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TITLE: The sexual assault and rape of male offenders and awaiting-trial detainees

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SUMMARY

In this study the nature and extent of the sexual assault and rape of male sentenced offenders and awaiting-trial detainees in Pretoria Local Correctional Centre were investigated. Prison gangs, overcrowding of correctional centres, the involvement of correctional officials and the sexual orientation of the potential victim were highlighted as risk factors in the sexual assault and rape of male offenders and awaiting-trial detainees. As this study focused on both the victim and the offender of male-on-male sexual assault and rape, both victimological and criminological theories were used as a theoretical basis.

Creswell's dominant-less-dominant model of combination was used in this study, with the dominant model being the qualitative methodology, and the less-dominant model the quantitative methodology. Non-purposive sampling was used, as the researcher could not identify the victims and/or perpetrators of male-on-male sexual assault and rape individually. In order to obtain in-depth information on the research participants' experiences of sexual activities and rape in the correctional centre, face-to-face structured interviews were conducted with one hundred research participants.

After the analysis and interpretation of the data, it became evident that male-on-male sexual assault and rape, as well as consensual sexual activities, do occur in this correctional centre. Research participants highlighted four types of sexual engagements in this correctional centre, namely the need for emotional sex, survival sex, compliant sex and forced sexual acts. The reasons offered for the occurrence of



rape in this correctional centre include that an agreement had not been reached between inmates and because of that the rape will take place, corruption by correctional officials, the involvement of prison gangs and the use of deception by the perpetrators. Six research participants revealed that they had been the victims of rape. All the victims were raped within days or weeks after their arrival at the correctional centre. Five of the victims did not receive medical treatment after the rape, and none of the victims received counselling or therapy after the rape. Five of the research participants reported that they had sexually assaulted and/or raped other inmates. Four of the perpetrators were awaiting trial for an aggressive offence (armed robbery) and one for a sexual offence (rape). The perpetrators forced their victims to engage in oral sex, inter-femoral sex and anal sex.

The aims of the study were reached and recommendations for further research were also made. Emanating from the feedback of the participants as well as the literature review, the researcher developed an Offender Sexual Assault Protocol. The Department of Correctional Services can use this protocol to reduce and manage sexual assault and rape in male correctional facilities.

KEY TERMS

Sexual assault, rape, sodomy, masculinity, sentenced offender, awaiting-trial detainee, prison gangs, corruption, correctional official, HIV/Aids.

TITEL: Die seksuele aanranding en verkragting van manlike oortreders en verhoorafwagtende aangehoudenes

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OPSOMMING

In hierdie studie word die aard en omvang van die seksuele aanranding en verkragting van manlike gevonnisd oortreders en verhoorafwagtende aangehoudenes in Pretoria Lokaal Korrektiewe Sentrum ondersoek. Gevangenisbendes, oorbevolking van korrektiewe sentrums, die betrokkenheid van korrektiewe beamptes en die seksuele oriëntasie van die potensiële slagoffer word as moontlike risikofaktore vir die seksuele aanranding en verkragting van manlike oortreders en verhoorafwagtende aangehoudenes uitgelig. Aangesien hierdie studie op beide die slagoffer en die oortreder van man-op-man seksuele aanranding en verkragting fokus, word sowel viktimologiese as kriminologiese teorieë vir die teoretiese onderbou gebruik.

Creswell se dominante-minder-dominante model van kombinasie word in hierdie studie gebruik. Die kwalitatiewe metodologie dien as die dominante model, en die kwantitatiewe metodologie as die minder-dominante model. Nie-doelgerigte steekproeftrekking is gebruik, aangesien die navorser nie die slagoffers en/of oortreders van man-op-man seksuele aanranding en verkragting individueel kon identifiseer nie. Ten einde in-diepte inligting rakende die navorsingsdeelnemers se ervarings met betrekking tot seksuele aktiwiteite en verkragting in die korrektiewe sentrum te verkry, is aangesig-tot-aangesig gestruktureerde onderhoude met een honderd navorsingsdeelnemers gevoer.



Na die ontleding en interpretasie van die data het dit duidelik geword dat man-op-man seksuele aanranding en verkragting, asook seksuele aktiwiteite tussen mans wat tot die daad instem, wel in hierdie korrektiewe sentrum plaasvind. Die navorsingsdeelnemers het vier tipes seksuele kontak geïdentifiseer wat in hierdie korrektiewe sentrum voorkom, naamlik die behoefte aan emosionele seks, oorlewingseks, meegaande seks en geforseerde seksuele handeling. Die redes wat vir die voorkoms van verkragting in die korrektiewe sentrum aangevoer word is dat 'n ooreenkoms nie tussen gevangenes bereik kon word nie en as gevolg daarvan sal die verkragting plaasvind, korrupsie deur korrektiewe beamptes, die betrokkenheid van bendes, en misleiding deur die oortreders. Ses van die navorsingsdeelnemers het onthul dat hulle die slagoffers van verkragting was. Al dié slagoffers is binne dae of weke na hulle aankoms by die korrektiewe sentrum verkrag. Vyf van die slagoffers het geen mediese behandeling na die verkragting ontvang nie, en geeneen van die slagoffers het berading of terapie na die verkragting ontvang nie. Vyf van die navorsingsdeelnemers het aangedui dat hulle ander gevangenes seksueel aangerand en/of verkrag het. Vier van die oortreders was verhoorafwagtend vir 'n aggressiewe misdaad (gewapende roof) en een vir 'n seksuele oortreding (verkragting). Die oortreders het hulle slagoffers gedwing om aan orale seks, inter-femorale seks en anale seks deel te neem.

Die doelwitte van die studie is bereik en aanbevelings rakende verdere navorsing is ook gemaak. Voortspruitend uit die terugvoer van die navorsingsdeelnemers asook die literatuuoroorsig wat gedoen is het die navorser die Oortreder Seksuele Aanranding Protokol ontwikkel. Die Departement Korrektiewe Dienste kan hierdie protocol gebruik vir die vermindering en bestuur van seksuele aanranding en verkragting binne manlike korrektiewe fasiliteite.

SLEUTELWOORDE

Seksuele aanranding, verkragting, sodomie, manlikheid, gevonnise oortreder, verhoorafwagtende aangehoudene, gevangenisbendes, korrupsie, korrektiewe beampte, MIV/Vigs.

1. DEFINITION OF CONCEPTS, PROBLEM STATEMENT AND OVERVIEW OF THE STUDY

1.1. INTRODUCTION

According to Cotton and Groth (1982:47), correctional facilities (jails, detention centres and correctional centres) are high risk settings for sexual assault and rape among offenders. This assumption is supported by Messerschmidt (in Sabo, Kupers & London, 2001:67) who notes that rape is a widespread practice among males in male correctional centres. Derrick Mdluli, the previous national president of the South African Prisoners' Organisation for Human Rights (SAPOHR) and an ex-offender, postulates that "prisoners are sodomised every day and every night" (Lazarus, 2002:82). Despite these revelations, male-on-male sexual violation and rape in men's correctional facilities remain ignored crime problems within the larger society (Lehrer, 2001:24). This may be ascribed to the fact that correctional authorities rarely mention the sexual assault that takes place in their centres, and if they are confronted with the issue, refer to it as the "homosexual problem" (Rideau & Sinclair, 1982:4). It is therefore no surprise that the general public knows little, if not nothing, about the plight of many male offenders who are the victims of sexual violation and rape in a correctional centre.

One of the most fearful events for a heterosexual male is to be anally penetrated ("butt fucked"), and for most heterosexual offenders witnessing or experiencing male rape can be their first confrontation with same sex contact (Gear, [sa]; McMullen, 1990:53; Sabo *et al.*, 2001:14). During male-on-male rape the victim may get an erection and/or ejaculate during the act. This usually leaves the victim with guilt feelings, and the physiological sexual response may lead to the perception that he is homosexual or bisexual. Thus, the victim questions his sexual identity and manhood and may view the sexual attack as confirmation of him being homosexual (McMullen, 1990:53). The effect of the rape on the victim is summarised by Roberts (in Welborn & Lantz, 2004:112) as follows:

For heterosexual men, rape almost always causes some confusion or questioning about their sexuality. Since many people believe that only gay men are raped, a heterosexual survivor may begin to believe that he must be gay or that he will become gay. Furthermore, perpetrators often

accuse their victims of enjoying the sexual assault, leading some survivors to question their own experiences.

Cotton and Groth (1982:50) propose that rape is the sexual expression of anger rather than the aggressive expression of sexuality. Groth (1979:12-13) explains this statement by categorising rape as an aggressive act. In some cases of rape the assault appears to comprise a discharge of anger, frustration, anxiety and rage. In other cases the aggression seems to be reactive in nature. If a victim attempts to resist the rape, the aggressor may retaliate by striking, hitting or hurting the victim in some way. Furthermore, the aggression shows less an anger motivation and more a means to dominate and control the victim and to be in charge of the situation. Finally, the aggression is eroticised by the aggressor, so that he derives pleasure both from controlling and hurting the victim. According to Cotton and Groth (1982:51), rape in a correctional centre, as in free society, is not about sex, but to hurt, humiliate, dominate, control and degrade the victim. In the light of this, it is put forward by Groth (1979:133) that rape seems to validate the manhood of the aggressor, since it corresponds with being in control, being aggressive and being the penetrator.

Coerced sex in corrections is not referred to as rape by the offenders, but rather known as “turning out” a person. This is a non-sexual description of an act of conquest and demasculation of the victim (O’Donnell, 2004:244; Rideau & Sinclair, 1982:5). Related to this is the belief in corrections that inmates who have been raped are not “victims”. This is based on the notion that a “real man” cannot be forced to do anything he does not want to do. Thus, a “real man” cannot be sexually assaulted and raped, and if a man is “turned out” he is regarded as being weak and not worthy of respect from those who are “men” (i.e. penetrators). Consequently this weakness both invites and justifies sexual exploitation and rape (O’Donnell, 2004:244; Knowles, 1999:267).

For the purpose of this study a historical overview of corrections in South Africa will not be discussed, since this is not the focus of the study. The researcher will also not discuss homosexuality as sexual assault and rape in correctional centres are not related to the sexual orientation of either the victim or the perpetrator.

The following concepts will be used interchangeably throughout the study (Draft White Paper on Corrections in South Africa, 2003):

- Awaiting-trial prisoner or detainee: Refers to all persons who are lawfully detained in prison, but who have not been sentenced to imprisonment.
- Prison or correctional centre: Refers to any place established under the Correctional Services Act (Act 111 of 1998) as a place for the reception, detention, confinement, training or treatment of persons liable to detention in custody or to detention in placement under protective custody. It includes all land, branches, outstations, camps, buildings, premises or places to which any such persons have been sent for the purpose of imprisonment, detention, protection, labour, treatment or otherwise.
- Inmate, prisoner, convict, offender or correctional client: Refers to any person, whether convicted or not, who is detained in custody in any prison or who is being transferred in custody or is en route from one prison to another prison.

1.2. DEFINITION OF CONCEPTS

As indicated in the introduction, male offenders and detainees can be subjected to sexual assault and rape within correctional centres. Therefore the concepts sexual assault and rape will be defined by mainly referring to the South African Criminal Law (Sexual Offences and Related Matters) Amendment Act (Act 32 of 2007). The date of commencement of this act is 16 December 2007. Since offenders and correctional officials refer to the coerced anal penetration of an inmate as sodomy, this concept will also be defined. Lastly masculinity is defined, as in correctional environments this is what separates a “man” from a victim.

1.2.1. Sexual assault

As stipulated in the Criminal Law (Sexual Offences and Related Matters) Amendment Act (Act 32 of 2007), the statutory offence of sexual assault has replaced the common law definition of indecent assault. It is therefore necessary to define the act of indecent assault, before describing it in order to understand why it was repealed.

Snyman (2002:436) defines indecent assault as “unlawfully and intentionally assaulting, touching or handling another in circumstances in which either the act itself

or the intention with which it is committed is indecent”. Snyman’s definition is a generic conceptualisation of what was used to describe unlawful sexual acts other than rape. Thus, in this context indecent assault is a gender-neutral crime and both male and female victims of penetrative sexual assault either *per vaginam* or *per anum* who were not covered under the then (pre 1994) definition of rape, could have reported a crime of indecent assault (Van der Bijl, 2002:149).

Subsequently Burchell (2005:691) defined indecent assault as “an assault that by its nature or design is of an indecent character”. Considering this definition the following acts were described as indecent assault (Burchell, 2005:692–693):

- Failed rapes: A failed rape is when the perpetrator, for various reasons, fails to insert his penis into the vagina of the victim. The perpetrator therefore did not complete the sexual act and subsequently did not commit rape. However, his penis touching the vagina of the victim constitutes a crime of indecent assault.
- Quasi-rapes: These rapes are those acts that have the characteristics of rape, but due to the limitations of the definition of rape they are punishable as indecent assault. Included in this category are instances where an object, not a penis, is inserted into the vagina, or where the penis is inserted into an orifice other than the vagina.
- Molestation: This entails the touching or fondling of a person in an indecent (meaning sexual) manner.
- Consensual sexual acts that are *contra bonos mores*. This category of indecent acts is punishable because it is committed without the consent of the victim. Some cases of consensual acts of indecency are, however, viewed as indecent assault because they are *contra bonos mores*. In the correctional setting this can be an inmate who “consents” to the sexual act because of intimidation or threat by the perpetrator.

Neither the definition of Snyman nor Burchall’s definition of indecent assault **clearly** indicated which acts were considered to be indecent. In the researcher’s opinion it is unclear whether coerced oral sex and masturbation also constitute indecent acts. In the

Criminal Law (Sexual Offences and Related Matters) Amendment Act (Act 32 of 2007) there is a clear description of the violating acts that are regarded as sexual offences, and therefore an inmate who makes himself guilty of any of the following sexual violations will be guilty of the crime of sexual assault:

- “(a) direct or indirect contact between the:
- (i) genital organs or anus of one person or, in the case of a female, her breasts, and any part of the body of another person or an animal, or any object, including any object resembling or representing the genital organs or anus of a person or an animal;
 - (ii) mouth of one person and –
 - (aa) the genital organs or anus of another person or, in the case of a female, her breasts;
 - (bb) the mouth of another person;
 - (cc) any other part of the body of another person, other than the genital organs or anus of that person or, in the case of a female, her breasts, which could -
 - be used in an act of sexual penetration;
 - cause sexual arousal or stimulation; or
 - be sexually aroused or stimulated thereby; or
 - any object resembling the genital organs or anus of a person, and in the case of a female, her breasts, or an animal; or
 - (iii) mouth of the complainant and the genital organs or anus of an animal;
- (b) the masturbation of one person by another person; or
- (c) the insertion of any object resembling or representing the genital organs of a person or animal, into or beyond the mouth of another person, but does not include an act of sexual penetration”.

Genital organs within this context refer to the whole or part of the male and female genital organs, and include surgically constructed or reconstructed genital organs.

Accordingly, a male inmate who coerces another male inmate to participate in inter-femoral sex, oral sex or masturbation is sexually violating that person and is guilty of sexual assault. Furthermore, if a male inmate coerces another male inmate to participate in kissing him he is guilty of sexual assault. Another important implication of this Act is the use of an object for sexual gratification. This includes contact of the genital organs or anus of an inmate with an object, or if an object is inserted into the mouth of an inmate to simulate oral sex.

In the United States of America (USA) the California Department of Corrections (2000) defines sexual assault as engaging or attempting to engage in a sexual act, the use of threats, intimidation, inappropriate touching, or other actions or communications by one or more inmates aimed at coercing and/or pressuring another inmate to engage in a sexual act. This definition encompasses more than just physical acts, and includes verbal threats, which are not included in the South African Criminal Law (Sexual Offences and Related Matters) Amendment Act (Act 32 of 2007).

Operational definition: For the purpose of this study an operational definition of sexual assault in correctional centres is the contact between the genital organs or anus of one person with any part of the body of another person, including the mouth; contact between the genital organs, anus or mouth of one person with an object; verbal sexual threats, and masturbation of one person by another person.

1.2.2. Rape

Before the commencement of the Criminal Law (Sexual Offences and Related Matters) Amendment Act (Act 32 of 2007), rape in South Africa constituted a male having unlawful and intentional sexual intercourse with a female without her consent (Burchell, 2005:699; Snyman, 2002:445). All cases of non-consensual anal penetration between males were recorded as indecent assault (Snyman, 2002:439).

As a result of this void in the legislation together with the acknowledgement that male rape is more prevalent than previously thought, and the Constitutional obligation of equality, the South African Law Commission (SALC) proposed the following definition for the act of rape: “Any person who intentionally or unlawfully commits an act of sexual penetration with another person, or who intentionally and unlawfully compels, induces

or causes another person to commit such an act is guilty of the offence of rape” (South African Law Commission, 2002:117).

The SALC (2002:114) further proposed that sexual penetration means any act that causes penetration, and includes:

- The insertion of the genital organs of one person into the anus, mouth or genital organs of another person.
- The insertion of any object, including any part of the body of an animal, or part of the body of one person into the anus or genital organs of another person in a manner which simulates sexual intercourse.

However this definition of rape by the SALC was criticised as being too broad and as a result rape is defined in the Criminal Law (Sexual Offences and Related Matters) Amendment Bill (Bill 50B of 2003) as “any person who intentionally and unlawfully commits an act of sexual penetration with another person without such person’s consent”. Within this context, according to the Criminal Law (Sexual Offences and Related Matters) Amendment Act (Act 32 of 2007), sexual penetration includes any act which causes penetration to any extent by:

- (a) the genital organs of one person into or beyond the genital organs, anus or mouth of another person;
- (b) any other part of the body of one person or any object, including any part of the body of an animal, into or beyond the genital organs or anus of another person;
or
- (c) the genital organs of an animal, into or beyond the mouth of another person.

Thus, what the SALC has done and the way it is set out in the Criminal Law (Sexual Offences and Related Matters) Amendment Bill (Bill 50B of 2003) is to replace the words “male” and “female” with the gender neutral concept “person”, and subsequently a man can be the victim of a rape.

In 2007 the Criminal Law (Sexual Offences and Related Matters) Amendment Bill (Bill 50B of 2003) was approved by Parliament and since 16 December 2007 both males and females can be the victims of rape. For the first time in South Africa forced oral sex is considered to be rape. Since oral sex is widely practiced in correctional centres, victims will be able to lay a formal charge of rape. The insertion of an object (finger, mop, broomstick) into the anus of a man is also regarded as rape. It is however suggested by the researcher that offenders be made aware of the changes in the legislation of rape, in order to empower them if they do fall victim to such a crime while in a correctional centre.

This broadened definition of rape also ensures that penalties and sentencing for male rape will be on par with those of female rape. Before 1994 a person found guilty of the rape of a female could have received the death penalty, whereas indecent assault was regarded as a lesser offence. Furthermore, all cases of rape, including male-on-male rape are categorised as a Schedule six offence. This type of offence prescribes a minimum sentence of ten years imprisonment for a first offence as introduced in the Criminal Law Amendment Act (Act 105 of 1997), and no bail, except under “substantial and compelling circumstances” (Fuller, 2007:10; Sloth-Nielsen & Ehlers, 2005:6).

The subsequent section offers a discussion of court cases that paved the way for the future prosecution of a man guilty of male rape. During 2002 South Africa saw its first court case involving the sexual offence of male rape that occurred in Pollsmoor Correctional Centre in the Cape Province. However, since the definition of rape had not yet passed through parliament during that period, the thirty-seven year old perpetrator was charged with four counts of indecent assault and one of assault. The perpetrator allegedly engaged in coerced sex with the victim and threatened the victim with a knife (Prisoner in court for male rape, 2002).

In 2005 *S vs Masiya* (unreported) made legal history when Magistrate Lamprecht found Fanual Sitakeni Masiya guilty of rape in the Graskop Regional Court after he sodomised a nine year old girl. The Regional Court remarked as follows:

In terms of the existing common law definitions of crime, the non-consensual anal penetration of a girl (or a boy) amounts only to the (lesser) common law crime of indecent assault, and not rape, because only non-consensual vaginal sexual intercourse is regarded as rape. One’s initial feelings of righteousness would however immediately rebel

against such thought. Why must the unconscious sexual penetration of a girl (or a boy) *per anum* be regarded as less injurious, less humiliating and less serious than the unconscious sexual penetration of a girl *per vaginam*? The distinction appears on face value to be irrational and totally senseless, because the anal orifice is no less private, no less subject to injury and abuse, and its sexual penetration no less humiliating than the vaginal orifice. It therefore appears that the common law definition of rape is not only archaic, but irrational and amounts to arbitrary discrimination with reference to which kind of sexual penetration is to be regarded as the most serious, and then only in respect of women.

The Regional Court extended the definition of rape to include "...acts of non-consensual sexual penetration of the male sexual organ into the vagina or anus of another person". Having convicted Masiya of rape in terms of this extended definition, the Regional Court referred the case to the Pretoria High Court for confirmation of conviction and sentencing. During 2006 Judge Ranchod of the High Court declared the common law definition of rape unconstitutional and confirmed the Regional Court's conviction of rape to include anal penetration. This ruling was also extended to male rape. Hereafter Ranchod referred his judgement to the Constitutional Court for confirmation of a declaration of constitutional invalidity (Combrinck, 2006:2; Fuller, 2007:7; Judge extends definition of rape, 2006; Venter, 2006:3).

In the majority judgement, Judge Nkabinde of the Constitutional Court (unreported) in 2007 ruled that the extended definition of rape to include non-consensual anal penetration of females will be in the interest of justice. Judge Nkabinde added that the anal penetration of males is no less degrading, humiliating and traumatic but that the case brought before the Constitutional Court focused on the anal penetration of females. It was emphasised that the Court was not being disrespectful to male bodily integrity, or insensitive to the trauma suffered by male rape victims. Judge Langa in the minority judgement stated that:

... young men, prisoners and homosexuals, are, like women, also vulnerable groups in our society. Moreover, they, and most other male victims, are raped precisely because of the gendered nature of the crime. They are dominated in the same manner and for the same reason that women are dominated; because of a need for male gender-supremacy. That they lack a vagina does not make the crime of male rape any less gender-based.

It is opined by the researcher that these two court cases may pave the way for future litigation of male-on-male rape within correctional settings. With regard to the first court case, male victims of prison rape may in future be encouraged to report rape and open a docket with the South African Police Service (SAPS), since the conviction of an offender is possible. The second court case was positive in that it showed that the legal fraternity is acknowledging that males are the victims of rape, and that their offenders should be charged with this offence.

While great strides are made in South Africa to acknowledge men as victims of rape, the USA adopted a law focusing specifically on the reduction of prison rape. On 4 September 2003, President George W. Bush signed into law the Prison Rape Elimination Act. Under Section 10 of this Act prison rape is defined as follows (Data collections for the Prison Rape Elimination Act of 2003, 2005):

- (a) “the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person, forcibly or against that person’s will; or
- (b) not forcibly or against the person’s will, where the victim is incapable of giving consent because of his or her youth or his or her temporary or permanent mental or physical incapacity; or
- (c) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person achieved through the exploitation of the fear or threat of physical violence or bodily injury”.

Operational definition: For the purpose of this study an operational definition of male-on-male prison rape is any male offender, detainee or correctional official who intentionally and unlawfully commits an act of sexual penetration with another male offender or detainee without such an offender’s or detainee’s consent.

1.2.3. Sodomy

Snyman (2002:438) notes that consensual sexual intercourse *per anum* between males, before 1994 known as sodomy, is no longer considered a crime. Although the researcher acknowledges this legal standing, it is still imperative to discuss sodomy

since some inmates and correctional officials still refer to non-consensual anal penetration as sodomy.

Before 1994, sodomy was defined as the unlawful, intentional relation between males *per anum*. If one person did not consent to the act, the perpetrator could be punished under the lesser offence of indecent assault. However, if both parties agreed to the act, both were equally guilty of committing sodomy (Van der Bijl, 2002:142). After the introduction of the Constitution of the Republic of South Africa (Act 108 of 1996) this viewpoint was questioned in *S v Kampher*. The accused was convicted of sodomy in the Knysna magistrate's court. Although the accused did plead guilty, he indicated that the other party consented to the sexual intercourse. Based on Section 9(3) of the Bill of Rights contained in the Constitution (Act 108 of 1996), the State may not unfairly discriminate against a person on the grounds of amongst others "sexual orientation", and as a result homosexual activity between two consenting adults was no longer proscribed (Jazbhay, 1998:54; Louw, 1998:113).

This ruling was again confirmed in the *National Coalition for Gay and Lesbian Equality v Minister of Justice*. The Constitutional Court ruled that the former crime of sodomy is unconstitutional, since its existence is incompatible with the right not to be discriminated against on the basis of sexual orientation, the right to dignity and the right to privacy. The court further upheld that non-consensual sexual intercourse *per anum*, the so-called anal rape or male rape, may not be punished, since the core of the crime was declared unconstitutional. Such intercourse may be punished as indecent assault or assault with intent to do grievous bodily harm (Snyman, 2002:439).

Prior to the introduction of the Constitution (Act 108 of 1996), Judge Ackerman, in foreseeing future constitutional attacks on the offence of sodomy, stated that the offence might survive in certain circumstances (Louw, 1998:115):

One possible qualification needs to be mentioned. This judgement deals only with the position in society as it normally functions. There may be special circumstances where a legitimate social interest might justify a different view being taken of private sodomy, even between consenting adults. The position of prison inmates comes to mind. There may well be others. The proscription of sodomy between consenting adults undergoing imprisonment could well serve a legitimate social interest. Such proscription would, however, not be on the basis of discrimination against male homosexual acts, but because the situation in prison might

necessitate the proscription of all sexual relationships of contact involving prisoners, whether homosexual or heterosexual. The proscription would be directed against sexual activity; not against the gender or sexual preference of the parties indulging in the activity.

Burchell and Milton (1997:634) also argued that the offence could be applicable in certain circumstances:

In so far as heterosexual sexual intercourse is punishable if it occurs in public or without the consent of one of the parties, or where one of the parties is under the age of consent, it follows that homosexual sexual intercourse which is not private, or without the consent of one of the parties, or with a person who is under the age of consent may be punished as sodomy.

Operational definition: For the purpose of this study an operational definition of sodomy is the unlawful non-consensual sexual interaction between two males *per anum*.

1.2.4. Masculinity

Before defining masculinity one should consider the strategies utilised to construct the meaning of what a masculine person is. According to Connell (in Whitehead & Barrett, 2001:31-32), there are four distinct strategies namely the essentialist strategy, positivist strategy, normative strategy and the semiotic strategy. The essentialist strategy focuses on the core characteristics of what constitutes a man such as risk-taking, responsibility, irresponsibility and aggression. It has its origin in the writings of Freud who “equated masculinity with activity that is contrast to feminine passivity” (Whitehead & Barrett, 2001:32). Positivists define masculinity as what men actually are, and measure this by applying masculinity/femininity scales. The items of this scale are designed to differentiate statistically between groups of men and women. Normative strategies define masculinity as what men ought to be. References to this are often found in the media, with the characters played by, for example, John Wayne and Clint Eastwood as the norm. The semiotic strategy defines masculinity as the symbolic differences between masculine and feminine and accordingly masculinity is described as non-femininity.

Various authors have defined the concept of masculinity. Masculinity is defined by Whitehead and Barrett (2001:15) as “those behaviours, languages and practices, existing in specific cultural and organisational locations, which are commonly associated with males and thus culturally defined as not feminine”. According to Beasley (2006:178) masculinity is contextualised against social, historical and cultural variables and is measured against that which is deemed non-masculine. Guttermann (in Whitehead & Barrett, 2001:61) is of the opinion that masculinity or the male identity is “achieved by the constant process of warding off threats to it. It is precariously achieved by the rejection of femininity and homosexuality”.

Operational definition: For the purpose of this study an operational definition of masculinity constitutes all the variables, whether socially, historically or culturally, that distinguishes a man from a woman and a heterosexual male from a homosexual male.

1.3. PROBLEM STATEMENT: MALE-ON-MALE SEXUAL VICTIMISATION IN CORRECTIONAL CENTRES

Hodge and Canter (1998:222) insist that male-on-male rape in correctional centres is one of the easiest crimes to get away with, and consequently the most under-addressed issue in society. In correctional facilities offenders are too afraid to refuse sex because of the overt threat of violence. The correctional code of silence also prohibits offenders from reporting any cases of sexual victimisation. This code means that offenders “do their own time”, implying that an offender should mind his own business when others are being attacked or exploited. Thus this code serves the interest of the “elite”, in this case the “men” of the centre, and if an inmate is not among the elite he is fair game for sexual and other types of coercion and violence (Johnson, 2002:132). To illustrate this, an offender describes his encounter with a perpetrator as follows: “He gave me an ultimatum: He said you’re going to let me fuck you, or my homeboys will stab you” (Human Rights Watch, 2001).

According to Scacco (1975:6), it is the duty of correctional authorities to inform society about what is happening in correctional centres (including rape), who the victims are and whose responsibility it is to address the issue of male-on-male rape. In South Africa, the Department of Correctional Services (DCS) fails in this duty in that it is unwilling to even acknowledge that coercive sex takes place inside their correctional centres (Gear, 2001). When authorities of the DCS do speak about male-on-male rape

they tend to underplay the problem. A statement by a social worker at Pollsmoor Correctional Centre regarding a case of repeated gang rape supports this. She said that “a guy was raped by 16 prisoners for two weeks. Eventually he ended up in hospital sick. He got sick from lack of sleep, I suppose” (Farren, 2000:33).

This lack of acknowledgement and understatement of the problem from correctional authorities may be because there is no coherent, national policy within the DCS to deal with sexual assault and rape in their correctional centres. The problems relating to sexual assault and rape that occur in correctional centres that will be addressed by the researcher include the dark figure surrounding male-on-male sexual victimisation, the extent of male-on-male sexual victimisation, the transmission of sexually transmitted infections (STI's), the human immunodeficiency syndrome (HIV) and the acquired immunodeficiency syndrome (AIDS), and finally the involvement of correctional officials in cases of male-on-male rape.

1.3.1. The extent and dark figure of male-on-male sexual assault and rape in correctional centres

Victims of sexual assault and rape in a correctional centre are not likely to report these incidents to the correctional authorities, thus leading to a dark figure concerning this specific crime. Even if victims want to report such incidents, there are currently no mechanisms for reporting available within the DCS (Oersen, 2001:29). The victims can report to Independent Prison Visitors (IPV's), but no mention was made of any incidents of sexual assault and rape in the Annual Report (2004 – 2005) of the Judicial Inspectorate of Prisons.

This underreporting could be coupled to the informal correctional code that can be set out as follows:

Even if a prisoner is not able to cope with prison life, he has to act as if he is; he should not snitch on a fellow prisoner, regardless of what is happening may it be an assault, rape or murder, he should not say anything and should not get involved; furthermore, he should avoid doing anything that will make other prisoners think he is gay, effeminate or weak (Sabo *et al.*, 2001:10).

Another reason for the underreporting of sexual assault and rape in correctional centres is the no-win situation it represents for the victim. Although the victim has four

options available to prevent the abuse, each has a negative consequence (Cotton & Groth, 1982:49-50):

- The victim may try to escape by going into protective segregation. This will however confine him to his cell, restrict activities, for example, attending school in the correctional centre and reducing privileges he may have in the correctional centre such as taking part in recreational programmes.
- The victim may defend himself by fighting back. The consequences of this action are twofold. Firstly, the victim may suffer severe physical injury and secondly, there is the risk of a disciplinary action against the victim for violating the institutional rules.
- The victim may submit to sexual assault, but for the remainder of his sentence he will have a reputation of being weak, making him vulnerable to further assault. This offender will be stigmatised as a “punk” and may be forced to “hook up” (provide sexual services) to one inmate in exchange for protection from other potential sexual aggressors.
- The victim may endure the sexual exploitation and rape in silence and secrecy. The consequence of this action is that the victim will not seek medical or psychological treatment and may therefore experience long-lasting after-effects.

Because of to the dark figure, it is difficult to determine the true extent of male-on-male sexual assault and rape in correctional centres. Information concerning the practice of coercive sexual activity in correctional centres is mainly collected by means of self-report surveys and interviews conducted with offenders.

An overview of research conducted in the USA on this phenomenon follows: Pioneer work on sexual coercion and aggression in male correctional facilities was conducted from 1966 to 1968 by Davis at a Philadelphia correctional facility. A total of 3 304 male offenders were interviewed during this time. Davis found that nearly 1 in 20 inmates (4,7%) experienced sexual assault over the period of twenty-six months. The main areas where the sexual assault occurred were identified by the research participants to be the housing units and the vehicle which transports inmates to and from court. Davis

postulated that these reported figures were only the “tip of the iceberg”, and he estimated that the number of sexual assaults in this particular facility was closer to 2 000. More than 60% of all inmates had therefore been sexually assaulted but never reported the assault to the authorities (Goyer, 2003:18; Hensley & Tewksbury, 2002:237; Knowles, 1999:268; Robertson, 2003:425).

The next significant research on coerced sexual activity in corrections was conducted by Lockwood from 1974 to 1975 on New York state prisoners. Lockwood conducted interviews with men who had been identified by correctional officials as possible targets of sexual assault. He also studied the inmates’ historical data. Of the 107 participants he interviewed, 28% reported that they had been the victims of sexual assault. Two years after Lockwood’s research separate studies were conducted by Carroll and Toch, which focused on the characteristics of both the victims and the perpetrators of sexual assault. Both researchers found that blacks were more likely to be the sexual aggressors and whites the targets of sexual victimisation (Hensley & Tewksbury, 2002:237 – 239).

Wooden and Parker (1982:5) conducted a research project during 1979 and 1980 in a medium security prison in California. Out of the 200 inmates interviewed, 1 in 7 (14%) reported that they had been sexually victimised. However, this should be interpreted with caution since this is a facility to which “known” homosexuals were sent because of the single cell accommodation, which reduces the risk of sexual assault. Since 1990 only four studies have been conducted namely by Hensley, Tewksbury and Castle; Saum *et al.*; Struckman-Johnson *et al.* as well as Struckman-Johnson and Struckman-Johnson, on coerced sexual activities in male correctional centres. The most recent study in 2002 by Hensley and his colleagues focused on the characteristics of both the victims and the perpetrators of prison sexual assault. Interviews were conducted with inmates in three Oklahoma male correctional facilities. Of the 174 inmates interviewed, 13.8% of the participants reported having been the victims of a sexual threat during their incarceration. Only two incidents of actual sexual victimisation were reported (Hensley & Tewksbury, 2002:237 – 240).

On the African continent large scale research was conducted by Jolofani and DeGabriele ([sa]:4 – 9) in three of the largest prisons in Malawi, namely Zomba Central Prison (ZCP), Chichiri Prison and Maula Prison. The research was conducted for Penal

Reform International, and focused on two general themes namely the transmission of HIV in prison and the care of prisoners with HIV/Aids. Since the information gathered from ZCP was the most fruitful, reference will only be made to findings from this particular prison. ZCP houses all long term inmates (longer than five years). The prison consists of five housing blocks, namely long term offenders (A and B block), first offenders, female offenders and juvenile offenders. Many of the respondents reported that homosexual activity was very common, and especially the juvenile offenders admitted to being the victims of sexual assault. The respondents indicated that 10% to 60% of prisoners participated in sex, and about one third of these have regular sexual partners. Overcrowding was indicated to be one of the main reasons for male-on-male sex in ZCP, with forty-three prisoners cramped into a communal cell designed to house 20 prisoners. Other reasons for same sex sexual activities included the lack of females working in the prison, and inmates who do not receive visits and are in need of commodities will exchange sex for a blanket, soap or food from other inmates. In Malawi homosexual activities are regarded as an “unnatural offence”, and are punishable with a prison sentence of fourteen years, which may contribute to sexual activities in prisons being underreported. Also in Malawi, as with the studies conducted in the USA, the prisoners who engage in sexual activities with other men regard themselves as heterosexual and will continue with heterosexual relationships after their release from prison.

It is difficult to ascertain the true extent of sexual assault and male-on-male rape in South African correctional centres. The DCS does not draw together statistics on reports or incidents of rape. Provincial departments and individual correctional centres also lack any statistical information on the sexual assault and rape of inmates (Farren, 2000:33). However, social workers at Westville Medium B Correctional Centre estimate that more than half of the offenders engage in anal sex, either voluntarily or because of threats and coercion (Goyer & Gow, 2000:15).

1.3.2. The transmission of STI's, HIV and Aids

Concerns about STI's and HIV/Aids in correctional centres are twofold: The risk of transmission and the spread thereof in society once the offender is released from the correctional centre.

Minnie, Prins and Van Niekerk (2002:51) stated that the first offender in South Africa was diagnosed with HIV/Aids in 1987, and he died soon afterward. Since then the number of people entering correctional centres and the number of people infected with HIV are increasing (Goyer & Gow, 2000:14). The DCS provides the following information in its Annual Report (2001/2002:77) regarding the number of known HIV/Aids cases in South African correctional centres as at 31 December of each year:

Table 1: The extent of HIV/Aids in South African correctional centres from December 1998 to December 2001
(Annual Report of the Department of Correctional Services for 2001/2002)

Year	Number of HIV/Aids cases
1998	1 865
1999	2 536
2000	3 397
2001	4 720

From this table it can be deduced that the number of HIV/Aids cases in South African correctional centres has more than doubled in four years.

Currently mandatory HIV/Aids testing is not conducted by the DCS on offenders upon admission into the correctional centre. Therefore the statistics given by the DCS as displayed in Table 1 cannot be a true reflection of the HIV/Aids infection rate inside correctional centres. One of the explanations for the reluctance to conduct HIV testing on offenders could be that if the results are positive the offender must, according to his basic human rights, have access to costly medicine. It is postulated that anti-retroviral (ARV's) drugs such as AZT, 3TC and Crixivan could reduce the risk of HIV by eighty percent. However the cost of these drugs were R1 300 per month in 2001 and the victim needs to take the drugs for at least three months (Francis, 1999:71). It would therefore have cost the government R3 900 per offender to pay for the anti-retroviral drugs for 3 months. According to the DCS 4 720 offenders were infected with HIV/Aids in 2001, that amounts to R18 million for that year only.

The previous Minister of Correctional Services, Ben Skosana, attributed the incidence of HIV/Aids in correctional centres to the following factors (Minnie *et al.*, 2002:52):

- Consensual sex;
- Male-on-male rape;
- The prevailing culture of violence in correctional centres (including sexual violence);
and
- Overcrowding of correctional centres.

Gear (2001) found that in Malawi, Nigeria and South Africa, sexual activity is the most common cause of HIV infection during incarceration. This may be due partly to the damage that is done to the epithelial lining (lining in the inside of the rectum) during anal penetration, making it easier for the semen of the host to enter the bloodstream of the victim. The mother of a seventeen-year-old awaiting-trial detainee at Johannesburg Correctional Centre, in Gauteng, is convinced that her son contracted HIV while he was incarcerated and as a result died due to complications caused by the disease. The family of Tebogo Mtonga heard evidence of him being locked up with adult offenders who repeatedly sodomised him. An x-ray showed Tebogo's anus severely bruised and torn (Prison rape killed my son, 2001:8). The presence of sores from existing STI's also makes the spread of HIV easier during sexual intercourse (Goyer & Gow, 2000:16).

One cannot discuss STI's and HIV/Aids in correctional centres without referring to the availability of condoms. The majority of national as well as international correctional facilities prohibit condom possession or distribution among offenders. Currently offenders have access to condoms only after they have seen a social worker or a doctor or nurse at the hospital section in the centre (Goyer, 2002; Lazarus, 2002:83). However, it is unlikely that an offender will take this route because of possible stigmatisation as either a rapist or a homosexual. It is put forward by Knowles (1999:268) that even if condoms were issued there are still two potential problems. Firstly, condoms are not designed for anal penetration and manufacturers state this on the packaging. Secondly, it is unlikely that the rapist will stop in the process of rape to put on a condom.

1.3.3. The involvement of correctional officials in sexual assault and rape

It is postulated by Scacco (1982:15) that a certain number of official involvement is present in the occurrence of sexual assault and rape in correctional centres. This involvement can either be direct by means of encouragement and active involvement, or indirect through tolerance or silence. Regarding the liability of correctional officials to prevent prison rape the USA Supreme Court, in the influential case of *Farmer v. Brennan*, established that for claims against correctional officials in prisoner rape litigation to be successful, an inmate must show that correctional officials knew that he was at risk to be raped and acted with *deliberate indifference* to that threat. The Supreme Court defined deliberate indifference by a correctional official as follows (Man & Cronan, 2001:132 – 133, 135):

(a member who) knows of and disregards an excessive risk to inmate health or safety; the official must both be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference.

Thus, deliberate indifference occurs if a correctional official acted or fail to act despite knowledge of risk or harm to an inmate's health or safety.

In the *Farmer v. Brennan* case the Supreme Court found the correctional official liable for the sexual assault and rape that Farmer suffered while incarcerated. Below follows a description of the physical features as well as the nature of his criminal act. Based on this the correctional official should have foreseen that he may be at risk of sexual assault (Man & Cronan, 2001:137).

Dee Farmer was a 21 year old transsexual who had breast implants, had taken female hormones, and had a youthful and feminine appearance when she was placed in the general male population at a high-security prison. Farmer also was a non-violent offender. The Supreme Court appropriately recognized that a jury could infer from those facts that prison officials must have known that Farmer was at risk.

The Supreme Court further stated that a correctional official need not know the precise risk to an inmate's health or safety, only that there is a risk. If an official is aware of a risk "it is irrelevant to liability that the officials could not guess beforehand precisely who would attack whom" (Man & Cronan, 2001:135). Thus if a correctional official is

informed that an inmate is planning to sexually violate another inmate, the official can be held accountable for not investigating and confirming the suspected assault.

After the *Farmer v. Brennan* case, courts in the USA have found that deliberate indifference can be inferred from, amongst others, the following circumstances (Man & Cronan, 2001:140 - 143):

- officials raping or sexually assaulting inmates;
- officials setting inmates up to be raped or sexually attacked by other inmates as a form of discipline;
- knowingly placing an inmate with a HIV positive inmate who has a history of engaging in prison rape;
- failure to consider the rape victim profile when placing an inmate in the general prison population;
- officials witnessing a rape and not doing anything to stop it;
- failure of correctional officials to patrol the correctional facility, especially at night; and
- allowing inmates to obstruct vision into their cells or their beds by hanging sheets.

Thus the *Farmer v. Brennan* case set the guidelines for determining the liability of correctional officials in the USA regarding the sexual assault and rape of inmates in their custody.

In South Africa, Grootvlei Correctional Centre in Bloemfontein was the focus of media attention involving corruption by correctional officials. This scandal paved the way for the establishment of the Jali Commission of Inquiry into corruption, maladministration, nepotism, intimidation and other improper conduct in the main Management Areas of the DCS. The Commission found evidence of the sale of young offenders for sex with

older offenders and that a sodomy ring involving juvenile offenders existed among correctional officials. One of the cases investigated at Grootvlei Correctional Centre was where a juvenile was sodomised repeatedly by a correctional official. The juvenile alleged that he was promised All Starr running shoes and food in return for sex. It was also brought to the attention of the Commission that a correctional official sold a juvenile for R25,00 to an older inmate and that the juvenile received R10,00 for participating in the sexual act with the inmate (Convict tells of sex for shoes in Grootvlei, 2002; Jali Commission of Inquiry, 2002).

Grootvlei Correctional Centre is not the only correctional facility where this type of direct involvement by correctional officials occurs. Louis Karp, who was awaiting trial in Pretoria Local Correctional Centre (PLCC) reported being repeatedly raped over a period of time. According to Karp he was sold by a correctional official to four members of the Big Five gang who used him as their sex slave. He was also forced to perform oral sex on the correctional official who sold him. However, Karp challenged the correctional system when he wrote a report depicting his ordeal and submitted it to the internal Social Services Department of the centre, the then Commissioner of the Department Correctional Services, Linda Mti and the previous Minister of Correctional Services, Ben Skosana. To date, Karp has not received a letter acknowledging his plight. A case docket was opened by Karp against the perpetrators at the Pretoria Central Police station (Taljaard, 2003:49).

In another incident a fifteen year-old awaiting trial detainee at Johannesburg Correctional Centre was sold by correctional officials to adult sentenced offenders. This happened regardless of the Correctional Services Act (Act 111 of 1998) that states that juveniles should be kept separate from adults and awaiting-trial detainees and from sentenced offenders to protect them from potential dangerous situations such as rape (Lehrer, 2001:24). It can be deduced from the above cases that the DCS neglected their basic duty of providing safe custody to all offenders in their care. In the view of the researcher the DCS should be held legally accountable for the above stated acts of sexual violence which occurred in their correctional centres.

This belief of the researcher that DCS should be held liable for the sexual violence that occurs in their centres is shared by Louis van der Merwe, a lawyer from Lawyers for Human Rights (LHR), who represented a juvenile offender who was sold for sex to an

adult offender by a correctional official for R50,00. Van der Merwe describes his experience with the SAPS and DCS as follows (De Vos, 2003:26):

I investigated the case (the rape of a juvenile) and found that no police docket has been opened in the case and I pursued the matter with the provincial commissioner of police. They gave me excuse after excuse and eventually claimed that they had conducted an internal enquiry and that there had been no rape, but only consensual sex between two prisoners. I disputed this vigorously and pointed out that in terms of the law a juvenile cannot consent to sex. They promised to look into the matter again but nothing came of it. In the end the adult prisoner was convicted for indecent assault but to this day the Department of Correctional Services claims that nothing untoward ever happened.

From the above discussion the researcher concludes that the victim of prison rape in South Africa can be seen as the “forgotten victim” of both the community and the State, including the SAPS, DCS and criminal justice system.

1.4. MOTIVATION FOR THE STUDY

The researcher’s interest in this topic emerged during a life-skills program she offered to awaiting-trial detainees. During a session one of the detainees pointed to another inmate who had been raped the previous week. The researcher noticed that he was withdrawn, did not take part in any activities and seemed nervous. There also seemed to be a “hopelessness” about him. The researcher approached him and asked him how he is coping in prison to which he replied that everything is fine and that he has no complaints. This led the researcher to ponder about the nature of sexual assault in a correctional facility and the consequences of such an incident on the victim. After an Internet search on prison rape and the subsequent reading of the articles, the researcher came to the conclusion that the “signs” displayed by the detainee were similar to that of the victims described in the articles. What stood out from the articles was the fact that the victims had nowhere to turn for help and no means of escaping the abusive situation.

In view of this the researcher decided to do a literature search of research conducted in South Africa on this phenomenon, and found that the first study was conducted in 1996. Subsequent studies published from 2000 – 2005 mainly focused on the risk factors in the prison culture surrounding HIV/Aids transmission. The only other research that specifically focused on coerced sex in corrections *per se* was published

by the Centre for the Study of Violence and Reconciliation (CSV) in 2003. A general lack of knowledge regarding the sexual assault and rape of male offenders and detainees and the impact of these acts on the victims exists.

1.5. AIMS OF THE STUDY

Based on the above problem statement the following aims are formulated for the study:

- To describe the nature of sexual activities in a male correctional centre.
- To investigate the extent of sexual assault and rape in a male correctional centre.
- To describe the perceptions of research participants regarding the sexual activities which occur in the correctional centre.
- To describe the participants' experience of personal sexual assault and rape in the correctional centre.
- To explore the involvement of gangs in male-on-male sexual assault and rape.

1.6. OVERVIEW OF THE STUDY

To give a clear demarcation of this study, the following structure will be followed: In Chapter 2 the existing research pertaining to male-on-male sexual assault and rape will be outlined. This includes a discussion of both the offender of sexual victimisation in a correctional centre and the victim of sexual assault. The researcher will also describe the victimisation process followed by an explanation on how a perpetrator selects and victimises a fellow inmate. Furthermore the causes of male-on-male rape will be addressed, with specific reference to the involvement of gangs, overcrowding, power and control, the sexual orientation of both the perpetrator and the victim and finally the involvement of correctional officials in the sexual assault and rape of inmates. In this chapter an overview of the causes of male-on-male rape in a correctional environment will be explored. Chapter 3 consists of the theoretical explanation of sexual assault and

rape in a male correctional centre. The theories encompass victimological and criminological theories. The research methodology is set out in Chapter 4. For this study the researcher used Creswell's dominant-less-dominant model in which both qualitative and quantitative research methods are utilised. The reason for the mixed methodology is that both qualitative and quantitative methods can be used to describe respondents' experience of sex and rape in the correctional centre. Chapter 5 focuses on the analysis and interpretation of both the qualitative and the quantitative data. Chapter 6 consists of the limitations of the study, the achievement of the study aims and recommendations. This chapter also includes the Offender Sexual Assault Protocol that was designed by the researcher. Recommendations with regard to prison rape are also made in this chapter.

1.7. CONCLUSION

In the preceding section relevant concepts were operationally defined, namely sexual assault, rape, sodomy and masculinity. For the definitions of sexual assault and rape the researcher referred mainly to the Criminal Law (Sexual Offences and Related Matters) Amendment Act (Act 32 of 2007). According to this Act males have been formally perceived to be the victims of rape since the commencement of this Act during December 2007. It is opined that male offenders and detainees should be made aware of the change in the legislation in order to empower them to lay formal charges against perpetrators. The concept of sodomy, although no longer a crime in South Africa, is also defined as it is a general term still used in correctional environments by both correctional officials and inmates. Since many male victims feel that they have lost their "manhood" after a sexual assault or rape it was deemed important to also define the concept "masculinity".

The social as well as institutional problems regarding male-on-male sexual assault in correctional centres were also addressed in this Chapter. It has been stated that male-on-male prisoner rape largely remains a secret since inmates are ashamed to talk about the abuse. The prison code of silence furthermore discourages them from formally complaining to the authorities. As a result the dark figure surrounding this crime is high and the true extent unknown. The transmission of STI's and HIV/Aids following rape was also addressed, and the importance of condoms in the prevention of STI's and HIV/Aids was questioned by the researcher. The reasons for this are twofold,

namely that a condom is not designed for anal penetration and it is unlikely that a rapist will put on a condom before he sexually assaults another inmate. An institutional concern is the direct or indirect involvement of correctional officials in the male rape of offenders and detainees. Examples of direct involvement by correctional officials in South African correctional centres include cases of juveniles being sold by correctional officials to adult inmates. These and other cases of corruption, intimidation and improper conduct were investigated by the Jali Commission of Inquiry.

The next Chapter consists of a discussion of the existing research on sexual assault and rape of male offenders and detainees.

2. OVERVIEW OF EXISTING RESEARCH

2.1. INTRODUCTION

According to LHR at least 65 percent of South African incarcerated offenders engage in same sex sexual activities. It is important to note that the concept of homosexuality will not be used in this study, since in most cases prison rape has no relationship with a person's sexual orientation. The prevalence of sexual assault and rape in correctional centres is especially high in the unsentenced population, where an estimated 80 percent of detainees will be subjected to abuse before being officially charged with a crime (Goyer, 2003:33). According to Helena du Toit, a social worker at PLCC, this high prevalence can be ascribed to the notion that no classification system exists for awaiting-trial detainees and a person that is charged with theft can for example be placed with a serial rapist (Inmates 'open to sex abuse', 2004:6). Placing a non-violent detainee with an aggressive inmate may increase the risk of physical as well as sexual assault.

Sexual abuse and rape in a correctional centre is often compared to rape in the broader community, where it is seen as an act of power and violence rather than a sexual act (Jones & Schmid 1989:53; Pantazis, 1999:371; Scacco, 1982:4). Researchers (Man & Cronan, 2001:129; Scarce, 1997:78) state that same-sex rape between heterosexual males in a correctional centre is an act of power, control, dominance, intimidation and terror. Men who are incarcerated are told by others when to eat, sleep and with whom to live with. Thus rape may become a tool for attaining power in a powerless situation. However, according to Pantazis (1999:371), sexual gratification is sometimes the primary goal during the sexual assault, especially if the victim is being "feminised" to validate the masculine identity of the rapist. The victim is often chosen on the grounds of him being less masculine in appearance and in his behaviour. Another explanation offered for rape in a correctional centre is that if a male offender engages in consensual sex with another man, his masculinity and manhood may be questioned. However, his heterosexual identity stays intact when he uses force (rape) while having sex with another man (Jones & Schmid, 1989:53; O'Donnell, 2004:243; Sivakumaran, 2005:1300). In this regard Davis (in O'Donnell, 2004:243) states the following:

The typical sexual aggressor does not consider himself to be a homosexual or even to have engaged in homosexual acts. This seems to be based upon his startlingly primitive view of sexual relationships, one that defines as male whichever partner is aggressive and as homosexual whichever partner is passive.

The sexual abuse of an offender often starts before he enters a correctional facility. In the court holding cells, first time non-violent offenders are often targeted by offenders who has already spent some time in a prison and who are accustomed to life in a correctional facility. In some cases, an unsuspecting first time offender may be forced to smuggle drugs into the correctional centre in his rectum (known as a koeël [bullet] in South African prison slang) (Aupiais 2002).

Below is a description of how an awaiting-trial detainee was first raped in the court holding cells by two prison gang members and thereafter had a koeël (drugs) forcefully inserted into his rectum to smuggle into Pollsmoor Correctional Centre.

...I didn't notice that the one standing behind me had pulled down his pants. Before I knew what was happening the one behind me forced himself into me. I was screaming out in pain, nobody took any notice. The other prisoners were told to look away or the same will happen to them. ...I was crying and pleading with them to stop. He raped for about two minutes. When he was finished I would feel wetness running down my legs. It was blood mixed with excrement and semen. The one standing in front passed him the koeël of dagga. He violently forced it inside me. The pain almost made me faint. I was told to put on my pants ... Nobody came to my aid while this ordeal was going on. I felt humiliated, dirty and sick (Parliamentary Monitoring Group, 1996).

Upon admission into the correctional centre the new inmate may be subjected to one of various forms of non-consensual sexual victimisation, such as sexual harassment, sexual extortion and/or sexual assault. Sexual harassment comprises of a new offender being treated as a sexual object and often subjected to verbal abuse. Sexual extortion occurs when an offender must repay his debt (money, cigarettes etc.) to another inmate by means of sex, due to a lack of resources. The ultimate form of sexual abuse is sexual assault when the victim is threatened with injury if he does not succumb to the sexual advances of another inmate (Cotton & Groth, 1982:49). It is during this phase that the victim is most vulnerable to being raped.

The sexual assault in a correctional centre depends on the opportunities available to the perpetrator, which include the presence of correctional officials and other inmates who act as “watchdogs”. When the opportunity arises, such as during poor supervision due to lack of manpower, anal sex will usually be the preferred sexual activity. In a letter to Human Rights Watch (2001), a prisoner revealed that forced sex usually involves “bodily forced rape” where one or more prisoners will sexually assault a victim either anally or orally or both. It is during this type of sexual assault that the victim suffers physical injuries. However, if correctional officials are constantly supervising a section, the victim will be forced to perform oral sex on the perpetrator, since this does not involve the removal of clothing, and therefore no suspicious behaviour is suspected by the correctional officials (Scacco, 1982:11).

According to Gear (2001), there is a need for better understanding of sexual victimisation inside correctional centres for the following reasons: The transmission of STI’s and HIV/Aids, the consequences of sexual victimisation on the male identity of the victim and the problems it holds for the rehabilitation and re-integration of offenders.

This chapter deals with the offender and the victim of rape, the causes of rape in a correctional centre, the consequences of male rape and strategies aimed at reducing sexual assault and rape.

2.2. THE OFFENDER AND THE VICTIM OF MALE-ON-MALE RAPE

In corrections there is a distinction between “men” (rapists) and victims. This is evident in the labels given to the “men”, namely stud, wolves or jockers, whereas victims are referred to as whores, turn-outs, kids, punks and in South Africa “wyfies”. The “men” take the masculine role in the sexual victimisation and are the violent aggressors in a rape. The “man” will always be the “inserter”, meaning that he will penetrate the victim anally or the victim will perform oral sex on him. Many researchers refer to this as situational homosexuality (Castle, Hensley & Tewksbury, 2002:17; Koscheski, Hensley, Wright & Tewksbury, 2002:112; Wooden & Parker, 1982:37). In contrast to this, the

victim is regarded as the passive partner or the insertee. In the majority of cases the victim is not a homosexual but has been “turned out” by another man (Castle *et al.*, 2002:17; Scacco, 1982:9).

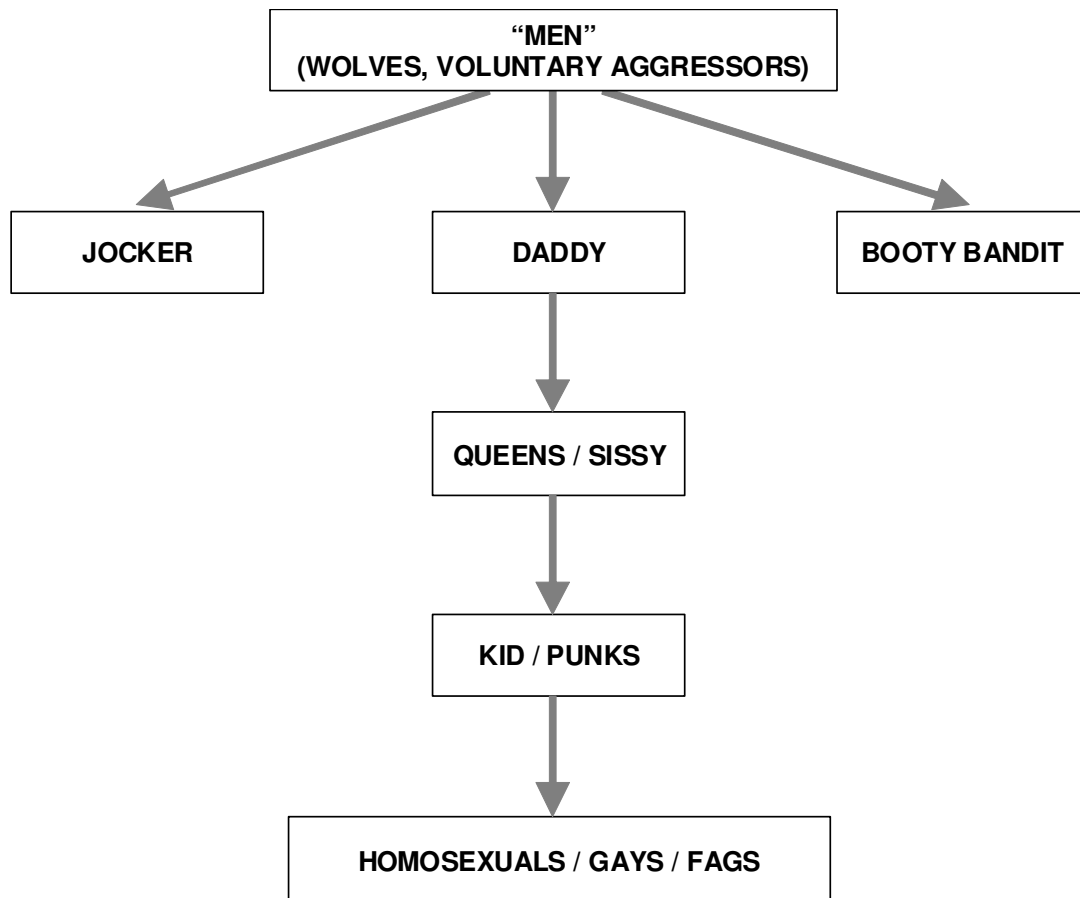
The offender may force the victim to participate in masturbation, oral sex and anal sex. Scacco (1975:36) postulates that the most conventional way to release sexual tension is through masturbation. There are two ways masturbation is practiced in USA correctional facilities, namely “hand shake” and “leggings”. A “hand shake” involves the men relieving each other simultaneously with their hands, while “leggings” involve a man putting his penis between the legs of another man, usually in the standing position (Scacco, 1975:37). In South African correctional centres “leggings” or inter-femoral sex is known as “thigh sex”, “the new road”, “eating the leg” and “dried fruits” (Gear & Ngubeni, 2002:61). Oral sex is also performed regularly within the confines of a correctional facility. Scacco (1975:40) found that the man who performs oral sex is usually also the victim of verbal abuse and even physical threats. This may be due to the aggressor aiming to maintain his male identity in the presence of others. The victims may also be anally penetrated. In South African correctional centres this is known as “do it in the eye”, “the old road” and doing a “boiler” or putting it “inside the boiler” (Gear & Ngubeni, 2002:66).

The majority of adult South African offenders hold the view that inter-femoral sex happens more frequently in prison, when compared to juveniles who state that anal sex is more popular in prison. The juveniles explained their viewpoint by stating that the rectum of a man in prison can be compared to the vagina of the female, orgasm is reached faster and that after inter-femoral sex many inmates progress to anal sex (Gear & Ngubeni, 2002:61). The type of sex also depends on the preference of a particular gang, and it is suggested that anal sex is preferred by the 28’s gang, while members of the Big 5 gang are only allowed to engage in inter-femoral sex (Gear & Ngubeni, 2002:62).

2.2.1. Argot roles in corrections pertaining to offenders and victims of male-on-male rape

Dumond (in Donaldson, 2001:118) postulates that “prison slang defines sexual habits and inmate status simultaneously”. Below is an illustration of the argot roles and classification system as it pertains to prisons in the USA. It can be generalised to correctional facilities worldwide, since the sexual assault and rape of inmates are universal problems. Each country will however have its own prison slang referring to offender, victims and the “turn out” process.

FIGURE 1: SEXUAL CLASSIFICATION SYSTEM IN A CORRECTIONAL ENVIRONMENT (OWN ILLUSTRATION)



At the top of any prison hierarchy are the so-called “men” because they have successfully avoided being sexually assaulted. Whenever a man is anally penetrated or

is forced to perform any sexual act against his will, he has “lost his manhood”. A “man” who is sexually active is known as a “jocker”. These offenders engage in sexual acts with heterosexual and homosexual men, but do not regard themselves as homosexual as they assume the masculine role during the sexual act. If a “jocker” pairs off with only one partner he is known as a “Daddy”, and if a man uses coercion he is known as a “booty bandit” (Donaldson, 2001:118; Knowles 1999:271). Following the “men” category is the category known as “queens” or “sissy’s”. This category usually consists of homosexual or transsexual males who take on the feminine role and will always be the submissive partner. Feminine terminology is used when describing these men, for example they have “pussies” not “assholes” and they wear “blouses” not shirts (Donaldson, 2001:119; Knowles, 1999:271). The general prison population is aware that these men will readily provide sexual favours in exchange for some type of payment (e.g. cigarettes, money, food). Although this category of men constitutes the smallest group their willingness to have sex causes problems in the prison as they are in demand by many “men” (Stojkovic & Lovell, 1997:346). Because of this, some correctional institutions segregate “queens” from the general prison population and they are placed in special units often referred to as “queens’ tanks” (Donaldson, 2001:119). The “kids” or “punks” are the next category in the classification system. These are the men who “have been forced into a sexually submissive role” (Donaldson, 2001:119). “Punks” do not display feminine characteristics, but are chosen because they are young, inexperienced, first time offenders and are physically smaller than their attackers. These men often engage in prison sex either for protection or for receiving goods and services – known as “canteen punks” (Castle *et al.*, 2002:16). This category of victims is nothing less than slaves, who can be sold, traded, rented or loaned to other prisoners (Donaldson, 2001:119). Lastly there are the offenders who are known as “homosexuals” or “gays”. They will take on both the passive and active sexual roles and display very little or no effeminate behaviour (Knowles, 1999:271).

Castle *et al.* (2002:17-18) compiled a similar classification system. According to them there are four dominant argot roles, namely “fags”, “fuck-boys”, “straights” and “turnouts”. The former two types are known homosexuals in prison, but the “fags” are the effeminate homosexuals who can be identified by their dress, hair, speech and walk. On the other hand “fuck-boys” are not identified by these characteristics. The latter two regard themselves as heterosexual and are viewed by other prisoners as

heterosexual. Some “straights” develop consensual sexual relationships with other men, while “turnouts” may seduce men in return for commodities.

2.2.2. The offender in male-on-male rape

As already indicated, when a man takes on the dominant sexual role in a correctional centre, he is still viewed as heterosexual, although he is engaging in homosexual behaviour. By raping fellow inmates these men show that they have power (physical and sexual) over women and men alike. To support this, a prisoner stated that “a man who fuck a male is a double male” (Bowker, 1980:11; Scacco, 1975:86). Once released from a correctional centre, these men will continue with normal heterosexual relationships. They can therefore be seen as situational homosexuals within the prison environment. According to Eigenberg (2000:437), situational homosexuality refers to heterosexual men having sex with other men because of the situational nature of the sexual deprivation.

Offenders of male-on-male rape share the following characteristics:

- They tend to be older than their victims, but younger than the general prison population. They are usually younger than thirty-five years.
- Men who rape other inmates tend to work in the kitchen since they use food (or the lack thereof) in exchange for sex.
- They are usually larger and stronger than their victims and seem to be well adjusted to the prison environment.
- Offenders tend to be gang members, are convicted of violent offences and have a criminal record. They serve a longer than average sentence (5 to 10 years) and has served at least six months of the current sentence.

- These offenders consider themselves to be heterosexual and have engaged in heterosexual relationships prior to and after their release (Chonco 1989:74; Gear 2001; Goyer 2003:19; Kunselman, Tewksbury, Dumond & Dumond, 2002:42; Human Rights Watch, 2001).

According to Chonco (1989:74) offenders may exhibit the following behaviour:

- They tend to be too nice and over-friendly towards potential victims.
- They give goods such as cigarettes, money and sweets to potential victims.
- They do favours for other inmates, such as protecting them and lending them television sets and radios.
- They tend to touch other inmates' private parts, put an arm around their shoulders or make sexual remarks.

2.2.3. The victim of male-on-male rape

A myth exists among offenders that there are two ways of dealing with inmates' sexual or physical aggression. One can either retreat from the potentially violent situation and go into protective custody (flight response), or attack the aggressor (fight response). Vulnerable men are advised by fellow inmates and correctional officials to counter aggression with aggression. However, for some men this response is outside of their usual way of solving problems (i.e. by means of communication). Furthermore, since violence is not permitted in a correctional facility, the victim may cause more problems for himself and is likely to be punished for attempting to protect himself (Toch, 1992:207-211).

The characteristics of a potential victim of male-on-male rape include the following (Chonco, 1989:73; Gear & Ngubeni, 2002:28; Human Rights Watch, 2001; Man & Cronan, 2001:166):

- Young and youthful-looking men are at particular risk for rape, and are usually younger than the perpetrator. As one prisoner explained to Human Rights Watch (2001):

Mostly young youthful Boy's are raped because of their youth and tenderness, and smooth skin that in the mind of the one doing the raping he think of the smooth skin and picture a woman ... prisoners even fight each other over a youth without the young man knowing anything about it to see whom will have the Boy first as his property.

This is one of the reasons why the Correctional Services Act (Act 111 of 1998) stipulates that juveniles are to be separated from older offenders. In addition the South African Constitution (Act 108 of 1996) stipulates that those under the age of 18 years must be detained separately from adults. It is also stated in the White Paper on Corrections in South Africa (2005:81) that the vulnerability of children and youth to pressure, force and abuse from older offenders must be addressed in the training of all correctional officials.

- Vulnerable inmates are also those who are first time offenders or repeat offenders who are imprisoned for the first time. These inmates are unaccustomed to the prison subculture and therefore vulnerable to intimidation and domination by more experienced long term inmates.
- Mentally ill or retarded offenders are also at particular risk to become victims of rape.
- Homosexual inmates with stereotypical feminine characteristics.

- Those who have been convicted of a sexual offence, especially against a minor, are likely to become victims of rape. The following explanation is given for this: “You need to be raped too ‘cos you raped our sisters outside”. A prisoner convicted of sexually abusing a minor describes his violent attack by fellow prisoners to Human Rights Watch (2001) as follows: “They beat me with mop handles and broom sticks. They shoved a mop handle up my ass and left me like that.” These prisoners therefore attempt to hide the crime they have committed from their fellow inmates.

- Those that seem “very needy” are also likely to become victims.

They are usually recently detained, either juveniles or young adults, who have no blankets, soap, plates or food. They have no relatives from the outside to help them and care for them, they are in physical need and confused by their recent detention and they turn to somebody to care for them. The ones they usually turn to are those who have outside supplies. The relationship between them was described as similar to that between a poor prostitute and a rich client (Goyer, 2003:19).

- Criminal status can also determine whether a man will become a victim of rape. According to Gear and Ngubeni (2002:28), offenders indicated that those inmates whose crimes involved violence and weapons are perceived to be brave. However if a man was convicted of theft, a crime where no weapon was used, or indecent assault and/or rape, he is perceived to be a “women” and is a likely target for rape.
- Victims of rape tend to be weaker and smaller than the perpetrators. Not only physical size and strength, but also attitude can contribute. Inmates who are perceived to be timid, fearful, “passive” and non-aggressive are also likely to be targeted.

Some men manage to escape sexual assault and rape by exhibiting the following behaviour (Chonco, 1989:75; Kunselman *et al.*, 2002:39-40):



- Minding their own business and not involving themselves in the functioning of the prison.
- Not associating with many inmates.
- Not accepting any “gifts” from other inmates.
- Being a fighter and gaining the respect of other inmates through tough talk, physical aggression and displaying violence.
- Attempts to sexually victimise another prisoner.

Van Huyssteen (in Gear 2001) is of the opinion that male victims of rape in a correctional centre are subjected to secondary victimisation in the following ways:

- Some correctional officials insist that what happens to awaiting-trial detainees during their term of imprisonment is not their responsibility, since the detainees are under the control of the SAPS.
- The lack of SAPS members to follow up on reported cases of indecent assault.
- The view by DCS that rape in correctional centres does not take place, since acknowledging this will be an embarrassment to the Department.
- The viewpoint that a real man cannot be raped.
- Correctional officials become “desensitised” to the sexual violence and in effect turn a blind eye.

- Lack of acknowledgment by the broader society regarding the victimisation that takes place in correctional facilities.

2.2.4. The victimisation process

Fisher (in Toch, 1992:188) defines victimisation in a correctional environment as a predatory practice whereby inmates of superior strength and knowledge lure prey on weaker and less knowledgeable inmates". According to Chonco (1989:75), the sexual victimisation process in corrections consists of various phases and in each phase there is a key role player. The phases are: Observation, selection, testing, approaching and actual victimisation. Key role players are known as observers, contacts, turners and pointmen.

In the **observation phase**, observers are paid by other prisoners to observe a new inmate and to collect information on the potential victim. The information usually includes the victim's criminal history, the name of a previous correctional institution in cases where the potential victim has a previous conviction, names of friends he may have inside the prison and the type of crime he is currently imprisoned for. Observers tend to single out first time offenders as well as repeat offenders who are imprisoned for the first time (Chonco, 1989:75).

During the **selection phase**, a potential victim is selected on account of his weakness (naive, friendly, shows fear). The contacts and turners play an important role during this phase. They tend to listen in on conversations between the potential victim and other inmates to provide information to the offender regarding the victim's likes, dislikes and habits, as well as the type of work he does in the correctional facility. Usually these men are not aware that they are being observed and in effect being "turned into victims". The turner is the inmate who attempts to establish a bond between himself and the potential victim, and often does favours for the target. This will ensure that the potential victim will have to do something back for him and usually includes a sexual favour (Chonco 1989:75-76). For example, in Pollsmoor Correctional Centre, a severely overcrowded centre, there are sometimes not enough blankets for all the inmates during the winter. The turner might suggest to the new inmate that they could

share a blanket. If the sharing of the blanket is accepted it is considered to be an agreement to sex. Usually new inmates are unaware of this “unwritten” agreement (Harvey, 2002:47).

In the **testing phase**, the information gathered during the first phase is used to evaluate and assess the potential victim. A method that is frequently used during testing is to leave cigarettes, money, toothpaste or any other commodity on the potential victim’s bed and observe whether he will take or use any of the goods. If the target refrains from taking or using the goods, a more direct approach of giving him the goods is used. During this phase he is also tested to see how far he can be pushed before breaking down. This phase is decisive in determining whether the potential victim will use the “fight” or “flight” response. If he refuses to be manipulated and puts up a physical fight he may be accepted as a “man”, if he does not fight he becomes a victim (Chonco, 1989:76).

The **approach** is the fourth phase. The potential victim is expected by the perpetrator to contravene certain rules of the correctional facility, such as distributing drugs. In the fifth phase the potential victim becomes the **actual victim** of sexual assault. During this phase the pointmen will stand guard while the initial perpetrator is sexually assaulting the victim. The pointmen will warn the perpetrator if a correctional official is approaching. In some instances pointmen may also engage in sex with the victim once the perpetrator has finished. Pointmen will also determine whether the victim is sexually assaulted by other inmates. As one prisoner puts it: “An inmate who has a record of being fucked by other guys is in trouble in prison because the word goes around and before the guy knows what is happening his manhood is taken without consent” (Chonco, 1989:77). The sexual victimisation takes place in what is called “trouble spots” such as the bathroom, shower or cell. It is believed that the sexual victimisation takes place within 16 weeks after the target has entered the prison (Chonco, 1989:76-77; Scacco, 1975:26; Stojkovic & Lovell, 1997:353). It is suggested by Chonco (1989:77) that once the target has been selected, tested, approached and victimised it will be difficult to avoid future sexual assaults.

2.2.5. The relationship between the offender and the victim

Once a man has been sexually victimised, one of various relationships may develop between him and the perpetrator. These relationships can manifest in one of the following ways:

The first type of relationship is described by Gear and Ngubeni (2002:11-12) as a “marriage”. Within such a “marriage” one is either a “husband” or a “wife”. Other terms used by South African offenders to refer to a “husband” are “big man” or “boss”. A “wife” (“wyfie”/“wyfietjie”) is also known as a “small boy”, “young man”, “madam”, “girlfriend” or “concubine”. The “husbands” are the men and they are superior to their “wives”. Central to this “marriage” is that the man must provide financially for his “wife”, and he can have many “wives” as long as he is able to support all of them. The “husband” must therefore provide luxuries such as cigarettes, food, dagga and other goods. Because he is “paying” for services he is allowed to move around while the “wives” activities are usually restricted, and they tend to stay in the cell. The “wives” must do the domestic chores such as cleaning the cell and washing the clothes of their “husbands”. The main function of a “wife” is however to fulfil the man’s sexual needs. The “husband” **always** penetrates the “wife” or requests that oral sex be performed on him.

“Uchincha ipondo” is another type of sexual relationship that may develop in a correctional centre and simply means to “change or exchange a pound” (Gear & Ngubeni, 2002:52). In this type of relationship sex is exchanged for sex and not for goods or protection, since the exchanging of goods or protection constitutes a “marriage”. There are no clear roles in this relationship and neither partner is considered superior (male) or inferior (female). Partners will take turns to penetrate and be penetrated. This practice tend to be associated with juvenile offenders since it is often they who are other inmate’s “wives” and would also like to fulfill their sexual needs by sometimes penetrating. Many inmates are also experimenting with sex for the first time. These sexual relationships are usually not accepted by the gangs and can be punished by them. Individuals who engage in “uchincha ipondo” tend to keep their activities secret. A common form of punishment when caught doing “uchincha ipondo” is physical assault. Gear and Ngubeni (2002:53) postulate that the guilty parties may

even be forced to have sex with the person that caught them. In the Big 5 gang, guilty parties may be subjected to “funky mama”. This implies that the victims are gang raped as punishment. According to one offender a “wife” may ask his “husband” whether he can engage in “uchincha ipondo” with another offender. The “husband” who agrees to this will require that it takes place in his absence or that both parties provide sex on demand to him (Gear & Ngubeni, 2002:53). The practice of “uchincha ipondo” is regarded as a homosexual relationship whereas a “marriage” is a heterosexual relationship because there are clear gender roles as the “women” are “created” and are convinced or forced to act accordingly (Gear & Ngubeni, 2002:55).

Some men enter a relationship for protection in order to avoid continual sexual victimisation. In order to escape being abused by many men, the victim chooses to “pair off” with one partner who can protect him against abuse from others. Since these prisoners are “voluntarily” exchanging sex for protection, many correctional officials fail to see the hidden coercion that lies within this relationship (Harvey, 2002:47).

According to Gear (2001), men also engage in a short-term sexual relationship similar to the relationship between a prostitute and a client. The inmate who works as a prostitute is stigmatised less than a man who is raped because he sells his body in exchange for commodities instead of being forced into sexual acts with another man. This willingness may be questioned in that some prostitutes are actually rape victims, but after the forced victimisation negotiate commodities in exchange for their bodies. This is commonly known as “survival sex” (Eigenberg, 2000:437).

Some offenders who are unable to escape rape may become the property of other men. These men are the slaves of the perpetrators, and may be “rented out” for sex, sold or auctioned off to other inmates, representing the financial benefits of traditional slavery. The prisoner(s) who “own” these men tell them what to wear, how to dress and whom to talk to (Human Rights Watch, 2001).

Regardless of the nature of a sexual relationship one man will always be sexually exploited in exchange for protection, money, cigarettes and even friendship. Some sexual relationships in correctional centres even seem to be consensual in nature. The

question that arises from this is: How consensual is a relationship when one has sex in order to survive in a correctional facility?

2.3. THE CAUSES OF MALE-ON-MALE RAPE

Koschescki *et al.* (2002:113-114) offer six reasons why heterosexual men will engage in situational homosexuality:

- Male correctional facilities are mainly unisex communities, with male correctional officials, male psychologists, male educators and male administrators. Therefore due to a lack of contact with females, men strive towards sexual gratification with other male inmates. Although this statement may have been true some years ago, there are currently many females working as correctional officials, psychologists, social workers and educators in correctional settings.
- Correctional officials tend to tolerate and turn a blind eye towards sexual behaviour between men since it contributes towards a non-violent and riot-free correctional centre. When inmates with power get what they want (“wyfies”), they will not cause problems.
- Limited work opportunities inside a correctional centre may lead to sexual behaviour between men. If inmates are kept busy there will be less time to engage in sex. It is estimated that about 90 percent of the prison population are idle during their term of imprisonment.
- Overcrowding may also cause prison homosexuality, as offenders are forced to share a shower, toilet and sometimes even a bed. It is also impossible for correctional officials to control inmate behaviour in these conditions effectively.
- Lack of a classification system forces young, first time non-violent offenders to be locked up with hardened violent criminals.

- The last factor is the complete detachment from the outside world.

In this section the following causes of male-on-male rape will be discussed: Prison gangs, overcrowding and sexual orientation.

2.3.1. Prison gangs

Gangs have been an integral part of South African corrections for over a hundred years (Dissel, 2002:10). According to Lotter and Schurink (in Minnie *et al.*, 2002:53), there are two main categories of gangs operating in South African correctional centres. The first category is the Number gangs namely the 26 gang, 27 gang and 28 gang. The second category is known as the Fourth Camp and includes the Big 5 gang, Airforce gang, Fast Elevens and the Desperadoes. Each gang has its own vision, mission and aims and members are identified by distinct tattoos. Gangs have their own set of rules and a member will often be violently punished for contravening these rules.

It is postulated (Dissel, 2002:10; Draft White Paper on Corrections in South Africa, 2003:77; Minnie *et al.*, 2002:52) that gangs are in charge of prison life, and are responsible for smuggling, assaults, murder, distribution of food, escapes, intimidation, encouraging corruption amongst officials and forced sexual activity. In support of this a prisoner insisted that “people who are not gangsters are not allowed to practice homosexuality in prison” (Gear & Ngubeni, 2002:39). It has also been documented that gang members are often responsible for transmitting the HIV/Aids virus. An ex-offender who served a sentence for car theft claimed that he was given a “HIV puncture”, meaning that he had been raped by gang members who know they are HIV positive, because he did not want to join a prison gang during his incarceration (Peete, 2004:3). Gangs do however also fulfil a positive function in corrections as they satisfy the physical, psychological and social needs of offenders, such as comradeship, status and protection (Minnie *et al.*, 2002:52). A discussion of the four major gangs operating in South African correctional centres follows.

2.3.1.1. The 28 gang

The 28 gang is the most powerful prison gang and their main aim is to recruit “wyfies” and to encourage sodomy amongst its members (Gear, 2001; Gear & Ngubeni, 2002:13; Minnie *et al.*, 2002:54).

In order to understand the practice of sexual activities amongst gang members, an exposition of the rank strategy is given and the role each member plays within this gang. According to Hlongwane (1994:171) the rank strategy of the 28 gang has two divisions, namely the private division and the blood division. The private division consists of the following gang members (Hlongwane, 1994:171-172):

- The boy-wives (“wyfies”) of the 28’s members.
- Magistrate: Presides over minor offences committed by gang members.
- Secretary: Whenever meetings are held the secretary must take the minutes.
- Inspector (investigator): Investigates all matters that relate to the gang and investigates the new inmates who want to join the gang.
- Landdros: Is responsible for the medical care of all members.
- Doctor: The function of this member is twofold: Firstly he is responsible for all the patients who have sustained injuries during gang related fights, and secondly he must examine all inmates who want to join the 28 gang. Furthermore, the doctor examines all weapons to be used by its members and the length of the knife blade determines the seriousness of the offence to be carried out.

- Government: Takes care of the statute book and gives the commands to the members.
- *Nonzala* (instructor): Exercises discipline over soldiers and “wyfies”.

Included in the “blood division” are the following members (Haysom, 1981; Hlongwane, 1994:173-174):

- Soldiers: They are at the bottom of this division and have to protect the gang members by means of assaults on other inmates.
- Sergeant two: If a prisoner wants to join this gang he must approach Sergeant two who will take him to the Inspector.
- Sergeant one: He is in charge of the new soldiers and has to make sure that they do not leave once they have joined the gang.
- Captain two: Chairs the meetings whenever they take place.
- Captain one: Handles minor cases and is the commander of the soldiers, Sergeants one and two as well as Captain two.
- Jim Crow (Germiston-Lieutenant): He is the middle-man and is an expert on the gang codes. This gang member is also responsible for assigning “wives” to gang members.
- Captain who works with a radio: Collects all information from other inmates about the 28 gang, sees to it that members are punished and when there is a complaint about food he will convey the message to the correctional official.

- Colonel: Writes the statutes of the 28 gang and defends members of the gang who are accused of an offence.
- General (Blacksmith): Makes the weapons for the members, is aggressive and called upon an “up” (fight) with other gangs.
- Judge: If a gang member is guilty of an offence that requires the death sentence, he will make sure that it is carried out. A death sentence usually entails being stabbed to death by fellow members.
- Lord: The most senior member of the 28 gang.

The objectives of the 28 gang are as follows (Hlongwane, 1994:176):

- Acquiring “wives”;
- Lodging complaints about the quality of the food; and
- Correcting the wrongs perpetrated by the correctional officials.

Internal conflict arises when the “wives” of senior gang member have sex with junior gang members. It is believed that sex between these two men is “dirty and must be washed”. This entails that the junior member provides the “wife” with soap and a cloth and he must wash himself for eight days before he may have sex with the senior member again (Hlongwane, 1994:178).

According to the code of the 28 gang no sexual relations are allowed with junior members of the Big 5 gang and the Airforce gang. Sexual relations were previously allowed between 28 gang members and Big 5 gang members, but it was soon realised that the Big 5 gang members revealed the secrets of the 28 gang to correctional



officials and fellow gang members. A 28 gang member is allowed to have sex with a junior member of the 26 gang, in exchange for 26 packets of B.B. tobacco. However no attempt may be made by the 28 gang member during or after the sexual intercourse to recruit the junior 26 gang member. The junior 26 gang member can be bought back for eight packets of B.B. tobacco. Members of the 28 gang are allowed to have sex with an inmate that does not belong to any gang (Hlongwane, 1994:181).

A “wife” of a 28 gang member who no longer wants to engage in sex must make this desire known to the members. If his reasons are not valid he will be forced to continue being a “wife”, but if he has valid reasons he will be promoted to a soldier (Hlongwane, 1994:182).

An offender incarcerated at Pollsmoor Correctional Centre described the night he was raped by members of the 28 gang as follows (Oersen, 2001:28):

... the second time I drove through the gates of Pollsmoor was in August 1999. I was 19, and had been sentenced for assault ... I was initiated as an *indoda* (gangster) - I became a member of the 28's ... they took me into a room and asked me to sit down so the officials wouldn't see me. I was taught all the rules and regulations, and was given a new name. I thought I'd be protected, I was wrong. Two days later I was summoned by Tony who asked me to become his 'son'. He explained to me that it was quite a privilege, because he could protect me. I knew what he meant, I would have to sleep with him for that privilege ... First he pulled my pants down and had sex with me through my thighs. Then he wanted to have anal sex ... Tony made me lie on my stomach and used Vaseline to lubricate me ... When he entered me, I screamed ... sore, torn and bleeding, I went to the shower and cleaned myself with cold water ... He raped me regularly for the next eight months.

2.3.1.2. The 26 gang

The second most powerful Numbers gang is the 26 gang. Members of this gang are also known as boys from the east because they operate early in the morning. The main objective of this gang is assault (“taking blood”) by stabbing a rival gang member and non-gang members with knives or other sharpened instruments. They may not “take blood” after the sunset, except in self-defence (Haysom, 1981; Hlongwane, 1994:149,

152). Although the code of the 26 gang forbids members to have sex with “wyfies” or to recruit “wyfies” into the gang, some members do have sex with younger gang members, known as “school boys” or with inmates who are non-gang members, known as “mphatha”. When a 26 gang member is caught having sexual relations he will be punished for contravening the gang code (Hlongwane, 1994:163).

2.3.1.3. The Big 5 gang

One of the Fourth Camp gangs is the Big 5 gang, who collaborates with correctional officials in order to maximise privileges (Haysom, 1981; Hlongwane, 1994:192).

The Big 5 gang has the following prohibitions regarding same-sex practices (Hlongwane, 1994:191):

- The “wife” of a Big 5 gang member should not associate with rival gang members.
- A Big 5 gang member is not allowed to force another inmate to become his “wife”.
- A “wife” of a Big 5 gang member may, with the permission of the gang, engage in sexual relations with a non-gang member.
- Only Big 5 members high up in the hierarchy are allowed to have “wives”.

The members who are allowed to have “wives” may only sleep with them on a Saturday, which is called “canteen day”. From Sunday to Friday the “wives” sleep in a communal cell. Whenever it comes to the attention of the gang that a “wife” has had sexual relations with a member from a rival gang he must be punished. The punishment usually entails the “wife” being hit 25 times or given five liters of water to drink. A “wife” who wishes to no longer have sexual relations with a Big 5 member can

be promoted to the defence category and can become a soldier (Hlongwane, 1994:198-199).

2.3.1.4. The Airforce gang

The Airforce gang specialises in escapes from a correctional centre. The reasons for the escape may be due to internal factors such as frustration with their current situation and dissatisfaction with conditions inside the correctional centre, but also external factors including marital problems and concerns about the family (Hlongwane, 1994:125).

Sexual relationships with “wyfies” are prohibited by Airforce gang members (Hlongwane, 1994:143). However, an offender indicated that this is only a means of encouraging new inmates to join this gang. Once a member of the gang, he is made into a “wife” for sexual exploitation by other gang members (Gear & Ngubeni, 2002:34-35).

From the above discussion it is clear that prison gangs still form an integral part of prison life and play a major part in the coerced sexual activities that take place inside South African correctional centres. This is however not the only contributing factor. Another concern is the overcrowding of correctional centres and how this can cause men to engage in coerced sexual activities with each other.

2.3.2. Overcrowding

It is stated in the Draft White Paper on Corrections in South Africa (2003:42) that South Africa has the world’s highest prison population in relation to the actual population of this country. Four out of every 1 000 South Africans are incarcerated in a correctional facility. This causes overcrowding, and often 50 to 70 inmates are being incarcerated in a communal cell intended to accommodate 18 inmates (Goyer & Gow, 2000:16). In Pollsmoor Correctional Centre there is only one toilet and one shower per communal cell that houses fifty inmates, while 50 percent of the inmates are forced to share a bed

or sleep on the floor. A similar situation exists in PLCC (in the awaiting-trial section), where up to 65 detainees are housed in a communal cell intended to accommodate 30 detainees (Eybers, 2004:8; Pollsmoor not fit for humans, 2002).

On 31 October 2007 South Africa's correctional population consisted of 163 049 inmates, of whom 114 349 were sentenced offenders and 48 700 were awaiting-trial detainees. Currently South African correctional centres have a capacity to cater for 114 559 inmates. This implies that the level of overcrowding in South African correctional centres was 142.35% during 2007 (Department of Correctional Services, 2007). In addressing the relationship between rape and overcrowding of correctional centres, the previous Minister of Correctional Services, Ben Skosana, insisted that sodomy can be attributed to the overcrowding of correctional centres (Ministry of Correctional Services, 2001). Thomas (in Goyer & Gow, 2000:16) also stated that "... the more crowded the prison is, the greater the likelihood is of acts of rape and homosexuality". Other consequences of overcrowding include violence, aggression, influence on stress tolerance and illness (Goyer & Gow, 2000:16; Minnie *et al.*, 2002:55).

The main reasons for prison overcrowding are the following (Dissel, 2002:9; Draft White Paper on Corrections in South Africa, 2003:26-27; Judicial Inspectorate of Prisons 2002/2003:26-27):

- High levels of awaiting-trial detainees due to delays in processing court cases.
- Introduction of minimum sentences for serious offences in 1997. The effect of the long sentences is an increase in the sentenced prison population. There was also an increase in the number of prisoners serving a life sentence from 1 885 in 1995 to 7 885 in 2002.
- Legislative changes in bail application, where the responsibility rests on the accused to prove why he or she should be released on bail. Relating to this is the fact that many accused cannot afford to pay even a small bail amount of R50,00 and are forced to spend a long period (on average 143 days) awaiting trial in a

correctional centre. On 24 March 2003 there were 19 592 accused persons with this dilemma.

- There was also the amendment to the Parole law during 1997, making it compulsory for an offender to serve half of his or her sentence before being eligible for parole.

Because of the overcrowding of correctional centres due to the factors listed above, the following reduction strategies have been identified:

2.3.2.1. Reducing overcrowding of correctional centres

Possible solutions to reduce overcrowding in South African correctional centres pertaining to awaiting-trial detainees and sentenced offenders are as follows (Fagan 2002:17-19; Judicial Inspectorate of Prisons 2002/2003:23; Minnie *et al.*, 2002:55; Draft White Paper on Corrections in South Africa, 2003:27):

(a) Awaiting-trial detainees

The awaiting-trial prison population can be reduced through provisions set out in legislation, but also through strategies specifically aimed at juveniles awaiting-trial in a correctional centre. Firstly with regard to legislation, there are two provisions which stipulate that awaiting-trial detainees may be released under certain circumstances:

- Section 63A of the Criminal Procedure Act (Act 51 of 1977) provides for a Head of Prison, who feels that overcrowding in that particular prison has an influence on the human dignity, physical health or safety of awaiting-trial detainees who are unable to pay bail, to apply to court for release under certain conditions. It may not be used in cases where a person is accused of committing a serious offence. Under this section 176 prisoners were released from Pollsmoor Correctional Centre in 2002.

- Section 81 of the Correctional Services Act (Act 111 of 1998) provides that an awaiting-trial detainee who has been allowed bail but cannot afford it, be released under specific conditions.

The release of detainees under the above provisions should not be regarded as amnesty since they must still appear in court on the specific hearing date.

A second reduction strategy is the use of pre-trial diversion especially for juveniles. In this regard the following may be applied:

- Extensive use of plea bargaining in all types of cases.
- Since 14 February 2003 higher maximum amounts for admission of guilt fines can be set by police officials (R2 500, 00) and by prosecutors and clerks of the court (R5 000, 00) without a court appearance.
- Greater use of alternatives to imprisonment such as correctional supervision.
- Cases of awaiting-trial detainees in correctional centres should be given preference over those awaiting-trial outside a correctional centre.

Regarding the reduction of sentenced offenders two options have been identified, namely diversion and the use of non-custodial sentences.

(b) Sentenced offenders

- The use of diversion for both juvenile sentenced offenders as well as adult sentenced offenders.
- Greater use of non-custodial sentences such as:

- (i) Postponed sentences in cases where compensation is paid to the victim, or community service;
- (ii) Suspended sentences;
- (iii) Discharge with a reprimand;
- (iv) Affordable fines;
- (v) Community-based sentences;
- (vi) Periodical imprisonment; and
- (vii) Increased use of parole.

Although there is no guarantee that reducing the number of inmates will have an impact on male rape inside a correctional centre, it is certainly an initiative worth pursuing.

Another cause of sexual assault and rape of male offenders and awaiting-trial detainees may be an inmate's sexual orientation. This possible link will now be discussed.

2.3.3. The role of sexual orientation

Sexual orientation is described by Lemmer (2005:128) as a person's sexual attraction towards another person. Four types of sexual orientation can be distinguished, namely heterosexual, homosexual (gay or lesbian), ambisexual (bisexual) and asexual. The most common form of sexual orientation is heterosexual, meaning being sexually attracted to a person of the opposite gender. Homosexual means that one feels sexually attracted towards people of the same gender. An ambisexual person is someone who is neither exclusively heterosexual nor exclusively homosexual. Thus ambisexual entails being sexually attracted to both genders. Asexual means that a

person has no sexual feelings towards either gender (Lemmer, 2005:129-130; Nietzel, Speltz, McCauley & Bernstein, 1998:489).

A dearth of research exists regarding the sexual orientation of the victim of prison rape, but the Jali Commission of Inquiry into corruption has shed some light on this issue. Evidence was heard by this Commission that homosexual and transgendered people are particularly vulnerable in a correctional system where corrupt officials allow sexual exploitation between inmates, gangs and hardened criminals. During his awaiting-trial period of 18 months, Louis Karp was sold as a sex slave by correctional officials, raped repeatedly by inmates and verbally assaulted by correctional officials. He believes that this was due to his sexual orientation (Eybers, 2004:8). A prisoner that was interviewed by Human Rights Watch (2001) holds the following viewpoint:

The theory is that you are not gay or bisexual as long as you yourself do not allow another man to stick his penis into your mouth or anal passage. If you do the sticking, you can still consider yourself to be a macho man/heterosexual

In February 2004, the Jali Commission heard evidence of gross human rights violations suffered by lesbian, gay, bisexual, transgender and intersexual offenders. The hearing, led by the Jali Commission and The Lesbian and Gay Equality Project, delved into the following issues (The Lesbian and Gay Equality Project, 2004):

- Prisoners being raped repeatedly by other inmates while correctional officials had full knowledge of the abuses and did nothing to prevent it.
- Transgendered offenders being kept in solitary confinement because DCS does not know whether to incarcerate them in the general prison population of male or female correctional centres.
- Homosexual males being sold by corrupt correctional officials to “men”.

- The DCS has not yet developed or implemented any policy to address the violation of rights of offenders based on their sexual orientation.

Voluntary consensual sexual relationships are rare in correctional centres and are often kept a secret. This is done to avoid sexual assault and rape from other inmates, but also because it is prohibited by the DCS. According to Evert Knoesen, director of The Lesbian and Gay Equality Project, the DCS is a human rights violator and can be subjected to civil claims under the Promotion of Equality and Prevention of Unfair Discrimination Act (Act 2 of 2000) (Hlahla, 2004:4).

All of the above factors can be considered contributory to some extent to the sexual assault and rape of male offenders and detainees. After a sexual assault or rape the male victim may experience a range of consequences which will be discussed in the next section.

2.4. THE CONSEQUENCES OF MALE-ON-MALE RAPE

The victim of male-on-male rape may suffer psychological, physical, emotional, social and sexual consequences. In this section two broad categories, namely psychological consequences and physical consequences will be addressed. Psychological consequences encompass Post-Traumatic Stress Disorder (PTSD) and Rape Trauma Syndrome (RTS) as a form of PTSD. The physical consequences include immediate medical treatment of the rape victim for cuts, bruises and tearing of the skin around the anus as well as the transmission of STI's and/or HIV/Aids.

2.4.1. Psychological consequences

According to Cotton and Groth (1982:51), the traumatic event of rape can have a more severe psychological effect on a male victim than on a female rape victim. A traumatic event can be described as a critical incident that influences a person's coping skills. Three post-trauma responses can usually be identified, namely re-experiencing, avoidance and increased arousal. Re-experiencing an event may include nightmares,

flashbacks and fear or anxiety about the possibility that the event may re-occur. Avoidance includes withdrawal from others, lack of interest in one's life and not thinking about the traumatic event. Increased arousal consists of mood swings, poor memory, an inability to concentrate and hyper-vigilance (Nietzel *et al.*, 1998:240; Van Houten, 2002:53). In the context of a correctional facility these responses could be acute as rape is in many cases not a single incident. It may also be impossible for the victim to escape from the traumatic event, thus re-enforcing the responses. It should however be noted that two people may react differently to the same traumatic event, and that some victims of male-on-male prison rape are able to cope without intervention.

2.4.1.1. Post-Traumatic Stress Disorder

Exposure to trauma can cause acute or prolonged stress related disorders respectively known as Acute Stress Disorder (ASD) and PTSD (Nevid, Rathus & Greene, 2000:180). For the purpose of this discussion the focus will only be on PTSD.

Traumatic stress was first described in 1919 by Mott (in Dumond & Dumond, 2002a:70) as shell shock and battle fatigue experienced by war veterans during World War I. In 1952 the American Psychiatric Association (APA) adapted Mott's work to describe human reactions to extreme stress as General Stress Reaction Syndrome in the Diagnostic and Statistical Manual of Mental Disorders (DSM-I). However the syndrome was not included in the DSM-II since the symptoms were described as "fleeting and reversible". In 1980 it was re-introduced in the DSM-III as PTSD and is currently used to describe "reactions of individuals to a wide range of traumatic events, including war, combat and victimisation" (Dumond & Dumond, 2002a:70). Although the definition of PTSD includes victimisation as a traumatic event, Kupers (2001:194) postulates that it is under-diagnosed in corrections and thus not being treated in correctional centers.

The symptoms of PTSD include the following (Kupers, 2001:194; Rogers, 1997:6; Scarce, 1997:19-27):



- Shock and embarrassment: Male victims may feel embarrassed that they did not do anything to prevent the sexual attack and are in some way responsible for the rape.
- Depression: Rape may leave some male victims unable to cope with a perceived loss of manhood, sexual dysfunction and isolation, all contributing to feelings of depression. In an attempt to cope with the depression some may turn to alcohol and drugs.
- Conflicting sexual orientation: Forcefully engaging in a “homosexual act” may lead some men to question their sexual orientation. Furthermore, if a man confides in a person who is homophobic this person’s view of homosexuality may be imposed on the victim, thus enforcing the “gay” label.
- Suicide: According to Dumond and Dumond (2002:81) suicide “is the most serious concern following an inmate sexual assault”, due to increased fear, stress and anxiety following the incident. It is for this reason that male victims of prison rape should be considered at risk of committing suicide until a psychologist or social worker can intervene. However due to the underreporting of prison rape the suicidal inclination of these victims is unknown.
- Denial: Male victims of rape are more likely than female victims to use denial of the event as a coping mechanism. Society’s neglect to address the issue of male rape further strengthens the man’s belief that the rape did not occur.

Because of a lack of psychologists and social workers in South African correctional centres, the researcher proposes that the symptoms associated with PTSD mainly remain undetected in male victims of rape. If a correctional official or fellow inmate does notice a man appearing irritable or suffering from panic attacks, it could be wrongly identified as normal adjustment problems to life inside a correctional centre.

2.4.1.2. Rape Trauma Syndrome

The RTS is a form of PTSD, and the phrase was coined in 1974 by Burgess and Holmstrom, to describe a condition affecting female victims of rape. Currently RTS is applied to both female and male rape victims (Harvey, 2002:47; Scarce, 1997:20). The RTS is defined as “an acute stress reaction to a life threatening situation” and includes behavioural, physical and psychological reactions (Roos & Katz, 2003:58). The greatest behavioural and psychological difference between male and female rape victims is the silence surrounding rape. With the woman’s movement the plight of women as victims of rape and other forms of sexual victimisation was brought to light. However, the rape of men still remains a taboo subject. This may be understood in the context that only since 2007 does South African legislation make provision for male victims of rape. Thus, even if a man wants to report this incident he is often not believed or the charge is not taken seriously. Regarding the physical reaction, the risk of contracting STI’s and/or HIV/Aids is higher for male victims of rape than for female victims of rape, since anal penetration more often leads to the tearing of the skin making it easier for the virus to enter the bloodstream of the victim (Harvey, 2002:47-48).

RTS is divided into two phases, namely the acute phase and the long-term phase. The **acute phase** commences with impact reactions such as physical trauma, muscle tension and gastro-intestinal irritability. During this phase, victims experience one of two emotional reaction styles: The expressive style which includes crying, sobbing and restlessness, or the controlled style where the victim appears calm, controlled or subdued (Dumond & Dumond, 2002a:72; McMullen, 1990:58; Scarce, 1997:20). The victimisation of the prisoner who expresses the controlled reaction style may be questioned by correctional officials, since this is not a “normal” reaction to a traumatic event. During the **long-term phase** victims attempt to reorganise their lifestyles. This phase is characterised by increased motor activity, nightmares and what Scarce (1997:21) labels as “traumatophobia” – avoiding situations associated with the rape, for example avoiding the outdoors if the victim was raped outside the home. However, for the male victim of prison rape it may be difficult to avoid the associated situation since, in many instances, he is locked up in the same cell as the perpetrator, thus exposing him to repeated victimisation.

McMullen (1990:85) postulates that some men may experience psycho-sexual problems after the rape, which to many are worse than the rape itself. Psycho-sexual problems can take on one of two forms, namely erectile impotence, which means the inability to have or maintain an erection until orgasm and secondly becoming sexually aroused when recalling the rape. These psycho-sexual problems could be ascribed to the notion that for many victims male rape is the first same sex encounter. If the victim has an erection or an orgasm he may question whether he, in some way, consented to the act or enjoyed the sexual encounter. However, having an erection or orgasm is a natural biological response. According to McMullen (1990:87)

... erection is a vascular phenomenon that is triggered by a nervous reflex. Clinical evidence indicates that the rapid engorgement and disengorgement of the penis facilitated by the penile blood vessels is controlled by the autonomic nervous system centred in the spinal cord. These reflexes are involuntary in the sense that their response is automatic and does not require a 'decision' by the brain to effect the condition.

Thus an erection occurs involuntary in perceived or real dangerous and stressful situations. It may also be influenced by the behaviour of the rapist who may be kissing, touching, orally or anally stimulating or penetrating the victim (McMullen, 1990:87; Sivakumaran, 2005:1291). Moreover ejaculating and orgasm is not always the same thing. Men who have had a prostatectomy (partial or complete removal of the prostate gland) are unable to ejaculate, but can still experience an orgasm. Thus "ejaculation may signal full orgasm but it may also be no more than a physiological consequence" (McMullen, 1990:87). This implies that abnormal physiological response takes place if the prostate gland is touched or manipulated in some way. Many victims of prison rape are unaware of these normal sexual responses, mainly because they do not speak about the rape and subsequently do not receive any counselling.

2.4.2. Physical consequences

The physical consequences of male rape include a range of physical injuries and sexual injuries as well as the transmission of STI's and/or HIV/Aids.

2.4.2.1. Physical and sexual injuries

Physical injuries may occur around the mouth, when force was used to coerce the victim into oral sex, around the nipples and around the penis and testicles. Also if the victim was constrained during the rape (by means of ropes or held down by other inmates), injuries of such a nature may be visible on various parts of the body. Minor physical injuries may include cuts, bruises and scratches (McMullen, 1990:102).

Male rape victims are at high risk of sexual injuries and often these injuries are not visible since they are located in the anus or rectum (McMullen, 1990:101; Roos & Katz, 2003:58). The risk of sexual injury during male rape lies therein that the anus differs from the vagina in two ways. Firstly the vagina has muscle tissue in its entire length that protects it, whereas the muscle in the ano-rectal area is only capable of expanding and contracting to allow for the passing of solids, liquids and gasses. Secondly the vagina is capable of creating lubrication, making penetration easier, whereas the anus is not naturally lubricated. The rapist may make use of an artificial lubricant, such as a homemade oil-based lubricant or saliva, both of which may cause infection due to germs being transferred from the rapist's finger or his saliva to the victim. If no lubricant is used, forced penetration can tear the anus, causing the formation of abscesses.

The rapist may also insert objects into the rectum of the victim. This can be dangerous since the rectum "can 'grasp' or 'draw in' to the point where the object is literally pulled in beyond a point of easy extraction" (McMullen, 1990:101-102). Furthermore, the object being inserted can damage the rectal wall, or if dirty can lead to the transmission of STI's and other diseases (McMullen, 1990:102).

After a sexual assault the victim needs to consult a medical professional as soon as possible, not only to prevent the contraction of STI's, but also for the collection of physical evidence that may be used during the criminal investigation. However it is postulated that most male prison rape victims do not receive medical attention even if they request it (Scarce, 1997:164,173). It is the viewpoint of the researcher that this may be due the notion that in a correctional centre a "real man" cannot be raped and subsequently does not need medical care if the sex is "consensual". Also it may simply

be too much effort for some correctional officials to investigate such allegations and to escort the victim to the prison hospital.

2.4.2.2. The transmission of STI's

An STI is transmitted through direct contact with blood, semen or vaginal secretions or through intimate skin-to-skin contact of an infected person (Love for Life, 2001-2003; Your sexual self, [sa]). It is postulated that in South Africa the prevalence of STI's in the general population is high when compared with other countries. For example, the prevalence of syphilis in the USA or United Kingdom (UK) is about fifteen cases per 100,000 of the population, compared to South Africa where there are between 5 000 and 15 000 such cases per 100,000 of the population. This is important when one considers that ulcerative STI's such as syphilis increase the risk of HIV transmission (Goyer, 2003:29).

Some of the types of STI's which can be transmitted through anal penetration include the following:

- Syphilis is caused by the bacteria *Treponema pallidum* and is often referred to as “the great imitator” because many of the signs and symptoms are indistinguishable from those of other diseases. There are two stages to this disease. The primary stage is marked by a single sore, called a chancre, but there can also be multiple sores. The chancre is usually firm, round, small and painless. It appears on the external genitals or in the rectum. The time between infection and the start of the first symptom range from 10 to 90 days. Skin rash and moist lumps around the genitals and anus characterise the second stage. The rash appears as rough, red or reddish brown spots on the palms of the hands and the soles of the feet. Other symptoms of the secondary stage include headaches, sore throat, hair loss, weight loss, muscle aches and fatigue. Antibiotics are used to treat a person diagnosed with syphilis (Centre for Disease Control and Prevention, 2004; Student health service, [sa]).

- Gonorrhoea is caused by the bacteria *Neisseria gonorrhoeae* that grows and multiplies in warm, moist areas such as the urethra (urine canal) and the anus in men. Gonorrhoea is transmitted through contact with the penis, vagina, mouth or anus of another person. Ejaculation does not have to occur for this STI to be transmitted. Men with gonorrhoea will show symptoms two to five days after infection and the symptoms include a burning sensation when urinating, or a white, yellow or green discharge from the penis. Sometimes men can also get painful or swollen testicles. The symptoms of rectal infection are discharge, anal itching, soreness, bleeding or painful bowel movements. Since gonorrhoea is a bacterial infection it can be successfully treated with antibiotics (Centre for Disease Control and Prevention, 2004).
- Genital herpes is a skin condition and the symptoms are small blisters that appear around the genital area and anus. The symptoms can appear within thirty days after contact with an infected person. This is a viral infection and as such there is no cure. There are however drug treatments available to manage and reduce the re-occurrence thereof (Student health service, [sa]).
- Genital warts are caused by the *Human Papilloma Virus (HPV)*, and in men may appear as soft fleshy growths on the penis or around or inside the anus. Symptoms may appear one to eight months after contact with an infected person. The warts can be removed by cryotherapy, laser or chemical treatment (Student health service, [sa]).

It is postulated that in a correctional facility the transmission of STI's can be reduced by means of six strategies (Moran & Peterman, 1989:4):

- Screening new inmates and treating those who show an infection.
- Tracing and treating persons known to be diagnosed with an STI while incarcerated.

- Educating inmates regarding the transmission of STI's.
- Prohibiting all forms of sexual contact. Although this strategy is the ideal, it is not realistic due to the prevalence of gangs, overcrowding, corrupt officials and deprivation of heterosexual relationships.
- Distributing condoms to reduce the transmission of STI's. South Africa's policy regarding the provision of condoms to offenders will be discussed later in this chapter.
- Segregating infected inmates from uninfected persons. Although this approach has been adopted by some USA correctional facilities, it does present ethical concerns in South Africa. The segregation of infected inmates in South African correctional centres will be discussed later in this chapter.

2.4.2.3. The transmission of HIV/Aids

HIV is the virus found only in humans and damages a person's immune system, making it easier to obtain infections and other diseases, known as an Aids-defining condition or illness. It is suggested that Aids spreads fast in poverty stricken environments and it is therefore not surprising that 70 percent of people who have Aids are living in Sub-Saharan Africa. South Africa was the country worst infected in the world during 2001, with an estimated ten percent of the global total, which relates to 4,7 million people living with the Aids virus in South Africa. The projections for 2008 are that about half a million South Africans will die every year as a result of Aids related causes (Barrett-Grant, Fine, Heywood & Strode, 2001:10-11; Hamilton, 2002:155).

Body fluids that contain sufficient quantities of the virus include semen, blood, vaginal fluid and breast milk. Taking this into consideration the main types of HIV transmission in South Africa are as follows (Barrett-Grant *et al.*, 2001:13):

- Unprotected sexual intercourse;
- Mother-to-child transmission during childbirth (blood) or breast-feeding (milk);
- Sharing of contaminated needles by drug users; and
- By means of a blood transfusion.

In prison HIV is most commonly transmitted by unprotected penetrative anal intercourse. Furthermore, the likelihood of HIV transmission is higher for the receptive partner (victim) than for the insertive partner. The reason for this is that the semen is exposed to prolonged contact with mucous membranes in the rectum (Goyer, Saloojee, Richter & Hardy, 2004:13). The probability of transmission is also influenced by the viral load (amount of HIV present in the body fluids). Therefore the more advanced the stages of HIV in an inmate, the more likely the person is to transmit the virus (Goyer, 2002). According to Scarce (1997:137-139) the risk of HIV transmission should be assessed according to the following guidelines:

- Is the sexual assault oral, anal or both? As already stated, anal penetration creates more risk for transmission than oral penetration. This is especially true if the anus is torn, making it easier for the virus to enter the bloodstream of the victim.
- Is the anus penetrated by a finger, penis or another object? If penetrated with a penis, the possibility of contact with blood or semen increases the risk of transmission. Even if a finger or another object was used, there may be some risk if the perpetrator's blood or semen is on his finger or the object.
- Did the perpetrator ejaculate during the sexual assault? If the perpetrator did ejaculate infected semen may enter the bloodstream of the victim.

- What is the severity of the sexual and/or physical injury? Forced penetration can cause tears in the anus or mouth, allowing the perpetrator's blood or semen to enter the victim's bloodstream.
- How many perpetrators raped the victim, and with what frequency did the assault(s) occur? If the victim was gang raped he will be exposed to more individuals blood and semen, thus increasing the risk of HIV transmission.

Once a person has been raped there are various blood tests to show whether a person is HIV positive. These tests include the following (Barrett-Grant *et al.*, 2001:25; Hamilton, 2002:157; Scarce, 1997:139):

- The Enzyme-linked Immunosorbent Assay (ELISA) survey for antibodies against HIV. Antibodies are protein complexes that the immune system produces to attack and neutralise disease causing organisms.
- A Western Blot HIV antibody test if the ELISA test shows a positive result.
- Rapid antibody tests are easy to use and can accurately pick up if there are HIV antibodies in the blood or saliva of the victim. This test gives a result within fifteen minutes and is performed outside a laboratory.
- P24 Antigen test measures the proteins of the virus.
- Polymerase Chain Reaction (PCR) tests for HIV rather than the HIV antibodies. This test is very useful in that a small sample of semen or blood can be tested, and HIV can be detected in the victim's blood much quicker than a test searching only for HIV antibodies such as the ELISA survey.

- A recent development is the saliva test that can detect HIV antibodies in the saliva of a person.

Although rape victims should be tested for HIV infection as soon as possible after the assault, the window period may influence the outcome of the test results. The window period is the time between HIV infection and the development of antibodies to the virus. In the case of the most sensitive antibody test, the window period is three to four weeks, and can be longer if less sensitive tests are used. In some instance the window period can be up to twelve weeks and in rare cases between six to twelve months (Barrett-Grant *et al.*, 2001:20; Hamilton, 2002:157). This means that a person may test HIV negative during the window period, although already infected with the virus.

2.4.2.4. The Department of Correctional Services policy on HIV/Aids

The first policy referring to HIV/Aids in South African prisons was formulated in 1992. With this policy the DCS aimed to segregate HIV positive inmates from the general prison population. During this period the procedure was to interview new inmates to determine whether they engaged in high risk behaviour, test those who were considered high risk and if tested HIV positive to segregate them. Inmates were considered high risk if they were illegal immigrants, convicted of a sexual crime, intravenous drug users or had had sexual relations in a country where “HIV infection is present in ten percent or more of the population” (Goyer *et al.*, 2004:29).

This policy which promoted the segregation of HIV positive inmates was criticised by the World Health Organisation (WHO), and as a result was amended in 1996. The outcome was the end of segregating HIV positive inmates and that inmates were only to be tested if they requested it or on demand by the district surgeon. Inmates had to consent to this in writing before the test could be administered. This amended policy also made provision for the introduction of various projects. These projects included STI clinics at all prison hospitals where offenders can be tested, treated, counselled and given information about STI's. The condition of offenders with HIV/Aids was also to be monitored and special supplements issued to them (Goyer *et al.*, 2004:29-30). In a separate policy document the issue of condom distribution to inmates was set out “to



be provided to the prison population on the same basis as condoms provided in the community” (Goyer *et al.*, 2004:31). However inmates were not to be issued with condoms before they received education and/or counselling regarding Aids, the use of condoms and the consequences of high risk sexual behaviour. Furthermore, condoms would only be issued on request by the inmate and then only issued by a nurse trained as an Aids counsellor (Goyer *et al.*, 2004:31).

In the case of *W and Others v Minister of Correctional Services* (Cape Town Supreme Court, Case no:2434/96) the judge ordered the Minister of Correctional Services, the Commissioner of Correctional Services, the Commander of Pollsmoor Correctional Centre and the Provincial Minister of Health that management must abide by the following (Barrett-Grant *et al.*, 2001:358; Goyer *et al.*, 2004:32):

- Keep the status of HIV/Aids offenders confidential;
- Protect offenders from stigmatisation based on their sexual orientation or HIV status;
- Ensure that condoms are made available to all offenders;
- Provide treatment for offenders with HIV/Aids;
- Test offenders for HIV only once they have given informed consent;
- Not to deny offenders the opportunity to work, based on their HIV status;
- Not to discriminate against a HIV positive offender regarding accommodation and ablution facilities; and
- Provide HIV/Aids education to all offenders and correctional officials.

In October 2002 the DCS again amended the HIV/Aids policy in prisons and a Management Strategy on HIV/Aids in Prisons was developed. This policy is currently the working document for the DCS in dealing with HIV positive offenders and is based on the following (Barrett-Grant *et al.*, 2001:351; Goyer *et al.*, 2004:32):

- Human rights principles;
- Fundamental rights as set out in the Bill of Rights; and
- WHO guidelines on the treatment of prisoners.

General principles on HIV infection and Aids in corrections were formulated in March 1993 by the WHO and have been adapted by local authorities to meet their specific needs. The principles are as follows (WHO guidelines on HIV infection and Aids in prisons, 1993):

- “All prisoners have the right to receive health care, including preventive measures, equivalent to that available in the community without discrimination, in particular with respect to their legal status or nationality.
- The national Aids programmes should apply equally to prisoners and to the community.
- In each country, specific policies for the prevention of HIV/Aids in prisons and for the care of HIV-infected prisoners should be defined. These policies and the strategies applied in prisons should be developed through close collaboration among national health authorities, prison administrations and relevant community representatives, including nongovernmental organisations. These strategies should be incorporated into, a wider programme of promoting health among prisoners.

- Preventive measures for HIV/Aids in prison should be complementary to and compatible with those in the community. Preventive measures should also be based on risk behaviours actually occurring in prisons, notably needle sharing among injecting drug users and unprotected sexual intercourse. Information and education provided to prisoners should aim to promote realistically achievable changes in attitudes and risk behaviour, both while in prison and after release.
- The needs of prisoners and others in the prison environment should be taken into account in the planning of national Aids programmes and community health and primary health care services, and in the distribution of resources, especially in developing countries.
- The active involvement of nongovernmental organisations, the involvement of prisoners, and the non-discriminatory and humane care of HIV-infected prisoners and of prisoners with Aids are prerequisites for achieving a credible strategy for preventing HIV transmission.
- It is important to recognise that any prison environment is greatly influenced by both prison staff and prisoners. Both groups should therefore participate actively in developing and applying effective preventive measures, in disseminating relevant information, and in avoiding discrimination.
- Prison administrations have a responsibility to define and put in place policies and practices that will create a safer environment and diminish the risk of transmission of HIV to prisoners and staff alike.
- Independent research in the field of HIV/Aids among prison populations should be encouraged to shed light on – among other things – successful interventions in prisons ...”

Considering the above principles, the current DCS policy on HIV/Aids includes the following:

- **Non-discrimination**

The Supreme Court ordered that prisoners with HIV/Aids have the right not to be discriminated against (Refer to *W and Others v Minister of Correctional Services*) (Barrett-Grant *et al.*, 2001:358).

- **Confidentiality**

Offenders have the right to confidentiality regarding their HIV/Aids status (Barrett-Grant *et al.*, 2001:355). The WHO guidelines on HIV infection and Aids in prisons (1993) regarding the confidentiality of HIV positive prisoners are as follows:

- “Information on the health status and medical treatment of prisoners is confidential and should be recorded in files available only to health personnel. Health personnel may provide prison managers or judicial authorities with information that will assist in the treatment and care of the patient, if the prisoner consents.
- Information regarding the HIV status may only be disclosed to prison managers if the health personnel consider, with due regard to medical ethics, that this is warranted to ensure the safety and well-being of prisoners and staff.
- Routine communication of the HIV status of prisoners to the prison administration should never take place. No mark, label, stamp or other visible sign should be placed on prisoner’s files, cells or papers to indicate their HIV status.”

- **HIV testing**

Voluntary testing for HIV should be available in prisons, in conjunction with pre- and post-test counselling. Testing should only be carried out with the informed consent of the offender. Informed consent in this regard means that the offender understands the purpose of the test and how the results may impact on his life (Barrett-Grant *et al.*, 2001:355; WHO guidelines on HIV infection and Aids in prisons, 1993). In *C v Minister of Correctional Services* (1995) a prisoner accused the DCS for testing his HIV status without him giving informed consent. The judge ruled in favour of the prisoner stipulating that: “Generally speaking, it is axiomatic that there can only be consent if the person appreciates and understands what the purpose of the test is, what an HIV positive result entails and what the probability of Aids occurring thereafter is” (Barrett-Grant *et al.*, 2001:355).

In South Africa the process of voluntary HIV testing of inmates is as follows: The offender is referred to a member of the nursing staff to receive pre-test counselling. If, after this, the offender agrees to have the test, he must sign an informed consent form. Hereafter a blood sample is taken and the results are usually available after two weeks. The nurse will submit a list to the correctional officials of all the inmates whose results are back from the laboratory, regardless whether positive or negative, for post-test counselling. Offering post-test counselling to all inmates will ensure the confidentiality of those who are HIV positive. Only the nurse and the offender know the HIV status and this information is recorded in his medical file (Goyer, 2003:55).

- **Education and information**

According to the WHO guidelines on HIV infection and Aids in prisons (1993), all prisoners and correctional staff should be informed about HIV/Aids and the prevention thereof. Information made available to the general community should also be available to offenders, but appropriate to the educational level of the offenders. Furthermore, it is proposed that offenders receive HIV/Aids education on entry, during their prison term and during the pre-release stage.

- **Condoms**

The current DCS policy is that condoms are freely available from dispensers in common areas. Condoms can also be acquired on request from a medical officer or social worker (Barrett-Grant *et al.*, 2001:357). Although this policy principle is indicative of making condoms available to inmates “on the same basis as condoms are provided in the community”, there are certain implications. The condoms distributed in correctional centres are not made for anal penetration and may break during intercourse. Also the dispensing of condoms in common areas means that the offender will be observed by correctional officials as well as by fellow inmates, thus diminishing the objective of anonymity (Goyer *et al.*, 2004:32). In PLCC the researcher did not see a condom dispenser in any section of the centre. The only condom dispenser is at the main entrance of the centre. However over the period that the research was conducted the dispenser was empty and inmates were not allowed to enter this area of the centre anyway.

- **Segregation**

Offenders with HIV/Aids may not be segregated from other inmates on the basis of their health status. An offender may only be segregated if he has a contagious disease such as tuberculosis (TB) or hepatitis, or acts aggressively towards other prisoners (Barrett-Grant *et al.*, 2001:256; WHO guidelines on HIV infection and Aids in prisons, 1993).

- **Medical treatment**

The WHO guidelines on HIV infection and Aids in prisons (1993) prescribe the following regarding the treatment of prisoners with HIV/Aids:

- Medical follow-up and counselling should be available for asymptomatic HIV prisoners;

- Treatment for HIV infection and the prophylaxis and treatment of related illnesses should be provided by prison medical services; and
- Prisoners should have the same access as community members to clinical trials of treatments for HIV/Aids related diseases.

The medical treatment of South African inmates is set out in the Correctional Services Act (Act 111 of 1998). This Act entails that:

- The DCS must provide adequate health care services to all prisoners;
- All prisoners have the right to medical treatment;
- Prisoners may request to be treated by their own doctor at their own expense; and
- Prisoners cannot be forced to undergo a medical examination, test or treatment unless this condition is threatening the health of fellow prisoners.

The DCS policy is not to provide anti-retroviral treatment (ARV) to offenders who report sexual assault or other potential exposure to HIV (Barrett-Grant *et al.*, 2001:354; De Vos, 2003:33; Goyer *et al.*, 2004:33). Post Exposure Prophylaxis (PEP) like Zidovudine (AZT) and Lamivudine (3TC) is **only** available to correctional officials who are exposed during the course of their duties and to prisoners who are working in the prison clinic or hospital (Goyer *et al.*, 2004:33). Only correctional centres that have been accredited by the Department of Health to provide ARV treatment are allowed to dispense such medications. Correctional centres that are not accredited have to make it possible for the offenders to access ARV treatment through accredited public health facilities (Prisoners denied access to treatment, [sa]).

During 1997 in the case of *Van Biljon and Others v Minister of Correctional Services*, offenders challenged the DCS policy regarding the treatment of HIV positive prisoners. The result of the case was the High Court order that the DCS provide ARV treatment to HIV positive prisoners, and the ruling is set out below:

Even if it is accepted as a general principle that prisoners are entitled to no better medical treatment than that which is provided by the State for patients outside, this principle can, in my view, not apply to HIV infected prisoners. Since the State is keeping these prisoners in conditions where they are more vulnerable to opportunistic infections than HIV patients outside, the adequate medical treatment with which the State must provide them must be treatment which is better able to improve their immune systems than that which the State provides for HIV patients outside (Barrett-Grant *et al.*, 2001:354).

The court decided the following in connection with the above:

- A prisoner's right to medical treatment depends on an examination of circumstances such as prison conditions, to decide what is adequate.
- As the two prisoners were prescribed ARV treatment by a doctor, this was considered adequate medical treatment.
- This decision does not mean that all HIV positive prisoners should receive expensive medical treatment (Barrett-Grant *et al.*, 2001:354).

Although this case appears to be a major victory for HIV positive inmates in South African correctional centres, De Vos (2003:32-33) is of the opinion that it can be at best described as a pyrrhic victory. While some of the applicants in this case did receive ARV treatment, they did not receive all the drugs prescribed to them.

In 2005 the availability of ARV treatment to offenders again came to the legal forefront when fifteen inmates from the Westville Correctional Centre in KwaZulu-Natal complained to the Aids Law Project that they are denied access to ARV's. According to

the DCS there were two reasons why these inmates at Westville Correctional Centre could not get access to ARV treatment: Firstly the Department of Health requires that all applicants for ARV's have to be in possession of a valid South African Identity Document (ID), including all offenders and detainees who want to apply for treatment. However, the majority of South African offenders and detainees are not in possession of an ID book and are too poor to afford to pay for it. The second reason was that Westville Correctional Centre had difficulty accessing public health facilities to dispense the medicine, as the centre is not accredited to provide ARV treatment. However on 22 June 2006 Judge Pillay ruled that **all** prisoners at Westville Correctional Centre who need ARV's are to be assessed for treatment. The government applied for leave to appeal against this judgement and the execution of Judge Pillay's order was suspended until the final determination of the appeal. On 28 August 2006 Judge Nicolson ordered the government to immediately start with ARV treatment to sick prisoners at Westville Correctional Centre and stated that the government was in contempt of court for ignoring the previous order by Judge Pillay (Access to treatment for prisoners, [sa]; Prisoners denied access to treatment, [sa]; Victory in Westville Prison case, [sa]).

Again this judgement seemed to be a victory for prisoners rights, but the judgement is not directly binding on other offenders in the same correctional centre or to offenders in other provinces. Therefore it seems the only way for inmates to get the necessary HIV/Aids treatment is to apply for legal intervention.

- **Early release of prisoners living with HIV/Aids**

In the WHO guidelines on HIV infection and Aids in prisons (1993), it is stipulated that "...prisoners with advanced Aids should be granted compassionate early release, as far as possible, in order to facilitate contact with their families and friends and to allow them to face death with dignity and in freedom". It is postulated by Barrett-Grant *et al.*, 2001:360) that currently early release is not often recommended by the DCS. If it is recommended by the DCS, the process of being released early on medical grounds is complicated and difficult. An awaiting-trial detainee has to get permission from a judge or magistrate and a sentenced offender can get early parole on medical grounds if the Commissioner of Correctional Services consents to it. If the health status of a person

on medical release improves he or she must return to a correctional centre and complete the remaining sentence of imprisonment (Luyt, 2005:74).

In the DCS policy document, Management Strategy on HIV/Aids in Prisons, the following is stipulated regarding the early release of prisoners with HIV/Aids (Meerkotter & Gerntholtz, [sa]):

- “Terminally ill prisoners should be considered for placement on medical grounds (compassionate release).
- Monthly medical reports must be submitted for all offenders under consideration for early release or placement on medical grounds to assist the parole board’s decisions.
- Thorough medical examinations should be conducted to assist decisions by parole boards.
- Two independent medical doctors should examine the prisoner who is to be considered for early release.
- Social work reports should also be submitted to indicate the availability of after care and care providers.
- In all cases of referrals to other care providers, the offender should give informed consent.
- Early identification of the relatives and other service providers for HIV/Aids infected prisoners is important to facilitate placement after release. This can be achieved by partnership with other service providers, including the families.



- Each person must identify community structures to assist with placement after release. Such services should include hospice care, social workers and others to assist in training relatives.”

In practice this policy is flawed in that offenders often die before their application for early release is approved. For example, at Westville Medium B Correctional Centre an offender submitted an application for early release in February 2000, the offender died in March of that year and his early release was only approved on 16 April 2000. According to a social worker at the same correctional centre, five applications for early release are received per week: On average only one prisoner lives long enough to be released and die at home (Goyer *et al.*, 2004:62; Meerkotter & Gerntholtz, [sa]). There are many factors contributing to the delay in approving early release (Meerkotter & Gerntholtz, [sa]). These include the following:

- There is an increase in the number of HIV positive offenders and offenders diagnosed with TB.
- There may be reluctance by family members to accept a terminally ill person into the household.
- Before an offender can be released early he must be checked by the district surgeon and a specialist. He must also be interviewed by a social worker and the Correctional Supervision and Parole Board. This process can take several weeks, even months in certain cases.

Under the Correctional Services Act (Act 111 of 1998) the Commissioner of Correctional Services has the power to change an offender’s sentence to correctional supervision, if diagnosed by a medical officer as being in the final stages of a terminal disease (including Aids). In *State v Cloete* (1995) the Supreme Court released an offender who was serving a five year sentence for fraud early and placed him under correctional supervision. This decision was based on his HIV status and the judge indicated that “... his condition is such and has changed so that to continue to serve

imprisonment would be far harsher a sentence for him than for any other person serving a similar sentence” (Barrett-Grant *et al.*, 2001:359).

Since the male victim of rape may suffer from any of the above psychological and/or physical consequences it is important that correctional centres are geared towards offering the necessary support. A description of two types of unofficial support services available to rape victims in South African correctional centres follows.

2.4.3. Support services available to victims of prison rape

The support, or lack of it, that a male victim receives after a sexual assault may have a profound effect on his recovery. Formally organised support services to rape victims in correctional centres are scarce and on the African continent there was only one, namely Friends Against Abuse (FAA), situated in the Pollsmoor Correctional Centre. At PLCC awaiting-trial child detainees organised an informal Sodomy Committee, addressing rape in their particular section of the correctional centre.

A description of the two types of support services offered to male victims of prisoner rape follows:

2.4.3.1. Friends Against Abuse

The FAA offered support to victims as well as offenders of prison rape and was established in 2001 by concerned staff and inmates at Pollsmoor Correctional Centre (Malgas, 2003; Aupiais, 2002). Initially FAA started as an intervention process in the Admission Centre of the correctional centre, separating new potentially vulnerable inmates from gang members and placing them in a “safe cell”.

The goals of FAA were as follows:

- Preventing male rape in prison through the provision of effective programmes and support services.
- Counselling and offering support to rape victims and perpetrators.
- Training DCS staff to become facilitators and counsellors when dealing with a rape victim.
- Raising awareness around prison rape and HIV/Aids by means of plays and posters.
- Selecting and placing victims as well as vulnerable inmates in a “safe cell”. This is a cell in which only the inmates identified by FAA may be accommodated in. Although the researcher is in agreement that there should be such a cell in all correctional centres, the overcrowding of South African correctional centres makes the establishment of such a cell difficult.
- Offering orientation programs to new inmates (Harvey, 2002:44, 49; Malgas, 2003).

However the FAA was closed down by the DCS in 2004 because, according to the DCS, the members wanted to run this as an NGO and make money out of it. But Lizelle Alberts, a former correctional official at Pollsmoor Correctional Centre and founder of FAA, who is currently working as an Inspector of Prisons for the Judicial Inspectorate of Prisons stated that the members paid for the project with their own money. A more sinister reason given by the DCS to Magadien Wentzel, an ex-offender and former 28 gang member, is that the DCS does not want the world to know what happens inside their prisons (For the Boys, 2006).

2.4.3.2. Sodomy Committee

The Sodomy Committee was established in 2004 by concerned awaiting-trial child detainees at PLCC. This is an informal group consisting of eight members, offering advice, guidance and support to victims of attempted rape and/or rape.

According to the detainees that participated in the current study, the goals of this committee are as follows:

- “Teaching *stimela* (new detainees) about sodomy”.
- “Teaching long time prisoners not to do sodomy”.
- “Teaching one about life-skills”.

After a sexual assault has occurred in the section where the children are detained, the perpetrator, if identified by the victim, is approached by members of the committee and asked about the circumstances surrounding the event. If there is enough evidence a case will be opened by the committee on behalf of the victim.

During the period in which the research was conducted, four cases of indecent assault had been opened by the sodomy committee against one of the child detainees. A Departmental charge has been laid against the perpetrator, for which he must appear in Court 62 (an internal court situated in the correctional centre dealing with, amongst others, crimes that occur in the correctional centre) as well as a SAPS charge. Pending the outcome of the case the alleged perpetrator has been transferred to the awaiting-trial juvenile section.

Although these children should be commended for their contribution in combating sexual assault, the researcher has the following comment against the DCS. It is opined

that the sexual assault perpetrated by this detainee could have been prevented from the outset, since it emerged that he was older than eighteen years, but was awaiting his trial with the children (those under the age of eighteen years). Thus the DCS placed a potential high risk inmate with a vulnerable group of inmates. Also by transferring him to another section of the centre, his motivations for sexually assaulting other inmates are not being addressed since he is not likely to receive any form of counselling or attempts at rehabilitation. Therefore it seems as if the DCS is just “displacing” the problem from one section of the centre to another.

Currently no correctional official is actively involved in assisting the children in achieving their goals, and there is a possibility of this committee disintegrating. If official participation can be established, similar committees can be formed in all the sections of PLCC and the success thereof monitored.

A discussion of the reduction strategies that could be implemented to address the sexual victimisation and rape that occurs in correctional centres follows:

2.5. REDUCTION STRATEGIES

The researcher is of the opinion that male-on-male sexual assault and rape in correctional centres will be difficult to prevent due to factors such as gang activities, perceptions of offenders that a real man cannot be raped and corrupt officials. It can, however, be reduced by implementing mechanisms such as classification and screening procedures, separating vulnerable offenders, and the training of correctional officials in terms of the detection of sexual victimisation and also the official response to such a case (Knowles, 1999:276). Another reduction strategy includes inmate education where inmates are made aware of how to report incidents of sexual assault and rape and to recognise unacceptable behaviours displayed by inmates and staff (Zweig, Naser, Blackmore & Schaffer, 2006:21).

It is the opinion of the researcher that the sexual assault and rape of male offenders and detainees can be reduced cost effectively by having a protocol in place, which

includes some of the reduction strategies discussed below. This protocol will be applicable from the moment an inmate enters the correctional facility, to the forensic investigation after a sexual assault, and should continue to the pre-release period of the inmate. Thus correctional officials will be in the position to follow official procedures when an inmate reports sexual assault and rape. An Offender Sexual Assault Protocol designed specifically for PLCC will be described in Chapter 6.

For the purpose of this study the following reduction mechanisms will be discussed: Conjugal visitation, identification and separation of vulnerable prisoners, training of correctional officials, legislation, mapping and punishment of perpetrators.

2.5.1. Conjugal visitation

Conjugal visitation entails an inmate having personal time with his wife or common-law partner during which they may engage in sexual intercourse. For example, during 1967 the Mississippi state penitentiary system in the USA allowed inmates to bring their wives or girlfriends into the general prison population's sleeping quarters. The inmates were allowed to hang blankets around their beds for privacy (Scacco, 1975:106). Later in this study the researcher will discuss a similar practice in South African correctional centres where inmates also drape sheets around their beds to give them privacy while engaging in sexual activities with another inmate. However the "get tough" policy in the USA of "lock' em up and throw away the key" has led to several correctional facilities doing away with conjugal visits, but it is still practiced in five states, namely Mississippi, New York, California, Washington and New Mexico. In European and Latin American countries conjugal visits are also widely accepted (Hensley, Rutland & Gray-Ray, 2002:143). Currently the policy in South Africa holds that conjugal visits may not take place. Even if it were to be allowed, overcrowding, insufficient manpower and lack of facilities will hinder the implementation of such a policy (Lazarus, 2002:83).

Advocates of conjugal visitation insist that it decreases violent behaviour and sexual assault in that it is used as a behaviour controlling mechanism, increases family stability and reduces homosexual related activities. Opponents maintain that conjugal visits increase negative feelings amongst inmates who are not allowed to participate.

What benefits will those who are not married or do not have common-law wives therefore receive? It is also argued that very few inmates are married, and that the smuggling of drugs and contraband may increase. Lastly is the significant notion that rape in prison is not about sex but rather about power and dominance (Hensley *et al.*, 2002:153; Knowles, 1999:268). According to the researcher a man, especially a gang member, may engage in conjugal visits with his wife, but continue to rape in order to validate his manhood among his peers. Only two research participants in the current study were of the opinion that conjugal visits will reduce prison rape.

2.5.2. Identification and segregation of vulnerable inmates

According to researchers such as Cotton and Groth (1982:53) as well as Zweig *et al.*, (2006:24) potentially vulnerable inmates should be identified and segregated from the general population upon admission. In the current study two transsexual participants were interviewed and they indicated that they were placed in the hospital section of the correctional centre immediately after their arrest. Both display feminine characteristics such as long hair and the use of cosmetics. Although this is the ideal, it is not always possible in the South African context due to the overcrowding of correctional centres. Another research participant in this study indicated that he requested to await his sentence in the hospital section after being raped in PLCC. This request was denied and the participant was placed back in the general correctional population after completing his ARV treatment. He has, however, been transferred from the section where the rape occurred to another section of the correctional centre.

Regarding the segregation of offenders, the Correctional Services Amendment Act (Act 32 of 2001) sets out that segregation of an offender for a period of time is only permissible under the following conditions:

- Upon the written request of an inmate;

- To give effect to the penalty of the restriction of amenities;

- If prescribed by a medical officer on medical grounds;

- When an offender displays violent behaviour or is threatened with violence;

- If an offender has been recaptured after an escape and there is a possibility that he will attempt to escape again; and

- If at the request of the SAPS.

According to the stipulations set out in this legislation, potential as well as actual victims of rape may be segregated if they request it, for example based on their sexual orientation or if they have been threatened with violence, including rape. However, a drawback to this legislation is that the offender or detainee who's application is successful may only be segregated "for a period of time". This leaves the potential or actual victim with two options, namely taking his chances in the general correctional population to avoid sexual victimisation or to re-apply for segregation.

2.5.3. Training of correctional officials

Booyens, Hesselink-Louw and Mashabela (2004:10) are of the opinion that in South Africa correctional officials are not adequately trained to reduce rape in correctional centres or to treat victims after a sexual assault. This is probably due to the fact that most correctional officials received their training during the military era (pre 1994) and are as such not geared towards a human rights perspective.

According to Dumond and Dumond (2002b:93), knowledge of the incidence of rape, information about prison sexuality, victim response to rape and the dynamics of rape, as well as addressing official's perceptions and attitudes toward homosexuality and sex in prison should be included in the training that correctional officials receive. The importance of this type of reduction strategy will be detailed in the Offender Sexual Assault Protocol.

2.5.4. Legislation

In the USA the Prison Rape Elimination Act (PREA) was signed into law in 2003. This Act was the result of increased public and government concern about sexual violence in USA correctional facilities (Zweig *et al.*, 2006:1). The aims of PREA are as follows (Zweig *et al.*, 2006:1):

- To describe the nature and extent of sexual assault and rape in USA correctional facilities;
- To investigate how sexual violence is addressed by correctional facilities across the USA;
- To enhance correctional official's accountability when they fail to protect inmates from sexual violence;
- To develop national standards for addressing prison rape;
- To establish the National Prison Rape Reduction Commission with the objective to understanding "the penological, physical, mental, medical, social and economic impact" of prison sexual assault and rape;
- To establish a zero tolerance approach towards prison sexual violence; and
- To making the prevention of prison assault and rape a priority in USA correctional facilities.

From the above legislation it is evident that the USA regards male rape in its correctional facilities as an existing problem. It is the only legislation in the world that

addresses the issue of the rape of male offenders and detainees and how correctional officials can be held accountable for the abuse.

2.5.5. Mapping

The Texas Department of Corrections in the USA has a paper mapping system, known as the Visual Tracking Grid, designed to track cases of sexual assault. This grid was initially used to track gang activities in the prison, but later expanded to track fights, assaults, suspicious activity and sexual assaults. For each incident a tack is placed on a map, indicating the location of the incident. Information about both the victim and the perpetrator is added. Thus, officers have a visual picture of where incidents are occurring, which aids them in identifying potential problem areas. However, the major contribution of the mapping system is the documentation of “blind spots” (places where the correctional official cannot easily see) in the prison where most of the sexual assault takes place (Zweig *et al.*, 2006:24).

In South African mapping can be applied to track not only gang activities, which are still an integral part of corrections, but also sexual assault and rape. However, because male sexual assault and rape is such a secret crime this system will only work if inmates report cases to the authorities.

2.5.6. Punishment of offenders

According to Cotton and Groth (1982:56), inmates should upon admission be warned about the consequences of engaging in sexual assaults. The consequences can entail institutional disciplinary actions and/or prosecution. However Booyens *et al.* (2004:10) maintain that the prosecution of a perpetrator of male-on-male prison rape is rare. The reasons for this are threefold: Firstly the underreporting of sexual violence causes many perpetrators to get away with this crime; Secondly the failure of officials to adequately respond to and investigate complaints of rape results in forensic evidence being lost; Thirdly prison abuse, including rape has a low priority to most prosecutors.



Although all the above mentioned reduction strategies do have certain drawbacks they are worth exploring with an aim to reduce the sexual assault and rape of male offenders and detainees.

2.6. CONCLUSION

From the information contained in this chapter it is evident that male rape remains a reality in South African correctional facilities and will continue because of the unique relationship between the offender and the victim. In correctional facilities worldwide there is a distinct line between the “men” and the victims. If you are younger than a certain age, work in the kitchen, are a gang member and appear stronger than another inmate you are likely to be labelled a “man”. However if you are a young first time non-violent offender your chances of becoming a victim of male rape seem to increase solely based on your personal characteristics (over which you have no control) and criminal record.

Within South African corrections there are however three main factors identified as contributory to male sexual assault and rape. The first factor is the role of prison gangs, especially the 28 gang. Since the main objective of this gang is the recruitment of “wyfies” it will be very difficult, if not impossible, to prevent the sexual abuse of young inexperienced inmates. The only alternative is to advise new inmates not to join prison gangs, but many will still join because of the protection and camaraderie prison gangs provide their members with. The second contributory factor to male-on-male prisoner rape is the overcrowding of correctional centres. It has been postulated that the sharing of beds, due to overcrowding, may lead to forced sexual activities between inmates. The last contributory factor is the sexual orientation of an inmate. Although not much research has been done on the relationship between a person’s sexual orientation and the likelihood of rape, the Jali Commission of Inquiry found that homosexual and transsexual inmates are particularly vulnerable to sexual exploitation.

This chapter also explored the consequences of the sexual assault or rape on the victim. Existing evidence shows that the victim may experience psychological as well



as physical consequences, of which the transmission of STI's and HIV/Aids is of great concern. Regarding the psychological consequences, the symptoms of PTSD and RTS following a rape are not uncommon in male rape victims. These symptoms are often misdiagnosed and associated with an inmate's maladjustment to life inside a correctional centre. Subsequently various reduction strategies have been discussed by the researcher.

3. THEORETICAL EXPLANATIONS REGARDING MALE-ON-MALE SEXUAL ASSAULT AND RAPE

3.1. INTRODUCTION

Cote (2002:xvi) insists that theories are the cornerstone of criminology, and are therefore necessary in a study of male-on-male sexual assault and rape. There are various ways to describe theory. According to Homans and Turner (in Moyer, 2001:3-4) a theory must be empirically verified by research. Both these theorists are of the opinion that theories must furthermore consist of a set of concepts and propositions or theoretical statements. These propositions must be deductive and testable. Robert Merton (in Moyer, 2001:6) defines theory as “logically interconnected sets of propositions from which empirical uniformities can be derived”. According to Shoemaker (in Joubert, 2003:92), theories are attempts to make sense of observations. It is postulated by Schmallegger (2004:84) that “theory is a series of interrelated propositions which attempt to describe, explain, predict and ultimately control some class of events”.

According to Joubert (2008:92) the characteristics of a good theory are as follows:

- Plausibility (providing an explanation between two or more facts);
- Real-life evidence (evidence is obtained through empirical research);
- Falsifiability (testing in order to refute an explanation); and
- Predictability (predicting future behaviour).

In addition, Schmallegger (2004:84) states that theory should provide an understanding of a phenomenon, be supported by observations and stand up to continued scrutiny.

This chapter consists of a discussion of the theories applicable to the explanation of male-on-male sexual assault and rape in a correctional centre.

3.2. THE APPLICATION OF VICTIMOLOGICAL AND CRIMINOLOGICAL THEORIES

As this study involves both offenders and victims of male-on-male sexual victimisation, the researcher identified victimological theories as well as criminological theories to explain this phenomenon. The theories used are set out in the table below.

Table 2: Exposition of the victimological and criminological theories to explain male-on-male sexual assault and rape

General theory	Specific theory	Exponent(s) of the theory
Victimological theories	Differential risk model of criminal victimisation	Fattah
	- routine activities - lifestyle exposure - opportunity model	Felson & Cohen Hindelang, Gottfredson & Garofallo Cohen, Kleugel & Land
	Social exchange perspective	
	Socio-interactionist perspective (victim precipitation theory)	Von Hentig, Wolfgang & Amir
	Extended control balance theory	Piquero & Hickman
Criminological theories	General theory of crime	Gottfredson & Hirschi
	Control balance theory	Tittle

3.2.1. Victimological theories

The victimological theories used to explain male-on-male sexual victimisation focus on aspects such as the lifestyle and routine activities of the victim, interactions between the victim and the perpetrator, as well as the power or resources available to both the victim and the offender.

3.2.1.1. Differential risk model of criminal victimisation

According to Davis (2005:35) the differential risk model of criminal victimisation was developed due to shortcomings of the lifestyle/exposure model, the routine activities theory and the opportunity model. Thus, prior to explaining the differential risk model, it is imperative to briefly describe the above mentioned three theories or models.

The **lifestyle/exposure model** was developed by Hindelang, Gottfredson and Garofalo. It holds that the possibility of victimisation depends on the lifestyle and routine activities of a person. Therefore, people with a high-risk lifestyle, such as drinking, taking drugs and interacting with criminals are at increased risk of victimisation (Davis, 2005:36; Goodey, 2005:71; Siegel, 2006:77).

Four prerequisites have been identified before victimisation can occur (Davis, 2005:36):

- The offender and victim have to meet at a certain location. Within a correctional centre the offender and potential victim are usually locked up in the same cell.
- A dispute develops between the two parties and the victim is identified as a suitable target. The offender approaches the potential victim and attempts to make an agreement of sex in exchange for a commodity. In most cases the potential victim refuses this request.

- The offender uses the threat of violence or actual violence to achieve a result. After the potential victim refuses to have sex with the offender, the offender may resort to intimidation or actual violence to force the victim to have sex with him.
- The offender regards the circumstances as advantageous to achieve a result. Within a correctional centre the occurrence of forced sex is a “secret” and therefore the offender knows that it is unlikely for the incident to be reported or for fellow inmates to assist the victim.

In Walklate’s (in Davis, 2005:39) evaluation of this model it is postulated that the theorists did not take into account that some activities are so routine that individuals are not even aware that they are doing it. It is further suggested by Walklate that certain types of personal victimisation such as domestic violence, as well as intra-familial victimisation are not explained by this theory.

According to the two exponents of the **routine activities theory**, Cohen and Felson, changes in a person’s lifestyle routine can increase the risk of victimisation (Cote, 2002:286; Hunter & Dantzker, 2002:135). Because this theory traditionally focuses on social activities and lifestyles of people and not on the offending behaviour of the criminal, it is generally regarded as a victimological theory. This theory is, however, currently also applied to explain the behaviour of offenders (Brown, Esbensen & Geis, 2007:217; Davis, 2005:39-40; Nagin & Paternoster, 1993:469).

Felson (2002:298) believes that at least four types of crime exist, namely:

- The exploitative (predatory) crime entails at least one person exploiting another person or obtaining and/or damaging the property of another. When applying this to sexual abuse and male-on-male rape it directly translates to the offender sexually exploiting the body of another inmate.

- The mutualistic crime is where two parties voluntarily take part in an offence. In the correctional environment it will be an inmate offering his body in exchange for a commodity.
- Competitive crimes involve two parties participating in physical activities (i.e. fights). The practical application is where the potential victim resists the sexual advances of another inmate resulting in physical violence.
- The individualistic crime is when one person engages in criminal behaviour, such as drug abuse.

The routine activities theory as first developed by Cohen and Felson only focused on the direct-contact predatory crimes. For these crimes to be committed successfully, three elements must be present, namely motivated offenders, suitable targets and the absence of capable guardians or witnesses. Together this is known as the crime triangle (Brown *et al.*, 2007:213; Cote, 2002:286; Davis, 2005:40; Goodey, 2005:62; Hunter & Dantzker, 2002:135; Siegel, 2006:80; Walklate, 2003:39). These three elements will now be discussed in detail.

- **Motivated offender**

According to this theory offenders are rational human beings and will commit a crime whenever opportunity presents itself (Walklate, 2003:39). In applying this to sexual victimisation in a correctional centre, the offender makes a rational choice to sexually assault another inmate. These offenders are usually opportunistic, meaning they will target the inmate who does not receive visits, do not have commodities or are young first time offenders.

- **Suitable target**

Four elements determine whether a person or property is regarded as a suitable target. The elements include the value of the target (financial or symbolic), physical visibility (the risk to be observed by offenders), accessibility (approaching the potential victim without the risk of attracting attention) and effortlessness (the ease with which a target is selected and acquired) (Burke, 2005:46; Davis, 2005:40).

- **Absence of capable guardians or witnesses**

A guardian can be described as “any person who is able to prevent a crime as a result of his or her presence or direct actions” (Davis, 2005:40). Capable guardians can take many forms, but in the context of this study the term refers to correctional officials (guardians) and fellow inmates (witnesses).

According to this theory, a crime will occur when motivated offenders come into contact with suitable targets in the absence of capable guardianship. Within the framework of this theory, one way of preventing crime will be to reduce the attractiveness and/or accessibility of the target (Hunter & Dantzker, 2002:136). Therefore vulnerable, young, first time offenders should be segregated from hardened violent offenders. Because of the current overcrowding of correctional centres in South Africa, this is not a practical option.

Critique against this theory is that it shifts the responsibility of preventing crime onto the victim by suggesting that crime can be prevented if the victim changes his or her lifestyle (routine activities). Furthermore the theory cannot be used to explain white-collar crimes and violent crimes. It was initially developed to explain the occurrence of property crimes. A further criticism against this theory is that it does not explain the motivation for crime. In this regard Cohen and Felson point out that this is not the aim of the theory, rather the focus is on identifying the situations that contribute to criminal behaviour. With reference to the element of guardianship, Cohen and Felson do not attempt to explain why some guardians are more capable than others. They also do not elaborate on the susceptibility of some victims (Davis, 2005:41; Walklate, 2003:40).

The **opportunity model** developed by Cohen, Kleugel and Land combine elements of both the lifestyle and routine activities approaches. According to these theorists there are five factors that may increase a person's victimisation risk, namely: Exposure, proximity, guardianship, target attractiveness and properties of specific offences (Burke, 2005:47; Davis, 2005:42). Although not all of these elements can be applied to sexual assault and rape in a correctional setting, some are of value to this study.

- **Exposure**

This element is the physical visibility and accessibility of persons and property to become victims. The risk of victimisation increases if the motivated offender comes into regular contact with the potential victim. In a correctional centre the potential victim may be in the same cell as the motivated offender or come into contact with the offender during mealtimes in the dining hall.

- **Proximity**

This refers to the physical distance between potential victims and offenders. The closer the residential area of the potential victim to that of the motivated offender, the higher the risk of victimisation.

- **Guardianship**

Guardianship refers to the presence of people (correctional officials) or monitoring equipment (close-circuit television [CCTV] cameras in cells) to prevent the occurrence of crime. In 2006 the Minister of Correctional Services, Ngconde Balfour, announced that inmates will no longer have privacy in their cells "as gevolg van die dinge wat in die selle aangaan" [as a result of the things that is going on in the cells]. According to Balfour it is known that inmates have sex with each other and that rape occurs in cells. With the implementation of CCTV cameras in cells it is suggested that illegal sexual activities and gang activities could be reduced (Du Plessis, 2006:12).

- **Target attractiveness**

This element includes two dimensions, namely the desirability of people and objects as well as the perceived ability of potential victims to offer resistance. Thus the greater the attractiveness of the target, the greater the risk of victimisation. If the motivated offender identifies an inmate as a desirable target, due to age or physical characteristics, he will approach this victim. The likelihood of resistance will also be taken into consideration. Therefore motivated offenders are likely to target young first time offenders who are not familiar with the “inner world” of a correctional centre, and will most likely enter into an agreement without proper consideration of the consequences. From the current research it emerged that sexual exploitation takes place when new inmates enter into an agreement of accepting commodities in exchange for sex. Little resistance will occur because the agreement is almost always honoured.

- **Properties of specific offences**

This refers to the ease with which a crime can be committed. Thus the more difficult it is for the offender to commit a crime the less likely it is for the crime to occur. A significant number of research participants in the current study confirmed that they find it easy to commit a sexual offence as witnesses and victims are not likely to come forward and correctional officials are usually absent, especially at night.

In the evaluation of this model three factors are important. Firstly little attention is paid to the lifestyle of a potential victim. Secondly the presence of a motivated offender is regarded as the only precipitating factor, and numerous other factors such as alcohol and drug abuse or peer group influences are not considered. Thirdly, and related to the first factor, is the absence of explaining the lifestyle differences between the two genders. Accordingly women are less likely to come into contact with potential offenders due to their lifestyle, of mother and wife, but they fear crime more than men (Davis, 2005:42-43).

The former three theories or models laid the basis for the development of the **differential risk model of criminal victimisation**. In this model Fattah combined 40 propositions of criminal victimisation under ten broad categories (Davis, 2005:43-44; Walklate, 2003:126):

- **Opportunities**

According to Fattah criminals seek opportunities to commit crime. Opportunities encompass two factors, namely characteristics of targets as well as the activities and behaviour of individuals. For Fattah the absence of a guardian is an important opportunity factor.

- **Risk factors**

The following are identified as risk factors for victimisation: Attractiveness, vulnerability, socio-demographic characteristics (age and gender), residence, absence of guardianship and alcohol abuse.

- **Motivated offender**

Fattah postulates that victimisation is dependent on the number of motivated offenders in a specific area.

- **Exposure**

The risk of victimisation increases when a person comes into contact with a potential offender, and/or high risk environments. A correctional facility is a setting where both these factors are present, therefore increasing the risk of sexual victimisation.

- **Associations**

Association refers to personal, social or professional contact with potential offenders. Within the correctional environment this can relate to associations with prison gangs. As already discussed in Chapter 2, paragraph 2.3.1., associations with especially the 28 gang may increase one's chances of being sexually assaulted.

- **Dangerous times and places**

Activity patterns may influence the risk of victimisation. Violent crimes are more likely to take place at night and in the early morning hours, over weekends on the street or secluded public places.

- **Dangerous behaviour**

In some instances factors such as negligence, provocation and ignorance increases one's risk of being victimised. For example, motivated offenders may target ignorant, first time offenders and offer them commodities such as cigarettes or extra food. The dominant party may request the victim to give these commodities back within a few days, with the full knowledge that this is not possible. It is then when an agreement is reached where the victim "agrees" to have sex with the provider to prevent a physical assault.

- **High-risk activities**

Certain occupations (police, correctional officials, nurses, security guards) and participation in unlawful activities (sex work and drug dealing) may increase one's risk of victimisation.

- **Defensive/avoidance behaviour**

Attitude towards risk may influence the chances of being victimised. Thus risk takers are more often victimised than risk avoiders. In the previous chapter (paragraph 2.2.3.) certain sexual risk avoidance behaviours, such as keeping to oneself and not accepting anything from anyone, were discussed.

- **Structural/cultural proneness**

According to Fattah, there is a relationship between powerlessness, deprivation and the frequency of criminal victimisation. Accordingly minority groups or members of powerless groups are more likely to be victimised since they are viewed as “legitimate” victims by members of dominant or conventional groups. Although it is true in the USA that minority groups within the correctional centre (i.e. Hispanics) are usually the victims of sexual assault, the same is not true in the South African setting. In PLCC the victim can be from any racial, political, social or cultural background, as long as he is viewed as a suitable target.

The limitation of this theory is that it differentiates the victim from others by either personal or behavioural characteristics. Thus the blame for victimisation is solely placed on the victim (Walklate, 2003:126).

3.2.1.2. Social exchange perspective

According to the social exchange perspective, people interact appropriately as long as both sides receive something in exchange, and each party feels that the other is treating them fairly. There is an assumption of equitable power or resources by both sides of the exchange. Victimisation may occur when one of the parties perceives an imbalance in the relationship and abuse is used to rectify the imbalance on the part of the abuser (Doerner & Lab, 2002:255 - 256).

This theory can be applied to the so-called “wife-husband” relationship that exists in correctional centres. In this type of relationship both parties receive something in exchange, the “husband” receives sex and the “wife” commodities such as cigarettes, food and clothing. However if the “wife” refuses the “husband” sex he may resort to violence (i.e. rape). Therefore the balance is distorted but since the victim needs commodities to survive in the correctional centre he may accept the victimisation in silence.

3.2.1.3. Socio-interactionist perspective

The socio-interactionist perspective, also known as the victim-precipitation theory, stems from the early publication of Von Hentig in which he claimed that the victim often contributed to the criminal act. Von Hentig questioned what it was that triggered victimisation, which he referred to as the *criminal-victim dyad* (Doerner & Lab, 2002:4). Empirical support for the role of the victim in the victimisation process was provided in 1958 by Wolfgang. He reviewed the police homicide records of all murders committed during 1948-1952 in Philadelphia. According to Wolfgang, in 150 of these murder cases, the victim initiated the violence, which he referred to as “victim precipitation”. When the other party retaliated during a violent confrontation the violence escalated into murder. In 1971 Amir (a student of Wolfgang) conducted a similar study and concluded that female victims of rape sometimes contribute to their victimisation, for example if they dress provocatively they were more likely to be raped (Davis, 2005:49; Doerner & Lab, 2002:272; Hunter & Dantzker, 2002:167).

Two types of precipitation are distinguished in the victim precipitation theory, namely active precipitation and passive precipitation. Active precipitation is when the victim initiates the victimisation process. This occurs when the victim verbally or physically provokes the offender (Davis, 2005:49; Hunter & Dantzker, 2002:167). Passive precipitation refers to a victim that unknowingly exhibits a personal characteristic that could either threaten or encourage the offender. Belonging to a group can also increase personal victimisation, since the group’s mere presence may threaten the attacker’s reputation, status or economic well-being. Passive precipitation is related to power: If the target group can regain power, their vulnerability will decrease. The group remains a potential threat, but becomes a formidable target to attack (Davis, 2005:49-

50; Siegel, 2006:77). According to Siegel (2004:100), this theory can be applied to explain multiple victimisations: If a person continues to provoke behaviour he or she will become repeat victims.

Both active and passive precipitation can be applied to male-on-male sexual assault and rape in correctional centres. Regarding active precipitation some respondents indicated that they will physically assault an inmate if verbal sexual remarks are directed at them. Therefore the initial attacker (active precipitation) may become an actual victim. With regard to passive precipitation, a potential victim's vulnerability and/or demeanour may increase his chance of victimisation. Furthermore, membership of a prison gang can also precipitate an attack. For example, junior members of the 28 gang are more likely to become victims of sexual exploitation as this gang allows senior members to engage in sexual activities with junior gang members, in most cases against their will.

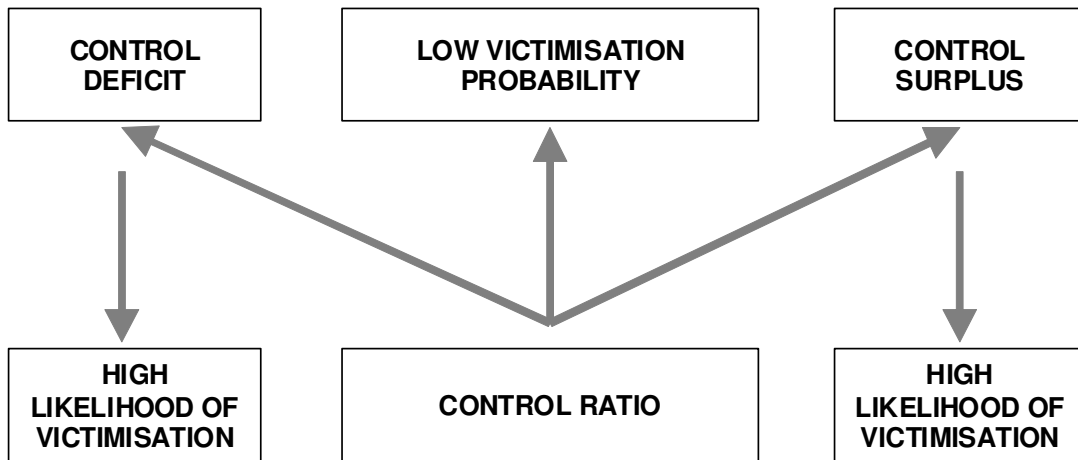
3.2.1.4. Extended control balance theory

The control balance theory was originally developed by Tittle to explain all deviant behaviour, and this theory will be discussed in paragraph 3.2.2.2. of this chapter. However, during the empirical testing of this theory, Piquero and Hickman concluded that control not only determines offender probability, but can also be linked to the probability of becoming a victim of crime. As a result Piquero and Hickman formulated the extended control balance theory (Davis, 2005:47).

As with Tittle's general theory of crime, Piquero and Hickman (2003:295) found that a control continuum consists of two elements, namely control surplus and control deficit, both of which can be associated with the probability of victimisation. If a person experiences control deficit he or she does not have the confidence and/or skills to defend themselves against those who want to victimise them and they will become weak because of this inability to exercise control. This results in the person becoming passive, submissive and vulnerable to victimisation. This sense of weakness is sought out by the offender who then exploits such individuals. Thus as control deficit increases, so too does the vulnerability to victimisation (Piquero & Hickman, 2003:286).

An example is the passive acceptance of sexual harassment by other inmates. On the other hand, individuals who experience a control surplus are able to exercise more control than the level to which they are subjected to. These individuals are at risk of victimisation because of their feelings of impunity, invulnerability and “untouchability” (Piquero & Hickman, 2003:286). They tend to seek out risky situations in order to “show off” their control. Therefore an inmate walking around a correctional centre boasting that no man will ever touch him, may fall victim to rape by a prison gang. The centre of this continuum is the balanced control ratio and individuals who manage to achieve this have the lowest victimisation probability (Davis, 2005:47).

FIGURE 2: EXPOSITION OF PIQUERO AND HICKMAN’S EXTENDED CONTROL BALANCE THEORY (OWN ILLUSTRATION)



3.2.1.5. Summary

The contribution of the four victimological theories to explain male-on-male sexual assault and rape can be summarised as follows: It is proposed by Fattah in the **differential risk theory of criminal victimisation** that certain factors differentiate victims from offenders. This theory incorporates elements of the lifestyle exposure theory, the routine activities theory and the opportunity model. According to the **social-exchange perspective**, victimisation will occur in a relationship as soon as one party perceives an imbalance in the relationship. The third victimological theory, namely the **socio-interactionist perspective** holds that the victim may actively or passively

precipitate violence. Lastly the **extended control balance theory** holds that too much or too little control can make a person vulnerable to victimisation.

3.2.2. Criminological theories

As male-on-male sexual assault and rape are such complex phenomena, integrated criminological theories are used to explain these crimes. With an integrated approach, existing theories are combined to better understand the causes of crime (Brown *et al.*, 2004:423). The two integrated theories used in this study are the general theory of crime and the control balance theory.

3.2.2.1. General theory of crime

By integrating elements of biosocial, psychological, classical, routine activities and rational choice theories, Gottfredson and Hirschi developed a general theory of crime (Hagan, 2002:168; Nagin & Paternoster, 1993:470; Siegel, 2006:208). Accordingly, this theory can be applied to explain all types of crimes, ranging from property crime to violent crime to economic crime (Moyer, 2001:151; Schmalleger, 2004:189). Gottfredson and Hirschi define crime as “acts of force or fraud undertaken in pursuit of self-interest” (Moyer, 2001:151). This definition is applicable to male-on-male sexual victimisation since some instances of rape occur with the use of force, but in the majority of situations an inmate can be “tricked” into having sexual relations. In both instances the offender strives towards self-interest, which is to maximise his own pleasure and avoid pain. Gottfredson and Hirschi further propose that crime is the result of “individuals with low self-control encountering situations or opportunities in which crime will produce immediate gratification with relatively low levels of risk” (Brown *et al.*, 2007:352 – 353).

The concept self-control refers to the degree to which a person is vulnerable to temptations (Schmalleger, 2004:189). People with low self-control tend to display the following characteristics (Brown *et al.*, 2004:367; Nagin & Paternoster, 1993:470; Siegel, 2006:310):

- Impulsiveness: Inability to delay gratification.
- Simple tasks: Preference for activities that do not require planning.
- Risk seeking: Risky behaviour is sought out because of the excitement attached to it.
- Physicality: Physical activities are preferred to intellectual activities.
- Self-centeredness: Insensitivity to other people's feelings and excessive focus on own desires.
- Temper: Easily lose control because of their short temper.

Gottfredson and Hirschi postulate that crime is committed by a person with low self-control when an opportunity arises. Although the current study did not focus on the offender's characteristic (self-control) *per se*, the researcher found that sexual assault and rape in PLCC is a crime of opportunity in most cases.

The evaluation of Gottfredson and Hirschi's work focuses on both empirical and theoretical matters. Regarding the empirical limitations, it is suggested by some authors that the link between self-control and deviance is weak. Although the link between self-control and deviance is statistically significant, it is of no substantive importance (Brown *et al.*, 2007:354 - 355; Siegel, 2006:313). Gottfredson and Hirschi used the Uniform Crime Reports (UCR) of the USA as empirical basis. However this self-report study only incorporates crimes reported to the police, thus a dark figure of crime exists with regard to their data base. Gottfredson and Hirschi do however, claim that their general theory explains all types of crimes and deviant acts, but excludes those crimes underreported in the UCR (Moyer, 2001:155).

The first major theoretical concern is that this theory of crime is tautological or characterised by circular reasoning. Accordingly, low self-control is defined in terms of persons committing deviant acts, but the theory maintains that low self-control is the cause of deviance (Brown *et al.*, 2004:369; Siegel, 2006:312). Although Gottfredson and Hirschi refer to opportunity, they do not elaborate on the importance of this variable. The opportunity to commit crime may be more important in crime causation than a person's self-concept (Brown *et al.*, 2004:370). Lastly it has been questioned whether the general theory can explain all types of crime. Two crimes that do not clearly fall within the framework of this theory are economic crimes and domestic violence. Gottfredson and Hirschi suggest that all crime is spontaneous, requires little skill and is not profitable. However, economic crime is a highly planned offence that requires great skill and usually holds significant profit for the offender. They also state that crime provides only short-term gain. However, in cases of domestic violence the continuous battering of a victim result in long-term benefits for the abuser, which includes power, authority and control over the victim (Brown *et al.*, 2007:357; Burke, 2005:213; Moyer, 2001:155).

3.2.2.2. Control balance theory

Tittle's control balance theory expands on the concept of control as a predisposing element for criminal behaviour. According to Tittle, and following on the work of Gottfredson and Hirschi, an excess of control can lead to deviance and crime (Siegel, 2006:315). The control balance theory is an integrated approach that incorporates elements from social control, social learning, differential association, rational choice, labelling and routine activities theories (Braithwaite, 2002:159; Hunter & Dantzker, 2002:142; Tittle, 1995:135).

At the heart of this theory are the two factors of "control balance" namely: The level of control one is subjected to by others and the level of control one can exercise over others. When these two factors are in balance there is conformity, however an imbalance produces deviant and criminal behaviour. Tittle refers to this as the control ratio (Brown *et al.*, 2004:436; Siegel, 2006:315).

According to Tittle (1995:142) “the amount of control to which people are subjected relative to the amount of control they can exercise affects their general probability of committing some deviant acts ...”. The decision to exercise control is dependent on four factors: Predisposition, provocation, opportunity and constraint.

- Predisposition is defined as the deviant motivations of a potential offender to engage in criminal behaviour. The degree of deviant motivation results from a combination of four concepts. Firstly deviant motivation reflects basic desires for autonomy. Secondly if fundamental bodily and psychological desires are blocked individuals may be predisposed towards deviance. Thirdly deviant motivation contains the control ratio component, which is the control that one can exercise relative to that which one experiences. Finally deviant motivations depend on provocation in specific situations.
- Provocation refers to the positive or negative outcome of one’s decisions, and includes verbal insults, challenges or the displaying of weakness.
- Opportunity is the actual chance to commit an act of deviance or crime.
- Constraint is the fourth factor in the control balance theory and refers to the probability or perceived probability that control will be exercised (Tittle, 1995:142-169).

Deviance is defined by Tittle (1995:124) as “any behaviour that the majority of a given group regards as unacceptable or that typically evokes a collective response of a negative type”. Furthermore it is postulated that deviance occurs when a person has either a surplus or deficit of control in relation to others. Control deficit is when one’s desires or impulses are limited by other people’s ability to regulate or punish behaviour. Control surplus is when the amount of control one can exercise over others is in excess of the ability others have to control or modify one’s behaviour. In corrections, control deficit will refer to the control correctional officials have over inmates. One way an inmate can restore the control ratio and regain some control is by sexually victimising

others. While both types of control imbalance produce deviance, the nature of control imbalance affects the type of deviance that is likely to result (Brown *et al.*, 2004:436; Davis, 2005:47).

According to Tittle (1995:137-140), six types of deviance are likely to occur in any society, namely predation, exploitation, defiance, plunder, decadence and submission.

- **Predation**

Acts of predation are diverse and include theft, rape, murder, robbery, assault, fraud and sexual harassment. As a category, predation is one of the most serious types of deviance. If they are able to, the victims are likely to take actions that will be unpleasant for the perpetrators. Thus victims may fight back, seek revenge or try to persuade others to intervene. This type of deviance falls well within the context of this study as it includes male-on-male sexual harassment and rape. The reactions of the victims are also applicable as revenge, where the victim tries to assault the rapist, and/or the persuasion of others to intervene, such as correctional officials and fellow inmates, are relevant.

- **Exploitation**

This involves acts of indirect predation where the exploiter uses others as intermediaries. Organisational arrangements can also be used to coerce, manipulate or extract property from potential victims. Within corrections the rapist can use others to approach the potential victim to make an arrangement of protection in exchange for sex. The correctional centre, as an organisation, can also be used where food, or the lack thereof, is used to obtain sex.

- **Defiance**

Defiant acts can be described as those in which the perpetrator expresses contempt of, or hostility toward a norm or to the individual, group or organisation with which that

norm is associated. These acts violate normative expectations, but with minimum harm inflicted on the object of the hostility. An example of this type of deviance within a correctional centre is the “wife-husband” relationship which is in direct conflict with the policy of the DCS not to allow sex within correctional centres.

- **Plunder**

This refers to individuals or organisations who pursue their own interests without regard for how their behaviour affects others. Plunder differs from predatory or exploitative acts in that the offender has a poorly developed conscience and is therefore less aware of the consequences of his or her actions. The researcher has applied this to the current study and proposes that a plunderer will be an older inmate who sexually abuses a child, juvenile, inexperienced or effeminate detainee for his own sexual gratification. A plunderer can also be someone who rapes because he himself had previously been a victim of rape.

- **Decadence**

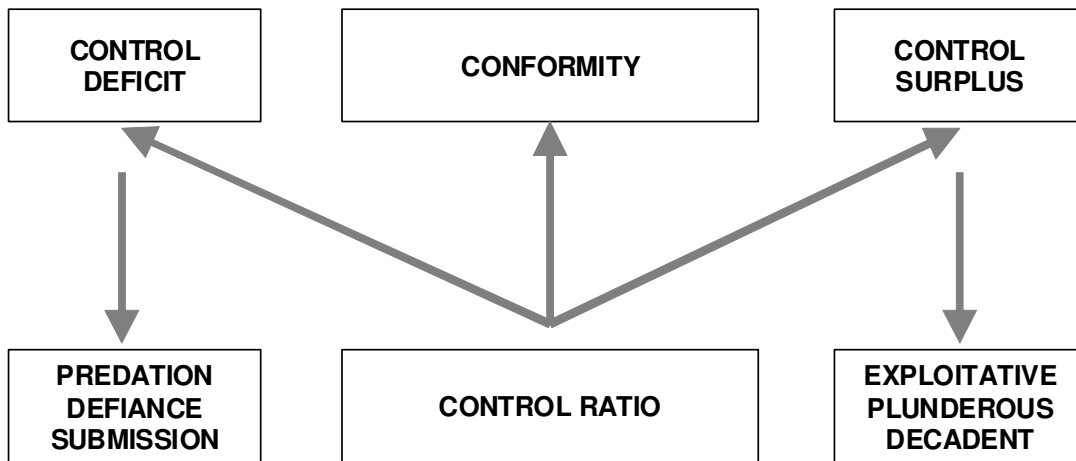
This theory also deals with individuals who act impulsively and have no long-term goals. Their behaviour can be classified as erratic, unpredictable and often irrational. Decadence includes excessive or unusual forms of sexual expression, humiliating the victim and nonsensical pleasure-seeking or destruction, such as sadistic torture. The practical application is where the male victim is anally penetrated by using an object or being urinated on by the perpetrator(s) after the sexual attack.

- **Submission**

A sixth form of deviance consists of passive obedience to the expectations, commands or desires of others. An example of this was shown in an interview with a detainee who seems to accept being sexually victimised, even negotiating with the perpetrators not to anally penetrate him but to “do it between the legs” (inter-femoral sex).

According to Tittle (1995:177), a person with a control deficit is predisposed towards “repressive” forms of deviance. The types of deviance committed to restore the balance will be predation, defiance and submission. He proposes that the greater the control deficit, the greater the chances of predatory and defiant forms of deviance. Those with control surplus are likely to express themselves in “autonomous” forms of deviance – exploitative, plunderous and decadent (Tittle, 1995:180).

FIGURE 3: EXPOSITION OF TITTLE’S CONTROL BALANCE THEORY (OWN ILLUSTRATION)



3.2.2.3 Summary

The contribution of the two integrated criminological theories to explain the causes of male-on-male sexual assault and rape is as follows: Firstly the **general theory of crime** is included in this study as the theorists claim that it can be applied to explain all types of crimes, and therefore also sexual assault and rape in a men’s correctional centre. An important addition to this theory is that crime is committed if an opportunity arises. In a correctional centre there is ample opportunity to sexually exploit other inmates, influenced by lack of manpower, organisational structure, corruption and vulnerable targets. Secondly, it is set out in the **control balance theory** that an excess of control can lead to deviant and criminal behaviour. According to Tittle there can be control deficit or control surplus, and an excess of any one of these can cause an imbalance, thus leading to deviance and crime.

3.3. CONCLUSION

Four victimological theories guided this study namely the differential risk model of criminal victimisation, the social exchange perspective, the socio-interactionist perspective (also known as the victim precipitation theory) and the extended control balance theory. Central to all four the victimological theories are that the victims of male-on-male sexual assault and rape are targeted because of individual characteristics, such as attractiveness, vulnerability and absence of guardianship, viewed as favourable by the offender. In the socio-interactionist perspective it is set out that victims play either an active or a passive role in their victimisation. In the last victimological theory, Piquero and Hickman postulate that both control surplus and control deficit can increase an individual's vulnerability to become a victim of crime. Those individuals who experience control surplus believe they are "untouchable" and as a result seek out risky situations which increase their chances of becoming a crime victim. On the other hand individuals who experience control deficit are likely to become victims of crime because they lack the confidence and skills to defend themselves in a potential dangerous situation.

In the first criminological theory, namely the general theory of crime, it is argued by Gottfredson and Hirschi that the perpetrator is an individual with low self-control who will commit a crime when the opportunity exists. Individuals with low self-control tend to be impulsive, will seek out risky situations, prefer physical activities and tend to be short tempered. According to Tittle and argued in the second criminological theory, namely the control balance theory, crime will occur if an imbalance is present in the relationship between two parties. Tittle further postulates that six types of deviance are likely to occur in any society, and therefore also in a correctional environment, namely predation, exploitation, defiance, plunder, decadence and submission.

4. RESEARCH DESIGN

4.1. INTRODUCTION

A description of the research methodology, the measuring instrument, the sampling method as well as the data collection method will be discussed in this chapter. According to Durrheim (1999:29) research design is “a strategic framework for action that serves as a bridge between research questions and the execution or implementation of the research”.

4.2. RESEARCH METHODOLOGY

For the purpose of this study, the researcher combined the quantitative and qualitative research methodologies, a process known as triangulation (De Vos, 2005:361). Triangulation involves the use of different research methods to study the same phenomenon (Martin, 2000:225). The rationale for combining the two research methodologies is that both can be used to explore, describe and explain male-on-male sexual assault and rape in PLCC.

With quantification it is easier to aggregate, compare and summarise data, and data can be statistically analysed. The strategies associated with quantitative research are experiments and surveys and in this study the data was collected by means of cross-sectional survey research. The disadvantage of quantitative survey research is the possible “loss of richness” of information (Creswell, 2003:13-14; Maxfield & Babbie, 2001:23).

Qualitative research can be classified as descriptions of participants' behaviour or the content of their answers to interview questions (Whitley, 2002:32). Strategies associated with qualitative research include ethnography, grounded theory, case studies, phenomenology and narrative research (Creswell, 2003:14-15). The qualitative component of this study is phenomenological whereby the researcher aims to describe the experiences of the research participants (Rubin & Babbie, 2001:389).

4.2.1. Mixed methodology: Creswell's dominant-less-dominant model

The emergence of the mixed methodology strategy can be traced back to the 1960's. However, this approach was only widely accepted during the 1980's (Maxwell & Loomis, 2003:241). Creswell's dominant-less-dominant model of combination (De Vos, 2002:366) was used to guide this study: The dominant model being the qualitative methodology and the less dominant model the quantitative methodology. In this study, which focuses on the nature and extent of male-on-male rape in a correctional centre, the dominant qualitative methodology is used to describe participants' experiences of sex and rape in the correctional centre and the less-dominant model gives numerical value to the research.

4.2.2. Research objectives

The objectives of research can be to explore, describe, explain, correlate, evaluate or intervene. Studies may consist of one or more of these objectives, but one objective is usually dominant (Fouché & De Vos, 2005:106). The current study can be described as exploratory, descriptive and explanatory research.

Exploratory research is used when a researcher wants to explore the nature or frequency of a problem, gain insight into a situation, phenomenon, community or individual or explore a new topic (Babbie, 2004:87; Fouché & De Vos, 2005:106; Maxfield & Babbie, 2001:18; Neuman, 1997:19). This type of research is applicable when studying a persistent phenomenon, such as male rape in correctional centres, and is frequently used in qualitative studies (Babbie, 2004:88; Fouché & De Vos, 2005:106). It is postulated by Babbie and Mouton (2001:80) that exploratory research usually involves the use of in-depth interviews. This strategy was used in this study.

The purpose of a *descriptive study* is to describe certain situations, events or relationships (Babbie, 2004:89; Neuman, 1997:19-20). The researcher observes behaviour and then describes the behaviour in question. Descriptive research can be

quantitative or qualitative in nature. Regarding the quantitative nature, description refers to the characteristics of a population (offenders and detainees in PLCC) and is often used in survey research. In qualitative research description refers to an in-depth examination of a phenomenon (Fouché, 2002:109).

Explanation is a method used to explain a phenomenon and to answer the “why” question. The aim of explanatory research is to indicate the causality between variables or events (Babbie, 2004:89; Babbie & Mouton, 2001:81; Neuman, 1997:20).

For the purpose of this study the research objectives can be set out as follows:

- To explore the nature and extent of male-on-male sexual assault and rape in PLCC.
- To describe how male-on-male sexual assault and rape occurs in PLCC.
- To explain why males are raped in PLCC.

4.3. MEASURING INSTRUMENT: QUESTIONNAIRE

The data was collected by means of a questionnaire (Appendix A). The objective of a questionnaire is to obtain facts, but also opinions about a certain phenomenon from people who are informed about a specific research topic. There are different types of questionnaires such as mailed questionnaires, telephonic questionnaires, self-administered questionnaires, questionnaires delivered by hand and group administered questionnaires (Delport, 2005: 166-169). Although the researcher was aware of these types of questionnaires, it was decided to conduct structured interviews with the research participants for two reasons, namely the research environment (correctional centre) and the sensitive nature of the research topic. With regard to the research environment it would have been difficult to complete a questionnaire via telephone as

inmates are not allowed to receive telephone calls. Due to the sensitive nature of the topic the researcher did not want to leave a questionnaire with a participant without offering immediate intervention if needed. During an interview the researcher can immediately detect whether a research participant is in need of intervention by a social worker by means of verbal and non-verbal cues. In the light of the above the researcher conducted structured interviews with sentenced offenders and detainees who voluntarily took part in the study by using a questionnaire.

According to Delport (2005:172), the researcher can divide a questionnaire into different sections or areas to simplify the processing of the data. It is for this reason that a proper literature review was conducted. The theoretical overview also guided the formulation of the questions in the different sections or areas. The questionnaire designed to determine sex and rape in PLCC is divided into six sections:

A. Biographical information

Section A will be used to collect biographical information concerning the age, marital status, sexual orientation, language, race/ethnicity background and highest qualification of the research participant.

B. Offence and sentence

This section of the schedule pertains to the type of offence the participant is sentenced or awaiting-trial for, how long the participant has been in PLCC and in which section of the correctional centre the offender or detainee is housed.

C. Prison sex

This is a general section where the participants will be asked about their views regarding the nature of sex in PLCC. Participants' views of the occurrence of rape and

the causes thereof as well as the causes of STI's and HIV/Aids are also addressed in this section.

D. Experience of assault in prison

This is a very personal question area and participants will be asked about their own victimisation in PLCC. The questions range from their experiences of verbal assault, physical assault and sexual assault. If a participant has experienced physical sexual assault (**forced** masturbation, oral sex, inter-femoral sex or anal sex) he is asked to answer specific questions pertaining to the nature of the victimisation.

E. Gang involvement

Research participants will also be asked about their involvement in a prison gang and other related aspects, such as the gang members viewpoints on sex.

F. General comments

The last area pertains to any issues that are not covered in the questionnaire and which the respondents feel could make a contribution to the study.

Since this study is a mixed methodology design, close-ended as well as open-ended questions were used (Creswell, 2003:17). In close-ended questions the participant must select one or two response(s) from a list provided by the researcher (Delpont, 2002:179; Maxfield & Babbie, 2001:249). According to Whitley (2002:345) researchers prefer this type of question because the responses available represent categories of interest to the researcher and the responses can be easily quantified. In constructing close-ended questions researchers should follow two requirements, namely that the response categories are exhaustive and mutually exclusive. The former entails that all possible responses that can be expected are included and the latter means that participants are limited to selecting only one response (Maxfield & Babbie, 2001:250).

Open-ended questions provide the participants the opportunity to write down their own answers in the open space provided (Delpont, 2002:179; Maxfield & Babbie, 2001:249). Since personal interviews will be conducted with all the research participants, the researcher will write the responses to the open-ended questions.

There are three circumstances in which open-ended questions can be more useful than close-ended questions: Firstly when the research is of a sensitive nature or when studying socially disapproved behaviour. This is applicable to the current study of male-on-male rape. Secondly they may be useful if the researcher is unsure about the response categories for close-ended questions. Thirdly open-ended questions can assess judgement more accurately than close-ended questions (Whitley, 2002:345). Another difference between close-ended questions and open-ended questions lies in the coding thereof. With close-ended questions the responses can be directly transferred into a digital format for processing by using a computer. Open-ended questions must be coded before they can be analysed by the researcher. This entails that the researcher must first interpret the responses according to his or her framework. Furthermore some responses may be irrelevant to the study and therefore of no use to the researcher (Maxfield & Babbie, 2001:249).

The questionnaire for this study is designed in accordance with McMurtry's (Delpont, 2002:179) notion that an ideal questionnaire should consist of close-ended questions for statistical analysis by a computer, but also open-ended questions to be processed manually by the researcher.

Since not all the research participants finished schooling or any other training, the wording of some of the questions was changed during the interview. Great care was taken not to lose the meaning of the questions in the original format.

4.4. SAMPLING AND DATA COLLECTION

This section concerns the sampling and data collection methods that were used in this study.

4.4.1. Sampling technique: Non-probability sampling

When selecting the research participants from the population the researcher can make use of either a probability sampling design or a non-probability sampling design. For the purpose of this study the researcher made use of the non-probability sampling technique.

Kumar (2005:177-178), Maxfield and Babbie (2001:238) and Whitley (2002:391) are of the opinion that non-probability sampling is effective when the number of participants in a population is either unknown or cannot be individually identified. Due to the nature of this study victims and/or perpetrators of male-on-male prisoner rape cannot be individually identified. Furthermore participants cannot be coerced into taking part in this study and therefore a list (probability sampling) of the population would not have been helpful. According to Kemper, Stringfield and Teddlie (2003:280) non-probability sampling can be used in either quantitative or qualitative studies and is common in mixed methodology studies.

There are various non-probability sampling techniques, such as accidental (convenient, availability or haphazard) sampling; purposive or judgemental sampling; quota sampling; snowball sampling; target sampling; spatial sampling and dimensional sampling. For this study the researcher made use of accidental sampling. This means that any male offender or detainee who is willing to meet with the researcher and has any knowledge of the research topic will be included in the sample until saturation is reached. Thus research participants are selected based on their availability and willingness to take part in the research (Gravetter & Forzano, 2003: 125; Strydom & Venter, 2002:207). It is postulated by Monette, Sullivan and DeJong (2002:149) that this sample is appropriate in research where it is difficult or impossible to obtain a complete sampling frame of the population due to two factors, namely that it is too costly or impossible to identify all the elements in the population.

A formal application to conduct research and gain access to offenders and detainees was submitted to the Department of Correctional Services in September 2002. The

official permission was granted (Appendix B) to conduct the research in the Pretoria Management Area on 31 October 2002. Hereafter a proposal was submitted on 6 February 2004 to the Research Proposal and Ethics Committee, Faculty of Humanities at the University of Pretoria. Permission was granted to conduct the research, and on 12 March 2004 the researcher received an official letter from the Research Proposal and Ethics Committee (Appendix C). After an extensive literature review which indicated that awaiting-trial detainees are more vulnerable to sexual assault and rape, the researcher applied for permission on 4 August 2004 from Dr Bergh, who is the researcher's internal guide at DCS and Dr Bengu, Director of Research at the DCS, to conduct the research in Pretoria Local Correctional Centre, still within the Pretoria Management Area. Neither Dr Bergh nor Dr Bengu had any objections to the change in the correctional centres. The Area Commissioner, Mr Mkabela, was also informed about this change on 31 August 2004.

On the days of the interviews, a correctional official escorted the researcher to a section of the correctional centre. The researcher went to ten sections of PLCC, including communal cells, single cells, the reception and the hospital section where sentenced offenders and awaiting-trial detainees were asked to voluntarily take part in the study. The disadvantage of this type of sampling, and also experienced in this study, is that research participants who are incarcerated for the first time or are in the correctional centre for only a couple of days voluntarily came forward to participate in the study, but were not necessarily able to answer certain questions, such as gang activity in this particular centre (Kumar, 2005:178). In the end twenty (20) adult sentenced offenders, twenty (20) sentenced juvenile offenders, twenty (20) adult detainees, twenty (20) juvenile detainees and twenty (20) child detainees were interviewed. A total of 100 interviews were conducted. Although saturation was reached after 16 – 18 interviews per category of detainee or sentenced group, it was decided to conduct at least 20 interviews per group to simplify the statistical analysis of the information.

4.4.2. The research sample

This section includes a discussion of the unit of analysis and a detailed description of the sample.

4.4.2.1. Unit of analysis

The unit of analysis is defined as “the person or object from whom the social researcher collects data” (Fouché, 2002:107). The unit of analysis in this study is all sentenced offenders and awaiting-trial detainees at PLCC willing to participate in the research. One hundred (100) male participants were interviewed and the unit of analysis is as follows:



Table 3: Unit of analysis

Section of the Correctional Centre	Sentenced adult	Sentenced juvenile	Adult detainee	Juvenile detainee	Child detainee
A section (hospital)			1	1	
B section (single cells)		11			
D section (adults)			7		
E&F section (adults)	11				
E&F section (juveniles)		9			
G section (adults)			12		
G section (juveniles)				8	
G section (children)					20
H section (juveniles)				11	
Reception	9				
TOTAL	20	20	20	20	20

4.4.2.2. Section A: Biographical description of the sample

PLCC only incarcerates male offenders and detainees, and there are no sentenced child offenders in this correctional centre. A biographical description (section A of the questionnaire) including the age, marital status, sexual orientation, language of preference, race/ethnic background and the highest qualification of the research participants is presented in tables 4 – 9.

Table 4: Age of the research participants

Age	Offender category					%
	Sentenced adult	Sentenced juvenile	Adult detainee	Juvenile detainee	Child detainee	
< 20 Yrs		4		11	14	29
20-24	2	14	4	8	5	33
25-29	6	2	6	1	1	16
30-34	6		2			8
35-39	3		2			5
40-44			2			2
45-49	2					2
50-54			3			3
55-59	1					1
60 yrs >			1			1
TOTAL	20	20	20	20	20	100

From Table 4 it can be deduced that the majority of the participants, namely 33% belong to the age group 20-24 years, followed by 29% younger than 20 years and 16% between the ages of 25-29 years of age. This is in accordance with the notion of Jupp, Davies and Francis (2000:217) that the majority of prisoners are young men.

An alarming finding is that there are five participants between the ages of 20-24 years and one participant between the ages of 25-29 years who are incarcerated with the child detainees. According to the Draft White Paper on Corrections (2003:161), and in accordance with the Children's Act (Act 38 of 2005) as well as Criminal Law (Sexual Offences and Related Matters) Amendment Act (Act 32 of 2007), a child is defined as a person under the age of 18 years. Furthermore, the South African Constitution (Act 108 of 1996) and the Correctional Services Act (Act 111 of 1998) stipulate that a child has to be kept separately from detained persons over the age of 18 years. Although the DCS is in direct breach of South African legislation, it should be noted that many of the detainees are not in possession of any identification documents (ID book or birth certificate) and it is therefore impossible to confirm their actual age. This implies that

the age that some inmates claim to be could be incorrect, and therefore the DCS uses their discretion to place the inmates in the centre.

Table 5: Marital status of the research participants

Marital status	Offender category					%
	Sentenced adult	Sentenced juvenile	Adult detainee	Juvenile detainee	Child detainee	
Single	13	20	13	20	20	86
Married	5		5			10
Divorced	1					1
Separated	1		1			2
Widower			1			1
TOTAL	20	20	20	20	20	100

The vast majority of the participants, namely 86%, are single, followed by 10% who are married. This high percentage of single inmates can be ascribed to the fact that three of the inmate categories interviewed are juveniles (sentenced and detainees) and awaiting-trial child detainees.

Table 6: Sexual orientation of the research participants

Sexual orientation	Offender category					%
	Sentenced adult	Sentenced juvenile	Adult detainee	Juvenile detainee	Child detainee	
Heterosexual	18	19	16	15	17	85
Bisexual	2	1	1	3	3	10
Homosexual			3	2		5
TOTAL	20	20	20	20	20	100

Most (85%) of the participants interviewed are heterosexual. Of the 100 participants interviewed 10% acknowledged that they are bisexual, and 5% indicated that they are homosexual. One homosexual participant indicated that the researcher is the first person he has admitted to being homosexual. This could be due to the fact that rapport had been established between the participant and the researcher and also that no

other person, such as a correctional official, was present during the interview, thus increasing confidentiality.

Table 7: Research participants' language of preference

Home language	Offender category					%
	Sentenced adult	Sentenced juvenile	Adult detainee	Juvenile detainee	Child detainee	
Afrikaans	5	3	4	4	1	17
English		1	5	2	1	9
IsiNdebele	1	1		2	1	5
Sesotho sa Leboa		2	3	5	2	12
Sesotho	3	4	2	3	3	15
SiSwati			1		1	2
Xitsonga		1	3		4	8
Setswana	4	3	2	3	4	16
Tshivenda						
isiXhosa	2	1				3
IsiZulu	5	4		1	3	13
TOTAL	20	20	20	20	20	100

There is an almost even distribution of the following languages spoken by the participants: Afrikaans (17%), Setswana (16%), Sesotho (15%), Zulu (13%) and Sesotho sa Leboa (12%). The least representative languages spoken among the offenders and detainees who took part in the research are Swati (2%) and Xhosa (3%).



Table 8: Race/ethnic background of the research participants

Race/ethnic background	Offender category					%
	Sentenced adult	Sentenced juvenile	Adult detainee	Juvenile detainee	Child detainee	
Asian	0	0	0	0	0	0
Black	16	16	11	14	19	76
Coloured	3	1	1	4		9
White	1	3	8	2	1	15
TOTAL	20	20	20	20	20	100

The majority (76%) of research participants are black, followed by white (15%) and coloured (9%) participants. No Asian offenders or detainees consented to being interviewed.

Table 9: Highest qualification of research participants

Highest qualification	Offender category					%
	Sentenced adult	Sentenced juvenile	Adult detainee	Juvenile detainee	Child detainee	
No schooling	0	0	0	0	0	0
Grade 1-2	0	0	0	0	0	0
Grade 3-7	3	2	1	0	4	10
Grade 8-11	10	15	9	14	14	62
Grade 12	6	2	4	6	2	20
Diploma	1	1	4	0	0	6
Degree	0	0	2	0	0	2
TOTAL	20	20	20	20	20	100

Sixty two (62%) of the participants completed or are busy with Grades 8-11. Twenty (20%) of the participants completed or are busy with Grade 12 and ten (10%) completed or are busy with Grades 3-7. Of the 100 research participants interviewed 6% have diplomas and 2% obtained degrees from tertiary institutions.

4.4.3. Data collection method: In-depth structured interview

The data collection method for this study is an in-depth structured interview. In-depth interviewing is “repeated face-to-face encounters between the researcher and informants directed towards understanding informants’ perspectives on their lives, experiences, or situation as expressed in their own words” (Kumar, 2005:124). Before commencing with any interviews, the researcher obtained informed consent (Appendix D) from all the research participants. According to Jupp *et al.* (2000:222) informed consent means “being sure that anyone who is a prospective subject understands what they are participating in and what implications this could have for them”. The informed consent form was explained to the participants in a language that they understood. In many instances the participants opted to read the informed consent form themselves. After agreeing to take part in the study, both the researcher and the participants signed the informed consent form. From the outset it was made clear to the research participants that they will not be rewarded for taking part in the study and all of them agreed to continue with the interview. The participants were also made aware of the fact that they have the right to terminate the interview at any stage.

Individual interviews were conducted from October 2004 to November 2004 and again from May 2005 to July 2005. The reason for the six months delay in finishing the interviews is that the researcher, who personally conducted all the interviews, was on maternity leave. Each interview lasted between 40 - 60 minutes.

The interview consisted of structured questions, which enables the researcher to present the same stimuli and therefore collect the same kind of data from a large number of participants. Such questions facilitates the “comparability of responses”, which allows “categories of subjects to be compared on the same items” (Jupp *et al.*, 2000:56). The latter statement is relevant to this study as it is the aim of the researcher to compare the responses of the sentenced offenders with the awaiting-trial detainees. According to Kumar (2005:131) interviews have the following advantages:

- Conducting interviews is an appropriate approach to studying a sensitive phenomenon, such as male-on-male rape. During the interview the researcher can prepare the participant before asking a sensitive question.
- During an interview the researcher can make use of probing in order to gain in-depth information.
- The researcher can supplement the information gathered from the research participant by observing non-verbal behaviour.
- During the interview the researcher has the opportunity to change some of the words or reformulate a question so that the research participants can understand the question.
- An interview can be conducted with any type of population. For example in the current study the population consisted of juveniles and adults as well as detainees and sentenced offenders.

The high noise levels in the correctional centre made it impossible for the researcher to use a tape recorder, so responses were written down verbatim on the questionnaire. All the interviews were conducted in private offices inside the correctional centre. Because of the sensitive nature of the study, the researcher opted not to have a correctional official present during the interviews. Although this can be perceived to be dangerous, as some of the interviewees were detained in the maximum section, it helped to establish rapport with the research participants. According to Pogrebin (in Hesselink-Louw, 2005:205), rapport is the harmonious relationship between the researcher and the participant, and relates to a basic sense of trust that develops and allows for the free flow of information. The researcher is also of the opinion that the absence of a correctional official elicited truthful responses from the research participants, especially on the areas concerning personal victimisation and prison gang involvement. At all times the researcher made it clear that she is not from the Department of Correctional

Services or the Department of Justice. An identification card from the University of Pretoria (personnel card) was displayed at all times.

The participants were guaranteed that all information shared with the researcher would be treated as confidential. Anonymity was also guaranteed. However, in two cases the participants agreed to have their information divulged to the social worker after it became known that they had been victims of rape. Two other research participants requested that a translator be present during the interview. The participants selected the translators themselves, and in both cases an inmate was chosen whom they trusted and had formed a friendship with. With some of the participants the researcher had to make use of probing, or follow up questions. The intention with this is to elicit clearer and more complete responses. Probing can take two forms, namely a pause in conversation that encourages the participant to elaborate, or an explicit request to clarify or elaborate on a response. Probing is more frequently used in eliciting responses to open-ended questions (Monette *et al.*, 2002:183; Rubin & Babbie, 2001: 373).

Some of the problems experienced during the interviews were as follows:

- Correctional officials entering the offices where the interviews took place without prior arrangement to make tea or coffee or to ensure that no harm had been done to the researcher. As a result of this interruption, an interview has to be stopped to ensure that the confidentiality of the participant stays intact.
- On some days it was difficult to gain access to participants due to the administrative and procedural regulations of the correctional centre such as the inmates of a particular section exercising their right to be out in the courtyard (“binnehof”) or inmates attending life skills programmes. The result of this was that the researcher had to wait for the inmates to return or alternatively go to another section and do a follow-up visit on another day.

- One inmate, who is also a gang member, used prison slang and gang language, which made it difficult for the researcher to understand his responses to some of the questions. As a result this interview lasted more than an hour, because the participant had to explain some of the words or phrases that he used. The researcher did not want to terminate the interview since this participant had valuable information regarding sexual activities and rape in the correctional centre.

Despite these shortcomings the researcher is of the opinion that the responses to the questions were truthful and reflected the experiences and knowledge of the research participants. The completion rate of this study is 100% with no participant wanting to terminate the interview at any stage. Furthermore the number of “don’t know” and “no answer” replies decreased significantly when the researcher made use of probing.

4.5. CONCLUSION

The methodology, sampling techniques and description of the sample group were discussed in this chapter. For the purpose of this study the researcher made use of Creswell’s dominant-less-dominant methodology, with the dominant being the qualitative methodology and the less-dominant the quantitative methodology. The research objectives were set out as exploratory, descriptive and explanatory in nature. Questionnaires were used as the measuring instrument, but instead of mailing them to the research population or handing them over to the research participant to complete themselves, the researcher opted to interview the participants. The main reasons for this were because of the sensitive nature of the topic, and also because many of the research participants are illiterate and may not have been able to comprehend the questions. Furthermore, during the interview the researcher could make use of probing to extract information from the research participants, and as such the researcher gained valuable information regarding the nature and extent of sexual activities, the types of sexual activities practiced in PLCC and also an insight into the gangs active inside this correctional centre.



The researcher made use of accidental sampling and interviewed male offenders and detainees willing to participate in the study. As a result 100 research participants from ten sections within the correctional centre were interviewed. The majority of the research participants were single black heterosexual men. In the following chapter the focus is on the analysis and interpretation of the quantitative and qualitative data gathered by the researcher.

5. ANALYSIS AND INTERPRETATION OF QUANTITATIVE AND QUALITATIVE DATA

5.1. INTRODUCTION

This chapter focuses on the analysis and interpretation of the data gathered from the research participants in PLCC. Since Creswell's dominant-less-dominant model of combination guided this study, two different methods of data analysis will be used. For the qualitative methodology, the researcher made use of content analysis and the following process was followed: Firstly the researcher had to understand the meaning of each participant's response to a question, and thereafter develop themes that include these meanings. The second step in the process was to assign codes to the main themes. This was done by hand instead of using a computer software programme. Having identified the themes the researcher classified the responses according to the different themes. The last step in this process was to integrate the themes and responses in the text. For this the researcher included the verbatim responses to keep the "feel of the responses" (Kumar, 2005:241).

Regarding the quantitative methodology the researcher made use of the services offered by the Statistics Department of the University of Pretoria. After the data was gathered the researcher prepared the data for analysis by giving numerical values to variables. Hereafter the questionnaires were sent to the Statistics Department, where a frequency distribution of the data was done. The researcher opted to consolidate the data per variable into table format, indicating the differences or similarities between the five different participant categories.

As indicated in Chapter 4, the questionnaire was divided into six sections, with Section A being the biographical information, covered in the previous chapter. In this chapter information concerning the offence and sentence, the nature of sex in the correctional centre, the participants' experience of sexual assault and rape in the correctional centre, gang involvement and general comments will be described. Since only 100 participants of approximately 4 000 inmates have been interviewed the results cannot be generalised, but the information gathered will give an indication of the nature and the extent of sexual practices in this correctional centre.

5.2. SECTION B: OFFENCE AND SENTENCE

Section B of the questionnaire consisted of questions regarding the offence for which the participant is awaiting-trial or sentenced, as well as in which section of the correctional centre the respondent was housed during the interview. The rationale for this was to determine whether there is any correlation between the type of offence committed and the person's involvement in sexual victimisation, either being a victim or a perpetrator. Furthermore the researcher wanted to establish whether there is a correlation between the period of incarceration and the person's knowledge of sex in the correctional centre.

Although the interviews were conducted in an awaiting-trial facility, the sentenced offenders that were interviewed were awaiting-trial for additional charges against them. This could be for crimes that they had committed before they started serving their sentence in another correctional centre, or they have been sentenced for one of the crimes that they have committed and are awaiting the legal process for the other crimes they have been accused of. Thus a person can be accused of committing three separate crimes and have been sentenced for one of the crimes but not yet for the other two crimes.

5.2.1. Quantitative analysis

In Table 10 an exposition is given of the type of offence(s) the research participants are awaiting trial or sentenced for.

Table 10: Type of offence awaiting-trial or sentenced for

Type of offence	Sentenced adult	Sentenced juvenile	Adult detainee	Juvenile detainee	Child detainee	%
Economical	3	6	9	5	4	27
Aggressive	17	13	7	12	15	64
Sexual	1	1	4	3	2	11
Narcotics	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	21	20	20	20	21	102

*Note: Some of the detainees and offenders are incarcerated for more than one offence

The majority of the participants who were interviewed (64%) are awaiting-trial or were sentenced for aggressive offences. These include crimes against the person such as murder, attempted murder, assault and robbery with aggravating circumstances.

The figures displayed in Table 10 are in line with the figures set out in the Annual Report of the DCS. On 31 March 2006, 85 911 offenders were serving time for aggressive offences, 36 963 for economic crimes, 25 003 for sexual offences, 7 578 for other crimes and 2 794 offenders were incarcerated for narcotic crimes (Annual Report of the Department of Correctional Services 2005/2006:16). A cause for concern is the number of children awaiting trial for aggressive offences. According to the National Institute for Crime Prevention and Rehabilitation of Offenders (NICRO), the number of violent offences in which children are involved in has increased from nine percent in 2001 to more than fifteen percent in 2003 (Benghiat, 2004:98).

The second highest category of offences (27%) is economic offences, such as theft, fraud, shoplifting and housebreaking. The adult awaiting-trial detainees show the highest percentage for these offences, namely 9%.

Lastly, 11% of participants are incarcerated for sexual offences, which include rape, attempted rape, indecent assault, incest and paedophilia. The majority are the awaiting trial group (child, juvenile and adult detainees, who make up 9%) and only 2% of sentenced juveniles and adults fall in this offence category.

In Table 11 the awaiting-trial period of the research participants is set out.



Table 11: The awaiting-trial period in the correctional centre

Period in the cc	Sentenced adult	Sentenced juvenile	Adult detainee	Juvenile detainee	Child detainee	%
0-6 mths	4	8	7	10	8	37
6-12 mths	2	6	7	6	6	27
12-24 mths	4	4	3	1	4	16
24 mths – 3 yrs	3	2	2	3	2	12
3-5 yrs	1	0	1	0	0	2
5-7 yrs	1	0	0	0	0	1
7-10 yrs	4	0	0	0	0	4
10-15 yrs	1	0	0	0	0	1
15 yrs to life	0	0	0	0	0	0
TOTAL	20	20	20	20	20	100

The majority of participants (37%) have been awaiting-trial for less than six months, followed by 27% that have been incarcerated for 6 – 12 months. The third highest (16%) are those awaiting trial for 12 – 24 months, and 12% are awaiting-trial for two to three years. Seven percent of the participants have been awaiting trial for a minimum of three years and a maximum of ten years and one participant, although sentenced, has been awaiting trial for 10 – 15 years for other crimes.

Table 12 refers to the section in which the research participant was housed during his awaiting-trial period.

Table 12: Section of the correctional centre where the respondents were housed

Section	Sentenced adult	Sentenced juvenile	Adult detainee	Juvenile detainee	Child detainee	%
A section (hospital)			1	1		2
B section (single cells)		11				11
D section (adults)			7			7
E & F section (adults)	11					11
E & F section (juveniles)		9				9
G section (adults)			12			12
G section (juveniles)				8		8
G section (children)					20	20
H section (juveniles)				11		11
Reception	9					9
TOTAL	20	20	20	20	20	100

When the interviews were conducted during 2004 and 2005, the correctional centre was divided into the sections as represented in the above table. The two participants interviewed in the A section, which is the hospital section of the correctional centre, are awaiting-trial transsexual inmates and are housed in the hospital for their own protection. They did, however, indicate during the interview that the DCS wanted to place them in the general correctional population. Both have submitted letters to the then Head of the Correctional Centre asking him for permission to remain in the hospital. The initial rationale for interviewing inmates in this section of the correctional centre was to possibly interview rape victims, however no victims received any medical treatment for sexually related injuries during the days on which the researcher conducted interviews in the hospital.

The sentenced juveniles were housed in B section, which are the single cells. This is to keep them out of harms way from the adult awaiting-trial detainees and adult sentenced offenders. The adults were incarcerated in four sections, namely D section, E and F section as well as G section. This however brought the adults into close proximity with child and juvenile detainees who were also housed in these sections. A concern with this housing arrangement is that the chances of sexual exploitation of minors by adults increase.

Since the last interview date, the DCS has restructured the lay-out of PLCC. The children and juvenile awaiting-trial detainees are currently housed in G section. Children are now separated further from the juveniles and are staying in a cell separate from them and the adults. The children are also served their meals before the juveniles and the adults, after which they return to their section before the juveniles and adults go to the dining hall to be served their meals (personal observation while working as an IPV in this correctional centre). The awaiting-trial adults are now housed in sections C, D, E and F. Sentenced adults are currently housed in H section and reception, while the sentenced juveniles remain in B section.

5.3. SECTION C: SEX IN THE CORRECTIONAL CENTRE

Section C of the questionnaire deals with a participant's perception of sexual activities in the correctional centre. The researcher wanted to establish whether the adults knew more about the practice of sex in the correctional centre than the children or juveniles. The researcher also wanted to gain information on how inmates practice sex in the correctional centre (i.e. types of sex) as well as the participant's knowledge of STI's and HIV/Aids in the correctional centre.

5.3.1. Quantitative analysis

In Table 13 an exposition of the ways in which sexual activities are practiced in PLCC is presented.

Table 13: Ways in which sex is practiced in the correctional centre

Types of sex	Sentenced adult	Sentenced juvenile	Adult detainee	Juvenile detainee	Child detainee	%
Masturbation	3	7	5	3	3	21
Inter-femoral sex	13	11	8	18	14	64
Oral sex	6	4	3	6	4	23
Anal sex	15	14	14	19	16	78
Don't know	1	3	4	0	1	9
TOTAL	38	39	34	46	38	195

*Note: Some of the detainees and offenders mentioned more than one way in which sex can be practiced in the correctional centre.

The majority of the research participants (78%) reported that anal penetration is practiced in PLCC. This includes both rape (one-on-one and gang rape) and consensual sex between two inmates. A significant finding is that this type of sex is mentioned across the research sample. If one considers the work of researchers in this field (discussed in Chapter 2), which states that HIV/Aids spreads more easily by means of anal sex, the practice of this type of sex should be addressed vigorously within this correctional centre.

Sixty-four percent (64%) of the participants reported that inmates practice inter-femoral sex, as stated in a previous chapter, inmates refer to this as “between the legs” or “thigh sex”. This entails one man placing his penis between the thighs of another man, often with lubrication, and thrusting back and forth to create friction. Participants mentioned that saliva, margarine, Vaseline, body lotion or yogurt could be used as lubrication.

The third type of sex that is practiced in the correctional centre is oral sex (23%), followed by masturbation (21%). Many of the participants replied that the type of sex (anal, inter-femoral, oral or masturbation) is often agreed upon by both parties.

Only nine of the participants replied that they do not know how sex is practiced in the correctional centre. These nine participants had been in this correctional centre for less than two years, with one participant only being in the centre for three days when the researcher conducted an interview with him.

In Table 14 the research participants' perceptions regarding the occurrence of rape in PLCC are illustrated.

Table 14: Occurrence of rape in the correctional centre

Have you ever heard of rape in prison?	Sentenced adult	Sentenced juvenile	Adult detainee	Juvenile detainee	Child detainee	%
Yes	20	17	16	17	14	84
No	0	3	4	3	6	16
TOTAL	20	20	20	20	20	100

The majority (84%) of the research participants affirmed that they had heard of rape occurring in the correctional centre. Only sixteen percent stated that they had never heard of rape in this correctional centre.

Table 15 is an exposition of inmate's awareness of STI's.

Table 15: Inmates awareness of STI's in the correctional centre

Are you aware of STI's in the cc?	Sentenced adult	Sentenced juvenile	Adult detainee	Juvenile detainee	Child detainee	%
Yes	15	11	15	8	8	57
No	5	9	5	10	12	41
Don't know	0	0	2	0	0	2
TOTAL	20	20	20	20	20	100

Fifty seven percent (57%) of the participants responded that they were aware of inmates with STI's in the correctional centre, forty one percent (41%) reported that they were not aware of any inmates with STI's and only two percent did not know what STI's were. In contrast with the majority of research participants who reported that they were aware of inmates with STI's, the nursing staff at PLCC at the same period reported that "STI's is skaars" [STI's are rare]. This discrepancy could be due to the fact that inmates are not likely to report to correctional staff if they have a STI, possibly due to the stigma that one is engaging in sexual activities and could therefore be either homosexual or a rapist.

The 57 research participants who answered that they were aware of inmates with STI's in the correctional centre were asked a follow-up question, namely: What do you think are the causes of STI's in the correctional centre? Their responses are illustrated in Table 16.

Table 16: The causes of STI's in the correctional centre

Causes of STI's in the cc	Sentenced adult	Sentenced juvenile	Adult detainee	Juvenile detainee	Child detainee	%
Come from the outside	5	0	5	3	1	14
Sex in prison	6	7	5	8	3	29
Don't wash after sex	2	2	1	0	0	5
Don't use a condom during sex	2	2	1	2	1	8
Don't know	0	2	3	0	3	8
TOTAL	15	13	15	13	8	64

*Note: Some gave more than one response to the causes of STI's in the correctional centre.

Twenty nine (29%) of the fifty seven percent research participants who were aware of STI's, believed that the cause of STI's in the correctional centre is sex that takes place between inmates. The research participants believed that all types of sex could cause STI's, namely anal sex, inter-femoral sex and oral sex. Two of the participants described the transmission of STI's as follows:

- "Mense wat seks het is vuil" [People that have sex are dirty].
- "Sleep with another man on his ass it is dirty there, more dirty than the legs".

The second significant group are those (14%) who were of the opinion that people do not get STI's in the correctional centre, but that they already have the infections when they are arrested. The following two responses support this finding:

- "Others come from outside with that disease and then transmit it when they have sex".

- “Can’t get it in prison come from the outside and steamfood (this is how the inmates refer to the food in the correctional centre) brings out the sickness”.

Thirdly, eight percent (8%) respectively, are those who are of the opinion that STI’s are transmitted in the correctional centre by those who do not use condoms during sex and those who do not know how STI’s are transmitted. They said:

- “No condoms, the only way they can do it is straight”.
- “Seksuele transaksie sonder kondome” [sexual transaction without condoms].

Five percent (5%) of the participants believe that inmates who contracted STI’s did not wash after having sex. One participant expressed it as follows:

- “Sex with someone don’t wash then next morning have sex with someone else”.

In Table 17 an exposition is given of inmate’s awareness of HIV/Aids in the correctional centre.

Table 17: Awareness of HIV/Aids in the correctional centre

Is HIV/Aids a problem in the cc?	Sentenced adult	Sentenced juvenile	Adult detainee	Juvenile detainee	Child detainee	%
Yes	15	19	16	19	17	86
No	5	0	3	0	3	11
Don’t know	0	1	1	1	0	3
TOTAL	20	20	20	20	20	100

Eighty six percent (86%) of the participants were of the opinion that HIV/Aids is a problem in the correctional centre, with only eleven percent who did not think it was a problem and three percent who did not know whether it was a problem or not.

A follow-up question to the above information relates to the causes of HIV/Aids in the correctional centre. The respondents were asked the following question: What do you think are the causes of HIV/Aids in the correctional centre? Their responses are highlighted in Table 18.



Table 18: The causes of HIV/Aids in the correctional centre

Causes of HIV/Aids in the cc	Sentenced adult	Sentenced juvenile	Adult detainee	Juvenile detainee	Child detainee	%
Come from the outside	3	2	3	3	2	13
Sex in prison	12	13	10	12	14	61
Fights	4	4	1	4	2	15
Don't use a condom during sex	1	3	1	1	2	8
Making tattoo's	3	0	2	2	0	7
Using clipper/razor blade	3	2	1	3	2	11
Using drugs – sharing needle	2	0	1	0	0	3
Lack of education	0	0	2	0	0	2
Hygiene	0	0	2	0	0	2
Don't know	0	2	0	0	0	2
TOTAL	28	26	23	25	22	124

* Note: Some of the detainees and offenders gave more than one response

Similar to the major cause of STI's the majority of participants, namely 61%, believe that the cause of HIV/Aids in the correctional centre is due to sex between inmates.

Research participants commented as follows in this regard:

- “People practicing anal sex”.
- “Jump op daai man” [Jump on that man].
- “Sleep with another man and to make oral sex”.
- “Those who have intercourse and know they have Aids, know they are going to be sentenced so don't care about others. This can be compared to murder outside”.
- “Sleep with him from the ass, cause there you find the blood, no blood on the legs”.

This is followed by fifteen percent (15%) who believe that HIV/Aids is contracted when inmates fight and an inmate who is not infected with the disease, comes into contact with an infected person's blood. One inmate made the following comment in this regard:

- "When you are fighting with big guy blood of another person mix with own blood".

Thirteen percent (13%) believe that inmates with HIV/Aids had already had the disease before their incarceration. Some participants responded in the following way:

- "Get Aids from outside but because of sex HIV is going all over the place".
- "Got it from the outside, steamfood shows the disease". (Some research participants believe that inmates are already HIV positive or have full blown Aids when they enter the correctional centre, but their status remains unknown until they eat the prison food. The participants noted that the steamfood [prison slang for the food they receive in the correctional centre] makes the disease "visible" because the person will lose weight, and suffer hair loss and skin rashes).
- "Kom van buite vat ander man naai hom, vat hom by die been" [Come from the outside take another man have sex with him, take him at the leg].

Eleven percent (11%) believes that one can get HIV/Aids by using the same clipper or razor blade. The following responses highlight their concerns:

- "Cut our hairs, pimple on head or blood and if you have pimples the blood mix".
- "Cut hair with one razor and cut hair of all the prisoners. If one have pimples he will bleed and then they cut your hair you will get that blood".

Eight percent (8%) of those interviewed were of the opinion that HIV/Aids is spread in the correctional centre when those who have sex do not use condoms. One respondent said the following in this regard:

- "Have sex without a condom because we don't have".

Prison tattoo's were mentioned by 7% of the participants. One respondent thought that the needle that they used for tattoos should be regarded as a cause of HIV/Aids. He made the following comment:

- “Gebruik naalde om mekaar te tattooër” [Use needles to tattoo each other].

Lastly the use of drugs (3%), lack of education (2%) and hygiene (2%) were also mentioned as causes of HIV/Aids. Only 2% of the research participants did not know the causes of HIV/Aids in the correctional centre.

5.3.2. Qualitative interpretation

In the following section the qualitative descriptions of the following themes will be addressed: The reasons why inmates participate in sexual acts, the nature of rape and the reasons why inmates are raped while awaiting-trial in this correctional centre.

5.3.2.1. Reasons why sex is practiced in the correctional centre

In Table 19 the reasons why sex is practiced in the correctional centre are set out according to four categories, namely the need for emotional sex, participating in survival sex, compliance sex and forced sex (i.e. rape).

Table 19: Qualitative description of the reasons why sex is practiced in the correctional centre

Participant category	Qualitative interpretation			
	Emotional sex	Survival sex	Compliant sex	Forced sex
Sentenced adult	<p>“After food, give cigarettes, ganja, make house and touch each other and kissing. Use petroleum jelly between legs and then put it in. Others do it between the legs other in the bum – it is how you like it”</p> <p>“Sex in men’s mind and no women but something lead you to that feeling, want to touch somebody”</p>	<p>“People that do not get visits do not have money to buy at the shop. Others that get visits will give those that do not get visits phone cards, cigarettes and this is the start of sex”</p>	<p>“A transaction takes place, the perpetrator promises cigarettes and dagga in exchange for sex”</p>	<p>“Maak die jonges soldate van die tronk as hulle nommer gevat het. Steek ander met ‘n mes, as jy nie bloed wil maak nie sal hulle seks met jou hê”</p> <p>[Make the young ones soldiers of the prison if they take a number. Stab others with a knife, if you don’t want to make blood they will have sex with you]</p> <p>“As een dit nie soek nie dan word hy verkrag, hoor hom skreeu, slaan die deur dat bewaarder kom. Die verkragter</p>



				word na isolasie gevat" [If one doesn't want it he will be raped, hear him scream, hit the door for warder to come. The rapist is taken to isolation]
Sentenced juvenile	"Wit en kleurlinge met 'n maksimum vonnis kry laaitie, maak vas (trou) met hom" [Whites and coloureds with a maximum sentence get a young boy, tie (marry) with him]	"Fat man give you everything and then 'eet die bene' (thigh sex) daarna gaan was. Tell you – 'jy is my laaitie" [Fat man gives you everything and then eats the legs (thigh sex) go and wash after that. Tell you – you are my young boy] "If he (juvenile) doesn't have anything, if another man get stuff from the tuck shop/dagga do sex for these commodities"	"Boy come to G section to sleep with a man – an agreement takes place – sex for dagga/cigarettes"	"Give you the number, before they give you the number they sleep with you. Someone was raped because he didn't want to sleep with the guys (members of 26 gang)"
Adult detainee	No responses	"Mense wat niks het nie verkoop hulleself" [People who have nothing sell themselves] "Others that don't get besoek (visit) will go to another man and say if you give me food or cigarette I will give you sex"	"Groter ouens wat jonges beïnvloed, jonges bly by hulle vir kos, sigarette, dagga in ruil vir seks" [Older guys that influence young ones, young ones stay with them for food, cigarettes, dagga in exchange for sex]	"What makes them to do this is the chubb (tattoo). With a new one first give him the chubb and then after sodomy"
Juvenile detainee	"In prison long time without sex and then your mind goes crazy and you see the boys. Create your life inside jail take a man and make him a women,	"Seks met jou maak as jy iets wil hê of honger is" [Make sex with you if you want something or if you are hungry]	"If someone give you his food he want to have sex with you and then he will give you everything you want"	"Others forced by numbers" (gangs)



	<p>make it in a secret way”</p> <p>“Long trials – here too long and need to have sex”</p> <p>“We watch TV and think about our girlfriends and if I have a guy I can have sex with a guy, all about the feeling”</p>	<p>“Others don’t have food or clothes – will have sex even if they don’t like it they do it”</p>		
<p>Child detainee</p>	<p>No responses</p>	<p>“Some like food too much – especially those who don’t get visits and have sex to get this”</p> <p>“Give you food if you didn’t have ‘besoek’, (visit) midnight come to you said I gave you something today what do you give me now?”</p>	<p>“Parents don’t visit – at night you feel hungry and tell someone give me food I am going to have sex with you”</p>	<p>“Before you become a member of the gang I will chubb (tattoo) you and then you have to sleep with me”</p> <p>“New ones get raped by gangs. First give you number (tattoo) and then explain what you have to do”</p>

In view of the abovementioned the interpretation of the reasons why a man will have sex with another man in the correctional centre are as follows:

Emotional sex: Men who have emotional sex tend to be awaiting-trial inmates in the centre for a long period of time (more than a year). From the participants’ point of view, it seems as though relationships develop with younger detainees and a “domestic” life is created inside the correctional centre. Furthermore, it appears as though a courtship takes place where the one partner will give the other person food, cigarettes or dagga. Usually after this they will start to kiss (foreplay) and then have sex. In the emotional sex category it seems as though the sensory element of touch is yearned for.

Survival sex: Inmates who engage in survival sex can be compared to prostitutes, because they sell their bodies in exchange for commodities. Many of the participants are in agreement that it is the detainees who are not visited, and thus do not receive cigarettes, extra clothes or food from the outside, who will engage in survival sex.

Compliance (agreement) sex: Sex for this reason occurs after an agreement is reached by both parties, and one could argue that this is the same as consensual sex. However, it differs from survival sex in that both parties can be viewed as equal as they agree to the sex, whereas in survival sex one party is being exploited.

Forced sex: From the responses given by the research participants it appears as though the gangs in the correctional centre are responsible for forced sex (i.e. rape). This type of sex goes hand-in-hand with deceit, as a young person or a new detainee is given the tattoo of a gang, often with the promise that the gang will protect him. Only after a couple of days it is explained to the new member that he must have sex with a senior member of the gang because he has their number. If they do not comply they are usually raped.

5.3.2.2. The nature of the rape

Those research participants who acknowledged that rape does occur in the correctional centre can be placed into three categories, namely those who witnessed the act, actual victims of rape and those who have committed the act of rape in the correctional centre.

A qualitative description of the participants’ knowledge of the nature of rape in PLCC follows. Three aspects are addressed, namely the time of the rape, the place where the rape occurred and the modus operandi of the perpetrator(s).

Table 20: Qualitative description of the nature of rape in the correctional centre

The nature of the rape	Responses from the research participants
Time of the rape	<p>“During the night, first threaten the boy and then take him to the shower”</p> <p>“When they master” (In a correctional setting this means after the correctional officials have counted all the inmates in the centre and confirmed that no one is missing, they lock all the offenders up for the night – master refers to the master key and is symbolic of the lock-up process)</p> <p>“Happen after they master, when prison is closed because warder don’t get in the cell only walk in the passage”</p> <p>“Forced sex takes place at night when the lights are off, between 22:00 and 04:30 with the most rapes between 00:00 and 01:00”</p>



Place where the rape took place	<p>“In die nag in eie bed” [At night in own bed]</p> <p>“In die stort, kombors oor my kop gegooi en ses oortreders wat hulleself bevredig het” [In the shower, threw blanket over my head and six perpetrators that satisfied themselves]</p> <p>“Gangster call new inmate ‘she’, take him to the shower switch off the light and next thing you are raped”</p> <p>“Rape in the shower at night, put a sheet over their heads so you don’t see them”</p> <p>“Jong man deur twee in die shower verkrag en as gevolg daarvan HIV positief” [Young man raped by two in the shower and as a result of this HIV positive]</p>
Modus operandi of the perpetrator(s)	<p>“Explain to a new gang member the rules, but he doesn’t understand, gang member say they will beat him on the chest if he doesn’t want to be beaten he will have sex with them”</p> <p>“One of us wanted to rape a new one catch him and take off his clothes. Only new ones because the old ones they know what happens”</p> <p>“Give him cigarettes or kaalkoppe (slices of bread), at night ask for sex, and if you refuse call gangster to rape him”</p> <p>“First time in prison, you have no friends, they tell you to come and live with them they give you food and cigarettes. At night they say you ate our food and smoke our cigarettes we want it back. If you like other people’s things they will have sex to get it”</p> <p>“Twee perpetrators maak mond toe en ander trek broek af” [Two perpetrators close the mouth and the others pull down your pants]</p>

The abovementioned qualitative data can be interpreted as follows:

Time of the rape: According to many of the research participants most of the rapes occurred at night. Possible reasons why perpetrators would target victims at night include: The centre will be under-staffed (with only half the officials working the night shift). Correctional officials are also not allowed to enter the cell without permission of the Director of the Centre and only after additional officials from other sections have arrived at the cell where the sexual assault is taking place. Thus at night there is an absence of capable guardianship.

Place where the rape occurred: Research participants reported that some of the rapes occurred in the shower, which is adjacent to the cell. It is suggested by the researcher that a reason for this could be that the shower area offers some privacy for

the perpetrator(s), and also there are no witnesses to the sexual act. Other participants heard of cases where the victim was raped in his own bed.

Modus operandi of the perpetrator: From the responses of the participants the researcher identified three methods perpetrator(s) will use to rape another inmate. Firstly the involvement in gangs, where a young man or new inmate will be approached by a gang, given the tattoo of the gang and only after the person agrees to be a member of the gang will it be explained to him that he must have sex with senior members of the gang. Secondly the perpetrator(s) will make use of deception where food, dagga or cigarettes will be offered to a new inmate. No mention will be made of the fact that these commodities will be expected back in the future. After a couple of days the perpetrator(s) expect the potential victim to give back the commodities, knowing that the person is not able to, and in return sex will be demanded from the person. Thirdly the victim is taken by force by the perpetrator(s) and in some cases tied to the bed and threatened with a weapon (e.g. sharpened spoon or toothbrush).

5.3.2.3. Reasons why inmates are raped in the correctional centre

The participants offered the following reasons for the occurrence of rape in this correctional centre, namely not reaching an agreement, corruption by correctional officials, gang involvement, and deception.

Table 21: Qualitative description of the reasons why men are raped in the correctional centre

Participant category	Qualitative interpretation			
	Not reaching an agreement	Corruption by correctional officials	Gang involvement	Deception
Sentenced adult	“Roep by hulle plek. Een wat wil verkrag sal die wat nie saamstem in die sel, jammer vir ongerief maar ek gaan met julle baklei. Praat met gevangene indien nie saamstem sny in die gesig. Steeds nie ingee word dit ‘n bakleiery. Oortreders meer as die slagoffer, maak rondtes met gevangene. As aanmeld	“Betaal bewaarder om jong outjie te stuur en bewaarder gaan op lunch en maak of niks gebeur nie” [Pay official to bring a young boy and the official goes on lunch and pretends that nothing happened]	“If you join the gang, offered sex (not forced to do sex because you belong to them). Before you get Medal (moving up in the gang) you can’t refuse sex or else be assaulted and even death”	“New inmate with no food, someone provide for him with the intention of having sex, but the young man is not informed of this”



	<p>sal steeds niks gebeur nie. Word verskuif na ander sel of niks gebeur nie”</p> <p>[Call by their place. One that wants to rape will tell those that do not agree in the cell, sorry for the inconvenience but I am going to fight with you. Talk with prisoner, if not agree, cut the face. Still no compliance it becomes a fight. Perpetrators more than the victim, take turns with the prisoner. If report still nothing will happen. Taken to another cell or nothing happens]</p> <p>“Talk to boy and boy denies and late at night jump in boys bed”</p>			
<p>Sentenced juvenile</p>	<p>“Voor die tyd gepraat, as hy nie verstaan, ek kan hom rape”</p> <p>[Talked before the time, if he didn’t understand, I can rape him]</p> <p>“Victim was the wife of another man that went to court, asked him before to have sex but he refused and raped him when his man wasn’t in the cell”</p>	<p>“Polisieman (korrektiewe beampte) bring jeugdige na volwasse vir R10,00”</p> <p>[Policeman (correctional official) brings juvenile to adults for R10,00]</p>	<p>“Man was sleeping, poured something (sleeping pills) in his tea and in the morning found out he was raped by a group of 26 gang members”</p> <p>“... two men raped him, one was the RAF 4 (gang)”</p>	<p>“Smoked and ate their things and then raped him”</p> <p>“Trek hom in gedagte’ rook saam met ons dagga en eet saam met ons maar in ruil vir seks”</p> <p>[Pull him in the mind, smoke dagga and eat with us but in exchange for sex]</p> <p>“Het iets vir hom gegee, niks gehad om terug te gee en toe verkrag”</p> <p>[Gave him something, nothing to give back so he was raped]</p>



<p>Adult detainee</p>	<p>“On Sunday an attempted rape in the cell because the man did not agree to have sex”</p> <p>“Offer jou brood en tee, jy moet by my slaap, sê ek gaan jou aanrand om jou sag te maak en doen dan die ding met geweld” [Offer you bread and tea, you must sleep with me, say I will assault you to make you soft and do the thing (rape) with violence]</p>	<p>No responses</p>	<p>“Jeugdige of eerste oortreder word ‘n wyfie gemaak. Kan nie ‘n saak maak nie, word met aanranding of die dood gedreig” [Juvenile or first offender is made a wife. Can’t make a case, threatened with assault or death]</p> <p>“Bendes wat dit forseer, hulle werf jou en moet eers met iemand seks hê voordat jy aan die bende behoort” [Gangs that force it, they recruit you and must first have sex with someone before you can belong to the gang]</p>	<p>No responses</p>
<p>Juvenile detainee</p>	<p>No responses</p>	<p>“Bewaarder wat betaal word om juveniles soontoe (volwasse seksie) te vat. Dit is hoekom geld nie meer in die tronk toegelaat word nie” [Official that gets paid to take juvenile there (adult section). This is why money is no longer allowed in the prison]</p>	<p>No responses</p>	<p>“Start from a smoke or food and ask to give those things back if they don’t they rape you”</p> <p>“Give you bread or cigarettes at night I want my thing, if you don’t have it then have the sex”</p>
<p>Child detainee</p>	<p>“Tell a guy they want sex if he doesn’t want to do it take him to the shower and rape him”</p> <p>“An agreement with the young ones because they</p>	<p>No responses</p>	<p>“Most (rapists) are gangsters – take to shower, switch lights of and next thing you are raped”</p> <p>“New ones get raped by groups (gangs)”</p>	<p>“Seduce with food and cigarettes (those that don’t get visits) and at night ask for it back”</p>



	<p>don't fight back. May I have sex with you if guy refuse he force himself to that guy"</p>		<p>"When you are in a gang especially 28 but also 26 – talk about wives that doesn't listen, make sheets to punish wife"</p>	
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The researcher interpreted the reasons why men are raped in the correctional centre as follows:

Not reaching an agreement: This reason entails an inmate approaching a potential victim and attempting to get the man to agree to have sex with him. If the potential victim does not agree to this, the perpetrator will rape him.

Corruption by correctional officials: Participants revealed cases where juveniles were sold to adult detainees by correctional officials. In the general section of the questionnaire this was also a concern raised by many participants, and some proposed that if corruption can be curbed, sexual assault will decrease.

Gang involvement: Reference was made especially to the 26 gang and the 28 gang as perpetrators of sexual assault. According to the respondents, many young first time offenders first get the tattoo of the gang and only afterwards is it explained to them that they must engage in sexual acts. Some participants also mentioned that men who try to fight off the gangs may become victims of gang rape.

Deception: With deception the potential victim is offered commodities and the perpetrator acts as a friend to the new inmate. However after a couple of weeks or even months the perpetrator will approach the potential victim and ask him to give back the commodities. When the perpetrator handed the commodities over to the victim for the first time, he knew that this person would not be able to give him back the food, clothes, cigarettes or dagga and sex would be demanded in return. The victim was never informed that he would have to engage in sexual acts if he has nothing to give back to the perpetrator, whom he at first regarded as a friend.

In summary Section C of the questionnaire dealt with the quantitative and qualitative description of sexual practices in this correctional centre. A description of the research participants' personal experience of sexual assault follows.

5.4. SECTION D: EXPERIENCE OF ASSAULT

Section D of the questionnaire relates to the research participant's experience of assault in the correctional centre. Although this section was included in the questionnaire to determine the extent of the victims of sexual abuse, many research participants revealed that they sexually victimised others. As a result of this, the researcher deemed it important to also describe cases where participants were perpetrators of sexual assault in the correctional centre.

5.4.1. Quantitative analysis

In Table 22 an exposition of the nature and extent of sexual assault and rape is presented, followed by information gathered from victims who were raped.

Table 22: The nature and extent of sexual assault and rape in the correctional centre

Participant category	Sentenced adult			Sentenced juvenile			Adult detainee			Juvenile detainee			Child detainee		
	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3
	Frequency of assault														
Type of assault	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3
A	10	0	10	9	1	10	10	0	10	5	1	14	8	0	12
B	19	0	1	20	0	0	19	0	1	20	0	0	20	0	0
C	13	4	3	13	5	2	14	1	5	11	7	2	14	3	3
D	20	0	0	20	0	0	20	0	0	19	1	0	19	1	0
E	19	0	1	19	1	0	19	0	1	19	1	0	20	0	0
F	18	0	2	20	0	0	19	0	1	17	1	2	18	0	2
G	20	0	0	20	0	0	20	0	0	20	0	0	20	0	0
H	17	1	2	19	1	0	19	0	1	19	1	0	20	0	0
I	20	0	0	19	1	0	17	1	2	19	1	0	18	1	1
J	20	0	0	20	0	0	20	0	0	20	0	0	20	0	0

Keys to the table:
Frequency of assault:
1 = Never
2 = Once
3 = Twice/more



Type of assault

- A = Verbal sexual assault
- B = Physical abuse during sex
- C = Assaulted with a weapon
- D = Forced to masturbate others
- E = Others masturbate the participant against his will
- F = Thigh sex
- G = Forced to perform oral sex
- H = Participant forced to receive oral sex
- I = Sodomised
- J = Sodomised with an object

More than half of the participants (57%) revealed that they had had sexual insults directed at them, some were insulted every day. However they do not recognise this as a form of sexual victimisation, rather as a part of prison life.

Two research participants also reported physical abuse during their sexual victimisation. Regarding assault with a weapon, 35% of the research participants reported physical abuse with a weapon. In this regard they commented as follows:

- “I was stabbed twice in one day”.
- “Warders attack me with a broom”.
- “Gesteek met glas van die venster” [Stabbed with glass from the window].
- “Hit with a lock”.
- “Het met die een wat boude verkoop in die sel baklei omdat hy tissue mors. Hy het ‘n tandeborsel skerp gemaak en my probeer steek” [Had a fight with the one who sell bums in the cell because he wasted the tissue. He sharpened a toothbrush and tried to stab me].
- “Beaten by fellow prisoner and threatened to be cut with a razor”.

Only two participants had been forced to masturbate others, while four had been masturbated against their will. Eight of the participants had been forced to participate in inter-femoral sex. None of the participants reported that they had been forced to perform oral sex on another inmate, but seven of the research participants had been forced to receive oral sex from another inmate. None of the participants had ever been sodomised with an object.

Six of the participants revealed that they had been victims of sodomy (rape). A description of their experiences follows in the next section.

5.4.2. Qualitative interpretation

This section comprises a description regarding the characteristics of inmates that had been sexually victimised as well as a description of inmates who had sexually violated another inmate.

5.4.2.1. A description of inmates who had experienced rape

Six of the research participants revealed during the interview that they had been victims of rape in PLCC. After a description of their ordeal is given a summary of the general risk factors that all six the victims share is presented.

Victim 1

A black 21-year old single heterosexual juvenile, sentenced for housebreaking. The participant was attacked by a white inmate who did not use a weapon. He was sexually assaulted two months after his arrival at PLCC. The attack took place in the cell because he did not honour a transaction in which he was given cigarettes and food, but could not give it back. The incident was not reported to anyone, he did not receive any medical treatment or counselling or therapy after the incident.

Victim 2

A black 14-year old single heterosexual awaiting-trial child detainee, incarcerated for an aggressive offence (murder and armed robbery). He was attacked three days after arriving at PLCC by a black fellow inmate who did not use a weapon. The victim was asleep when his attacker climbed on top of him and anally penetrated him while the other detainees were asleep. The victim told the sodomy committee (a committee established only in this section of the correctional centre by the detainees), who were sensitive and helpful and did not regard this incident as a normal occurrence in prison life. No medical attention was required after the incident and the victim did not go for counselling or therapy.

Victim 3

A black 33-year old single heterosexual adult awaiting trial for an economic offence (fraud). The participant reported being attacked by a black fellow inmate who did not make use of a weapon. The incident occurred two to three weeks after his arrival at PLCC while he was asleep in his bed. He reported the incident to a correctional official who was sensitive, professional and helpful towards him. The official did not see this as a normal occurrence in prison life. After the reporting and opening of a SAPS docket, the perpetrator was moved to another section of the correctional centre. According to the participant, he was not the first victim of this particular perpetrator. The participant did not receive medical attention, counselling or therapy after the incident.

As the incident happened two days before the researcher interviewed the participant, he was still in shock and could not believe that this had happened to him. The researcher arranged for him to immediately consult with a social worker since he mentioned that he was considering suicide.

Victim 4

A white 29-year old single homosexual adult awaiting-trial for an economic offence (fraud). This detainee had been raped twice in the same section while awaiting trial in this centre. He briefly mentioned the first incident when he was raped in his bed at night in a communal cell by six perpetrators. Prior to this, he had never had sex with anybody and was still a “virgin”. He stated that the perpetrators “het iets kosbaars van my gevat” [took something precious from me]. The researcher also gathered information about the second and most recent incident. He had been raped by a coloured fellow inmate who did not make use of a weapon. Again the incident happened at night in his bed while he was asleep. The participant reported the incident to the Head of the Section who were sensitive, professional and helpful. Although the participant did need medical attention after the incident, he requested not to discuss the detail of the treatment. He also requested to see a social worker, because at the time of the interview he had still not been debriefed by a professional. The researcher suggested that he follows the official route to lodge a complaint and entered his request in the G365 (DCS official complaints and request register). During the course of the

research in the same section where this inmate was housed, the researcher encountered him a few days later and he indicated that he was seeing a social worker.

Victim 5

A white 35-year old single heterosexual adult awaiting-trial for a sexual offence (indecent assault). This participant had been raped by a group (6-10) of black and white fellow inmates who made use of ropes and sharpened spoons to overpower him. The incident took place two months after his incarceration. It took place in his bed where he was tied down and threatened with the sharpened spoons. According to the participant his attackers did not show any emotion during the sexual attack. The rape was reported to the Head of the Section and the victim was removed from the communal cell and taken to a single cell. The correctional official he reported the incident to was sensitive, professional and helpful. No medical treatment was sought by the victim. He also had not received any counselling or therapy since the time of the interview, although he had requested to see a social worker.

Victim 6

A white 17-year old single heterosexual child detainee, awaiting-trial for a sexual offence (indecent assault). This particular participant had repeatedly been sexually abused in the correctional centre. According to him, he would always first negotiate to rather have inter-femoral sex, but on many occasions he had been anally penetrated. His first sexual encounter occurred on his first day in the centre.

An account of his most recent sexual victimisation follows. He was anally penetrated by two coloured inmates who did not use a weapon. It happened in his bed in the communal cell at night while the other detainees were asleep. He did not report the incident to anyone, he did not receive any medical attention, although he stated that it was very painful and felt as if his anus is going to tear (“voel of dit wil skeur”). He also did not receive any counselling or therapy after any of the incidents.

The following can be deduced from the information provided by the six victims of rape: Five of the victims were heterosexual males, one was a homosexual male, thus the finding is in contrast with the myth that real men do not get raped and that you have to

be homosexual to be targeted. A finding that does correlate with the current research is the offence type and the likelihood of becoming a victim. Because only six victims came forward the information cannot be generalised, however it is noteworthy that three of the victims committed economic offences (a non-violent crime), two committed sexual offences against minors and one committed an aggressive offence. All the participants were victimised within days or weeks after their arrival at PLCC.

In one of the cases the perpetrators used ropes and sharpened spoons as weapons whereas in the other five cases the perpetrators used the element of surprise and overpowered the victims in their beds. All the incidents took place at night in the victim's bed inside a communal cell.

Two of the victims did not report the incident, while two reported the rape to the Head of the Section, one reported the incident to a correctional official on duty and one reported the incident to the sodomy committee. An important finding is that the victims reported that the DCS officials who received the complaint from the victims were sensitive and helpful and did not regard this as a part of prison life. Five of the victims did not seek medical attention and only one went to the correctional hospital, where he was admitted, treated and prescribed ARV's. None of the victims received counselling or therapy after the rape. Three of the victims had previously been raped in this particular correctional centre.

5.4.2.2. A description of inmates who had sexually assaulted a fellow inmate

As mentioned previously, the researcher unintentionally also interviewed perpetrators of sexual abuse. A description of five participants who stated that they had forced inmates to engage in sexual acts follows:

Perpetrator 1

A black 18-year old single heterosexual awaiting-trial child detainee, incarcerated for an aggressive offence (armed robbery). During the interview he had already been awaiting trial for more than 6 months in this correctional centre. He forced other detainees to perform oral sex on him and in his words: "New ones give me the blow job". He is currently a member of the 26 gang.



Perpetrator 2

A black 18-year old single heterosexual juvenile awaiting-trial for an aggressive offence (robbery). During the interview he had been in the correctional centre for less than six months. This perpetrator had forced another juvenile inmate to participate in inter-femoral sex where the perpetrator put his penis between the legs of the young inmate. He had also sodomised a new inmate during the night because "I don't want others to see. I gave him 20 cigarettes". Thus, according to this participant, an agreement had taken place before the sexual act where the other partner received cigarettes in exchange for anal penetration.

Perpetrator 3

A black 19-year old single bisexual awaiting-trial juvenile, detained for an aggressive offence (robbery). This participant had sodomised another inmate, and his reasoning is as follows: "... main thing is the visit if they don't get it I will give them the food or cigarette but for the sex". He also remarked that other inmates masturbate him and perform oral sex on him.

Perpetrator 4

A black 19-year old single heterosexual juvenile awaiting trial for a sexual offence (rape). This particular participant had both performed a sexual act (masturbation) on another inmate, which occurred with consent in exchange for a cigarette, and also forced inter-femoral sex on a detainee. Next is a description of the inter-femoral sexual act: "Did it with another boy. Choose one that is beautiful, stimela (this is prison slang for a new inmate), fat or big bums and a light skin. I will give you a cigarette and then judge him, see what he likes. Come at night and touch him. Know he will not say anything because I give him cigarette. Make an agreement. Must first wash and give him Vaseline, put towel on the bed for the sperms not to fall on the bed, not in the ass but between the legs".

Perpetrator 5

A black 23-year old single, homosexual awaiting-trial juvenile detainee, incarcerated for an aggressive offence (armed robbery). He had been participating in inter-femoral sex with different “boys”. The modus operandi of this participant was as follows: “Make agreement with them, I give him cigarette, talk to him nice and tell him not to go to chief (correctional official). I choose the new ones because they don’t know about jail”. This participant is a member of the 26’s gang.

The following can be deduced from the information provided by the five perpetrators of sexual abuse. All five of the perpetrators were black, but this must be viewed with caution and should not be generalised. Since the participants voluntarily took part in this research, it could be that perpetrators from other races did not wish to participate in the study, and therefore there is no information on them. Three of the five perpetrators were heterosexual, one was homosexual and one was bisexual. Although this is a small sample, it does correlate with the research discussed in Chapter 2, paragraph 2.2., which states that it is mostly heterosexual men who engage in homosexual acts. This finding also supports the notion that sexual abuse in a correctional centre is not about sex, but about power and control. Four of the participants were awaiting trial for aggressive offences and only one for a sexual offence. The participants had forced their victims directly or indirectly to engage in oral sex, inter-femoral sex and anal sex.

In Table 23 the research participants were asked to comment on whether they had ever seen another inmate being sexually assaulted.

Table 23: Witnessing another detainee or offender being sexually assaulted

Have you ever seen another inmate being sexually assaulted?	Sentenced adult	Sentenced juvenile	Adult detainee	Juvenile detainee	Child detainee	%
Yes	12	12	5	13	11	53
No	8	8	15	7	9	47
TOTAL	20	20	20	20	20	100

Fifty three percent (53%) of the participants had witnessed another inmate being sexually assaulted, while forty percent (47%) had never witnessed someone being

sexually assaulted. Some responses of those who have witnessed a sexual assault are as follows:

- “Al twee keer gesien, maak tent in die aand” [Saw it twice, make tents at night] (When probed the participant remarked that a “tent” is when sheets are draped around the beds to give the inmates privacy while engaging in sexual acts. It is an unwritten rule in the correctional centre that no one will interfere while the people are inside the “tent”).
- “In die aand nuwe een word geroep om agter in die sel te slaap. Gee hom dagga of geld of sigarette. Maak tent en vra die nuwe een vir seks. As hy nie seks wil hê sal hulle hom force” [At night new one is called to sleep at the back of the cell. Give him dagga or money or cigarettes. Make tent and ask new one for sex. If he doesn’t want sex they force him].
- “Inside cell after lock-up. Not against their will because of food, protection or cigarettes. Warden knows about this and bring juveniles in exchange for money”.
- “Three guys put one guy, who doesn’t have a number, in the shower and forced him to have sex. I gave him the advice to go to the member in charge of the section and lay a charge. Perpetrators taken to B Section (single cells)”.

The participants were also asked to comment on whether they had ever heard another inmate being sexually assaulted. In Table 24 an exposition is given of their responses.

Table 24: Hearing another detainee or offender being sexually assaulted

Have you ever heard another inmate being sexually assaulted?	Sentenced adult	Sentenced juvenile	Adult detainee	Juvenile detainee	Child detainee	%
Yes	18	13	13	15	11	70
No	2	7	7	5	9	30
TOTAL	20	20	20	20	20	100

Seventy percent (70%) of the participants had heard an inmate being sexually assaulted, while thirty percent (30%) had never heard an inmate being assaulted.

Some of the research participants commented as follows:

- “Happens a lot in prison”.
- “Talk loud when they don’t want to do it”.

- “Scream for help but we can’t help, don’t follow your numbers”.
- “Some scream others can’t because they (attackers) have dangerous weapons”.
- “Hear men scream, don’t do it between the legs, do it in the ass and it is very painful”.

5.5. SECTION E: GANG INVOLVEMENT

In this section of the questionnaire, the researcher wanted to establish whether any of the respondents belonged to a prison gang and if sex was allowed between gang members or with members of another gang.

5.5.1. Quantitative analysis

In Table 25 an exposition is given of the extent of gang membership amongst the research participants.

Table 25: Membership to a prison gang

Do you belong to a gang?	Sentenced adult	Sentenced juvenile	Adult detainee	Juvenile detainee	Child detainee	%
Yes	3	4	3	4	3	17
No	17	16	17	16	17	83
TOTAL	20	20	20	20	20	100

The majority (83%) of the participants do not belong to a prison gang. They are referred to as “Franse” or “one-one”, and as one participant put it “you are nothing and you don’t have a say”. Only seventeen percent (17%) of the research participants reported that they do belong to a prison gang.

The participants that do belong to a gang had to answer a follow-up question, namely the type of gang they belong to. This information is presented in Table 26.

Table 26: Gang to which the participant belong to

Gang	Sentenced adult	Sentenced juvenile	Adult detainee	Juvenile detainee	Child detainee	%
26	1	2	1	3	1	8
27	0	0	0	0	0	0
28	0	1	0	0	2	3
Big 5	1	0	1	0	0	2
Airforce 23 (RAF 3)	0	0	1	0	0	1
Airforce 24 (RAF 4)	1	1	0	1	0	3
TOTAL	3	4	3	4	4	17

The majority of the participants, namely 8 out of 17, are members of the 26 gang. None of the participants belong to the 27 gang (the reason for this is set out in the paragraph below). Three of the research participants who indicated that they are gang members, belong respectively to the 28 gang and Airforce 24 gang. This is followed by two participants who are members of the Big 5 gang and one research participant who belongs to the Airforce 23 gang.

The research participants offered the following information regarding the six gangs: The 26 gang work with money, they like to steal and rob new inmates of their belongings. The 27 gang does not exist in this correctional centre *per se*, as they have merged with the 26 gang and act as the hit men of this gang. One participant referred to them as “messtekers” (knife stabbers). Members of the 28 gang are involved in sexual acts and respondents put their function in the correctional centre as follows: “naai by die tronk” [sex at the prison] and “they fuck in prison”. An ex-member of the 28 gang put it as follows: “28’s like to have sex with anybody, but especially the young boys. They don’t care about anything”. The members of the Big 5 gang like food and some work in the correctional centre’s kitchen. They also co-operate (“pimp”/“snitch”) with the “police” (correctional officials). Lastly the Airforce 23 and 24 gang members plot their escape from the correctional centre because “everything is outside”. This information provided by the participants’ correlates with the literature as set out in Chapter 2, paragraph 2.3.1. of this thesis.

The last two questions in this section pertain to whether gang members are allowed to have sex with members of their own gang and/or if they are permitted to have sex with

members of another gang. Descriptions from research participants regarding these two questions follow.

The 26 gang:

The members of this gang are adamant that they are not allowed to have sex with fellow members of the gang.

- “If they do sex they take the work of the 28’s and the 28’s will fight”.
- “They don’t do sex they like the money and to smoke dagga”.
- “Not allowed to have sex in 26 gang, rob other people in prison or smoke dagga”.

However, a member of the 26 gang is allowed to have sex with a non-gang member. In this regard one 26 gang member said:

- “Sex with someone who doesn’t have a number”.

The 28 gang:

Regarding the question of whether sexual acts are allowed between gang members, the three participants from this gang gave the following answers:

- “28’s do all things” (This means that the 28’s members have thigh sex, engage in sodomy, gang rape, masturbation, oral sex and consensual sex).
- “I have the girls that eat the legs at the jail”.
- “28 use bums only”.

Regarding the question whether they are allowed to have sex with non-gang members or members from other gangs, one of the respondents described a transaction that takes place when you want to have sex with a member from another gang.

- “Sleep with ‘stimela’ or with those who doesn’t belong to the gang”.

- “Are allowed to have sex with 26, RAF 4 (Airforce 24) and Big 5”.
- “Give 26 blades (rolls of dagga) and then after “slaan die plek” [hit the spot] (between the legs). With RAF 4 I give 24 blades of dagga and Big 5 gee my rantsoen vir hom en dan hy kom hier om bene te gee” [...give my ration to him and then he comes here to give legs]

Airforce 24 (also known as RAF 4):

The three members of this gang all agreed that sex between gang members or with non-gang members is not allowed. The reason is that it is against the rules of this gang. Some of the punishments meted out to those who do engage in sexual acts include the following:

- “Hit four times on the chest”.
- “Forced to drink 24 litres of water”.
- “Give you four days to escape, don’t want to see you in prison”.

The Big 5:

The two members of this gang agreed that sex between gang members or with non-gang members was not allowed, as it is against the rules of the gang. As one of the participants put it: “Don’t have the law that you can sodomise each other”. However the same participant did acknowledge that sex is allowed with a non-gang member after an agreement had been reached, and the other members of this gang “must see what you are doing when you have sex”.

The researcher therefore concludes from this that forced sex (rape) is not allowed, but a member of the Big 5 is allowed to take part in a transaction if he has provided something, for example food, in exchange for sex.

Airforce 23 (also known as RAF 3):

This member of the Airforce 23 gang acknowledged that sex between gang members or non-gang members is not allowed. The reason he gives for this is: “Ons het niks in die tronk, alles is buite” [we have nothing in prison, everything is outside]. These inmates do not have any relationships in the correctional centre or engage in sexual activities as their wives, girlfriends and families are waiting for them on the outside.

5.6. SECTION F: GENERAL COMMENTS

Participants were given the opportunity to add any relevant information they thought were omitted in the questionnaire. Participants used this opportunity to raise issues that they felt should be addressed in this correctional centre. Some of the participants opined on how sexual victimisation can be prevented. The researcher identified 11 categories that needed to be addressed in this correctional centre according to the research participants.

i. Corruption by correctional officials.

Research participants made the following comments in this regard:

- “Korrupte bewaarders bring jeugdige na volwasse seksie. Verhuur jeugdige vir twee ure. Jeugdige en bewaarder word betaal om stil te bly” [Corrupt officials bring juvenile to adult section. Rent juvenile for two hours. Juvenile and official are paid to keep quiet].
- “Jeugdige slaap die aand in die volwasse seksie. Vir R20,00 sal hy (korrektiewe beampte) ‘n jeugdige na die volwasse seksie bring” [Juveniles sleep in the adult section at night. For R20,00 he (correctional official) will bring the juvenile to the adult section.
- “Polisiemanne (korrektiewe beamptes) is korrup, vat jeugdige na volwassenes. Verkoop jeugdige aan volwassenes vir dagga” [Police men (correctional officials) are corrupt, take juveniles to adults. Sell juvenile to adults for dagga].
- “Some warders are corrupt. I can give him money or dagga and he can bring a young man to me”.

ii. Lack of rehabilitation programmes in PLCC.

One research participant stated that “no rehabilitation is the cause of everything”. With this he implied that the lack of rehabilitation programmes is the cause of gangsterism, sexual assault and rape, as well as physical assaults.

iii. Address the issue of manhood.

A research participant stated the following:

- “In prison have to show you are a man, even if the perpetrator is bigger you have to fight back, hit him with a lock or stab him. You have to show them that you are a soldier (man). If you cannot stand the pressure you will become a woman”.

iv. Raise awareness amongst new inmates, children as well as juvenile detainees.

Research participants responded as follows:

- “In reception (admission section) they (correctional officials) tell you that rape can happen, but do not tell you how to prevent it”.
- “Make a project which will teach those that do not know about prison, make them aware”

v. Introduce a classification system where hardened violent criminals are separated from non- violent offenders.

The following comments were made in this regard:

- “Segregate wetslaners (gang members) from non-gang members”.
- “Separate hardened criminals from first time non-violent offenders”

vi. Address the existence of gangs in this correctional centre.

The research participants opined the following regarding the involvement of gangs in sexual assault and rape:

- “Majority who do this (rape) are those who ‘slaan wet’ (gang members)”
- “If they chubb (tattoo mark) you for gangster, you must sleep with them if you want to be a strong gang member”.
- “People with numbers who do this thing”.

vii. Implement a system where offenders or detainees who do not get visits can receive phone cards, cigarettes, and clothes.

Research participants stated the following in this regard:

- “Meestal mense wat nie besoeke kry nie (wat gesodomiseer word)” [Mostly people that do not get visits (that get sodomised)].
- “I said if he want food, dagga or cigarette he must come to me. I tell boy here at jail when I give you iets (something) you must give me iets (something). At night every day I take that young boy to sleep with me”.
- “Tekort aan commodities, gee hom dagga, kos of sigarette. Lok hom na sel as hy gaan is hy klaar joune” [Lack of commodities, give him dagga, food or cigarettes. Lure him to cell if he comes he is yours].
- “Boys that do not get visits are the one’s that get raped. Give them food or cigarettes in exchange for sex”.

viii. Establish a sodomy committee such as the one in the awaiting-trial children section.

ix. Two research participants were of the opinion that conjugal visits should be explored by the DCS as a preventative mechanism.

x. Address the cycle of violence, where an inmate who had previously been a victim of sexual assault may now become a perpetrator.



In the awaiting-trial section one research participant told of a young man that had once been a victim of prison rape and after that incident he became a perpetrator. In one week he sodomised four new inmates.

Another research participant made the following comment in this regard:

- “Most of the time it is a cycle of violence. Fucked once and now do it to others”.
- xi. Utilising the law to address sexual assault, including involving the SAPS in the taking of statements and follow-up on the case if the perpetrator of rape in the correctional centre has been released on bail.**

Research participants suggested the following:

- “The law must take its own course about the people who do this thing. Take it to the outside court”.
- “Perpetrator charged with male rape, same as for female rape”

Many of these issues raised by the research participants are incorporated in the Offender Sexual Assault Protocol. However, the researcher is of the opinion that as long as three of the issues mentioned by the participants, namely corrupt correctional officials, prison gangs, and inmates who do not receive visits, exists in this correctional centre, the sexual assault and rape of vulnerable inmates will continue.

5.7. CONCLUSION

Although the information provided in this chapter cannot be generalised, important issues had been raised. It is clear from the above that sexual assault does occur in this correctional centre and that many of the participants know of someone who had been a victim or has heard of someone who had been raped. A cause of great concern for the researcher is that the majority of the participants listed anal penetration as one of the main ways in which people have sex in this correctional centre. The fact that the victim can be infected with a STI or contract HIV/Aids through anal sex should be addressed by means of awareness campaigns in all the sections of this centre.

The researcher identified four reasons why inmates engage in sex, namely the need for emotional attachment (emotional sex), the need to survive (survival sex), the need to have access to resources (compliance sex) and the need to be in control (forced sex). Those who engage in emotional sex are the long-term inmates who long to be touched by someone, those who engage in survival sex, sell themselves, similar to a street prostitute, because they want something that others have. Compliance sex is an option for those who do not receive visits and as a result do not have any clean clothes, toiletries or extra food. They will use sex so that their basic needs can be fulfilled. Those who force others to have sex are mainly the members of the number gangs present in the correctional centre. They usually want to show their dominance in the correctional centre.

The researcher is of the opinion that it was brave of the six victims who were willing to share their encounter of sexual assault, since this (male-on-male rape) is usually a taboo subject in correctional centres. It is clear from the data that the victims experienced the sexual assaults differently. Their treatment by the system was similar, namely fair and professional. The correctional officials who were the first to deal with the victims all showed compassion and respect.

6. RECOMMENDATIONS AND CONCLUSION

6.1. INTRODUCTION

In the current study, which focused on the nature and extent of sexual assault and rape of male offenders and awaiting-trial detainees in PLCC, the concepts of sexual assault, rape, sodomy and masculinity were operationally defined. As this study focused on both the victim and the offender of sexual assault and rape, the researcher applied both victimological and criminological theories as theoretical background.

For the purpose of this study, four victimological theories were identified to explain male-on-male sexual assault and rape: According to the differential risk theory of criminal victimisation, certain factors, such as engaging in dangerous behaviour, high risk activities and associations, differentiate victims from offenders. This theory incorporates elements of the lifestyle exposure theory, the routine activities theory and the opportunity model. According to the second victimological theory, namely the social-exchange perspective, victimisation will occur in a relationship as soon as one party perceives an imbalance in the relationship. The third victimological theory, namely the socio-interactionist perspective, holds that victims can actively or passively contribute to their victimisation. Thus a victim can either verbally or physically provoke an offender or the victim's personal characteristics may make him vulnerable to victimisation. Lastly, the extended control balance theory holds that too much or too little control can make a person vulnerable to victimisation. The contribution of the two integrated criminological theories is as follows: Firstly the general theory of crime holds that crime is committed if an opportunity arises. From the findings of the current study it appears as though there is ample opportunity to commit a sexual offence in a correctional centre, especially at night. Secondly, it is set out in the control balance theory that an excess of either control deficit or control surplus can cause an imbalance in relationships and therefore lead to deviance and crime.

With regard to the methodology, Creswell's dominant-less-dominant model of combination guided this study, with the dominant model being the qualitative methodology and the less-dominant model the quantitative methodology. The

researcher designed a questionnaire, and because of the sensitive nature of the research theme conducted face-to-face structured interviews with all inmates willing to participate in the study. By means of non-purposive sampling, one hundred interviews were conducted. After data collection, the Statistics Department of the University of Pretoria drew frequency distributions for the quantitative model of the study, and regarding the qualitative methodology the researcher coded and designed themes from the verbatim responses of the participants.

After completion of the study, the following limitations were identified: The use of a small, unrepresentative sample, high rates of illiteracy among surveyed inmates leading to some interviews lasting up to an hour, and the reluctance of rape victims to disclose victimisation, which led to the underreporting of sexual victimisation in PLCC.

In the last chapter attention will be given to the evaluation of whether the aims of the study formulated in Chapter 1, paragraph 1.5., were fulfilled. Recommendations on possible themes for future research on the sexual assault and rape of male offenders and awaiting-trial detainees will also be highlighted. Lastly, based on the interviews with the research participants, the literature review and personal communication (2008/02/21) with Mr Bob Harrison from the Kansas Department of Corrections in the USA, the Offender Sexual Assault Protocol was developed for the Department of Correctional Services in order to reduce and manage sexual assault and rape in correctional facilities.

6.2. ACHIEVEMENT OF THE AIMS OF THE STUDY

A discussion on how the aims of the study were accomplished follows.

6.2.1. Aim 1

The first aim was to describe the nature of sexual activities in a male correctional centre. Firstly, the biographical information of all the research participants were ascertained, namely their age, marital status, sexual orientation, home language, ethnic background and highest qualification. From the research it emerged that the majority of the research participants were between the ages of 20 – 24 years. Most of the participants were single, black, heterosexual males. The languages spoken the

most in this correctional centre were Afrikaans and Setswana. Sixty two (62%) of the research participants completed or are busy with Grades 8 – 12.

Seventy eight (78%) of the research participants were of the opinion that anal sex (coerced or consensual) takes place the most in PLCC. This viewpoint cuts across all age groups interviewed in this correctional centre, namely children, juveniles and adults. This type of sexual activity is followed respectively by inter-femoral sex, oral sex and masturbation. Many of the research participants explained that the type of sex practiced between the inmates is often agreed upon by both parties, and it is only when an agreement cannot be reached between the inmates, that force will be used to obtain sex.

The researcher also wanted to ascertain the awareness of research participants regarding STI's as well as HIV/Aids in the correctional centre. From the responses of the participants it appears as if the majority of the research participants, namely fifty seven percent (57%), know of an inmate that has an STI. When asked how STI's are transmitted in the correctional centre, twenty nine percent (29%) reported that sexual activities between inmates were the foremost cause. Furthermore, the participants believed that all types of sex could cause an STI. Other research participants believed that inmates do not get infected with an STI's in the correctional centre, but that they had already had an infection prior to their arrest. An interesting response given by many of the participants was that the food served in the correctional centre, which the inmates refer to as "steamfood", makes the appearance of the STI visible. Other causes for the transmission of STI's in the correctional centre include that there are no condoms available, and that inmates do not wash after they have sex.

Regarding the inmates' awareness of HIV/Aids in PLCC, the majority namely eighty six percent (86%), opined that HIV/Aids is a problem in the correctional centre. In a follow-up question, the researcher wanted to know what the participants view as the causes of HIV/Aids in the correctional centre. The majority responded that practicing unsafe sex is a major cause of HIV/Aids. Other causes for the transmission of HIV/Aids in the correctional centre included the following: fights between inmates, correctional officials using the same razor blade when they cut the hair of the inmates, not using a condom during sex, making tattoos, intravenous drug users and the lack of education pertaining to HIV/Aids.

Based on the above discussion, the first aim, namely to describe the nature of sexual assault and rape in a male correctional centre, has been achieved.

6.2.2. Aim 2

The second aim was to investigate the extent of sexual assault and rape in a male correctional centre. From the current study it emerged that 84 percent of the research participants had heard of cases where inmates had been raped in PLCC. Fifty three percent (53%) of the participants reported that they had personally witnessed another inmate being raped. All the research participants reported that most rapes occurred at night, but that the modus operandi of the perpetrators differed. Many of the research participants indicated that the perpetrators would make a “tent” (draping sheets around their beds) and lure the victims to their beds, where they would rape them inside the “tent”, while others saw victims being raped in the shower section of the cell.

Research participants were also asked if they had ever heard another man being raped. The majority, namely seventy percent (70%), indicated that they had heard an inmate being raped, but that they could not do anything to prevent it because they were afraid that they may also be raped and/or physically assaulted.

In view of the above, the aim to investigate the extent of sexual assault and rape in PLCC, was also accomplished.

6.2.3. Aim 3

The third aim was to describe the perceptions of research participants regarding the sexual activities which occur in the correctional centre. Research participants offered four reasons why inmates participate in sexual activities, namely the need for emotional sex, survival sex, compliant sex and forced sexual acts. Consensual sexual activities seem to take place between inmates who engage in emotional sex. This category of inmates will create a “domestic” life inside the correctional centre, and the “husband” would be an older inmate and the “wife” a young detainee. It is opined by the research participants that inmates who engage in survival sex can be compared to prostitutes, and they are referred to as “taxies” by the other inmates. These men will sell their bodies to obtain commodities such as cigarettes, phone cards or clothing. Compliance

sex takes place after an agreement is reached by both parties, and forced sexual activities are mainly carried out by members of the prison gangs.

With regard to the nature of rape in the correctional centre, the research participants responded that most rapes occur at night in the victim's bed or in the shower section of the cell. It was also stated by the participants that in the majority of the rape cases the perpetrator used the element of surprise to overpower the victim. According to the research participants, there are four reasons for the occurrence of rape in the correctional centre, namely when an agreement could not be reached between inmates, corrupt correctional officials, the involvement of prison gangs and the use of deception by the perpetrator.

Based on the above discussion, aim 3, namely to describe the perceptions of participants regarding the sexual activities that occur between inmates, was also attained.

6.2.4. Aim 4

The fourth aim was to describe the participants' experience of personal sexual assault and rape in the correctional centre. More than half of the research participants, namely fifty seven percent (57%), reported that they had been verbally victimised, some every day. They do, however, not experience this as victimisation, but rather as part of life inside a correctional centre. Two participants were forced to masturbate another inmate, while four of the research participants were masturbated by another man without their consent. Eight of the research participants engaged in forced inter-femoral sex and seven were forced to receive oral sex from another inmate.

Six of the one hundred research participants indicated that they had been the victims of rape in PLCC. Victim 1 was raped in the cell because he did not honour the transaction between himself and another inmate. He was given food and cigarettes by another man in exchange for sex, but when he had to participate in the sexual act he did not want to and as a result he was raped. Victims 2 and 3 were asleep in their beds when they were overpowered by another inmate and raped. Victim 4 was raped twice in this correctional centre. During the first incident he was raped by a group of men at night in his bed and during the second incident he was raped by a single perpetrator, again in

his own bed while the other detainees were asleep. Victim 5 was raped by a group of inmates, who overpowered him and tied him to his bed. They made use of sharpened spoons to threaten him. The last victim, victim 6, was subjected to repeat sexual victimisation. During the last incident he was raped by two inmates who did not make use of a weapon, but overpowered him while he was asleep.

Considering the above discussion, the aim, namely to describe the research participants experience of personal sexual assault and rape, was also achieved.

6.2.5. Aim 5

The final aim was to explore the involvement of gangs in male-on-male sexual assault and rape. Only seventeen of the one hundred research participants belonged to a gang, with eighty three percent (83%) not belonging to a gang. Of these seventeen participants that do belong to a gang the majority, namely eight, belonged to the 26 gang, followed by three members of the 28 gang and Airforce 24 gang respectively, two research participants belonged to the Big 5 gang and only one respondent was a member of the Airforce 23 gang.

Members of the 26 gang indicated that they were not allowed to have sex with fellow members of this gang, but that they were allowed to have sex with a non-gang member. According to the members of the 28 gang they were allowed to engage in sexual activities with both gang members and non-gang members. One respondent mentioned a transaction that took place where a member of a rival gang could be bought and forced to engage in sexual acts. The members of the Airforce 23 and Airforce 24 gangs indicated that they were not allowed to have sex with either gang members or non-gang members. The two members of the Big 5 gang indicated that sex between gang members was not allowed, however a member of this gang could have sex with a non-gang member, but only in the presence of his fellow gang members.

Based on the above discussion, the last aim, namely to explore the involvement of gangs in male-on-male sexual assault and rape, was also achieved.

In conclusion, it is the opinion of the researcher that all the aims of the study have been achieved. With this study, the understanding of sexual activities that take place between inmates as well as the sexual assault and rape of male offenders and detainees has been enhanced. This was achieved by means of combining both quantitative and qualitative methodologies, which entailed in-depth face-to-face interviews with one hundred research participants. Through this method, the researcher was able to obtain valuable information regarding the research participants' experience of sex and rape.

6.3. RECOMMENDATIONS

In this section the researcher will make recommendations for future research as well as specific recommendations to the Department of Correctional Services in addressing the sexual assault and rape that takes place in male correctional centres.

6.3.1. Recommendations for future research

In spite of the data that was obtained during the interviews, certain areas which warrant further research have been identified. These areas will be highlighted next.

6.3.1.1. Research at SAPS cells and court holding cells, as well as at other correctional centres with bigger samples

It was stated in Chapter 2, paragraph 2.1., that for many young, inexperienced and non-violent offenders, the sexual assault and rape that occur at police cells and court holding cells, are an introduction to corrections in South Africa. During a discussion with child awaiting-trial detainees on 15 April 2008, it came to the attention of the researcher that children are not separated from adults in the court holding cells. Similar to the Department of Correctional Services, the Department of Justice is in direct breach of the South African Constitution (Act 108 of 1996), which stipulates that children under the age of 18 years are not allowed to be detained with adult detainees. It is therefore opined that empirical research needs to be conducted on the risk proneness of detainees at police and court holding cells.

Furthermore, to increase the validity and reliability of the research and to allow for broader generalisation, it is recommended that similar research be undertaken at other correctional centres with bigger samples. It is proposed that research be carried out at a maximum security correctional centre, a medium security correctional centre and a minimum security correctional centre, in order to ascertain whether dangerous inmates (maximum security) are more likely to engage in forced sexual activities than inmates with a minimum security classification. It is also advisable to make use of field workers in order to interview as many inmates as possible.

The researcher also suggests that research on sexual assault and rape of sentenced offenders be conducted at the two private prisons situated in Bloemfontein and Louis Trichardt, in order to compare the data with government owned correctional centres. This type of research would establish whether there are any similarities or differences between the causes, nature, extent, as well as consequences, of sexual assault and rape.

6.3.2. Recommendations to the Department of Correctional Services

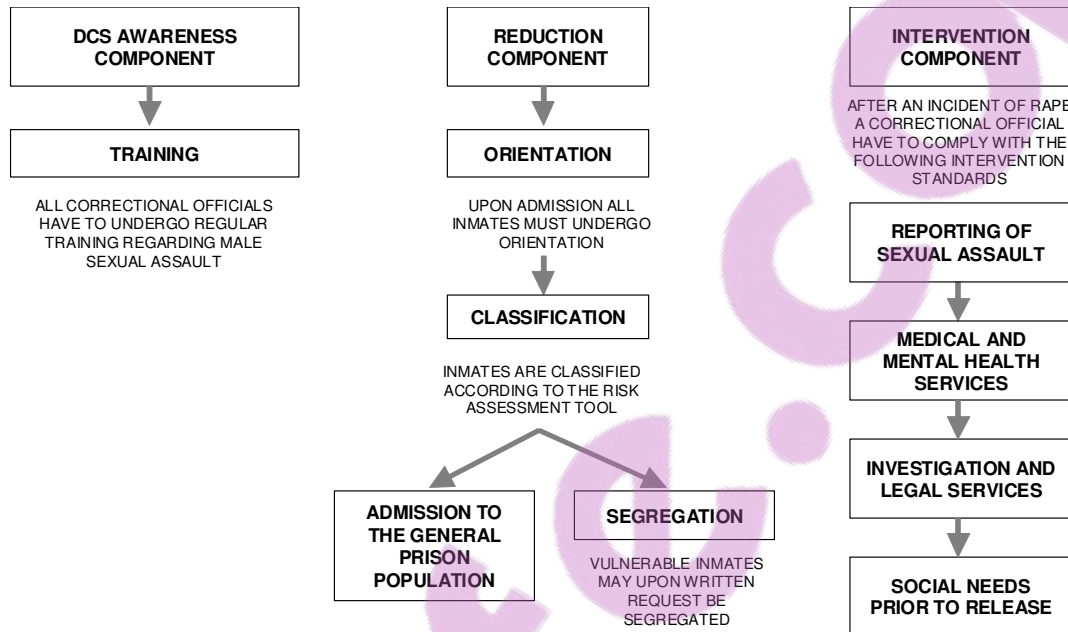
From the previous chapter, it is evident that the sexual assault and rape of children, juvenile and adult offenders as well as detainees are a reality in PLCC. Although the research participants who had been the victims of rape indicated that the correctional officials treated them in a professional manner and did not regard the sexual assault as a part of prison life, it is imperative to design a protocol according to which correctional officials can deal with rape cases. The reason for this is that a protocol will enable all role players to know their official role in the reduction and investigation of rape.

6.3.2.1. The Offender Sexual Assault Protocol

This protocol was designed after an extensive literature review within the field of corrections (e.g. California Department of Corrections, 2000; Dumond & Dumond, 2002b:92 – 93; In Our Experience, 2007; Man & Cronan, 2001: 157 – 175; Prison Rape Elimination Act of 2003; Zweig *et al.*, 2006: 24 – 26; 62), and the aims are to address the correctional official's awareness of sexual assault and rape, the reduction of sexual assault and rape, and intervention after a rape has taken place. As such, this protocol should be utilized upon admission of an inmate to the correctional centre and

concludes with the social needs of an inmate prior to his release. An exposition of the components is set out in Figure 4 below.

FIGURE 4: THE COMPONENTS OF THE OFFENDER SEXUAL ASSAULT PROTOCOL



i. DCS awareness component

In order for correctional officials who are working in PLCC to be aware of the sexual assault and rape that occur in the centre, they should undergo prolonged training. Certain sections of the training may be conducted by members of the DCS (for example on the reporting mechanisms of a rape within PLCC), but it is recommended that experts from the community conduct the training on issues such as sexuality and the sexual assault and rape of men.

- **Training of correctional officials**

It is recommended that all correctional officials (administrative and functional) undergo a comprehensive training course on male sexual victimisation. This initial training for new correctional officials should be followed up by regular refresher courses.

The training that officials undergo should include the following:

- The use of the Sexual Assault Risk Assessment Instrument, utilized upon admission of an inmate. This instrument should be used to identify inmates who may be vulnerable to sexual assault, as well as potential inmate perpetrators.
- Sensitivity around issues such as masculinity, same-sex practices and sexuality.
- Knowledge of the Criminal Law (Sexual Offences and Related Matters) Amendment Act (Act 32 of 2007) in order to know which actions constitute a sexual offence.
- Knowledge of the different prison gangs and their role in the commitment of inmate sexual violence.
- Knowledge of the impact of a rape on the victim (i.e. Post-Traumatic Stress Disorder and Rape Trauma Syndrome).
- Identifying and implementing strategies to protect vulnerable inmates from sexual victimisation.
- Recognising physical, behavioural and emotional signs of sexual assault and rape.
- Intervention strategies after a rape has occurred. This will include a victim's medical needs, forensic evidence collection and disciplinary action to be taken against the perpetrator.

ii. Reduction component

The reduction component of the protocol entails the orientation of a new inmate upon admission in the correctional centre as well as the classification of offenders and detainees as vulnerable or high risk individuals. After the classification process, correctional administrators can decide whether to place an inmate with the general prison population or to segregate him.

▪ **Orientation**

On 20 September 2007, the researcher visited the Admission Section of PLCC. The researcher observed that new inmates do not receive any information regarding the possible dangers that can be encountered in the correctional centre, including sexual assault and rape, during the incarceration period. Although the number of inmates being processed on a daily basis at this section of the centre is high, the researcher is of the opinion that orientation, and especially around sexual assault and rape, can take place rather effortlessly.

The following should be implemented during the orientation stage:

- Distribution of a sexual assault awareness brochure to all inmates. This brochure should include information regarding the nature of sexual assault (anal sex, inter-femoral sex, oral sex and masturbation) as well as examples on how to reduce the possibility of a sexual assault such as:
 - a) Do not accept gifts or favours from others;
 - b) Avoid getting into debt with other inmates;
 - c) Do not accept protection from another inmate;
 - d) Avoid the use of drugs in order to stay alert;
 - e) Be direct and firm to others if you do not want to engage in certain behaviours;
 - f) Choose your friends wisely;
 - g) Engage in life-skills activities; and
 - h) Trust your instincts.

Furthermore, it should be made clear to all inmates that correctional officials at PLCC have a zero tolerance policy regarding sexual assault and rape. Lastly, the brochure should include information on what to do if you have been a victim of a sexual assault. This brochure should be printed in English, Afrikaans and Setswana (the African language spoken the most in PLCC).

▪ **Classification**

It is proposed by the researcher that PLCC institute a classification system to determine which inmates need to be segregated, either because they are vulnerable to sexual assault or liable to victimise others. A sexual assault risk assessment instrument can be used to classify the inmates. The risk assessment form can be completed on a computer by correctional officials in the Admission Section as soon as an inmate arrives at this section, and a hard copy of the data must be kept on the inmate's file for the duration of his incarceration. The sexual assault risk assessment instrument is set out below.

<u>SEXUAL ASSAULT RISK ASSESSMENT INSTRUMENT FOR PLCC</u>	
Form to be completed by a correctional official	
Correctional client's name and surname:	_____
Correctional client date of birth:	_____
Correctional client ID number (if known):	_____
A. PHYSICAL APPEARANCE:	
1. Age	
Between 13 – 18 yrs	<input type="checkbox"/>
Between 19 – 21 yrs	<input type="checkbox"/>
Between 22 – 30 yrs	<input type="checkbox"/>
Between 31 – 40 yrs	<input type="checkbox"/>
Between 40 yrs and older	<input type="checkbox"/>
Based on the above assessment, select the appropriate risk category:	



An inmate between the ages of 13 – 18 yrs is at **high risk** to become a victim of sexual assault.
An inmate between the ages of 19 – 30 yrs is at **medium risk** to become a victim of sexual assault.

Inmates between the ages of 31 yrs and older are at **low risk** to become victims of sexual assault

2. Feminine characteristics

Inmate displays feminine characteristics (hairstyle, voice, gesture, clothing)

Yes

No

If yes, the inmate should be considered at **high risk** to become a victim of sexual assault.

3. Physical size

Small stature

Medium stature

Large stature

Based on the above assessment, select the appropriate risk category:

If of small stature, the inmate should be considered at **high risk** to become a victim of sexual assault.

If of medium stature, the inmate should be considered at **medium risk** to become a victim of sexual assault.

If of large stature, the inmate should be considered at **low risk** to become a victim of sexual assault.

B. PERSONAL HISTORY

1. Criminal record

First offence

Second offence

Third or subsequent offence

Based on the above assessment, select the appropriate risk category:

If this is an inmate's first offence he should be identified at **high risk** to become a victim of sexual assault.



If this is an inmate's second offence he should be regarded at **medium risk** to become a victim of sexual assault.

If this is an inmate's third or subsequent offence he should be **flagged** as high risk to commit sexual assault.

2. Type of offence

Economic offence

Aggressive offence

Sexual offence

Narcotic offence

Based on the above assessment, select the appropriate risk category:

An inmate incarcerated for a non-violent offence (economic or narcotic) or a sexual offence, especially against children, should be considered at **high risk** to become a victim of sexual assault.

An inmate incarcerated for an aggressive offence should be **flagged** as high risk to commit a sexual assault.

3. Imprisonment

First incarceration

Second incarceration

Third or subsequent incarceration

An inmate incarcerated for the first time should be considered at **high risk** to become a victim of sexual assault.

4. Membership of a prison gang

If it is a second or subsequent period of incarceration the inmate should be screened for a prison gang tattoo

Yes

No

If yes, the inmate should be **flagged** as high risk to commit a sexual assault.



Correctional official to select appropriate category:

- Mostly red: the inmate should be referred to a “safe cell”
- Mostly blue and green: the inmate can be considered for placement in the general prison population.
- Flagged: the inmate should be closely monitored by correctional officials

Recommendation:

Data captured by:

Date completed:

Based on the recommendation by the correctional official who captured the data, an inmate can either be placed among the general prison population or segregated based on his risk to become a victim of sexual assault. Inmates flagged as possible perpetrators of sexual assault should be closely monitored by correctional officials.

▪ **Segregation**

A correctional official can recommend that an inmate should be segregated, however it is stipulated in the Correctional Service Act (Act 111 of 1998) that an inmate may only be segregated based on certain conditions (see Chapter 2, paragraph 2.5.2.). If an inmate agrees to be segregated because of his vulnerability to become a victim of sexual assault, he may request this in writing from the Director of the Correctional Centre. Until this request is approved by the Director of the Correctional Centre, the inmate will be housed in a single cell.

Regarding the segregation of vulnerable offenders, the following is suggested by the researcher:

- All children and juvenile offenders as well as awaiting-trial detainees should from the moment they arrive at the correctional centre, and during the admissions phase, be segregated from adult inmates.
- All children and juvenile offenders as well as awaiting-trial detainees should, for the duration of their incarceration, be segregated from adult inmates.

- **Upon request**, homosexual inmates, transsexual inmates and those identified as at high risk of sexual victimisation according to the Sexual Assault Risk Assessment Tool should be segregated from the general prison population, and housed in a “safe cell”. No time limit should be implemented, and an inmate can be housed in this cell for the duration of his incarceration.
- Safe segregation should not involve isolation, punitive measures or discrimination, such as the loss of privileges involving the attending of educational, vocational or life-skills programs.

Should a rape occur in PLCC despite the implementation of reduction strategies, correctional officials should comply with the following intervention procedures:

iii. **Intervention component**

The intervention component comprises of the reporting of a sexual assault case, the medical and mental health services available to the victim, investigation as well as the legal options available to the victim. In this component of the Offender Sexual Assault Protocol, the social needs of an inmate prior to his release from the correctional centre are also addressed.

▪ **Reporting of sexual assault**

The reporting of a sexual assault and rape in PLCC should be as uncomplicated as possible to the victim. A secure phone line in all the units of the correctional centre, that will give an inmate access to limited external agencies, such as the SAPS and the Judicial Inspectorate of Prisons, can be considered. If an inmate wants to report a sexual assault case internally the following aspects should be addressed:

- An inmate should be able to report a sexual offence to **any** correctional official as all officials have to undergo training regarding inmate sexual victimisation.
- All reports of sexual assault and rape should be handled in a confidential manner, and only officials who play an active role in the investigation should have access to the information of the case.

- Inmates who have been sexually assaulted and raped should not be prohibited from reporting such a case to the Judicial Inspectorate of Prisons.
- Locked boxes for inmates to report complaints anonymously, including incidents of sexual assault, should be located within each section of the correctional centre.
- Grievances alleging sexual assault and rape should be exempt from any institutional filing deadlines.

The intervention component of the protocol also provides for an abused inmate to receive medical and mental health services. These services are set out in the section below.

- **Medical and mental health services**

An inmate should have **immediate** access to medical services following a sexual assault or rape, preferably within one hour. This is to ensure that all forensic evidence is gathered for the prosecution of the offender. The victim should also have access to a mental health worker (social worker or psychologist).

Regarding the medical and mental health services, the following should be in place:

- Sexual assault examinations should only be carried out with the victim's informed consent.
- Sexual assault victims may access medical and mental health counseling services without laying a formal charge against the perpetrator.
- The decision on whether a rape kit is needed should only be made by a registered medical doctor or nurse, and not by a correctional official or member of the SAPS.

- To maintain transparency, rape examinations should, where possible, be conducted at an independent external medical facility.
- Medical personnel have to provide information to sexual assault and rape victims about STI's as well as HIV/Aids.
- All rape victims have the right to undergo a HIV test.
- All rape victims should receive ARV treatment. Medical personnel should ensure that an inmate takes his medication for three months.
- All sexual assault victims should undergo HIV/Aids counselling.
- Correctional officials with no direct involvement in the case may not be allowed to enter the examination room.
- All medical staff and mental health professionals should undergo the in-house training relating to the male sexual assault victim.
- In-house mental health professionals should be informed immediately about a sexual assault or rape case. This entails that mental health staff be available on a 24 hour basis should a rape occur at night or early in the morning to ensure that mental health support can take place immediately.
- Mental health professionals should offer **confidential** inmate counseling, regardless of whether if an inmate is a sentenced offender or an awaiting-trial detainee. During the counselling session topics such as self-identity, survival skills, coping skills, the ventilation of feelings and life goals should be covered.
- Mental health personnel should assess the suicide risk of all sexual assault and rape victims. If the risk of suicide is high, the inmate should be placed on suicide watch. This entails that the inmate is checked upon constantly by correctional officials.

- Apart from the in-house training on male sexual assault, mental health personnel should receive specialised training on Post-Traumatic Stress Disorder and Rape Trauma Syndrome.

The third aspect to be dealt with under the intervention component of the protocol is the investigation of an alleged sexual offence and the legal services available to the victim.

- **Investigation and legal services**

Within corrections the victim of a rape can either choose not to lay a charge against the perpetrator, or to proceed with an official charge of rape against the inmate who perpetrated against him. If a victim chooses to lay a charge, there are two options available, namely for the case to be investigated internally by DCS officials or to open a case docket with SAPS. This implies that the perpetrator could be charged for an alternative criminal offence. This could impact drastically on his future application for parole.

Regardless of which option the victim chooses, the following guidelines are applicable when a victim decides to lay a charge:

- Cases of sexual assault involving a correctional official should be investigated by an external stakeholder, such as the Judicial Inspectorate of Prisons.
- A correctional official alleged to be involved (direct or indirect) in the sexual assault of an inmate should be placed on leave or transferred to DCS Head Office where he will not be in direct contact with inmates.
- The procedures regarding forensic evidence collection within the correctional centre should be the same as the procedures followed by law enforcement agencies in the community.
- Investigative officials should restrict staff access to reports on sexual assault and rape victims.

- An inmate must not be forced to open a case against the perpetrator in order to receive medical and mental health services.
- Investigative officers from the DCS should collaborate with prosecutors to guarantee the prosecution of an inmate who has committed a sexual offence.
- During the investigation and subsequent court proceedings, the perpetrator and victim should be kept separate at all times.
- An inmate who cannot afford legal representation must be able to get legal support from the Legal Aid Board (LAB).
- The victim should be allowed to attend all court hearings with regard to his case.
- The victim of a sexual assault should be kept informed by the investigating officer about the status and outcome of the case.

The successful investigation and prosecution of inmates as well as correctional officials who are guilty of perpetrating a sexual offence, mainly depends on the way in which the DCS follow the guidelines above.

▪ **Social needs prior to release**

The White Paper on Corrections in South Africa (2005:66) stipulates that the DCS must develop a Correctional Sentence Plan for every offender. Such a sentence plan should be based on the total needs of the specific offender and should include a corrections plan, security plan, care plan, development plan, facilities plan and an after care plan. The after care plan is applicable in this section of the protocol as it focuses on the support inmates are supposed to get when they reintegrate into the community after they have completed their sentence.

In this regard the DCS should consider the following:

- During the pre-release phase, the case manager should refer the victim to a rape crisis centre in the community dealing specifically with male sexual assault and rape victims.
- Inmates should be informed about support groups for male victims of sexual assault and rape in their communities.

The researcher recommends that this protocol be implemented at PLCC to evaluate the effectiveness thereof, and if it contributes to the reduction and management of sexual assault and rape it should be introduced at all South African correctional centres.

6.4. CONCLUSION

Even though a small sample was used in the current study, the researcher succeeded in exploring the nature and extent of male-on-male sexual assault and rape, describing how male-on-male sexual assault and rape occur in the PLCC and explaining the reasons why men are raped during their incarceration. Although this study did shed light on the nature and extent of sexual assault and rape of male offenders and detainees, themes for further research using larger samples and including other correctional centres were recommended.

Recommendations to the DCS were also made namely that the Offender Sexual Assault Protocol and the Sexual Assault Risk Assessment Instrument should be used. The protocol consists of three components, namely DCS awareness, reduction and intervention. Within each of these three components there are certain guidelines that the DCS must adhere to, not only to protect inmates from possible sexual assault, but also to treat a victim with dignity and respect after a rape. The aim of the Sexual Assault Risk Assessment Instrument is to classify potential victims the moment they enter the correctional centre. Some critics may note that this could be considered as labelling. The researcher takes cognizance of this, but strongly concludes that it is better to classify an inmate as a potential victim and to protect that inmate, than for the inmate to be raped and forced to deal with the consequences thereof for the rest of his life.



Section 2 of the Correctional Services Act (Act 111 of 1998) sets out the three objectives of the DCS: The implementation of the sentences of the court in a prescribed manner; to detain all prisoners in safe custody while ensuring their human dignity; and to promote the social responsibility and human development of all prisoners and persons in community corrections. Being raped takes away ones dignity, responsibility and development and as such part of ones human character.

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