KwaZulu-Natal High Court
- Transvaal High Court – Pretoria – Gauteng North High Court
- Witwatersrand High Court – Gauteng South High Court
- Transkei High Court – Umtata – Mthatha High Court
- Ciskei High Court – Bisho – Bisho High Court
- Venda High Court – Sibasa – Limpopo High Court
- Bophuthatswana High Court – Mmabatho – North West High Court
- Local divisions:
 - Witwatersrand Local Division – Johannesburg
 - Durban and Coast Local Division – Durban
 - South-eastern Cape Local Division – in Port Elizabeth
- Functions:
 - May appoint 2 assessors in serious criminal cases to assist the judge.
 - May hear:
 - Any type of criminal case
 - All the cases that are too serious for a magistrate's court
 - Appeals and reviews against judgements in the magistrate's court
- Circuit local divisions of the High Court: travelling/roaming courts.
- Jurisdiction of High Courts:
 - Any constitutional matter not falling within the exclusive jurisdiction of the Constitutional Court.
 - Cases of a serious nature that the lower courts would not be competent to make an appropriate judgement or impose a penalty
 - General jurisdiction, including the decision of appeals from lower courts, and the review of the proceedings of such courts.
- Penal jurisdiction of High Courts:
 - Except where minimum or maximum sentences are prescribed by law, the penal jurisdiction of High Courts is unlimited and includes life imprisonment in specified cases.
- **Lower Courts**
 - Regional courts
 - Jurisdiction: all matters except treason
 - Penal jurisdiction: may impose imprisonment for a period not exceeding 15 years, or a fine not exceeding R300 000.
 - In some instances a life sentence may be imposed.
 - Magistrates' courts (district magistrate's court)
 - Grouped into 13 clusters headed by chief magistrates and, in a few cases, by senior magistrates.

- Jurisdiction:
 - Regional courts have jurisdiction in all matters except treason.
 - District courts have jurisdiction in all matters except treason, murder and rape.
- Penal Jurisdiction:
 - District courts may impose a sentence of imprisonment not exceeding 3 years, or a fine not exceeding R60 000.

Court	Offences	Sentence
Constitutional Court	Does not hear cases – only constitutional matter	Does not impose sentences
Supreme Court of Appeal	Only hears appeals from the High Court	Can uphold or reject a sentence imposed by the court. Sentences can be altered by the Supreme Court of Appeal.
Circuit local divisions of the High Court	Serious cases where the lower courts would not be competent to make an appropriate judgement or impose a penalty	The penal jurisdiction of the High Courts is unlimited (incl. life imprisonment in specified cases)
Regional Courts	All offences except treason	Imprisonment not longer than 15 yrs, or fine not exceeding R300 000.
Magistrates' courts (district magistrate's court)	All matters except treason, murder and rape	Imprisonment not longer than 3 years, fine not exceeding R60 000.

- Functions:
 - Dealing with less serious criminal and civil cases.
 - System of lay assessors is being introduced – two respected members of the community will sit with the magistrate and help him or her to decide cases.
 - Two types of magistrates' courts: criminal and civil.
 - Criminal courts: the state prosecutes law breakers.

1.7. THE ROLE OF COURT OFFICIALS

- **The role of the presiding officer in court cases** (the person who is appointed to conduct a trial in a court of law):
 - Ensures that matters proceed in an orderly and respectful manner. Judiciary officer: integrity, fairness, impartiality, dignity, sound judgement.
 - Adjudicator of facts.
 - Gives rulings by applying relevant legal prescriptions.

- Does not act arbitrarily. Discretionary powers are prescribed, limited, or even excluded by law.
- Presiding officer must have knowledge of the law, skills of jurisprudence, training and experience in legal procedures.
- **The association (relationship) between presiding officers (PO) and the other parties in court**
(note that the presiding officer is referred to as "the court" and should create an atmosphere that gives everyone the opportunity to perform at their best):
 - **Law practitioners:** PO must remain courteous towards law practitioners.
 - **Public prosecutors:** PO must remain courteous towards public prosecutors, and educate and guide them if necessary.
 - **The public:** PO must ensure that the dignity of the court is honoured at all times.
 - **The accused:** where possible, the PO must assist an undefended accused. The PO must be patient and courteous toward the accused.
 - **Witnesses:** PO must protect witnesses against a legal representative who exceeds the limits of cross-examination.
- **Control of court proceedings by the presiding officer**
 - PO maintains control by ensuring everything proceeds in an orderly manner/
 - PO has the power to prosecute any person who acts in contempt of court.

THEME 5: THE ROLE OF TRAFFIC CONTROL AS A COMPONENT OF THE CRIMINAL JUSTICE SYSTEM

1. FUNCTIONS OF A TRAFFIC OFFICER

1.1. ADMINISTRATIVE FUNCTIONS

- Completion of work sheets
- Vehicle log sheets
- Daily, weekly and monthly reports on the activities performed, such as hours spent on patrol, services rendered, prosecutions instituted, etc.
- Collision reports, statements, etc.
- Departmental reports
- Police dossiers (dockets)
- Section 341 and 56 notices

1.2. COMMUNITY SERVICES

- Up to 70% of available man-hours are spent on community services.
- Traffic point duty
- School point duty
- Assistance at collision scenes
- Investigation of complaints
- Patrols
- Provision of information
- Assistance to stranded motorists
- Escorts: ambulances and private vehicles, funerals, abnormal-load vehicles
- Assistance during emergency situations, disasters, etc.
- Protection: dangerous road conditions, excavations
- Removal of vehicles and other items that may cause an obstruction or pose a danger
- Protection or stolen or lost property
- Reporting of dangerous road conditions, road signs, etc.
- Educating motorists
- Providing information through the mass media
- Removal and storage of vehicles involved in collisions
- Investigation of collisions
- Removal of animals and animal carcasses from the roads
- Proactive programmes

1.3. PREVENTATIVE POLICING

- **Aim of the execution of traffic law:** maintain “traffic” order by promoting voluntary compliance with these laws and to protect society against transgressors.
- **Traffic officers attempt to eliminate the predisposing and precipitating factors in the causation of crime by means of:**
 - Preventative patrols (high visibility)
 - Traffic engineering services
 - Education (juveniles)
 - Dissemination of statistical information regarding traffic crime and collisions
 - Propaganda measures
 - Interaction with client-based groups (local taxi liaison committees, etc, to facilitate law and order – motivational strategy)
 - Inspection services (vehicle roadworthiness)
 - Training programmes
 - Scholar patrol services
 - Crowd control
 - Assistance to neighbourhood watches
 - Prevention of unlawful races and activities
 - Retesting of incompetent drivers
 - Patrols (public places)
 - Crime prevention programmes
 - Stopping motorists from driving further

1.4. REPRESSIVE (OR REACTIVE) POLICING

- **Repressive policing:** activities geared to reinstate order after it has been breached.
- All activities to identify transgressors and to bring them before the judiciary.
- Includes:
 - Law enforcement
 - Investigation and reconstruction of traffic crimes and collisions
 - Evidence in court
 - Provision of information (civil litigation)
 - Inspections
 - Road blocks
 - Execution of warrants
 - Service of processes
 - Impounding of vehicles and instruments used in crime

1.5. MISCELLANEOUS FUNCTIONS

- Escorts (for VIPs)
- Church services (traffic control during funerals)
- Delivery of official documents

- Impounding of vehicles (lost vehicles)
- Rendering of emergency services (first aid)
- Traffic counts and studies
- Investigations and research projects: assistance
- Removal of oil and other substances from road surfaces
- Cordoning off roads (hazardous materials)
- Arranging alternative routes (incident management)

2. THE GOALS OF TRAFFIC LAW ENFORCEMENT

- The policing of traffic order.
- The maintenance of order in general.
- The promotion of voluntary compliance with the law.
- The protection of life and property through traffic safety education and engineering.
- The rendering of various services and assistance to the clientele.
- Crime prevention.

3. THE ORGANISATION OF TRAFFIC CONTROL AND ENFORCEMENT

- Traffic control and enforcement can be proactive or reactive.
- For a schematic of the control of traffic, please refer to p. 165 of the study guide.
- **Proactive control:**
 - **Engineering**
 - Research
 - Implementation
 - Evaluation
 - Administration
 - **Education**
 - Training
 - Propaganda
 - Marketing
 - Administration
 - **Miscellaneous**
 - Dog units
 - SWAT teams
 - By-laws
 - Taxi units
- **Reactive control:**
 - **Enforcement**
 - Patrols
 - Supervision
 - Execution
 - Evaluation
 - Administration

4. DIVISION OF LABOUR

- Most traffic authorities have 3 main sections (enforcement, engineering, administration), and each of these sections can be further classified into primary, secondary and administrative units.

4.1. LAW ENFORCEMENT

- **Primary units** – consists of line functionaries who are grouped together in various combinations called shifts/**units**. Shifts/units can be categorised as **protective (P)** and **remedial (R)**.
 - (P) Patrol units (shifts) – areas are divided into smaller segments, and officers are assigned to each segment. Responsible for most social and community-oriented services. Units may be deployed to saturate specific locations in order to eliminate specific problems. Deployment is based on scientific analysis of collision statistics by specialists. Officer may be on foot or in an unmarked or marked vehicle, depending on the circumstances.
 - (P) Saturation enforcement units (control units)
 - Speed control
 - Traffic light control
 - Environmental control (noise pollution control, air pollution control)
 - Overloading control
 - Vehicle roadworthiness
 - Parking control
 - Freeway control
 - Miscellaneous units (dog units, SWAT teams, by-law units, taxi units)
 - Remedial units – focus on crime investigation, including collisions.
- **Secondary units** – also called “staff functions”. Secondary units are not directly involved with law enforcement activities.
 - Communication unit – also known as duty or control room. Maintains efficient radio, telephonic and paging contact with operational personnel. Responsible for the keeping of occurrence book and other registers. Responsible for contacting and dispatching other emergency services.
 - Accommodation an auxiliary services units – maintenance of buildings, equipment, vehicles. Provision of materials, ammunition, etc.
 - Collision bureau – collision management and information, offence monitoring, etc.
 - Photo development services
 - Warrants and processes – responsible for the identification and apprehension of offenders who fail to comply with the legal requirements of prosecutions.
 - Recovery and towing services.

4.2. ENGINEERING SECTION

- **Primary units**

- Road marking
- Road signs
- Parking meters and areas
- Traffic light maintenance
- **Secondary units** – responsible for functions that supplement primary units. Consists of a technical workshop which performs the following functions:
 - the procurement of road signs
 - the design of information signs
 - the purchase of paint and other materials
 - the rehabilitation of signs and poles
 - the erection of barriers
 - records
 - stores
 - management of the pound/auctions

4.3. ADMINISTRATIVE SECTION

Not all traffic departments are structured in the same manner, but the following are examples of the units in this section:

- data capturing
- court documentation
- administration
- training unit (internal and external)

5. COLLISION MANAGEMENT

5.1. DUTY OF THE DRIVER IN THE EVENT OF AN ACCIDENT

- The driver of a vehicle on a public road at the time when such vehicle is involved in or contributes to any accident in which any other person is killed or injured or suffers damage in respect of any property or animal:
 - Shall immediately stop the vehicle;
 - Shall ascertain the nature and extent of any injury sustained by any person;
 - Shall, if a person is injured, render such assistance to the injured person as he may be capable of rendering;
 - Shall ascertain the nature and extent of any damage sustained;
 - Shall, if required to do so by any person having reasonable grounds for so requiring, give his name and address, the name and address of the owner of the vehicle driven by him and, in the case of a motor vehicle, the registration or similar mark thereof;
 - Shall, if he has not already furnished the information referred to in paragraph (e) to a traffic officer at the scene of the accident, and unless he is incapable of doing so by reason of injuries sustained by him in the accident, as soon as is reasonably practicable, and in any case within 24 hours after the occurrence of such accident,

report the accident to any police officer at a police station or at any office set aside by a competent authority for use by a traffic officer, and there produce his driver's licence and furnish his identity number and such information as is referred to in that paragraph;

- Shall not, except on the instructions of and when administered by a medical practitioner in the case of injury or shock, take any intoxicating liquor or drug having a narcotic effect unless he has complied with the provisions of paragraph (f), where it is his duty to do so, and has been examined by a medical practitioner if such examination is required by a traffic officer.
- No person shall in an urban area remove any vehicle involved in an accident in which another person is killed or injured from the position in which it came to rest, until such removal has been authorized by a traffic officer, except when such accident causes complete obstruction of the roadway of a public road, in which event the vehicle involved may, without such authority and after its position has been clearly marked on the surface of the roadway by the person moving it, be moved sufficiently to allow the passage of traffic.
- In any prosecution for a contravention of any provision of this section it shall be presumed, until the contrary is proved, that the accused was aware of the fact that the accident had occurred, and that he did not report the accident or furnish the information as required by subsection (l)(f).
- In this section the word "animal" means any bovine animal, horse, ass, mule, sheep, goat, pig or ostrich.

5.2. CAUSES OF COLLISIONS

- Human factor is responsible for 90% of all collisions. Vehicle and road environment contribute 7 and 3% respectively.
- **Causative factors:**
 - Insufficient knowledge of the road rules, road environment and technology
 - Attitudinal deficiencies towards the correct, safe use of roads
 - Incompetence, especially because SA drivers are not compelled to attend driver education programmes
 - Unskilled drivers, particularly young and very old drivers
 - Traffic violations and lack of pedestrian safety
 - Inconsiderate and aggressive behaviour
 - Road environmental factors, especially defectively designed roads, insufficient road signs and markings and so on
 - Vehicle defects
- **Most prominent traffic violations:**
 - Reckless/negligent driving – 18%
 - Speed too high for conditions – 16,5%
 - Failure to stop – 11,1%
 - Alcohol/drugs – 3,2%
 - Insufficient following distance – 1,7%
 - Vehicle defects – 2,4%

- Other factors – 57%
- Oldest principle of traffic policing: law enforcement should be concentrated/saturated at locations where most collisions occur, on the days and times when they occur, and attention should be paid to collision causative violations.

5.3. COLLISION INFORMATION

- Obtained from the Officer's Accident Report (OAR) form.

5.4. COLLISION BUREAU

- **Collision bureau:** an office/section where collision reports are received and processed and the data collated for further use.
- Collision bureau presents collated data to managerial and operation personnel.
- **The most important information for traffic administrators includes the following:**
 - Total number of collisions over a specified period(s)
 - Any increase/decrease in the number of collisions
 - Equivalent accident number
 - Collision trends
 - Collision costs
 - Holistic picture of the collision situation.
- Middle management (supervisory staff) might also want the following:
 - High frequency collision locations
 - Types of collision that occur most frequently
 - Times during which most collisions occur
- Traffic engineers, planners and other interested parties request information on collisions at certain locations/routes.
- Attorneys and insurance companies request information on specific collisions for litigation purposes.
- Consultants, researchers, business consultants and state prosecutors may also request info.

5.5. COLLISION MANAGEMENT INFORMATION

- **Collision rates:** number of collisions per 108 kilometres.
- **Injury index:** number of injuries or deaths per 108 kilometres.
- **Equivalent accident number (EAN):** used to compare/rate locations by applying factors to different accident types based on accident costs for all accidents. ¹
- Enforcement index
- Collision prediction

¹ Source: Traffic accident report City of Cape Town 2005.

http://www.google.co.za/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&ved=0CCcQFjAA&url=http%3A%2F%2Fwww.capetown.gov.za%2Fen%2FReports%2FDocuments%2FTraffic_Accident_e-report_2005.pdf&ei=wAH6UrS-MJDB7AaLzoHIBA&usg=AFQjCNFrOzTs2jtknBFceSusJhAl_h7w&bvm=bv.61190604,d.ZGU

- Productivity index or parameters.

6. TRAFFIC SAFETY PLANS (TSP) AND SELECTIVE TRAFFIC ENFORCEMENT PROGRAMMES (STEP)

- **Premise for collision prevention:**
 - Identify high collision locations (days and times), then
 - Create an image of traffic police presence at the highest collision locations on the highest collision days during the highest collision times, causing
 - Alterations in driver behaviour, causing
 - Reduction of violations, resulting in
 - Reduction of collisions.
- **Traditional methods:** traffic patrol should be concentrated at high collision frequency locations (reactive approach based on data from the collision bureau).
- **Modern methods:** more proactive/preventative approach.

6.1. TRAFFIC SAFETY PLANS (TSPS)

- More holistic approach, encompass all functional areas.
- **TSP:** a declaration of intent or an undertaking of the manner in which things are done in order to minimise injuries and damage to property.
- TSPs are essentially maps for the authorities, encompassing:
 - Why things should be done
 - What should be done
 - How it should be done
 - When it should be done.
- TSPs are important because they:
 - Compel participants to think holistically
 - Ensure that the requirements of the traffic management system are complied with
 - Force the compiler to anticipate defects in order to minimise risks timeously
 - Describe the procedures which must be allowed to integrate the TSPs and functional area plans on all levels to eliminate fragmentation
 - Consider all relevant productivity factors
 - Facilitate decision-making processes.
- Criteria that should be part of a TSP:
 - The formulation of a vision
 - The formulation of a mission
 - The formulation of a grand strategy
 - The formulation of goals
 - The formulation of objectives
 - The formulation of activities
 - The identification of the tools to carry out the activities in the plan.
- **Selective Traffic Enforcement Programmes (STEPS):** primarily the efforts of one function area, that is, the traffic control and traffic policing functional area.

6.2. STEPS: PROBLEMS

- High manpower requirements
- Little time for law enforcement
- Results can only be measured over extended periods
- Exact cause of collisions are usually not known
- High visibility patrol activities and the requirement that more emphasis be placed on collision causative moving violations are inappropriate as the one negates the other.
- Operational personnel are not always knowledgeable about the purpose of STEPs.
- Including supervisory staff from the start (planning stage) will result in more commitment.
- Lack of strategic planning by traffic authorities.
- Misplaced objectives. STEPs should be based on sound information.
- Lack of uniform policy and lack of standardisation results in traffic administrators failing to implement STEPS in their institutions.
- Traffic administrators/officers lack business and management training, and fear that the implementation of STEPS will show this.

6.3. IMPLEMENTATION OF A STEP

- The following procedural analysis of the implementation of a STEP has been simplified to illustrate the basic use of collision data:
 - Identification of the problem - Collision data is the best barometer for determining whether there are specific areas or problems that need attention. Data should be collected over 12 months in order to show trends.
 - Information about the problem – detailed studies and investigation. Implement quality control models to determine offence rates.
 - Indication of possible solutions.
 - Introduction of plans – involve as many personnel as possible. Keep plan simple. State goals clearly. Measure progress at regular intervals.
 - Information about steps taken – inform all roleplayers of steps taken. This allows managers of the STEP to monitor and evaluate the effectiveness of the programme.

THEME 6: COMMUNITY MANAGEMENT OF HIGH RISK OFFENDERS

1. INTRODUCTION TO HIGH RISK OFFENDERS

1.1. INTRODUCTION

- Key issues surrounding high risk offenders: it is difficult to identify them, questions surrounding their risk assessment, and problems with risk predictions in the future.

1.2. WHO ARE HIGH RISK OFFENDERS (HRO)?

- HROs: committed a violent or sexual offence, or have been assessed as likely to do so.
- Kemshall believes that both perceptions and definitions of high risk are dependent on the context within which they are used and reflect the culture, ideology and values found within that context. Risk is not a value neutral term as it encapsulates the values and meanings by those who use it.
- Means can differ between different groups.

1.3. CAN WE REALLY KNOW HIGH RISK OFFENDERS?

- Kemshall believes it is difficult to identify HROs due to the following issues:
 - Designing and implementing a risk assessment tool capable of reliably and consistently identifying HROs
 - Differing interpretations of what constitutes “high risk” among practitioners and sentencers
 - Establishing sufficient criteria and evidence upon which to base judgements about the future.
- **Risk assessment tools:** The rarer the behaviour of the HRO, the more difficult it is to accurately predict. Current risk assessment tools are not accurate and reliable enough.
- **The problem of risk prediction:** It is difficult to establish the relationship between risk factors and subsequent offending. For an offender it may be the range and interaction of various risk factors that is important, and not just their presence or absence. Risk factors have different impacts. Judgements of risk are open to bias, stereotyping and interpretation.
- **Criteria and evidence for “dangerousness”:** When determining “dangerousness” a number of complex judgements based on the interaction of the offender, the circumstances surrounding the offence, the impact on the victim(s), and a combination of in-depth knowledge of behaviour, attitudes and motivation are required. In the case of offenders who have no previous convictions or who are under the age of 18, the court:
 - Must take into account all such information that is available to it about the nature and circumstances of the offences

- May take into account any information which is before it about any pattern of behaviour of which the offence forms a part
- May take into account any information about the offender which is before it.

1.4. PERSPECTIVES ON RISK AND DANGEROUSNESS

- Kemshall: the term “dangerous offender” is heterogeneous (or fairly diverse) in the 21st century, but has focused primarily on the sexual and violent offender, in particular those offenders who commit sexually violent and predatory crimes against children (eg paedophiles).
- “Dangerous offenders” also include potential terrorists, asylum seekers, problem youth, the socially excluded, as well as a wide range of sexual and violent offences of varying degrees of seriousness.
- A number of different theoretical perspectives on dangerousness are rooted in sociology, criminology and psychology.
- **Criminological and legal approaches to risk and dangerousness:**
 - Emphasis is on a technical understanding of risk, within which risk and dangerousness are framed as objective phenomena if the correct measures and tools can be designed.
 - The accurate “capture” of risk is seen as a matter of tool design and integrity of use.
 - Problems in tool use arise from differing conceptualisations of risk rather than practitioners' lack of compliance.
 - Risk assessment tools see the riskiness of an offender as rooted in the behaviour and circumstances of that specific individual.
 - Brown: Above mentioned perspective on risk is fluid/unchangeable, runs along a behavioural continuum of low to high risk, and is triggered by specific circumstances.
 - Such risks are knowable (calculate by measuring behaviours and triggers against known risk profiles produced by the aggregated data on risky populations).
 - Behaviours and triggers are changeable to a degree.
 - Risk assessment tools target offenders for intervention and behavioural programmes, as well as sentencing options.
 - Criminological and legal approaches individualise risk, centring on the rational individual/actor, who is regarded as a free-willed individual who engages in crime in a calculated, practical way.
 - Criminological and legal approaches have contributed risk assessment tools to the justice system (resulting in more consistency and accuracy in risk assessment).
- **Psychological framing of high risk offenders and dangerousness**
 - According to this approach, risk and dangerousness are the individual, inherent traits of the offender.
 - Risk factors (personality, mental illness, result of childhood experiences or family functioning) are those factors that predispose the individual to sexual/violent offending.

- While risk and dangerous behaviours are individualised, it is usually in terms of deviation from the norm, and linked to assessments designed to reveal the reasons for such abnormality.
- Psychiatry has attempted to provide typologies of dangerous offenders.
- Whether or not the offender was aware of what he/she was doing has an impact on the degree of blame, which influences the punishment.
- Psychology helped articulate problematic behaviours, mental disorders, predisposing factors and triggers, and helps develop treatments and probation interventions.
- **Sociological understanding of risk and dangerousness**
 - **Cultural theory:** focus on symbolic and cultural meanings carried by risk and danger, and the political rationalities and strategies that underpin them.
 - **Governmentality theory:** examines risk in the context of surveillance, discipline, and regulation of populations, and how concepts of risk construct certain norms of behaviour which are used to encourage individuals to engage voluntarily in self-regulation in response to those norms. **Responsibilisation:** a mechanism of social regulation in which individuals are made responsible for their own actions, including their own risks, and for their own self-risk management.
 - **The social construction of risk and the role of the media:** "A risk is never fully objective or knowable outside of belief systems and moral positions: what we measure, identify and manage as risk is always constituted via pre-existing knowledge and discourses." The perceptions of risk and how risks and dangers are selected for attention is significant. The impact of mass media (esp. television) has contributed to what Garland has called a "collective and institutionalised crime consciousness".

2. RISK ASSESSMENT: A COMPLEX PRACTICE

2.1. KEY CONCEPTS

- **Risk assessment:** used to allocate inmates to high, medium and low risk categories. Treatment effectiveness is thought to be matched by matching inmate needs with the proper treatment. Includes methodical evaluation, analysis and assessment of criminal behaviour in order to determine an offender's risk of escaping, absconding, bullying behaviour (or own vulnerability), dangerousness, and risk of recidivism. Used in inmate classification, offender management strategies, therapeutic interventions, parole decision making, community supervision and the sentencing of offenders.
- **Actuarial scales or instruments:** standardised, objective risk or needs instruments that have been developed through extensive research. Quantifiable measures of "criminogenic" risks and needs. Linear (the higher a person scores on the instrument, the greater the individual's presumed susceptibility for criminal or antisocial behaviour in the future). Actuarial assessments are better than clinical assessment when predicting recidivism. Indecision

remains concerning the most appropriate instruments for the prediction of violence given the dissimilarity in item content, purpose, format and administration of method.

- **Meta-analysis:** Comprehensive research endeavour that evaluates a plethora of studies on the same research phenomenon in order to determine the validity and accurateness of the scales or instruments used. Determines which instruments can be applied most effectively as suitable and valid predictors of potential violence and recidivism within the correctional environment and in the community. However, a good deal of the discrepancies among prediction studies is due to sampling error, which is the main source of variation in prediction studies. This might be solved by conducting meta-analysis, which statistically conclude the main study data to a superior estimation true to population parameters.

2.2. WHY RISK ASSESSMENT?

- **Predicting recidivism is important because:**
 - It gives judges, parole boards and probation officers the chance to assess an offender's likelihood to reoffend.
 - It gives clinicians and correctional administrators the chance to identify need and risk factors to steer intervention programmes intended to improve an offender's chances of success within the community.
 - Recidivism prediction provides community leaders and citizens with information on the best way to reintegrate offenders into conventional society, with the intention of reducing the chances of recidivism and also controlling the increasing economic, social and personal cost of crime.
 - Differentiating between variables that predict recidivism is of fundamental importance to forensic and correctional practitioners and researchers because of its capability of underlining vital offender needs, identifying outstanding offender risks, and determining the central principles of crime causation for use in preventing future crime.
- **The rationale for risk assessment necessitates the following endeavours:**
 - Determine the risk of reoffending
 - Assess the risk posed by an offender (self-harm, escape)
 - Identify the factors that contribute to offending behaviour
 - Understand an offender's background characteristics to enhance theory and aetiology
 - Identify the particular conditions under which an offender is likely to behave aggressively, violently or criminally
 - Assist in an offender's case planning
 - Safeguard fellow inmates from risk and dangerousness
 - Understand childhood risk factors to improve treatment planning and treatment responsiveness
 - Select appropriate targets for effective service delivery
 - Manage offenders in such a way as to decrease their criminal activity
 - Determine the probability that correctional inmates will engage in either dangerous or maladjusted behaviours

- Minimise negative events and encourage positive ones
- Assist in the safe reintegration of offenders into society

2.3. RISK ASSESSMENT: AN INACCURATE PRACTICE

- Information regarding the offender's police arrest, charges and circumstances of the crime(s) is often inadequate. This forces practitioners to make decisions under conditions of uncertainty.
- Risk assessment is vague and indecisive regarding the specific criteria used to identify the degree of risk of an offender.
- **Offenders are usually categorised as low, medium or high risk offenders, based on:**
 - The likelihood of recidivism and dangerousness (to self and others)
 - The seriousness of the crime
 - The absence or presence of protective factors (intelligence, support structure, criminal associations)
 - Motivation to change risky behaviour
 - Ability to self-risk manage (behave, adjust, reform whilst in prison)
- In SA, all offenders deemed dangerous, violent, aggressive or susceptible of recidivism should ideally undergo a comprehensive and scientific-based risk assessment before being released back into society.

2.4. ASSESSMENT PRINCIPLES

Compliance with the risk-need-responsivity principles and identifying criminogenic needs contributes to better risk reduction than when these principles are overlooked or modestly applied for effective case management and risk reduction.

- **The needs principle:** the identification of offenders needs can change bad behaviour into pro-social conduct, if such identification processes are effectively applied. The need principle specifies the type of treatment targets (substance abuse, medical factors, attitudes, employment, and psychological factors) that should be addressed to develop and rehabilitate offenders positively.
- **The risk principle:** criminal behaviour can be predicted by matching levels of treatment services to the risk level of an offender. Low risk inmates present a low risk of recidivism, and vice versa. High risk offenders should receive intensive treatment.
- **The responsivity principle:** programs should consider offenders' situations as well as characteristics that may become barriers to success in a correctional program. Treatment programmes and interventions should be delivered in a style and mode that is consistent with the ability and learning style of an offender. Important aspects: offender motivation, compliance, treatment, treatability and treatment effects.
- **Criminogenic needs:** factors that place an offender at future risk. Can be either personal or social. They are changeable, and include education, pro-offending attitudes, criminal associates, substance abuse, unemployment, aggression, and poor problem solving skills.

2.5. TYPES OF RISK ASSESSMENT

- **First generation risk assessment:** originated in mid-20th century. Based on unstructured clinical judgements of risk that were prone to error and bias.
- **Second generation risk assessment:** standardised assessment based on statistically predictive indicators (empirical instruments) aimed at reducing and predicting recidivism. Included the Violence Risk Assessment Guide (VRAG) and the Statistical Information on Recidivism (SIR). Critics say some of these instruments were created with little consideration for their theoretical or rehabilitative value. Also, most second generation instruments are composed mainly of "static" risk items. Static factors are unchangeable (criminal history, age, gender), and do not take into account the complexity of recidivism, do not permit measurement of changes in risk over time, and fail to identify areas for intervention.
- **Third generation risk assessment:** more accurate estimate of violent recidivism risk than second-generation assessment. Highlighted the need for prediction models that predict risk and inform the identification of criminogenic needs that could be targeted for change to reduce recidivism. Examples: the Level of Supervision Inventory – Revised; the Historical, Clinical and Risk Management Violence Risk Assessment Scheme; and the Self-Appraisal Questionnaire. Based on empirically supported risk factors, and item selection is more deliberately determined by theoretical understandings of persistent criminality and violence. Also included dynamic (changeable) risk factors, such as substance abuse, interpersonal conflict and antisocial attitudes.
- **Fourth generation risk assessment:** administered on various occasions and are above all informative because they document changes in specific criminogenic needs that might occur between an offender's "entrance" into the criminal justice system and his/her "exit". Mainly identify areas of success and positive progress and highlight intervention strategies that need to be adapted in order to make the most of their potential for risk reduction. Examples: the Level of Service/Case Management Inventory; the Violence Risk Scale; Correctional Offender Management Profile for Alternative Sanctions; Correctional Assessment and Intervention System. Specifically designed to be integrated into:
 - the process of risk management
 - the selection of intervention modes and targets for treatment
 - the assessment of rehabilitation progress

2.6. FACTORS RELATED TO RISK PREDICTION

- **Static risk factors**
 - Unchangeable, historical risk factors
 - Includes age, gender, marital status, criminal record, early behaviour problems, and race factors
- **Dynamic risk factors**
 - Changeable
 - Determine aspects and spheres of offender's life, personality, and/or lifestyle where personal development is possible.
 - Includes substance abuse, education, pro-criminal attitudes, criminal associations, lifestyle instability, relationship and intimacy problems, cognitive distortions, accommodation and unemployment.

- Known as criminogenic factors.
- Changes in criminogenic factors/needs correspond to changes in recidivism.

2.7. COMMUNITY PROTECTION THROUGH PARTNERSHIP

- Early formal partnerships (formal multi-agency public protection arrangements – MAPPA) for protection focused on managing and monitoring high risk offenders once they had been released into the community.
- Kemshall proposes a tiered approach for the risk management of offenders about to be released:

Level 1: ordinary risk management	Level 2: local inter-agency risk management	Level 3: multi-agency protection panel (MAPPA)
Risk is managed by the agency responsible for the offender	Active involvement of more than one agency	For the “critical few”, i.e. registered sex offenders; violent and other aggressive offenders; repeat offenders
No involvement of other agencies	Higher level of risk because of complexity of managing the offender	MAPPA is responsible for risk management planning
Only an appropriate option for offenders that are “low” or “medium” risk	Level 3 cases can be referred to level 2 when risk of harm deflates	Active partners take joint responsibility for community management of an offender
	Responsible authorities decide on the frequency of meetings, representation, type of active role and quality assurance of risk management	The offenders associated with this level are at high or very high risk of causing serious harm
		Offenders present risks that can be managed through a plan identified by close cooperation at a senior level, owing to complexity of the case/offender and resource commitment it requires
		Likelihood of media scrutiny and/or public interest, need to ensure public confidence is sustained

- **This type of assessment is also dependent on the following information:**
 - **the victim:** past and possible future victims, modus operandi, circumstances of crime and proximity

- **conditions and circumstances:** to determine risk of past and future in order to predict high risk circumstances
- **level of motivation:** to offend and to comply with risk management plan and offender's own view of his/her risk
- **consideration of imminence:** linked to the likelihood and opportunity to reoffend
- **Risk determination:** escalating of risks linked to risk management plan prediction – are future risks (increased) foreseen and planned for?
- MAPPA publishes annual reports, but does not reach the general public.
- MAPPA's lack of accountability to the public and lack of transformation about its operation leaves it potentially isolated from local communities, and the distance between the experts and public is problematic in long-term management taboo risks.
- **Circles of Support and Accountability (COSA):** joint venture based on negative public reaction to the release of a sex offender into the community. Offers contact and support to the offender while monitoring him/her. Restorative and re-integrative approach. In Canada and UK, COSA resulted in a decrease of 70% in sexual offending.

3. COMMUNITY MANAGEMENT OF HIGH RISK OFFENDERS: RISK MANAGEMENT

3.1. COMMUNITY PROTECTION RISK MANAGEMENT STRATEGIES

- Centres on the protection of the community.
- Focus on controlling and restrictive measures for the offender.
- Methods of supervision are rigorous, and include monitoring techniques and corrective programmes that are founded on principles of cognitive behavioural therapy (CBT).
- **Restrictive measures:** restrictions against using certain leisure activities and approaching schools, may have to reside in a certain place, etc.
- Restrictive measures sometimes cause social isolation, which leads to a lack of reintegration.
- Community protection model works with unmotivated offenders.

Key components of effective risk management

- **Key components of effective risk management:**
 - **Proactive planning:** Before a high risk offender is released from prison, the following issues should be dealt with. Appropriate licence/parole conditions should be created, accommodation should be secured, victim protection and support work needs to take place and surveillance and reporting requirements should be set up.
 - **Police intelligence:** To monitor grooming and targeting activities and to identify offender networks.
 - **Boundaries and swift enforcement:** Although these written contracts are not legally binding, contracts with offenders could reinforce conditions and hold these offenders to account for programme attendance and compliance with conditions, for example, rapid parole recall.

- **Targeted surveillance:** To establish key contacts and offender movements and to provide evidence of further offending and evidence to justify recall.
- **Supervised accommodation:** Crucial for effective risk management. It provides stability and can be combined with curfews, CCTV surveillance, electronic monitoring and high levels of staff conduct.
- **Accredited programmes:** Programme selection must be done with great care as part of a wider risk management strategy.
- **Victim protection:** Providing relevant information, personal alarms, rapid response police numbers, and restraining orders.
- **Addressing criminogenic and welfare needs:** Failure to meet the basic offender needs can undermine the risk management plan.
- **Typical risk management package for a paedophile:**
 - Electronic tagging
 - Supervised accommodation
 - Restriction of access to school locations
 - Identification and intensive one-to-one work on key triggers
 - Use of local police intelligence on offending networks and surveillance of key movements
 - Victim empathy work.
- A manager at Childline SA says that the best risk management strategy is a system of close monitoring that involves a team – both therapy and a well-trained authority figure, such as a parole officer and a close family member, who is willing to engage as a partner in the rehabilitation process – without taking any responsibility for maintaining safe behaviour away from the offender him- or herself.

Supervision and monitoring

- Contravention of parole conditions leads to interventions such as correctional programmes, stricter conditions, increased supervision, and revocation of the parole.
- Monitoring includes visits to the parolee's home and workplace, telephonic liaison and consultations at the Community Corrections Office.
- Difficulties regarding supervision of high risk offenders include a lack of resources and an overemphasis on restrictions.
- Practitioners have reported that offenders lack incentive to change when their needs remain unmet or when restrictions are overly intrusive.
- A motivational approach to offenders is advocated, emphasising a "meshing of motivational principles into the fabric of offender management".

Cognitive behavioural therapy

- Designed to assist offenders in changing their criminal behaviour by managing their thinking patterns, feeling and attitudes.
- **CBT programmes for sex offenders focus on:**
 - Changing patterns of deviant sexual arousal
 - Correcting distorted thinking and educating offenders in the "cycle of abuse"

- Educating offenders about the effects and impact of abuse
- Increasing social competence
- Victim empathy
- Controlling sexual arousal
- Reducing denial
- Relapse prevention
- Problem recognition and problem solving
- Skills practice for improving interpersonal relationships
- Raymond Bekker: CBT should take place at least 10 days after an assault before denial and minimisation build up.
- The timing of interventions, programme integrity and relapse prevention can be crucial to the correct treatment methods and programmes.
- After programmes end, offenders need to be taught self-risk management techniques and strategies for managing their own problematic behaviours.

General notes on risk management strategies

- **Risk management strategies should provide for the following:**
 - Strong incentives for individuals to manage their own behaviour
 - Strong incentives to attend and comply with therapy and programmes
 - A thorough system of supervision with regular reassessment
 - Clear boundaries for acceptable behaviour and enforcement
 - Integrated management of custody, therapy and community services.
- **Critical success factors of excellent programmes and interventions delivered with integrity:**
 - Appropriate targeting
 - Programme integrity (deliver the content as intended)
 - Committed programme tutors
 - Support for the programme by key workers
 - Appropriate relapse prevention planning

3.2. ALTERNATIVE RISK MANAGEMENT APPROACHES

- Most alternative risk management approaches are rooted in restorative justice.
- Conrad Brunk cites the following as the “**building blocks**” of an effective criminal justice system:
 - Protection of innocent law-abiding citizens. Maintaining a moral society that encourages people to obey the law and deters them from breaking the law.
 - Offenders should receive their just deserts. Punishment should fit the crime.
 - It should redress the injustice done by the criminal.
 - Punishment should not make the offender a worse person rather than a better one.
- The rehabilitation approach model sees offenders as either patients or victims or both. They are not seen as being morally responsible for the offences committed.
- Restorative justice is sometimes aligned with rehabilitation theory.

- Restorative justice treats offenders as responsible moral agents (unless that is clearly not the case).
- Alternate strategies include the Public Health Approach (PHA), the Good Lives Model (GLM), prevention strategies such as The Derwent Initiative (TDI), and Tackling Alcohol-related Street Crime (TASC).

Good Lives Model (GLM)

- The GLM proposes a more holistic and constructive way of conceptualizing and engaging with offenders, focusing less on individual offender deficits and more on the personal, interpersonal and social contexts required to enable offenders to live and sustain a good life.
- Scotland has incorporated the GLM into their approach to high risk offenders. They propose that there should be a dual focus in supervision, firstly promoting rehabilitation and secondly reducing harm while restricting liberty and engaging an offender in the process of change.
- In a study regarding effective risk management of MAPPA, the findings indicated that the balance between external and internal controls was the key to effective risk management.
- Areas of success include the reintegration of sex offenders back into housing and employment, and the reintegration of young sex offenders back into education.

Prevention and opportunity management

- Craven applies this approach to sexual “grooming”, that is, the targeting of children for sexual abuse by offenders. The preventative measures should target the following:
 - Identifying potential offenders at the onset of their sexual interest in children
 - Intervening with these potential offenders as they begin grooming behaviours
 - Intervening once they are grooming the child
- Stop it now! is a helpline working in the UK. They provide public awareness by distributing pamphlets that describe grooming behaviours and this also assists parents in identifying problematic sexual behaviours in their children.
- The SA Law Reform Commission's Sexual Offences Project Committee recommends that monitoring should be included in legislation.
- The Sexual Offences Act (Chapter 6) stipulates that all adults who work with children need a certificate stating that they are not on the National Register for Sex Offenders.
- The Register is not accessible to the public.
- A person will be on the Register if they have been convicted of committing a sexual offence against a child at any time in their life, or if they have had allegations of sexual misconduct lodged against them that have passed through a court. This goes for crimes and allegations inside and outside SA.
- According to Child Safe, 80% of sexual molesters are known to the child or the family.

Children who are vulnerable are

- Taught that they don't have a right to say “no” to an adult
- Are naïve about sex
- Have no plan when in danger

- Are left alone for long periods
- Live in single-parent families.
- **Paedophiles say they**
 - Most likely know the child
 - Do not look “weird” or “dirty”
 - Come from any racial and social group
 - Are good at making friends with children – they offer to teach them to play a musical instrument, take them on outings and so on
 - Give them gifts to soften them up
 - Target single-parent families where the mother is grateful for any outside help
 - Find victims through babysitting
 - Hang around public swimming pools, schools, arcades, parks, fast food chains and malls
 - Target internet chat rooms.
- **Devise an escape plan with your child:**
 - Use direct language to talk about body parts and what parts are wrong for others to touch.
 - Teach them to say “NO!” loudly and clearly; practice it with them.
 - The UK charity Kidscape recommends the “Yell, Run, Tell” rule.
 - Tell them to never go into public toilets alone.
 - Teach them the difference between a gift and a bribe.
 - Teach them that there's good and bad in everyone, and people they think are “good” can hurt them.

Social inclusion and integration techniques

- The restorative approach emphasises social inclusion and reintegration.
- The Department of Correctional Services (DCS) facilitates the correcting of offending behaviour and is responsible for the general development of all offenders as part of their rehabilitation, including those subject to community corrections.
- Participation in rehabilitation programmes prepares offenders for reintegration into society as productive, well-adapted and law-abiding citizens.
- The Correctional Sentence Plan includes the implementation of 6 programmes that will address offence-specific crimes resulting from aggressive behaviour, sexual offences and substance abuse. They will be compulsory for all offenders due for release.
- Two of the key strategies of the development and rehabilitation processes are the engaging of community organisations to assist with development programmes for offenders and the promoting and implementing of restorative justice principles to ensure the involvement of offenders, victims and the community.
- Reintegrative approaches can be applied to serious crimes, as they promote genuine engagement with offenders and assist in the process of change; they hold offenders accountable for their actions; and victims and communities are empowered by becoming part of the solution.

Relapse prevention

- Relapse prevention is a key component of successful risk management strategies.
- Relapse prevention programmes target, among others, the following:
 - Negative attitudes and antisocial feelings, for example, victim blaming
 - Justifying offending or behaviours as a legitimate way to get what is wanted
 - Situations of high risk (such as contact with children).
- Paedophiles must admit their urges and confront them in group therapy. Counsellors will help them restructure their lives so that they don't come into contact with children. In order to prevent relapse the offender would need to continue in programmes of self-regulation and self-risk management, as this would help the offender to recognise any signs of relapse and to act accordingly.

3.3. THE POTENTIAL AND LIMITS OF THE TWO APPROACHES

- One study that evaluated data from the Circles of Support and Accountability (COSA) pilot project in Ontario, Canada, found the following:
 - The COSA initiative has had a profound effect on all stakeholders: offenders, community volunteers, affiliated professionals, and the community at large.
 - Being involved in a COSA project appears to have greatly assisted many high-risk sexual offenders released into the community in remaining crime-free, with many reporting that they would likely have returned to offending without help from COSA.
 - Community volunteers involved in the project reported a perceived increase in community safety as a result of COSA, as well as a belief that core members were motivated to succeed in the community.
 - Professionals and agencies (for example, police officers, social services professionals, administrators, etc.) identified increased offender responsibility and accountability, as well as enhanced community safety.
 - Survey results obtained from members of the community at large showed substantial increases in perceived community safety in knowing that high-risk sexual offenders in the community were involved in the project.
- In order for these types of programmes to be successful, a multi-agency approach is needed.

4. COMMUNITY MANAGEMENT OF HIGH RISK OFFENDERS

4.1. KEY CONCEPTS

- **High risk offenders:** The definition of "high risk" is located in the context within which it is used. "High risk offenders", in this course, will refer to offenders who have committed a violent or sexual offence.

4.2. RISKS VERSUS RIGHTS

- Community interests play a prominent role and court outcomes (sentencing) do not always satisfy community expectations. This can lead to vigilantism, a natural response which should be discouraged through education.
- When a high risk offender released on parole commits a crime, tension between the risks and rights of the offender arise. The authorities involved should maintain as their top priority a focus on public protection. The prisoner's right to be kept in prison or released on parole should be balanced under the European Convention, United Nations, and African Charter of Human Rights.
- In the USA the public is entitled to information about sex offenders.
- In Australia, the Serious Sex Offenders Monitoring Act allows for post-custody and compulsory treatment for up to 15 years.

4.3. ETHICAL ISSUES

- Prediction of risk is challenging, because risk assessment tools can be fallible.
- Practitioners managing high risk offenders have to balance the rights and the safety of the victims and the public against the rights and safety of offenders. This is applicable where offenders reside near to, or begin to "groom" children or potential victims.

4.4. COMMUNITY NOTIFICATION

- Registers should contain the sexual offenders' addresses, personal information, offence history and employment.
- Registers are administered by the police.
- In the UK, the public may not view the Sex Offender Register.
- In the USA, the public may view relevant information on released sex offenders.
- The community may live in fear and struggle to live their lives normally if they receive multiple sex offender warnings.
- Cohen and Jeglic identified 4 notification models:
 - A three-tier model of dangerousness: low risk, moderate risk, and high risk.
 - Notification by a designated agency.
 - A model that requires sex offenders to carry out notification under the supervision of state agencies.
 - Members of the community are required to make a request for information.
- The evaluation of the effectiveness of community notification in protecting children and communities against sexual offenders is difficult. **Problems include:**
 - Implementing community registration
 - Difficulties in enforcing registration and notification
 - Sex offenders "going underground"
 - Inaccurate information on registers
 - Draining of police resources
- Stress, fear, and anxiety may be precursors to relapse, and may lead to higher rates of recidivism.

- Tewksbury and Lees found that offenders understood the rationale for a register but they would like to distinguish themselves from dangerous and predatory offenders.
- Sample and Bray found that sex offenders had different re-arrest patterns and also different levels of risk.
- Sex offenders indicated that the length of registration had a negative influence on treatment seeking and rehabilitation.
- Registration led to social stigmatisation, loss of employment, relationships and housing, and physical assaults and harassment.

4.5. THE SOUTH AFRICAN SITUATION

- SA's Sexual Offenders Register came into effect in June 2008, and has been operational since June 2009, in terms of the Criminal Law, Sexual and Related Matters Amendment Act, of 2007. It is administered by the Department of Justice and Constitutional Development.
- The Minister of Justice and Constitutional Development, Mr J Radebe, announced that the following information regarding the particulars of convicted offenders would appear on the register: 'Regarding historical convictions, the records of various government departments, including the South African Police Service's Criminal Record Centre regarding criminal convictions; the Department of Correctional Services regarding sentenced offenders and the Department of Health regarding persons who are alleged to have committed sexual offences against children or mentally challenged, but who were declared as State Patients in terms of section 77 and 78 of the Criminal Procedure Act, 1977, are being scrutinised, to ensure the inclusion of the relevant offenders' names, onto the National Register for Sex Offenders'.
- The primary aim of the register is to prohibit sexual offenders from being employed in work involving children.
- Sexual offenders' details are not open to the public, only people who employ others who work with children can apply to the registrar to see if their prospective employee is on the register. The proposed register will contain the details of those who have been convicted of sexual offences against a child, whether in or outside South Africa.
- Joan van Niekerk, Childline South Africa's national coordinator, is of the opinion that only the names of convicted offenders will be captured in this register, whereas the Children's Act protection register will capture those found guilty by any legal forum, including the Children's Court and Civil Court.
- Only 1 in 9 sexual offences are reported, and of these only a 6 or 7% conviction rate exists.

4.6. SUPERVISION AND MONITORING

- Supervision and monitoring are critical when dealing with high risk offenders.
- GPS electronic monitoring has been used in the USA to counter registration non-compliance and to track offenders who "go underground".
- Supervision can enhance offender accountability and responsibility for their actions, and facilitate review of progress.

- Melloy studied sex offenders on probation and found that social controls, a committed partner, and stable accommodation with social support factors ensured success on probation.

4.7. EVIDENCE OF EFFECTIVENESS

- Emerging studies sound a caution on the evidence emanating from the community management of high risk offenders. Areas for caution are the negative impact of community notification, restrictive conditions, and costly supervision.
- Solutions differ; often more attention is paid to the victim and communities and less to the offender.
- The impact of community protective legislation does not always lead to a decrease in recidivism.
- Kemshall is of the opinion that there is a paucity of evidence on the effectiveness of studies and that such studies are on a small scale; hence, this is an area that would benefit from future research.